

Indiana Recount Commission
Minutes
May 25, 2022

Members Present: The Hon. Holli Sullivan, Secretary of State and Chairman of the Indiana Election Commission (“Commission”); Mr. Mark Wynn, Member; Mr. Michael Claytor, Member.

Members Absent: None.

Staff Attending: Philip Sicuso, Recount Director; Andrew Norris, Deputy Recount Director; J. Bradley King, Majority Counsel; Matthew Kochevar, Minority Counsel

Others Attending: Capt. Donna Elam, Indiana State Police; Mr. Paul Joyce, State Examiner, State Board of Accounts; Ms. Kendra Leatherman, State Board of Accounts; Mr. Evan Patterson, Office of the Secretary of State.

1. Call to Order:

The Chair called the May 25, 2022 meeting of the Commission to order at 1:00 p.m. EDT in Statehouse Room 404, 200 West Washington Street, Indianapolis.

2. Transaction of Commission Business:

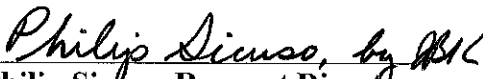
The Commission proceeded to transact the business set forth in the Transcript of Proceedings for this meeting prepared by Maria W. Collier, RPR, CRR, of Stewart Richardson and Associates, which is incorporated by reference into these minutes.

The following scrivener’s errors are corrected in this document:

Page 10, line 14, replace “Alexander” with “Alexandra”.

The Commission adjourned its meeting at 10:25 a.m. EDT.

APPROVED:


Philip Sicuso, Recount Director
Pursuant to Order 2018-1

In the Matter Of:
INDIANA RECOUNT COMMISSION

Public Meeting

May 25, 2022

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INDIANA RECOUNT COMMISSION
PUBLIC MEETING

Conducted on: May 25, 2022

Conducted at: Statehouse Room 404
200 West Washington Street
Indianapolis, Indiana

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

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APPEARANCES

INDIANA RECOUNT COMMISSION:

Holli Sullivan, Secretary of State - Chairman

Mark Wynn - Commissioner

Michael Claytor - Commissioner

INDIANA ELECTION DIVISION STAFF:

J. Bradley King - Majority Counsel

Matthew Kochevar - Minority Counsel

1 SECRETARY SULLIVAN: Good morning. Can you
2 hear us? Just a housekeeping, when you're speaking
3 into the mic, the blue light has to be on since
4 this is a public meeting and those not here with us
5 need to view and hear us today.

6 But the meeting of the Indiana State Recount
7 Commission is called to order. I see that we have
8 all three members of the Commission present, so
9 there is a quorum and we can get started.

10 I appreciate you all being here. My name is
11 Holli Sullivan. As Secretary of State, I have both
12 the chairmanship and am a member of this Commission
13 and am glad to be here with you today to start this
14 off. We will begin today with the Pledge of
15 Allegiance led by Purdue University student and
16 Secretary of State intern Evan Patterson. Please
17 rise.

18 (Pledge of Allegiance recited.)

19 SECRETARY SULLIVAN: I am glad to be here with
20 you all and thank you for gathering today. I know
21 that many of our hearts and our prayers are with
22 our friends and Americans in Texas. But today, as
23 your Secretary of State, we are focused on
24 Indiana's business, but I didn't want to have a
25 meeting without acknowledging the pain that

1 Americans and our neighbors down south are
2 experiencing today.

3 As Indiana Secretary of State, I think it goes
4 probably without saying how much I personally value
5 our elections process, and you have heard me many
6 times say that it is the vital role for how our
7 government works. I also know and share frequently
8 that every time someone goes to cast their vote,
9 especially here in Indiana, they are putting their
10 voice into the governmental process. And for all
11 of us that daily take an oath and work in this
12 electoral process, we are deeply responsible to
13 make sure we take responsibility daily to make sure
14 that the voice of the people, the most important
15 part of the process, is accurately and truthfully
16 represented.

17 And for that reason, we are here today to
18 begin the process of a recount. And that recount
19 process a candidate can request following an
20 election, and this is how the process works. And I
21 hope that any Hoosier who is watching this process
22 will witness the responsibility that we feel and
23 recognize to ensure the integrity of our electoral
24 process and for every single race up and down the
25 ballot. This is not something that we, together,

1 take for granted or just for our candidates. We
2 know that this is also for our constituents to know
3 that every vote is accurately counted and recorded
4 in every result.

5 And with that, I want to introduce to you the
6 other members of our Commission. Today I am joined
7 by our Commissioner Michael Claytor and
8 Commissioner Mark Wynn. I would like the
9 Commissioners to introduce themselves and make any
10 opening remarks, if they wish.

11 MR. CLAYTOR: Thank you, Madam Secretary. My
12 name is Mike Claytor. I've been on the Commission
13 a bit of a while, having served on it a few
14 different times. It's been a dearth of recounts
15 lately, and I think our elections show that, as the
16 Secretary indicated, we have a good system in
17 Indiana, and I believe this recount will show that
18 as well. Other than that, I have no other comment.

19 SECRETARY SULLIVAN: Thank you.

20 MR. WYNN: I'm Mark Wynn. I'm just joining
21 those comments and appreciate the opportunity to
22 serve in this manner and look forward to the
23 process. Thank you.

24 SECRETARY SULLIVAN: The Election Division of
25 the Secretary of State's office provides us with

1 administrative support for our Recount Commission.
2 So today we are with Brad King, who serves as our
3 majority counsel to the Commission, and Matthew
4 Ko- --

5 MR. KOCHEVAR: Kochevar.

6 SECRETARY SULLIVAN: Sorry. I did that even
7 when I was in the legislature. I apologize.

8 Serves as minority counsel. And our court
9 reporter is here today, Maria Collier from Stewart
10 Richardson Reporting. Welcome, Maria.

11 Before we begin, I want to again remind
12 everyone, on behalf of the court reporter, to
13 identify yourself when you begin to speak by
14 spelling your name when you identify yourself, and
15 clearly speak and do not speak at the same time
16 that others are speaking so she can record this for
17 us.

18 I want to begin by sharing the compliance with
19 our Open Door Law. Brad and Matthew, could you
20 confirm the posting of the meeting notice in
21 compliance with our Open Door Law.

22 MR. KING: Secretary and members of the
23 Commission, on behalf of Mr. Kochevar and myself,
24 we certify that notice of this meeting was given in
25 compliance with Indiana's Open Door Law.

1 SECRETARY SULLIVAN: Thank you. Would you
2 please provide the Commission with a report
3 concerning the filing of the petition for recount
4 and contest filed for the 2022 Republican primary
5 nomination for Indiana House District 32.

6 MR. KING: Secretary and members of the
7 Commission, in your binders you will find a file
8 stamped copy of a verified petition for recount and
9 contest of the election for Indiana House
10 District 32 State Representative in the Republican
11 primary conducted earlier this month filed by Suzie
12 Jaworowski in her capacity as a candidate for that
13 office with the other two candidates in that
14 primary named as respondents. Petition was timely
15 filed in accordance with Indiana Code 3-12-11.

16 SECRETARY SULLIVAN: Thank you.

17 Matthew, do you have any additional comments?

18 MR. KOCHEVAR: Good morning, Madam Chair,
19 members of the Commission. Concur with everything
20 that Counsel King has said. I will just add, also
21 in your binder is a photocopy of the deposit that
22 was filed as required by law. That is the other
23 necessary piece for a recount petition filing. So
24 with that, I just wanted to add that for the record
25 as well and note that in your binders.

1 SECRETARY SULLIVAN: Thank you. Thank you
2 both.

3 Next, we will introduce our recount director
4 and our deputy director. Philip Sicuso is our
5 recount director, and Andrew Norris is our deputy
6 recount director.

7 Mr. Sicuso, would you please provide the
8 Commission with a report regarding the actions you
9 have taken regarding the petition for recount and
10 contest filed for the 2022 Republican primary
11 nomination of Indiana House District 32,
12 specifically Order 2022-01, an order for
13 impoundment of election equipment and documents in
14 Hamilton and Marion Counties, please.

15 MR. SICUSO: Good morning, Madam Chairman,
16 members of the Commission. Pleasure to be here
17 with you today. My name is Philip Sicuso. For the
18 record, S-i-c-u-s-o. I'm a partner at Bose
19 McKinney & Evans here in Indianapolis, have served
20 as the recount director for I don't know how many
21 years now exactly, but I think the last time we
22 were together was 2016. We did a couple different
23 recounts, one for Congressional District 8 and, I
24 think, Senate District 36 maybe, so we did two at
25 the same time. Learned quite a bit through that

1 process, and happy to take lessons learned and
2 apply to this recount as well.

3 With respect to next steps and what we've
4 already done, I have issued an order to impound all
5 the election materials in House District 32 and
6 have been in touch with the State Police, who have
7 executed that in conjunction with the State Board
8 of Accounts, who was present, and the local
9 officials in each county. I understand that that
10 has been completed as well as service of process
11 upon all the candidates.

12 So, Brad, if I'm missing anything in that
13 regard, help me out.

14 MR. KING: No, Secretary.

15 Mr. Sicuso, you're exactly correct. The
16 members, in their binders, have a copy of the
17 impoundment order and proof of service to each of
18 the parties.

19 SECRETARY SULLIVAN: Thank you.

20 MR. SICUSO: The other thing I'll mention, I
21 have learned in the last recount scheduling is
22 quite important in these events. We may have a
23 couple things working simultaneously. We'll have
24 some work to do before the recount actually begins.
25 It's my intention to work with the candidates and

1 their counsel to schedule all of those necessary
2 steps in advance with the local officials as well.

3 With that in mind, I've also appointed
4 Alexander Bartlett as another deputy, so we have
5 three people who are able to address things if I'm
6 not available. So we should have a team ready to
7 go. Enjoy working with Brad and Matthew. I think
8 we'll work well on this.

9 SECRETARY SULLIVAN: Thank you very much for
10 being here as well.

11 Next on our agenda, if there's no further
12 questions from the Commission for Mr. Sicuso.

13 MR. CLAYTOR: You have not yet scheduled a
14 walk-through for the candidates?

15 MR. SICUSO: We have not. We learned in the
16 last recount that a pre-recount inspection is an
17 excellent step to get parties and the candidates
18 together to see where things have been impounded,
19 talk through the necessary steps with each local
20 election board to see -- and just work through
21 things together.

22 The other thing I'll mention, I think we do
23 need to address some small updates to the
24 guidelines. State Board of Accounts has made some
25 small tweaks to the handbook, which require some

1 small tweaks to the official recount guidelines,
2 which I intend to finalize in the coming days.

3 MR. CLAYTOR: Thank you.

4 SECRETARY SULLIVAN: Thank you.

5 I would like to recognize our Indiana State
6 Police involvement here, Lieutenant Colonel Kevin
7 Hobson of the Indiana State Police.

8 Colonel, are you here? Okay.

9 CAPTAIN ELAM: I'm Captain Donna Elam. I'm
10 sitting in for the colonel today.

11 SECRETARY SULLIVAN: Okay. Thank you very
12 much. Could you please state your name and spell
13 it for our court reporter.

14 CAPTAIN ELAM: Donna Elam, E-l-a-m.

15 SECRETARY SULLIVAN: Thank you very much. I
16 note that the members' binders do include in the
17 binder a document indicating that service has been
18 made by the State Police on each of the three
19 candidates for the 2022 Republican primary
20 nomination of Indiana House District 32. Would you
21 please confirm that information is accurate.

22 CAPTAIN ELAM: Yes, it's correct.

23 SECRETARY SULLIVAN: And do you have any other
24 information for the Commission regarding the
25 impounds of the material of the matter, any other

1 information for the Commission in general on the
2 process?

3 CAPTAIN ELAM: One slight note, which, I
4 believe, Mr. King is aware of, is we did incur a
5 cost in Marion County for securing the votes. We
6 had to call a locksmith to make sure that the cages
7 were secure.

8 SECRETARY SULLIVAN: Thank you.

9 And next, introduction of our State Board of
10 Accounts, State Examiner Paul Joyce of State Board
11 of Accounts.

12 Are you here? Yes. If you would come to the
13 mic, please, so that our constituents that are
14 joining us can hear.

15 I note that the members' binders that we have
16 been distributed include two documents,
17 specifically the Indiana Recount Commission
18 guidelines and the State Board of Accounts manual
19 for conducting the results. Is that true?

20 MR. KOICHEVAR: I don't think so.

21 SECRETARY SULLIVAN: No? Okay. Do you have
22 an updated document that you wanted to provide the
23 Commission?

24 MR. JOYCE: We do. Thank you, Secretary, and
25 thank you, members of the Commission. I want to

1 let Kendra Leatherman, which is my general counsel,
2 address that because they did update that, and
3 we'll have it here today.

4 MS. LEATHERMAN: Good morning, Madam Chair.
5 My name is Kendra Leatherman. I'm the general
6 counsel for the State Board of Accounts. Last name
7 is Leatherman, L-e-a-t-h-e-r-m-a-n.

8 We have made some minor changes to our manual,
9 nothing substantive. But I did provide those ahead
10 of time to the Secretary's office. Mainly just
11 indicating changing of names of some forms
12 indicating that they are particularly for the
13 recount in 2022 and then also indicating on some of
14 our procedures that certain information has to be
15 carried from one form into the next. So for our
16 manual, those are the only changes that we have
17 made.

18 Once the Recount Commission, if they decided
19 they're going to change anything in their
20 procedures, then we will also incorporate those
21 into our manual, and then we will have an updated
22 manual for anyone to display on the website.

23 SECRETARY SULLIVAN: Thank you, and thank you
24 for pointing that out.

25 We do currently -- for anybody watching and

1 listening and learning this process, there is a
2 manual currently online at our website. It has had
3 some technical changes that were just described by
4 the State Board of Accounts that have been
5 submitted to our office as well as to the recount
6 director, Mr. Sicuso. So he -- and Phil talked
7 about that at the mic too, that that has been
8 accepted and they will at the next meeting approve
9 those changes and distribute accordingly to the
10 Commission.

11 So I appreciate your attention and information
12 to share with us so there's transparency around
13 what those changes are. When they are accepted by
14 the Recount Commission, then they will be updated
15 on our website as well for everyone to review and
16 to see that document.

17 Could you provide information regarding the
18 work that the State Board of Accounts will perform
19 to assist the Commission with the recount.

20 MR. JOYCE: Yes. Thank you. As stated, my
21 name is Paul Joyce. It's J-o-y-c-e.

22 As far as our leadership for our recount team,
23 it would be myself; Kendra Leatherman, which is my
24 general counsel; Jennifer Gauger, one of my other
25 attorneys; and Mike Rogina, which is a retired

1 member of the Board of Accounts that I contracted
2 back with that has performed at least five or six
3 different recounts as part of it, so brought his
4 knowledge back with it.

5 The Board of Accounts is ready and willing and
6 able to perform the recount. I myself have
7 performed six of them. We will bring -- we have
8 right now at least 30 people that are set aside to
9 work on this particular recount, and we'll bring
10 the necessary number of people to perform it.

11 Most recounts are made by Board of Accounts
12 looking at the machines that tally them
13 electronically. We will look at each individual
14 form cast. And the process itself will be two
15 field examiners doing the count on the opposite
16 side of the table. Each member of each party being
17 looked at will have an opportunity to observe that
18 count.

19 And when that's done, we will analyze each
20 document and then present that to this Commission
21 for your determining on whether or not you accept
22 or don't accept. We won't make a recommendation as
23 this is not valid. That would be your decision on
24 whether a vote is valid or not. We will show you
25 anything that is indifferent with a normal vote.

1 SECRETARY SULLIVAN: Thank you, Mr. Joyce.

2 Thank you for being here as well, Kendra.

3 And I did not obey my only housekeeping issue
4 of keeping the blue light on when I was speaking
5 earlier, so I wanted to clarify for transparency's
6 sake for those listening that there is an update to
7 the Indiana recount manual from the State Board of
8 Accounts, and that has been submitted to the
9 Commission. The recount director has that in his
10 possession, and when it is updated and approved
11 from the Commission, we will have it online for
12 everybody that is watching and the public to see
13 and to review.

14 So thank you for your time and attention
15 today.

16 MR. JOYCE: Thank you very much.

17 SECRETARY SULLIVAN: Okay. Right now we have
18 the opportunity for our Commission members to have
19 a general discussion or maybe make remarks or have
20 questions. If any of you on the Commission have
21 remarks or questions, please go forward.

22 MR. CLAYTOR: Thank you, Madam Secretary.
23 Just a comment or a process as far as what has
24 happened in the past, what's typical. It's good
25 that the candidates get an opportunity to go over

1 materials and then observe. What I have normally
2 found to be the case is that people will file a
3 petition for recount and contest, and typically
4 when they find that there are no bases for a
5 contest in the process, those contests go away.

6 So we will act both on recount, as Mr. Joyce
7 indicated, that they will bring disputed documents
8 to us, and we will rule on those. But it has been
9 very rare that we've ever seen the contest go
10 forward after that. That's not something that they
11 will -- "they" being the Board of Accounts, State
12 Police, and Phil -- will go forward on. But if
13 there actually is, once materials have been looked
14 at, a reason to actually take up a contest, then I
15 assume we will be doing that after we've concluded
16 the recount portion of this material. That's what
17 I've seen in the past. I'm assuming we'll be on
18 that track in the future.

19 SECRETARY SULLIVAN: I assume so too, and I
20 know that your director would probably agree to
21 that if he was at the microphone right now. But,
22 yes, we will follow the manual and the code,
23 Indiana 3-12, to fulfill the recount process.
24 Thank you.

25 MR. WYNN: I don't have any comments or

1 questions in addition to what we've presented
2 today. Thank you.

3 SECRETARY SULLIVAN: Thank you.

4 The Commission here today has concluded its
5 business for today's agenda and meeting. Is there
6 a motion that the Commission do now adjourn?

7 MR. CLAYTOR: So moved.

8 SECRETARY SULLIVAN: Thank you.

9 A second?

10 MR. WYNN: Second.

11 SECRETARY SULLIVAN: Those in favor say "aye."

12 MR. CLAYTOR: Aye.

13 MR. WYNN: Aye.

14 SECRETARY SULLIVAN: Opposed, nay.

15 The "ayes" have it, and our meeting is now
16 adjourned. Thank you for your attention and
17 attendance.

18 (The Indiana Recount Commission Public Meeting
19 was adjourned at 10:25 a.m.)
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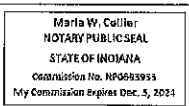
1 STATE OF INDIANA
2 COUNTY OF HAMILTON

3 I, Maria W. Collier, a Notary Public in and
4 for said county and state, do hereby certify that the
5 foregoing public session was taken at the time and
6 place heretofore mentioned between 10:00 a.m. and
7 10:25 a.m.;

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

12 IN WITNESS WHEREOF, I have hereunto set my
13 hand and affixed my notarial seal this 10th day of
14 June, 2022.

15
16 *Maria W. Collier*



21 My Commission expires:
22 December 5, 2024

23 Job No. 172685

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25

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