

Indiana Election Commission
Minutes
January 7, 2020

Members Present: Paul Okeson, Chairman of the Indiana Election Commission (“Commission”); Michael Claytor, Proxy for S. Anthony Long, Vice Chairman of the Commission; Karen Celestino-Horseman, Proxy for Suzannah Wilson Overholt, member; Zachary E. Klutz, member.

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 Kochevar, Co-General Counsel of the Election Division; Valerie Warycha, Co-General Counsel of the Election Division; Abbey Taylor, Election Division campaign finance director; Michelle Thompson, Election Division campaign finance director; Lori Clark, Election Division Data Scientist; Stephanie Davidsen, Election Division Special Projects

Others Attending: Ms. LeAnn Angerman; Mr. Lee Baker; Ms. Michelle Fajman.

1. Call to Order:

The Chair called the January 7, 2020 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 Julie A. Nicholson of Stewart Richardson Deposition Services, which is incorporated by reference into these minutes.

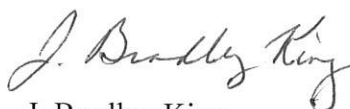
The Commission corrects the following scrivener’s errors in this document:

Page 5, line 18, replace “that is” with “at its”.

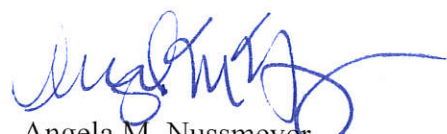
Page 19, line 1, replace “challenges” with “challenged”.

The Commission adjourned its meeting at 1:50 p.m. EST.

Respectfully submitted,



J. Bradley King
Co-Director



Angela M. Nussmeyer
Co-Director

APPROVED:

A handwritten signature in black ink, appearing to read "Paul Okeson", written over a horizontal line. The signature is stylized and cursive, with a long horizontal stroke extending to the right.

Paul Okeson, Chairman

In the Matter Of:

INDIANA ELECTION COMMISSION PUBLIC SESSION AGENDA

Committee Meeting

January 07, 2020

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INDIANA ELECTION COMMISSION
PUBLIC SESSION AGENDA

Conducted on: January 7, 2020

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

A Stenographic Record By:
Julie A. Nicholson, RPR, CRR

STEWART RICHARDSON & ASSOCIATES
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APPEARANCES

INDIANA ELECTION COMMISSION:

- Paul Okeson - Commission Chairman
- Michael Claytor - Proxy for Vice Chairman
S. Anthony Long
- Karen Celestino Horseman - Proxy for Suzannah
Wilson Overholt
- Zachary E. Klutz - Commission Member

INDIANA ELECTION DIVISION STAFF:

- J. Bradley King - Co-Director
- Angela M. Nussmeyer - Co-Director
- Valerie Warycha - Election Division Co-Counsel
- Matthew Kochevar - Election Division Co-Counsel
- Michelle Thompson - Election Division Campaign Finance
Director
- Abbey Taylor - Election Division Campaign Finance
Director
- Lori Clark - Election Division Data Scientist
- Stephanie Davidsen - Election Division Special Projects

- ALSO PRESENT:
- Michelle Fajman
 - LeAnn Angerman
 - Lee Baker

1 CHAIRMAN OKESON: I'd like to call to order
2 the Indiana Election Commission meeting. The
3 following members are present: Myself, Chairman
4 Paul Okeson; Michael Claytor, Proxy for Vice
5 Chairman Anthony Long; Karen Celestino Horseman,
6 member for -- Proxy for Suzannah Wilson Overholt;
7 and fellow member, Zachary Klutz.

8 Indiana Election Division Staff: Co-Director
9 Brad King and Co-Director Angie Nussmeyer, along
10 with Co-General Counsel Matthew Kochevar. And I'd
11 like to also take this moment to introduce Valerie
12 Warycha, who will be replacing our own Dale
13 Simmons, recently departed for retirement.

14 So welcome, Valerie.

15 MS. WARYCHA: Thank you.

16 CHAIRMAN OKESON: Absolutely. I'd also like
17 to introduce our court reporter, Julie Nicholson,
18 from Stewart Richardson Deposition Reporting
19 Services.

20 And before we begin, I'd like to remind anyone
21 who might be speaking on behalf of yourself or
22 someone else to identify yourself, spell your name,
23 both your first and last name, speak clearly, and
24 please do not speak at the same times as others.

25 Moving on the agenda, we have documentation of

1 compliance with the Open Door Law. Request that
2 the co-directors, please, confirm that the
3 Commission has been properly noticed.

4 MR. KING: Mr. Chairman and members of the
5 Commission, on behalf of Co-Director Nussmeyer and
6 myself, we certify that the Open Door Law was
7 complied with and given notice for this meeting.

8 CHAIRMAN OKESON: Okay. With that, we move to
9 the approval of the December 5, 2019, minutes.
10 Presentation by Co-Directors King and Nussmeyer.

11 MR. KING: Mr. Chairman, members of the
12 Commission, on behalf of Co-Director Nussmeyer and
13 myself, we have reviewed the minutes for that
14 meeting and recommend them for your approval.

15 CHAIRMAN OKESON: Is there a motion to approve
16 the December 5, 2019, minutes?

17 MR. CLAYTOR: I'd like to move for the
18 approval of the minutes.

19 CHAIRMAN OKESON: Is there a second?

20 MR. KLUTZ: Second.

21 CHAIRMAN OKESON: Any discussion?

22 (NO RESPONSE.)

23 CHAIRMAN OKESON: Hearing none, all those in
24 favor, say "Aye."

25 THE COMMISSION: Aye.

1 CHAIRMAN OKESON: Those opposed?

2 (NO RESPONSE.)

3 CHAIRMAN OKESON: The "ayes" have it.

4 Are there minutes to sign?

5 MR. KING: I think -- there's the signature
6 page.

7 CHAIRMAN OKESON: And I think we do have some
8 folks testifying today; right?

9 MR. KING: We do.

10 CHAIRMAN OKESON: Okay. So at this point, I'd
11 like to administer the oath to any individuals
12 testifying. So everyone present who plans to
13 testify in today's meeting, please stand for
14 administration of the oath by Ms. Warycha.

15 MR. KING: Please respond "I do" at the
16 conclusion of the oath. I do solemnly swear or
17 affirm the testimony that I will give to the
18 Indiana Election Commission that is meeting today
19 will be the truth, the whole truth, and nothing but
20 the truth. Say "I do."

21 (CONSENT BY ALL.)

22 MR. KING: Thank you.

23 CHAIRMAN OKESON: Thank you, Mr. King. Moving
24 along, we have the consideration of precinct orders
25 and precinct proposal reports. Again, recognize

1 Co-Director King in this matter.

2 MR. KING: Mr. Chairman, members of the
3 Commission, Michelle Thompson and Abbey Taylor are
4 here to present information regarding settlement
5 agreements and Campaign Finance matters.

6 MS. THOMPSON: Yes. Mr. Chairman, members of
7 the Commission, my name is Michelle Thompson,
8 T-H-O-M-P-S-O-N. Behind your Campaign Finance tab
9 is a list of committees to ratify that have agreed
10 to pay the settlement agreement and waive a
11 hearing.

12 MR. CLAYTOR: Mr. Chairman, I move for
13 approval of settlement agreements outlined by
14 Michelle.

15 CHAIRMAN OKESON: Is there a second?

16 MR. KLUTZ: Second.

17 CHAIRMAN OKESON: Any discussion?

18 (NO RESPONSE.)

19 CHAIRMAN OKESON: All those in favor, say
20 "Aye."

21 THE COMMISSION: Aye.

22 CHAIRMAN OKESON: Those opposed?

23 (NO RESPONSE.)

24 CHAIRMAN OKESON: The "ayes" have it. Motion
25 carries.

1 So are we on to the Lake County? Let's move
2 on to the Lake County proposed precinct
3 establishment, Order 2020-1. For purposes of
4 testimony and discussion, is there a motion to
5 approve the Lake County Proposal Order 2020-1?

6 MR. CLAYTOR: Mr. Chairman, I move for
7 approval.

8 CHAIRMAN OKESON: Is there a second?

9 MR. KLUTZ: Second.

10 CHAIRMAN OKESON: Discussion?

11 I would like to recognize the election of the
12 staff to provide any additional information.

13 MR. KING: Mr. Chairman, I have no additional
14 information personally but would defer to my
15 counterpart whose staff member worked with Lake
16 County with regard to the precinct proposal that
17 you have before you.

18 MS. NUSSMEYER: Thank you, Mr. King.
19 Mr. Chairman, members of the Commission, with us
20 today is Michelle Fajman, who is the director of
21 the Lake County Board of Elections and
22 Registration, and LeAnn Angerman, who is the
23 co-director of the agency or the assistant director
24 of the agency. And Stephanie Davidsen, she is with
25 the Election Commission. She assisted the Lake

1 County folks with their re-precincting order.

2 In a nutshell, the work was completed and was
3 approved by the Office of Census Data, which is a
4 division of the Legislative Services Agency.

5 Mr. King and myself approved the precinct
6 boundary changes on December 23 and gave a copy of
7 that letter to the Lake County Board of Elections
8 and Registration. They were able to publish public
9 notice in two newspapers. The first one, the
10 publication was filed on December 28, which meant
11 that the ten-day comment period expired
12 yesterday --

13 CHAIRMAN OKESON: Okay.

14 MS. NUSSMEYER: -- or today at noon. And then
15 the other newspaper, it was published a day late,
16 which meant the public notice period actually would
17 expire tomorrow, January 8, at noon, which is
18 unfortunately too late.

19 So under State law, in order to allow Lake
20 County to move forward with their precinct boundary
21 changes, we're required to have a hearing, allow
22 you to review their materials, ask questions of the
23 Lake County staff, of our staff to approve, bless
24 their precinct boundary change request.

25 CHAIRMAN OKESON: Okay.

1 MS. NUSSMEYER: So with that, I would turn it
2 over to Stephanie if she has anything to add and
3 then anything that the Lake County team might want
4 to add for purpose of discussion for the members.

5 MS. DAVIDSEN: Nothing further. I believe
6 everything Ms. Nussmeyer said was correct.

7 CHAIRMAN OKESON: Would you, please, state
8 your name?

9 MS. DAVIDSEN: And my name is Stephanie
10 Davidsen, S-T-E-P-H-A-N-I-E, D-A-V-I-D-S-E-N.

11 MS. FAJMAN: Michelle Fajman.
12 M-I-C-H-E-L-L-E. Fajman, F-A-J-M-A-N. The
13 director of the election board. Yes, one of them
14 was in one day late. We do have unanimous approval
15 from our board, so both sides are fully in
16 agreement of the precincts. In fact, all the
17 precincts are strictly annexations. And at this
18 point in time, there are no voters actually even
19 involved as it is all open farmland at this point
20 in time.

21 So we respectfully request your approval today
22 of our precincts. I apologize for getting in one
23 day late and it will not happen again.

24 CHAIRMAN OKESON: Okay. Anyone --

25 MS. NUSSMEYER: Mr. Chairman --

1 CHAIRMAN OKESON: Yes.

2 MS. NUSSMEYER: -- if I may, I would say, too,
3 that the division did not receive any sort of filed
4 written complaint with respect to either public
5 notice at this point in time.

6 CHAIRMAN OKESON: Okay.

7 MS. ANGERMAN: Yeah. LeAnn Angerman.
8 L-E-A-N-N, A-N-G-E-R-M-A-N. I'm the assistant
9 director for the Lake County Board of Elections and
10 Registration. And simply just to echo, you know,
11 Michelle's sentiments, this is something that we
12 have, you know, complete bipartisan and unanimous
13 support for. We certainly apologize for our error
14 and ask for your support today.

15 CHAIRMAN OKESON: We're all human; right?

16 MS. ANGERMAN: I'm reminded of that.

17 CHAIRMAN OKESON: Any other discussion?

18 MS. HORSEMAN: So this is only adding new
19 precincts, annexations of areas -- I don't -- to
20 voting areas or what?

21 MS. ANGERMAN: It's adjusting the boundaries
22 to include areas that have been annexed out of
23 municipalities.

24 MS. HORSEMAN: So was this land in Lake County
25 before?

1 MS. ANGERMAN: Yes.

2 MS. FAJMAN: Yes. So it's going from
3 unincorporated territory to corporate boundaries
4 now. We're adjusting the precincts to match the
5 corporate boundary lines. So it is all land
6 currently within Lake County. Simply going from
7 unincorporated boundaries.

8 MS. NUSSMEYER: And if I may just for
9 education purposes, if they chose not to change the
10 precinct boundary, the existing precinct would be
11 split between a municipality and a county portion
12 of the precinct, which creates issues for election
13 administrators because then your poll workers are
14 dealing with, you know, two ballots in a precinct
15 when if you just move the boundary, you only have
16 to deal with one ballot.

17 CHAIRMAN OKESON: Try to avoid confusion.
18 Sure.

19 MS. NUSSMEYER: Correct, exactly. So it is a
20 great help to poll workers and election
21 administrators to minimize potential confusion.

22 MS. HORSEMAN: Can someone do a legal
23 challenge based on the day late thing on the
24 notice, regarding notice?

25 MS. NUSSMEYER: In my view, no. For the

1 purpose -- because of the mere fact that we're
2 meeting today for the Election Commission to
3 approve their precinct boundary changes, a person
4 from Lake County could travel to the meeting today
5 to say, "I object." And that would be -- you know,
6 you all would have to weigh their objections to the
7 changes to the precinct boundary changes and
8 determine if that objection is enough to not
9 approve the request from Lake County.

10 CHAIRMAN OKESON: I think the fact that
11 there's unanimity and bipartisan support, I mean --

12 MS. HORSEMAN: The process of --

13 CHAIRMAN OKESON: Sure.

14 MS. HORSEMAN: Yeah, right.

15 MR. KING: Mr. Chairman, if I could add, I
16 agree with Ms. Nussmeyer's analysis regarding the
17 statute. This is an alternative procedure to the
18 normal one. Some members may recall that Howard
19 County had a similar newspaper publication problem
20 a couple of years ago and the Commission met to
21 approve their precincts.

22 The critical element is the candidate filing
23 starts tomorrow. And so under State law, this is
24 the final alternative opportunity for the County to
25 have these precinct changes made.

1 MS. NUSSMEYER: And if you decide not to
2 approve it, if their comment period expires
3 tomorrow, any potential boundary changes would be
4 effective after the November 2020 election.

5 CHAIRMAN OKESON: Sure.

6 MS. NUSSMEYER: This just allows for those
7 changes to be in effect for the --

8 CHAIRMAN OKESON: Next election.

9 MS. NUSSMEYER: -- 2020 cycle. Correct.

10 CHAIRMAN OKESON: Any other comments or
11 discussion?

12 (NO RESPONSE.)

13 CHAIRMAN OKESON: Hearing none, can I
14 entertain a motion in favor of adopting the
15 Order 2020-1?

16 MR. CLAYTOR: I think we have a motion.

17 CHAIRMAN OKESON: Oh, we have a motion. I'm
18 sorry. I'll take vote on the motion. All those in
19 favor of the motion.

20 THE COMMISSION: Aye.

21 CHAIRMAN OKESON: Those opposed?

22 (NO RESPONSE.)

23 CHAIRMAN OKESON: Hearing none, the motion
24 carries.

25 MS. ANGERMAN: Thank you very much.

1 MR. KING: Mr. Chairman, members of the
2 Commission, we have an order prepared that we would
3 ask you all to sign.

4 (A discussion was held off the record.)

5 CHAIRMAN OKESON: Moving on, Monroe County
6 Proposed Precinct Establishment Order 2020-2. For
7 purposes of testimony and discussion, is there a
8 motion to approve the Monroe County Proposal
9 2020-2?

10 MR. CLAYTOR: So moved.

11 CHAIRMAN OKESON: Is there a second?

12 MR. KLUTZ: Second.

13 CHAIRMAN OKESON: Motion having been made,
14 seconded, I recognize the election staff to provide
15 any additional information.

16 MR. KING: Mr. Chairman, members of the
17 Commission, the Monroe County proposed precinct
18 changes were developed by a member of my staff,
19 Lori Clark, who is present. They were reviewed by
20 the Legislative Services Agency, Office of Census
21 Data for compliance with technical standards. They
22 were reviewed by Co-Director Nussmeyer and myself
23 for compliance with State law. And each entity
24 determined that the proposal was in compliance.

25 However, there was an issue with regard to

1 newspaper publication. And so at this point, I'll
2 ask if the chair could recognize Lori Clark to see
3 if she has anything further to add and then I
4 believe a representative from Monroe County is
5 present to testify.

6 CHAIRMAN OKESON: Sure, sure. Ms. Clark.

7 MS. CLARK: L-O-R-I. Last name Clark,
8 C-L-A-R-K. I really don't have anything to add.
9 But everything did come through with -- from the
10 Office of Census Data came back. There were no
11 problems with it. It was basically annexations was
12 what we were working on and it all was -- it met
13 the code.

14 And Mr. Baker is here if he'd like to --

15 MR. BAKER: Hello. Lee Baker, L-E-E,
16 B-A-K-E-R, the County attorney for Monroe County.
17 Thank you for having me.

18 CHAIRMAN OKESON: Do you have anything you'd
19 like to offer?

20 MR. BAKER: I don't really have anything to
21 add. I'm here to answer any questions. I do wish
22 to apologize for the issue with respect to
23 publication notice. The fault rests entirely with
24 myself and Monroe County. We'll do everything
25 possible to rectify the issue.

1 CHAIRMAN OKESON: Thank you. So essentially a
2 mirroring of the issue from Lake County; correct?

3 MR. KING: Mr. Chairman, if I can add, I think
4 this was clear from Mr. Baker's testimony, but in
5 this case, legal notice was not published.

6 CHAIRMAN OKESON: Got you.

7 MR. KING: So that is the distinction.

8 CHAIRMAN OKESON: That is the -- okay. Anyone
9 else?

10 MS. HORSEMAN: So is that a -- sorry.

11 CHAIRMAN OKESON: Go ahead.

12 MS. HORSEMAN: I mean, that is a distinction
13 between -- no notice versus notice that was one day
14 late. Is notice statutorily required?

15 MR. KING: No.

16 CHAIRMAN OKESON: In the eyes of the law --
17 and I'm not a lawyer, but isn't no notice and late
18 notice the same thing?

19 MR. KING: No. Commissioner, no, in that
20 under this alternative procedure, it assumes that
21 notice has been given in the way Ms. Nussmeyer
22 described as opposed to the legal notice.

23 MS. HORSEMAN: Going forward with a meeting
24 and everything?

25 MR. KING: Right.

1 MS. HORSEMAN: Okay.

2 MR. KING: Exactly.

3 MR. BAKER: If I could add, it might be of
4 some interest. In October after the second
5 milestone, if you will, in the documents, at a
6 regularly scheduled and noticed meeting of the
7 Board of Commissioners, I presented our proposal to
8 the Election Commission for approval of our
9 precinct re-boundarying. I discussed all of that
10 with the Board of Commissioners at that proceeding
11 and questions were asked. And we brought them
12 current on the status of our submissions and what
13 our expected next step was, which was publication
14 of the legal notice.

15 And again, the fault rests with me with
16 respect to that failure. But there was public
17 discussion. And it was via closed-circuit TV to
18 the public as well. And there was unanimous
19 support for that by the Board of Commissioners.

20 CHAIRMAN OKESON: Brad, did you have something
21 you wanted to add?

22 MR. KING: No.

23 CHAIRMAN OKESON: Okay. Any other comments?
24 Any other discussion?

25 (NO RESPONSE.)

1 CHAIRMAN OKESON: Hearing none, all those in
2 favor of adopting the Order 2020-2, say "Aye."

3 THE COMMISSION: Aye.

4 CHAIRMAN OKESON: Those opposed?

5 (NO RESPONSE.)

6 CHAIRMAN OKESON: Hearing none, the motion
7 carries. Just prior to adjournment, I'd like to
8 take this opportunity to --

9 MR. KING: Excuse me --

10 CHAIRMAN OKESON: Yes.

11 MR. KING: -- Mr. Chairman. We do have --

12 CHAIRMAN OKESON: Oh, we've got to sign it.

13 MR. BAKER: Thank you very much.

14 CHAIRMAN OKESON: Thank you.

15 (A discussion was held off the record.)

16 CHAIRMAN OKESON: As a courtesy, I'd like to
17 just make sure that looking ahead we go ahead and
18 announce our next meeting that I'd like to schedule
19 for February 21, 2020, at 1:30 p.m. in Room 130 of
20 the Statehouse. At that meeting, we will conduct
21 hearings on the final 25 or so Campaign Finance
22 Enforcement matters remaining from '19.

23 And based on -- in my discussions with staff,
24 past experience, it's also likely that we will have
25 one of our -- one or more primary election

1 candidate challenges. And the deadline for this
2 type of candidate challenge to be filed is noon on
3 Friday, February 14, so Happy Valentine's Day for
4 those who are being challenged. And anytime after
5 candidate filing which begins tomorrow, January 8,
6 so we have no way to know how much there's going to
7 be. And so I'd like to just go ahead and schedule
8 that meeting in anticipation of some activity.

9 So with that, I'd like to adjourn unless
10 there's any discussion.

11 (NO RESPONSE.)

12 CHAIRMAN OKESON: Motion to adjourn?

13 MR. CLAYTOR: So moved.

14 MR. KOCHEVAR: Well, we need a second end of
15 voting; right?

16 MR. KING: Well, the record can show perhaps
17 that the motion for second is --

18 CHAIRMAN OKESON: On adjournment?

19 MR. KOCHEVAR: Yeah.

20 MR. KLUTZ: Second.

21 CHAIRMAN OKESON: We're adjourned.

22 (Election Commission meeting adjourned at
23 1:50 p.m.)

24

25

1 STATE OF INDIANA

2 COUNTY OF HAMILTON

3 I, Julie A. Nicholson, a Notary Public in and
4 for said county and state, do hereby certify that
5 the foregoing hearing was taken at the time and
6 place heretofore mentioned between 1:28 p.m. and
7 1:50 p.m.;

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

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

15 IN WITNESS WHEREOF, I have hereunto set my
16 hand and affixed my notarial seal this 14th day of
17 January, 2020.

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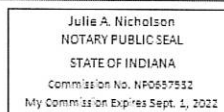
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Julie A Nicholson



My commission expires:
September 1, 2022

Job No. 148748

1

130 18:19
14 19:3
19 18:22
1:30 18:19
1:50 19:23

2

2019 4:9,16
2020 13:4,9 18:19
2020-1 7:3,5 13:15
2020-2 14:6,9 18:2
21 18:19
23 8:6
25 18:21
28 8:10

5

5 4:9,16

8

8 8:17 19:5

A

A-N-G-E-R-M-A-N 10:8
Abbey 6:3
activity 19:8
add 9:2,4 12:15 15:3,8,21 16:3 17:3,21
adding 10:18
additional 7:12,13 14:15
adjourn 19:9,12
adjourned 19:21,22
adjournment 18:7 19:18
adjusting 10:21 11:4

administer 5:11
administration 5:14
administrators 11:13,21
adopting 13:14 18:2
affirm 5:17
agency 7:23,24 8:4 14:20
agree 12:16
agreed 6:9
agreement 6:10 9:16
agreements 6:5,13
ahead 16:11 18:17 19:7
alternative 12:17,24 16:20
analysis 12:16
Angerman 7:22 10:7,16,21 11:1 13:25
annexations 9:17 10:19 15:11
annexed 10:22
announce 18:18
anticipation 19:8
anytime 19:4
apologize 9:22 10:13 15:22
approval 4:9,14,18 6:13 7:7 9:14,21 17:8
approve 4:15 7:5 8:23 12:3,9,21 13:2 14:8
approved 8:3,5
areas 10:19,20,22
assistant 7:23 10:8
assisted 7:25
assumes 16:20
attorney 15:16
avoid 11:17
Aye 4:24,25 6:20,21 13:20 18:2,3
ayes 5:3 6:24

B

B-A-K-E-R 15:16

back 15:10
Baker 15:14,15,20 17:3 18:13
Baker's 16:4
ballot 11:16
ballots 11:14
based 11:23 18:23
basically 15:11
begins 19:5
behalf 4:5,12
bipartisan 10:12 12:11
bless 8:23
board 7:21 8:7 9:13,15 10:9 17:7,10,19
boundaries 10:21 11:3,7
boundary 8:6,20,24 11:5,10,15 12:3,7 13:3
Brad 17:20
brought 17:11

C

C-L-A-R-K 15:8
Campaign 6:5,8 18:21
candidate 12:22 19:1,2,5
carries 6:25 13:24 18:7
case 16:5
Census 8:3 14:20 15:10
certify 4:6
chair 15:2
Chairman 4:4,8,11,15,19,21,23 5:1,3,7,10,23 6:2,6,12,15,17,19,22,24 7:6,8,10,13,19 8:13,25 9:7,24,25 10:1,6,15,17 11:17 12:10,13,15 13:5,8,10,13,17,21,23 14:1,5,11,13,16 15:6,18 16:1,3,6,8,11,16 17:20,23 18:1,4,6,10,11,12,14,16 19:12,18,21
challenge 11:23 19:2
challenged 19:4
challenges 19:1
change 8:24 11:9

chose 11:9
Clark 14:19 15:2,6,7
CLAYTOR 4:17 6:12 7:6 13:16
 14:10 19:13
clear 16:4
closed-circuit 17:17
co-director 4:5,12 6:1 7:23
 14:22
co-directors 4:2,10
code 15:13
comment 8:11 13:2
comments 13:10 17:23
Commission 4:3,5,12,25 5:18
 6:3,7,21 7:19,25 12:2,20 13:20
 14:2,17 17:8 18:3 19:22
Commissioner 16:19
Commissioners 17:7,10,19
committees 6:9
complaint 10:4
complete 10:12
completed 8:2
compliance 4:1 14:21,23,24
complied 4:7
conclusion 5:16
conduct 18:20
confirm 4:2
confusion 11:17,21
CONSENT 5:21
consideration 5:24
copy 8:6
corporate 11:3,5
correct 9:6 11:19 13:9 16:2
counterpart 7:15
county 7:1,2,5,16,21 8:1,7,20,
 23 9:3 10:9,24 11:6,11 12:4,9,
 19,24 14:5,8,17 15:4,16,24 16:2
couple 12:20
courtesy 18:16
creates 11:12

critical 12:22
current 17:12
cycle 13:9

D

D-A-V-I-D-S-E-N 9:10
Data 8:3 14:21 15:10
Davidson 7:24 9:5,9,10
day 8:15 9:14,23 11:23 16:13
 19:3
deadline 19:1
deal 11:16
dealing 11:14
December 4:9,16 8:6,10
decide 13:1
defer 7:14
determine 12:8
determined 14:24
developed 14:18
director 7:20,23 9:13 10:9
discussed 17:9
discussion 4:21 6:17 7:4,10
 9:4 10:17 13:11 14:4,7 17:17,24
 18:15 19:10
discussions 18:23
distinction 16:7,12
division 8:4 10:3
documents 17:5
Door 4:1,6

E

echo 10:10
education 11:9
effect 13:7
effective 13:4
election 5:18 7:11,25 9:13
 11:12,20 12:2 13:4,8 14:14 17:8
 18:25 19:22

Elections 7:21 8:7 10:9
element 12:22
end 19:14
Enforcement 18:22
entertain 13:14
entity 14:23
error 10:13
essentially 16:1
establishment 7:3 14:6
Excuse 18:9
existing 11:10
expected 17:13
experience 18:24
expire 8:17
expired 8:11
expires 13:2
eyes 16:16

F

F-A-J-M-A-N 9:12
fact 9:16 12:1,10
failure 17:16
Fajman 7:20 9:11,12 11:2
farmland 9:19
fault 15:23 17:15
favor 4:24 6:19 13:14,19 18:2
February 18:19 19:3
filed 8:10 10:3 19:2
filing 12:22 19:5
final 12:24 18:21
Finance 6:5,8 18:21
folks 5:8 8:1
forward 8:20 16:23
Friday 19:3
fully 9:15

G

gave 8:6
give 5:17
great 11:20

H

happen 9:23
Happy 19:3
hearing 4:23 6:11 8:21 13:13,23
 18:1,6
hearings 18:21
held 14:4 18:15
HORSEMAN 10:18,24 11:22
 12:12,14 16:10,12,23 17:1
Howard 12:18
human 10:15

I

include 10:22
Indiana 5:18
individuals 5:11
information 6:4 7:12,14 14:15
interest 17:4
involved 9:19
issue 14:25 15:22,25 16:2
issues 11:12

J

January 8:17 19:5

K

King 4:4,10,11 5:5,9,15,22,23
 6:1,2 7:13,18 8:5 12:15 14:1,16
 16:3,7,15,19,25 17:2,22 18:9,11
 19:16
KLUTZ 4:20 6:16 7:9 14:12
 19:20

KOCHEVAR 19:14,19

L

L-E-A-N-N 10:8
L-E-E 15:15
L-O-R-I 15:7
Lake 7:1,2,5,15,21,25 8:7,19,23
 9:3 10:9,24 11:6 12:4,9 16:2
land 10:24 11:5
late 8:15,18 9:14,23 11:23
 16:14,17
law 4:1,6 8:19 12:23 14:23 16:16
lawyer 16:17
Leann 7:22 10:7
Lee 15:15
legal 11:22 16:5,22 17:14
Legislative 8:4 14:20
letter 8:7
lines 11:5
list 6:9
Lori 14:19 15:2

M

M-I-C-H-E-L-L-E 9:12
made 12:25 14:13
make 18:17
match 11:4
materials 8:22
matter 6:1
matters 6:5 18:22
meant 8:10,16
meeting 4:7,14 5:13,18 12:2,4
 16:23 17:6 18:18,20 19:8,22
member 7:15 14:18
members 4:4,11 6:2,6 7:19 9:4
 12:18 14:1,16
mere 12:1
met 12:20 15:12

Michelle 6:3,7,14 7:20 9:11
Michelle's 10:11
milestone 17:5
minimize 11:21
minutes 4:9,13,16,18 5:4
mirroring 16:2
Monroe 14:5,8,17 15:4,16,24
motion 4:15 6:24 7:4 13:14,16,
 17,18,19,23 14:8,13 18:6 19:12,
 17
move 4:8,17 6:12 7:1,6 8:20
 11:15
moved 14:10 19:13
Moving 5:23 14:5
municipalities 10:23
municipality 11:11

N

newspaper 8:15 12:19 15:1
newspapers 8:9
noon 8:14,17 19:2
normal 12:18
notice 4:7 8:9,16 10:5 11:24
 15:23 16:5,13,14,17,18,21,22
 17:14
noticed 4:3 17:6
November 13:4
Nussmeyer 4:5,10,12 7:18 8:14
 9:1,6,25 10:2 11:8,19,25 13:1,6,
 9 14:22 16:21
Nussmeyer's 12:16
nutshell 8:2

O

oath 5:11,14,16
object 12:5
objection 12:8
objections 12:6
October 17:4

offer 15:19

Office 8:3 14:20 15:10

OKESON 4:8,15,19,21,23 5:1,3,
7,10,23 6:15,17,19,22,24 7:8,10
8:13,25 9:7,24 10:1,6,15,17
11:17 12:10,13 13:5,8,10,13,17,
21,23 14:5,11,13 15:6,18 16:1,6,
8,11,16 17:20,23 18:1,4,6,10,12,
14,16 19:12,18,21

open 4:1,6 9:19

opportunity 12:24 18:8

opposed 5:1 6:22 13:21 16:22
18:4

order 7:3,5 8:1,19 13:15 14:2,6
18:2

orders 5:24

outlined 6:13

P

p.m. 18:19 19:23

past 18:24

pay 6:10

period 8:11,16 13:2

person 12:3

personally 7:14

plans 5:12

point 5:10 9:18,19 10:5 15:1

poll 11:13,20

portion 11:11

potential 11:21 13:3

precinct 5:24,25 7:2,16 8:5,20,
24 11:10,12,14 12:3,7,25 14:6,
17 17:9

precincts 9:16,17,22 10:19
11:4 12:21

prepared 14:2

present 5:12 6:4 14:19 15:5

Presentation 4:10

presented 17:7

primary 18:25

prior 18:7

problem 12:19

problems 15:11

procedure 12:17 16:20

proceeding 17:10

process 12:12

properly 4:3

proposal 5:25 7:5,16 14:8,24
17:7

proposed 7:2 14:6,17

provide 7:12 14:14

public 8:8,16 10:4 17:16,18

publication 8:10 12:19 15:1,23
17:13

publish 8:8

published 8:15 16:5

purpose 9:4 12:1

purposes 7:3 11:9 14:7

Q

questions 8:22 15:21 17:11

R

ratify 6:9

re-boundarying 17:9

re-precincting 8:1

recall 12:18

receive 10:3

recognize 5:25 7:11 14:14 15:2

recommend 4:14

record 14:4 18:15 19:16

rectify 15:25

regard 7:16 14:25

Registration 7:22 8:8 10:10

regularly 17:6

remaining 18:22

reminded 10:16

reports 5:25

representative 15:4

request 4:1 8:24 9:21 12:9

required 8:21 16:14

respect 10:4 15:22 17:16

respectfully 9:21

respond 5:15

RESPONSE 4:22 5:2 6:18,23
13:12,22 17:25 18:5 19:11

rests 15:23 17:15

review 8:22

reviewed 4:13 14:19,22

Room 18:19

S

S-T-E-P-H-A-N-I-E 9:10

schedule 18:18 19:7

scheduled 17:6

seconded 14:14

sentiments 10:11

Services 8:4 14:20

settlement 6:4,10,13

show 19:16

sides 9:15

sign 5:4 14:3 18:12

signature 5:5

similar 12:19

simply 10:10 11:6

solemnly 5:16

sort 10:3

split 11:11

staff 7:12,15 8:23 14:14,18
18:23

stand 5:13

standards 14:21

starts 12:23

state 8:19 9:7 12:23 14:23

Statehouse 18:20**status** 17:12**statute** 12:17**statutorily** 16:14**step** 17:13**Stephanie** 7:24 9:2,9**strictly** 9:17**submissions** 17:12**support** 10:13,14 12:11 17:19**swear** 5:16

T

T-H-O-M-P-S-O-N 6:8**tab** 6:8**Taylor** 6:3**team** 9:3**technical** 14:21**ten-day** 8:11**territory** 11:3**testify** 5:13 15:5**testifying** 5:8,12**testimony** 5:17 7:4 14:7 16:4**thing** 11:23 16:18**Thompson** 6:3,6,7**time** 9:18,20 10:5**today** 5:8,18 7:20 8:14 9:21
10:14 12:2,4**today's** 5:13**tomorrow** 8:17 12:23 13:3 19:5**travel** 12:4**truth** 5:19,20**turn** 9:1**TV** 17:17**type** 19:2

U

unanimity 12:11**unanimous** 9:14 10:12 17:18**unincorporated** 11:3,7

V

Valentine's 19:3**versus** 16:13**view** 11:25**vote** 13:18**voters** 9:18**voting** 10:20 19:15

W

waive 6:10**wanted** 17:21**Warycha** 5:14**weigh** 12:6**work** 8:2**worked** 7:15**workers** 11:13,20**working** 15:12**written** 10:4

Y

years 12:20**yesterday** 8:12