



Wisconsin Elections Commission

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Wisconsin Elections Commission
Regular Teleconference Meeting
212 E. Washington Avenue, Third Floor
Madison, Wisconsin
10:30 a.m. March 2, 2021

Open Session Minutes

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

Staff present: Meagan Wolfe, Richard Rydecki, Sharrie Hauge, Robert Kehoe, Nathan Judnic, James Witecha, Reid Magney, and Jacob Walters, all by teleconference

A. Call to Order

Commission Chair Ann Jacobs called the meeting to order at 10:31 a.m. and called the roll. All Commissioners were present.

B. Administrator's Report of Appropriate Meeting Notice

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

D. Personal Appearances

Ardis Cerny appeared and expressed her dissatisfaction with the Wisconsin Elections Commission and its past actions regarding the November 2020 election.

Commissioner Spindell followed with questions.

Eileen Newcomer of the League of Women Voters of Wisconsin appeared and thanked the Wisconsin Elections Commission for its work and commented on the day's agenda items.

Commissioner Spindell followed with questions and Commissioner Knudson with comments.

Barbara Beckert appeared on behalf of Disability Rights Wisconsin and the Wisconsin Disability Vote Coalition and discussed the importance of Special Voting Deputies, areas for potential improvement, and their overall approval of WEC's plan to reinstate SVDs.

Commissioners Spindell and Knudson followed with questions.

Wisconsin Elections Commissioners

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

Administrator
Meagan Wolfe

D. Personal Appearances (continued)

Patty Healy appeared and advocated for resumption of the Special Voting Deputy program. She also expressed concerns related to Dominion voting equipment and the donation of private money to administer elections.

Commissioners Thomsen and Spindell followed with questions.

Senator Kathleen Bernier appeared and thanked the Commission for all of its work during a difficult year. Senator Bernier spoke about the importance of promulgating rules versus issuing guidelines, as rules are enforceable whereas guidelines are not.

Commissioners Spindell, Thomsen, and Knudson followed with questions and comments.

E. Consideration of Adoption of Special Voting Deputies Guidance for the April 6, 2021 Election and Analysis of Administrative Rule Process

Administrator Wolfe gave a presentation based on a memorandum beginning on page 8 of the March 2, 2021, commission meeting materials. She gave an overview of past guidance issued by the Commission in 2020 and in early 2021 with respect to whether clerks should send Special Voting Deputies to residential care facilities and retirement homes for absentee voting. Attorney James Witecha continued with an outline of the process for making administrative rules.

Commissioners Thomsen, Knudson, and Jacobs asked Attorney Witecha questions concerning the administrative rule making process.

Administrator Wolfe continued by going over proposed guidance the Commission could issue to clerks in light of the opinion provided to the Joint Committee on Review of Administrative Rules (JCRAR) by Legislative Council and further JCRAR-issued directives to the WEC.

Otis Woods and other representatives of the Wisconsin Department of Health Services made presentations about public health guidance for residential care facilities. Commissioners discussed potential guidance to clerks.

Chair Jacobs called for a recess at 1:29 p.m. and the meeting resumed at 2:04 p.m.

Discussion on the feasibility of pursuing an administrative rule, considering what that entails and the timeline of the 2021 Spring Election.

Further discussion on the nature of potential SVD guidance to clerks. Specifically, how that guidance would conform to statutes, how that guidance would take into account the narrow timeframes within which clerks would need to complete SVD requirements, and how that guidance would factor in the mail delivery delays being reported by the United States Postal Service.

E. Consideration of Adoption of Special Voting Deputies Guidance for the April 6, 2021 Election and Analysis of Administrative Rule Process (continued)

MOTION: Specific to the April 6, 2021, Clerks shall contact all eligible facilities in their municipality no later than March 12, 2021 to determine whether special voting deputies will be admitted. If SVDs are permitted, SVDs should schedule their visits immediately in the allowable SVD period and consolidate such visits to the greatest extent possible, so that there are at least 14 days prior to the election so that any voter who does not vote with SVD assistance may receive and return their absentee ballot. These visits should be scheduled no later than March 19, 2021. SVDs and observers must comply with any requirements of the care facility and of state and local health departments to conduct the visits safely, recognizing the importance of preserving a resident’s right to vote.

If the clerk is informed that SVDs will not be permitted entry to the facility, the SVD’s should schedule two tele-visits with the administrator of the facility. These tele-visits should be scheduled immediately in the allowable SVD period so that if attempted visits are denied that there are at least 14 days prior to the election for the voter to receive and return their absentee ballot. SVD’s should use the tele-visit to confirm that SVDs are not permitted to enter the facility. If SVDs are denied access to the facility, then clerks must proceed to the provisions of Wis. Stat. § 6.875(6)(e) and send voters their ballots.

Moved by Commissioner Knudson, seconded by Commissioner Bostelmann.

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

Motion carried unanimously.

MOTION: Staff are instructed to incorporate the WEC’s policy statement regarding Special Voting Deputies for the April 6, 2021 Spring Election into its Clerk guidance memorandum.

Moved by Commissioner Glancey, seconded by Commissioner Bostelmann.

FRIENDLY AMENDMENT: Direct staff to revise the Clerk memorandum to incorporate language that reflects a more positive, can-do attitude towards the implementation of this policy.

Proposed by Commissioner Spindell, rejected by Commissioner Glancey.

Commissioner Jacobs called the question on the main motion.

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

Motion carried unanimously.

E. Consideration of Adoption of Special Voting Deputies Guidance for the April 6, 2021 Election and Analysis of Administrative Rule Process (continued)

MOTION: Staff are directed to use the WEC’s policy statement regarding Special Voting Deputies for the April 6, 2021 Spring Election to create a scope statement to submit in pursuance of a temporary emergency administrative rule for this election.

Moved by Commission Knudson, seconded Commissioner Thomsen.

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

Motion carried unanimously.

MOTION: Staff are directed to research, in consultation with other subject matter experts, statutory changes needed in order to implement an alternative to SVD voting, to provide this information to the Commission for its consideration relative to its 2021 legislative agenda, and that a special WEC committee be established for this purpose.

Moved by Commissioner Spindell, seconded by Commissioner Knudson.

Discussion on the motion.

FRIENDLY AMENDMENT: This committee is to be ad hoc and disbanded no later than December 31, 2021.

Proposed by Commissioner Knudson, accepted by Commissioner Spindell.

AMENDED MOTION: Staff are directed to research, in consultation with other subject matter experts, statutory changes needed in order to implement an alternative to SVD voting, to provide this information to the Commission for consideration relative to its 2021 legislative agenda, and that a special WEC ad hoc committee be established, to be disbanded no later than December 31, 2021, for this purpose.

Discussion on the amended motion.

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

Motion failed 4-2.

MOTION: Staff are directed to research, in consultation with other subject matter experts, statutory changes needed in order to implement an alternative to SVD voting, as part of the Commission’s 2021 legislative agenda.

Moved by Commissioner Bostelmann, seconded by Commissioner Glancey.

Question called by Commissioner Thomsen.

E. Consideration of Adoption of Special Voting Deputies Guidance for the April 6, 2021 Election and Analysis of Administrative Rule Process (continued)

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

Motion carried 5-1.

Discussion on the scope statement.

C. Minutes of Previous Meetings

(This agenda item was taken out of order.)

MOTION: The Commission adopts the February 3, 2021 open meeting minutes as written.

Moved by Commissioner Knudson, seconded by Commissioner Bostelmann.

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

Motion carried unanimously.

F. Status Report on Electronic Voting Equipment Audit

Election Administration Specialists Robert Williams and Cody Davies gave a presentation based on a memorandum starting on page 34 of the March 2, 2021, commission materials regarding false overvote counts on Dominion ImageCast Evolution optical scan tabulators. These false overvote counts were the result of ballots being folded and those creases being read as writing in the write-in candidate sections on these ballots. Chad Trice of Command Central, a vendor that sells and supports Dominion voting equipment, also appeared.

Discussion of findings and questions.

MOTION: The Commission accepts and adopts this report on training procedures, County Clerk outreach, and ImageCast Evolution overvote data analysis.

Moved by Commissioner Glancey, seconded by Commissioner Bostelmann.

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

Chair Jacobs called for a recess at 4:04 p.m. and the meeting resumed at 4:22 p.m.

G. Consideration of Adoption of Plan for Electronic Registration Information Center 2021 Movers Mailer

Technology Director Robert Kehoe gave a presentation based on a memorandum starting on page 47 of the March 2, 2021, commission materials packet regarding the proposed 2021 ERIC mover mailing process, which entails sending quarterly ERIC mover mailings as opposed to mailings every 18 months.

Discussion on potential improvements and on the usage of watermarks on pollbooks.

MOTION: The Commission directs staff to process the initial 2021 Movers mailing in June 2021 and then implement a quarterly ERIC Movers mailing process, with updated clerk training materials, beginning with the September 2021 mailing. The Commission further approves the language on the postcard, with the understanding that some non-substantive editing may be needed to address usability and printing requirements. Staff will report back on updated quarterly process options pending court guidance on deactivation authority. Finally, the Commission directs staff to continue usage of the public watermark program with the words “Have you moved?” on the pollbook next to those voters who appear on the ERIC movers list.

Moved by Commissioner Knudson, seconded by Commissioner Bostelmann.

Commissioner Spindell asked questions of Technology Director Kehoe and Attorney Witecha.

FRIENDLY AMENDMENT: Implement this program with a sunset date of December 31, 2022.

Proposed by Commissioner Spindell, accepted by Commissioner Knudson and Commissioner Bostelmann.

AMENDED MOTION: The Commission directs staff to process the initial 2021 Movers mailing in June 2021 and then implement a quarterly ERIC Movers mailing process, with updated clerk training materials, beginning with the September 2021 mailing. The arrangement of this ERIC Movers mailing process would have a sunset date of December 31, 2022 whereupon it will be reevaluated by the Commission. The Commission further approves the language on the postcard, with the understanding that some non-substantive editing may be needed to address usability and printing requirements. Staff will report back on updated quarterly process options pending the court guidance regarding deactivation authority. Finally, the Commission directs staff to continue usage of the public watermark program with the words “Have you moved?” on the pollbook next to those voters who appear on the ERIC movers list.

Further questions and discussion regarding the implementation of this updated process and on the watermark program.

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

Motion carried unanimously.

G. Consideration of Adoption of Plan for Electronic Registration Information Center 2021 Movers Mailer (continued)

Discussion on the WEC's authority to promulgate rules such that the Wisconsin Department of Transportation's Division of Motor Vehicles is required to distinguish between those who wish to change their address for voting purposes and those who do not. Agreement to have this added as an item to a future agenda.

H. Staff Update

Administrator Wolfe gave a presentation based on the Staff Update memorandum starting on page 55 of the March 2, 2021, commission meeting materials packet regarding what WEC staff have been working on since the Commission's last quarterly meeting, including the four-year voter list maintenance postcard.

Discussion on the four-year voter list maintenance postcard and potential improvements. Commissioners directed staff to research potential improvements and present on such at a later point in time.

Commissioners Spindell and Knudson had questions for Administrator Wolfe regarding the process for submitting complaints and expressed a desire to have this added as an item to a future agenda.

I. Consideration of Updates to Commission's Legislative Agenda

Administrator Wolfe gave a presentation based on a memorandum starting on page 76 of the March 2, 2021, commission meeting materials packet regarding the Commission's history of submitting a legislative agenda, examples of past legislative agendas. She discussed four new items which the staff recommends the Commission include in its current legislative agenda. The four are 1.) Federal and State Absentee Ballot Deadline Issues (A/B Ballots), 2.) Special Elections – U.S. Senator and Representative in Congress, 3.) Canvass and Certification Timeframes, and 4.) Special Voting Deputies.

Administrator Wolfe said staff recommends that the Commission adopt the additional items outlined in the memorandum to be included in its legislative agenda and direct staff to work with the Legislature to support these statutory changes. The Commission further directs staff to submit a letter to legislative leadership outlining the Commission's decision and indicating that the Commission further recommends that WEC legislative agenda items remain stand-alone bills and that the technical changes should not be paired with other bills or items.

MOTION: That items 1, 2 and 3 be accepted, and discuss 4 afterwards because that's controversial.

Moved by Commissioner Spindell, seconded by Commissioner Knudson.

Discussion.

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

I. Consideration of Updates to Commission’s Legislative Agenda (continued)

Motion carried unanimously.

MOTION: Item 4, Special Voting Deputies, is postponed until such time as staff reports its recommendations on Special Voting Deputies. Moved by Commissioner Spindell, seconded by Commissioner Thomsen.

Discussion.

Commissioner Spindell withdrew the motion.

J. Closed Session

MOTION: Adjourn to closed session for the purpose of discussing election complaints under Wis. Stat. § 5.05 and conferring with legal counsel concerning litigation strategy.

Moved by Commissioner Bostelmann, seconded by Commissioner Knudson.

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

Motion carried unanimously.

The Commission recessed at 5:42 p.m.

The Commission adjourned at 6:22 p.m. in closed session.

March 2, 2021 Wisconsin Elections Commission meeting minutes prepared by:



Jacob Walters, Operations Program Associate

March 10, 2021

March 2, 2021 Wisconsin Elections Commission meeting minutes certified by:



Marge Bostelmann, Commission Secretary

June 2, 2021