

Indiana Election Commission
Minutes
January 5, 2016

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

Members Absent: Zachary E. Klutz, Member of the Commission.

Staff Attending: J. Bradley King, Co-Director, Indiana Election Division of the Office of the Indiana Secretary of State (Election Division); Angela M. Nussmeyer, Co-Director of the Election Division; Matthew Kochevar, Co-General Counsel of the Election Division; Dale Simmons, Co-General Counsel of the Election Division; Michelle Thompson, Campaign Finance, Election Division; Matt Ryan, Director of Special Projects, Election Division.

Others Attending: The Honorable Peggy Goodman, Sullivan County Circuit Court Clerk; The Honorable Terri Rethlake, St. Joseph County Circuit Court Clerk; Ms. Ruth Anne; Ms. Michelle Fajman; Ms. Susan Kennedy; Ms. Ann Mischler.

1. Call to Order:

The Chair called the January 5, 2016 meeting of the Commission to order at 1:30 p.m. EST in the offices of the Election Division at 302 West Washington Street, Room E-204, Indianapolis, Indiana.

2. Transaction of Commission Business:

The Commission proceeded to transact the business set forth in the Transcript of Proceedings for this meeting prepared by Kelly Horsley of Connor Reporting. This document is incorporated by reference into these minutes, with the following corrections of scrivener’s errors:

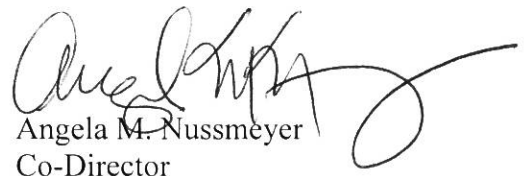
Page 4, line 3, replace “early” with “earlier”.

Page 7, line 15, replace “The” with “At the”.

Respectfully submitted,

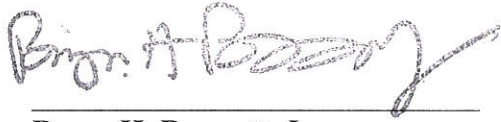


J. Bradley King
Co-Director



Angela M. Nussmeyer
Co-Director

APPROVED:

A handwritten signature in black ink, appearing to read "Bryce H. Bennett, Jr.", written over a horizontal line.

Bryce H. Bennett, Jr.
Chairman

ORIGINAL

In the Matter Of:

INDIANA ELECTION COMMISSION HEARING

TRANSCRIPT OF HEARING

January 05, 2016



CONNOR REPORTING

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Transcript of Hearing
January 05, 2016

1 INDIANA ELECTION COMMISSION
2 PUBLIC SESSION AGENDA

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Conducted on: January 5, 2016

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10 Conducted at: Indiana Government Center South
11 302 West Washington Street
12 Room E-204
13 Indianapolis, IN 46204

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

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APPEARANCES

INDIANA ELECTION COMMISSION:

- Mr. Bryce Bennett - Chairman
- Mr. S. Anthony Long - Vice Chairman
- Ms. Suzannah Overholt - Commission Member
- Ms. Stephanie Beckley - Proxy for Commission
Member Zachary Klutz

INDIANA ELECTION DIVISION STAFF:

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

1 CHAIRMAN BENNETT: This meeting of the
2 Indiana Election Commission is called to order.
3 The following members of the commission are
4 present: Myself, Chairman Bryce Bennett; Vice
5 Chairman Anthony Long; Member Suzannah Overholt;
6 and Stephanie Beckley, proxy for Member
7 Zachary Klutz. Welcome to the Commissioners.
8 Thank you for being here today.

9 The Indiana Election Division staff, we
10 have Co-directors Brad King and Angie Nussmeyer,
11 and Co-general Counsels Matthew Kochevar and
12 Dale Simmons.

13 I request that Mr. King and Ms. Nussmeyer
14 confirm that the commission meeting has been
15 properly noticed as required under the open door
16 law.

17 MR. KING: Mr. chairman, members of the
18 commission, this meeting has been properly
19 noticed in accordance with the requirements of
20 the Open Door Law.

21 CHAIRMAN BENNETT: With that, I recognize
22 Mr. King and Ms. Nussmeyer to present minutes
23 from the December 11th, 2015, commission
24 meeting.

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

1 commission, copies of the minutes, which
2 consists of a two-page document and reporter's
3 transcript, were circulated to members early by
4 the codirectors; and we jointly recommend a
5 motion to a approve.

6 CHAIRMAN BENNETT: Is there a motion to
7 approve these minutes as presented?

8 VICE CHAIRMAN LONG: I'll make that motion.

9 CHAIRMAN BENNETT: We have a motion. Is
10 there a second?

11 COMMISSION MEMBER PROXY BECKLEY: I'll
12 second.

13 CHAIRMAN BENNETT: There's a motion and a
14 second. Any discussion?

15 (No response.)

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

18 THE COMMISSION: Aye.

19 CHAIRMAN BENNETT: All opposed say "Nay."

20 (No response.)

21 CHAIRMAN BENNETT: The ayes have it, and
22 the motion to approve the minutes is adopted.

23 I have now signed and -- I have now signed
24 the approved minutes. Is there a motion to
25 ratify the -- oh, the next item on agenda, the

1 ratification of campaign finance settlement
2 agreement. I would ask for a presentation by
3 Ms. Taylor and Ms. Thompson.

4 MS. THOMPSON: Mr. Chairman, members of the
5 commission, under your Campaign Finance tab,
6 you'll find two committees that have agreed to
7 pay the settlement agreement and waive the
8 hearing; and they're ready for ratification.

9 CHAIRMAN BENNETT: Michelle, could you say
10 your name for the record, please.

11 MS. THOMPSON: Michelle Thompson.

12 CHAIRMAN BENNETT: Thank you. And I'll
13 remind everyone else to do the same as people
14 approach the commission. Thank you.

15 Is there a motion to ratify the settlement
16 agreements?

17 VICE CHAIRMAN LONG: So moved.

18 CHAIRMAN BENNETT: Is there a second?

19 COMMISSION MEMBER PROXY BECKLEY: I'll
20 second.

21 CHAIRMAN BENNETT: We have a motion and a
22 second. Any discussion?

23 (No response.)

24 CHAIRMAN BENNETT: Hearing none, all in
25 favor say "Aye."

1 THE COMMISSION: Aye.

2 CHAIRMAN BENNETT: All opposed say "Nay."

3 (No response.)

4 CHAIRMAN BENNETT: The ayes have it. The
5 motion is adopted.

6 At this point, we would ask for the
7 administration of oath to individuals who will
8 be testifying before the commission. And I
9 would ask that Mr. Simmons administer that oath.
10 Everyone who plans to testify regarding any
11 matter coming before the commission today,
12 including campaign finance or voting system
13 matters, please stand now for the administration
14 of the oath.

15 MR. SIMMONS: Please raise --

16 CHAIRMAN BENNETT: And for the precincts.

17 VICE CHAIRMAN LONG: Anybody that's going
18 to talk.

19 MR. SIMMONS: Say "I do" after the
20 administration of the oath. Do you solemnly
21 swear or affirm under the penalties of perjury
22 the testimony you're about to give the
23 commission is the truth, the whole truth, and
24 nothing but the truth? Say "I do."

25 (Consent by all.)

1 CHAIRMAN BENNETT: Thank you. We would now
2 move on to the Howard County precinct
3 establishment order and ask for a presentation
4 by Mr. King and Ms. Nussmeyer.

5 MR. KING: Mr. Chairman, members of the
6 commission, Co-director Nussmeyer and myself are
7 going to take turns presenting the individual
8 counties. I'm going to begin with Howard.

9 It's the second tab in your binders. The
10 situation in Howard County is very
11 straightforward. The county submitted precinct
12 changes to the election division. These were
13 subject to technical review by the Office of
14 Census Data.

15 The conclusion of that review, since this
16 data had no technical comments, the county
17 properly adopted an order, provided it --
18 provided the order to the newspaper, which was
19 published, rather than the notice of objection.

20 So in other words, a mistake was made in
21 the legal notice regarding what document was to
22 be published. But in this case, the voters of
23 Howard County were in any event advised that
24 there were precinct boundary changes the county
25 was considering. And I believe there are county

1 representatives here that may be able to add to
2 that.

3 CHAIRMAN BENNETT: Is there any
4 representative from Howard County present that
5 could answer any questions or speak to this
6 issue? Are there any comments you would like to
7 make at this point?

8 MS. KENNEDY: Susan Kennedy, Howard County
9 Democrat representative, voter registration.
10 And I concur with what has been stated and that
11 the wrong notification was published.

12 CHAIRMAN BENNETT: Okay. And a question?

13 VICE CHAIRMAN LONG: Any local issue over
14 it? Anybody that's complaining?

15 MS. KENNEDY: Not that we are aware.

16 VICE CHAIRMAN LONG: Everybody's content
17 locally?

18 MS. KENNEDY: Yes.

19 VICE CHAIRMAN LONG: Is legal content with
20 the advertisement? I mean, from my years as
21 representing, I think that -- I don't have any
22 problem with it, but you guys are the legal
23 advisers here. You're comfortable with it?

24 MR. SIMMONS: I think what we're doing
25 here, since we're not comfortable with it, the

1 county petitioning, the co-directors asked for
2 the commission to hear this. Otherwise, if it
3 was okay, if it had been okay, it would have
4 been approved upon approval by the -- by the
5 co-directors, but this wasn't okay so -- and
6 there was not enough time to do it before
7 tomorrow.

8 VICE CHAIRMAN LONG: But are you
9 comfortable that -- by our approval that we're
10 doing something that's not going to come back
11 and bite these folks later?

12 MR. SIMMONS: Right.

13 VICE CHAIRMAN LONG: Okay.

14 MR. KOCHEVAR: I concur.

15 VICE CHAIRMAN LONG: That's what I would
16 think also, but that's --

17 CHAIRMAN BENNETT: Is Howard County asking
18 for the approval of the commission then?

19 MS. KENNEDY: Yes.

20 VICE CHAIRMAN LONG: I would move we
21 approve the Howard County request.

22 CHAIRMAN BENNETT: Is there a second?

23 COMMISSION MEMBER PROXY BECKLEY: I'll
24 second.

25 CHAIRMAN BENNETT: We have a motion and a

1 second. Any further discussion by the
2 commission?

3 (No response.)

4 CHAIRMAN BENNETT: Hearing none, all in
5 favor say "Aye."

6 THE COMMISSION: Aye.

7 CHAIRMAN BENNETT: All opposed say "Nay."

8 (No response.)

9 CHAIRMAN BENNETT: The ayes have it, and
10 the motion is approved.

11 VICE CHAIRMAN LONG: Go back and tell them
12 you did a good job. Tell them you need a raise.

13 CHAIRMAN BENNETT: At this point, we would
14 move on our agenda to the Lake County precinct
15 establishment order and ask for a presentation
16 by Mr. King or Ms. Nussmeyer.

17 MS. NUSSMEYER: Mr. Chairman and members of
18 the commission, Ryan Mann is my director of
19 special projects. He was more intimately
20 involved with the details of all of the next
21 three counties, and so I'll give you the
22 overview and let him speak to the specifics in
23 each plan; but Lake County is here before the
24 commission today through no fault of their own.

25 There is -- the deadline for which our

1 office and the Office of Census Data have to
2 complete their work and we missed our deadline.
3 And so Lake County was not in a position to
4 publish legal notice in the paper as they're
5 required to do by law.

6 So with that, I will turn it over to Ryan,
7 who can give you a few more of those details.
8 And I do know that Lake County is here as well,
9 if you have additional questions.

10 MR. MANN: This is Ryan Mann with the
11 election division. Most of the actual precinct
12 changes were submitted last year and approved;
13 but because of some staff turnover in Lake, they
14 wanted to make sure that they were thorough.
15 And so a lot of these changes have already
16 happened; but much like many of the counties
17 today, they were annexations.

18 In the case of one family wanted disannexed
19 from a precinct, there was a dis-annexation; but
20 they were all very straightforward line
21 adjustments to match city boundaries.

22 CHAIRMAN BENNETT: Anything else from the
23 division? Is there a representative of Lake
24 County here that would like to address this?

25 MS. FAJMAN: Michelle Fajman, director of

1 the Lake County Board of Election registration,
2 Democrat representative. Also with me is
3 Ruth Anne, Republican representative.

4 All of our lines strictly are dealing with
5 annexations or dis-annexations. There is one
6 area where we are fixing a city council line
7 where we had created an A precinct, and so we
8 are just simply asking for approval. There
9 should be nothing that is contentious in this in
10 that they're all simple annexations and
11 dis-annexations. The lines are very
12 straightforward.

13 VICE CHAIRMAN LONG: Any political issues
14 at home? Everybody --

15 MS. FAJMAN: Not over precinct lines.

16 (Laughter.)

17 MS. FAJMAN: That was a very broad
18 question.

19 VICE CHAIRMAN LONG: I've seen you all at
20 work up there. And one of the most impressive
21 things I've ever seen is that your election
22 office, when we got ordered by the local court
23 to come up and oversee it pre-primary, I think,
24 several years ago, I was impressed.

25 MS. FAJMAN: Thank you very much.

1 VICE CHAIRMAN LONG: You guys have a good
2 cooperative effort up there.

3 MS. THOMPSON: Thank you very much.

4 CHAIRMAN BENNETT: Any other questions or
5 comments from the commissioners? Is there a
6 motion to approve?

7 VICE CHAIRMAN LONG: Move to approve.

8 CHAIRMAN BENNETT: Is there a second?

9 COMMISSION MEMBER PROXY BECKLEY: I'll
10 second.

11 CHAIRMAN BENNETT: Any further discussion?

12 (No response.)

13 CHAIRMAN BENNETT: We have a motion and
14 second. All in favor say "Aye."

15 THE COMMISSION: Aye.

16 CHAIRMAN BENNETT: All opposed say "Nay."

17 (No response.)

18 CHAIRMAN BENNETT: Ayes have it and motion
19 approved. Thank you both for your
20 presentations.

21 I will move on to St. Joseph County. Would
22 that be back to Ryan again?

23 MS. NUSSMEYER: Absolutely. Certainly,
24 Mr. Chairman. St. Joseph County, Ryan could get
25 into the details about what their request is;

1 but our office and the Office of Census Data did
2 finish the work on time. And the county
3 attempted to publish notice, and they found out
4 on New Year's Eve late in the day that the proof
5 and the bill they got in the mail was just a
6 mockup and that the paper actually did not
7 follow through and publish legal notice as they
8 requested. So it's through no fault of the
9 county that legal notice wasn't published.

10 Ryan, again, can give you the details about
11 the St. Joseph plan to demonstrate that it's not
12 a controversial request.

13 MR. MANN: Yep. I have little to add
14 except that it was affecting 10 precincts, and
15 it was just annexations to their city and
16 township boundaries.

17 CHAIRMAN BENNETT: Very well. Thank you.
18 Is there a representative from St. Joseph County
19 here today?

20 MS. RETHLAKE: Yes, sir. Terri Rethlake,
21 St. Joseph County Clerk.

22 CHAIRMAN BENNETT: Do you have any comments
23 on this motion?

24 MS. RETHLAKE: No, other than what Ryan had
25 to say was true, that we did find out this week

1 that our publication notice did not get
2 published through no fault of our own. Thank
3 goodness the area plan commission found it.
4 But, yeah, we are asking that you approve this
5 order for us.

6 CHAIRMAN BENNETT: Thank you.

7 VICE CHAIRMAN LONG: I believe there's a
8 statue on that, when you deliver it to the paper
9 and the paper neglects to publish, at least
10 in -- there's some law on it anyway that I've
11 read in the past. And I'm assuming there's no
12 local issue upon the particular matter.

13 MS. RETHLAKE: Not this particular matter,
14 no.

15 VICE CHAIRMAN LONG: I move to approve it.

16 CHAIRMAN BENNETT: Move to approve. Is
17 there a second?

18 COMMISSION MEMBER PROXY BECKLEY: I'll
19 second.

20 CHAIRMAN BENNETT: We have a motion and
21 second. Is there any further discussion or
22 questions by the commissioners?

23 (No response.)

24 CHAIRMAN BENNETT: Hearing none, all in
25 favor say "Aye."

1 THE COMMISSION: Aye.

2 CHAIRMAN BENNETT: All opposed say "Nay."

3 (No response.)

4 CHAIRMAN BENNETT: Ayes have it. The
5 motion is approved.

6 MS. RETHLAKE: Thank you.

7 CHAIRMAN BENNETT: Thank you. And last but
8 not least is Sullivan County.

9 MS. NUSSMEYER: Mr. Chairman and members of
10 the commission, Sullivan County is here with us.
11 And Ryan, again, can get into the details of
12 their plan, if you'd like. The clerk's office
13 did request that legal notice be published, but
14 the folks in charge of publishing that, the
15 legal notice, failed to do so. So, again, the
16 clerk and her staff are here through no fault of
17 their own requesting that the commission approve
18 their re-precincting plan. And Ryan, again, can
19 go into those details.

20 MR. MANN: This was a very simple
21 annexation that was extending, I believe,
22 12 houses that were outside the city and just
23 moving them in and bringing them into the city,
24 so it's a pretty straight annexation.

25 CHAIRMAN BENNETT: Okay. Thank you. Is

1 there a representative of Sullivan County here?

2 MS. MISCHLER: Mr. Chairman, members of the
3 commission, my name is Ann Mischler. I'm the
4 Sullivan County attorney. The first that I knew
5 that it had been approved and not been published

6 was the auditor handed me a copy of the mailing
7 from you guys at the commissioner's meeting
8 yesterday. So there was no way for us to meet
9 the 10-day notice requirement; however, the
10 clerk did send notices to all the potential
11 voters that would be affected. I believe there
12 were 12 voters.

13 MS. GOODMAN: Yeah, 12 voters.

14 MS. MISCHLER: Twelve voters. They all
15 received notice of the precinct change. And she
16 only received --

17 MS. GOODMAN: Two acknowledgment cards.

18 MS. MISCHLER: And she only received one
19 phone call back, and it was just a question as
20 to where to vote.

21 CHAIRMAN BENNETT: You need to identify
22 yourself.

23 MS. GOODMAN: I'm Peggy Goodman. I'm the
24 clerk of Sullivan County. Yeah. I mean, I
25 agree with everything that they said. But there

1 was only 12 voters. I've actually talked to one
2 of the households that has 4 voters, and they
3 didn't have any issues. And we've got no -- no
4 negative feedback. It's just an annexation.

5 VICE CHAIRMAN LONG: Has Mayor Lamb already
6 been out and welcomed them in already?

7 MS. MISCHLER: I'm sure he has.

8 CHAIRMAN BENNETT: Any other questions or
9 comments?

10 VICE CHAIRMAN LONG: I move we approve it.

11 CHAIRMAN BENNETT: We have a motion to
12 approve. Is there a second?

13 COMMISSION MEMBER PROXY BECKLEY: I'll
14 second.

15 CHAIRMAN BENNETT: We have a motion and a
16 second. Any further questions?

17 (No response.)

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

20 THE COMMISSION: Aye.

21 CHAIRMAN BENNETT: All opposed say "Nay."

22 (No response.)

23 CHAIRMAN BENNETT: The ayes have it, and
24 the motion is approved.

25 Thank you. With that, I would ask if there

1 is a motion to authorize the staff to affix
2 commission members' signatures on the commission
3 orders approved today.

4 VICE CHAIRMAN LONG: I'll move on that
5 motion definitely. I sure don't want to have to
6 wait here all day until they type all this up
7 for us.

8 CHAIRMAN BENNETT: Is there a second?

9 COMMISSION MEMBER PROXY BECKLEY: I'll
10 second.

11 CHAIRMAN BENNETT: We have a motion and
12 second. Any discussion?

13 (No response.)

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

16 THE COMMISSION: Aye.

17 CHAIRMAN BENNETT: All opposed say "Nay."

18 (No response.)

19 CHAIRMAN BENNETT: Ayes have it. Motion
20 approved. The Indiana Election Commission has
21 finished its business for today. Is there a
22 motion for the Indiana Election Commission to
23 adjourn?

24 COMMISSION MEMBER PROXY BECKLEY: So moved.

25 VICE CHAIRMAN LONG: I'll second.

1 CHAIRMAN BENNETT: We have a second. Any
2 discussion?

3 (No response.)

4 CHAIRMAN BENNETT: Hearing none, the ayes
5 have it. The motion is approved, and the

6 election commission is --

7 MR. KING: Wait.

8 CHAIRMAN BENNETT: Oh, yes. Thank you.

9 All in favor of the adjournment say "Aye."

10 THE COMMISSION: Aye.

11 CHAIRMAN BENNETT: All opposed say "Nay."

12 (No response.)

13 CHAIRMAN BENNETT: The ayes have it.

14 VICE CHAIRMAN LONG: Good to be back.

15 CHAIRMAN BENNETT: Motion approved. We are
16 adjourned. Thank you.

17

18 (Time noted: 1:45 P.M.)

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


3 I, Kelly S. Horsley, RPR, CSR No. 98-R-3004, a
4 Notary Public in and for the County of Hendricks,
5 State of Indiana at large, do hereby certify that
6 the foregoing hearing was taken on behalf of the
7 Indiana Election Commission at the offices of
8 Indiana Government Center South, 302 West
9 Washington Street, Room E-204, Indianapolis, Marion
10 County, Indiana, on the 5th day of January, 2016,
11 commencing at the hour of 1:30 P.M., pursuant to
12 the Indiana Rules of Trial Procedure;

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

17 That the parties were represented by their
18 counsel as aforementioned.

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

24 IN WITNESS WHEREOF, I have hereunto set my
25 hand and affixed my notarial seal this 11th day

1 of JANUARY, 2016
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4 NOTARY PUBLIC
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6 My Commission Expires:
7 October 11, 2023

8 County of Residence:
9 Hendricks
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