

Indiana Election Commission  
Minutes  
August 14, 2020

**Members Present:** Paul Okeson, Chairman of the Indiana Election Commission (“Commission”); S. Anthony Long, Vice Chairman of the Commission; Suzannah Wilson Overholt, member; Zachary E. Klutz, member.

**Staff Attending:** J. Bradley King, Co-Director of the Election Division, Angela M. Nussmeyer, Co-Director of the Election Division; Matthew Kochevar, Co-General Counsel of the Election Division; Valerie Warycha, Co-General Counsel of the Election Division.

**1. Call to Order:**

The Chair called the August 14, 2020 meeting of the Commission to order at 10:30 a.m. EST online via a Zoom virtual meeting room that was moderated by Stewart Richardson.

**2. Transaction of Commission Business:**

The Commission proceeded to transact the business set forth in the Transcript of Proceedings for this meeting prepared by Maria Collier of Stewart Richardson Deposition Services, which is incorporated by reference into these minutes.

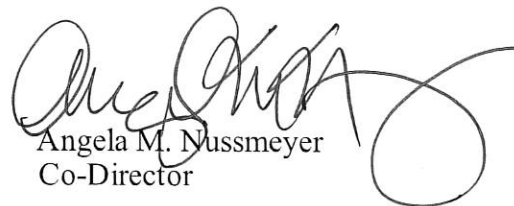
The Commission corrects the following scrivener’s errors in this document:

Page 17, line 10, replace “Manns” with “Mann’s”.

The Commission adjourned its meeting at 12:12 p.m. EST.

Respectfully submitted,

  
J. Bradley King  
Co-Director

  
Angela M. Nussmeyer  
Co-Director

**APPROVED:**

  
Paul Okeson, Chairman

# **In the Matter Of:**

*INDIANA ELECTION COMMISSION PUBLIC SESSION*

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## **Transcript of Proceedings**

*August 14, 2020*

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**INDIANA ELECTION COMMISSION  
PUBLIC SESSION**

**Conducted on: August 14, 2020**

**Conducted Remotely via Videoconference**

**A Stenographic Record by:  
Maria W. Collier, RPR, CRR**

**STEWART RICHARDSON DEPOSITION SERVICES  
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APPEARANCES

INDIANA ELECTION COMMISSION:

- Paul Okeson - Chairman
- S. Anthony Long - Vice Chairman
- Suzannah Wilson Overholt - Member
- Zachary E. Klutz - Member

INDIANA ELECTION DIVISION STAFF:

- Angela M. Nussmeyer - Co-Director
- J. Bradley King - Co-Director
- Matthew Kochevar - Co-Counsel
- Valerie Warycha - Co-Counsel

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1           CHAIRMAN OKESON: Seeing that we have all in  
2 attendance, I will call this meeting of the Indiana  
3 Election Commission to order. Today's date, for  
4 the record, Friday, August 14, 2020, 10:30 a.m.,  
5 and, of course, we are again holding this meeting  
6 via Zoom.

7           As I noted just a minute ago and for the  
8 record, all members of the commission are present:  
9 Myself, Chairman Paul Okeson; Vice Chairman Anthony  
10 Long; Member Suzannah Wilson Overholt; and Member  
11 Zachary Klutz. We are also joined today by the  
12 Indiana Election Division staff: Co-Director Brad  
13 King and Co-Director Angie Nussmeyer along with  
14 Co-Counsels Matthew Kochevar and Valerie Warycha.

15           Our court reporter from Stewart Richardson, as  
16 you can see on your screen, is Maria Collier. And  
17 given this is a Zoom meeting, I'll just reiterate,  
18 as I have before, that when speaking, she'll have  
19 view of the screen and can tell who we are, but you  
20 might want to -- do we need to identify ourselves,  
21 Maria, or can we just roll with the screen setup  
22 the way it is?

23           THE REPORTER: It helps to identify. I  
24 generally can get the commission members, but  
25 anyone else definitely identify yourself.

1 CHAIRMAN OKESON: Next order of business, so  
2 documentation of compliance with the Open Door Law.  
3 I request the co-directors confirm that the  
4 commission meeting has been properly noticed under  
5 the Open Door Law.

6 MR. KING: Mr. Chairman, members of the  
7 commission, Brad King. On behalf of myself and  
8 Co-Director Angela Nussmeyer, we confirm that  
9 notice of this meeting was posted in compliance  
10 with the Indiana Open Door Law.

11 CHAIRMAN OKESON: Okay. Thank you.

12 Next we'll go to approval of the minutes from  
13 the May 12, 2020, meeting. I recognize the  
14 co-directors to present the minutes.

15 MR. KING: Mr. Chairman, members of the  
16 commission, Brad King. On behalf of myself and  
17 Angela Nussmeyer, we recommend that the commission  
18 approve the minutes, which were reviewed by  
19 ourselves and circulated prior to this meeting.

20 CHAIRMAN OKESON: Is there a motion to approve  
21 as presented?

22 VICE CHAIRMAN LONG: So moved, Anthony Long.

23 CHAIRMAN OKESON: Is there a second?

24 MR. KLUTZ: Second, Zach Klutz.

25 CHAIRMAN OKESON: Any discussion on the

1 matter?

2 Hearing none, all those in favor signify by  
3 saying "aye."

4 VICE CHAIRMAN LONG: Aye.

5 MR. KLUTZ: Aye.

6 MS. OVERHOLT: Aye.

7 CHAIRMAN OKESON: Those opposed?

8 The "ayes" have it and the motion is approved.

9 I give the Election Division staff permission to  
10 stamp the minutes with my signature on my behalf.

11 Moving on, we'll go to ratification of  
12 campaign finance settlement agreements. I  
13 recognize the Election Division co-directors once  
14 again to present the information concerning  
15 campaign finance settlement agreements entered on  
16 behalf of the commission.

17 MR. KING: Mr. Chairman, members of the  
18 commission, Brad King. On behalf of Angela  
19 Nussmeyer and myself as co-directors, commission  
20 members will recall that Indiana law permits a  
21 committee subject to a campaign finance enforcement  
22 proceeding to enter into an agreement to waive the  
23 hearing and pay the total amount of the proposed  
24 penalty without making any admission of violation.

25 Members were provided with a list of



1 committees and the total amount of the penalty  
2 already paid by that committee, and so the  
3 ratification of these campaign finance settlement  
4 agreements is presented to the commission for your  
5 approval.

6 CHAIRMAN OKESON: Is there a motion to ratify  
7 the campaign finance settlement agreements as  
8 they've been presented?

9 VICE CHAIRMAN LONG: Mr. Chairman, Anthony  
10 Long. Could I be addressed for a comment on this?

11 CHAIRMAN OKESON: Can it wait for a second and  
12 discussion or do you need to interrupt that  
13 process?

14 VICE CHAIRMAN LONG: I just want to make a  
15 disclosure that the settlement agreement was an  
16 entity known as LONGPAC, LLC.

17 CHAIRMAN OKESON: Okay.

18 VICE CHAIRMAN LONG: It's not me.

19 CHAIRMAN OKESON: Thank you.

20 Is there a second for the motion?

21 MR. KLUTZ: Second.

22 CHAIRMAN OKESON: Any discussion?

23 Hearing none, all those in favor say "aye."

24 VICE CHAIRMAN LONG: Aye.

25 MR. KLUTZ: Aye.

1 MS. OVERHOLT: Aye.

2 CHAIRMAN OKESON: Hearing no opposed, the  
3 "ayes" have it. The motion to ratify is adopted.

4 Moving on, Voting System Technical Oversight  
5 Program. The commission received a report from  
6 VSTOP July 27, 2020, with its recommendation  
7 regarding an application for certification to the  
8 MicroVote EMS 4.4 voting system. The report was  
9 distributed by staff prior to the meeting, and it  
10 begins with a summary and recommendation from VSTOP  
11 for each proposed change order.

12 I now recognize representatives of Ball State  
13 University, which administers VSTOP, for a  
14 presentation concerning this engineering change  
15 order and to please briefly describe the change  
16 order and your recommendations to the commission.  
17 Is there anyone from VSTOP on?

18 MR. JARNAGIN: Good morning. This is Jordan  
19 from VSTOP.

20 CHAIRMAN OKESON: Maria, can you see Jordan?

21 MR. JARNAGIN: I'll share my video for you.

22 THE REPORTER: Yes, I can see him now.

23 MR. KING: Let me ask for the reporter,  
24 Jordan, could you provide your last name and spell  
25 it for the court reporter.

1           MR. JARNAGIN: Yes, I was going to. It's  
2 Jordan, J-o-r-d-a-n, Jarnagin, J-a-r-n-a-g-i-n. I  
3 am the certification specialist for VSTOP, and then  
4 today I'll be discussing the MicroVote EMS 4.4,  
5 which is a revision to the EMS 4.3 voting system  
6 that's currently certified in Indiana.

7           The EMS 4.4 hardware, including the VB pack,  
8 the software, and the firmware, is compatible with  
9 all of the existing Indiana certified hardware  
10 components. The EMS 4.4 revision includes an  
11 updated panel, which includes the Windows 10  
12 operating system with a bright color display and  
13 election management software enhancements.

14          The certification also includes two ECOs.  
15 That's engineering change order. ECO 126 involves  
16 a modification to improve the error tracking of  
17 straight marks and batch count display, and then  
18 ECO 127 involves modification to the source code to  
19 display the running precinct count in addition to  
20 the batch count.

21          The voting system was field-tested at Ball  
22 State University on June 21, 2020, by the VSTOP  
23 team. The field-test included verification of all  
24 required elements of Indiana statutes regarding  
25 voting systems as well as ADA compliance

1 evaluation. Mock elections, including IED-approved  
2 test-case scenarios for straight party voting, were  
3 conducted on the voting system and VB pack  
4 components.

5 Based on VSTOP's review and evaluation, we  
6 find that the MicroVote EMS 4.4 meets all the  
7 requirements of the Indiana Code for use in the  
8 state of Indiana.

9 CHAIRMAN OKESON: Thank you, Jordan.

10 Is there a representative from MicroVote who  
11 wishes to speak to us?

12 MR. HIRSCH: Good morning. This is Bernie  
13 Hirsch. I'm here with MicroVote to answer any  
14 questions, but I don't have anything to add to what  
15 Jordan just said.

16 CHAIRMAN OKESON: Thank you, Bernie. Would  
17 you spell your last name for the court reporter.

18 MR. HIRSCH: H-i-r-s-c-h.

19 CHAIRMAN OKESON: Thanks. And thank you for  
20 being here.

21 At this point, are there any questions? Or  
22 open this up for a little bit of discussion, if  
23 you'd like to.

24 MR. KLUTZ: Just real quick, Mr. Chairman.

25 If this change is approved, will this allow

1 the modified machine to be used in this upcoming  
2 election or is this something more in the future?

3 MR. HIRSCH: We do have -- we did a short run  
4 for use in testing and certification in potentially  
5 this election, so we do have some machines that are  
6 ready to go. Naturally, if we do a longer  
7 production run, that would take some time, a period  
8 of months, to do hard tooling. But we do have just  
9 a limited number of new equipment for this  
10 election, yeah.

11 CHAIRMAN OKESON: Vice Chairman Long?

12 VICE CHAIRMAN LONG: I have no questions, and  
13 thank you for inquiring. I'm prepared to make a  
14 motion.

15 CHAIRMAN OKESON: Suzannah, anything from you?

16 MS. OVERHOLT: I don't. Thank you,  
17 Mr. Chairman.

18 CHAIRMAN OKESON: Well, with that and noting  
19 Vice Chairman Long's desire to propose a motion,  
20 I'll take a motion to adopt the recommendation for  
21 approval of Change Order 126 and 127 as described  
22 in the report for modifications to the EMS  
23 Version 4.4 voting system. This approval will be  
24 effective immediately. Is there a motion?

25 VICE CHAIRMAN LONG: I make such a motion to

1 approve based upon the VSTOP recommendation and add  
2 to my motion thank you for the VSTOP presentation  
3 of Jordan. And good to hear -- at least see  
4 Dr. Bagga's name on the screen again. We haven't  
5 seen him for a while.

6 CHAIRMAN OKESON: Indeed.

7 Is there a second?

8 MR. KLUTZ: Second.

9 CHAIRMAN OKESON: Any further discussion?

10 Hearing none, all those in favor signify by  
11 saying "aye."

12 VICE CHAIRMAN LONG: Aye.

13 MS. OVERHOLT: Aye.

14 MR. KLUTZ: Aye.

15 CHAIRMAN OKESON: Hearing none opposed, the  
16 "ayes" have it, and the motion is adopted.

17 Thank you, Jordan. Thank you, Mr. Hirsch.

18 MR. JARNAGIN: Thank you.

19 CHAIRMAN OKESON: So we have some proceedings  
20 where we will need to administer the oath, it  
21 appears. Any person who plans to testify at this  
22 meeting on any matter, including candidate  
23 challenges, please be sure to unmute yourself for  
24 the court reporter and the record and please unmute  
25 yourself for the administration of the oath.

1 I now recognize Co-Counsel Matthew Kochevar to  
2 administer the oath.

3 MR. KOCHEVAR: Thank you, Mr. Chairman.

4 All those who will be testifying before the  
5 Indiana Election Commission today, please raise  
6 your right hand and say "I do" after the  
7 administration of the oath.

8 Do you solemnly swear or affirm, under the  
9 penalties of perjury, the testimony you are about  
10 to give is the truth, the whole truth, and nothing  
11 but the truth? Please say "I do."

12 MR. MANNS: I do.

13 MS. WARYCHA: Jennifer, I think you're still  
14 muted.

15 VICE CHAIRMAN LONG: She is.

16 CHAIRMAN OKESON: Yeah. Jennifer Crossley is  
17 still on mute, I'm showing.

18 THE MODERATOR: I just prompted her to unmute.

19 CHAIRMAN OKESON: Okay.

20 MS. CROSSLEY: Okay. Can you hear me now?

21 CHAIRMAN OKESON: Yes.

22 MS. CROSSLEY: Okay. Thank you. Sorry about  
23 that.

24 VICE CHAIRMAN LONG: We need to --

25 MS. CROSSLEY: I do.

1 VICE CHAIRMAN LONG: -- acknowledge the oath.

2 CHAIRMAN OKESON: All right. So, Jennifer, I  
3 heard you just said "I do."

4 MS. CROSSLEY: Yes, yes. That is correct.  
5 Yes. I do, yes.

6 CHAIRMAN OKESON: So, Matthew, just for the  
7 perfection of the record, do we want to signify  
8 that Mr. Manns and Ms. Crossley have both signified  
9 an acceptance of the oath?

10 MR. KOCHEVAR: Yes, Mr. Chairman. That is my  
11 understanding, that both Mr. Manns and Ms. Crossley  
12 have taken the oath.

13 CHAIRMAN OKESON: Thank you.

14 So moving on, I'm going to -- this is somewhat  
15 lengthy, so bear with me, but we're going to read  
16 out the procedures for today's candidate challenge  
17 hearing.

18 In the past, the commission has followed  
19 certain procedures for conducting such hearings,  
20 and I'd move the commission to use the following  
21 procedures today: A. The hearing will begin by  
22 recognizing the Election Division staff to provide  
23 information about the documents provided to the  
24 commission members, including candidate challenge  
25 forms and the notice given to the candidate and the



1 challenger. Unless there is objection, the  
2 documents provided to the commission by the  
3 Election Division will be entered into the record  
4 as of this meeting.

5 After the Election Division staff completes  
6 its presentation, the challenger will be recognized  
7 first. The challenger or challenger's authorized  
8 representative, if written authorization was filed,  
9 may present their case for no more than 7 minutes,  
10 unless the commission votes to allow additional  
11 time to the presenter. Commission members may ask  
12 questions during the presentation. Any time spent  
13 answering those questions will not be counted  
14 against the 7 minutes allowed for the presenter.  
15 The Election Division may signal the chair when  
16 that time is up.

17 If the presenter offers additional documents  
18 or other physical evidence not previously received  
19 by the commission, then the original must be  
20 provided to the Election Division, to Ms. Warycha,  
21 to preserve for the record.

22 The candidate or their authorized  
23 representative, if properly noted, will be  
24 recognized following the last presentation by a  
25 challenger. The candidate may also present their

1 case for no more than 7 minutes, unless we vote as  
2 a commission to extend time.

3 Following presentation by the challenger, the  
4 candidate may cross -- the other way around -- may  
5 cross-examine the candidate. Following the  
6 presentation by a candidate, the challenger may  
7 also cross-examine the candidate. The  
8 cross-examination is limited to 2 minutes, unless  
9 the commission votes to allow additional time. The  
10 cross-examination must be limited to questions  
11 regarding statements made by each presenter.

12 Following the presentations by a candidate,  
13 the challenger may present a rebuttal of no more  
14 than 2 minutes. The commission may dismiss this  
15 cause -- excuse me -- may dismiss the cause of any  
16 challenger who has failed to appear and testify  
17 before the commission.

18 Is there a second to my motion for the  
19 commission to adopt these procedures for today's  
20 candidate challenge hearings?

21 VICE CHAIRMAN LONG: Anthony Long, second.

22 CHAIRMAN OKESON: Hearing a second, is there  
23 any objection from the commission members or any  
24 other individual present to these procedures?

25 Hearing none, any further discussion?

1           If there's no discussion on the adoption of  
2 the motion, all those in favor signify by saying  
3 "aye."

4           VICE CHAIRMAN LONG:   Aye.

5           MR. KLUTZ:   Aye.

6           MS. OVERHOLT:   Aye.

7           CHAIRMAN OKESON:   Hearing none opposed, the  
8 "ayes" have it.  The adoption is approved -- the  
9 motion is approved.

10          Moving on, Alphonso Manns' challenge.  We will  
11 now hear Cause No. 2020-44 in the matter of  
12 challenge to Alphonso Manns, candidate for Monroe  
13 Circuit Court judge.  A challenge to this candidate  
14 was filed with the Election Division on August 6,  
15 2020, and the Election Division has provided copies  
16 of the candidate filing challenge form and a copy  
17 of notice given in this matter.

18          I recognize Jennifer Crossley for  
19 presentation, and I see that Mr. Manns is obviously  
20 present.

21          Ms. Crossley, you may begin.

22          MS. CROSSLEY:   Yes.  Okay.  Thank you very  
23 much for having me today.  Again, my name is  
24 Jennifer Crossley.  I am the Monroe County  
25 Democratic party chairwoman here.

1           And in our primary election, we had Mr. Geoff  
2 Bradley and Mr. Alphonso Manns run for the seat.  
3 And in June, it was decided by the voters of Monroe  
4 County that Geoff Bradley would be our Democratic  
5 candidate for this seat to run in our general  
6 election. It was brought to our attention, when we  
7 looked at the election website, that Mr. Manns  
8 decided that he wanted to be a write-in candidate  
9 for the same seat that he was defeated on -- or  
10 defeated in. And according to the Indiana law, the  
11 Indiana Code law also known as the sore loser law,  
12 it would say that -- it does say that Mr. Manns is  
13 not eligible to become a candidate for the same  
14 seat as he was defeated.

15           And it is our duty in Monroe County, as far as  
16 primaries go, we support any and all Democratic  
17 candidates. And then once they all go through the  
18 primary and one becomes the presumptive candidate  
19 for the fall, then we wholeheartedly support that  
20 one person. So we don't come out and say that we  
21 endorse one over the other, which we did not do at  
22 this point.

23           The reason for the challenge, again, is  
24 because we believe, and according to law, that  
25 Mr. Manns is not eligible to run as a write-in

1 candidate for the Green party for the same seat he  
2 was defeated in. And I would like to point out, if  
3 this were -- if the shoe was on the other foot and  
4 Mr. Geoff Bradley were to do the same thing and  
5 Mr. Manns was the candidate for our general  
6 election in the fall, we would do the same thing.  
7 This isn't any ploy to pit against somebody -- or  
8 anybody at all. This is just simply us going off  
9 of the facts provided by the law and the Indiana  
10 Code that this is something that is -- that he  
11 simply cannot do.

12 CHAIRMAN OKESON: (Inaudible.)

13 MS. WARYCHA: Paul, you're on mute.

14 CHAIRMAN OKESON: Thank you.

15 Thank you, Ms. Crossley.

16 Mr. Manns, if you'd like, cross-examination.

17 MR. MANNNS: I have no cross-examination.

18 CHAIRMAN OKESON: Would you like to go forward  
19 with your presentation, Mr. Manns?

20 MR. MANNNS: Yes, sir.

21 CHAIRMAN OKESON: Please proceed.

22 MR. MANNNS: Yes. I do not quarrel with the  
23 Democratic party or the procedures (inaudible) --

24 CHAIRMAN OKESON: Mr. Manns, we're having  
25 trouble hearing you, I think. Can you either turn

1 your volume up or get closer to the microphone,  
2 please.

3 MR. MANNNS: Okay. Can you hear me now?

4 CHAIRMAN OKESON: That's better.

5 MR. MANNNS: Okay. I have no quarrel with the  
6 Democratic party. I mean, there are always  
7 internal disagreements and things of that nature,  
8 but I have no quarrel that would justify me taking  
9 a position against the party and challenging the  
10 current nominee for the office which I seek.

11 What simply happened is that I was given a  
12 call by a couple members of the Green party. They  
13 expressed an interest in me representing the party  
14 for that seat and asked me to file a petition. I  
15 find the policies of the party not inconsistent  
16 with the matters of interest to the Democratic  
17 party, so therefore, I decided to go ahead and do  
18 that and determine whether or not I would be  
19 eligible to run.

20 I was not familiar with what's called the  
21 losers -- or sore loser law, but that's not the  
22 reason why I filed. It is my belief in full  
23 participation in the electoral system. One of the  
24 reasons why I'm at this hearing is because I'm very  
25 respectful of those on this committee. I don't

1 want to waste your time. This is the first time  
2 I've sat in on such a hearing.

3 In the past, I've served as inspector,  
4 election inspector, for at least several primaries  
5 and general elections in Monroe County. So I am  
6 fully engaged in the process, and this is the  
7 process which I believe I'm fairly participating  
8 in, because the way the system works is that those  
9 who do not wish to belong to the Democratic party  
10 are not able to vote in the primary election or  
11 will not vote in the primary but perhaps will  
12 support a candidate in the general election, and  
13 they can only do that if that party is on the  
14 ballot.

15 So when that offer came to me, I felt that it  
16 was incumbent upon me to file my petition for  
17 candidacy at their request. So regarding the  
18 question of my candidacy, whether it's legal or  
19 not, I like the system. I think we have a good  
20 democratic system. In society, we've got to have a  
21 system, and it seems to work.

22 But I do feel that there may be some  
23 violations of the equal protective clause in this  
24 kind of proceeding where minority parties do not  
25 have access to those who seek to vote for them in a

1 general election because of the way it's set up  
2 between two major parties. So that would be my  
3 argument, that for that section of the law  
4 (inaudible) running for a seat even though he had  
5 been defeated in another party's primary election.

6 Can you hear me now, ma'am? I see you waving.  
7 Can you hear me?

8 CHAIRMAN OKESON: Yeah. You're fading out at  
9 times, so please be sure to speak up so we can get  
10 this for the record, Mr. Manns.

11 MR. MANNS: Is there anything I should repeat  
12 again?

13 CHAIRMAN OKESON: Maria?

14 THE REPORTER: You started fading around "But  
15 I do feel there may be some violations..."

16 MR. MANNS: It's kind of an infringement upon  
17 the rights of people, the equal protection rights  
18 of individuals, as well as the party, to vote when  
19 they are more interested in having a candidate who  
20 they feel they can vote for but they are precluded  
21 by the process of the primary elections because  
22 they don't want to join one of the major primary  
23 political parties. But they don't have an  
24 opportunity to vote for that person unless they're  
25 in the general election. And if you're not in the



1 general election, they have to have a candidate to  
2 do that, and that's the reason why.

3 So is that -- and I think there's an  
4 infringement, but that's the legal question which,  
5 I'm sure -- well, I can't say that. That's a legal  
6 question that is yet to be answered, but that's the  
7 way I felt about it. And I believe in the full  
8 participation of our electorate, no matter where  
9 they come from, to engage in the system by voting  
10 for their candidates of choice.

11 VICE CHAIRMAN LONG: May I ask a question?

12 MR. MANNNS: Yes, sir.

13 VICE CHAIRMAN LONG: This is Anthony Long. In  
14 making a decision -- and I'm specifically referring  
15 to Indiana Code 3-8-1-5.5, which I don't care much  
16 for the title to it either or the common name of it  
17 either. If this statute were ruled completely  
18 valid and constitutional, do you believe it would  
19 prevent your candidacy?

20 MR. MANNNS: I believe that the way the rule is  
21 written, yes, it would be. And I'm a lawyer.  
22 Okay? And I try to stick with the rules as well.  
23 But there are times in which I think the law works  
24 to the disadvantage of some people in the  
25 electorate, and I think that's the reason why a lot

1 of people don't engage in the system, and we should  
2 be trying to get people more involved in the  
3 system.

4 I think that would be the best course of  
5 action, to allow the candidates, as fully as  
6 possible, to participate. It's hard enough for a  
7 candidate to decide to run because they go through  
8 a lot of vetting and a lot of difficulties and  
9 costs and things of that nature. But there should  
10 be some way to reconsider a choice by other parties  
11 who are trying to get into their -- not only  
12 voting, but some representation in the general  
13 election when they can't do it with the primary  
14 system.

15 VICE CHAIRMAN LONG: I appreciate your candor  
16 and your response. Of course, I'm an attorney too,  
17 and I agree with the fact that sometimes the laws  
18 do not necessarily agree with.

19 MR. MANNS: Yes, sir.

20 AUTOMATED VOICE: It's 11 o'clock.

21 MR. MANNS: That's my clock. I'm sorry. That  
22 happens every time I'm in a Zoom meeting.  
23 Everybody says, "Where's that coming from?"

24 VICE CHAIRMAN LONG: That's not the worst  
25 thing we've had.

1 CHAIRMAN OKESON: That's certainly an  
2 acceptable interruption.

3 Any other questions? Vice Chairman Long, do  
4 you have follow-up?

5 VICE CHAIRMAN LONG: I do not. I have a  
6 comment when we get to the point.

7 CHAIRMAN OKESON: Okay.

8 VICE CHAIRMAN LONG: But I'm still happy to  
9 hear any comments from anybody else or questions  
10 anybody else would have.

11 CHAIRMAN OKESON: Okay.

12 MR. KLUTZ: Nothing from me, Paul.

13 MS. OVERHOLT: I don't have any questions.

14 CHAIRMAN OKESON: Presuming that concludes  
15 your presentation, Mr. Manns, I'll allow  
16 cross-examination by Ms. Crossley.

17 MS. CROSSLEY: Yeah. So, again -- and I'll be  
18 quick. But, again, the facts are that if -- you  
19 know, we're used to having a two-party system here  
20 in our county, and this is democracy. So, you  
21 know, if an independent or another person of the  
22 Green party, not maybe Mr. Manns, were to run for  
23 this position, we would have no problem and we  
24 wouldn't be here today.

25 But I guess the fact is is that, you know,

1 Mr. Manns has run in several primaries in the past  
2 as a Democrat for a candidacy for judge, but the  
3 truth of the matter is is that he would be eligible  
4 had he run -- if he had not -- excuse me -- run  
5 first as a Democrat. If he originally ran as a  
6 member or a candidate of the Green party, then we  
7 wouldn't be having this conversation because, I  
8 believe, the rule would not apply. But the point  
9 of the matter is, because he has ran and he has,  
10 you know, determined that he -- and he lost,  
11 rather, that this rule applies.

12 So, again, it's not an attack. It's not to  
13 pit one person against another, as I stated before.  
14 If Mr. Bradley were to do the same thing, we would  
15 do the same thing on behalf of Mr. Manns. But this  
16 is just the facts that I have at this point.

17 CHAIRMAN OKESON: Any rebuttal, Mr. Manns?

18 MR. MANNs: Well, I think she basically  
19 verifies what I'm trying to explain to you about  
20 how things work. If you don't participate in the  
21 dominant party system, you really don't have a  
22 chance of winning. You just get nothing. And if  
23 you want to vote for someone who is defeated in  
24 that primary, they're precluded from participating  
25 as their representative in the general election.

1           So I definitely think the system is unfair,  
2           but I accept the rules of the Court, and I accept  
3           the rules of the State or the authority who makes  
4           these decisions. I think that it's an important  
5           point that the legislature can deal with in other  
6           ways perhaps.

7           And I hope I haven't wasted your time in any  
8           way by participating in this session, and I  
9           appreciate you giving me the time to explain my  
10          position and share my thoughts with you. Thank you  
11          very much.

12          CHAIRMAN OKESON: Thank you, Mr. Manns. Thank  
13          you, Ms. Crossley. Certainly not a waste of time.  
14          I appreciate your interest in holding public office  
15          or seeking public office.

16          At this point, I think that would close the  
17          public hearing on Cause 2020-44. Is there any  
18          further discussion from commission members? I'll  
19          open it up.

20          MS. OVERHOLT: Did we just lose Anthony?

21          MR. KLUTZ: I think we might have.

22          CHAIRMAN OKESON: I don't see him anymore.

23          MR. MANNNS: He said he had a comment, and I'm  
24          interested in hearing his comment.

25          MS. NUSSMEYER: I'll call his office and see

1 if there's something going on.

2 CHAIRMAN OKESON: Do we -- what's the -- can I  
3 get co-counsel to weigh in. What's the status  
4 here? Are we sort of in brief recess until he  
5 comes back? How does this work?

6 MR. KING: You are --

7 MR. KOCHEVAR: Mr. Chairman, no. There's --

8 CHAIRMAN OKESON: Go ahead, Brad.

9 MR. KOCHEVAR: You go ahead, Bradley.

10 With regards to --

11 MR. KING: I was just going to say that --

12 MR. KOCHEVAR: Go ahead.

13 MR. KING: Thank you, Matthew.

14 No, Mr. Chairman, you are not in recess. You  
15 have a quorum with three members present.

16 CHAIRMAN OKESON: Okay.

17 MR. KOCHEVAR: And, Mr. Chairman, I will add  
18 on, though, that it's entirely up to you and  
19 Commissioner Overholt and Commissioner Klutz to  
20 recess or -- I'm trying to think of the other term  
21 that's not a recess, to essentially stand at ease  
22 if you wanted to wait for Vice Chair Long to  
23 attempt to rejoin the meeting. So you have that as  
24 an option.

25 MR. KLUTZ: Yeah. Maybe we could just have an

1 informal courtesy of just waiting a bit. It  
2 doesn't have to be complicated.

3 CHAIRMAN OKESON: Yeah. In the meantime, I  
4 think we can -- if you have questions for -- there  
5 he is.

6 MS. OVERHOLT: It took long enough to figure  
7 it out that got back on the call.

8 VICE CHAIRMAN LONG: Apparently our Internet  
9 had a glitch in it here and had our phones and  
10 everything down for a minute. I apologize for our  
11 antiquated equipment, I guess.

12 CHAIRMAN OKESON: No. You're fine. You  
13 didn't miss much. We were just debating on what we  
14 should do in your absence.

15 So you said you had a comment earlier that you  
16 wanted to make regarding this matter, and I'll send  
17 it back to you, Vice Chairman, if you wanted to.

18 VICE CHAIRMAN LONG: I would say, first of  
19 all, I would like to thank and applaud Mr. Manns  
20 for running for office. That's a big step to do,  
21 and we appreciate people running, whatever party  
22 you're in. That's our system, and we all support  
23 that.

24 I think that it's -- I think Jennifer Crossley  
25 represented her party well. I think both of them

1 made a very professional presentation here today.  
2 I think we're faced with a situation that we have a  
3 statute that really provides -- as it provides, it  
4 applies to Mr. Manns. And with that, I would make  
5 a motion we sustain the challenge.

6 CHAIRMAN OKESON: Hearing a motion to sustain  
7 the challenge, is there a second?

8 MS. OVERHOLT: Second.

9 CHAIRMAN OKESON: Having a second, any further  
10 discussion on the motion?

11 Hearing none, call the matter to a vote. All  
12 those in favor of upholding the motion to sustain  
13 the challenge, please signify by saying "aye."

14 VICE CHAIRMAN LONG: Aye.

15 MR. KLUTZ: Aye.

16 MS. OVERHOLT: Aye.

17 CHAIRMAN OKESON: Hearing none, the vote  
18 carries 4-0. The challenge is upheld. The  
19 Election Division is directed not to include  
20 Mr. Manns on the certified list of general election  
21 candidates sent to the county election boards and  
22 to indicate that any write-in votes for this  
23 candidate will not be counted.

24 Thank you, Mr. Manns, thank you, Ms. Crossley,  
25 for being here today.



1 MR. MANNIS: Thank you, Mr. Chairman. Thank  
2 you very much.

3 CHAIRMAN OKESON: Absolutely.

4 MS. CROSSLEY: Thank you.

5 CHAIRMAN OKESON: Moving on, on the agenda we  
6 have included some general election planning  
7 discussion. I'd like to use this time in the  
8 meeting to look forward to November. I know  
9 there's a lot on people's minds, and we want to  
10 make sure that the public is well informed as we  
11 head towards the fall election and also to just  
12 kind of share what's going on behind the scenes  
13 between the two parties as we figure out where  
14 we're headed.

15 I understand that some of the members would  
16 like to discuss the absentee by mail voting matter  
17 as well as some other topics and will have an  
18 opportunity to do so. However, I think it's worth  
19 mentioning, more important for the record, that we  
20 are currently involved in multiple lawsuits in the  
21 federal courts: Common Cause v. Lawson, Common  
22 Cause and the NAACP v. Lawson, and Tully v. Okeson.  
23 And for the record, as members of the commission,  
24 we are named defendants in these lawsuits, at least  
25 one of which has been pending since April. These

1 lawsuits address vote by mail in the November 3rd  
2 general election and who can request extended  
3 polling hours.

4 In my opinion, I think it's premature for the  
5 Election Commission to take any action by voting  
6 today until the courts have had a chance to hand  
7 down their rulings in these cases. The courts are  
8 very sure aware of the date of the general election  
9 and presumably will issue their rulings as promptly  
10 as possible.

11 I also further think it's important for the  
12 commission members and the members of the public to  
13 be informed about the extensive preparations that  
14 have taken place and are under way through  
15 cooperative efforts of the Secretary of State and,  
16 of course, our bipartisan members of the Election  
17 Commission in obtaining large stockpiles of what we  
18 call PPE, personal protective equipment. We are  
19 prepared to go forward at this time with a normal  
20 general election under current state law with  
21 certain accommodations under review by this  
22 commission that are not subject to dispute in this  
23 litigation.

24 In addition, the additional stockpile of PPE  
25 equipment that Indiana already has, they're

1 obtaining even more equipment for the poll workers  
2 and voters, and they will be available during the  
3 entire 28 days of early voting to all Hoosiers who  
4 wish to do so as well as on Election Day.

5 Secretary Lawson and the co-directors are going to  
6 supply counties with face masks for poll workers  
7 and voters, hand sanitizer, disinfectant spray,  
8 gloves, and social distancing markers.

9 In addition, there will be outreach to voters  
10 that starts probably around Labor Day. They will  
11 include TV, radio, print, and digital advertisement  
12 with educational material for people on how to  
13 register to vote and vote on Election Day. The ads  
14 will also, of course, encourage folks who wish to  
15 do so to become poll workers and inform them they  
16 will be provided with PPE as well if they choose to  
17 volunteer on Election Day.

18 Additionally, there is an order which I would  
19 move for adoption, 2020-45, which was distributed  
20 by the commission members to staff yesterday. If  
21 this or any other order is adopted, staff are  
22 authorized to affix our signatures and stamps. The  
23 order concerns one simple but very important aspect  
24 of reducing time required to process absentee  
25 ballots by the counties that they will undoubtedly

1 receive.

2 Under legislation adopted in 2019, Marion  
3 County is the only county permitted to use these  
4 envelope opening machines for absentee ballots  
5 rather than requiring the absentee ballot counters,  
6 the individuals, to do so on their own. We have  
7 identified an Indiana vendor who can provide these  
8 letter openers to the counties and to save hours of  
9 time that would be spent opening by hand. I'd ask  
10 for a second to that motion.

11 MR. KLUTZ: Second, Mr. Chairman.

12 CHAIRMAN OKESON: Any discussion?

13 VICE CHAIRMAN LONG: Mr. Chairman, Anthony  
14 Long. We would, as a part of discussion, move the  
15 board to amend your motion to add, incorporate in,  
16 a proposed order that was submitted yesterday to  
17 the commission, I believe, members that we have  
18 denominated as Order No. 2020-46, which, in basic,  
19 is an order reaffirming, I'm guessing,  
20 percentage-wise that 90 or 90-plus percent of the  
21 things that we've already approved for the primary  
22 election as far as the administrative procedures  
23 that would basically allow people on absentee  
24 voting, period, that we could apply, in simple  
25 terms, no-fault absentee voting as we did in the

1 primary.

2           The balance of it is substantially procedural,  
3 and I make this motion with the understanding and  
4 belief that we're not dealing with general what is  
5 commonly called vote by mail, period. We're going  
6 with no-fault absentee, which is -- while I don't  
7 cite him often for many reasons, but our president  
8 seems to support this. At least in his home state  
9 of Florida, he's been advocating people do this.  
10 The primary reason to do it is we're not on the  
11 downswing of this. When we started --

12           CHAIRMAN OKESON: Were you referring to the  
13 pandemic, Vice Chairman?

14           VICE CHAIRMAN LONG: The pandemic, yes, sir.  
15 When we started this, the first recorded case total  
16 in Indiana, I believe, was -- and I had the figures  
17 yesterday and saw them and somehow misplaced them  
18 here today, but there were 70-some-odd -- less than  
19 80 cases in the day that we had, and there were  
20 well over a thousand on August the 12th. So we've  
21 gone from, in March, of 75 cases or 75 to 80 cases  
22 a day starting out. That has evolved and morphed  
23 into a situation where we're well over a thousand  
24 cases a day at the present time.

25           I am concerned, and I think a statistic that

1 our staff could confirm to you is that people,  
2 voters in Indiana, are frightened. And they're  
3 trying to get absentee ballots, many of whom I'm  
4 sure are checking boxes on the thing for reasons  
5 that may or may not be accurate. As of 8/13,  
6 yesterday, we had 37,157 absentee ballot  
7 applications to vote by mail that had been  
8 submitted and entered through the statewide VR  
9 system.

10 To compare that, in 2016, according to the  
11 state voter registration system, on August 15,  
12 2016, 109 absentee ballot applications by mail were  
13 submitted by voters to counties and entered into  
14 the statewide voter registration system. In four  
15 years, it's gone up 37,000 people at the same time  
16 frame, which I think is indicative of the concern  
17 and fear among the voting population.

18 I think it's significant that the  
19 Superintendent of Public Instruction has written  
20 the Secretary a letter encouraging more absentee  
21 ballot by mail in order to reduce the number of  
22 polling places, which are often located in public  
23 schools. And we are appreciative of her speaking  
24 out on that issue.

25 But as you know and in our discussions, this

1 is a public health matter to me and it's a public  
2 health concern. We have a number of communities,  
3 counties that in the resolution -- or the order  
4 that we put forward, one in particular, the county,  
5 Knox County, is not going to be requiring masks,  
6 noncompliance of masks, failure to train. You can  
7 add all sorts of requirements by order, but in the  
8 situation we're in here today, we can't ensure  
9 they're going to be followed.

10 I don't believe, and sincerely don't believe,  
11 that we could, even with the Governor's order of a  
12 mask wearing requirement, that we can turn voters  
13 away if they don't wear them. I mean, I just think  
14 that -- I see no reason -- or no legitimate legal  
15 basis to turn voters away. We can encourage them,  
16 but if they show up with no mask on or, as the  
17 protesters today seem to wear them in stores, they  
18 only cover their chin and not their nose, that  
19 we're still not accomplishing what's needed.

20 We have a serious situation. The public  
21 health folks recognize it. And I think the  
22 situation we have is that we would -- we have a  
23 problem, we're going to face a problem, and we have  
24 absolutely no credible assurance that this is going  
25 to be abated by November 3rd. Candidates are not

1 out campaigning as they did. I mean, people are  
2 taking extraordinary precautions. And in this  
3 situation, I think it is clear that people in this  
4 situation should not have to make a choice between  
5 risking their health and exercising their right to  
6 vote.

7 I think that for this election, and this  
8 election is the only thing we're talking about,  
9 considering no-fault absentee voting, as we did in  
10 the primary, and my motion is that we amend your  
11 motion to adopt the order incorporating our  
12 proposed 2020-46, which I believe we can put on the  
13 screen for people to see and question. And if  
14 there are specific sections that anyone has any  
15 problem with, we would be more than happy to  
16 address this matter.

17 That's it, Mr. Chairman.

18 CHAIRMAN OKESON: Mr. Vice Chairman, so a  
19 couple thoughts, first being I want to recognize  
20 that I appreciate very much the dialogue that you  
21 and I have and the respect for each other and what  
22 I feel has grown into a good personal relationship  
23 and good working relationship. And I really  
24 believe that that will continue if we both work at  
25 it, as we have done. And I know there's a lot to



1 consider here. I certainly by no means would  
2 downplay the weight and importance of what you've  
3 just said.

4 Having said that, I'm not really sure how to  
5 proceed as we have competing motions, I think, on  
6 the table. We have a motion made and seconded  
7 that, I think, would need to be voted on prior to  
8 your motion. But I'll defer it to co-directors and  
9 co-counsel to clarify that.

10 MR. KING: Mr. Chairman, Brad King.

11 CHAIRMAN OKESON: Yes.

12 MR. KING: A motion to amend is in order. I  
13 don't believe that Vice Chairman Long's motion to  
14 amend has yet been seconded, but assuming that it  
15 is, it would be permissible, under parliamentary  
16 rules, to consider the motion to amend before  
17 taking a vote on the previous motion you made with  
18 regard -- on the initial motion.

19 CHAIRMAN OKESON: Okay.

20 MR. KING: And I'll defer to others from the  
21 Election Division staff who may have additional  
22 thoughts to add.

23 MS. OVERHOLT: So are you looking for a second  
24 at this point? You hadn't invited a second yet,  
25 Mr. Chairman.

1           CHAIRMAN OKESON: I'll certainly invite one  
2 now.

3           MS. OVERHOLT: Okay. Well, I would second the  
4 motion. And then if we need to read our order -- I  
5 don't know if we need to read our proposed order  
6 into the record. It's long.

7           CHAIRMAN OKESON: That's a good point,  
8 Commissioner Overholt. You know, I didn't even see  
9 it until this morning. I'm not sure when that hit  
10 our in-box, but it might have been when I was  
11 getting the few hours of sleep I manage to get a  
12 night. So I have not had a chance to digest it in  
13 its entirety. I'll certainly ask Commissioner  
14 Klutz to comment as well as it relates to the order  
15 that you've provided.

16          MR. KLUTZ: Well, I'll simply say a couple  
17 things. One, I think, my hope is that these  
18 motions and orders can be considered separately,  
19 for one reason being that I believe it was sent at  
20 11:30 p.m. last night to our staff and it was  
21 forwarded on first thing this morning. With all  
22 due respect to Commissioner Long, it is a little  
23 more extensive, maybe significantly more extensive,  
24 than simply no-fault absentee. This has a lot in  
25 there. Quite honestly, I have not had a chance to

1 digest it all. I've read it a few times. I have  
2 not had a chance to consider it, considering it  
3 came in at 11:30 p.m. and reached our in-boxes, at  
4 least, around 7:38 a.m. this morning. So I'm  
5 hoping these motions can be considered separately.

6 MS. OVERHOLT: And if I might comment.

7 CHAIRMAN OKESON: Sure. Please.

8 MS. OVERHOLT: Sorry.

9 CHAIRMAN OKESON: No. Go ahead.

10 MS. OVERHOLT: And, yes, it was a late hour.  
11 We recognize that. But as Commissioner Long  
12 stated, the vast majority of the order, the  
13 proposed order, contains measures that are lifted  
14 verbatim from the orders that were approved by this  
15 body with respect to the primary election in the  
16 spring.

17 So they're -- and Angela Nussmeyer, the  
18 co-director, is prepared to go through a summary of  
19 the order that highlights the provisions -- I mean,  
20 that covers each of the provisions, and she would  
21 flag which ones are ones that were approved in the  
22 spring versus, I think -- I think there may be  
23 three new ones that are what I would consider  
24 more -- they're very important, but I don't see how  
25 they're controversial.

1 I would also note that the request for the  
2 high tech envelope openers, letter openers, is  
3 included in our order as well. I mean, it's in  
4 there because that technology, using that  
5 technology was approved for the primary. It's  
6 included in this order as well.

7 And the other thing that, quite frankly, to  
8 consider those orders separately, I mean, the  
9 request for these high tech envelope openers has to  
10 be -- I mean, it's coming -- it's clearly coming  
11 from an assumption that there is going to be a  
12 higher volume of absentee ballots in the fall, and  
13 that volume would be due to the fact that -- I  
14 mean, that seems like a straight out recognition  
15 that people want to vote absentee by mail because  
16 of the pandemic. I think otherwise that would not  
17 be raised as an issue right now. I mean, you don't  
18 need electronic fancy letter openers if you're not  
19 having an increased volume in the absentee by mail.  
20 I mean, so the two kind of -- they go hand in hand,  
21 so I think it -- and it's included in our order.

22 While I have the floor, the other thing I did  
23 want to comment on is this concept that because of  
24 these pending lawsuits that we shouldn't -- that we  
25 somehow can't take action right now and should

1 leave it to the courts. I mean, none of these  
2 lawsuits, as far as I'm aware, are seeking any kind  
3 of monetary relief from the State. They are  
4 looking for a change in the way elections are  
5 conducted. Some of them are looking for a change  
6 in the way they're conducted in perpetuity.

7 What we are talking about today is the general  
8 election and protecting voters so that they are  
9 assured of being able to vote without sacrificing  
10 their health or risking their health. I mean,  
11 under a normal context, that would sound like  
12 inflated, you know, hyperbole that's just trying to  
13 get people excited, but that's a reality right now.  
14 That is our reality, that there is no reason to  
15 think right now that in November the situation is  
16 going to be better than it is now. In fact, if you  
17 listen to the news, they're saying that as soon as  
18 the weather gets colder and people are inside more,  
19 there's a concern that the numbers are going to get  
20 worse.

21 And we all know that, when you're running  
22 elections, you can't wait until the day before or  
23 the week before to say, "Oh, golly, let's make some  
24 changes here so people can vote from home." It's  
25 too late. You've got the Postal Service saying

1 you've got to allow -- the letter from the general  
2 counsel of the Postal Service said it's almost a  
3 30-day process to get the application in, to get  
4 the ballot mailed back out, and to allow the voter  
5 time to mail it in. I mean, it's just -- the time  
6 that this process takes is not one that can wait  
7 for the courts, there's no reason to wait for the  
8 courts, and we certainly can't wait until the last  
9 minute.

10 So I think we need to take these really  
11 reasonable measures that we all agreed upon in the  
12 spring were reasonable and are even more reasonable  
13 now given the situation we're dealing with and take  
14 action to protect the voting public so that they  
15 can protect their health and protect their right to  
16 vote at the same time.

17 MR. KLUTZ: If I -- sorry, Mr. Chairman. Go  
18 ahead.

19 CHAIRMAN OKESON: So there's a lot to unpack  
20 here, clearly, and I thank you for your comments,  
21 Commissioner. I don't think any of us would stand  
22 here in disagreement that we want to protect the  
23 health and well-being of those who will exercise  
24 their right to vote, which goes to my comments  
25 about the increased ordering of PPE.

1           But as it relates to the two orders, one line  
2 of sort of separation I would make is that I think  
3 what I've heard here is an agreement that all the  
4 counties relatively stand in unanimity that they  
5 want these envelope openers. So, to me, taking  
6 that issue separately, whether there's complete  
7 agreement across the board, makes sense. And  
8 therefore, to Commissioner Klutz's point, I'd like  
9 to sort of vote on that motion and order first.

10           And certainly we're not closed-minded here. I  
11 think, you know, we might stand in disagreement  
12 ultimately, and I think there's good reasons for  
13 that on both sides. You know, we tend not to be a  
14 law-making or policy-making body, and a lot of this  
15 seems to me to be things that need to be  
16 rationalized and dealt with on the third floor of  
17 the State House.

18           But having said that -- and that's my personal  
19 view -- I think the letter openers need to stand as  
20 a motion that we all agree on and we should vote.  
21 We're going to be, from a supply and demand  
22 perspective, in competition with other states who  
23 are seeking this same equipment for purposes of  
24 opening absentees, and I'd hate to mire that  
25 particular area of agreement down in some areas

1 where we might not truly reach a unanimous vote.

2 And, Commissioner Klutz, I know you wanted to  
3 offer some comments, so I'll turn it over to you.  
4 But then I'd ask kind of how we proceed relative to  
5 the two motions that have been made.

6 VICE CHAIRMAN LONG: And I would like to offer  
7 a comment after Commissioner Klutz, if I might.

8 CHAIRMAN OKESON: Sure. Absolutely.

9 MR. KLUTZ: Well, I'll just simply say that  
10 just because these orders were agreed upon for the  
11 primary doesn't necessarily mean that the factors  
12 giving rise to that, at least for the purposes of  
13 why I voted for them for the primary, are still in  
14 existence. Specifically, those modifications to  
15 the election procedures were done immediately after  
16 the stay-at-home order was issued by the Governor  
17 and us not knowing how long that stay-at-home order  
18 would be in existence.

19 The factors -- we still are dealing with the  
20 pandemic, but the factors have changed. We've come  
21 to understand this pandemic a little bit better,  
22 understand how to protect ourselves. And case in  
23 point, we are now in stage 4.5 of a 5-stage back on  
24 track plan. We weren't there in May, and we -- or  
25 in March, quite honestly -- sorry, March -- and we



1 are much further down the road now.

2 So just because something was agreed upon in  
3 March because of an emergency doesn't mean those  
4 same factors automatically make this appropriate  
5 this time. I don't disagree that there is a higher  
6 demand for vote by mail as long as you fall into  
7 the statutory reasons to allow vote by mail.  
8 Changing those now is a policy change that we  
9 don't -- that it's not in our purview to do.

10 And so the vote -- the machines are simply to  
11 address the demand for those who qualify for vote  
12 by mail, and that's why I would like that motion to  
13 stand on its own and for us to vote on that up or  
14 down and then consider the next one.

15 CHAIRMAN OKESON: Vice Chairman -- thank you,  
16 Commissioner Klutz.

17 Vice Chairman Long, you expressed a desire to  
18 comment further.

19 VICE CHAIRMAN LONG: Yes. I want to echo your  
20 earlier comments about our relationship. This has  
21 been one of the, I think, most effective election  
22 commissions that I've been a member of. As you  
23 know, I've been on this commission for, I think  
24 they tell me, 23 years. And as I said at one of  
25 our meetings, you think you've seen it all, but

1 don't ever rest assured of that.

2 CHAIRMAN OKESON: Yeah, truly.

3 VICE CHAIRMAN LONG: But, again, our  
4 relationship, the ability of you and I to  
5 communicate, is a prized relationship to me, and I  
6 agree we're developing a friendship and respect. I  
7 feel that way. This is a board that I think is  
8 close, and I think that we're in one of those not  
9 too frequent, probably more rare moments when we  
10 have major political philosophies clash.

11 CHAIRMAN OKESON: Yeah.

12 VICE CHAIRMAN LONG: And this is -- I hope  
13 that we're an example to a lot of people in this  
14 state and hopefully in the country that we can  
15 disagree without being disagreeable.

16 CHAIRMAN OKESON: Absolutely.

17 VICE CHAIRMAN LONG: However we vote on these  
18 motions, we're going to -- at least in my mind,  
19 we're going to leave this as friends and associates  
20 and be able to do our work efficiently, as I think  
21 we do 99-plus percent of the time, without any  
22 concern for political philosophy because it's just  
23 not a big deal.

24 I think, Commissioner Klutz, I agree that it's  
25 because we're not dealing with long-term policy, I

1 think that's one of the reasons that we're able to  
2 do that. We're dealing with unique, special  
3 situations. I don't believe and I respectfully  
4 disagree with you, Commissioner Klutz, that this is  
5 a policy decision change. I don't think it is. I  
6 think the legislature has to decide on what the  
7 normal -- and I use the word; hopefully we'll get  
8 back to it -- a normal election would be.

9 This is an emergency, and to say that we're  
10 not in an emergency, I think, is just disingenuous.  
11 I am not -- I have never denigrated our governor.  
12 I think he's a respectable human being. I think  
13 he's a decent man. I think he genuinely tries to  
14 do a good job. We disagree philosophically. But I  
15 am truly disappointed that he is not taking the  
16 lead on this. And it's my understanding our 4.5,  
17 we've stopped or stayed the progress of  
18 reintegrating, whatever the right term is for that,  
19 because of the situation that we're facing.

20 We've had -- we see it daily. I read in the  
21 paper this morning our school in Warrick County  
22 opened up on Wednesday, and as of Thursday, they  
23 had two students that had been among other students  
24 that tested positive, among other teachers, among  
25 administrators. And what have they done? They've

1 got them in isolation. They have kept students  
2 that they had contact with at home for 14 days.  
3 This thing is not slowing down.

4 And I guess it's more personal to me because  
5 I'm old. I'm 75. I make no -- I am proud to have  
6 lived that long. I've got comorbidity issues.  
7 There's no way -- and I said this in the spring.  
8 There's no way I would work in the polls, no way at  
9 all. It would be too much of a risk. I quit one  
10 aspect of my practice because I would not go to the  
11 jail to visit clients because I was concerned about  
12 the health aspect of it.

13 And I cannot, in good faith, tell people  
14 you've got to go in person. If you're healthy but  
15 you're afraid and fearful of the pandemic and the  
16 environment, I cannot in good conscience tell  
17 somebody you've got to bite the bullet and go vote  
18 in person or in some public arena because -- and  
19 take that risk or not vote at all.

20 And I think that people will take advantage.  
21 I think we will have -- we don't oppose you on the  
22 letter openers, or at least I don't. I'm sure  
23 Suzannah doesn't either. I've never heard her  
24 express anything different. (Inaudible.)

25 CHAIRMAN OKESON: Vice Chairman, I'm not

1 hearing you.

2 VICE CHAIRMAN LONG: We do believe that if we  
3 have --

4 CHAIRMAN OKESON: Thank you.

5 VICE CHAIRMAN LONG: -- no-fault absentee  
6 requests, that there will be an increase, and that  
7 certainly would be more justification for the use  
8 of these. We've already seen a significant, huge  
9 increase, and I think that's indicative. And I  
10 think that however we get to the point, we have to  
11 allow people to make a decision to vote and not  
12 weigh that against their health and/or lives.

13 CHAIRMAN OKESON: I thank you for your  
14 thoughtful comments, and I agree with you that  
15 Governor Holcomb is a good and decent man. But I  
16 would respectfully disagree. I think he has led  
17 the state of Indiana through a fairly challenging  
18 period of months here, and for the record, I  
19 commend him for his leadership.

20 I think what I'm hearing, though, is complete  
21 agreement as it relates to these letter openers.  
22 And I'd certainly like to see that for the benefit  
23 of all 92 county clerks, where there, again, is  
24 unanimity for the desire to have those, and take  
25 the opportunity to make sure we, quote/unquote, get

1 in line to order that supply. Can I encourage a  
2 vote on that motion alone, please.

3 VICE CHAIRMAN LONG: Could I ask you -- it  
4 would be a motion against my motion. Let me ask  
5 you a question.

6 CHAIRMAN OKESON: Sure.

7 VICE CHAIRMAN LONG: This is what transparency  
8 is about. We'll negotiate here a little bit. If  
9 we would agree to withdraw this motion and vote on  
10 your order, stand aside, would you then agree that,  
11 if I turned around and offered this 2020-46 as a --  
12 move that we adopt it, that you would set a  
13 hearing, a public hearing, on this matter to take  
14 evidence within the next couple of weeks?

15 As you know, time is really critical here, and  
16 that's one of the things -- we asked Angie to do a  
17 study -- Nussmeyer to do a study of not the  
18 statutory deadlines -- we can all read them in the  
19 statute -- but the practical deadlines, when do you  
20 order supplies, when do you order the card stock.  
21 These dates are passing now, and the longer this is  
22 delayed, the higher the probability we're not going  
23 to physically be able.

24 And the lawsuit that we've got, the only one  
25 that really relates to us on this issue is what we

1 call the Tully suit in federal court there in  
2 Indianapolis. The premise of that lawsuit is that  
3 this commission won't act, and it's been  
4 stipulated, to stop the negotiations, that the  
5 commission couldn't make a decision by the  
6 attorneys involved. And we are -- the basis of  
7 that lawsuit is we won't decide. It does go  
8 further, way further than the vote by -- no-fault  
9 vote by absentee in this election. It's a general  
10 policy challenge to the entire system to allow it  
11 for everything.

12 But there is nothing in that litigation that  
13 stops us from making a decision and addressing this  
14 issue. As a matter of fact, if we did, that aspect  
15 of the litigation, the need for the restraining  
16 order and injunctions, would probably go away. And  
17 I think that that would be showing responsibility.

18 So I would be willing to consider a commitment  
19 to call a meeting -- set it here today if you  
20 want -- for a hearing on 46 and withdraw my motion  
21 and go forward and vote. And I will tell you I  
22 will vote in favor of the letter openers, which, if  
23 you and Mr. Klutz do -- you can count votes like I  
24 can -- that gives you three votes and it will get  
25 that passed and the Secretary can get her letter

1 openers and go on about their business. But we're  
2 going to sit down to do the business at hand -- or  
3 that we will sit down and do the business at hand  
4 to have a hearing on this and make the decision.

5 MS. OVERHOLT: And if I might add, for  
6 purposes of the record, though, before anything is  
7 withdrawn, I still -- my understanding is that we  
8 need to have our proposed order -- so the subject  
9 of our motion actually read into the record. And  
10 as I said, Co-Director Nussmeyer has a -- we don't  
11 have to do a verbatim reading but at least to get  
12 enough of a sense of it, and there is a summary  
13 that Co-Director Nussmeyer is prepared to go  
14 through. And it seems to me that it would be  
15 appropriate to have her do that at this point so  
16 that it's clear on the record what we're talking  
17 about.

18 VICE CHAIRMAN LONG: Just to make a record,  
19 sure. And at some point I was going to ask it be  
20 included as a part of the record here today. If  
21 the chair would allow Ms. Nussmeyer to give a very  
22 brief summary, I think there are only three  
23 sections out of the 20-plus sections in the --  
24 let's see here -- 19 or 20, however many there are,  
25 that are new. And most of them are substantially



1 or virtually identical or with teeny tiny changes  
2 or adding English proper in one, I think. I would  
3 ask that we at least let the people listening in to  
4 us know what we're talking about, and that would be  
5 stated in the record in that fashion.

6 CHAIRMAN OKESON: Yeah. Thank you.

7 Let me sort of confirm with Co-Director King,  
8 would this be the proper order of events here to  
9 have that happen now?

10 MR. KING: Yes, Mr. Chairman. The commission  
11 is currently engaged in a discussion of Vice  
12 Chairman Long's motion to amend, and it is  
13 certainly within the past practice of the  
14 commission to allow presentations by staff with  
15 regard to information regarding the pending motion.

16 CHAIRMAN OKESON: Sure. With that in mind  
17 and, Vice Chairman Long, respectfully, I don't know  
18 that we're done negotiating, but understanding that  
19 we want to get this on the record, I'll defer the  
20 mic to Co-Director Nussmeyer for the purpose of  
21 summarizing the order into the record.

22 VICE CHAIRMAN LONG: Thank you, Mr. Chairman.

23 CHAIRMAN OKESON: Yes.

24 MS. NUSSMEYER: Thank you, Mr. Chairman,  
25 members of the commission.

1           Very quickly, order 2020-46 that you received  
2 this morning, I'll skip the whereas clauses, and  
3 Section 1 is just really about the applicability of  
4 the order.

5           Section 2, this is same language that the  
6 commission passed in the primary election to allow  
7 for no-excuse absentee voting. There is one minor  
8 change to this section, and that is to require that  
9 any absentee application created by the division be  
10 offered in both English and Spanish.

11           Section 3, this is a new section. This was  
12 not contemplated by the commission in the primary  
13 election. We've heard from the American Council of  
14 the Blind and the National Federation of the Blind  
15 of Indiana regarding allowing voters with  
16 disabilities who use adaptive technology to be able  
17 to vote by email.

18           And so the procedures articulated in Section 3  
19 are substantially similar to those procedures that  
20 a military or overseas voter who uses a federal  
21 postcard application to request a ballot by fax or  
22 email, to have that ballot image sent to them.  
23 It's an initial ballot. The voter then is able to  
24 complete the ballot on their end, email it back to  
25 the county official. The voter then also provides

1 a voluntary waiver of secrecy. Because the ballot  
2 is transmitted over email and has to be printed,  
3 there is a small possibility that the county  
4 official might see that person's ballot before it's  
5 put into a security envelope to be counted on  
6 election day. So, again, substantially similar  
7 procedures that we might see for a military or  
8 overseas voter requesting to vote by email.

9 Section 4, this is same language from the  
10 primary election. Again, this has the election  
11 administrators in mind, you know, that the county  
12 election board and absentee voter board reviews  
13 applications, so on and so forth, just restates  
14 what is in law and doesn't do anything to modify or  
15 alter that.

16 Section 5, this would allow for and something  
17 that we currently encourage county election boards  
18 to do. This is with respect to travel boards. So  
19 if you're not familiar with the travel board  
20 procedure, it's a bipartisan team that goes to a  
21 person's home, to a nursing home, to other skilled  
22 health care facilities to assist a voter who is not  
23 able to personally mark their own ballot. State  
24 law is very clear that a person must be able to  
25 personally mark their own ballot to be able to vote

1 by mail, and a travel board then is used for those  
2 voters who are not able to do so.

3 So what this would allow is just a  
4 recommendation to the counties that their county  
5 chairs nominate individuals within a nursing home  
6 to serve as that travel board team, particularly  
7 because nursing home health care facilities and  
8 others are not permitting visitors, and that the  
9 county election board would put together some chain  
10 of custody procedures to have the ballots delivered  
11 to the health care facility and then have them  
12 picked up.

13 And then, of course, the people assisting the  
14 voters on the inside, in addition to the affidavit  
15 that they would be required to complete on the  
16 absentee envelope, but also need to fill out the  
17 PRE-3 form. That is an affidavit of voter  
18 assistance.

19 Section 6, this is, again, approved language  
20 from the primary election, again, with respect to  
21 travel boards. This would allow a county election  
22 board to permit their travel board teams to conduct  
23 those appointments over telephone or  
24 videoconferencing. That was met with, I think,  
25 open arms with the counties in the spring because

1 it was incredibly helpful and something I think  
2 they would like to see for the fall.

3 It also expands the definition of what a  
4 temporary disability is, and it's solely for the  
5 purposes of allowing the travel board team to mark  
6 on the affidavit that the voter is unable to sign  
7 the envelope. If you're doing phone calls or  
8 videoconferencing or if you go to a person's  
9 private residence and you, you know, are talking  
10 through a screen door, through a window, clearly  
11 the voter is not going to be able to sign their  
12 envelope, and this would permit the travel board to  
13 affix the voter's signature and attest that that  
14 voter is the person who voted that ballot.

15 This would also allow the county chair to  
16 nominate two individuals within a person's  
17 household to serve as a travel board team and  
18 assist a person within their care who might need  
19 help in completing their ballot.

20 Section 7, again, same language that the  
21 commission adopted in the primary election. It  
22 would permit a caregiver or a family member -- it  
23 has an expanded definition of what family member  
24 would be -- to deliver a voter's completed absentee  
25 ballot. This would be in addition to what current

1 law currently allows, and that is that the voter --  
2 a member of the voter's immediate household, their  
3 attorney-in-fact, or a bonded courier can deliver  
4 that absentee ballot.

5 Section 8 is restating current law and was in  
6 the orders adopted by the commission in the spring.  
7 A reminder that the clerk is able to designate one  
8 office of the clerk's -- or designate one office as  
9 a location of the clerk's office for purposes of  
10 28 days of in-person absentee voting. This is  
11 current law. A county clerk is able to maybe use  
12 an annex space for purposes of early voting, but  
13 she or he only gets to designate that one location.  
14 Any other locations would be through unanimous  
15 consent of the county election board.

16 Section 9, same language that was approved in  
17 the primary election. Again, it just simply  
18 restates existing law to provide some direction to  
19 counties. It would allow for certain poll worker  
20 positions to be eliminated and to allow non-vote  
21 center counties to have voters from adjoining  
22 precincts go to the same polling location. This  
23 clearly would be helpful in the event the county  
24 election board determines it's necessary to reduce  
25 the number of polling locations due to site

1 availability or poll worker shortages.

2 Section 10, this is same language from the  
3 primary election. It makes minor adjustments to  
4 the student poll worker program that would permit a  
5 16- or 17-year-old to serve as a clerk or a judge  
6 on Election Day. If the school is not in session,  
7 we waive the requirement that the principal be able  
8 to sign off on the person's permission slip.

9 Additionally, state law does not currently  
10 allow this, but it would allow 16- or 17-year-olds  
11 to serve as an absentee voter board member to  
12 assist with absentee by mail or with in-person  
13 absentee voting. A 16- or 17-year-old could not  
14 assist with travel board.

15 Section 11, this is a new section. This would  
16 allow for an absentee ballot to be received not  
17 later than noon three days after the election and  
18 be counted if the voter is otherwise qualified. I  
19 think it was Commissioner Overholt who mentioned  
20 earlier that we did receive a letter from the  
21 United States Postal Service, from their general  
22 counsel, saying that our state law does not comport  
23 with their 15-day turnaround time and that we  
24 should make adjustments to be respectful of their  
25 processes.

1           Section 12, this is the same that the  
2           commission adopted in the primary election.  
3           Section C, this is the letter (inaudible).

4           CHAIRMAN OKESON: Angela, you're cutting out.  
5           We're not hearing everything you're saying.

6           MS. NUSSMEYER: Oh, sorry. Where did I cut  
7           out?

8           MS. OVERHOLT: Section 12.

9           CHAIRMAN OKESON: Maria?

10          MS. NUSSMEYER: Okay. So Section 12?

11          VICE CHAIRMAN LONG: Yes.

12          MS. NUSSMEYER: Okay. I'll move my cell  
13          phone. Maybe that's the issue.

14          So Section 12, this just restates existing  
15          law. They'll ask for streamlining of certain  
16          processes at the central count, but it also would  
17          permit counties to begin counting at 6:00 a.m.,  
18          notwithstanding current law.

19          And then the Subsection C, this is the  
20          companion section to Order 45 that would permit the  
21          letter openers to be used by counties if they would  
22          like to do so.

23          Are you hearing me okay now?

24          CHAIRMAN OKESON: Yes.

25          MS. NUSSMEYER: Great.



1 CHAIRMAN OKESON: Thank you.

2 MS. NUSSMEYER: Section 13, this is primarily  
3 same language from the primary election that the  
4 commission unanimously agreed to. It would allow  
5 for any registered voter in Indiana to serve as a  
6 poll worker or absentee voter board member or  
7 absentee ballot counter in any Indiana county.  
8 Current law requires the individual to be a  
9 registered voter of that county. This would allow  
10 for any registered voter to go work at any county  
11 for purposes of being an election worker or an  
12 absentee counter.

13 Section C of this, Subsection C of Section 13,  
14 is new language, and it's simply a call to action  
15 for the governor of our state and local elected  
16 officials to encourage their staff to serve as poll  
17 workers on Election Day because it is a state  
18 holiday.

19 Section 14, this is the same language that the  
20 commission agreed to in the primary. It restates  
21 current law that all public buildings are to be  
22 made available to the county election for use as an  
23 Election Day polling location free of charge.

24 Section 15, parts of it are the same as what  
25 the commission adopted in the spring, but there is

1 some new language here. Subsections A and B are  
2 substantially similar to the previous orders that  
3 require counties to follow current CDC and state  
4 Department of Health advice on using PPE, social  
5 distancing, and the rest.

6 Subsection B was slightly modified to strike  
7 the reference to the appendix that we approved in  
8 the spring that compiled all the CDC and instead  
9 just says the Election Division or Secretary of  
10 State will compile those guidelines.

11 Subsections C, D, and E are brand-new. And  
12 this would require those individuals who are  
13 serving in appointed positions, like a poll worker  
14 or an absentee voter board member, to wear a mask  
15 or similar face covering as a condition of their  
16 appointment.

17 This would not impact clerks and their staff,  
18 full-time or temporary staff, but instead it is  
19 truly those individuals who are nominated by their  
20 party chairs and appointed by the county election  
21 board to serve in those statutorily created  
22 positions to wear a mask or other face covering in  
23 cooperation with the Governor's mandate and the CDC  
24 recommendations. And it would also allow the  
25 county election board to remove any person

1 appointed for not wearing a face mask.

2 Section 16, this is same language that the  
3 commission approved in the primary. Again, it just  
4 restates existing law that a county does not have  
5 home rule authority as it relates to elections, and  
6 absent this order, the election is to be conducted  
7 according to state and federal law.

8 Section 17, this is same language from the  
9 primary which would permit a county to establish  
10 additional central count locations as long as each  
11 county election board or its designee through proxy  
12 is present. So we allowed that in the primary. I  
13 think it was used in a few counties. I'm not sure  
14 it will be used in the fall, but it gives counties  
15 the option that, if they need to find a larger  
16 facility to socially distance to account for the  
17 volume of mail that they may have, that they could  
18 move to one or more locations to perform their  
19 responsibilities under law.

20 Section 18, again, same language that the  
21 commission approved in the primary which restates  
22 current law as relates to giving best possible  
23 notice for any polling location changes that may  
24 occur before Election Day.

25 And then Section 19, same language that the

1 commission approved in the primary that simply says  
2 that counties may notify a voter that their  
3 absentee ballot or absentee ballot application has  
4 been rejected. If they choose to do so, then they  
5 need to do so in a nondiscriminatory way.

6 And with that, I'm happy to answer any  
7 questions that the commissioners have, but I  
8 appreciate you indulging us in reading this into  
9 the record today.

10 CHAIRMAN OKESON: Thank you, Co-Director  
11 Nussmeyer. I appreciate that.

12 You know, there are a few things that jump out  
13 of that order to me that, you know, ultimately  
14 probably -- well, so where we are is we have my  
15 motion with a second for the openers, which has now  
16 been countermanded or superseded by Vice Chairman  
17 Long's motion to amend to accept Order 2020-46. We  
18 have heard a digest of the order, so I guess at  
19 this point -- and Co-Director King, correct me if  
20 I'm wrong. I guess we're taking a vote on the  
21 motion to amend my motion to accept 2020-46. Is  
22 that correct?

23 MR. KING: Yes. That is the proper  
24 parliamentary procedure.

25 CHAIRMAN OKESON: Hearing no further

1 discussion, I'll call the motion to a vote.

2 MS. OVERHOLT: I'm sorry. To be clear, so  
3 we're voting -- so this vote is on the motion to  
4 amend, right, at this point?

5 CHAIRMAN OKESON: Yes.

6 MS. OVERHOLT: Okay.

7 VICE CHAIRMAN LONG: And do I understand we're  
8 through negotiating now?

9 CHAIRMAN OKESON: Well, listen, what I hear is  
10 bipartisan and unanimous agreement on the letter  
11 openers. Where I don't see us getting is  
12 bipartisan, unanimous agreement on your proposed  
13 motion. And so, you know, I'm certainly willing to  
14 entertain some further discussion, but I think  
15 that's where we are. Would you agree, Vice  
16 Chairman?

17 VICE CHAIRMAN LONG: As a practical matter, I  
18 think that's probably where we are except that  
19 there is a way out of the impasse, and that would  
20 be for the chair, who this is a personal decision  
21 for you to make, to agree to calling a meeting or a  
22 hearing on the contents of our proposed amendment,  
23 2020-46. And if that is done and we can set that  
24 meeting or you agree to call it within the next  
25 couple of weeks, I've got a couple dates that -- I

1 have to have my wife at a medical appointment  
2 Monday, but outside of that, I'll make myself  
3 available as best I can anytime within the next  
4 couple of weeks to have a hearing on it.

5 And if you do that, if you make that  
6 commitment, I would ask leave of the second to my  
7 motion, to withdraw the second, and I'll withdraw  
8 my motion, and we can vote, as far as I'm  
9 concerned, to get the letter openers.

10 CHAIRMAN OKESON: Well, and I appreciate your  
11 offer. I'm, frankly, not inclined to accept it and  
12 go down that path. I don't -- and I don't want to  
13 continue to beat the horse after it's expired, so  
14 to speak. But I think we would simply engage in  
15 further point/counterpoint as we've done today, and  
16 I do not see, sitting here today, us achieving the  
17 necessary four votes on your proposed order.

18 Having said that, I'm open-minded to continue  
19 our discussions offline and to allow the  
20 co-directors and the Election Division and the  
21 major political parties to continue to have  
22 dialogue in the background, and such that dialogue  
23 should change the course of events where we would  
24 meet again, I'm open to that. But I'm not inclined  
25 to require the commission to meet again at this

1 point in time.

2 And so I think that leaves us with a vote on  
3 your seconded motion to accept an amendment to  
4 include Order 2020-46. So with that, I'll call it  
5 to a vote.

6 VICE CHAIRMAN LONG: One other thing, in  
7 keeping with my commitment to you --

8 CHAIRMAN OKESON: Yes, sir.

9 VICE CHAIRMAN LONG: -- I would tell you  
10 that -- and I respect your position. I'm not  
11 quarreling with you. I'm just telling you that --

12 CHAIRMAN OKESON: No. I understand.

13 VICE CHAIRMAN LONG: -- if this motion fails  
14 and we're not able to have the hearing, it would be  
15 my intention probably not to vote for the letter  
16 opener motion until we can deal with all of the  
17 issues at once, because the letter opener, I  
18 believe, in the spectrum of things, is a minor  
19 thing compared to the amendment. And I just can't  
20 see taking a tiny Band-Aid approach to solving this  
21 issue or solving any issue when there's major  
22 issues.

23 I don't want to lead you to believe that --  
24 while I support the ability to buy it, I think that  
25 we need to do that as a part of a package deal. I

1 intend to not vote for that one, and I just tell  
2 you that ahead of time.

3 CHAIRMAN OKESON: Sure. And, Anthony, Vice  
4 Chairman, I appreciate your candor, as always, and  
5 I respect your position. I do -- I will say  
6 personally I will find it regrettable, I think, if  
7 this window of time passes us by, from a supply and  
8 demand perspective, to get those letter openers.  
9 That would be unfortunate given your own citing of  
10 the number of absentee ballots that have been  
11 applied for under what's allowable in state statute  
12 already.

13 So that's -- you know, just thinking of the  
14 clerks and understanding that we all -- again, we'd  
15 be hard pressed to find a single clerk who wouldn't  
16 support the letter openers being purchased. And  
17 I'm hearing from both of you that join us -- all  
18 three of the commission members that join me on  
19 this commission body that there's agreement. But I  
20 understand, you know, there's -- you're going to  
21 utilize one event to help produce the outcome on  
22 another. And we will just have to stand in  
23 disagreement there, and hopefully that -- well,  
24 enough said.

25 So I'll call the matter to a vote. We're



1 voting on the motion to approve the order for  
2 letter openers adopted to include Order 2020-46.

3 MR. KING: Mr. Chairman --

4 VICE CHAIRMAN LONG: You're voting on the  
5 motion to amend, I believe is what you're saying,  
6 for clarity.

7 CHAIRMAN OKESON: Yes.

8 VICE CHAIRMAN LONG: I bet that's what  
9 Mr. King was going to jump in on there.

10 CHAIRMAN OKESON: Yeah. I'm sorry.

11 MR. KING: Vice Chairman Long is correct.  
12 Thank you.

13 CHAIRMAN OKESON: Yes. The motion to amend.  
14 So calling it to a vote, all those in favor signify  
15 by saying "aye."

16 MR. LONG: Aye.

17 MS. OVERHOLT: Aye.

18 CHAIRMAN OKESON: Those opposed?

19 Nay.

20 MR. KLUTZ: Nay.

21 CHAIRMAN OKESON: The motion fails. And  
22 that --

23 VICE CHAIRMAN LONG: May this be recorded,  
24 Mr. Chairman --

25 CHAIRMAN OKESON: I'm sorry. Go ahead, Vice

1 Chairman.

2 VICE CHAIRMAN LONG: Would you please record  
3 the votes in -- you don't have to take a roll call.  
4 Would you record the votes in the minutes?

5 CHAIRMAN OKESON: Sure. And I'm happy to take  
6 a roll call, but the motion failed with a vote 2  
7 ayes and 2 nays, 2 ayes coming from Vice Chairman  
8 Long and Commission Member Wilson Overholt, and the  
9 nays coming from Commission Member Klutz and  
10 Chairman Okeson.

11 VICE CHAIRMAN LONG: Thank you.

12 CHAIRMAN OKESON: With that, the Election  
13 Commission has concluded its business for the day.

14 MR. KING: Mr. Chairman?

15 CHAIRMAN OKESON: Yes.

16 MR. KING: Mr. Chairman, excuse me. You still  
17 have pending your original motion --

18 CHAIRMAN OKESON: Oh, my motion.

19 MR. KING: -- to adopt Order 2020-45.

20 CHAIRMAN OKESON: -45. Thank you. Thank you.

21 So we have a motion for Order 2020-45, which  
22 is for the letter openers only essentially and a  
23 second. Is there any discussion on that?

24 MS. OVERHOLT: Sorry. One thing that I would  
25 like to comment, Mr. Chairman, is just that in

1 your -- you mentioned the window of opportunity for  
2 ordering the letter openers. There's also a window  
3 of opportunity for ballot card stock. I mean, it's  
4 a very real issue here that, when you talked about  
5 the influx of applications already received,  
6 there's a chance that those ballots are being --  
7 those applications are being submitted by people  
8 thinking that they can use the same rationale for  
9 voting absentee that they used in the primary.  
10 With this commission not acting, it's not at all  
11 clear that that's an appropriate assumption on  
12 their part.

13 And so therefore, if we're saying people can't  
14 vote no-fault absentee, there's absolutely no need  
15 to buy these extra high tech letter openers for  
16 ballots that you aren't -- that basically you're  
17 not authorizing people to submit in the first  
18 place. I'm going to be voting against this.

19 CHAIRMAN OKESON: And I appreciate your  
20 commentary. That's a presumption, quite frankly.  
21 The letter openers would fall in alignment with  
22 Vice Chairman Long's comment about ballots that  
23 have already been requested and the political  
24 environment we're in, noting that there will be an  
25 exceptionally high turnout. And the matter has

1 been discussed and voted on, so I appreciate your  
2 comment.

3 Any other further discussion?

4 Hearing none, I'll call the matter to a vote.  
5 All those in favor of Order 2020-45 signify by  
6 saying "aye."

7 MR. KLUTZ: Aye.

8 CHAIRMAN OKESON: Aye.

9 All those opposed?

10 VICE CHAIRMAN LONG: No.

11 MS. OVERHOLT: No.

12 CHAIRMAN OKESON: The motion fails by a vote  
13 of 2-2, Vice Chairman Long and Commissioner Wilson  
14 Overholt voting no to the letter openers,  
15 Commissioner Klutz and Chairman Okeson voting to  
16 approve the letter openers.

17 Now, Co-Director King, with that, I think we  
18 have concluded. Correct?

19 VICE CHAIRMAN LONG: Could I ask you a  
20 question, if I could have a comment still under  
21 general election planning?

22 CHAIRMAN OKESON: Sure. Go ahead, Vice  
23 Chairman.

24 VICE CHAIRMAN LONG: We had raised the issue  
25 earlier and you referred to it, and I think it is a

1 significant issue, that the number of absentee  
2 ballots that are coming in where people are  
3 checking boxes and we are receiving -- our party, I  
4 can say, is receiving many inquiries as to how they  
5 should vote on their -- check these boxes, people.  
6 And we are taking the position that we cannot  
7 advise them to check something that we don't think  
8 that they are completely clear on. It's unclear  
9 whether or not they can check the "I expect to be  
10 confined by illness" because they're frightened  
11 because of the pandemic situation we're in.

12 I think that we might be able to assuage some  
13 of those concerns if this commission would issue an  
14 advisory opinion that said that people, if they  
15 were -- they could consider -- that it would be our  
16 position and interpretation of the law, in summary,  
17 that they could check the reason. And I'll ask  
18 someone to explain it. We have prepared a draft of  
19 an advisory opinion that we would put before the  
20 board -- that I would put before the board for  
21 consideration that basically says, as I said, and  
22 would ask Co-Director -- or Co-Counsel Kochevar to  
23 briefly, briefly summarize, in ten words or less,  
24 what it does and ask that they circulate that or  
25 put it on the site. I'm somehow -- in my mind, you

1 all are sitting up there and I'm --

2 MR. KLUTZ: This is being presented for the  
3 first time now?

4 VICE CHAIRMAN LONG: Yes, it is.

5 MR. KLUTZ: Okay. It wasn't -- why was it not  
6 emailed out earlier?

7 VICE CHAIRMAN LONG: Well, there was a reason,  
8 but we believed that our No. 46 was far and away  
9 far more important than this advisory opinion, and  
10 we chose not to circulate it.

11 MR. KLUTZ: Maybe you could have emailed it  
12 out at midnight, 30 minutes after you emailed the  
13 other one. I mean, this is unacceptable.

14 VICE CHAIRMAN LONG: Okay. Well, I'm sorry  
15 that you feel that way, but this is -- we put it  
16 before you.

17 MR. KLUTZ: No, it hasn't been put before us.

18 VICE CHAIRMAN LONG: I'm putting it before you  
19 now, and as a commissioner, I have the right to do  
20 that, and I am doing it and asking -- if you don't  
21 want to vote on it, then I can understand that.  
22 Let's call a meeting very shortly and get this  
23 before the board for discussion and have a hearing  
24 on it also.

25 CHAIRMAN OKESON: At the risk of this meeting

1 running into perpetuity -- and I appreciate your  
2 offer and comments, Vice Chairman Long. I'll take  
3 that under advisement.

4 With that, we have concluded our business for  
5 the day. Can I have a motion for the commission to  
6 adjourn?

7 VICE CHAIRMAN LONG: I'll make a motion that  
8 you include the advisory opinion that we're  
9 circulating in the minutes and then adjourn.

10 MS. OVERHOLT: I would second that motion.

11 CHAIRMAN OKESON: Vice Chairman, can you  
12 repeat your motion. I didn't hear all of that.

13 VICE CHAIRMAN LONG: Yes, that the advisory  
14 opinion that we're circulating to you today be  
15 included as a part of the minutes of this meeting,  
16 not approved, just that it was presented, and  
17 then --

18 MR. KLUTZ: It has not been presented. It has  
19 not been presented.

20 VICE CHAIRMAN LONG: Well, I'm presenting it  
21 to you by email. If I were sitting in  
22 Indianapolis, I'd hand it to you, Zach. Right now  
23 I can present it by only one physical way, and  
24 that's by an email. And we're doing that, and I'm  
25 asking it be approved. You can vote no if you

1 want.

2 CHAIRMAN OKESON: Yeah. I mean, Vice  
3 Chairman, it feels a little bit like an end run to  
4 secure what you couldn't get with your motion  
5 through Order 2020-46. Am I wrong in that?

6 VICE CHAIRMAN LONG: You can consider this a  
7 secondary effort to stand up for the people in  
8 Indiana who want to vote by absentee and are  
9 frightened to check the box that they think may be  
10 something that they're affirming under the  
11 penalties of perjury and it may not be applicable.  
12 That's what it is. It's a secondary level. That's  
13 all it is. It's not an end run. It's a fallback  
14 position for the voters that are concerned about  
15 this.

16 And we actually, and as I mentioned to you,  
17 had heard that the Attorney General was going to  
18 weigh in and perhaps issue an opinion on this, and  
19 I hoped that he would. But with the relationship  
20 between the Attorney General and the Governor, I'm  
21 not sure that's going to happen.

22 But notwithstanding that, I just -- I want the  
23 record to reflect that we have -- I have made an  
24 effort and Suzannah has made an effort to get  
25 people clear, if they want to vote absentee because



1 of the fear of the pandemic, that that would be a  
2 legitimate fear that would qualify them under the  
3 reasons stated.

4 CHAIRMAN OKESON: Vice Chairman, I appreciate  
5 that, and in all due respect -- and I mean that  
6 with sincerity; you know that -- but it does feel  
7 like you're trying to sneak one around the corner  
8 because your motion to include the Order 2020-46  
9 did not prevail.

10 So I guess we'll vote on your amended motion  
11 to my motion. All those in favor -- how would I  
12 read that, Brad?

13 VICE CHAIRMAN LONG: You didn't make a motion.

14 MR. KING: Mr. Chairman, Vice Chairman Long is  
15 correct. There was no motion made other than --

16 CHAIRMAN OKESON: To adjourn.

17 MR. KING: -- his motion to adjourn and to  
18 include the draft advisory opinion document in the  
19 minutes of this meeting.

20 CHAIRMAN OKESON: Okay. So is there --

21 MR. KING: So that is the motion that's  
22 pending before the commission.

23 CHAIRMAN OKESON: And is there a second to his  
24 motion?

25 MS. OVERHOLT: Yes. I second it.

1 CHAIRMAN OKESON: So calling a vote in favor  
2 of the motion to adjourn pending including the  
3 advisory opinion into the minutes. All those in  
4 favor vote by indicating "aye."

5 MS. OVERHOLT: Aye.

6 VICE CHAIRMAN LONG: Aye.

7 CHAIRMAN OKESON: Those opposed, "nay."

8 Nay.

9 MR. KLUTZ: Nay.

10 CHAIRMAN OKESON: The motion fails. I will  
11 once again offer a motion to adjourn the Indiana  
12 Election Commission.

13 VICE CHAIRMAN LONG: What if the vote's 2-2 on  
14 that?

15 CHAIRMAN OKESON: Say again, Anthony.

16 VICE CHAIRMAN LONG: What if we vote 2-2 on  
17 that? Do we have to sit here all day?

18 CHAIRMAN OKESON: Well, ultimately --

19 VICE CHAIRMAN LONG: Paul, that was a joke.

20 MR. KING: Mr. Chairman, your motion to  
21 adjourn requires a second.

22 VICE CHAIRMAN LONG: I'll second it.

23 CHAIRMAN OKESON: Motion to adjourn is moved  
24 and seconded. All those in favor, "aye."

25 VICE CHAIRMAN LONG: Aye.

1 MR. KLUTZ: Aye.

2 MS. OVERHOLT: Aye.

3 CHAIRMAN OKESON: Thank you all for your  
4 participation today. This is important and much  
5 appreciated, and I appreciate the discourse,  
6 Mr. Vice Chairman, Commissioner Overholt. Thank  
7 you.

8 VICE CHAIRMAN LONG: Thank you.

9 MS. OVERHOLT: Thank you.

10 CHAIRMAN OKESON: Take care.

11 (The Indiana Election Commission Public  
12 Session was adjourned at 12:12 p.m.)  
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1 STATE OF INDIANA

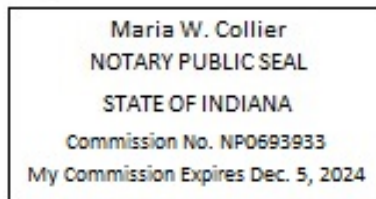
2 COUNTY OF HAMILTON

3 I, Maria W. Collier, a Notary Public in and  
4 for said county and state, do hereby certify that the  
5 foregoing public session was taken at the time and  
6 place heretofore mentioned between 10:30 a.m. and  
7 12:12 p.m.;

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

12 IN WITNESS WHEREOF, I have hereunto set my  
13 hand and affixed my notarial seal this 18th day of  
14 August, 2020.

*Maria W. Collier*



15  
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18 My Commission expires:  
19 December 5, 2024

20 Job No. 155343

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22  
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