

RESOLUTION NO. 4322

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLEDAD
CANVASSING AND DECLARING THE RESULTS OF THE
GENERAL ELECTION HELD ON NOVEMBER 4, 2008

WHEREAS, on Tuesday, the 4th of November 2008, a General Election was held in the City of Soledad in accordance with the law and the votes were received and canvassed, and the results thereof were ascertained, determined and declared valid in all respects by the Monterey County Registrar of Voters as required by law.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOLEDAD AS FOLLOWS:

Section 1: That the total number of votes cast at said election were 3,093 computed by the Monterey County Registrar of Voters as follows:

TOTAL VOTES CAST 3,093

Section 2: That the votes were as follows:

Councilmember

Patricia Stephens	1,231
Richard Perez	1,165
Alejandro Chavez	1,164
Javier Martinez	628

Mayor

Richard Ortiz	1,345
Christopher Bourke	1,289
John Ordunez	373


PASSED AND ADOPTED by the City Council of the City of Soledad at a regular meeting duly held on the 7th day of January 2009, by the following vote:

AYES, and in favor thereof, Councilmembers: Martha Camacho, Juan Saavedra, Patricia Stephens, Mayor Pro Tem Christopher Bourke, Mayor Richard Ortiz


NOES, Councilmembers: None

ABSENT, Councilmembers: None

ABSTAIN, Councilmembers: None


RICHARD V. ORTIZ, Mayor

ATTEST:


ADELA P. GONZALEZ, City Clerk

MONTEREY COUNTY ELECTIONS



PO Box 4400
Salinas, CA 93912
www.MontereyCountyElections.us

1370-B South Main Street
Salinas, CA 93901

831-796-1499 Phone
831-755-5485 Fax
ElectionMail@montereycountyelections.us

Linda Tulett
Registrar of Voters

Claudio Valenzuela
Assistant Registrar of Voters

December 2, 2008

RECEIVED

DEC - 8 2008

Ms. Lupe Martinez
The City of Soledad
PO Box 156
Soledad, CA 93960

City Manager's Office

Subject: Certificate of the Registrar of Voters for the The City of Soledad
Election held on November 4, 2008

Dear Ms. Martinez,

Attached hereto is the Registrar of Voters Certification in connection with the
subject election held on November 4, 2008.

Sincerely,

Linda Tulett
Registrar of Voters

Enclosures

CERTIFICATE OF THE REGISTRAR OF VOTERS

In the Matter of the CANVASS OF VOTE CAST)
at the **The City of Soledad Election**)
held on November 4, 2008)

I, **LINDA TULETT**, Registrar of Voters of the County of Monterey, State of California hereby certify;

THAT an election was held within the boundaries of the The City of Soledad on Tuesday, November 4, 2008 for the purpose of electing one (1) member to Mayor for a two (2) year term, and two (2) members to City Council for four (4) year terms and; I caused to have processed and recorded the votes from the canvass of all ballots cast at said election within the boundaries of the The City of Soledad.

I **HEREBY FURTHER CERTIFY** that the record of votes cast at said election are set forth in Exhibit "A" attached hereto and incorporated herein by reference as though fully set forth at length.

IN WITNESS WHEREOF, I hereunto affix my hand and seal this 2nd day of December, 2008 and file this date with the The City of Soledad.



LINDA TULETT
Registrar of Voters



100028	CITY OF SOLEDAD													
	Registration	Ballots Cast	Turnout (%)	SOLEDAD MAYOR John Orduñez	Richard V. Ortiz	Christopher K. Bourke		SOLEDAD CITY COUNCIL Javier V. Martinez	Patricia Stephens	Alejandro Chavez	Richard J. Perez			
3052 3052	977	302	30.91	40	141	114		68	101	117	111			
3052 - Vote By Mail Votes	977	363	37.15	60	165	134		87	155	134	146			
3053 3053	1259	389	30.90	41	191	138		82	147	129	146			
3053 - Vote By Mail Votes	1259	520	41.30	56	228	226		130	221	191	225			
3054 3054	1864	667	35.78	65	288	287		124	226	257	205			
3054 - Vote By Mail Votes	1864	852	45.71	111	332	390		143	381	335	330			
Precinct Totals	4100	1358	33.12	146	620	539		274	474	503	462			
Vote By Mail Votes Totals	4100	1735	42.32	227	725	750		360	757	660	701			
Grand Totals	4100	3093	75.44	373	1345	1289		634	1231	1163	1163			
17th CONGRESS	4100	3093	75.44	373	1345	1289		634	1231	1163	1163			
12th SENATORIAL DISTRICT	4100	3093	75.44	373	1345	1289		634	1231	1163	1163			
28th ASSEMBLY DISTRICT	4100	3093	75.44	373	1345	1289		634	1231	1163	1163			
1ST STATE BOARD EQUAL DIS	4100	3093	75.44	373	1345	1289		634	1231	1163	1163			
3RD SUPERVISORIAL DISTRICT	4100	3093	75.44	373	1345	1289		634	1231	1163	1163			
CITY OF SOLEDAD	4100	3093	75.44	373	1345	1289		634	1231	1163	1163			

MONTEREY COUNTY ELECTIONS



PO Box 4400
Salinas, CA 93912

1370-B South Main Street
Salinas, CA 93901

831-796-1499 Phone
831-755-5485 Fax

www.MontereyCountyElections.us

ElectionMail@montereycountyelections.us

Linda Tulett
Registrar of Voters

Claudio Valenzuela
Assistant Registrar of Voters

November 4, 2008 Presidential General Election Report of the Official Canvass and 1% Manual Tally

The following is a report reflecting the official canvass and 1% manual tally certifying the Statement of the Vote of the November 4, 2008 Presidential General Election:

Official Canvass of the Vote. The official canvass was completed and the election certified on Tuesday, December 2, 2008. The official canvass consisted of several steps, including an inspection of all materials and supplies returned from each polling place, processing and counting Vote by Mail, regular precinct ballots and provisional ballots returned from each precinct, a reconciliation of signatures in rosters with votes recorded, a reconciliation of ballots counted with the number of votes recorded, a manual tally of the ballots tabulated by the voting systems at 1% of the precincts and a 100% manual tally of all votes cast on any AVC Edge II (touch-screen) voting machine. The Department invited 14 individuals and organizations to observe procedures of the official canvass.

Manual Tally. Effective January 1, 2007, Elections Code Section 15360 was enacted by Stats. 2006, Ch. 894 (AB 2769: Benoit) to require that the official conducting the election to include a report on the results of the 1% manual tally in the certification of the official canvass of the vote. AB 2769 further mandates that the 1% manual tally include Vote by Mail ballots from the selected precincts and centrally tabulated at the Monterey County Elections Department. The "one percent manual tally" is defined by Elections Code Section 336.5 as "*the public process of manually tallying votes in 1 percent of the precincts, selected at random by the elections official, and in one precinct for each race not included in the randomly selected precincts. This procedure is conducted during the official canvass to verify the accuracy of the automated count.*" Based upon the 2007 Post-Election Audit Standards that are now adopted and incorporated into the California Administrative Code (Regulations), the manual tally and determination of any increased audits for close contests should be based upon the semi-final official canvass, or election night results, as defined in Elections Code Section 353.5.

On Monday, November 17, 2008, the Elections Department conducted a public random selection of precincts for the 1% manual tally. The Department implemented a new procedure and used four 10-sided colored dice that were rolled to randomly generate precinct numbers. The two precincts chosen were precinct 1004 and precinct 4066 and captured the following contests: President/Vice President, Congressional District 17, Senate 12, Assembly 27 and 28, Superior Court Judge, the City of Seaside (Mayor/Council/Measure E), the Salinas Valley Memorial Healthcare District, the Monterey Peninsula Airport District, all statewide propositions and Measure Z. The Department selected the following 13 additional precincts in order to capture the offices and measures that were not included in the original selection: 2021 (Pajaro Valley Unified School District), 2042 (City of Salinas Council, District 6), 3050 (City of Gonzales Mayor and Council), 3054 (City of Soledad Mayor and Council), 3057 (City of Greenfield Council), 3059 (City of King City Council), 4077 (City of Marina Mayor and Council, and the Marina Coast Water District), 5094 (City of Monterey Mayor and Council), 5098 (City of Pacific Grove Mayor and Council, and Measures X and Y), 9332 (Measure C), 9335 (San Miguel Joint Union School District), 9335 (San Luis Obispo Community College District, Paso Robles Joint Unified School District, and Pleasant Valley Joint Union Elementary School District), and 9446 (City of Sand City Mayor and Council).

Increased Sample Size for Close Contests. The semi-final election night results reflected the margin of victory was less than one half of one percent (0.5%) and therefore, it was necessary to implement an increased sample size of manually tallied ballots (10% of the total precincts for the contest). The following contests and

precincts were selected: Pajaro Valley Unified School District – total precinct size 3, precinct 2021 as selected during the initial random draw met the 10% threshold (1/3); City of Soledad – total precinct size 3, precinct 3054 as selected during the initial random draw met the 10% threshold (1/3); Salinas Valley Memorial Healthcare District – total precinct size 88, precinct 1004 as selected during the initial random draw and precincts 1009, 1013, 1017, 2042, 4084, 5120, 5115, and 5089 were selected to meet the 10% threshold (9/88).

During the review of selected precincts, it was discovered that precinct 5089 was not within the boundaries of the Salinas Valley Memorial Healthcare District. A second random selection was done on Wednesday, November 26, 2008, resulting in precinct 2028 being chosen.

Additionally, after tabulating all official ballots and prior to final certification of the vote, the Department elected to incorporate additional precincts into the manual tally of the Pajaro Valley Unified School District, selecting precinct 2020, and the manual tally of the Salinas Valley Memorial Healthcare District, selecting precinct 1007. With a tie vote in the City of Soledad's Council race, the Department elected to do a full manual recount for all precincts within the City (3052, 3053, and 3054). Additionally, due to a close contest and a margin of victory (in Monterey County) of six votes the Department opted to complete a 100% manual tally for the remaining precinct in the Pajaro Valley Unified School District (2019, 2020, and 2021).

Results of the Manual Tally. The Department found no true variances between the manual tally and the electronic results. A "variance" is any difference between the machine tally and the manual tally for a contest, where the machine tally erroneously attributed votes to a candidate or ballot measure. The required 1% manual tally verified that the tabulation of paper ballots on the Optech 400-C (central count) paper ballot tabulating machines was accurately reflected. The 100% manual tally verified that the automated tabulation of votes cast on each AVC Edge II (touch-screen) voting machine was accurately reflected.

During the conduct of the 1% manual tally, the manual tally teams discovered the following inconsistencies: 1004 – machine operator error resulted in one ballot card "A" read twice; 1017 – voter's ballot mark bled through to opposite side of ballot card within vote target area of another contest, creating a machine-perceived vote; 2019 – spot on ballot within vote target area created a machine-perceived vote; 2020 – machine operator error resulted in two ballot card "A's" not being passed through tabulator; 2021 – machine operator error resulted in one ballot card "A" being read twice; 3052 – stray mark caused by voter resulted in machine-perceived vote; 3053 – voters' ballot marks bled through to opposite side of ballot cards within vote target areas of another contests, creating a machine-perceived votes; 3054 – voters' ballot marks bled through to opposite side of ballot cards within vote target areas of another contests, creating a machine-perceived votes; 4066 – spot on ballot within vote target area created a machine-perceived vote; 4077 – voter's ballot mark bled through to opposite side of ballot card within vote target area of another contest, creating a machine-perceived vote; and, voter's mark was outside of the vote target area where the machine would not be able to capture the voter's intent; 4084 – voter's ballot mark bled through to opposite side of ballot card within vote target area of another contest, creating a machine-perceived vote; 5094 – voter's "hesitation mark" creating a machine-perceived vote; 5098 – machine operator error resulted in one ballot card "A" and one ballot card "B" not being passed through tabulator; voter's mark was outside of the vote target area where the machine would not be able to capture the voter's intent; and spot on ballot within vote target area created a machine-perceived vote. Per Article 5 of Division 15 of the California Elections Code, in resolving any discrepancy, the voter's ballot or verified paper audit trail shall govern the final determination.

For precincts 1004 and 2021 the electronic summary report reflected additional ballot card(s) and votes in each contest in these precincts as compared to what the manual tally results showed. For precincts 2020 and 5098 the electronic summary report reflected one less ballot card "A" for precinct 2020 and one less ballot card "A" and one less ballot card "B" for precinct 5098 and votes as compared to what the manual tally results showed. Research and analysis of the ballots indicate the high potential for human error where ballot cards were not tabulated through the machine.

For precincts 1004, 2020, and 2021, the tally team took the following steps to resolve the discrepancy between the electronic count of the Vote by Mail ballots as compared to the manual tally:

1. Recounted each precinct three additional times – one re-tally was conducted by the original team, a second re-tally was conducted by a new tally team, and a third re-tally was led by a supervisory level staff.

2. Exercised diligence and conducted a full review of all empty ballot return envelopes and Ballot Accountability Forms to ensure the original count of official ballots was accurately reflected on both used by the Department to provide an accounting of returned envelopes and returned ballots.
3. Undertook a further analysis and review of the activity of the Optech 400-Cs used to tally each precinct showed instances of ballot "jams" when the machine halts processing ballots.
 - a. There were up to 4 instances when the machine logged a ballot jam and stopped ballot processing precinct 1004, there were up to 3 instances when the machine logged a ballot jam and stopped ballot processing precinct 2020 and there was up to 1 instance when the machine logged a ballot jam and stopped ballot processing precinct 2021.
 - b. Ballot "jams" can be caused by a number of situations such as a voter who forgets to remove their ballot stub from the ballot, due to a torn, bent or wrinkled ballot, or simply due to the way the ballots are oriented into the ballot hopper by the machine operator. During instances of a ballot jam, the Optech 400-C machine will provide the operator with specific steps and details on where to place each ballot affected by the stop. An inexperienced machine operator can misinterpret the instructions and place a ballot that had passed through the scanner and was successfully tallied, back into the category of ballots that were not yet scanned and tallied by the machine, resulting in one ballot card being read twice.
4. Conducted a full review of each precinct to gain a full understanding of the affect of any ballot card that was not read or any ballot card that was read twice and determined this did not affect contests in any way that would change or reverse the outcome of any candidate contest or ballot measure.
 - a. Precinct 1004 one ballot card "A" affected the following contests: President/Vice President, *Barack Obama/Joe Biden (-1)*, 17th Congressional District, *Sam Farr (-1)*, 28th State Assembly District, *Anna Caballero (-1)*, Superior Court Judge #2, *Write-In (-1)*, Salinas Valley Memorial Healthcare District, *Patrick M. Egan (-1)*, Proposition 1A, *Yes (-1)*, Proposition 2, *No (-1)*, Proposition 3, *Yes (-1)*, Proposition 4, *Yes (-1)*, Proposition 5, *Yes (-1)*.
 - b. Precinct 2020 two ballot cards "A" affected the following contests: President/Vice President, *Barack Obama/Joe Biden (+2)*, 17th Congressional District, *Sam Farr (+2)*, 15th Senatorial District, *Abel Maldonado (+2)*, 27th State Assembly District, *Bill Monning (+2)*, Superior Court Judge #2, *Todd Hornick (+1)* and *Undervote (+1)*, Pajaro Valley Unified School District, *Karen Osmundson (+2)*, Proposition 1A, *Yes (+2)*, Proposition 2, *Yes (+1)* and *No (+1)*, Proposition 3, *Yes (+1)* and *No (+1)*, Proposition 4, *No (+2)*, Proposition 5, *Yes (+2)*.
 - c. Precinct 2021 one ballot card "A" affected the following contests: President/Vice President, *Barack Obama/Joe Biden (-1)*, 17th Congressional District, *Sam Farr (-1)*, 15th Senatorial District, *Jim Fitzgerald (-1)*, 27th State Assembly District, *Mark Hinkle (-1)*, Superior Court Judge #2, *Todd Hornik (-1)*, Pajaro Valley Unified School District, *Karen Osmundson (-1)*, Proposition 1A, *No (-1)*, Proposition 2, *No (-1)*, Proposition 3, *No (-1)*, Proposition 4, *Yes (-1)*, Proposition 5, *Yes (-1)*.

For precinct 5098, the tally team took the following steps to resolve the discrepancy between the electronic count of the precinct ballots as compared to the manual tally:

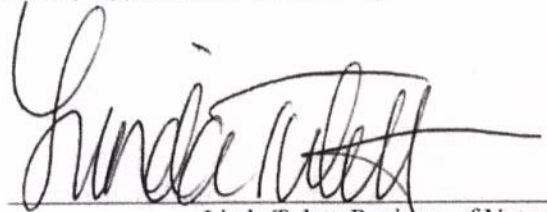
1. Recounted each precinct three additional times – one re-tally was conducted by the original team, a second re-tally was conducted by a new tally team, and a third re-tally was led by a supervisory level staff.
2. Undertook a further analysis and review of the activity of the Optech 400-Cs used to tally each precinct showed instances of ballot "jams" when the machine halts processing ballots.
 - a. There were up to 6 instances when the machine logged a ballot jam and stopped ballot processing precinct 5098.
 - b. Ballot "jams" can be caused by a number of situations such as a voter who forgets to remove their ballot stub from the ballot, due to a torn, bent or wrinkled ballot, or simply due to the way the ballots are oriented into the ballot hopper by the machine operator. During instances of a ballot jam, the Optech 400-C machine will provide the operator with specific steps and details on where to place each ballot affected by the stop. An inexperienced machine operator can misinterpret the instructions and placed a ballot that had passed through the scanner and was successfully tallied, back into the category of ballots that were not yet scanned and tallied by the machine, resulting in one ballot card being read twice.
3. Conducted a full review of the precinct to gain a full understanding of the affect of any ballot card not read and determined that the ballot did not affect contests in any way that would change or reverse the outcome of any candidate contest or ballot measure.

- a. Precinct 5098 one ballot card "A" and one ballot card "B" affected the following contests: President/Vice President, *John McCain/Sarah Palin (+1)*, 17th Congressional District, *Jeff Taylor (+1)*, 15th Senatorial District, *Abel Maldonado (+1)*, 27th State Assembly District, *Robert Murray (+1)*, Superior Court Judge #2, *Undervote (+1)*, City of Pacific Grove/Mayor, *Dan Cort (+1)*, City of Pacific Grove/Council, *Deborah C. Lindsay (+1)*, *Carmelita Garcia (+1)*, *William "Bill" R. Kampe (+1)*, Monterey Peninsula Airport District, *William "Bill" Sabo (+1)*, *Dick Searle (+1)*, *Mary Ann Leffel (+1)*, Proposition 1A, *No (+1)*, Proposition 2, *Undervotes (+1)*, Proposition 3, *Yes (+1)*, Proposition 4, *Yes (+1)*, Proposition 5, *No (+1)*, Proposition 6, *No (+1)*, Proposition 7, *No (+1)*, Proposition 8, *Yes (+1)*, Proposition 9, *No (+1)*, Proposition 10, *No (+1)*, Proposition 11, *Yes (+1)*, Proposition 12, *No (+1)*, Measure X, *Yes (+1)*, Measure Y, *Yes (+1)*, Measure Z, *Yes (+1)*.

For precincts where there was a discrepancy between the electronic count of the precinct ballots as compared to the manual tally where ballot marking bleed through, stray marks or dirt spots, hesitation marks, or where a voter's mark appeared outside of the vote target area, the resulting tally is reflected in each precinct below.

The results of the 100% manual tally for the City of Soledad City Council race determined a change in or reversal of the outcome of the tie vote between Alejandro Chavez and Richard J. Perez resulting in Mr. Perez winning the second seat on the City Council by one vote.

1. 1017: Salinas Valley Memorial Healthcare District, *Robert D. "Bob" Morris (-1) Undervote (+1)*;
2. 2019: Pajaro Valley Unified School District, *Geri A. Simmons (+1) Overvote (-1)*;
3. 3052: City of Soledad/Council, *Javier V. Martinez (-1) Undervote (+1)*;
4. 3053: City of Soledad/Council, *Javier V. Martinez (-2) Patricia Stephens (+1) Richard J. Perez (+1) Overvote (-2) Undervote (+2)*;
5. 3054: City of Soledad/Council, *Javier V. Martinez (-3) Patricia Stephens (-1) Alejandro Chavez (+1) Richard J. Perez (+1) Overvote (-2) Undervote (+4)*;
6. 4066: Monterey Peninsula Airport District, *Write-In (-1) Undervote (+1)*;
7. 4077: City of Marina/Council, *Michael Derr (-1) Undervote (+1)*; Marina Coast Water District, *Kenneth K. Nishi (+1) and Undervote (-1)*;
8. 4084: Salinas Valley Memorial Healthcare District, *Write-In (-2) Undervote (+2)*;
9. 5094: City of Monterey/Council, *Libby Downey (-1) Undervotes (+1)*;
10. 5098: City of Pacific Grove/Council, *Write-In (-1) Undervote (+1)*, Measure Y, *Yes (+1) Undervote (-1)*



Linda Tulett, Registrar of Voters