



Wisconsin Elections Commission

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Wisconsin Elections Commission

Wisconsin Elections Commission Offices
212 E. Washington Avenue, Third Floor
Madison, Wisconsin
10:00 a.m. February 27, 2020

Open Session Minutes

Present: Commissioner Dean Knudson, Commissioner Julie Glancey, Commissioner Ann Jacobs, Commissioner Robert Spindell Jr., and Commissioner Mark Thomsen, all in person.
Commissioner Marge Bostelmann via teleconference.

Staff present: Meagan Wolfe, Richard Rydecki, Michael Haas, Robert Kehoe, Sharrie Hauge, Nathan Judnic and Reid Magney

A. Call to Order

Commission Chair Dean Knudson called the meeting to order at 10:01 a.m. and called the roll. All Commissioners except Bostelmann were present.

B. Administrator's Report of Appropriate Meeting Notice

Administrator Meagan Wolfe informed the Commissioners that proper notice was given for the meeting.

C. Personal Appearances

Mayor Brian Kennedy of Glendale appeared and read a prepared statement about agenda item I, Ballot Access Challenge Process. He urged the commission to reject the staff recommendation and answered several questions from commissioners.

Karen McKim of Waunakee appeared on behalf Wisconsin Election Integrity to speak about the vulnerability of voting equipment to hacking. She urged the commission to ask the Legislature to require risk limiting audits of election results prior to certification.

Eileen Newcomer of Madison appeared on behalf of the League of Women Voters of Wisconsin to support funding for public education about election security. She also discussed the accessibility audit program.

Wisconsin Elections Commissioners

Dean Knudson, chair | Marge Bostelmann | Julie M. Glancey | Ann S. Jacobs | Robert Spindell | Mark L. Thomsen

Administrator
Meagan Wolfe

Dane County Clerk Scott McDonell appeared to discuss the WEC's allocation of election security grant funds to counties and advocated for funding of intrusion sensors. He also discussed post-election audits.

Debbie Morin appeared on her own behalf to discuss absentee ballot issues and the Commission's Delegation of Authority to the Administrator.

D. Minutes of Previous Meeting

MOTION: Approve the open session minutes of the meetings of December 2, 2019 (as amended by Commissioner Spindell), December 16, 2019, December 30, 2019, January 14, 2020, January 24, 2020, and February 12, 2020.

Moved by Commissioner Thomsen, seconded by Commissioner Jacobs. Motion carried unanimously.

E. Election Security

Technology and Training Director Robert Kehoe made a presentation based on a written report starting on page 2 of the meeting materials. He discussed the WEC's endpoint testing program for users of the WisVote election management/voter registration system to identify devices that do not comply with security standards. There are 1,852 devices enrolled in endpoint testing and the percentage of noncompliant devices has fall from 2% to less than 0.5%. Noncompliant devices can no longer access the system.

Commissioners and staff discussed whether the names of municipalities with noncompliant devices should be released to the public.

MOTION: Direct staff to notify the six municipalities with non-compliant devices that the WEC will release their names if they do not acquire a compliant device. The municipalities will be offered unallocated grant funds to acquire a compliant device, and would have until the next meeting of the Commission. Moved by Commissioner Thomsen, seconded by Commissioner Spindell.

Discussion.

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| Roll call vote: | Bostelmann | Absent | Glancey: | Aye |
| | Jacobs: | Aye | Knudson: | Aye |
| | Spindell | Aye | Thomsen: | Aye |

Motion carried 5-0.

Mr. Kehoe continued his presentation on the topic of secure, "wi.gov" email domains for local election officials. Commissioners also discussed issues related to the coronavirus and whether it might disrupt elections if schools are closed.

Mr. Kehoe updated the commission on the election security subgrant program that was approved in 2019 and plans to spend the 2020 HAVA Security Grant funding.

Chair Knudson called a recess at 12:13 p.m. The Commission reconvened at 12:20 p.m.

Commissioners discussed getting additional input and feedback from computer and elections security experts regarding how best to spend the 2020 HAVA Security Grant funds. Commissioners asked staff to come back at a future meeting by the end of March with a shorter, more focused list of priority items focused on grants to local jurisdictions.

Public Information Officer Reid Magney made a presentation based on a memorandum starting on page 17 of the meeting materials regarding progress on the election security public information program. No Commission action was requested.

F. Review of MyVote Address Lookup Issues

Administrator Wolfe made a presentation regarding problems with the MyVote Wisconsin website the day of the Spring Primary which affected voters' ability to look up their polling place. She and commissioner discussed plans to ensure the problem does not happen again.

The following agenda item was taken out of order.

L. Closed Session

- 1. Minutes of Previous Meetings**
- 2. Wis. Stat. § 5.05 Complaints**
- 3. Litigation Update**

MOTION: Move to closed session pursuant to Wis. Stat. §§ 19.851 and 19.85(1)(g) to discuss violations of election law and confer with counsel concerning litigation. Moved by Commissioner Thomsen, seconded by Commissioner Jacobs.

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| Roll call vote: | Bostelmann | Absent | Glancey: | Aye |
| | Jacobs: | Aye | Knudson: | Aye |
| | Spindell | Aye | Thomsen: | Aye |

Motion carried 5-0.

Commissioners adjourned to closed session at 1:14 p.m. and returned to open session at 2:10 p.m. Commissioner Bostelmann joined the meeting by telephone.

G. ERIC Movers Process for Spring Elections

Administrator Wolfe gave a presentation based on a memorandum starting on page 18 of the February 27 Open Session meeting materials regarding the 2019 ERIC Movers mailing to 232,579 recipients.

Commissioners and staff discussed the status of voters responding to the mailing.

The Commission took no action.

H. Accessibility Audit Plan for 2020

Mr. Rydecki and Elections Specialist Brianna Hanson gave a presentation based on a memorandum starting on page 18 of the February 27 Open Session meeting materials regarding accessibility audits of polling places. They outlined plans described in the memorandum for conducting audits using a combination of temporary staff and volunteers for elections in 2020.

Commissioners and staff discussed the scope of the program and opportunities to use volunteers in the future.

MOTION: Approve the staff plan for the polling place accessibility audit program for the 2020 election cycle. Moved by Commissioner Jacobs, seconded by Commissioner Spindell. Motion carried unanimously.

Technology and Training Director Robert Kehoe introduced two new staff members, IS Business Analyst Camille Lore and WisVote Specialist Ahna Barreau.

I. Ballot Access Challenge Process

Staff Counsel Michael Haas gave a presentation based on a memorandum starting on page 29 of the February 27 Open Session meeting materials regarding ballot access challenge processes.

Commissioners and staff discussed the issue. Staff recommends the Commission adopt the following principles for its review of nomination papers and election petitions and for review by local filing officers:

1. The “will of the electors” language in Wis. Stat. § 5.01(1) does not apply to the review of nomination papers and election petitions. Commission staff will not consider the “will of the electors” in evaluating nomination papers and election petitions and the Commission will not take it into account when ruling on challenges or appeals of decisions issued by local filing officers related to nomination papers and other election petitions.
2. The “substantial compliance” language in Wis. Admin. Code EL § 2.05(5) applies only to evaluating the completeness of information on nomination papers or other

election petitions. Examples include the required information related to candidates, circulators and signers of the petition.

3. The “substantial compliance” language in Wis. Admin. Code EL § 2.05(5) does not apply to procedural requirements for circulating and filing nomination papers and other election petitions. Procedural requirements involve acts that are done to the documents and include the time and place of filing.

4. The plain language of Wis. Stat. § 8.04 requires that when a circulator collects signatures for more than one candidate for the same office in the same election, the earlier paper is deemed valid and the later paper is deemed invalid. In such cases, the Commission and local filing officers will not consider whether there has been substantial compliance with this provision because the requirement does not relate to the completeness of information on the page. (Filing officers are likely to detect this circulator error as well as signatures of the same individual on nomination papers for more than one candidate for the same office only upon review of a challenge because the facial review does not require a comparison of nomination papers between candidates).

The Commission further directs staff to incorporate these principles into its review of nomination papers and other election petitions and to communicate the same to local filing officers.

MOTION: Approve principles 1, 3 and 4. Moved by Commissioner Spindell, seconded by Commissioner Knudson.

Discussion.

MOTION: To amend the motion to include principal 2. Moved by Commissioner Glancey, seconded by Commissioner Jacobs.

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| Roll call vote: Bostelmann | Aye | Glancey: | Aye |
| Jacobs: | Aye | Knudson: | Aye |
| Spindell | No | Thomsen: | No |

Motion on the amendment carried 4-2.

MOTION: To amend the motion to amend principal 2 to add the following phrase at the end of the first sentence: “evaluation of which will not be unreasonable.” Moved by Commissioner Spindell, seconded by Commissioner Knudson.

Discussion.

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| Roll call vote: Bostelmann | Aye | Glancey: | No |
| Jacobs: | No | Knudson: | No |
| Spindell | Aye | Thomsen: | Aye |

Motion failed 3-3.

Commissioner Knudson called the question on the main motion as amended.

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| Roll call vote: | Bostelmann | Aye | Glancey: | Aye |
| | Jacobs: | Aye | Knudson: | Aye |
| | Spindell | No | Thomsen: | No |

Motion carried 4-2.

MOTION: Direct staff to modify nomination papers to add a statement about not having the same circulator circulate for you and another candidate in the same race. Moved by Commissioner Knudson, seconded by Commissioner Thomsen.

Discussion.

Commissioner Knudson withdrew his motion with the understanding that staff will bring revised language to the Commission at its next regular meeting.

J. Considerations of Updates to the Delegation of Authority Access Challenge Process

Administrator Wolfe gave a presentation based on a memorandum contained in the supplemental meeting materials for the February 27 Open Session regarding the Commission's Delegation of Authority to the administrator.

Commissioner Knudson made a presentation outlining his thoughts regarding amending the previous Delegation of Authority letter.

MOTION: To adoption of Delegation of Authority letter with proposed changes. Moved by Commissioner Knudson, seconded by Commissioner Spindell.

Discussion.

Commissioner Spindell handed out a document regarding changes he would like to see to the Delegation of Authority letter. In response, Commissioner Knudson proposed several changes to the letter.

Discussion.

By consensus, the Commissioners agreed to the following changes to the redline version of the letter:

- In Section 1, the last bullet point on non-appointment of an election inspector is struck.
- Section 2 is struck entirely.
- In Section 1, bullet 3, add the words "except as allowed by the Open Meetings Law."

Commissioner Knudson called the question on the full motion as amended.

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| Roll call vote: Bostelmann | Aye | Glancey: | Aye |
| Jacobs: | Aye | Knudson: | Aye |
| Spindell | Aye | Thomsen: | Aye |

Motion carried unanimously.

K. Staff Update

Administrator Wolfe gave a presentation based on a memorandum starting on page 31 of the February 27 Open Session meeting materials regarding staff's recent activities. She discussed the rollout of Badger Books in new municipalities, the ElectionGuard pilot, and legislation.

M. Adjournment

MOTION: Adjourn. Moved by Commissioner Thomsen, seconded by Commissioner Knudson. Motion carried unanimously.

The Commission adjourned at 4:28 p.m.

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The next regular meeting of the Wisconsin Elections Commission is scheduled for June 10, 2020, at the Wisconsin Elections Commission offices in Madison, Wisconsin beginning at 10:00 a.m.

February 27, 2020 Wisconsin Elections Commission meeting minutes prepared by:


Reid Magney, Public Information Officer

August 28, 2020

February 27, 2020 Wisconsin Elections Commission meeting minutes certified by:


Marge Bostelmann, Commission Secretary

June 2, 2021