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ANTONIO R. VILLARAIGOSA
MAYOR

November 18, 2009

The Honorable Members of the City Council
c/o City Clerk, Room 395, City Hall
200 N. Spring Street
Los Angeles, CA 90012

**SUBJECT: REPORT-BACK ON PROPOSALS TO CONDUCT ALL-VOTE-BY-MAIL
ELECTIONS (IN CITYWIDE ELECTIONS, AND NON-CITYWIDE
ELECTIONS)**

This report is in response to two Motions directing the City Clerk to report on the feasibility of conducting all-Vote-By-Mail (all-VBM) elections in certain City elections, as follows:

CF 09-1222 (Greuel-Huizar, May 22, 2009), in elections with anticipated low turnout or in Council District Special Elections, and

~~CF 09-1222-S1~~ (Smith-Rosendahl, October 13, 2009), in Special Elections held to fill a vacant position (non-Citywide elections) and where there are no other issues on the ballot.

This report discusses the advantages, disadvantages, mitigation strategies and costs of implementing an all-VBM election program in elections and non-Citywide Special Elections.

Background

The motions introduced by Greuel-Huizar and Smith-Rosendahl both cite low voter turnout and rising election costs as reasons for exploring an all-VBM election system.

Statistics show that City voter turnout in City municipal elections lags well behind City voter turnout in State and Federal elections. On average, eligible registered voters of the City of Los Angeles turn out 30%¹ for Mayoral elections, and 15%² for non-Citywide municipal

¹ Average voter turnout calculated using total voter turnout figures from 1978-2008 for regularly scheduled Municipal elections in which a Mayoral race appeared on the ballot.

elections. The highest voter turnout in recent City history was achieved on June 5, 2001 when a record 38% of eligible registered voters turned out to vote in that municipal election.

In comparison, City voter turnout for State and Federal elections are 46%³ and 61%⁴, respectively. The extreme differences in voter turnout among municipal, State and Federal elections can understandably become a cause for concern.

Added Federal and State election requirements and their related costs have increased pressure on an already overstretched City election model. The City's municipal elections, including the consolidated election jurisdictions of the Los Angeles Unified School District (LAUSD) and the Los Angeles Community College District (LACCD), represent the second largest election jurisdiction in California with some 2 million registered voters, over 2,000 voting precincts, 8,000 poll workers and an operating budget of approximately \$17 million. Smaller district-specific elections are expensive - the Special Election currently in progress for filling the vacancy in Council District 2 cost nearly \$2 million dollars.

Low voter turnout, coupled with the significant price tag for administering municipal elections, have led City officials, election officials and others to explore alternative election models in the hopes of increasing voter turnout while simultaneously reducing costs. The City of Burbank conducts all-VBM regularly, and the City of Santa Barbara just conducted its first all-VBM election on November 3, 2009.

The use of VBM by voters in the City of Los Angeles has steadily increased over time: from 22% in 1997, to 28% in 2005, to the current usage of 37% in 2009. An additional 30,000 to 40,000 voters generally apply for a VBM ballot each election. Moreover, since 2001, voters have had the option of becoming Permanent Vote-By-Mail (PVBM) voters in which they are automatically sent a VBM ballot for each election without having to submit an election-specific application. In the 2008 Primary Nominating and Consolidated Election (Mayoral election), there were a total of 233,065 City voters that had PVBM status, or 13.36% of the total electorate.

In addition to the 37% of voters using the VBM option for the 2009 Primary Nominating Election, VBM voters had a higher return rate (i.e., turnout percentage) of 41%⁶. If the City turns to conducting all-VBM elections for municipal elections or for non-Citywide Special Elections, voter turnout may indeed increase; however, administering such elections raises some administrative challenges.

² Average voter turnout calculated using total voter turnout figures from 1978-2008 for regularly scheduled Municipal elections in which no Mayoral race appeared on the ballot.

³ Average voter turnout calculated using total voter turnout figures from 1978-2008 for a Gubernatorial election and in which the City of Los Angeles had a ballot measure(s).

⁴ Average voter turnout calculated using total voter turnout figures from 1978-2008 for a Presidential election and in which the City of Los Angeles had a ballot measure(s).

⁶ Turnout percentage calculated by dividing the total number of VBM ballots cast (Returned) over the total number of VBM ballots mailed out. (114,722 ÷ 279,000)

Administrative issues in converting to an all- VBM election

Mandatory changes to the City's Charter and Election Code

The current City Charter references an at-poll election methodology for the City of Los Angeles. In the City Clerk's report to Council dated February 25, 2008 entitled "Options for Conducting Los Angeles Elections (CF 07-1100-S12), attached to this report, the City Clerk states that:

*"The City Attorney has advised that, even for the limited purposes of filling specified vacancies, **amending the Charter and changing the City's Election Code would be necessary** to establish the legal authority and requirement for conducting a VBM/Voting Centers model election. Any Charter amendment must also include express language to establish the legal authority to conduct LAUSD Special Elections utilizing this voting methodology. In addition, great care should be given to clearly establishing in the Charter language the specific circumstances under which this election methodology would be required to be implemented."*

Thus, both the City's Charter and Election Code would need to be changed in order to establish the legal authority to conduct all-VBM elections, whether it be Citywide or district-specific. Changing the Charter would require a ballot measure to be voted upon by the voters of the City of Los Angeles. In addition, the language used in the Charter would need to include criteria that, if met, would trigger conducting an all-VBM election. As a point of information, the City of Los Angeles placed ballot measures to implement all-VBM elections for the City and the LAUSD before the voters in 1997, but the measures were rejected by the voters.

As an additional point of information, if a ballot measure for an all-VBM model were passed by the voters in the future, accompanying Election Code changes would need to be adopted by ordinance, and these ordinances would need to be in effect six months prior to the affected election.

Addressing Voter concerns through hybrid models

In considering all-VBM elections, the concerns raised by certain voter advocacy groups and some members of the public must be considered. Moving toward all-VBM elections would eliminate the option of voting at the polls, the option still used by the majority of voters. All-VBM elections may have a differing impact on diverse voting communities within the City's municipal election jurisdiction. Several members of the City Clerk's advisory Los Angeles Votes Committee (LAVC) have voiced concerns on the potential negative impact of all-VBM elections on minority voters in terms of voters who require language assistance; the historically lower usage of the VBM option by minority voters; the extent to which a voter education program could be designed to effectively reach all the diverse voting communities in our City; the integrity of the voter registration file in terms of a very mobile population; uneven mail service in certain parts of the community; the type of ballot and related ballot materials to be utilized, and the impact on physically disabled voters.

To mitigate negative aspects associated with the elimination of polling places for all-VBM Elections, the City Clerk has explored the possibility of utilizing Vote-By-Mail **combined with Ballot Drop-off Boxes** or with **Neighborhood Voting Centers**. Both combinations are ways to utilize the best aspects of all-VBM while mitigating a number of the above concerns.

Ballot Drop-off Boxes allows voters to drop off their VBM ballot at designated locations throughout the City of Los Angeles. This would enable those who have neglected to mail their ballots prior to Election Day a last chance to have their ballot counted for the election. Given the size of the City's election jurisdiction which includes the LAUSD and the LACCD, the City would need to purchase a minimum of 300 ballot drop-off boxes for a Citywide municipal election. At \$1,500 each, the Division would need to make a one-time purchase in the amount of approximately \$450,000. For a single-seat Special Election, however, only 10 -15 boxes would be needed at a cost of \$15,000 to \$22,500. In addition to the one-time purchase of the actual boxes, there would be slightly elevated recurrent salary and overtime costs associated with this option.

Neighborhood Voting Centers provide a neighborhood polling place for those voters who prefer to vote in person, and would give voters the ability to obtain a VBM ballot if theirs is lost or stolen, to drop off their VBM ballot, and to seek language assistance if necessary. Voters would still be required to fill out VBM envelopes in order for the Election Division to verify their eligibility (since no Roster of Registered Voters would be used).

In comparison with the Ballot Drop-off Boxes, however, using Neighborhood Voting Centers in conjunction with all-VBM would result in much higher costs for a Citywide municipal election than what the City usually expends for normal elections, as previously stated in our February 25, 2008 report. Because there are typically 50 to 100 different ballot types (or combination of races) in a Citywide municipal election, a poll worker in a Neighborhood Voting Center would need to verify the voter's eligibility, then obtain and issue the appropriate ballot to each voter. Because a voter could visit any Voting Center, all ballot types must be made available in sufficient quantities at all Voting Center locations. Vote Recorders (the devices that assist voters in clearly marking their choices) would not be usable as each is specific to just one ballot type. Stand-alone paper ballots may be problematic due to the number of races on the ballot and the additional requirement to translate the ballot into six additional languages. The most viable solution to this complex logistical challenge would be to switch to either a new, from-scratch electronic voting system or a ballot-on-demand voting system, both of which would require purchase at a vast cost to the City and which also would require California Secretary of State approval.

However, in a Special Election with only one ballot type (e.g. one Council race in one Council district), Neighborhood Voting Centers combined with all-VBM voting processes and equipment could be utilized with significant savings. For non-Citywide Special Elections, the Election Division estimates that approximately 10 Neighborhood Voting Centers would be needed. The total cost of this option would be inexpensive, ranging from \$5,000 to \$10,000 and includes the cost of poll worker stipends, voting material, supplies and rental equipment/facility fees.

Potential Impacts of an All-VBM Election

If Citywide

Election administrative functions would be significantly impacted if the City turns to conducting all-VBM elections on a Citywide basis. The bulk of canvass operations would move up significantly in time since VBM ballots are generally received prior to Election Day. Significant investment in staff work and funding for outreach and education programs would be necessary to explain the change in the voting process and to mitigate any potential negative impact. Conducting an all-VBM election would eliminate the need for poll workers, polling places, Election Central and Service Center operations. The City might also consider covering the cost of return postage for ballots since voters would not have an option of voting in person.

Other facets of the election operations would not change. The City would continue to produce an Official Sample Ballot and provide translated election material and multilingual language assistance. The candidate filing process would remain consistent with current methods and would thus remain intact.

In order to estimate the overall impact of an all-VBM, Citywide municipal election, staff assumed an election jurisdiction comprised of approximately two million registered voters wherein every voter receives a VBM ballot. Specifically, staff used the 2009 City of Los Angeles Primary Nominating Election as a model in which total voter turnout (at-polls and VBM combined) was a low 15.6%.

In a typical VBM operation, several major tasks take place, including preparation and mailing of VBM ballots and informational materials, and processing of returned VBM ballots from voters. For the 2009 City of L.A. Primary Nominating Election, there were approximately 1.98 million registered voters. Assuming that in an all-VBM Citywide election all registered voters would receive VBM ballots, this represents an increase of over 700% from the 279,775 requested VBM ballots issued for that election.

The City would similarly see a significant increase in returned ballots. For the 2009 Primary Nominating and Consolidated election, 41% of all VBM ballots mailed were returned. If this return rate was applied to an all-VBM election, the City would receive approximately 811,800 completed ballots, or an increase of over 700% from the 2009 Primary.

The City Clerk's Election Division's VBM section employs roughly 80 temporary full-time staff to run a Citywide municipal election. Based on a 700% increase in workload to conduct an all VBM election, VBM staffing would necessarily need to increase exponentially to approximately 560 employees. Accommodating a staff of this size would subsequently require a reconfigured work space with a significant portion of existing warehouse space remodeled to accommodate two-story office space, and the implementation of employee swing shifts and night shifts.

Because VBM ballot preparation is currently a manual process, to guarantee accuracy over a manual process of this magnitude would require extensive checks and balances to eliminate the possibility of error. Moreover, both State and City election codes dictate deadlines for completion of ballot mailings and returned ballots. Thus, language in the State and City election codes would need to be reviewed and potentially modified to accommodate the new process.

Upgrading to a fully-automated all-VBM process for Citywide elections would improve efficiencies, lower staffing costs, and reduce the potential for human error, but not until several election cycles have passed. Supplementing the process with Neighborhood Voting Centers, if warranted, would further increase costs and eliminate any potential cost savings.

For Special Elections, only

Conducting all-VBM for non-Citywide Special Elections, however, would result in cost savings. In order to obtain estimates for expected VBM ballot processing and return rates, staff used statistics for the most recent Special Election, the September 22, 2009 Council District 2 Special Election (primary). This election consisted of 123,750 registered voters of which 19,012 had Permanent Vote-by-Mail status. Additionally, the Division received 1,663 VBM requests. In all, 16.7% of the registered voters in Council District 2 received a VBM ballot. Of the VBM ballots issued, 42% were returned. If that Special Election had been run with all-VBM, additional savings would have been realized by elimination of poll worker recruitment and placement, polling place recruitment, supplies assembly and dispatch, and Election Central operations.

Assuming the VBM return rate is consistent and the total number of registered voters receiving a VBM ballot is 165,000 (the approximate number of registered voters in the largest Council District), the City Clerk may receive approximately 69,300 VBM ballots, or 42%, in a non-Citywide all-VBM election. Fortunately, this falls well within the Election Division's current staff VBM capacity limit.

Costs to Implement an All-VBM Special Election

The cost to implement an all-VBM Special Election is estimated at \$1,142,000. For comparison purposes, the cost to run the recent Special Election for Council District 2 (primary and runoff) cost \$2 million. The \$1.1 million budget assumes the following:

- The conduct of both a Primary and Runoff election.
- The all-VBM election(s) would occur in a non-Citywide Special Election in which only one Council District is up for election.
- Certification of the election would take place within the 21 day legal deadline.
- VBM Ballots and other VBM materials would be mailed together with the Official Sample Ballot(s).
- Postage-paid return envelopes would be used.
- Ten (10) Neighborhood Voting Centers would be used, at a cost of approximately \$10,000.

Cost Comparison of Normal Special Election vs. All-VBM Special Election

Section		Normal Election	Special All-VBM Election with 10 Neighb. Voting Centers
NAME	#		
Administration	500	\$28,000	\$15,000
ECentral	505	\$25,000	\$0
Service Center	520	\$340,000	\$0
Precincting	530	\$125,000	\$0
Fiscal/Admin	540	\$440,000	\$485,000
Public Services	550	\$100,000	\$105,000
Systems	560	\$27,000	\$22,000
Vote-By-Mail	570	\$350,000	\$405,000
Poll worker Recruitment	580	\$255,000	\$0
Outreach	590	\$111,000	\$100,000
Neighborhood Voting Centers (10)		\$0	\$10,000
Total:		\$1,801,000	\$1,142,000
Difference:		\$659,000	

Conclusion

Conducting an all-VBM election for Citywide municipal elections would pose monumental challenges to the Division's current VBM processes including, but not limited to: increased costs for exponentially increased staffing, resources, and facility and automation enhancements. Administering an all-VBM election this large would also make it difficult to maintain quality control levels, thereby risking the integrity of the election. Supplementing all-VBM in Citywide elections in combination with Neighborhood Voting Centers would increase those costs.

However, conducting all-VBM elections for non-Citywide special elections, would produce significant cost savings and moreover, is feasible. Converting to an all-VBM election model with Neighborhood Voting Centers would eliminate the need for poll workers, polling places, and polling place supplies and equipment. The Election Division is capable of handling VBM ballots for up to 165,000 registered voters, the number of registered voters in the City's most populated Council District.

Changing to an all-VBM election model, whether for Citywide or district-specific elections, would require changes in both the City Charter and the City's Election Code. City Charter amendments must be approved by a majority of voters, and subsequent Election Code revisions must be codified by ordinance and effective six months prior to the affected election.

Finally, as previously stated in this report, the City's municipal election responsibilities include administering the consolidated election jurisdictions of the Los Angeles Unified

School District (LAUSD) and the Los Angeles Community College District (LACCD). Therefore, it is strongly recommended that these two election partners be consulted if the City should decide to convert to an all-VBM methodology.

Recommendations for Council Action

Changing voting methodology in City elections is a policy decision. If the Council wishes to implement this policy, the Council can request the City Attorney to prepare a resolution placing on a future ballot, a measure to amend the City Charter to remove the at-poll election methodology currently proscribed in the Charter.

Fiscal Impact Statement

This report has no immediate fiscal impact. Citywide municipal elections are generally funded through the budget process and Special Elections are funded as they are called.

If you have any questions regarding this report, please contact me directly at (213) 978-1020.

Sincerely,



June Lagmay
City Clerk

JL:HW:gp
EXE-064-09

Attachment: City Clerk's February 25, 2008 report,
"Options for Conducting Los Angeles Municipal Elections"

FRANK T. MARTINEZ
CITY CLERK

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EXECUTIVE OFFICER

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February 25, 2008

Honorable Members
Los Angeles City Council
Room 395, City Hall
200 N. Spring Street
Los Angeles, CA 90012

OPTIONS FOR CONDUCTING LOS ANGELES MUNICIPAL ELECTIONS

Dear Honorable Members:

Executive Summary

On August 14, 2007, the Los Angeles City Council adopted the City Clerk's 2007 Municipal Elections After Action report and directed the City Clerk to report back on various options for improving the administration and voter turnout for municipal elections (reference CF No. 07-1100-S12). Our review ranged from fundamental changes to our voting methodology to more incremental changes and included: Election Day Registration; allowing persons to serve as poll workers in lieu of jury service; improvements in polling place and poll worker recruitment programs; altering municipal election dates/days; Vote-By-Mail centered elections; and Instant Runoff Voting. For each voting option under review we analyzed the advantages and disadvantages, any legal issues/barriers that must be addressed, logistical and infrastructure changes/investments required for implementation, and cost implications. For several of these options we have included specific recommendations for the City Council's consideration. It should be noted that the recommendations relating to alternative voting methodologies would impact the conduct of elections for the Los Angeles Unified School District and therefore any required Charter amendment(s) would have to be placed before the voters of the school district as well as the City of Los Angeles.

Our analysis included review of academic studies and other research material, site visits to jurisdictions already employing a specific voting system/methodology, discussion with and receipt of input from community based and voting advocacy organizations (via two workshops, a formal survey, review of draft reports and public testimony at the June 13, 2007 Rules and Government Committee), discussions with voting system vendors, and review with the City Attorney relative to legal issues. The City Clerk's Election Division staff then compiled a series of reports on each of the voting options under consideration and presented those to City Clerk executive management. This report represents a

summary of the extensive research compiled by the Election Division staff over a four-month period.

This report consists of five components:

- The cover report that summarizes our findings and contains specific recommendations for City Council action.
- Exhibit I – A set of recommended guiding principles for the introduction of significant changes in voting systems and/or methodologies.
- Exhibit II – A set of two summary “abstracts” for both the Vote-By-Mail centered and Instant Runoff Voting election options under consideration in this report.
- Exhibit III – Los Angeles Votes Committee, “Elections Options” Survey Results Report.
- Exhibit IV – Resource listing for additional information on various election options under consideration.

Since the City Council’s direction of August 14, 2007, two developments have occurred which significantly impact the election options under consideration. The first development is the assigning of the responsibility for conducting Neighborhood Council board member elections to the City Clerk. Along with this responsibility came the allocation of five additional regular staff positions that can be utilized to support municipal elections when they are not engaged in Neighborhood Council elections. This additional staffing represents a major “down payment” on our efforts to improve the institutional stability of the City Clerk’s Election Division by reducing our reliance on temporary staffing for section supervisory positions.

The second development is the decision by the Secretary of State to deny certification, in its current configuration, of the County of Los Angeles’ new vote tally system (GEMS II) that had been developed under a joint partnership agreement with the County and City of Los Angeles and the voting system vendor. The long term future of the GEMS II project is now in serious jeopardy and it is also clear that, regardless of the final decision on GEMS II, it will not be available for the City of Los Angeles’ 2009 municipal elections. The City of Los Angeles is now working with the Secretary of State to obtain an extension of the certification of our current legacy voting system for use in 2009 while we explore the lease and/or purchase of an alternative certified voting system.

The GEMS II decision represents both a significant challenge and an opportunity for the City of Los Angeles. On the one hand, undertaking the implementation of a significant change in our voting methodology (such as Vote-By-Mail centered or Instant Runoff Voting) while dealing with the more immediate and fundamental issue of ensuring that we have a certified voting system for 2009 may prove unworkable. On the other hand,

the adoption of an alternative voting system (with greater flexibility than the GEMS II/InkaVote Plus system) could facilitate transition to a different voting methodology.

In developing the specific recommendations contained in this report, several issues were given great weight, including: 1) the continuing instability in the area of voting systems technology; 2) the fact that many community based and voting advocacy groups, although generally supportive of innovative voting systems and/or methodologies, raised significant concerns that major changes in voting systems and/or methodologies could adversely impact certain segments of the voting community; and 3) the significant logistical, training and voter education investments required to implement fundamental changes in voting systems and/or methodologies in an election jurisdiction the size of Los Angeles. Reflective of these issues, our recommendations can be viewed as falling into two basic categories. One set of recommendations involves support of legislation and programs to improve the administration of municipal elections under our current voting systems and methodologies. The second set of recommendations involves seeking voter approval to establish the legal authority and requirement to implement more fundamental changes in voting systems and methodologies when conducting Special Elections to fill specified vacancies.

Recommendations

That the City Council:

1. Support the introduction and adoption of legislation at the State level that would allow for Election Day Registration subject to the following conditions:
 - a) That the same basic voter registration requirements be applied to Election Day registrants as persons registering at other times;
 - b) That the option be offered at each polling place in addition to specified government offices;
 - c) That the legislation be adopted as a State mandated program with funding made available to support an additional poll worker dedicated to the Election Day Registration function; and
 - d) That the ballots of such voters be processed as provisional ballots.
2. Support the introduction and adoption of legislation at the State level that would establish a voluntary program to allow persons who serve as poll workers in any Federal, State or local election in a given calendar year to be excused from jury service for up to one year upon submission of proof of poll worker service.
3. Direct the City Clerk to work with the Los Angeles Unified School District to develop a "system wide" school polling site program; and further request that the Mayor's Office facilitate the development and coordination of such a program.

4. Direct the City Clerk to work with the Los Angeles Unified School District to develop a "system wide" Student Poll Worker program; and further request that the Mayor's Office facilitate the development and coordination of such a program.
5. Direct the City Clerk to monitor the Secretary of State voting system certification program and the voting system selection determinations made by the County of Los Angeles and report back to the City Council whenever significant developments in those areas occur.
6. Direct the City Clerk, within the context of its election year budget; to explore the possibility of setting up grant funding opportunities for community based organizations to conduct nonpartisan/impartial get-out-the-vote programs and to augment recruitment of poll workers and polling sites in underserved communities.
7. Request the City Attorney to draft and present to the City Council the necessary ballot resolutions and ordinances required to place a Charter amendment(s) before the voters at the November 4, 2008 State General Election which would require the City Clerk to utilize a Vote-By-Mail centered election (coupled with Voting Centers) to conduct a Special Election called to fill a vacancy in a Council Office or a Los Angeles Unified School District Board Office where that Special Election will not be consolidated with a regular State or municipal election.
8. Request the City Attorney to draft and present to the City Council the necessary ballot resolutions and ordinances required to place a Charter amendment(s) before the voters at the November 4, 2008 State General Election which would require the City Clerk to utilize an Instant Runoff Voting system, with the option to rank up to three candidates, under the following circumstances:
 - a) To conduct a Special Election to fill a vacancy in a Council Office or a Los Angeles Unified School District Board Office where that Special Election will not be consolidated with a regular State or municipal election.
 - b) That the City of Los Angeles has implemented a Secretary of State certified voting system that supports Instant Runoff Voting or that such a system is readily available on a contract/lease basis.
9. Request the City Attorney to consult with the City Ethics Commission to determine if any changes are required in the City of Los Angeles Campaign Finance program to accommodate an Instant Runoff Voting model election; and, if necessary, to draft and present to the City Council the necessary ballot resolutions and ordinances required to place a Charter Amendment(s) before the voters at the November 4, 2008 State General Election to amend the City of Los

Angeles campaign finance laws to accommodate an Instant Runoff Voting election used to fill specified vacancies.

Discussion

Municipal Elections Review Process

Pursuant to the City Council's direction of August 14, 2007, the City Clerk's Election Division conducted an analysis of the various options for conducting municipal elections as well as related suggestions for improving our current operations. This analysis included reviews of reports/analysis from academics, community based voting advocacy organizations, and election administrators; site visits to election jurisdictions who have implemented or are in the process of implementing some of the proposed alternative voting methods (e.g. San Francisco for Instant Runoff Voting; Oregon and Washington for Vote-By-Mail centered voting); presentations by voting system vendors of available technology; review of the Election Division's existing procedures and logistical support operations; and consultation with the City Attorney's office regarding any legal issues related to proposed changes in municipal election operations. In addition to informing the specific recommendations of this report, this analysis process also helped to develop our principles for implementing new voting systems and/or methodologies (see Exhibit I).

In addition to the staff analysis, we also sought input from the community through our Los Angeles Votes Committee (LAVC) that is made up of various community based voting advocacy organizations. Through the LAVC we reached out to some 120 community members representing various community based organizations to participate in completing a survey regarding the major options for conducting municipal elections. Ultimately, 12 community based organizations completed the survey or submitted written comments and a summary of the survey is presented with this report (see Exhibit III). Several of these community based organizations also participated in two workshops hosted by the Election Division to discuss and review the various election options. Prior to submission of this report a draft was provided to these community members for review and comment.

Finally, prior to submission of this report, a draft was provided to the Chief Legislative Analyst, the City Administrative Officer and the City Attorney for review and comment. The collective input from community based voting advocacy groups; City departments and our Election Division staff analysis supported the final recommendations contained in this report.

Election Administration and Voter Turnout

One of the main reasons for reviewing various options for conducting future municipal elections in Los Angeles was the very low voter turnout in the 2007 municipal elections (10.26% in the Primary and 6.7 % in the General). However, our analysis indicates that there are many factors that influence voter turnout in any given election and election

administration is only one of those factors and certainly not the most significant. The number of competitive races, the number and type of ballot measures, media coverage, socio-economic demographics and voting history of the jurisdiction all impact voter turnout. A comparison of various elections administered by the City and County of Los Angeles, all of which have virtually the same election administration elements, shows a wide variety in voter turnout. If election administration were the driving force in voter turnout, one would expect turnout in various City and County of Los Angeles elections to remain fairly constant.

The historically low voter turnout in the 2007 municipal elections can be primarily attributed to the lack of high profile competitive candidate races or controversial measures on the ballot. In the Primary election, of the eight Council District races on the ballot five ran unopposed. In the General election the only items on the ballot were two School Board races and one Community College District race. This can be compared to the 1993 City of Los Angeles General election that featured a runoff race for the Office of Mayor that resulted in a 44.96% voter turnout rate within the City of Los Angeles.

Whether or not election administration significantly influences voter turnout in a given election, the City Clerk has the responsibility for ensuring that municipal elections are conducted in a manner that facilitates voter participation. Accordingly, the recommendations contained in this report seek to strengthen election administration to minimize problems that could negatively impact voter participation.

Continuing Uncertainty For Voting Systems In California

As part of the Secretary of State (SOS) comprehensive review program of voting systems used in California, the new vote tally system (GEMS II) developed by Premier Election Services (formerly Diebold) for the County and City of Los Angeles was submitted for review. As previously reported, the GEMS II vote tally system would have allowed for full integration with the InkaVote Plus (Help America Vote Act (HAVA) compliant) equipment that had already been deployed by both the County and City. Further, when completed, the County and City would have had the exactly the same voting equipment and vote tally system that would support consistency of the voting experience and mutual support between the County and City.

Toward the end of 2007, the SOS completed its comprehensive review of the GEMS II vote tally system, and based on its review declined to certify the system for use in California. After meeting with the County and Premier, it is not clear whether further modifications to GEMS II will be pursued in order to obtain certification from the SOS. What is clear is that, regardless of the final decision on GEMS II, it will not be available for the City of Los Angeles' 2009 municipal elections. The City's current vote tally system (called VOTEC) is some 20 years old and its administrative certification terminated on December 31, 2007.

After meeting with representatives of the SOS, the City Clerk will now pursue a parallel strategy of requesting an extension of the administrative certification of our current

voting system for use in 2009 while we explore (via release of a Request For Proposal) the lease and/or purchase of an alternative certified voting system. As noted in the Executive Summary above, the SOS decision on GEMS II may make undertaking the implementation of a significant change in our voting methodology (such as Vote-By-Mail centered or Instant Runoff Voting) while dealing with the more immediate and fundamental issue of ensuring that we have a certified voting system for 2009 unworkable. However, the adoption of an alternative voting system (with greater flexibility than the GEMS II/InkaVote Plus system) could facilitate transition to a different voting methodology in the future.

As we explore alternative voting systems, it is important to remember that the adoption of any voting system other than one that can be used by the County has serious implications for the potential loss of the benefits of a consistent voting experience for voters and poll workers, emergency backup, staff cross training, shared facilities and logistical support infrastructure, etc. In addition, under current State and Federal guidelines, the City is not eligible for State or Federal voting system replacement funding and therefore would most likely have to debt finance the purchase of any new voting system not jointly purchased with the County.

During the City Council's August 14, 2007 discussion of the City Clerk's 2007 Municipal Elections After Action report, we were asked to include in our review the potential for voting via the Internet in municipal elections. There have been some limited attempts to initiate Internet voting on a pilot project basis (e.g. for military personnel stationed overseas), however, these efforts have been largely abandoned. The increasing concern over the security of computer based voting systems at polling places (as evidenced in the findings of the SOS's comprehensive voting systems review project), suggest that we are unlikely to see any significant move towards Internet based voting in the near future. There are significant concerns related to Internet voting involving balancing the voter's right to anonymity with the need to guard against multiple voting or other forms of voting fraud; protecting the entire system against computer hacking; and ensuring equal access across all segments of the voting population.

Current Voting Model For Los Angeles Municipal Elections

The City's municipal elections, including the consolidated election jurisdictions of the Los Angeles Unified School District (LAUSD) and the Los Angeles Community College District (LACCD), represent the second largest election jurisdiction in California with some 2 million registered voters, over 2,000 voting precincts, some 8,000 poll workers and an operating budget of approximately \$17 million. In our view, the fundamental challenges that face the City Clerk's Election Division can be grouped into the following categories.

Inadequate Number of Permanent Staff Positions: The reliance on a very small core of 30 regular City employees (professional, clerical and systems staff classifications), supplemented by hundreds of as-needed temporary employees during the height of election season, to manage the entire election process does not provide sufficient

institutional stability for a unique function within our municipal government. To provide some perspective on this understaffing, the County Registrar-Recorder Office, which manages an election jurisdiction roughly twice the size of our election jurisdiction, has some 268 permanent staff positions dedicated to election administration. Even accounting for the fact that the Registrar-Recorder conducts more elections on a year round basis and is also responsible for the voter registration process, the understaffing of the City Clerk's Election Division is quite clear.

The Increasing Difficulty In Securing Sufficient Polls and Recruiting, Training and Deploying Poll Workers: The City's municipal elections rely on the establishment of relatively small neighborhood based voting precincts with a maximum of 1,250 registered voters and an average voter registration figure of 860. Some 8,000 volunteer poll workers must then be recruited, trained and deployed for each 15 hour Election Day. Having consistent, adequately sized and American's with Disabilities Act (ADA) compliant polls as well as a sufficient number of well-trained poll workers is a fundamental requirement for conducting well-run elections under the neighborhood voting precinct model. However, over the last two decades it has become increasingly difficult to meet this fundamental requirement. Among the many factors influencing this issue, those commonly cited include: socio-economic changes that have limited the number of adults not working outside of the home (and thus able to work as poll workers or use their homes as polling places); security concerns related to opening facilities as polling places; and facilities lacking sufficient space or infrastructure to support the modern polling place requirements.

Increasing Complexity Of Election Operations: The complexity of election operations has dramatically increased since the Presidential elections of 2000 and the continuing evolution of voting regulations and operations has yet to stabilize. Examples include: providing HAVA compliant voting equipment at every polling place that will alert voters to potential ballot errors and allow the visually impaired to vote independently; continuing instability in the area of approved voting equipment; implementation of statewide voter registration verification requirements; the requirement to count and track Vote-By-Mail ballots by voting precinct; increased use of provisional voting; and the increased scrutiny on the Voting Rights Act language assistance requirements. This complexity places additional pressure on poll workers and logistical support personnel and also exacerbates the problem of insufficient permanent staff noted above.

Challenge of Providing Multiple Voting Options: In an effort to provide the most accessible election process, both the City and County of Los Angeles provide multiple options for voting including: at polls voting on Election Day; a very liberal Vote-By-Mail program consistent with California election law; and most recently an Early Voting option at selected voting centers around the City. Each of these voting methods requires staff, equipment and a logistical support infrastructure that often create competing demands on the City Clerk's Election Division.

As noted in the Executive Summary, the City Clerk's Election Division has recently been allocated an additional five regular positions to help administer Neighborhood Council

board member elections and these positions will be available to assist in the City's regular municipal elections. The increase in regular staff positions will improve the operations of the City Clerk's Election Division by strengthening the direction and management of our major functional divisions. Many of the other improvements to our current election operation (e.g. additional automated systems equipment) will be handled within the context of finalizing the Fiscal Year 2008-09 municipal election budget. However, beyond these internal initiatives, this report contains a series of recommendations that will also improve the conduct of municipal elections and help address some of the challenges noted in this section.

A. Election Day (also called Same Day) Voter Registration

Voter registration was designed to serve two basic purposes. First, registration regulates access to voting and helps reduce incidents of voter fraud. The registration process allows election administrators to verify a person's eligibility to vote, which is contingent upon a person's residence, age and citizenship. Once a person has registered to vote, an election administrator can ensure that only one ballot is issued to and received from the voter. Secondly, voter registration provides election administrators with information necessary to complete various administrative tasks, such as assigning voters to voting precincts, generating voter rosters, delivering Vote-By-Mail ballots, etc.

Overall, voter registration helps prevent fraud and allows the election administrators to organize the election. However, concerns have been expressed that the imposition of a registration deadline (in the case of California elections – 15 days before Election Day) places an arbitrary obstacle before potential voters. The registration process and deadline requirements can disproportionately impact new citizens, mobile segments of the voting population that move into a new jurisdiction, lower-income voters, and those with lower levels of education that may have more difficulty accessing the registration process. Studies have also shown that due to increased media coverage and campaign activities in the week immediately preceding an election, interest in an election often rises after the registration deadline has passed, thus giving the unregistered voter no opportunity to participate.

Efforts have been made to address these concerns. For example, the United States Congress enacted the National Voter Registration Act (the NVRA or "Motor Voter" Act) in 1993, which allows voters to register at their local Department of Motor Vehicles, libraries, disability centers, and by mail. The NVRA was intended to make registration widely available through common venues that are easily accessible to the public. Despite these efforts to make voter registration widely accessible, some potential voters find that they are unable to participate in an election because they have either not registered or failed to re-register.

One solution to the issue of the voter registration process creating a barrier to participation is Election Day Registration, that allows a person to register to vote at their polling place or at a designated government office on the day of an election and to cast a ballot. According to the U.S. Census Bureau's Current Population Survey of 2004, 6.4%

of the population registered to vote on Election Day. Currently, seven states allow Election Day registration: Idaho, Maine, Minnesota, Montana, New Hampshire, Wisconsin, and Wyoming. A majority of these seven states have consistently had higher voter turnout than the rest of the nation, by as much as 12 percentage points. Although these States have a history of high voter participation even prior to the adoption of Election Day Registration, the majority of research indicates that new Election Day Registration programs are associated with a sustained increase in voter turnout of about 3 to 6 percentage points, depending on the scope of the election.

Thirteen states, including California have in the past rejected Election Day Registration. In November 2002, California voters soundly rejected Proposition 52, which would have implemented Election Day Registration in the State. Recently, on October 11, 2007, Governor Arnold Schwarzenegger vetoed Assembly Bill 355, which would have enabled new citizens to register and vote on Election Day. The Governor cited logistical and security concerns as justification for rejecting the bill.

Although the rules governing Election Day Registration differ from state to state, the overall process remains the same. First, a person wishing to register to vote on Election Day must go to either their assigned polling place or to a designated government office to be processed. Next, a person must provide valid photo identification or other documentation establishing identity and/or residency. The registration clerk will then check a registration database for any duplicate registration records and verify that the voter has not cast a ballot or been issued an absentee ballot. Then, once the registration has been processed, the voter will cast a provisional ballot, which will be verified during the canvass of ballots. Finally, the voter is sent a non-forwardable postcard to verify the existence of the voter's address. Unless the postcard is returned as undeliverable the ballot will be counted.

Voter registration is handled by the County Registrar-Recorders under State law. Thus, any change in the voter registration process will require State legislative action or a Statewide vote of the people. Balancing security concerns against imposing too great a documentation standard on Election Day registrants and/or creating post election verification processes that cannot be completed in time to include the ballot in the certified election is the challenge for creating the legislation to establish an Election Day Registration program in California. Accordingly, we are recommending that the City support the introduction and adoption of legislation at the State level that would allow for Election Day Registration subject to the following conditions: a) that the same basic voter registration requirements be applied to Election Day registrants as persons registering at other times; b) that the option be offered at each polling place in addition to specified government offices; c) that the legislation be adopted as a State mandated program with funding made available to support an additional poll worker dedicated to the Election Day Registration function; and d) that the ballots of such voters be processed as provisional ballots.

B. Poll Worker Service in Lieu of Jury Service

A motion (Hahn-LaBonge CF No. 07-1210) considered by the City Council in conjunction with the City Clerk's 2007 Municipal Elections After Action report, proposes to allow citizens to perform poll worker duty in lieu of jury service. The regulations governing jury service are contained in the California Code of Civil Procedure and the California Rules of Court. Under current State law, a person can be excused from jury service only for undue hardship. Any change to this provision to exempt citizens from jury service as a result of serving as a poll worker would require State legislative action to amend the California Code of Civil Procedure.

A similar proposal (Assembly Bill 1660) was introduced during the 2001-2002 session of the California State Assembly. AB1660 would have allowed an eligible person who served as a poll worker at a national, statewide, or local election to be excused from jury service for a period of one year after their participation as a poll worker. This bill was not adopted.

Since the time that AB 1660 was introduced, the Los Angeles County court system has introduced the one-day or one-trial system that appears to have been well received and somewhat lessened the challenge in obtaining sufficient numbers of jurors. Thus, proposals to allow persons serving as poll workers to be excused from jury service may be viewed more favorably than at the time AB 1660 was considered.

It should also be noted that jury service and poll worker service are quite different and one or the other may have greater appeal to certain persons. Unlike jury service that does not require special training, poll workers must attend a two-hour training session on a separate date prior to an election. Currently, jurors in Los Angeles County are offered one-day jury service. This means that a person would report one day and be released from jury service for an entire year if they were not selected to serve on a trial. This one day of reporting is similar to a typical work-day schedule of 8 hours. On the contrary, poll workers generally serve some 15 hours including setting up the polls at 6 a.m. for the 7:00 a.m. start of voting to closing out of the polls after voting terminates at 8 p.m. Finally, many persons receive their regular pay from their employers during jury service while poll workers do not get paid from their employers but receive a stipend (which may be greater or lesser than their regular pay).

Any legislation to allow for poll worker service to exempt a person from jury service, would also have to establish guidelines for proof of poll worker service that would be accepted by the Courts, determine the period of excuse from jury service based on the number of times poll worker service is performed, the type of elections that would qualify for the exemption, etc.

Although it is not clear what the overall impact of a poll worker service in lieu of jury service program would have on poll worker recruitment, it seems reasonable to offer the citizens of Los Angeles multiple options for providing public service. Accordingly, we recommend that the City support the introduction and adoption of legislation at the State

level that would establish a voluntary program to allow persons who serve as poll workers in any Federal, State or local election in a given calendar year to be excused from jury service for up to one year upon submission of proof of poll worker service.

C. System Wide Polling Site Program with LAUSD

As noted in the City Clerk's June 4, 2007 Municipal Elections After Action report, obtaining adequately sized, appropriately located and ADA compliant polling places with adequate parking for some 2,000 voting precincts continues to present a major challenge for the City Clerk's Election Division. In recent election cycles we have increased the stipend for polling place rental (now set at \$50 per election), established our Mobile Operation Polling Places (MOPPS) that can be deployed on site when a polling place cancels just before Election Day, prioritized the use of public buildings and provided our polling place locations to the Departments of Public Works and Water and Power to avoid construction and to the Department of Transportation which has implemented a "holiday parking" enforcement policy (i.e. relaxed) around polling places.

In spite of the above efforts, some ongoing trends and other recent developments have hindered the recruitment of polling places including: there are fewer private homes available as more and more families have all adult members working outside of the home and many facilities (especially schools) have increased security measures (such as limiting access and parking) which makes those facilities unworkable as polling places.

After the March 6, 2007 Primary Nominating Election, two motions were introduced dealing with the issue of polling places. One motion (LaBonge-Rosendahl/CF No. 07-0704) cited the need for convenient polling places to improve voter turnout and directed the City Clerk to work with various City departments and governmental agencies to increase the number of and convenience of polling places. The second motion (Hahn-LaBonge/CF No. 07-0910) cited the problems with changing polling places after the Official Sample Ballot has been mailed and requested that such changes be avoided unless an emergency exists and, if such a change is required, that adequate notice and signage be provided.

Pursuant to the aforementioned motions and our ongoing post election cycle improvement efforts, we have analyzed our profile of polling places and have determined that increasing the number of schools utilized as polling places could have a dramatic impact on improving the consistency and stability of the polling places in municipal elections. Even though local schools have traditionally been used as polling places, in 2007 only 24% of our polling places were schools. In terms of LAUSD, of their some 861 unique school locations we used approximately 293 (34%) for polling sites. Contributing to the lower than optimum use is our current practice of contacting and negotiating with each school principal to attempt to secure the school for a polling site. Accordingly, we are recommending the establishment of a formal partnership between the City and LAUSD to secure all available schools and other LAUSD facilities for use as polling sites on a system wide basis.

We believe such a program would create benefits for both City municipal elections and the LAUSD in the following areas:

- If all available schools could be used as polling sites over 50% of actual voting locations would be secured up-front and remain consistent from one municipal election cycle to the next.
- Generally, all school sites already comply with the ADA and other polling place facility requirements.
- Since municipal elections include the LAUSD elected board member offices, greater stability in election administration supports the elected legitimacy of those offices.
- Such a program would build on the evolving partnership that the Mayor's office has initiated with LAUSD. Accordingly, we are recommending that the Mayor's Office be requested to assist in the coordination and development of the program.
- Coupled with the Student Poll Worker Program (see below), the use of schools as polling sites offer an excellent educational opportunity for exposing and integrating students into the democratic process.

D. System Wide Student Poll Worker Program with LAUSD

An important component of our poll worker recruitment effort is our "STAR" Student Poll Worker program, which involves the placement of eligible high school students at polling places (up to two per polling site) throughout the election jurisdiction. For the 2007 municipal elections an average of 2,400 students worked the polls on Election Day. The student poll workers have improved our polling site operations by increasing the number of bilingual poll workers and assisting the other poll workers with the set up of the electronic voting equipment. It should be noted that because the continued availability of students from one election cycle to the next is not guaranteed (or even probable), it is likely that we will be recruiting a new group of student poll workers for each election cycle. However, we hope that these students, when they finish their schooling and begin their working careers, will return and become part of the regular returning cadre of experienced poll workers.

However, as in the case of polling sites, our current practice is to recruit the student poll workers through each individual school. We believe that a system wide approach fully supported by the LAUSD elected and executive leadership could expand and strengthen the program. In addition, a great educational opportunity exists by empowering students to be directly involved with supporting the democratic process. Further, student involvement could also have a multiplier effect in the broader community resulting from the students' communications with family and friends. Accordingly, we are recommending that the City Council direct the City Clerk to work with the LAUSD to develop a system wide Student Poll Worker program. As with the polling site program,

we are further recommending that we take advantage of the Mayor's evolving partnership with LAUSD by requesting that the Mayor's Office assist in the development and coordination of such a program.

E. Directly Funding Non-partisan/Impartial Get-Out-The-Vote Program

The James Irvine Foundation as part of its California Votes Initiative has recently released a study analyzing the success of various voter mobilization efforts in terms of motivating infrequent voters to participate in an election (see www.irvine.org). The Irvine Foundation conducted the study of nonpartisan voter outreach activities conducted prior to the June and November 2006 elections in the San Joaquin Valley and parts of Southern California. Their initial round of research reveals five best practices: door-to-door canvassing followed by telephone calls to voters expressing interest; use of local volunteers; information-rich interactions (as opposed to brief messages); improved voter targeting; and timing the outreach to the period within a month of the election.

Traditionally, the City Clerk's Election Division has concentrated on performing the administrative tasks associated with conducting an election and left voter mobilization to the various campaigns and the media. Of course our Multilingual Outreach Unit and media relations staff work with community groups and the media to improve overall awareness of an upcoming election, but we have not directly engaged in get-out-the-vote programs. As part of its consideration for taking steps to improve voter turnout, we are recommending that the City Council direct the City Clerk to explore the potential of directly funding nonpartisan/impartial get out the vote programs. These programs could also augment poll worker and polling site recruitment efforts in underserved communities. We realize there are several policy, financial and legal issues to consider including:

- Are there sufficient funds to support the program?
- What safeguards would have to be established to ensure that the efforts are truly nonpartisan/impartial and do not benefit one candidate or ballot measure over another?
- Even if the City were to embark on such a program should it be housed in a different department than the City Clerk, to ensure that no claim of bias can be lodged against the officials tasked with conducting the election and counting the votes?
- An alternative program to consider would be a greatly expanded (including funding and staffing) media outreach campaign directly administered by the City Clerk's Election Division.

Changing the Dates/Days of the City's Municipal Elections Or Consolidating Municipal Elections with State and Federal Elections

A motion (Garcetti-Greuel, CF No. 07-1100-S10), considered in conjunction with the City Clerk's 2007 Municipal Elections After Action report, requested that we review the possibility of consolidating the City's municipal elections with the Federal and State elections conducted by the County of Los Angeles. In reviewing this issue we also took the opportunity to look at weekend voting; establishing a holiday for Election Day and other related topics.

A. Consolidating Municipal Elections with State and Federal Elections

Due to the greater public interest in elections featuring high profile offices such as the President and Governor, the State and Federal elections conducted by the County in the even numbered years consistently have significantly greater voter turnout than the City's municipal elections. There can be little doubt that if the City's municipal elections were consolidated with the State and Federal elections, that overall voter turnout would increase. However, due to the issues cited below, that have been previously reported, we are not recommending that the City pursue consolidation at this time.

- The County's InkaVote Plus voting system cannot accommodate the City's regular candidate municipal elections on the current ballot without having to move to a second ballot. This raises several issues for the County in terms of cost, logistics, etc. In fact, the Board of Supervisors has a standing policy to disapprove the consolidation of any additional regular local municipal candidate elections on to the regularly scheduled Federal and State elections and we have recently confirmed with the County Registrar-Recorder that they would not support such a consolidation request. However, as noted above, if the non-certification of the GEMS II voting system leads the County to the adoption of an alternative voting system (with greater flexibility than the GEMS II/InkaVote Plus system) this could allow for consolidation. The City Clerk will monitor this situation and report to the City Council when significant developments occur.
- As an alternative to full consolidation, some advocates have offered the alternative of conducting a "concurrent" election on the same day as the Federal and State elections. A concurrent election involves each jurisdiction conducting their own separate election on the same day but sharing polling sites (e.g. voters are mailed separate sample ballots, voters vote at different tables in the polling place, Vote-By-Mail voters must vote separately for each election, ballots are tallied and results released separately, etc.). The City Clerk strongly opposes this approach due to costs, logistical coordination challenges and potential voter confusion.
- A change in the timing of municipal elections would require a Charter amendment and such an amendment would have to have a future effective date to allow for

sufficient transition time and to resolve issues relating to the impact on term limits; fund raising windows; establishing a new candidate filing process; etc.

- The City conducts elections under Federal and State law as well as the City Charter and Election Code whereas the County conducts elections under Federal and State Law. Although basically consistent there are differences and once consolidated City elections would essentially be conducted under Federal and State law.
- If municipal elections are turned over to the County we will no longer be in a position to make decisions that impact costs. Such decisions as the type of voting system, number and location of early voting sites, polling place consolidations, staffing, poll worker pay, etc. will be decided by the County. In addition, since we currently share costs with LAUSD and LACCD, we have to look at the net real costs of currently conducting elections versus what the County would charge the City.
- A decision to consolidate municipal elections with State and Federal elections cannot be made on an "experimental basis." If the City were to stop conducting elections for a period of time, it would be extremely difficult and costly to re-constitute that function if at some future point if we wanted to re-assume responsibility for conducting elections.
- Based on the California Elections Code, City municipal election contests (such as Mayor) would appear toward the end of the ballot after Federal, State, and County races.
- The potential impact on City elected officials wanting to run for Federal, State or County office while still in (or retaining) their current City office should be recognized.
- There would be fewer elections available to place measures before the voters - and those available would likely include State measures that could negatively impact the City measures.

B. Weekend Voting

In terms of voting on some other day than a Tuesday (a work day), the only alternative that would appear to have any potential for impact would be to move voting to the weekend (simply moving election day from one work day to another does not seem worth the effort). There are several jurisdictions around the Country that do hold elections on Saturday such as Hawaii and the City of New Orleans and there are other countries such as France, Japan and Mexico that do schedule elections on either Saturday or Sunday. Our review of the data suggests that weekend voting has mixed results in terms of voter turnout. At this time the City Clerk does not recommend changing Election Day to another day of the week for several reasons.

- Either Saturday or Sunday voting will conflict with the religious obligations of some segment of the population. Alternatively, having voting on both days raises issues of costs, ballot and voting results security, polling place and poll worker availability, etc.
- Weekend voting would raise costs (at a minimum) in terms of overtime pay for employees.
- Weekend voting (even the single day model) could actually increase problems in terms of polling place and poll worker availability.
- A liberal Vote-By-Mail program, employer sanctioned "time-off for voting programs," and the initiation of Early Voting programs already provide voters who have scheduling conflicts on Election Day with reasonable alternatives.

C. Establishing a Holiday for Election Day

Our review of voter turnout data shows that of the nine States that have designated Election Day (for State elections) as a legal holiday, eight of those States have turnout near or above the national average. However, for a local municipality to declare a City holiday would not have much impact unless other governmental agencies and the private sector honored the declaration. Additionally, unless a culture of voting was developed in connection with the holiday it could simply become another day off from work. It appears that this is an issue that should be looked at only if local elections are ultimately consolidated with Federal and State elections.

Vote-By-Mail (VBM) Centered Elections Coupled With Voting Centers [see Exhibit II (a) for additional details]

The use of the VBM option (also called absentee voting) by voters in the City's municipal elections, has continued to increase over time: from 15% in 1989, to 22% in 1997, to 28% in 2005, to the current usage of 46% (Primary) and 58% (General) in 2007. Other jurisdictions experience even higher usage of this voting method. Since 2001, any voter can apply for permanent absentee voter status in which they are automatically sent a VBM ballot for each election without having to submit an election specific application. 195,000 voters (approximately 10%) in the City's municipal election jurisdiction currently have this status. An additional 30,000 to 40,000 voters generally apply for a VBM ballot each election. In addition to the high percentage of voters using this option in the 2007 City municipal elections, the VBM voters had a return rate (in effect the turnout percentage) of 34% as compared to the single digit turnout for the at polls voters.

Several election jurisdictions have or are considering transitioning to all VBM elections. The State of Oregon conducts all VBM elections, and the majority of the State of Washington elections are VBM with full statewide implementation scheduled for 2008. Locally, the city of Burbank has recently conducted an all VBM election. In Denver

Colorado, VBM elections have been conducted which show promise of increasing overall participation and also reducing the participation gaps between various segments of the voting community (see www.commoncause.org). Pursuant to Department of Justice (DOJ) staff, the DOJ has not taken a position regarding the fundamental ability of all VBM elections to comply with the Voting Rights Act (VRA). However, they confirmed that measures must be taken to assure equal access for all voters.

Proponents for all VBM elections cite several benefits including: voter convenience; unhurried voting process (where the Sample Ballot and other material can be consulted while voting); greater procedural integrity as the signature of each voter is checked before the ballot is counted; better control over the election process since all ballot preparation, the issuance of the ballots, and the handling and counting of voted returned ballots are done under the close supervision of elections officials. With the continuing difficulty in recruiting poll workers and polling places, the increasing complexity of polling place operations and the concerns regarding voter turnout, the City should consider the possibility of transitioning to VBM centered municipal elections.

However, in considering VBM centered municipal elections we must recognize the concerns raised by voting rights advocates and the public with regard to removing an option for voting still used by the majority of voters in most elections (in person voting at neighborhood polling places) and the concerns regarding the differing impact that VBM centered municipal elections might have on the various diverse voting communities within the City's municipal election jurisdiction. In fact, several members of the LAVC expressed specific concerns on the potential negative impact of VBM centered municipal elections on minority voters in terms of: those voters requiring language assistance (that can now be obtained at the polling place); the historically lower usage of the VBM option by minority voters; the extent to which a voter education program could be designed to effectively reach all our diverse voting communities; the integrity of the voter registration file in terms of a very mobile population; uneven mail service in certain parts of the community; the type of ballot and related ballot materials to be utilized; and the impact on disabled voters.

To address the potential problems associated with VBM elections, our proposal contains two key mitigating approaches. First we are recommending that the VBM election process be coupled with the establishment of voting centers and other voter assistance support operations throughout the election jurisdiction. Second, we are recommending that we first try the VBM/Voting Centers model in a single Council District office or LAUSD office where a stand-alone Special Election has been called to fill a vacancy.

A. Voting Centers and Voter Assistance Support Operations

Coupling a VBM centered municipal election with an expanded voting center program (similar to our current Early Voting program) supported by additional voter assistance tools could serve to mitigate potentially negative impacts on various segments of the voting community. The VBM/Voting Center model would have the following general features (more specific details and resource requirements would be developed upon

approval to proceed with this model). These features mirror many of the ideas identified as best practices in the Common Cause analysis (see web site cited above).

- Implement a multi-language, multi-media voter education program designed to reach all segments of the voting population.
- All registered voters (regardless of active status) would automatically be sent a complete VBM package so that they could vote and return their ballot (postage paid) directly to the City Clerk. Multi-lingual assistance materials would be included.
- A significant number of Voting Centers (approximately 100 for a full City election) would be set up throughout the jurisdiction (opening two weeks before the election and operating through the end of election day) to allow any voter who does not wish to vote by mail to instead utilize the in person Voting Centers option. Voters could also drop off their completed VBM ballots at the Voting Centers and obtain assistance if required.
- With 100 Voting Centers (as opposed to 2,000 neighborhood voting precincts), it should be possible to: 1) house all the Voting Centers in large well equipped facilities; 2) establish long term leasing arrangements with the facilities to promote consistent use from election to election; 3) strategically locate Voting Centers to ensure close proximity and easy access to communities that do not traditionally use the VBM option; provide state of the art voting equipment at each of the sites (such equipment is now available to assist the visually impaired and to handle all language requirements); provide equipment at the Voting Centers that can interface with the ballot tracking system to prevent double voting; and 4) ensure that the sites are adequately staffed with well trained poll workers that can provide assistance to a full range of voters.
- Utilize voting materials (including ballots) most appropriate for the in home voting experience. Also, utilize return ballot envelopes designed to secure, in the most efficient and user-friendly manner possible, all the information required to confirm the voters' identity and eligibility to vote.
- Work closely with the US Postal Service to ensure delivery of ballot materials.
- Establish multi-lingual phone banks, translated web sites and other voter assistance support programs.
- Establish transparent ballot tracking programs so that the public, candidates and other interested parties can confirm receipt of the returned ballots by the election officials.
- Work closely with appropriate authorities to investigate any instances of voter fraud or the interference with the delivery of election materials.

B. Utilizing VBM/Voting Centers Election Model To Fill Specified Vacancies

Implementing a hybrid VBM/Voting Centers model for municipal elections would represent a major change in the conduct of municipal elections in Los Angeles. Thorough planning and sufficient resources would be required to ensure a smooth transition to this new voting model. Conducting such an election on a single Council District office or LAUSD office basis (with an appropriate number of Voting Centers based on the size of the district) would be far more manageable and allow election officials to implement and analyze the effectiveness of the various mitigation measures noted above.

The City Attorney has advised that, even for the limited purposes of filling specified vacancies, amending the Charter and changing the City's Election Code would be necessary to establish the legal authority and requirement for conducting a VBM/Voting Centers model election. Any Charter amendment must also include express language to establish the legal authority to conduct LAUSD Special Elections utilizing this voting methodology. In addition, great care should be given to clearly establishing in the Charter language the specific circumstances under which this election methodology would be required to be implemented.

Advocates of VBM voting often note the potential for reducing costs since the neighborhood polling places and the logistical infrastructure required to support their operation would no longer be needed. However, implementing the mitigation measures cited above along with a comprehensive voter education program could in fact equal or exceed the costs of supporting neighborhood polling places. Again, utilizing the VBM/Voting Centers model for filling specified vacancies would provide valuable insight into cost issues.

Of course, one downside to this approach is that we cannot predict with certainty when, or if, the conditions will arise that mandate the use of the VBM/Voting Centers model.

Instant Runoff Voting (IRV) [see Exhibit II (b) for additional details]

IRV (a version of which is also called Ranked Choice Voting - RCV) is a method of voting that produces winners with majority support in a single election. Voters rank candidates in order of preference: a first ranking for their favorite candidate, a second ranking for their next favorite, and so on. If a candidate wins a majority of first-choice rankings, he or she wins the election (the same as Los Angeles elections operate now). If not, the "instant runoff" begins in an automated fashion within the vote tally system.

The candidate with the fewest first-choice rankings is eliminated, and voters for the eliminated candidate have their ballots counted immediately for their second-ranked candidate - i.e. the candidate they would have supported if forced to return and vote again in a traditional two-round runoff. All ballots are recounted (within the vote tally system), and if a candidate has a majority, that candidate is the winner. If not, the process is repeated until one candidate has majority support and is declared the winner.

A motion (Huizar-Garcetti, CF No. 07-1378), considered in conjunction with the City Clerk's 2007 Municipal Elections After Action report, requested that a thorough analysis of IRV/RCV be included in the comprehensive review of the various options available for the conduct of future municipal elections. This instruction is consistent with and continues the analysis that the City Clerk has been conducting of the implementation of IRV/RCV in the City and County of San Francisco that has now been in use since 2004.

The proponents of IRV/RCV cite several benefits including: eliminating the costs of conducting runoff elections; vacant offices could be filled sooner; negative campaigning would be reduced since the candidates must consider all the rankings of voters when conducting their campaigns; so called strategic voting (not voting for your true choice because you do not think the candidate has a chance of winning), vote splitting among similar candidates, and so called "spoiler" candidate impacts would be reduced; higher voter turnout would occur since the single election will produce a winner and voters and mobilizing organizations can concentrate on that single election; the candidates' campaign costs of the runoff election (for non-partisan offices) would be eliminated; and the candidate ultimately selected more truly represents the preference of the people since the candidate must demonstrate both committed support (their first place votes) and broad appeal (their second, third, etc. place votes).

Besides San Francisco, IRV/RCV has been used for decades in various countries around the world. Interest in the IRV/RCV model appears to be gaining momentum in the United States and, besides San Francisco, several other jurisdictions have actually conducted IRV/RCV type elections including: Burlington, Vermont; Takoma Park, Maryland; and Cary and Hendersonville, North Carolina. In addition, the States of South Carolina, Arkansas, and Louisiana use IRV/RCV for their overseas voters. Several other jurisdictions have passed legislation providing for the use of IRV/RCV (e.g. Oakland, Berkeley, San Leandro, California; Minneapolis, Minnesota; Pierce County, Washington; Sarasota, Florida; and Aspen, Colorado). Pursuant to Department of Justice (DOJ) staff, the DOJ has not taken a position regarding the fundamental ability of IRV/RCV elections to comply with the Voting Rights Act (VRA). However, they confirmed that measures must be taken to assure equal access for all voters.

One could debate some of the claims of the proponents in terms of voter turnout or the ultimate type of campaigning that will evolve under IRV/RCV or whether the system is fundamentally more reflective of the will of the people. However, there are certain benefits that seem clear: once the initial costs of transition/implementation are covered cost savings will occur by eliminating the second runoff election; vacancies can be filled more quickly under this system; and reducing the number of elections should reduce so called voter fatigue. The fundamental policy question remains, however, as to whether the time between the Primary and General elections is valuable in allowing the voters to gain additional information to better evaluate the two remaining candidates and allowing the remaining two candidates to focus their message to better reach the voting public.

Unlike the VBM centered municipal elections model discussed above, IRV/RCV does not remove a voting option and can be used in both Vote-By-Mail and at polls voting

environments. However, some of our LAVC advisory committee members did express concerns regarding the potential impact of implementing IRV/RCV on the various diverse voting communities within the City's municipal election jurisdiction. Specifically, concerns were expressed on the ability to develop and implement a voter education program to effectively reach all segments of our diverse voting communities and ensure full access to the new voting methodology. It should be noted that studies by the Public Research Institute-San Francisco State University of the IRV/RCV elections conducted by San Francisco from 2004 through 2006 show broad understanding and approval of IRV/RCV among San Francisco voters although there are some differences among various socio-economic groups (see Exhibit IV (d)).

Accordingly, as with the hybrid VBM/Voting Centers model, we are recommending that we first try IRV/RCV elections in a single Council District office or LAUSD office where a stand-alone Special Election has been called to fill a vacancy. As implemented in San Francisco, we are recommending an IRV/RCV model that allows the voter to rank up to three candidates in order of preference. The three-rank/choice model is recommended as it should ease ballot space and design issues; simplify any required manual recounts and facilitate use of lessons learned from San Francisco. Even if used for the limited purpose of filling specified vacancies, the following key issues will need to be addressed.

- The implementation of IRV/RCV will have to be accompanied by a significant multi-language, multi-media voter education program designed to reach all segments of the voting population as well as a significant poll worker and staff training program.
- IRV/RCV will require new voting equipment and/or ballots and a new vote tally system that would allow for the ranking of candidates and will require modification to existing procedures and materials. The current InkaVote Plus system cannot realistically accommodate IRV/RCV. It should be noted that as of the writing of this report, there are no IRV/RCV systems fully certified (without significant operating conditions) in California. There are some new IRV/RCV capable vote tally systems in various stages of certification review and it is anticipated that at least some of these systems could be available for use as early as mid-2008.

As noted earlier, selection of an alternative more flexible voting system could facilitate implementation of IRV/RCV. The City Clerk is currently pursuing a parallel strategy of requesting an extension of the administrative certification of our current voting system for use in 2009 while we explore (via release of a Request For Proposal) the lease and/or purchase of an alternative certified voting system. It is our intention to structure the RFP to solicit proposals from the vendor community to include voting systems that have the capacity to support IRV/RCV type elections in addition to the traditional voting method. It should also be noted that the eventual savings that would accrue from moving to an IRV/RCV type system would present an opportunity to recoup the investment in any new voting system.

If the City has not yet implemented an IRV/RCV capable voting system at the time an opportunity arises to conduct an IRV/RCV election, an alternative approach would be to lease the system from a vendor (along with securing appropriate vendor support). A pre-qualification process to establish the vendor to be utilized would facilitate the use of this alternative.

- Review should be conducted as to the possible impact on the City's campaign finance regulations that may need to be adjusted to reflect a single election.
- Beyond the voter education program, the City will have to establish an effective education campaign for candidates and the media to ensure understanding of IRV/RCV. Accompanying this education program will be the establishment of procedures and systems to ensure full transparency of the vote tabulation and reconciliation process.

B. Utilizing IRV/RCV Election Model To Fill Specified Vacancies

Implementing an IRV/RCV model for municipal elections would represent a major change in the conduct of municipal elections in Los Angeles. Thorough planning and sufficient resources would be required to ensure a smooth transition to this new voting model. Conducting such an election on a single Council District office or LAUSD office basis would be far more manageable and allow election officials to test and analyze the effectiveness of various implementation measures.

One of the major advantages of the IRV/RCV system cited by its proponents is the fact that vacancies can be filled faster. In the past we have actually extended a vacancy period when calling a Special Election to take advantage of a regularly scheduled election. The availability of the IRV/RCV option would allow us to avoid extended periods of non-representation.

The City Attorney has advised that, even for the limited purposes of filling specified vacancies, amending the Charter and changing the City's Election Code would be necessary to establish the legal authority and requirement for conducting an IRV/RCV election. Any Charter amendment(s) must also include express language to establish the legal authority to conduct LAUSD Special Elections utilizing this voting methodology. Implementing this voting methodology may also require a Charter amendment and ordinance change relating to the City's campaign finance laws that are tied to the primary and runoff election format. In addition, great care should be given to clearly establishing in the Charter language the specific circumstances under which the IRV/RCV election model would be required to be implemented.

One of the major advantages of IRV/RCV is the cost savings obtained by not conducting the runoff election. The funds saved could be used in securing any required equipment, modifying procedures and implementing a comprehensive voter and poll worker education program. Using IRV/RCV election model for filling specified vacancies would provide valuable insight into cost issues.

Of course, as with the VBM/Voting Centers proposal, one downside to this approach, is that we cannot predict with certainty when, or if, the conditions will arise that mandate the use of the IRV/RCV model.

Conclusion

As a result of our comprehensive review of voting options for conducting future City of Los Angeles municipal elections, we have offered a set of recommendations that seek to improve the poll worker and polling place core components of our election administration program. These components are the foundation of our current neighborhood voting precinct-based election model and are also the components that are most stressed at this time. Some of these recommendations made can be accomplished within the existing resources of the City Clerk's election year budget and would not require changes to the City Charter or Election Code. However, the recommendation to allow poll workers to be excused from jury service would require changes in State law.

We have also included a recommendation that seeks to remove the barrier to voter participation resulting from the pre-election voter registration deadline. Adoption of such an Election Day Registration program would require changes in State law and would result in additional costs for election administration.

Another recommendation would provide funding for community based organizations to engage in direct, non-partisan/impartial voter mobilization efforts and to augment poll worker and polling site recruitment in underserved communities. Key to this recommendation is securing adequate funding and establishing safeguards to ensure that the programs are truly impartial.

The final set of recommendations involves seeking voter approval for amendments to the Charter that would establish the legal authority and requirement to implement, on a limited basis, more fundamental changes in voting systems and methodologies; specifically Vote-By-Mail/Voting Centers elections and Instant Runoff Voting/Ranked Choice Voting elections. Critical to these recommendations is the establishment of the specific circumstances and requirements under which these voting methodologies would be used. Given the size and particular demographic characteristics of Los Angeles municipal elections, the actual experience of conducting a VBM/Voting Centers and/or Instant Runoff Voting/Ranked Choice Voting election of a manageable size should provide the necessary assurance required to undertake a significant change to our fundamental method of voting in the future.

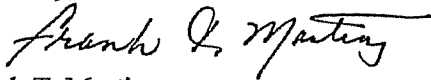
Fiscal Impact

Placing Charter amendments before the voters at the November 4, 2008 State General Election to allow for Vote-By-Mail/Voting Centers and/or Instant Runoff Voting/Ranked Choice Voting method elections to be used for Special Elections to fill vacancies in City Council or School Board offices would cost approximately \$2.5 to \$3 million in General Fund expenditures. However, if other measures were already being placed before the

voters, then the incremental cost of adding these measures would range from \$200,000 to \$300,000. Adoption of the other recommendations contained in this report will not require a General Fund allocation or will be handled within the City Clerk's Fiscal Year 2008-09 municipal election operating budget.

If you have any questions regarding this report, please contact me directly or my Executive Officer, Karen Kalfayan, at (213) 978-1020.

Sincerely,



Frank T. Martinez
City Clerk

Cc: Thomas Saenz, Legal Counsel to the Mayor

EXHIBITS

Exhibit I – A set of recommended guiding principles for the introduction of significant changes in voting systems and/or methodologies.

Exhibit II – A set of two summary “abstracts” for both the Vote-By-Mail centered and Instant Runoff Voting/Ranked Choice Voting election options under consideration in this report.

Exhibit III – Los Angeles Votes Committee, “Elections Options” Survey Results Report.

Exhibit IV – Resource listing for additional information on various election options under consideration.