**20250102\_WEC\_Meeting.mp3**

[00:02:51] **Speaker 1** Reporting.

[00:02:52] **Speaker 2** In progress.

[00:02:53] **Speaker 1** Commissioner Raible.

[00:02:54] **Speaker 2** Here.

[00:02:55] **Speaker 1** Mr. Spindle.

[00:02:56] **Speaker 3** Here.

[00:02:57] **Speaker 1** Commissioner Thompson.

[00:02:58] **Speaker 3** You're.

[00:02:59] **Speaker 1** All members of the commission. Our present administrator. Wolfe. Has this meeting been properly noticed?

[00:03:04] **Speaker 2** Yesterday's meeting was noticed in accordance with Wisconsin's open meeting laws.

[00:03:09] **Speaker 1** Thank you. I ask that this meeting be put on our calendar primarily to address the recent information that came to light regarding the discovery by Madison officials, City of Madison officials of 200 ballots that were not. Tallied were not accounted for. And it started it, I believe, December 20th or so or December 19th, when the commission first discovered that this was even an issue. And as is set forth in our materials, you'll see sort of the timeline of what our staff discovered and what they tried to figure out. We then. As is also in the materials that some of the appendices received statements from the Madison City Attorney and the Madison Clerk. I asked our staff to answer the question of whether and what authority we had as a commission to instigate our own investigation into this matter. We are the final canvas. We are the final arbiters of the votes in the state of Wisconsin. And we needed to know why those. Ballots weren't accounted for and weren't included in our canvass. The integrity of the election process is important, and we needed to know and understand this White House staff what authority do we have to investigate and what does that look like? And what you have in front of you is a memo from staff summarizing the answer to that question and also summarizing the things that we can do as a commission. And I want to be clear that this was at my instigation and request that there is no position of staff one way or another on what we should do or whether we should do it, but rather this is an answer to my very specific question. The sum total of the information we have. As to the matter of these missing ballots is contained in this memo. This is literally everything we know. If you include those appendices, we have no additional information. And that's why I think an investigation is important. I also thought it was very important that this commission convene as a group to address this important issue. And I also thought it was important that we do so formally and that we do so following our powers and the available statutes. Sometimes we address things that are more just a matter of exchanging a few documents or a few calls. We've certainly done it that way in the past. But given the seriousness of what happened here, our lack of knowledge, information that was not given to us in a timely fashion, I think we need to do something more. Formal. And and the like. So I asked counsel for the WC to tell us the answer to what can we do and how do we do it? And I'm going to ask Attorney Sharp to give us that introduction. And again, procedurally, today's meeting is simply, do we want to investigate? And my suggestion obviously, is I think we should. My other suggestion was that we do a two member bipartisan drafting of what those questions and document requests look like. And I would suggest that Don and I simply draft those. Drafted more discovery that our our esteemed staff counsel and we have templates for these sort of things and can probably get that out very quickly and also that we make public. What it is we're asking for. In other words, that this process be transparent so that the public knows that we are working on this. What we're asking for and so that we can make sure that folks understand how seriously we're taking this. So I'm going to begin by asking attorney Schaap to summarize what we are allowed to do and what that process looks like. Thank you, Chair Jacobs and good morning, Commissioners. The memo for this agenda item begins on page three of your materials and is accompanied by attachments A through F. So as the chair said, this discussion does pertain to the 193 absentee ballots that the city of Madison did not count during the November 5th, 2024 general election. And I do want to reiterate at the outset that the commission staff have verified independently that these uncounted absentee ballots did not impact any federal, state or local race or referenda on the ballots in question. So if it's okay with you, Chair Jacobs, I'd first like to start by providing an overview of how this situation first came to commission staff's attention, and then I can provide a summary of the statutes that govern the Commission's investigation authority. Please do so. Okay. So on the afternoon of December 18th, 2020, for the City of Madison, Clerk's Office staff contacted commission staff to request assistance with entering their reconciliation data from ballots cast during the November 5th general election. The City of Madison explained that they had realized that two of their wards had absentee ballots that were not processed on Election Day. This meant that their total ballots issued number did not match their voter participation numbers, meaning they had more ballots recorded as received than ballots counted. The City of Madison staff sought the commission staff's assistance with entering and recording the uncounted ballots in the statewide voter registration system. And it appeared that the primary purpose of the initial outreach from the city clerk's office was data entry system assistance, not solely to notify the commission of the uncounted ballots during this election. The next day, on December 19th, Commission staff requested a call with the City of Madison Clerk, the Madison City Attorney, and relevant members of their staff in order to gather additional information. On December 20th, that call took place and commission staff requested that Clark Witzel Bell provide a detailed statement regarding the uncounted absentee ballots, including how many ballots were uncounted and when the clerk's office first discovered these errors. Markowitz LaBelle provided a statement to commission staff on Monday, December 23rd. And I will note, even though the memo that was provided with the clerk's office press release was dated December 20th, it was received by commission staff on December 23rd. On December 26th, Clerk Wetzel Bell's office issued a press release disclosing the uncounted ballot situation to the public, and the mayor also issued her statement. And then also on December 26th, as chair, Jacobs said she directed commission staff to prepare a memorandum outlining the legal process for the commission so it could consider opening an investigation pursuant to Wisconsin Statute 5.06 subsection four. So the purpose of the investigation would be to create a complete record of what transpired so that the city of Madison can implement improved policies and so that all Wisconsin clerks can benefit from understanding how to avoid similar issues in the future. So Wisconsin law does expressly permit the commission on its own motion to investigate and determine whether any election official with respect to any matter concerning election administration or conduct of elections, whether that official has failed to comply with the law or has abused the discretion vested in him or her or intends to do so. After such an investigation, the Commission is authorized to summarily decide the matter and may by order require any election official to conform his or her conduct to the law to restrain them from taking any action inconsistent with the law, or to require the official to correct any action or decision that is inconsistent with the law. And if that language sounds familiar, your note that the order that would be issued for after an investigation is the same type of order and decision that the Commission would issue to resolve a 5.06 complaint. So if the Commission does choose to authorize an investigation, the remainder of the memo in your materials outlines the areas of inquiry that staff compiled as likely to result in pertinent information given the subject matter. So given all of that, I'm happy to answer any questions, but I will turn the remainder of the discussion back over to Chair Jacobs for this agenda item. Are there questions for Attorney Sharpe regarding what the process would look like for an investigation, our authority, anything like that? Mr. Spindle?

[00:12:58] **Speaker 3** Yes. I was just wondering in terms of why we want to do an investigation as opposed to taking a complaint on this. And what the difference would be in terms of doing the investigation versus doing the staff work on the complaint?

[00:13:20] **Speaker 1** So that that's a fair question. And that was part of the discussion that I had late December with staff. And my inclination was that this was such a serious oversight. And. I didn't want to wait for a complaint. I felt it was important that the Commission act promptly and also that we use the powers that we have to get out the information we want. Because remember, in a complaint process, we get a complaint, we send it to the respondent to give us some reply or response to it. That response may not have the answer to the questions we want. And I have real questions about what all happened here. That would probably be broader than what would be raised in a complaint. And I would want to know those answers sooner rather than later. Some of it is just speed. I thought this was so egregious that it was important we we move immediately. Mr.. Thompson And then based on the.

[00:14:35] **Speaker 4** No, I think this is a good idea. And and in response to Commissioner Bandele, Dell doesn't preclude a complaint being filed at all. It just gives us. You know, a better ability to go gather all the information. We haven't done that before. Is a good time to do it. And the other thing I noted that we got to come and I think. From the city of Madison court this. I saw that in saying that they would fully cooperate and we didn't even have to send formal. So, I mean, I think. Finding out. You know how 193 ballots didn't get counted because there are a lot of hands on these ballots. And so I'm curious how it happened. So I thought it was a good idea and I think we should go forward.

[00:15:35] **Speaker 1** Mr. Bossman. Well, when I first started looking at this, I think I was looking at it from the perspective of the clerk. And I'm thinking to myself, if if there was some type of misstep that happened, it could happen in a different municipality, a smaller municipality or a bigger municipality. And I just think it's important to understand, you know, what happened, how it happened, what needs to be done to make sure it doesn't happen again. Because I look at it as that eventually the commission would be able to give guidance and making sure that don't don't miss this step in the future. And that's how I looked at it. I didn't look at it as a as a complaint. If a complaint is filed, that's fine. But I looked at it as the position that the act that our commission is in is to make sure that we do whatever we can to provide guidance, that it doesn't happen anymore. And unless we find out how it happened, I don't know that we can give that guidance. So I look at it as a positive in a sense that how do how do we move forward from this and how do we make sure this does not happen again in the future? So that's how I look at it. Mr. Mills, I saw your hand. Yeah.

[00:16:54] **Speaker 3** Yeah, I agree. The legislature was certainly concerned about the. The investigative power of the Government Accountability Board when it. Eliminate that agency and created this agency in the Ethics commission. But the legislature also. Explicitly said that the commission in very limited circumstances and this is one of them. May, on its own motion, investigate an election official. There are the powers. As I read the statute, the powers of the commission are a little bit more limited when it's done on its own motion than when there's a complaint. And I think that's fine. My concern here is not with the magnitude of the magnitude is significant. The issue is why was this not determined or caught by the time of either the local campus or the county campus? And, you know, these errors can happen. And it seems to me. Knowing. What little we do know is my assumption is either there was a failure to follow procedures or our procedures aren't good enough and we have to correct. And so I think one of those two things has occurred, and I think it's incumbent upon us to determine that. And I'm glad to see that the city of Madison is now saying that they will cooperate. I'm a little my biggest I suppose my biggest concern here is why it took. Am I going to have for this to come on? And that's very, very disturbing. And I'm hoping we can determine why that happened as well.

[00:18:42] **Speaker 1** Commissioner. It's been done.

[00:18:43] **Speaker 3** You know, I just don't understand what we're talking about in terms of the complaint process and so forth. And this is brand new for us. So I guess we've had a couple of opportunities to do an investigation before which did not go through. And I guess we we need to take a look at is this something that we want to get into? Are we opening Pandora's Box by starting to, you know, to to do this? And I think that the points have been very well laid out in terms of what's happened here in Madison and what's happened here in Madison and in terms of what we need to do going forward. And it is taking a quite a step in this town mentioned one of the reasons for the gap being dissolved in the Wisconsin commission starting was that the investigation by the GMB really got out of hand. But I think we're sort of limited in this and that we're talking only about the we're able to investigate the actions of the mob in terms of the. You know, election officials. And it seems to me that if we're going to investigate Madison, which in my opinion, the sins basically were these discrepancies not being brought by the canvasing, either the city or county canvasing boards or in the 36 day delay in terms of getting us this information to work, we should have been coming to us immediately. Then I call on the commission to investigate the same sort of thing at the what happened at the central count on November 5th and the many problems and discrepancies which here, you know, brought major international media concerns as well as the Trump campaign, Republican Party concerns in terms of what took place there with the results not being reported until 4:35 a.m.. So I think if we do if we do one, then we need to, you know, to do both.

[00:21:03] **Speaker 1** Commissioner Thompson then based on.

[00:21:06] **Speaker 4** The. You know, I think Commissioner Mandela. The. You imply that Milwaukee because the count came in at four something in the morning, had something to do with something inappropriate. Well, we all know there was legislation pending that wasn't signed that would allow people to start that process early. There. There is no similarity between what had happened in Milwaukee and in Madison. I think that what we have on the table is a proposal to investigate Madison. I think we should do it. If there's a complaint that comes in on Milwaukee, it's there. But I don't think we should mark up the process we should get at. I mean, Donna's really right that when we when I first heard about it, I go like, you know, I didn't know how it could happen that, you know, 193 days, I mean, 193 ballots. And it was like. I mean, that should have been picked up at the canvass. And so, as Mark said, we got to find out what happened. So if we we need better guidance, we need to do it or as Don said, you know, figure it out. And I don't think it serves out the bigger picture, Bob, to throw Milwaukee in and start 2025 in that kind of partizan manner. Anyway, so that's my comment.

[00:22:47] **Speaker 1** Mr. Boss? WOMAN Well, I still look at this probably as, maybe as a bigger picture, maybe from a Clerks perspective. But I see this as being procedural and I see this as something that can happen somewhere else, even though it's never happened before. And I think it's just important that if there is a safeguard, if there's a guidance that we need to give to make sure that that this doesn't happen again, I think it's important that we find out how how it happened and what we need to do to give that guidance. I don't look at this as a as a blame anybody. I'm looking at this from the perspective of how do we make sure this doesn't happen again and how do we make sure that all the polling places in the state, all the municipalities in the state are following a procedure to make sure this doesn't happen again? And like I say, I'm not looking at this as a punishment or something. We need to investigate. We need it because of the wrongdoing. We need to investigate it to make sure it could goes smooth in the future and that we don't have any other problems. And that's how I look at it. I look at it as a solution, not an investigation. To find wrongdoing. I look at is an investigation to find a solution that it doesn't happen again. And I think that following up on what you just said, March, we have an election in February. So we we need to know what went wrong. Sooner rather than later. And Bob, that's also an answer to your question of why aren't we waiting for a complaint? We have about six weeks until our next election. So the more information we can learn about what went wrong, even if we're only able to send out a quickie clerk's memo saying, hey, there's a step here, don't forget about it. As we work on more formal guidance, I think we want to do that because certainly our February and April elections for judge and the like, we we have elections that are separated by 200 votes in April and February. That's that's not uncommon. So I definitely think that our duty to figure out what happened and help our clerks so that it doesn't happen again is important. The other thing, too, is when we've had other mistakes made by municipalities. When? Now I forget the name of the town up north. Gave the wrong ballot to 100 people. We knew about it. Within minutes of it happening, of them figuring out what happened. We were in the loop. We were able to work with them to figure out the solution. We figured out what the problem was. We put it in our canvass so that when we canvased at the state level, we were able to incorporate that. And that sort of transparency is just sort of missing here. So we can't be a part of the solution until we know what went wrong. And and unfortunately, we just don't right now. There is a recommended post.

[00:25:49] **Speaker 3** I think Commissioner Whipple had her hand up.

[00:25:51] **Speaker 1** I'm sorry, Commissioner. Please go ahead.

[00:25:53] **Speaker 2** No, that's okay. I was going to completely agree with Marge and poll worker and clerk error happen. This is about making sure it doesn't happen going forward. And I completely understand how they wouldn't find out about it in the canvass if it wasn't until they started to reconcile that they discovered it. So I think there's there's some process or procedure that just needs to be corrected.

[00:26:24] **Speaker 1** Mr.. Mills.

[00:26:25] **Speaker 3** So I would make the recommended motion with option number one.

[00:26:32] **Speaker 1** I'm sorry. You're making the recommended motion with option one. Option one to summarize and return it to the commission.

[00:26:39] **Speaker 3** Yes.

[00:26:41] **Speaker 1** That's the motion. Is there a second.

[00:26:44] **Speaker 3** As a commission?

[00:26:45] **Speaker 1** Commissioner And I saw your hand up first Commissioner Boston and said. Second, is there further discussion regarding this motion? Commissioner Spindler. Go ahead.

[00:26:55] **Speaker 3** Yeah, I'd like to make a friendly amendment to this motion that the Wisconsin Election Commission authorize an investigation pursuant to Wisconsin Statute 5.064 to determine whether or not the City of Milwaukee Election Commission executive director Paula Gazidis and the Deputy director, Bonnie Cheng, has failed to apply the law in abuse of discretion regarding the problems resulting in the central count and vote not being received to the public at approximately 4:25 a.m. on November 6th. Since I think that's not likely to be agreed by when I'll second the motion for purposes of discussion. Right. So excited about the math.

[00:27:48] **Speaker 1** But so. That's just. A ridiculous and bizarre conspiracy theory since we literally knew what was going to happen. We put out press releases that that was what was going to happen. We issued statements that that was going to happen. We talked to national media explaining that was going to happen, and we have not, I would point out, received a single complaint about it. So this supposed concern, bipartisan people about this apparently was not so concerning that in the two months give or take since that election, nobody made a complaint, nor is there a plausible explanation of how. That what could possibly be the abuse of discretion other than just reiterating a word that's a foundation for it. So I'm not going to support that. That's a waste of our time and energy. If someone wants to file a complaint and allege something specific that they think was a violation, they're allowed to do it. But nobody has done it. So. Can't be that important to folks right now. And this isn't a tit for tat. This is that's not how this works. We don't punish one person because we're dealing with someone else. That's just not how this works. I can't imagine that's how we want it to work. Commissioner Bostrom and I see your hand, right? And having seconded that motion, I would I wouldn't accept that as friendly motion. And I would just make the recommendation if, if Commissioner Spindler would like that, that he make a motion after this one. And that we deal with it as a separate motion.

[00:29:39] **Speaker 3** Hang in there. I thought I was moving to amend the motion.

[00:29:46] **Speaker 1** He asked for a friendly amendment. Correct. She seconded. So it can't be accepted as a friendly amendment because she is the second dead person. If he wishes to move, he can move to amend the motion to include that. And then we vote on the amendment and then we return to the original motion. If he wishes to amend the motion to whatever he just read, he can do that. But that wasn't what he amended. So I think merges point of order is accepted and there is no friendly amendment.

[00:30:23] **Speaker 3** So there's probably American for it as well. I think I think what I understood you saying is that he wants to amend the motion. Is that right? Mr. Smith. No, that's correct.

[00:30:35] **Speaker 1** No, he has to make a new motion because this motion was not procedurally correct. If he wants to make a new motion. He can make a new motion.

[00:30:44] **Speaker 3** Okay. If you'd like me to do that, I'll be happy to do that again. Would you like me to repeat that?

[00:30:49] **Speaker 1** You have to put it in proper form.

[00:30:51] **Speaker 3** Okay. My motion with amendment to this motion is that the Wisconsin Election Commission, which is the commission, authorizes an investigation pursuant to Wisconsin Statute 5.064 to determine whether or not the City of Milwaukee Election Commission executive director Paula Lazarus and the deputy director, Bonnie Chang, has failed to apply the law and abused their discretion regarding the the identified problems in the pursuit of pursuing the central count in voting, not being released to the public until approximately 4:25 a.m. on November 6th.

[00:31:38] **Speaker 1** And that your motion.

[00:31:41] **Speaker 3** Came after that motion?

[00:31:43] **Speaker 1** No, no, no, no, no, no. We're going to follow procedure. Is that your motion? Don't tell me about after the motion. Is that your motion? Your motion to amend?

[00:31:55] **Speaker 3** Yes, my motion to amend. Second.

[00:31:57] **Speaker 1** There's a second debate. Commissioner Millis. I have a point of order. I want to ask Attorney Whittaker. Are we noticed to deal with that issue?

[00:32:08] **Speaker 3** That was just like why I had my hand raised and the document. I think the commission does need to examine whether we would be We did essentially notice this meeting for almost verbatim what Commissioner Spindle read with regard to the second municipality. But our agenda only contemplates the city of Madison. And so I think it would more likely be appropriate under the open meetings laws to perhaps note that that should carry forward to the next agenda. If the Commission functions, we can put that for another meeting.

[00:32:39] **Speaker 1** Okay, so I'm looking at our open session agenda. Item C reads, discussion and possible action on authorization of at 5.06 sub for investigation of City of Madison Clerk regarding 193 uncounted absentee ballots for November 5th, 2020 for general election. So it does not appear we are noticed to address this. As to the city of Milwaukee. At all. So I don't believe the commission can hear it at this meeting. And expendable if you want to be heard on. I think you're going to tell me why we would have the right plan.

[00:33:35] **Speaker 3** That's why I am. I think the whole purpose of this meeting, from what I could read here, was to determine whether or not we were going to do an investigation. And the investigation that's listed here happens to be in the city of Madison. But the the main purpose of this meeting, as you outlined when you first spoke, was whether or not the commission should do an investigation. So this is the important point here, in my opinion, in terms of whether or not the commission is going to move forward with a new program basically doing investigations such as this in the. So I think that's the wrong reading of the of the thing. I think this is certainly open. The fact that the commission is going to decide whether or not to do an investigation is the main purpose here. And therefore, that bringing in the city of Milwaukee and there are several problems. I know Commissioner Thompson said that there was no real problems there. Well, you know, I don't want to go through a list of them. The workers showing up an hour late, the door to the high speed counters close to nine, but then hoping no urgency through it. But yet a highly experienced staff of supervisors is supervising the whole process. So I think that the investigation, the word investigation opens this up for additional talk in memos and so forth and so on. On investigations. Additional investigations as well.

[00:35:16] **Speaker 1** I believe, as chair. I have to rule that the motion is out of order. Because we are not properly noticed. For. That motion.

[00:35:32] **Speaker 3** I just have one question and then we move on. Is that all right?

[00:35:36] **Speaker 1** The question Go ahead and ask your question.

[00:35:39] **Speaker 3** The question is to you, are you willing to put on a future agenda, Maybe the next one that calling for an investigation of a city Milwaukee Election Commission central count situation on November 5th, 2025?

[00:35:54] **Speaker 1** Only if I am provided with some reason why that investigation is needed. In other words, if you and you you and I can talk to each other, two people can talk if you want to send me specifically what it is that you believe warrants an investigation. In other words, information that is not known. Or has not been provided to this commission or the press or elsewhere such that our work on this is required. In other words, that there is a mystery out there that you want solved. Then we can put it in front of the commission to address. But if it's just I don't like how they handle things and I want them to be brought up in front of the commission for some reason to embarrass or to yell at them or something. That's not an effective use of commission time. So if you want to provide to me some sort of statement of what it is specifically that happened that requires investigation that's not otherwise available, I am willing to consider that. So just plan ahead on doing that. Don't give it to anyone else. Just a reminder we can't have happen.

[00:37:06] **Speaker 3** Yeah. Could I ask that maybe that I present the information or that the information presented to both you and in the town? And basically, you.

[00:37:16] **Speaker 1** Know, you can't do that, Bob. You can't have three commissioners talking about something at a public meeting. That's a what.

[00:37:25] **Speaker 3** My that the City of Milwaukee Election Commission is not incompetent as has been as has been alleged. They are very competent. And there are major problems that occurred during this time, in my opinion, being an election commissioner for 18 years in the city of Milwaukee.

[00:37:43] **Speaker 1** I'm going to cut you off. It's not noticed on this. We're not noticed on it.

[00:37:49] **Speaker 3** And.

[00:37:49] **Speaker 1** We're not.

[00:37:50] **Speaker 3** You offered two.

[00:37:51] **Speaker 1** Comments or also I'm.

[00:37:53] **Speaker 3** Getting I'll we'll get the information to you.

[00:37:55] **Speaker 1** You can get me specifically what your questions are. It's on the record here of what I'm telling you. Sure. But I'm ruling that the motion is out of order, which leaves us with the original motion which was set forth on page seven of our material having chosen option one. Commissioner Thompson.

[00:38:14] **Speaker 4** Yes. I moved the question.

[00:38:17] **Speaker 1** And the question having been moved for any objection, Hearing none, we're going to call the vote. Commissioner Masterman. High Commissioner Millis.

[00:38:27] **Speaker 3** High.

[00:38:28] **Speaker 1** Commissioner. People I Missioner Spindle.

[00:38:31] **Speaker 3** I.

[00:38:32] **Speaker 1** Commissioner Thompson I chair votes I The motion is passed. Commissioner Millis and I will be working today to try to get those questions in proper form and hopefully out by the end of business. Today is my goal. The next item on our agenda is put there because we do have an election coming up in February and we do want to address the just the deadline. So anyone who is challenging the nomination papers of someone has the appropriate deadlines. Who's presenting on this one?

[00:39:14] **Speaker 3** That would be me, Madam Chair.

[00:39:16] **Speaker 1** All right. Tourney would talk. Please go ahead.

[00:39:18] **Speaker 3** Absolutely. Just a quick a procedural statutory background. So for the spring of 2025 election, we know that circulation of nomination papers is happening from December 1st through January 7th. And the commission has already scheduled and agreed upon a time and date of January 14th, 11 a.m., for hearing design, nomination paper challenges and ultimately grant ballot access to qualifying candidates. So following administrative code two, as well as some of the timeline that conflicts with that 990, we have made a series of, I don't want to call them recommendations, but essentially determinations here that are laid out at what we believe the timeline to be based on all of those issues, the primary before the commission, other than reviewing and considering additional times, would whether or not to add a rebuttal, a final rebuttal filing process to from the challenger. It has been granted for the last two election cycles for a more informal process in 2024. So the consideration of whether or not allowed would essentially shoehorn that one additional filing by in the morning of January 14th before the commission. So would likely look much like it has in the last couple of calls where the Commission has been provided with all relevant materials. So they are filed in real time. And then there is a rebuttal filed on that morning. We will get to those documents immediately and add that to any materials that we have compiled by the Commission on 11 a.m. for that ballot access meeting. And so I would be happy to field any additional questions you might have on this process. But that being kind of the primary consideration outside of what have been done in cycles prior to.

[00:41:26] **Speaker 1** Commissioner Miller's.

[00:41:28] **Speaker 3** And. I would. I guess I reluctantly agree with the idea of having rebuttals. Reluctance is just a frustration with the tight statutory schedule that we're obligated to comply with. My only comment on this from my primary comment is I think that we and I thought we did this in the past, but make it clear that the content of any rebuttal has to be limited to factual or legal arguments made by the challengers response. I don't I don't think we should consider any new evidence, any new legal arguments. It's a rebuttal. As a rebuttal. Your rebutting only those items that were raised by the challenger in the challenger's response.

[00:42:15] **Speaker 1** I think that's a good point because it also minimizes the nature and type of the response and makes it more accessible. And I also agree with that. I think rebuttals are really helpful because then we can go into our meeting knowing what we're actually arguing about, because otherwise we have this happened. No, that happened. And the nice thing about rebuttals is sometimes we get them and say, Well, yeah, they're right about these, but we're going to continue our complaints about these others. And I think that's been very helpful in focusing the work we need to do. It has helped focus, I think, staff presentation where they can be like, Well, we're not dealing with these, so we're not even going to worry about those. That's been conceded. We're just going to focus on that, and I think that's been very helpful.

[00:43:08] **Speaker 3** Commissioner Sandel Yes, just a quick question. We talked about this before, that the challenger must notify. The candidate for whatever of the complaint. And then they have to show to us that they really tried. And we all know with computers having problems and they forget to put the dot in between George and Smith, that it's very possible that the candidate does not get notified. And so all of a sudden the candidate hears about it during our particular discussion. And also, I think we talked at one time about the staff of the commission making sure that they also notified the candidate to try and make sure that that was actually received. And it seems to me that because of this new process that I guess we haven't had to have for 150 years, that the candidates, any candidates who are challenged should certainly notify you of the the chair at the appropriate time that they want to speak in that way, that in case there is a rebuttal to the challenge, the candidate gets an opportunity to talk about that rebuttal as well. And I think those are very important aspects of and I do not think that this is a good idea or major objective should be to try and get people on the ballots and not try and find reasons to keep them off. And again, why do we need to do this now? We haven't done it for, you know, I guess since this process started.

[00:44:50] **Speaker 1** Just so you know, Bob, in the materials is a specific deadline by which people are required to tell us what time they want to say that they want to speak so that we can prepare. That's actually in that memo. So we do that so that everyone knows that and they work with deadline and they know the deadline for doing it. So that's one part of it. And I think you're misunderstanding. It's. This is designed to figure out what we're actually arguing about. That's what rebuttals solve for us. They answer the question of what's actually at issue in this challenge. And it has been my experience more often than not that the rebuttals we've gotten have conceded. That the candidate was correct in a certain number of them, or that they have rehabilitated signatures and a certain number of them and has allowed us to focus only on those things that are not in dispute. And I think that's been a real help in understanding these. Challenges. You know, some of these challenges are, you know, 300 pages. It's really nice to know that we're only focusing on 50. And I think that's what rebuttal does for us. And and I do think it's really been a net positive for our meetings on this because otherwise we wind up with people talking. And they're essentially doing a rebuttal in the talking. And that's much less helpful and I think can be. And then it's just sprung on all of us like, we just learned something as you're speaking to us. And I think that's a less than ideal.

[00:46:32] **Speaker 3** Well, I think that be we we just had this for one election. The first election, we did not have that because it was too close to to the election. However, I think the the thing I'm concerned about is the challenge. The candidate after the challenge may not know about it. And in that situation, they need to have an opportunity to know about it and to respond. And there's just not enough time. The the deadline is 9:00 in the morning. We start to work it in 11. And it just seems to me that if we passed this. And I would recommend to all candidates that they. They they put into they put into their request to talk at the meeting the next morning.

[00:47:20] **Speaker 1** Okay. Have you read the motion, Bob, Because it really says that they have to serve the candidate.

[00:47:26] **Speaker 3** Yeah, but they may. Yeah. At 9:00 in the morning, 850 in the morning. And then there's no provision, as I understand, for the let's say the candidate does not say they want to speak the day before. There's no provision for the candidate to come back and say, hey, this is. I don't agree with this thing or this is not true or whatever.

[00:47:47] **Speaker 1** Well, smart candidates are clearly going to tell us ahead of time just in case. And if they choose not to, they.

[00:47:54] **Speaker 3** They need to they need to say that they're going to speak once there's a challenge whether or not oftentimes in the past they have not the I'm not done that. But I think.

[00:48:05] **Speaker 1** If they're smart planning.

[00:48:07] **Speaker 3** They need to do.

[00:48:09] **Speaker 1** Mr..

[00:48:09] **Speaker 4** Thompson I'd make the recommended motion at page 65 of our materials with the. Clarification point made by Commissioner Miller's. The rebuttals are clearly limited. To items in the response and no new facts and no new arguments. So that's the motion.

[00:48:31] **Speaker 1** My motion having been made. Is there a second to that motion? Commissioner Ribble, seconds. Is there further discussion on that motion?

[00:48:41] **Speaker 3** Offer of friendly amendment that the staff also wants to complain is received, makes every effort to contact the candidate.

[00:48:51] **Speaker 4** That is not a friendly amendment.

[00:48:54] **Speaker 3** For what it's worth, if I may to be, because there are some things that are older processes and then there are some things that Commissioner Speedo would not be aware has been done since we last met. So yes, the code does require that they serve that on the other party. But we also do provide a templated letter with all of the information on the procedure as well as serving the documents to those individuals. As part of that process. We also warn them when we do have a rebuttal period on the front end of this process, when they're initially noticed that there is a short deadline for rebuttal, and if they wish to file, they're going to want to keep that in mind. Also, we serve that collect honestly and obviously staff work quite a bit of extra hours during these procedures. But we don't leave that first day until we have reached someone with, you know, whether it be the candidate's representative, the candidate themselves, whoever that is. We are calling and searching for information to make sure we have physically spoken to them. If we don't get a response in writing and then ask them to do so. We've also trained and this is some of the newer processes that we've done. We've worked with the election administration team to ensure that we try to better solicit verifiable and quickly responsive contact information from these individuals so that we don't get into this position where we don't have that on record as of yet, because in the past not everyone submitted those and made things harder. So all of those are certainly part of that process. And we did have some information in that notice letter that said they may not address new points of law in a rebuttal, but we can certainly emphasize that in accordance with the commission's wishes. And so basically, you're saying you do that anyway. You do notify the candidate of this challenge. We do not rely solely on the services that that that is required in the code. And there are even some provisions in the code that are built in. If that doesn't happen, whereby if we don't get that second copy, we can charge to copy and send that out. The code is a little antiquated. It's it's contemplated for more than anything else. But yes, we absolutely do not believe that first day because time is of the essence until we have spoken with someone in that two hour time frame. Correct. To get within that initial time frame of that first day when it's filed.

[00:51:20] **Speaker 1** Is there further discussion and the motion? Hearing that. I'll call the vote. Commissioner Miller's.

[00:51:26] **Speaker 3** Okay.

[00:51:27] **Speaker 1** Commissioner Ribble, I am sure spendable. Commissioner, I'm sorry. You voted no. Commissioner Spindle.

[00:51:34] **Speaker 3** That's correct.

[00:51:35] **Speaker 1** Okay. Commissioner Thompson.

[00:51:37] **Speaker 4** I.

[00:51:38] **Speaker 1** Your when I chair votes, I motion carries five one. So all those persons out there who are candidates or working with candidates, you now know the drill. Any other There are no other matters we are on notice for. Is that correct? Administrator Will. All right, then I will entertain a motion to adjourn.

[00:52:00] **Speaker 3** So moved.

[00:52:01] **Speaker 1** Moved by Commissioner Thompson, seconded by Commissioner Swindell. I'll call the roll. Commissioner Ribble.

[00:52:08] **Speaker 2** I.

[00:52:09] **Speaker 1** Mr. Spindle and Mr. Thompson I. Michele Bachmann. I. Commissioner Miller's chair votes. I thank you all. We are adjourned. See you in 12 days. But.