

Indiana Election Commission

Minutes

JANUARY 27, 2003

Members Present: Dudley Cruea, Chairman of the Indiana Election Commission (the Commission); S. Anthony Long, Vice Chairman of the Commission; Butch Morgan, member of the Commission; and Claudia E. Cummings, member of the Commission.

Members Absent: None

Staff Attending: J. Bradley King, Co-Director, Indiana Election Division of the Office of the Indiana Secretary of State (Election Division); Kristi Robertson, Co-Director of the Election Division; Dale Simmons, Co-General Counsel of the Election Division, Lori Hershberger, Special Projects Coordinator, Election Division, Carolyn Horowitz, Special Projects Coordinator, Election Division.

Also Attending: Maureen Bard and Mark Stratton, Office of Census Data, Legislative Services Agency; Representative Kathy Richardson, Hamilton County; Pam Finlayson, Allen County; Andrew Wood, Boone County; Lisa Garoffolo, Boone County; Valerie Hurd, Marion County; Jeff Dossett, Montgomery County; Sharon Dugan, Hendricks County; Laura Herzog, Hendricks County; Deb Hawkins, Adams County; Nan Nidlinger, Adams County; Debra Weatherholt, Perry County; Sue Anne Lower, Wayne County; Jackie Rowan, DeKalb County; Brad Sturm, DeKalb County; Sharon Christner, Kosciusko County; Chod Gibson, Cass County; Karen Bostic Weaver, Grant County; Carolyn Mowery, Grant County; Rob Dewalt, City of Marion; Brad Klopfenstein, Libertarian Party; Sally LaSota, Lake County; Patti Bacan, Lake County; John Williams, Shelby County; Pam Updike, Huntington County; Amanda Hines, Huntington County; Kathleen Hopf, Dubois County; Gail Pennington, Dearborn County; Bonita Guffey, Tipton County; Brent Campbell, Henry County; Nancy Marcum, Henry County; Phillip Estridge, Henry County; Jeanne Nicolet, Allen County, and Rod Atterholtz, City of Shelbyville.

1. Call to Order

The Chair called the January 27, 2003 meeting of the Commission to order at 1:10 p.m. at the Indiana Government Center South, Conference Center, Conference Room C, 302 West Washington Street, Indianapolis, Indiana. He noted that proper notice of the meeting had been given, as required by state law, and that a quorum was present. A copy of the meeting notice and agenda is incorporated by reference in these minutes. *[Copies of all documents incorporated by reference are available for public inspection and copying at the Election Division office.]*

2. Establishment of Precinct Boundaries

The Chair noted that the Commission would proceed first with the establishment of precinct boundaries. He stated that, since state representative Kathy Richardson has a legislative hearing that she must attend, that the Commission would first hear the request for approval

from Hamilton County. The Chair first requested an update from the staff on the status of precinct submissions.

The chair recognized J. Bradley King, who indicated that the Commission's binders contained a list of the 21 counties that have submitted precinct boundary orders for approval by the Commission. He stated that the binders also contained a memo from the co-directors describing the process the Election Division followed over the past few months. He stated that the co-directors sent a memo out at the end of September advising counties of the precinct approval process and requesting submission no later than December 16, 2002. He stated that all the counties represented at today's Commission meeting met that deadline and provided submissions to the Election Division. He added that the Election Division worked with the Office of Census Data to meet a January 10th review deadline and provided all the material provided by the counties to the Office of Census Data by the January 10th. He stated that both Kristi and he were very pleased with the diligence shown by the staff of the Election Division and the Office of Census Data in reviewing a tremendous volume of complicated technical material. He said that staff would be prepared to address individual counties as they come before the Commission today.

The Chair recognized Kristi Robertson who stated that the co-directors did continue the practice with the current submission of making a recommendation of approval. She added that there are 3 counties at today's meeting with outstanding issues that can be addressed as the counties are considered. She stated that the recommendations are included in the Commission's binders. She stated that the binders also contained individual orders of approval for each county.

The Chair indicated that he wanted to welcome Ms. Robertson as a new co-director of the Indiana Election Division. He stated that she was named co-director prior to the Commission's December meeting, however, that meeting was a very rushed 5-minute long and he wanted to take this opportunity to extend his congratulations and welcome as part of the record.

A. Hamilton County

The Chair recognized Lori Hershberger and asked whether she would be presenting Hamilton County for approval. Ms. Hershberger asked if the Commission was going to consider the counties in alphabetical order. The Chair stated that the Commission would proceed in alphabetical order unless there were special circumstances. He stated that the Commission would start with Hamilton County since representative Richardson had to get to a legislative meeting.

Ms. Hershberger stated that there was nothing unusual in Hamilton County. She stated that the proposed changes to the precinct boundaries are due to annexations and voter growth in Hamilton County. She said that Hamilton County's precinct submissions were reviewed and approved by the Election Division. She stated that the county was also reviewed by the Office of Census Data and that there were no outstanding issues from that review.

The Chair asked representative Richardson whether she had anything to add. Representative Richardson stated that that Lori's characterization was correct. She stated that there were 33 changes proposed to account for changes in municipal boundaries in preparation for the upcoming municipal elections.

Mr. Long moved that the Commission approve proposed precinct boundary changes in Hamilton County as presented on the record of the Commission. Mr. Morgan seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings) the precinct establishment orders for Hamilton County were approved.

B. Adams County

The Chair recognized Ms. Hershberger who stated that Adams County was not approved last year. She stated that there was one remaining issue that was not resolved as of last night having to do with the boundary of a township and a township map. She stated that the census maps do not reflect the correct boundary for the township. She stated that the maps have been provided to the Office of Census Data (OCD) and address OCD's technical comments.

The Chair asked whether the representatives had anything to add to the presentation. There being none, the Chair asked if there were any questions.

Ms. Cummings then moved that the Commission approve proposed precinct boundary orders for Adams County as presented on the record of the Commission. Mr. Morgan seconded the motion.

Mr. Long noted that there was not a co-director recommendation in their binder. Ms. Robertson noted that the map Ms. Hershberger mentioned was an outstanding unresolved comment from OCD until this morning. She stated that since this was resolved that the co-directors would now recommend approval of the precincts.

Mr. Long asked whether there has been any objections submitted by the county chairs. Ms. Robertson indicated that there have been no such objections.

There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings) the precinct establishment orders for Adams County were approved.

C. Allen County

The Chair recognized Ms. Hershberger who stated that Allen County was a full review in that every precinct in the county was reviewed. She stated that the precinct has met the criteria set by OCD and is now ready for approval.

The Chair asked if Allen County had anything to add. Pam Finalyson indicated that she did not have anything to add on the precincts and stated that they had worked very closely with the Election Division on their submission.

The Chair recognized Mr. Stratton who stated that OCD does not set criteria for approval. He stated that the standards for approval are set forth in statute. He stated that they simply provide technical comments in the review process.

Mr. Long asked if Allen County has been through the entire review process. Mr. Stratton indicated that Allen County has been through the review process.

Mr. Long then moved that the Commission approve proposed precinct boundary orders for Allen County as presented on the record of the Commission. Ms. Cummings seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings) the precinct establishment orders for Allen County were approved.

D. Boone County

The Chair recognized Ms. Hershberger who stated that Boone County made changes to their precincts to match their precincts with new council districts. She stated changes were also made to accommodate annexations and account for population growth. She stated that the submissions made by Boone County have been through full review, that there are no outstanding issues to be resolved, and that the county is ready for approval.

The Chair asked if Boone County representatives had any comments to add. There being no further comments, Ms. Cummings then moved that the Commission approve proposed precinct boundary orders for Boone County as presented on the record of the Commission. Mr. Long seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings) the precinct establishment orders for Boone County were approved.

E. Cass County

The Chair recognized Ms. Hershberger who stated that she reviewed Cass County several months ago. She stated that Cass County proposed changes to match their precincts with new council districts. She stated that the submissions made by Cass County have been through full review, that there are no outstanding issues to be resolved, and that the county is ready for approval.

The Chair asked if Cass County representatives had any comments to add. There being no further comments, Ms. Cummings then moved that the Commission approve proposed precinct boundary orders for Cass County as presented on the record of the Commission. Mr. Morgan seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr.

Morgan and Ms. Cummings) the precinct establishment orders for Cass County were approved.

F. Dearborn County

The Chair recognized Ms. Hershberger who stated that Dearborn County proposed changes to their precincts to match their precincts with new council districts and to adjust precincts to municipal boundaries. She stated that the submissions made by Dearborn County have been through full review, that there are no outstanding issues to be resolved, and that the county is ready for approval.

The Chair asked if Dearborn County representatives had any comments to add. There being no further comments, Mr. Long then moved that the Commission approve proposed precinct boundary orders for Dearborn County as presented on the record of the Commission. Ms. Cummings seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings) the precinct establishment orders for Dearborn County were approved.

G. DeKalb County

The Chair recognized Ms. Horowitz who stated that DeKalb County had presented all of their precincts for approval. She stated that she has reviewed the precinct approval orders and the precinct establishment orders have been reviewed by OCD. She stated that there are no outstanding issues after review and that the county is ready for approval.

The Chair asked if DeKalb County representatives had any comments to add. The Chair then asked if there were any questions. The Chair recognized Maureen Bard who stated that she just wanted to add that DeKalb County was not approved the last time precincts could have been approved and that the current review included a review of all the precincts in the county.

There being no further questions or comments, Mr. Long then moved that the Commission approve proposed precinct boundary orders for DeKalb County as presented on the record of the Commission. Ms. Cummings seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings) the precinct establishment orders for DeKalb County were approved.

The Chair stated that he would like to take this opportunity to welcome Carolyn Horowitz, the newest staff member at the Election Division.

H. Delaware County

The Chair then called Delaware County and asked if there was a representative from the county present.

The Chair recognized Ms. Robertson who explained that Delaware County could not have a representative present today in that the person who worked on their precincts was pregnant and was not able to travel today. She added that Delaware County only had one minor change to their precincts and that Ms. Hershberger had helped Delaware County with this change. She stated that the Delaware County was recommended for approval by the co-directors. Ms. Robertson asked Ms. Hershberger whether she had anything to add.

The Chair recognized Ms. Hershberger who stated that the precincts have been reviewed by the Election Division and OCD and that there were no outstanding issues.

There being no further questions or comments, Ms. Cummings then moved that the Commission approve proposed precinct boundary orders for Delaware County as presented on the record of the Commission. Mr. Long seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings) the precinct establishment orders for Delaware County were approved.

I. Dubois County

The Chair noted that Dubois County had a representative present and then recognized Ms. Hershberger who stated that she had worked with the former circuit court clerk of Dubois County, Janet Sendlewick. She stated that Dubois County proposed many changes due to annexation and council district changes. She stated that the precincts have been reviewed by the Election Division and OCD and that there were no outstanding issues.

There being no further questions or comments, Ms. Cummings then moved that the Commission approve proposed precinct boundary orders for Delaware County as presented on the record of the Commission. Mr. Long seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings) the precinct establishment orders for Delaware County were approved.

J. Grant County

The Chair recognized Ms. Hershberger who stated that she had worked with Grant County Commissioner, Karen Weaver. She stated that Grant County proposed many changes due to municipal annexation and council redistricting. She stated that the precincts were rearranged to accommodate these changes. She added that the precinct changes have been reviewed by the Election Division and OCD and that there were no outstanding issues.

The Chair asked if Commissioner Weaver had anything to add. Commissioner Weaver stated that any former clerk would rather the Commissioners due this job. She stated that she wished to express her appreciation for the help provided by Lori Hershberger and Maureen Bard. She stated that she called them on numerous occasions.

There being no further questions or comments, Mr. Long then moved that the Commission approve proposed precinct boundary orders for Grant County as presented on the record of

the Commission. Ms. Cummings seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings) the precinct establishment orders for Delaware County were approved.

K. Hendricks County

The Chair recognized Ms. Hershberger who stated that she had worked with Hendricks County had very minor changes and a corporate boundary issue. She stated that she could not remember it now since it was one of the first counties she did but that the proposed precinct changes have been reviewed by the Election Division and OCD and that there were no outstanding issues.

There being no further questions or comments, Ms. Cummings then moved that the Commission approve proposed precinct boundary orders for Hendricks County as presented on the record of the Commission. Mr. Morgan seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings) the precinct establishment orders for Hendricks County were approved.

L. Henry County

The Chair recognized Ms. Hershberger who stated that Henry County was a full review. She stated that many of the proposed changes related to council redistricting. She stated that the proposed precinct changes have been reviewed by the Election Division and OCD and that there were no outstanding issues.

The Chair asked if Henry County representatives had any comments. There being no further questions or comments, Mr. Long moved that the Commission approve proposed precinct boundary orders for Henry County as presented on the record of the Commission. Ms. Cummings seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings) the precinct establishment orders for Hendricks County were approved.

M. Huntington County

The Chair noted that there was no co-director recommendation on this county in the Commission’s binder. Ms. Robertson indicated that there were outstanding issues on this county as of this morning.

The Chair recognized Ms. Hershberger who indicated that there was one outstanding issue. She stated that she did receive additional paperwork and that she believes she can get the change mapped properly. She stated that there is a census block split that she needs to note in the paperwork. She stated that the county has otherwise been reviewed without

outstanding issues. She added that the paperwork and the documentation was available if the Commission wished to see the area at issue.

Mr. Long asked if the county has been through OCD. Ms. Hershberger responded that it has been through OCD review but that this one issue remains unresolved with OCD.

Ms. Cummings asked about the area at issue. Ms. Hershberger showed Ms. Cummings the area on the map that needed to be removed from one precinct. Ms. Cummings asked representatives of Huntington County whether there were voters in what appeared to be a corner of a field. Ms. Pam Updike, the Huntington County Circuit Court Clerk, said that she did not know but that she could call and find out.

The Chair asked Mr. Long if he wanted to see the area in question. Mr. Long indicated that he would be inclined to table approval of the county until OCD signs off on the county. Ms. Updike indicated that the map as it is does not vary from her map at all.

The Chair recognized Ms. Bard who indicated that she reviewed Huntington County and she suggested that if you read into the minutes would needed to be changed then this might be an option. She stated that there were four outstanding issues, three of which are simply documentation issues. She stated that if a block is split then the block has to be identified as being a split block on the precinct report for each precinct. She stated that there was a block 3023, a block 4007, a block 2011, and a block 2015 that need to be designated as split blocks. She stated that the map she generated with the split block does not match the paperwork at the Election Division and she does not have a copy of their map to determine whether there is a paperwork problem or a mapping problem.

She indicated that she could read the split blocks into the record at the request of the Commission.

The Chair indicated that he had a legal question. He asked whether the Commission would have to meet before January 31st if they tabled approval of Huntington County at today's meeting. He asked whether the Commission could approve it by entering these changes on the record today contingent on the changes actually being made in the documentation by January 31.

The Chair recognized Mr. Simmons who stated that, with respect to the deadline issue, the chair was correct in that the deadline for approving precincts is January 31. He stated that his understanding of the problem being discussed was that the corrections to the current paperwork could be read into the record so that, together with the paperwork already existing, there would be no outstanding issues remaining and the Commission could approve the precincts. Mr. Simmons asked Ms. Bard if this was correct.

Ms. Bard indicated that this could be done but that it would take some time for her to merge the information together.

The Chair indicated that, if it was all right with the rest of the Commission members, he would propose that the Commission proceed with the other counties and come back to Huntington County whenever they were prepared to proceed.

Mr. Long stated that he understood that there were issues with split blocks and that these could be read into the record. He stated that there was another issue that had to do with the mapping and that Ms. Bard did not have a copy of the map that she needed.

The Chair asked the Huntington County representatives if they brought the map with them. Huntington County stated that they had the map. Ms. Bard stated that their map doesn't have the census block shown on their map.

Ms. Cummings asked, with exception of the one area in question, did the other issues address changes in council districts or annexations.

Ms. Updike indicated that the issue with the map was not an issue as far as she was concerned. She said that the current changes that they were making were to accommodate municipal redistricting. She stated that the area in question does not involve any issue that she was aware of. She said that if you look at the two maps are the same.

Ms. Cummings asked if the area in question involve a municipal election. Ms. Updike answered no. Ms. Cummings then asked counsel if the Commission could approve the precincts involved in the municipal election only and table the remainder of the county.

Mr. Simmons responded that the January deadline only applies to precincts that would be involved in the municipal election. He indicated that the Commission could approve precincts outside of a municipality in a county at any other time throughout the coming year.

Ms. Cummings asked if the Commission could approve an order to that effect today. Mr. Simmons responded that a Commission member could make a motion to that effect for Commission approval. He added that since he has prepared written orders of approval in anticipation of today's meeting on the assumption that there would be no outstanding issues, that he would have to review the order for Huntington County to determine if it needed modification. He stated that he might have to modify the written order and have the Commission approve it at a later meeting.

The Chair asked if there would be any outstanding issues on the municipal precincts if the Commission did as Ms. Cummings has suggested. Ms. Bard answered that she was not sure, she would have to review the documentation.

The Chair indicated that the Commission would hold off on taking further action and continue with the other counties to give Ms. Bard an opportunity to review the documentation.

Ms. Updike asked whether they would receive a written order today. The Chair indicated that staff would mail the orders out to the counties after the Commission approves the orders.

Mr. Long indicated that he would wait around today to sign an order if any order needed to be redrafted.

N. Kosciusko County

The Chair stated that he did not have a co-director recommendation on Kosciusko County in his binder. Ms. Robertson indicated that she believed there was one outstanding issue on Kosciusko County.

The chair recognized Ms. Hershberger who stated that there was a review in Kosciusko County of everything within the corporate boundary. She stated that there were changes to precincts to adjust for new city council districts. She stated that the issue that was not resolved was a split block that is also a city council district. She stated that one of the reasons you may split a census block is where the boundary follows a city boundary. She said that she had documentation from the clerk that the split block follows a corporate boundary.

The Chair asked if there was co-director approval. Ms. Robertson and Mr. King stated that, based upon this information, they were recommending Kosciusko County for approval.

Mr. Long asked if the Commission could hear from OCD. The Chair asked if OCD had any comment. Ms. Bard indicated that there are legitimate reasons for splitting a census block when establishing a percent but that the issue was identifying the split block and the reason the split.

Mr. Long asked whether the Commission should approve the percents subject to the county doing something.

The Chair asked representatives from Kosciusko County if they had anything to add. Ms. Sharon Christner, the Circuit Court Clerk of Kosciusko County, stated that the block in question was taken care of at least by 1994, if not earlier than that, and is depicted on their maps since that time.

Mr. Long asked whether the Commission should approve it with an exception or approve it subject to doing something else or approve it as it is.

Ms. Robertson stated that she felt that the difference between the issues raised in Huntington and Kosciusko Counties is that, with Huntington County, there was a difference between the map used by the county had the map used by OCD. She stated that this situation required additional resolution by comparing the maps and resolving any differences to make sure that statute was not violated by crossing boundaries not permitted by statute. She stated that with Kosciusko County we only need to confirm the reason why the census block was split. She added that statute permits a census block to be split under certain circumstances, including where the precinct boundary that splits a census block is following a city council district or an annexation. She stated that, therefore, we simply need to determine if a valid reason for the census block split in the Kosciusko County precinct has been provided. She indicated that the reason given, to follow a city council line, is sufficient under statute.

The Chair asked whether the census block in question was split in order to follow a city council district. Ms. Hershberger indicated that this was correct.

Mr. Simmons indicated his agreement with Ms. Robertson noting that IC 3-11-1.5-5 permits a precinct boundary to follow a city legislative district line.

There being no further questions or comments, Ms. Cummings moved that the Commission approve proposed precinct boundary orders for Kosciusko County as presented on the record of the Commission. Mr. Morgan seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings) the precinct establishment orders for Kosciusko County were approved.

O. Lake County

The Chair recognized Ms. Horowitz who stated that she reviewed the Lake County precincts. She stated that Lake County has been reviewed by OCD and that there were no outstanding issues to be resolved.

The Chair asked Lake County representatives if they had any comments to add.

Mr. Long asked if this was just an update of the precincts approved last year.

Ms. Robertson indicated that she thought the changes were due to municipal redistricting.

There being no further questions or comments, Mr. Long moved that the Commission approve proposed precinct boundary orders for Lake County as presented on the record of the Commission. Mr. Morgan seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings) the precinct establishment orders for Lake County were approved.

P. Marshall County

The Chair recognized Ms. Hershberger who stated that Marshall County proposed changes to their precincts to accommodate municipal redistricting. She stated that Marshall County has been through OCD review and that there are no outstanding issues.

The Chair stated that a representative from Marshall County may not be here because whoever was coming down for the county was expecting a baby and maybe she went to the hospital today.

Ms. Cummings indicated that she talked to county representatives last Friday and, at that time, they indicated they were not certain they could make it to today’s meeting.

There being no further questions or comments, Ms. Cummings moved that the Commission approve proposed precinct boundary orders for Marshall County as presented on the record of the Commission. Mr. Long seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings) the precinct establishment orders for Lake County were approved.

Q. Montgomery County

The Chair recognized Ms. Hershberger who stated that Montgomery County proposed changes to their precincts to accommodate municipal redistricting and annexations brought into the city. She stated that Montgomery County has been through OCD review and that there are no outstanding issues.

The Chair asked the Montgomery County Circuit Court Clerk Jeff Dossett if he had anything to add and he stated that he did not.

There being no further questions or comments, Ms. Cummings moved that the Commission approve proposed precinct boundary orders for Montgomery County as presented on the record of the Commission. Mr. Long seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings) the precinct establishment orders for Montgomery County were approved.

R. Perry County

The Chair recognized Ms. Hershberger who stated that Perry County proposed changes to their precincts to accommodate municipal redistricting and corporate boundary changes as well. She stated that Perry County has been through OCD review and that there are no outstanding issues.

The Chair asked if Perry County representatives had anything to add. They indicated that they did not.

There being no further questions or comments, Mr. Long moved that the Commission approve proposed precinct boundary orders for Perry County as presented on the record of the Commission. Ms. Cummings seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings) the precinct establishment orders for Perry County were approved.

S. Shelby County

The Chair recognized Ms. Horowitz who indicated that Shelby County proposed only minor changes to their precincts. She stated that Shelby County has been through OCD review and that there are no outstanding issues.

The Chair asked if Shelby County representatives had anything to add and they indicated that they did not.

Mr. Long stated that he thought that Shelby County was one of the counties that did not receive approval last year.

Ms. Horowitz indicated that Shelby County was not seeking approval of county percents this time, only city precincts in Shelbyville.

Mr. Long asked whether the whole county was being approved. Ms. Horowitz responded that only those precincts in Shelbyville were reviewed for approval.

Mr. Long asked where that left Shelby County outside of Shelbyville.

Mr. Stratton stated that he reviewed the Shelbyville precincts that is part of the reprinting plan that the Commission is considering today. He stated that last year, when there were several counties not approved, the Election Division and OCD tried to get at least some sense of the precincts used by the counties from the counties. He stated that OCD only reviewed the Shelbyville precincts for the request for approval being considered by the Commission today.

The Chair asked if the order reflects the limited approval.

Mr. Simmons replied that the orders reflect that the Commission's approval is an approval of whatever has been submitted by the county in their IEC-8's. He stated that the proposed order incorporates those county submissions by reference so if Shelby County has only submitted documentation for Shelbyville the order would incorporate that documentation.

Mr. Long asked what would be done about the rest of the county. He stated that there are counties that were not approved last year and some of those counties will stay on the list of unapproved counties.

The Chair recognized Mr. King who stated that there was included in the Commission's binder the counties that were not approved by the Commission in January of 2002 along with some additional documents provided to the counties as part of the verification process used by Election Division staff. He stated that in the case of Shelby County, the Election Division's position would be to encourage Shelby County, and all the other counties that were not approved in 2002 and have not yet sought approval, to submit their precincts for approval before the 2004 general elections. He stated that the action of the Commission at today's meeting would be to resolve the precincts within Shelbyville as noted.

Mr. Long stated that when he was the county attorney they did not use the word "encourage" very much. He stated that it was his understanding that counties had to request

approval. He asked whether the counties were mandated by law to seek approval to have reprecincting in place.

The Chair recognized Mr. Simmons who stated that there is not statute that mandates a county to come to the Commission at a particular time. He stated that the statutes indicate that when a county seeks changes in their precincts that they come to the Commission for approval of the proposed changes. He stated that when a county asked for that approval then it is submitted to the review process outlined in statute.

Mr. Long then asked whether it was the case that counties could reprecinct whenever they wanted but did not have to at a particular time.

Mr. Simmons stated that the counties can only come to the Commission at certain times. He stated that, with respect to municipal precincts, as indicated earlier, they have a deadline of January 31. He added that, with respect to the precincts outside of the city in the county, the county may request approval of proposed changes after the January 31 deadline and throughout the year.

There being no further questions or comments, Mr. Long moved that the Commission approve proposed precinct boundary orders for Shelbyville in Shelby County as presented on the record of the Commission. Ms. Cummings seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings) the precinct establishment orders for Shelbyville in Shelby County were approved.

T. Tipton County

The Chair recognized Ms. Hershberger who stated that Tipton County was a full review of all the precincts in the county, including precinct changes to reflect changes in corporation boundaries. She stated that Tipton County has been through OCD review and that there are no outstanding issues.

The Chair asked Tipton County representatives had anything to add. They indicated that they did not.

Mr. Long asked if this was a full review. Ms. Hershberger indicated that it was.

There being no further questions or comments, Mr. Long moved that the Commission approve proposed precinct boundary orders for Tipton County as presented on the record of the Commission. Ms. Cummings seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings) the precinct establishment orders for Tipton County were approved

U. Wayne County

The Chair recognized Ms. Hershberger who stated that Wayne County proposed changes due to municipal redistricting. She stated that Wayne County has been through OCD review and that there are no outstanding issues.

The Chair asked Wayne County representatives had anything to add. They indicated that they did not.

There being no further questions or comments, Ms. Cummings moved that the Commission approve proposed precinct boundary orders for Wayne County as presented on the record of the Commission. Mr. Morgan seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings) the precinct establishment orders for Perry County were approved

The Chair then asked if Huntington County was resolved. Ms. Hershberger indicated that the Huntington County representative had left to call to see if there was population in the affected area.

The Chair indicated, absent objection, that the Commission would proceed through the rest of the agenda while Huntington County was being sorted out.

Mr. Long indicated that by his count there were 16 counties that have not fully addressed assuming the Commission does Huntington County today. He stated that, according to his list the following counties have not been acted upon: Blackford, Bartholomew, Hancock, Jackson, Jennings, Jefferson, Lawrence, Marion, Morgan, Randolph, Ripley, the balance of Shelby, Stueben, Tippecanoe, Wells and Whitley. He asked if this was correct.

The Chair asked Ms. Hershberger whether any of these counties planned to proceed. Ms. Hershberger indicated that she had not been contacted by anyone from these counties to date.

Ms. Cummings stated that she noticed the Election Division sent out a survey asking the counties as to when they might reprecinct. She asked what the response was from those counties that did not seek reprecincting this time.

Ms. Hershberger stated that she has the survey responses in the office and that she could provide that information to the Commission.

Ms. Cummings noted that some of these counties may have indicated that they would be reprecincting in the future.

Mr. Long stated that he would like to know at some future point which counties are planning to do something and which counties are not.

Ms. Robertson indicated that the results from the survey could be placed into a spread sheet for the Commission.

3. Commission Schedule

The Chair recognized Mr. King, who indicated that the Commission typically establishes a schedule for regular meetings to be held throughout the year. He stated that the Commission typically schedules meetings for the third Thursday of each month as a regularly scheduled meeting. He explained that the Commission could still cancel a meeting or reschedule a meeting. He stated that Order 2003-01 had been prepared to establish regularly scheduled meetings.

The Chair indicated that he had some discussions with Mr. King about the schedule. He stated that the Commission has done this in the past and he does think it is a good idea to have a set date but the February date is not going to work with his schedule. He stated that the Commission does have about 100 campaign finance hearings to hold. He asked if Commission members could look at their schedule for the first week in March.

Mr. Long stated that he could be available March 5th, 6th or 7th.

Mr. Morgan said that he would not be available on March 5 as it is Ash Wednesday but March 6th or 7th would be OK. The Chair, Mr. Long, and Ms. Cummings indicated that March 6 would be fine with them. The Commission members then agreed to hold the next meeting on March 6 at 1:00 p.m.

Ms. Robertson stated that the Election Division would arrange a room. Mr. Long indicated that it should be a big room.

The Chair moved that the Commission approve Order 2003-01 so that there would be regularly scheduled meetings and then if the co-directors determine that there is not enough business for a meeting then the meeting can be cancelled. Mr. Long seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings) Order 2003-01 was adopted.

4. Forms

The Chair indicated that he saw that Order 2003-02 approved absentee ballot forms and candidate forms for Marion County.

The Chairman recognized Mr. Simmons who stated that Order 2003-02 would approve a modified form of the ABS-1 absentee ballot application and a modified CAN 42 declaration of candidacy and a modified CAN-5 candidate filing confirmation. He stated that Valerie Hurd from the Marion County clerk's office was present at today's meeting to explain Marion County's request.

The Chair recognized Ms. Hurd, who explained that the modifications requested by Marion County to the ABS-1 included adding a file stamp box at the top of the form and altering the state's file box. She stated that the school board information was omitted from the primary only section since Marion County has no school board races up this election. She stated that

they added their office hours for voting in the clerk's office and their hours for the travelling board. She stated that they also customized their form by adding their address.

She stated that the modifications to the CAN-5 included customizing the form by adding "Marion County Circuit Court Clerk" at the top. She stated that they also included a check box to indicate whether they filed as a republican or democrat.

She stated that the modifications required for the CAN-42 include having a pink form for republicans and a green form for democrats for ease of use in their filing system. She stated that, in the instruction box, they indicate whether it is a republican or democrat declaration. She stated that Marion County has also added its file box to the form and they have added Marion County identification information where appropriate.

The Chair asked if there were any questions. There being none the Chair moved that Order 2003-02 be approved as presented by the staff. Mr. Morgan seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings) Order 2003-02 was approved.

5. Voter's Bill of Rights

The Chair recognized Ms. Robertson who stated that legislation passed in 2002 that requires that a Voter's Bill of Rights be prepared and approved by the Commission. She stated that the Election Division has been working on draft language over the last couple of months. She stated that a draft was circulated to county clerks and voter registration officials and the Election Division did receive a few comments on the draft. She stated that the Election Division hoped to have a final draft for approval by the Commission, however, people have expressed further interest in reviewing the draft and providing comments for the Election Division and Commission to consider. She stated that the Commission may want to table approval of a Voter's Bill of Rights until the Commission's March meeting. She indicated that this should still give the Election Division plenty of time to make it available for the primary. She stated that there will be different drafts for different election years. She stated that the current version being drafted will be a version for the municipal election. She stated that there will be a different one for the 2004 general election.

The Chair stated that he would like to hold off for the reason that he did not get his packet for the meeting and he would like to read it before considering it. Mr. Morgan indicated the his packet was marked for Saturday delivery but it came this morning right before he left the house. Mr. Long stated that he did not get a packet either.

The Chair asked if there was a vote needed on the issue at this meeting. Ms. Robertson indicated that they did not.

6. Report of Co-Directors

The Chair recognized Mr. King the first item on the report: campaign finance. He stated that will be a larger number of committees that missed the January 15, 2003 annual report filing deadline and that these committees were typically candidates who were defeated in the primary who did not realize that they either had to close their committees or file their annual report. He stated that there have been fewer people who actually show up to these meetings as more and more people file correspondence instead.

He stated that one of the other outstanding issues pending before the Commission for action later is voting systems certifications. He stated that there were a couple of applications pending for software upgrades to existing certified systems. He stated that there is also a pending request for original certification of a voting system for Voting Systems International. He explained that this system, as Commission members may recall, was demonstrated at the Commission's September 5 meeting. He stated that staff noted legal questions that they had about that system. He stated that he and Ms. Robertson have subsequently met with the vendor who has prepared a revised software program to address those legal issues. He stated that the Election Division would contact the vendor through counsel Dale Simmons to assure that the legal issues have been addressed. He stated that the voting system application would be brought forward to the Commission at a subsequent meeting for approval.

He stated that he and Ms. Robertson would like to brief the Commission on the Help America Vote Act. He stated that he and Ms. Robertson had the privilege of attending a conference in Denver the weekend after New Year's Day where congressional staffers and secretaries of state and election directors from other states were present to learn about the Help America Vote Act of 2002. He stated that it is lengthy and complicated legislation about 162 pages long. He stated that the act affects almost every conceivable phase of the election process and in some ways it is bigger than the National Voter Registration Act. He stated that the Help America Vote Act focuses on everything from election day procedures to standards of voting systems that will be more accessible to permit blind or visually impaired voters to vote in the polling place without assistance. He explained that this will be something that is required in each polling place, beginning January 1, 2006. He stated that this would be a major change for the counties and for the Election Division in terms of administering elections. He stated that the act also impacts the statewide voter file and requires that states that accept federal funding have statewide voter registration systems in place by January 1, 2006. He stated that the federal funding is fairly significant and is based on a formula based on part on the state's voting age population as a percentage of the whole country's. He stated that, in another part, the grant is a flat grant of up to \$4,000 per precinct to replace punch card or lever voting systems. He stated that the total calculated share for Indiana is estimated to between 75 and 80 million dollars. He said that the act means a major change in both the funding and the procedures that would apply in Indiana elections. Mr. King then invited Ms. Robertson to address the Help America Vote Act.

The Chair recognized Ms. Robertson who stated that Indiana, in order to qualify for some of the funding under the act, has to prepare a state plan. She stated that the Election Division is working with Secretary of State Todd Rokita to put together a bipartisan state planning committee along the same lines as what was done with the bipartisan task force. She explained that the act will also require some legislative changes. She stated that, even if there is no funding appropriated, there are still certain requirements, like provisional voting and

voter identification requirements, that will require some changes to Indiana law. She stated that there is legislation currently introduced and the Election Division would be working with the House and Senate elections committees and various legislators to ensure that legislation is passed to conform to the Help America Vote Act.

She stated that the only other thing that she would like to mention is that she would like to welcome Carolyn Horowitz who will be doing precincting and voter registration. She stated that Ms. Horowitz came in at an incredibly difficult time when the Election Division was involved in recounts and getting ready for the annual conference and performing post-election certification duties. She stated that Carolyn came in brand new to the process and she has been so helpful since joining the Election Division staff.

The Chairman recognized Mr. King who stated that he echoed Ms. Robertson in welcoming Carolyn to the staff and he stated that Carolyn has been a great addition and pitched in at a most difficult time in the process. He stated that he and Kristi assisted the State Recount Commission as its counsel in two Indiana House races and a couple of contests, one related to a U.S. Representative and one related to an Indiana House race. He stated that it was the first time the State Recount Commission had been activated in 4 ½ years. He added that the Election Division had a successful conference judging by the feedback received from the election officials who attended and it was at the Marriott across the street. He stated that the numbers were down slightly and that was probably due to the fiscal constraints for counties and the fiscal constraints the Election Division had in setting the fee for the conference.

Ms. Cummings stated that she is interested in an update on what is occurring at the legislature with respect to election legislation.

The Chair recognized Mr. King who stated that, just this morning, the Senate Elections Committee considered Senate Bill 136, which is the annual clean up legislation that is put forward through the Census Data Advisory Committee which is a permanent committee of the state legislature. He stated that this bill was passed out of committee unanimously with some amendments to address some concerns that were brought forward after the Census Data Advisory Committee met in the summer.

He stated that the Senate Elections Committee had a meeting previously at which the committee considered Senate Bill 88, which references providing campaign finance software upon request. He stated that this bill, authored by Senator Craycraft, would provide for candidates to receive a standard software package to upload campaign finance reporting programs on to their personal computer. He stated that this was amended in the bill to specify that the Election Division did not have to customize the software in case the candidate had a Wang computer that they wanted to try to make it work on.

He stated that the House Elections Committee is scheduled to meet twice this week, Tuesday morning at 8:30 a.m. and Thursday morning at 8:30 a.m. He explained that one of the bills that the committee will consider is House Bill 1541, which is the house version of the Help America Vote Act implementation legislation. He stated that the committee will also hear some campaign finance legislation and some legislation authored by Representative Richardson that address some municipal redistricting issues. He stated that there are a number of bills moving through the house and the senate but, because of it is a long session,

he did not anticipate resolution on some of the more complicated or revenue-significant bills until the end of April, at the earliest. He stated that he would be happy to provide the Commission with an update at the March meeting as well.

7. Establishment of Precinct Boundaries (Huntington County)

The Chair recognized Pam Updike who stated that the first thing the Commission should realize is that the area at issue is in a town and there is no population in the area.

The Chair recognized Ms. Bard who stated that the paperwork discrepancies with respect to Huntington County are as follows: 1) N District 26, which is Southlane Township 2, the paperwork needs to reflect that census block 2011 and 2015 are splits; 2) N District 10, which is Huntington 6A, the paperwork needs to reflect that 3023 as a split block; and 3) N District 16, which is Huntington 11, the paperwork needs to reflect that census block 4007 is a split block.

She indicated that she just spoke with someone on the cell phone who stated that this is in fact parcel 0200037500 which is part of Roanoke and has no population but it does split a census block. She stated that her map reflects the split. She added that she did not have a map from the Election Division. She stated that the current paperwork reflects this as a solid census block. She stated that the question is whether or not you want to go through paperwork and submit a precinct change later since this does not involve a city or town election and that way the whole census block as it is reflected in the paperwork would be the precinct. She stated that she could go back and change OCD's records to reflect the paperwork and then, when the subsequent precinct change would be approved, then OCD could come in and change it to what the map reflects.

Mr. Long asked what town this covered. Ms. Bard answered the town of Roanoke. Mr. Long asked whether they needed that map for Roanoke this year. Ms. Updike said that they did.

Mr. Long stated that he would move that Commission approve the precincting plan for Huntington County as it relates to the town of Roanoke subject to the changes Ms. Bard just read into the record.

Mr. Long asked if this was the only municipality. Ms. Hershberger stated that this was a full review.

Mr. Long stated that there is one precinct (as he understood it) that is not resolved. Ms. Hershberger stated that this was the issue but its not in Huntington, its Roanoke. Mr. Long stated that he had it backwards and withdrew his motion.

Mr. Long moved to approve the Huntington County map with two provisos: 1) subject to the corrections Ms. Bard read into the record; and 2) excluding the precinct in Roanoke which is identified as Jackson 3. Ms. Cummings seconded the motion.

The Chair asked Ms. Updike if that would take care of everything that she needs and would take care of their precincts until they could come back. Mr. Long asked Ms. Updike if that would get her through the municipal election. Ms. Updike answered that it would.

There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruca, Mr. Long, Mr. Morgan and Ms. Cummings) that the motion was adopted and the precincts in Huntington County were approved subject to the exceptions made of record.

8. Other Business

The Chair asked if there was any other business. The Chair recognized Ms. Robertson who stated that last Friday the Election Division received an appellate court decision on the *Majors* case and she indicated that Mr. Simmons might be able to brief the Commission concerning it. She stated that the decision was included in the packet provided to the Commission. She stated that the decision is under the co-director’s report in their binders.

The Chair recognized Mr. Simmons who stated that this case involved a challenge to Indiana’s disclaimer law, IC 3-9-3-2.5, by Libertarian candidates. He stated that the case alleges the statute violates the first amendment. He explained that the trial court dismissed the case based upon the plaintiff’s lack of standing. He stated that the Seventh Circuit Court of Appeals reversed the trial court’s decision finding that the case is one that is capable of repetition but evading review and held that the plaintiffs did have standing. He stated that the court also mentioned an argument made by the attorneys for the Commission to the effect that the statute being challenged only applied to candidates and did not apply to individuals. He stated that the court cited the information on the Election Division’s web site to the effect that it was our position that it applies to individuals. He stated that the court certified this issue, whether the statute applies to individuals who are not candidates, to the Indiana Supreme Court for an interpretation of whether IC 3-9-3-2.5 applies to individuals. He stated that the Election Division will report later as to whether the Indiana Supreme Court accepts that certification.

The Chair asked if there were any other questions. Mr. Simmons asked if the Commission intended to provide Huntington County with an order today. Ms. Robertson offered that the order could be prepared for the March meeting.

The Chair indicated that staff had a stamp and, since the Commission approved the precincts on record, then staff could use the stamp to provide the county an order.

Mr. Simmons stated that perhaps the language could be worked through at this time so that an order could be prepared. He suggested that there might be a simplified way of stating the order as Mr. Long was stating it in his motion. He stated that the order could approve what was submitted of record excluding Jackson precinct 3.

Mr. Long stated that there has to be an amendment to cover the statement of the three split census blocks. He stated that if their submission is amended by the split then he thought the order as Mr. Simmons suggested gets it done.

Mr. Simmons asked if the splits were in Jackson 3. Mr. Long stated that he thought that the splits were in Huntington.

Mr. Long stated that he had no objection that, once staff got language that it was satisfied with, using stamps for the order. The other Commission members agreed with this approach.

9. Adjournment

The Chair then asked if there was any other business. There being none the Chair asked if there was a motion for adjournment. Mr. Morgan moved, seconded by Ms. Cummings, that the Commission adjourn. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings) and no member voting “nay”, the motion was adopted. The Commission then adjourned at 4:00 p.m.

Respectfully submitted,

J. Bradley King
Co-Director

Kristi Robertson
Co-Director

Approved,

Dudley Cruea, Chair