

Indiana Recount Commission
Minutes
August 7, 2024

Members Present: The Hon. Diego Morales, Secretary of State and Chairman of the Indiana Election Commission (“Commission”); Mr. Michael A. Claytor, Member.

Members Absent: Mr. Mark Wynn.

Staff Attending: Philip Sicuso, Recount Director; J. Bradley King, Majority Counsel; Matthew R. Kochevar, Minority Counsel; Maria W. Collier, Stewart Richardson Reporting.

Others Attending: The Hon. Chris Anderson, Elkhart Count Circuit Court Clerk; Ms. Samantha DeWester; Captain Bryan Harper, Indiana State Police; Ms. Michelle Harter; Ms. Kendra Leatherman, General Counsel, State Board of Accounts.

1. Call to Order:

The Chair called the August 7, 2024 meeting of the Commission to order at 1:15 p.m. EDT in Conference Room C, Indiana Government Center South, 402 West Washington Street, Indianapolis.

2. Transaction of Commission Business:

The Commission proceeded to transact the business set forth in the Transcript of Proceedings for this meeting prepared by Maria W. Collier, RPR, CRR, of Stewart Richardson Reporting, which is incorporated by reference into these minutes.

The following scrivener’s errors in this document are corrected:

Page 12, line 17, delete “MAJOR” and insert “CAPTAIN”.

Page 46, line 11, delete “Smith” and insert “Samantha”.

Page 49, line 3, delete “MAJOR” and insert “CAPTAIN”.

The Commission adjourned its meeting at 2:53 p.m. EDT.

APPROVED:



Philip Sicuso, Recount Director
Pursuant to Order 2018-1

In the Matter Of:

INDIANA RECOUNT COMMISSION PUBLIC SESSION

Transcript of Proceedings

August 07, 2024

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INDIANA RECOUNT COMMISSION
PUBLIC SESSION

Conducted on: August 7, 2024

Conducted at: Indiana Government Center South
402 West Washington Street, Conference Room C
Indianapolis, Indiana

A Stenographic Record by:
Maria W. Collier, RPR, CRR

STEWART RICHARDSON & ASSOCIATES
Registered Professional Reporters
(800)869-0873

APPEARANCES

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INDIANA RECOUNT COMMISSION:

Diego Morales, Secretary of State - Chairman

Michael Claytor - Commissioner

INDIANA ELECTION DIVISION STAFF:

J. Bradley King - Majority Counsel

Matthew Kochevar - Minority Counsel

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Other business properly before the
Commission

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Closing remarks

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1 SECRETARY MORALES: We're going to call to
2 order. Good afternoon, ladies and gentlemen. This
3 meeting of the Indiana Recount Commission is now
4 called to order. We are here on the matter of the
5 2024 Republican primary election House District 49
6 recount and the Republican primary House
7 District 40 recount, as filed.

8 Before we start the meeting, we've just been
9 notified that Commissioner Mark Wynn cannot be
10 present today due to an emergency. But since
11 members of the Commission are present, at least
12 two, Mr. Claytor and myself, we do have a quorum,
13 so we are going to proceed with the meeting.

14 My name is Diego Morales. One of my important
15 duties as Indiana Secretary of State is to serve as
16 chairman and voting member of the Indiana Recount
17 Commission. I am joined by my fellow commissioner,
18 Michael Claytor.

19 Thank you for your service, Mr. Claytor.

20 MR. CLAYTOR: Thank you.

21 SECRETARY MORALES: Would Commissioner Claytor
22 like to make any opening remarks?

23 MR. CLAYTOR: I'm good. Thank you.

24 SECRETARY MORALES: All right then. We'll
25 proceed with additional introductions. The Indiana

1 Election Division provides administrative support
2 to the Recount Commission. Mr. Brad King serves as
3 majority counsel of the Commission, and Mr. Matthew
4 Kochevar serves as minority counsel. Thank you
5 both.

6 Our court reporter today is Maria Collier.
7 Good to see you again. Thank you. She is from
8 Stewart Richardson reporters. Welcome, Maria.

9 At the start, I want to remind everyone, on
10 behalf of our court reporter, to, A, identify
11 yourself when beginning to speak; B, spell your
12 name when identifying yourself; C, speak clearly;
13 and, D, don't speak at the same time others are
14 speaking.

15 I will now invite Mr. Kochevar to administer
16 the oath. Matthew.

17 MR. KOCHEVAR: Thank you, Mr. Secretary. All
18 those who plan to testify before the Indiana
19 Recount Commission, please rise, raise your right
20 hand, and say "I do" after recitation of the oath.

21 Do you solemnly swear or affirm, under the
22 penalties of perjury, that the testimony you are
23 about to give to the Indiana Recount Commission is
24 the truth, the whole truth, and nothing but the
25 truth? Please say "I do."

1 ALL: I do.

2 MR. KOCHEVAR: Thank you.

3 SECRETARY MORALES: Thank you, Matthew.

4 Will Mr. King or Mr. Kochevar please provide
5 the Commission with a report concerning the
6 compliance with Open Door Law requirements for this
7 meeting.

8 MR. KING: Mr. Chairman, members of the
9 Commission, Brad King, B-r-a-d, K-i-n-g. On behalf
10 of myself and Mr. Kochevar, we certify that proper
11 notice of this meeting was given in accordance with
12 the Indiana Open Door Law.

13 MR. KOCHEVAR: I concur.

14 SECRETARY MORALES: Thank you. I would like
15 now to introduce and recognize our recount
16 director, Mr. Phil Sicuso, and our deputy recount
17 director, Ali Bartlett.

18 MR. SICUSO: She's not here today.

19 SECRETARY MORALES: Also, I would like to
20 recognize Captain Bryan Harper from the Indiana
21 State Police assisting with the recount and State
22 Board of Accounts general counsel Ms. Kendra
23 Leatherman assisting with the recount. Thank you
24 for being here.

25 Also, I would like to acknowledge the support

1 of Elkhart County Clerk Chris Anderson in
2 attendance today -- thank you, Clerk Anderson --
3 and the Hendricks County clerk or a representative
4 from the Hendricks County clerk's office. Thank
5 you, everyone, for your commitment in organizing
6 and conducting this recount.

7 Now I would like to ask Director Sicuso if you
8 can please provide the Commission with a report
9 regarding the actions you and others have taken
10 regarding the petition for recount filed for the
11 May 7, 2024, Republican primary election for
12 Indiana House District 49.

13 MR. SICUSO: Thanks, Mr. Chairman. Appreciate
14 it. For the record, Philip, with one L, Sicuso,
15 S-i-c-u-s-o.

16 Before I start, I'll read plenty of facts into
17 the record, but I do want to thank Andrew Norris
18 and Ali Bartlett, who assisted as deputy recount
19 directors during parts of this process, as well as
20 Clerk Anderson and Clerk Pike, both of whom were
21 very helpful personally and through the process.

22 So on May 15, 2024, at 11:22 a.m., a verified
23 petition for recount of the Republican primary
24 election for State Representative for District 49
25 was filed with the Indiana Election Division by

1 Petitioner Cindi Hajicek by her counsel, Michelle
2 Harter, along with her required deposit of \$2,600
3 filed in part on May 15th and the remaining amount
4 on May 26th as set forth by statute. This petition
5 is included behind the first tab in your binder.

6 No candidate in that election or party
7 chairman of a county within House District 49 filed
8 either a cross-petition for a recount in that race
9 or a petition for a contest proceeding in that
10 election before the noon deadline on May 15, 2024,
11 which is the date set forth in statute.

12 After consultation with the parties and
13 coordination with the Indiana State Police and the
14 State Board of Accounts and review of Ms. Hajicek's
15 petition, I issued Order 2024-02 on May 15th to
16 impound the election material and the equipment set
17 forth in that order. The Indiana State Police
18 subsequently impounded the equipment and the
19 material and served notice of the petition of the
20 impoundment order.

21 On May 22nd, this Commission determined that
22 the recount petition complied with all required
23 elements of state law and granted the petition for
24 a recount. Those documents are found in the second
25 tab of your binder.

1 On May 23rd, Samantha DeWester filed an
2 appearance on behalf of Respondent Joanna King.
3 This document is found in the third tab of your
4 binder.

5 After consultation with the parties and
6 coordination with the State Police and State Board
7 of Accounts, I issued Order 2024-04 on June 5th for
8 a pre-recount inspection to be conducted according
9 to the Commission's guidelines beginning on
10 June 11th in Elkhart County. This document is in
11 the fourth tab of your binder. The inspections
12 were completed in accordance with that order.

13 The State Board of Accounts then proceeded to
14 conduct the recount in House District 49 in
15 accordance with state law, the guidelines as
16 adopted by the Commission, and the manual developed
17 by the State Board of Accounts, which was
18 incorporated by reference into the guidelines. The
19 guidelines and manual are found in the fifth tab of
20 your binder.

21 On June 24th, counsel for Ms. Hajicek and
22 counsel for Ms. King filed a joint stipulation
23 waiving the recount guideline requirement requiring
24 a count of ballots cast in the Democratic Party
25 primary and any ballots only relating to a public

1 question that were cast in the May 7, 2024, primary
2 election.

3 Counsel for Ms. Hajicek subsequently declined
4 to waive recount guidelines requiring a recount by
5 vote center location and the requirement for a
6 manual count of signatures. Counsel for Ms. King
7 stated her willingness to waive both requirements,
8 but in the absence of an agreement between the
9 parties, those two procedures were conducted as
10 part of the recount. The joint stipulation is
11 found behind the sixth tab of your binder.

12 On July 1st, I issued Order 2024-05 setting
13 the schedule for the State Board of Accounts to
14 conduct the recount in Elkhart County beginning on
15 July 8th and to continue on the following three
16 days, to the extent necessary.

17 On July 8th, in accordance with guidelines,
18 the Elkhart County Clerk's Office provided a copy
19 of the IEC-10 certification of test of optical scan
20 ballot card automatic tabulating machines and the
21 unofficial election results entered by the County
22 into the State's election results database on
23 May 21st. These documents are found behind the
24 seventh tab of your binder.

25 Following the conclusion of the work of the

1 State Board of Accounts on July 10th and at the
2 request of the Elkhart County Clerk's Office, I
3 also issued Order 2024-07 on July 15th. This
4 authorized release of certain materials that were
5 impounded and identified in that order
6 specifically. This document is found behind the
7 eighth tab of your binder.

8 Before proceeding with the actual recount
9 proceedings today, I do think on our agenda is an
10 opportunity for the State Police to provide comment
11 on the information regarding activities undertaken
12 by the State Police, and I believe Major Bryan
13 Harper is available to do that.

14 SECRETARY MORALES: Thank you, Director
15 Sicuso.

16 I'd like to recognize now Captain Harper.

17 MAJOR HARPER: Thank you, Mr. Secretary. It's
18 Bryan Harper, B-r-y-a-n, H-a-r-p-e-r, with Indiana
19 State Police.

20 The Indiana State Police had a limited role in
21 the recount in that our job was impoundment
22 security of the ballots in question from the
23 counties in question. Upon receiving those orders,
24 we did that. We worked with local officials in
25 both counties as well as this Commission and

1 impounded those and maintained the security over
2 those ballots, only allowing access as this
3 Commission directed. Since that time, we have
4 released said articles based on the court order to
5 release those and at the recommendation of this
6 Commission.

7 MR. SICUSO: Thanks.

8 SECRETARY MORALES: Thank you.

9 Now I would like to recognize Kendra
10 Leatherman of the State Board of Accounts to
11 provide the Commission with information regarding
12 the activities undertaken on this matter. These
13 activities include information set forth in the
14 document titled "Tally of Ballots for the
15 Petitioned Precincts 2024 House District 49 Primary
16 Election Recount," which can be found behind the
17 ninth tab of the binder as well.

18 Ms. Kendra.

19 MS. LEATHERMAN: Kendra Leatherman,
20 K-e-n-d-r-a, L-e-a-t-h-e-r-m-a-n, general counsel
21 for State Board of Accounts.

22 As Mr. Secretary mentioned, the SBOA tally of
23 ballots is included in your binder. I will give
24 kind of a highlight of what our report includes,
25 and then I think probably what we'll need to do is

1 proceed to the next part to discuss the disputed
2 ballots.

3 So our tally of valid votes cast for the
4 office in the recount proceeding provided the
5 following results: For Cindi Hajicek, 2,049 votes;
6 and for candidate Joanna King, 3,803 votes. You
7 will see in the SBOA tally, there's a tally by
8 precinct, as required by the guidelines, and there
9 is also a tally by vote center. As you look at
10 those numbers, I would just remind everyone that a
11 tally by vote center only includes votes cast on
12 Election Day and will not otherwise show ballots
13 that were cast early vote or absentee by mail.

14 So overall, during the recount proceeding,
15 there were 43 exhibits. There were 43 exhibits.
16 Either those are ballots that were disputed either
17 by the petitioner or the respondent by SBOA's
18 determination. I think really the next part is
19 talking about those disputes.

20 MR. SICUSO: So maybe we'd have counsel maybe
21 introduce the requirements for the next steps.

22 SECRETARY MORALES: Yes. So now we can
23 proceed with the recount in this matter, and I will
24 ask counsel to provide a brief overview of the
25 guidelines which will apply to this process.

1 MR. KING: Thank you. Mr. Chairman, members
2 of the Commission, on behalf of myself and
3 Mr. Kochevar, who will join in to supplement my
4 remarks here, the basic procedures are set forth in
5 Chapter 2, Section 20, of the guidelines adopted by
6 the Commission as most recently amended on May 22nd
7 of this year.

8 Upon the completion of the tallying by the
9 State Board of Accounts, which is what Ms. Kendra
10 has described as the process she reported on, this
11 Commission is to convene to review the report of
12 the director and to receive from the candidates
13 evidence relevant to whether disputed ballots
14 should or should not be counted.

15 The Commission conducts this process in the
16 following manner: First, if the tally by State
17 Board of Accounts indicates there are not disputed
18 ballots in one or more precincts, the director
19 presents a report of votes cast for each candidate
20 in the indicated precincts, and the Commission
21 shall order the votes counted for the designated
22 candidate and shall order any undisputed invalid
23 ballots or no votes in the precinct not to be
24 counted.

25 After the disposition of all precincts with no

1 disputed ballots, the Commission then proceeds to
2 count all ballots in the remaining precincts where
3 there are one or more disputed ballots. The
4 Commission has discretion with regard to the order
5 in which it conducts the precinct-by-precinct
6 review of the ballots involved here at this stage
7 but generally goes in alphanumeric order according
8 to precinct name, unless the parties to the recount
9 jointly request the count be conducted in an
10 alternative manner.

11 The process begins for each precinct involved
12 here with the Commission recognizing the director
13 to present the State Board of Accounts report
14 describing the number of undisputed valid votes,
15 undisputed invalid votes, no votes cast, and then
16 orders those votes to be counted for the designated
17 candidates are not counted. So that's the first
18 preliminary stage.

19 Then following that stage, if there's a
20 precinct with a ballot designated as disputed,
21 which we know has occurred in this particular
22 recount, the party who disputes the ballot can file
23 a written statement to that effect with the
24 director. Presumably, Mr. Sicuso can confirm that
25 those statements have been filed.

1 After the Commission acts regarding the
2 individual ballots involved, the Commission
3 recognizes the petitioner to present ballots
4 disputed by the petitioner or State Board of
5 Accounts to the Commission that the petitioner
6 contends should be counted as votes for the
7 petitioner. They are to present each ballot in the
8 order in which the ballot is designated as an
9 exhibit number in the exhibit list of disputed
10 ballots in the first precinct in the precinct order
11 we discussed.

12 The Commission does have the authority to
13 consider more than one ballot in a precinct at the
14 same time if requested by the petitioner and the
15 issues are essentially identical. So there is no
16 need for an individual vote for each type of ballot
17 in this case if the issues are, in fact, identical.

18 After presentation of the ballot or group of
19 ballots, the Commission then determines, based on
20 all relevant evidence, whether or not the ballot or
21 ballots shall be counted as votes for the
22 petitioner, a vote for the cross-petitioner, if
23 any, or not counted for any candidate. This
24 process proceeds through all precincts that have
25 disputed ballots in the generic way I'm describing

1 them.

2 After the conclusion of the petitioner's case
3 in chief, the Commission then recognizes the
4 cross-petitioner, the respondent, to present
5 ballots that the cross-petitioner contends should
6 be counted as votes for the cross-respondent's
7 candidate. And, again, the same process applies.
8 The cross-petitioner presents each ballot in order
9 according to the precinct number designated, and
10 the Commission can consent to consideration of more
11 than one ballot where the issues are identical.

12 After presentation of a ballot by the
13 cross-petitioner, or respondent, the Commission
14 determines, based on all relevant evidence, whether
15 or not the ballots in the precinct shall be counted
16 as votes for the petitioner, votes for the
17 respondent, or not for any candidate.

18 After the completion of the respondent's case
19 in chief, the Commission then recognizes the
20 recount director to report whether there are any
21 disputed ballots in any precinct that have not been
22 presented by either the petitioner or respondent in
23 this manner for the Commission to make its
24 determination.

25 So that is a thumbnail sketch of the

1 procedures set forth in the guidelines, and I'll
2 defer to Mr. Kochevar to add, correct, supplement
3 any remarks he may wish.

4 MR. KOCHEVAR: Thank you, Mr. King.

5 I agree 100 percent with everything that
6 Mr. King has stated in his summary of Chapter 2,
7 Section 20, of our guidelines. They are a very
8 helpful tool in going through the statutory
9 requirements we find ourselves in, which is
10 specifically 3-12-11-17.7.

11 Just to put a bow on this and put some context
12 or a more simplified summary on this is that there
13 is an ordering process for how to go through SBOA's
14 report and deal with each particular precinct.
15 Looking at House District 49, since that's where
16 we're on, and looking at the part of the report
17 that breaks this down by precinct, as it has the
18 entire amount of ballots that were counted both
19 Election Day and absentee voting, the precincts
20 that we will dispense with first, the ones that
21 have no disputes, such as Concord 28 -- that's the
22 second precinct in your listing -- those will be
23 ones that will be dispensed with first. We hear
24 the reports, there is no disputes out there, we
25 affirm what State Board of Accounts has done and

1 consider that precinct to be recounted and those
2 results to be the final results for that precinct
3 for this office.

4 We will then proceed, once that has all been
5 dispensed with, all those precincts, into precincts
6 where there are disputes by one party or the other.
7 We will then dispense with everything that is not
8 considered to be disputed, essentially lock in
9 those results, then we'll go through the rest of
10 the disputes with petitioner first and then
11 followed by respondent.

12 I think we should have an easier time here.
13 Just looking at the list, I'm seeing maybe two or
14 three precincts where there are multiple disputes
15 in that precinct, and so there should -- so I only
16 see a time where we may possibly, depending on the
17 reason for that dispute, of grouping those together
18 and dispensing with those as one block of disputes
19 and everything.

20 But I think it's a pretty structured approach.
21 We should be able to get through this timely and
22 everything and then be on our merry way. But,
23 again, I appreciate Mr. King again summarizing this
24 particular part of our guidelines and will just
25 add, thank God that we have them so we have a

1 structured approach.

2 But with that, I will turn it back over to the
3 chair to continue our meeting.

4 SECRETARY MORALES: Thank you, Matthew and
5 Brad.

6 Now at this time the State Board of Accounts
7 may now proceed to present all precincts without
8 disputed ballots to begin tally of votes for each
9 candidate. Ms. Leatherman.

10 MS. LEATHERMAN: Thank you. What I will do,
11 unless there's an objection, is I will go through
12 the list of all the precincts that don't have any
13 disputes, and then I'll go back through and say the
14 number of votes for each candidate in those
15 precincts. Is that okay? Just so everyone can
16 track along a little bit easier.

17 So based upon the SBOA tally, the following
18 precincts did not produce any disputes in the
19 recount process: Concord 28, Elkhart 1, Elkhart 3,
20 Elkhart 13, Elkhart 15, Elkhart 17, Elkhart 20,
21 Jefferson 2, Jefferson 3, Jefferson 5,
22 Middlebury 3, York 1, and York 2.

23 And, I guess, maybe this is a question for
24 counsel. Mr. King, would you like me to read the
25 totals for each of those by precinct or are we

1 going to incorporate them by reference from the
2 report?

3 MR. KING: Mr. Chairman, my suggestion would
4 be, for the record, to read the results into the
5 record.

6 MS. LEATHERMAN: Okay. So for Concord 1,
7 for -- sorry. For Concord 28, for Cindi Hajicek
8 there were 128 votes. For Candidate King there
9 were 140.

10 For Elkhart 1, there were 30 votes for
11 Candidate Hajicek and 45 votes for Candidate King.

12 In Elkhart 3, there were 49 votes for
13 Candidate Hajicek and 71 for Candidate King.

14 In Elkhart 13, there were 32 votes for
15 Candidate Hajicek and 61 for Candidate King.

16 In Elkhart 15, there were 72 votes for
17 Candidate Hajicek and 196 for Candidate King.

18 For Elkhart 17, there were 28 votes for
19 Candidate Hajicek and 62 for Candidate King.

20 In Elkhart 20, there were 39 votes for
21 Candidate Hajicek and 56 for Candidate King.

22 In Jefferson 2, there were 94 votes for
23 Candidate Hajicek and 139 for Candidate King.

24 In Jefferson 3, there were 70 votes for
25 Candidate Hajicek and 112 for Candidate King.

1 In Jefferson 5, there were 58 votes for
2 Candidate Hajicek and 94 for Candidate King.

3 In Middlebury 3, there were 60 votes for
4 Candidate Hajicek and 126 for Candidate King.

5 In York 1, there were 49 votes for Candidate
6 Hajicek and 75 for Candidate King.

7 And in York 2, there were 66 votes for
8 Candidate Hajicek and 181 for Candidate King.

9 MR. KING: Mr. Chairman, may I ask
10 Ms. Leatherman to repeat the numbers for
11 Elkhart 17.

12 MS. LEATHERMAN: Yes. For Elkhart 17, there
13 were 28 votes for Candidate Hajicek and 62 for
14 Candidate King.

15 MR. KING: Thank you.

16 SECRETARY MORALES: Thank you, Ms. Leatherman.

17 Now, as the chair, since we have a quorum with
18 only two commissioners here, myself and
19 Commissioner Claytor, I would move that the
20 Commission vote to accept all undisputed votes.

21 Is there a second?

22 MR. CLAYTOR: Undisputed votes in the
23 precincts listed?

24 SECRETARY MORALES: That's right.

25 MR. CLAYTOR: I will second that.

1 SECRETARY MORALES: Is there any discussion?

2 All those in favor of accepting the undisputed
3 votes say "Aye."

4 MR. CLAYTOR: Aye.

5 SECRETARY MORALES: Aye.

6 Those opposed say "Nay."

7 The "ayes" have it. The motion is passed.

8 The State Board of Accounts will now present
9 precincts with ballots challenged by Ms. Harter,
10 the petitioner. The Commission will give
11 Ms. Harter and Ms. DeWester the opportunity to make
12 brief arguments, and then after discussion among
13 Commission members, we will vote on each disputed
14 ballot. At the conclusion of any consideration of
15 all disputed ballots in a precinct, the State Board
16 of Accounts will provide the final totals for that
17 precinct.

18 Ms. Leatherman, please proceed.

19 MS. LEATHERMAN: Thank you, Mr. Secretary.

20 MR. SICUSO: So, I guess, I had some email
21 correspondence with counsel indicating that they
22 had the opportunity to waive or withdraw any
23 disputes. I have not received anything in writing
24 waiving or withdrawing any disputes, but if there's
25 any comment from either counsel, I don't know,

1 Mr. Chair, if you'd like to recognize them.

2 SECRETARY MORALES: Ms. DeWester.

3 MS. DeWESTER: Yes. Thank you very much. I
4 apologize. There should be two -- I'm not sure
5 what precincts they're in, but they're in this
6 recount -- that we will withdraw on behalf of
7 Joanna King. They would have been withdrawn
8 anyway, but they were challenged at the time of the
9 recount.

10 MS. LEATHERMAN: Yes. So in Clinton 1, I
11 believe respondent's counsel has identified
12 Exhibit No. 2 as withdrawn and then in Elkhart 7,
13 Exhibit No. 43.

14 MR. KING: So, Mr. Chairman, members of the
15 Commission, if I may ask Ms. Leatherman, is it
16 correct then to say that, based on this withdrawal,
17 there are no disputed ballots in Clinton 1?

18 MS. LEATHERMAN: Correct.

19 MR. KING: And that with Elkhart 7, the number
20 disputed has been reduced from two to one?

21 MS. LEATHERMAN: Correct.

22 MR. KING: Thank you.

23 SECRETARY MORALES: Thank you, Ms. Leatherman.

24 MR. CLAYTOR: What was the other precinct, the
25 second precinct?

1 MR. SICUSO: Elkhart 7.

2 MR. CLAYTOR: Elkhart 7. Thank you.

3 SECRETARY MORALES: Ms. Harter.

4 MS. HARTER: Michelle Harter, M-i-c-h-e-l-l-e,
5 and then Harter is H-a-r-t-e-r, counsel for Cindi
6 Hajicek.

7 My client has identified 41 challenged
8 ballots, 38 of which were challenged because they
9 lacked poll clerk initials. And while Indiana
10 Code 3-12-1-2 provides that a ballot not endorsed
11 or printed with the initials of the poll clerks may
12 not be counted, Indiana Code 3-12-1-12 allows these
13 ballots to be counted absent evidence of fraud,
14 tampering, and misconduct.

15 Reviewing the challenged ballots, I do not see
16 any evidence of such misconduct on the face of the
17 ballots. I note for the record that Vote
18 Center 17, in particular, was sort of sloppy with
19 having both poll clerks sign the ballots with 22 of
20 the 41 challenges filed by my client being out of
21 that vote center for lack of initials. It looks
22 like the ballots disputed with the initials from
23 this vote center were for both candidates, so
24 there's no evidence of tampering to benefit one
25 candidate over the other.

1 Because of this, I'm withdrawing the
2 challenges based on initials. I'm also withdrawing
3 the challenges based on what is listed as few votes
4 on ballots, so Exhibits 1 and 3. The only one that
5 we're not withdrawing, but I don't know that it's
6 an issue, is the no vote, which was Exhibit 39.

7 SECRETARY MORALES: Mr. Brad King, any
8 discussion from the Commission?

9 MR. KING: Mr. Chairman, thank you to counsel
10 for both the petitioner and respondent. To assist
11 the State Board of Accounts in what they're going
12 to do today, we'll need to take some time, in my
13 view, to specifically review the precincts involved
14 here with the withdrawn ballots so that we have an
15 ongoing accurate count.

16 Mr. Kochevar.

17 MR. KOCHEVAR: Yes, I would agree. There's
18 essentially moving what has been disputed and
19 considered valid over into and make sure that we
20 have an accurate listing of everything that is
21 valid there. And then if I'm following both
22 counsels correctly, the only remaining item that is
23 in dispute would be the disputed no vote that was
24 identified in -- I go by precinct, so that would be
25 Elkhart 16.

1 MR. SICUSO: Right.

2 MS. LEATHERMAN: Correct. If I'm
3 understanding correctly, that's also what I would
4 agree.

5 MR. KOICHEVAR: So I would defer to Mr. King on
6 providing advice on how we should proceed to making
7 sure that we have everything read properly into the
8 record and then going through and determining that
9 last dispute so then the Commission can vote and
10 complete a proper certificate as required by
11 statute.

12 SECRETARY MORALES: Mr. King.

13 MR. KING: Thank you, Mr. Chairman,
14 Mr. Kochevar. I agree. I think the easiest
15 process for everyone involved, particularly the
16 State Board of Accounts, would be to proceed down
17 the list of precincts provided in the State Board
18 of Accounts' report and give petitioner the
19 opportunity to confirm that, yes, the disputed
20 ballots raised in that precinct are covered by the
21 withdrawal. And then State Board of Accounts would
22 provide the revised vote totals based on the
23 withdrawal of the disputes. And obviously there
24 will be one exception to the rule that counsel for
25 petitioner mentioned.

1 So I would suggest, Mr. Chairman, just asking
2 for consent of the parties and Commission members
3 to that approach.

4 MS. HARTER: Yes.

5 MS. DeWESTER: Yes, that is fine with me.

6 SECRETARY MORALES: Thank you.

7 MS. DeWESTER: And I apologize. Do you want
8 me to read my name into the record. I did not do
9 so previously.

10 THE REPORTER: I've got it. Thanks.

11 SECRETARY MORALES: Thank you both for that.

12 So at this time I would recognize Ms. Kendra
13 Leatherman to proceed.

14 MS. LEATHERMAN: Okay. Based upon
15 respondent's withdrawal, I'm going to go back
16 through --

17 MR. KING: Petitioner. I'm sorry.

18 MS. LEATHERMAN: I guess maybe that's a
19 question. Respondent withdrew also her disputes,
20 and so now those two precincts are -- or at least
21 one precinct doesn't have any disputes anymore.
22 Sorry.

23 MR. KING: Yes.

24 MS. LEATHERMAN: Clinton 1 previously had one
25 dispute in it in Exhibit 2. Respondent has

1 withdrawn that exhibit. Do I need an affirmation,
2 correct maybe, anyone to --

3 MR. KING: Mr. Chairman, no. I think either
4 party can object if they are uncertain or
5 questioning your --

6 MS. LEATHERMAN: Okay. Thank you.

7 MR. KING: And then you need to announce the
8 revised vote total based on the withdrawal of the
9 dispute.

10 MS. LEATHERMAN: Yes. The revised vote total
11 will be, for Clinton 1, Cindi Hajicek 102 and
12 Joanna King 153.

13 For Elkhart 2 -- for those of you that are
14 following along in this SBOA tally schedule, in
15 order to get the total votes per candidate, how you
16 would read the report pre the waiver of the
17 disputes is adding the total ballots tallied by
18 SBOA and then adding the disputed ballots tallied
19 by SBOA together. So that makes the total in
20 Clinton 1 for Cindi Hajicek 102 and the total for
21 Joanna King 153. I hope that...

22 Okay. Then the next precinct that has had all
23 the exhibits withdrawn would be Elkhart 2,
24 previously Exhibit 8. That has been withdrawn by
25 petitioner, so that makes the total 12 votes for

1 Cindi Hajicek -- no, excuse me -- 13 votes for
2 Cindi Hajicek and 42 for Joanna King.

3 The next precinct that had disputed ballots
4 was Elkhart 4, previously had Exhibit 4 and
5 Exhibit 20. Those disputes have been withdrawn, so
6 the total for Elkhart 4 for Cindi Hajicek would be
7 58, and the total for Joanna King would be 90.

8 Asking me to do math on the fly, guys, is
9 really a nice, dangerous game.

10 The next precinct that previously had disputed
11 ballots in it was Elkhart 5. Exhibits 10 and 14
12 have been withdrawn, and the total for that
13 precinct is 43 for Cindi Hajicek and 78 for Joanna
14 King.

15 For Elkhart 6, Exhibit 1 and Exhibit 15 have
16 been withdrawn. Sorry. Got to make sure my
17 thing's lined up here. The total ballots for Cindi
18 Hajicek would be 19 and 73 for Joanna King.

19 Elkhart 7 still has one remaining disputed
20 ballot, so we will move on to Elkhart 8.

21 MS. HARTER: I thought it was 39.

22 MS. LEATHERMAN: Sorry. I did not understand
23 my own notes. Excuse me.

24 Okay. Elkhart 7, Exhibit 21 and Exhibit 43
25 have been withdrawn, one by petitioner one by

1 respondent. The total for Elkhart 7 would be 46
2 for Cindi Hajicek and 117 for Joanna King.

3 Elkhart 8, exhibits have been withdrawn. The
4 total votes for Cindi Hajicek would be 49 and 79
5 for Joanna King.

6 Elkhart 9, all exhibits have been withdrawn.
7 The total for Cindi Hajicek would be 81 and the
8 total for Joanna King would be 175.

9 Elkhart 10, the exhibits have all been
10 withdrawn. The total for Cindi Hajicek would be
11 76, and the total for Joanna King would be 117.

12 Elkhart 12, all exhibits have been withdrawn.
13 The total for Cindi Hajicek would be 38 and the
14 total for Joanna King would be 89.

15 Elkhart 14, all exhibits have been withdrawn.
16 The total for Cindi Hajicek would be 29, the total
17 for Joanna King would be 84.

18 Elkhart 16 is the remaining precinct that has
19 one dispute, so we will move on to Elkhart 18.
20 Elkhart 18, the total for Cindi Hajicek would be
21 41, and the total for Joanna King would be 92.

22 MR. KING: Excuse me, Mr. Chairman. Could
23 Ms. Leatherman document the withdrawal of the
24 dispute in Elkhart 18. I show that as having --

25 MS. LEATHERMAN: Oh, yes. All the exhibits

1 have been withdrawn -- I'm sorry if I didn't say
2 that -- in Elkhart 18.

3 In Elkhart 19, all exhibits have been
4 withdrawn. The total for Cindi Hajicek is 57. The
5 total for Joanna King is 177.

6 In Jefferson 1, the exhibit has been
7 withdrawn. The total for Cindi Hajicek is 98, and
8 the total for Joanna King is 152.

9 In Jefferson 4, the exhibit has been
10 withdrawn. The total for Cindi Hajicek is 97, and
11 the total for Joanna King is 147.

12 In Jefferson 6, the exhibit has been
13 withdrawn. The total for Cindi Hajicek is 71, and
14 the total for Joanna King is 123.

15 In Middlebury 1, the exhibit has been
16 withdrawn. The total for Cindi Hajicek is 78 and
17 the total for Joanna King is 125.

18 In Middlebury 2, the exhibit has been
19 withdrawn. The total for Cindi Hajicek is 36, and
20 the total for Joanna King is 128.

21 In Middlebury 4, all exhibits have been
22 withdrawn. The total for Cindi Hajicek is 61, and
23 the total for Joanna King is 112.

24 In Middlebury 5, all exhibits have been
25 withdrawn. And the total for Cindi Hajicek is 77,

1 and the total for Joanna King is 153.

2 SECRETARY MORALES: Thank you, Ms. Leatherman.

3 Any discussions from counsel for the
4 petitioner?

5 MS. HARTER: No.

6 SECRETARY MORALES: Any questions from the
7 Commission?

8 MR. CLAYTOR: Mr. Chairman, just for my own
9 edification, I've been trying to do chicken
10 scratching here. Do we have Elkhart 11 or is
11 that --

12 MS. LEATHERMAN: It should have been --

13 MR. CLAYTOR: It was undisputed?

14 MS. LEATHERMAN: -- undisputed.

15 MR. CLAYTOR: I missed that one.

16 MS. LEATHERMAN: But I will check my --

17 MR. CLAYTOR: Got it. Thank you.

18 SECRETARY MORALES: Thank you, Commissioner.

19 Any discussion from counsel for the
20 respondent?

21 MS. LEATHERMAN: Mr. Secretary, we might need
22 to read Elkhart 11 into the record because, from
23 the notes I have, I'm not sure we read it
24 separately.

25 SECRETARY MORALES: Thank you.

1 MS. LEATHERMAN: The total -- Elkhart 11,
2 there were no disputes in this precinct. The total
3 for Cindi Hajicek is 21, and the total for Joanna
4 King is 29.

5 SECRETARY MORALES: Is there a motion right
6 now to count all undisputed precincts?

7 MR. CLAYTOR: I will so move, Mr. Chairman.

8 SECRETARY MORALES: I will second it.

9 And we're going to vote for this. All in
10 favor say "Aye."

11 MR. CLAYTOR: Aye.

12 SECRETARY MORALES: Aye.

13 All in favor say "No" or "Nay."

14 The "ayes" have it.

15 Okay. So before we got interrupted here, I
16 was asking if there are any discussion from counsel
17 for the respondent. Samantha?

18 MS. DeWESTER: No. Thank you.

19 SECRETARY MORALES: Okay. So at this point we
20 would like to ask Ms. Leatherman to confirm all the
21 tally of numbers so it can be -- with regard to to
22 the one precinct that is still in dispute.

23 MS. LEATHERMAN: Okay. Based upon the
24 discussion today, I believe Elkhart 16 is the only
25 precinct that has a remaining dispute, and I

1 believe we're going to be talking about Exhibit
2 No. 39.

3 MS. HARTER: And I don't know that this is
4 actually a disputed ballot. The SBOA determined
5 that it is a no vote, and we don't disagree with
6 that. We just want to make sure that that's how
7 it's going to be counted. If so, we can withdraw
8 this one as well.

9 SECRETARY MORALES: Is there any objection to
10 that, to be withdrawn?

11 MS. LEATHERMAN: I mean, we can confirm that
12 it was counted as a no vote. For Commission
13 members that have their schedule in front of them,
14 on the SBOA tally by precinct, you will see that
15 there is a 1 in the far right column of Elkhart 16,
16 and it says "Disputed No Votes Tallied by SBOA."
17 So that's Exhibit No. 39 that was, in fact, tallied
18 as a no vote.

19 MS. HARTER: Okay. So then we can withdraw
20 that as well. It's marked as being disputed for
21 initials, but it is a no vote.

22 SECRETARY MORALES: At this time I would like
23 to ask Kendra for the new tally of the votes.

24 MR. CLAYTOR: Mr. Chairman, should we
25 specifically read the tally for Elkhart 16 before

1 we do the total?

2 MS. HARTER: Yes.

3 MR. CLAYTOR: Just to have it in the record.

4 MS. LEATHERMAN: In Elkhart 16, all of the
5 disputes have been withdrawn, making the total for
6 Cindi Hajicek 83 and the total for Joanna King 110.

7 MR. KING: Excuse me, Mr. Chairman. If I
8 understood Commissioner Claytor's comment
9 correctly, he was requesting that the totals prior
10 to the withdrawal be read into the record.

11 MS. LEATHERMAN: Oh, okay.

12 MR. CLAYTOR: Probably both would be a good
13 thing.

14 MS. LEATHERMAN: The total prior to -- I would
15 just like to state, you know, for the record, I
16 haven't previously read the totals like this today,
17 so it will sound a little bit different.

18 Prior to the withdrawal, there were determined
19 by the Board of Accounts 82 votes determined for
20 Cindi Hajicek, 108 valid tallied votes by the Board
21 of Accounts for Joanna King. There was one
22 disputed valid ballot for Cindi Hajicek. There
23 were two disputed valid ballots for Joanna King.
24 There was one invalid ballot determined by the
25 Board of Accounts, and then there was one disputed

1 no vote tallied by the Board of Accounts.

2 SECRETARY MORALES: Thank you, Ms. Kendra.

3 I would like to make a motion to count the
4 undisputed votes for Elkhart 16.

5 MR. CLAYTOR: Second.

6 SECRETARY MORALES: Thank you.

7 So we're going to vote on this. All in favor
8 say "Aye."

9 MR. CLAYTOR: Aye.

10 SECRETARY MORALES: Aye.

11 Not in favor so "No" or "Nay."

12 The "ayes" have it.

13 At this time we would like to give an
14 opportunity to Ms. Harter to see if she has
15 anything to add or to discuss.

16 MS. HARTER: No. Thank you.

17 SECRETARY MORALES: And as well to Counsel
18 DeWester.

19 MS. DeWESTER: Thank you. First of all, I
20 wanted to do this at the beginning. I want to make
21 sure we thank properly all the folks that were
22 involved -- if I talk too fast, please flag me
23 down. I'm used to it by court reporters. I want
24 to thank everyone that was involved with this whole
25 process. I don't think that the average person

1 understands the amount of labor that goes into
2 recounts.

3 I want to thank specifically State Board of
4 Accounts and their whole crew, the recount director
5 and deputy directors, the Indiana State Police, the
6 Indiana Election Division attorneys, the county
7 clerks, and anybody else that was present that
8 helped with these. I know we spent the past three
9 months going back and forth trying to get these
10 finalized for taxpayers, but I appreciate
11 everybody's help.

12 And I would urge the Commission to adopt the
13 reports of SBOA and the recount director with the
14 final vote totals so that we can move forward into
15 November. As we all can see, this election was
16 fair and there weren't any abnormalities, there
17 weren't issues, there weren't stolen ballots, there
18 weren't any harvested ballots, anything like that.
19 We have a very fair election system in Indiana, and
20 I think everyone needs to recognize that. Thank
21 you.

22 SECRETARY MORALES: Thank you for your kind
23 comments, Ms. DeWester. Thank you.

24 At this time I would like to refer to Director
25 Sicuso or Ms. Kendra with the State Board of

1 Accounts to please announce the final tally.

2 MS. LEATHERMAN: Thank you, Mr. Secretary.

3 The total of votes for -- I'll announce the total
4 of votes by SBOA tally for each candidate in the
5 race. The total for Cindi Hajicek is 2,049 votes,
6 and the total for Joanna King is 3,803 votes. This
7 also reflects the number as reported in the SBOA
8 report.

9 SECRETARY MORALES: Thank you, Ms. Leatherman.

10 I would like now to call upon Majority Counsel
11 Brad King to explain the remaining steps to
12 conclude the recount. Mr. King.

13 MR. KING: Thank you, Mr. Chairman, members of
14 the Commission. Upon the completion of a recount
15 for election to office, Indiana Code 3-12-11-18(a)
16 requires that the Commission do the following
17 things: 1, make and sign a certificate showing the
18 total number of votes received in the precincts by
19 each candidate for election to the office; 2, state
20 in the certificate the candidate who received the
21 highest number of votes for the election to the
22 office and by what plurality; and, 3, file its
23 certificate with the election division.

24 Under Indiana Code 3-12-11-24, the candidate
25 shown receiving the highest number of votes for

1 nomination to a state legislative office is
2 entitled to receive a certificate of nomination
3 which supersedes any previous certificate of
4 nomination for that office.

5 Finally, under Indiana Code 3-8-7-2 and
6 3-10-1-34, the Indiana Election Division is
7 required to certify the primary election results
8 through the respective county election boards
9 following its receipt of any recount certificate
10 within seven days after receipt of the certificate
11 and not later than August 23, 2024.

12 Mr. Chairman, members of the Commission,
13 Mr. Kochevar and I are planning to work together to
14 check our math and confirm the accuracy of the
15 document we're going to prepare for you, so if we
16 could ask for your patience for a few minutes while
17 we do that.

18 SECRETARY MORALES: Thank you, Mr. King.

19 (Discussion held off the record.)

20 MR. KING: Mr. Chairman, members of the
21 Commission, thank you for your patience.
22 Mr. Kochevar and I have confirmed our information
23 for the certificate, which I will now read into the
24 record.

25 Before the Indiana Recount Commission,

1 certificate of recount of the votes cast for the
2 candidates for Republican Party nomination for
3 election as Indiana State Representative
4 District 49 at the May 7, 2024, primary election.
5 In the matter of the recount for the election of
6 Indiana State Representative District 49, Cindi
7 Hajicek, petitioner, versus Joanna King,
8 respondent.

9 Whereas, under Indiana Code 3-12-11-18(a), the
10 Indiana Recount Commission is required to make and
11 sign this certificate following the completion of a
12 recount; whereas, this certificate is required to
13 show the total number of votes received in the
14 precincts by each candidate for election to the
15 office; and must state the candidate who received
16 the highest number of votes for the precincts for
17 the nomination to the office and by what plurality;
18 and, 3, must be filed with the Indiana Election
19 Division of the Office of Secretary of State of
20 Indiana.

21 And whereas, the Commission has completed a
22 recount for the election of Indiana State
23 Representative District 49, now, therefore, the
24 Indiana Recount Commission certifies and orders the
25 following: 1, the Commission certifies that the

1 attached page, designated as "State Board of
2 Accounts Tally of Ballots for the Petitioned
3 Precincts Indiana House District 49 Republican
4 Primary Election May 7, 2024," which is
5 incorporated by reference in this certificate, sets
6 forth the total number of votes received by each
7 candidate for nomination as the Republican Party
8 candidate for election to the office of Indiana
9 State Representative District 49 at the November 5,
10 2024, general election being all the precincts
11 included within District 49; 2, the Commission
12 certifies that Joanna King is the candidate who
13 received the highest number of votes in the
14 precincts described in paragraph 1 of this
15 certificate, in that Candidate Cindi Hajicek
16 received 2,049 votes while Candidate Joanna King
17 received 3,803 votes, being a plurality of 1,754
18 votes for Joanna King; 3, the Commission orders
19 that the recount director files this certificate
20 with the election division as required by law.

21 So certified and ordered this 7th day of
22 August, 2024, the Indiana Recount Commission.

23 I will add that the document referenced as the
24 attachment is a document that State Board of
25 Accounts will have to prepare based on the votes

1 the Commission has taken at today's proceeding.

2 I'll be happy to answer any questions or defer
3 to Mr. Kochevar for any additional comments.

4 MR. KOCHEVAR: No, I have no comments. The
5 certificate is in good order and how I understand
6 statute to be, and I look forward to getting the
7 updated State Board of Accounts reports so that,
8 when we give it to our friends at the county to
9 update all their records and everything, we
10 actually have something that's not in print, not my
11 handwriting.

12 MR. CLAYTOR: Mr. Chairman, may I move the
13 adoption of the certificate?

14 SECRETARY MORALES: I was about to ask that.
15 So is there a second?

16 I second it. I said yes.

17 So now we're going to vote. All in favor say
18 "Aye."

19 MR. CLAYTOR: Aye.

20 SECRETARY MORALES: Aye.

21 All opposed say "Nay."

22 The "ayes" have it and the motion is adopted.

23 With the assistance from the Election
24 Division, we will now proceed to sign the
25 certificate of election in this matter.

1 Now, the magic words here, the House
2 District 49 recount is concluded.

3 House District 40 Republican primary election
4 recount. Mr. Sicuso, would you now please provide
5 the Commission with a report regarding the actions
6 you and others have taken regarding the petition
7 for recount filed for the May 7, 2024, Republican
8 primary election for Indiana House District 40.

9 MR. SICUSO: Thank you, Mr. Chairman. On
10 May 15, 2024, at 11:22 a.m., a verified petition
11 for recount of the Republican primary election for
12 State Representative for District 40 was filed with
13 the Indiana Election Division by Petitioner Brian
14 Paasch by his counsel, Michelle Harter, along with
15 the required deposit of \$100 as set forth by
16 statute. This petition is included behind the
17 tenth tab in your binder.

18 No candidate in that election or party
19 chairman of a county within House District 40 filed
20 either a cross-petition for a recount in that race
21 or a petition for a contest proceeding in that
22 election before the noon deadline on May 15, 2024.

23 After consultation with the parties and
24 coordination with the State Police and State Board
25 of Accounts and review of Mr. Paasch's petition, I

1 issued Order 2024-01 on May 15th to impound the
2 election material and equipment set forth in that
3 order. The State Police subsequently impounded
4 that equipment and material and served notice of
5 the petition and the impoundment order.

6 On July 2nd, this Commission determined that
7 the recount petition complied with all required
8 elements of state law and granted the petition for
9 a recount. These documents are found behind the
10 11th tab in your binder.

11 On May 21st, Smith DeWester filed an
12 appearance on behalf of the respondent, Mr. Greg
13 Steuerwald. Ms. Harter filed an appearance on
14 behalf of the petitioner, Mr. Brian Paasch, on
15 May 15th. These documents are found behind the
16 12th tab in your binder.

17 After consultation with the parties and
18 coordination with the State Police and State Board
19 of Accounts, I issued Order 2024-06 on July 15th
20 for a pre-recount inspection to be conducted in
21 accordance with the Commission's guidelines
22 beginning on June 11th in Hendricks County.

23 Order 2024-06 was further amended by order 2024-08,
24 which I issued on July 15th. These documents are
25 behind the 13th tab in your binder, and the

1 inspections were completed in accordance with both
2 orders.

3 State Board of Accounts then proceeded to
4 conduct their recount for House District 40 in
5 accordance with state law, guidelines adopted by
6 the Commission, and the manual developed by the
7 State Board of Accounts, which were incorporated by
8 reference into those guidelines. As a reminder,
9 the guidelines and the manual are in the fifth tab
10 of your binder.

11 On July 16th, counsel for Mr. Paasch and
12 counsel for Mr. Steuerwald advised that their
13 clients agreed to waive the recount guideline
14 requiring a count of ballots cast in the Democratic
15 party primary and any ballots only relating to
16 public questions that were cast in the May 7th
17 primary election, and they later also agreed to
18 waive the requirement for a recount by vote center
19 location.

20 Counsel for Mr. Paasch also indicated that her
21 client declined to waive the recount guideline
22 requirement for a manual count of signatures.
23 Counsel for Mr. Steuerwald stated her willingness
24 to waive this requirement, but in the absence of
25 agreement between the parties, a manual count

1 signature procedure was conducted as part of this
2 recount. Documentation of the waivers is found
3 behind the 14th tab in your binder.

4 On July 20th, I issued Order 2024-09 setting
5 the schedule for the State Board of Accounts to
6 conduct a recount in Hendricks County beginning on
7 July 23rd and to continue the following day, to the
8 extent necessary.

9 On July 23rd, in accordance with the
10 guidelines, the Hendricks County Clerk's Office
11 provided a copy of the IEC-9 certification, test of
12 direct record electronic voting system; the IEC-10
13 certification of test of optical scan ballot card
14 automatic tabulating machines; and the unofficial
15 election results entered by the County into the
16 State's election results database on May 21st.
17 These documents are found behind the 15th tab in
18 your binder.

19 That concludes my report on the activities
20 taking place in House District 40.

21 SECRETARY MORALES: Thank you, Mr. Sicuso.

22 MR. SICUSO: Similar to what we did in House
23 District 49, we may wish to recognize the State
24 Police to give comment on their activities.

25 SECRETARY MORALES: Thank you. And, of

1 course, we are going to allow the captain from the
2 State Police to give any remarks.

3 MAJOR HARPER: So the Indiana State Police had
4 a limited role in this as well. Our role is to
5 abide by the impoundment orders. Once we received
6 those orders, we worked with the county clerk as
7 well as this Commission to take custody of the
8 ballots in question, at which time we maintained
9 control and security over those ballots, after
10 working with the Commission here, allowing only
11 access as this Commission would allow until such
12 time we received the court order to release those
13 documents.

14 SECRETARY MORALES: Thank you. Thank you,
15 Captain.

16 I think we would like to give an opportunity
17 for Kendra to give remarks as well.

18 MS. LEATHERMAN: Thank you, Mr. Secretary. As
19 required and requested in the petition for House
20 District 40, our recount consisted of a manual
21 count of the ballots in ten petitioned precincts.
22 Our report, as Director Sicuso mentioned before, is
23 a total of that tally, and the included schedule
24 shows the votes that we tallied by precinct. For
25 this particular recount in House District 40, it

1 did not produce any disputed or invalid ballots.

2 SECRETARY MORALES: Thank you, Ms. Leatherman.

3 Would a Commission member like to offer a
4 motion to vote to accept the undisputed votes.

5 MR. CLAYTOR: Yes. Mr. Chairman, I'd like to
6 make a motion to accept the undisputed votes in the
7 ten precincts that were recounted.

8 SECRETARY MORALES: Is there a second?

9 I will second it.

10 Is there any discussion?

11 All those in favor of accepting the undisputed
12 votes say "Aye."

13 MR. CLAYTOR: Aye.

14 SECRETARY MORALES: Aye.

15 Those opposed say "Nay."

16 The "ayes" have it, and the motion is passed.

17 Before moving on, we would like to give an
18 opportunity to both counsels, Ms. Harter or
19 Ms. DeWester, to offer any discussions if you would
20 like to.

21 MS. HARTER: I don't have anything.

22 MS. DeWESTER: Thank you. I would ask that
23 the Commission -- really, I want to thank everybody
24 that I already thanked previously because it was
25 most of the same crew on both of these recounts.

1 We only recounted ten precincts in this recount out
2 of the entire rep's district.

3 But I would ask in both matters that the bond
4 be withheld and not returned to the parties so that
5 the bond money can go to pay for all the taxpayer
6 expense that paid for meals and hotel rooms and
7 mileage for all of the employees at the county or
8 state level that were expended in both of these.

9 I'm still scratching my head at both of these
10 recounts that were won by nearly 30 points in both
11 of them that the taxpayers now have spent three
12 months waiting on finality for and have funded the
13 recount thereof, which took multiple visits to
14 Elkhart County in several days and required 145
15 machines in Hendricks County be printed off for ten
16 precincts to prove I'm still unclear of what.

17 So I would urge the Commission to withhold the
18 bond, let that go back to the tax funded entities,
19 whether the state or local governments, to be
20 reimbursed for purposes of this. Thank you.

21 SECRETARY MORALES: Thank you, Ms. DeWester.

22 Mr. Sicuso, have all the ballots in the
23 recount been counted?

24 MR. SICUSO: They have.

25 SECRETARY MORALES: Thank you,

1 Director Sicuso.

2 Would the State Board of Accounts please
3 announce the final tally.

4 MS. LEATHERMAN: I will go through the
5 precincts that were petitioned and didn't have any
6 disputes like I did last time, and then I'll give a
7 number for each.

8 The precincts that had no disputes were
9 Washington 1, Washington 3, Washington 5,
10 Washington 7, Washington 9, Washington 11,
11 Washington 13, Washington 15, Washington 17, and
12 Washington 19.

13 The total votes in Washington 1 for Brian
14 Paasch were 90, for Greg Steuerwald was 129.

15 In Washington 3, 40 for Brian Paasch, 48 for
16 Greg Steuerwald.

17 Washington 5, 38 for Brian Paasch, 67 for Greg
18 Steuerwald.

19 Washington 7, 53 for Brian Paasch, 83 for Greg
20 Steuerwald.

21 Washington 9, 78 for Brian Paasch, 156 for
22 Greg Steuerwald.

23 Washington 11, 41 for Brian Paasch, 69 for
24 Greg Steuerwald.

25 Washington 13, 104 for Brian Paasch, 134 for

1 Greg Steuerwald.

2 Washington 15, 70 for Brian Paasch, 150 for

3 Greg Steuerwald.

4 Washington 17, 80 for Brian Paasch, 142 for

5 Greg Steuerwald.

6 Washington 19, 42 for Brian Paasch, and 90 for

7 Greg Steuerwald.

8 SECRETARY MORALES: Thank you, Ms. Leatherman.

9 I would like to call upon Majority Counsel

10 Brad King to explain the remaining steps to

11 conclude the recount.

12 MR. KING: Thank you, Mr. Chairman, members of

13 the Commission. As previously, state statute

14 requires the preparation of a certificate of the

15 recount of votes cast for the candidates in this

16 race. This differs slightly from the first recount

17 proceeding in that not all precincts were included

18 in the recount in House District 40. And so the

19 certificate references the number of votes received

20 in the precincts described in paragraph 1 of the

21 certificate, which I'll just read at this point.

22 It says: 1, the Commission certifies the

23 attached page, designated "State Board of Accounts

24 Tally of Ballots for the Petitioned Precincts

25 Indiana House District 49 Republican Primary

1 Election May 7, 2024," which is incorporated by
2 reference in the certificate, sets forth the number
3 of votes received by each candidate for nomination
4 as the Republican Party candidate for election to
5 the office of Indiana State Representative, and
6 this being all of the precincts included in House
7 District 40.

8 And so the math involved here is a little more
9 complicated in that we will need to take a moment
10 to confirm the addition of the precinct vote totals
11 covered in this recount with the votes cast in the
12 other precincts in that district which were not
13 included in the list of ten that Ms. Leatherman
14 read. And so if you will kindly bear with Matthew
15 and I and with the State Board of Accounts for a
16 few moments, we will prepare the certificate as
17 promptly as we can.

18 (Discussion held off the record.)

19 MR. KING: Mr. Chairman, members of the
20 Commission, Mr. Kochevar and myself, with the
21 assistance from Recount Director Sicuso and
22 Ms. Leatherman from the State Board of Accounts,
23 have prepared the certificate, which I will read
24 into the record.

25 Before the Indiana Recount Commission,

1 certificate of recount of the votes cast for
2 candidates for Republican party nomination for
3 election as Indiana State Representative District
4 40 in the May 7, 2024, primary election. In the
5 matter of the recount of the election for Indiana
6 State Representative District 40, Brian Paasch,
7 petitioner, versus Gregory E. Steuerwald,
8 respondent.

9 Whereas, under Indiana Code 3-12-11-18(a), the
10 Indiana Recount Commission is required to make and
11 sign a certificate following the completion of a
12 recount; whereas, this certificate is, 1, required
13 to show the total number of votes received in the
14 precincts by each candidate for election to the
15 office; and must state the candidate who received
16 the highest number of votes in the precincts for
17 nomination to the office and by what plurality;
18 and, 3, must be filed with the Indiana Election
19 Division of the Office of the Secretary of State of
20 Indiana.

21 And whereas, the Commission has completed the
22 recount for the election of Indiana State
23 Representative District 40, now, therefore, the
24 Indiana Recount Commission certifies and orders the
25 following: 1, the Commission certifies that the

1 attached page, designated "State Board of Accounts
2 Tally of Ballots for Petitioned Precincts Indiana
3 State House District 49 Republican Primary
4 Nomination, May 7, 2024," which is incorporated by
5 reference in this certificate, sets forth the total
6 number of votes received by each candidate for
7 nomination as Republican party candidate for
8 election to the office of Indiana State
9 Representative District 40 at the November 5, 2024,
10 general election being all the precincts included
11 within District 40; 2, the Commission certifies
12 that Gregory E. Steuerwald is the candidate who
13 received the highest number of votes in the
14 precinct described in paragraph 1 of the
15 certificate in that Candidate Brian Paasch received
16 2,050 votes while Candidate Gregory E. Steuerwald
17 received 3,519 votes, being a plurality of 1,469
18 votes for Gregory E. Steuerwald; 3, the Commission
19 orders the recount director file this certificate
20 with the election division as required by law.

21 So certified and ordered this 7th day of
22 August, 2024.

23 Mr. Chairman, I will add for the record that,
24 again, this differs slightly from the certificate
25 in the previous recount in that, since all of the

1 precincts in the district were not subject to the
2 recount, the totals that I read included in the
3 certificate reflect the total number of votes cast
4 in House District 40 in this primary.

5 And defer to Mr. Kochevar.

6 MR. KOCHEVAR: I'm in complete agreement with
7 Mr. King on this point.

8 SECRETARY MORALES: Thank you both.

9 Is there a motion to adopt and sign the
10 certificate as prepared?

11 MR. CLAYTOR: So moved.

12 SECRETARY MORALES: Any further discussion?

13 Oh, I second it. Obviously, I feel we're
14 missing one person.

15 If not, all in favor say "Aye."

16 MR. CLAYTOR: Aye.

17 SECRETARY MORALES: Aye.

18 All opposed say "Nay."

19 The "ayes" have it, and the motion is adopted.

20 With the assistance of the Election Division,
21 we will now proceed to sign the certificate.

22 MR. CLAYTOR: Mr. Chairman, if it's not out of
23 order, could I move that we direct Mr. Sicuso to
24 order the State Police to return all impounded
25 election materials to the counties.

1 SECRETARY MORALES: We will get to that in
2 just a second.

3 MR. CLAYTOR: Okay.

4 SECRETARY MORALES: Before we move forward, I
5 would like to announce that the House District 40
6 recount is concluded.

7 Now we're going to move into expenses of the
8 recount. We will now move into the expenses. In
9 light of the results of both of the recount
10 proceedings, I would offer a motion for the
11 Commission to find that the refund of the cash
12 deposits submitted by petitioners on both of these
13 matters should be denied.

14 Is there a second?

15 MR. CLAYTOR: Second.

16 SECRETARY MORALES: Any discussion?

17 I would like actually to recognize Brad and
18 Matthew to confirm that the refund or partial
19 refund of either deposits is permitted.

20 MR. KING: Thank you, Mr. Chairman, members of
21 the Commission. The state recount law does provide
22 for the refund of deposits or partial deposits in a
23 number of specific cases. One is when the
24 petitioner is successful and the recount changes
25 the winner of the election, which has not occurred.

1 The second is when the petitioner is able to
2 significantly reduce the margin by at least
3 50 percent, and I believe, from my, at least,
4 mental calculations, that 50 percent threshold has
5 not been met. And therefore, under statute, this
6 would be a permissible order under 3-12-11.

7 I'll defer to Mr. Kochevar if you'd like to
8 cite the code sections.

9 MR. KOCHEVAR: Yes. I actually have the code
10 cites up. I will cite them to you. Mr. King is
11 referring to Indiana Code 3-12-11-10(e). I will
12 also add that I'm in complete agreement with him
13 both on the understanding of the law as well as my
14 shorthand math on the changes in the results at
15 least in House District 49.

16 So this motion would be in order and can be
17 approved by the Recount Commission.

18 SECRETARY MORALES: If no further discussions,
19 we're ready to vote. All in favor of approval of
20 this motion signify by saying "Aye."

21 MR. CLAYTOR: Aye.

22 SECRETARY MORALES: Aye.

23 And opposed "Nay."

24 The "ayes" have it, and the motion is
25 approved.

1 Under Indiana Code 3-12-10-12, a person who
2 claims reimbursement of expenses related to the
3 performance of the recount by the Commission must
4 submit a claim to the recount director no later
5 than noon 60 days after today, meaning by noon on
6 October 7th of 2024. This includes a claim
7 submitted by another state agency, a county, or
8 individual, such as deputy recount directors. A
9 claim submitted by recount director must be
10 submitted to the Secretary of State's office.

11 In light of the conclusion of the recount
12 proceedings, I'll accept a motion for the
13 Commission to rescind the previous impoundment
14 orders issued in these matters, which were
15 Order 2024-01, 2024-02, and 2024-07.

16 Is there a second?

17 MR. CLAYTOR: Moved or second, whichever you
18 need.

19 SECRETARY MORALES: Any discussion?

20 If no discussion, all in favor of approval of
21 the motion signify by saying "Aye."

22 MR. CLAYTOR: Aye.

23 SECRETARY MORALES: Aye.

24 And opposed "Nay."

25 The "ayes" have it, and the motion is

1 approved.

2 Now, on another matter, I understand that the
3 State Board of Accounts has identified some minor
4 improvements that can be made in the Recount
5 Commission guidelines that they wish to bring
6 forward at this time. These suggestions are
7 contained in Order 2024-10, which is found behind
8 the last tab of your binder.

9 Ms. Leatherman, would you be so kind to
10 describe the guidelines of improvement.

11 MS. LEATHERMAN: Thank you, Mr. Secretary.
12 During the course of the spring recounts, one of
13 the things that we did a little bit on the fly but
14 would like the Recount Commission to consider in a
15 more formal way is that we created a new form that
16 we're going to call Form 1B that helps the State
17 Board of Accounts create a vote center summary.
18 And so that was used during the House District 49
19 recount so we could otherwise confirm a vote center
20 tally. And so it's really tallying the information
21 in a different way in order to make sure that we
22 comply with the guidelines.

23 SECRETARY MORALES: Thank you, Kendra.

24 MR. KING: Mr. Chairman, members of the
25 Commission, Order 2024-10 includes a second

1 proposal that has been discussed with State Board
2 of Accounts as well, which I can refer to.

3 It has become common practice and found to be
4 very efficient for the conduct of recounts for
5 State Board of Accounts, upon authorization of the
6 recount director, to conduct a pre-recount
7 inspection with advance work being done by at least
8 two staff members of the State Board of Accounts,
9 under supervision of Indiana State Police, which
10 may be observed by candidates or their authorized
11 manager or both.

12 The language, when initially adopted, was
13 limited to a recount conducted in an election
14 district which contains parts of more than one
15 county. That has been found, as a result of past
16 experience, to not be a necessary limitation, that
17 it's good practice in every recount, and,
18 therefore, Order 2024-10 simply strikes that
19 restriction from Chapter 2, Section 5(c) of the
20 guidelines.

21 And I'll be happy to answer questions, and
22 perhaps State Board of Accounts may have comments
23 as well.

24 SECRETARY MORALES: Go ahead.

25 MS. LEATHERMAN: I would just say, from SBOA's

1 standpoint, it does allow us to be a lot more
2 efficient during the recount proceedings if we can
3 sort materials ahead of time, especially now where
4 counties, a lot of counties, have moved to vote
5 centers. And it allows us to sort materials by
6 precinct or mark them by vote center and not take
7 up time during the recount proceeding to do that.

8 And so I would just echo that that limitation
9 on districts that overlap one county is not
10 necessarily necessary. The sorting is really quite
11 essential regardless of kind of how large or the
12 geographical distance of the district.

13 MR. SICUSO: I fully agree. And just for
14 historical perspective, when this started, it was
15 in a recount that covered many counties, I think
16 over a dozen, and we needed to do this for
17 efficiency's sake, so that was the context from
18 which it was derived. But we've certainly learned
19 it would be useful in any recount and would like to
20 make the changes in that way.

21 One other just quick contextual notice to the
22 Commission, separate from what you're considering
23 today, I do expect and I think we've learned enough
24 from this recount that a more holistic look at the
25 guidelines is in order before November. I'd like

1 to just let you know my intent, as the director, is
2 to do that with State Board of Accounts in the next
3 few weeks and adopt some updates so that, if in the
4 hopeful event that this doesn't happen again in
5 November, but we're prepared to do that. So we
6 just wanted to report that to you on the record.

7 SECRETARY MORALES: Thank you both for that.

8 Is there a motion to approve Order 2024-10 as
9 presented?

10 MR. CLAYTOR: So moved.

11 SECRETARY MORALES: I second.

12 Is there any discussion?

13 If no further discussion, all in favor of
14 approval of the motion signify by saying "Aye."

15 MR. CLAYTOR: Aye.

16 SECRETARY MORALES: Aye.

17 And opposed "Nay."

18 The "ayes" have it, and the motion is
19 approved. And at this time we're going to sign the
20 Order 2024-10.

21 Do any Commission members have comments,
22 questions, or concluding remarks?

23 MR. CLAYTOR: I do.

24 SECRETARY MORALES: Go ahead, please.

25 MR. CLAYTOR: Thank you, Mr. Chairman. You

1 know, it seems like every recount we learn
2 something new. And I know I had not contemplated
3 some of the issues involved with recounts in vote
4 centers or printouts of machines that didn't have
5 precinct totals or similar issues. And at the
6 start of this particular recount, I was concerned
7 in terms of making sure counties had availability
8 of data, which is extremely important in the
9 vote-center-type issue.

10 So I've thought about that going back and
11 forth. You know, if someone is going to question
12 something the Commission does, I'd rather vote on
13 it and let them yell to my face rather than it
14 happen later. I would make a couple comments.

15 One is, I love working with Mr. Sicuso. When
16 I have been in the field with the recounts visiting
17 my old colleagues with the State Board of Accounts,
18 Phil has been extremely professional, knows what
19 he's doing, and he's learned as much as all the
20 rest of us have. I have contemplated whether we
21 should go back and rescind appointment. If it were
22 anyone but Phil, I think I would make that motion
23 that we do that. But I trust him. He'll do it.
24 He'll issue his orders in a contemplative manner
25 and, again, knows what he's doing.

1 So I'm still a little queasy with the way
2 things move very quickly. I know we have to react
3 quickly, but it needs to be reasoned. And I would
4 like to see Recount Commission meetings happen on a
5 quicker basis once a petition is filed. I don't
6 think the director has to wait for us, but I do
7 think we need to be informed as early as possible
8 so that we know what's going on. I hope to God we
9 don't have to get together in November. I don't
10 want that to happen. All candidates out there,
11 either lose big or win big, one or the other.
12 That's all I'm asking.

13 And I appreciate the opportunity to speak,
14 Mr. Chairman.

15 SECRETARY MORALES: Thank you, Commissioner
16 Claytor. Thank you for your leadership too.

17 And to all of you involved, thank you so much.
18 I would like to thank everyone for their
19 preparation, attention, and patience. Thank you
20 for that. Thanks to my fellow Recount
21 Commissioners, to our recount director, our deputy
22 director. Thanks to our fine Election Division
23 staff members, to our State Police, State Board of
24 Accounts, our county election administrators for
25 your dedication and the work you do every day. You

1 are fine examples of what it means to be a servant
2 leader.

3 At this time the Commission has concluded its
4 business for today's meeting. Is there a motion
5 that the Commission adjourn?

6 MR. CLAYTOR: So moved.

7 MR. SICUSO: Mr. Secretary, could I just
8 have --

9 SECRETARY MORALES: Sure.

10 MR. SICUSO: -- two seconds to give a personal
11 thanks to the State Board of Accounts and recognize
12 State Examiner Paul Joyce as well. But the State
13 Board of Accounts does all this. You know, I'm
14 there to bounce ideas off. These folks are
15 extraordinarily professional. I've been doing this
16 almost a decade now, and I just want to personally
17 thank them. Thank you.

18 SECRETARY MORALES: Thank you, Phil. You
19 know, from our office, the Secretary of State's
20 Office, I can tell you we've been very, very
21 blessed to work with Paul and his team and with all
22 of you. I understand, folks, that it takes a team
23 to get the job done, and we're a team. We are
24 honored to be working for our fellow Hoosiers here
25 in Indiana, so thank you all for that.

1 So is there a second to adjourn?

2 MR. CLAYTOR: Second.

3 SECRETARY MORALES: Any discussions?

4 MR. CLAYTOR: No.

5 SECRETARY MORALES: Those in favor say "Aye."

6 MR. CLAYTOR: Aye.

7 SECRETARY MORALES: Aye.

8 Opposed "Nay."

9 The "ayes" have it, and this meeting is
10 adjourned.

11 (The Indiana Recount Commission Public Meeting
12 was adjourned at 2:53 p.m.)

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1 STATE OF INDIANA
2 COUNTY OF HAMILTON

3 I, Maria W. Collier, a Notary Public in and
4 for said county and state, do hereby certify that the
5 foregoing public session was taken at the time and
6 place heretofore mentioned between 1:19 p.m. and
7 2:53 p.m.;

8 That said public meeting was taken down in
9 stenograph notes and afterwards reduced to typewriting
10 under my direction; and that the typewritten
11 transcript is a true record of the public meeting.

12 IN WITNESS WHEREOF, I have hereunto set my
13 hand and affixed my notarial seal this 23rd day of
14 August, 2024.

15
16 *Maria W. Collier*



17 Maria W. Collier
18 NOTARY PUBLIC SEAL
19 STATE OF INDIANA
20 Commission No. NP0693933
21 My Commission Expires Dec. 5, 2024

22 My Commission expires:
23 December 5, 2024

24 Job No. 193255
25

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