

# Indiana Election Commission

## Minutes

### JUNE 27, 2002

**Members Present:** Dudley Cruea, Chairman of the Indiana Election Commission (the Commission); S. Anthony Long, Vice Chairman of the Commission; Joseph M. Perkins, Jr., member of the Commission; and Andrew Klineman as proxy for Butch Morgan, member of the Commission.

**Member Absent:** Butch Morgan.

**Staff Attending:** J. Bradley King, Co-Director, Indiana Election Division of the Office of the Indiana Secretary of State (Election Division); Spencer Valentine, Co-Director of the Election Division; Kristi Robertson, Co-General Counsel to the Commission and Election Division; Dale Simmons, Co-General Counsel to the Commission and Election Division; Pam Potesta, Campaign Finance Director, Indiana Election Division; Michelle Thompson, Campaign Finance Director, Indiana Election Division; Michelle Brzycki, Special Projects Coordinator, Indiana Election Division; and Kerrie Cobb, Executive Assistant, Indiana Election Division.

**Also Attending:** Doug Brown, Joshua Smith, Andrea Thomas, Nancy Pappas, Fred Taylor, Dylan Vigh, Andrew Kincaid, Julia Vaughn, Brian Scherschel, Rosemary Spalding, Brad Kloppenstein, Jeffery Stemen, Jon Laramore, and Mark Stratton and Maureen Bard, Office of Census Data, Legislative Services Agency.

## 1. Call to Order

Dudley Cruea, Chairman of the Commission, called the June 27, 2002 meeting of the Commission to order at 1:00 p.m. at the Indiana Government Center South, Training Center, Room 6, 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. He stated that Andrew Klineman would be sitting as proxy for member Butch Morgan at today's meeting.

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. Approval of the Commission Meeting Minutes and Status Report

The Chair noted that the Commission would consider approval of minutes and a status report on the minutes.

The Chair recognized Ms. Robertson who stated that staff had placed all of the outstanding minutes on today's agenda to give the Commission an update of the minutes that have not been prepared. She explained that staff had not completed all the minutes from past meetings because of the number of meetings that were held on precinct issues. She indicated that staff is now working on the backlog and will hopefully have some of the backlog ready for the Commission's approval at its next meeting.

Ms. Robertson stated that the minutes from the March 13, 2002 were complete. She indicated that a copy of these minutes had been given to the Commission at its last meeting but because Commission

members did not get a copy until the day of the meeting the Commission did not have time to review and approve those minutes. She stated that she believed that there had been a couple of revisions made to those minutes and that the current version is different from the version they had previously been given. Ms. Robertson deferred to Mr. Simmons for an explanation of those revisions.

The Chair recognized Mr. Simmons who stated that he thought the revisions were finished by the time of the last meeting, however, on page 13 of the minutes there is a colloquy between Mr. Morgan and Mr. Lynch regarding press accounts in St. Joseph County about potential cooperation between Mr. Zirkle and the democratic party. He explained that this discussion was added to the minutes and that this was the only change made to the minutes since the last meeting.

Mr. Long asked if the next to last paragraph on page 13 was the one that was added. Mr. Simmons responded that this is the paragraph that was added.

Mr. Long moved, seconded by Mr. Perkins, that the March 13, 2002 minutes be approved as presented. There being no further discussion, the Chair called the question, and declared that with three members voting "aye" (Mr. Cruea, Mr. Long, Mr. Perkins and Mr. Klineman), and no member voting "nay", the motion was adopted.

### **3. Campaign Finance Enforcement**

The Chair requested those present to testify before the Commission to stand for the administration of the oath. Ms. Robertson administered the oath.

The Chair recognized Mr. Long who indicated he wanted to ask a question about the minutes. He said that they just approved the March 13 minutes but it looked like there were seven more meetings to go. He asked whether there was a time schedule for completing this work.

Ms. Robertson stated that she was currently working on the minutes for the last Commission meeting of March 28. She explained that she is also working on the October 25, 2001 meeting where the Chamber of Commerce case was argued before the Commission at an all-day meeting. She said that then we would work to get the oldest minutes done first.

Mr. Long asked the attorneys if the attorneys typed the minutes. Ms. Robertson responded that she and Mr. Simmons prepare the minutes. Mr. Long stated that this should be reported to the co-directors. He added that they didn't allow lawyers to type at his end of the state.

The Chair announced that the last time the Commission conducted campaign finance enforcement hearings the Commission started in the back of the room so this meeting the Commission would start in the front. He explained that the Commission would first consider all the cases where someone was present to testify. He indicated that he would start in the front row and that people should come forward and state their name and their case number for the record. He explained that staff would then provide the Commission with some background on the case and then the Commission would allow further testimony on the case. He requested that remarks be kept to two minutes and that after their remarks the Commission members may have questions.

#### **a. Indiana Pyrotechnics Education PAC, case numbers 02-4840-114 and 02-4840-115**

The Chair recognized Doug Brown who indicated that he was from the Indianapolis law firm of Stewart & Irwin appearing on behalf of Indiana Pyrotechnics Education PAC. The Chair asked if this was a campaign finance case.

The Chair recognized Ms. Potesta who stated that the information for this case was separated from the other cases because it is a unique situation. She said this case invoked both cause number 02-4840-114 and 02-4840-115. She stated that this case was brought to staff's attention in April by the media. The information that was received was that the Indiana Pyrotechnics PAC was contributing to candidates since the year 2000 and they had not opened a committee or filed reports. She said that staff's investigation revealed that this PAC had not filed its 2000 statement of organization or any campaign finance reports since that time. She added that representatives of the PAC voluntarily came to the office of the election division on April 15, 2002 and filed a statement of organization. She stated that they filed all the reports that were required on the following day. She stated that representatives of the PAC presented copy of an October 2000 report with an election division file stamp on it. She said that she and Michelle were at a loss to explain why the election division did not have a copy of this report since the PAC had a file-marked copy. She said that the PAC only had the front page of the report. She said that they subsequently amended that report and then filed the other two reports that they previously filed to file on time. She said the PAC's filings are currently up to date.

Mr. Perkins asked which report was the report with the file stamp on it. Ms. Postesta responded that it was the October, 2000 report and she offered copies of the report for the Commission members who examined the same.

Mr. Long inquired about the numbers at the top of the document. Ms. Thompson responded that it was the fax number of the Commission.

The Chair then asked if it looked like the PAC faxed the report and then came in to pick up a file-stamped copy. Ms. Thompson stated that even if they did, the election division did not have a statement of organization on file for this PAC.

Mr. Long stated that he thought that the fax number on the document is significant since it shows that the document came through on the election division's fax machine. He said that he does recognize, however, that the date on the fax of October 16 is different than the date of the file stamp.

The Chair recognized Mr. Brown who indicated that Elizabeth Stanley was present representing the PAC as well. He asked the Chair whether the Commission wished to hear testimony from Ms. Stanley first or his presentation first. The Chair requested Mr. Brown to make his presentation first.

Mr. Brown stated that he believed the report form itself was faxed to the PAC on October 16 and that is why that date in on the fax. He explained that the report was then filled out and brought to the election division for filing and the PAC left a copy of it with the election division and took a file-stamped copy of the first page back with them for their records. He stated that the PAC recognizes its responsibility to make these filings. He thinks that this is a somewhat unusual situation in that people rely upon the election division's mailing of campaign finance forms as a reminder that they should file their next report. He said that since the PAC never entered these reports into their system, and they never got their reminder from the election division, they simply forgot to file the reports. He said that he was not trying to argue that it was the election division's fault in that the responsibility to file reports rests with the PAC. He stated that he was, however, offering these points as mitigating factors to consider. He said the fact that this October 2000 report was filed shows that they were intending to comply with the filing requirements. He stated that Ms. Stanley was available to verify any of these events.

Mr. Long asked why the election division would have faxed the report to the PAC. Ms. Stanley responded that the statement of organization had apparently not been filed or was filed and misplaced. She said she did not have a file-stamped copy of the statement of organization showing it was filed. She stated that she had heard through the grapevine that a report was due. She added that she did not get a report from the election division because she was not on record as being the PAC's treasurer. She said that she called to obtain a blank report and the election division faxed it to her. She said she completed the report and then did not hear anymore about it until she read a newspaper article that mentioned her name. She said that she then called the election division the following Monday morning and asked what she needed to do. She said that the very next day she caught up to where she needed to be. She says that there really is not an excuse. She explained that she did intend to comply with the reporting laws in that she did file the October 2000 report. She stated that she had hoped to get the reports in the mail from the election division to do the other reports, and when she did not, she just forgot to file the subsequent reports.

Mr. Long inquired about the amendment to the report. Ms. Stanley responded that the numbers were the same as the original report but the election division just didn't have the full report on file.

The Chair asked when the 2000 election report due. Ms Potesta said that it was a pre-election report and that those reports are usually due mid-October. The Chair asked why there is a proposed fine of One Thousand Dollars when they have proof that they filed on October 19. Ms. Potesta responded that staff did not know how to handle the issue and decided to include the information on the Commission's spreadsheet for the Commission to use as it deemed appropriate.

Mr. Brown added that the Commission might also want to consider that the PAC has put procedures in place to assure that reports are timely filed in the future. He said that his office is monitoring the due dates to make sure that the reports are filed on time.

The Chair then closed the hearing on case numbers 02-4840-114 and 02-4840-115 and moved that the proposed fines for the Indiana Pyrotechnics Education PAC be imposed as follows: 1) that the proposed fine for failure to file the statement of organization be reduced to 25% of the proposed fine plus mailing costs of Seventy Five Cents (\$.75) for a total of Two Hundred and Fifty Dollars and Seventy Five Cents (\$250.75); 2) that the proposed fine with respect to the 2000 pre-general election report be dismissed; 3) that the proposed fine for the 2000 annual report be reduced to 50% of the proposed fine plus mailing costs of Seventy Five Cents (\$.75) for a total of Five Hundred Dollars and Seventy Five Cents (\$500.75); and 4) that the proposed fine for the 2001 annual report be reduced 75% of plus mailing costs of Seventy Five Cents (\$.75) for a total of Seven Hundred and Fifty Dollars and Seventy Five Cents (\$750.75) Mr. Perkins seconded the motion.

The Chair recognized Mr. Long who requested some discussion on the issues in the case. Mr. Long indicated that he did not view these as second and subsequent offenses. He stated that he agrees with the dismissal of the October 2000 report case. He stated that he also agrees with the 25% reduction on the statement of organization. He stated that he approaches this case differently because all of these cases were discovered and brought at one time, the PAC immediately came forward on learning of the mistake, and these appear to be innocent mistakes. He asked whether the members would consider treating all of the cases against this PAC as a first offenses.

The Chair asked what the appropriate procedure would be do this considering the current motion. Mr. Simmons indicated that it might be clearer to withdraw the motion and make another motion. The Chair withdrew his prior motion without objections and moved that the proposed fines for failure to file a statement of organization, the 2000 annual report, and the 2001 annual report, all be reduced 25%

of the proposed fines plus mailing costs for a total of Seven Hundred and Fifty Two Dollars Twenty Five Cents (\$752.25). He added to his motion by indicating that his motion included a dismissal of the case for failing to file the October 2000 pre-general election report. 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. Perkins and Ms. Klineman), and no member voting “nay”, the motion was adopted.

- b. Hoosier Daylight Political Action Committee, case number 02-4689-96**
- c. Committee to Elect Andrew Thomas for Representative, case number 02-4802-107**

The Chair recognized Andrew Thomas who indicated that he was a candidate for state representative and was present for two cases today. He said his cause numbers were 02-4802-107 and 02-4689-96. He said that he was present for Hoosier Daylight Coalition Political Action Committee and Committee to Elect Andrew Thomas for Representative.

The Chair recognized Ms. Potesta who stated that the Hoosier Daylight Coalition Political Action Committee, cause number 02-4689-96, filed its report on May 20, received notice on June 19, and filed a final report on June 19. She added that the committee has never been before the Commission and has a proposed civil penalty plus mailing costs of One Thousand Three Dollars and Ninety Four Cents (\$1,003.94). She added that there is a letter in the Commission’s packet on this case.

Ms. Potesta asked the Chair whether to continue to the next case and the Chair responded that she should. She indicated that the Committee to Elect Andrew Thomas, cause number 02-4803-107, filed its report on April 19 at 12:18 p.m., received notice June 19, the committee has never been before the Commission before, and the committee has a proposed penalty plus mailing costs of Fifty Three Dollars and Ninety Four Cents (\$53.94).

The Chair recognized Mr. Thomas who stated that he would start with the Hoosier Daylight Coalition. He stated that he was the executive director of the Hoosier Daylight Coalition, Inc., a not for profit corporation with the objective of establishing daylight savings time in Indiana. He said that the attorneys for the Coalition were Barnes & Thornburg.

He stated that the Hoosier Daylight Coalition decided to form a political action committee. He stated that the idea was that Barnes & Thornburg would create and file the necessary paperwork and he, as executive director, would not have to do anything. He said he left the coalition in early November of 2001 and when he left, the Hoosier Daylight Coalition became non-existent because the daylight savings bill did not pass during the legislative session. He added that there was no money taken into the political action committee and no money expended by the political action committee.

He stated that he received correspondence from Barnes & Thornburg in early November stating that he needed to sign a report and send it in. He stated that he did sign the report and sent it in. He stated that when he left in November last year it was his understanding the political action committee would be dissolved since it was not doing anything. He said that the box on the last report form, indicating that the committee was dissolving, should have been checked but it was not. He stated that the next thing he knew he received a letter that stated that a report had not been filed. He said that he came in to talk to election division staff and asked if he could file an amendment to the committee’s January report stating that the committee was dissolved as of January. He said that it was not clear whether that would be sufficient but he thinks it should be sufficient because the intention in January was to dissolve the political action committee when it filed its last report in January. He said that the report filed in January was timely and that the committee’s attorney should have checked the box on the report at that

time indicating that the committee was dissolved. He stated that he would like the Commission to consider his most recent amended report an amendment to the January report showing that the committee was dissolved as of January.

The Chair asked whether there were any questions. Mr. Perkins asked whether the committee was now disbanded. Mr. Thomas indicated that it was. Mr. Thomas added that the lesson he learned with this case was that when your name is on something you should not rely on other people.

There being no further questions the Chair closed the hearing on cause number 02-4689-96. Mr. Long moved that the fine be reduced to 25% of the proposed fine in the amount of Two Hundred and Fifty Dollars (\$250.00) plus mailing of Three Dollars and Ninety Four Cents (\$3.94) for a total of Two Hundred and Fifty Three Dollars and Ninety Four Cents (\$253.94). Mr. Perkins 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. Perkins and Mr. Klineman), and no member voting "nay", the motion was adopted.

The Chair asked Mr. Thomas to address the other case. Mr. Thomas stated that he is a candidate for state representative in district forty four which covers Putnam County, part of Parke County, part of Clay County and one township in Vigo County. He stated that he picked a treasurer that was the president of a bank, First National Bank & Trust. He stated that he knew the report was due. He stated that his treasurer's mother died within a week before the report was due so he did the report himself. He said he called the state republican party to make sure he was doing everything right. He added that he was going to drive to Indianapolis and file the report himself but when he learned that you could fax the report he decided to fax it. He stated that he faxed the report at 11:47 a.m. on the due date and he said he did not know what happened after he faxed it. He said that he assumed that the report had been timely filed.

The Chair asked to see the original. Mr. Long indicated that he was sure that the reports got stacked up in the machine.

Mr. Thomas said he faxed nine pages and six were blank. He said that if he had known there was a timing issue he probably would not have faxed the pages with nothing on them. Mr. Thomas argued that he thought he was at least timely with the cover sheet.

There being no other questions or comments the Chair closed the hearing on case number 02-4802-107. Mr. Long moved that the case be dismissed for the reason that it was faxed thirteen minutes early. Mr. Perkins 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. Perkins and Mr. Klineman), and no member voting "nay", the motion was adopted.

**d. Taylor for House District 71, case number 02-4551-113**

The Chair recognized Fred Taylor who stated that he was present on cause number 02-4551-113. Mr. Long indicated that this was a Motion to Reconsider on page one of the spreadsheet.

The Chair recognized Pam Potesta who stated that this was the Taylor for House District 71 committee, case number 02-4551-113. She stated that the committee filed its report on February 12, received notice on June 20, the committee has been before the Commission on two prior occasions, and the committee has a proposed penalty plus mailing costs of Five Hundred Dollars and Seventy Five Cents (\$500.75). She stated that the fine was originally One Thousand Dollars (\$1,000.00) which was

reduced by the Commission to Five Hundred Dollars (\$500.00). She added that the committee filed a final report and that there is a letter submitted by the committee included in the Commission's packet. Ms. Potesta indicated that on the back page of that letter is a copy of the check submitted to the Commission to pay the fine but that the check had not yet been deposited pending the decision on the Motion to Reconsider.

The Chair recognized Mr. Taylor who stated that the notice of hearing sent to him says that he was invited to appear to discuss his case for failing to file a campaign finance report. He said that a more accurate charge would be failing to check a box on the report form. He said that he simply failed to check the final report box on his final report. He said his campaign was closed and his bank accounts were closed. He said he did not check the final report box on the form because he simply did not see it. He said he was a one-man campaign where he served as treasurer, the candidate, and the advertising person. He said his campaign raised a grand total of Four Thousand Dollars (\$4,000.00) and the penalty in the case is Five Hundred Dollars (\$500.00). He said he made no attempt to usurp the laws of the state or break the rules or fail to report anything. He stated he simply failed to check a box on a form. He said that everything he filed was correct.

The Chair asked if there were any questions. Mr. Long asked about the committee's first campaign violation. Mr. Taylor indicated that he did not remember. Mr. Long asked about the committee's second campaign violation. Mr. Taylor indicated that he was a one-man operation. He indicated that the first violation may have been a late report.

The Chair recognized Ms. Thompson who indicated that the first violation was a late pre-primary report in 2000. Mr. Long asked about the disposition of that case. Ms. Thompson stated that the fine was reduced. Mr. Long asked about the second violation. Ms. Thompson stated that second violation was the annual report due in 2001. She added that the fine was reduced for that violation.

Mr. Taylor commented that he would hate to see the little person excluded from the political process. He stated that people are intimidated by the system and that not everyone is gifted with money to hire people to do these things for them. He said that there are a lot of people like himself who would like to participate. He said that many people don't vote because they don't feel important and they don't run for office because they don't feel like they can. He said his case is an example of a little person going up against a legend and making an attempt and doing a great job. He added that even though he was out spent ten to one and out promoted, he still came within three thousand votes against a six-term incumbent. He stated that there was a chance here to send a message that the little person can still run and have a chance even though they did not check a box on a form. He said that statistics would show that very few people vote today and that there is a very good reason for that. He thanked Commission members for hearing his case.

There being no further questions or comments the Chair closed the hearing on case number 02-4551-113. Mr. Long commented that he thought the Commission made a mistake in assessing the fine in the first place. The Chair noted that since this was actually his third time before the Commission that their standard practice would have been to assess the committee 75% of the proposed fine, not just 50%. The Chair moved that the Motion to Reconsider be denied. 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. Perkins and Mr. Klineman), and no member voting "nay", the motion was adopted.

**e. Sierra Club PAC, case number 02-4404-85**

The Chair recognized Rosemary Spaulding who stated that she was the treasurer of the Sierra Club PAC, case number 02-4404-85.

The Chair recognized Ms. Potesta who stated that the Sierra Club PAC, case number 02-4404-85, filed its report on April 23, received notice on June 24, has a proposed fine plus costs of Two Hundred and Three Dollars and Ninety Four Cents (\$203.94), and has appeared before the Commission on two prior occasions.

The Chair recognized Ms. Spaulding who stated that she has been the treasurer of this committee for some time and that the PAC is defunct. She added that the PAC has maintained its status as active and maintained a small bank account in case the PAC would want to get active again. She stated that she is familiar with one other time the PAC appeared before the Commission and it was her fault for missing a deadline and filing a day late. She said that in the past the Sierra Club office received notice from the election division that a report was due. She said that the Sierra Club would then forward the notice and blank report from to her and that this procedure had worked for a long time. She said that she did not receive notice or a copy of the report to fill out for last October's report and that she called the Sierra Club to ask whether they received it. She stated that the Sierra Club told her that they sent the form to her and she told them that she did not receive it. She said that the Sierra Club then faxed her a blank report to fill out so that she was able to file that report on time. She said that she was counting on receiving the notice and a blank copy of a report for the report due in April. She said that she did not realize a report was due until she read a newspaper article about the campaign finance reports that had been filed by candidates. She stated that she then called the election division and was told that the report was due April 19. She stated that she called the Sierra Club again and they said that they did not receive a form. She said that she has no explanation why twice in a row she did not receive a form. She said that she did file immediately once she found out the deadline had been missed. She said she did not know if there was a problem with the Sierra Club office or whether the notices were being sent to the wrong address. She said that she assumes what she should do is to get a schedule of when reports are due on an annual basis so that she can record those dates on her calendar.

There being no further questions or comments the Chair closed the hearing on case number 02-4404-85. The Chair moved that 75% of the proposed fine be imposed in the amount of One Hundred Fifty Dollars (\$150.00), plus costs of Three Dollars and Ninety Four Cents (\$3.94), for a total of One Hundred and Fifty Three Dollars and Ninety Four Cents (\$153.94). 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. Perkins and Mr. Klineman), and no member voting "nay", the motion was adopted.

**f. Dune Shore Political Action Committee for Education, case number 02-123-69**

The Chair recognized Nancy Pappas who indicated that she was with ISTA and was appearing on case number 02-123-69.

The Chair recognized Ms. Potesta who stated that the Dune Shore Political Action Committee for Education, case number 02-123-69, on page one of the Commission's spreadsheet, filed its report on April 19 at 3:32 p.m., received notice on June 24, has never been before the Commission, and has a proposed penalty, plus costs, of Fifty Three Dollars and Ninety Four Cents (\$53.94).



The Chair recognized Ms. Pappas who stated that she is a staff consultant assigned to this committee. She stated that this committee mailed to their office a completed report a week in advance of the filing deadline. She stated that when reports are due her practice is to fax reminders to all local PAC treasurers about two weeks in advance of the filing deadline. She stated that she asks the treasurers to fax a completed report to her the day that the reporting period ends. She said that she received the report for this PAC a day early and had reviewed it and approved it. She stated that the PAC's treasurer put the original report in the mail to her the next day but she did not receive it until the afternoon mail on the day that the report was due. She stated that as soon as she received it her office ran the report over to file with the election division. She stated that she hates it that this committee was late because this committee is very diligent about submitting its reports. She stated that she believed that this is the first time that one of their committees has been late and she apologized for that.

The Chair asked whether they ask the local committee to fax it directly to the election division after they have approved it. Ms. Pappas indicated that they did not because they want to make sure on their end that all of the reports come in and they bring them over all at once. She added that the committee did file with the local election board in a timely fashion. She called them and asked them to fax that report down so that the Commission could see that they timely filed that report locally. She said that this report, even though it was mailed a week in advance to her, did not reach her until after the filing deadline.

The Chair asked whether she considered bringing over the copy of the report that was faxed to her a week before the deadline to file it with the election division. Ms. Pappas indicated that she wished she would have.

The Chair asked if there were any questions or comments. Mr. Long moved to dismiss the case because this organization has an impeccable record of filing, the report was clearly done early, and even though the mail took a week to be delivered the report was filed only three hours late. Mr. Klineman seconded the motion.

The Chair recognized Mr. Perkins who indicated that he had a comment. He said that he did not disagree with Commissioner Long's comments, but even though this organization has an impeccable record, the Commission has been consistent in their enforcement. He stated that if the Commission dismisses this case based on the fact that the organization has an impeccable record then that sets a precedent in a different direction. He stated that depending on the outcome of this motion he would be inclined to reduce the fine to 25% of the proposed fine because this is the first time the committee has been before the Commission for a campaign finance violation.

The Chair recognized Mr. Klineman who asked Ms. Pappas whether the report was timely filed locally. Ms. Pappas indicated that it was. Mr. Klineman asked if Ms. Pappas had a copy of that report. Ms. Pappas indicated that she did and she passed that copy to the Commission.

Mr. Perkins asked where that was filed. Ms. Pappas said it was with the circuit court clerk's office in LaPorte County. The Chair indicated that the stamp on the report appeared to be April 17. Mr. Long said his copy was clearer but then noted that his was filed in Starke County and the Chair indicated he had a copy filed with St. Joseph County. Ms. Pappas indicated that they always try to do more than the law requires.

Mr. Klineman inquired whether they file in all 92 counties. Ms. Pappas indicated that not every committee files in all 92 counties. She added that if she has a political action committee that goes into four counties then the committee files in those four counties.

Mr. Perkins indicated that, with the understanding that the committee has filed in all the counties in which it operates, he would withdraw his comments.

The Chair indicated that there was a motion pending that had been seconded. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

**g. Friends of Kincaid, case number 02-4717-98**

The Chair recognized Andrew Kincaid who stated he was present for case number 02-4717-98 and that he was a candidate for state representative.

The Chair recognized Pam Potesta who said that the Friends of Kincaid committee, case number 02-4717-98 filed its report on April 19 at 5:27 p.m., received notice on June 20, has never been before the Commission, and has a proposed penalty, plus costs, of Fifty Three Dollars and Ninety Four Cents (\$53.94).

The Chair recognized Mr. Kincaid who apologized for having to come before the Commission. He stated that he attempted to fax the report before the noon deadline, and he thought that the report did go through the fax machine, but for some reason or another it did not. He said that this is the only excuse he had today. He said that when they found out it did not go through they faxed it over and over until they received confirmation that it had been received. He said that this will not happen again and that he takes it personally and would rather this not be on his record. He said that the lesson he learned here was to file the report a couple of days before the deadline. He said that trying to fax the report prior to the noon deadline on the due date might not be good enough to get it filed.

Mr. Long asked if Mr. Kincaid had his faxed copy of the report to show the Commission. Mr. Kincaid indicated that he did not. The Chair asked if Mr. Kincaid had a copy of a fax that shows that it went through before noon.

Mr. Perkins asked what district Mr. Kincaid was running in. Mr. Kincaid responded that he was running in district 36 which is comprised of Madison County and a little bit of Hamilton County.

Ms. Thompson confirmed that the election division’s copy showed a fax time of 5:27 p.m.

Mr. Long asked how Mr. Kincaid learned the fax did not go through. Mr. Kincaid said that he got a call from the campaign manager of the candidate that used to have the seat he is running for and he told him that it did not go through. He stated that he then called and checked with the election division and was told that the division did not have the report.

The Chair advised Mr. Kincaid that the election division’s copy shows a fax time of 5:27 p.m. on April 19, which matches what staff has reported on the file.

There being no further questions or comments the Chair closed the hearing on case number 02-4717-98. Mr. Long moved that 25% of the Fifty Dollar (\$50.00) proposed fine in the sum of Twelve Dollars and Fifty Cents, plus mailing costs in the sum of Three Dollars and Ninety Four Cents (\$3.94), for a total of Sixteen Dollars and Forty Four Cents (\$16.44), be imposed. Mr. Perkins seconded the motion.

Mr. Long commented to Mr. Kincaid that if Mr. Kincaid were elected that he would not be alone in being late in filing campaign finance reports. He said that it was not uncommon for incumbents to forget to file.

There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

**h. Safe PAC, case number 02-3756-76**

The Chair recognized Delan Vigh who stated he was from Muncie and was appearing on behalf of Safe PAC, case number 02-3756-76.

The Chair recognized Pam Potesta who stated that Safe PAC, case number 02-3756-76, filed its report on April 23, received notice on June 20, has been before the Commission on two previous occasions and has a proposed penalty, plus costs, of Two Hundred and Three Dollars and Ninety Four Cents (\$203.94).

The Chair recognized Delan Vigh who stated that he would keep his remarks short. He indicated that this was an oversight. The secretary of Safe PAC thought the report was due at the beginning of May but someone else caught the oversight on April 23 and was immediately filed on that date. He added that the PAC had not active between April 19 and April 23. He offered an apology for the lateness of the report.

The Chair asked if there were any questions or comments. There being none the Chair closed the hearing on case number 02-3756-76. Mr. Perkins moved that 75% of the proposed fine, plus the mailing costs, be imposed, for a total of One Hundred and Fifty Three Dollars and Ninety Four Cents (\$153.94). There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

**i. Fort Wayne Professional Firefighters Local 124 PAC, case number 02-1504-73**

The Chair recognized Jeffrey Stemen who indicated that he was the treasurer of the Fort Wayne Professional Firefighters Local 124 PAC, case number 02-1504-73.

The Chair recognized Pam Potesta who indicated that Fort Wayne Professional Firefighters Local 124 PAC, case number 02-1504-73, filed its report on April 24, received notice on June 25, has never been before the Commission, and has a proposed penalty, plus costs, of Two Hundred and Fifty Three Dollars and Ninety Four Cents (\$253.94).

The Chair recognized Mr. Stemen who indicated that the cover sheet does show that he faxed it to the election division on April 24. He stated that he mailed it out of a Fort Wayne post office on April 15 and for some reason it was not delivered. He stated that he called the election division with a question on another matter and learned that the division had not received the report. He stated that when he learned this he immediately went to a fax machine and faxed the report. He said that he is new to the position of treasurer and was doing what his predecessor had done. He said that they had never had problems before but considering this experience he will fax it from now on.

The Chair asked if there were any further questions or comments. There being none the Chair closed the hearing on case number 02-1504-73.

Mr. Perkins asked whether the report was sent certified or regular mail. Mr. Stemen said that he mailed it regular mail thinking that five days advance mailing was sufficient.

Mr. Long asked if the mail was returned undelivered. Mr. Stemen indicated that it was not. Mr. Long asked staff to look to see if the original was in the file. Ms. Thompson indicated that the only report in the file was the faxed copy of the report.

The Chair moved that 25% of the proposed fine, plus the mailing costs, be imposed for a total of Sixty Six Dollars and Forty Four Cents (\$66.44). 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. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

The Chair asked if there were any other persons present to offer testimony to the Commission on a campaign finance report. There was no response.

**j. Indiana Republican State Central Committee, case 02-17-68**

Mr. Long asked to see the file on case number 68. He reviewed the file.

Mr. Long moved that the campaign finance case against the Indiana Republican Central Committee, case number 02-17-68, be dismissed for the reasons that this committee has never been before the Commission for a campaign finance violation and the committee was only two minutes late. Mr. Klineman 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. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

**k. Vigo County Republican Central Committee, case number 02-4781-104**  
**l. Dubois County Republican Central Committee, case number 02-4460-89**

The Chair stated that there were a couple of county organizations on the spreadsheet and indicated that the usual treatment of these committees was to dismiss if they filed with the local county election board. The Chair asked if they filed locally. Michelle stated that they did.

Mr. Long moved to dismiss the campaign finance cases against Vigo County Republican Central Committee, case number 02-4781-104, and Dubois County Republican Central Committee, case number 02-4460-89, for the reason that these committees timely filed campaign finance reports in the county and that the state filing is more of a technicality and courtesy filing. Mr. Klineman 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. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

**m. 5<sup>th</sup> District Democratic Central Committee, case number 02-4278-81**

The Chair recognized Mr. Klineman and asked whether the Commission members could look at case number 02-4278-81, the 5<sup>th</sup> District Democratic Central Committee.

The Chair recognized Mr. Valentine who stated that the district chairman, Mr. Imbler, called him about this committee and said that the committee’s campaign finance report was filed in the county but he did not have access to a copier at the time of his call.

Mr. Long moved to table this case until the next meeting to allow the committee to submit copies of their county filings, if any, and, if so, the Commission could revisit the case. Mr. Klineman 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. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

There being no other individuals present to offer testimony, and after Commission members reviewed all documents submitted by the parties, the Chair asked if there was a motion with regard to the remaining committees.

Mr. Long then moved that the fines of the following committees be reduced to 25% of the proposed fine plus costs of mailing: 1) Emily’s List-Indiana PAC, case number 02-4208-79; 2) Ironworkers Local 439 PAC Fund, case number 02-4374-84; 3) Hoosiers Against Crazy Taxes, case number 02-4472-90; 4) Indiana’s Finest Political Action Committee, case number 02-4568-93; 5) The Phoenix Group PAC, case number 02-4679-95; 6) Friends of Brenda Jackson, case number 02-4726-99; 7) Michael Batz for State Representative, case number 02-4751-100; 8) Committee to Elect Ed Ping State Senator, case number 02-4770-101; 9) Committee to Elect Tim Harmon, case number 02-4771-102; 10) Montgomery for Indiana House of Representatives, case number 02-4776-103; 11) Committee to Elect Jerry Papenmeier to State Representative, case number 02-4793-105; 12) Committee to Elect Tim Skinner to State Senate, case number 02-4797-106; 13) Committee to Elect Brooks LaPlante, case number 02-4815-108; and 14) Committee to Elect Brocksmith State Representative, case number 02-4819-109. Mr. Perkins 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. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

Mr. Long then moved that the fines of the following committees be reduced to 75% of the proposed fine plus costs of mailing: 1) Grocers PAC, case number 02-341-70; 2) Back PAC, case number 02-1189-72; 3) Safe PAC, case number 02-3756-76; 4) Partners for Growth and Jobs, case number 02-4315-82; and 5) New Democrat Network, case number 02-4424-86. Mr. Perkins 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. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

Mr. Perkins then moved that the fines of the following committees be reduced to 50% of the proposed fine plus costs of mailing: 1) David Ford for State Senator, case number 02-3797-77; 2) Valparaiso Firefighters PAC, case number 02-4359-83; 3) KeyCorp Political Action Committee, case number 02-4429-87; 4) Campaign for Indiana’s Future, case number 02-4496-91; 5) Committee to Elect Mary Wheeler, case number 02-4547-92; 6) Hoosier Project, case number 02-4667-94; 7) Franklin Township Firefighters District PAC, case number 02-4716-97; 8) Elect Roach- A Sure Bet, case number 02-4822-110; 9) Medina for State Representative Committee, case number 4823-111; and 10) Kinser for State Representative 65<sup>th</sup>, case number 02-4831-112. 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. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

Mr. Long then moved that the entire amount of the proposed fines for the following committees be imposed plus costs of mailing: 1) Insurance Men’s PAC, case number 02-825-71; 2) International Brotherhood of Painters and Allied Trades, case number, 02-1538-74; 3) Indiana Fraternal Order of Police Action Plan, case number 02-1798-75; 4) Black America’s Political Action Committee, case number 02-4173-78; 5) Indiana Family and Freedom Committee, case number 02-4231-80; and 6) Hoosier Osteopathic Political Action Committee, case number 02-4431-88. Mr. Perkins 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. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

These cases were disposed as is set forth in more detail herein below:

**n. Emily’s List-Indiana PAC, case number 02-4208-79**

The record showed that Emily’s List-Indiana PAC, case number 02-4208-79, filed its report April 22, 2002, received notice on June 21, 2002, that this is the first time this committee has appeared before the Commission, and that the proposed fine for this committee is One Hundred and Fifty Dollars (\$150.00).

Mr. Long moved that a fine of Thirty Seven Dollars and Fifty Cents (\$37.50) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of Forty One Dollars and Forty Four Cents (\$41.44), be imposed on the Emily’s List-Indiana PAC under case number 02-4208-79. Mr. Perkins 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. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

**o. Ironworkers Local 439 PAC Fund, case number 02-4374-84**

The record showed that Ironworkers Local 439 PAC Fund, case number 02-4374-84, filed its report April 22, 2002, received notice on June 19, 2002, that this is the first time this committee has appeared before the Commission, and that the proposed fine for this committee is One Hundred and Fifty Dollars (\$150.00).

Mr. Long moved that a fine of Thirty Seven Dollars and Fifty Cents (\$37.50) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of Forty One Dollars and Forty Four Cents (\$41.44), be imposed on the Ironworkers Local 439 PAC Fund, case number 02-4374-84. Mr. Perkins 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. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

**p. Hoosiers Against Crazy Taxes committee, case number 02-4472-90**

The record showed that the Hoosiers Against Crazy Taxes committee, case number 02-4472-90, has not yet filed a report, that this is the first time this committee has appeared before the Commission, and that the proposed fine for this committee is One Thousand Dollars (\$1000.00).

Mr. Long moved that a fine of Two Hundred and Fifty Dollars (\$250.00) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of Two Hundred and Fifty Three Dollars and Ninety Four Cents (\$253.94), be imposed on the Hoosiers Against Crazy Taxes committee, case number 02-4472-90. Mr. Perkins 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. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

**q. Indiana’s Finest Political Action Committee, case number 02-4568-93**

The record showed that the Indiana’s Finest Political Action Committee, case number 02-4568-93, filed its report on June 24, 2002, received notice on June 20, 2002, has not yet filed a report, that this is the

first time this committee has appeared before the Commission, and that the proposed fine for this committee is One Thousand Dollars (\$1000.00).

Mr. Long moved that a fine of Two Hundred and Fifty Dollars (\$250.00) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of Two Hundred and Fifty Three Dollars and Ninety Four Cents (\$253.94), be imposed on the Indiana's Finest Political Action Committee, case number 02-4568-93. Mr. Perkins 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. Perkins and Mr. Klineman), and no member voting "nay", the motion was adopted.

**r. The Phoenix Group PAC, case number 02-4679-95**

The record showed that The Phoenix Group PAC, case number 02-4679-95, filed its report on April 19, 2002, that this is the first time this committee has appeared before the Commission, and that the proposed fine for this committee is Fifty Dollars (\$50.00).

Mr. Long moved that a fine of Twelve Dollars and Fifty Cents (\$12.50) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of Sixteen Dollars and Forty Four Cents (\$16.44), be imposed on The Phoenix Group PAC, case number 02-4679-95. Mr. Perkins 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. Perkins and Mr. Klineman), and no member voting "nay", the motion was adopted.

**s. Friends of Brenda Jackson committee, case number 02-4726-99**

The record showed that the Friends of Brenda Jackson committee, case number 02-4726-99, filed its report on April 19, 2002, that this is the first time this committee has appeared before the Commission, and that the proposed fine for this committee is Fifty Dollars (\$50.00).

Mr. Long moved that a fine of Twelve Dollars and Fifty Cents (\$12.50) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of Sixteen Dollars and Forty Four Cents (\$16.44), be imposed on the Friends of Brenda Jackson committee, case number 02-4726-99. Mr. Perkins 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. Perkins and Mr. Klineman), and no member voting "nay", the motion was adopted.

**t. Michael Batz for State Representative committee, case number 02-4751-100**

The record showed that the Michael Batz for State Representative committee, case number 02-4751-100, filed its report on May 1, 2002, received notice June 19, 2002, that this is the first time this committee has appeared before the Commission, and that the proposed fine for this committee is Six Hundred Dollars (\$600.00).

Mr. Long moved that a fine of One Hundred Fifty Dollars (\$150.00) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of One Hundred Fifty Three Dollars and Ninety Four Cents (\$153.94), be imposed on the Michael Batz for State Representative committee, case number 02-4751-100. Mr. Perkins 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. Perkins and Mr. Klineman), and no member voting "nay", the motion was adopted.

**u. Committee to Elect Ed Ping State Senator, case number 02-4770-101**

The record showed that the Committee to Elect Ed Ping State Senator, case number 02-4770-101, filed its report on April 19, 2002, received notice June 20, 2002, that this is the first time this committee has appeared before the Commission, and that the proposed fine for this committee is Fifty Dollars (\$50.00).

Mr. Long moved that a fine of Twelve Dollars and Fifty Cents (\$12.50) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of Sixteen Dollars and Forty Four Cents (\$16.44), be imposed on the Committee to Elect Ed Ping State Senator, case number 02-4770-101. Mr. Perkins 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. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

**v. Committee to Elect Tim Harmon, case number 02-4771-102**

The record showed that the Committee to Elect Tim Harmon, case number 02-4771-102, filed its report on April 19, 2002, received notice June 20, 2002, that this is the first time this committee has appeared before the Commission, and that the proposed fine for this committee is Fifty Dollars (\$50.00).

Mr. Long moved that a fine of Twelve Dollars and Fifty Cents (\$12.50) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of Sixteen Dollars and Forty Four Cents (\$16.44), be imposed on the Committee to Elect Tim Harmon, case number 02-4771-102. Mr. Perkins 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. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

**w. Montgomery for Indiana House of Representatives committee, case number 02-4776-103**

The record showed that the Montgomery for Indiana House of Representatives committee, case number 02-4776-103, filed its report on April 24, 2002, that this is the first time this committee has appeared before the Commission, and that the proposed fine for this committee is Two Hundred and Fifty Dollars (\$250.00).

Mr. Long moved that a fine of Sixty Two Dollars and Fifty Cents (\$62.50) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of Sixty Six Dollars and Forty Four Cents (\$66.44), be imposed on the Montgomery for Indiana House of Representatives committee, case number 02-4776-103. Mr. Perkins 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. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

**x. Committee to Elect Jerry Papenmeier to State Representative, case number 02-4793-105**

The record showed that the Committee to Elect Jerry Papenmeier to State Representative, case number 02-4793-105, filed its report on April 23, 2002, received notice on June 20, 2002, that this is the first time this committee has appeared before the Commission, and that the proposed fine, plus costs, for this committee is Two Hundred Dollars (\$200.00).



Mr. Long moved that a fine of Fifty Dollars and Fifty Cents (\$50.00) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of Fifty Three Dollars and Ninety Four Cents (\$53.94), be imposed on the Committee to Elect Jerry Papenmeier to State Representative, case number 02-4793-105. Mr. Perkins 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. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

**y. Committee to Elect Tim Skinner to State Senate, case number 02-4797-106**

The record showed that the Committee to Elect Tim Skinner to State Senate, case number 02-4797-106, filed its report on April 29, 2002, received notice on June 20, 2002, that this is the first time this committee has appeared before the Commission, and that the proposed fine for this committee is Five Hundred Dollars (\$500.00).

Mr. Long moved that a fine of One Hundred and Twenty Five Dollars (\$125.00) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of One Hundred and Twenty Eight Dollars and Ninety Four Cents (\$128.94), be imposed on the Committee to Elect Tim Skinner to State Senate, case number 02-4797-106. Mr. Perkins 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. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

**z. Committee to Elect Brooks LaPlante, case number 02-4815-108**

The record showed that the Committee to Elect Brooks LaPlante, case number 02-4815-108, filed its report on April 19, 2002, received notice on June 21, 2002, that this is the first time this committee has appeared before the Commission, and that the proposed fine for this committee is Fifty Dollars (\$50.00).

Mr. Long moved that a fine of Twelve Dollars and Fifty Cents (\$12.50) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of Sixteen Dollars and Forty Four Cents (\$16.44), be imposed on the Committee to Elect Brooks LaPlante, case number 02-4815-108. Mr. Perkins 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. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

**aa. Committee to Elect Brocksmith State Representative, case number 02-4819-109**

The record showed that the Committee to Elect Brocksmith State Representative, case number 02-4819-109, filed its report on April 19, 2002, received notice on June 21, 2002, that this is the first time this committee has appeared before the Commission, and that the proposed fine for this committee is One Hundred Fifty Dollars (\$150.00).

Mr. Long moved that a fine of Thirty Seven Dollars and Fifty Cents (\$37.50) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of Forty One Dollars and Forty Four Cents (\$41.44), be imposed on the Committee to Elect Brocksmith State Representative, case number 02-4819-109. Mr. Perkins 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. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

**bb. Grocers PAC, case number 02-341-70**

The record showed that the Grocers PAC, case number 02-341-70, has not filed a report, received notice on June 19, 2002, that this is the third time this committee has appeared before the Commission, and that the proposed fine for this committee is One Thousand Dollars (\$1,000.00).

Mr. Long moved that a fine of Seven Hundred Fifty Dollars (\$750.00) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of Seven Hundred Fifty Three Dollars and Ninety Four Cents (\$753.94), be imposed on the Grocers PAC, case number 02-341-70. Mr. Perkins 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. Perkins and Mr. Klineman), and no member voting "nay", the motion was adopted.

**cc. Back PAC, case number 02-1189-72**

The record showed that the Back PAC, case number 02-1189-72, filed its report on April 19, received notice on June 19, 2002, that this is the third time this committee has appeared before the Commission, and that the proposed fine for this committee is Fifty Dollars (\$50.00).

Mr. Long moved that a fine of Thirty Seven Dollars and Fifty Cents (\$37.50) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of Forty One Dollars and Forty Four Cents (\$41.44), be imposed on the Back PAC, case number 02-1189-72. Mr. Perkins 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. Perkins and Mr. Klineman), and no member voting "nay", the motion was adopted.

**dd. Partners for Growth and Jobs committee, case number 02-4315-82**

The record showed that the Partners for Growth and Jobs, case number 02-4315-82, filed its report on April 19, received notice on June 21, 2002, that this is the third time this committee has appeared before the Commission, and that the proposed fine for this committee is Fifty Dollars (\$50.00).

Mr. Long moved that a fine of Thirty Seven Dollars and Fifty Cents (\$37.50) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of Forty One Dollars and Forty Four Cents (\$41.44), be imposed on the Partners for Growth and Jobs committee, case number 02-4315-82. Mr. Perkins 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. Perkins and Mr. Klineman), and no member voting "nay", the motion was adopted.

**ee. New Democrat Network, case number 02-4424-86**

The record showed that the New Democrat Network, case number 02-4424-86, filed its report on April 30, that this is the third time this committee has appeared before the Commission, and that the proposed fine for this committee is Five Hundred and Fifty Dollars (\$550.00).

Mr. Long moved that a fine of Four Hundred Twelve Dollars and Fifty Cents (\$412.50) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of Four Hundred and Sixteen Dollars and Forty Four Cents (\$416.44), be imposed on the New Democrat Network, case number 02-4424-86. Mr. Perkins 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. Perkins and Mr. Klineman), and no member voting "nay", the motion was adopted.

**ff. David Ford for State Senator committee, case number 02-3797-77**

The record showed that the David Ford for State Senator, case number 02-3797-77, filed its report on April 19, that this is the second time this committee has appeared before the Commission, and that the proposed fine for this committee is Fifty Dollars (\$50.00).

Mr. Perkins moved that a fine of Twenty Five Dollars (\$25.00) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of Twenty Eight Dollars and Ninety Four Cents (\$28.94), be imposed on the David Ford for State Senator committee, case number 02-3797-77. 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. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

**gg. Valparaiso Firefighters PAC, case number 02-4359-83**

The record showed that the Valparaiso Firefighters PAC, case number 02-4359-83, filed its report on April 23, received notice on June 21, 2002, that this is the second time this committee has appeared before the Commission, and that the proposed fine for this committee is Two Hundred Dollars (\$200.00).

Mr. Perkins moved that a fine of One Hundred Dollars (\$100.00) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of One Hundred Three Dollars and Ninety Four Cents (\$103.94), be imposed on the Valparaiso Firefighters PAC, case number 02-4359-83. 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. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

**hh. KeyCorp Political Action Committee, case number 02-4429-87**

The record showed that the KeyCorp Political Action Committee, case number 02-4429-87, filed its report on April 22, received notice on June 20, 2002, that this is the second time this committee has appeared before the Commission, and that the proposed fine for this committee is One Hundred Fifty Dollars (\$150.00).

Mr. Perkins moved that a fine of Seventy Five Dollars (\$75.00) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of Seventy Eight Dollars and Ninety Four Cents (\$78.94), be imposed on the KeyCorp Political Action Committee, case number 02-4429-87. 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. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

**ii. Campaign for Indiana’s Future committee, case number 02-4496-91**

The record showed that the Campaign for Indiana’s Future committee, case number 02-4496-91, filed its report on June 18, 2002, that this is the second time this committee has appeared before the Commission, and that the proposed fine for this committee is One Thousand Dollars (\$1000.00).

Mr. Perkins moved that a fine of Five Hundred Dollars (\$500.00) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of Five Hundred and Three Dollars and Ninety Four Cents (\$503.94), be imposed on the Campaign for Indiana’s Future committee, case number 02-4496-91. 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. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

**jj. Committee to Elect Mary Wheeler, case number 02-4547-92**

The record showed that the Committee to Elect Mary Wheeler, case number 02-4547-92, filed its report on April 19, 2002, received notice on June 19, 2002, that this is the second time this committee has appeared before the Commission, and that the proposed fine for this committee is Fifty Dollars (\$50.00).

Mr. Perkins moved that a fine of Twenty Five Dollars (\$25.00) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of Twenty Eight Dollars and Ninety Four Cents (\$28.94), be imposed on the Committee to Elect Mary Wheeler, case number 02-4547-92. 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. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

**kk. Hoosier Project committee, case number 02-4667-94**

The record showed that the Hoosier Project committee, case number 02-4667-94, filed its report on April 19, 2002, that this is the second time this committee has appeared before the Commission, and that the proposed fine for this committee is Fifty Dollars (\$50.00).

Mr. Perkins moved that a fine of Twenty Five Dollars (\$25.00) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of Twenty Eight Dollars and Ninety Four Cents (\$28.94), be imposed on the Hoosier Project committee, case number 02-4667-94. 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. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

**ll. Franklin Township Firefighters District PAC, case number 02-4716-97**

The record showed that the Franklin Township Firefighters District PAC, case number 02-4716-97, filed its report on April 24, 2002, that this is the second time this committee has appeared before the Commission, and that the proposed fine for this committee is Two Hundred Fifty Dollars (\$250.00).

Mr. Perkins moved that a fine of One Hundred Twenty Five Dollars (\$125.00) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of One Hundred Twenty Eight Dollars and Ninety Four Cents (\$128.94), be imposed on the Franklin Township Firefighters District PAC, case number 02-4716-97. Mr. Long seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruel, Mr. Long, Mr. Perkins and Mr. Lineman), and no member voting “nay”, the motion was adopted.

**mm. Elect Roach- A Sure Bet committee, case number 02-4822-110**

The record showed that the Elect Roach- A Sure Bet committee, case number 02-4822-110, filed its report on April 24, 2002, received notice June 20, 2002, that this is the second time this committee has appeared before the Commission, and that the proposed fine for this committee is Three Hundred Dollars (\$300.00).

Mr. Perkins moved that a fine of One Hundred Fifty Dollars (\$150.00) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of One Hundred Fifty Three Dollars and Ninety Four Cents (\$153.94), be imposed on the Elect Roach- A Sure Bet committee, case number 02-4822-110. 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. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

**nn. Medina for State Representative Committee, case number 4823-111**

The record showed that the Medina for State Representative Committee, case number 4823-111, filed its report on April 19, 2002, that this is the second time this committee has appeared before the Commission, and that the proposed fine for this committee is Fifty Dollars (\$50.00).

Mr. Perkins moved that a fine of Twenty Five Dollars (\$25.00) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of Twenty Eight Dollars and Ninety Four Cents (\$28.94), be imposed on the Medina for State Representative Committee, case number 4823-111. 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. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

**oo. Kinser for State Representative 65<sup>th</sup> committee, case number 02-4831-112**

The record showed that the Kinser for State Representative 65<sup>th</sup> committee, case number 02-4831-112, filed its report on April 19, 2002, received notice on June 20, 2002, that this is the second time this committee has appeared before the Commission, and that the proposed fine for this committee is Fifty Dollars (\$50.00).

Mr. Perkins moved that a fine of Twenty Five Dollars (\$25.00) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of Twenty Eight Dollars and Ninety Four Cents (\$28.94), be imposed on the Kinser for State Representative 65<sup>th</sup> committee, case number 02-4831-112. 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. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

**pp. Insurance Men’s PAC, case number 02-825-71**

The record showed that the Insurance Men’s PAC, case number 02-825-71, filed its report on April 24, 2002, that this committee has previously appeared before the Commission on campaign finance violations at least three times in the past, and that the proposed fine for this committee is Two Hundred Fifty Dollars (\$250.00).

Mr. Long moved that the full fine of Two Hundred Fifty Dollars (\$250.00) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of Two Hundred Fifty Three Dollars and Ninety Four Cents (\$253.94), be imposed on the Insurance Men’s PAC, case number 02-825-71. Mr. Perkins 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. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

**qq. International Brotherhood of Painters and Allied Trades committee, case number, 02-1538-74**

The record showed that the International Brotherhood of Painters and Allied Trades committee, case number, 02-1538-74, filed its report on June 5, 2002, that this committee has previously appeared before the Commission on campaign finance violations at least three times in the past, and that the proposed fine for this committee is One Thousand Dollars (\$1000.00).

Mr. Long moved that the full fine of One Thousand Dollars (\$1000.00) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of One Thousand Three Dollars and Ninety Four Cents (\$1003.94), be imposed on the International Brotherhood of Painters and Allied Trades committee, case number, 02-1538-74. Mr. Perkins 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. Perkins and Mr. Klineman), and no member voting "nay", the motion was adopted.

**rr. Indiana Fraternal Order of Police Action Plan committee, case number 02-1798-75**

The record showed that the Indiana Fraternal Order of Police Action Plan committee, case number 02-1798-75, filed its report on May 1, 2002, received notice on June 20, 2002, that this committee has previously appeared before the Commission on campaign finance violations at least three times in the past, and that the proposed fine for this committee is Six Hundred Dollars (\$600.00).

Mr. Long moved that the full fine of Six Hundred Dollars (\$600.00) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of Six Hundred Three Dollars and Ninety Four Cents (\$603.94), be imposed on the Indiana Fraternal Order of Police Action Plan committee, case number 02-1798-75. Mr. Perkins 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. Perkins and Mr. Klineman), and no member voting "nay", the motion was adopted.

**ss. Black America's Political Action Committee, case number 02-4173-78**

The record showed that the Black America's Political Action Committee, case number 02-4173-78, filed its report on April 30, 2002, received notice on June 20, 2002, that this committee has previously appeared before the Commission on campaign finance violations at least three times in the past, and that the proposed fine for this committee is Five Hundred and Fifty Dollars (\$550.00).

Mr. Long moved that the full fine of Five Hundred and Fifty Dollars (\$550.00) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of Five Hundred Fifty Three Dollars and Ninety Four Cents (\$553.94), be imposed on the Black America's Political Action Committee, case number 02-4173-78. Mr. Perkins 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. Perkins and Mr. Klineman), and no member voting "nay", the motion was adopted.

**tt. Indiana Family and Freedom Committee, case number 02-4231-80**

The record showed that the Indiana Family and Freedom Committee, case number 02-4231-80, has not filed a report, received notice on June 19, 2002, that this committee has previously appeared before the Commission on campaign finance violations at least three times in the past, and that the proposed fine for this committee is One Thousand Dollars (\$1000.00).

Mr. Long moved that the full fine of One Thousand Dollars (\$1000.00) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of One Thousand Three Dollars and Ninety Four Cents (\$1003.94), be imposed Indiana Family and Freedom Committee, case number

02-4231-80. Mr. Perkins 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. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

**uu. Hoosier Osteopathic Political Action Committee, case number 02-4431-88**

The record showed that the Hoosier Osteopathic Political Action Committee, case number 02-4431-88, filed a report on April 24, 2002, received notice on June 20, 2002, that this committee has previously appeared before the Commission on campaign finance violations at least three times in the past, and that the proposed fine for this committee is Two Hundred and Fifty Dollars (\$250.00).

Mr. Long moved that the full fine of Two Hundred Fifty Dollars (\$250.00) and mailing costs in the amount of Three Dollars and Ninety Four Cents (\$3.94), for a total of Two Hundred Fifty Three Dollars and Ninety Four Cents (\$253.94), be imposed Hoosier Osteopathic Political Action Committee, case number 02-4431-88. Mr. Perkins 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. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

**wv. Campaign Finance Orders**

The Chair then announced the next agenda item, approval of Orders 2002-65 through 2002-81, regarding the previous actions taken by the Commission with respect to the disposition of campaign finance cases.

The Chair recognized Ms. Robertson who indicated that these orders reflect the action taken by the Commission at the meeting of March 28, 2002 on campaign finances cases. She directed the Commission’s attention to the packets where copies of the orders were contained.

Mr. Long asked if the orders were numbered consecutively, 65 through 81. Ms. Robertson indicated that his was correct. Mr. Long asked if they should approve the orders one at a time. Ms. Robertson indicated that the orders could be approved in one motion.

Mr. Long moved that the Commission approve Orders 2002-65 through 2002-81, inclusive. The Chair 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. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted.

**ww. Status Report on Defective Report of Milan Kesic**

The Chair recognized Ms. Thompson who indicated at the last meeting the Commission requested staff to perform an audit on Milan Kesic’s campaign finance report. She stated that the staff finished the audit, advised the candidate of defects in the report, and the candidate filed an amended report curing the defects.

Mr. Long asked if the Commission needed to take any action. The Chair asked if this was the report that state representative Aguilera had inquired about. Ms. Thompson indicated that it was. The Chair requested staff to send a letter to representative Aguilera advising him the report was amended. The Chair asked Commission members if that seemed appropriate. Mr. Long indicated that it did seem appropriate and asked that representative Aguilera also be advised that he could bring any further matters to the Commission for consideration.

**xx. Status Report on Attorney General Collection of Administrative Penalties**

The Chair asked for the status of collection cases being pursued on behalf of the Commission by the attorney general's office. Ms. Thompson indicated that the attorney general's office contacted staff regarding the disposition of cases deemed not collectable. Ms. Thompson indicated that she did not know whether the Commission wanted the attorney general's office to make that decision and asked Mr. Simmons to elaborate.

The Chair recognized Mr. Simmons who stated that the attorney general's office is asking the Commission for guidance on collection cases. He said that the attorney general's office represents all state agencies and represents the Commission in these collection cases. He said that the Commission is the named plaintiff in these cases. He explained that the attorney general's office, as the attorney for the Commission in these cases, is asking the Commission for guidance of how to dispose of cases that they deem not collectable. He indicated that the attorney general's office has inquired whether they should ask election division staff, whether the attorney general's office should make the decision, or whether the Commission would like the attorney general's office to bring the cases it deems not collectable to the Commission for the final authority to dispose of those cases.

The Chair asked how the previous administration handled it. Ms. Thompson indicated that they used to send the Commission a letter that indicated that they were closing files because they found that continuing collection action was not cost effective. Ms. Thompson indicated that the current administration would like to put it into the Commission's hands.

Mr. Long indicated that the decision should be with the Commission since the Commission is the client. He indicated that the attorney general's office should report to the Commission on the cases that it deems to be not cost effective. He stated that he would like to know what the recommendations are, not that he would dispute the recommendations, but at least the Commission would have the opportunity to make the ultimate decision. The other Commission members indicated their agreement. Mr. Long added that the attorney general's office should be applauded for bringing it to the Commission because that is the way it should be done.

Mr. Valentine asked if that needed a motion. Mr. Simmons stated that he thought the attorney general's office was in a position, since they had provided staff with information, to provide the same kind of information to the Commission for their consideration at the next meeting.

Mr. Long asked what happens if a candidate is assessed a fine and does not pay it and then the candidate wants to run again. The Chair asked if someone could run for office if they owe fines.

The Chair recognized Ms. Robertson who indicated that they could run again but they could have the fine collected from their salary as an elected official. Mr. Long quipped that this might be a good reason to support a candidate.

**yy. Status Report- Excess Corporate and Labor Union Contributions**

The Chair recognized Ms. Thompson who stated that in the Commission's packet was a response from Bonar Group regarding the staff's investigation into a possible excess contribution. Ms. Thompson directed the Commission's attention to that response and Commission members reviewed it.

Ms. Thompson also mentioned that other issues had come up with respect to excess corporate contributions. She stated that behind the response of the Bonar Group in the Commission's packet is a list of committees that staff has questions about and staff is investigating. She stated that staff would



report the results of its investigation to the Commission. She said that the packet also contains a letter that staff proposes to send to further the investigation.

Mr. Long indicated that he had no problem with the letter and he moved that the letter be sent to the entities that are disclosed by staff's review to warrant further inquiry. The Chair 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. Perkins and Mr. Klineman), and no member voting "nay", the motion was adopted.

#### **4. Voting Systems**

The Chair recognized Mr. King who stated that there were several voting system matters in the Commission's packet under individual vendor headings. He stated that he would like to report briefly the correspondence and communications that the election division has had with these vendors.

He stated that ES&S had some follow up correspondence with respect to its application for approval of a voting system upgrade. He stated the application for this approval was submitted to the Commission at its March 28 meeting. He indicated that it is for Model 100 Version 4.7.6. He stated that the Commission asked for clarification whether the software for this system had been escrowed. He indicated that the March 26 letter from ES&S indicates that the software has been escrowed. He stated that staff still had some additional information it needed to secure from ES&S before it made a recommendation for approval of the upgrade but he said he wanted the Commission to know the status of the escrow question.

Mr. Long asked how the Commission can know whether the software has been escrowed.

The Chair recognized Mr. King, who stated that the letter from ES&S does note that it has an existing arrangement with the escrow company DSI Technology Escrow Services with respect to the Version 4.7.5. He said that he understands Mr. Long's question to be how we know whether Version 4.7.6 has been escrowed other than the letter provided by the vendor. He said that staff would be happy to send a confirmatory letter to the escrow company. Mr. Long stated that he thought the escrow company should send a confirmatory letter to the Commission confirming that they have the software in escrow. Mr. Valentine indicated that staff would send a letter requesting such a letter.

Mr. King indicated that the next vendor, Voting Technologies International, has submitted a new application for approval of a direct electronic recording system. He stated that there is a copy of the application in the Commission's packet. He stated that in correspondence to the CEO of the vendor, the co-directors noted that the vendor's letter had received a final report from Wyle Laboratories about the required software testing by an Independent Testing Authority and the co-directors have requested a copy of that final report before proceeding further with the application before the Commission. He stated that this vendor has contacted staff and expressed an interest in conducting a demonstration of their system before the Commission at the Commission's earliest opportunity. He continued that, if it is the Commission's pleasure, staff would advise the vendor that the next Commission meeting set for July 25, 2002, would be an opportunity for them to make that initial demonstration to the Commission. He stated that he would appreciate the Commission's guidance on this demonstration.

The Chair indicated that would be fine and then asked about MicroVote. Mr. King stated that the Commission's packet contains correspondence from MicroVote regarding two different voting system upgrades. He said the first one in the packet is the application regarding an upgrade to the Infinity

direct electronic recording voting system. He said that, as the letter notes, Version 2.04 was approved by the Commission on February 28. He said on the following page is a letter from MicoVote dated June 6 which upgrade of that previous version from 2.04 to 2.06. He indicated that co-director Valentine and himself responded to the request by acknowledging receipt of the application fee and the supplementary material supplied but indicated that additional information was needed before that request would be brought before the Commission for approval.

Mr. King then referred the Commission to the June 25 letter from Mr. Shamo of MicroVote. He said this letter regards the MicroVote 464 direct record electronic voting system that has been used in Indiana for many years. He said that MicroVote is requesting the Commission to approve an upgrade of the system's MEMS software from version 7.3 to 7.5. He stated that staff has requested the vendor to clarify whether the request is one for an emergency voting system change. He explained that an emergency voting system change has its own separate set of procedures that are different from the procedures where the request is not an emergency. He stated that he expects to have a response from MicroVote regarding that clarification and he expects to have been able to report back to the Commission regarding that clarification at the Commission's next meeting.

He said that there are no other applications pending and he would be glad to answer any questions the Commission may have. He said he would be advising VTI to conduct a demonstration at the Commission's next meeting.

Mr. King indicated that there is a separate tab in the Commission's packet regarding voting systems status reports. He said that he would begin with an explanation of the status of Monroe County. He stated that Monroe County experienced difficulty with the voting system in November 2000. He stated that articles have appeared in the Indianapolis Star and the Bloomington Herald Times indicating that MicroVote Corporation appeared before the Monroe County Election Board to address a question that had arising from the failure of memory cartridges of its MV 464 direct electronic voting system to read votes in the November 2000 election. He reported that the co-directors contacted MicroVote after seeing these reports and asked MicroVote to provide documentation.

He stated that the initial media reports indicated that static electricity was the cause of the malfunction in reading two cartridges from two different precincts in Monroe County. He added that although the County Election Board had determined that the votes contained on the two cartridges would not have changed the results in any race on the ballot in those two precincts, the County Election Board was very concerned regarding this event. He said that MicroVote advised the County Election Board (and copied the Co-Directors in this correspondence) that the actual cause for the malfunction was an inadvertant upload of software by MicroVote into Monroe County's election system. He said that MicroVote indicated that before Election Day 2000, a MicroVote staffer had conducted training for the County, and had brought a laptop to that training which contained MEMS version 7.4 (rather than MEMS version 7.3, the latest version of the software approved by the Commission). He said that MicroVote explained that as part of the training, the MEMS version 7.4 had been inadvertently uploaded to the Monroe County system, and was not deleted after the training was completed. He stated that MicroVote indicated that as a result of the presence of MEMS 7.4 in the system, the two cartridges were not properly read by the tabulation program. He said that MicroVote indicated that they have subsequently checked with their county customers and determined that one other county had also had MEMS version 7.5 installed on its system. He said that representatives of MicroVote indicated that in each case, the unapproved versions of the MEMS software had been removed from the county systems.

The Chair asked if a representative from MicroVote would be available at the Commission's next meeting. Mr. King indicated that they should be here.

Mr. Long stated that hopefully the Commission could find out what happened in Monroe County and what some of these problems that have been experienced around the state so that the Commission can determine if they need to take some type of action. He stated that if there are problems with systems that the Commission has certified then perhaps the Commission should review that certification if there is a uniform or common problem experienced by the counties.

## **5. Litigation Update**

The Chair recognized Mr. Simmons who stated that there has been no further action on two cases listed on the agenda, the *Rebecca Majors* case and the *Williamson* case. He explained that these two cases involve the challenge by Libertarian candidates to the requirement that they file campaign finance reports even when they do not raise or spend more than \$100.

He stated that the Election Division has assisted in responding to discovery served upon the secretary of state in the *Toth v. Gilroy* case. He added that Mr. Valentine was also served with discovery that he has responded to. He stated that the discovery was primarily informational in that it requested information about voting systems and registered voter totals in counties with punch card voting systems. He reminded that this case that requests a court order to require Indiana to replace punch card voting systems. He advised that the case has been set for trial on August 30, 2002. He explained that the court without the use of a jury would hear the case. He stated that the case was pending in Marion Superior Court in front of judge Zore.

He said that another case that the Commission has pending is the *Hawkins* case, the case that involves the ballot order of candidates in the primary. He explained that cross motions for summary judgment have been filed by the plaintiff and by the attorney general's office on behalf of the Commission. He explained that there has been no decision on these motions and that there has been no further action taken in the case.

He explained that there was one other case that is pending that was not placed on the agenda, the *LEAF* case. He stated that this case involved the challenge to Indiana's disclaimer law and has been reported on in the past. He indicated that included in the Commission packet is an order dismissing the case primarily for lack of subject matter jurisdiction. He said that the plaintiffs have moved to be declared prevailing parties in the case. He explained that the plaintiffs also filed a notice of appeal, which is the first thing they must file to appeal the case. He advised it was curious to both claim victory and appeal at the same time but this was, nonetheless, the status of the case. He indicated that he would be glad to answer any questions the Commission may have on any of these cases. There being no questions, the Chair thanked Mr. Simmons for his report.

## **6. Forms Approvals**

The Chair recognized Ms. Robertson who stated that staff is proposing a few changes to voter registration forms. She explained that some of the changes involve state forms VRG-18, 19 and 20. She stated that the Election Division is in the process of conducting the duplicate voter registration elimination program. She said that these forms involve the postcards that are sent to voters in the administration of the program. She said that the VRG-18 has already been sent out to voters and that the other two postcards will be sent out shortly to voters who either did not respond to the first postcard or to voter who responded with an out of county address. She explained that voters who responded to the first postcard by providing an out of county address will be sent the postcard advising

them to contact the voter registration office in their county of new residence to update their voter registration. She stated that these postcards are state forms that have been used in the past for duplicate registration elimination and have been updated for the current program.

She stated that the other form before the Commission for approval is the VRG-7 voter registration form. She indicated the mail-in version of the VRG-7, the Internet version of the VRG-7, the paper version of the VRG-7 and the Spanish language version of the VRG-7 are before the Commission. She explained that the only change that is being made to these forms is to remove the FAX number of the Election Division from the forms. She stated that the FAX number included on most Election Division publications to assist voters in contacting the Election Division. She stated that inclusion of the number has confused some voters in believing that they can FAX their voter registration forms to the Election Division. She added that county voter officials cannot accept voter registrations by FAX. She indicated that previous versions of the VRG-7 that are in circulation will continue to be accepted under the Commission's order but that new forms distributed by the Election Division will not contain the FAX number.

Mr. Long asked if there were Spanish versions of the postcards. Ms. Robertson stated that there were not. Mr. Long commented that, even if they had a Spanish version of the postcard, it would be difficult to determine which voters needed that version and indicated that it would probably not be useful.

Mr. Perkins moved that the Commission approve and adopt Order 2002-32, approving the forms as submitted and described by staff. 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. Perkins and Mr. Klineman), and no member voting "nay", the motion was adopted.

## **7. Report of Co-Directors**

The Chair recognized Mr. Valentine who indicated that he had two items to report to the Commission. He reported that the Ney-Hoyer bill passed the U.S. House of Representatives and the Dodd-McConnel bill passed the U.S. Senate. He stated that the provisions in these bills were substantially similar. He pointed out that the differences in the bills include disabled voting provisions and the formula for the distribution of federal funds to the states for election reform measures. He stated that the two bills have been submitted to a conference committee. He stated that the conferees had been named but that the conference committee has not yet met. He said that he has attempted to determine when the conference committee would act. He said he has contacted Jeff (inaudible) with the state office in D.C. to ask whether he has any insight into when the committee would act. Mr. Valentine stated he had not received any word yet. He indicated that if the committee does not act before the August recess of Congress then it becomes unlikely that Congress will pass election reform during the current session of Congress. He indicated that the Election Division has been examining how the proposed federal legislation could affect the QPA process, including whether the process should be suspended pending the enactment of federal legislation. He indicated that the federal legislation might also impact federal voting system standards.

Mr. Valentine then explained that the Election Division is in the contract phase of the QPA process as reported by Mr. Simmons and he thanked Mr. Simmons for drafting those contracts and meeting with vendors. He explained that, as Mr. Simmons reported, the co-directors have set the firm deadline of noon July 12 for vendors to submit comments on the proposed contracts. He reminded Commission members that the voting system improvement fund legislation established the deadline for counties to submit applications for reimbursement by January 1, 2003. He said that he was hoping to have contracts prepared soon and that staff would prepare a draft of the county applications for

reimbursement to the State Budget Agency for their approval and adoption. He added that the State Budget Agency was responsible for overseeing the reimbursement process. He said that he was still uncertain at this point as to whether money would be available in the voting system improvement fund for reimbursement to the counties.

Mr. Valentine also reported that the Election Division was making progress on the duplicate registration elimination program. He indicated that he believed that the overall process has been much improved over past programs. He indicated that he believed that the program would be more useful to the counties in that the postcards that are returned by voters will be bundled and delivered to counties. He added that in the past the counties only received computer generated lists. He said that this year the counties will receive the original postcards, or copies of the original postcards, and the computer generated lists. He said that the program's follow-up postcards would be mailed in a couple of weeks. He explained that one of the follow-up postcards would be sent to voters who did not respond to the first postcard. He stated that this postcard explains to the voter that the voter risks cancellation of the voter's registration if the voter fails to act or vote in any election starting with the 2002 general election and ending with the 2004 general election. He explained that the other postcard advises voters who have moved to a new county to contact the voter registration office in their new county to transfer their registration. He said that the Election Division expects to finish the program before the August 7 deadline.

He also reported that since the Commission last met he had served as a witness for an election conducted in the Ukraine. He said that this was an interesting experience and that he might share some of the pictures he took on his trip with Commission members at a future meeting. He said that the election process in the Ukraine was very lengthy due, in part, to the requirement that each individual ballot be wrapped in string and wrapped in paper, and that glue was used to seal over the string. He said that the polling place he observed opened at 8:00 a.m. and did not finish with their business until 5:30 a.m. the next morning. He indicated that the Ukrainian people were very kind and very happy to meet Americans. He stated that the western Europeans were the ones who didn't appear to care too much for Americans.

Mr. Valentine then noted that that this was the final Commission meeting for Mr. Perkins and that he had received notification that Claudia Cummings had been appointed to serve on the Commission. He said that he has known Claudia for a long time and that he looked forward to working with Claudia. He stated that he thought she would be a fine addition to the Commission. He stated that he also wanted to say thanks to Mr. Perkins.

The Chair recognized Mr. King who stated that he would like to add to Mr. Valentine's comments on the duplicate voter registration elimination project by stating that there have been far fewer calls from voters confused by the postcards than in the past. He stated that he believes that counties are having the same experience. He indicated that the Election Division shared drafts to these postcards with the counties before they went out and he feels that the Election Division has profited by suggestions made by the counties. He indicated that the Election Division would be sharing the follow-up postcards with the counties for comment as well.

Mr. King also indicated that he echoed Mr. Valentine's remarks on voting systems. He indicated that there are interesting developments at the federal level that may lead to new voting system requirements and funding for but at this time, it was hypothetical. He stated that, at this point, on the state level we have a statute that on the one hand mandates a voter registration system but also makes that contingent on funding being available. He stated that he and Mr. Valentine have continued to meet and discuss with others options to establish a statewide voter registration file with little or no money. He stated that he would be happy to keep the Commission informed on the progress of their efforts.

Mr. King added that the 2003 Election Administrator's Conference is scheduled for Monday December 9 and Tuesday December 10 at the Marriott Hotel, which is visible right outside the window. He said that Commission members are urged to attend. He said that the Election Administrator's Conference was announced at the conference that the State Board of Accounts holds for the clerks earlier this month. He said that the clerks have been getting hotel registrations in and that the Election Division will be updating the Commission on the agenda and schedule for the conference. He stated that he was looking forward to that. He stated that it has been a well-attended and popular conference with a total of 425 attendees at the last conference. He stated that the conference has really grown over the years.

Mr. Long asked about the policy for governmental rates at the Marriott. He stated that the last time he came to Indianapolis at one of these and presented his identification card they advised that, unless the state was paying his room, or he was working off a credit card, that he could not get the governmental rate to stay there. He said, if that were the case, he would suggest that the conference be held at another hotel.

The Chair recognized Mr. King who stated that if Mr. Long contacted the Marriott Hotel and uttered the phrase "County Election Administrator's Conference" as part of the reservation process, the Marriott has assured the Election Division that the government rate of Seventy Nine Dollars a night would be available.

Mr. Long stated that the Marriott may recognize county election officials but they do not recognize the State Election Commission. Mr. Valentine indicated that the Marriott is not the hotel where the conference was held last year. Mr. Long said that he knew where he stayed and the Marriott told me that the rate wouldn't be available.

The Chair recognized Mr. King who stated that he would do his best to make sure that every member of the Election Commission gets the room at the conference rate.

Mr. Long stated that when they have morning meetings sometimes he comes up the night before and he considered that governmental business. He said that if the Marriott was not going to honor their government rates then he does not want to give the Marriott any business that we support.

Mr. Valentine said that he would contact the Marriott to verify the rate.

The Chair then recognized Mr. King who directed the Commission to information in their packet regarding the Election Division's web page and the election night returns. He stated that the Election Division did post election returns to the website on election night for the May 2002 primary after the results were provided to the Election Division by county election boards. He indicated that the Election Division has received favorable comment over the years on the website and that representatives from the media have inquired about accessing election night reports from the website this fall.

Mr. King indicated that the documents in the packet include a contract with Intelenet that he and Mr. Valentine have executed. He said that the contract involves the standard operating rules for the web page. He said that the previous agreement with Intelenet had been executed in 1996. He said that Intelenet came to the Election Division to update the contract to reflect the current status of the Election Division and Commission and set forth the rules. He said that that on the website there is a web page devoted to the Commission that contains the minutes of the Commission and a very brief of the service of the Commission members. He said that there are no photographs or home phone numbers of Commission members on the site.

Mr. Long asked whether the Election Commission approved this contract. He asked whether he missed a meeting where this was discussed.

The Chair recognized Mr. King who stated that the Commission has not taken a vote to approve this contract. He said that it was being presented to the Commission at this time for the Commission's information and any action the Commission might want to take on the contract.

Mr. Long stated that it was his understanding that the Co-Directors have already signed the contract on behalf of the Election Commission. He observed that the contract appears to have been entered into on May 20. Mr. Long says that since we have all been going through an exercise in the respective authority of the Election Division and Election Commission he would like to know what authority the Election Division has to execute a contract on behalf of the Commission and, if so, the statute that addresses this authority.

Mr. Valentine indicated that he would defer to the attorneys.

The Chair recognized Mr. Simmons who indicated that he had raised this issue with the co-directors. He added that the website itself is really the Election Division website.

Mr. Long asked why then was the Election Commission a part of the contract. He said that he believed that the Election Commission is an independent party and that Mr. Simmons has pointed out that the Election Division does not work for the Election Commission. He added that he does not think that the Election Commission works for the Election Division or the co-directors. He said his question is who has the authority to sign a contract that binds the Election Commission to anything.

Mr. Simmons responded to Mr. Long's question by stating that it would depend on what position the Election Commission takes as a whole today. He said that staff would contact the contracting agency to inform them of the Commission's position and handle it accordingly.

Mr. Long stated that he wanted to know why someone would be presumptuous enough to sign a contract that is five years in length that purports to have as a party the Election Commission with the contract never having been brought before the Commission. He stated that he was more uncomfortable with this than some other matters he plans to bring up in today's meeting. He added that Mr. Valentine had been designated for notice for the Commission. He wanted to know if that is a statutory position that Mr. Valentine has. Mr. Long stated that if he had had any input into the contract he would have suggested that the Chairman be the proper entity to notify if it was an Election Commission matter as opposed to either of the co-directors. He said that he would also suggest that both co-directors be the persons who receive notice on behalf of the Election Division. He said that he thinks like a lawyer because he is one. He stated that the Election Division is bipartisan and the notice provision is not bipartisan. He stated that this issue was troublesome to him and he asked why he should come up to Indianapolis if he doesn't do anything. He said that he has not signed off on the contract; he didn't think it had anything to do with the Election Commission and that he considered it ultra vires activity by the Election Division purporting to execute contracts on behalf of the Commission.

Mr. Valentine stated that he would like more time to look into the issues raised by Mr. Long. He stated that it was his understanding that the website is for the Election Division, that the Election Division controls its content. He stated that it was his understanding that this was an agreement between the Election Division and the Intelenet Commission. He said not being a lawyer he might have read that improperly.

Mr. Long suggested that Mr. Valentine read the first sentence of the contract. He suggested that Mr. Long also refer to where he and Mr. King signed which refers to both the Election Commission and the Election Division. He stated that he thought that this was an affront to the Commission and that he was personally offended by it. He said maybe he missed a meeting and if it has then he apologized to everyone. However, he doesn't think it has been brought up and he does not believe we have an agreement here.

Mr. Valentine said that, in retrospect, the contract should be between the Election Division and the Intelenet Commission. He said that perhaps the agreement should reflect that the Election Division's website holds Election Commission data, like the Commission's minutes and agenda, on it.

Mr. Long indicated that he did not care where this information was posted. He said that Commission members have been sued personally for what the legislature does. He said that he didn't particularly care for that. He concluded his remarks by indicating that he has said enough, that they all know what he thinks about it.

The Chair recognized Mr. King who echoed what Mr. Valentine stated and he indicated that whether or not the decision made by he and Mr. Valentine in this matter was correct, he is sensitive to the role the Commission plays and that is why the contract has been brought before the Commission today. He said that it was brought forward to determine if the Commission had any concerns or comments about it.

Mr. Valentine said that he would like to apologize for the contract and that, in retrospect; he would prefer that this be a contract between the Election Division and Intelenet Commission. He said that it should perhaps contain a reference to containing content involving the Commission but the Commission should not necessarily be a party.

The Chair asked if the Intelenet Commission had contracts with other agencies and how they did their contracts. Ms. Robertson said that the Intelenet enters into contracts with other agencies and, historically, the contract that we had with the Intelenet Commission was between the Election Commission and the Intelenet Commission. She explained that this contract was tendered by the Intelenet Commission to renew the agreement and that staff asked that the Election Division be added as a party. She said that the co-directors signed the contract previously although she indicated that she did not know if the previous contract had been signed when the Election Division and Election Commission operated under one name or not. She suggested that this might have been where the confusion arose.

The Chair asked if there were any additional items the co-directors wanted to discuss and recognized Mr. King who stated that the May 2002 Primary canvass was complete. He added that the recount in the Floyd County prosecutor's race was dismissed and that allowed the co-director's to execute a final canvass making the election results final and official.

The co-directors asked if there was anything on the agenda under "other business." Mr. Long stated that he was not done with the co-directors report.

The Chair recognized Mr. Long who stated that he wished to thank Mr. King for the memorandum that was prepared yesterday that was enlightening to some degree and sufficiently answered the inquiry that he had made about the letter that was sent out. He added that he had asked for a letter to go out on something a long time ago and he didn't think it was ever sent. He indicated that this was, however, the least of his concerns. Mr. Long stated that he was still asking for a report from somebody as to why



we so miserably failed in performing our statutory duty. He stated that he didn't know who performed these duties but that, as long as he is on the Commission, and the statute indicated the Election Division is to assist the Commission in the administration of the election laws of Indiana, and part of that administration is the reprecincting process, he would continue his inquiry. He stated that 23% of the counties in this state were not properly handled. Mr. Long indicated that he has received information throughout the process. He stated that he has indicated in meeting after meeting that the job would not get done at the pace we were going. He stated that we didn't get it done and he wished he could sit here and say: "Sorry guys I was wrong." He added that there are 21 counties that have not had proper precincting and he wanted to know why. He said he could care less what party anyone was in. He said that this should not be a political issue. He stated that he wanted to know if the 21 counties that were not done are done now. He said that this is five months later now. He said that he assumed that they were done but he doesn't know.

He then stated that he saw that the office of census data was present and asked if they have been supplied information so that the process could be continued and completed. He stated that he was embarrassed over this and he thinks that in our administration of the election laws we have not been able to get it done. He stated that he did not know of any action that has been taken with regard to what he believes to be an employee that did not complete her task. He said that he was told that she was offered help and refused it. He stated that the letter that was sent out was blatantly wrong in that she was not prepared to submit those counties. He added that she might have been prepared to ask the Commission to enact the counties incompletely. He said that he is asking both co-directors for answers and that if he doesn't get answers he is going to ask the governor to ask that they give answers because he is pretty sure that the governor appoints them. He stated that he knows the co-directors do not work for him or this Commission but he is going to find out why this happened so that it doesn't happen again. He said that he doubts that he will be here in 10 years when they do reprecincting again or even if he would be here next year, but the fact is we failed, we failed the citizens of this state and we failed 21 counties and he wants to know why so that we can take corrective action. He added that all that we have been able to find out is why this accusatory letter got mailed and who mailed it and who wrote it and who approved it and who signed off on it. He said that it was offensive to him because it wasn't truthful but notwithstanding that, no one will answer the question "why didn't we get our job done?" He stated that he was not going to take pay from this board for two reasons: one, he is not sure that it is being earned and, two, the state cannot afford it. He said that we have got to get the answers resolved. He added that he expects the answers to be resolved and, if they do not get resolved in house, then he indicated he would take another course. He stated that he is going to find out why. He stated that he did not care if it was sensitive or if it offended anybody. He stated that he thinks that the higher calling here is to the people and the oath we took and there are counties that suffered because of the inefficiency and the failure to accomplish what we were charged by law to accomplish.

He stated that he hoped that the Office of Census Data has gotten the information back and the process is ongoing. He added that he was afraid that it wasn't ongoing because he hasn't heard anything. He said he wanted the answers and that he is going on record at this meeting and he will be back on July 25<sup>th</sup> hopefully with some answers and, if not, he stated that he would get them somewhere else. He said that he was concerned that in the 71 counties where precincts were passed that the clerks are not necessarily following the precinct lines and he would like to know what is being done to address those situations. He said that those were his two concerns of the three that he had. He said he throws these out for someone to hopefully answer.

The Chair indicated that this was not on the agenda because he was told that personnel matters are something that are not to be discussed in open meetings. He stated that he would ask the attorneys to address that.

The Chair recognized Mr. Simmons who stated that, first and foremost, it was his position, as addressed in his memo that the respective responsibilities of the Commission and the Election Division are set out by statute and that personnel matters are the responsibility of the co-directors. He added that going down this road at this point, as the Chair has pointed out, is not appropriate and the appropriate times to make such inquiries regarding the status of precincts are when precincting issues are pending before the Commission. He added, at this point, there is both the jurisdictional question and there are concerns with respect to the public records law in handling personnel matters in a public meeting and that these matters would be typically handled, in this case, by the co-directors. He added that there are exceptions in the public records laws about disciplinary actions against employees. He added that the law indicates that those matters should be kept confidential at least until there is final action.

Mr. Valentine asked whether such matters could be brought up in executive session.

Mr. Simmons requested to be recognized by the Chair. Mr. Valentine indicated that he was sorry in that he should have addressed his question to the Chair.

The Chair suggested that Mr. Long sit down to talk to the co-directors because, one, there was an opportunity at prior meetings to talk about the 21 counties but that the Commission did not have a quorum and, if memory was serving him correctly, both co-directors signed off that those 21 counties were ready to be brought up at that meeting.

Mr. Long said that it was sort of like Marion County he guessed.

The Chair asked if there were any other comments.

Mr. Long stated that he was going to ask the governor to intercede if we do not get the answers to this. He said that he has spoken to one co-director and he does not have any jurisdiction to do disciplinary action or to direct. He said that, as long as he is a member of the Commission, and the Commission is charged with the responsibility to administer the election laws this would get done the easy way or the hard way. He added that he is not willing to let the situation perpetuate and reflect on this Commission. He added that the Commission does a lot of things in executive session and apparently the Chair is aware of other disciplinary actions that have been taken. He stated that he was not aware of any disciplinary action. He asked if it was a violation of anyone's rights to know whether they are doing anything now. He asked if we were doing anything with these 21 counties now or are we looking around at each other afraid that we might offend an employee because she failed her job. He said his question is: "Are we doing anything now with these 21 counties to correct the problem?" He asked whether that was protected by some secrecy law and added that it wasn't in any book that he has ever read. He asked if there was an answer to that question.

He then directed a question to the members of Office of Census Data about whether the Election Division has submitted anything for review since the end of January.

Mark Stratton addressed the Chair and stated that, in response to Mr. Long's question, the Election Division requested from them copies of our review sheets that we turned in for all of the outstanding counties. He said that the Election Division would have to advise what they have done with the review sheets. He added that since January their office has received back from the Election Division some responses to the initial comments. He said that if in their comments they noted that a block was split, then they received back a new block listing and IEC-8. He added that these things were the same type of thing that their office would have seen during the precincting process seems to be happening right now. He said that he did not know what would happen with that information. He said that their office

has been contacting the counties that were not approved by the Commission to ask them whether they used the new precincts or the old precincts. He then stated that they have provided these counties with maps of what their records reflect and ask the counties to mark those maps necessary so that they can be sure that they have accurate maps. He said that their concern is obtaining accurate maps reflecting how the counties are actually administering elections. He added that they have also attempted to match canvasser sheets with the precincts. He stated that he could not answer what action the Election Division has taken since he does not work for the Election Division. He said that he could only answer as to what the Election Division has provided to them or what they have provided back.

Mr. Long stated that the Election Division is supposed to maintain the maps since they are charged to do so by Indiana Code 3-6-4.2-12(2), which states that they are to “maintain complete and uniform descriptions and maps of all precincts in Indiana.” He stated that is a duty of the Election Division. Mr. Long then asked Mr. Valentine whether the process was ongoing to complete these precincts where counties were not done.

The Chair recognized Mr. Valentine who stated that he and Mr. King have instructed the precincting team of both Lori Hershberger and Michelle Brzycki to continue to work and compile and correct the GIS data. He added that they have asked the team to address the issues raised by the Office of Census Data and they have also asked the team to contact the counties to make sure what will be entered into the GIS actually reflects what is being used by the counties in administering their elections.

Mr. Long asked what that meant. He asked whether we are doing our job or not.

Mr. Valentine responded that the co-directors are asking the team to get together and produce that information into the GIS, the computer maps, to make sure what we have follows the statute the Mr. Long quoted and to make sure it is correct.

Mr. Long asked when we are going to have them informed that the Commission can act on them. Mr. Valentine indicated that he was not sure what Mr. Long was asking. Mr. Long stated that the statute requires the Commission to approve the precincts and offered to get the statute out for Mr. Valentine if he needed it. Mr. Valentine indicated that he was not disputed that precincts required Commission approval and added that he believed that there was a statute that developed a time frame for the Commission to approve the precincts. He said that there is also a time frame where the Commission may not act to approve precincts until the end of the election cycle. He said that the Election Division is continuing to move the process forward and that the co-directors are asking the team to move down the road toward preparing the precincts for approval. Mr. Valentine added that the team is having difficulties in bringing that process to a conclusion and in fixing what was not completed earlier.

Mr. Long asked why this was so. Mr. Valentine indicated that time has passed. He indicated that the OCD materials had to be requested again because the person processing the precincts did not keep the materials. He added that we were not certain as to what the counties provided. He stated that he was told by an employee that checked with the counties that most of the counties, all of the counties, were using the updated versions contained in the county orders. He stated that we have since found out, for example, that Bartholomew County were not using the precincts that they had indicated and that there may be others counties doing the same. He added that the co-directors were asking the team to work together to process that but that he would say that some of the same flaws that occurred earlier are continuing to take place now and he would direct Mr. Long to ask the other co-director to respond to that.

Mr. Perkins addressed the Chair and requested to be recognized if Mr. Long has yielded the floor. Mr. Long indicated that he would be happy to listen to what Mr. Perkins had to say. Mr. Long added that he was not upset with any member of the Commission but he was embarrassed.

The Chair recognized Mr. Perkins who stated that Mr. Long has raised some questions in the meeting. Mr. Perkins indicated that he did not think it was unreasonable for staff to respond to questions from the Commission and that he would make the recommendation that Mr. Long submit his questions to the Co-Directors for response. He stated that he did not know whether he would make this a motion.

Mr. Long encouraged Mr. Perkins to make a motion. Mr. Perkins indicated that he would make it a motion. Mr. Long seconded the Motion.

The Chair recognized Mr. King who stated that he had no problem in responding to a question for information posed by the Commission. He stated that, having said that, he reserved his right with respect to the discipline of employees.

Mr. Long indicated that he wanted answers. He said that he was more concerned with why and what would be done in the future as opposed to throwing a shroud over the whole situation. He stated that if this can't stand the light of day then there is a problem.

The Chair recognized Mr. Valentine who stated that the campaign finance team makes a presentation to the Commission when we have campaign finance hearings. He stated that this team is before the Commission with detailed files to assist the Commission in making its determinations. He said that he did not see why the precincting team couldn't report to the Commission at its next meeting to present the status of the precincts. He added to bear in mind that this would not be about employment issues but about status of materials put before this Commission so that they can act like campaign finance materials are put before the Commission or like the legal team puts issue before the Commission.

The Chair indicated that his comment would be that the team was before the Commission at a meeting and were prepared to present and he feels that questions should have been asked at the meeting when the precincts were presented.

The Chair recognized Mr. Perkins who stated that he wanted to get back to his previous motion. He stated that this was his last meeting so he did not want to write a check for the future Commission. He indicated that he is not the one who feels passionate about the issue and so he is not sure he is the right person to make a motion for that reason as well as for the fact that he will no longer be a member of the Commission in a few days. Mr. Perkins then stated that he would withdraw his previous motion. Mr. Long stated that he would withdraw his second in deference to Mr. Perkins and requested that the pending motion be one that was made by him. Mr. Klineman seconded the motion. There being no further question the chair called the question and declared with two members in favor of the motion (Mr. Long and Mr. Klineman) and two members opposed to the motion (Mr. Cruea and Mr. Perkins) that the motion was defeated.

The Chair indicated that he preferred that Commissioner Long work with the staff and see if he can get his questions answered and that we would go from there. Mr. Long stated for the record that the motion was for the staff to work with him but we will see what happens. He stated that, if that does not happen, he will ask the Governor to remove, for cause, those employees that the Governor appoints because these employees are not like federal judges. He stated that he would request the Governor to remove any employee of this agency that does not do their job.

Mr. Long then stated that Maureen Bard has been trying to speak for half an hour. Ms. Bard that there was a question posed by Mr. Long that Mr. Stratton responded to that she wanted to add some detail to. She said that they had contacted the 21 counties giving them a map of the new plan plus a map of what they are saying is the old plan because their question is: "what is the old plan? She continued that of those outstanding counties, 12 of them are going with the new plan and 3 of which want to make corrections within the new plan, 8 are staying new plans but they are still looking at their maps, one is going with the new plan are fine with it, 2 of them are going the new precincts indicating that the new precincts are the same as the old precincts but they want to make corrections and the rest of the 21 counties plus Marion are going with their old plan. She indicated that their question is: "What is the old plan?" She stated that if they are using the redistricting CD then that might be different than what they are interpreting as the old plan. She added that, of these remaining counties, one has corrections and six have still not responded and that Marion County will have corrections on their shape files.

Mr. Long asked what Marion County was doing. Ms. Bard stated that she was not in the position to speak for the Election Division. Mr. Long stated that, apparently, no one is in the position to speak for the Election Division so that it was O.K. she was in good company. Ms. Bard indicated that they contacted Marion County for their shape files and they are different than what they submitted in their redistricting.

The Chair asked whether there was any other business under co-director's report. Mr. Valentine said that he will begin to respond to all these and voting system issues (inaudible). He indicated that he would also set up a time to meet to discuss the progress made with the reprecincting team.

## **8. Other Business**

The Chair indicated that he had some remarks he wished to make. He stated that this meeting is Commissioner Perkins' last meeting as a member of the Commission. He stated that it has been both a privilege and a pleasure to work with Mr. Perkins over the last several years. He announced that Secretary of State Sue Anne Gilroy recognized the outstanding job that Mr. Perkins has done as a member of the Commission in a ceremony prior to today's meeting at which Secretary Gilroy designated Mr. Perkins as "Honorary Secretary of State." He congratulated Mr. Perkins in this honor. Mr. Perkins thanked the Chair for these remarks.

Mr. Long also congratulated Mr. Perkins and added that Mr. Perkins has been a real pleasure to work with. Mr. Long stated that he was passionate about a lot of issues but that he is equally passionate about the respect he has for all Commissioners and has enjoyed the time he has spent with Mr. Perkins on the Commission and that there will be some large shoes to fill with Mr. Perkins' departure. He added that he wished the new member of the Commission well but he stated that the honor bestowed by the Secretary of State upon Mr. Perkins was an honor well earned. He stated that he considered Mr. Perkins a friend and that it was great to have served with him.

Mr. Perkins thanked Mr. Long for these remarks and asked the Chair to make a few comments. Mr. Perkins indicated that he had prepared some comments because he has been reflecting on his service with the Commission. He added that he just had a few comments and jested that the comments should take only 45 minutes or so.

Mr. Perkins stated that his current term on the Commission expires in four days. He indicated that he was given the opportunity to sign on for another two-year term but he decided to remove himself from the nomination process. He stated that he viewed turnover in office as a positive thing. He stated that

today is his last meeting as a member of the Commission unless he is named as a proxy at some point in the future.

Mr. Perkins stated that he wished to reflect on his experiences as a member of the Commission. He stated that he first joined the Commission in 1994. He added that he was nominated by Republican Party Chairman Al Hubbard. He said he was nominated to replace Roger Smeltzer who took a job with the Indiana House Republicans and removed himself from the Commission because of a conflict of interest between the positions. He added that his nomination was approved by then Governor Evan Bayh.

Mr. Perkins continued that the Commission was a different place in 1994. He stated that the name was different and was then known as the State Election Board. He stated the state election board did not have co-directors or co-general counsel. He said that there was one director, David Maidenbergl. He added that the office was located in the basement of the old state office building where the accommodations were cramped and hot which is a lot different than the current office at 302 West Washington. He stated that the state election board was very different. He stated that when he joined the board, Jeff Malamad was the chairman and the board was comprised of three members, not four. He added that two of the members were from the party that held the governor's office and one from the other party. He said that in 1994 he was the other party.

He stated that in those days the state election board frequently split its votes along party lines. He added that he was the only Republican on the board and that usually, though not always, he was outnumbered in the course of those votes. He stated that since then, the Indiana state legislature created the Indiana election commission and the Indiana election division of the secretary of state's office. He stated that in its current form, the Commission is comprised of two republicans and two democrats. He added that the election division has two co-directors, one republican and one democrat, and two general counsels, one republican one democrat. He said that from this structure has come a new spirit of bi-partisan cooperation and has been a different kind of body to serve on. He stated that this does not mean that partisanship has vanished from the process. He stated that elections are inherently political but he believed that voters of Indiana, regardless of their political stripes, have received a balanced interpretation and enforcement of Title 3 of the Indiana Code.

He stated that this leads him to his next observation. He said that in 1994 Title 3 of the Indiana Code was a short chapter in the Indiana Code and the code book fit nicely in the pocket of a standard sized brief case. He added that some might have even called it a pamphlet. He stated that, in contrast, today's code is over an inch thick and has a lot more to it. He stated that this was not necessarily a bad thing but if you wanted to mail the code it would cost about five dollars because of the weight of the book. He states that he makes this observation to note that Indiana election law has become much more complex over the last eight years.

He stated that in eight years he has witnessed a number of changes in personnel at the election division. He said that he witnessed the arrival of a new co-director named Laurie Christie and later, Laurie's departure and the arrival of former state representative Candy Marendt. He added that he saw the departure of Ms. Marendt and the arrival of Laurie Christie again. He said that he has now seen Laurie Christie depart for a second time with the arrival of co-director Brad King. He stated that this was not Brad's first tour of duty with the election division in that he was one of the previous co-general counsels with the election division. He said that he thought that Brad was doing a great job since he has been back. He stated that he has also seen the arrival of co-director Spencer Valentine who he has enjoyed working with. He said that he has also been here for the arrival of Kristi Robertson and Dale Simmons, the co-general counsels. He said that despite these personnel changes, the staff of the election division works very hard to administer the election process in the state. He stated that, by

putting aside partisan differences when it really matters, they assure that every voter on every election day has a positive experience when they go to the polling place and participate in our electoral process. He stated that the entire staff was very professional and they are the best at what they do and they take their jobs very seriously.

He added that he wanted to also make some comments about the Commission itself. He stated that currently he was the senior member of the Commission. He said that Mr. King had performed some research and found that eight years is the longest that any Commission member has ever served. He said that in the past few years he has seen a number of changes. He added that he has had the privilege of serving with the current Commission members for the past few years. He said that the members have not agreed on every issue that has come before the Commission and that the meetings have been exciting at times. He said that for the most part the Commission has functioned like a team and tried to do the right thing and the fair thing under Indiana law for candidates and voters. He said that for the most part members leave political party affiliation at the door when they come to meetings.

He stated that, having made those observations, he would like to say to Commissioner Butch Morgan, who is not here today, and to Commissioner Tony Long and Chairman Dudley Cruea, a sincere thank you for their commitment in administering election law in the state of Indiana and for making it a very fair process. He added that all members are excellent public servants and he has been honored to have served with them.

He stated that his departure from the Commission signals the arrival of a new member. He stated that he was pleased to say that his replacement on the Commission was Claudia Cummings and he believed that every one on the Commission and within the election division would find Claudia a delight to work with. He said, looking forward, he believed the Indiana would be a leader in election processes following the Florida recount in the last presidential election and its infamous hanging chads. He added that Indiana is changing its election processes and the changes are really exciting. He said that some of these changes have been discussed in today's meeting, for example, the electronic based voting. He stated that he believed that voters and candidates would have additional confidence in the results at the end of each election day. He said that the election division staff would play a key role in making this happen. He stated that if issues arise, the Commission would be there to resolve those issues quickly and with fairness.

He stated that, in closing, eight years in a long time to serve. He stated that his experience through these last eight years has been really rewarding and he hoped that he left behind a record that he could really be proud of. He added that to former Republican Party Chairmen Al Hubbard and Mike McDaniel, and to current Chairman Jim Kittle, to Secretary of State Sue Anne Gilroy, to former Governor and now Senator Evan Bayh, and to Governor Frank O'Bannon, he wishes to thank each for allowing him to serve the State of Indiana on the Commission. He stated that it has been an honor to be a member of the Indiana Election Commission.

The members of the Commission thanked Mr. Perkins for his remarks.

## **9. Adjournment**

The Chair then asked if there was any other business. Mr. Long stated that no one will want to follow Mr. Perkins' statement and invited Mr. Perkins to make his last official motion as a member.

Mr. Perkins then moved, seconded by Mr. Long, 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. Perkins and Mr. Klineman), and no member voting “nay”, the motion was adopted. The Commission then adjourned at 4:00 p.m.

**Respectfully submitted,**

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**J. Bradley King**  
**Co-Director**

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**Spencer Valentine**  
**Co-Director**

**Approved,**

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**Dudley Cruea, Chair**