### INDIANA STATE RECOUNT COMMISSION

### MINUTES OF THE DECEMBER 18, 2010 MEETING

**MEMBERS PRESENT:** Todd Rokita, Chairman of the Indiana State Recount Commission ("the Commission"); Gordon Durnil, Member; Robert Kuzman, Member

**MEMBERS ABSENT:** None

**STAFF ATTENDING:** Bradley W. Skolnik, Recount Director; J. Bradley King, Majority Counsel;

OTHERS ATTENDING: Mr. David Brooks; Mr. Allen Brown

### 1. CALL TO ORDER:

The chair called the meeting of the Commission to order at 11:00 a.m. in State House Room 201, 200 West Washington Street, Indianapolis, Indiana.

## 2. COMMISSION BUSINESS:

The Commission transacted the business and took the official actions set forth in the Transcript prepared by Rhonda J. Hobbs of Connor & Associates, Inc. which is incorporated by reference into these minutes.

The Commission approves the Transcript, with the following corrections:

Page 14, line 15, replace "A. BROWN" with "R. KUZMAN".

Page 14, line 25, replace "COMMISSION MEMBERS" with "R. KUZMAN".

Page 15, line 3, replace "COMMISSION MEMBERS" with "R. KUZMAN".

# 3. ADJOURNMENT:

There being no further business before the Commission, the Commission adjourned at 11:26 a.m.

APPROVED:

Thomas E. Wheeler, II

Pursuant to Order 2011-15 of

The Indiana State Recount Commission

# Original

1 INDIANA RECOUNT COMMISSION MEETING. 2 3 4 5 6 Conducted On: December 18, 2010 7 8 9 10 Location: Statehouse 11 200 West Washington Street Room 201 12 Indianapolis, Indiana 46219 13 14 15 16 17 A STENOGRAPHIC RECORD BY: Rhonda J. Hobbs, RPR 18 Notary Public Stenographic Reporter 19 20 21 22 23 Connor + Associates, Inc.

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Connor + Associates, Inc 1650 One American Square Indianapolis, IN 46282

(317) 236-6022

APPEARANCES 1 3 RECOUNT COMMISSION: 4 Mr. Todd Rokita - Chairman, Indiana Secretary 5 of State Mr. Gordon Durnil - Indiana State Recount 6 Commission Member 7 Mr. Robert Kuzman - Indiana State Recount Commission Member 8 Mr. Bradley Skolnik - Indiana State Recount 9 Director 10 Mr. Michael Rogina - Indiana State Board of Accounts 11 Mr. Chris Naylor - Indiana Securities 12 Commissioner 13 Mr. Bradley King - Counsel for Recount Commission 14 15 16 ALSO PRESENT: Mr. David Brooks Mr. Adam Brown 17 18 19 20 21 22 23 24

1	INDEX OF EXHIBITS
2	
3	Exhibit No.: Page
4	A - Document Entitled, "Tally of Ballots for
5	A - Document Entitled, "Tally of Ballots for Petitioned Precincts"
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CHAIRMAN T. ROKITA: I'd like to -- as

Secretary of State, I'd like -- and Chair of the

Recount Commission, I'd like to call this

meeting to order, and we'll start with Agenda

Item No. 2 with the Pledge of Allegiance.

(Pledge of Allegiance recited.)

CHAIRMAN T. ROKITA: Thank you very much.

I'd like to move onto the next agenda item,
which is documentation of the meeting notice,
and I'll turn it over to the recount director to
verify that meeting notice was properly served.

MR. B. SKOLNIK: Thank you very much,

Mr. Chairman. The document has been -- the

notice was properly posed and served in

connection with this in a timely fashion. It's

my understanding it fully complied with the open

door laws of the State of Indiana so notice has

been properly posted in accordance with the

state law.

CHAIRMAN T. ROKITA: Okay, excellent. Then
I'll show for the minutes that the meeting
notice was properly served. Next item on the is
consideration of certain matters pending before
the recount commission, and as the commission
members would note, we had some outstanding

items on the recount of House District 76, that's Owen versus McNamara. At this time I'd like to turn it to the recount director so he can explain for the record and for the commission members the process they undertook this week.

MR. B. SKOLNIK: Thank you, Mr. Chairman.

As members may recall at the meeting of the recount commission held in -- this past Sunday in Mount Vernon, basically the full recount had been -- had been concluded, except for there were a total of three votes which this commission had deemed -- had voted -- had deemed or determined were invalid.

The reason for that determination, as I recall, was that the those were in-person absentee voters who had failed to sign the absentee ballot applications. Two of those votes were in precinct -- at the Perry Precinct No. 1 in Vanderburgh County and there was one vote in Perry No. 6.

It was not possible at that meeting to determine who those -- who those voters had cast their ballots for, if anyone, in connection with the House 76 District race. That could only be

accomplished by taking certain coding off of the applications and having the technical support staff in Vanderburgh County run new reports so that those votes could then, in effect, be eliminated from the count for the reason that they were deemed to be invalid.

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Per the direction of the commission, I scheduled for yesterday morning at 10:30, or I'm sorry, 9:30 Central Standard Time, the meeting in Vanderburgh County -- not of this commission but of myself and the technical support staff who handles the -- who consults with and handles the voting operations in Vanderburgh County. We met yesterday at 9:30 a.m. Both candidates had watchers available and were present at that -- at that time.

The support -- I do want to state for the record that the support, or the technical support personnel who are present for Vanderburgh County were Deb Olden (Phonetic) from RBM. She's the project manager for the electronic voting, or the electronic vendor, voting machine vendor in Vanderburgh County.

Also, Timothy VanCleeve (Phonetic), the executive IT director, for Vanderburgh County,

as well as their county election board were present there and assisted us in running the reports so we could get a new tally that would reflect the three invalid votes.

They did that, and I'm prepared at this

They did that, and I'm prepared at this time to report to the commission as to the results of that report.

CHAIRMAN T. ROKITA: Okay, thank you.

MR. B. SKOLNIK: Before I do that, are there any questions that anybody may have?

CHAIRMAN T. ROKITA: That's what I wanted to ask, questions from commission members?

(No response.)

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CHAIRMAN T. ROKITA: I see both parties are represented by counsel here. Questions from counsel?

MR. D. BROOKS: No.

MR. A. BROWN: No.

CHAIRMAN T. ROKITA: Mr. Skolnik.

MR. B. SKOLNIK: Thank you, Mr. Chairman.

The commission determined last Sunday that there were two votes in Perry Township, Precinct No.

1, that were invalid. The ballots tallied by the State Board of Accounts, as well as the ballots returned by the county reflect that

prior to running these reports that there were 231 votes for Mr. Deig, 307 for Miss McNamara, and 10 no votes.

When we ran the report that determined that there were -- and the ballots -- I'm not going to identify the names of the voters, but there were certain coding on there or certain identifying numbers on those ballots. They were Ballots RB-27 and RB-38 in Precinct No. 1 in Perry that were deemed to be invalid.

When the technical staff ran the reports, it did not include those, those two ballots in the vote total. The determination, or I should say the tally reflected that there were 231 votes for Mr. Deig, 305 votes for Miss McNamara, and 10 no votes.

Therefore, as a result of the invalidation of those ballots, there were two less votes for Miss McNamara in Perry Precinct No. 1. Are there any questions? Have I explained that clearly so that everybody understands that?

COMMISSION MEMBER G. DURNIL: Were the attorneys for both sides there?

MR. B. SKOLNIK: There were watchers for both sides actually present at the...

COMMISSION MEMBER G. DURNIL: Did you 1 actually see the code numbers on the application 2 and on the ballots? 3 MR. B. SKOLNIK: Yes, I did. 4 COMMISSION MEMBER G. DURNIL: 5 MR. B. SKOLNIK: And I worked with the -- I 6 made sure that the technical staff had the 7 appropriate... 8 COMMISSION MEMBER G. DURNIL: I would move 9 we make that tally final. 10 CHAIRMAN T. ROKITA: I'll second. 11 Discussion? 12 (No response.) 13 Hearing none, all in CHAIRMAN T. ROKITA: 14 15 favor of the new tally as reported by Recount Director Skolnik, all in favor say aye? 16 17 COMMISSION MEMBERS: Aye. CHAIRMAN T. ROKITA: Motion carries 18 19 unanimously. MR. B. SKOLNIK: Just to clarify for the 20 record then, the tally, the vote total in Perry 21 Township, Precinct No. 1, in Vanderburgh 22 County reflects 231 votes for Mr. Deig, 305 23 votes for Miss McNamara, and 10 no votes. 24

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The next precinct in which this commission

determined that there was an invalid ballot was Perry Township, Precinct No. 6. There was one vote in that township that the, or in that precinct that the commission vote or deemed invalid. It was identified as Ballot RB-208.

In precinct -- in Perry Township No. 6, the vote totals as reflected both on the ballots returned by the county as well as the ballots tallied by the State Board of Accounts initially indicated that Mr. Deig had 224 votes, Miss McNamara 219 votes, and there were 8 no votes.

Applying the similar methodology that we applied with regards to Perry Township, Precinct No. 1, a report was then run in which the invalid ballot RB-208 was not included in the vote count.

When that report was generated, it reflected that there were -- when that vote was invalidated, the new vote total reflected 224 votes for Mr. Deig, 218 votes for Miss McNamara, and 8 no votes. That report indicated that the invalid, that when the invalid ballot was not included, there was one less vote for Miss McNamara. Are there any questions?

COMMISSION MEMBER G. DURNIL: Attorneys

have any questions? 1 (No response.) 2 COMMISSION MEMBER G. DURNIL: I move to 3 accept the tally, the new tally as final. 4 CHAIRMAN T. ROKITA: Second. Any 5 discussion? 6 7 (No response.) CHAIRMAN T. ROKITA: Hearing none, all in 8 favor say aye? 9 Commission members. COMMISSION MEMBERS: 10 CHAIRMAN T. ROKITA: All opposed, same 11 12 sign? 13 (No response.) CHAIRMAN T. ROKITA: None heard. 14 15 motion carries unanimously. MR. B. SKOLNIK: Again, to clarify for the 16 record, the vote total, the final vote total in 17 Perry Township, Precinct No. 6, 224 votes for 18 Mr. Deig, 218 for Miss McNamara, and 8 no votes. 19 Thank you, Director. CHAIRMAN T. ROKITA: 2.0 Anything else? 21 COMMISSION MEMBERS: The final tally? 2.2 MR. B. SKOLNIK: Mr. Chairman, it is my 23 24 under -- I'm sorry? COMMISSION MEMBERS: The final tally? 25

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MR. B. SKOLNIK: It is my understanding that all votes have been counted and considered by this commission and that there is no other matters before the commission with reference to the tally of the votes.

COMMISSION MEMBER G. DURNIL: What is the final tally, the final vote count?

CHAIRMAN T. ROKITA: I'll recognize Mike Rogina from the State Board of Accounts.

MR. M. ROGINA: Thank you, Mr. Chairman.

As you mentioned, the total for Mr. Deig is

9,369, and Miss McNamara 9,373 for a difference
of four.

COMMISSION MEMBER G. DURNIL: Shouldn't we approve that final tally?

CHAIRMAN T. ROKITA: We can, yeah.

MR. B. SKOLNIK: It is my understanding, and I will defer to counsel through the commission, but it's my understanding, I believe, that final tally should be approved and the results and that this commission is then required by law to certify those results to, I believe, it's the Speaker of the House.

CHAIRMAN T. ROKITA: So I'd like to -- go ahead, Brad.

MR. B. KING: Mr. Chairman, and members of the commission, Director Skolnik had stated the 2 requirements of the law correctly. A 3 certificate of recount has been prepared for the 4 commission which certifies -- the final tally 5 indicates which candidate received the most 6 votes and by what plurality. 7 This will be filed with the Speaker of the 8 House and another copy will be transmitted to 9 the candidate and a third will be retained in 10 the records of the recount commission. 11 CHAIRMAN T. ROKITA: You're prepared to 12 have us sign those today? 13 MR. B. KING: Yes. I will insert the final 1 4 1.5 signature. 16 COMMISSION MEMBER G. DURNIL: 17

numbers as tallied and it will be ready for your You need the

chairman's signature, you just need the chairman's signature?

MR. B. KING: Actually, I have all three signature lines here.

CHAIRMAN T. ROKITA: Okay, we'll do that right here for you right now.

> MR. B. KING: Okay.

COMMISSION MEMBERS: So we don't need a

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1	motion, we just sign the order?
2	CHAIRMAN T. ROKITA: Yeah, you don't want a
3	motion then?
4	MR. B. KING: Yes, Mr. Chairman, a motion
5	would be appropriate to approve the certificate.
6	CHAIRMAN T. ROKITA: Okay. Then I would
7	move to adopt the final tally as reported by the
8	recount director and the State Board of Accounts
9	and also move that we approve such a
10	certificate. Second?
11	COMMISSION MEMBER G. DURNIL: Second.
12	CHAIRMAN T. ROKITA: Discussion?
13	(No response.)
14	CHAIRMAN T. ROKITA:
15	MR. A. BROWN: I don't have counsel so I'll
16	just I'll defer to the best of my ability
17	here.
18	CHAIRMAN T. ROKITA: Okay. All in favor of
19	that motion, signify by saying aye?
20	COMMISSION MEMBERS: Aye.
21	CHAIRMAN T. ROKITA: Aye. All opposed?
22	COMMISSION MEMBER R. KUZMAN: Aye.
23	CHAIRMAN T. ROKITA: Okay, motion carries 2
24	to 1 and we'll sign the certificate.
25	COMMISSION MEMBERS: I know there's a

1 conflict -- if I may? CHAIRMAN T. ROKITA: Please. Go ahead. 2 COMMISSION MEMBERS: It will be noted 2 to 3 1 on here even though I sign it? 4 doesn't -- I just want to... 5 CHAIRMAN T. ROKITA: Yes, the minutes will 6 7 reflect the vote. COMMISSION MEMBER R. KUZMAN: Okay, thank 8 you. I'm sorry to ask that question but... 9 CHAIRMAN T. ROKITA: No problem. 10 MR. B. SKOLNIK: Mr. Chairman, while the 11 members of the commission are signing the 12 certificate, I would like to introduce into the 13 record as Exhibit A, the final tally of 14 15 ballots --16 (Whereupon, Exhibit A duly received, 17 marked, and made a part of the record.) CHAIRMAN T. ROKITA: Please, go ahead. 18 MR. B. SKOLNIK: -- that have been counted 19 by the recount commission in connection with 20 House District 76. 21 CHAIRMAN T. ROKITA: Question from Mr. 22 23 Kuzman. COMMISSION MEMBER R. KUZMAN: I saw we had 2.4

three copies, so are you going to -- is there

going to be a fourth one sent to Mr. Deig? 1 There can be, certainly. MR. B. KING: 2 COMMISSION MEMBER R. KUZMAN: I think we 3 should probably -- just for his record, I think 4 we probably should, if you don't mind? 5 MR. B. KING: Not at all. 6 If you can COMMISSION MEMBER R. KUZMAN: 7 just photocopy one of them, it's okay with me, 8 but... 9 No problem at all. MR. B. KING: 10 COMMISSION MEMBER R. KUZMAN: Thank you, 11 just so he has them for his records. 12 Okay. I believe this CHAIRMAN T. ROKITA: 13 concludes the business in House District 76. 14 Moving on to the next agenda item, any other 15 additional matters for consideration before the 16 commission? 17 (No response.) 18 CHAIRMAN T. ROKITA: Hearing none, I 19 20 want --Mr. Chairman, I apologize, MR. B. SKOLNIK: 21 excuse me for interrupting. The impoundment 22 orders remain in effect in the three counties 23 that comprise, or the portions of the three 24 counties that comprise House District 76. 25

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As you can imagine, the clerks have inquired as to whether this commission would be willing to rescind those impoundment orders so that the election boards can conclude their work arising out of the November 2nd election.

If the commission or counsel have no objection, I'm prepared to rescind those impoundment orders, but I'd like to know if there's any objection from either of the parties?

CHAIRMAN T. ROKITA: Any objection?

COMMISSION MEMBER G. DURNIL: No objection.

CHAIRMAN T. ROKITA: Any objection?

(No response.)

CHAIRMAN T. ROKITA: No objection -hearing none -- commission members, hearing no
objection, I move that we rescind all
impoundment orders.

COMMISSION MEMBER R. KUZMAN: Second.

CHAIRMAN T. ROKITA: All in favor, say aye?

**COMMISSION MEMBERS:** Aye.

CHAIRMAN T. ROKITA: Motion carries unanimously. Thank you, Brad, anything else?

MR. B. SKOLNIK: The only other matter that I can think of is I will be responsible for

making sure that the expenses of the recount are properly submitted and paid by -- in connection with the state recount fund. I will be in contact with commission members as to -- regarding any expenses that they incur. In addition, I submit my statement for services rendered. I generally usually submit that to the chair, since I can't really approve my own expenses. As much as I'd like to, I don't think...

CHAIRMAN T. ROKITA: Do we need a motion from the three of use to approve all of the expenses or can the chair do that or can we have to motion for the chair to do it, or do you guys want to -- do we have to move to approve such things?

COMMISSION MEMBER R. KUZMAN: I move that we just let the chair make that decision.

CHAIRMAN T. ROKITA: Okay.

COMMISSION MEMBER G. DURNIL: Second.

CHAIRMAN T. ROKITA: Second, all in favor, say aye?

COMMISSION MEMBERS: Aye.

CHAIRMAN T. ROKITA: Motion carries unanimously. That would prohibit us --

basically, we don't have to meet again, but do send copies of everything.

MR. B. SKOLNIK: I will.

members have a question about anything, they can contact us and make those statements known and questions known. I'd like to thank for purposes of the record and for those in attendance, formally thank the State Board of Accounts for, again, their fine work.

Mr. Rogina, thanks. If you'll pass on our thanks to the rest of the team, the State Board of Police -- the State Police as well, including the superintendent and Major Turner for all their work and leadership as well -- I'd like that reflected, and if we can have some letters drawn up as well, that would be wonderful, to professionally thank them, formally thank them.

And Brad, thank you for your service as well, and the people of Indiana, on behalf of them, I thank you as well. Am I missing anyone -- State Board of Accounts, State Police, of course, counsel both present and absent for their service.

MR. B. SKOLNIK: I'd also like to recognize

and thank -- I know Mr. Brown is here, Mr. Brooks just left, counsel for the parties, I enjoyed the opportunity to work with them and appreciated their professionalism.

CHAIRMAN T. ROKITA: Yeah, no bar fight this year. I appreciate that. All right, thank you very much. Motion to adjourn.

COMMISSION MEMBER G. DURNIL: So moved.

CHAIRMAN T. ROKITA: Motion carries.

Thanks. Merry Christmas everybody.

(Time noted: 11:26 a.m.)

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STATE OF INDIANA SS: COUNTY OF MARION 3 I, Rhonda J. Hobbs, RPR, and a Notary Public 4 and Stenographic Reporter within and for the County 5 of Hendricks, State of Indiana at large, do hereby 6 certify that on the 18th day of December, 2010, I 7 took down in stenograph notes the foregoing 8 proceedings; 9 That the transcript is a full, true and 10 correct transcript made from my stenograph notes. 11 IN WITNESS WHEREOF, I have hereunto set 12 my hand and affixed my notarial seal this 13 day of January, 2011. 14 15 16 17 18 19 My Commission Expires: August 24, 2017 County of Residence: 2.0 Hendricks County 21 2.2 23 24

TALLY OF BALLOTS FOR PETITIONED PRECINCTS INDIANA REPRESENTATIVE DISTRICT 76
GENERAL ELECTION
November 2, 2010

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Ballots Certified by County   Ballots Tailled   Ballots Tailled   Ballots Certified by County   Ballots Certified by County   Ballots Tailled   By Recount Commission   By R	Ballots Certified by County   Ballots Tallied	: 1	, د	<b>-</b>	. 4	89	26	89	95	Harmony 1
Ballots Certified by County   Ballots Taillied   Ballots Taillied   Ballots Taillied   Ballots Taillied   Ballots Taillied   Ballots Certified by County   Bob   Wendy   Bob   Bob   Bob   Wendy   Bob   B	Ballots Certified by County   Ballots Taillied			, د	. 4	100	75	100	75	Center South
Valid Ballots Certified by County         Valid Ballots Taillied         Imvalid Ballots Certified by Count Commission         By Recount Commission         By Recount Commission         By Recount Commission         By Becount Commission         By Becount Commission         Bob Wendy         Wendy         Bob Wendy         Bob Wendy         Delig         McNamara         No Votes         Delig         McNamara         Delig										

Exr. 12

Grand Total ==	Totals for Gibson County	Wabash 1  Montgomery 2	Totals for Vanderburgh County	Union 1	Perry 9 Perry 10	Perry 8	Perry 7	Perry 5	Perry 4	Perry 3	Perry 2		Ward Six 17	Ward Six 16	Ward Six 15	Ward Six 14	Ward Six 13	Ward Six 12	Ward Six 11	Ward Six 9	Ward Six 8	Ward Six 7	•	
9,369	73	5 5	4,354	69	125 87	172 .	297	224	197 726	199	177	231	238	271	79	190	167	120	275	207	184	178		
9,377	95	90	4,333	47	14 <i>/</i> 96	220	412	219	229 263	249	257	307	204	248	78	151	112	83	209	144	130	197		
9,369		<u>68</u>	4,354	69	87	172	297	224	197 226	199	177	231	237	271	79	190	167	120	275	207	184	178		
9,373	96	91	4,327	47	96 04T	220	411	218	263	248	257	305	205	248	78	151	112	83	209	144	130	196		
352			175	2	4 6	12	11	. 8	9 0	n (r	. 7	10	10	13	4	. 6	· UT	00	16	6	7			
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