

Indiana Election Commission Minutes December 11, 2015

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

Members Absent: S. Anthony Long, Vice-Chairman of the Commission.

Staff Attending: J. Bradley King, Co-Director, Indiana Election Division of the Office of the Indiana Secretary of State (Election Division); Angela M. Nussmeyer, Co-Director of the Election Division; Matthew Kochevar, Co-General Counsel of the Election Division; Dale Simmons, Co-General Counsel of the Election Division

Others Attending: Dr. Jay Bagga, Co-Director, Voting System Technical Oversight Program (VSTOP); Mr. Tyler Johnson (VSTOP). Steve Shamo, MicroVote General Corporation.

1. Call to Order:

The Chair called the December 11, 2015 meeting of the Commission to order at 1:30 p.m. EST in Conference Center Room 2, 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 Kelly Horsley of Connor Reporting. This document is incorporated by reference into these minutes, with the following corrections of scrivener’s errors:

Page 8, line 5, replace “minimum” with “minimus”.

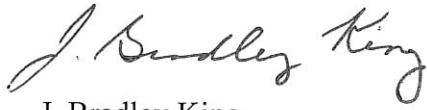
Page 8, line 25, replace “amotion” with “a motion”.

Page 9, line 13, replace ‘35’ with “certified”.

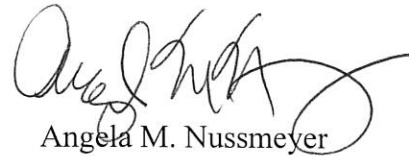
Page 10, line 17, replace “35” with “certified”.

Page 13, line 16, replace “KING” with “KLUTZ”.

Respectfully submitted,

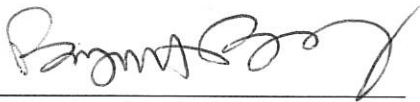


J. Bradley King
Co-Director



Angela M. Nussmeyer
Co-Director

APPROVED:



Bryce H. Bennett, Jr.
Chairman

ORIGINAL

In the Matter Of:

INDIANA ELECTION COMMISSION HEARING

TRANSCRIPT OF PROCEEDINGS

December 11, 2015



CONNOR REPORTING

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Transcript of Proceedings
December 11, 2015

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INDIANA ELECTION COMMISSION
PUBLIC SESSION AGENDA

Conducted on: December 11, 2015

Conducted at: Indiana Government Center South
402 West Washington Street
Conference Room 2
Indianapolis, IN 46204

A Stenographic Record By:
Kelly S. Horsley, RPR, CSR 98-R-3004

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APPEARANCES

INDIANA ELECTION COMMISSION:

- Mr. Bryce Bennett - Chairman
- Mr. Michael Claytor - Vice Chairman Pro Tem
- Ms. Suzannah Overholt - Commission Member
- Mr. Zachary Klutz - Commission Member

INDIANA ELECTION DIVISION STAFF:

- Mr. Bradley King - Co-Director
- Ms. Angela Nussmeyer - Co-Director
- Mr. Dale Simmons - Co-Legal Counsel
- Mr. Matthew Kochevar - Co-Legal Counsel

1 CHAIRMAN BENNETT: The following members of
2 the commission are present: Myself, Chairman
3 Bryce Bennett. We have Michael Claytor, proxy
4 for Vice Chairman Anthony Long; Member
5 Zachary Klutz; and Member Suzannah Overholt.
6 The Indiana Election Division staff are our
7 codirectors, Brad King and Angela Nussmeyer.
8 Co-general counsels are Matthew Kochevar and
9 Dale Simmons. The court reporter today is
10 Kelly Horsley.

11 THE COURT REPORTER: Hi.

12 CHAIRMAN BENNETT: First I'd like to
13 request that Mr. King and Ms. Nussmeyer to
14 confirm that the commission meeting has been
15 properly noticed as required under the open door
16 law.

17 MR. KING: Mr. Chair and members of the
18 commission, this meeting has been properly
19 noticed in accordance with the Indiana open door
20 law.

21 CHAIRMAN BENNETT: Very well. I recognize
22 Mr. King and Ms. Nussmeyer to present minutes
23 from the November 19th, 2015, commission
24 meeting.

25 MR. KING: Mr. Chair and members of the

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1 commission, Ms. Nussmeyer and myself prepared
2 minutes of that six-minute meeting and provided
3 them to you and recommend your approval.

4 CHAIRMAN BENNETT: Is there a motion to
5 approve the minutes as presented?

6 VICE CHRMN PRO TEM CLAYTOR: So moved.

7 CHAIRMAN BENNETT: We have a motion. Is
8 there a second?

9 COMMISSION MEMBER KLUTZ: Second.

10 CHAIRMAN BENNETT: We have a motion and a
11 second. Is there any discussion?

12 (No response.)

13 CHAIRMAN BENNETT: Hearing none, all in
14 favor, say "Aye."

15 THE COMMISSION: Aye.

16 CHAIRMAN BENNETT: All opposed say "Nay."

17 (No response. Motion carried.)

18 CHAIRMAN BENNETT: The ayes have it, and
19 the motion to approve the minutes is approved.
20 And I will hereby affix my signature to said
21 minutes.

22 Next we'll go to the ratification of the
23 campaign finance summary agreements and ask for
24 a presentation by Brad King and -- and
25 Angie Nussmeyer.

1 MR. KING: Mr. Chairman, members of the
2 commission, in your binders, the first tab is
3 captioned "CFA Agreements." These are -- listed
4 on the page that follows, there are six of them
5 which total \$2,350. Ms. Taylor and Ms. Thompson
6 are helping to prepare for the conference and so
7 will be prepared to the answer any questions you
8 may have.

9 CHAIRMAN BENNETT: Is there a motion to
10 ratify the campaign finance summary agreements
11 as presented?

12 VICE CHRMN PRO TEM CLAYTOR: So moved.

13 CHAIRMAN BENNETT: Is there a second?

14 COMMISSION MEMBER KLUTZ: Second.

15 CHAIRMAN BENNETT: Any discussion?

16 (No response.)

17 CHAIRMAN BENNETT: Hearing none, all in
18 favor, say "Aye."

19 THE COMMISSION: Aye.

20 CHAIRMAN BENNETT: All opposed say "Nay."

21 (No response. Motion carried.)

22 CHAIRMAN BENNETT: The ayes have it, and
23 the motion to ratify the agreement is adopted.

24 Now we will address the oath regarding vote
25 system matters. So everyone who is present who

1 plans to testify regarding the voting system
2 matters coming before the commission today,
3 please stand for the administration of the oath.
4 I will recognize Dale Simmons to administer the
5 oath.

6 (At this time, the oath was administered.)

7 CHAIRMAN BENNETT: Thank you. Is there a
8 representative from Election Systems & Software,
9 ES&S, present who wishes to speak regarding
10 their application? I would recognize Jay Bagga
11 to present.

12 MR. BAGGA: Thank you, Mr. Chairman. I am
13 Jay Bagga, J-a-y, B-a-g-g-a. I'm a co-director
14 of VSTOP; and I am here to present our report on
15 an ECO, a set of the ECOs from ES&S. That's the
16 first item. There are six ECOs. And these ECOs
17 are all de minimus. And they are being tested
18 by labs as de minimus, and we recommend their
19 approval.

20 This ECO concerns some end-of-life
21 components which are being replaced some changes
22 in EMI components, which are hardware changes,
23 and some are cosmetic enhancements. And I can
24 go into more details if you have questions.

25 CHAIRMAN BENNETT: For purposes of

1 discussion, is there a motion to approve the
2 application for approval of these engineering
3 change orders submitted by ES&S in accordance
4 with the recommendation of VSTOP and subject to
5 any restriction or additional requirement in
6 that recommendation?

7 VICE CHRMN PRO TEM CLAYTOR: I'll move for
8 approval.

9 CHAIRMAN BENNETT: Is there a second?

10 COMMISSION MEMBER KLUTZ: Second.

11 CHAIRMAN BENNETT: The question is on the
12 approval of certifications of this voting
13 system. Is there any discussion?

14 (No response.)

15 CHAIRMAN BENNETT: Hearing none, all in
16 favor, say "Aye."

17 THE COMMISSION: Aye.

18 CHAIRMAN BENNETT: All opposed say "Nay."

19 (No response. Motion carried.)

20 CHAIRMAN BENNETT: The ayes have it. The
21 motion is adopted.

22 Next we will turn to the Unisyn Voting
23 Solutions and ask for a presentation by VSTOP.

24 MR. BAGGA: Thank you, Mr. Chairman. I
25 would like to present our recommendation for

1 approval of the ECO submitted by Unisyn Voting
2 Solutions. This is one de minimum ECO, and it
3 concerns the matter of the ballot box which is
4 attached to the optical voting scan unit. This
5 is a de minimum ECO, does not affect any
6 functionality of the voting system. We
7 recommend approval.

8 CHAIRMAN BENNETT: Is there any
9 representative from Unisyn present who wishes to
10 speak regarding this -- this application?

11 (No response.)

12 CHAIRMAN BENNETT: Is there any discussion
13 from the commission regarding this application?

14 (No response.)

15 CHAIRMAN BENNETT: Is there a motion to
16 approve the application for approval of the
17 engineering change order submitted by Unisyn in
18 accordance with the recommendation of VSTOP and
19 subject to any restriction or additional
20 requirements in that recommendation?

21 COMMISSION MEMBER CLAYTOR: So moved.

22 CHAIRMAN BENNETT: We have a motion. Is
23 there a second?

24 COMMISSION MEMBER KLUTZ: Second.

25 CHAIRMAN BENNETT: We have amotion and a

1 second. All in favor say "Aye."

2 THE COMMISSION: Aye.

3 CHAIRMAN BENNETT: All opposed say "Nay."

4 (No response. Motion carried.)

5 CHAIRMAN BENNETT: The ayes have it, and
6 the motion is adopted.

7 Next we move to the MicroVote voting system
8 upgrade and ask for a presentation from VSTOP.

9 MR. BAGGA: Thank you, Mr. Chairman. We
10 are pleased to present our report from MicroVote
11 General Corporation's DRE and absentee optical
12 scan voting system, MicroVote EMS 4.1.

13 There is a current system that's 35 in the
14 state and this is the modification for that
15 system. And the hardware and the software
16 components are listed in the report that we
17 totally reviewed the documentation for this
18 voting system. And we brought a representative
19 of MicroVote to Ball State for a test of the
20 voting system November 18 of 2015. And we
21 tested and we find that the voting system meets
22 all the requirements of Indiana code, so the
23 report is in front of you.

24 CHAIRMAN BENNETT: Is there any discussion,
25 any questions from the members of the

1 commission?

2 COMMISSION MEMBER KLUTZ: I have one
3 question. Within the packet there was a July
4 letter from the U.S. Election Assistance
5 Commission.

6 MR. BAGGA: Yes.

7 COMMISSION MEMBER KLUTZ: And in there,
8 they grant the certification with certain
9 caveats --

10 MR. BAGGA: Right.

11 COMMISSION MEMBER KLUTZ: -- and allowed
12 six months to undergo a followup.

13 MR. BAGGA: Right.

14 COMMISSION MEMBER KLUTZ: Can you just give
15 us some insight as to that process?

16 MR. BAGGA: Certainly. So the EAC approved
17 this system in 35 subject two caveats. The two
18 caveats are -- the first one concerns the use of
19 pictographic languages, which are required by
20 the voting system guidelines and also by the
21 Voting Rights Act. And these are languages such
22 as American Indian and certain other languages.
23 Now, that does not apply to Indiana because
24 Indiana, we do not have that requirement. So
25 that -- that requirement is irrelevant as far as

1 Indiana is concerned.

2 The second caveat has to do with an
3 inspection of the quality assurance and
4 configuration management programs at MicroVote.

5 And MicroVote has promised and assured that
6 they will undertake this correction. The
7 quality assurance has to do with the maintenance
8 of quality as the programs and the systems are
9 developed. And there are certain standards and
10 guidelines which EAC looks for.

11 The configuration management is also a
12 process whereby all the components of the system
13 that are being developed are continuously
14 monitored to make sure that the systems work
15 with each other so the end product works well.
16 And MicroVote has also promised that they will
17 improve those systems.

18 And the certification of the current system
19 has already been granted, and this will not be
20 affected. So VSTOP had a conference with EAC;
21 and there's a letter in your packet from EAC
22 which explains that even if MicroVote were not
23 to improve and pass those six caveats, this
24 certification will not be impacted. This
25 certification has already been granted.

1 The future certifications are the ones that
2 may be impacted.

3 COMMISSION MEMBER KLUTZ: Thank you.
4 That's very helpful.

5 CHAIRMAN BENNETT: Any other questions?
6 Comments? Discussion? Any questions, the
7 approval of the certification of voting
8 system -- I guess we need a motion. Sorry about
9 that.

10 Is there a motion to approve the
11 application for renewal of certification of the
12 voting system submitted by MicroVote in
13 accordance with the recommendation of VSTOP and
14 subject to any restrictions or additional
15 requirements in that recommendation?

16 VICE CHRMN PRO TEM CLAYTOR: So moved.

17 CHAIRMAN BENNETT: We have a motion. Is
18 there a second?

19 COMMISSION MEMBER KLUTZ: Second.

20 CHAIRMAN BENNETT: The question is on the
21 approval list of certification of this voting
22 system. And we have a motion and a second. All
23 in favor say "Aye."

24 THE COMMISSION: Aye.

25 CHAIRMAN BENNETT: All opposed say "Nay."

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1 (No response. Motion carried.)

2 CHAIRMAN BENNETT: Ayes have it, and the
3 order is approved.

4 Does VSTOP have any information to report
5 regarding any other voting system applications?

6 MR. BAGGA: There are some spending
7 inspections and reviews ongoing; and at this
8 point, we have nothing further to report at this
9 time.

10 CHAIRMAN BENNETT: With that, the Indiana
11 Election Commission has finished its business
12 for today. Is there a motion for the Indiana
13 Election Commission to adjourn?

14 COMMISSION MEMBER CLAYTOR: So moved.

15 CHAIRMAN BENNETT: Is there a second?

16 MR. KING: Second.

17 CHAIRMAN BENNETT: There's a motion and a
18 second. Those in favor say "Aye."

19 THE COMMISSION: Aye.

20 CHAIRMAN BENNETT: Opposed say "Nay."

21 (No response. Motion carried.)

22 CHAIRMAN BENNETT: The ayes have it, and
23 the Indiana Election Commission meeting is
24 adjourned. Thank you all.

25 (Time noted: 1:43 P.M.)

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1 STATE OF INDIANA)
2 COUNTY OF MARION) SS:

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4 I, Kelly S. Horsley, RPR, CSR No. 98-R-3004, a
5 Notary Public in and for the County of Hendricks,
6 State of Indiana at large, do hereby certify that
7 the foregoing public session agenda meeting was
8 taken on behalf of the Commission at the offices of
9 Indiana Government Center, 402 West Washington
10 Street, Conference Room 2, Indianapolis, Marion
11 County, Indiana, on the 11th day of December, 2015,
12 commencing at the hour of 1:30 P.M., pursuant to
13 the Indiana Rules of Trial Procedure;

14

15 That said meeting was taken down in stenograph
16 notes and afterwards reduced to English under my
17 direction, and that transcript is a true record of
18 the testimony given by the said participants;

19

20 I do further certify that I am a disinterested
21 person in this cause of action; that I am not a
22 relative or attorney of either party, or otherwise
23 interested in the event of this action, and am not
24 in the employ of the attorneys for either party.

25

1 IN WITNESS WHEREOF, I have hereunto set my
2 hand and affixed my notarial seal this 15th day
3 of December, 2015

4 
5 _____

6 N O T A R Y P U B L I C

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8 My Commission Expires:
9 October 11, 2023

10 County of Residence:
11 Hendricks

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