

At a Special Session of the County Commission of Kanawha County, West Virginia, held at the Voters Registration Offices, Charleston, West Virginia, thereof, on the 17th day of May, 2010, the following Order was made and entered:

**SUBJECT: Rules for the Board of Canvassers to be Observed for the
May 11, 2010, Primary Election**

The following motion was offered by _____, Commissioner:

The County Commission of Kanawha County, West Virginia, does hereby adopt the following General Rules for the Board of Canvassers to be observed for the May 11, 2010, Primary Election:

1. The Canvass will be conducted at the Voter's Registration Office and will commence on Friday, May 14, 2010, starting at 8:00 a.m. and will be conducted each day until the conclusion of all canvass procedures, excepting Saturday, Sunday and holidays. The hours will be from 7:00 a.m. until continued or adjourned by the Board of Canvassers. The Canvass will be open to all candidates on the ballot, their representatives, the press and the public. Courtroom decorum shall be maintained at all times. There will be seating available for all observers. At least one (1) off-duty Kanawha County Deputy Sheriff will be employed to help maintain order and insure ballot security.
2. A Quorum of the Board of Canvassers shall be present during all procedures of the Canvass.
3. The Board will handle only one precinct at a time; and each precinct will be handled the same way.
4. Each precinct will have its own precinct canvassing worksheet, which will become a part of the official canvass record.
5. All records relative to a precinct will be examined including, but not limited to, the following: poll book, log sheets, write-in envelopes, statements of ballots used, unofficial election results and ballots.
6. Provisional Ballots: The Board will vote on all Provisional Ballots using the guidelines which are attached hereto as Exhibit A;
 - (a) The ballot of any properly registered poll worker working out of their precinct WILL be counted;

- (b) Any ballots challenged which were cast by voters whose precincts did not open on time due to the late arrival of poll workers in the voters' precincts, WILL be counted after proper verification;
 - (c) If the voter's registration form is not in the precinct book due to an office error - that voter's ballot WILL be counted;
 - (d) The ballot cast by a voter who registered by post card and did not show the poll clerks identification on Election Day will NOT be counted;
 - (e) The ballot cast by a handicapped voter whose polling place was not handicapped accessible on Election Day WILL be counted if it is determined that the precinct in which the handicapped voter was a properly registered voter in a non-handicapped accessible location;
 - (f) The Board will NOT open any Provisional Ballot envelope until that challenge has been ruled upon;
 - (g) If the Board rules to count the ballot, the ballot WILL be removed from the challenge envelope and that ballot shall be initialed by a majority of the Board and then tabulated by the election computer with the rest of that precinct's ballots;
 - (h) If the Board rules not to count the ballot, the envelope will NOT be opened and a majority of the Board shall initial and number the outside of that envelope; and
 - (i) Said canvassing rules are further enumerated on Exhibit A, which is attached hereto and made a part hereof.
7. Absentee Ballots: The Board will NOT count any late absentee ballots except those which were received by the County Clerk prior to the start of the canvass and which were postmarked by May 11, 2010. Further, any absentee ballot sent to a properly registered voter which ballot was returned to the County Clerk bearing a postmark within Kanawha County will be counted. However, absentee ballots mailed to the County Clerk at a post office outside the County which were postmarked within Kanawha County as a result of the failure of the out-of-county post office to cancel all stamps will be counted, the Board being advised that the postmark affixed in the latter case is readily identifiable it being a different postmark than is regularly affixed by the post office. In accordance with W. Va. Code § 3-3-5(h), military absentee ballots shall be counted if received prior to the start of canvass regardless of postmark.
8. Regular precinct ballots WILL be used for the duplication of any damaged ballot.

9. Improperly Signed Ballots: In the absence of a showing of fraud or other substantial impropriety, ballots which do not have the signatures of both poll clerks, as well as ballots which do not have the signatures of either poll clerk WILL be counted.
10. The hand count of five percent (5%) of the 160 precincts will be conducted at the Voter's Registration Office by persons employed or designated to do the hand count who will be under the supervision of the Board of Canvassers. These Eight (8) precincts will be drawn at random as follows: Two (2) precincts from each of the Four (4) Magisterial. Those precincts which are to be hand counted will be designated by an Order of the Board at the beginning of the hand count.
11. The unofficial returns printed by the tabulating equipment, to which have been added write-in and other valid votes ordered counted by the Board of Canvassers, shall constitute the official returns for each precinct. The official returns shall be on a precinct-by-precinct basis.
12. After canvassing the returns of the election, the Board shall publicly declare the election results. They shall enter an Order certifying the election results not less than forty-eight (48) hours, excluding Sunday, after their declaration, if there is no request for a recount.
13. Other actions on specific matters will be considered and officially adopted during the Canvass process should any unique situations arise.
14. Write-In Ballots and Votes:
 - (a) Only write-in votes naming an official write-in candidate WILL be counted and be certified as part of the official election results;
 - (b) If any write-in candidate receives a higher number of votes than the candidates on the official ballot for that particular office, that person will be certified the winner for that office.
15. Secrecy Envelope: In the event a secrecy envelope is found during the canvass without a ballot enclosed upon which a write-in vote has been cast, the write-in vote will NOT be counted during the canvass. To count such write-in votes would give rise to potential for fraud.
16. The Uncounted Ballots: If during the canvass, ballots are found in ballot boxes which were not counted at the counting center immediately after the closing of the polls on May 11, 2010, these ballots WILL be counted in the absence of a potential for fraud. In determining whether there is a potential for fraud in regard to such ballots, the

Board of Canvassers will consider whether the number on the ballot indicates that the ballot was sent to the precincts in which precinct's ballot box the ballot was found and the poll tickets and the registration books to determine whether counting the ballot would result in counting more ballots than the poll tickets and registration books would indicate had properly voted in that precinct on election day. The Board of Canvassers may further consider such other matters which might deem proper to determine whether a potential for fraud exists.

Further, the County Commission directs the Clerk of the County Commission to post a copy of these General Rules at all entrances of the Courthouse Complex effective immediately. Such notice shall continue to be posted for public review until the formal conclusion of the May 11, 2010, Primary Election Canvass.

The adoption of the foregoing Motion having been moved by:

_____, Commissioner, and duly seconded by:

_____, Commissioner, the vote thereon was as follows:

W. Kent Carper, President _____

Henry C. Shores, Commissioner _____

Dave Hardy, Commissioner _____

WHEREUPON, W. Kent Carper, President declared said Motion duly adopted; and it is therefore **ADJUDGED** and **ORDERED** that said Motion be, and the same is hereby adopted.

W. Kent Carper, President

Henry C. Shores, Commissioner

Dave Hardy, Commissioner

Approved by: _____
Marc J. Slotnick, County Attorney