

Indiana Election Commission
Minutes
January 31, 2019

Members Present: Bryce H. Bennett, Jr., Chairman of the Indiana Election Commission (“Commission”); S. Anthony Long, Vice Chairman of the Commission; Michael Claytor, proxy for Suzannah Wilson Overholt, member; Zachary E. Klutz, member.

Members Absent: Suzannah Wilson Overholt.

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; Dale Simmons, Co-General Counsel of the Election Division; Abbey Taylor, Election Division campaign finance staff; Michelle Thompson, Election Division campaign finance staff.

Others Attending: The Honorable Christopher Anderson, Elkhart County Circuit Court Clerk; Ms. Susan Kennedy; The Honorable Patricia Perry, Warrick County Clerk.

1. Call to Order:

The Chair called the January 31, 2019 meeting of the Commission to order at 9:00 a.m. EST in Conference Center Room 22, Indiana Government Center South, 402 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 Angela Williams of Associated Reporting, Inc., which is incorporated by reference into these minutes.

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

Page 3, line 3, replace “Committee” with “Commission”.

Page 3, line 10, replace “Wilson-Overhold” with “Wilson Overholt”.

Page 4, line 14, replace “review” with “approval”.

Page 5, line 13, replace “the Orders 2015-16, 2018-174” with “Orders 2018-27 through 2018-164.”

Page 5, line 18, replace “MR. KING” with “MR. KLUTZ”.

Page 6, line 12, replace “of the last twenty orders” with “in the last motion”.

Page 7, line 6, replace “per” with “to approve”.

Page 9, line 3, replace “agenda” with “list”.

Page 9, line 7, replace “agenda” with “list”.

Page 10, line 6, replace “has” with “have”.

Page 10, line 12, replace “note” with “notice”.


Page 10, line 24, replace “Data and” with “Data in”.

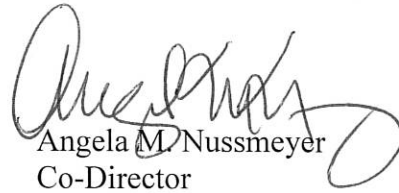
Page 11, line 4, replace “chairman” with “Chairman”

Page 12, line 22, replace “MR. KING” with “MR. KLUTZ”.

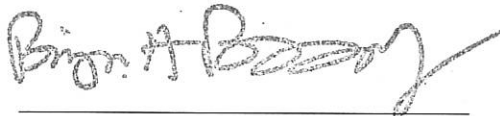
Page 14, line 3, replace "Data and" with "Data in".
Page 15, line 4, replace "orders" with "Order".
Page 15, line 11, replace "Data and" with "Data in".
Page 19, line 23, replace "suspended" with "submitted".
Page 20, line 2, replace "Data and" with "Data in".
Page 20, line 16, replace "unconsolidated" with "unconsolidate".
Page 21, line 13, delete "a".
Page 23, line 13, replace "fact" with "practice".
Page 25, line 21, replace "that Mr. King" with "on the grounds that Mr. Weingarten".
Page 26, line 8, replace "3.934" with "3-9-3-4".
Page 32, line 16, replace "statutory" with "statute".

Respectfully submitted,


J. Bradley King
Co-Director


Angela M. Nussmeyer
Co-Director

APPROVED:



Bryce H. Bennett, Jr., Chairman

STATE OF INDIANA
BEFORE THE INDIANA ELECTION COMMISSION

TRANSCRIPT OF PROCEEDINGS

JANUARY 31, 2019

9:00 a.m.

Indiana Government Center South
402 West Washington Street
Conference Center Room 22
Indianapolis, Indiana 46204

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A P P E A R A N C E S

INDIANA ELECTION COMMISSION:

Bryce Bennett, Chairman

Anthony Long, Vice-Chairman

Michael Claytor, Member (Proxy)

Zachary Klutz, Member

INDIANA ELECTION DIVISION:

J. Bradley King
Co-Director

Angela M. Nussmeyer
Co-Director

Dale Simmons
Co-General Counsel

Michelle Thompson, Campaign Finance

Abbey Taylor, Campaign Finance

1 CHAIRMAN BENNETT: I'm going to call the
2 Indiana Election Commission Public session to
3 order. We are all here on the Election Committee,
4 January 31, 2019. It's a couple of minutes after
5 9:00, and at this time the meeting is hereby called
6 to order.

7 The following members of the Commission are
8 present. Myself, Bryce Bennett; our Vice-Chairman,
9 Anthony Long; Michael Claytor a proxy for
10 Suzannah Wilson-Overhold; and Member Zachary Klutz.

11 And Indiana Election Division Staff, and
12 Co-Director Brad King and Co-Director
13 Angie Nussmeyer, Co-General Counsel Dale Simmons,
14 and Counsel Matthew Kochevar is absent due to a
15 previously scheduled vacation.

16 The court reporter today is Angela Williams
17 from Associated Reporting. Before we begin, I want
18 to remind everyone on behalf of the court reporter
19 to identify yourself when you are beginning to
20 speak, spell your name when identifying yourself,
21 and speak clearly, and do not speak at the same
22 time as others.

23 At this time I would request that the
24 Co-Directors confirm that this Commission meeting
25 has been properly noticed as required under the

1 Open Door Law.

2 MR. KING: Mr. Chairman, Members of the
3 Commission, notice of this meeting was posted in
4 accordance with the Indiana Open Door Law.

5 CHAIRMAN BENNETT: Thank you. At this time I
6 would ask for a presentation by Mr. King and
7 Ms. Nussmeyer of the August 24th and
8 September 12, 2018, Commission minutes.

9 MR. KING: Mr. Chairman and Members of the
10 Commission, we have before you the minutes of the
11 August 24, 2018 and September 12, 2018, Commission
12 minutes. These minutes have been reviewed by
13 Co-Director Nussmeyer and myself and are
14 recommended to you for review.

15 CHAIRMAN BENNETT: Thank you. Is there a
16 motion to approve the August 24, 2018, minutes and
17 the September 12, 2018, minutes, as presented?

18 MR. KLUTZ: Yes.

19 CHAIRMAN BENNETT: Is there a second?

20 MR. LONG: Second.

21 CHAIRMAN BENNETT: Motion and a second. Is
22 there a discussion? Hearing none, all in favor,
23 say aye.

24 (Chorus of ayes.)

25 CHAIRMAN BENNETT: All opposed say nay. The

1 ayes have it. The motion to approve the minutes is
2 adopted.

3 Next item on our agenda is the approval of
4 orders 2018-27 through 2018-164 from the previous
5 meetings. And again, I would ask the presentation
6 from Mr. King here and Ms. Nussmeyer.

7 MR. KING: Mr. Chairman, the orders that you
8 referenced are campaign finance enforcement orders
9 that reflect the actions of the Commission taken at
10 the previous meetings for which the minutes have
11 just been approved.

12 CHAIRMAN BENNETT: Is there a motion to adopt
13 the Orders 2015-16, 2018-174 as presented and
14 authorize Election Division staff to use the
15 signature stamps of members for those orders?

16 MR. LONG: So moved.

17 CHAIRMAN BENNETT: Is there a second?

18 MR. KING: Second.

19 CHAIRMAN BENNETT: Is there any discussion?

20 Hearing none, all in favor, say aye.

21 (Chorus of ayes.)

22 CHAIRMAN BENNETT: All opposed say nay. The
23 ayes have it, and the motion it approved.

24 Next item on the agenda is the ratification of
25 settlement agreements, and I would ask for a

1 presentation by Mr. King and Ms. Nussmeyer.

2 MR. KING: Mr. Chairman and Members of the
3 Commission, I will, with your consent, yield to
4 Ms. Taylor and Ms. Thompson that in your binders
5 there is an orange tab labeled "Campaign Finance,"
6 and the first document behind that are the
7 settlement agreements that are referenced. And I
8 will turn this over to Ms. Taylor and Ms. Thompson
9 and ask them to confirm that the order numbers were
10 correct in the Commission's last motion.

11 MS. THOMPSON: Yes, Mr. Chairman. The order
12 numbers were correct of the last twenty orders.
13 This is the list of committees to ratify that have
14 agreed to pay the settlement agreement and waive a
15 hearing.

16 CHAIRMAN BENNETT: Is there a motion to ratify
17 these settlement agreements?

18 MR. CLAYTOR: Mr. Chairman, before we proceed
19 with that, there is one item on the settlement
20 agreement list down there at the bottom, Joselyn
21 for Indiana, that relates to a campaign that I was
22 involved with. I don't believe that I have to
23 recuse myself on that issue, so I just wanted to
24 have full disclosure.

25 CHAIRMAN BENNETT: Thank you, Mr. Claytor, for

1 your disclosure. I don't hear any motions to
2 recuse you so I think it's up to you. You can
3 abstain from the vote on that or you can vote for
4 the rest of the agreements. I'll leave that up to
5 you.

6 MR. LONG: I make a motion per the settlement
7 agreements and the addendum -- I think since they
8 are agreements, I don't see a conflict.
9 Everybody's agreed before we got here. It's just a
10 rubber-stamp issue. I don't see that -- to recuse
11 the issue.

12 CHAIRMAN BENNETT: Okay. Is there a motion
13 then to ratify these agreements?

14 MR. LONG: That was my motion.

15 CHAIRMAN BENNETT: Okay. Is there a second?

16 MR. KLUTZ: Second.

17 CHAIRMAN BENNETT: Any discussions? All in
18 favor, say aye.

19 (Chorus of ayes.)

20 CHAIRMAN BENNETT: All opposed, say nay. The
21 ayes have it and the motion is approved.

22 At this time we ask for the administration of
23 oath to individuals who are testifying for the
24 Commission and ask everyone present who plans to
25 testify at today's meeting to please stand for the

1 administration of the oath. And I recognize
2 Mr. Simmons to administer the oath.

3 (Oath administered.)

4 MR. LONG: Mr. Chairman, can I ask a question?
5 Do we have an agenda or are we just sitting here
6 taking them as they come and surprise, surprise?

7 CHAIRMAN BENNETT: Well, we have the -- okay,
8 so you don't?

9 MR. LONG: I don't have an agenda. Michael
10 doesn't have an agenda. Angie doesn't have an
11 agenda.

12 CHAIRMAN BENNETT: Right. We had to schedule
13 this meeting fairly quickly, and yesterday was a --
14 I guess we'll call it a snow day, cold day; the
15 offices were closed, and we didn't have time to
16 prepare an agenda.

17 MR. LONG: So how do we know what we are
18 doing?

19 CHAIRMAN BENNETT: Well, right now we are
20 getting ready to consider the precinct orders and
21 the precinct proposal report for Elkhart, Howard,
22 and Warrick County.

23 MR. LONG: You're obviously reading from some
24 kind of a list. Would it be inappropriate for the
25 rest of us get a copy of that so we at least know

1 what's coming up?

2 CHAIRMAN BENNETT: Yes. Let me go through and
3 tell you. The next item on the agenda --

4 MR. LONG: Take your time. We're going to
5 have to write it out. Precinct.

6 CHAIRMAN BENNETT: Yeah, these are my notes.
7 The next item on the agenda is the consideration of
8 precinct orders and precinct proposal report for
9 Elkhart, Howard, and Warrick County.

10 MR. LONG: Okay.

11 CHAIRMAN BENNETT: After that is a campaign
12 finance complaint report. One filed by
13 Dan Leonard -- one regarding Dan Leonard, and the
14 other regarding Brian Bosma, and we're adjourned.

15 MR. LONG: Okay. Wow.

16 CHAIRMAN BENNETT: So any other questions,
17 thoughts, comments?

18 MR. LONG: No.

19 CHAIRMAN BENNETT: Are we prepared, then, to
20 proceed?

21 MR. LONG: Sure. I wasn't making an issue; I
22 just kind of like to know what we're doing. I have
23 a hard enough time on my own figuring with out what
24 I'm doing.

25 CHAIRMAN BENNETT: Understood.

1 So we have the oath administered and we're
2 prepared to consider the precinct orders and
3 precinct proposal report, and I would ask for
4 Mr. King and Ms. Nussmeyer's discussion of that.

5 MR. KING: Mr. Chairman, I can begin and I
6 will defer to Ms. Nussmeyer. Our staffs has worked
7 on various county proposed precinct orders, several
8 of which completed the process, but as the
9 Commission may recall from a couple of years ago,
10 one county sent its legal notice to the newspaper,
11 the newspaper sent the county a bill, but never
12 published the notes. And in those circumstances
13 to meet the statutory deadline of January 31st, the
14 county asked for and received a hearing from the
15 Commission to approve their precinct changes.

16 So I would address these first. The first one
17 behind the white tab labeled "Precincts" in your
18 binder is an order for the establishment of the
19 precinct boundaries in Elkhart County. The memo
20 that Co-Director Nussmeyer and myself follows in
21 which we note that as we as co-directors have
22 reviewed the proposed precinct changes and find
23 that they address any technical comments from the
24 Office of Census Data and Legislative Services and,
25 otherwise, comply with state law. And I believe a

1 representative from Elkhart County is present.

2 CHAIRMAN BENNETT: Very good. Thank you.

3 Ms. Nussmeyer, anything to add to that?

4 MS. NUSSMEYER: No, Mr. chairman.

5 CHAIRMAN BENNETT: Is there anyone from
6 Elkhart County that wishes to testify?

7 MR. ANDERSON: Yes. I've also got information
8 I can pass out.

9 CHAIRMAN BENNETT: Yes, please. Start by
10 stating your name for the record.

11 MR. ANDERSON: Yes. My name is
12 Christopher Anderson, A-N-D-E-R-S-O-N,
13 C-H-R-I-S-T-O-P-H-E-R. I am a circuit court clerk
14 in Elkhart County.

15 CHAIRMAN BENNETT: Very well. You may
16 proceed.

17 MR. ANDERSON: We had a late annexation with
18 the City of Goshen that annexed, I think, in terms
19 of acreage, I think it was about ten acres; it
20 ended up being 21 subdivision lots. It was the
21 tail end of the last phase of the subdivision.
22 There are 16 registered voters in that -- those two
23 cul-de-sacs that are the tail end, and we would
24 like to move what used to be farmland, it's now
25 developed, we would like to move that from Elkhart

1 Precinct 9 to Elkhart Precinct 5, to keep all of
2 the residents of the subdivision in the same
3 precinct.

4 CHAIRMAN BENNETT: Anything else?

5 MR. ANDERSON: That's about all I have. Just
6 trying to keep it so the residents of the City of
7 Goshen and the tail end of that subdivision, two
8 cul-de-sacs, are in the same precinct as their
9 next-door neighbors.

10 MR. LONG: That's awful nice of you.

11 MR. ANDERSON: We try to be nice.

12 MR. LONG: I've heard that.

13 CHAIRMAN BENNETT: Any comments? Questions?

14 MR. LONG: If we're ready, I move to approve.

15 CHAIRMAN BENNETT: I guess that's his motion
16 to approve Elkhart County Order 2012-10.

17 MR. LONG: 2019-11 is what I've got.

18 CHAIRMAN BENNETT: Oh, this one. Yeah. So
19 your motion is with respect to Order 2019-11?

20 MR. LONG: That's what I've decided to.

21 CHAIRMAN BENNETT: Is there a second?

22 MR. KING: Second.

23 CHAIRMAN BENNETT: Motion of a second. Is
24 there any discussion? Hearing none. All in favor,
25 say aye.

1 (Chorus of ayes.)

2 CHAIRMAN BENNETT: All opposed, say nay. The
3 ayes have it. The motion is approved,
4 Mr. Anderson.

5 MR. ANDERSON: Thank you, Mr. Chairman and
6 members of the Committee.

7 MR. LONG: If you put it in there, I give you
8 permission to stamp my name on it.

9 MS. NUSSMEYER: Thank you.

10 CHAIRMAN BENNETT: With that, we move to the
11 Howard County Order 2012-11 and ask for Mr. King's
12 presentation.

13 MR. KING: Mr. Chairman, Members of the
14 Commission, if you turn about four pages back
15 behind the Elkhart County material, you'll come
16 across Order 2019-10, which concerns precinct
17 boundary changes in Howard County, and I believe a
18 representative of Howard County is present.

19 MS. KENNEDY: Susan Kennedy, K-E-N-N-E-D-Y,
20 S-U-S-A-N. I think the only bit of data that we
21 did not meet the timeline on was the publication in
22 our local newspaper. It was published by the
23 auditor for a copy along with the receipt in
24 regards to the precinct boundary change.

25 MR. KING: Mr. Chairman, I would add as

1 Elkhart County, the Co-Directors reviewed this
2 submission after the technical review of the Office
3 of Census Data and Legislative Services Agency and
4 our only determination is those precincts comply
5 with state law.

6 MR. LONG: I move to --

7 CHAIRMAN BENNETT: And Ms. Nussmeyer, do you
8 have anything?

9 MS. NUSSMEYER: I don't. Thank you,
10 Mr. Chairman.

11 MR. LONG: I move to approve the request,
12 Order No. 2019-10, and I agree to affix our
13 signatures by signature stamp if passed.

14 CHAIRMAN BENNETT: Very well. Second for the
15 motion?

16 MR. KLUTZ: Second.

17 CHAIRMAN BENNETT: Motion and second. Any
18 discussion? All in favor, say aye.

19 (Chorus of ayes.)

20 CHAIRMAN BENNETT: All opposed, say nay. The
21 ayes have it. Thank you very much.

22 MR. LONG: Lots of questions on the next one.

23 CHAIRMAN BENNETT: We'll move to the Warrick
24 County Order, the 2012-12?

25 MR. KING: Yes. Order 2019-12.

1 MR. LONG: The Order is 2019-12.

2 MR. KING: Members of the Commission, we'll
3 turn a few more pages back in the binder, and you
4 should see orders 2019-12, which concerns Warrick
5 County, and I believe a representative from Warrick
6 County is present.

7 CHAIRMAN BENNETT: Do you want to give us any
8 background before the testimony?

9 MR. KING: Just as in the case of the other
10 matters, this proposal was approved by the Office
11 of Census Data and Legislative Services Agency and
12 Co-Director Ms. Nussmeyer and myself. In this
13 case, Ms. Nussmeyer's staff worked on Warrick
14 County, so I'll defer to her for Warrick County.

15 CHAIRMAN BENNETT: Ms. Nussmeyer.

16 MS. NUSSMEYER: Mr. Chairman, if I might, as
17 Mr. King mentioned, we did, in fact, finish our
18 technical review with staff along with the Office
19 of Census Data. If memory serves, there were
20 around eight precincts, I believe, where the
21 boundaries were changed due to annexations. We did
22 approve the -- the request on January 16, 2019, but
23 that did not afford Warrick County enough time to
24 get something published in their weekly paper in
25 order to allow for the 10-day public comment period

1 to expire before January 31st. And so with that, I
2 would defer to Clerk Perry if she has more to add.

3 CHAIRMAN BENNETT: Would you state your name,
4 please, for the record?

5 MS. PERRY: I'm sorry. Patricia Perry,
6 Warrick County Clerk.

7 CHAIRMAN BENNETT: Very well. You may
8 proceed.

9 MS. PERRY: The only point I would like to add
10 is that our paper in our county is only printed
11 once a week. So the paper did -- the public notice
12 did go out on January 24th, but did not meet the
13 10-day deadline for objections.

14 CHAIRMAN BENNETT: Very good. Thank you. Any
15 questions? Comments?

16 MR. LONG: Is that an impediment to approve
17 that?

18 MS. NUSSMEYER: No, Commissioner Long. It's
19 not. The reason why we're here today for the
20 hearing is to essentially allow for a member of the
21 public from Warrick County to come up and state
22 their objections to the precinct consolidation work
23 or precinct boundary changes to this Commission so
24 they could review those facts in evidence and
25 decide whether or not they should move forward with

1 that so --

2 MR. LONG: Does that include me?

3 MS. NUSSMEYER: Yes. That would include you,
4 yes. As a resident of Warrick County, yes, sir.

5 MR. LONG: I would move and approve the
6 request of the Order 2019-12, and if approved,
7 affix our signature by stamp.

8 CHAIRMAN BENNETT: Before we ask for a second
9 of that motion, let me ask if there is anyone else
10 who plans to testify on behalf of Warrick County
11 that is with us here today?

12 MR. LONG: I know everybody down here, so I
13 didn't have to wait for that.

14 CHAIRMAN BENNETT: Okay. All right. I wanted
15 that on the record. All right. We have a motion.
16 Is there a second?

17 MR. KLUTZ: Second.

18 CHAIRMAN BENNETT: I have a motion and second.
19 Is there any discussion? Hearing none, all in
20 favor, say aye.

21 (Chorus of ayes.)

22 CHAIRMAN BENNETT: All opposed, say nay. The
23 ayes have it. Motion to carry.

24 MS. PERRY: Thank you, sir.

25 CHAIRMAN BENNETT: With that, we will move to

1 campaign finances. Oh, I've got two more counties
2 here. Let's move to DeKalb County.

3 MR. KING: Mr. Chairman, Members of the
4 Commission, there is no material in your binders
5 concerning DeKalb County. I will defer to
6 Ms. Nussmeyer, whose staff worked on DeKalb County
7 and I believe she had conversations with the DeKalb
8 County clerk about appearing before the Commission
9 today.

10 CHAIRMAN BENNETT: Okay. Ms. Nussmeyer.

11 MS. NUSSMEYER: Thank you, Mr. Chairman. So
12 DeKalb County had a handful of precinct changes
13 that they asked to be made. As of last summer,
14 that work was completed by our staff and the review
15 handled by the Office of Census Data; however, the
16 DeKalb County Office was not able to publish notice
17 to allow for the full 10-day comment period to
18 expire before January 31st. I asked if they were
19 planning to attend the Commission Hearing today and
20 they were fine with allowing the 10-day period to
21 expire after January 31st, which would mean, then,
22 that those precinct boundary changes would go into
23 effect after the November 2019 election.

24 So the work isn't lost. The public comment
25 period is still allowed to move forward as is.

1 It's just that their request to adjust those
2 precinct boundary lines will not go into effect
3 until after the November election, assuming no
4 constituent from DeKalb County files an objection
5 with our office in the next few days.

6 CHAIRMAN BENNETT: Thank you. Is there anyone
7 here wanting to testify in this DeKalb County
8 matter? Hearing none, are there any motions?

9 MR. LONG: Not for sure, since we don't have
10 anything in front of us, what would be a proposed
11 motion. We don't need to do anything. Sounds like
12 they were on the right track.

13 CHAIRMAN BENNETT: So no motion necessary. No
14 further comments. Let's -- is Lake County on the
15 agenda?

16 MR. KING: Yes, Mr. chairman.

17 CHAIRMAN BENNETT: Okay. Do you have a
18 presentation with regard to Lake County?

19 MR. KING: I will begin and I'll defer to
20 Ms. Nussmeyer.

21 There is material in the binder behind the
22 "Precinct" tab, actually behind the blue Lake
23 County tab regarding a proposal that was suspended
24 by the Lake County Board of Elections and
25 Registration. The work on that matter was not

1 completed by our office, the Election Division, and
2 by the Office of Census Data and Legislative
3 Services Agency in time for Ms. Nussmeyer and
4 myself to review the proposal and sign the orders
5 as we did in the previous counties with reference
6 to their precinct proposals. So I will defer to
7 Ms. Nussmeyer.

8 CHAIRMAN BENNETT: Ms. Nussmeyer, is that an
9 accurate summation? Do you have anything to add?

10 MS. NUSSMEYER: Thank you, Mr. Chairman. I
11 do. I would add that staff in the Office of Census
12 Data did complete work on precinct boundaries in
13 Lake County that were impacted by annexations, and
14 there were a handful of precincts that the County
15 Election Board had asked us to review to make some
16 consolidation and to unconsolidated some precincts,
17 which, unfortunately, my staff was not able to
18 complete in time for the Office of Census Data to
19 finish their work.

20 There was a disagreement between myself --
21 actually, just a different view of the law between
22 myself and Co-Director King as to whether or not we
23 could consider the IEC-8s as individual orders and
24 consider just those annexed precinct boundary
25 changes as part of our technical review.

1 I know that I did speak to Director Fajman in
2 Lake County and -- on Tuesday to see if their chair
3 could call an emergency meeting to pass an order
4 that would allow for just those precinct boundary
5 changes impacted by annexations to be considered by
6 the Co-Directors, and then, therefore, the
7 Commission at this hearing today. Her chair was
8 out of town and the Lake County Offices were closed
9 on Wednesday due to the inclement weather, so they
10 were not able to call a special meeting in order to
11 pass an order to direct us to review just those
12 annexed precinct boundary changes. That's all that
13 I have to add.

14 CHAIRMAN BENNETT: Is there anyone here
15 wishing to testify in this matter? Seeing how --
16 it sounds like this Commission is not in a position
17 to take any action at this time.

18 MR. LONG: And I apologize, I've not been here
19 for a bit. Could we get at some point a summary
20 where they've progressed up there? I sort of lost
21 track. It is a small precinct that's a part of
22 this too, isn't there?

23 MS. NUSSMEYER: Mr. Chairman, if I may. The
24 small precinct consolidation matter was managed by
25 the Secretary of State's Office and that order went

1 into effect at the end of last year and Lake County
2 did, in fact, implement those requested changes.

3 MR. LONG: Okay. That's what I thought
4 happened. But I saw something in here dealing with
5 the small precincts.

6 MS. NUSSMEYER: Yes. And they did -- they did
7 perform that work at the county level to get it
8 done.

9 MR. LONG: Okay.

10 MS. NUSSMEYER: But what Lake County did
11 request our office to look at last fall -- was
12 precincts where annexations were impacting their
13 precinct boundaries, and so that was the work that
14 our staff at the Office of Census Data was able to
15 complete. And then they also they asked us to
16 review some additional precincts where they wanted
17 to unconsolidate a handful of precincts or
18 consolidate other areas where the Board thought was
19 appropriate, so that's what -- the work we were
20 trying to get complete in order -- before this
21 January 31st meeting. That was in addition to what
22 had already been implemented at the end of 2018 by
23 the Lake County through the Secretary of State's
24 order.

25 MR. LONG: Thank you. You don't need to send

1 me anything. I thought the Secretary of State had
2 done that, and then I saw that. I wasn't sure what
3 was happening. Okay.

4 CHAIRMAN BENNETT: So based on the status of
5 the matter, there is no action required by the
6 Commission. We'll move to campaign finance
7 complaint reports, and I would ask for Mr. King and
8 Ms. Nussmeyer to present with regard to the --

9 MR. KING: Mr. Chairman, Members of the
10 Commission, behind the orange tab labeled "Campaign
11 Finance" is the first of two complaints that were
12 submitted to the Indiana Election Division since
13 the last meeting with this body. The fact, as in
14 the past, is to bring those complaints to your
15 attention, so the material is included in your
16 binder.

17 The initial complaint is the second page
18 behind the binder filed by Mr. Jorge Fernandez on
19 Wednesday, October 24, 2018. And to summarize: It
20 concerns the lack of a disclaimer and "paid for and
21 authorized by" statement on a campaign
22 advertisement that was distributed by District
23 State Representative candidate Dan Leonard. A copy
24 of the ad in question is also attached to that
25 complaint. And I'll defer to Ms. Nussmeyer.

1 CHAIRMAN BENNETT: Ms. Nussmeyer, anything to
2 add?

3 MS. NUSSMEYER: Mr. Chairman, if I might, I
4 don't believe we've received a response from
5 Mr. Leonard.

6 MS. THOMPSON: Mr. Chairman, at this time, we
7 have not.

8 CHAIRMAN BENNETT: Any questions or comments
9 from the Commissioners? Hearing none, we'll move
10 to the next item.

11 MR. KING: Mr. Chairman, Members of the
12 Commission, behind the material I just mentioned is
13 a complaint filed by Mr. Joe Weingarten on Friday,
14 November 2nd of 2018. And there is both an
15 original email and an amended email, that's -- are
16 both from that same date with regard to the
17 Committee Elect Brian Bosma, John Trimble as
18 Treasurer.

19 As is the campaign finance staff's practice, a
20 copy of this complaint was forwarded to the
21 Committee, and a response was received. You will
22 find that response about five pages further back.
23 It was filed on January 14, 2019, by
24 Ms. Margaret Christensen of Bingham, Greenebaum,
25 and Doll, and addresses the items in

1 Mr. Weingarten's complaint in a narrative along
2 with several exhibits. And I'll defer to
3 Ms. Nussmeyer.

4 CHAIRMAN BENNETT: Ms. Nussmeyer?

5 MS. NUSSMEYER: I have nothing further,
6 Mr. Chairman.

7 CHAIRMAN BENNETT: Thank you. Any comments,
8 questions from the Commissioners?

9 MR. LONG: Just take a second to familiarize
10 myself with it.

11 MR. KING: Mr. Chairman, if I could add just
12 for the record, in both cases regarding the Leonard
13 and Bosma complaints, I forwarded copies of the
14 material to Commission Members when they were
15 received. I'm assuming that my counterpart has as
16 well.

17 CHAIRMAN BENNETT: Thank you.

18 MR. KLUTZ: Mr. Chairman, if I may? It
19 appears that the email requested an investigation
20 in -- the Election Division opened an investigation
21 that Mr. King challenged the candidate campaign.
22 Our directive under the code, Indiana Code
23 3-6-4.1-21 says: "If the Commission determines
24 that there is substantial reason to believe an
25 election law violation has occurred, then it should

1 expeditiously make an investigation." So what we
2 have here appears that a request for an
3 investigation based upon campaign expenditures and
4 whether they were proper, I suppose. We have
5 campaign contributions used for legal fees to
6 advise, consult regarding campaign attack mailers.
7 It appears that is permissible use of money if I
8 look at Indiana Code 3-9.34: "Money received by a
9 candidate or committee can be used for the
10 following to defray any expense reasonably related
11 to any person's campaign for office, continuing
12 political activity, or activity related to the
13 service in an elected office." That all appears to
14 be -- have occurred. So I guess I do not see,
15 again, substantial reason to believe an election
16 law violation has occurred and does not require an
17 investigation.

18 CHAIRMAN BENNETT: Thank you,
19 Commissioner Klutz. Any other comments by
20 Commissioners?

21 MR. LONG: Do you have any?

22 MR. KLUTZ: I guess I make a motion that an
23 investigation, as requested by email dated
24 November 2nd of 2018, as amended, is not necessary.

25 CHAIRMAN BENNETT: Is there a second? I'll

1 second the motion.

2 MR. CLAYTOR: Could you -- the motion is it's
3 not necessary?

4 MR. KLUTZ: The request was to open an
5 investigation. I guess I made a motion based upon
6 what I've seen, there is not a substantial
7 likelihood that a campaign violation has occurred.
8 So I made a motion that an investigation not be
9 opened or initiated based upon the request made
10 by -- within the email.

11 MR. CLAYTOR: Okay. Just a suggestion, and I
12 think a cleaner motion would be just to deny the
13 request.

14 MR. KLUTZ: That's fine. I'll amend my motion
15 to simply say that we deny the request.

16 CHAIRMAN BENNETT: Is there a second to that
17 motion?

18 MR. CLAYTOR: Second.

19 CHAIRMAN BENNETT: All in favor, say aye.

20 (Chorus of ayes.)

21 CHAIRMAN BENNETT: All opposed, say nay. The
22 ayes have it. The motion to deny the request to
23 open an investigation is sustained.

24 MR. CLAYTOR: Mr. Chairman, can I ask a
25 question? On the previous complaint, we didn't do

1 anything. The individual that complained was
2 against, I believe, it was indicated, did not
3 respond. Should we have Co-Directors follow up and
4 demand an response from the individual? I mean,
5 rather than just move on without --

6 CHAIRMAN BENNETT: Let me defer to Mr. King.
7 Do you have any comments on that?

8 MR. KING: Yes, Mr. Chairman. I will just
9 respond by noting that Ms. Nussmeyer and I did, in
10 fact, request a response in writing and received no
11 written response, and I don't assume that members
12 of the campaign finance staff received any written
13 or oral response as well.

14 MS. THOMPSON: Not at this time.

15 CHAIRMAN BENNETT: Given the concerns
16 expressed and Mr. King's response, is there any
17 motion?

18 MR. LONG: Could I ask -- this would be a
19 motion before we ask a question. I just --

20 CHAIRMAN BENNETT: Go ahead and ask your
21 question.

22 MR. LONG: I think it's obvious there isn't a
23 disclaimer on this and that's the thing that's
24 stuck in my mind. I'm not for sure what the
25 penalty is for it. Is it through us or through the

1 law enforcement?

2 MR. CLAYTOR: I think it's through us and it's
3 per instance or per -- I mean, it's hard to say for
4 something that is published in a newspaper of how
5 many instances there actually are, but my memory
6 was that it was a per-instance-type penalty to
7 these.

8 CHAIRMAN BENNETT: Let me ask counsel if you
9 have an opinion on that.

10 MR. SIMMONS: Mr. Chairman, Members of
11 Commission, the Commission really doesn't have
12 any fine -- this is not a campaign finance
13 violation where a Commission fines a committee. A
14 violation of a disclaimer law is actually a Class A
15 Misdemeanor.

16 CHAIRMAN BENNETT: So it's a criminal matter?

17 MR. SIMMONS: It's a criminal matter.

18 MR. LONG: I couldn't remember in the years I
19 have been here if we ever had a hearing on -- a
20 finding for one, and I honestly did think it was
21 either an infraction or something outside of our
22 purview. I think maybe public services notify the
23 complaint. But that would be one we probably
24 had -- and I mean, I'm taking it to the next step,
25 you believe we have jurisdiction over it?

1 MR. SIMMONS: Well, it is an election law, so
2 potentially, yes, under the same statutes mentioned
3 earlier, 3-6-4.1-21. It would require those before
4 the Commission would take action, which -- action
5 could include anything. It says action the
6 Commission considers appropriate including
7 referring to a county prosecutor. A lot of times,
8 I know, we've talked to county election boards
9 about this; sometimes they take action far less
10 than that. They take action, say: "Hey, look. If
11 it's in the midst of a campaign, get your
12 disclaimer on your material, fix your signs," or
13 just a good old-fashioned finger wagging, if you
14 will. But it does include up to and can include a
15 referral to the prosecutor after notice and a
16 hearing, and that would be required before that
17 action would be taken.

18 MR. LONG: And we've done that, but not
19 necessarily technically, but we've had hearings and
20 decided it should be a referral. It's been some
21 time ago.

22 MR. SIMMONS: Yeah. You may recall better
23 than I. Did we have hearings --

24 MR. KING: Yes, Mr. Chairman,
25 Vice-Chairman Long, yes, you're correct. The

1 Commission has had hearings in the past where one
2 of the remedies before the Commission was a
3 referral to the prosecuting attorney.

4 MR. LONG: I don't --

5 MR. KLUTZ: It seems like there's a happy
6 medium. Maybe a letter --

7 MR. LONG: I think a letter solves the
8 problem. I'm not particularly interested in
9 conducting a hearing on one picture or maybe two at
10 the most; there is two of them in here. I don't
11 know if one is a better picture; it looks like the
12 same ad. At least there's two in mine. I don't
13 know if it was -- just about three pages back from
14 the ad. I think it's the same. It's clearly --
15 well, maybe not clearly. Yeah, it looks like it
16 cut off part of it here. I've got a horizontal one
17 and a vertical one, but it looks like it's the
18 same. The horizontal is obviously a higher quality
19 copy.

20 CHAIRMAN BENNETT: So do we have a motion from
21 any of the Commissioners?

22 MR. LONG: What do you think? What are you
23 comfortable with, Michael?

24 MR. CLAYTOR: I would like something to come
25 from the Commission putting them on -- obviously,

1 he has not responded to our Co-Directors. He may
2 not respond to this, the Commissioners either, but
3 I don't -- Mr. Chairman, if I made a motion that a
4 letter came from the Commission, signed by the
5 Chairman, asking him to respond to this instance
6 and explain the matter, that's not really
7 initiating any action or requiring a hearing, but
8 more a -- just notice that these things are rather
9 important to us, and not just to be totally
10 ignored.

11 CHAIRMAN BENNETT: It seems to me if that
12 letter is written and asked for an explanation,
13 that we're inviting a hearing on it for him to
14 provide that explanation.

15 MR. LONG: How about a letter reminding him
16 of the statutory, and the fact that it could be
17 referred to the prosecutor in the future, just to
18 let them know we have received it and showed them a
19 path.

20 MR. CLAYTOR: I think --

21 MR. LONG: Are you comfortable with that,
22 Michael?

23 MR. CLAYTOR: I'm very comfortable with that.

24 MR. LONG: You amend your motion to that?

25 CHAIRMAN BENNETT: You didn't actually make a

1 motion.

2 MR. CLAYTOR: I didn't have a chance to do
3 that. Allow me to move that a letter be issued.

4 MR. LONG: Suggest it to be signed by
5 Co-Directors as opposed by the Commission.

6 MR. CLAYTOR: As opposed by the Commission
7 itself. I think that will be fine. I move that
8 the Commission request the Co-Directors to send a
9 letter that's clearly indicated that it is from the
10 Commission reminding the individual of the statute
11 and the penalties thereof, but taking no further
12 action by the Commission. And hopefully that made
13 a little sense.

14 CHAIRMAN BENNETT: So you're basically talking
15 about a letter of admonition coming from the
16 Co-Directors?

17 MR. CLAYTOR: Correct.

18 CHAIRMAN BENNETT: Okay. As a motion --

19 MR. LONG: I'll second that.

20 CHAIRMAN BENNETT: Motion to the second. Is
21 there any discussion? Hearing none, all in favor,
22 say aye.

23 (Chorus of ayes.)

24 CHAIRMAN BENNETT: All opposed, say nay. The
25 ayes have it, and the motion carried. Thank you.

1 MR. CLAYTOR: Thank you, Mr. Chairman, for
2 indulging my thought process.

3 MR. LONG: I like to see how you work. You
4 usually sit in for me.

5 CHAIRMAN BENNETT: Indiana Election Commission
6 has finished its business for today. Is there a
7 motion for the Indiana Election Commission to
8 adjourn? Those in favor, say aye.

9 (Chorus of ayes.)

10 CHAIRMAN BENNETT: All opposed, say nay. The
11 ayes have it. The Indiana Election Commission
12 meeting is adjourned.

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14 (Meeting adjourned at 9:46 a.m.)

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STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

I, Angela Williams, Notary Public in and for said County of Hamilton and State of Indiana, do hereby certify that the foregoing transcript is a true, full, and complete transcript of the proceedings had.

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

Angela Williams, Notary Public

Commission expires: September 18, 2019.
County of residence: Hamilton.