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REPORTER'S TRANSCRIPT OF PROCEEDINGS taken

at 1400 West Washington, Suite B-10, Phoenix, Arizona,

on the 10th day of January, 2008, commencing at the hour

of 10:03 a.m. of the said day. The proceedings were

reported by DOREEN C. BORGMANN, RMR, CRR, and a

Certified Reporter in and for the County of Maricopa,

State of Arizona.


APPEARANCES:

COMMISSIONERS:

STEVE W. LYNN, Chairman
ANDREA (ANDI) MINKOFF, Vice-Chairman
DANIEL R. ELDER
JOSHUA M. HALL
JAMES R. HUNTWORK

ALSO PRESENT:

LISA HAUSER, ESQ., Counsel for the Commission
DOUG JOHNSON, Contractor, NDC
ADOLFO ECHEVSTE, Executive Director
Independent Redistricting Commission
CHAIRMAN LYNN: Adolfo, is there anybody in the office from the public?

MR. ECHEVSTE: No.

CHAIRMAN LYNN: Okay.

MR. ECHEVSTE: Staff -- Lou and Kristina -- and the reorder.

CHAIRMAN LYNN: It is the appointed hour, so I will call the meeting to order. The next item on the agenda -- oh, Lisa, we should probably do our own roll call for the record for the public recorder.

MS. HAUSER: Okay.

CHAIRMAN LYNN: Let me do that. And is Jose going to join us or not?

MS. HAUSER: No. He can't.

CHAIRMAN LYNN: Okay. Let me call roll then.

Ms. Minkoff.

VICE-CHAIRMAN MINKOFF: I'm here.

CHAIRMAN LYNN: Mr. Elder.

MR. ELDER: Present.

CHAIRMAN LYNN: Mr. Hall.

MR. HALL: Yes.

CHAIRMAN LYNN: Mr. Huntwork.

MR. HUNTWORK: Present.

CHAIRMAN LYNN: The chairman is present. So all
five members are present. Lisa Hauser is staff attorney
to the Commission, also present, and Commission staff in
the office.

VICE-CHAIRMAN MINKOFF: And Doug.

CHAIRMAN LYNN: And Doug Johnson, consultant to
the Commission.

Item 2, discussion, decision, or
instructions concerning the resolution designating
Arizona Legislative Council to work with the Census
Bureau. I think all of you have received, hopefully, a
revised draft resolution Lisa prepared.

And, Lisa, why don't you take just a minute
and for everyone's benefit just quickly summarize why
we're doing what we're doing.

MS. HAUSER: Well, let me defer to Doug on that.
CHAIRMAN LYNN: Okay.

MS. HAUSER: He's been working on this issue.

So take it away, Doug.

CHAIRMAN LYNN: Mr. Johnson.

MR. JOHNSON: Okay. I'll be brief, because this
isn't the most exciting thing of all times.
Essentially, there's a lot of work that the Census does
to get ready for the next decennial census, mainly
focused on making sure that their boundaries are
correct. You guys may remember that -- was it Sierra
Vista called us a week before the final legislative plan was adopted and said that we've split their city, and it turned out that Census had the wrong order for their city because they hadn't worked with the Census Bureau.

And the other thing they do is they provide their address list to the city so the city can see what homes it knows of that they missed just to make sure that everyone will be counted completely.

And they need a designated liaison. In the past it's been leg. counsel. But by federal law and regulation, it has to be the official redistricting body. And so the leg. counsel obviously said, "We're not that." The legislature is not that anymore. So they deferred. But the legislative staff, who obviously will have to fund all the census stuff that we want to get done, clearly happy to, they were concerned about the Commission going out of existence and then all the stuff falling apart.

And so everyone is essentially comfortable with the Commission. As long as it's in existence, we'll continue to be the liaison. And leg. counsel wanted the Commission to designate leg. counsel as their formal designee so that they wouldn't be caught in this Catch 22 of they're not the official redistricting authority, but the official redistricting authority.
1 doesn't exist.
2 So these are laid out fairly well in the
3 resolution, I think. The underlying issue here is that
4 Census Bureau -- this is a voluntary preparation base.
5 If there's any controversy or Democrat versus
6 Republican, you know, conflict or any hitches, the
7 Census Bureau just walks away from the state. They say,
8 you know, it's not worth it to them to get caught in the
9 mix. So they just want to see is everyone working
10 together well, and if so, then they work with the state.
11 So this is kind of our way of showing we're all working
12 together well, and then we're off and running.
13 CHAIRMAN LYNN: Okay.
14 MR. JOHNSON: Most of the work is actually done
15 by the counties and then cities when it's actually being
16 done.
17 CHAIRMAN LYNN: All right. For the benefit of
18 the recorder, I'm going to ask the members of the
19 Commission to identify themselves when they speak. This
20 is the chairman again. And given Doug's explanation of
21 the draft resolution, I would entertain a motion to
22 adopt the draft resolution as presented.
23 VICE-CHAIRMAN MINKOFF: Mr. Chairman?
24 CHAIRMAN LYNN: Ms. Minkoff.
25 VICE-CHAIRMAN MINKOFF: Yes. Andi Minkoff. And
I would move the adoption of the resolution as presented.

CHAIRMAN LYNN: Thank you. Is there a second?

MR. ELDER: Mr. Chairman, this is Dan Elder. I second.

CHAIRMAN LYNN: Thank you, Mr. Elder. Moved and seconded that the draft resolution be adopted by the Commission. Is there discussion on the motion?

MR. HUNTWORK: Mr. Chairman.

CHAIRMAN LYNN: Mr. Huntwork.

MR. HUNTWORK: I have two qualifications that I'd like to suggest that we consider. The first one is to say that it was to serve --

VICE-CHAIRMAN MINKOFF: Where are you?

MR. HUNTWORK: I'm in the resolution itself.

VICE-CHAIRMAN MINKOFF: Yeah, but which part of the resolution?

MR. HUNTWORK: I'd say the "Now, therefore" --

VICE-CHAIRMAN MINKOFF: Oh, okay.

MR. HUNTWORK: -- the resolution as I see it.

VICE-CHAIRMAN MINKOFF: Okay.

MR. HUNTWORK: And I'm at the final sentence where it says "serve," "...designates the nonpartisan Arizona Legislative Council to serve...." I would like to insert the words "at its own expense."
And, secondly, after the word "commencing,"
I would like to insert the words "only if and when."
The second one is really a retentative lawyer change
that I would prefer to see. That's the convention I
usually use when drafting similar concepts. And I think
it adds some clarity to the statement.
The first one I am suggesting because I
believe that we not only have no authority to tax, but
we also have no authority to spend money as well. I
think it's implicit. We ought to make it explicit.
There may be money left in other budget.

CHAIRMAN LYNN: Okay. Mr. Huntwork, are you
offering those as amendments?

MR. HUNTWORK: Yes. I would move the amendment
in those two --

VICE-CHAIRMAN MINKOFF: Can we do them as two
separate amendments? Because --

CHAIRMAN LYNN: Sure.

VICE-CHAIRMAN MINKOFF: -- I have some questions
about one.

CHAIRMAN LYNN: We can do that. Why don't you
offer them one at a time, Mr. Huntwork, and then we'll
take them one at a time.

MR. HUNTWORK: Very well. I move that we amend
the proposed resolution by inserting the words "at its
own sole cost and expense" following the words "to serve."

CHAIRMAN LYNN: Is there a second to that amendment?

MR. ELDER: Commissioner Elder. Second for the purpose of discussion.

CHAIRMAN LYNN: Thank you, Mr. Elder. Discussion on the motion. Ms. Minkoff?

VICE-CHAIRMAN MINKOFF: Yeah. This is the one that I have a question on. It seems to me that after we cease to exist, we don't have any money left in our account anyway. Because when we have no more work to do, whatever is left in our budget reverts to the general fund. Is that correct?

MS. HAUSER: That's correct.

VICE-CHAIRMAN MINKOFF: So I'm not sure that we need this. And I'm wondering -- you know, it might be, rather than its own expense, that the legislature would develop a supplemental appropriation to pay for this, you know, in a different way. And I don't -- I don't know that we want to tie their hands. I mean, obviously, the expense of it has to be borne by somebody, and they can't take it out of our budget because there won't be any money in our budget.

MS. HAUSER: Right. Mr. Chairman, may I speak to
that?


MS. HAUSER: I also don't think we necessarily have the authority to do that. I understand Commissioner Huntwork's intent, but we don't have the authority to dictate how Legislative Council funds this work. And I think that's the point that Commissioner Minkoff is also making. So rather than create any kind of lack of direct delegation to Legislative Council, in other words, putting any kind of a hitch in it, I would leave it out. That would be my recommendation legally.

CHAIRMAN LYNN: Mr. Huntwork, the question for me -- and I might suggest that after I make the statement and ask the question, that I want to give you the floor to perhaps think about this kind of connection. I like your second amendment, but it seems to me if the second amendment were included, the first one would no longer be required. In other words, if we are in charge, we'll pay for it. If we're no longer able to be in charge, the discussion we just had suggests that there is no money of ours. And however the leg. counsel would then secure funds necessary to do the work would be their problem. They obviously want the work to be done as much as we do in preparation for the 2011 redistricting process. So I would give you the
floor to respond to the comments made.

MR. HUNTWORK: Yes. Well, firstly, I think I have to respond in the context that we would definitely have to work this differently than I proposed. We would have to word it in terms of at no expense to the Commission rather than at the expense of Legislative Council.

The second claim I would make is to take a step back and say that if they're acting as our designee, under ordinary principles of law, we as the principal and they as the agent would be entitled to reimbursement from the principal. And I think we need to do something to negate that interest because the fact that we have no money in our budget is exactly what I'm worried about.

If I remember the legal analysis when we were about to run out of money during the course of the litigation, the law is that we commissioners are individually liable for money spent by our Commission that is in excess of or is not covered by our budget. So --

VICE-CHAIRMAN MINKOFF: How lovely.

MR. HUNTWORK: And that was the advice that, Lisa, I'm sure that we did receive from you. So since we're designating them, I mean, the theory behind this
is that -- and I think it's probably legally a defensive
to begin with, because if we really cease to
exist, we can't have an agent out there acting on our
behalf. And probably the legislature needs to adopt
some law to fix that saying once the Commission ceases
to exist, leg. council is the proper value or something
like that. But I'm not suggesting we go there at all.
All I want to do is fix this within the four corners of
what we're dealing with. But I do think it should say
"at no expense to the Commission."

MS. HAUSER: Mr. Chairman.

CHAIRMAN LYNN: Yes. Ms. Hauser.

MS. HAUSER: Just with respect to the legal
advice given previously with respect to work that the
Commission was doing without appropriated funds or
expecting to have to do without appropriated funds, the
principle there is different than this one. And I would
just say that the ordinary principles of agency don't
necessarily apply in this particular situation given the
structure of State government and particularly given the
Attorney General opinion that was issued recently
concerning the questions that we had about carrying out
our work. I mean, the Attorney General has clearly
indicated there that we can't pay for any of the work
that would go on after our existence, and we can't agree
to do so. But the work still has to go on. And this is
a way that we can accomplish that. And I would not have
any concerns whatsoever about anything coming back on
commissioners individually.

That said, I think the amendment, if
changed to "at no expense to the Commission," is
harmless. I mean, given the A. G. opinion, I don't
think it accomplishes much, but it's harmless enough and
would not be inappropriate.

CHAIRMAN LYNN: Thank you.

Mr. Huntwork, would you be willing to
change the wording of the amendment to conform?

MR. HUNTWORK: Yes. I would change the wording
to "at no expense to the Commission."

CHAIRMAN LYNN: And Mr. Elder, would you second
that for the purpose of further discussion?

MR. ELDER: This is Mr. Elder. Yes.

CHAIRMAN LYNN: Thank you. Then with the amended
amendment, "at no further expense to the Commission,"

further discussion on the amendment?

MS. HAUSER: Would it be "at no further expense"
or "at no expense."

CHAIRMAN LYNN: "No expense." I'm sorry. "No
expense."

Hearing none, we'll do this by roll call
because it's very hard to do this otherwise. Let me call the roll on the amendment. Ms. Minkoff.

VICE-CHAIRMAN MINKOFF: Yes.

CHAIRMAN LYNN: Mr. Elder.

MR. ELDER: Yes.

CHAIRMAN LYNN: Mr. Hall.

MR. HALL: Do we mind reading it again?

CHAIRMAN LYNN: Sure.

MR. HALL: We had two amendments; right?

CHAIRMAN LYNN: No. We're only doing the one.

And this first one is --

MR. HALL: Okay. We're only doing the one. All right.

CHAIRMAN LYNN: Thank you.

And Mr. Huntwork?

MR. HUNTWORK: Aye.

CHAIRMAN LYNN: And the Chair votes aye. Motion carries five/zero on the first amendment.

Mr. Huntwork.

MR. HUNTWORK: The second proposal is we add the word "only if and" immediately prior to the word "when."

CHAIRMAN LYNN: Okay. And is there a second to that amendment?

VICE-CHAIRMAN MINKOFF: Andi Minkoff, and I'll second it.
CHAIRMAN LYNN: Thank you.

Ms. Hauser just to cut to the chase, does this one present any difficulty?

MS. HAUSER: No. I don't necessarily think it's essential because the "when" happens only if.

CHAIRMAN LYNN: I understand.

MS. HAUSER: I mean, I like to, you know, eliminate unnecessary words, but it's not a problem to do that.


VICE-CHAIRMAN MINKOFF: Yes.

CHAIRMAN LYNN: Mr. Elder.

MR. ELDER: Yes.

CHAIRMAN LYNN: Mr. Hall.

MR. HALL: Aye.

CHAIRMAN LYNN: Mr. Huntwork.

MR. HUNTWORK: Yes.

CHAIRMAN LYNN: Chair votes aye. Motion carries.

There are now two amendments to the draft resolution that have been passed. Is there an affirmative -- let's see. We have --

VICE-CHAIRMAN MINKOFF: We have the motion.

CHAIRMAN LYNN: We have the motion to adopt the resolution as amended. But is there further discussion

VICE-CHAIRMAN MINKOFF: Yes.

CHAIRMAN LYNN: Mr. Elder.

MR. ELDER: Yes.

CHAIRMAN LYNN: Mr. Hall.

MR. HALL: Aye.

CHAIRMAN LYNN: Mr. Huntwork.

MR. HUNTWORK: Yes.

CHAIRMAN LYNN: Chair votes aye. Motion carries, five/zero.

That concludes the agenda. And I wish you all a terrific new year. And, hopefully, we'll see each other soon, but not necessarily face to face in a meeting.

VICE-CHAIRMAN MINKOFF: I'll vote aye on that, too.

MS. HAUSER: I will make these changes and send the document back out to everyone, and then you'll go ahead and sign it.

CHAIRMAN LYNN: I will sign it, and we'll file it.

MR. ELDER: Do we have any time line on when we'll expect to receive anything from the court?

CHAIRMAN LYNN: Lisa, I think that was a question to you.
MS. HAUSER: Oh. No, that's not on the agenda.

CHAIRMAN LYNN: Right. Well, let's adjourn and have a conversation, anyone who wishes to.

VICE-CHAIRMAN MINKOFF: Well, that's probably a violation of --

CHAIRMAN LYNN: Probably is. But the answer was -- the answer was no. The Commission will stand adjourned pending a call to the chair. Thank you all very much.

(The proceedings adjourned at 10:19 a.m.)
BE IT KNOWN that the foregoing proceedings were taken before me, DOREEN C. BORGMANN, RMR, CRR, Certified Reporter, Certificate No. 50644, State of Arizona; that the proceedings were taken down by me in shorthand and thereafter reduced to computer print under my direction; that the foregoing 18 pages constitute a true and correct transcript of all proceedings had upon the taking of said proceedings, all done to the best of my skill and ability.

I FURTHER CERTIFY that I am in no way related to any of the parties hereto, nor am I in any way interested in the outcome hereof.

DATED at Phoenix, Arizona, this 17th day of January, 2008.