Indiana Recount Commission
Minutes
August 25, 2022

Members Present: The Hon. Holli Sullivan, Secretary of State and Chairman of the Indiana Election Commission ("Commission"); Mr. Mark Wynn, Member; Mr. Michael Claytor, Member.

Members Absent: None.

Staff Attending: Philip Sicuso, Recount Director; J. Bradley King, Majority Counsel; Matthew Kochevar, Minority Counsel

Others Attending: State Board of Accounts; Ms. Kendra Leatherman, State Board of Accounts; Counsel Courtney Milbank; Detective Hope Mueller, Indiana State Police; Counsel Samantha DeWester.

1. Call to Order:

The Chair called the August 25, 2022 meeting of the Commission to order at 12:30 p.m. in the Commissioners' Court, One Hamilton County Square, Noblesville.

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 and Associates, which is incorporated by reference into these minutes.

The Commission adjourned its meeting at 12:50 p.m. EDT.

APPROVED:

Philip Sicuso, by BK

Philip Sicuso, Recount Director
Pursuant to Order 2018-1

In the Matter Of:

INDIANA RECOUNT COMMISSION PUBLIC SESSION

Transcript of Proceedings

August 25, 2022

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INDIANA RECOUNT COMMISSION

PUBLIC SESSION

Conducted on: August 25, 2022

Conducted at: Hamilton County Judicial Center
One Hamilton County Square
Noblesville, Indiana

A Stenographic Record by:

Maria W. Collier, RPR, CRR

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1 APPEARANCES

2

3 INDIANA RECOUNT COMMISSION:

4 Holli Sullivan, Secretary of State - Chairman

5 Mark Wynn - Commissioner

6 Michael Claytor - Commissioner

7

8 INDIANA ELECTION DIVISION STAFF:

9 J. Bradley King - Majority Counsel

10 Matthew Kochevar - Minority Counsel

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1 SECRETARY SULLIVAN: Okay. Seeing quorum,
2 this meeting of the Indiana State Recount
3 Commission is called to order since all three
4 members of the Commission are present. And my name
5 is Holli Sullivan. I'm your Secretary of State,
6 and I serve as the chair and a member of the
7 Commission. I'm joined with Commissioner Michael
8 Claytor and Commissioner Mark Wynn.
9 As you know, the Indiana Election Division of
10 the Secretary of State's office provides our
11 administrative support for our recount process. So
12 we have with us counsel of the Commission, Brad
13 King as well as Matthew Kochevar. And thank you
14 for joining us.
15 Our court reporter today is Maria Collier from
16 Stewart Richardson Reporting. Welcome and thank
17 you. So before we begin, I wanted to just remind
18 everybody, on behalf of the court reporter, to
19 please identify yourself when you begin to speak,
20 spell your name when identifying yourself, speak
21 clearly, and do not speak at the same time as
22 others are speaking, please.
23 So in compliance with our Open Door Law and
24 filing petition, Brad King, could you please
25 provide the Commission with a report concerning the

compliance.

MR. KING: Madam Chairman, members of the Commission, on behalf of myself and Mr. Kochevar, I want to certify that notice of this meeting was given in compliance with Indiana's Open Door Law.

SECRETARY SULLIVAN: Thank you.

Matthew Kochevar, do you have any additional comments?

MR. KOCHEVAR: I do not at this time.

SECRETARY SULLIVAN: Okay. Thank you.

Now we'll go on to introduction of our recount director and deputy. I would like to recognize our director, Phil Sicuso. And I don't think we have deputy directors in attendance, but Ali Bartlett and Andrew Norris are deputy recount directors.

Phil, would you please provide the Commission with a report regarding the actions taken during the petition for recount and contest filed for the 2022 Republican primary nomination of House District 32.

MR. SICUSO: Thank you, Madam Chair. Blue light's on here, so I would assume everything is okay. Right?

SECRETARY SULLIVAN: Yeah. I think it runs a little more smooth than the rooms we're used to in

1 the Statehouse.
2 MR. SICUSO: Yeah. Got it. My report can be
3 very short and sweet. The parties were very
4 cooperative. State Board of Accounts was
5 outstanding. The local officials in Hamilton
6 County and Marion County were also very, very
7 cooperative. We had a few scheduling issues that
8 we worked through, but everybody showed up, did
9 their job. Things were very efficient, and the
10 State Board of Accounts came out with a result that
11 all parties felt very satisfied with.
12 I think that we learned a few things along the
13 way that post, after this meeting is complete,
14 everybody can sit down and think about whether any
15 changes need to be made to the guidelines. I don't
16 think there would be many, but I think every time
17 one of these processes goes on some lessons can be
18 learned. But everything was addressed very well.
19 I think the outcome was satisfactory, as evidenced
20 by the joint motion to dismiss.
21 So without anything further, unless there are
22 any questions, I'll let us proceed with that.
23 SECRETARY SULLIVAN: Thank you. And I
24 personally want to thank you for your service to
25 the Commission and see if anybody has any follow-up

1 comments for Mr. Sicuso.
2 No? Okay. Thank you very much for your
3 report.
4 MR. SICUSO: Thank you.
5 SECRETARY SULLIVAN: State Board of Accounts
6 is next. I know we have a representative from Paul
7 Joyce's office, Kendra Leatherman. Could you
8 please provide the Commission with a report
9 regarding the actions taken by the State Board of
10 Accounts regarding this matter since May 25th's
11 meeting.
12 MS. LEATHERMAN: My name is Kendra Leatherman,
13 and I'm the general counsel for the State Board of
14 Accounts, K-e-n-d-r-a, L-e-a-t-h-e-r-m-a-n.
15 We, as requested by the Recount Commission,
16 performed a manual recount of the votes in Marion
17 and Hamilton Counties for the respective precincts
18 for House District 32. I'll just go through maybe
19 some of the unique issues about each county, and
20 then if anybody has any questions for me, please
21 let me know.
22 In Marion County, they're still using optical
23 scan ballots there, so we verified the votes
24 according with those ballots and early votes and
25 absentee ballots, compared our tally to the

1 corresponding certified number provided by the
2 County, and we came up with no discrepancies
3 between our count and the certified number from the
4 County.
5 In Hamilton County, we confirmed and verified
6 electronic ballots cast and the absentee ballots,
7 including early ballots that are considered
8 absentee ballots. Our own count results matched
9 with the certified number from the election
10 officials in Hamilton County. However, had there
11 not been a motion to dismiss in this particular
12 issue, there were some disputed ballots in the
13 proceedings, and you'll see that reflected in our
14 report that we provided.
15 I will say I think it went really well. A few
16 things just of note. This is the first time we've
17 done a recount in quite some time, and so as voting
18 systems change and procedures at the local level
19 and, you know, just kind of different processes
20 that are there, it changes how we have to verify
21 that information. And so, you know, it just is one
22 of those things you kind of have to make changes as
23 you see what information is there.
24 So for the most part that's all I really have
25 to say. If anyone has any questions on what we did

1 or anything else, I'm happy to answer those.
2 SECRETARY SULLIVAN: Thank you. Thank you,
3 Kendra.
4 MS. LEATHERMAN: Thanks.
5 SECRETARY SULLIVAN: I would want to thank you
6 and your entire team. I know, and I think you said
7 it well too, that it's been quite some time since
8 we've had a recount, and I think that's an accolade
9 that we should not take for granted for our
10 election administrators and how well they run our
11 elections here in the state of Indiana. But it
12 also presents an issue where you get to train and
13 educate new members of your staff on the recount
14 process. So I applaud that process that happened
15 and thank you for your partnership in doing that.
16 MS. LEATHERMAN: Thank you. And I would -- as
17 Secretary Sullivan mentioned, I would just like to
18 rethank again, for the record, the election
19 officials in both Hamilton and Marion Counties.
20 They were very easy to work with, always very
21 helpful for us, and they're very knowledgeable in
22 what they're doing. And so that makes our job so
23 much easier, so just want to thank them again.
24 SECRETARY SULLIVAN: Thank you. I wish that
25 would be the headline in the Indy Star, but we'll

1 try to get that on there.
2 MR. CLAYTOR: If I could ask a question. Just
3 one procedural thing was a little different in this
4 and only applied to Marion County. Since we are in
5 vote centers, not individual precincts, you had to
6 do some presorting before you could actually do
7 recount.
8 MS. LEATHERMAN: Correct.
9 MR. CLAYTOR: Not in this recount, because I
10 think our longer time here was scheduling issues,
11 but if we were to go to, let's say, a recount in
12 November -- and I hope to God we don't -- would
13 there be, like, major issues with vote center
14 counties? Did you find that to be too much a drag
15 on time or did it just flow through?
16 MS. LEATHERMAN: I don't necessarily know that
17 the issue -- let me rephrase. I think we would
18 want to sort materials in any county that was a
19 part of the recount contest regardless of whether
20 it was a vote center county or a more traditional
21 precinct county. The reason we chose not to sort
22 anything in Hamilton County was because of the
23 number of absentee ballots that were in the number
24 of precincts. So there was not a lot of stuff to
25 go through. We did have to sort materials in

1 Hamilton County; we were just able to do it on the
2 day that we had all of our auditors here to do the
3 count. Okay?
4 So I think as far as sorting materials, it's
5 not necessarily a determination between vote center
6 and precincts. It's more of a determination of the
7 volume of voting material that is available. And
8 also, at Marion County, they have a rule -- I guess
9 a statute that says they don't have to presort
10 things post the election. And so, you know,
11 because there were so many votes and because they
12 don't have to presort materials, that's the reason
13 why the sorting happened.
14 However, to your question, I do think in any
15 county, even if they had presorted materials, if
16 there was a vote center issue, it would be to our
17 benefit to sort ahead of time. We have talked
18 about that with the state examiner. Like if we
19 have -- heaven forbid, if we have a statewide
20 recount in November, our plan would be, in
21 accordance with the Commission guidelines, to kind
22 of have a sorting team go to a county, do their
23 procedures, and then the counting team would follow
24 up behind them.
25 You know, if it is much larger than that,

1 then, of course, you know, that does kind of
2 determine what our resources are at that time, but
3 we have discussed that, you know, and
4 theoretically, in a November election the turnover
5 would be much quicker too. So our plan would be to
6 send the sorting team, follow up with the counting
7 team, and then circle around wherever we would need
8 to be.
9 MR. CLAYTOR: Thank you.
10 SECRETARY SULLIVAN: Do you have comments?
11 MR. WYNN: No.
12 SECRETARY SULLIVAN: Thank you. Thank you,
13 Kendra.
14 Next we're going to recognize the Indiana
15 State Police partnership. I think we have
16 representative Sergeant Graves and Detective
17 Hope -- I think Mullins. I can't even read my own
18 writing. I just wrote it down. I apologize. If
19 you would please provide the Commission with a
20 report regarding the actions taken by the Indiana
21 State Police regarding this matter since our
22 May 25th meeting. Thank you.
23 MS. MUELLER: It's Detective Hope Mueller.
24 SECRETARY SULLIVAN: Thank you. Sorry.
25 MS. MUELLER: Last name M-u-e-l-l-e-r.

1 Indiana State Police received an order
2 indicating the election recount was going to be
3 conducted, so Indiana State Police went to the
4 Marion County election location as well as the
5 Hamilton County election location. Indiana State
6 Police followed the orders indicated on the recount
7 order from the courts. State Police secured the
8 facility in Marion County by hiring a locksmith to
9 place locks on all the exterior doors and those
10 that house the election equipment and the results.
11 We also placed evidence tape on top of all the
12 locks to maintain integrity of the scene and of the
13 locks. We provided daily and then weekly checks at
14 the facilities.
15 We also abided by the court orders when we
16 needed to allow interested parties to enter the
17 restricted areas. We maintained security during
18 that time. State Police were the only keepers of
19 the keys to the locks, and during this time,
20 Indiana State Police never discovered any
21 improprieties to the locks or to any of the
22 buildings.
23 SECRETARY SULLIVAN: Thank you. Thank you
24 very much. I appreciate the report.
25 Any questions or comments?

1 MR. WYNN: No questions.
2 SECRETARY SULLIVAN: Okay. Thank you. I
3 appreciate your time in being here today as well.
4 Members of the Commission, you will see in
5 your binders that they include a motion filed on
6 August 23rd by the petitioner and the respondents
7 to dismiss the recount and contest proceedings
8 pending before the Commission today. So before we
9 go to approve or discuss that motion, I would
10 recognize Counsel Samantha DeWester and Courtney
11 Milbank if either have any comments or remarks.
12 No? Okay. Thank you for being here.
13 So to the Commission, is there a motion to
14 approve the motion to dismiss the recount and
15 contest in this matter?
16 MR. WYNN: I would so move.
17 MR. CLAYTOR: Second.
18 SECRETARY SULLIVAN: Is there discussion on
19 this motion from the Commission?
20 If no further discussion or comments, all in
21 favor of granting the withdrawal of the motion
22 signify by saying "Aye."
23 MR. CLAYTOR: Aye.
24 MR. WYNN: Aye.
25 SECRETARY SULLIVAN: And opposed "Nay."

1 So the "ayes" obviously have it, and the
2 motion is approved. The recount and contest
3 proceedings are officially dismissed.
4 Next we will discuss expenses of the recount.
5 In light of the dismissal of the recount and
6 contest proceedings, is there a motion for the
7 Commission to find that a refund of the cash
8 deposit submitted by petitioner in this matter
9 should not be granted?
10 MR. CLAYTOR: So moved.
11 MR. WYNN: Second.
12 SECRETARY SULLIVAN: Thank you. Is there any
13 discussion? Questions, comments?
14 No further discussion seen, all in favor of
15 approval of the motion signify by saying "Aye."
16 MR. CLAYTOR: Aye.
17 MR. WYNN: Aye.
18 SECRETARY SULLIVAN: Opposed "Nay."
19 The "ayes" have it. The motion is officially
20 approved.
21 Code cite 3-12-10-12, a person who claims
22 reimbursement of expenses related to the
23 performance of a recount by the Commission must
24 submit a claim to the recount director no later
25 than noon 60 days after today. That is noon,

1 October 24, 2022. This would include any claim
2 submitted by another state agency, a county, or
3 individual, such as the deputy recount directors.
4 So a claim submitted by the recount director must
5 be submitted to myself as Secretary of State for
6 official approval.
7 Any comments about expenses, questions?
8 Okay. In light of the dismissal of the
9 recount and contest proceedings, is there a motion
10 for the Commission to adopt Order 2022-9?
11 MR. WYNN: I would so move.
12 MR. CLAYTOR: Second.
13 SECRETARY SULLIVAN: Thank you. This rescinds
14 all previous impound orders issued in this matter.
15 And we seconded that. So for purposes of
16 discussion, I will note that the order also
17 rescinds Order 2016-18, which considered
18 reimbursement of expenses incurred by the recount
19 director and deputy directors, which was state law
20 adopted in 2019 superseding the 2016 order by
21 establishing the expense approval procedure that we
22 have discussed.
23 So any further questions about those motions
24 or the expense procedure?
25 MR. WYNN: No.

1 SECRETARY SULLIVAN: Seeing none, all in favor
2 of approval of the motion please signify by saying
3 "Aye."
4 MR. CLAYTOR: Aye.
5 MR. WYNN: Aye.
6 SECRETARY SULLIVAN: Thank you. Opposed
7 "Nay."
8 "Ayes" have it and the motion is approved.
9 I want to thank everybody that gathered that
10 helped with the recount and for the counties that
11 so effectively went through the entire elections
12 process and the recount. The Commission has
13 concluded its business for today's meeting. Is
14 there a motion for the Commission to now adjourn?
15 MR. CLAYTOR: So moved.
16 SECRETARY SULLIVAN: Thank you. Second?
17 MR. WYNN: Second.
18 SECRETARY SULLIVAN: Thank you. All those in
19 favor say "Aye."
20 MR. CLAYTOR: Aye.
21 MR. WYNN: Aye.
22 SECRETARY SULLIVAN: "Ayes" have it and we are
23 adjourned. Thank you. Thanks for your service.
24 (The Indiana Recount Commission Public Meeting
25 was adjourned at 12:50 p.m.)

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 12:30 p.m. and
7 12:50 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 12th day of
14 September, 2022.
15
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21 My Commission expires:
December 5, 2024
22
23 Job No. 175094
24
25

Maria W. Collier
NOTARY PUBLIC SEAL
STATE OF INDIANA
Commission No. NP0693933
My Commission Expires Dec. 5, 2024

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