

## Meeting of the Select Committee on 2020 Emergency Election Support

Wednesday, May 6, 2020 - 2:00 p.m.

### Members:

- Bradford E. Cook, Chairman
- Representative Barbara J. Griffin
- Katherine M. Hanna
- Kathy L. Seaver
- Senator Tom Sherman
- Eugene Van Loan III

### Also participating:

- David Scanlan, Deputy Secretary of State
  - Orville “Bud” Fitch, Legal Counsel, Secretary of State’s Office
  - Nicholas Chong Yen, Assistant Attorney General
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- Chairman Cook opened the meeting at 2:00 p.m. and welcomed everyone.
  - Noted there was a glitch in the link, and asked if anyone hears of someone unable to access the meeting, get them the correct link or have them address us at a future meeting.
  - Today’s agenda is approval of Tuesday’s minutes; presentations by town clerks of towns with under 10,000 voters; presentations by town clerks of towns over 10,000 voters; and presentation by city clerks.
  - Chairman Cook further noted that if any city or town clerk has estimated what the incremental costs will be in their community that would be very helpful—obviously it’s a guess at this point, but it would be helpful.
  - Committee members introduced themselves—all were present, attending remotely, and alone in the room as they participated.
  - It was noted that page numbers should be added to the minutes. Senator Sherman moved to approve the minutes; Mr. Van Loan seconded. Tuesday’s minutes were unanimously adopted by a roll call of the members.
  - Deborah Fauver, moderator: We have an election next Tuesday and I have a question about absentee voting process: For a spring school and town election, we typically get about 1,500 voters. We’ve already received 900 absentee ballot requests and expect more. Does anyone have suggestions for processing an overwhelming number of absentee ballots on election day?
  - Attorney Fitch: The Secretary of State and Attorney General have issued guidance on this. The essence of that guidance is that under existing law, staff can alphabetize absentee envelopes the day before election day, and it may be helpful to take the checklist you’ll use on election day and highlight the names of absentee voters. It is important to note that you cannot pre-mark them as “AV”, but you can highlight them. Additionally, you can start processing absentee ballots two hours after the polls open, provided you post notice that you’ll be doing so. If everything is alphabetized and you have the checklist highlighted, you can have multiple staff working on processing these ballots, which will hopefully help with time management.

- Deborah Fauver: I've been calling poll workers asking them to work, and most were perfectly willing to come work again this cycle. I was pleasantly surprised they're still interested in helping. We got shields and masks from our emergency preparedness officer and people are still willing to participate.
- Mr. Van Loan: Asked Attorney Fitch whether there has been specific guidance on why the checklist cannot be pre-marked on the day before as to everybody who's absentee ballot has been received?
- Attorney Fitch: Our analysis is that a voter who's voted absentee has the right to decide to vote in-person on election day. They may want to change their vote, or just decide they want to come in person. As long as they get to the checklist before their name is labeled "AV" and their absentee ballot is processed, they are permitted to vote in-person. The default time is 1pm to start processing absentee ballots but they can be processed as soon as two hours after polls open, with notice.
- Mr. Van Loan: There doesn't seem to be anything in the statutes to prevent writing "AV" ahead of time, and if you could do that it would tremendously accelerate process of absentee processing on election day.
- Attorney Fitch: Our analysis is that the moderator has a duty to keep the ballot associated with the envelope and the voter's name up to the point in process when the checklist is marked. Once it's marked, that absentee ballot is separated from anything identifying whose it is. As soon as it's marked on the checklist, it goes into ballot box/ballot counting device and would be impossible to identify and retrieve.
- Ruth Millett, Groton Town Clerk: The "AV" isn't marked on the checklist until the ballot has been read and put in the ballot box. Our offices are closed right now, so voters can't come in and do face-to-face absentee ballot pickup. The costs to us would primarily be postage and man hours processing absentee ballots. Yesterday, the notion of reimbursements by the number of absentee ballots over and above what we normally process was discussed, and I strongly support that.
- Ms. Hanna: Ruth can you tell us what your hours of operation are expected to be in the coming months?
- Ms. Millett: I don't think we'll have any change in hours; they're pretty consistent. Groton sends out 700 tax bills, and we have between 300-400 people on the checklist.
- Chairman Cook: Do you have any idea what percentage of your checklist changes every two-year election cycle? How many voters move out of town and how many new applicants do you get?
- Ms. Millett: Last presidential election we had 30-40 new registration applicants; I don't know how many new applications we'll get this year.
- Cathy Lovas, Harrisville Town Clerk: We have a little over 800 registered voters and about 1,000 residents. My concern is that our office window is only open 2 hours a week, but we'd stay open longer if we had to process absentee ballots. During the presidential primary, we processed 60 absentee ballots, so if predictions are right and we're talking about an increase of five times that, it would be quite a time-consuming process to process those ballots. My concern is that we usually use our town offices, which are quite small, for elections and there's really no facility in town where we could spread out except, for the school and I doubt they'll want us in there when the children are there, considering COVID-19. How do I protect ballot clerks and residents?
- Rep. Griffin: Schools would have to agree they'll hold the election, and if it's never happened before, asking for them to host this year may not be tenable, in light of the ongoing crisis.

- Senator Sherman: The other concern is that even if they use the schools and close the schools, you have to do special cleaning afterwards because of the potential COVID-19 exposure. It may require school closure for more than one day, in that case.
- Ms. Seaver: We have 4,300 on the checklist. To put that into perspective, we're projecting that perhaps we'll have 2,000 absentee ballots.
- Mr. Van Loan asked Senator Sherman: If you have a standard voting booth with a curtain, obviously they're not 6 feet apart, but there are barriers between each voting booth—likewise on tabletop voting machines. Do you have any notion of what the CDC would say about whether that would suffice?
- Senator Sherman: The latest CDC guidelines I have found are from March 27<sup>th</sup>. Once you're in the booth, you're absolutely right—but it raises another issue. How does one enter a booth in a way that is socially distant from the person in the booth next to you? Do you have to clean the booth after each use? COVID-19 will last on surfaces for a period of time. There are lots of issues with how people use those voting booths. You can't have two people going into adjacent booths at the same time, because that's obviously much closer than 6 feet apart. It's not quite clear, because at each juncture in the voting process there will be different considerations.
- Lisa Amarosa, Madbury Town Clerk: We have a population of about 2,000. Has there been discussion of reimbursement for towns purchasing ballot counting machines for use during COVID-19? We're a hand-count town and that doesn't seem tenable given the amount of people and space we'd need to count absentee ballots.
- Chairman Cook: We haven't explored that specifically yet, but it seems like the kind of thing that could be considered.
- Ms. Millett: along with what Lisa just said on hand counting: I know the virus doesn't last long on paper products. Can we delay the counting process by 24 hours and then hand-count the ballots? Also, we need recommendations on how we can keep voting areas as sanitized as possible.
- Sherman: We can get you a list of cleaning products shown to eliminate the virus. The other side to this is that, presumably, the poll workers will all be wearing gloves.
- Chairman Cook asked Senator Sherman: All poll workers should use gloves—how often do they have to change them?
- Senator Sherman: You don't have to change them after every exposure, but it's important to remember used gloves are potentially contaminated, so you'd want to change them between different tasks.
- Vicky Turner: Talked to her town clerk and thinks when we talk about the problems, it's pretty obvious we should be following CDC guidelines, which recommend minimizing in-person voting. One idea I had was that right now, the absentee ballot process requires two steps: the application and sending the ballot out. Would it be possible to waive the requirement to have an application and then there's a blanket application for every registered voter, and we send an absentee ballot to every voter? That would cover an awful lot of voters.
- Cindy Reinartz, Tilton Town Clerk: We have about 3,600 residents about 2,900 voters. My main worry is the absentee ballot process. It's more than a two-prong process: we get the request, update HAVA, mail the ballot out, they mail it back, we go back into HAVA and input that it's been received, and attach the envelope with the request. Come elections, we sit with ballot clerks and in between people coming in to vote we process those absentee ballots. The last big election, I had about 200 absentee ballots and it took us 6 hours to process those. Is it possible that we have the

checklist with the moderator and clerk and ballot clerk, could they sit together and open up those absentee ballots, mark the checklist prior to election, and if we have more than we can do, we finish it at the election, but once we open them, those ballots go into a box without the envelopes and sealed with the red tape and open up that box on election day and process through machine. Could we consider that?

- Chairman Cook: I know the Attorney General's office and the Secretary of State's office are looking at streamlining these processes and making it easier for folks.
- Debra Belcher from Bennington: We have just over 1,000 voters on the checklist. Would it be feasible to send out a blanket mailing of absentee ballot request forms and a cover letter explaining the need to have absentee ballots?
- Attorney Fitch: As I understand the law, anyone who wants to can send out absentee ballot request forms. Political parties and campaigns do it frequently. Under the law, it is required to be the form on the Secretary of State's website or a facsimile of it so it's clearly understandable.
- Mr. Van Loan: If we decide to go down the road of sending things to voters who haven't requested them, it seems the notion of sending out request forms as opposed to absentee ballots makes a whole lot more sense and has a lot more benefits in terms of security. I'm very concerned about the notion of blanket mailings of absentee ballots themselves.
- Ms. Hanna: Is it possible to go onto the Secretary of State's website and actually download the application?
- Deputy Secretary Scanlan: Yes, an application for an absentee ballot is available online.
- Chairman Cook: The commentary seems to say that it's a great, idea but postage would be a huge expense.
- Senator Sherman: Our moderator has all email addresses for voters in town. Would it be acceptable for moderators to use that access to send out notifications or a link to the absentee application forms to every voter in their town? Is that allowed?
- Attorney Fitch: If your town has gathered those email addresses I'd think it would be fine. The legislature has recently added protection under the Right-to-Know law that if the Secretary of State gathers voters' emails or phone numbers, it's not subject to Right-to-Know, so there's some protection there for voters. A link for downloading the form would be just fine.
- Senator Sherman: That might be a good vehicle for disseminating the absentee applications to voters.
- Attorney Fitch: I think it would be helpful in those areas that have collected those email addresses, but that's not the same throughout the state. Todd Rainier from Hooksett is on the call today if you'd like to hear from him.
- Todd Rainier, Hooksett Town Clerk: Has emailed a list of concerns Marge Morgan, President of the City and Town Clerks Association, sent to members. Clerks came up with a few thoughts in a recent board meeting.
  - If the state of emergency is through end of May and if it ends prior to elections, will social distancing still apply?
  - We've talked about extra sanitizing of materials, party changes and voter registrations—currently they have to be in-person and most clerks' offices are only open by appointment. Hopefully direction will be given that maybe an executive order will be coming for party changes, because those are due by June 2<sup>nd</sup>.

- As far as voting absentee or registering absentee, presumably that's still going to be the same. It would help to make the public better aware of the party change deadline.
- We can expect mailed in declarations of candidacy up to the last day of the filing period. How should supervisors' meetings be held? Generally they're public meetings; what's the guidance around that?
- Suggestion has been made that envelopes we receive from the Secretary of State's office should have postage paid on them and that might eliminate back and forth of costs and trying to get reimbursement.
- Could ballots be shorter and double-sided for easier use with AccuVote?
- Also noted age of average poll workers and how to protect them, or how to recruit new workers.
- We need clarification to residents on how they can return the absentee request form. It says it can be faxed or mailed, but there's concern that the ability to email it might not be something that's spelled out and should perhaps be emphasized as an option.
- It would be helpful to know about our ability to do something in advance of election day with absentee ballot in terms of what level of processing are we allowed to do in advance?
- Cathy: The comment about mailing out requests for absentee ballots is a good idea, but I could see confusion because the same form is used for the primary as is used for the general election, and you need to submit a separate form for each election that you want an absentee ballot for. I feel there will be people who won't read the instructions correctly. I'm wondering if there could be a special dispensation that we could have one form that requests both absentee ballots?
- Ms. Hanna: Quick comment about Todd's list: The idea was to post voter registration forms online, and then Todd commented that now people have to register in-person, and I believe that isn't correct—that under the current law, one can register to vote by absentee mail as long as they comply with the requirements and the affidavit, is that correct?
- Deputy Secretary Scanlan: Yes, that's correct.
- Carol, Supervisor in Freedom: I have a question about the polling place itself and in-person voting. We talked about voting booths and how close they are. Are there any recommendations or guidelines at this point for expanding the polling place size? We have a roped off area within a room. Can we expand to use the full room? Can we replace voting booths with simple tables that are set further apart? Does there need to be a curtain barrier?
- Chairman Cook: I know we'll be talking about physical configuration and ability to expand or get bigger areas in coming meetings.
- Rep. Betty Gay: When you're concerned about people sterilizing booths, if we encourage people to bring gloves, wouldn't that simplify the need? What about publicizing information? All these forms should be available to download on the website.
- Dee Ann Decker, Nottingham Supervisor: I talked with my town clerk this morning. We have about 5,500 people in town and about 4,000 on the checklist. The issue of timing when we can process absentee ballots, if that could be moved out to when the first polls open, it'll give us more time to process absentee ballots. I know right now you have to post it if you're going to start processing them early, but if we could start when the polls open, that would help hugely. As far as the pre-work for town clerks before election day, supervisors already have access to ElectioNet, so if there's anything supervisors can do to help clerks process overwhelming number of absentee ballots that we're expecting for the fall, that would be very helpful.

- Sally Kellar, Town Clerk in Bedford: We have just over 18,000 voters. I've been doing research and in 2016, 20% of voters voted absentee, and we had 2,750 ballots. It took staff 4 hours to process the ballots they received. If we were to double the amount of absentee ballots, it might take us 8 hours to process 5,000 ballots on election day. Also, with over 18,000 voters in our town, that would be very expensive for us to send out absentee request forms.
- Chairman Cook asked Ms. Kellar: Have you considered having more than one polling place?
- Ms. Kellar: I don't know. I've only been town clerk for a year.
- Ms. Hanna: I have talked to Bill Klein, Bedford town moderator, about having more than one polling place, and he didn't think it was feasible
- Gloria MacVane, Deputy Bedford Town Clerk: My concern is with absentee ballots. I think we can accommodate those voting in-person just fine, but given the volume and time it'll take to process all absentee ballots, we'd need to perhaps start processing them right at beginning of day, or even the day prior. I'd like to see that requirement loosened up.
- Mr. Van Loan: What about drop boxes that are secure at various town clerks offices? Is that permissible?
- Attorney Fitch: We understand current law requires voters to mail or deliver their ballot. We understand the purpose behind the law is to deter problems New Hampshire had historically with people aggregating absentee ballots in a way that robs others to make their choice. We've advised some towns with elections this spring to consider having drop-off hours outside the building and a member of the clerk's staff or a volunteer standing outside and having hours for drive-by drop-offs.
- Chairman Cook: In reading the chats that have been coming in, at least 4 towns already have drop boxes.
- Ms. Seaver: Most of us have drop boxes, but it's very specific in law that no absentee ballots will be accepted through the drop box.
- Rep. Griffin asked Ms. Kellar: From a standpoint of tasks, when does Bedford start to get the polling place ready?
- Ms. Kellar: We set up the day before, and there are materials that don't go to the polling place until the day of election. A lot of the booths and tables and office supplies all go over the day before.
- Joan Dargie, Milford Town Clerk: We have almost 12,000 registered voters and a single polling place. I wanted to mention that setting up in September will be tricky because of Labor Day being the day before. To avoid paying double time or overtime we're going to be setting up the Friday before and one of our concerns has been leaving stuff we normally leave over the long weekend like that. In Milford, we've been using e-poll books, so that's one item that takes time to set up and we're probably going to be doing that at 4:00 a.m. on the day of the election rather than leaving it in the building over the long weekend. E-poll books help a lot with absentee ballot processing. We're also thinking of sending out postcards to encourage absentee voting because we're concerned with distancing in the voting location that we have, which is pretty limited—it's a gym at the middle school. The more absentee voters the better, in that respect.
- Matt Normand, Manchester City Clerk: We share all concerns already expressed. Our checklist is 61,000 people. For this September election we'd typically program 225 people to work at 12 wards in the city. We have 260 for the general election generally programmed for citywide elections.
  - First thing I'm worried about is how many poll workers will show up to work this fall? I'd say vast majority of our workers are older and I'm sure concerned about their safety.

- Our polling places are in all schools except one facility we use that's a private facility. We use the entire gymnasium space at each polling place.
- About 8% of our checklist votes absentee usually. I think we'll see 50% of the checklist vote absentee if I had to guess, so between 25-27k voters voting absentee. That's going to be staggering.
- Same-day registrants: We typically do 10,000 of those. What percentage of new voters registering same-day will now want to do that ahead of time? It's not just absentees, it's also new voters.
- Finding alternative polling locations that will accommodate social distancing will be difficult. As a state and municipality we have to promote absentee voting for those who want to in an effort to handle social distancing on election day for those that remain.
- In terms of expenses, in no particular order: PPE costs, keeping voters safe, and staffing costs. If I need another facility, the private facility rental we pay now is \$500 for the one space we rent, but there would be a cost associated with alternative locations.
- Postage will be a big expense.
- Sanitation pre, during, and post-election day.
- We think in Manchester we'll see \$100k in costs this cycle borne out of staffing up enough to handle all the absentee ballots—likely 3 additional staffers. That would mean \$9k in staffing for the primary and \$24k for the general election. How much money is available? I know we know the total pot of money, but what's the estimate on what that number might look like for the municipalities?
- Chairman Cook: We asked that question and understandably that's an evolving number. The hope and expressed intent is that vast majority will go to localities.
- Senator Sherman: If our COVID-19 cases remain stable and hospitals can handle the burden, I remember we have two surge sites (Nashua and Manchester) and I wonder if those facilities could be converted into polling places. The benefit is that they're built to handle COVID-19 and the other benefit would be that they are large spaces.
- Mr. Normand: They could definitely work as absentee ballot processing areas. It would be tough to accommodate multiple wards in one location, but it's a worthy thought.
- Ms. Hanna: With respect to your 10k same-day registrants, would it be helpful to you to have expanded voter registration by absentee mail?
- Mr. Normand: Any expansion of allowing for that process to be easier and outside of this office would be a huge relief to us.
- Patty Little, Keene City Clerk: Shares lots of Matt's concerns.
  - Mandatory or recommended social distancing? We'll need some clarity. We want to follow what's recommended, but there are some polling places that lack the square footage. We need clarification on that.
  - The issue of affidavits not being on the reverse side of the voter registration form is difficult, because it's difficult to have multiple documents passing back and forth between supervisors and the voter, so the ability to have these affidavits printed on the backside of the voter registration form would be helpful.
  - Concerned about the requirement for a minimum of 2 tabletop screens. When you think about square footage, is that really worth the value of that table when you already have the AVS tent? What about no curtains on the voting booths? We'd like to see that.

- It would also be helpful to have the opportunity to have some relaxation of party affiliation requirement for ballot inspectors.
  - Relaxation of domicile requirement for these workers would be helpful, as well, if we have to dip into another ward to meet staffing needs.
- Mr. Normand has heard about drive-up voting and it may work for many but it won't work in Manchester. A one size fits all approach may not work.
- Kelli from Portsmouth: Offered same concerns as Matt and Patty Little. Portsmouth has a checklist of over 18k voters and 5 polling places. Some of them are smaller than others, and there's concern about handling the number of voters that would come in.
  - The number of absentee ballots is going to be extremely high and there are concerns about staffing, processing, and the amount of money it'll cost. I haven't prepared a budget yet but that's something coming down the pike. Has the state looked into purchasing individual kits being offered for COVID-19 pandemic? They're about \$140 each. That would be high cost for municipalities to take on but we will if we need to. What would you require or mandate for maintaining the sanitation required for voting?
- Chairman Cook: The committee will be delving into these questions and suggestions and will pass along our information.
- Sue Lovering, City of Nashua: Agreed with all concerns raised. Her numbers are coming in close with Manchester. Preliminarily, without including PPE costs, she projects costs of \$80,590 for both elections.
- Chairman Cook reminded everyone about tomorrow's meeting and noted there will be the opportunity for moderators and supervisors to address the committee.
- Ms. Seaver moved to adjourn; Senator Sherman seconded. Adjournment unanimously adopted by roll call vote.
- Meeting concluded at 4:00 p.m.