

GOVERNOR'S COMMISSION ON STRENGTHENING UTAH'S DEMOCRACY

Rampton Board Room, Utah State Capitol

MINUTES

TUESDAY, MARCH 3, 2009

Commission Members Present: Msgr. Terrance Fitzgerald (for Reverend John Wester), Tom Love, Dave Hansen, Dan Jones, Bruce Hough, Randy Dryer, Meg Holbrook, Ken Verdoia, Kirk Jowers, Steve Starks, LaVarr Webb, Dick Richards, Yvette Donosso

Commission Members Absent: Frank Pignanelli, Doug Wright, Senator Scott Jenkins

Senior Staff Present: Taylor Morgan, Kate Mecham

The Meeting Agenda was as Follows:

- 1. Welcome by Commissioner Kirk L. Jowers, Vice-Chair**
 - a. Chair seat to remain vacant in memoriam of Larry H. Miller.
- 2. Tribute to Larry H. Miller, Commissioner Steve Starks**
 - a. Steve Starks shared a favorite quote of Larry H. Miller from *Miracle at Philadelphia*, Bowen, p. 263
- 3. Commission Business**
 - a. Approval of Minutes - February 5th Meeting
 - i. Motion to approve minutes of February 5 meeting made by Commissioner Randy Dryer, seconded by Commissioner Meg Holbrook, approved unanimously.
 - b. Status of Commission Membership
 - i. State House of Representatives has not yet appointed Commissioners, likely will not do so until after the 2009 legislative session.
 - c. Status of Commission Website
 - i. The Commission website is now active. Two "url" addresses reach the website: www.strengthendemocracy.org and www.democracycommission.org.
 - ii. Commissioner Tom Love reviewed content of the website.
 - iii. Commissioner Bruce Hough recommended that we post a moderation notice on the website for purposes of full-disclosure. Commissioner Meg Holbrook suggested posting links to existing ethics laws.
 - iv. Vice-Chair Kirk Jowers requested that Commission members email Josh Ewing of Love Communications at jewing@lovecomm.net if they have suggestions for additional links or content.
 - v. Commissioner Randy Dryer asked if it was possible to send out news alerts when new discussion items have been posted. Commissioner Tom Love suggested that we not do this, as the volume of discussion posts may make it difficult. Mr.

Dryer also suggested that we post a link for “Commission work product.” Mr. Love added that we will want to post information on draft proposals that require public participation and comment. Josh Ewing described how the site is already formatted for public comment and participation, but that he will look at creating a separate page for Commission “work product.” Another, more suitable term, will be created for this content.

- vi. Commissioner Bruce Hough suggested that he would like to have access to emails sent to the Commission as he feels necessary; Commissioner Randy Dryer also expressed interest in having such a capability. It was agreed that the website will not serve as a mechanism for communication between Commission members. After further discussion, the Commission agreed that website should be as simple and seamless to use as possible and that Commissioners do not need to see every email, but will rely on Commission senior staff Taylor Morgan and Kate Mecham to filter messages.
- d. Status of Commission Staff and Resources (Yvette Donosso)
 - i. Vice-Chair Jowers and Commissioner Dryer interviewed five attorneys who volunteered to serve the Commission. In the previous meeting these five attorneys were approved and have already agreed to and begun providing pro bono work for the Commission. In the previous meeting, Commissioner Meg Holbrook recommended that the Commission seek out more female and minority participants. Commissioner Yvette Donosso volunteered to follow-up on seeking additional attorneys and to work with the University of Utah and Brigham Young Law Schools to find willing law students. Commissioner Donosso introduced three colleagues who are assisting her in these endeavors.
- e. Proposed Meeting Schedule
 - i. Commission members were asked to contact Commission senior staff Taylor Morgan or Kate Mecham if they are unable to attend any of the proposed meeting times.
- f. Initial Discussion on Commission Procedures (Quorum, Voting)
 - i. Due to time constraints, this discussion was postponed to the next Commission meeting.

4. Discussion with Lieutenant Governor on Elections in Utah

- a. Lieutenant Governor Gary R. Herbert, accompanied by Joseph Demma, Chief of Staff and Michael Cragun, Deputy Chief of Staff.
 - i. Lt. Governor Herbert expressed his appreciation to Commission members for their service.
 - ii. One charge of the Lt. Governor of the State of Utah is to monitor and ensure the integrity of elections in Utah. The Lt. Governor’s office will provide facts and statistics that will help the Commission better understand voter participation and elections in Utah.
 - iii. The Help America Vote Act imposed expensive requirements upon Utah – \$25 million to implement its mandate ensuring that voters were not confused and that every vote counted. The Act was designed to help those with physical impairments, such as blindness, vote in elections. Lt. Governor Herbert believes that the Act has had a positive effect for the average voter, though it places significant demands on clerks and government bodies.
 - iv. “Raising the bar” of voting in Utah is not cheap; but it is worth it. Exit polling shows that 98% of voters (in Utah) approve of election process.
 - v. Transparency, ethics, and other issues with voting remain. The Lt. Governor’s office is conducting an extensive voter-outreach program (“Take the Pledge”),

visiting schools and other public places to conduct civic education and community outreach. A newly-established website – www.leaveyourprint.com, provides comprehensive voter information and is on par with the best of national websites. The “pajama” commercials featuring the Lt. Governor and birthday cards encouraging voter registration, among other advertising efforts, have served to promote early and absentee voting.

- vi. The number of early voters continues to grow, with the exception of last year’s primary. The Lt. Governor distributed graphs to show current voting trends in Utah. The Commission on Civic and Character Education conducts dialogues and promotes inclusion in public-schools’ curriculum, though this year’s budget cuts will eliminate the function.
- vii. There is a correlation between those who do not participate in the voting process and age. Historically, 18-25 is the age category of citizens who are least likely to vote. As Utah is the youngest state in the nation, this statistic has a substantial impact. In 2004, Utah was in the top-five voter participation (among registered voters) states in the country. Utah’s demography plays a role in determining voter turnout.
- viii. Commissioner Dave Hansen asked how aggressive Utah has been with removing erroneous motor-voter registrants. Deputy Chief of Staff Michael Cragun responded that it is difficult to remove someone from the list and that pulling people off can be complex because government agencies make errors. Lt. Governor Herbert stated that high levels of higher education further complicates keeping lists updated because college students may be courted by candidates, register to vote, then leave the state to live elsewhere.
- ix. Joseph Demma, Chief of Staff, stated that nationwide, first-time early voting participation is approximately 5%. Early voting in Utah has reached beyond 24%. Mr. Demma predicted that early-voting in Utah could surpass 50% in the future.
- x. Early voting is not without controversy. The Lt. Governor believes that it does not enhance overall turnout, but that it simply provides a mechanism for those who would vote anyway to do so early. Typically, lines at early voting locations are longer than those on Election Day.
- xi. Commissioner Steve Starks asked about online voting. Lt. Governor Herbert discussed several problems with the security of online voting. He stated that it’s not likely in the near-term. Because elections are so important, he said, any risk with the accurate and reliable tabulation of votes cannot be tolerated. Joseph Demma and Michael Cragun, stated their concerns with online voting.
- xii. Commissioner Tom Love asked about the status of the bill that effects in-office absentee voting on the Monday before Election Day – HB390. The Lt. Governor discussed the challenges between urban and rural counties and the importance of flexibility on voting regulations from one county to another.
- xiii. Commissioner LaVarr Webb mentioned comparisons in voter turnout among other states. He asked if swing states receive more federal campaign dollars and if that drives increased voter registration. The Lt. Governor responded by countering the “common myth” he titled, “my vote didn’t count.” He said that regardless of who wins, every vote is counted and makes a difference.
- xiv. Commissioner LaVarr Webb asked if the ultimate goal is to get higher numbers or more bodies to the polls, or if the goal is to get better informed voters. Lt. Governor Herbert stated that his goal is to get 100% participation and 100% informed voters. He expressed concern over those who vote who are not

informed on the candidates and issues. He would accept a lower participation rate with a higher level of knowledge among those who do vote.

- xv. Commissioner Randy Dryer made a request that the Lt. Governor's office make formal suggestions to the Commission as to what can be changed in Utah election law. He then asked what will be required, financially, to increase voter education and participation in Utah. The Lt. Governor responded that he doesn't know exact figures as to what was spent or what it would cost, but referenced a 2006 campaign that cost \$1.1 million. In addition, \$350,000 was spent to get a voter information pamphlet in each home for the 2008 election. The Lt. Governor described current efforts as the "bare minimum."
- xvi. Voting habits are developed in younger years. Thus, young voters should be the focus of efforts to increase civic participation. The Lt. Governor cited voting statistics in Iraq as an example of the value of the electoral process. Lt. Governor Herbert then mentioned the impact that negative campaigning has had on elections and candidate filing.
- xvii. Commissioner Dave Hansen asked the Lt Governor what he would change, if he could change one thing about elections in Utah. The Lt. Governor replied that he thinks the process in Utah is "pretty darn good," and that the average person can compete in Utah politics. He discussed his experience with and support of Utah's caucus and convention system.
- xviii. The Lt. Governor expressed his desire to help the Commission and his interest in the Commission's recommendations. Deputy Chief of Staff Michael Cragun suggested the creation of an administrative procedure to resolve election disputes. Currently, he stated, the only mechanism to resolve election disputes is to refer to Utah's Attorney General for criminal misconduct. Having an administrative process for resolving election disputes, Mr. Cragun believes, would be very helpful. Upon being asked, "What does an administrative process look like" by Commissioner Tom Love, Mr. Cragun responded that an administrative solution would allow a grievance to be filed and reviewed by an administrator, then enforced through fines. Commissioner Randy Dryer suggested that the Lt. Governor's office submit a policy proposal to the Commission regarding such an administrative process.

5. Discussion with Utah's "Approved" Political Parties

- a. Frank Fluckiger – State Party Chairman, Constitution Party of Utah
 - i. Mr Fluckiger briefly discussed the internal election processes of the Constitution Party of Utah.
 - ii. Commissioner Bruce Hough asked if there is a threshold for participation in a primary. Mr. Fluckiger stated that the threshold is 60%.
 - iii. Mr Fluckiger stated that his party prefers the caucus system.
- b. Todd Taylor – Executive Director, Utah Democratic Party
 - i. Mr. Taylor expressed his view that the Lt. Governor's office desperately needs an administrative procedure (discussed previously) to resolve election disputes.
 - ii. He then discussed a quantitative analysis of voter participation probability theory. Mr. Taylor stated that two-thirds of "Lack of voter participation" can be attributed to young age, changes in election law, and separation of registration deadlines from Election Day.
 - iii. Mr. Taylor reminded the Commission that Utah did away with neighborhood registrars in favor of satellite registration, and that satellite registration was subsequently done away with. Now, the deadline to register before an election is 30 days prior instead of 14 days. As precincts have been consolidated, Mr.

Taylor stated, fewer people are involved in the elections process. In some cases, polling locations change too often.

- iv. Mr. Taylor suggested that the Commission consider same-day voter registration, enhance vote-by-mail programs, look at an independent redistricting commission, and examine the authority of county clerks in regard to the order of candidates on ballots.
- c. W. Andrew McCullough – State Chair, Libertarian Party of Utah
 - i. Mr. McCullough cited his party’s role in adding “Entertainment value” to Utah elections.
 - ii. The Libertarian Party did not make the ballot in 2006. Libertarians are required to get 2% statewide to stay on the ballot. In an election with no statewide races, they must get 6% - which he argues is too high. Mr. McCullough suggested giving ballot access for four years, based on the election in which the governor is up for election. He believes that the Libertarian Party can reach the required threshold on that ballot.
 - iii. Because Libertarians are “Free spirits,” it may be difficult to conduct petitioning to get on the ballot repeatedly. The Libertarians are organizing every day toward a more widespread and participatory party.
 - iv. In the Utah Libertarian Party, 50% is sufficient to nominate a candidate.
 - v. An important component of Libertarian Party elections is the “None of the Above” (NOTA) option within the party balloting.
 - vi. Libertarian ideas are not in the mainstream. Mr. McCullough believes this is the point of having a third party. He believes that opposing views and other options have a valuable role in politics. Libertarians, according to Mr. McCullough, are here to increase the entertainment value, the choices, and the options of voters.
 - vii. They strongly support proportional representation in the State Legislature as it would “Improve the quality of political debate.”
- d. Todd Weiler – Vice Chair, Utah Republican Party
 - i. Mr. Weiler reminded the Commission that Utah is divided into 29 Senate districts and 75 House districts. Each district is divided by precincts, which are drawn by the respective counties. In Salt Lake County there are over 800 precincts and over 400 in Utah County.
 - ii. The Utah Republican Party attempts to hold caucuses (usually in coordination with the Democrats), or a “Neighborhood meeting” in every precinct each March. 50-60,000 people attend Republican caucus meetings each year. County and state delegates are elected at caucus meetings. These delegates perform a vital function at county and state conventions.
 - iii. Currently, the deadline for counties to draw precincts is in January. Upon having precincts redraw, party volunteers must scramble to prepare for March caucus meetings. Moving the deadline to early January or sometime in December would give party volunteers more time to prepare for precinct meetings.
 - iv. Often, Utah Republican Party members gain their first influential experience in a caucus meeting. Mr. Weiler stated that they provide an opportunity for the average citizen to compete for political office.
- e. Question and Answer
 - i. Commissioner Dick Richards asked all the party representatives about candidate recruitment.
 - 1. Todd Taylor responded that they are actively engaged in candidate recruitment. Mr. Taylor stated that both the Democrat and Republican parties have been in Utah for over 120 years. They are capital deficient, but run reasonably effectively nonetheless.

2. Mr. Taylor stated that “Increased partisanship produces higher participation.”
 3. Mr. McCullough described how recruiting Libertarian candidates is challenging. Libertarians often find people who are willing to file for office, but are unwilling to campaign. Libertarians are working hard to build up their treasury in order to help fund candidates. They recognize that it is important to have “real” candidates who are funded instead of just names on the ballots.
 4. Mr. Weiler stated that Republicans do not have a problem with recruitment in Utah and Davis Counties. He cited an example of a recent legislative primary in Davis County in which 7 good Republican candidates competed for office.
 5. Mr. Fluckiger described the recruitment process of the Utah Constitution Party as consisting of educational lectures on the founding documents. According to Mr. Fluckiger, such lectures are held on a monthly basis in about half of counties in Utah. The lectures are designed to promote principles of good governance. Recently, over 100 people attended one of the party’s educational lectures.
 6. Mr. Fluckiger stated that his party has a committee tasked with the duty of selecting quality candidates.
 7. Mr. Fluckiger then mentioned that Utah gave the Constitutional Party’s national presidential candidate its highest percentage of support in the 2008 election.
- ii. Commissioner Kirk Jowers asked the parties to comment on the caucus/convention system in Utah.
1. Todd Taylor discussed legal limitations on changing caucus and convention processes. He stated that his party has a First Amendment right to conduct a caucus and convention system as they see fit. He acknowledged that some people feel it creates too ideological of a candidate and has too small of a turnout, but feels the Party likes the current system.
 2. Mr. Taylor stated it would not be in the State’s interest to influence this process. He agreed that although there is not enough participation in the current caucus/convention process, the average caucus participants enjoy the opportunity to represent their neighborhoods and communities.
 3. Mr. Weiler stated that Utah Republicans are strong advocates of the caucus/convention system. He cited Utah citizens as having a great sense of volunteerism.
 4. Mr. Weiler stated his impression that the new primary system in Idaho is “disastrous.” Commissioner Steve Starks asked “what is disastrous” about the open primary in Idaho? Mr. Weiler responded that the most famous and wealthiest candidate is now much more likely to win and noted that Representatives Rob Bishop and Jason Chaffetz could not have won outside the current system.
 5. Mr. Weiler expressed his view that there is nothing wrong with a closed primary in that members of a party have a right to choose the leaders of their own party.
 6. Mr. McCullough expressed his view that a primary would not be an effective way to choose candidates and that it would not help Libertarians field candidates. He expressed concern that if the caucus/convention system was done away with, Libertarians would lose the “None of the above” component of their ballot.

6. Conclusion

- a. Next Meeting – Saturday, March 28, 2009 8:30am – 1:00pm KUED Board Room, Delores Doré Eccles Broadcast Center 101 S. Wasatch Dr. Salt Lake City, UT 84112.