

INDIANA ELECTION COMMISSION JANUARY 17, 2002 MINUTES

MEMBERS PRESENT: S. Anthony Long, Vice-Chairman of the Indiana Election Commission (“the Commission”); Shirley Baker, Proxy for Dudley Cruea; Butch Morgan, Member of the Commission; Joseph M. Perkins, Jr., Member of the Commission

MEMBERS ABSENT: Dudley Cruea, Chairman of the Commission

STAFF ATTENDING: Laurie Christie, Co-Director of the Indiana Election Division of the Office of the Indiana Secretary of State (“the Election Division”); Spencer Valentine, Co-Director of the Election Division; Kristi Robertson, Co-General Counsel of the Election Division; Dale Simmons, Co-General Counsel of the Election Division; Michelle Brzycki, Precincts and Voter Registration Coordinator; Lori Hershberger, Precincts and Voter Registration Coordinator

OTHERS ATTENDING: Ms. Maureen Bard (Office of Census Data, Legislative Services Agency); Van Barteau; Mr. Philip Bayt (Ice Miller); Ms. Sherry M. Beck (Marion County Board of Voter Registration); Mr. Bill Bock (Kroger Gardis & Regas); The Honorable Phillip Borst, Marion County City-County Councillor; Mr. David Casto; Mr. Roger Chiabai (Lake County Board of Elections and Registration); Mr. Steve A. Clark (Henry County Democratic Party chairman); Mr. Jeff Coyne (Indiana Democratic Party); Ms. Claudia Cummings (Marion County Circuit Court Clerk); Mr. Patrick Cunningham (City of Indianapolis); Mr. Joe Delacruz; Ms. Elsie Franklin; Mr. Luther P. Franklin (Henry County Democratic Party); Mr. Sean Frick; Ms. Carolyn Grant (Marion County Republican Central Committee); Mr. Jewell G. Harris, Sr.; Mr. Joseph Hero; Mr. Lacy M. Johnson (Ice Miller); Ms. Liz Keele (Pike Township Assessor); Mr. John Keeler (Marion County Republican Party chairman); Mr. Matthew T. Klein (Kroger Gardis & Regas, LLP); Mr. Andrew Klineman (Ice Miller); Mr. Brad Klopfenstein (Libertarian Party of Indiana); Mr. Frank Kollintzas; Ms. Sally LaSota, Executive Director, Lake County Board of Elections and Registration; The Honorable Ed Mahern, Indiana State Representative; The Honorable Robert Massey, Marion County City-County Councillor; Mr. David Miller; Mr. Joel Miller; Ms. Cathline Mullin (Marion County Board of Voter Registration); Mr. J. Justin Murphy (Lake County Board of Elections and Registration); Mr. Mark Stratton (Office of Census Data, Legislative Services Agency); Mr. Allan Sutherlin (Legislative Demographics Services); The Honorable Sarah Taylor, Marion County Circuit Court Clerk; The Honorable Nannette Tunget, Mayor of Southport; Beth White (City of Indianapolis).

1. CALL TO ORDER:

Mr. Long as acting Chair called the January 17, 2002 public session of the Indiana Election Commission to order at 1:16 p.m. in Indiana Government Center South Conference Room 1, 402 West Washington Street, Indianapolis, Indiana.

The Chair noted the presence of a quorum of Commission members, and that Mr. Cruea was represented by a proxy, Ms. Baker. The Chair noted that a document designating Ms. Baker to serve as proxy for Mr. Cruea had been filed with the Election Division as of this date, and were incorporated by reference in these minutes.

The Chair stated that proper notice of this meeting had been given under the Indiana Open Door Law.

2. ESTABLISHING PRECINCTS:

A. Clark County:

The Chair recognized Mr. Valentine, who presented information concerning proposed precinct changes in Clark County. He stated that the proposal involved transferring only one census block from one precinct to another precinct. A copy of the Co-Directors' recommendation regarding this precinct boundary change is incorporated by reference in these minutes.

Mr. Valentine noted that this change amends the precinct establishment order approved by the Commission at its January 10, 2002 meeting to ensure that a precinct boundary line follows a corporation line. He added that Ms. Brzycki had found his error regarding this census block. The Chair thanked Ms. Brzycki. The Chair was advised that Ms. Simmons was preparing an order for the Commission to approve this change and would be providing the order shortly.

The Chair recognized Mr. Morgan, who noted that the document indicated that the Democratic and Republican county chairs had no objection to this change, and asked if the Libertarian Party had any objection. The Chair recognized Mr. Klopfenstein, who stated that he had spoken with Mr. Valentine regarding this change and had no objection.

The Chair deferred further action concerning the Clark County change until the precinct establishment order was available.

B. Marion County:

The Chair recognized Ms. Brzycki, who stated that Marion County has 647 precincts and 2 non-voting precincts (for a total of 649 precincts) under its proposed precinct boundary change order. She stated that the Office of Census Data has reviewed these changes, and the Election Division has taken the Office's comments into consideration. She added that the Democratic, Libertarian, and Republican county chairs have been notified of these changes. The Chair noted that although the Co-Directors' recommendation form, which is incorporated by reference in these minutes, shows that no objections had been filed by any of these county chairs, that he understood that there were some objections at this point.

The Chair stated that the Commission would hear presentations from any individual with questions or objections concerning the Marion County precinct establishment plan. The Chair asked Ms. Robertson to administer the oath to any person who wished to testify before the Commission for or against any county's precinct establishment plan at this meeting. Ms. Robertson then administered the oath.

The Chair recognized Mr. Bock, of Kroger, Gardis & Regas, LLP, who stated that he represented the Republican caucus of the Marion County City-County Council, who were remonstrating against the proposed precinct establishment order submitted by the Mayor of Indianapolis. Mr. Bock submitted a document to the Commission entitled "Brief of Remonstrators in Opposition to Proposed Precinct Establishment Order for Marion County, Indiana", dated January 17, 2006, which was accepted by consent, and is incorporated by reference in these minutes. Mr. Bock said that before addressing the substantive issues, he wished to make a motion regarding the jurisdiction of the Commission to hear this matter at this time.

Mr. Bock remarked that he had submitted a public records request for the documentation pertaining to this plan, and that even as he spoke at this meeting, he had not received a complete response to this request since the Marion County precinct plan itself had not been completed, as of yesterday evening. He added that he had received some paper documentation today, but had still not received electronic files reflecting changes that were made to the plan last night.

Mr. Bock said that Indiana statutes require several things before the Commission can consider a proposed precinct establishment order. First, the county executive must submit a proposed precinct order to the Election Division, (which occurred on December 21, 2001, over a month after the deadline set by the Election Division for Marion County to submit its plan, and less than an hour before the close of business for the Christmas holiday). He understood that since that time, the plan submitted to the Election Division has been in a state of constant revision; that numerous errors have been identified in the plan; and that as a result, numerous changes and corrections have been made to the plan through the period ending last night or early this morning. He said that as a result, no member of the public has had the opportunity to review the complete and final plan, and that in fact, no complete and final plan has been submitted by the Mayor of Indianapolis to the Election Division, as required by statute. Mr. Bock stated that Indiana Code 3-11-1.5-19 requires that if there is a correction to a plan is necessary due to the plan's failure to comply with state law, the Co-Directors of the Election Division must send a letter to the county executive. He added that the county executive is then required to resubmit the proposed order to the Election Division, and he understands that this has never occurred in this case. Mr. Bock said that he understood that there has been no letter from the Co-Directors of the Election Division to the county executive of Marion County, noting the substantial errors in the plan that had been identified, and that there has been no resubmission of any plan by the Mayor. He noted that the Mayor's initial plan had been accompanied by an executive order, which he had obtained pursuant to a public records request to the Mayor's office, but that he had not received a copy of any subsequent executive order or document resubmitting a revised precinct plan.

Mr. Bock stated that, based on this information and the brief previously supplied to the Commission, that the Commission does not have jurisdiction in this matter at this time. He said that it is important that the Commission follow the procedures set forth in statute, so that the public has the opportunity to see the changes that are proposed to be made to the precinct plan, and that the public has a reasonable opportunity to review those changes.

The Chair recognized Mr. Perkins to question Mr. Bock concerning this motion. Mr. Perkins said that he understood Mr. Bock to be raising several arguments, first being a jurisdictional argument. Mr. Bock responded that depending on how the Commission ruled with regard to the jurisdictional argument, his clients might have additional arguments to present. He added that his clients had not had the opportunity to review a final plan, and were therefore not prepared to address all potential issues. Mr. Bock said that a case cited in their brief stands for the proposition that due process of law requires the opportunity for counsel to at least review the documents subject to the hearing, which has not occurred in this matter.

The Chair stated that the Commission would need to address the issue of the Commission's jurisdiction before moving on to consider any substantive issues raised by the remonstrators.

The Chair recognized Mr. Bayt to respond to the issue of jurisdiction. Mr. Bayt stated that he represented the City of Indianapolis, and that it was clear that the Election Commission did have jurisdiction in this matter. He said that the process set out by statute has been followed. Mr. Bayt remarked that the statute cited by Mr. Bock as requiring a letter does not do so, but instead states that the Co-Directors shall advise the county executive that the proposed order would not comply with state law. Mr. Bayt stated that there have been some technical corrections to the plan that he would discuss at a later point, but it is clear that the statute has been followed. Mr. Bayt remarked that, with respect to the records request, he believed that the material requested has in fact been submitted in full in response to the request, and that there is therefore no impediment to the Commission hearing this matter today.

An unidentified person stated that he had received notice nine days ago that copies of the proposed precinct plan were on file and available for inspection at the office of the Mayor of Indianapolis.

The Chair recognized the Co-General Counsels to address the Commission regarding this matter. Mr. Simmons responded that he and Ms. Robertson had discussed the jurisdictional issues raised. He noted that it may be important for the Commission to distinguish between two things: (1) an order signed by the county executive; and (2) all the documentation accompanying that order, such as the IEC-8 forms, maps, and legal descriptions.

Mr. Simmons said that the process that the Election Division has undertaken with almost every county has been to have an executive order submitted with the accompanying documentation, or an order which incorporates the accompanying documentation by reference. He stated that in following IC 3-11-1.5-19 if the Election Division finds that there are technical problems, the Election Division so advises the county executive or the county's representatives. He noted that IC 3-11-1.5-19 does not specifically refer to the Election Division sending a letter to do so. He said that then county representatives communicate with Election Division staff to resolve those issues, and that there is no new executive order signed, although the supporting documentation is changed in cooperation with the representative of the county executive.

Mr. Simmons stated that he understood Mr. Bock to be arguing that the order signed by the executive has to then be reissued or re-signed. He indicated that this was not a requirement that the Election Division had been imposing on the rest of the counties.

Ms. Robertson stated that the Commission had received in its packet a recommendation from the Co-Directors concerning Marion County's proposed precinct order. A copy of this document is incorporated by reference in these minutes. She noted that the plan has been reviewed by the Office of Census Data. After review of the comments from the Office of Census Data, this recommendation was then issued by the Election Division Co-Directors to the Commission. Ms. Robertson said that with regard to public record requests, she noted that the Commission had received a copy of a memo from herself and Mr. Simmons, dated January 17, 2002, concerning the Election Division's compliance with the requests made by Kroger Gardis & Regas and by Ice Miller. A copy of this document is incorporated by reference in these minutes.

In response to a question from the Chair, Ms. Robertson and Mr. Simmons stated that the Election Division had complied with these public records requests. Mr. Simmons added that, to the extent the Election Division has the documentation, the Election Division has forwarded the documentation, but that as Mr. Bock pointed out, the Election Division did not have the actual shape files (the electronic version of the maps) to provide to Mr. Bock until today.

In response to a question from the Chair, Mr. Simmons stated that the arguments made by counsel for the parties had set forth the legal arguments regarding Commission jurisdiction, and that the questions of the fact in this case must be determined by the Commission. The Chair asked if, as far as the Election Division was concerned, whether the requirements and procedures used in considering and approving precinct plans for other counties had also been followed with regard to Marion County, whose form of government differed from other counties. He asked if the Election Division had deviated in any way from its normal procedure in this case. Mr. Valentine responded that no, the Election Division had not.

The Chair asked if any of the changes made to the Marion County plan after its submission to the Election Division on December 21 had been generated other than by comments from the Office of Census Data, or by Election Division staff. Ms. Brzycki

responded that all of these changes had come from the Election Division. In response to a further question from the chair, Ms. Brzycki indicated that these changes were mostly technical in nature, and that some more serious errors had been fixed in the first round. She added that the shape files have not been changed since the last time the Election Division provided the files in response to a public records request. In response to a further question from the chair, Ms. Brzycki stated that the electronic version of the precinct maps (the shape files) currently pending before the Commission had been provided to the Marion County Republican Party.

In response to a question from Mr. Perkins, Ms. Brzycki stated that this version of the shape files had been supplied shortly after December 21. Mr. Perkins then asked what had been supplied to the Party in the last 48 hours. He noted that in the memo from the Co-General Counsels, it looked like that there were two updates which were provided, one on January 16, and one on January 17. Ms. Brzycki responded that these were changes to the IEC-8 forms, and did not include any changes to the precinct maps.

The Chair recognized Mr. Bock, who said that in fact the last shape file had been received on January 16, less than 24 hours before this hearing.

Mr. Bock stated that Indiana Code 3-11-1.5-19 provided “the Co-Directors may suggest specific amendments to the map or legal description *in the letter* accompanying the proposed order.” He said that the statute clearly contemplates that if there is a suggested amendment to a map or legal description, the amendment must be included in a letter from the Co-Directors to the county executive.

The Chair recognized Mr. Bayt, who stated that the statute provides that the Co-Directors *may* suggest specific amendments, and is a “*may* statute,” not a “*shall* statute.”

The Chair stated that the Commission must address the issue of its jurisdiction before proceeding with any substantive aspects of the procedures for approving the proposed Marion County precinct plan. Mr. Perkins stated that he agreed with the Chair.

In response to a question from Mr. Morgan, Ms. Christie stated that she had no comments at this time. Mr. Valentine responded that the Commission had received the Co-Directors’ recommendation on this matter.

The Chair stated that it seemed that the Election Division followed precisely the same procedure that the Election Division followed in many other counties before the county whose precinct plan is under consideration today. He said that he believed that the Commission had jurisdiction in the matter before it, and that he would have been concerned if there had been a significant change in the documents since their submission to the Election Division, but that in this case, the Election Division staff had followed all procedures in reviewing the plan.

Mr. Perkins asked whether the changes provided to the parties on January 16 and January 17 were technical changes that originated from the Election Division. Ms. Brzycki and

Mr. Valentine responded that the technical changes had originated from the Office of Census Data, and then processed by the Election Division. Mr. Perkins stated it seemed that the process that the Commission requires to bring this matter before it has been followed, but that the substantive issues may be a different story. He said that, in his opinion, this matter can be heard before the Commission today since all of the procedural standards have been followed.

The Chair noted that a motion was pending before the Commission to dismiss this matter for lack of jurisdiction. Mr. Long moved, seconded by Mr. Morgan, that this motion be overruled and that today's Commission hearing proceed. After reviewing the documents submitted, and there being no further discussion, the chair called the question, and with four members voting aye (Baker, Long, Morgan, and Perkins), and no member voting nay, declared that the motion had been adopted.

The Chair then recognized Mr. Bock, and requested that he address as specifically and succinctly as possible the procedural issues that have denied his clients the ability to be heard regarding the proposed precinct map pending before the Commission.

Mr. Bock asked consent of the Commission to make a Power Point presentation of approximately 15 minutes in length, assuming no questions to allow for additional time. The Commission consented. A copy of the presentation, entitled "Proposed Marion County Precincts" is incorporated by reference in these minutes. The Chair asked that, if possible, questions be held until the end of the presentation.

Mr. Bock stated that, in addition to raising the jurisdictional issue, his clients were requesting that the Commission defer hearing this matter to provide them with additional time to review the plan. He said that although the process may have been similar to the process which has taken place regarding other counties, he did not know if any county had provided remonstrators to their plan with changes on the day of the hearing. He noted that following the passage of new legislative lines in April 2001, the Election Division had set a November 8 deadline for counties to submit proposed changes, and that he understood that this deadline had been extended at the request of Marion County. Mr. Bock said that on November 1, 2001, Dr. Phillip Borst, the majority leader of the Marion County City-County Council, had submitted a public records request to the county, and requested documentation relating to the proposed precinct plan along with an opportunity for himself and members of the public to provide input into the plan. Mr. Bock stated that in the past, the Commission has taken a very strong view regarding the necessity of getting full public input on any plan submitted to the Commission. He said that this was why at the Commission's January 10, 2002 meeting, Commissioners Long and Perkins had rightly asked whether the Vigo County Republican Party chairman had received an opportunity to present comments on that county's plan. Mr. Bock added that in 1998, when LaPorte County submitted its precinct order, and the Election Division staff determined that the plan was in complete compliance with the provisions of the Indiana Code, that was why Commissioners Long and Morgan refused to vote for that plan, and stated that it is important that there be a process of communication at the county level.

Mr. Bock said that this did not take place in Marion County's case, and that in fact, the Mayor of Indianapolis relied on the attorney-client privilege to deny this public records request. He said that the Mayor never submitted this plan to Dr. Borst or the City-County Council members, even on the date that the plan was submitted to the Indiana Election Division. Mr. Bock remarked that it was not until January 4, 2002 that a plan was finally given to Dr. Borst, obviously after it had been submitted to the Commission, with no opportunity for input on the plan. He said that in addition to this timeline, the numerous changes and revisions experienced by the proposed order since December 21, should take into consideration that many of us were not working during that time period.

Mr. Bock remarked that there are many common-sense problems with the proposed order. He stated that in the past, the Commission has taken these types of problems very seriously, with the LaPorte County case being just one example of where the Election Commission recognized that it was the Commission's responsibility not just to approve any proposed precinct establishment order that was submitted, but to make sure the plan made sense in terms of election administration and in terms of fairness to the public and all the parties involved.

Mr. Bock said that Marion County grew by 7.9% in population over the past decade, yet the number of precincts in the Mayor's proposed plan would decrease by 29.3%. He added that the evidence will demonstrate that changes are arbitrary, and have no relationship to election administration or any potential good government purpose. He noted that this demonstrated by Pike Township, where population increased by over 58%, and where there were long lines at many polling places on election day in November 2000, but where the number of precincts would be decreased by nearly 22% under the plan. Mr. Bock said that in Franklin Township, one of the most rapidly growing areas of Marion County, where population increased by over 49% in the last decade, and traditionally, a very heavily Republican township, the number of precincts would be decreased by 31%. Mr. Bock noted that in Center Township, where population had decreased by 9%, the number of precincts would be decreased by nearly 30%. Mr. Bock said that it did not matter under this plan whether a township's population increased or decreased. He said that this plan will cause havoc on election day, and that Marion County's chief election officials were present to testify to this.

Mr. Bock said that at a time when the country is focused on making voting easier and more accessible, the Mayor's plan would eliminate 269 polling places in Marion County. He remarked that it was not fair to have such a massive reduction in polling places and massive change in the election administration process in Marion County without any public input, and without any notice or an opportunity for public comment, or even without an opportunity for the county election officials who will administer Marion County's elections to comment regarding these reductions. Mr. Bock called the Commission's attention to the table titled "Precinct Changes by Township", and noted the substantial population changes indicated on that table.

The Chair asked if Mr. Bock was contending that the proposed new precincts would not meet the population guidelines established by the state legislature. Mr. Bock responded

that his clients did have concerns regarding the plan's compliance with those requirements, and would present those concerns to the Commission.

Mr. Bock said that his clients have concerns that the proposed plan would not make good-government sense, and will result in many election administration problems, including longer waiting at the polls. He added that since primary candidate filing begins January 23, 2002, and that this hearing is being held less than a week before the election process begins. Mr. Bock stated that the Mayor is asking the Commission to approve a plan that drastically changes the way in which elections will be run. He said that there was no reason why a plan proposing such dramatic changes needed to be presented to the Commission at the eleventh hour. He stated that this plan would put enormous pressure on Marion County election officials, and that based on their testimony, the Commission will not believe that this plan, if adopted, result in an election that would be fair, reasonable, or which would meet the needs of the voters of Marion County. He said that this plan would be certain to result in confusion, errors, and suppressed voter turnout.

Mr. Bock stated that there are 104 proposed precincts which result from splits of old precincts, and that these changes will require the Marion County Board of Voter Registration to spend many hours, including evenings and weekends to attempt to hand correlate the precinct splits with the voter rolls, with perhaps only two employees in that office able to perform this work, and to have this work completed by primary election day, May 7, 2002, along with all of their other election responsibilities. Mr. Bock remarked that the opportunity for errors is enormous, and that testimony will be presented that Marion County staff cannot guarantee that errors will not be made. He added that there is not enough time to communicate with voters regarding the changes which are taking place, and as a result, people will go to the wrong precincts, and lines will increase as people stand in line and try to figure out where they are supposed to vote on election day, all because this plan was not submitted until the very last possible instant, and after the deadline originally set by the Election Division. He said that for these reasons, the Commission should not approve the plan at this time.

Mr. Bock remarked that the staff has identified 64 errors in the proposed order, involving over 100 census blocks or other geographical features, such as district lines. In response to a question from Mr. Morgan, Mr. Bock stated that he was referring to the staff of the Office of Census Data, and the staff of the Election Division. Mr. Bock said that his clients would submit copies of staff comments, which his clients had received just yesterday, pointing out many of these errors. He noted that his clients had not had an opportunity to verify whether any or all of these errors had been corrected, but that he thought it was likely that some of these errors had either not been addressed, or not addressed in a proper way.

Mr. Bock remarked that 15 of the errors identified in the Mayor's proposed plan had been designated as "critical." He said that these represent critical changes which have been made in the Mayor's plan, and that as a result, the Mayor was required by statute to submit a new plan to the Election Division. He noted that these errors included a breach in the township boundary between Decatur Township and Warren Township, or at least

the failure to assign a census block to a precinct in Decatur Township and an unassigned populated area in Lawrence Township.

In response to a question from Mr. Morgan, Mr. Bock stated that he did not believe that all of these errors had been corrected. Mr. Morgan asked Ms. Brzycki if these errors had been corrected, and she responded yes. Mr. Morgan stated that he was concerned if there were errors which had not been corrected, but not if these errors had already been corrected by staff. In the interest of time, Mr. Bock offered to identify a specific error so that Ms. Brzycki could determine if the error had been corrected. Mr. Bock stated that in census tract number 370202 in Decatur Township, census block number 4024 was not assigned to a precinct in the Mayor's initial order. Ms. Brzycki asked if Mr. Bock could provide the ID number assigned to the entire precinct. Mr. Bock responded that he did not have that information, but that he noted that this census block may have been assigned on the electronic map, but that the census block had not been assigned on the IEC-8 form submitted by the Mayor's office. Mr. Bock said that he therefore asking whether this census block had ever been on an IEC-8 form. Ms. Brzycki responded that this census block had not been listed on an IEC-8 form originally submitted by the Mayor's office, but had since been corrected and is now on a corrected IEC-8 form provided to the Commission by Election Division staff.

Mr. Bock noted that township board members and school board members were to be elected in 2002, and that there were many cases in the plan where precincts cross school board district boundaries, which would cause many problems on election day. He stated that these issues should have been taken into account, and that the Mayor should have allowed public input on this plan. He noted that the errors included 9 precincts crossing district lines in Decatur Township; 6 precincts crossing district lines in Franklin Township; 11 precincts crossing district lines in Lawrence Township; 6 precincts crossing district lines in Perry Township; 6 precincts crossing district lines in Pike Township; and 5 precincts crossing district lines in Wayne Township. In response to a question from Mr. Morgan, Mr. Bock stated that these boundaries had not been corrected, but that state law did not address township or school district boundaries. He added that these transgressions will cause a lot of problems.

In response to a question from the Chair, Mr Bock said that the districts referred to were township board legislative districts, and noted that in Marion County, seven township board members were elected in each township. Mr. Bock noted that in the two townships in which the Democratic Party has a majority of members on the township board (Warren Township and Washington Township), but these townships had no precinct splits, but that in the remaining six townships he had mentioned, in which the Republican Party has a majority of township board members, the proposed precincts did not conform with the township board member district lines because when the township boards drew these district lines, the township board did not know what the Mayor's precinct plan would be.

Mr. Bock said that the complete lack of public input had resulted in an error-filled plan, including both substantive legal errors and practical errors, which will cause chaos and confusion on election day. He noted that with regard to the error in Decatur Township

discussed with Ms. Brzycki, that his clients had never received a copy of the correction of this error. Mr. Bock stated that on the electronic map, this precinct appears to be non-contiguous, in that census block 4024 is not contiguous with the remainder of Decatur Township Precinct 10. He said that these sorts of problems and issues have arisen as a result of a hurried process which has occurred.

The Chair asked Mr. Bock if he was aware that non-contiguous precincts existed all over the state. Mr. Bock responded that the non-contiguous precincts in this case could not have been addressed if there had been a process for public input and review. The Chair responded that he did not like non-contiguous precincts either, but that there were three in Warrick County as a result of the state legislative district lines and town boundary lines that led to predicaments, and that he had not been inclined to vote to approve Warrick County's proposed precincts for this reason until he had been advised by Election Division staff that there was no choice in the creation of these non-contiguous precincts.

Mr. Bock stated that the Chair was aware of the number of non-contiguous precincts in Warrick County, but that his clients were unaware of the number of such precincts in Marion County under the proposed plan since there had been lack of opportunity for public input. He said that this plan was submitted six weeks late, and eight months after the information necessary to prepare the plan became available. He added that the Marion County Republican chairman had only been notified one week ago, and had still not been provided with a copy of the plan. He noted that his client, the Marion County City-County Council had been provided with a copy of the plan only a couple of weeks ago. Mr. Bock stated that there had been no public notices, no public hearing, no public input, and reliance on the attorney-client privilege to keep the documentation secret until the last minute. He said that the result had been a secret process in Marion County.

Mr. Bock presented an excerpt from an exhibit to be offered later in the Commission meeting, which quoted a representative of the Mayor as stating that the City was unable to provide precinct redistricting documents because these documents are of an attorney-client and deliberative nature. He noted that the Marion County Circuit Court Clerk, the Republican member of the Marion County Board of Voter Registration, every Republican member of the Marion County City-County Council, and the Marion County Republican Party chairman had not seen the plan when it was submitted to the Election Division on the eve of the Christmas holiday. Mr. Bock emphasized the importance that state law places on the openness of the public process in response to public records requests, which did not occur in the case. Mr. Bock stated that he would ask that the Commission reject, or at least defer action on this plan because of noncompliance with the state public records law. He said that the fundamental philosophy of American government is that government is the servant of the people, not their master, and it should be the policy of the Commission that all persons are entitled to full access to the affairs of government. He added that he is certain that the Commission is sensitive to the concern for openness to the public.

Mr. Bock noted that in the past, Commission members had called attention to the importance of involving the public in the process of drawing precincts. He noted that

Commissioner Morgan had stated in the LaPorte County case that a larger group of individuals should have been involved in reviewing that county's precinct changes, and that only consulting with other individuals at the end of the process is not desirable, and added that Commissioner Morgan had then voted against the LaPorte County plan because that consultation had not occurred.

Mr. Bock stated that in the LaPorte County case, Commissioner Long showed his sensitivity to these important issues concerning public openness and access when he said that a public hearing held by the county commissioners was the proper forum to resolve these issues. Mr. Bock added that the Republican majority leader of the Marion County City-County Council requested that open process in his letter to the Mayor of Indianapolis dated November 1, 2001, and which will be offered to the Commission as an exhibit in this hearing. He said that this type of public hearing was the method for addressing the tremendous issues raised by the Marion County plan.

Mr. Bock said in summation that this is the wrong time for a wholesale change in Marion County's precincts, and that Dr. Borst will testify concerning this. Mr. Bock noted that Marion County is about to undergo its decennial redistricting of the Marion County City-County Council, which will result in the election of 25 City-County Council members to administer many of the affairs of the City of Indianapolis, and that this redistricting must occur during 2002 as required by state statute. He said that the General Assembly has recognized the opportunity for political mischief when reprecincting occurs immediately before redistricting. Mr. Bock remarked that in 1997, the General Assembly froze all precinct lines in the state of Indiana for purposes of preparing for the 2001 redistricting process, four years before the state conducted redistricting. He said that in this case, the Mayor has submitted a plan that would provide for reprecincting in the very year that redistricting is to occur. He added that this precinct plan was not a typical precinct plan since it would eliminate approximately one-third of all precincts in Marion County.

The Chair remarked that most counties like to eliminate precincts since doing so results in a reduction of election day costs, which total at least \$1,000 per precinct, and are increased further if the county purchases additional voting systems for precincts. He said that it looked like eliminating 269 precincts would result in savings of millions of dollars by Marion County. He said that he did not understand how doing away with precincts is necessarily bad (if the county complies with state law in doing so), if for no other reason than the monetary aspect of moving forward.

Mr. Bock responded that if this was the motivation, the Mayor should have consulted with the City-County Council, which handles the purse strings. He added that the evidence presented would show that the Mayor was invited, on November 1, 2001, to share this information with the Council, and that if the City suggests that this was the motivation for the plan, it is in direct contrast with the City's actions. Mr. Bock remarked that the Marion County Circuit Court Clerk, who administers county's elections, had not been provided with an opportunity for input concerning the plan, and if precinct reduction had been the motivation for the plan, that consultation with the Clerk would have occurred.

The Chair asked if Mr. Bock had exhibits to present to the Commission. Mr. Bock responded that he did, and presented these exhibits to the Commission. The exhibits, consisting of eleven documents, with the cover page titled "Remonstrator's Exhibits Regarding Marion County's Proposed Precinct Establishment Order", were accepted by consent and entered into the record of this hearing. At the request of Mr. Perkins, Mr. Bock also agreed to provide a paper copy of the Power Point presentation made to the Commission at this public hearing. The exhibits and presentation are incorporated by reference in these minutes.

In response to a question from Mr. Morgan regarding the 1998 Commission meeting to consider LaPorte County's precinct plan, Mr. Bock responded that initially the vote was two-to-two upon the plan, and then a motion was made by Commissioner Long to send the precinct plan back for a public hearing in LaPorte County. He said that this motion was adopted unanimously by all four members of the Commission, so that LaPorte County would have an open, public process. He stated that this was exactly what the remonstrators were requesting for Marion County.

In response to a question from Mr. Morgan, Mr. Bock stated that in the initial vote, he and Commissioner Long took the same position, which he believed was the correct one. Mr. Morgan asked if Mr. Bock believed that the Republican members of the Commission took the wrong position in that matter. Mr. Bock responded that the same concerns were expressed by Commissioners Cruea and Perkins, and that they established that by their vote to send the LaPorte County plan back for a public hearing and review. He said that he did not know the motivation for any member's vote, but believed that all the Commission members had acted properly.

The Chair recognized Mr. Bock to present information concerning another possible error in the Marion County plan. Mr. Bock asked Ms. Brzycki if she had reviewed the active voter totals on each IEC-8 form as submitted. Ms. Brzycki responded that she had followed the same procedure in Marion County's case that was used in other counties in that she reviewed the IEC-8 forms to see if the number had been provided, but that the Election Division does not have the ability to review the county's voter registration record to confirm the accuracy of this number. Mr. Bock asked if the Commission's position was to accept the county's representation regarding the number of active voters as set forth on the IEC-8. Mr. Perkins responded on behalf of the Commission that this was correct. Mr. Bock asked for the number of active voters listed on the IEC-8 form provided for Franklin Township Precinct 21. Ms. Brzycki responded that the form indicated that there would be 2206 active voters in this precinct, and that she understood that state law would permit up to 1200 active voters in a precinct. Mr. Bock asked if Ms. Brzycki had received any IEC-8 form correcting the number of active voters in proposed Franklin Township Precinct 21. Ms. Brzycki responded that she had not. Mr. Bock stated that the only information in the plan that has been submitted to the Commission is that Franklin Township Precinct 21 contains 2207 active voters. The Chair asked if Mr. Bock knew how many voters were in that precinct. Mr. Bock responded that he did not.

Mr. Bock said that he would like the opportunity to call witnesses concerning the precinct change process and the Marion County plan. In response to a question from the Chair, Mr Bock stated that he planned to call seven witnesses.

The Chair recognized Ms. Brzycki to present additional information concerning proposed precinct Franklin 21. She stated that the IEC-8 for this precinct indicated 1198 registered voters, and that the statute actually required the county to provide the number of registered voters, and not the number of active voters. She added that on all of the other IEC-8 forms, including this one, the county had gone above and beyond the requirement by providing the number of active voters. She said that in reviewing this IEC-8, the number of 1198 did not sound any alarms since the statute permitted a proposed precinct to contain up to 1200 voters. In response to a question from the Chair, Ms. Brzycki stated that she was not alarmed since by statute, the number of registered voters is the key number, and that in this case 1198 would be an acceptable number.

The Chair recognized Mr. Simmons, who said that the statute referred to requires counties to provide an estimated number of voters on the IEC-8, and that the IEC-8 form refers to "registered voters." Mr. Simmons stated that he had always had a problem with this requirement, since it did not make sense to him. He said that if the Commission is to pass on the criteria in statute, and the criteria refers to active voters, then he had a problem with not asking counties for the number of active voters in the proposed precinct. He added that as he viewed this statute, the way to estimate the number of "active voters" is to refer to the definition of that term in the Election Code, which is a separately defined term from "registered voters". He stated that otherwise there would be no purpose in the statute containing a restriction on the number of "active voters" in a proposed precinct.

The Chair recognized Mr. Valentine, who said that he wished to clarify that the number of active voters in a precinct would have to be no more than a number equal to 100% of the registered voters in a precinct, even if every voter in the precinct was an "active voter." He stated that the "active voter" number is not required by the IEC-8 form, and that the reference on the form to "requested" number of voters was a typographical error.

The Chair recognized Mr. Bock, who stated that he did not know what the number of active voters is in each precinct in Marion County, and that he was quite certain that the Mayor's office does not know that number either. He expressed his concern that the Mayor's office has made mistakes in the plan, and that the Franklin Precinct 21 form demonstrates those mistakes. He said that the statute requires that a precinct contain not more than 1,200 active voters, and that these mistakes call into question every one of the IEC-8s. He noted that the Commission had already discussed the fact that if the Mayor is going to resubmit a plan, it has to be on the IEC-8 form. He added that there is no IEC-8 form that corrects the Franklin 21 precinct form error. He asked how anyone would know whether the number of registered voters on that IEC-8 form is accurate. He stated that everyone seemed to acknowledge that the number of inactive voters is inaccurate, but say that the number of registered voters is accurate. He asked on what legitimate, non-discriminatory basis this distinction could be made by the Commission.

The Chair recognized Ms. Brzycki, who stated that the Election Division looks at the number of registered voters, and that if the number of registered voters exceeds 1200, then the Election Division has asked the county voter registration office in each county where the Election Division encounters this situation to provide the number of active voters in the proposed precinct.

The Chair stated that at this point, in fairness, before taking testimony from Mr. Bock's witnesses, he would like to ask Mr. Bayt to address the issues that Mr. Bock had raised. He said that after having these issues addressed, the Commission would decide whether it would wish to hear additional testimony from witnesses, and in which areas of dispute. He stated that it was not his intention to preclude witnesses from testifying, but that Mr. Bock had had the floor for a considerable period of time. He remarked to Mr. Bayt that, as one member of the Commission, he was particularly interested in what process and input other people have been afforded in the decisions.

The Chair said that his position had always been that, and continues to be, that these decisions are made by the county executive in the community (the Mayor or county commissioners in other counties), and that the Commission does not make these decisions or decide what is right for Marion County or any other county. He said that historically, the Commission has always taken the position that everyone should get an opportunity to be heard, and present their arguments, and that the county executive then makes its decision.

The Chair recognized Mr. Bock, who stated that as a point of order he wished to clarify that he had not yet made all of the arguments concerning this plan that he intended to make as part of the testimony of the witnesses, such as Ms. Beck of the Marion County Board of Registration. He added that an interested voter in Washington Township, Mr. Sean Frick, who is an elected member of the Washington Township Board, found out about this process yesterday, and did some analysis that he did wish to present to the Commission, but that he did have to leave the meeting to return to work.

The Chair recognized Mr. Perkins, who stated that he appreciated Mr. Bock's remarks, and noted that the Commission had been trying to follow generally accepted procedures for conducting hearings. He said that the way to go about this would seem to be to have Mr. Bock complete his presentation, and then let Mr. Bayt and his colleagues make their presentation. He suggested that the Commission ask Mr. Bock to proceed, but with instructions to be quick, and to get right to the point with each witness, and to use very sound judgment as to whether he wants to call all seven witnesses or not.

The Chair said that he would exercise his discretion by permitting Mr. Bock fifteen additional minutes on behalf of his client, the Marion County City-County Council, to present the evidence he felt was germane, and that the Chair was not precluding additional evidence from being presented, but was most interested in hearing about the opportunity for public input.

Mr. Bock called Mr. Frick to testify in this matter. Mr. Frick stated his name and address for the record as Sean Frick, residing at 7911 Kimlough Drive, Indianapolis. Mr. Frick said that, as a member of the Washington Township Board, he had been appointed to the redistricting committee for his township, which included a majority of Democrats on the Township Board. He said that the committee presented a map during last summer, and that the Township Board was asked to delay voting on that map at multiple meetings, even though the map was prepared and ready to be voted on. He stated that the Township had delayed that vote until later in the year on December 6, following the Democratic counsel's statement that he had seen the city's map, and that the Township would not be violating any precinct boundaries. He noted that this was at the same time that a public records request for this information was outstanding.

Mr. Frick said that whether the Marion County precinct plan was done for good government reasons and with regard to the philosophy behind reprecincting, or whether any other thing was going on, he had some preliminary numbers available to present. He noted that in the 1999 elections, Mayor Peterson won five of the nine townships in Marion County (Center, Pike, Warren, Washington, and Wayne). He stated that under the proposed reprecincting plan, these townships are going to have an average number of 290 voters (if an election were held today). He noted that the Republican Party nominee in 1999 won four townships (Decatur, Franklin, Lawrence, and Perry), and that the precincts in those townships would have an average of 333 voters, which means about 15% more of a wait time in very busy election cycles. He remarked that in looking at the average number of voters per precinct, it tends to correlate with Mayor Peterson's performance. He noted that in Center Township, where Mayor Peterson won 73% of the vote (a higher percentage than in any other township), would have only 221 voters per polling site, which would permit voters to cast their ballots very quickly. He added that in Franklin Township, where Mayor Peterson's performance was weakest, there would be as many as 405 voters per polling site, and the average would be some number less than that. He said that he would like the opportunity to examine the plan further concerning these statistics, but had not been able to do so.

In response to a question from Mr. Bock, Mr. Frick said that in referring to "voters", he meant the number of voters who had actually voted in these townships in the 1999 elections. He noted that the municipal election usually had low turnout in the election cycle, and that the turnout in a presidential election year would be much higher. He said that he was really addressing the issue of whether voters can get in and out of a polling place, or whether there would be lines over an hour long, as these polling places have had before.

Mr. Bock called Mr. Keeler, who identified himself as the Marion County Republican chairman. He stated that he had not been notified by the City of Indianapolis of the filing of the precinct plan, until he received a letter in the U.S. mail from Corporation Counsel Scott Chinn on January 11, 2002, which was dated January 9, 2002. He said that this was the first official notification he had received regarding the filing of the plan. He stated that he had had a conversation with City Deputy Corporation Counsel Patrick Cunningham during the week of January 7. He said that Mr. Cunningham told him that

he anticipated that he would have a map illustrating the new precinct boundaries. Mr. Keeler said that, as of today, he had still not received that map, and had received no other information concerning this process other than the letter dated January 9. He stated that the Republican Party had received no opportunity for input into this plan, and that the Party would join with the Marion County City-County Council in asking that the Commission delay action on this plan, or in the alternative, that the plan be rejected.

Mr. Bock called Dr. Borst, the Republican majority leader of the Marion County City-County Council. Dr. Borst said that he wished to testify to three points. First, what bothered him most was that this had been going on for months, at least since April or May, somewhere in some office, or in some back room, secretly or covertly, and no one knew about it. He stated that the public was not notified and the Council was not notified. Dr. Borst said that he had served on the Council for 22 years, and had served with three mayors. He said that mayors who do things because they are good for the community, good for government, good for voting, good for efficiency, or good for people, can take the smallest thing and blow it up to make it sound great. He remarked that if these things were true regarding the proposed precinct plan, why hadn't it been touted over the last several months, with public hearings in the townships. He said that this administration had conducted everything so far without hearings. Second, Dr. Borst stated that he had filed a written request with the Mayor's office on November 1, 2001, and received a nice letter back stating that these changes were being proposed for efficiency, reducing the number of voting machines needed, and reduced costs, "but thank you, this is a private matter, please stay out of it." He said that this was strange, since this process is a basic part of voting that affects precincts and people. Dr. Borst said that this process was all done behind closed doors. Third, Dr. Borst remarked that the legislature was wise enough in 1997 to freeze the precinct boundaries so that there would not be a last-minute rush to change precincts, which would result in mistakes, such as the ones testified to here. He said that the Marion County City-County Council should be redistricted in the same way that the congressional districts, state senate districts, and state house districts were done.

Mr. Bock called Bob Massey, the chairman of the Rules and Public Policy committee of the Marion County City-County Council. Mr. Massey remarked that it is his committee's responsibility to supervise the Council redistricting process, which must begin shortly. He said that there has not been insufficient public input into the reprecincting process; instead, there has been no public input. He stated that he represents 34,000 people on the south side of Indianapolis, and to his knowledge, not a single person in District 20 had any opportunity to provide input, unless it was an invitation to participate behind closed doors, which no one else knew about. Mr. Massey said that lawyers were paid hundreds of thousands of dollars to prepare the plan under discussion today without one minute of public testimony before the Mayor, the Council, or any other official body. He remarked that volunteers who worked the precincts, the heads and members of neighborhood associations, faithful voters frustrated by long lines, and elderly and handicapped members of the community were never consulted. He noted that in a free society, the press is also an advocate for the interests of the people, and said that it was very telling that in the Marion County press, there has not been one minute of radio or television time, or one inch of newspaper reports (except for perhaps coverage yesterday or today

which he had not yet seen) regarding this matter, and that the press had been equally excluded. He said that even reporters who know how to get behind the scenes have not been able to get behind the scenes on this issue. Mr. Massey said that this was just not good public policy.

Mr. Massey remarked that Council members had been working for quite some time to prepare for redistricting, which will happen this year, and will be overseen by his committee. He stated that the committee has begun a process which will include several key items of public input: first, a series of public meetings at which members of the public will have an opportunity to learn about the redistricting process, how to access data from the public web site and to prepare and present their plan at a public hearing; second, to facilitate that public input, the Council maps will be available for downloading for any map that is presented. He added that the Council was hoping to have free software available for people to download to their home computers and draw their own maps to present to the Rules Committee for consideration. Mr. Massey said that this redistricting process will begin immediately after the Commission's action regarding the proposed precinct plan and continue for several months until the adoption of a final Council redistricting plan, and will include public hearings at which every single version of a proposed council plan will have the opportunity to be heard. He stated that at the first Committee meeting, the Committee plans to publish a calendar with all of the proposed dates for each step in the redistricting process.

Mr. Massey said that the Commission was being asked to approve a precinct plan today which was drawn totally in secret, and was never exposed to the public's scrutiny for criticism or to find out what would facilitate the voting process. He asked on what criteria the Commission was being asked to approve this plan, such as how well it accommodates the interests of the voters. He said that the Commission could have no confidence that this was correct since no evidence had been presented regarding input from voters. He stated that if the plan was being presented due to its impact on voting practices or neighborhood communications, there is no way for the Commission to judge the plan on that basis. Mr. Massey remarked that if the Commission judges the plan based on how well some lawyers complied with the technical requirements of the law, then the Commission will completely ignore the fact that not one iota of the plan was presented for one single minute for public scrutiny. He said that the Commission would then miss a great opportunity to protect the interests of the people whom the Commission serves. Mr. Massey asked the Commission to reject the plan, or to return it to its author with orders to conduct full public hearings in the light of day.

Mr. Bock then called Sarah Taylor, the Marion County Circuit Court Clerk, whom he noted was the officer in charge of elections in Marion County. Ms. Taylor remarked that by statute she serves as secretary to the Marion County Election Board, and has conducted elections in Marion County for the last seven years. She stated that she was anxious to get the 2002 election process underway, but was extremely concerned that on January 23, 2002 the primary candidate filing process begins. She said that she has no information, no maps, and no district information. She added that at 8 am on Tuesday morning, after being closed on Monday for the observance of the Dr. Martin Luther King,

Jr. holiday, she will have to open up to accept candidate filings in districts, precincts, and races that she knows nothing about. Ms. Taylor remarked that individuals who are active in the political process know how excited citizens are when they decide to become a precinct committeeman, and that it will be very difficult for her to tell those individuals that she does not have the information to assist these persons in knowing which precinct they will be filing for.

Ms. Taylor added that with regard to state convention delegates, she has not received the Democratic Party's delegate district map, but has received the Republican Party's delegate district map. She said that the Republican delegate district map is based on the county's existing 917 precincts.

Ms. Taylor said that with regard to school boards, the election for those offices will be held on May 7 in Marion County, and that she has grave concerns about what splitting precincts will mean in running a school board election.

Ms. Taylor remarked that those involved in the campaign or election process understand that the election dates cannot change. She said that if the space shuttle is not ready to go, the launch can be delayed, but that elections cannot be delayed. She noted that election administrators are always short on time and on human resources, and are definitely short on money. She noted that she had to ensure that the computers using the tallying software are properly coded; that the computer coding was done for the office administration; and that the computer coding was done for interactive voice response system, which allows any voter in Marion County to call and find out where their polling place is located for election day. She said that she must publish the list of polling places, and make certain that the coding is done for the County's web site, which she believed was the first web site in the state of Indiana which allows a person to find out where the person's polling place is located. She indicated that her office staff had spent numerous hours during the off-election year taking digital pictures of those polling places, and conducting an accessibility study as a result of Marion County's participation in the federal General Accounting Office study done in 2000. Ms. Taylor said that as a result, it would be appropriate for the county to conduct its own polling place accessibility study for each polling site. She remarked that all of this information is ready to be loaded to the web site, but without this precinct information made available to her, her staff is at a standstill and unable to perform these basic functions.

Ms. Taylor stated that she was concerned about people who come in to do research, such as voters, candidates, and citizens. She asked how her office would provide them turnout statistics from the old information to the new information. She added that eventually her office would be able to do this, but not right away. Ms. Taylor asked how she would know how many forms and affidavits to create for election day, or back-up paper ballots until that turnout analysis is done.

Ms. Taylor said that it is hard enough to run elections in a timely fashion, with information received in a timely fashion, but that with this late notice, and no prior knowledge, she was extremely concerned.

Ms. Taylor noted that the proposed precinct plan would affect other parts of the election process, such as the allocation of voting machines. She said that despite increases in population, Marion County contains the same number of voters, and that the County will have to figure out how to reallocate voting machines to address some of the voting line issues that she heard discussed today.

Ms. Taylor said that she finds it sad that in the 91 other counties, her fellow comrades had an opportunity to work with their county election boards, to work with their county executive (the county commissioners), to have public input and public hearings, and were given an opportunity to share their opinion. She said that she had been given none, simply because she is in a structure called UniGov, and that because of that legal structure, the idea that she could not be included to ensure that the election is run correctly and to serve the voters of Marion County on May 7, 2002 had her gravely concerned. She remarked that Commission members understood that the circuit court clerk's name, and the county election board's name is on the line when it comes to election day being run properly. She asked that the Commission please give great consideration to these concerns.

Mr. Bock called Sherry Beck, the Republican Party member of the Marion County Board of Voter Registration. Ms. Beck stated that she had not yet been sworn in. Ms. Robertson then administered the oath to Ms. Beck.

Ms. Beck said that she was terribly concerned with the massive changes that would be made at this late date as a result of the precinct plan. She said that she was not only worried about the precinct boundary changes, since her office did not yet have the new congressional district boundaries layered on its software system. She noted that although most voters knew the number of the congressional district where they resided, or which individual represented them in Congress, that as a result of the redistricting following the state's loss of a congressional district due to the 2000 census, the voters did not know their current congressional district number or representative. She said that the state senate and state house district lines also have to be layered on the county's software system, and that she has not seen any of the proposed precincts.

Ms. Beck stated that the County Board of Registration has a shortage of staff, and currently has a total of 13 employees, including the board members and chief deputies. She said that only two persons were familiar enough with the county's computer system to be able to take the precincts, where a census block may have been added or removed, and make manual changes in the system to reflect these changes. She noted that even though the number of precincts would be reduced, she was certain that in the proposed precinct plan, adjacent precincts were simply combined without further boundary changes. Ms. Beck said that the Board would have to move every address on its address system to reflect these changes, and make sure that every address is moved to the correct precinct.

In response to a question from the Chair, Ms. Beck stated that making these changes in 104 precincts would be quite a bit of work and explained the process as follows: if and

when the county voter registration office ever sees a precinct map, the map will include the boundaries of the precinct, and the main streets within the precinct. She said that the voter registration office will have to ensure that it gets every little street within the precinct, and look at odd and even numbers on some streets, and enter the correct information manually into the county's software system. Ms. Beck remarked that the county voter registration office only has one-and-one-half persons available since the Republican member of the team is new to that process, and has not been through a redistricting. She stated that most of the office staff had been through a reprecincting, but there are other problems that accompany it, such as school boards, and that her office has not received the school board member district lines yet, except for Lawrence Township. She said that with regard to Lawrence Township school board districts, she had asked one of the school corporations to resubmit these lines since the legal description for a school board member district begins at an intersection which does not exist.

The Chair asked if Ms. Beck's office did not yet have the computerized map of the proposed precincts. Ms. Beck responded "no, sir". She stated that the county voter registration office does not have anything regarding the proposed reprecincting or redistricting. The Chair asked why Ms. Beck did not have these items. Ms. Beck responded that her office has no control over this process, which is done by the chief executive of the county. She added that her office does have maps showing the congressional district lines, state senate lines, and state house district lines in Marion County, but that these maps just show big lines. She said that her office needs a disc, which she had not yet been provided. She stated that Ice Miller had provided a disc to the office's vendor, but that the information on the disc was not compatible with the mapping software system (ArcView) used by the county voter registration office.

Ms. Beck said that in order for Ms. Taylor to do her job, the county voter registration office must get all of its information in its system. She said that she would guarantee that errors will be made, and that both she and her Democratic colleague want to err on the side of the voter. She stated that she did not see how the county voter registration office could get this number of changes in the voter registration records done. She added that during the presidential election year, when there were no precinct changes, but high voter turnout, the county voter registration office worked 43 days in a row, from 8 am until 8 pm, just to process voter registrations. Ms. Beck remarked that the work involved now would include not just processing voter registrations, but adding school board district line information and state convention delegate district information, which will be a next to impossible task.

The Chair recognized Mr. Bock, who asked Ms. Beck how many employees in her office were qualified to perform the reassignment of voters to the proposed new precincts. Ms. Beck responded "only two people." Mr. Bock noted that he asked Ms. Beck regarding active voter numbers in specific precincts, and asked if she had additional thoughts on this subject to present to the Commission. Ms. Beck responded that she believed that both her office and the Mayor's office had received the same information regarding the number of active voters in the proposed precincts. She stated that in Franklin Township, there has been great growth, and that many precincts contain well over 1,000 voters. She

said that many other precincts in Marion County contain more than 2,000 registered voters. In response to a question from the Chair, Ms. Beck clarified that she was referring to voter numbers in the existing precincts, not the proposed precincts. She said that if the number of precincts was reduced, the same number of voters would remain. She stated that her concern was that there will be longer voter waiting lines in precincts, and that people would get tired of waiting a long time to vote. In response to a remark by the Chair, Ms. Beck confirmed that yes, she did vote in every election. The Chair remarked that Mr. Keeler was probably glad to hear that his party's county voter registration board member was voting regularly.

Ms. Beck stated that the National Voter Registration Act was passed, and became effective in 1995. She said that the intent of the act was to make it easier for individuals to register, and that the result would be wonderful voter turnout. She remarked that this had not always been true in Marion County, and although the number of voters on the rolls had significantly increased, turnout was unpredictable. She said that she was concerned about cutting the number of precincts and having long lines of people waiting to vote, who could become discouraged and say "I just don't have time."

The Chair recognized Mr. Bayt to question Ms. Beck. Ms. Bayt asked if Ms. Beck had participated in reprecincting and map drawing in the past. Ms. Beck responded that yes, she had. Mr. Bayt asked how long Ms. Beck had been participating in this process. Ms. Beck responded that she had been involved in these processes for at least thirteen years, including activities while she had worked at Republican County headquarters. She stated that she had not determined where precinct lines would be, but merely drew the maps. She added that in 1997, the reprecincting work was actually done in the county voter registration office, and that about 31 precinct boundaries had been affected. Mr. Bayt asked how many public hearings had been conducted with regard to the redrawing of those 31 precincts. Ms. Beck said that she did not know whether any public hearings may have been called by Mayor Goldsmith, but that she had performed this work right out in the middle of the office. In response to a question from Mr. Bayt, Ms. Beck said that she was not aware of any other public meeting that had been conducted regarding reprecincting proposals before 1997, and that it would have been up to the Mayor's office to call a public hearing.

Mr. Bayt asked if Ms. Beck had invited any members of the City-County Council, particularly Democratic members, to participate in the map-drawing process. She responded no, that she personally had not done so, but would say that, in the past, the former Marion County Republican chairman, Mr. John Sweezy, had contacted the Marion County Democratic Party chairman regarding reprecincting. Mr. Bayt asked if Mr. Sweezy had asked for input from the Democratic chairman. Ms. Beck responded that she did not know, but that Mr. Sweezy had discussed reprecincting with the Democratic chairman.

The Chair recognized Mr. Bock, who asked Ms. Beck in her experience of thirteen years in working with reprecincting in Marion County whether there had ever been a proposal to eliminate 269 precincts. Ms. Beck responded no, that Marion County has added more

precincts during each reprecincting conducted during those years. In response to a question from Mr. Bock, Ms. Beck said that during this 13 year period, there had been proposals that combined certain precincts, but never proposals to reduce the total overall number of Marion County precincts. Mr. Bock asked if Ms. Beck could characterize the nature of the precinct changes made in 1997 as technical or substantive. Ms. Beck responded that these changes were made because there were more than 800 voters in these precincts. She added that she had simply redrawn precincts by complying with the laws to follow census blocks and other boundaries, and to have no more than 800 voters in these precincts.

The Chair asked Ms. Beck if she could identify the number of people who regularly vote in Marion County (notwithstanding whether they were classified as "active" voters or not). Ms. Beck responded that she could not do so easily due to the large variation in turnout between types of elections. The Chair asked what this number might be with regard to the 2000 presidential election. Ms. Beck deferred to Ms. Taylor for this information. Ms. Taylor responded that the number would be about 290,000 out of approximately 500,000 registered voters.

The Chair recognized Mr. Bock, who noted that Exhibit 6 in "Remonstrator's Exhibits Regarding Marion County's Proposed Precinct Establishment Order" included a letter from the Election Division received yesterday, providing updated information regarding additional changes. He said that he also wished to enter into the record a letter from the Election Division, dated and received today, the day of this hearing, providing updated information regarding additional changes. The Chair responded that this document would be designated as "Exhibit #2", and made a part of the record.

In response from a question by the Chair, Mr. Bock indicated that this concluded his presentation of evidence.

The Chair placed the Commission in recess for ten minutes. Upon reconvening the meeting at 3:30 p.m., the same Commission members were present.

The Chair said that he had been advised that a request had been received for modification to the proposed precinct plan for Lake County. He stated that he understood that these changes had not been reviewed by Election Division staff or by the Office of Census Data. The Election Division and Office of Census Data staff confirmed that this was correct.

The Chair indicated that he would move to table consideration of these changes until the next Commission meeting. Commission members discussed possible dates for the next Commission meeting. Members consented to set a tentative date and time of 10:30 a.m., Indianapolis time, on January 22, 2002 for this meeting. The Chair asked any person who would plan to testify at a January 22, 2002 meeting to provide contact information so that they could be reached if the January 22 meeting was rescheduled.

The Chair asked if the Election Division staff and the Office of Census Data could complete review of the Lake County changes by the January 22, 2002 meeting. The Chair recognized Mr. Stratton, who said that the interim policy of the Office of Census Data is to review proposed precinct changes or amendments to proposed precinct plans in the order in which they come into the Office. He said that there were currently 20 some counties received by the Office of Census Data in the last few days waiting to be reviewed. He stated that any Lake County changes or changes from any other county coming in at this time would be put at the end of that list of counties.

The Chair moved, seconded by Mr. Morgan, that the Lake County precinct proposal be tabled until the Commission's next meeting, tentatively scheduled for January 22.

The Chair recognized Mr. Hero, who wished to enter an objection to the Commission postponing its hearing of the Lake County case until January 22, 2002. He said that January 22 is the day before the opening of filing by primary election candidates. Mr. Hero said that the Commission had heard all of the arguments in the Marion County case. He added that all of these arguments, or a good number of them, were relevant to the Lake County case. He said that this election was first about giving candidates an opportunity to file a declaration of candidacy, whether for precinct committeeman or public office, and if the Commission delays its hearing of the Lake County case until January 22, it will create much confusion. He stated that it is currently impossible to obtain a map of the proposed Lake County precincts so that any potential candidate in any disputed area knows which precinct to file in.

In response to a question from the Chair, Ms. Robertson stated that Lake County had filed the maps and other documents concerning these precincts changes with the Election Division just before the beginning of this meeting. An unidentified person stated that Lake County had sent electronic versions of these maps to the Election Division yesterday, and had filed hard copies of these documents with the Election Division today.

The Chair stated that the Commission had already approved precinct establishment orders for Lake County at a previous meeting, and that maps should be available to Mr. Hero. He said that Lake County was reprecincted in either 2001 or earlier this year, and that the request brought to this Commission was to make certain changes to the previously approved plan.

Mr. Hero said that he had inquired at the Election Division office shortly before this meeting, and was told that the Election Division did not have any paper copies of the Lake County precinct maps. He stated that if the Commission does change precinct lines on January 22, these would involve a number of undisclosed precincts in East Chicago, and that he has attempted to obtain public records regarding the proposed changes to these precincts. Mr. Hero said that he could not get a copy of any Lake County order regarding these changes or maps of these changes. He stated that at the meeting of the Lake County Board of Elections and Registration at which the proposed changes were approved, he asked a Board member to see a copy of the map, and was refused. He remarked that, in his opinion, this is an organized effort to confuse the voters so that they

will not know which precinct to vote in at the next election. In response to a question from the Chair, Mr. Hero said that, in the alternative, he was asking the Commission to table this Lake County proposal until after the 2002 primary, since the voters would be totally confused if the Commission took any different action on January 22. He said that, in his opinion, to intentionally do so, understanding the impact that this would have, would be criminal to the voters. He remarked that state law gives the Commission until January 22 to deliberate on precinct proposals.

The Chair stated that Mr. Hero's objection had been duly noted. There being no further discussion, the chair called the question, and with four members voting aye (Baker, Long, Morgan, and Perkins, and no member voting nay, that the motion to table was adopted.

The following documents were provided to the Commission, and are incorporated by reference into these minutes: (1) a fax received by the Election Division on January 15, 2002 from Roger M. Chiabai, the Chairman of the Lake County Board of Elections and Registration (hereafter "the Lake County Election Board"), which included three documents captioned "Amended Order Establishing Precincts" for the cities of East Chicago, Gary, and Hammond, respectively; (2) a fax received by the Election Division on January 16, 2002 from Assistant Director Lance E. Ryskamp of the Lake County Election Board, which included a document captioned "Amended Order Establishing Precincts" for Lake County; (3) a fax received by the Election Division on January 16, 2002, captioned "Notice of Precinct Boundary Changes"; (4) a letter received by the Election Division on January 17, 2002 from Stephen R. Stiglich, Chairman of the Lake County Democratic Central Committee; (5) a fax received by the Election Division on January 17, 2002 from James L. Wieser of WIESER & STERBA; and (6) a fax received by the Election Division on January 16, 2002 from Joseph M. Hero.

The Chair recognized Mr. Bayt, who stated that he wished to thank the Election Division staff for all of their work and cooperation regarding the Marion County proposed precinct plan.

Mr. Bayt thanked Mr. Bock for letting us know that he knows more about the plan that Marion County is proposing than we do. He said that Mr. Bock is either very insightful or has had ample opportunity to study the plan, and that Mr. Bayt believes that Mr. Bock has had plenty of opportunity to study the plan.

Mr. Bayt said that he would discuss the philosophy of the proposed plan and the process that Marion County used to address the Commission's concerns. He added that before doing so, he wished to clarify certain statements that had previously been made to the Commission.

Mr. Bayt stated that there has been confusion with regard to the concept of "active voters." He said that the county voter registration board maintains a list that identifies "active voters", which is compiled in conformance with the National Voter Registration Act. He indicated that this federal Act is not consistent with the definition of "active voter" used in state statutes used for the purposes of reprecincting, which was confusing.

Mr. Bayt said that Marion County had changed the way in which it recorded voter information when the county changed computer systems in early 1997. He stated that as a result of this changeover, the record of every registered voter in Marion County showed a registration date of March 4, 1997, even if the voter had been registered for twenty years or more. He remarked that Marion County had worked closely with the vendor for the election board, and had multiple conversations with both the Democratic and Republican members of the county voter registration board and their vendor, to come to a definition of "active voter" that was consistent with the statute and appropriate for this process, and were able to do that. He said that the information contained in what Marion County has submitted is accurate.

Mr. Bayt noted that there does appear to be a typographical error information voluntarily submitted on the IEC-8 with respect to one precinct. He added that the number of active voters was identified as 2,403, and should have been stated as 1,106 active voters. He said that this error in no way defeats the proposed plan.

Mr. Bayt remarked that Mr. Bock's presentation had referenced the "transgression" of town boundaries, and for township advisory board lines. He said that the statute for precinct redistricting does not, in fact, address that issue with respect to towns. He noted that the current precinct lines breach town boundary lines in many respects. Mr. Bayt indicated that because of some discrepancies in state statutes, there will not be a township election for several years that would be affected by any discrepancies in the proposed plan. He said that if the precinct plan is approved by the Commission today there will be ample time to address township board redistricting. He remarked that he understood that a technical correction bill will be introduced to resolve discrepancies in current state law regarding township redistricting. Mr. Bayt noted that these issues did not go to the issue of the precinct plan's compliance with statute, and that therefore these issues were irrelevant to the Commission's decision today.

Mr. Bayt said that with respect to the maps, in fact the electronic maps have been available for some time. In response to a question from the Chair, he stated that the Marion County voter registration board's vendor (NTS Data Systems) had been provided with the electronic maps, and he understood that there was an issue of compatibility with the NTS system. Mr. Bayt remarked that the City of Indianapolis independently maintains a GIS mapping system, and that the City GIS office is in fact using the electronic data to map the precincts. He said that City administration officials and the county executive will work closely with the county voter registration board to share information to create maps that will allow for the administration of the election, and will work with the Clerk to make sure that, notwithstanding the large amount of work always required to conduct an election in a large county, that these offices will be able to get the job done.

Mr. Bayt stated that the philosophy of this plan is to ease the administration of a complicated election process. He noted that it was increasingly difficult to find volunteers to serve on precinct election boards, because election day is a very long day's work for

not a lot of remuneration. He said that having fewer numbers of precincts will make it easier to conduct elections by having full membership on precinct election boards.

Mr. Bayt remarked that Marion County had spent a lot of time looking at new voting machines, and believes that these are on the horizon. He stated that having fewer numbers of precincts will make it easier and more affordable to move to new technology, and will be very beneficial to the voters of Marion County. He said that the plan was specifically designed to benefit Marion County voters by making it easier to obtain this new technology.

Mr. Bayt stated that the plan will result in more precincts with full precinct election board members, and will permit the voting systems used in 269 precincts to be freed up to be allocated elsewhere. He noted that although Mr. Bock pointed out that 269 voting sites would be changed, this is in fact not the case since the plan takes into account that at several sites more than one precinct already votes at the same polling place, and that many of these precincts which used the same polling place had been combined as part of this plan. He indicated that there would be far fewer than 269 changes in polling places, and that many voters will be assigned to a different precinct number, but will still vote at the same place.

Mr. Bayt said that the philosophy of the plan was also to avoid partisanship. He noted that, notwithstanding the data that had been presented, the greatest number in the reduction or combination of precincts occurred in heavily-Democratic Center Township.

Mr. Bayt stated that as to the process, the reprecincting had begun in May 2001 after the congressional and state legislative district boundary lines had been redrawn. He said that more people began to focus on reprecincting at that point, since it was then known where new precinct lines could be drawn. He remarked that until then, it was impossible to make any decisions or gather information regarding precinct line changes since following these congressional and state legislative district boundary lines was necessary in reprecincting.

Mr. Bayt remarked that at the outset of the process, Mr. Scott Chinn, the Indianapolis Corporation Counsel, met with Ms. Taylor, the Circuit Court Clerk, to advise her that the reprecincting process could very well result in a one-third reduction of the county's precincts. He added that Ms. Taylor could speak for herself, but that he understood that her initial response to Mr. Chinn was to express her support for a reduction in the number of precincts. He said that on two different occasions, in testimony before the Marion County City-County Council, Ms. Taylor stated that there could be savings in election day administration that would result from fewer precincts.

Mr. Morgan asked when, approximately, was the first meeting with Ms. Taylor in which the possibility of a reduction in precincts was discussed. Ms. Taylor thought that this had occurred in November. Mr. Bayt stated that he thought this meeting had occurred at an earlier date than that. Mr. Morgan stated that he recalled reading about the possibility of precinct reductions in Marion County in newspaper accounts at some point.

Mr. Bayt said that Ms. Taylor had testified before the Council on November 13, 2001 and again on January 15, 2002. Ms. Taylor added that her meeting with Mr. Chinn had occurred on October 18, 2001. Mr. Bayt said that he would defer to Ms. Taylor's response.

Mr. Bayt remarked that the law is clear, that the process is set out in statute, and that Marion County had followed the law. He said that the County had followed previous custom and practice with respect to reprecincting. Mr. Bayt stated that as a result of following both the law and previous custom and practice regarding this plan, Marion County had done everything necessary.

Mr. Bayt said that the County had in fact reached an agreement with the Clerk to share decision making with regard to the selection of polling place locations, notwithstanding the fact that state statute clearly reserves that power to the county executive (the Mayor of Indianapolis). He stated that the Mayor has reached out to the Clerk to cooperate with the Clerk and seek her input regarding the selection of polling places. He remarked that as part of the plan, one of the requirements of the IEC-8 form is to identify the polling place on that form. He said that the Mayor had not only provided input to the Clerk, but an opportunity for the Clerk to participate in decision-making regarding that process.

Mr. Bayt stated that in the City's response to Dr. Borst, although the City had declined to share information at that point since the information was deliberative and incomplete, Dr. Borst was invited to provide the City with any suggestions that he might have had concerning the plan. He remarked that as of this point, Dr. Borst had not provided any proposed maps or other suggestions regarding the plan or any alternative plan. He added that the City had also not received any such information from Mr. Bock.

In response to a question from the Chair, Mr. Bayt said that the letter of November 19, 2001 from Chief Deputy Mayor Michael O'Connor, previously introduced into evidence, had stated "We welcome any further suggestions that you may have" about the plan. Commission members noted that this letter had been introduced as Remonstrator's Exhibit number three.

Mr. Bayt remarked that, in determining the number of active voters in working with NTS data, the City had consulted with both Ms. Beck and Ms. Mullin, the county voter registration board members, to ensure that the proposed precincts met the statutory requirements concerning the number of active voters. He added that the City had also consulted with Ms. Beck and Ms. Mullin, and had taken their advice, concerning the numbering system to be used for the new precincts.

Mr. Bayt said that, on behalf of the Mayor, the proposed precinct order had been filed on December 21, 2001 in both paper and electronic format, including electronic shape files containing maps of all of the proposed precincts. He stated that the written material was provided to Mr. Bock's firm on the same day by the Election Division staff, as had been indicated to the Commission in a memo from Election Division staff. He added that the

electronic material was provided to Mr. Bock's firm by email on the same day, from the Election Division staff.

Mr. Bayt stated that Dr. Borst received his copies of the written materials by letter dated January 4, 2002, probably on January 5, 2002. Mr. Bayt said that since that date, Marion County had not suggested any changes to the proposed plan, and that all of the changes discussed today were technical changes that have been suggested or proposed by the Election Division staff or by the Office of Census Data. He stated that there had been three sets of revisions, which impacted a total of 227 people out of a total of over 860,000 people in Marion County.

Mr. Bayt remarked that most of the first set of changes dealt primarily with "slivers" of territory, which contained zero population. He stated that there were other changes impacting a total of 181 people in the first set of changes, made on or around January 9, 2002. He said that Mr. Bock's firm was provided with information regarding the first set of changes on that same day. He noted that Mr. Bock's firm had discussed one change which affected 67 people on a boundary line. He added that this problem had arisen because the territory was bounded on one side by a township line and on another side by a state house district line, and that there was no choice, according to analysis by Ms. Brzycki, except to deal with this situation by creating a noncontiguous precinct. He remarked that Mr. Bock had also received notice of that change.

Mr. Bayt said that the second set of changes, which impacted 46 people, was made on January 15, 2002. He said that these reflected problems noted by the Office of Census Data. He noted that these 46 people had been erroneously listed for several years on the voter rolls as being in Lawrence Township, when in fact these voters resided in Washington Township. He stated that this problem arose because the township line ran down a particular road, and continued straight south, but at a point, Graham Road veered off to the east, which meant that the homes of these voters were in Washington Township. He said that the township line actually runs through the back yard of these homeowners, with their homes being in Washington Township and their back yards being in Lawrence Township. He added that unfortunately, the street in front of these homes, Graham Road, happens to be a legislative boundary. Mr. Bayt said that this problem had to be addressed, and was addressed by having to create a new precinct consisting of 46 people.

Mr. Bayt stated that in terms of public input, the City physically inspected the area, and talked to one resident there, who was familiar with this situation. He said that Mr. Bock had been provided by the Election Division with information regarding these changes on the same day that they were made.

Mr. Bayt said that Mr. Bock has had the same amount of time that the Marion County executive has had to address, deal with, and digest these changes, which only impact 227 people, and even fewer voters.

Mr. Bayt indicated that the request for a delay would result in missing the opportunity to establish the precincts in 2002, since January 23 is the last day permitted under the statutory cutoff. He said that the reprecincting plan gives Marion County the opportunity to fill precinct boards more easily, to save significant dollars in the administration of elections, and ultimately when purchasing new voting machines. He stated that others, including the Marion County Clerk, had identified these benefits, and that these benefits would be lost if the plan was not approved.

Mr. Bayt said that at this point neither Dr. Borst nor Mr. Bock have proposed an alternative plan, or any other suggestions. He noted that the Commission had been advised today that the proposed plan had passed both technical reviews, as represented by the staff. He stated that nothing offered by Mr. Bock today presents evidence of any statutory defect, that the City believes that there is no reason for delay, and that the issue is ripe for the Commission's consideration.

The aerial map depicting the Graham Road legislative, township, and precinct lines was accepted into evidence, marked as Petitioner's Exhibit B, and is incorporated by reference in these minutes. The letters dated January 9, 2002 from A. Scott Chinn, Corporation Counsel, to Mr. John Keeler, Marion County Republican Party chairman; Mr. Brad Klopfenstein, Marion County Libertarian Party chairman; and Mr. Ed Treacy, Marion County Democratic Party chairman, concerning the filing of Marion County's IEC-8 reprecincting application with the Election Division, were accepted into evidence, and are incorporated by reference in these minutes.

In response to a question from Mr. Morgan who asked whether Marion County was likely to continue to use lever machines in the 2002 elections, Ms. Taylor stated that the Marion County Election Board planned to continue using lever machines for the 2002 elections. She added that, except for emergency paper ballots sent to the precincts for use if needed, no other voting system would be used in the 2002 elections.

Mr. Morgan stated that Mr. Bayt had indicated that fewer polling places will be reduced under the plan than the number of precincts. In response to a question from Mr. Morgan, Mr. Bayt said that he did not have an exact count regarding the number of polling places. Mr. Morgan stated that under this plan, a larger number of machines will be available for placement in precincts in which it was determined that there might be a larger voter turnout, and could serve as a strategic reserve.

In response to a question from Mr. Morgan, Ms. Taylor stated that, with regard to the allocation of voting systems, Marion County currently has enough lever machines to place one in each precinct, and perhaps two in some cases. She added that in precincts with splits, a second lever machine was often provided so that the voter did not have to cast a vote on a paper ballot, and so that poll workers do not have to count these paper ballots. She said that with no knowledge regarding what this plan is, she could only assume that she would have to start from scratch, rethink based on the location of polling places, and to rethink likely voter turnout in the new precincts, which would be difficult to do quickly. She remarked that the number of splits under the plan would require an

entirely new level of conversation regarding this. Mr. Morgan said that he understood that after Ms. Taylor had determined which precincts contained splits, then she would be able to calculate turnout percentages, and to decide if she would need to have two machines with the same ballot style in a precinct to reduce voter lines and waiting. Ms. Taylor responded that she would then have to change the material provided for the tallying process to deal with any additional machine.

Mr. Morgan noted that the Commission had received a recommendation form for the Marion County precinct plan that had been signed off on by the Election Division Co-Directors, which stated that the Republican Party County chairman had been notified of the proposed order, and that at the time, the chairman had no objections. Mr. Morgan said that he understood that Mr. Keeler did have objections which he had voiced today. Mr. Keeler stated that he was not familiar with the form referred to by Mr. Morgan. Mr. Morgan asked that Mr. Keeler be provided with a copy of this form, and noted that this form is provided to the Commission before the Commission votes on any proposed county precinct plan. Mr. Perkins added that this form is an internal form that the Election Division staff uses to summarize precinct boundary changes when they are presented to the Commission.

Mr. Keeler noted that the form in this case was dated January 15, 2002, and would be consistent with his previous testimony that he was notified concerning the plan by letter from the City Corporation Counsel dated January 9, and received on January 11, as the final plan. Mr. Morgan said that the Commission relies on this staff form in considering precinct changes. Mr. Keeler said that after January 16, he had no way to modify the form.

The Chair recognized Mr. Perkins, who stated that Mr. Bayt had mentioned in his presentation the process followed by Marion County followed both the law and previous custom. He asked Mr. Bayt to enlighten the Commission on both of those points. Mr. Bayt responded that the law requires that the proposed precinct boundary established boundary order be submitted by the county executive, in this case, the Mayor of Indianapolis, and that Marion County had complied with this law. He said that state law also sets requirements concerning the maximum number of active voters in a precinct, and that the plan is consistent with those requirements as well. Mr. Bayt stated that the prior practice and custom has been to gather voter information, which the County has done, and then to have the county executive make the decision, which the County has done. He added that the County has followed past practice and custom in this particular instance, and that the precinct plan is consistent with the law as well.

Mr. Perkins stated that with regard to custom, he understood Mr. Bayt to be saying that these procedures conformed with past practices in Marion County. Mr. Bayt said that this was correct.

Mr. Perkins said that one of the central themes that ran through Mr. Bock's presentation and the testimony of most of those individuals who testified as a part of Mr. Bock's presentation (Mr. Frick, Dr. Borst, Mr. Massey, and Mr. Keeler), was that the process

seemed to be somewhat secretive. He stated that he was not sure that Mr. Bayt had addressed this point in his presentation, and asked him to address this claim.

Mr. Bayt responded that he believed that the process was not secretive. He noted that on November 19, Marion County had invited Dr. Borst to provide suggestions or alternative suggestions regarding reprecincting, and that Dr. Borst has not done so. Mr. Perkins asked if Mr. Bayt would agree that asking Dr. Borst to provide suggestions was not necessarily the same as inviting him to the table to look at things. Mr. Bayt responded that he would not necessarily agree with that statement. He added that the data that Marion County worked from was data that was public record, and available to anyone, including the number of active voters and the precinct boundary maps. He said that it was the county executive's job to propose the plan.

Mr. Bayt said that with regard to the redistricting of the various township advisory board districts that went on during this same time, there was no shortage of proposed plans on both sides of the political aisle, with groups of members of both parties presenting maps. He remarked that township board redistricting is a different process, which is unique to Marion County. He added that no one from the Marion County Republican Party, from Dr. Borst's office, or from Mr. Bock's office, provided Marion County with any suggestions, information, or proposed maps to suggest any different outcome or change. He said that in fact, he was a little bit troubled by the fact that Mr. Bock waited until the evening of the day before the Commission's hearing to even state an objection. He stated that the internal staff form that was provided in the Commission members' packets did not contain information with respect to this objection. He remarked that this objection came at a very, very late date. He said that he would have hoped that if Mr. Bock had specific suggestions with respect to a different plan, or a different set of maps, that he might have shared those with Marion County and asked to discuss them, but that Marion County has received no such invitations. Mr. Bayt indicated that it was the Mayor's job to put the plan before the Election Division, that the Mayor undertook his statutory duty to do that, and on November 19 invited suggestions, which as of this date the county has not received.

Mr. Perkins said that, on a related (but different) topic, Mr. Bock argued that the process was somewhat protected under the veil of attorney-client privilege. He asked Mr. Bayt to clarify if this was the case, and if so, why the attorney-client privilege was asserted. Mr. Bayt responded that the County's response contained two points: first, the attorney-client privilege, and secondly, the deliberative nature of the information. He said that the deliberative nature was the key response, because Dr. Borst's letter had asked for all notes, all memoranda, and all other documents, and at the time of his request, no decisions had been made, no materials were finalized, and no documents existed that characterized a plan. Mr. Bayt added that in Marion County's view, it would have been difficult and confusing to share thoughts, jottings, and notes that had not coalesced into a plan, and which would be subjected to concerns and criticisms, when the County was not prepared to state that this was in fact the plan that the County was going to propose. He said that at the time Dr. Borst's letter was submitted, the county was gathering

information to attempt to assess and understand what the implications of the County's philosophy were.

Mr. Bayt stated that frankly, as the Clerk had previously said, Marion County is a pretty big county with lots of precincts, and the County believed, too many precincts. He said that it took awhile to put it all together, and that he appreciated the hard work of the staff and the people who had helped Marion County to put this plan together. He indicated that the County's plan did not come together until late on December 20, 2001, and was then filed on December 21. He noted that when the County's precinct plan did come together, the County then shared it. He remarked that the County had invited suggestions concerning the plan before December 21, and have not received any yet. He said that the instant that the County had a plan, the County filed it, and shared it.

Mr. Bayt indicated that since the County saw that the process takes awhile once it is received by the Election Division, and thought that there would be opportunities to have those discussions, but the people objecting today chose to wait until it was to their advantage to complain that they did not have input into the process, and that a delay was necessary. He said that the objectors could have said something to Marion County on December 22 or 23, since they had the same maps and shape files that the County had, and the objectors chose not to do that.

In response to a question from the Chair, Mr. Bayt stated that shape files is the electronic mapping information that can be put into the AutoBound program that allows the user to create an electronic map of all the precincts. In response to a question from Mr. Morgan, Mr. Bayt stated that the shape files were available to anyone, and were in fact delivered to the objectors on December 21. He added that he did respect the fact that holidays did intervene, but that many people did work during that period, and that the objectors worked as well. He said that the Commission knows from the objectors' presentation that they did an enormous amount of work looking at the plan, and that Marion County appreciates the hard work that they did. Mr. Bayt said that despite all of that work, the objectors have not provided Marion County with one suggested change.

Mr. Morgan asked if there was an attempt by Mr. Bock or any of his group had voluntarily worked on any parallel precinct plan to offer up to the law firm, the Mayor, the Deputy Mayor, or someone like that. Mr. Bock responded that his clients are here today at the Commission advocating a plan, a plan that works, and a plan that is tested: namely, the current precincting plan in Marion County. He said that the evidence presented to the Commission today demonstrates that that plan will work better than the plan being proposed by Marion County. In response to a question from Mr. Morgan, Mr. Bock said that he was not merely advocating the status quo, but advocating a plan that was better than the plan the Mayor was proposing.

Mr. Bock said secondly that the Mayor had appropriated approximately \$250,000 to the law firm of Ice Miller Donadio & Ryan to draft a precinct plan, and that this process should not be duplicated over again because the Mayor would not let other members of the public participate in the process. He stated that this public money should have gone

towards incorporating the concerns of every voter in Marion County, and the concerns of the Clerk, and the members of the County Board of Voter Registration. Mr. Bock said that this is the process which should have happened, and that his clients were excluded from that process. He said that they did not have the resources that the Mayor had to spend on this project, and these resources could have enabled them to work with Marion County to propose a plan.

Mr. Bock said that it is the Mayor's responsibility to initiate the process, and that he had initiated the process in secret, without public participation, and that his clients were excluded from that process.

Mr. Morgan asked if financial reasons were the primary factor for the reason that Mr. Bock had chosen not to prepare an alternative plan, rather than lack of opportunity to access some of the information needed to do so. Mr. Bock responded no. He said that Exhibit 3 (the November 19, 2001 letter) which Mr. Bayt referred to as an invitation to participate was in fact a rejection of a request by Dr. Borst to participate in this process. Mr. Bock stated that Dr. Borst said "let's have a public process in which we can participate", and that this letter rejects this, and states that there will not be a public process; Dr. Borst said "we would like to talk with you about the timing of the process so that reprecincting would not influence Council redistricting, and that this letter rejected this request from Dr. Borst. Mr. Bock remarked that in this letter, Dr. Borst asked for the records of what the County was doing, and that Dr. Borst had made this request seven days before Marion County was supposed to submit a reprecincting plan. He said that Dr. Borst wanted to know where Marion County was at, and what the County was doing at that point in time, and that this letter is a rejection of any request for information regarding what the County was doing as of November 19, and states that the County will not provide any information regarding where the County was at that point in time (eleven days after the County was to have submitted a precinct plan).

Mr. Bock stated that Mr. Bayt had just said that Marion County had no idea on November 19 what the County was going to submit that could be shared with Dr. Borst. He noted that the township boards controlled by the Democrats were able to draw redistricting plans which did not conflict in any way with the Democrat plan. He said that these township boards and their attorneys had access to the Mayor's plan, and noted that Mr. Frick had testified that the Democrats' attorney came back two weeks before this plan was submitted and told a meeting of the Washington Township Board that he had reviewed the Mayor's plan.

Mr. Morgan asked Mr. Bock when the Republican caucus of Marion County City-County Council had become his client in this matter. He responded that he believed his contract was approved in October, but that the contract was to represent the caucus concerning Council redistricting, not the reprecincting matter. He said that when the reprecincting effort came into play, was when his clients first learned that the County might present a reprecincting plan. In response to a question from Mr. Morgan, Mr. Bock responded that he did not know when his clients first knew that reprecincting might become an issue.

In response to a question from Mr. Morgan, Mr. Bock stated that his firm had conversations with the Republican caucus before the contract was approved in October regarding redistricting issues. Mr. Morgan asked when Mr. Bock had a fiduciary relationship with the caucus. Mr. Bock responded that the discussions regarding redistricting issues would have first taken place after the General Assembly enacted new legislative districts in April 2001. Mr. Morgan asked if Mr. Bock had had any discussions regarding reprecincting with the Republican caucus before the November 19 letter to Dr. Borst. Mr. Bock responded yes, that the Council had always been interested in knowing what the reprecincting process would be, but as time went on, none of his clients were finding out any information about the process. Mr. Bock said that finally his clients said that since they were not being included in the redistricting process, they should ask Marion County for its public records, and that Dr. Borst had done so on November 1. Mr. Bock stated that the November 19 response to Dr. Borst was in fact a rejection of this request for information, and did not invite Dr. Borst to sit down and participate in this process.

Mr. Morgan asked if there were discussions between approximately Labor Day and the Borst letter, and if one of the reasons that Mr. Bock's clients did not come to the Commission regarding this matter after the Borst letter was that Mr. Bock did not believe that the Commission had jurisdiction. Mr. Bock responded that he was not aware that the Commission would give the relief that his clients were requesting, by ordering or telling the Mayor that he should provide information. Mr. Bock said that there was no process that he was aware of for his clients to petition the Commission to do that, and that until the Mayor submitted a proposed plan that the Commission had any jurisdiction over the matter.

Mr. Morgan said that he was just trying to get a handle on when the relationship had begun with regard to the reprecincting concern, realizing that the relationship had started with regard to redistricting issues. Mr. Bock responded that his clients had concerns regarding reprecincting in Marion County long before November 1. He said that his clients had anticipated that reprecincting would be a public process, and that when November 1 had arrived without a public process, that was when Dr. Borst wrote a letter saying that the Council would like to participate in a process, and that the process ought to be public. He remarked that it was obvious that the reprecincting process would have an incredible impact on the redistricting effort.

Mr. Morgan said that he understood Mr. Bock's position to be that there was nothing to be gained in coming to the Commission until after the release of information by the Mayor. Mr. Bock responded that if his client had come to him before the Mayor's submission of a plan, and asked Mr. Bock to appear before the Commission to request that the Commission order the Mayor to permit the Council to participate in the process, that his advice to the client would have been to save their money because the Commission does not have the authority to do that.

The Chair recognized Mr. Bayt, who said that he had a couple of clerical corrections to Mr. Bock's remarks. Mr. Bayt said that his firm's contract was for \$250 per precinct,

which he thought was a pretty good bargain. Mr. Bayt added that Center Township, which is a traditionally has heavily Democratic precincts, had a township advisory board map that was approved before the County reprecincting plan was submitted and the township board district plan was inconsistent with the reprecincting plan as submitted. Mr. Bayt said that the precincting process had traditionally worked this way in Marion County, and noted that in the testimony of the Clerk, Marion County's UniGov structure makes it unique.

Mr. Bayt said that the Council, with regarding to City-County Council redistricting, had appropriated dollars for the Republican caucus, but no dollars for the Mayor to hire counsel to participate in that process. Mr. Bock responded that the Council had appropriated equal amounts for both the Democratic and Republican caucuses for the Council redistricting process. The Chair stated that the Commission had allowed some degree of informality during this hearing, but asked that counsel direct their arguments and responses to the Commission.

Mr. Morgan said that Mr. Massey had expressed a wish to add testimony to Mr. Bock's comments. Mr. Massey stated that he was not a lawyer, and not familiar with the technical details of the process, but that his concern regarded the public process. He said that in the past when reprecincting occurred, the process involved a small number of technical changes when a precinct's population became too large and the precinct's boundaries had to be adjusted. He said that this type of reprecincting was not a public process because it only involved technical changes, but that in this case reprecincting would result in a wholesale change in the political landscape in Marion County. Mr. Massey noted that not only were 269 precincts being eliminated, but that in the Town of Southport, every council district had been reduced to one precinct. He stated that if a town council member dies, one precinct committeeman would choose the successor. The Chair responded that actually, the party county chairman chooses the successor in that situation. Mr. Massey stated that the technical argument that the County did nothing wrong, but did not invite anybody in, turns logic on its head. He remarked that if you are going to redraw the election landscape in the county, exclude all public comment, and then say that we did it right, that was offensive to him. Mr. Massey asked that the Commission either say "no, this isn't square" or "let's at least allow voters and polling place volunteers to have some kind of comment" regarding the plan. He said that the Mayor is charged with reprecincting, and the Council is charged with redistricting, and that as a result, for the Mayor to hold his own public hearings on redistricting in 2002 would be silly because it would be meaningless. He stated that likewise, it would be meaningless for the Council to hold a variety of public hearings on reprecincting, and that this would be a sham because there was nothing for the public to consider. He said that the reprecincting process was a closed process, behind closed doors, and that it was very frustrating that this was being hidden behind technical arguments.

The Chair recognized Mr. Bock, who stated that he had some factual statements to offer regarding the facts presented earlier by Mr. Bayt as part of his presentation. The Chair said that if Mr. Bock was taking exception to any of Mr. Bayt's factual assertions, that he could address those to the Commission. Mr. Bock said that he was interested in knowing

who from the Mayor's office was responsible for confirming the active voter question, and who did the quality control on that work. Mr. Bayt responded that the active voter counts were obtained from the vendor, NTS Data.

The Chair recognized Ms. Beck, who stated that Mr. Bayt did meet with Ms. Mullin and herself, approximately in mid-October, regarding active voters, and that Mr. Bayt noted that when the Marion County Board of Voter Registration upgraded its software system in 1997 to add the ability to scan voter signatures into the system, Ms. Beck's predecessor as the Republican board member had decided to show every voter in Marion County as having a registration date of March 4, 1997. Ms. Beck said that Mr. Bayt asked about this decision. Ms. Beck stated that her own voter registration record, on its first screen, would show Ms. Beck's name, address, and date of birth, and would indicate that March 4, 1997 was her registration date. She remarked, however, that if you examine the master voter file, this file contains information regarding every time that she had moved, or changed her name, and includes the very first date that she had registered to vote. She said that this would apply to every other voter in Marion County, so that despite the 1997 registration date, it is possible to determine any voter's original date of registration.

Ms. Beck recalled that Mr. Bayt had also asked her if she was aware of any previous input by anyone in the reprecincting process. She said that she had forgotten, and apologized for this, but that when Mr. Sutherlin was retained during several previous years for reprecincting work when the City had a Republican mayor, on at least one occasion, there had been meetings in the Clerk's office to which the Democratic county chairman and the Democratic county voter registration board member were invited to look at what was being changed.

The Chair recognized Mr. Bock, who said that he wished to make sure that he understood Mr. Bayt's answer regarding who performed the quality control work on the active voter information. He said that he understood Mr. Bayt's answer to be the vendor in New York. The Chair stated that Mr. Bayt had responded that this information was received by the vendor, and that, in the Chair's opinion, this answered the question. Mr. Bock responded that he had contacted this vendor, and that the vendor was simply told how to perform a particular query. Mr. Bock said his questions were how to know that the information from the vendor is accurate, and who verified the input of the data, since a calculation was necessary, and who on the Mayor's staff verified this information. The Chair stated that he was taking the answer that the data was supplied by the vendor concerning the voter registration records. Mr. Bock said that when he spoke with the vendor, he was advised that the vendor simply provided the County with raw information, and did not perform this function of calculating the number of active voters.

The Chair recognized Mr. Bock, who requested and received the Commission's permission to examine the exhibit presented by the County in Mr. Bayt's presentation. Mr. Bock said that this exhibit indicated that it was prepared by the City of Indianapolis on January 16, 2002, and Mr. Bayt confirmed that this was correct. Mr. Bock stated that as a result of this particular issue, he understood that a new precinct was created on or about January 16. Mr. Bayt responded that he had already submitted information to the

Commission concerning this. The Chair said that he understood from previous testimony that this precinct had been created because of district boundary line issues. Ms. Brzycki stated that there were no other precincts created in Marion County at that time. Mr. Bock said that he understood that there were two precincts created by this process in January 2002, and said that his point was that when the plan was submitted on December 21, this precinct was not a part of the plan. The Chair said that he accepted this.

The Chair said that he understood that as of December 21, Mr. Bock had electronic maps (shape files), and asked if this was correct. Mr. Bock responded that he did have electronic maps (shape files) on December 21, but that it did not include any subsequent modifications. The Chair asked the Election Division if had received the same maps on December 21. Mr. Valentine responded yes, and that copies of these had been forwarded at that time to Mr. Bock. The Chair said that he understood that the only changes to the plan since that date were changes that Marion County had made at the request of the Election Division. He noted that the Election Division and the Office of Census Data had found issues, slivers, crossed boundaries, and other technical problems, and that any changes to the December 21 plan had emanated from the state's side of the aisle. He understood that these changes had affected 227 voters. Ms. Brzycki responded that this was correct.

The Chair asked whether in addition to having the electronic maps, the hard copy precinct definitions were submitted to the Election Division and shared with Mr. Bock. Ms. Brzycki responded that this was correct. In response to a question from the chair, Ms. Brzycki stated that she made technical corrections to the hard copies as she went. The Chair said that he understood that these corrections were made on two different dates. Ms. Brzycki said that these corrections were made on January 9, January 15, and on the morning of January 17.

The Chair said that he was a strong believer in participation, and asked Mr. Bock whether there is a statutory reason why this request to approve the precinct plan should not be granted, other than the jurisdictional argument raised earlier. Mr. Bock responded that there was, in that the reprecincting process contemplated in the statute requires a public process, which did not take place. He stated first that the statute requires a letter to the Co-Directors regarding subsequent changes to the precinct plan, and that the purpose of that statute is so that the public can respond to the many changes which were made to this plan. He said that the plan before the Commission today is not the same plan that was submitted to the Election Division on December 21.

Mr. Bock said that secondly, only one plan was submitted by the Mayor's office, and that the testimony is clear on that point. He said that this plan contains statutory defects that required the creation of a new precinct. The Chair said he understood Mr. Bock's argument to be that the changes that emanated from the Election Division after December 21 were not properly part of the original plan. Mr. Bock responded that this was correct.

Mr. Bock said that thirdly, the remonstrators had submitted evidence that the active voter information submitted with this plan was unreliable, and that the only information that

was provided concerning Franklin 21 was that the active voter number in that precinct exceeds the maximum number of active voters in the precinct permitted by state law. He said that the Commission was required to rely upon the County's IEC-8 form.

Mr. Bock said that the remonstrators had pointed out errors in the Marion County plan, and that he believed the Commission had the authority, when the boundaries of political subdivisions were transgressed, to find that this justifies modification of the plan.

The Chair said that he was not questioning the Commission's authority, but was interested in knowing what were the statutory defects that were the basis for Mr. Bock's arguments concerning the Marion County plan.

Mr. Bock stated that the statutory defects involved compliance with the Indiana Public Records Law, which he believed that the Commission could take into consideration, much in the way the argument was made that the remonstrators could have come to the Commission earlier to seek relief on this point. He said that he believed that the Commission could determine that the information received by the remonstrators under the Public Records Law was inadequate.

Mr. Bock said finally that the Commission's own precedents (particularly in the LaPorte County case) indicate that the Commission has the discretion under the statutes as an administrative body with expertise in election matters to consider whether the precincts which have been submitted would result in a fair and open election. He stated that the undisputed evidence is that it will not. Mr. Bock indicated that there has been no testimony submitted that a fair election can be conducted under this reprecincting plan. He added that he believed that this was the primary responsibility of the Commission.

The Chair recognized Mr. Klopfenstein, who stated that throughout this process, the Libertarian Party had been included to different degrees throughout the state, ranging from Hendricks County, which had invited the Libertarian county chairman to attend a meeting concerning the redrawing of precincts, to simply being informed that the redrawing of precincts was being proposed. He said that he had served as the proxy for the Libertarian Party chairman of several counties, but unfortunately was not the proxy for the Marion County Libertarian chairman for this meeting. Mr. Klopfenstein said that in response to Mr. Perkins' earlier question, yes, he had been notified of these changes, but was informed at about 2:15 pm today that his county chairman had not been notified concerning these changes. He added "shame on the Republicans" because they had not checked to see if his party had found about these proposed changes, and "shame on the Mayor's office" for not seeing if his party agreed to the proposed changes, and finding out who the Libertarian Party chairman was.

Mr. Klopfenstein said that he liked the plan, and liked that the precincts were being reduced, since he had worked in the Clerk's office and knew that this reduction would help out. He said that he did have concerns that this was not a public process, and that although he did not know what the statutory requirements were concerning the process.

In response to a question from the Chair, Mr. Klopfenstein stated that, based on the message from his county chairman at 2:15 pm today, he did not believe that the plan complied with statute, and that the county chairman had not been notified about any of this process.

Mr. Bayt stated that this was not a statutory requirement. After further discussion, the Chair closed the public hearing in this matter.

After reviewing the documents and testimony submitted in this matter, the Chair moved, seconded by Mr. Morgan, that the proposed precinct boundary change order for Marion County be approved. There being no further discussion, the chair called the question, and with two members voting aye (Long and Morgan), two members voting nay (Baker and Perkins), declared that the motion had failed for lack of a majority.

C. Vigo County:

The Chair noted that at its January 10, 2002 hearing, the Commission heard testimony regarding proposed precinct changes in Vigo County, but had not adopted an order to approve those changes.

After reviewing the document submitted in this matter, the Chair moved, seconded by Mr. Perkins that Order 2002-06, adopting the proposed precinct boundary change order for Vigo County be approved as submitted. There being no further discussion, the chair called the question, and with four members voting aye (Baker, Long, Morgan, and Perkins, and no member voting nay, that the motion was adopted.

D. Switzerland County:

The Chair noted that at its December 20, 2001 hearing, the Commission had adopted an order to approve precinct changes in Switzerland County, but that corrections to the census block listings for two precincts needed to be made.

After reviewing the document submitted in this matter, the Chair moved, seconded by Mr. Perkins that Order 2002-11, adopting the proposed precinct boundary change order for Switzerland County be approved as submitted. There being no further discussion, the chair called the question, and with four members voting aye (Baker, Long, Morgan, and Perkins, and no member voting nay, that the motion was adopted.

E. Perry County:

The Chair noted that at its December 20, 2001 hearing, the Commission had adopted an order to approve precinct changes in Perry County, but that corrections to the census block listings for two precincts needed to be made.

After reviewing the document submitted in this matter, the Chair moved, seconded by Mr. Perkins that Order 2002-12, adopting the proposed precinct boundary change order

for Perry County be approved as submitted. There being no further discussion, the chair called the question, and with four members voting aye (Baker, Long, Morgan, and Perkins, and no member voting nay, that the motion was adopted.

F. Pike County:

The Chair noted that at its December 20, 2001 hearing, the Commission had adopted an order to approve precinct changes in Pike County, but that corrections to the census block listings for two precincts needed to be made.

After reviewing the document submitted in this matter, the Chair moved, seconded by Mr. Perkins that Order 2002-10, adopting the proposed precinct boundary change order for Pike County be approved as submitted. There being no further discussion, the chair called the question, and with four members voting aye (Baker, Long, Morgan, and Perkins, and no member voting nay, that the motion was adopted.

G. Hamilton County and Kosciusko County:

The Commission reviewed the Co-Directors' recommendations regarding the proposed precinct establishment orders for Hamilton County and Kosciusko County. A copy of these documents is incorporated by reference in these minutes.

After reviewing the documents submitted in this matter, Mr. Morgan moved, seconded by Mr. Perkins, that Order 2002-13, adopting the proposed precinct boundary change orders for Hamilton County and Kosciusko County be approved as submitted. There being no further discussion, the chair called the question, and with four members voting aye (Baker, Long, Morgan, and Perkins, and no member voting nay, that the motion was adopted.

H. Clark County:

The Commission reviewed proposed Order 2002-14, and noted that in the second paragraph, the reference to "December 20, 2001" should be corrected to read "January 10, 2002". This correction was adopted by consent.

After reviewing the documents submitted in this matter, Mr. Morgan moved, seconded by Mr. Long that Order 2002-14, adopting an amended proposed precinct boundary change order for Clark County be approved as submitted. There being no further discussion, the chair called the question, and with four members voting aye (Baker, Long, Morgan, and Perkins, and no member voting nay, that the motion was adopted.

I. Hendricks County:

The Commission reviewed the Co-Directors' recommendation regarding the proposed precinct establishment order for Hendricks County. A copy of this document is incorporated by reference in these minutes.

After reviewing the documents submitted in this matter, Mr. Morgan moved, seconded by Mr. Long, that Order 2002-15, adopting the proposed precinct boundary change order for Hendricks County be approved as submitted. There being no further discussion, the chair called the question, and with four members voting aye (Baker, Long, Morgan, and Perkins, and no member voting nay, that the motion was adopted.

J. Henry County:

The Commission recognized Mr. Steve Clark, the Henry County Democratic Party chairman, who stated that he objected to the proposed precinct establishment plan for Henry County. Mr. Clark submitted a letter dated January 15, 2002 setting forth his objections. This letter is incorporated by reference in these minutes.

K. Office of Census Data:

The Chair recognized Mr. Stratton and Ms. Bard, who presented a memo dated January 17, 2002, from Mr. Philip J. Sachtleben, Executive Director of the Indiana Legislative Services Agency providing a report regarding the work of the Office of Census Data and the status of each county's precinct boundary approvals by the Commission. The report also included copies of emails from the Office of Census Data to the Co-Directors. A copy of this report is incorporated by reference in these minutes. Mr. Stratton discussed the possibility of legislative deadline changes to the precinct approval statutes. The Commission asked the Co-General Counsels to provide recommendations to the Commission on the outstanding precinct redistricting issues.

3. APPROVAL OF FORMS:

The Chair recognized Ms. Robertson, who presented Orders 2002-06 and 2002-07 to the Commission.

Ms. Robertson noted that Order 2002-06 would permit existing supplies of previous versions of several absentee ballot forms (the ABS-6 security envelope for mailing ballots; the ABS-7 security envelope for traveling board or "in office" absentee ballots; and the ABS-8 absentee ballot form outer envelope) to be used up by the counties.

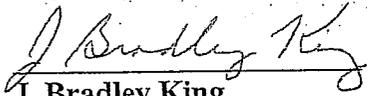
Ms. Robertson stated that Order 2002-07 would correct several small errors in previously approved forms used for the certification of county election information (the PRE-11 General Election Certificate Memorandum of Total Votes Cast in a Precinct; and the PRE-17 Primary Election Certificate and Memoranda of Total Votes Cast in a Precinct).

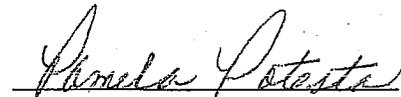
After reviewing the proposed Orders and attached forms, Mr. Perkins moved, seconded by Mr. Long, that Orders 2002-06 and 2002-07 be approved as presented. The chair called the question, and with four members voting aye (Baker, Long, Morgan, and Perkins) and no member voting nay, declared the motion adopted unanimously.

4. ADJOURNMENT:

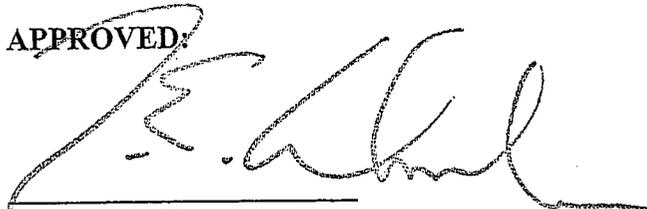
Ms. Baker moved, seconded by Mr. Morgan, that the Commission do now adjourn. The chair called the question, and with four members voting aye (Baker, Long, Morgan, and Perkins) and no member voting nay, declared the motion adopted unanimously. The Commission then adjourned at 6:27 p.m.

Respectfully submitted,


J. Bradley King
Co-Director


Pamela Potesta
Co-Director

APPROVED:


Thomas E. Wheeler, II
Chairman