Pierce Conservation District
Election Issue

Mr. Eller
Commission Election Officer
March 17, 2022
AGENDA

- Pierce Conservation District election issue
- CD election investigation process
- Election rules involved
- Analysis of the issue and the rules
- Conclusion of staff and SCC Executive Director
- SCC Commissioner action
- Next steps
Pierce CD Election Issue

- March 2, 2022 - Commission received a complaint from Ms. Monika Warner, a declared candidate for the PCD election about the upcoming March 23, 2022 PCD election through its online Election Feedback Form.
- Ms. Warner, filed the candidate required information ("PF-A" form) and the candidate optional information (a biography and candidate statement) by email, on February 18, 2022 at 2 pm, before the filing deadline.
- However, her email was apparently caught in the PCD’s email spam program that day. Her candidate optional information was not posted by PCD staff at that time.
Pierce CD Election Issue Continued

- The only other declared candidate, Mr. John Hopkins, filed his candidate required information (“PF-A” form) and the candidate optional information (a biography and candidate statement) by the deadline.

- His candidate optional information (biography and statement) was posted by PCD staff on the PCD web page on February 22, 2022 at 4 pm.

- PCD staff confirmed that Ms. Warner’s candidate optional information was received by the candidate filing deadline, but not discovered by the PCD until March 1, 2022 and then posted to the PCD web page, resulting in a delay of eight days between receipt and publication.
Election Investigation Process - WAC 135-110-790

1. Complaint received
2. Forwarded to the Executive Director (ED)
3. ED provides notice to designated SCC Commissioners
4. ED directs SCC staff to investigate
5. Staff investigates, creates a written report, & makes recommendation
6. ED concurs, or not, with SCC staff
7. ED forwards report and his/her decision to SCC Commissioners
8. SCC Commissioners make final determination to concur or not (certify or not)
9. Next Steps (election certified, or not (election to be re-done))
Election Rules Involved

- The Revised Code of Washington (RCW) Title 29A generally governs elections in Washington
  - Exception in RCW 29A.04.216 and RCW 29A.04.330 for CDs

- RCW Chapter 89.08 is the SCC’s basis for CD election rules
  - RCW 89.08.190

- WAC Title 135-110
  - WAC 135-110-430 Conservation district may publish candidate-provided optional information
# CD Election Timeline

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RCW 89.08.190
“The Commission shall establish procedures for elections, canvass the returns and announce the official results thereof.”

RCW 89.08.190
Basis for Election Rules in WAC

“The Commission shall establish procedures for elections, canvass the returns and announce the official results thereof.”

- RCW 89.08.190
Conservation district may publish candidate-provided information.

1. To assist voters in the selection of a candidate during voting, a conservation district may publish information provided by nominated and declared write-in candidates.

2. If a conservation district chooses to publish information about candidates, it must provide equal opportunity for publication and equivalent space to each nominated and declared write-in candidate.
“To assist voters in the selection of a candidate during voting, a conservation district may publish candidate optional information provided by candidates. Conservation districts should adopt a policy to set the parameters for publishing such candidate optional information.”

- Election and Appointment Guide, page 6, Conservation District Duties
The PCD board adopted a candidate optional information policy on April 4, 2013 and that policy was in effect at the time of this incident. That policy reads, in part, as follows:

_The Pierce Conservation District will include a biography and statement for each declared candidate on the District’s website and Facebook page._
Analysis of Issue and Rules

- If a district chooses to publish information provided by the candidate, it must provide equal opportunity for publication and equivalent space to each candidate.
  - WAC 135-110-430, Election Guide
  - PCD's own Biography & Candidate Statement policy

- This was not done in this case.
  - Ms. Warner was denied equal opportunity and equivalent space since her candidate biography and statement were not posted to the PCD web page for eight days.
  - The PCD failed to follow its own candidate information format and content policy.

- The eight day period between the receipt of Ms. Warner's candidate optional information and its publication by the Pierce CD to their web page was a significant noncompliance with conservation district election procedures and rules, such that it "may affect the outcome of an election…."
Conclusion of SCC Staff & Executive Director

- SCC staff memo recommends not certifying – error may affect election outcome
- Executive Director concurred with staff recommendation in a letter to the Pierce CD, dated March 9, 2022.
SCC Commissioner Action

- “The conservation commission may decline to certify an election found in significant noncompliance.” WAC 135-110-795.
- “"Significant noncompliance" means the failure to follow the requirements in this rule that may affect the outcome of an election or deny voters their right of privacy in voting.” WAC 135-110-110.

1. If the complaint does not rise to the level of significant noncompliance with election procedure, the election may be certified and announced.

2. If the complaint does rise to the level of significant noncompliance with election procedure, the Commission should decline to certify and announce the election.
   - Request that the district hold another election as per the procedure in WAC 135-110-780.
   - After the Commission declines to certify and announce the results of the PCD election, the PCD take further action.
Next Steps

- Certification and announcement of CD elections routinely occurs at the May Commission meeting.

- WAC 135-110-760 allows for the Commission to take action before the May Commission meeting.

- The SCC staff, Executive Director, and Pierce CD support taking action at this meeting so that the Pierce CD can start the election process from scratch sooner, rather than waiting until after the May Commission meeting.
  - Pursue in Superior Court getting another election ordered.
    - WAC 135-110-780.
• Decision of the Commissioners (proposed motion in the memo, page 1)

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