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Pandora's Box

Is Arizona's Speaker of the House afraid of what might happen if the truth is learned about a local election?
By John Dougherty

State Republican Senator Jack Harper's enraging a powerful legislator with his determined effort to get to the bottom of a potentially explosive vote-counting scandal at the Maricopa County Elections Department.

The second-term senator from Surprise plans to hold legislative hearings early next year into the controversial September 7, 2004, District 20 recount, where the inexplicable appearance of nearly 500 new votes between the primary and the recount challenge the accuracy and integrity of elections in the nation's fourth-largest county.

Harper's plan to hold the hearings before the Senate Government Accountability and Reform Committee, which he chairs, is upsetting some key Republican legislators, including Arizona Speaker of the House Jim Weiers.

Weiers took the unusual step of summoning Harper to his office on June 16 to berate him for planning to investigate the District 20 recount. Weiers told Harper that the issue doesn't belong before the Legislature.

"This really, truly is an issue that belongs with the [Maricopa] County Attorney," Weiers told me, when I queried him on why he had gotten involved.

Even after Harper related to the speaker that it appears county elections officials failed to properly secure ballots between the Republican primary and the recount, Weiers said he remained opposed to the legislative hearings.

Turns out, elections officials' handling of the situation is even more suspect. The department not only appears to have left the ballots unattended, it currently has *no idea* who had access to them between the primary and the recount.

Assistant county attorney Colleen Conner admitted in an October 14 letter to me that the elections department "does not have records related to individuals or personnel specifically involved in the collection, sorting or preparation of the District 20 ballots and recount."

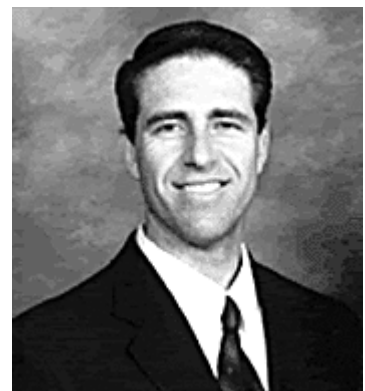
In addition, the elections department refuses to release the names of Maricopa County sheriff's deputies who were supposed to be guarding the ballots between the primary and the recount. Instead, it referred my records request to the sheriff's office. (I'm sure Conner is well aware that the sheriff's office brazenly ignores most of my requests for public records.)

You would think such incompetence and aggressive stonewalling by the county elections department would spur the Speaker of the House to make every effort possible to determine what happened during the recount.

Speaker Weiers admitted to me that he was moved to believe that Harper was onto something "kind of serious" when the state senator related that he was pretty sure



Speaker Jim Weiers



State Senator Jack Harper

Jackie Mercandetti



County elections department

he could prove that the ballots were left unattended.

chief Karen Osborne

Yet instead of strongly supporting Harper's quest to unravel the mystery surrounding the recount mess in the Ahwatukee Foothills district, Weiers has become yet another barrier between the public and the truth.

Details

Who / What:
Maricopa County Elections
Department

As for Weiers' plea that the county attorney, if anybody, should take up the fight, Andrew Thomas' office has already whitewashed the matter. And it has done so without providing a clear and convincing explanation of how in the hell 489 votes -- which changed the outcome of the Republican primary race for a state House seat -- suddenly appeared during a recount.

Karen Osborne, director of the county elections department, has blamed the fiasco on gel pens and Sharpies used by some voters to mark early mail-in ballots. But her weak explanation doesn't satisfy the Maricopa County Republican party, which last winter persuaded Thomas' office to conduct the very type of investigation that Weiers suggested.

And that investigation concluded that the county was guilty of stunning impropriety regarding District 20. Thomas' investigators discovered that assistant county attorney Jill Kennedy had improperly provided legal advice to the manufacturer of voting machines used in the election.

Kennedy, who represented the elections department before Conner took over in the wake of this scandal, deliberately took steps to make sure Election Systems & Software employee Tina Polich wasn't served with a subpoena to appear in court to explain how the company's voting machines could have had such a wide variation in tabulating votes. (Although she's employed by a private firm, Polich kept an office in the elections department.)

Polich's absence from a one-day hearing before Maricopa County Superior Court Judge Eddward Ballinger on September 23, 2004, allowed Election Systems to cover up evidence of a possible voting-machine malfunction during the District 20 recount.

Polich's failure to appear angered Ballinger, who had no choice, without her testimony, but to certify the election.

Amazingly, Polich later told investigators from the County Attorney's Office that "there could have been a malfunction with the machine that resulted in the large discrepancy."

I'll say there was a *large discrepancy* -- an 18.3 percent increase in the number of votes counted from early ballots between the primary election and the recount!

But rather than expanding the investigation into the elections department as a whole, Thomas meekly dropped his investigation without getting to the bottom of the incident.

A month after Thomas punted, Senator Harper requested under the Arizona Public Records Law that the county produce dozens of documents related to the recount. In his June 8 letter to the elections department, Harper made it clear that he was deeply concerned about the county's possibly engaging in the "cover-up" of an election "scandal."

Harper wrote: "There are also distressing issues of how the county handled the recount and of how it represented the scandal to public officials and the public. The time has long passed to identify the cause of the new votes and to hold all those responsible for the error or its cover-up accountable."

This issue extends far beyond the outcome of the District 20 Republican primary, where John McComish went from four votes behind Anton Orlich after the primary votes were counted to 13 votes ahead after the recount. McComish was declared the winner and went on to take the general election. McComish is now entering the second year of his first two-year term in the House.

The sudden appearance of 489 votes between the primary and the recount raises serious questions about the integrity of all elections held in Maricopa County. But instead of providing answers about how this could have happened, the county elections department is getting helped out of its jam by none other than the Arizona Speaker of the House.

While Weiers' brazen attempt to strong-arm Harper into dropping his investigation failed, it wasn't for a lack of

trying.

Rumors circulating through the Legislature about the June 16 meeting cast an even darker cloud over the recount.

Sources close to Harper told me that during the course of their meeting, Weiers offered Harper a business opportunity with the Republican party if Harper agreed to back off his recount inquiry.

"[Harper] told at least two people that he was offered a quid pro quo," says a prominent Republican, who asked not to be identified, but who has had several conversations with Harper about the June 16 meeting.

Weiers vehemently denied making any such offer to Harper.

"That is just an out-and-out lie!" Weiers said.

But when I asked Harper in early October whether anyone offered him a job with the Republican party in exchange for backing off his probe into the county elections department, the state senator dropped a powerful hint that such an offer *had* been made.

"I'll neither confirm nor deny *who* it may have been," he said.

At the time, I only knew that Harper supposedly had been pressured by at least one unknown high-level Republican leader to back off his investigation. Only later did I learn that Harper had met with Weiers and McComish to discuss his recount probe.

In subsequent interviews with Harper, the senator softened his tone about the meeting.

"Nobody said to me that if I . . . back off of this, I would be offered a job at the Republican party," Harper said.

I then asked him what, if anything, was presented to him during the meeting in exchange for losing interest in his investigation.

"Well, I'll just say to you that I can't be bought or intimidated," Harper said. "And I will leave it at that."

McComish told me that he has no recollection of Weiers offering Harper anything to drop the probe.

"I'm absolutely positive that there was no . . . offer made," McComish said.

Whatever the case, there is no doubt that Weiers, McComish and other legislative leaders -- including Representative Bob Robson, who ran on the same ticket with McComish in District 20 -- see no reason to investigate the county's handling of the recount.

These three legislators, along with county elections officials and County Attorney Thomas, simply want the District 20 recount to fade away. They are hoping that the elections department's ridiculous explanation will simply confuse a public that will forget eventually.

Last fall, county elections boss Osborne said the 489 votes suddenly appeared because the county's electronic scanners didn't detect votes made with gel pens, eyeliner, Sharpies and other markers during the primary on ballots that were mailed in.

But this excuse doesn't wash because the mail-in ballots were read by the same type of vote-scanning equipment in the primary *and* the recount.

Osborne's nonsensical glitter-pen explanation is why skeptical Republican party officials requested that Thomas conduct the investigation that went nowhere.

More recently, a new explanation for the votes has been floated. McComish and Robson told me in separate interviews that the reason for the increase is that more ballots were counted in the recount than in the primary.

McComish said improperly marked ballots during the primary were rejected by the scanning machines. But during the recount, he said, election workers made sure ballots that had been rejected in the primary were processed by the scanners during the recount.

In other words, I asked McComish, more ballots were counted in the recount than in the primary?

"That's my understanding," he said.

What McComish didn't know when I asked him the question was that I already knew there were four *fewer* ballots counted in the recount than in the primary.

Come on, McComish, you should do more research before conjuring up such an outlandish explanation!

The fact that the county somehow lost four ballots in the two weeks between the primary and the recount is yet another troubling indicator that something is rotten at the county elections department.

The plot thickens when you consider what Jim Torgeson has to say.

Torgeson, who ran as a Democrat for the House in District 20, told me that a few days after the September 7, 2004, primary, he asked Robson how the recount would be conducted. Robson had already won one of the two House seats up for election in the District 20 Republican primary.

Torgeson said he was very interested in the outcome of the recount because he felt he had a far better chance of defeating Orlich in the general election than McComish. Torgeson said Robson told him *not* to expect Orlich to be his opponent.

"[Robson] said he could virtually guarantee it would be McComish," Torgeson said.

Robson's brash prediction puzzled Torgeson.

"I thought it was weird," Torgeson says. "How did he know that?"

Robson said he has no recollection of such a conversation with Torgeson but that he told everyone during the primary campaign that he expected McComish to win the second Republican seat in District 20.

Which McComish did. But only after the strangest and most troubling election recount in recent county history.

The District 20 fiasco has attracted the interest of Douglas W. Jones, a computer science professor at the University of Iowa. Jones is an expert on voting machines who has served as a consultant to elections officials across the country.

"It's hard to tell whether they are covering up incompetence or fraud," says Jones, who has studied the District 20 situation extensively. "And it's hard to come up with a hypothesis that doesn't include, to some degree, one of these things or the other."

But here is the question that lingers in my mind: What is the back story behind Speaker Weiers involving himself in this battle between fellow Republicans? Is he afraid that a Pandora's box of election problems might be opened up in the state's largest county if the truth is learned about how Karen Osborne's office mishandled District 20?

Arizona: Election Fraud – Chicago? Florida? Ohio? Not this time



By John Gideon, Information Manager, VotersUnite.org and VoteTrustUSA

October 28, 2005

How about Maricopa County, Arizona, the fourth most populous county in the United States? Yes, sunny, laid back Arizona. It seems that the results of the September 7, 2004 Republican primary have Republicans challenging Republicans in the state legislature and in the media. Also emerging are reports that county jail inmates were being used to handle ballots in exchange for early release.

In an **article** in the Phoenix New Times, reporter John Dougherty tells a tale of seeming election fraud, a quid pro quo offer, new votes that appear like magic, failure by an assistant county attorney to serve a subpoena, political pressure, and one hell of a mess.

It seems that in the Maricopa County District 20 Republican primary state Representative candidate John McComish went from four votes behind Anton Orlich after the primary votes were counted to 13 votes ahead after a recount held on September 21, 2004. In between those two counts 489 new votes mysteriously appeared in the totals. This led to a date in court where the assistant county attorney neglected to serve a subpoena on the Election System and Software representative who has an office in the county elections offices. The lack of this witness to answer questions about potential machine malfunctions that resulted in the new votes forced the judge to certify the election. The election director could provide no explanation that makes any sense as to where those 489 additional votes came from. Freedom of Information Act requests for records from the County Sheriff who was supposed to provide guards for the ballots have been ignored.

Meanwhile a Republican State Senator announced, earlier this year, that a hearing by the Senate Government Accountability and Reform Committee would be held to investigate the election, handling of ballots, and failures by the county and county officials. Then on June 16, Senator Jack Harper, was called on the carpet by the powerful Speaker of the House, Republican Representative Jim Weiers. Every indication, including witness statements, is that Speaker Weiers offered Senator Harper a job with the state Republican Party if he would drop the investigation. Apparently Senator Harper has ethics because he is planning on going forward with the hearings. When asked about the job offers, Senator Harper told reporter John Dougherty, "'Well, I'll just say to you that I can't be bought or intimidated," Harper said. "And I will leave it at that."

Dougherty also reports that the Democrat candidate for the District 20 seat, Jim Torgeson, was very interested in the race because he felt he had a better chance of beating Orlich in the general election than he did McComish.

"Torgeson, who ran as a Democrat for the House in District 20, told me that a few days after the September 7, 2004, primary, he asked Robson how the recount would be conducted. Robson had already won one of the two House seats up for election in the District 20 Republican primary.

"Torgeson said he was very interested in the outcome of the recount because he felt he had a far better chance of defeating Orlich in the general election than McComish. Torgeson said Robson told him not to expect Orlich to be his opponent.

"[Robson] said he could virtually guarantee it would be McComish," Torgeson said.

"Robson's brash prediction puzzled Torgeson.

"I thought it was weird," Torgeson says, "How did he know that?"

While compiling a report on the details of the District 20 discrepancies between the vote count and the recount, VotersUnite.org has also learned that inmates from the Maricopa County Jail have handled over a million early ballots since 1998! Including tens of thousands during the now-contested 2004 Primary Election!

"The inmate handling of the early ballots resulted in ballot tampering in the 2004 Primary: "The sheriff's office has begun 'major investigations' into ballot tampering, according to an October 28 [2004] e-mail from an MCSO [Maricopa County Sheriff's Office] employee to the Maricopa County Adult Probation Department. Probation department records state that inmates Ryan C. Carter and Nicholas Frappier have admitted to ballot tampering." This arrangement is particularly troubling because inmates were informed participation in ballot handling was tied to possible early release. It is worthy of note that Maricopa

County Sheriff Joe Arpaio was also a candidate during the 2004 Republican Primary and that Sheriff Arpaio endorsed John McComish in the District 20 House Republican Primary. Although no public documents indicate that the inmates handled the District 20 ballots between the original count and the recount, Maricopa County has not provided all of the documents related to its investigation, despite several public information requests."

Dougherty reports, *"The District 20 fiasco has attracted the interest of Douglas W. Jones, a computer science professor at the University of Iowa. Jones is an expert on voting machines who has served as a consultant to elections officials across the country.*

"It's hard to tell whether they are covering up incompetence or fraud," says Jones, who has studied the District 20 situation extensively. "And it's hard to come up with a hypothesis that doesn't include, to some degree, one of these things or the other."

This story is far from over. There is more to learn as VotersUnite completes its report. It will be interesting to see where this story takes us. Is it just an issue in District 20 or is it indicative of a more widespread problem? Why is the Speaker of the Arizona House of Representatives so anxious to avoid an investigation?

Editors Note: For the convenience of our readers, the entire Phoenix New Times article has been reposted on the VoteTrustUSA site [here](#), by permission of the author.