In the Matter Of:

INDIANA ELECTION COMMISSION

TRANSCRIPT OF HEARING

March 09, 2018
INDIANA ELECTION COMMISSION
COMMITTEE MEETING

Conducted on: March 9, 2018

Conducted at: Indiana Government Center
Indiana Election Division
302 West Washington Street
Room E-204
Indianapolis, Indiana 46204

A Stenographic Record By:
Lisa C. Pierce
APPEARANCES

INDIANA ELECTION COMMISSION:

Mr. Bryce Bennett - Chairman
Mr. Adam Dickey - Proxy for
Vice Chairman Mr. S. Anthony Long
Mr. Zachary Klutz - Member
Ms. Suzannah Overholt - Member

INDIANA ELECTION DIVISION STAFF:

Mr. J. Bradley King - Co-Director
Ms. Angela M. Nussmeyer - Co-Director
Mr. Dale Simmons - Co-Legal Counsel
Mr. Matthew Kochvar - Co-Legal Counsel
CHAIRMAN BENNETT: I'll call the meeting of the Indiana Election Commission back in session following the end of recess announced on February 23rd, 2018. The following members of the Commission are present today: Myself, Bryce Bennett, the Chairman; Adam Dickey, proxy for Vice Chairman, Anthony Long; member, Suzannah Overholt; member, Zachary Klutz.

The Indiana Election Division staff is here: Co-Directors Brad King and Angie Nussmeyer. Co-General Counsels, Dale Simmons and Matthew Kochevar. The court reporter today is Lisa Pierce from Connor & Associates.

We have only one item remaining to be discussed today, and that is the issue of how to proceed with the Lake County Precinct Consolidation Plan. And I want to commend everyone here today for their transparency and diligence in preparing and exchanging proposed plans for --

MS. OVERHOLT: Mr. Chair, if I might, before you go further, I have a point of order that I raised when we were last in session, which is that we actually don't have an agenda item. We concluded the agenda for the last meeting or for this meeting when we were last in session. And I
had raised at that time that if we're going to
discuss this, I would assume the appropriate route
would be to amend the agenda to include whatever
topic it is we're discussing. You didn't entertain
that motion. But it would seem today that it would
be appropriate to do that.

So I would -- I would move that we amend the
agenda to include I guess it's discussion about
kind of next steps for the Lake County
reprecincting.

CHAIRMAN BENNETT: Are you making it a motion?

MS. OVERHOLT: Yes, I said I was making that
motion --

CHAIRMAN BENNETT: Okay.

MS. OVERHOLT: Yes.

MR. DICKEY: I'll -- I'll second that.

CHAIRMAN BENNETT: Okay. We have a motion and
a second.

MR. KLUTZ: Open for discussion?

CHAIRMAN BENNETT: Yes.

MR. KLUTZ: So the purpose is just to amend
the agenda and then have the discussion here during
this meeting?

MS. OVERHOLT: Or then to talk about what -- I
mean, I -- it appears that that's what the chair
wants to discuss. I'm raising the issue that
there's -- as far as the agenda goes, we -- we have
nothing in front of us. So I am trying to -- I'm
just -- I'm concerned about our compliance with the
open door law and the fact that it wasn't on the
agenda, isn't on the agenda, and I feel that we
should amend the agenda to include.

CHAIRMAN BENNETT: I would say this with
regard to the open door law, I raised this issue as
a point of personal privilege, and we had some
discussion at the last meeting. And we recessed
the meeting and sent a second notice out after
that.

MS. OVERHOLT: With nothing on the agenda.

CHAIRMAN BENNETT: Well, the item that we
already discussed was on the agenda. And,
furthermore, we had -- I mean, the item we
discussed was a -- was a carryover from my point of
personal privilege. And we exchanged documents
which indicated everyone understood what would be
on the agenda. And in terms of legally complying
with the open door law, I guess I would ask counsel
if you have any thoughts, opinions on that.

MR. SIMMONS: Mr. Chairman, members of the
Commission, just on a technical open door
violation, I did ask the Public Access Counselor, Luke Britt, a question about whether what -- I gave him the whole scenario on the Commission recessing and then reconvening two weeks later and then going ahead and posting open door law notice like we did. Witnesses of -- there's been a post -- posted open door law for this meeting, as I understand it.

And his view of the open door law was that because of the passage of time and the posting of a new notice, the Commission can proceed even without an agenda and discuss whatever -- whatever items. But -- but it certainly does no harm, you know, in my view, to, you know, pass a motion. But there's no -- I -- according to the open -- the Public Access Counselor anyway there's no open door law violation if you just proceeded with the business you suggested.

CHAIRMAN BENNETT: Yes. Thank you. Any --

MR. KOCHEVAR: Yeah. I will just say, I've not seen the -- if it was in correspondence between Mr. Simmons and Mr. Britt. But I will recognize, having read various official opinions from the Public Access Counselor, that it is certainly a right of a public agency, which this Commission is, to amend its agenda while it's in its meeting. But
the key thing that I noted -- or that I notice is
that the public agency has to act to amend its
agenda. And so my whole point is that I agree with
Commissioner Overholt that a vote has to be taken
so this can be added on and so it can be discussed.
And the only other point I will make is that I
would -- I suggested to Commissioner Overholt and
Mr. Dickey, just because on this particular issue
is under adjudication in federal court. And I
would just like to, with an abundance of caution,
make sure that, you know, things are done as
carefully as possible. 'Cause I think everyone
around this table would desire to have that, you
know, issue resolved as cleanly and as quickly as
possible.

MS. OVERHOLT: And I guess I don't quite see
it. 'Cause we're all clearly here for this
meeting. And I guess to correct, the notice that
is hanging up outside this door has nothing on it
in terms of what's going to be discussed at this
meeting. I -- I mean, we're all here. I guess I
don't understand why it -- it seems like there is
reluctance to take action to add this to the
agenda. I just don't quite --

CHAIRMAN BENNETT: I guess --
MR. KLUTZ: I just want to be able to meet today and continue.

MS. OVERHOLT: Right.

MR. KLUTZ: I don't want this to mean that we're amending the agenda, we have to adjourn and -- you know.

CHAIRMAN BENNETT: I don't think you're suggesting that. And I think that's what we need to understand. You're suggesting that we do amend the agenda today to discuss this issue, and that --

MS. OVERHOLT: Right.

CHAIRMAN BENNETT: -- we proceed with discussions today, if that motion carries. Is that --

MR. KLUTZ: Yes.

MS. OVERHOLT: Yes.

MR. DICKEY: Yes.

CHAIRMAN BENNETT: Is that helpful to you, Commissioner?

MR. KLUTZ: Yeah.

CHAIRMAN BENNETT: So the motion has been made and it has a second. We've had our discussion.

(A discussion was held off the record between Mr. King and Chairman Bennett.)

CHAIRMAN BENNETT: I am reminded that if we do
amend the agenda, we need to post the agenda. And we can do that right outside the door here today.
Is anyone going to object to that?
MS. OVERHOLT: Well, I -- I don't think that's right. I think we can amend the agenda during the meeting to dis -- but what -- if that's what you're -- we'll at let the actual official attorneys discuss that. But I don't think that's required.
MR. KOCHEVAR: I will just read that --
MS. OVERHOLT: But if you want to do that, that's fine at this point.
MR. KOCHEVAR: I don't think -- I don't actually think that is required. Again, I'm going off my notes, but this is from two weeks ago. That's either because an official opinion, 12-FC-43, or formal complaint is before the Public Access Counselor. 05-SC-04 just states that even if you -- if you post an agenda, the public agency has a right to agenda at the meeting and then continue that meeting on.
I've never read anything into it that the public agenda had to have been reprinted and republished in order for the public agency to continue. Just merely the vote to add on an item
to the agenda and then, you know, act on it.

CHAIRMAN BENNETT: Thank you. Mr. Simmons, any comments on that?

MR. SIMMONS: Well, I can understand the Chairman's concern because the public -- or the open door law does say if the -- if the body operates from an agenda, the agenda has to be posted. So I'm not sure. I mean, I understand why you're saying that. Again, I guess it does no harm to post it. If -- if Mr. Kochevar's concerned about making sure we have no problems in litigation and we're in bad form, why not?

CHAIRMAN BENNETT: Yeah. Okay. So -- so the distinction here is that if we are going to go with an agenda, which it's our position is that's not necessary. But if we are going to go with an agenda, then it needs to be posted. That would be your opinion?

MR. SIMMONS: Right. And, as I mentioned, the open -- or the Public Access Counselor said you don't have to have an agenda, that you can --

that's not something --

CHAIRMAN BENNETT: Right.

MR. SIMMONS: -- that's required.

CHAIRMAN BENNETT: I think we've had an
agreement to disagree on the issue of whether we need an agenda. So if we go with the agenda, then are you willing to go with posting that agenda?

MR. DICKEY: I mean, are we -- are we literally talking about taking two minutes to print it out on a computer and put it on the door?

CHAIRMAN BENNETT: Yes. The door is steps away from us.

MR. DICKEY: Yeah. I don't see an issue.

CHAIRMAN BENNETT: Okay. So can we amend the motion to put this item on the agenda and post that agenda on the door and continue our discussion of this matter today?

MS. OVERHOLT: Sure.

MR. DICKEY: Sure.

CHAIRMAN BENNETT: Okay. So that motion has -- I'll make that motion. Is there a second to that amended motion?

MR. KLUTZ: Second.

CHAIRMAN BENNETT: Okay. Any further discussion? All in favors say "aye."

THE COMMISSION: Aye.

CHAIRMAN BENNETT: All opposed, "nay." Motion carries. We will add this item to our agenda and take a few seconds to post it.
MR. KING: Take a minute or two.

CHAIRMAN BENNET: A minute or two, okay.

MS. NUSSMEYER: Or could we handwrite it --

MS. OVERHOLT: Why don't we handwrite it on
the piece of paper that's hanging up there right
now.

MR. DICKEY: Sure.

MS. OVERHOLT: I mean, who's gonna' look at
it, quite frankly.

CHAIRMAN BENNETT: Well --

MR. KING: Exhibit Number 1.

MR. KLUTZ: It'll just be handwritten.

CHAIRMAN BENNETT: Would you read for us the
new agenda, please.

MR. KING: Pass it around --

CHAIRMAN BENNETT: Okay.

MR. KING: -- so everyone sees it.

MR. DICKEY: Looks good to me.

CHAIRMAN BENNETT: Should I read it for the
record? Just read the agenda item for the record.

MR. KING: The agenda item Number 1, Lake
County Precinct Consolidation.

CHAIRMAN BENNETT: Okay. And you will post it
on the door.

MR. KING: I will scan it and I will post it
immediately.
CHAIRMAN BENNETT: Okay.
And has the agenda been posted, Mr. King?
MR. KING: Yes, Mr. Chairman, the agenda has.
CHAIRMAN BENNETT: This is precisely the kind of cooperation that gives me optimism that we may get something resolved. Thank you all.
Okay. I was saying that how much I appreciate everybody's work that went into exchanging these proposed plans prior to this meeting. And I think it would be appropriate for us to use these plans as a starting point for our discussions today. See if we can agree on a single plan that will move this matter forward in hopes of coming up with ultimate plan for the precinct consolidation in Lake County.
MS. OVERHOLT: I think for clarity -- so we're talking about the proposals regarding how the process to actually identify a plan for restructuring. I know what you're talking about. I'm thinking if someone tries to read this transcript --
CHAIRMAN BENNETT: I'm sorry.
MS. OVERHOLT: I said that I -- I am thinking in terms of if anyone tried to read this
transcript, they might get confused about what
we're --

CHAIRMAN BENNETT: Yes, yes. Specifically I'm
talking about the proposed plan of action for
Indiana Election Commission and Indiana Election
Division to prepare and adopt Lake County Precinct
Consolidation Plan which was delivered to the
Democratic co-director I believe it was Wednesday
of this week?

MR. KING: I believe it's two days ago.

MS. NUSSMEYER: Two days ago.

CHAIRMAN BENNETT: Wednesday of this week.

And I'm also talking about the process
recommendation for Lake County Precinct
Consolidation Plan that was delivered Thursday. Or
was it Wednesday also?

MS. NUSSMEYER: I --

MR. KING: Following day.

CHAIRMAN BENNETT: The following day?

MS. NUSSMEYER: Yeah.

CHAIRMAN BENNETT: On Thursday.

MS. NUSSMEYER: Yeah. I think yours may have
came on Tuesday and ours came on Wednesday.
Because Thursday, yesterday, we were at the --

MR. KING: Successive days.
1     MS. OVERHOLT: Earlier this week.
2     CHAIRMAN BENNETT: Can -- can we all agree on
3     that, or do we want to look up the dates?
4     MR. KING: No.
5     CHAIRMAN BENNETT: Okay. All right.
6     Successive days. Does everyone have both of those
7     documents in front of you?
8     MR. KLUTZ: Yes.
9     CHAIRMAN BENNETT: Okay. We have some
10    comments to items one through four that we could go
11    through here and discuss. I don't think any of
12    them are particularly controversial.
13    MS. NUSSMEYER: Mr. Chairman, if I may, which
14    plan are you referring to?
15    CHAIRMAN BENNETT: Actually referring to --
16    let's -- let's label these as exhibits here.
17    MS. NUSSMEYER: Okay.
18    CHAIRMAN BENNETT: We have Exhibit 1 was the
19    notice of agenda --
20    MR. KING: I'm speaking facetiously. Mark
21    them in order. Exhibit 1.
22    MS. NUSSMEYER: Okay. And that would be the
23    Republican plan?
24    MR. KING: Correct.
25    MS. NUSSMEYER: Yeah.
MR. KING: I'm doing this in the order which
they were --

MS. NUSSMEYER: Perfect.

MR. KING: And I am giving this to Mr. Simmons
as the usual practice for the record. Those.

MS. OVERHOLT: So could we refer to them maybe
as, like, process plans or something. Just because
I'm -- because we have two plans that we -- for
consolidation that we received last summer. So
should we maybe call these process plans just so --

MR. KLUTZ: I agree.

MR. DICKEY: Yeah.

CHAIRMAN BENNETT: Okay.

MS. OVERHOLT: The three of us just agreed
that we could call them process plans.

MR. KLUTZ: Process plans.

MS. OVERHOLT: So if you agree then we can to
that by consensus I think.

CHAIRMAN BENNETT: Yeah, okay. Exhibit 1
or --

MR. DICKEY: I knew that's what you were
looking for.

CHAIRMAN BENNETT: Okay. And maybe it would
be good to start with maybe a discussion generally
about what we had both hoped to accomplish with our
1    -- our plans. Is that the one or do you want me
2    to?
3    MR. KLUTZ: Well, I mean it was simply I think
4    an effort to create a structure that we could
5    operate to ask the Election Division to work
6    together and prepare a small precinct plan using
7    this proposed process and a timeline and -- and
8    dates and deadlines.
9    CHAIRMAN BENNETT: Okay.
10   MR. KLUTZ: Now, we -- we did that. I -- I
11   would say it's a fairly basic structure where we
12   kind of create, you know, deadlines and timelines
13   for reporting. And then we have -- we received a
14   much more detailed process proposal from the
15   Democrat members or Democrat staff that we'd be
16   happy to kind of walk through. And we could add
17   comments to it. Maybe we could start from that and
18   work from that.
19   CHAIRMAN BENNET: Do you --
20   MS. OVERHOLT: -- Miss Nussmeyer to maybe
21   present that plan before we start talking about it?
22   Or how do you want to proceed then?
23   CHAIRMAN BENNETT: Are you talking about
24   Exhibit 2?
25   MS. OVERHOLT: Yes. Since you all said you
wanted to start with questions about it. So I think it might make sense to have Miss Nussmeyer actually --

CHAIRMAN BENNETT: Talk about it then --

MS. OVERHOLT: -- present it.

CHAIRMAN BENNETT: That would be great.

MS. NUSSMEYER: Thanks, Mr. Chairman. If I may, I worked with Vice Chair Long and Commissioner Overholt on a process document which primarily recognizes the fact that we have an election coming up very soon. And I know my staff person, who would be would be assisting me in this process, will be tied up with election responsibilities like getting absentee applications scanned and sent to counties and answering voter registration calls and that sort of thing.

And so what we attempted to do was to at least get to a place where we were all in agreement which precincts should be consolidated or could be consolidated which had 600 or fewer active voters. And I actually recommended using the data that's current can and fresh, if you will, which would be on Monday's date which would be March 11th. It allows for all the -- any work the County may be doing now to process voter registrations, to be
fully incorporated in the Statewide Voter
Registration System. And the report that is
generated is what is named in that process plan.
And the co-directors would sit down with their
team and identify which precincts had 600 or fewer
precincts or active voters. And we should also
look to see whether or not there was any sort of
conflict with congressional or state legislative
district boundaries. There would not be any
conflict with congressional boundaries but there
may be with state legislative district boundaries.

The thinking next was to actually get some
feedback from the Lake County Board of Elections
and Registration, understanding that we don't
necessarily have to respect local office district
boundaries; that what the County could do instead
was would be to create splits so that when a voter
came into precinct day there would be a split one
and a split two.

I -- as a former County Election
Administrator, I'm not a big fan of precinct
splits. I think it invites some confusion at the
local level with poll workers and with voters. And
the intent of this, of course, is not to create
obstacles to voters when they go vote on election
day.

There are some safeguards in place, that if we would not receive cooperation from the Lake County Board of Elections and Registration, there is some data that we have access to within the Statewide Voter Registration System. We would just not know how current the polling location data would be, for example, because the County may not have entered it into SVRS.

And then it would be a matter of just working together as -- as a staff to determine which precincts should be consolidated, and from there point out any disagreements that we would bring to the Commission for you all to decide. But the goal would be, of course, to get to a place where both sides of the office were in complete agreement so that you wouldn't have to decide those disagreements. But it also just makes note that if there were some, then the Commission would ultimately be responsible for deciding where -- whether or not those precincts should be consolidating and, of course, updating -- adopting the plan.

And I will note too, I did not account for -- and I thought about this on my drive back from
beautiful Lafayette last night, after our clerk's conference, that I did not include time for the Legislative Service -- Services Agency to review it, which they often do just to confirm that we're not breaching any state legislative district boundaries.

But I think there's plenty of time within this -- this timeline to be able to ask LSA oh to weigh in and provide their input. So I wouldn't expect that to derail the process by any means.

But it is something that I did not account for in the timeline.

MR. DICKEY: Angie, where would you anticipate putting that in, just for --

MS. NUSSMEYER: Well, quite frankly, depending on the availability of LSA staff, we could go so far as to ask them to be part of this conversation the next week to determine whether there might be some breaches to State legislative district boundaries. Or if we get to a place where before the commission would sit down and meet, if we -- we allowed LSA two weeks, for example, to review the -- the information that they might be able to -- to do so before the commission meets.

And so I think we can invite LSA in the
conversation at any point once we're in a place for
them to do their review. And that would be the
Office of Census Data. I apologize, but the Office
of Census Data within the Legislative Services
Agency.

CHAIRMAN BENNETT: Thank you. You -- you
mentioned cooperation from Lake County. Has there
been any more discussion about Lake County or
anyone else in the Democratic party that -- anyone
in the Democratic party about preparing and
proposing their own plan?

MS. NUSSMEYER: I haven't had those
conversations with anyone in -- in Lake County, the
Democratic party.

CHAIRMAN BENNETT: So nobody's currently
working on a plan that you know of.

MS. NUSSMEYER: I'm not aware of them doing
so. I have asked the -- the Elections Director in
Lake County, Michelle Fajman, if -- if she would be
interested in providing feedback on the local
election district boundary conflicts. Because I
think that's important to their team that we not
create split precincts in Lake County. But that's
the gist of -- the extent of my conversation with
Lake County.
CHAIRMAN BENNETT: Okay. Well, I know that Lake County had submitted an objection last July to any plan that -- that did not comply with State law and the requirements of the -- of Indiana Code. Do you have any critique of the plans that the Republicans presented at our August hearing that would show what, if anything, in those plans fails to comply with the Indiana law?

MS. NUSSMEYER: What my concern would be is, one, the data for those plans now is more than a year-and-a-half old. And so I think it is important that the Commission consider where we're at with 600 or fewer active voters within Lake County.

And I don't want to speak for Commissioner Overholt or Mr. Dickey or even the Vice Chairman. But the other concern that I would have is that the polling location impact I don't believe is very well detailed in either one of those plans. And so we don't have a full appreciation or understanding about how consolidation may impact an individual's ability to go to the polling location on election day.

MR. KLUTZ: But we -- we have no say in polling locations.
MS. NUSSMEYER: Other than the law requires us to not create obstacles to voters. And so transportation: Having your polling location moved from one mile from your house to ten miles may create an obstacle for voters in that type of analysis. I don't recall it being part of their plan. And I do think that is something that is -- the Commission is required to look at. Whether you're looking at current statute or what is proposed in House Bill 1383, that I suspect will be going to the governor for signature soon.

MR. KLUTZ: So precinct locations are determined by the County?

MS. NUSSMEYER: By the County executive. But in Lake County that would be the Board of Elections and Registration.

MR. KLUTZ: Okay. And those could change at any time, right? I mean, they could decide this location no longer works; we're gonna' have it here, the -- the voting location here, voting location?

MR. KING: Right.

MS. NUSSMEYER: Certainly. But --

MS. OVERHOLT: Right. So --

MS. NUSSMEYER: -- we're --
MS. OVERHOLT: I mean, they could do that.

But I think -- I think the point though that we've been trying to make is that if you -- I mean, part of this issue is looking at, first of all, you know, consolidating the number of precincts that are in the County. And the question that is a subsidiary of that is if you decide to combine precincts A through E in this particular area, what is that likely to do for the -- in terms of the voters.

You can look at, you know, precinct A is all voting at this church and, yes, it could -- that church could move at any time. But every single voter might be within a mile of the polling location. And if there's a consolidation of four precincts -- and I'm just making this up 'cause I don't know. But if there's a consolidation of four precincts, you know, what is that likely to do in terms of, you know, those people living in precinct A right now? You know, what's likely to happen to them in terms of where they vote?

We wouldn't be decide -- I don't -- none of us would want to decide, 'cause we can't, that, you know, church, you know, whoever is gonna' be a polling location. But you can get an idea of the
MR. KLUTZ: Yeah. So I guess the impact in my mind would be that the local County Election Board would say, Here's our new consolidated precinct. We have to move to this voting location.

MS. NUSSMEYER: Except that it's often not that easy. I mean, I can speak from a local -- my local level experience that it is very difficult to find polling locations, especially in larger areas; that churches and other places don't often want to --

MR. KLUTZ: No, I -- not to interrupt. But I -- I know. I mean, I was on the Allen County Election Board for several years. I was the president of it so I understand that. I mean, to me it's not that difficult. But it -- it just doesn't seem to be part of our -- we -- we can't let that get in the way of this.

CHAIRMAN BENNETT: Any other objections to the proposed plan that you can think of? The plan that was proposed by the Republicans at the August meeting?

MS. OVERHOLT: Well, I think the primary objection to that plan was that it did not come from a small precinct, Reconsolidate, whatever that
group was called, that was supposed to have formed
and presented a plan; that that group, that actual
group that was created by statute did not present a
plan for this board, for this commission to
consider.

MR. KLUTZ: But then we unanimously created a
structure to allows others to --

MS. OVERHOLT: Well, are we -- so are we
rehashing that discussion now? 'Cause, I mean, we
try -- I mean, you all kept voting in favor of
those two plans last September, August, whenever
that meeting was.

CHAIRMAN BENNETT: Right.

MS. OVERHOLT: And we voted against those
plans. Are -- I mean, is -- is -- I thought what
we were trying to do was to come up with a
structure that would -- that -- so I didn't think
that today we were actually trying to decide again
if we're gonna' adopt those two plans. Because I
think we could probably end that discussion --
well, I won't speak for Mr. Hickey -- for
Mr. Hickey.

But, anyway, I mean, I thought we were trying
to -- I thought we were coming up with a process
where at a future date we would hopefully be
considering new proposals that the staff of the
commission had developed. Or is all you want to do
have another discussion about the two plans that
were submitted by the Republicans?

CHAIRMAN BENNETT: Well, I -- I thought a
discussion about the plans which have been
submitted would help to inform our discussions
going forward about a plan that we might be able to
agree on.

MS. OVERHOLT: Well, I haven't reviewed those
plans in preparation for this meeting that didn't
have an agenda item on it. So --

CHAIRMAN BENNETT: Okay.

MS. OVERHOLT: I thought we were talking about
a process based on your comment at the last --

MR. DICKEY: Yeah. I -- I would -- I would
echo that. I -- I did not have an in-depth
conversation before today with Anthony about the
particular proposals. So I would feel a little bit
hesitant to wade into those waters without a little
bit more review.

CHAIRMAN BENNETT: Any other discussion on
that issue?

MR. DICKEY: But, you know, I -- I guess from
my standpoint, I mean, I think the paramount piece
to this is, you know, we've got a fluid population.

You know, I know, for example, that there's a -- a
site up in Lake County that, you know, has toxicity
in terms of environmental pollution, contamination.
Several people are being moved out of that area.
So I don't know how that's affected things.
Populations move. We have deaths; we have births.
You know, more people are being registered. I -- I
think we would want to have the newest data. And I
think that -- that would be the paramount concern
of the deliberation of this body is to start from
the standpoint of fresh data.

You know, I -- I think going back and looking
at plans, you know, I -- you know, we could -- we
could talk about what the -- the maps looked like
in 1800 too. But I'm relatively certain that they
looked a heck of a lot different than they do
today.

MS. OVERHOLT: They may have looked better
then. But --

CHAIRMAN BENNETT: Do you think we'll get
cooperation from Lake County on the data, our
request for the data?

MS. NUSSMEYER: Mr. Chairman, if I may. So we
at the Division can run this report out of SVRS,
the Statewide Voter Registration System, to get the
active voter counts in each precinct within Lake
County. And then the additional step was to
provide it to both the Director and Deputy Director
of the Lake County Board of Elections and
Registration to identify precincts where they have
carries about consolidation due to local election
district boundaries.

If that conversation doesn't happen, I don't
think that derails our process. You know, asking
them for a current list of polling locations,
because they may not have yet entered them into the
Statewide Voter Registration System, would be
beneficial to us. But, again, if they don't
provide that data to us, we can go into the
statewide registration system and at least pull the
polling location data down, as it is entered on X
date.

We could certainly work with the Lake County
County government to see if they have GIS
shapefiles of local election district boundaries if
that was a concern of the Commission. And so the
idea of inviting the Lake County Board of Elections
and Registration into the conversation, at least as
it relates to the local election district
boundaries, is that they understand their -- their local offices way better than we do at the Division. And they could identify potential problems and consolidation before we even discuss consolidating.

And so I think that is good information to have, and that we would have a universal list of agreed-upon precincts, if you will, to begin the -- the conversation with consolidation. That's all that was truly endeavoring to do.

CHAIRMAN BENNETT: Uh-huh. So you would agree that -- go ahead.

MR. KING: I was just going to say, Mr. Chairman, members of the Commission, if I could. I share Co-Director Nussmeyer's view that we are better served if we start with a universally agreed-upon base of information. And that's one reason why I think Number 5 on the Exhibit 2, process plan, is particularly important.

Although Number 4 references asking both the Democratic director and the Republican assistant director to provide a report, Number 5 refers to staff generically. And my initial concern would be as we -- we have seen in different forums, whether it's at a meeting at the Commission or in the
legislature, there have been questions and disputes
raised regarding the simple definition of active
voters.

And so it -- we might find ourselves in a
position where one or more of the interested
parties disagrees about which precinct should be
included because of the question they've raised on
that particular issue. And so we would -- and so,
from my perspective, it's important, to the
greatest extent possible, to nail down exactly what
the universe is. And having Lake County's input is
essential, in my view, to prevent questions from
being raised later about the validity of the entire
plan and the process that's already been referred
to.

MS. NUSSMEYER: And if I may add to Mr. King's
comments, and perhaps I was inelegant in the
description here. It would be that you and I pull
this report down, agree that these are the
precincts with 600 or fewer active voters, as
defined in SVRS. Because the report provides an
active voter column, an inactive voter column, a
canceled voter column.

So we could quick -- pretty quickly identify
where there were 600 or fewer. And so 600 or
fewer, that would be the initial list that we would
given to Lake County and say, Look at this
initial list; and please let us know if there are
any conflicts with your boundaries.

And so perhaps calling it the final active
tool list in step four is not the most elegant
term. Perhaps it's the revised active voter list.

But I wasn't trying to imply that we were asking
Lake County to create their own report; that
instead they would be working from our data that we
would be giving -- providing to them to further
define where potential conflicts may be with those
local election district boundaries.

MR. KING: I -- I appreciate that information.

I think what -- the issue I was getting at was the
legislation refers to a specific definition of
active voters that's in Indiana Code 3-6-5.2 to be
used in this process --

MS. NUSSMEYER: Uh-huh.

MR. KING: -- which is different than the
definition of active voters used for other precinct
purposes.

MS. NUSSMEYER: Uh-huh.

MR. KING: And so the issue that was raised in

the legislature, and I believe was raised during
the Commission hearing --

MS. NUSSMEYER: Uh-huh.

MR. KING: -- on some of the initial plans,

was the objection that some parties had to the use

of that definition of active voter.

MS. NUSSMEYER: Hm.

MR. KING: And so I'm -- I want -- I want to

be -- I want to be particularly careful that if we

provide information to the Commission that we're

clear on the basic definition that determines --

MS. NUSSMEYER: Uh-huh.

MR. KING: -- which precincts fall into the

list and which don't.

MS. NUSSMEYER: Uh-huh. Well, arguably we're

working under potentially two sets of different

standards. We are currently operating under a

standard that defines what active voter is. But

when, or if, House Enrolled Act 1383 is signed by

the governor, there is no such definition for the

work the Commission does.

What it commands the Commission, at least the

way that I understand it after conversations with

my attorney, Mr. Kochevar, is that the Commission

has to adopt a plan by July 1st that doesn't create

an obstacle for voters, and that is it -- what's
the other second piece? Doesn't create an
obstacle, and it realizes cost savings for the
County. And in that it doesn't really discuss what
the Commission is obligated to do in order to
definitive active voters.

So, I mean, I understand your position: Which
definition do we use? If it's important to this
process plan that we identify the right definition,
so be it. But I don't -- I don't think we're held
to an active voter definition should 1383 become
law.

CHAIRMAN BENNETT: But as far as the
Commission's work on this issue, we are held to
some definition of active voter.

MS. NUSSMEYER: Well, the Statewide Voter
Registration System uses a definition of active
voter or else this report could not be generated.
And so is that the -- do we say that we just rely
on the active voter definition within the Statewide
Voter Registration System?

MR. KING: That -- that expresses the -- the
concern I have about confusion. Because I know
that there are different reports that can be run in
SVRS.

MS. NUSSMEYER: Uh-huh.
MR. KING: And I understand it's possible to
run a report that would identify the precinct
subject to this requirement using that definition
in current law, which will be in effect until, I
believe -- I don't have it in front of me.

MS. NUSSMEYER: It's effective --

MR. KING: Until -- until the governor signs
it anyway.

MS. NUSSMEYER: Signs it, yeah.

MR. KING: Yeah. And it's been -- and it's
been the definition that's been used throughout
this entire process so far.

MS. NUSSMEYER: Uh-huh.

MS. OVERHOLT: And does that meet the
definition -- is that the same that is the
definition under the SVRS in terms of -- or we
don't know?

MS. NUSSMEYER: I -- I --

MR. KING: That's -- that's -- excuse me.

MS. OVERHOLT: Well, what about -- what
about -- in terms -- 'cause we're actually -- I
mean, our goal is to solve a problem, right, and to
try to fix the problem that Lake County hasn't
wanted to fix for us.

So it would seem that if -- I mean, if -- so
we've got a current database that is set up to run
certain queries using certain terms of art. Seems
to me it would make sense to have the work move
forward, to use, you know, to use the query within
the SVRS that pulls -- you know, has a column that
is labeled active voter.

And if that needs to be revised or -- I mean,
it seems like it's a good start to kind of pull
that report and start working based on that, given
the fact that we've got two sets of laws that are
going back and forth. And, I mean, that is the
term -- the term that's in SVRS controls the
report. So why not use what's in SVRS. And if
someone wants to challenge -- I mean, I don't know.
Maybe we pull it and see what is.

CHAIRMAN BENNETT: I guess -- I guess from my
perspective I'm a little bit reluctant to have this
Commission embark on a -- a fool's errand of -- of
spending a lot of time to come up with a process
and plan that is only going to be challenged and
put into question about its validity over this
issue. That's not to say we can't make some
progress. We can certainly agree on the processes
up to this point.

But it seems to me that the input from Lake
County is -- is critically important to get -- to
get their buying in, that they're willing to
cooperate with us in the development of a plan that
they're not going to challenge out of hand. And
the only -- only way to do that is to assure some
cooperation from -- from Lake County as early in
our process as we can so we don't feel like we're
wasting our time and spinning our wheels.

MS. NUSSMEYER: Mr. Chairman, if I may.

Patrick is printing off a couple pages out of the
report that we've mentioned here. But then there's
an additional report that we could also use too to
look at.

And if it makes sense, we could attempt to
call Sean Fahey with Quest to see if he happens to
know somewhere in the business rules if they can
determine which defining active voter is used by.
Or we could report back to the Commission if we can
stipulate to something today.

MR. KING: Mr. Chairman, I can say I made
inquiries of Quest and determined that a report
could be run using the definition of active voter
set forth in the current law.

MS. NUSSMEYER: Okay. Did Quest tell you
which report that would be?
MR. KING: I believe it was an ad hoc report.

CHAIRMAN BENNETT: Well, I think -- any other comment on that? 'Cause it seems to me we have an consensus that we could start to go through. And we can start with Exhibit 2, the plan that -- consolidated plan -- consolidation plan that the Democrats proposed. And we have some comments and questions we can talk through on that.

And then maybe if we need to take a -- take a breath and maybe even a recess, reschedule another meeting, we could -- we could go a little further down the list and talk about the active voter list issue after that. Any objections to that procedure?

MR. KLUTZ: Suggesting kind of bifurcating this and trying to get down -- as far down the list as we can today and coming back and --

CHAIRMAN BENNETT: Yeah.

MR. KLUTZ: I'm --

CHAIRMAN BENNETT: Where we left off and maybe have additional information available to us at that time.

MR. KLUTZ: There are some things on here that seems like we could get in motion --

MS. NUSSMEYER: Uh-huh.
MR. KLUTZ: -- subject to just a couple comments that we have.

CHAIRMAN BENNETT: Right.

MR. KLUTZ: And, I don't know, come back and see if Lake County's on board with doing these reports or assisting us.

MS. NUSSMEYER: Uh-huh.

CHAIRMAN BENNETT: Yeah. We --

MR. KLUTZ: I -- I'm not optimistic that they are. We've asked them for help before.

MS. OVERHOLT: Well, see, and that's why -- the thing I think we were trying to accomplish here is that while we were providing Lake County with the courtesy of seeking their input, that it wasn't gonna' stop this process from moving forward. Lake County --

MR. DICKEY: Yeah. What --

MS. OVERHOLT: -- yeah, Lake County had its chance.

CHAIRMAN BENNETT: But maybe things have changed in their minds, given some of the developments, including the statute that I understand -- House -- House Enrolled Act Number 1383 is moving along through -- through the process --
MS. NUSSMEYER: Uh-huh.

CHAIRMAN BENNETT: -- being implemented.

Maybe their thoughts about cooperation will soften.

MR. DICKEY: Well, I'm -- I'm curious. What
are the other -- you mentioned some of the other
points.

CHAIRMAN BENNETT: Yeah, let's talk about --

MR. DICKEY: Let's talk about them real quick.

CHAIRMAN BENNETT: Let's talk about them. So
if we were just going from an editorial standpoint,
the Election Division. I mean, we can just --

MS. OVERHOLT: You guys want to share with us
the proposed order you've already written up?

MR. KLUTZ: It's just yours.

CHAIRMAN BENNETT: It is -- it is basically
yours. And number one has just a couple of redline
issues here. We were talking about striking out
Indiana election -- Indiana elections to shorten
this up. Co-directors of the Division shall, we
insert the word "shall," shall direct staff.

MS. OVERHOLT: Well, what -- okay. Can we
talk about -- why don't we talk about this overall
as a concept as opposed to -- 'cause if you guys
have created a document that you've put into a more
formal proposal, why don't we talk about the
general items that are here. And then in terms of
wordsmithing -- 'cause it'll take us forever if
we're trying to wordsmith. Why don't -- I mean,
are there -- are there --

CHAIRMAN BENNETT: Not -- not really. I mean,
number -- in Number 1, I mean, Mar -- Sunday -- or,
I'm sorry, March 11th is a Sunday. So we suggested
changing that to March 12th which is a Monday.

MS. NUSSMEYER: Mr. Chairman, if I may, here
too. If -- if Brad has spoken to Quest, and they
believe it is an ad hoc report, can we at least be
somewhat generic in the term of art here? Because
it's -- it could be an ad hoc report or we may --
there may be other reports within the system that
would satisfy the active voter definition.

Because there are -- there are several reports
within the system that we can pull without doing
something that's ad hoc, which would take a little
longer for them to pull.

MR. KING: If I may.

CHAIRMAN BENNETT: Yeah.

MR. KING: Yeah. I -- I can say I would agree
with the idea that it's better not to specify a
particular report. But, frankly, it took less than
a day. It takes less than a day to generate this
particular ad hoc report.

MS. NUSSMEYER: I --

MR. KING: So we're not talking about any significant delays.

MS. NUSSMEYER: I haven't had those conversations with Quest, so I can't speak to --

MR. KING: Yeah. I -- I --

MS. NUSSMEYER: -- whether or not a day is correct or not. But --

CHAIRMAN BENNETT: You're talking about the voter status count --

MR. KING: To pull a report.

CHAIRMAN BENNETT: Okay. Pull a report from the Indiana Statewide Voter Registration System on Monday, March 12th, 2018. Are we all okay so far?

MS. NUSSMEYER: Could we say, if I may, a report of active voters as defined by the statute, that I am not recalling the specific number, so it's more clear? Do you recall the statutory --


MS. NUSSMEYER: Three --

MR. KING: No, no. It's -- actually it's 3-11-18.1-2, I think.

MR. SIMMONS: I thought you were using the one at 352. You're using a different one?
MR. KING: Here it's in the current statute, I think.

MS. NUSSMEYER: I think we had this conversation at the last Commission meeting when we were discussing the plans, that they used a definition of active voters as it relates to vote center counties? And that was --

MR. KING: 3-11-18.1.

MS. NUSSMEYER: Yeah.

MR. KING: I believe it's -2.

MS. OVERHOLT: 1383 is --

CHAIRMAN BENNETT: Okay. So it would be a report from 3-11 --

MR. KING: Mr. Chairman, if I could -- could read what I understand the -- the consensus to be is, one, Co-Directors of the Division shall direct staff to pull a report from the Indiana Statewide Voter Registration System on Sunday, March 12th, 2018.

CHAIRMAN BENNETT: Monday.

MR. KING: Monday.

CHAIRMAN BENNETT: Uh-huh.

MR. KING: To ensure that the most current vote count is -- vote count data is used for analysis. This report must use the definition of
active voter set forth in IC 3-11-18.1-2.

MS. NUSSMEYER: Uh-huh.

MR. KING: Which reads, just for the record, active voter means a voter who is not an inactive voter under 3-7-38.2 which refers to voter --

MS. NUSSMEYER: Uh-huh.

CHAIRMAN BENNETT: Any concerns? Any objections to that?

MS. NUSSMEYER: Huh-uh.

CHAIRMAN BENNETT: Okay. We'll move on to Paragraph 2. Indiana Election Division staff will identify those precincts with 600 or fewer active voters. And then do we want to change the definition --

MR. KING: No. Mr. Chairman, the definition's already been set forth in Section -- or in Section 1 of that process at this point. If I could suggest that just adding in Number 2 the Election Division staff shall identified those precincts in the report, that nails that.

CHAIRMAN BENNETT: In the report, period?

MR. KING: No. In the report --

CHAIRMAN BENNETT: In the report where 600 or fewer active voters in Lake County, Indiana. Is that a period?
MR. KING: Period.

CHAIRMAN BENNETT: You want to read that again or --

MR. DICKEY: Just to be clear, are we striking -- we're striking the parentheses, right?

MR. KING: Mr. Chairman, if I can respond.

CHAIRMAN BENNETT: Yeah.

MR. KING: I -- I don't think it's necessary to strike it since we've redefined what's going to be in it. Just --

MR. DICKEY: I'll consent to that. I just wanted to be clear.

CHAIRMAN BENNETT: So we are gonna' strike the --

MR. KING: No, no, you don't need to.

CHAIRMAN BENNETT: Leave it in. Okay.

MR. DICKEY: 'Cause you've -- 'cause we've made a definition.

CHAIRMAN BENNETT: Yeah. Should I read it again or do you think we all -- we have it already memorized?

MR. KING: Just for the record.

CHAIRMAN BENNETT: For the record. All right.

So -- go ahead.

MR. KING: I can read it.
THE REPORTER: Can you just all speak up a little bit?

MR. KING: Sure. Paragraph 2, Indiana Election Division staff will identify those precincts in the report with 600 or fewer active voters in Lake County, comma, Indiana, parentheses, quote, IED, active voter list, closed quote, closed paren, period.

CHAIRMAN BENNETT: Anybody have any objections to that? Hearing none, let's move to Paragraph 3. I guess the question is: Do we need "congressional" in there?

MR. KLUTZ: I don't believe so I think. It's on district one.

MS. NUSSMEYER: Yeah. It's a requirement that we have to follow, but there is only one congressional district in Lake County.

CHAIRMAN BENNETT: Okay. So we can strike "congressional or."

MS. OVERHOLT: Is someone going to claim we're not meeting the legal requirements?

MR. KING: Challenge them to produce an order.

MS. OVERHOLT: That's true.

CHAIRMAN BENNETT: It's -- it's a fact. Court could take judicial notice that Lake County is
entirely in Congressional District Four. Should be okay.

MS. NUSSMEYER: Uh-huh.

CHAIRMAN BENNETT: Any objections to changing Paragraph 3 as previously discussed?

MR. KING: Mr. Chairman, just to add because the paragraph has a Subsection A, which just reads the IED staff review must be completed by Friday, March 16th, 2018 by 12:00 p.m. Eastern Time.

CHAIRMAN BENNETT: Is that new?

MR. DICKEY: That's new.

MR. KING: That is new, yes.

MS. NUSSMEYER: But Lake County's on Central Time. And so --

CHAIRMAN BENNETT: It says noon Eastern Time.

MS. NUSSMEYER: Noon Eastern Time, yes, sir.

CHAIRMAN BENNETT: I think everybody knows that p.m. is noon, I guess? Okay? So take three by consensus as amended? Is there any objection?

So those are all things that the Election Division can do. Now, Number 4 we're providing information to Lake County and requesting that they provide information and documentation and data to us. Yeah, provide a -- a report to us. Which must include certain things.
Would it make sense for us to pause here and take some initiative to determine whether we can expect cooperation from Lake County in providing that information before we go further to try to establish an order?

MR. DICKEY: Doesn't the process hypothetically -- you know, the way that I think we're talking about it and laying it out, doesn't it continue regardless of what they do? So, I mean --

CHAIRMAN BENNETT: But then we've got these concerns about challenges because we didn't have all the information we should have had and relied upon in drafting our order.

MS. OVERHOLT: Well, but they had their chance. I mean, the reason we're doing this now is because they had their chance and they didn't do it.

CHAIRMAN BENNETT: They also had a chance to file a plan, and they didn't do that either.

MS. OVERHOLT: Right. No, I know. That's what I mean. They didn't do it. So why -- I mean, we're giving them a chance with this. But then if they don't do anything, we move forward.

MR. DICKEY: Under 1383, once that's signed by
the governor, we're going to be under an order by
the legislature to -- to move forward. So, I mean,
I'm -- I guess the way I'm looking at it is: We
want to have that courtesy, but we're gonna' move
forward.

MS. OVERHOLT: Uh-huh.

CHAIRMAN BENNETT: Look at 48 though. How --
how are we going to determine what polling
locations are anticipated to be used in the
May 2018 election?

MS. NUSSMEYER: If I may, Mr. Chairman. This
would be what Lake County anticipates will be the
list of polling locations. Because the Lake County
Board of Elections and Registration sets those
locations, they may already know that their
locations are set in stone for the May election.

What we at the State don't have visibility to
is whether or not those -- that location data has
actually been updated and is current within
Statewide Voter Registration System. And so the
goal here is to get them to provide a list that the
Director and Deputy Director agrees are likely to
be the polling locations for the May primary
election. And if they fail to produce it, then we
just pull the list out of the Statewide Voter