

Wisconsin Elections Commission - 2016 Vote Recount - Presidential Election

Transcript of the Testimony of:

Wisconsin Elections Commission

December 8, 2016



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RECOUNT OF 2016 PRESIDENTIAL ELECTION

STATE OF WISCONSIN

Recount held before the

Milwaukee County Election Commission

Thursday, December 8, 2016

8:13 a.m.

at

City of Milwaukee Warehouse

1901 South Kinnickinnic Avenue

Milwaukee, Wisconsin

Reported by Faye M. Talatzko, RPR

A P P E A R A N C E S

BOARD OF ELECTION COMMISSIONERS:

Ms. Nancy Penn, Chairwoman

Mr. Rick Baas, Commissioner

Mr. Tim Posnanski, 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

I N D E X

MATTERS ADDRESSED BY THE BOARD:

PAGE:

City of Greenfield

5

City of West Allis

7

City of Glendale

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City of West Allis

16

City of Greenfield

19

City of West Allis

23

City of Milwaukee

29

DRAW DOWN OF BALLOT:

City of West Allis

38

BALLOT RECONSTRUCTION COMPLETED:

City of Glendale

16

City of Greenfield

26

City of West Allis

40

1 TRANSCRIPT OF PROCEEDINGS

2 CHAIRWOMAN PENN: We will call this
3 meeting to order at whatever time your record shows.

4 (Recount called to order at 8:13 a.m.)

5 Joe, would you be so kind as to call a
6 roll.

7 COUNTY CLERK CZARNEZKI: Commissioner
8 Baas?

9 COMMISSIONER BAAS: Here.

10 COUNTY CLERK CZARNEZKI: Commissioner
11 Posnanski?

12 COMMISSIONER POSNANSKI: Here.

13 COUNTY CLERK CZARNEZKI: Chairwoman Penn?

14 CHAIRWOMAN PENN: Here.

15 COUNTY CLERK CZARNEZKI: Madam
16 Chairwoman, all commissioners are present. The forum
17 of the Milwaukee County Election Commission is
18 present.

19 CHAIRWOMAN PENN: Wonderful. Thank you.

20 COUNTY CLERK CZARNEZKI: At this time I
21 will give you a brief rundown of what we're going to
22 do. We're going to administer the oath of office to
23 the election inspectors. After that the Milwaukee
24 County Elections Director Julietta Henry will give
25 you some brief instructions, and we will proceed with

1 Day 7 of the recount.

2 So at this time I would like to ask all
3 the election inspectors to please stand, if you can.
4 And if you would be so kind as to raise your right
5 hand and repeat after me.

6 I, please state your name, do solemnly
7 swear that I will support the Constitution of the
8 United States and the Constitution of the State of
9 Wisconsin, and I will perform the duties of election
10 inspector according to law, and will faithfully and
11 studiously endeavor to prevent all fraud, deceit or
12 abuse in conducting the same, according to the best
13 of my ability.

14 Congratulations, and thank you for your
15 service.

16 At this time I will turn it over to
17 Julietta Henry, who will provide you -- at least
18 the West Allis folks, with some brief instructions.

19 (Recount off the record from 8:16 a.m. to
20 9:24 a.m.)

21 CHAIRWOMAN PENN: Okay. So we're back on
22 the record.

23 CITY CLERK GOERGEN: City of Greenfield.
24 Jennifer Goergen, G-o-e-r-g-e-n, City Clerk.

25 I have here a Ward 11 ballot. The voter

1 made one vote, filled in the oval for Donald Trump,
2 and then went down the ballot and made a write-in for
3 Evan McMullin. So this would be an over-voted
4 ballot.

5 However, we believe our DS200 machine
6 election night perhaps missed that and so we -- and
7 the machine here kicked that out. We need permission
8 to remake this ballot, and it would be an over vote
9 for that office.

10 (Ballot reviewed by the commissioners.)

11 (Ballot reviewed by Election Observer
12 Jeff Perzan and Election Observer Brendan Quinn.)

13 COMMISSIONER POSNANSKI: Do either of the
14 party representatives want to be heard on this issue?

15 ELECTION OBSERVER QUINN: Not yet.

16 COMMISSIONER POSNANSKI: We've had past
17 rulings dealing with these issues. The guidance we
18 received from the Wisconsin Election Commission in
19 ascertaining voter intent, the write-in takes
20 precedence over any circles or marks above. And the
21 failure to include a vice-president does not
22 invalidate the write-in vote for the president.

23 Therefore, I would vote this ballot be
24 reconstructed as a write-in vote for Evan McMullin
25 and be counted as such.

1 CHAIRWOMAN PENN: Any discussion?

2 (No discussion.)

3 COUNTY CLERK CZARNEZKI: On the motion.

4 Commissioner Baas?

5 COMMISSIONER BAAS: Aye.

6 COUNTY CLERK CZARNEZKI: Commissioner

7 Posnanski?

8 COMMISSIONER POSNANSKI: Aye.

9 COUNTY CLERK CZARNEZKI: Chairwoman Penn?

10 CHAIRWOMAN PENN: Aye.

11 COUNTY CLERK CZARNEZKI: Madam

12 Chairwoman, there are three ayes, zero noes. The
13 motion to reconstruct the ballot as the write-in vote
14 for Evan McMullin prevailed.

15 (Recount off the record from 9:27 a.m. to
16 9:29 a.m.)

17 CHAIRWOMAN PENN: We need to go back on
18 the record. Yes?

19 CITY CLERK SCHULTZ: Monica Schultz,
20 S-c-h-u-l-t-z, City Clerk, City of West Allis.

21 The first three absentee ballots were by
22 mail. They were assigned voter numbers in Ward 2.
23 8503, there was a voter number assigned but no
24 address of a witness. And it was not --

25 CHAIRWOMAN PENN: Are these all similar

1 or different?

2 CITY CLERK SCHULTZ: There are three that
3 are similar in this case.

4 CHAIRWOMAN PENN: Okay.

5 CITY CLERK SCHULTZ: These are the three
6 by mail.

7 CHAIRWOMAN PENN: Were they counted on
8 election day?

9 CITY CLERK SCHULTZ: Yes. Voter number
10 in Ward 4, 8412, and this ballot also was counted;
11 however, there was no voter signature and no witness
12 signature or address.

13 COMMISSIONER POSNANSKI: This is by mail?

14 CITY CLERK SCHULTZ: By mail as well.

15 COMMISSIONER POSNANSKI: Does West Allis
16 maintain a single count?

17 CITY CLERK SCHULTZ: West Allis does not
18 maintain a single count.

19 COMMISSIONER POSNANSKI: So there's no
20 way to tie these ballots to the votes?

21 CITY CLERK SCHULTZ: That is correct.

22 The last one by mail is in Ward 9, 8443.

23 This ballot was also counted, but there is no witness
24 signature or witness address.

25 COMMISSIONER POSNANSKI: Do either of the

1 party representatives wish to inspect these
2 envelopes?

3 (Inspected by Election Observer Perzan.)

4 COMMISSIONER POSNANSKI: All right.

5 Given the lack of signatures from either the witness
6 or the voters, these envelopes respectively
7 presenting these issues to us, I move that they be
8 excluded, that we draw down from the ballots from the
9 respective wards.

10 The priority being if there are any blank
11 ballots from those wards, then if there are any
12 ballots that are missing initials from those wards.
13 And if there are not, we draw down from all of the
14 absentee ballots from these respective wards, based
15 upon the failure of the -- each of these envelopes to
16 enclose a witness signature and/or a voter signature.

17 COUNTY CLERK CZARNEZKI: On the motion.

18 Commissioner Baas?

19 COMMISSIONER BAAS: Aye.

20 COUNTY CLERK CZARNEZKI: Commissioner
21 Posnanski?

22 COMMISSIONER POSNANSKI: Aye.

23 COUNTY CLERK CZARNEZKI: Chairwoman Penn?

24 CHAIRWOMAN PENN: Aye.

25 COUNTY CLERK CZARNEZKI: Madam

1 Chairwoman, there are three ayes, zero noes. The
2 motion prevails.

3 CHAIRWOMAN PENN: So we're going to ask
4 you to put the absentee ballots -- We can come over
5 there or you can bring them, whatever is most
6 expedient for you. And we will draw from those
7 ballots as he instructed.

8 CITY CLERK SCHULTZ: Thank you.

9 Then there are also three absentee
10 ballots, and they were all in-person. And the first
11 one is Ward 3, 8385. This absentee ballot was
12 counted. There is no address for the witness;
13 however, this witness is a staff member in the
14 clerk's office.

15 CHAIRWOMAN PENN: You have three cases
16 like this?

17 CITY CLERK SCHULTZ: There are two cases.
18 One -- Two cases that have the missing city hall
19 address, and one case with the missing witness
20 signature but it is in-person at city hall. And I
21 can tell by the initials for checking the photo ID
22 that it was a temporary worker in West Allis.

23 CHAIRWOMAN PENN: Does anyone want to
24 look into that?

25 CITY CLERK SCHULTZ: And in Ward 4, the

1 voter number was 8257, and in Ward 5 the voter number
2 was 8295.

3 COMMISSIONER POSNANSKI: With the prior
4 decisions with this board and for the reasons
5 previously articulated on the record, I move that we
6 accept all three of these ballots.

7 COUNTY CLERK CZARNEZKI: On the motion to
8 accept these ballots.

9 Commissioner Baas?

10 COMMISSIONER BAAS: Aye.

11 COUNTY CLERK CZARNEZKI: Commissioner
12 Posnanski?

13 COMMISSIONER POSNANSKI: Aye.

14 COUNTY CLERK CZARNEZKI: Chairwoman Penn?

15 CHAIRWOMAN PENN: Aye.

16 COUNTY CLERK CZARNEZKI: Madam
17 Chairwoman, there are three ayes, zero noes. The
18 motion prevails.

19 CITY CLERK SCHULTZ: The last issue I
20 have for the Board is a request for permission for
21 these absentee ballots to be counted. There were
22 absentee voter numbers assigned; however, the ballots
23 still remained in the envelopes so they were not read
24 through the machine. And the ward numbers are for
25 Ward 19, 8522, and then for Ward 11 there are five of

1 them: 8447, 8448, 8548, 8549, 8550.

2 COMMISSIONER POSNANSKI: From your
3 review, is there any reason why these ballots should
4 not have been accepted?

5 CITY CLERK SCHULTZ: The absentee ballots
6 certificate envelopes look sufficient for me.

7 COMMISSIONER BAAS: Did I hear you say
8 that all of these were unopened, or did I just
9 mishear you?

10 CITY CLERK SCHULTZ: There is one
11 envelope that was opened, but the ballot still
12 remains in that particular envelope. The other ones
13 are sealed.

14 COMMISSIONER BAAS: Let the record show
15 that there are in fact two envelopes that are open.

16 COMMISSIONER POSNANSKI: I think she said
17 that all of them were not counted.

18 CHAIRWOMAN PENN: Right.

19 COMMISSIONER POSNANSKI: Do any of the
20 party representatives wish to inspect these
21 envelopes?

22 No opinions?

23 I move that all of these envelopes and
24 the ballots therein be counted.

25 COUNTY CLERK CZARNEZKI: On the motion to

1 accept and count these ballots.

2 Commissioner Baas?

3 COMMISSIONER BAAS: Aye.

4 COUNTY CLERK CZARNEZKI: Commissioner
5 Posnanski?

6 COMMISSIONER POSNANSKI: Aye.

7 COUNTY CLERK CZARNEZKI: Chairwoman Penn?

8 CHAIRWOMAN PENN: Aye.

9 COUNTY CLERK CZARNEZKI: Madam
10 Chairwoman, there are three ayes, zero noes. The
11 motion prevails.

12 CITY CLERK SCHULTZ: Thank you very much.

13 (Recount off the record from 9:38 a.m. to
14 9:39 a.m.)

15 CITY CLERK COUILLARD: Karen Couillard,
16 City of Glendale. Two days ago we had a variance of
17 15 ballots for Ward 39. The board asked us to
18 recount, which we did. We also came up with the same
19 amount again. We ran it on two machines. 1,371. We
20 had Tyler from ES&S come off and print off every
21 single ballot from that election night. Ward 39, the
22 total was 1,386.

23 Andrew, the deputy clerk, and me, the
24 clerk, just hand counted all of the ballots from the
25 night of the election, and they came out exactly

1 right at 1,386, with no difference in the amount of
2 votes per candidate.

3 COMMISSIONER POSNANSKI: Let me see the
4 tabulation.

5 So Tyler was able to reproduce the images
6 of the ballots from election night, and you have now
7 hand counted those, and they match exactly what? The
8 ballot from election night?

9 CITY CLERK COUILLARD: That is correct.

10 COMMISSIONER POSNANSKI: That I think
11 explains the variance from 1,371, which was initially
12 from the machine, and now the total count of 1,386.

13 CITY CLERK COUILLARD: Yes, exactly.

14 COMMISSIONER POSNANSKI: And I have
15 reviewed the tally sheet. And it is all noted on the
16 inspector ballot sheet, correct?

17 CITY CLERK COUILLARD: Yes.

18 COMMISSIONER POSNANSKI: After reviewing
19 and going back and searching the materials you had,
20 do you have any explanation or idea of where those
21 15 ballots would have gone?

22 CITY CLERK COUILLARD: I do not. We
23 obviously had 1,386 at the end of the night. We
24 called our city yesterday, had them make sure that at
25 the bottom of the machine there wasn't any random

1 ballots left in there. We had them check a tote that
2 the ballots were put in, even though at that point
3 those ballots should be in a plastic bag, just to
4 make sure there was nothing in there either.

5 So somewhere between the end of the
6 election night and when we came here on Tuesday and
7 opened our tote bags, they were missing.

8 CHAIRWOMAN PENN: Did you say you checked
9 your office?

10 CITY CLERK COUILLARD: I don't actually
11 have an office, so it is not hard to know there's
12 nothing in there. But we checked all the locations
13 that any possible ballots would be in, and there were
14 none.

15 CHAIRWOMAN PENN: Okay.

16 COMMISSIONER POSNANSKI: Either of the
17 representatives?

18 CHAIRWOMAN PENN: Look at the record?

19 ELECTION OBSERVER PERZAN: Jeff Perzan,
20 representing the Green Party.

21 I would like to thank the City of
22 Glendale for producing these images and doing the
23 hand count as per our request, and I think it
24 demonstrates the integrity of the election and the
25 fact that all votes cast count. Thank you very much.

1 CHAIRWOMAN PENN: Thank you.

2 When you conclude, can you please include
3 the images of those votes in the ballot bag?

4 CITY CLERK COUILLARD: Yes, we will. We
5 will make sure that they get in a separate recount
6 bag, but it will be all part of our process.

7 CHAIRWOMAN PENN: Very good.

8 COMMISSIONER POSNANSKI: Thank you for
9 your work, and congratulations on completing your
10 recount.

11 CITY CLERK COUILLARD: Thank you.

12 COUNTY CLERK CZARNEZKI: We want to
13 congratulate the City of Glendale on completing their
14 recount.

15 (Recount off the record from 9:44 a.m. to
16 10:16 a.m.)

17 CHAIRWOMAN PENN: Go ahead.

18 CITY CLERK SCHULTZ: Monica Schultz, City
19 Clerk, City of West Allis. Schultz is S-c-h-u-l-t-z.

20 I'm requesting permission from the Board
21 to count the ballots that are in bags that were
22 delivered to the recount workers in an opened state.
23 These would be for Ward 11 and Ward 24.

24 COMMISSIONER POSNANSKI: Do you have any
25 idea or understanding as to how or why these bags

1 were opened?

2 CITY CLERK SCHULTZ: It would be my
3 estimation that this occurred during transport.

4 COMMISSIONER BAAS: What did she say?

5 COMMISSIONER POSNANSKI: That it occurred
6 during transport.

7 CHAIRWOMAN PENN: Transportation from her
8 office.

9 COMMISSIONER POSNANSKI: Let's have them
10 counted. When this previously occurred, we
11 instructed the municipality with this issue to go and
12 then count these ballots and report back, and make
13 sure that the ballot count is consistent with the
14 ballot that was previously reported.

15 CITY CLERK SCHULTZ: Thank you.

16 And my other request for the Board is
17 regarding Ward 18. After election day, during
18 cleanup of the polling place and the voting bin,
19 there were five ballots left there. They were
20 write-in ballots for the presidential office. And
21 I'm requesting the Board's permission to accept these
22 ballots.

23 COMMISSIONER POSNANSKI: Do we know why
24 they were not initially accepted?

25 CITY CLERK SCHULTZ: They were left in

1 the voting bin at the polling place and discovered
2 during cleanup of the polling place after election
3 day, and delivered to my attention. I sealed them in
4 that envelope.

5 COMMISSIONER BAAS: How far after
6 election day? That night?

7 CITY CLERK SCHULTZ: No. This occurred
8 approximately one week following election day.

9 COMMISSIONER POSNANSKI: Who delivered
10 them to you?

11 CITY CLERK SCHULTZ: These would be the
12 voting -- voting technicians, DPW workers for the
13 City of West Allis.

14 CHAIRWOMAN PENN: Were they counted on
15 election day?

16 CITY CLERK SCHULTZ: They were counted on
17 election day.

18 COMMISSIONER BAAS: They are not absentee
19 ballots. They are just regular ballots?

20 CITY CLERK SCHULTZ: I would have to look
21 at them to make that determination.

22 COMMISSIONER BAAS: But you sealed them
23 in there?

24 CITY CLERK SCHULTZ: I sealed them in
25 immediately when they were turned in to me.

1 COMMISSIONER BAAS: I just wanted to see
2 if they are absentee ballots.

3 COMMISSIONER POSNANSKI: These were
4 actual ballots.

5 COMMISSIONER BAAS: That's what I just
6 asked her.

7 COUNTY CLERK CZARNEZKI: They were
8 discovered in the bin. So they were voted on
9 election day, I suppose.

10 ELECTIONS DIRECTOR HENRY: Recommendation
11 from the staff on the ballots is she can come back
12 once the ballots have been counted to verify that
13 those ballots were indeed part of her original count
14 on election day.

15 CHAIRWOMAN PENN: Great.

16 COMMISSIONER POSNANSKI: I would instruct
17 you to do that and come back with the count.

18 CITY CLERK SCHULTZ: Okay. Thank you.

19 (Recount off the record from 10:19 a.m.
20 to 10:55 a.m.)

21 CHAIRWOMAN PENN: So we're back on the
22 record. Go ahead.

23 CITY CLERK GOERGEN: Jennifer Goergen,
24 City of Greenfield, City Clerk. And last night we
25 were -- Last night I was before the Board of

1 Canvassers. I wanted to announce that there were
2 three wards in question. Ward 1, the election night
3 number of ballots was 1,024, the recount number of
4 ballots was 1,023. Then we had Ward 3, the election
5 night number of ballots was 805, and the recount
6 number was 806. And Ward 12, the election night
7 number was 1,120, the recount number was 1,120. So I
8 had brought that before the Board.

9 If we look at how all of our numbers -- I
10 believe the question from Commissioner Baas was how
11 did all of our numbers look once everything was run
12 through the voting machine for the recount.

13 So if we look at our number of ballots
14 from election night, there were 19,431. And the
15 recount number of ballots is 19,425.

16 COMMISSIONER POSNANSKI: Thank you for
17 reporting back. As I previously moved last night,
18 based upon the reconciliation performed, including
19 the ballots that were found and then transported here
20 for purposes of recount, given the discrepancy of the
21 two votes for the three wards in question and a total
22 variance of six for the entire City of Greenfield, I
23 would move that we accept and include the ballots
24 from Wards 1, 3, and 12, including all of those
25 ballots that were found at the City of Greenfield and

1 brought here, in the total vote tally for the City of
2 Greenfield.

3 CHAIRWOMAN PENN: In your vote totals did
4 Trump and Clinton get relatively the same number of
5 counts as they did on election night?

6 CITY CLERK GOERGEN: I can get you that
7 information here. Okay. So for Ward No. 1 -- Okay.
8 So for Ward No. 1, there is zero variance. And for
9 Ward No. 3, Trump received four more votes after the
10 recount and Clinton received three more votes after
11 the recount. Okay. And for Ward 12, Trump received
12 one more vote with the recount and Clinton zero.
13 Zero variance.

14 COUNTY CLERK CZARNEZKI: Madam Chairman,
15 I would just like to clarify one thing for the
16 record. These ballots were not found. These were
17 ballots that were at the City of Greenfield and were
18 not transported to Milwaukee County after the
19 election. So they were not newly discovered ballots.
20 They were ballots that were counted on election
21 night. They just were not transported from the City
22 of Greenfield to Milwaukee County.

23 CHAIRWOMAN PENN: I understand that. My
24 question was so that we had just another check to
25 make sure that the vote wasn't intentionally altered

1 by leaving those ballots back at the office. And
2 this confirms that that is not the case.

3 COUNTY CLERK CZARNEZKI: I understand,
4 Madam Chairwoman. There were just words or questions
5 from the media as to whether or not these were newly
6 discovered ballots. I just wanted to make that
7 clear, that they were not newly discovered ballots.
8 They were ballots that were counted on election night
9 and simply were not transported from the City of
10 Greenfield to Milwaukee County.

11 COMMISSIONER POSNANSKI: Thank you,
12 Ms. Goergen.

13 I was using "found" in the colloquial
14 sense, in that we had a statement from City of
15 Greenfield staff in terms of how they were then
16 transported to the recount facility.

17 COMMISSIONER POSNANSKI: Do either of the
18 party representatives wish to be heard?

19 ELECTION OBSERVER PERZAN: Jeff Perzan,
20 representing Green.

21 In light of your previous request, given
22 that there is inadequate security of the ballots
23 while they were stored in the village clerk's office,
24 we would like the images taken off the flash drives
25 from election day and a hand count redone.

1 The village clerk said that there was
2 three full-time employees and two part-time
3 employees, but I have learned that janitors are
4 allowed in there, as well as other maintenance of
5 equipment type people as well. For all those reasons
6 I think to ensure the integrity of the vote, even
7 though we're pretty damn close, that we would renew
8 our request.

9 COMMISSIONER POSNANSKI: The request is
10 noted for the record.

11 ELECTION OBSERVER PERZAN: Thank you.

12 CHAIRWOMAN PENN: Can you call the roll
13 on the vote?

14 COUNTY CLERK CZARNEZKI: On the motion to
15 accept the Greenfield recount.

16 Commissioner Baas?

17 COMMISSIONER BAAS: Aye.

18 COUNTY CLERK CZARNEZKI: Commissioner
19 Posnanski?

20 COMMISSIONER POSNANSKI: Aye.

21 COUNTY CLERK CZARNEZKI: Chairwoman Penn?

22 CHAIRWOMAN PENN: Aye.

23 COUNTY CLERK CZARNEZKI: Madam
24 Chairwoman, there are three ayes, zero noes, and the
25 motion prevails.

1 CHAIRWOMAN PENN: Thank you.

2 Jennifer, can you tell us a little bit
3 about your plan?

4 CITY CLERK GOERGEN: I have developed a
5 plan. It is a work in progress, but I have something
6 in writing, and certainly I've got it right here to
7 submit it as an exhibit to the Board, if you would
8 prefer.

9 CHAIRWOMAN PENN: That would be
10 acceptable. It is an exhibit.

11 If you could just give us the highlights
12 of that, on the record.

13 CITY CLERK GOERGEN: Okay, sure. So what
14 we would do differently to ensure that all of the
15 ballots are put in the ballot bags on election night
16 and not -- not returned with miscellaneous election
17 materials or blank ballots, the election workers
18 would -- if they removed any ballots from the voting
19 machine because the machine is at maximum capacity,
20 they would bag them and secure them until the end of
21 the night when the poles close. When the poles
22 close, they would open them and sort them by ward and
23 check them for write-ins, which is the typical
24 process.

25 However, what we would do different is we

1 would make sure that this would only be done at a
2 separate table that's designated for counting and
3 sorting ballots, where there is no other paperwork
4 allowed. And, at that table they would have their
5 ballot bags. And they would -- When they are
6 finished sorting them, they would have to also count
7 them to make sure that the number of ballots that is
8 counted going into the bags is indeed the number of
9 ballots that were counted through the machine. And
10 to double-check, so that we know what comes to us
11 election night is indeed in all of the bags and not
12 loose with blank ballots or election -- other
13 election materials. Of course, it would be
14 documented on the inspectors statement and such.

15 COMMISSIONER BAAS: Thank you for that
16 summary. I would also suggest that -- Ms. Henry
17 being an expert in this field, that you reach out to
18 her staff any time that you find it might be helpful,
19 because I'm sure that they could give you additional
20 guidance. And, I appreciate the work you've done.

21 CITY CLERK GOERGEN: Thank you.

22 ELECTION OBSERVER PERZAN: Jeff Perzan,
23 representing the Green.

24 As I understand it, when you removed
25 those ballots because the bin is full -- did I

1 understand you to say you would note the count on the
2 machine at that time? And then when you put it into
3 the ballot bags, you would have a number to
4 correspond to the actual number of ballots? Or are
5 you proposing something else?

6 CITY CLERK GOERGEN: I agree that would
7 be a good thing to do as well. We would add that to
8 our procedure.

9 CHAIRWOMAN PENN: Okay. So now that you
10 said this was a work in progress -- And it has been
11 recommended that you type it up.

12 CITY CLERK GOERGEN: Yes.

13 CHAIRWOMAN PENN: I would submit that
14 typed-up version to Julietta. She can make sure that
15 we have it. And I think I would place her in the
16 role of expert and run past the procedures with her,
17 and she can help you identify any strengths and
18 weaknesses and recommendations.

19 CITY CLERK GOERGEN: Okay.

20 CHAIRWOMAN PENN: That should help you
21 avoid this in the future.

22 CITY CLERK GOERGEN: Okay.

23 CHAIRWOMAN PENN: Thank you.

24 COMMISSIONER POSNANSKI: That's it. So
25 we would like to congratulate Greenfield for

1 finishing their recount.

2 (Recount off the record from 11:07 a.m.
3 to 1:34 p.m.)

4 CITY CLERK SCHULTZ: Monica Schultz, City
5 Clerk, City of West Allis.

6 This is a request for the Board to review
7 the name of a write-in candidate for presidential
8 office, to determine if this individual is a
9 registered write-in candidate.

10 CHAIRWOMAN PENN: You may approach.

11 ELECTION OBSERVER PERZAN: Thank you.

12 COMMISSIONER BAAS: For the record.

13 Ma'am, I see Evan. Spelling, M -- Last name being
14 M-c-c-o-u-l-l-a-h.

15 CHAIRWOMAN PENN: Any comments,
16 questions?

17 COMMISSIONER POSNANSKI: Based upon my
18 review of the spelling, I think it is clear you can
19 ascertain the intent of the voter to vote for Evan
20 McMullin. Had it just been the last name misspelled,
21 I might reach a different conclusion, but I think
22 given that it is Evan, I think it appears to be
23 McMullin. And, there's no other similar candidate on
24 the ballot or a registered write-in. I would count
25 it as a write-in vote for Evan McMullin.

1 In consulting the guidance provided by
2 the election commission on write-in candidates, they
3 do acknowledge that misspellings of the last name for
4 a registered candidate is sufficient to count as a
5 vote for that write-in candidate. So for that
6 reason, I would move that this be accepted as a
7 write-in vote for Evan McMullin.

8 CHAIRWOMAN PENN: In order for the
9 machine to accept this, do you have to reconstruct
10 it?

11 ELECTIONS DIRECTOR HENRY: That name will
12 appear on the write-in sheet, and then the staff will
13 have to go through all of the write-in sheets and
14 change it in the canvas. In the official canvas.

15 CHAIRWOMAN PENN: Anything further?

16 Go ahead and call the roll.

17 COUNTY CLERK CZARNEZKI: On the motion to
18 count this ballot as a write-in vote for -- a
19 registered write-in vote for Evan McMullin.

20 Commissioner Baas?

21 COMMISSIONER BAAS: Present.

22 COUNTY CLERK CZARNEZKI: Commissioner
23 Posnanski?

24 COMMISSIONER POSNANSKI: Aye.

25 COUNTY CLERK CZARNEZKI: Commissioner

1 Penn?

2 CHAIRWOMAN PENN: Aye.

3 COUNTY CLERK CZARNEZKI: Madam

4 Chairwoman, there are two ayes and one present. The
5 motion prevails.

6 CITY CLERK SCHULTZ: Thank you.

7 (Recount off the record from 1:38 p.m. to
8 2:13 p.m.)

9 CHAIRWOMAN PENN: Okay. We're back on
10 the record. What do you have?

11 We're going to go do the draw down for
12 Ward 9 in West Allis.

13 Okay. The record should show that West
14 Allis had a blank ballot, so that is one that is
15 taken out of the -- by statute, that's the one that
16 gets taken out of the pile.

17 So we're done.

18 (Recount off the record from 2:14 p.m.
19 to 3:01 p.m.)

20 CHAIRWOMAN PENN: Okay. We're back on
21 the record.

22 MR. ALBRECHT: Neil Albrecht with the
23 City of Milwaukee Election Commission.

24 I brought this before the Board of
25 Canvassers earlier, that in our preparation for the

1 recount we inadvertently separated some of our
2 original -- the original reconstructed ballots from
3 the duplicate reconstructed ballots. We learned
4 afterwards that on some of those the ward number had
5 not been recorded on the original of the
6 reconstructed ballot, presenting something of a
7 challenge to matching them both up.

8 Of the approximate 1,200 reconstructed
9 ballots in the City of Milwaukee, 600 of those having
10 been emailed ballots, 600 falling in another
11 category, we were able to match up 1,130 originals
12 with duplicates but have 70 that we cannot pair
13 affirmatively without doubt that the original matches
14 the duplicate. We have both unmatched originals and
15 unmatched duplicates.

16 COUNTY CLERK CZARNEZKI: Question for
17 corporation counsel. I'm not aware that there is a
18 legal requirement to affirmatively match the
19 reconstructed ballots with the originals. I don't
20 know that there is or is not such a requirement.

21 MR. ALBRECHT: I am unaware of one,
22 either. I do want you to know that of the 1,130
23 ballots that we were able to reconstruct and match
24 the original with the duplicate, with the observers
25 present, each ballot matched in terms of the voter's

1 intent.

2 CHAIRWOMAN PENN: Comments from
3 observers?

4 COMMISSIONER POSNANSKI: We understand it
5 is your position that the voter intent is accurately
6 reflected in the reconstructed ballots.

7 MR. ALBRECHT: Correct.

8 ELECTION OBSERVER QUINN: Brendan Quinn,
9 on behalf of the Trump campaign.

10 Is it the custom and practice when you
11 reconstruct that ballot that the poll workers would
12 initial the reconstructed ballot?

13 MR. ALBRECHT: It is.

14 ELECTION OBSERVER QUINN: Do the 70 that
15 are not matched up at the moment have both sets of
16 initials?

17 MR. ALBRECHT: They do, and they have an
18 ROB number on them, but they don't have the voter
19 number on them. They could be in a different ward.
20 They don't have a -- Pardon me. A majority of them
21 don't have a ward number on them; that's the issue.

22 ELECTION OBSERVER QUINN: I just want to
23 confirm that all of the unmatched ones have both sets
24 of poll workers initials.

25 MR. ALBRECHT: To the best of my

1 recollection, they do, yes.

2 ELECTION OBSERVER QUINN: If we could
3 just confirm that, that would be fine.

4 ELECTION OBSERVER PERZAN: Jeff Perzan,
5 representing the Green party.

6 Have you done a hand count of those 70 to
7 confirm that the number of votes for each of the
8 candidates for president comes out the same, based on
9 your view of voter intent?

10 As an example, if there were 30, 30, and
11 10, are there 30, 30, and 10 based on your looking at
12 the original ballots, considering voting intent?

13 COMMISSIONER POSNANSKI: The results on
14 election night wouldn't be any different than the
15 recount, because these were reconstructed on election
16 night; is that right?

17 MR. ALBRECHT: That's correct.

18 COMMISSIONER POSNANSKI: So the 70 votes
19 should be the same on election night as they are
20 during the recount. There's no basis for those to
21 have changed?

22 MR. ALBRECHT: That's correct, because we
23 have the duplicate reconstructed ballots. The
24 original we are not able to match to, and the
25 duplicates were fed through as part of the recount

1 just as they were fed through on election night, and
2 the results matched.

3 ELECTION OBSERVER PERZAN: Have you
4 segregated those 70 reconstructed ballots?

5 MR. ALBRECHT: We have them separated,
6 yes.

7 ELECTION OBSERVER PERZAN: The request
8 is that you do -- that you confirm the number of
9 votes for president on both the reconstructed ballots
10 and the original ballots, considering the intent --
11 You said it was done accurately, so I just want to
12 confirm that the vote count is the same.

13 MR. ALBRECHT: We're not able to tally
14 the votes on the original ballots, because some
15 original ballots were confirmed with the
16 reconstructed ballots and then placed back in the
17 original ballots pile.

18 ELECTION OBSERVER PERZAN: I'm talking
19 only about the 70. Therefore, it is not possible to
20 match them at this point again?

21 COMMISSIONER POSNANSKI: That's precisely
22 the issue you brought.

23 ELECTION OBSERVER PERZAN: Okay. And
24 then I would like to just put on the record the fact
25 that the City did not have the imaging capability on

1 the 850s on for the original election and it was also
2 not on during the recount. Otherwise, I was very
3 impressed with the City of Milwaukee and how it
4 conducted the election and the recount. And I have
5 no other concerns. Thank you.

6 COMMISSIONER POSNANSKI: So I think where
7 we are at is we have 1,130 which were -- we were able
8 to match up and reconcile with the original vote and
9 the reconstructed ballot. And we know that of the
10 1,200, 1,130 of them accurately reflect the voters'
11 intent.

12 MR. ALBRECHT: Correct. 100 percent of
13 the ones that we were able to match up reflected the
14 voters' intent.

15 COMMISSIONER POSNANSKI: No
16 discrepancies.

17 MR. ALBRECHT: No discrepancies.

18 COMMISSIONER POSNANSKI: I note the
19 comment by Mr. Quinn. I don't think it is an
20 unreasonable request to go look at the 70 that we
21 cannot match and make sure that they do include the
22 initials of the poll workers.

23 MR. ALBRECHT: Sure. I can report back.

24 COMMISSIONER POSNANSKI: If you can bring
25 that back. I would note, for the record, we're

1 talking about 6 percent of the ballots that were
2 reconstructed here, where we have 94 of them -- 94
3 percent of them that have no discrepancies
4 whatsoever. So I'm pretty comfortable that the city
5 workers did a fantastic job of accurately
6 reconstructing ballots consistent with the voter
7 intent. So, if you can report back after you take a
8 look at those 70 ballots.

9 MR. ALBRECHT: Okay. Very good.

10 CHAIRWOMAN PENN: Thank you.

11 (Recount off the record from 3:11 p.m. to
12 3:15 p.m.)

13 MR. ALBRECHT: So, reporting back. Of
14 the 70 ballots, 7 have -- do not have either set of
15 initials, and 8 have one set of initials.

16 COMMISSIONER POSNANSKI: So a total of
17 15 out of 1200.

18 MR. ALBRECHT: 15 of the 70, that I can
19 speak to today.

20 CHAIRWOMAN PENN: I would just interject
21 that in all our past rulings we have not penalized a
22 voter for a lack of -- for clerical error on the part
23 of the poll worker. So whether it is one signature
24 or two signatures appear -- initials -- doesn't
25 affect the vote.

1 COMMISSIONER POSNANSKI: Neil, does the
2 fact that 15 of these signatures are missing one or
3 both set of initials give you any reason to question
4 whether the poll workers accurately captured the
5 voters' intent in reconstructing these ballots?

6 MR. ALBRECHT: No, it does not, not based
7 on what we saw with the other 1,100-plus
8 reconstructed ballots.

9 ELECTION OBSERVER QUINN: Brendan Quinn
10 on behalf of the Trump campaign.

11 I understand the earlier rulings that you
12 referred to but, given the fact that we have
13 questioned that the reconstruct did not match, I
14 believe that those without either set of initials,
15 without the two initials, you can't fully verify a
16 chain of custody, therefore, those ballots should not
17 count. Thank you.

18 ELECTION OBSERVER PERZAN: Jeff Perzan,
19 for the Green party.

20 From what I've heard, there is no problem
21 with the chain of custody. And consistent with past
22 practices of the Board if there is an error or an
23 omission by election workers, the voter intent ought
24 to be reflected, as has been put on the record by the
25 executive director, and it should therefore be

1 counted.

2 MR. ALBRECHT: And if I could -- There is
3 no issue of chain of custody with these ballots.
4 They have been in the proper chain of custody since
5 they were reconstructed. Again, it was just during
6 the process of organizing these ballots for the
7 recount that originals became separated from
8 duplicates.

9 COMMISSIONER POSNANSKI: Thanks, Neil.
10 Based on that, based on our prior discussions and
11 based on the overwhelming evidence that these ballots
12 were properly constructed by these -- I mean, all
13 1200 were properly constructed to capture the voter's
14 intent on the original ballot and then on the
15 reconstructed ballot, I move that all 1200 of these
16 ballots be accepted.

17 COMMISSIONER BAAS: Understanding your
18 logic, I am not -- I am more comfortable with
19 accepting 63. We sent him back to get the
20 information. We have the information.

21 Understanding what we've done in the
22 past, given these circumstances, I think we are
23 absolutely clean if we accept 63 instead of the 70.
24 Thank you.

25 CHAIRWOMAN PENN: Joe, would you be so

1 kind?

2 COUNTY CLERK CZARNEZKI: There is a
3 motion.

4 On the motion, Commissioner Baas?

5 COMMISSIONER BAAS: Nay.

6 COUNTY CLERK CZARNEZKI: Commissioner
7 Posnanski?

8 COMMISSIONER POSNANSKI: Aye.

9 COUNTY CLERK CZARNEZKI: Chairwoman Penn?

10 CHAIRWOMAN PENN: Aye.

11 COUNTY CLERK CZARNEZKI: Madam
12 Chairwoman, there are two ayes, one no. The motion
13 to accept the ballots prevails.

14 CHAIRWOMAN PENN: Thank you.

15 (Recount off the record from 3:19 p.m. to
16 4:08 p.m.)

17 CHAIRWOMAN PENN: We're back on the
18 record.

19 This is Monica Schultz from West Allis.
20 We're doing a draw down of ballots from issues we
21 discussed earlier. What's the ward?

22 CITY CLERK SCHULTZ: Ward 2, Ward 4.

23 CHAIRWOMAN PENN: Okay. And you
24 separated those out?

25 CITY CLERK SCHULTZ: Yes. And that

1 would be Ward 2 is a draw down from blank ballots,
2 and Ward 4 is a draw down from two ballots that were
3 not initialed by the election inspectors.

4 CHAIRWOMAN PENN: Okay. Very good.
5 Which meets the requirements or the guidance -- the
6 statutory guidance.

7 (Ballots are drawn.)

8 CHAIRWOMAN PENN: The record should show
9 that the draw down was completed.

10 (Recount off the record from 4:11 p.m. to
11 4:25 p.m.)

12 CHAIRWOMAN PENN: We need to go back on
13 the record.

14 CITY CLERK SCHULTZ: Monica Schultz,
15 City of West Allis, City Clerk.

16 This is regarding the issue that was
17 brought up earlier regarding the issue of write-in
18 ballots that were not packaged on election night, but
19 were found during polling place cleanup. The numbers
20 do match up for that ward, and they were included in
21 the tally for that day.

22 CHAIRWOMAN PENN: Very good.

23 CHAIRMAN POSNANSKI: You opened the
24 sealed envelope.

25 CITY CLERK SCHULTZ: The envelope was

1 opened and included in what's being processed right
2 now by the high-speed machine.

3 CHAIRMAN POSNANSKI: Okay.

4 CHAIRWOMAN PENN: I don't think we need
5 to make any kind of ruling. We just wanted
6 reassurance that it matched up.

7 CITY CLERK SCHULTZ: Thank you.

8 (Recount off the record from 4:27 p.m. to
9 7:55 p.m.)

10 CHAIRWOMAN PENN: May I have a motion to
11 adjourn, please.

12 CHAIRMAN POSNANSKI: I move to adjourn
13 the canvas of the Milwaukee County presidential
14 recount.

15 COUNTY CLERK CZARNEZKI: On the motion to
16 adjourn the recount canvas.

17 Commissioner Baas?

18 COMMISSIONER BAAS: Aye.

19 COUNTY CLERK CZARNEZKI: Commissioner
20 Posnanski?

21 COMMISSIONER POSNANSKI: Aye.

22 COUNTY CLERK CZARNEZKI: Commissioner
23 Penn?

24 CHAIRWOMAN PENN: Aye.

25 COUNTY CLERK CZARNEZKI: Madam

1 Chairwoman, there are three ayes, zero noes. The
2 recount canvas is adjourned.

3 (Recount adjourned at 7:55 p.m.)

4 * * * * *

1 STATE OF WISCONSIN)
) SS:
2 WAUKESHA COUNTY)
3

4 I, FAYE M. TALATZKO, Registered
5 Professional Reporter and Notary Public in and for the
6 State of Wisconsin, do hereby certify that I have carefully
7 compared the foregoing pages with my stenographic notes,
8 and that the same is a true and correct transcript.

9 I further certify that I am not a relative
10 or employee or attorney or counsel of any of the parties,
11 or a relative or employee of such attorney or counsel, or
12 financially interested directly or indirectly in said
13 action.

14 Dated at Milwaukee, Wisconsin, on this
15 28th day of December, 2016.
16
17

18 _____
19 FAYE M. TALATZKO - Notary Public
20 in and for the State of Wisconsin

21 My commission expires 4-14-2017.
22
23
24
25

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