Indiana Election Commission
Minutes
December 5, 2019


Members Absent: S. Anthony Long, Vice Chairman of the Commission; Suzannah Wilson Overholt, member.

Staff Attending: J. Bradley King, Co-Director, Indiana Election Division of the Office of the Secretary of State (Election Division); Angela M. Nussmeyer, Co-Director of the Election Division; Matthew Kochevan, Co-General Counsel of the Election Division; Dale Simmons, Co-General Counsel of the Election Division; Abbey Taylor, Election Division campaign finance director; Michelle Thompson, Election Division campaign finance director.

Others Attending: Mr. Jordan Jarnargin; Mr. Mani Kilaru.

1. Call to Order:

The Chair called the December 5, 2019 meeting of the Commission to order at 1:30 p.m. EST in the Indiana Election Division offices at 302 West Washington Street, Indianapolis, Indiana.

2. Transaction of Commission Business:

The Commission proceeded to transact the business set forth in the Transcript of Proceedings for this meeting prepared by Sally Secander of Stewart Richardson Deposition Services, which is incorporated by reference into these minutes.

The Commission corrects the following scrivener’s errors in this document:

Page 2, replace lines 3 through 5 with the following:

“Mr. Paul Okeson, Chairman.
Mr. Michael Claytor, Proxy for Suzannah Wilson Overholt, Member
Mr. Zachary E. Klutz, Member”.

Page 2, line 15, replace “Kilary” with “Kilaru”.
Page 3, line 5, replace “Celestina” with “Celestino”.
Page 3, line 21, replace “Simmons” with “Simmons’s”.
Page 3, line 25, replace “CELESTINA” with “CELESTINO”.
Page 4, line 13, replace “CELESTINA” with “CELESTINO”.

The Commission adjourned its meeting at 1:51 p.m. EST.

Respectfully submitted,

J. Bradley King
Co-Director

Angela M. Nussmeyer
Co-Director

APPROVED:

Paul Okeson, Chairman
In the Matter Of:

INDIANA ELECTION COMMISSION PUBLIC SESSION AGENDA

Committee Meeting

December 05, 2019
INDIANA ELECTION COMMISSION
PUBLIC SESSION AGENDA

Conducted on: December 5, 2019

Conducted at: INDIANA GOVERNMENT CENTER SOUTH
302 West Washington Street
Room E-204
Indianapolis, IN 46204

TAKEN BEFORE SALLY CEKANDER, NOTARY PUBLIC
IN AND FOR THE COUNTY OF MARION
STATE OF INDIANA

STEWART RICHARDSON & ASSOCIATES
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APPEARANCES

INDIANA ELECTION COMMISSION:

Mr. Paul Okeson - Chairman
S. Anthony Long - Proxy for Karen Celestina-Horseman
Mr. Zachary E. Klutz - Commission Member
Suzannah Wilson Overholt, Proxy for Mike Clayton

INDIANA ELECTION DIVISION STAFF:

J. Bradley King - Co-Director of the Indiana Election
Division of the Office of the Secretary of State
(Election Division)
Angela M. Nussmeyer - Co-Director of the Election
Division
Dale Simmons - Co-Counsel of the Election Division
Matthew Kochever - Co-Counsel of the Election Division
Michelle Thompson - Election Division
Campaign Finance Director
Abbey Taylor - Election Division Campaign
Finance Director

ALSO PRESENT: Jordan Jarnagin, Election Systems
Certification Specialist
Mani Kilary
CHAIRMN OKESON: All right. I'm going to call this meeting of the Indiana Election Commission to order. The following members of the Commission are present: Chairman Karen Celestina-Horseman, proxy for Vice Chairman Anthony Long; Michael Claytor, proxy for Member Suzannah Wilson Overholt; Member Zachary Klutz; myself.

Indiana Election Division staff: Co-director Brad King and Co-director Angie Nussmeyer; Co-general counsels Matthew Kochevar and Dale Simmons. And court reporter is Sally Cekander from Stewart Richardson Reporting.

So before we continue the meeting, I want to remind everyone on behalf of the court reporter to identify yourself when beginning to speak. Spell your name. Say your name, spell your name, first and last, speak clearly, and do not speak while others are speaking at the same time.

Before we move on, could I take a personal point of privilege? I understand that this is Dale Simmons' last meeting with the Indiana Election Commission and the Division.

MS. NUSSMEYER: Allegedly.

CHAIRMN OKESON: Reported by others.

MS. CELESTINA-HORSEMAN: Nobody ever walks
away and lives. You know that.

CHAIRMAN OKESON: It's kind of like the Hotel California; right? You can check out but you can never check in.

How many years have you been?

MR. SIMMONS: Twenty.

CHAIRMAN OKESON: Twenty?

MR. SIMMONS: Yeah.

CHAIRMAN OKESON: Pretty amazing. Real quick, do you have any retirement plans?

MR. SIMMONS: No, not really. Retirement.

CHAIRMAN OKESON: It sounds well thought out.

MS. CELESTINA-HORSEMAN: You weren't summoned to Washington to help defend the impeachment going on?

MR. SIMMONS: No, no.

CHAIRMAN OKESON: He let that go to voicemail.

MS. CELESTINA-HORSEMAN: Smart man.

MR. KLUTZ: I find the timing very peculiar.

MR. SIMMONS: It makes sense, if you think about it.

MR. KLUTZ: We have a very uneventful election coming up in 2020, and we're going to really miss your guidance and legal advice. So best wishes.

CHAIRMAN OKESON: He's had enough of the
three-ring binders.

MS. CELESTINA-HORSEMAN: So is there a replacement?

MR. KING: No, not selected yet.

CHAIRMAN OKESON: We'll let him get out the door first.

Moving on -- and, Dale, thank you for your service to the people of Indiana. We appreciate it very much.

Moving on. Sorry. Documentation of Compliance with the Open Door Law. I request the Co-directors confirm the Commission meeting has properly noticed as required under the Open Door Law.

MR. KING: Mr. Chairman, Members of the Commission, on behalf of Co-director Nussmeyer and myself, I can certify that the notice of this meeting was given in compliance with the Open Door Law.

CHAIRMAN OKESON: Okay. Thank you. Moving on, approval of the October 29, 2019 minutes.

MR. KING: Mr. Chairman, on behalf of Co-director Nussmeyer and myself, we've provided copies of the October 29, 2019 regular session minutes and recommend them for your approval.
CHAIRMAN OKESON: Is there a motion to approve?

MR. CLAYTOR: So moved.

CHAIRMAN OKESON: Second?

MR. KLUTZ: Second.

CHAIRMAN OKESON: Is there any discussion about the minutes?

Hearing none, all those in favor of approval say "aye."

THE COMMISSION: Aye.

CHAIRMAN OKESON: Hearing no opposed, the ayes have it. Minutes are approved.

And are we doing Campaign Finance? So ratification of Campaign Finance settlements, I recognize the Campaign Finance staff to present Campaign Finance enforcement settlement agreements to the Commission for ratification.

MS. THOMPSON: Michelle Thompson. Underneath the Campaign Finance tab is a list of the entities that have agreed to pay the Settlement Agreement and waive a hearing.

CHAIRMAN OKESON: I don't have that tab, do I?

MR. CLAYTOR: Mr. Chairman, I move approval of the settlement agreements listed.

CHAIRMAN OKESON: Okay. Is there a second?
MR. KLUTZ: Second.

CHAIRMAN OKESON: Any discussion? Hearing none, all those in favor -- these are settlements, right, agreed to? All those in favor of the agreed to settlements signify by saying "aye."

THE COMMISSION: Aye.

CHAIRMAN OKESON: Those opposed?

(No response.)

CHAIRMAN OKESON: Hearing none, the "ayes" have it. The motion carries.

So we're on to adoption of Campaign Finance. I recognize the Co-director to present Campaign Finance enforcement orders prepared for the adoption of the Commission.

MR. KING: Mr. Chairman, we'll defer to Campaign Finance staff for those.

MS. THOMPSON: Mr. Chairman, Members of the Commission, Orders 2019-173 and 2019-209 have been prepared from the actions taken at the October 29th meeting. And these orders are ready for adoption. They're not in the binder.

CHAIRMAN OKESON: Just the two?

MS. THOMPSON: Just the two.

CHAIRMAN OKESON: Is there a motion to adopt the Orders 2019-173 and 2019-208 (sic)?
MR. KLUTZ: So moved.
MS. CELESTINA-HORSEMAN: Question.
MS. NUSSMEYER: 209.
MS. CELESTINA-HORSEMAN: What are they?
MS. THOMPSON: The two committees that you heard at the last meeting, the Miami County and the folder. Those two.
MS. CELESTINA-HORSEMAN: Okay.
CHAIRMAN OKESON: Yeah, I don't think she was here the last time.
MR. CLAYTOR: I was not here.
MS. THOMPSON: They were held here.
MS. CELESTINA-HORSEMAN: In this room?
MS. THOMPSON: Yeah.
MS. CELESTINA-HORSEMAN: Then, no, I wasn't here for that one.
CHAIRMAN OKESON: It was the young lady from the state party.
MS. THOMPSON: Suzannah.
CHAIRMAN OKESON: Okay. Is there a second?
MR. CLAYTOR: Second.
CHAIRMAN OKESON: Is there any discussion?
(No response.)
CHAIRMAN OKESON: Hearing none. All those in favor say "aye."
THE COMMISSION: Aye.

CHAIRMAN OKESON: Those opposed say "nay."
(No response.)

CHAIRMAN OKESON: The ayes have it. Motion approved.

Will you do the administration of oath for these?

MR. KING: Mr. Chairman, if I may?

CHAIRMAN OKESON: Yes, absolutely.

MR. KING: If we can have the Commission's authorization to put your signature stamps on these, we'll do so and not trouble you with that.

CHAIRMAN OKESON: Oh, did we not do that?

MS. CELESTINA-HORSEMAN: Do you need a motion for that?

CHAIRMAN OKESON: We do. Is there a motion to let them use the signatures?

MS. CELESTINA-HORSEMAN: I move that we let them use the signature stamp.

CHAIRMAN OKESON: Second?

MR. CLAYTOR: Second.

CHAIRMAN OKESON: Any discussion?
(No response.)

CHAIRMAN OKESON: All those if favor say "aye."
THE COMMISSION: Aye.
CHAIRMAN OKESON: All those opposed?
(No response.)
CHAIRMAN OKESON: Hearing none, so approved.
MR. KING: Okay.
CHAIRMAN OKESON: The administration of the oath. Everyone who will be testifying will take
the oath. I recognize Mr. Simmons to administer
what might be his last oath-giving.
MR. SIMMONS: Raise your right hand. Say "I
do" after the administration of the oath. Do you
solemnly swear or affirm under the penalties of
perjury the testimony you are about to give is the
truth, the whole truth, and nothing but the truth?
Say "I do."
(Consent by all.)
MR. SIMMONS: Thank you.
CHAIRMAN OKESON: Thank you, sir. Voting
System Technical Oversight Program report. The
Commission has received a report from VSTOP, the
Voting System Technical Oversight program, filed
November 25, 2019. Those recommendations regarding
proposed engineering Change Orders 121 and 122 with
a MicroVote EMS version 4.3 voting system. The
report is included in your binder behind the
appropriate tab, beginning with the summary recommendation of VSTOP.

I now recognize representatives of Ball State University which administers the VSTOP program for a presentation concerning its recommendation regarding these changes.


CHAIRMAN OKESON: Go ahead.

MR. JARNAGIN: MicroVote has formally requested two ECOs, 121 and 122, to the EMS V4.3, VVPAT enclosure that's certified in Indiana. The ECOs were submitted on November 15, 2019. 121 is to modify the VVPAT steel enclosure to remove two mounting tabs, increase the mounting hole size for electrical connector, move the bottom of the RJ45 security bracket for better clearance with the connector, remove excess metal around the upper hinge for more finger clearance, add optional custom O-ring adaptors for mounting a 1-inch core on top take-up spindle to improve mounting paper rolls.
And ECO 122 is to modify the case and the
power panel to allow the internal pigtail
connection -- or removing the internal pigtail
connection and connector. So essentially the power
cable is going to be permanently attached to the
mechanism. There were some issues with people
getting it all the way pressed in. It was kind of
a hard connection. So by just fixing it, then they
don't have to worry about poll workers having to
constantly try to, hey, is it plugged in all the
way?

But VSTOP has reviewed the ECOs, and it is our
recommendation that we approve them as they are --
or that you approve them as it's the minimist.
CHAIRMAN OKESON: Are there any questions from
the Commission or staff? I have just one.
MR. JARNAGIN: Yeah.
CHAIRMAN OKESON: When you say you guys
reviewed the ECOs, did you go back and then sort of
validate and verify and test the equipment
yourselves after they made these modifications?
MR. JARNAGIN: No. They have not made the
modifications yet.
CHAIRMAN OKESON: So these are a request to
proceed on them?
MR. JARNAGIN: Yes.

CHAIRMAN OKESON: I got you.

MR. JARNAGIN: So they did send some of the schematics that we were looking at, some pictures. I believe it's attachments 5 through 7. It kind of has some details. You can see the images of the connectors they were taking off. But now it's just going to be a cord that goes through with a grommet. So there's no more connection. But they do look the minimalist based on our talks with MicroVote, plus the images they provided, the engineering diagrams.

CHAIRMAN OKESON: And to your knowledge -- I mean, so after they implement those changes and we grant them the ability to proceed with the change order, then what happens?

MR. JARNAGIN: So they'll start their manufacturing process with the new standards. And then I believe they will go through and modify all of the existing cases that have already been produced.

CHAIRMAN OKESON: So is there any testing that's done after the change order has been executed to see that it works properly?

MR. KILARY: I show that the prototype has
been tested at the VSTOP lab.

CHAIRMAN OKESON: Okay.

MS. CELESTINA-HORSEMAN: Okay. So the
machines that get modified, those are ones that,
like, are currently being used in elections?

MR. JARNAGIN: They just used them for this
election cycle.

MR. KILARY: They did work in four counties
and they are about to deliver to those
(unintelligible).

MR. JARNAGIN: So, I believe, the 2000
equipment they're going to donate will be after
they're modified.

MS. CELESTINA-HORSEMAN: So do we get charged
for this? Does the State get charged?

MR. JARNAGIN: No, not for the modification.
That's just internal modifications they're going to
make in their manufacturing process, so whatever
costs associated with buying the 2000.

MR. KILARY: Two thousand units.

MR. JARNAGIN: Yeah. Those units will be just
modified.

MS. NUSSMEYER: Mr. Chairman, if I might? So
this is the voter verifiable paper audit trail
component that's attached to the unit; right? And
so they had a pilot session this last November
election, and they noticed that these two things
that Jordan raised about the connection and then
the other part of the puzzle. I'm sorry. I don't
recall it specifically.

MR. JARNAGIN: Just the case modification.

MS. NUSSMEYER: The case modification.
Something that when it was field tested in the real
world, they realized we could make these minor
modifications to the actual container of it. So
it's not going in and reprogramming a voting system
or making a colossal change. It is truly just
about remanufacturing the outer box to the VPPAT
component.

MR. JARNAGIN: It's just the metal box. I
don't know if you've seen one.

CHAIRMAN OKESON: Yeah, I have. I was more
concerned really with 122, just when removing a
power panel, doing some electronic wiring. I mean,
I presume there is some sort of testing process.

MR. KILARY: Yes. That was tested in VS's
labs in Colorado.

MS. CELESTINA-HORSEMAN: I have another
question. And I don't know whether it's my
ignorance. I'm sorry. After the election, do you
all go back or is it this group that goes back and
takes a look at all the snafus that occurred with
voting machines in the various counties so that we
know what's going on out there?

MR. KING: If I can respond, Mr. Chairman?

CHAIRMAN OKESON: Yes.

MR. KING: That depends upon the nature and
extent of the problem. There are many ordinary
ones that are predictable and recurrent. But if
there's a serious malfunction that affects, you
know, either large numbers of voters or large
numbers of counties, then part of VSTOP's contract
with the State is to conduct investigations and
issue reports on their findings.

MS. CELESTINA-HORSEMAN: So how large does it
have to be for them to look at it?

MR. KING: Well, I think that's a judgment
call with regard to the nature of the problem, the
extent of it. For example, it's common for a
voting system of this type to have problems with
what's called calibration where the candidate names
are not lined up correctly. And that's an easily
fixable problem at the county level without any
sort of special technical intervention. It does
cause, you know, confusion for voters and concern
for the counties.

When it rises to the level of, say, the Dearborn County episode where all of the batteries in all of the county's voting systems went dead on election day because they got a bad set of batteries from the manufacturer, VSTOP was called in to determine what the nature of that battery problem was.

MS. NUSSMEYER: And if I might add, some of this is also self-reported through certification that's filed with the State through the CEB9. If they have issues or malfunctions with their voting system or E poll book, they would report it there which would raise flags for us to determine whether or not more investigatory work might be needed. But also with electronic poll books, any sort of anomaly that comes through, the vendor has an obligation under state law to report it and report it to VSTOP so that we can deal with that issue in real time.

CHAIRMAN OKESON: And I was presumptuous earlier. I didn't ask if there was anyone from MicroVote here. There is not; correct?

(No response.)

CHAIRMAN OKESON: For the record, no one from
MicroVote was here. Any other questions or discussion?

(No response.)

CHAIRMAN OKESON: Hearing none, is there a motion to adopt VSTOP's recommendation for approval of the engineering Change Orders 121 and 122 as described in the report?

MR. CLAYTOR: So moved.

CHAIRMAN OKESON: Second?

MR. KLUTZ: Second.

CHAIRMAN OKESON: Any further discussion?

(No response.)

CHAIRMAN OKESON: Hearing none, all of those in favor say "aye."

THE COMMISSION: Aye.

CHAIRMAN OKESON: Those opposed?

(No response.)

CHAIRMAN OKESON: Hearing none, the motion carries. I believe that concludes our business. So motion to adjourn?

MS. CELESTINA-HORSEMAN: So moved.

CHAIRMAN OKESON: Second?

MR. KLUTZ: Second.

(The meeting concluded at 1:51 p.m.)
STATE OF INDIANA
COUNTY OF MARION

I, Sally Cekander, a Notary Public in and for said county and state, do hereby certify that the foregoing meeting was taken at the time and place heretofore mentioned between 1:35 p.m. and 1:57 p.m.;

That said meeting was taken down in stenograph notes and afterwards reduced to typewriting under my direction; and that the typewritten transcript is a true record of the testimony given;

I do further certify that I am a disinterested person in this cause of action; that I am not a relative of the attorneys for any of the parties.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 9th day of December, 2019.

Sally Cekander

My Commission expires:
July 16, 2022

Job No. 147932