# Indiana Election Commission Minutes

#### March 25, 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.

#### Members Absent: n/a

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

Others Attending: Members of the public

#### 1. Call to Order:

The chair called the March 25, 2020 meeting of the Commission to order at 10:00 a.m. EST online via a Zoom virtual meeting room that was moderated by Stewart Richardson and Associates.

#### 2. Transaction of Commission Business:

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

The Commission adjourned its meeting at 10:23 a.m. EST.

Respectfully submitted,

Bradley King

J. Bradley King Co-Director

bym/L nusameyo

Angela M. Nussmeyer Co-Director

**APPROVED:** 

Paul Okeson, Chairman

## In the Matter Of:

## INDIANA ELECTION COMMISSION PUBLIC SESSION

## **Transcript of Proceedings**

March 25, 2020



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2	INDIANA ELECTION COMMISSION
3	PUBLIC SESSION
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7	Conducted on: March 25, 2020
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11	Conducted Remotely via Videoconference
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15	A Stenographic Record by:
16	Maria W. Collier, RPR, CRR
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22	STEWART RICHARDSON DEPOSITION SERVICES
23	Registered Professional Reporters One Indiana Square
24	Suite 2425 Indianapolis, IN 46204
25	(317)237-3773

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1	APPEARANCES
2	INDIANA ELECTION COMMISSION:
3	Paul Okeson - Chairman
4	S. Anthony Long - Vice Chairman
5	Suzannah Wilson Overholt - Member
6	Zachary E. Klutz - Member
7	
8	INDIANA ELECTION DIVISION STAFF:
9	J. Bradley King - Co-Director
10	Angela M. Nussmeyer - Co-Director
11	Matthew Kochevar - Co-Counsel
12	Valerie Warycha - Co-Counsel
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CHAIRMAN OKESON: Okay. Indiana Election Commission Public Session. This is Wednesday, March 25, 2020, 10:00 a.m. I call to order the meeting, the determination of a quorum present. I'm Chairman Paul Okeson. Along with me are Vice Chairman Anthony Long, Commission Member Suzannah Wilson Overholt, and Commission Member Zachary Klutz.

I believe we also have online the Indiana Election Division staff, Co-Director Brad King and Co-Director Angie Nussmeyer along with Co-General Counsels Matthew Kochevar and Valerie Warycha.

I also recognize that we have our court reporter from Stewart Richardson Deposition Services, Maria Collier.

And before we continue on, obviously this is a different forum. We've not done this before, at least not in my tenure as chair, so a couple of ground rules here.

Just like in a public meeting, I want to remind everyone on behalf of our court reporter that, when you jump in, you need to identify yourself by first and last name and spell that out for her. There might be a little bit of lag time there for her, so she's going to want to catch up.

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I believe she's going to leave herself unmuted, so please pay attention, if she jumps in and needs to clarify something for the record, that you yield to her. Also, let's just try to keep the traffic lanes one way only and one person speaking at a time so that we can clearly get this on the record and hear each other well.

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Given that this is a virtual meeting which is 8 9 open to the public, everyone listening will be muted to avoid those background and noise issues 11 otherwise so we can conduct an orderly meeting, and 12 only when you're recognized by the chair will you 13 be speaking.

Before we get to the business of the day, I'd just like to offer a right of personal privilege and make a few comments, and I'll offer the same to my counterpart, Mr. Long.

18 Obviously, we're in unprecedented territory. 19 We face a lot of challenges, and I just want to say 20 how comforted I am in seeing both major political 21 parties come together, find some consensus, join in 2.2 communication to the Election Commission together. 23 There's a lot to be mindful of and to think through 24 during these tumultuous times, but to know that the 25 parties can largely set aside any differences and

try to do what's best for Hoosier voters in agreement, I think, is -- well, Indiana is an exceptional place for that purpose. And we've always been able to come together and rise above, and I just wanted to acknowledge that, especially with respect to Chairman Zody and Chairman Hupfer and just working together to put their differences aside so that we could find some common ground.

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And, Vice Chairman Long, if you'd like to offer any opening comment, I'd certainly offer you that opportunity before we move on.

12 VICE CHAIRMAN LONG: I appreciate that very 13 much, Mr. Chairman. I would echo your comments and 14 observations. I think the thing that has heartened 15 me as much as anything in this measure is there 16 were certain founded legal positions that each side 17 had taken that were contrary. We were able, through our representatives, to allow those 18 19 positions to be respected that were not conceding, 20 neither side conceding their position as to who has 21 the authority relative to this.

I think you're aware that the Democrats had taken the position that this is a jurisdictional issue that should be resolved by this body, the Election Commission. The Governor and, of course, his staff and legal advisers believe that the
 authority rests with him, and we are respectful of
 that position.

I think the thing that is most heartening is we are able to say to you today that we're not asking you or the Governor or the Secretary of State to concede the correctness of our position or that we're conceding the correctness of their positions, but that we really recognize that, if all of us reach an agreement on the same goal, which I feel certain we will here today, that we've accomplished the bigger, broader purpose of serving the citizens of our state.

I think there's a letter before you from Karen Celestino Horseman from the party. At some point we'll ask that that be considered a part of the record.

We're voting and moving forward, then, today with the understanding that we believe that the Governor is duly elected executive of the State and that he has entered an executive order relative to the conduct of the primary election. We believe that the Commission will do a similar order today. And between the two of us, I'm sure, if one has to be right and the other one wrong, we're going to

1 | accomplish what the citizens are entitled to.

Obviously the record would reflect that the Commission is an appointed, bipartisan, four-member body appointed by the Governor charged with the administration of the election laws. We believe that the Election Commission and by our action today are exhibiting we have the power, after finding an emergency would make it impossible and unreasonable for persons to perform the duties or file documents specified in the Election Code, to extend the deadlines for that, and we can all accomplish the goal of having an orderly election.

We believe and recognize with respect to the role of the Secretary of State, as identified as the state's chief election officer and election official, has duties that are prescribed and the limitation of the duties and responsibilities as by the code.

We think that -- and I would agree with you. I have the advantage of being a member of this body for several years, and this is unprecedented. This is an example, I believe, for all that have been maybe critical of the even split of the partisan membership on this body, that we traditionally rise above partisan concerns and are able to accomplish

the people's business.

I am very pleased and I applaud, like you did, the chairman, both of the state parties. I applaud and I thank the Governor and his staff and the Secretary and her staff. And I offer sincere appreciation to the Division staff for all the tireless efforts that they have put in to make this work. This has been truly a bipartisan operation, and I'm proud to be a part of it here today.

CHAIRMAN OKESON: They've all been working around the clock. Thank you for that.

Moving on, I request that the Election Division co-counsel confirm that the public meeting has been notified properly.

MS. WARYCHA: This is Valerie, V-a-l-e-r-i-e, last name W-a-r-y-c-h-a. The meeting was posted online at 3:00 p.m., approximately, yesterday to let people know how to do Zoom. And then we also posted a hard copy notice outside the Election Division and the Secretary of State's Office. And in addition, we sent notice to the media.

CHAIRMAN OKESON: Thank you.

Co-counsel Kochevar, do you have anything to add?

MR. KOCHEVAR: Mr. Chairman, Matthew Kochevar,

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M-a-t-t-h-e-w, Kochevar, K-o-c-h-e-v-a-r, co-general counsel. No, I have nothing to add on this point.

CHAIRMAN OKESON: Okay. Thank you.

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Moving on, Item 3, Order 2020-37. The Election Commission is meeting today to discuss an order and vote on an order that will allow the June 2, 2020, primary election to be conducted in the most orderly and accessible fashion possible based on what we know today.

I move to adopt Order 2020-37, which has been posted on the Election Commission web page, can be found on the Secretary of State's site, and previously distributed to the Commission members. For purposes of discussion, is there a second to that motion?

VICE CHAIRMAN LONG: Mr. Chairman, Anthony Long, and I would second that motion.

CHAIRMAN OKESON: Thank you, Mr. Long.

This order addresses many issues, as we've been discussing, arising out of the Governor's order to suspend the statute setting the date of the primary as May 5, 2020, and rescheduling that election to June 2, 2020. Order 2020-37 addresses the following subjects related to the rescheduled primary election. I will read through these for
 the record.

Briefly, Section 1 and 2, this order applies to the entire state of Indiana and to everyone who has a responsibility to perform a duty related to the primary or the right to file a document related to that election.

Section 3 moves all dates by 28 days.

Section 4 avoids reprinting ballots and other forms that have the May 5, 2020, date.

Section 5 allows everyone to cast an absentee ballot by mail without having a specific reason to do so.

Section 6 grandfathers applications already received for an absentee ballot. It should not state an excuse permitting the person to vote by mail. This section also directs the Election Division to work with the Secretary of State to develop an online application for the upcoming primary, indianavoters.com, if possible.

Section 7 permits county election boards to conduct meetings electronically rather than in person, just as we are doing so today. This section also permits county election boards more efficiency in reviewing an absentee ballot application.

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Section 8 encourages counties to appoint medical professionals to act as traveling absentee boards to help voters confined to medical facilities to cast a ballot.

Section 9 provides special procedures for voters who are unable to physically mark and return their ballots.

Section 10 permits family members and caregivers of a confined voter to personally deliver and return a ballot on their behalf.

Section 11 provides flexibility to the county clerks regarding the location of the clerk's office for voting purposes.

Sections 12 and 13 allow county election boards to consolidate voting locations and vote center sites and to take spacing measuring to ensure the safety of all voters.

Section 14 loosens restrictions on students who wish to serve as poll workers or absentee board members.

Section 15 allows county election boards to begin expeditiously counting ballots at 6:00 a.m. on election day.

Section 16 advises county election boards that

1 election results must be determined by 3:00 p.m. on June 12th. 2 3 Section 17 specifies that the Election 4 Commission will meet on April 22nd, at 10:00 a.m., to discuss moving to a vote by mail election if 5 necessitated by the public health crisis and 6 address any concerns related to conducting 7 political party conventions. 8 9 And Section 18, this order is effective 10 immediately upon its passage. 11 With that, I will recognize my colleagues on 12 the board for any discussion. 13 (No response.) 14 Hearing none -- yes. Please go ahead. Sorry. VICE CHAIRMAN LONG: One of the things that --15 16 I didn't want to capitalize on the speaking here 17 today but afford other members an opportunity to address. 18 19 One of the things that I have observed and 20 tried to be very cognizant of through this is that 21 we have not created something that will have 2.2 unintended consequences. I applaud the fact that 23 we are going to have meetings on April 22nd -- or a 24 hearing actually on April 22nd. And there are some issues that have been 25

raised by entities such as, well, the Indiana
Citizen. I had the pleasure to speak with my good
friend Bill Moreau yesterday about the concerns
they had and was happy to report that, with his
interest and concern, we were able -- the new order
addresses their biggest concern.

We have received communications from third-party candidates that I think need to be duly addressed and considered to make sure we're not hampering them in any form or fashion.

And we have received communication from the American Council of the Blind in Indiana that has prompted another review and thought on the issues of our citizen voters that have disabilities and need some accommodations that we can deal with. And I feel we will be able to recognize if we have created some consequences that maybe have not been fully addressed and be able to work with them and deal with them on the 22nd.

But I believe that the platform that we have brought before the Commission here today in the form of this order is a tremendous step forward to an orderly movement of the election and the ability to have a mail-in-type voting procedure that is effectively administered. I think we can learn 1 from that. We'll get an opportunity to see how well the mail-in system works and what problems it 2 3 will create, and I'm sure there will be some. But if we have a rollout on this one that's been 4 5 necessitated by conditions that are certainly outside of all of our controls, that we're going to 6 at least have an opportunity to test the efficiency 7 and efficacy of this in the future. 8

9 So my position on this matter, and I want to 10 make it very clear, that with the ability to go 11 back and look at any shortcomings or consequences 12 that we may have inadvertently created here, that 13 this is a real good step, and I'm proud to have 14 been a part of this bipartisan effort.

15 CHAIRMAN OKESON: Thank you, Vice Chairman16 Long. I appreciate that.

Any others?

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MR. KLUTZ: Mr. Chairman, if I may.

19 CHAIRMAN OKESON: The Chair recognizes Zach20 Klutz.

21 MR. KLUTZ: Sorry, Mr. Chairman. If I may, I 22 would just like to echo Chairman Long's comments. 23 Let me just say this: Moving an election is 24 clearly not as simple as just saying it's going 25 from May 5th to June 2nd. And I really would like to thank the Election Division staff, both sides of the aisle, Secretary of State Connie Lawson and her office. This is a comprehensive order. I support the order. And it's as comprehensive as possible, I think, to ensure the most voter turnout while also protecting the health of the voters generally.

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We have received comments, some comments from 7 interested parties, including election 8 9 administrators. And I encourage those election 10 administrators and other interested parties on the 11 line today to continue those comments coming in. 12 We're meeting again April 22nd, so we'll certainly 13 have the opportunity to, between now and then, 14 review your comments.

15 And I know changing an election date and also 16 going to how an election is administered in terms 17 of no-fault absentee creates challenges and 18 requires changes, no different, though, than every 19 other facet of society right now that is having to 20 change how they operate and how they conduct or are 21 operating business. So I ask the election 2.2 administrators, keep the comments coming. Be 23 patient. Be flexible. Be open-minded. We 24 understand that these changes will cause difficulties, but difficulties are being faced 25

1	everywhere.		
2	So that's my comment, and, again, I do support		
3	this order.		
4	CHAIRMAN OKESON: Thank you.		
5	Any other discussion?		
6	(No response.)		
7	Hearing none, we have a motion and a second.		
8	All those in favor signify by stating your name.		
9	We'll do a roll call vote, if that's okay.		
10	I'll start with you, Vice Chairman Long.		
11	VICE CHAIRMAN LONG: Am I unmuted?		
12	CHAIRMAN OKESON: I can hear you.		
13	VICE CHAIRMAN LONG: You're aware I'm watching		
14	this on two venues.		
15	I vote for the motion and to approve the		
16	order.		
17	CHAIRMAN OKESON: Okay. Commission Member		
18	Klutz.		
19	MR. KLUTZ: Mr. Chairman, I vote in favor.		
20	CHAIRMAN OKESON: Commission Member Suzannah		
21	Wilson Overholt.		
22	MS. OVERHOLT: I vote in favor of the order.		
23	CHAIRMAN OKESON: As Chair, I vote in favor of		
24	my own order, so we have a unanimous decision to		
25	pass the order.		

1 Is there consent by the Commission members for the Election Division staff to sign this order with 2 3 their signature stamps? 4 VICE CHAIRMAN LONG: I give my consent. 5 MS. OVERHOLT: I give my consent. MR. KLUTZ: I give my consent as well. 6 Thank you. And as it's been 7 CHAIRMAN OKESON: said in some of the comments section, I would like 8 9 to acknowledge that we've received some requests 10 for input from the public, and some of them have 11 been mentioned. I'll just go through the list that 12 I'm aware of. There may be others, so forgive me. 13 But should you be interested in seeing this 14 commentary or desire to input, I would refer you to the Election Division staff. 15 16 But in no particular order, I know we've heard 17 from the Indiana Green Party, the American Federation for the Blind, the Indiana Disability 18 19 Rights Foundation, the Indiana Democratic party, 20 the Indiana Citizen, and the Tippecanoe County 21 board and election staff. And there may be others,

but, again, we will refer you to the Election 23 Division to get access to that information.

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24 As Vice Chairman Long noted, we are meeting 25 again April 22nd, so we welcome any comments from

1	the public. If you'd like to submit a comment to			
2	the Election Commission, please submit your			
3	comments in writing to elections that's			
4	e-l-e-c-t-i-o-n-s @iec.in.gov by April 10, 2020.			
5	This will give the Commission time to review any			
6	and all comments prior to that meeting on the 22nd.			
7	With that, I believe we've concluded business			
8	for today. Do I have a motion			
9	MS. OVERHOLT: Mr. Chairman?			
10	CHAIRMAN OKESON: Yes.			
11	MS. OVERHOLT: Mr. Chairman, this is Suzannah			
12	Overholt. Prior to adjourning, I was wondering if			
13	we could discuss some possible issues for			
14	consideration at the April 22nd meeting or is that			
15	something we need to defer and have the division			
16	staff contemplate those prior to that meeting?			
17	CHAIRMAN OKESON: Yeah. It's the latter,			
18	Commissioner Overholt. I appreciate that, but yes.			
19	MS. OVERHOLT: Okay.			
20	CHAIRMAN OKESON: Do I have a motion for the			
21	Indiana Election Commission to adjourn?			
22	VICE CHAIRMAN LONG: So moved.			
23	CHAIRMAN OKESON: Is there a second?			
24	MR. KLUTZ: Second.			
25	CHAIRMAN OKESON: All those in favor?			

1	THE COMMISSION: Aye.
2	CHAIRMAN OKESON: The "ayes" have it, and the
3	meeting is adjourned. Thank you all for your
4	participation today.
5	(The Indiana Election Commission Public
6	Session was adjourned at 10:23 a.m.)
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STATE OF INDIANA
COUNTY OF HAMILTON
I, Maria W. Collier, a Notary Public in and
for said county and state, do hereby certify that the
foregoing public session was taken at the time and
place heretofore mentioned between 10:00 a.m. and
10:23 a.m.;
That said public session was taken down in
stenograph notes and afterwards reduced to typewriting
under my direction; and that the typewritten
transcript is a true record of the public session;
IN WITNESS WHEREOF, I have hereunto set my
hand and affixed my notarial seal this 26th day of
March, 2020.
moia W. Cari
Maria W. Collier NOTARY PUBLIC SEAL STATE OF INDIANA
Commission No. NP0693933 My Commission Expires Dec. 5, 2024
My Commission expires: December 5, 2024
Job No. 152213

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