

Wisconsin Elections Commission - 2016 Vote Recount - Presidential Election

Transcript of Proceedings

December 1, 2016



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RECOUNT OF 2016 PRESIDENTIAL ELECTION
STATE OF WISCONSIN

Recount held before the Milwaukee County Election
Commission

Thursday, December 1, 2016

9:10 a.m.

at

CITY OF MILWAUKEE WAREHOUSE
1901 South Kinnickinnic Avenue
Milwaukee, Wisconsin 53204

Reported by Stephanie Groshek

A P P E A R A N C E S

ELECTION COMMISSIONERS:

Ms. Nancy Penn, Election Chairwoman
Mr. Rick Baas, Election Commissioner
Mr. Tim Posnanski, Election Commissioner

ALSO PRESENT:

Mr. Joseph Czarnezki, County Clerk
Mr. George Christenson, Deputy County Clerk
Ms. Julietta Henry, Elections Director
Mr. Timothy A. Karaskiewicz, Corporation Counsel

TRANSCRIPT OF PROCEEDINGS

CHAIRWOMAN PENN: Welcome everyone. We'd like to call this meeting to order at 10:10 a.m -- 9:10. Sorry. I stand corrected.

MR. CZARNEZKI: Our first order of business would be to call the roll, Madam Chair. Commissioner Baas?

COMMISSIONER BAAS: Present.

MR. CZARNEZKI: Commissioner Posnanski?

COMMISSIONER POSNANSKI: Present.

MR. CZARNEZKI: Chairwoman Penn?

CHAIRWOMAN PENN: Present.

MR. CZARNEZKI: Chairwoman Penn, all commissioners are present.

Madam Chair, the next order of business is to determine the method of the recount. A motion for that would be in order at this time.

COMMISSIONER POSNANSKI: Madam Chair, I would move to conduct the machine recount of the 2016 presidential election ballots according to all applicable state statutes.

COMMISSIONER BAAS: Second.

CHAIRWOMAN PENN: The motion was seconded.

MR. CZARNEZKI: On the motion,

1 Commissioner Baas?

2 COMMISSIONER BAAS: Second.

3 MR. CZARNEZKI: Okay. On the roll
4 call --

5 COMMISSIONER BAAS: Aye.

6 MR. CZARNEZKI: Commissioner Posnanski?

7 COMMISSIONER POSNANSKI: Aye.

8 MR. CZARNEZKI: Chairwoman Penn?

9 CHAIRWOMAN PENN: Aye.

10 MR. CZARNEZKI: Madam Chair, there are
11 three ayes, zero nos. The motion prevails.

12 CHAIRWOMAN PENN: Thank you.

13 MR. CZARNEZKI: Madam Chair, the next
14 order of business is to conduct the public test of
15 the voting equipment. Excuse me. That is the next
16 order, but we're going to administer the oath of
17 office to the election inspectors.

18 And at this time, then I would ask that
19 all the election inspectors please stand and raise
20 your right hand, and we're going to do this en
21 masse, and so if you would repeat after me please.

22 (Whereupon the election inspectors were
23 duly sworn in.)

24 MR. CZARNEZKI: Congratulations, and
25 thank you for your service.

1 The next order of business is to conduct
2 the public test of the voting tabulation equipment.

3 COMMISSIONER POSNANSKI: Madam Chair, I
4 would make a motion to test one machine with one
5 ballot, and the same for both County and City for
6 the DS200s and the DS850s.

7 CHAIRWOMAN PENN: All in favor?

8 MR. CZARNEZKI: Commissioner Baas?

9 COMMISSIONER BAAS: Nay.

10 MR. CZARNEZKI: Commissioner Posnanski?

11 COMMISSIONER POSNANSKI: Aye.

12 MR. CZARNEZKI: Chairwoman Penn?

13 CHAIRWOMAN PENN: Aye.

14 MR. CZARNEZKI: There are two ayes, zero
15 nos. The motion prevails to test one DS200 and one
16 DS850 --

17 COMMISSIONER BAAS: There were not zero
18 nos.

19 MR. CZARNEZKI: Excuse me, the vote was
20 two ayes, one no. I stand corrected. Thank you,
21 Commissioner.

22 So we will now conduct the public test.
23 Election Director Henry will be conducting the test
24 of the DS200 in this room, and in the room over
25 here, if anyone wants to observe, City Director

1 Election Commissioner Neil Albrecht will be
2 conducting the public test of the DS850 in the
3 other room, which is open to the public.

4 Commissioners, do you want to come and
5 conduct the public test, please? And then you'll
6 go into the other room and observe the test of the
7 DS850.

8 MS. HENRY: At this point, the public
9 count is set to zero. We will open the poll.
10 We're receiving a zero total report.

11 Commissioners, can you verify that the
12 tape says zero?

13 COMMISSIONER POSNANSKI: Yes.

14 COMMISSIONER BAAS: Yes.

15 CHAIRWOMAN PENN: Yes.

16 MS. HENRY: This is for the Village of
17 Bayside. Village of Bayside, we have the ballots
18 here, and we will now ultimately vote.

19 On the test that we have voted for every
20 single candidate, we have overvoted. You will find
21 a blank ballot as well, and when it's a blank
22 ballot, it will spit it out and ask if you want to
23 accept it or not.

24 That's an overvoted ballot, and it's not
25 going to go through the machine. The person -- an

1 overvote is when an individual voted for more than
2 one candidate in the contest, and in this case,
3 they voted for all of the candidates, so we
4 can't -- and no one would be able to determine the
5 intent of the voter, as well. But we do that on
6 the test to test the programming, okay?

7 At this point, we're going to close the
8 polls. There were a total of 54 ballots cast. The
9 Village of Bayside, they have a total of four
10 reporting units, and you will notice, based on the
11 test, each should have received 14 votes, and -- I
12 should say two received 14 votes and two received
13 13 votes. And so we're going to cancel modem,
14 because we're not modeming in these results, and
15 we're going to zero out this machine so it will
16 start back at zero.

17 And at this time, you can follow us into
18 the other room where the 850s are set up for the
19 City of Milwaukee, all of the media and observers,
20 and at this time, we will test the 850 machines.

21 (Whereupon testing of the machine was
22 conducted off the record.)

23 CHAIRWOMAN PENN: Okay. We are back on
24 the record. We conducted the public test, and we
25 had one objection. That objector should come

1 forth, because he needs to state his objection on
2 the record.

3 And we are -- we need to put -- so could
4 you could state your objection to our ruling that
5 we would just test one machine?

6 MARK KOWALSKI: Since the question is the
7 integrity of the machines, and there aren't that
8 many machines, why would we only test one machine?
9 What is the advantage of testing only one?

10 CHAIRWOMAN PENN: Well, we decided to
11 test only one because they're new, they're
12 accurate, and the test results showed that the
13 packet of ballots that we used gave us the results
14 that we expected it to give us.

15 MARK KOWALSKI: No. That's an
16 assumption. With everything, there is a certain
17 amount of accuracy, a percentage, and each machine
18 is different than that form. They weren't all
19 built at the same time, they weren't programmed all
20 at the same time.

21 MR. KARASKIEWICZ: Are you making an
22 objection?

23 MARK KOWALSKI: Yes. I'm making an
24 objection to only testing one machine.

25 MR. KARASKIEWICZ: What is your objection

1 and what would you like the Board to do?

2 MARK KOWALSKI: I would like to have
3 testing on all the machines.

4 How many machines are there exactly?

5 COMMISSIONER POSNANSKI: What's the total
6 of the machines?

7 MS. HENRY: Five.

8 COMMISSIONER POSNANSKI: And how many in
9 this room?

10 MS. HENRY: Twenty-five.

11 COMMISSIONER POSNANSKI: Are you asking
12 that all thirty machines be tested? Or only the
13 five in that room?

14 MARK KOWALSKI: I would say all of them.
15 When you're looking at the potential here, the
16 advantage of time versus --

17 COMMISSIONER POSNANSKI: Okay. Your
18 objection is noted. We'll go into closed session
19 and discuss the objection.

20 MR. CZARNEZKI: Madam Chairwoman, under
21 the open meetings law, you must have a roll call
22 vote to go into closed session to discuss the
23 objection. So Commissioner Posnanski, that being
24 said, that was a motion to go into closed session
25 and discuss the objection?

1 COMMISSIONER POSNANSKI: It was.

2 MR. CZARNEZKI: Okay. Then on the motion
3 to go into closed session to discuss the objection,
4 Commissioner Baas?

5 COMMISSIONER BAAS: Aye.

6 MR. CZARNEZKI: Commissioner Posnanski?

7 COMMISSIONER POSNANSKI: Aye.

8 MR. CZARNEZKI: Chairwoman Penn?

9 CHAIRWOMAN PENN: Aye.

10 MR. CZARNEZKI: The motion to go into
11 closed session prevails. The Commission will
12 convene in closed session and confer with
13 corporation counsel to discuss the objection, and
14 we'll reconvene in open session upon completion of
15 their closed session.

16 (A short break was held.)

17 CHAIRWOMAN PENN: Okay. So we're back on
18 the record.

19 COMMISSIONER POSNANSKI: Thank you, Madam
20 Chair. We discussed the objection in closed
21 session. After discussion, I would move to sustain
22 the objection and conduct a public test of each
23 machine used in the recount.

24 MR. CZARNEZKI: On the motion to sustain
25 the objection and conduct the public test of each

1 machine that will be used in the recount,
2 Commissioner Baas?

3 COMMISSIONER BAAS: Aye.

4 MR. CZARNEZKI: Commissioner Posnanski?

5 COMMISSIONER POSNANSKI: Aye.

6 MR. CZARNEZKI: Chairwoman Penn?

7 CHAIRWOMAN PENN: Aye.

8 MR. CZARNEZKI: The motion to sustain the
9 objection and conduct a public test of each machine
10 to be used in the recount prevails.

11 CHAIRWOMAN PENN: Ms. Henry, would you
12 have your staff conduct the test?

13 MR. CZARNEZKI: We will begin by
14 conducting the public test I think of the DS850s.

15 So Director Henry, if you could go in
16 with Director Albrecht and conduct the public test
17 of the remaining DS850s, please.

18 And observers and the media and
19 commissioners, would you please go into the room
20 where the City of Milwaukee will be conducting your
21 ballot to test the DS850s, and we will not begin
22 the public test of the DS200s until we have
23 completed the test of the DS850s in the City of
24 Milwaukee room.

25 (Whereupon testing of the machines was

1 conducted off the record.)

2 CHAIRWOMAN PENN: Okay. We are going to
3 go back on the record. We're going to talk about
4 the results of the test of all of the machines.

5 All of the machines tested the ballots
6 accurately, except for one machine in Milwaukee
7 County, which had a little optical problem -- City
8 of Milwaukee had an optical problem, which they
9 were able to rectify quickly, so...

10 COMMISSIONER POSNANSKI: Madam Chair, we
11 have also independently reviewed the test results
12 from the testing on every one of the voting
13 machines, and I would move to accept those test
14 results.

15 CHAIRWOMAN PENN: Clerk, could you call
16 the roll?

17 MR. CZARNEZKI: On the motion to accept
18 the test results, Commissioner Baas?

19 COMMISSIONER BAAS: Aye.

20 MR. CZARNEZKI: Commissioner Posnanski?

21 COMMISSIONER POSNANSKI: Aye.

22 MR. CZARNEZKI: Chairwoman Penn?

23 CHAIRWOMAN PENN: Aye.

24 MR. CZARNEZKI: Madam Chairwoman, the
25 motion to accept the test results prevails.

1 Madam chairwoman, we have another issue
2 for the Board of Canvassers to resolve from the
3 Village of Bayside.

4 LYNN GALYARDT: I'm Lynn Galyardt from
5 the Village of Bayside, and what I have here are
6 two envelopes -- Director of Finance and
7 Administration.

8 What I have here are two envelopes with
9 no witness signature or address. These were given
10 out at the village hall, because there are no
11 mailing labels on the back. My staff witnessed the
12 signature and handed them the ballot. When they
13 brought the envelope back, this got accidentally put
14 into our ballot box and locked up in our safe room
15 versus getting the signature from my staff.

16 MR. CZARNEZKI: So commissioners, I will
17 give you these envelopes to inspect. It is up to
18 you to decide whether to accept or reject two
19 absentee ballots from the Village of Bayside. And
20 the representative from the Village will answer any
21 further questions you have.

22 COMMISSIONER POSNANSKI: Just for a point
23 of clarification, in order to get this ballot,
24 someone, either you or someone from your staff,
25 personally witnessed these individuals sign their

1 name in order to get the ballot, is that right?

2 LYNN GALYARDT: Correct.

3 COMMISSIONER POSNANSKI: Madam Chair, I
4 would move to accept these two ballots from the
5 Village of Bayside.

6 MR. CZARNEZKI: There's no discussion.
7 On the motion to accept the ballots in question,
8 Commissioner Baas?

9 COMMISSIONER BAAS: Aye.

10 MR. CZARNEZKI: Commissioner Posnanski?

11 COMMISSIONER POSNANSKI: Aye.

12 MR. CZARNEZKI: Chairwoman Penn?

13 CHAIRWOMAN PENN: Aye.

14 MR. CZARNEZKI: There are three ayes,
15 zero nos. The motion to accept the ballots from
16 the Village of Bayside prevails.

17 GREEN PARTY: I have a question.

18 CHAIRWOMAN PENN: What is your question?

19 GREEN PARTY: The question is whether all
20 the flash drives have been properly preserved
21 pursuant to the open public records request on the
22 machines.

23 CHAIRWOMAN PENN: Yes.

24 GREEN PARTY: Thank you.

25 CHAIRWOMAN PENN: Are you referring to

1 election night?

2 GREEN PARTY: Yes. Those are the flash
3 drives where the votes are recorded.

4 CHAIRWOMAN PENN: Yes.

5 GREEN PARTY: Okay. Thank you.

6 MR. CZARNEZKI: No other witness
7 withstanding, we'll take a recess before another
8 matter comes before the Board of Canvassers here.

9 (A recess was held from 11:16 a.m. to
10 11:30 a.m.)

11 CHAIRWOMAN PENN: We are back on the
12 record. The City of Bayside has given us six
13 additional absentee ballots that -- these were
14 absentee ballots voted in front of the clerk's
15 office, but the Clerk did not witness them, so I
16 guess I need a motion to accept them.

17 COMMISSIONER POSNANSKI: Madam
18 Chairwoman, with respect to the six ballots that
19 have been provided to us that were accepted under
20 the same circumstances as previously described, I
21 would move to accept these ballots.

22 CHAIRWOMAN PENN: Call the roll.

23 COMMISSIONER BAAS: Aye.

24 COMMISSIONER POSNANSKI: Aye.

25 CHAIRWOMAN PENN: Aye. We unanimously

1 accept it.

2 The next case is a person who mailed in
3 an absentee ballot, and they had a witness sign,
4 but they did not include an address. The election
5 commission, on the conference call yesterday,
6 recommended that we accept this ballot as valid.

7 Any discussion?

8 REPUBLICAN PARTY: Question. Is that a
9 certification that was completed within the clerk's
10 office? Or was it mailed to the elector?

11 CHAIRWOMAN PENN: This one was mailed.

12 REPUBLICAN PARTY: It was mailed to the
13 elector and it doesn't have a proper return
14 address. Nothing can be determined from that, nor
15 was there a partial address with no -- thank you.

16 MR. CZARNEZKI: Commissioners, did you
17 hear the question?

18 CHAIRWOMAN PENN: He is asking if -- what
19 are you asking?

20 REPUBLICAN PARTY: I'm asking if the
21 certification of the absentee elector was completed
22 in the clerk's office or if it was mailed into the
23 clerk's office.

24 CHAIRWOMAN PENN: It was mailed into the
25 clerk's office.

1 REPUBLICAN PARTY: Thank you.

2 COMMISSIONER POSNANSKI: Madam Chair, you
3 said the recommendation on the call yesterday was
4 to accept these ballots?

5 CHAIRWOMAN PENN: Yes. Because of what
6 it's lacking is just the address of the witness.
7 It is witnessed.

8 COMMISSIONER POSNANSKI: I would --
9 without an address --

10 MS. HENRY: It says if you're missing a
11 signature or an address, then it should not be
12 accepted. Those should not have been accepted at
13 the polls.

14 CHAIRWOMAN PENN: That's not what they
15 said yesterday on the phone.

16 MS. HENRY: They said on the call if it
17 was in person, where it took place in the clerk's
18 office, that's a different scenario. But this is a
19 by-mail registration.

20 COMMISSIONER POSNANSKI: I would move to
21 reject this ballot.

22 CHAIRWOMAN PENN: Roll call.

23 MR. CZARNEZKI: Is there any discussion
24 from members of the Board? Any objections from
25 members of the public?

1 Okay. The motion is to reject the
2 ballot. Commissioner Baas?

3 COMMISSIONER BAAS: In favor of
4 rejecting.

5 MR. CZARNEZKI: Commissioner Posnanski?

6 COMMISSIONER POSNANSKI: In favor of
7 rejecting.

8 MR. CZARNEZKI: Chairwoman Penn?

9 CHAIRWOMAN PENN: In favor of accepting.

10 MR. CZARNEZKI: There are two ayes, one
11 no on the motion to reject. And on the ballot
12 rejected, there will be a draw down of one ballot.

13 KRISTEN VICTORY: Kristen Victory from
14 the Village of Greendale.

15 First we have two. They're a husband and
16 wife. They did mail them in, they did sign for
17 each other, they did not fill in the address part.
18 The address is on the envelope. Had we caught that
19 when we were going through, we would have been
20 allowed to fill that in, the address.

21 MR. CZARNEZKI: The representatives from
22 the political parties may review the documents, but
23 again, you may not touch them, and we will give the
24 opportunity to the represent -- one representative
25 from each political party to comment.

1 COMMISSIONER POSNANSKI: Madam Chair, I'd
2 move to accept these two ballots.

3 COMMISSIONER BAAS: Given they're the
4 same circumstance that we just rejected, I don't
5 see how we can possibly accept these.

6 CHAIRWOMAN PENN: I see the difference in
7 the first one that we rejected is that this is a
8 husband and wife, their address is already printed
9 on each of the envelopes, and so it seems kind of
10 redundant to have to write it in again when you're
11 the witness.

12 KRISTEN VICTORY: Had we noticed, again,
13 the GAB had told us we could have filled that in
14 had we noticed it at the time. So that was pretty
15 much the process, it was a husband-and-wife
16 situation. That's their address.

17 COMMISSIONER POSNANSKI: Okay. And
18 Commissioner Baas, that's what makes this different
19 for me, and that's why I move to accept these two
20 ballots.

21 CHAIRWOMAN PENN: Clerk, can you call the
22 roll?

23 MR. CZARNEZKI: Again, one representative
24 from each political party can comment if they so
25 desire at this time.

1 We have a representative from which
2 party?

3 GREEN PARTY: The Green Party.

4 MR. CZARNEZKI: Please identify your name
5 and party affiliation for the record, please.

6 GREEN PARTY: Jeff Perzan, affiliated
7 with the Green Party. The reason I wanted to
8 comment is that consistent with past practices and
9 what was permitted by the GAB for the City of
10 Milwaukee and many other municipalities across the
11 state to fill in the address, I would suggest that
12 these ballots be counted to be consistent with what
13 has been going on all along. Thank you.

14 MR. CZARNEZKI: Comments from any other
15 political parties?

16 (No response.)

17 Madam Chair, motion is to accept the
18 ballots. Commissioner Baas?

19 COMMISSIONER BAAS: Nay.

20 MR. CZARNEZKI: Commissioner Posnanski?

21 COMMISSIONER POSNANSKI: Aye.

22 MR. CZARNEZKI: Chairwoman Penn?

23 CHAIRWOMAN PENN: Aye.

24 MR. CZARNEZKI: There are two ayes, one
25 no. Motion to accept the ballots prevails.

1 KRISTEN VICTORY: I have a ballot that
2 was voted in the clerk's office --

3 (A brief discussion was held off the
4 record.)

5 KRISTEN VICTORY: For the record, to
6 clarify, the last case was Voter Numbers 566 and
7 567 for the Village of Greendale.

8 Okay. So Voter Number 368A voted in the
9 clerk's office, signed the envelope, but our worker
10 did not witness and put their signature and
11 address.

12 CHAIRWOMAN PENN: This ballot is signed
13 and dated by the voter, there is no witness, it was
14 cast in-house, so...

15 COMMISSIONER POSNANSKI: I would move to
16 accept, consistent with decisions we've already
17 reached on these types of ballots.

18 MR. CZARNEZKI: The motion is to accept.
19 Is there a comment from representatives of any of
20 the three political parties?

21 (No response.)

22 Seeing none.

23 Madam Chairwoman, what's your pleasure?

24 CHAIRWOMAN PENN: Call the roll.

25 MR. CZARNEZKI: On the motion to accept,

1 Commissioner Baas?

2 COMMISSIONER BAAS: Aye.

3 MR. CZARNEZKI: Commissioner Posnanski?

4 COMMISSIONER POSNANSKI: Aye.

5 MR. CZARNEZKI: Chairwoman Penn?

6 CHAIRWOMAN PENN: Aye.

7 MR. CZARNEZKI: Madam Chairwoman, there
8 are three ayes, zero nos. The motion to accept the
9 ballots prevails.

10 KRISTEN VICTORY: And finally, Voter
11 Number 280 voted through the mail, it came back to
12 the clerk's office with no signature and no witness
13 signature or address. Village of Greendale.
14 Sorry.

15 Again, had we caught this, we would have
16 called and had it rectified. We just failed to
17 catch it.

18 COMMISSIONER POSNANSKI: I would move to
19 reject this ballot.

20 CHAIRWOMAN PENN: Any discussion? Any
21 comments from anyone? Representatives of the
22 political parties?

23 (No response.)

24 Seeing none.

25 Joe, would you call the vote?

1 MR. CZARNEZKI: Motion is to reject.

2 Commissioner Baas?

3 COMMISSIONER BAAS: Aye.

4 MR. CZARNEZKI: Commissioner Posnanski?

5 COMMISSIONER POSNANSKI: Aye.

6 MR. CZARNEZKI: Chairwoman Penn?

7 CHAIRWOMAN PENN: Aye.

8 MR. CZARNEZKI: Three ayes, zero nos.

9 The ballot is rejected. It is Ballot 280 from the
10 Village of Greendale, so one ballot will be drawn
11 down.

12 State your name and your municipality for
13 the record, please.

14 MICHELLE STUTE: Michelle Stute, deputy
15 clerk, Village of Hales Corners.

16 I have an office -- Ward 4, Voter
17 Number 410. Is was an early office vote. It had
18 the signature of the voter, missing the signature
19 of our staff person.

20 CHAIRWOMAN PENN: Did anyone from the
21 political parties want to review this?

22 COMMISSIONER POSNANSKI: Move to accept
23 this ballot.

24 CHAIRWOMAN PENN: This ballot was
25 received in person -- absentee in person, so going

1 to the office -- city clerk's office. It is
2 stamped that it was received, so...

3 COMMISSIONER POSNANSKI: I will move
4 again to accept this ballot.

5 MR. CZARNEZKI: On the motion to accept.
6 Commissioner Baas?

7 COMMISSIONER BAAS: Aye.

8 MR. CZARNEZKI: Commissioner Posnanski?

9 COMMISSIONER POSNANSKI: Aye.

10 MR. CZARNEZKI: Chairwoman Penn?

11 CHAIRWOMAN PENN: Aye.

12 MR. CZARNEZKI: Three ayes, zero nos.
13 The motion to accept prevails.

14 MICHELLE STUTE: Voter 101, Ward 9.
15 Office vote. Signature by voter is there and date,
16 missing, same thing, signature of our staff person.

17 Wards 7 through 9 has three of them. The
18 other one is Voter 401, same situation, and
19 Voter 495. Village of Hales Corners.

20 COMMISSIONER POSNANSKI: I move to accept
21 ballots 101, 401, and 495.

22 CHAIRWOMAN PENN: All of these ballots
23 are stamped with the Village of Hales Corners
24 stamp.

25 Any questions?

1 MR. CZARNEZKI: Motion is to accept the
2 ballots. Commissioner Baas?

3 COMMISSIONER BAAS: Aye.

4 MR. CZARNEZKI: Commissioner Posnanski?

5 COMMISSIONER POSNANSKI: Aye.

6 MR. CZARNEZKI: Chairwoman Penn?

7 CHAIRWOMAN PENN: Aye.

8 MR. CZARNEZKI: Motion to accept
9 prevails.

10 Please state your name, title, and
11 municipality for the record.

12 CAROLYN TOMS-NEARY: Carolyn Toms-Neary,
13 deputy city clerk, City of Cudahy.

14 I have 24 ballots that were voted in
15 person at the City of Cudahy that were not
16 witnessed.

17 MR. CZARNEZKI: They are voter numbers --

18 CAROLYN TOMS-NEARY: They have the City
19 of Cudahy address, I'm sorry, but they were not
20 witnessed by one of the -- by one of our poll
21 workers.

22 MR. CZARNEZKI: For the record, they're
23 Voter Numbers A27, 404, 338, 228, 636, 612, 603,
24 590, 210, 205, 509, 500, 397, 124, 473, 131, 144,
25 41, 97, 322 -- 223 -- I'll let you do this,

1 Carolyn.

2 CAROLYN TOMS-NEARY: 233, 426, 415, and
3 667.

4 Again, they all voted in the office of
5 the city clerk. They were signed. The address was
6 placed in there under the witness, but the worker
7 neglected to witness it.

8 MR. CZARNEZKI: For the record
9 commissioners, it is the advice of the Wisconsin
10 Election Commission that a ballot should not be
11 rejected as a result of an election worker's error.

12 COMMISSIONER POSNANSKI: I will give you
13 time.

14 Having reviewed all 24 of these ballots,
15 I would move to accept all 24.

16 Would an official of any of the political
17 parties like to enter or be heard on this issue?

18 GREEN PARTY: Jeff Perzan representing
19 the Green Party. I just wanted to clarify what the
20 deputy city clerk said, is that did the election
21 official not witness? Or did they simply not sign
22 the ballot?

23 CAROLYN TOMS-NEARY: They did not
24 witness.

25 GREEN PARTY: Thank you.

1 COMMISSIONER BAAS: I want it on the
2 record that the address on all of these, except
3 two, is from the exact same person, and it would be
4 5050 South Lake Drive, Cudahy, Wisconsin.

5 I'm putting on the record that the
6 address for the clerk staff that did not fill out
7 or did not sign is the exact same in all but two of
8 these envelopes, so if need be, that person could
9 be found.

10 CAROLYN TOMS-NEARY: There's two more
11 like that without clerk's address. Ballot
12 Numbers 332 -- Voter Number 332 and Voter
13 Number 43.

14 They were signed by the elector, but not
15 witnessed, nor was the address put on there by
16 the -- yeah.

17 CHAIRWOMAN PENN: Okay. So we have four
18 ballots that they -- the clerk didn't put down the
19 address of the county clerk's office and then
20 another pile -- I don't know what the count is.

21 COMMISSIONER POSNANSKI: That's 22.

22 CHAIRWOMAN PENN: Twenty-two where they
23 did. However --

24 COMMISSIONER POSNANSKI: Madam Chair, I
25 would withdraw my prior motion, given the change in

1 the count and the difference in the two categories
2 of these ballots; however, I would move that we
3 accept the twenty-two ballots that do include the
4 clerk's office address and I would move to accept
5 the four that do not.

6 CAROLYN TOMS-NEARY: Okay. We have one
7 more --

8 CHAIRWOMAN PENN: Any discussion?

9 Any comments from the political parties?

10 (No response.)

11 MR. CZARNEZKI: On the motion to accept,
12 Commissioner Baas?

13 CHAIRWOMAN PENN: A point of
14 clarification: We have two motions, one is on
15 twenty-two, one is on four.

16 MR. CZARNEZKI: I thought they were
17 combined into one motion, but I'll defer to the
18 maker of the motion to clarify his motion.

19 COMMISSIONER POSNANSKI: I had moved that
20 both the twenty-two and the four be accepted.

21 I will move separately, and I will move
22 that the 22 ballots be accepted first.

23 MR. CZARNEZKI: On the motion to accept
24 the 22 ballots, Commissioner Baas?

25 COMMISSIONER BAAS: Aye.

1 MR. CZARNEZKI: Commissioner Posnanski?

2 COMMISSIONER POSNANSKI: Aye.

3 MR. CZARNEZKI: Chairwoman Penn?

4 CHAIRWOMAN PENN: Aye.

5 MR. CZARNEZKI: There are three ayes,
6 zero nos. The ballots are accepted.

7 COMMISSIONER POSNANSKI: Now I move to
8 accept the four remaining ballots.

9 MR. CZARNEZKI: Commissioner, could you
10 read those voter numbers, please?

11 COMMISSIONER POSNANSKI: 415, 43, 332,
12 and 97.

13 CHAIRWOMAN PENN: Please call the vote.

14 MR. CZARNEZKI: On the motion to accept,
15 Commissioner Baas?

16 COMMISSIONER BAAS: Nay.

17 MR. CZARNEZKI: Commissioner Posnanski?

18 COMMISSIONER POSNANSKI: Aye.

19 MR. CZARNEZKI: Chairwoman Penn?

20 CHAIRWOMAN PENN: Aye.

21 MR. CZARNEZKI: There are two ayes, one
22 no. The motion to accept prevails.

23 CAROLYN TOMS-NEARY: I have four ballots.
24 One was voted in the clerk's office; there was no
25 signature of the elector. Ballot 438.

1 MR. CZARNEZKI: Again, this is City of
2 Cudahy, Voter Number 438. No signature by the
3 elector.

4 CAROLYN TOMS-NEARY: This was in the
5 clerk's office.

6 CHAIRWOMAN PENN: It was?

7 CAROLYN TOMS-NEARY: So the Clerk should
8 have caught it.

9 CHAIRWOMAN PENN: So this is a ballot
10 that was cast in-house and it was witnessed by a
11 clerk; however, they failed to get the voter to
12 sign it.

13 COMMISSIONER POSNANSKI: Are there any
14 comments from any of the representatives of the
15 political parties or do they want to observe this
16 ballot?

17 REPUBLICAN PARTY: Brendan Quinn, Trump
18 campaign.

19 I have a question not specifically about
20 this ballot, but about your ruling in general.
21 There's a memorandum dated October 18th with a
22 reference to missing or insufficient witness
23 address, and that certificate states that if it is
24 missing the address, it should be rejected.
25 However, the ruling from this canvassing board is

1 contrary to that memorandum from the 18th.

2 CHAIRWOMAN PENN: On yesterday's
3 conference call and webinar, the trained
4 individuals for this occasion, the Election --
5 State Election Commission recommended we accept
6 those ballots.

7 REPUBLICAN PARTY: Although there's
8 nothing in writing from the Election Commission.
9 It's just the conference call?

10 CHAIRWOMAN PENN: No. It is the
11 Board's -- this Board's determination, and it is
12 our responsibility to make those decisions.

13 REPUBLICAN PARTY: Thank you.

14 GREEN PARTY: Thank you, Madam Chair.
15 Jeff Perzan representing the Greens.

16 Without the elector's signature, would it
17 not be true that the voter is not attesting to the
18 accuracy of the information filled out?

19 CHAIRWOMAN PENN: I don't know that I'm
20 qualified to make -- that sounds like a legal
21 decision. Thank you for your comment.

22 GREEN PARTY: I'm sorry.

23 CHAIRWOMAN PENN: It's okay.

24 COMMISSIONER POSNANSKI: I believe the
25 question was: Without the signature, then the

1 ballot lacks a certification that the information
2 contained therein is accurate. Is that correct?

3 GREEN PARTY: Yes. Thank you,
4 Commissioner. Much better phrased.

5 COMMISSIONER POSNANSKI: I would move,
6 Madam Chairwoman, that this ballot be rejected
7 without a signature.

8 CHAIRWOMAN PENN: Discussion?

9 (No response.)

10 MR. CZARNEZKI: On the motion of
11 rejection, Commissioner Baas?

12 COMMISSIONER BAAS: Vote to reject.

13 MR. CZARNEZKI: Commissioner Posnanski?

14 COMMISSIONER POSNANSKI: Vote to reject.

15 MR. CZARNEZKI: Chairwoman Penn?

16 CHAIRWOMAN PENN: Vote to reject.

17 MR. CZARNEZKI: Three ayes, zero nos.
18 Motion to reject the ballot cast by Voter 438
19 prevails. It will be a draw down of one ballot for
20 that.

21 CAROLYN TOMS-NEARY: City of Cudahy
22 again. We have three ballots that were mailed to
23 indefinite voters, indefinitely confined voters,
24 that came back signed by the voters, witnessed,
25 with no address. Voter Numbers 482, 288, and 478.

1 No address on the witness list.

2 COMMISSIONER POSNANSKI: I move to reject
3 these three ballots.

4 MR. CZARNEZKI: Comments from the
5 political parties?

6 (No response.)

7 The motion is to reject ballots from
8 Voter Number 482, Voter Number 288, and Voter
9 Number 478. On the motion to reject, Commissioner
10 Baas?

11 COMMISSIONER BAAS: Aye.

12 MR. CZARNEZKI: Commissioner Posnanski?

13 COMMISSIONER POSNANSKI: Aye.

14 MR. CZARNEZKI: Chairwoman Penn?

15 CHAIRWOMAN PENN: Aye.

16 MR. CZARNEZKI: Three ayes, zero nos.
17 The motion to reject prevails.

18 CAROLYN TOMS-NEARY: This is a ballot,
19 again, by mail -- regular ballot by mail with no
20 witness or address. Ballot Number 2127.

21 For the record, it was signed by the
22 elector, but there was no witness or address of a
23 witness -- no name or address. Number 2127.

24 COMMISSIONER POSNANSKI: I move to reject
25 2127.

1 CHAIRWOMAN PENN: Any comments?

2 (No response.)

3 COMMISSIONER POSNANSKI: I move to reject
4 Ballot 2127 from the City of Cudahy.

5 MR. CZARNEZKI: On the motion to reject,
6 Commissioner Baas?

7 COMMISSIONER BAAS: Aye.

8 MR. CZARNEZKI: Commissioner Posnanski?

9 COMMISSIONER POSNANSKI: Aye.

10 MR. CZARNEZKI: Chairwoman Penn?

11 CHAIRWOMAN PENN: Aye.

12 MR. CZARNEZKI: Three ayes, zero nos.
13 Motion to reject ballot cast by Voter Number 2127
14 prevails. There will be a draw down of one
15 additional ballot in the City of Cudahy.

16 The Commission will now recess, pending
17 further objections.

18 (A recess was held from 12:11 p.m. to
19 1:28 p.m.)

20 CHAIRWOMAN PENN: Okay. We're going to
21 go back on the record. We have an issue with
22 ballot bags.

23 CAROLYN TOMS-NEARY: This is the City of
24 Cudahy again. My name is Carolyn Toms-Neary,
25 deputy city clerk. We have a ballot bag here from

1 District Two, Wards 4, 5, and 6 that was sealed
2 when it left the city. When they were slammed onto
3 the table, we believe the air inside popped them
4 open. It's partially sealed here, unsealed there.

5 COMMISSIONER BAAS: Question. Were there
6 any witnesses to this event?

7 CAROLYN TOMS-NEARY: There were.
8 Julietta was standing there. One of my tabulators
9 was there and watched it happen, too.

10 CHAIRWOMAN PENN: Can we have that
11 tabulator come up?

12 CAROLYN TOMS-NEARY: Yeah. John?
13 The other district is District 3,
14 Wards 7, 8, and 9. That one is just beginning to
15 pop. And this was District 4, Wards 10, 11, 12,
16 and this one blew totally open.

17 CHAIRWOMAN PENN: And John, can you
18 describe for us what you saw happen?

19 MALE SPEAKER: When I first saw it, it
20 was about half open, and when I moved the bag, the
21 rest popped open the rest of the way.

22 CHAIRWOMAN PENN: And did you witness all
23 of these?

24 MALE SPEAKER: No. Just this one.

25 CHAIRWOMAN PENN: Just this one?

1 CAROLYN TOMS-NEARY: We are not going to
2 worry about one that has a small hole. John
3 witnessed District 4, Wards 10, 11, and 12.

4 Julietta, did you see this one?

5 MS. HENRY: Yes. I saw this one right
6 here. This ballot here was half closed, and when
7 he touched it, it popped open. So it was air in
8 the ballots, and they were stacked on top of each
9 other.

10 CAROLYN TOMS-NEARY: And 4, 5, and 6 is
11 still about a third closed, and the same thing
12 happened. I don't know if anyone saw that. I
13 didn't see that either.

14 MS. HENRY: This one was like that, and
15 it was not all the way closed. It was like a
16 pocket, and when he touched it, it popped open. I
17 think because they were stacked on top of each
18 other.

19 CHAIRWOMAN PENN: And within your
20 experience of handling ballot bags, are they -- is
21 it commonplace for this type of thing to happen?

22 MS. HENRY: Well, we never touch them
23 again. So when the ballots are brought into our
24 office, I can say with 99.9 percent certainty that
25 all ballot bags were closed properly.

1 CHAIRWOMAN PENN: Okay. So what is your
2 question?

3 MS. HENRY: We wanted to bring it to your
4 attention, because they were not sealed properly.
5 Now the Board has to put it on record that the
6 ballot bags were not sealed properly.

7 CHAIRWOMAN PENN: Okay. So I need a
8 motion.

9 COMMISSIONER POSNANSKI: I move to accept
10 all of these ballots.

11 CHAIRWOMAN PENN: I'm going to call the
12 vote. Commissioner Baas?

13 COMMISSIONER BAAS: Accept.

14 CHAIRWOMAN PENN: Rick accepts.

15 COMMISSIONER POSNANSKI: Aye.

16 CHAIRWOMAN PENN: Tim accepts. I accept.
17 So we will accept these ballots.

18 JILL KENDA-LUBETSKI: My name is Jill
19 Kenda-Lubetski from the Village of Brown Deer. I'm
20 the village clerk, and I have several items that we
21 are calling into question here.

22 I have one ballot for an Otto, Voter
23 Number A0684, and he voted absentee at the village
24 hall. Unfortunately, one of my poll workers did
25 not sign the ballot.

1 CHAIRWOMAN PENN: Is that the only case
2 like that that you have?

3 JILL KENDA-LUBETSKI: No, it's not. I
4 should clarify: This is all at Wards 1 and 2,
5 which is Precinct 1, Trinity Church. I have
6 another A0206, and it's the same thing, voted in
7 person absentee at the village hall and the poll
8 worker did not sign.

9 I have another one, A0878. Same thing,
10 poll worker neglected to sign it. And the last one
11 for this location is A0460, and the individual was
12 actually mailed the ballot, but she brought it in
13 to be signed, and one of my poll workers signed it
14 but did not include an address, which should have
15 been the village hall, because she was working as a
16 poll worker at the time.

17 CHAIRWOMAN PENN: Okay. Just a point of
18 clarification: We have accepted ballots with no
19 address from the polling place and with no
20 signature from the clerk, so that being said, I
21 need a motion.

22 COMMISSIONER POSNANSKI: I move to accept
23 these four ballots.

24 MR. CHRISTENSON: So the motion is to
25 accept A0684, A0460, A0206, A0878. Commissioner

1 Baas?

2 COMMISSIONER BAAS: Aye.

3 MR. CHRISTENSON: Posnanski?

4 COMMISSIONER POSNANSKI: Aye.

5 MR. CHRISTENSON: Penn?

6 CHAIRWOMAN PENN: Aye.

7 MR. CHRISTENSON: Three-zero.

8 JILL KENDA-LUBETSKI: Same scenario,

9 different location. This is Precinct 2, Wards 3

10 and 4, which is the library. A0630, same thing,

11 voted in person absentee and the poll worker failed

12 to sign it. Another one, A0292, poll worker signed

13 it but there's no address, and it was in person at

14 the village hall at the time. Another one that was

15 a poll worker, A0349. Poll worker failed to

16 include the address. And A0450, poll worker failed

17 to sign it.

18 This is -- and then I have one more for

19 Precinct 3, Wards 5 and 6. A0234, poll worker

20 failed to sign it.

21 CHAIRWOMAN PENN: These are absentee

22 ballots accepted at the polling place?

23 JILL KENDA-LUBETSKI: They were done at

24 the village hall in person --

25 CHAIRWOMAN PENN: Okay.

1 JILL KENDA-LUBETSKI: -- during that
2 two-week period of time prior to the election.

3 COMMISSIONER BAAS: Move to accept.

4 MR. CHRISTENSON: We have a motion to
5 accept the aforementioned ballots, which were five
6 of those. Commissioner Baas?

7 COMMISSIONER BAAS: Aye.

8 MR. CHRISTENSON: Posnanski?

9 COMMISSIONER POSNANSKI: Aye.

10 MR. CHRISTENSON: Penn?

11 CHAIRWOMAN PENN: Aye.

12 MR. CHRISTENSON: Vote is three-zero.

13 JILL KENDA-LUBETSKI: I have one more
14 last item. I have a voter who voted twice.

15 The individual came in and registered to
16 vote on the last day that in-person absentee voting
17 was allowed at the village hall, came in and voted,
18 and then she also went and voted in person on
19 election day at her polling location.

20 I immediately called the Brown Deer
21 Police Department, as well as the DA's office, and
22 our police department did pay this individual a
23 visit. The individual had very limited English,
24 and through interpretation of her son, she stated
25 that when she registered on Friday afternoon, she

1 was told she could only vote for president and that
2 she could come back on Tuesday and vote a full
3 ballot.

4 And she did admit to voting both times.
5 She did admit to voting twice for president. I
6 have all the documentation here that has her
7 signature, all the correspondence between the
8 police department and also the DA's office for your
9 review.

10 That's the certificate they're issued
11 when they register late. You can kind of see
12 there's a little difference in the page. She is
13 Number 186.

14 CHAIRWOMAN PENN: Were you able --

15 JILL KENDA-LUBETSKI: That's the same
16 day, and that first one you had was on Friday.

17 CHAIRWOMAN PENN: Were you able to verify
18 with whoever registered her that she was given that
19 information?

20 JILL KENDA-LUBETSKI: She claims -- she
21 told our police department that she was told she
22 could only vote for president on Friday and that
23 she would have to come back on Tuesday to vote a
24 full ballot. And she claims she did vote only for
25 president on Friday, but when she came back on

1 Tuesday, she voted a full ballot, including voting
2 for president again.

3 CHAIRWOMAN PENN: Was she cited?

4 JILL KENDA-LUBETSKI: No. The DA's
5 office is not pressing any charges. They said
6 there was no criminal intent.

7 We wanted to verify that nobody had
8 stolen her information or was trying to vote as her
9 as well, and that is not the case.

10 CHAIRWOMAN PENN: Did you have a
11 question?

12 REPUBLICAN PARTY: When you're done, I'd
13 like to just observe and look at it. Take your
14 time.

15 CHAIRWOMAN PENN: Okay. We have a case
16 here where someone voted in-person absentee when
17 they registered -- and if you want to come and look
18 at the documents, if you're a party representative,
19 you're welcome to.

20 So someone registered to vote and was
21 given an absentee ballot. This person was --
22 didn't speak English well, they were under the
23 impression that they could only cast a vote for
24 president on Friday, and then they were told that
25 they had to come back on Tuesday to vote for the

1 rest of the ballot.

2 So the person came back, voted on Tuesday
3 for, including the president, every other race. So
4 the remedy for this -- there is no prosecution, no
5 intent to defraud. And it was turned over to the
6 police department and the DA investigated it, and
7 no charges were filed.

8 So the remedy, according to the
9 instructions of what should happen, is you would
10 pull the absentee ballot, but we have no way of
11 identifying it, so our remedy is to randomly pull
12 one absentee ballot and draw down on the count in
13 that way, okay?

14 So when we get to the point where we're
15 ready to count ballots, we will --

16 COMMISSIONER BAAS: Do you want to be
17 heard?

18 REPUBLICAN PARTY: Just one quick
19 question. If the woman alleges she only voted for
20 president, is there a way to go back in and look if
21 there's only one vote?

22 CHAIRWOMAN PENN: There is not.

23 REPUBLICAN PARTY: Okay. Thank you.

24 COMMISSIONER BAAS: He's asked already.

25 REPUBLICAN PARTY: I missed that.

1 CHAIRWOMAN PENN: That would have been
2 the easiest way to do it, but we can't identify
3 which ballot was hers.

4 So when we get to the point where we are
5 going to tabulate the votes, then before they put
6 them in the machine, we will go over to the table
7 and randomly pull one absentee ballot and proceed
8 from there. So I'll let you know when that goes on
9 the record.

10 (A recess was held from 1:58 p.m. to 3:34
11 p.m.)

12 CHAIRWOMAN PENN: Okay. We're going back
13 on the record. We're going over to Bayside's table
14 to do a draw down -- a random draw down of random
15 ballots. Do you know how many?

16 (Whereupon a draw down of one ballot
17 occurred.)

18 She's going to record that on the chief
19 inspector log that they can count ballots.

20 (A recess was held from 3:34 p.m. to
21 3:40 p.m.)

22 CHAIRWOMAN PENN: Okay. Back on the
23 record. This is Brown Deer, Wards 1 and 2. They
24 have a ballot that has a couple of rips in it and
25 they've asked for permission to reconstruct this

1 ballot so that it feeds into the machine.

2 I have a motion to reconstruct. I'm
3 going to call the vote.

4 COMMISSIONER BAAS: Aye.

5 COMMISSIONER POSNANSKI: Aye.

6 CHAIRWOMAN PENN: Aye. So you may
7 reconstruct that.

8 Then the next order of business is to
9 draw down from their -- from Wards 1 and 2 from the
10 Village of Brown Deer to compensate for the person
11 who -- one elector who voted two times. So if one
12 of you guys want to --

13 (Whereupon a draw down of one ballot
14 occurred.)

15 CHAIRWOMAN PENN: One ballot has been
16 removed and so they're going to put a note on this
17 ballot that it was drawn down and then it will go
18 back in the ballot bag with all the rest of the
19 ballots -- it's going to go in a separate ballot
20 bag and remain in the ballot bag.

21 (A recess was held from 3:42 p.m. to
22 4:09 p.m.)

23 CHAIRWOMAN PENN: We need to go back on
24 the record. We have an objection from someone.

25 THERESA GABRIEL: Good afternoon. This

1 is Terry Gabriel from the City of Milwaukee
2 Election Commission.

3 In the recount, it was discovered two
4 ballots without election inspector initials, which
5 were counted on election day and which we maintain
6 should remain counted, but there is an objection by
7 a political party that they not be counted.

8 MR. CZARNEZKI: The representative of the
9 party, speak on the record your name and party
10 affiliation.

11 REPUBLICAN PARTY: Brendan Quinn on
12 behalf of the Trump campaign.

13 We would like to officially object to
14 these two ballots because they do not have a
15 signature and we feel it's inappropriate to count
16 them.

17 COMMISSIONER BAAS: Do you have a statute
18 to support that?

19 MR. CZARNEZKI: Do any of the other
20 political parties wish to be heard on this issue?

21 GREEN PARTY: Jeff Perzan representing
22 the Green Party.

23 If this was clerical error and the intent
24 of the elector ought to be clear on the ballots,
25 the ballots should be counted. And for whatever

1 reason, the election official that day and the
2 chief neglected to make sure they were properly
3 filled out. Unless there is any other evidence of
4 them becoming part of the packets, then I think the
5 intent of the elector ought to be observed.

6 MR. CZARNEZKI: The Wisconsin Elections
7 Board has given us guidance on this issue and has
8 said that ballots should not be rejected as a
9 result of an error by an election official, but it
10 is up to the Commission to make a decision on these
11 two ballots.

12 CHAIRWOMAN PENN: One of the ballots does
13 not have -- the person declined to cast a vote for
14 the president, so that one's not even a concern.

15 MR. CZARNEZKI: It still has to be
16 counted.

17 CHAIRWOMAN PENN: It has to be counted,
18 but it will count as a no vote.

19 COMMISSIONER POSNANSKI: I would move to
20 accept these two ballots.

21 CHAIRWOMAN PENN: Any discussion? Any
22 observers?

23 (No response.)

24 Can you call the question?

25 MR. CZARNEZKI: On the question -- the

1 motion is shall the two ballots be counted.

2 Commissioner Baas?

3 COMMISSIONER BAAS: Aye.

4 MR. CZARNEZKI: Commissioner Posnanski?

5 COMMISSIONER POSNANSKI: Aye.

6 MR. CZARNEZKI: Chairwoman Penn?

7 CHAIRWOMAN PENN: Aye.

8 MR. CZARNEZKI: Madam Chairwoman, there
9 are three ayes, zero nos. The motion to count the
10 ballots prevails.

11 (A recess was held from 4:13 p.m. to
12 4:14 p.m.)

13 CHAIRWOMAN PENN: We're going to go back
14 on the record to conduct a draw down. So we're
15 going to draw down one ballot from -- what ward is
16 this? -- Ward 10.

17 (Whereupon a draw down of one ballot
18 occurred.)

19 CHAIRWOMAN PENN: Okay. So that's going
20 to go in a separate ballot bag. This is from the
21 municipality of the City of Cudahy, Wards 10, 11,
22 and 12. So this is going to get a Post-it note on
23 it, put it in a separate ballot bag, and then
24 return it to the ballot bag, okay?

25 This is Wards 7, 8, and 9 in the City of

1 Cudahy, and this is a reject due to no address from
2 the witness, and we are taking one ballot out of
3 this absentee ballot.

4 (Whereupon a draw down of one ballot
5 occurred.)

6 CHAIRWOMAN PENN: So there is your draw
7 down. This is Wards 7, 8, and 9.

8 We have a situation where there are four
9 more ballots than the voters. We will go back up
10 to the front and discuss it.

11 So the record should show that because
12 this is in Wards 7, 8, and 9, which we just did the
13 draw down for absentee ballots, we need to discuss
14 what happens with the three regular ballots.

15 We're going to continue with the
16 draw-down process, and then we'll go back and talk
17 about those three extra votes.

18 This is Wards 13, 14, and 15 in the City
19 of Cudahy. We have three absentee ballots, one is
20 rejected for no address of the witness, one is
21 rejected for no signature of the voter, and one is
22 rejected for no witness and no address, so we're
23 going to remove three ballots randomly from this
24 pile.

25 (Whereupon a draw down of three ballots

1 occurred.)

2 We are at the City of Cudahy, Wards 10,
3 11, and 12. We have a damaged ballot, it is torn,
4 and so they're asking permission to recreate this
5 ballot so it doesn't jam the machine. So I need a
6 motion.

7 COMMISSIONER POSNANSKI: Motion to
8 recreate the ballot.

9 CHAIRWOMAN PENN: Let the record show Tim
10 Posnanski moved to recreate the ballot. I'm going
11 to call the vote.

12 MR. CHRISTENSON: Commissioner Baas?

13 COMMISSIONER BAAS: Aye.

14 MR. CHRISTENSON: Commissioner Posnanski?

15 COMMISSIONER POSNANSKI: Aye.

16 MR. CHRISTENSON: Commissioner Penn?

17 CHAIRWOMAN PENN: Aye.

18 MR. CHRISTENSON: Vote is three-zero to
19 recreate the ballot.

20 (A recess was held from 4:24 p.m. to
21 4:51 p.m.)

22 CHAIRWOMAN PENN: Okay. We're back on
23 the record. We are in Cudahy, Wards 7, 8, and 9.
24 This is the case where there are three more ballots
25 than votes. What we're going to do is randomly

1 remove three ballots, then we're going to go to the
2 machines with the rest of them and run them through
3 and get a count.

4 If they have -- okay. So if they come up
5 with -- the magic number is 1,506 votes. If they
6 run these ballots through the machine, after we
7 randomly pull three, if they come up with 1,503
8 votes, we will put those votes back in so that it's
9 reconciled, because we don't want to have more
10 votes than we have voters.

11 (Whereupon a draw down of three ballots
12 occurred.)

13 We have the same situation, also the City
14 of Cudahy, Wards 13, 14, and 15, and we're going to
15 draw down one ballot.

16 (Whereupon a draw down of one ballot
17 occurred.)

18 (A recess was held from 4:55 p.m. to
19 6:07 p.m.)

20 CHAIRWOMAN PENN: We need to go back on
21 the record for the Village of Hales Corners,
22 Wards 4, 5, and 6.

23 MICHELLE STUTE: We have a ballot where
24 the mark for president was an X instead of an oval
25 and the machine will not read it.

1 COMMISSIONER BAAS: I want to be clear,
2 the X is not even in the oval.

3 MICHELLE STUTE: The X is not in the
4 oval.

5 CHAIRWOMAN PENN: So the machine rejected
6 it and it was not included in the vote count
7 originally?

8 COMMISSIONER BAAS: It was.

9 MICHELLE STUTE: The machine read it the
10 first time.

11 MS. HENRY: When you say it read it the
12 first time, you mean election night?

13 MICHELLE STUTE: Yes. On election night,
14 the machine read it. Tonight, it will not read it.

15 MS. HENRY: So my question is: Does that
16 ballot have actual circles on it anywhere else on
17 the ballot?

18 COMMISSIONER BAAS: There's another vote
19 cast the exact same way on there.

20 MS. HENRY: So what we don't know,
21 Commissioners, is if that ballot came in as a blank
22 ballot and the voter accepted it on election night,
23 that ballot should be reconstructed, because the
24 intent of the voter is clear for the office of
25 president.

1 CHAIRWOMAN PENN: Okay. So I need a
2 motion.

3 COMMISSIONER BAAS: Move to accept.

4 CHAIRWOMAN PENN: Rick moved to accept.

5 MR. CHRISTENSON: The motion is to accept
6 the recommendation to remake this ballot --
7 reconstruct this ballot, rather. Commissioner
8 Baas?

9 COMMISSIONER BAAS: Aye.

10 MR. CHRISTENSON: Commissioner Posnanski?

11 COMMISSIONER POSNANSKI: Aye.

12 MR. CHRISTENSON: Commissioner Penn?

13 CHAIRWOMAN PENN: Aye.

14 MR. CHRISTENSON: Three-zero in favor.

15 (A recess was held from 6:09 p.m. to
16 6:38 p.m.)

17 CHAIRWOMAN PENN: Okay. We need to go
18 back on the record. In Cudahy, Wards 7, 8, and 9,
19 that was the situation where they had 3,006 votes
20 (sic), so we pulled three because we had more
21 ballots than voters. They ran the ballots through
22 the machine and actually those -- it was a miscount
23 of the hand count, so those three ballots are going
24 back in for a total of --

25 CAROLYN TOMS-NEARY: It was 1,506.

1 CHAIRWOMAN PENN: Okay.

2 (A recess was held from 6:39 p.m. to
3 6:59 p.m.)

4 CHAIRWOMAN PENN: So we need to go back
5 on the record. This is for the City of Cudahy,
6 Wards 13, 14, and 15. We took -- we randomly
7 pulled a ballot, because we had one more ballot
8 than voters. When they ran them through the
9 machine, they discovered that this was, in fact, a
10 valid ballot to give us a total of 2,132 votes, so
11 that's going back in.

12 (A recess was held from 7:00 p.m. to
13 7:24 p.m.)

14 CHAIRWOMAN PENN: We have to go back on
15 the record. We have some reconstructed ballots.

16 JILL KENDA-LUBETSKI: Jill
17 Kenda-Lubetski, Village of Brown Deer Clerk, and I
18 need to reconstruct two ballots for Wards 5 and 6,
19 Precinct 3, and we believe they utilized the wrong
20 marking pen, because it's not reading it on one.
21 The other one, they wrote in a name, but they
22 didn't fill in the oval.

23 And then we also have four ballots for
24 Wards 3 and 4, Precinct 2, and one used a pencil
25 and the machine was not reading it, another one

1 just put a little blipey mark on it, another one
2 put a big X through their selection, and the other
3 one has just a checkmark through the selection.

4 And we did try to put them through, and
5 the machine rejected all four of those, as well as
6 the first two.

7 CHAIRWOMAN PENN: Okay. So we need to
8 look at these to see if we can recognize the
9 intention of the voter.

10 JILL KENDA-LUBETSKI: One of the green
11 ones had something wrong at the top of the ballot.
12 The bar coding is at the top of one of them. It
13 might be on the backside up in the corner.

14 CHAIRWOMAN PENN: And you want to remake
15 this one because of the tear?

16 JILL KENDA-LUBETSKI: No. There was a --
17 it removed some of the bar code from one of them,
18 and that's why that one wouldn't go through. The
19 other one has a tear.

20 CHAIRWOMAN PENN: Okay.

21 COMMISSIONER BAAS: Move to accept.

22 CHAIRWOMAN PENN: So Rick has moved to
23 accept.

24 Aye.

25 COMMISSIONER BAAS: Aye.

1 CHAIRWOMAN PENN: We will reconstruct
2 these.

3 JILL KENDA-LUBETSKI: Thank you, very
4 much.

5 (A recess was held from 7:27 p.m. to
6 8:54 p.m.)

7 CHAIRWOMAN PENN: We're going into recess
8 until 8:00 a.m. tomorrow morning.

9 (Adjourned at 8:55 p.m.)

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1 STATE OF WISCONSIN)
) SS
2 MILWAUKEE COUNTY)

3 I, STEPHANIE GROSHEK, Notary Public in
4 and for the State of Wisconsin, do hereby certify that
5 the preceding transcript of proceedings was reported by
6 me and reduced to writing under my personal direction.

7 I further certify that said transcript of
8 proceedings was taken before me at CITY OF MILWAUKEE
9 WAREHOUSE, 1901 South Kinnickinnic Avenue, Milwaukee,
10 Wisconsin, on the 1st day of December, 2016, commencing
11 at 9:10 a.m. and adjourning at 8:55 p.m.

12 I further certify that I am not a
13 relative or employee or attorney or counsel of any of
14 the parties, or a relative or employee of such attorney
15 or counsel, or financially interested directly or
16 indirectly in this action.

17 In witness whereof, I have hereunto set
18 my hand and affixed my seal of office at Milwaukee,
19 Wisconsin, on this 22nd day of December, 2016.

20
21
22

STEPHANIE GROSHEK - Notary Public
In and for the State of Wisconsin

23 My commission expires December 8, 2019.
24
25

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