THE STATE OF ARIZONA
ARIZONA INDEPENDENT REDISTRICTING COMMISSION

ARIZONA INDEPENDENT LISA A. NANCE, RPR
REDISTRICTING Certified Court Reporter
COMMISSION Certificate No. 50349

ARIZONA INDEPENDENT REDISTRICTING COMMISSION convened in Public Session on
February 16, 2001, at 10:00 a.m., at the Arizona Attorney General's Office, 15 South 15th Avenue
Washington, Basement Conference Room A, Phoenix, Arizona, in the presence of:

APPEARANCES:
CHAIRMAN STEVEN W. LYNN
COMMISSIONER JAMES R. HUNTWORK

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AGENDA DESIGNATED SPEAKERS:

ELAINE LeTARTE
CHRISTINE BRONSON
CLAUDIA SMITH
ROBERT A. PATTERSON
TIM JOHNSON
KAREN OSBORNE
TERRI SKLADANY

SPEAKERS FROM CALL FOR PUBLIC COMMENT:

DAVID MENDOZA
MATT MONTOYA
ANTHONY SI SSONS
BART TURNER
MR. GALLARDO
Open Session
Phoenix, Arizona
February 16, 2001
10:00 o'clock a.m.

PROCEEDINGS

CHAIRMAN LYNN: Good morning.
I'd like to call the Arizona Independent Redistricting Commission to order.
My name is Steve Lynn. I'll be chairing the meeting.
And the first order of business is the approval of the February 13th minutes which have been distributed this morning.
Are there any additions or corrections to the minutes?

COMMISSIONER ELDER: Mr. Chairman, I'd like to make a correction, please. On article Number 5, deliberation of fifth member, "Commissioner Lynn informed the public that the Commission would go into executive session." Commissioner Lynn had not been nominated or elected at that time.

COMMISSIONER MINKOFF: Good point.

COMMISSIONER ELDER: I believe it was Commissioner Hall that made the recommendation.

CHAIRMAN LYNN: We'll note that correction.

COMMISSIONER MINKOFF: Okay.
Chairman Lynn: Any other additions or corrections to the minutes?

Commissioner Hall: Yes.

Commissioner Elder was the one that made the motion. Commissioner Minkoff seconded it.

Commissioner Minkoff: On deliberation?

Commissioner Elder: Election.

Commissioner Minkoff: Yeah.

Commissioner Hall: Right. Sorry.

Commissioner Minkoff: Yeah.

Chairman Lynn: Okay.

May I have a motion to accept the minutes?

Commissioner Minkoff:

Mr. Chairman, I move acceptance of the minutes as corrected.

Chairman Lynn: Second?

Commissioner Elder: Second.

Chairman Lynn: Those in favor say "aye."

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(Vote taken.)

Chairman Lynn: Those opposed, "no."

Motion carries.

Next order of business, selection of Vice Chair.

What is the pleasure?

Commissioner Hall: Mr. Chairman, I make a motion to nominate Andi Minkoff as Vice Chair.

Chairman Lynn: Second?

Commissioner Elder: Second.

Chairman Lynn: Discussion?

Hearing none, all those in favor say "aye."
(Vote taken.)

CHAIRMAN LYNN: Those opposed, "no."

Motion carries unanimously.

Thank you.

COMMISSIONER MINKOFF: Thank you.

Don't miss too many meetings.

CHAIRMAN LYNN: Item four, public service orientation.

Mr. Bales.

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MR. BALES: Thank you, Mr. Lynn.

There's a representative here from the Governor's Office, Elaine LeTarte, who is going to speak to you briefly about matters, as I understand, related to government ethics.

We also have been talking with the Department of Administration in the Governor's Office about scheduling the regular public service orientation of which there was a bit of discussion last meeting. That is a statutorily required orientation program that addresses a large number of topics.

We've learned in our conversations with the Department of Administration that it really takes about four hours to provide the necessary training.

Given that, we've also arranged this afternoon to have one of the lawyers from our office make a brief presentation to you just limited to three topics, open meetings law, public records law, and conflicts of interest, with the thought those would be things you'd want to hear about fairly quickly.

My suggestion would be that we or someone else that you would direct would continue
working with the Governor's Office and Department
of Administration to try to see if there is a way
to schedule your four-hour public service training
at a convenient and early time.

If you don't otherwise arrange for
that, the next regularly scheduled course would be
in April. You have been all tentatively signed up
for that course. I understood you wanted to have
the training earlier, if possible.

CHAIRMAN LYNN: Thank you,
Mr. Bales.

My understanding is that that
course is not necessarily one that has to be held
where all of us happen to be present in the same
location. We even have the option perhaps of doing
it in a teleconference mode where it could be
broadcast to various parts of the state and we
wouldn't have to travel.

So what is your pleasure on that
one?

Try to ask Mr. Bales to set
something up at a time when it will be
convenient --

COMMISSIONER MINKOFF: As soon as
possible.

CHAIRMAN LYNN: We'll have a short
version and do the long version as soon as
practicable.

COMMISSIONER HALL: That's great.

CHAIRMAN LYNN: Next item of
business --

COMMISSIONER HALL: Mr. Bales, do
you have another copy of the agenda?
MR. BALES: We do have another copy.

You might want to hear from Ms. LeTarte from the Governor's Office before you move on. Her comments really relate to a public service office.

CHAIRMAN LYNN: Ms. LeTarte, would you state your name for the reporter.


As Mr. Bales has said, the ethics course is mandated for all state employees and board and commission members. The advantage to the package, while this course goes on regularly for employees, the advantage to the particular course we do twice a year through the Governor's Office for Appointments, the Governor's Office for Appointments works with the office I'm from, Governor's Office for Excellence, works together, have tailored scenarios to be those board and commission members face as opposed to different kind of scenarios staff members may face.

What you have here is a packet we did last October 1. A version of this very close if not the same will be used as a basis for April 1. And certainly we're willing -- we're more than happy to provide it, if you are going to have a special session yourselves.

We gave you the instructor's cheat sheet. After the scenarios, we have penciled the comment the way we think the answer ought to go. You can, at your leisure, take a look at these things, at your next session discuss it with the Assistant Attorney General.

If you have no other questions, I'm sure you don't because you just had a chance to
look at it, my office would be happy to help.
Also, the Attorney General's Office would be
informative if not more so.

CHAIRMAN LYNN: Thank you,
Ms. LeTarte. We'll disseminate your phone number
if the Commission members have questions in the

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interim Thank you very much for being here. We
appreciate it.

Next item on the agenda,
presentation by the Department of Administration
relative to personnel and office space.

MR. BALES: Mr. Lynn, there are
three representatives here from the Department of
Administration I think can answer questions you
might have about such issues as hiring staff,
arranging for office space, and so forth.

People here are Christine Bronson
who is a personnel manager with the Department of
Administration; Claudia Smith, who works in human
relations; and then Mr. Bob Patterson here who
works on space related matters.

I don't think -- you could proceed
either way. You could hear from them, perhaps ask
questions based on what they tell you, or you could
raise specific questions to start with.

CHAIRMAN LYNN: I think we'd like
to hear from all three, if we could, and that will
prompt some questions.

MS. BRONSON: My name is Christine
Bronson. I'm--

COMMISSIONER MINKOFF: Speak up a

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little, please.

CHAIRMAN LYNN: You might want to
use the microphone.

MS. BRONSON: My name is Christine Bronson. I'm a personnel manager, the person that provides personnel services to all smaller agencies, boards, commissions; service 80 agencies and approximately 8,000 employees.

With me today is Ms. Claudia Smith, manager of the Employees Relations Unit within the Department of Administration. Her unit is primarily responsible for strategic planning for personnel, also employee investigations, investigating grievances, and also legislation review and monitoring.

My office is more than happy to assist you with any needs you might have in the areas of recruitment and classification, compensation, hiring your staff, and so forth.

Mr. Bales' office asked us to be here today and provide you with any assistance you may need.

Feel free to contact our office. If you have any questions for us, I'm more than welcome, more than happy to take your questions.

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CHAIRMAN LYNN: Ms. Bronson, could you briefly outline the process by which we'd begin to engage staff by using the Department of Administration?

MS. BRONSON: Certainly. There are several decisions that need to be made by the Commission, such as what kind of staff you would be looking for. There are generally two types under the personnel system. There are covered employees and uncovered employees. So you would need to determine whether you wanted to hire covered staff or uncovered staff. And from there we could take a
look at what kind of organizational design you would be looking at.

COMMISSSSI ONER ELDER: Excuse me, Mr. Chairman.

CHAIRMAN LYNN: Mr. Elder?

COMMISSSSI ONER ELDER: Maybe I'm naive and don't know. What is the difference between a covered and uncovered staff person?

MS. BRONSON: Covered staff are under the State Merit System Personnel Rules, Department of Administration, Department of Administration Code. Uncovered staff not covered under the merit system are exempted by statute.

from the personnel system. There are still some stipulations that apply to both. Uncovered staff have a little bit -- there's a little bit more flexibility.

COMMISSSSI ONER ELDER: How would that affect the operation of the Commission, whether they were covered or uncovered?

MS. BRONSON: Claudia, would you like to --

MS. SMITH: Mr. Chairman, members of the Commission, the difference between the two, I think Christina fairly well outlined. However, the covered employees must be hired competitively. You have to do a little broader recruitment. There are some probation periods, those type of things, that would fall under the covered service.

If you went with the uncovered service, the exemption, I don't know how long you are going to be in operation, how long you plan on having your staff on board. That could be one factor for your consideration.

There are certain federal laws that both services are bound by, the FLSA, the
Mr. Bales has begun that process, they may have information on that score.

CHAIRMAN LYNN: Mr. Bales may have begun that process, may have information on that score.

Mr. BALES: That's correct.

We talked with representatives from only a few commissions. I understand there's 10 to 11 states that have commissions that work to one degree or another on redistricting.

I suggest we coordinate with DOA so only one person is making that effort and provide that information for you.

CHAIRMAN LYNN: Any other questions?

THE REPORTER: Would you spell your last name?

MS. SMITH: S-M-I-T-H.

THE REPORTER: B-R-O-N-S-O-N?

MS. BRONSON: Yes.

CHAIRMAN LYNN: If there are no further questions, thank you for coming. We
appreciate it, and we'll be in touch.

Mr. Hall?

COMMISSIONER HALL: Before we move off that agenda item from a practical standpoint then, what would you recommend, or what, to initiate the process, if you would, to acquire an executive director.

CHAIRMAN LYNN: It seems clear staffing is critical for this group. We need staff in place in a short period of time. We can do this in one of a couple different ways, it seems to me. If you would like me to be the liaison with the Department of Administration to begin the process, I can do that. If you would like to perhaps form a small subcommittee on personnel, a couple members, we can do it that way. But from what has been talked about this morning, it seems clear that for our purposes and for our time frame, we would be looking at probably uncovered staff.

I mean that just -- that's the way it strikes me. And I'm obviously open to any other point of view. But it seems as though with the bulk of the work that we'll be doing, even though this is a 10-year appointment, most of what will be done is in the first seven or eight months of the 10 years. That's the time when staff is going to be most critical. And it would seem appropriate that we attempt to go as rapidly as possible but as thoroughly as possible to a point where we have staff in place.

What is your pleasure?

Ms. Minkoff.

COMMISSIONER MINKOFF: I have a question.

If the desire is to hire uncovered
staff, and I agree with you it seems to be the reasonable way to go, how abbreviated can it be? We have a sense of urgency to get staff here.

With the merit selection, it's a much longer process, publicizing it, getting resumes, going through the entire process. How does it work when you decide to hire uncovered staff? How quickly can you do it?

MS. BRONSON: First of all, we need to establish the positions for the staff. We can expedite that with you, work with the classification unit and make sure those are expeditiously processed. Once the positions are in place, then we can -- you can go ahead and appoint your staff to those positions.

It depends on if you want to conduct a full recruitment. If you want to advertise in the newspaper, of course, that would take a little longer, and so forth.

It depends on recruitment.

CHAIRMAN LYNN: Another question.

Mr. Hall?

MS. BRONSON: We do also have an existing data base of resumes in the system where if we enter into the data base the selection criteria that you are looking for, then we can already from the data base pull individuals' names that meet those criteria.

CHAIRMAN LYNN: Thank you.

Mr. Hall?

COMMISSIONER HALL: Am I correct in saying at this phase we're looking for an executive director?

CHAIRMAN LYNN: Yes.
COMMISSIONER HALL: That's really the main issue. If necessary, any additional staff would be funneled through them.

CHAIRMAN LYNN: I think so.

COMMISSIONER HALL: Wouldn't that be the point?

CHAIRMAN LYNN: Yes.

COMMISSIONER HALL: We're talking one position, are we not? Are we in agreement on that?

CHAIRMAN LYNN: I think so.

COMMISSIONER MINKOFF: Initially.

COMMISSIONER HUNTWORK: That was going to be my question.

CHAIRMAN LYNN: I think we're looking for someone to run the office portion of this and provide staff support in a nonlegal capacity for the Commission. That would be an individual. And I would certainly think that that individual then would make recommendations to us as to support staff that would be necessary beyond that one individual.

MS. BRONSON: If I could ask, do you know what kind of knowledge, skills, and abilities you would be looking for in an executive director?

CHAIRMAN LYNN: In addition to being able to walk on or above water and do it quickly?

Clearly the kinds of things -- obviously we have not talked about job description kinds of qualifications; but certainly someone who has been an executive, if you will, of either with respect to a Commission, a deliberative body of some sort, or someone that has staffed an office...
that has done this kind of work, not necessarily
redistricting, per se, obviously that would be a
plus, but I don't know, since this is a new
experience in Arizona, whether we'll find someone
with those kind of skills. But the ability to do
research, the ability to supervise additional
staff, and to supervise contracts with consultants,
should that be something that we undertake in the
future. Someone who is used to providing
information to a group like this in a form that is
usable.

COMMISSIONER HALL: Public
relations.

CHAIRMAN LYNN: Public relation
skills, computer skills. Those kind of skill sets
we're looking for.

Someone who is used to being
visible, because it will be a very visible
position, as is ours.

MS. BRONSON: Would you like my
office to work directly with you or Mr. Bales or
how can we best assist you?

COMMISSIONER HUNTWORK:
Mr. Chairman, I suggest they prepare a job
description based on the comments they've received
and offer it to you for review and perhaps you
could circulate it to us on an informal basis for
further comment.

CHAIRMAN LYNN: Is that acceptable
to the Commission?

Let's proceed that way.

Ms. Bronson, if you would do that,
I'll be happy to review it with you, make it
available to the other Commissioners for review and
comment, get it back to you as revised and move
forward.

MS. BRONSON: Sounds fine.

COMMISSIONER HALL: Bring five applicants, have them wean down the applicant pool to five, or what is the recommendation?

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CHAIRMAN LYNN: I'd like to not limit the search to just the pool available through that process.

I would also be more than happy to take recommendations from anyone who believes that there is someone in the community who can fill this role and can perform the duties. And I think at the point where we can collect a certain number of resumes and in some manner screen them to the point that we have a workable group, we would have interviews and select.

COMMISSIONER MINKOFF: Uh-huh.

Mr. Chairman, a related topic that we talked about in our last meeting when you talked about circulating this among the five of us, we had asked --

And do you have for us a list of the phone, fax, and e-mail addresses of all the Commissioners?

MR. BALES: I do, Ms. Minkoff.

CHAIRMAN LYNN: We'll have those circulated.

COMMISSIONER HUNTWORK:

Mr. Chairman, I'd request, although it might entail a lot of work, any resumes we receive be circulated or available to all of the Commissioners rather than having a prescreening by someone else.

CHAIRMAN LYNN: Absolutely.
Appreciate that. We'll do it that way.

MS. BRONSON: Thank you.

Mr. Elder?

COMMISSIONER ELDER: Mr. Chairman, I'd like to add one other criteria, if at all possible, somebody that is knowledgeable or at least knows the process of the legal operations of the Commission from the standpoint of notification, who has to be notified if we get comments, how do they distribute, how do they manage a commission's business. So that would be one additional criteria.

CHAIRMAN LYNN: Recognizing we do additionally have legal staff to perform some of those functions, obviously someone that has worked with a commission before or body like this, the learning curve would be much less.

MS. BRONSON: Understandable.

CHAIRMAN LYNN: Any other comments?

Ms. Bronson, thank you very much. Thank you for being here.

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Mr. Patterson?

THE REPORTER: Your full name, please.

MR. PATTERSON: Robert A. Patterson.

I'm from the Department of Administration, Building and Planning Services.

In terms of office space, we have selected, which was easy since there was only one open office space on the Capitol Mall, a space, and refurbished it in an open office configuration. It's across the street at 1400 West Washington. It's about 3,300 square feet, which from the standards we use, would support a staff of up to 15
people.

As I say, it's refurbished, pretty much an open office. There are two offices within it.

And the service that we would offer you is space planning, once you've decided on the organizational functions, space planners ready to meet with you, decide how the space needs to be configured and configure it appropriately for you. That's my function. I'm the tenant improvement manager. That's what I do.

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We also coordinate such things as voice and data cabling, any relocation or moving. We don't do furniture, but we could advise you about how to proceed with selecting, procuring, and so forth.

Basically anything that has to do with the physical facility we'll either do for you or help you coordinate.

CHAIRMAN LYNN: Other questions?

Ms. Minkoff.

COMMISSIONER MINKOFF: Is this space available for us to look at?

MR. PATTERSON: Yes.

COMMISSIONER MINKOFF: If we decide it's not going to meet our needs, are we authorized to go out into the market and find other space?

MR. PATTERSON: I can't speak to that. I don't know of anything would preclude you from doing that. We also offer that service. I -- not me, but one of my close colleagues does leasing. And we support that from the shopping and finding the space right through the lease negotiations and signing the lease. So, yes, if
that should -- if that should be what you need to do.

COMMISSIONER MINKOFF: Right.

MR. PATTERSON: We're the point of contact for that, too.

CHAIRMAN LYNN: Mr. Elder?

COMMISSIONER ELDER: What about access, public access, parking, linkages? I parked half a mile away to get here. Is there access so people can get to the office?

MR. PATTERSON: The parking on the far side of that building is one of the more open areas. I don't know if you noticed all the construction fences around here, but we're just beginning the construction of two major new buildings on parking lots -- on what were parking lots. So parking is going to be pretty tough. But we coordinate that to -- in terms of showing you what is available and trying to make sure that it is available.

CHAIRMAN LYNN: Is it the case, Mr. Patterson, that the lots around that particular building, 1400, are most often full and inaccessible for public access?

MR. PATTERSON: They are considerably more full than they were before we put up the fences. I believe there's still going to be available parking within a block of that building on the north side.

COMMISSIONER HALL: Is there a suite number or floor?

MR. PATTERSON: It's in the basement level. And it does not have a suite
number at this point. But we'd be glad to take you
over there at any time to look at it.

CHAIRMAN LYNN: Mr. Huntwork?

COMMISSIONER HUNTWORK: What is
the total cost of this to us? Is this being
offered to us for free or is there an
administrative charge of some sort and how much
would it be?

MR. PATTERSON: We paid for the
refurbishment with building renewal, because it was
deteriorated and needed to be restored to that
level.

Tenant improvements are usually
funded by the agency occupying the space. The cost
is very much dependent on what you want to do.
Offices, typically, we can do for -- if I do it
with our own in-house crew, which we would probably
do for timing and cost-effectiveness, we could

probably do it for on the order of $10 a square
foot given what we've got there.

COMMISSIONER HUNTWORK: Is there a
rental charge in addition?

MR. PATTERSON: Yes, there is.
The rental charge currently is $13.15 a square
foot. I believe that goes up to 15 in the next
fiscal year. And then typically out in the private
sector rates are higher than that. And depending
on the time frame, short time frame lease, the
price goes up pretty dramatically if you can't
commit.

COMMISSIONER HUNTWORK: Is this
space we could occupy as long as we needed it and
then move out at any time?

MR. PATTERSON: Yes. Our space
around the mall is. You could occupy it. You
could occupy it next week if you needed to.
CHAIRMAN LYNN: Any other questions?

Mr. Patterson, are you aware of other State facilities either leased or owned outside the mall area that might have space available? My thinking is that the 3,300 square feet is probably more than we'll need.

MR. PATTERSON: Yes.

CHAIRMAN LYNN: Might there be some spaces, either remnant space or other space, that would be available at a location that might offer more centralized or more accessible parking or are you aware of any?

MR. PATTERSON: We're, I think, at about 99 percent occupancy. So it's pretty full. In terms of that space being larger than you need, any part of it would be available to you.

CHAIRMAN LYNN: I understand.

MR. PATTERSON: We can divide it.

COMMISSIONER MINKOFF:_Subdivide it.

MR. PATTERSON: Use the rest of it for other purposes.

The only other space I'm aware of is a small space I think on the order of 1,000 square feet up in north Phoenix up -- I think just off 16th Street up by the Pointe north of -- between Glendale and Northern. We have one small office suite up there. And I think that's the only --

CHAIRMAN LYNN: Other available space.
MR. PATTERSON: In an ADQA managed building in the metropolitan area.

CHAIRMAN LYNN: Okay. Any other questions of Mr. Patterson?

Thank you, Mr. Patterson. We'll be in touch.

MR. PATTERSON: Thank you.

CHAIRMAN LYNN: Any other information to come to us in terms of presentation by the Department of Administration?

Mr. Bales?

MR. BALES: I don't think so, Mr. Lynn. I think those are all the DOA representatives.

CHAIRMAN LYNN: If we could please move to item--

COMMISSIONER HALL: Before we move on, how did you want to proceed on with respect to the space?

CHAIRMAN LYNN: What is the pleasure?

COMMISSIONER MINKOFF: I would think if the agenda allows it, I'd like to walk over, look at it today.

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CHAIRMAN LYNN: Right before --

COMMISSIONER ELDER: At a break, or lunch time, something like that.

CHAIRMAN LYNN: Mr. Patterson, would that be possible?

MR. PATTERSON: Certainly would.

CHAIRMAN LYNN: Do we need to check in with somebody or --

MR. PATTERSON: I'll take you over there personally.

COMMISSIONER HALL: You'll have
lunch there, is that right?

CHAIRMAN LYNN: All right. Any other questions?

COMMISSIONER HALL: No.

COMMISSIONER HUNTWORK: I do have a question. Who is going to advise the Commission about per diem expenses and like that? Is that somewhere else in the --

CHAIRMAN LYNN: Some of it is in there, and some of it I think we'll get in the longer orientation that we get.

Mr. Bales, do we have any other information about those kind of things today?

MR. BALES: I understood that for

the time being, until you get regular staff, DOA will directly handle the processing of the reimbursement forms. And I thought they would be available. And I think we'll be able to get those for you before the end of the day.

COMMISSIONER MINKOFF: Great.

CHAIRMAN LYNN: Okay. Thank you.

Then without objection, we'll move to item six on the agenda, presentation by the Attorney General's Office.

Mr. Bales?

Good, more paper.

MR. BALES: Much of this involves things you asked for.

Actually, I do have several different things for you. First is the list of addresses and e-mail addresses that Ms. Minkoff requested. Our office has prepared this from the application forms you submitted and from what you provided at the last meeting. I need to caution you again, though, to be careful in terms of your simultaneous communications to not run afoul of the
open meeting law. If a quorum is conversing via
the internet, that most likely would constitute a
meeting for purposes of the open meeting law.

The second thing that I have for
you is in response to a request from Ms. Minkoff
regarding definition of the phrase "communities of
interest." I prepared a brief, a one-page memo on
that question.

Do you want me to answer this or
just have the memoranda?

COMMISIONER MINKOFF: Well, I
haven't read it yet, so I don't know.

COMMISIONER ELDER: Mr. Chairman,
I prefer to have him go ahead --

CHAIRMAN LYNN: If you would,
Mr. Bales, a brief discussion of what we have and
what your conclusion is.

MR. BALES: To summarize as
succinctly as I think I can, what the law in effect
says is a community of interest is an area that is
somehow defined through a common thread of relevant
interest.

And I realize I've just given you
a definition that is somewhat circular. Let me try
to put it in context, though.

Over the last decade, the United
States Supreme Court has identified community of
interest, or communities of interest, as one of the

traditional considerations that enters into
redistricting.

The reason identifying traditional
redistricting factors has become important is that
the Supreme Court has also said that if the people
drawing district maps allow racial considerations to predominate over the traditional redistricting considerations, the resulting plan will be subject to strict scrutiny. And as a practical matter, that means it's likely the resulting plan will likely violate the detection clause.

Communities of interest, along with such things as respecting boundaries of political subdivisions, are the kinds of traditional factors that can enter into a plan. And so long as those are the predominant factors, the plan will not be evaluated on a strict scrutiny basis and will stand a better chance of being upheld in court.

Unfortunately, in terms of your specific question, the phrase communities of interest is not specifically defined in Proposition 106 or elsewhere in Arizona law, whether statutes or cases. And the United States Supreme Court, although it has often talked about communities of interest, has not itself given an explicit definition.

It's suggested things appropriately can determine communities of interest, goes back to my point about there being some common thread of interest, such things as common economic or social characteristics, neighborhoods' boundaries, areas defined in terms of people that rely on common public transportation facilities or share, perhaps, community institutions, such as churches, or schools. Those have all been identified as valid bases for identifying communities of interest.

The other important qualification on that is the Court has suggested if you try to
define a community of interest solely on racial
grounds, then it will not be viewed as a plan based
on traditional redistricting factors. It has to be
on something beyond just race alone used to
determine an area as a community of interest.

Another important point, the
courts recognized in the redistricting process you
can seek input from residents themselves in terms
of what they see as their community of interest or
their area of shared concerns.

So I realize I've given you a very
lawyerly answer, but I think that's what you are
stuck with given the law.

CHAIRMAN LYNN: Mr. Huntwork then
Ms. Minkoff.

COMMISSIONER HUNTWORK:
Mr. Chairman, I'm concerned. This is a very
important issue, of course, and it's critically
important that we thoroughly understand it. I'm
also concerned that asking the kinds of questions
that might provide a complete understanding could
be misconstrued in the context of an open meeting.

My question would be, would it be
appropriate to seek further clarification of this
and other legal issues with our counsel in
executive session rather than in the forum of an
open meeting?

CHAIRMAN LYNN: I'll leave that
determination to Mr. Bales.

MR. BALES: Well, you are
certainly entitled to go into executive session to
receive legal advice. And if you feel that your
ability to ask questions or if you feel that there
are areas which you would like to be able to have
confidential advice of counsel, it's appropriate to
go into executive session. Again, the restriction
is the one we discussed at your last meeting. If
you come to the point of actually acting on
something, you need to go back into public session
to do that.

But Mr. Huntwork's question, can
you get legal advice in executive session, the
answer is yes. It's up to you if you think you
would like to get that advice in that context.

CHAIRMAN LYNN: In that same
context, should we desire to go into executive
session even though not on the agenda today, would
it be appropriate to do that today even though not
posted?

MR. BALES: Yes.

COMMISSIONER MINKOFF: Yeah.

CHAIRMAN LYNN: I'd suggest if
it's the Commission's pleasure to continue
discussion of this item or any item in executive
session, hold the item until the end of the session
so you don't inconvenience people here for other
parts of the agenda, if that's acceptable.

Other questions for Mr. Bales?

Ms. Minkoff.

COMMISSIONER MINKOFF: Yes. I

have a question that I'm not sure that the memo
addresses.

We've got two issues regarding
community of interest, as I see it. One is how the
courts are going to view communities of interest
you summarized here. The other is how the
Department of Justice view them in terms of the
 preclearance we need to get for any plan we need to
 adopt.
Is there an inherent conflict between DOJ requirements and court decisions?

MR. BALES: It's fair to say that over the last 10 years there's been a great deal of flux in the law in this area. Someone has probably aptly described the redistricting process as walking a legal tightrope. You on one hand, in order to obtain preclearance, have to avoid retrogression, make sure plans leave minority groups no worse off than under the status quo. That will force you to some extent to consider racial issues in the redistricting process. On the other hand, the Supreme Court has held that if racial considerations predominate in identifying particular districts, the resulting plan may be subject to strict scrutiny and struck down as violating the legal protection clause.

COMMISSIONER MINKOFF: What is strict scrutiny?

MR. BALES: Means only justify state action here. The redistricting plan, if it's narrowly tailored to further compelling state interest.

Again, I apologize I have to give you that kind of legalistic answer. If, in a particular case, there were only one plan that would satisfy the requirements of the Voting Rights Act, that might constitute a sufficient compelling interest to justify a plan in which racial considerations predominated over traditional redistricting factors. But I should say, in most -- in the cases where the Supreme Court has considered the issue where it's held that strict scrutiny is required, it's gone on to find the particular plans unconstitutional.
Mr. Huntwork we may at some point need to probably sit down and get some additional clarification on these issues. I'm wondering if it's not a tad premature until we draw a line.

You know, I -- I think we need to have an up-front idea of what the parameters are. But until we actually get down to some census figures and drawing lines, I don't know if I really need to go into executive session to hash the legalities of it.

COMMISSIONER HUNTWORK: I would agree completely. I think we have at this point other matters that --

CHAIRMAN LYNN: More pressing.

COMMISSIONER HUNTWORK: -- that are more pressing. And something like this and other legal questions that will undoubtedly arise can and should be deferred for a while.

CHAIRMAN LYNN: But we'll reserve that right should it become necessary.

Mr. Elder?

COMMISSIONER ELDER: One of the things I questioned here, and it may come up in our next agenda item based on the census, is that I would really like to know what kind of data bases and information we'll receive directly relating communities of interest where we have data, where we have information to be able to make a reasonable decision. So without that, I don't think -- I agree I don't think we should go into executive
session until we have some idea of what we have to
work with and identify the issues involved.

CHAIRMAN LYNN: I take your point.
I'm sure as the day unfolds we'll get a lot more
information on which to make those kind of
judgments.

Any other questions of Mr. Bales
on this particular submission? If not, we'll move
ahead to other matters from the Attorney General's
Office.

MR. BALES: Thank you, Mr. Lynn.
The next thing I have to give you,
actually in response to a question Mr. Elder raised
at the last meeting, that is information concerning
the basis for the drawing of the existing district
boundaries.

I have two things to give you.
There's a District Court decision from the District
Court here in Arizona that relates to the
congressional districts.
You may recall in the last go
round of redistricting, the Legislature deadlocked
over congressional districts. The house passed one

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plan, the Senate another. As a result, the
district boundaries were ultimately drawn by the US
District Court.

There is a published decision
where the court explains, to some extent, how it
came up with the boundaries. So I have copies of
that for you.

COMMISSIONER ELDER: While handing
those out, do you have the original plan that was
rejected as well as what the court came up with?

MR. BALES: I don't have that with
me. We could get copies of that.

As you see in the opinion, there
were several different plans that were proposed to the court. And the court adopted a modified version of what it refers to in the opinion as, I believe, the independent compromise plan. There was another reason I wanted to give you this particular opinion. You'll see in the end of the judge's ruling how the plans are defined. And they are largely defined in terms of a category of census information called the vote tabulation district, or voting district, VTB.

When we talk later about the nature of census information, that's one of the things that will be coming out in March based on the updated census information.

The other thing that I've copied for you regarding the creation of the districts last go-round is an attachment that accompanied the submission to the Department of Justice seeking preclearance for the legislative districts.

The attachment gives a very brief description of the proposed districts in terms of the demographics and in some instances explains why the configuration was as proposed.

I need to caution you, however, the proposed plan for legislative districts that was submitted was objected to by the Department of Justice.

So the summaries that I'm giving you relate to the plan as proposed. There were, I believe, about five districts that ultimately had their boundaries slightly modified to accommodate the Justice Department. I can identify for you those particular districts. And you just need to keep that in mind as you are reading the
description of what was proposed. The districts
that ultimately were modified were four, eight, and

nine, 10, 11, 12, and 14. These are districts
largely down in Southern Arizona. And the reason
the modifications were made is the department
objected that district eight had not been drawn in
a way that created a minority majority district.
And to respond to that objection, the Legislature,
ultimately, in 1993 changed the boundaries for
these particular districts as compared to the plan
that was originally proposed.

But here are copies of the summary
regarding the Legislature's proposed plan in 1992.
And just to go back to Mr. Elder's
question, any of the items that are referred to in
these materials, such as alternate plans or the
other documents that were submitted the last time
to the department for preclearance purposes. I
believe we could locate and get these for you if
you wanted to see those.

CHAIRMAN LYNN: Mr. Elder, any
further comment or does this begin to get at the
request?

COMMISSIONER ELDER: Well, I
haven't been able to peruse it, so I have no idea
yet; but it may very well.

CHAIRMAN LYNN: Okay. It will
give you a start.

COMMISSIONER ELDER: Thank you,
Mr. Bales.

MR. BALES: The next thing I have
in response to Mr. Elder's request, he asked if
we'd put into memo format the timetable we
discussed at your last meeting. I've done that.

I would like to emphasize, again, this timetable in many respects is merely a possible timetable. Many of the identified targets or dates are ones that you ultimately have to determine if they are ones that you would like to try to achieve.

There are some dates, however, that are largely out of your control. And it's probably worth focusing on those just briefly.

The first and most relevant date is next month, because that's the anticipated date the Census Department will distribute to states, in CD ROM format, detailed demographic data necessary to actually do the redistricting.

The dates identified below on that through the rest of the summer are all dates that are merely possible or tentative dates that you could adopt if you wish.

This timetable reflects the point I made at your last meeting that in terms of avoiding disrupting the other elections, the election schedule of the state for 2002, the ideal would be for you to have a plan to the department and precleared not later than late this year.

CHAIRMAN LYNN: Okay. Any questions or comments on the timeline?

MR. BALES: You sound surprised you are still asking me for things.

No, in seriousness, the other items that I've prepared for you, and this may be something you want to consider later on your agenda, it in some respect relates to the issue of legal counsel. But I've prepared a brief summary of the election law work that is done in the
Attorney General's Office so you can appreciate the kind of things we do. It's accompanied by a one-page summary that talks about the backgrounds of the three people who so far have worked on matters relating to the Redistricting Commission, and that would be Mr. Kanefield, a lawyer named Diana Varela in the Civil Rights Division who works on preclearance matters, and myself. I have that for you. It's again, probably, something if you will consider at all you might want to address with regard to the legal counsel issue.

Chairman Lynn: Just on that issue, and we can get to that in more detail when we discuss the counsel, on that issue, Mr. Bales, if -- if we were to decide to continue to avail ourselves of the services of the Attorney General's Office to provide primary legal counsel, are you then saying that the specific representatives of the AG's Office would be the three that you mentioned, yourself, Mr. Kanefield, and the woman that you referred to?

Commissioner Hall: Ms. Varela.

Chairman Lynn: Diana Varela.

Mr. Bales: Well, certainly they are the people that would be working on it for the time being. Our thought would be if you asked the Attorney General's Office to continue to provide legal service, it would be the Attorney General's Office. I can't promise you that each of those individuals would be always working on the matter or would be only working on the matter. We usually, with state agencies, have assigned attorneys. Sometimes assignments change. People
come and go from the office.

CHAIRMAN LYNN: Would there be a primary contact we could maintain continuity with?

MR. BALES: Yes.

CHAIRMAN LYNN: You wouldn't know who that would be at this time?

MR. BALES: Well, I think for the present, it would continue to be me and Mr. Kanefield out of the Solicitor General's Office.

CHAIRMAN LYNN: Okay. I just wanted to clarify that so when we discuss it we know exactly what we're dealing with.

MR. BALES: Okay.

CHAIRMAN LYNN: Other than a penchant for providing a significant amount of paper, you also provide us with a significant amount of information.

MR. BALES: To clarify, typically when the Attorney General's Office represents state agencies, one person is assigned. Mr. Kanefield typically represents the Secretary of State in election matters. Another attorney in the office, Todd Long, regularly represents the Clean Elections Commission. We would, I imagine, have a lawyer to be regularly assigned to the Redistricting Commission. And I would expect that I would continue to work on aspects of the work for the Commission as well.

CHAIRMAN LYNN: Okay. Thank you.

COMMISSIONER HUNTWORK:

Mr. Chairman, is this an appropriate time to ask detailed questions about how the Attorney General would provide these services or will we have the opportunity to do that later?
CHAI RMAN LYNN: Why don't we wait until item eight, selection of counsel. We'll be there fairly shortly.

Mr. Bales.

MR. BALEs: That concludes what I had under this agenda item. I'm also the person that's going to talk to you about the census data, so if you --

CHAI RMAN LYNN: Any other questions or comments on the AG briefing, before we go to the census information? If not, please proceed.

MR. BALEs: We have for you an information packet that the US Census Department distributed a few weeks ago at the National Conference of State Legislators Annual Program on Legislative and Congressional Redistricting. This is a general information packet.

I thought the most useful thing for today would be, if you just wanted to turn to the map that they have on the right-hand side of the packet, because this -- it shows the way that the census will be providing the information next month. And it partly answers Mr. Elder's question about what level of detail you'll be getting.

This particular map that the Census Department has been distributing is for a county in Jersey.

CHAI RMAN LYNN: We don't have to redistrict that, do we?

MR. BALEs: You don't.

And really, I guess, the important things are just to begin to understand the different subcategories of census data. Because if you look on the map, and there's also a key to the map that is in your packet, they have a different
base of basically dividing up any geographic area.
If you look over on the right-hand side of the key, there is something called a census tract, which on
the map would correspond to any of the big, red
numbers.

For example, if you look in the upper right-hand corner of the map 108 in the label, it also has a label "Deerfield Township."
That's a census tract.

Census tracts generally have about 4,000 people in them. Census tracts in turn are broken down into categories that are called block groups and blocks. And if you look on your map, the block -- the blocks are the smaller, four-digit numbers. For example, 3000 in the upper right-hand corner, that designates a particular census block. And you can tell from the map the size of the blocks varies depending on the density of the population.

So if you look over on this side of the map, you have essentially an urban area. The census blocks become much smaller.

The other information that is on this map relates to yet a third category, something called voting districts, or VTDs. This is what I was referring to earlier about a category of census information.

The voting districts are shown on this map by virtue of the big, blue dots, the broken blue dotted line. And they are the five-digit big, blue numbers on the center of the map, VTD, or voting district 25001.

The Census gets data from states...
and their subdivisions and tries to draw VTDs that in some degree corresponds to voting units within states, such as precincts. They don't exactly correspond in all states. Here I believe the asterisk indicates if in fact it corresponds to the actual political voting district.

But next month when the Census issues its data, the most important version of it will be the computerized data on a CD ROM disk. And it will provide population data by these different subunits both for total population and voting age population. And census data will also provide demographic information, Hispanic, non-Hispanic, and various categories by race.

COMMISSIONER MINKOFF: Can I stop you for a question at this point?

MR. BALES: Uh-huh.

COMMISSIONER MINKOFF: On the voting districts, if the boundaries that they have do not correspond exactly to our precinct boundaries, how do we use the information and why do they not correspond to our precinct boundaries?

MR. BALES: The Census looked to the states to provide data on political subdivision boundaries. Arizona data was not completely submitted -- was not completely collected and was not submitted on the timetable the Census desired.

The Legislature has contracted with Maricopa County Elections Department to basically use one of their GIS people, a person, Tim Johnson, who is going to talk with you later today. And they've been working to computerize political boundary information for Arizona. And I think that process may have been completed.
MR. JOHNSON: It is.

MR. BALES: So once we get the census data, it will be a straightforward process to feed the census data into things that will show for our actual legislative districts how many people are in the district. And similarly, once you begin thinking of different possible maps, as you propose a boundary, you can quickly see what that does in terms of population.

COMMISSIONER MINKOFF: Will we have information precinct by precinct as well? My understanding is a precinct has to be entirely within one district so everybody in the same district votes the same ballot.

MR. BALES: That relates to the timetable.

Once you draw, per the timetable, legislative districts, the County Supervisors redraw the precincts so they fall in one legislative district, one congressional district.

CHAIRMAN LYNN: Other questions?

Okay. Proceed.

MR. BALES: The last thing I have to mention on census, various states identify to the Census Redistricting Office particular contacts within the state to be receiving the information. The way it works when they actually have the state specific data, they Fed Ex to designated recipients and within a day begin posting information on the internet so it's publicly accessible. It's probably a good idea for you to determine someone to be designated the recipient so you are getting a copy directly. It could be Mr. Lynn as the Chair.

Since this isn't going to happen for a bit of time, if you've identified a particular office space, you could simply have the
Census Redistricting Office send it to there. The other thing they'll make available are these actual hard copy county block maps. It's a large number of big, paper maps. But if you want that information, and typically I think nearly every state has requested it, they would also send that to the person that you identify to them as your contact.

COMMISSIONER HALL: So essentially Arizona, the State of Arizona has grown 1.5 million in 10 years. Is that the nuts and bolts of it?

MR. BALES: Census data on reapportionment suggested -- 1.5 is a good rough number. A little over 3.6 million in 1990. I think the figure is 5.23 million for the 2000 census.

CHAIRMAN LYNN: Okay.

MR. BALES: The talk about the census was really meant to be census for a prelude to the presentation from Maricopa County. My thought is it would be useful for Mr. Johnson to show you some existing computer software, how Maricopa County has merged computerized census data with the GIS, Geographic Information Systems, computerized map making data to give you --

That concludes my presentation.

CHAIRMAN LYNN: Mr. Elder?

COMMISSIONER ELDER: Mr. Chairman, I was going to say, while that is being set up or whatever, I'd like to recommend we take like a 10-minute break and we adjourn --
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CHAIRMAN LYNN: All right. Why don't we do that.

It's -- let's say it's 11:00 o'clock now. Be back at 11:10. 11:15?

COMMISSIONER ELDER: Let's ask. How long do you anticipate the presentation to be?

MS. OSBORNE: The presentation, 15 minutes.

If you'd like to take a 15-minute break, it would help us get stuff set up.

CHAIRMAN LYNN: We'll recess for 15 minutes. We'll reconvene at a quarter after.

We'll stand at recess.

(Recess taken.)

CHAIRMAN LYNN: Well, we violated our own rule.

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I'd like to call the Commission meeting back to order, please.

Next on the agenda would be the presentation by Maricopa County. But in deference to the members of the public who are here --

And first I want to say that we very much appreciate having the public here. These meetings will always be public. They will always be open. That's our commitment. And we not only want, we expect and we need input from all segments of the community.

What I thought I might do, in deference to the members of the public who are here, and it's a fairly lengthy agenda today, is ask if there are people who were going to address us under item 10, call to the public, who would prefer to do that before the lunch hour so they might resume their other activities. I'd be more
than happy to accommodate that so you can have some
of your day back which I know would be important to
you and we'd like to respect that.

Are there members of the public
who would have spoken later who would find it more
convenient to speak now?

Mr. Mendoza.

Are there members of the public
who would have spoken later who would find it more
convenient to speak now?

Mr. Mendoza.

Anybody else?

At this point, without objection,
if we suspend the rules and allow Mr. Mendoza to
make his comments, I'd be happy to entertain those
now--

Yes, sir. You as well could
speak.

MR. MONTOYA: Matt Montoya. I'd
be happy to do that.

CHAIRMAN LYNN: Let me give the
public this admonition I'm asked to read.

This is the time for consideration
and discussion of comments and complaints from the
public. Action taken as a result of the public
comment will be limited to directing staff to study
the matter or rescheduling the matter for further
consideration and decision at a later date.

Let me also say by way of
introduction to public comment, as I indicated,
we're going to maintain a posture of public
meetings all the way through this, not only in
Phoenix, hopefully throughout the state. We expect
to go to other parts of the state and present
information and to seek comment.

As with any form of representative

government, clearly not all areas of interest or
all people can be represented in any one body.

Clearly when there are only five
of us, we can't represent the entire state in terms
of every breakdown that might be either racial,
ethnic, any other balance that you might think of.
However, with all forms of effective representative
government, it is not only appropriate but it is
incumbent upon those representing people of their
constituents, if you will, people of Arizona, to
seek input from all, and I want to emphasize all,
 factions, groups, areas of interest, communities of
interest, individuals who wish to address the work
that we are about. And, therefore, we will be
doing that in every conceivable way we can think
of, including website, other open opportunity
meetings.

So it's very important for us to
hear from the public. It's very important for the
public to have dialogue and input. We represent
you, try to represent all of you. And we'll take
any comments you wish to give us at any time we're
in session.

So with that preface, Mr. Mendoza,
I'd be happy to hear from you and relinquish some
of your day back to you in good order.

Those wishing to speak, state your
full name for the reporter before you speak.

MR. MENDOZA: Thank you. My name
is David Mendoza.

I come before the Commission to --
I guess wearing several hats. I'm currently the
legislative director for a public employee union
called AFSME. And my full-time job is lobbying at
the State Legislature on different issues,
primarily public employee issues. I am also the
Affirmative Action Coordinator for the state party,
Democratic Party. So certainly that's a different hat that I am wearing. And I'm a party officer.

I want to just make an observation and then just make a couple recommendations for your consideration. The observation is I was a candidate for Congressional Representative District One last cycle. Because of the way the districts are, have been drawn, it was a noncompetitive district, 35 percent Democrat, 55 percent Republican. I ended up losing the election.

I hope -- I know how important this work is for the citizens of this state and those that have thrown themselves into this process. So hopefully your work will be fair and you will come out with some districts that are in fact competitive and allow everyone to participate in the redistricting process.

The other is the controversy surrounding this Commission, the fact there is no minority on this Commission. I'm not going to go into all the details. Certainly all of you are aware of the public outcry from primarily the Hispanic community about not being represented on this Commission.

I would like to, just looking at your agenda, I see that there are a couple opportunities for this Commission, and that is selection, certainly, of executive director. That could give you some, if it is a minority, certainly that would be a positive step.

I notice as you were giving out the recommended qualifications, skills and abilities for the executive director, you mentioned office skills, legal skills, and all of that stuff, which, of course, are very important. But I
believe in my heart that certainly being a minority
would also add and bring something to the
Commission, a viewpoint that perhaps may not be on

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the Commission.

The other, of course, is the legal
counsel. As you deliberate that issue on the
agenda, there is another opportunity for a minority
representation to the Commission.

And those are my recommendations.

Certainly you have a lot of work ahead of you. I
don't envy you the work. But I, from my point of
view, offer you God's speed. And I hope you do a
great job.

CHAIRMAN LYNN: Thank you,
Mr. Mendoza, very much.

Mr. Montoya.

MR. MONTOYA: Matt Montoya,
please, from St. Johns.

I would like to thank the
committee for letting me speak.

CHAIRMAN LYNN: Mr. Montoya.

MR. MONTOYA: I'm a minority, like
you said. Joshua Hall is from my district there.
I can understand the frustration and the people
that are unhappy about not having minorities, but I
can -- from my point of view, Joshua Hall can
represent me better from my end of town, state,
than somebody from Maricopa County. That's all

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I've got to say, that I can be represented better
with him over there from my home town than somebody
from Maricopa, Scottsdale, Phoenix, or whatever.

Thank you.

COMMISSIONER HALL: Thank you.
of the public that would like to speak now as opposed to later? We'll give the opportunity later this afternoon.

State your name for the record.

MR. TURNER: Bart Turner, Executive Director of Valley Citizens League, also past board member of Arizona Common Cause, a member lobbyist for the American League of Women Voters.

First of all, I'd like to congratulate all of you on your appointment to the Commission and express our point of sincere thanks for the obligations you've undertaken.

I'd like to mention I was on the drafting committee for 106 and campaign committee for the 106 campaign. I want to pledge to each of you collectively or individually my willingness to share with you any insights I can about that process and the intention of the drafters and the way in which the proposition was represented to the state, voters in the state, during the campaign and all of that.

I will be happy to serve as a resource for you in that respect, should you desire it.

I want to briefly touch on three things that have come up so far. And as -- as was mentioned earlier, I wish you God speed on your work.

First, on the open meetings concept and open meetings law, I think you'll find over time there will be an indirect relationship between the amount of time that is spent in executive session and the degree of public confidence that will be held in the work that the Commission does. Certainly there may be occasions
in which an executive session is appropriate.

Clearly every opportunity you have to be in open
session and to move as much as possible into the
open session not only builds public confidence in
an organization, it also serves a great service to
the public by allowing us to receive education in
issues surrounding the redistricting process.

I would like to also suggest, and
I know this just being the first meeting you have,

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I trust things will improve in the area of having
agendas available to the public, us knowing where
official agendas will be posted physically,
possibly having agendas, minutes, as well, on the
internet.

Possibly the Secretary of State's
Office can assist being the central location where
those agendas are available, also having agendas
available at meetings you hold today and copies
staff are distributing to Commissioners, having
those available to the public, utilizing overheads
wherever possible so everyone in attendance can see
information under consideration, having the call to
the public at the beginning of the meeting so that
people can comment if they have something they
would like to share which isn't directly related to
an agenda item they would like to hold for when the
agenda item is under consideration, they can do as
you've so politely given us an opportunity to do,
make those comments and get on to other business we
may have.

Also I'm very heartened you've
taken into consideration availability of parking,
public parking, where staff may be housed as well
as where meetings may be held, which may or may not

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be in the same location. I'm very heartened by
that.

Questions come up over the
competitive nature of districts, came up in the
interview process. I'd share with you, as I did
when Proposition 106 was being presented, the basic
process was having incumbents involved in the
redistricting process, left it open to the natural
human concern of their reelection. And by moving
to an Independent Redistricting Commission and
developing criteria for the redistricting process,
the natural outfall of that would be that
competition would be increased in districts --
areas where competition would naturally exist.

It was not the design of this
proposition to force a situation of reverse
gerrymandering outcome, have 30 equal or
competitive districts, or even eight congressional
districts, that the competitiveness will be a
natural outfall by drawing lines along appropriate
communities of interest. In that respect, natural
boundaries that respect existing political
boundaries input, we put competitiveness as the
sixth priority of the proposition, not at first,
but the sixth. And we also -- and we did that --

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and we worded it subservient to other priorities.
And we did that with purpose.

Lastly, it's also come up,
consideration of addresses of incumbents in the
process and if it would be appropriate to do so in
the game. And clearly the interest of the
individuals and organizations that drafted this and
the way that it was represented to the voters of
Arizona during the campaign process, and in fact
what we think they relied on to approve this by wide margin is the address of incumbents or challengers to incumbents would not be considered in any part of the process. It may exist in the same paragraph. It's not a comma, semicolon. It specifically says, "Addresses of incumbents shall not be considered." If anything else was more crux to the proposition, it's that. I'd like you to hold that as you continue with this process.

I thank you for the opportunity to talk with you today. Again, anything I can provide for you, I'd be more than happy to do so, answer any questions you have for me.

CHAIRMAN LYNN: Thank you very much.

Any other members of the audience wish to be heard this morning before we continue with the presentation?

Seeing none --

Mr. Bales, would you introduce the next presenter, if you would, please.

MR. BALES: Thank you, Mr. Lynn.

Before doing so, I would like to mention during the break a number of members of the public requested copies of items we distributed to you earlier today. We're glad to make copies available. I'd ask that anyone that desires copies write their name down on a sheet of paper by the door. We'll try to have copies made over the lunch hour. One item however, that's logistically impossible to copy, and that's the census information packet we provided to you which has a large map. I've left a copy on the table. I believe anyone interested could obtain that document from the Census Bureau itself.

Other items, we'd be glad to have
copies made over lunch.

As far as moving on to the next agenda item, I want to introduce Karen Osborne, who many of you know, Director of Elections for Maricopa County. Prior to having that position, she served as Elections Director for the State of Arizona.

Frankly, I don’t know of anyone else who is as knowledgeable about the practical workings of elections in the State of Arizona. I think she could answer questions you might have about how what you do has a consequence or relates to what needs to be done at the county level in terms of things like redrawing precinct lines.

She’s also been a leader I think among the county election directors and is well-connected.

There is, in fact, a community of those people around the state. You might want to think as you move down the road how to draw on their collective knowledge in terms of things like identifying communities of interest or using them as a way to solicit information from different groups within the state.

She is accompanied by Tim Johnson, the person down here to my left, who works for Maricopa County as a GIS technician. He over the past year worked extensively on helping prepare the redistrict boundaries for Maricopa County’s Supervisorial Districts, which I believe just last spring were approved by the Department of Justice.

And we’ve asked them to come and provide a bit of a demonstration of what the technology now is in
terms of redistrict mapping.

So with that, I'll leave it to

Ms. Osborne and Mr. Johnson.

MS. OSBORNE: Good morning. I'm
Karen Osborne, Director of Elections. As he
explained it, Tim Johnson is the brains behind our
group.

We're here out of
self-preservation. The better your lines are, the
better our lines are.

In Maricopa County, we have over
75 districts that split our precincts, cities,
counties, water districts, fire districts, all
those things that play into the end of the
election. And certainly the very first thing that
happens is the drawing of the congressional lines
and legislative lines. And everything has to keep
up to that.

Last year the Legislature passed a
bill all Boards of Supervisors will redistrict by
this June, which adds an extra little group of
interest to what you are doing; because now we have

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to go out and redistrict our Boards of Supervisors
based on our new census data. And then we have to
come back in and because we can't split a precinct,
we have to make sure we don't have any traps in
here.

You'll hear me talk about Dos
Precinct in Maricopa County. Two people. It's a
legislative district south of the congressional
line which whips around it. Two people are trapped
in the center. If we had it with one, we'd call it
Uno, I guess.

Let me talk just a minute before
Tim starts about what has been built for you.
You'll hear a lot of terms we want to qualify:

VTD, voter tabulation district, to us means precinct voting precinct.

When you talk about blocks, block groups, and tracts, a block is the smallest group of people that have been identified. You have groups of blocks. And then you have census tracts. And all of the information -- actually, when we started out, when I started out participating in this in 1980, 1980 was tough. And Mr. Shumway, Jim Shumway, was our Elections Director. We decided at that time it would be best to go to the Census Department and say, "If we can give you these precinct boundaries, can you give us back the information in those boundaries?" And they said, "Yes, we could."

So they came up with the wonderful terminology of VTD, voter tabulation district.

So in 1990 when census information came back, we did have it by precinct.

In '97 the Census Bureau sent us these huge paper maps. All county election directors sat down and said, "This is where we believe we would like our information to come back, because these are specific geographic problems we have." Most obvious is the Grand Canyon, the Salt River, some of those things that hit us up close and personal somebody back East may not see because it's flat. South Mountain is huge but very flat on a one-dimensional map.

When we got the information back in, we need to have it in usable format. Each of the counties work to provide dimensions and areas so when they sent census takers out, we'd have a logical way of getting the information back.

We provided our census -- I mean
our precinct data to the Census Department. And

there was an individual who for seven of the
counties did their work. And we came down to
pretty much the end, and there were seven counties
who had not provided those boundaries to make, if
you will, a bucket to pour the census data in.

So legislative counsel contracted
with Maricopa County. And Tim did the work. And
it's been completed. That information is in the
hands of Leg. counsel so we do have identified a
bucket to put the census information in when it
comes back, if you will.

To answer Ms. Minkoff's question,
you will be able to look at the census data once it
is compiled into those precincts. So you have some
of that.

I'll let Tim take over now. This
is the interesting part. This is the part that
shows you what is out there.

Keep in mind, the end result you
come up with has to be approved by either the
federal courts or the Department of Justice.

What you do today, the logs, that
administrative part has to be kept and held. We do
a lot of redistricting on Justice of the Peace
Precincts, have just gone through our redistricting

for Board of Supervisors, and continue to find the
more homework we do up front, the less we have to
explain at the back.

It is a system of proving up.
I'll turn it over to Tim at this
point and then we'll continue.

Go ahead, Tim
MR. KANEFIELD: Want the lights down?

MR. JOHNSON: What we decided to do --

CHAIRMAN LYNN: Would it be possible to spin the computer around and face us?

MR. JOHNSON: I wanted to bring a presentation and live applications to kind of demonstrate what the census geography will look like, have counts attached to it and applications we've used in the past and are preparing to use for our redistricting, since we've been there, too. And we're getting ready to do that again.

I'll start off with a quick overview of what the Census Bureau TIGER geography looks like.

TIGER data base is actual physical features the counts are going to be attached to.

TIGER stands for topographically integrated geographic encoding reference. That's what it means.

It means it's really an instant GIS data base on CD ROM. They send out text files. Using a translation program you can extract what the features are, what geography is, that counts will be compiled by. It contains transportation features, landmarks, water features, physical things on the ground that can be put on a map. It also has jurisdictional boundaries, cities, counties, legislative, congressional districts, school districts, and so on.

Then statistical areas we're talking about, those are blocks, block groups, and tracts, also, as Karen said, the voting precincts, or VTDs. Which when you get to the TIGER CD ROMs,
you'll have eight of 15 counties' VTDs. The other
seven exist at the State Legislature, external of
TIGER; but they have the means to get the TIGER
information on the voter tabulation districts for
the other seven counties.

CHAIRMAN LYNN: Is that Leg.
counsel or --

MR. JOHNSON: Yes, Leg. counsel.

I'll begin with -- I'm not able to
read too well on the screen -- a block. The block
the State Capitol sits on is the smallest bit of
geography that contains a count. The boundaries of
a block always have to be a physical feature,
something the census enumerator can see on the
ground so he knows where he's counting. And that's
pretty important because in the rural areas where
physical features aren't very well-defined, like
unnamed washes could be in TIGER. For voting
precinct purposes, it may have been cleaner and
easier to use a section of land, public land survey
section boundary. That it's pretty easy to
determine, but it's not valid for a census
boundary. And that's going to come into play a
couple slides away when we get into the voting
precincts.

But there's over 158,000 blocks in
Arizona.

The next group is a block group.
And it's just simply a group of blocks. The blocks
are nested within block groups. A block group
doesn't nest in blocks. And there's about 3,600 of
these in Arizona.

COMMISSIONER ELDER: Is there a
basis by which they group individual blocks to a block group?

MR. JOHNSON: It's by -- there's a population threshold. I believe -- the block is almost specifically a city block. And then a block group, I don't know what the number exactly is, but they have a target for -- I think someone was saying earlier for a tract it's about 6,000, and for block group I don't know what it is.

COMMISSIONER ELDER: I guess what I'm looking at, as opposed to being horizontal, why not vertical? Is there a ratio on how you develop block groups?

MR. JOHNSON: Just by population. Other than that, I don't know.

And the biggest one is the tracts. You had been talking about those earlier. They range in physical size from about a square mile up to several thousand square miles. Up in the Grand Canyon area is the largest one. There's about 1,100 of those in Arizona.

CHAIRMAN LYNN: Tim, it may be coincidental. It appears as though, to Mr. Elder's point earlier, they are at least in some fashion using major arterials, or major roadways, in this case, freeways, to delineate those groups when that is feasible. Is that reasonable to assume?

MR. JOHNSON: Yeah, exactly. In the urban areas, that's very common. Outside could be county boundary -- they are usually significant boundaries.

Next are VTDs, voter tabulation districts, or voting districts, as we call them. VTDs are, of course, set up for administration of elections. It so happens that the voting precinct the State Capitol sits in, which is Dunbar
Precinct, it shares tract boundaries. But that's coincidental. It's not always going to be the case, especially in the rural areas.

And how a precinct will exist in TIGER, or Leg. counsel, is grouping of blocks. There's a certain number of blocks that will equal a voting district, VTD.

And this is where actual precincts, actual ones defined the Board of Supervisors has for each county, may not be definable in TIGER because of use of invisible features, or planning for future growth, or things like that, things you can't put in the TIGER data base.

COMMISSIONER MINKOFF: Tim, let me ask a question. You said VTDs don't necessarily have common boundaries with census tracts, but they do with census blocks?

MR. JOHNSON: They do. For the TIGER representations, they do.

COMMISSIONER MINKOFF: So a census block cannot be split between precincts.

MR. JOHNSON: Right. In actuality they can and often do, but for TIGER representations, they don't. They are all nested within. They are groupings of blocks. There are about 2,000 of these in Arizona, actually 2,027.

So now I --

COMMISSIONER MINKOFF: Let me ask another question. If you say that for this program a census block is not split but sometimes in actuality it is --

MR. JOHNSON: Yes.

COMMISSIONER MINKOFF: Then this program is not an accurate representation of what
exists, is it?

Mr. Johnson: Statistically, yes, it is, but not -- not in a legal description sense.

Commissioner Minkoff: Well, if

you have a census block that is not split on this software, and we're massaging numbers using this software, but that census block actually isn't wholly within the Dunbar Precinct but part of it is within an adjoining precinct, then we're not getting accurate numbers, are we?

Mr. Johnson: Yes, actually you are, because the count of that block is absolute. So the population count is within those boundaries.

There is the chance for, when you get to the voter registration part of it, there will be some trading back and forth.

When I did the project for county, I tried to consider that when I had to make those type of decisions, where are the people here.

And what it came down to in practice is the most significant places that this happens are the rural areas where -- I'll keep using the section line example, because that's real common throughout all the counties is to use a section line throughout counties.

If the section line goes here and there's a wash or something that goes back and forth across it, there's probably not anybody living in that area, or if there were, I would try to assign the block to whichever area has the greater number of people.

So there's going to be -- there will be some plus or minus; but generally, in the
most heavily populated areas, they are pretty much -- pretty right on.

COMMISSIONER ELDER: If there is a variation, will that variation show up in the data base that the judiciary would use to evaluate the fairness and the competitiveness --

In other words, is the data that we're going to get and be able to use to develop our redistricting the same data base, the same subdivisions that, say, the federal people would use to evaluate?

MR. JOHNSON: Yes. Exactly the same. Yeah.

With TIGER, everybody is going to be on the same page. In fact, it's been said that the actual precinct lines are actually lifted.

So if you are considering drawing a legislative district boundary that follows a precinct line in a rural area and are not sure if that's an actual precinct or not, it doesn't matter if you use that line. The precinct would have to be redrawn to follow it, anyway. So . . .

Any more questions on that topic?

Okay. So getting on the Geographic Information Systems in redistricting, the principles behind this -- or rather capabilities, it lets you develop plans and proposals quickly, let's you analyze things without having to get out paper, complex spread sheets that have to be used. You can do that before, after, or during the process, whenever you want.

It simplifies greatly, cuts down the labor. You can analyze plans according to geography, draw communities of interest, if you can define it, then determine if you are affecting it, splitting it, anything like that. And you can
reproduce or modify your existing plans.

Plan X would be printed the same
no matter who is looking at it or who is doing it.

The basic steps are that
demographic data is assigned to building blocks.
And it's quoted here because it could be any of
those groups. It could be a block, block group,
tract, or precinct. You could build your district
out of any of those. And then you assign the
building blocks a district code in software to

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combine blocks with similar code to a new district.

Remove interior lines, and you're
left with your districts. And at the same time you
total the demographics and compare, test, analyze
new precincts or any bench marks or standards you
adopt. Finally you generate the output, maps,
charts, tables, reports, whatever you adopt as
standard outputs.

To visualize that, this is just a
group of blocks. Each of them has an identifying
number. You need to identify it and get tabular
information, which would be census counts that
links physical geography to tabular information
which contains all demographic data, Hispanic,
white, black, American Indian, and goes on for how
many being counted by. As you assign a block to a
new district, you can see in the tabular example a
column that contains the numbers from one to four,
assuming we are targeting four districts here. As
you go, districts are shaded as to what assignments
would be. So you get a preview of what districts
would look like.

And then when you get to where
districts are where you want them to look, remove
interior lines and summarize the information.
And that's it for the slide show part.

I can show you in practice what this looks like.

This is the redistricting software that we used for the last Board of Supervisors redistricting. So this is, in general, the Metro area of the county. And we have five districts, five supervisorial districts, so five groupings of color over here.

You can see the table of information has columns for each of the demographics that we're concerned with, and it's related to precincts. So the precincts are the voting blocks in this case. And then the extent -- this is the -- the bulk of this is commercially available, Arcview GIS, and it's from Environmental Systems Research Institute. It's off-the-shelf software that we don't sell, or anything like that. We've added this component on top of it, just makes life easier for our redistricting. And we can --

Assume in here, what this allows is I'm drawing a polygon that is going to group all those precincts. In our particular software, we're able to look at four variables simultaneously.

I have set it up to do, right now, looking at voters, people, 23,202 voters and 7,970 people in that area, I can see, before I've done anything to affect how many people I affect.

CHAIRMAN LYNN: How many variables can you use with the same methodologies? How many will it take?

MR. JOHNSON: The way this is
coded, up to four. As principles go, it can be 
unlimited.

If I were to assign it to five, it 
puts it in District Five and gives their color.

As I go, I can view what districts 
look like if I were to finish at that point.

This is all the demographic 
information. I can run a check or a series of 
checks to see if it's within an acceptable range of 
population, which this one does; or it can analyze 
geographically using some methods for compactness, 
and so on. It could analyze that.

Note the voter registration -- the 
checks can be anything that you decide you are 
going to be mathematically testing for.

This one is telling me I'm not 
within the range we were hitting for, plus or minus 

five percent of an ideal district. This one is 
telling me that I'm not there. Then it gives a 
summary of what the range you can hit is. It tells 
me one is for 73, District Four. District Four 
doesn't have enough people. Till I get where I 
want, I can -- I can start going through the steps 
to produce the apelet.

This particular process is going 
to identify the areas different from this version 
of my proposal to the original districts. So you 
can see the yellow areas are changed from what the 
districts were to what they would be under this 
configuration and labeled how many people are in 
each affected area.

The next process it does is 
actually combining voting precincts into a new 
district layer, so that would be the boundary 
lines.

The next one is we identified a
certain number of things we wanted to show on our maps as far as charts, and it automatically generated those. This is new population. This, of course, low, have to fix that. Voting age, minority percent. Change population from existing to proposed, and number of active voters by party.

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Another thing that can be done -- I just basically translated all the information into an Excel spread sheet so that it can be presented or this could be saved and e-mailed to whoever wanted it.

And finally, once all that is done, our software would assemble this into a map that can now be printed and distributed.

That's how quickly we can develop plans. Except for deciding where the line should be, that's how quickly the software can generate a proposal for them.

So that's what we used last time.

And another issue that must come up is the public involvement and how you can get the greatest number of people to comment on these lines and view them and give their input. And since we have that issue, too, I have a prototype type website that we're developing which allows the public to visit the site. They can view and comment on the plans however they see fit.

So what this is is this is just a grouping of the plans from our last round of redistricting. We got up 236, so just a handful of them.

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And as a visitor to the site selected one, it grabs the plan and puts it onto a
dynamic map of the county that the visitor can now zoom in, zoom out, pan or identify some basic map features similar to our Arcview application but not nearly as full-featured.

The idea is anybody with a web browser can get into this and have this kind of functionality.

And this particular view, we're showing not much happens until you get down to the street level, it's more or less available then.

Just as a sample, there's some election info already on this, early votes returned, ballots cast in general election, just some -- whatever variables we wanted to present, kind of an example how that can be done.

The visitor can get some information about the -- about the streets. That's 17th Avenue in Phoenix. Here's address range, zip codes, and so on.

If they want to see the demographic of -- they can also see this in relation to other boundaries, like the existing legislative district lines. That's the justice precincts.

So you can see the current lines, how the other lines would be in relation to whatever the proposal is. They can view the demographic information as a table.

And this probably looks real familiar to this. It's actually the same thing. And also, the visitors can comment.

Just using a group of -- some sort of rules about what kind of criteria would have to be met to be part of the official redistricting record, as far as we figure, if we let people
comment anonymously, if they want something to go
to justice they have to at least give contact
information so they can be asked a little more
about it. And the other thing is it adds a rating
system for whatever the person feels about the
plan.

Anyway -- and then the comments
are significant. And what happens to them if they
went into the data base on a web server, in this
case my laptop is acting as a web server, on that
data base it tells me what plan they were looking
at, when they visited, and whatever they wrote in;
also tells you how they rated it. And that will
give us a base to see what the public thinks about
the plans.

And that's generally it as far as
what we've got in the works.

MS. OSBORNE: Thank you, Tim
Now you can see why he makes it
easy for us to do our redistricting.

When we did this in 1990, 1992
actually, we had some pins and a map and a 186 in
the basement, and it took us forever.

All the information that you see
is the building blocks that you will need, the
building blocks that we need to prove this all up
to justice, or however it's going to be done.

We'd be happy to answer any
questions.

Actually, the reason the timetable
pushes you so fast is because after you finish, we
look at our board lines, we make the new precinct
lines. We hope to be able to January 1 come out to
the public with new precinct maps. Because when we
have the precinct maps, that's how all of the
signatures are gathered. That's how all of the
work at the very basic level of elections happens. And these -- we will try to avoid some of the

contests we had on petition challenges last time. Because in '92, we had a lot of people that were
thrown off the ballot simply because they didn't know where their district lines were.

We'd be happy to answer any questions that you would have.

CHAIRMAN LYNN: Questions?

Jim

COMMISSIONER HUNTWORK: This is amazing technology and helpful in how it goes about our business. Looks to me it like it all fits in a single laptop computer; is that correct?

MR. JOHNSON: Sure does, yeah.

COMMISSIONER HUNTWORK: Tell me about the proprietary nature of this. Is it something that can be shared, that members of the Commission could use, that other counties could use, that public interest groups who wish to consider other alternatives and bring them forward could all take advantage of or is there some restriction on that?

MR. JOHNSON: Well, the software itself our system is built on is commercially available. It's pretty standard throughout -- has a GIS software package. The redistricting part of it that we've developed is pretty easily shared.

There is also -- there are some -- a couple companies that make the same thing that we did and sell it.

And, yeah, it's definitely very conceivable that each of you could have access to
the technology on a laptop of your own and come up
with your own plans. Once you have the software
that automates all those tasks, you can see it's
really not that hard to select precincts and you
don't need a lot to know about GIS.

MS. OSBORNE: For constituents,
Mr. Chairman, members of the Committee, to make
comments -- we found it very, very difficult to get
people to come to public meetings. They have other
things going on in their lives. We thought it was
redistricting and Board of Supervisors, only.
We'd put it up with the map and
new districts: Please share comments. And then we
got back out with suggestions we had.

We would be most happy,
Mr. Chairman, members of the Committee, to provide
any expertise that we have. What we can offer you
is if you would like to have Tim's help, if you
would like to have Maricopa County's help, we can
help you with the technology. We can help you with
Tim's ability to do these things. What we don't
have, we have enough to say grace over, kind of,
back at our shop. We don't have the ability to
offer you someone to come in and do the executive
director bit, all those things that have to happen.

But as far as Tim and the
technology, we are more than willing to help.

I would also offer all 15 election
directors have contacted me. And they are all more
than willing to help you make this a success.
Because in their own -- they are very familiar with
their own county lines, very familiar with their
own precinct lines. And they want it to work,
because then the faster and better it ends up for
us all.
Chairman Lynn: Thank you.

Ms. Minkoff.

Commissioner Minkoff: Couple questions. Number one, since we want the process to be as open as possible, and obviously we are going to be sitting and looking at maps and saying how about moving this line over here, and how about taking this precinct out and putting this one in, et cetera, can that be done the same way you just showed us this demonstration on as part of a public meeting?

Mr. Johnson: Yes.

Commissioner Minkoff: So just put it up on the wall, screen, something like that, and the public can observe what we're doing and talking about?

Mr. Johnson: Yes.

Commissioner Minkoff: Secondly, the software you're talking about, as a MAC user, I have to ask a question. Is it only PC available or MAC compatible?

Mr. Johnson: The Arcview software, there is a MAC version. The redistricting component, I'm not sure. I think so. When you develop the extensions to Arcview it's cross platform but some considerations like how files are moved around, stuff like that -- I know that there is for the base. I don't know if there is for the extension.

Commissioner Minkoff: Can you find that out?

Mr. Johnson: Sure.

Mr. Hall?

Commissioner Hall: We're
anticipating mid-March the US Census Department will send out data on CD ROM format, correct?

MS. OSBORNE: Yes, Mr. Chairman.

COMMISSIONER HALL: Anticipating late March to update census data, overlay on existing districts. Do you folks do that or do you do that automatically regardless of whether we ask you to or --

MS. OSBORNE: Mr. Chairman, Mr. Hall, it's entirely up to you. We will be working on Maricopa County. If you would like to --

COMMISSIONER HALL: Is that typically the first step, however? Do you take -- when you get new census data, what is the first thing you do with Maricopa County, or when you are over at the State, what is the first thing you do with it?

MS. OSBORNE: Mr. Chairman, Mr. Hall, usually the first thing you do is take data in. Everybody wants to know how much has a district changed.

COMMISSIONER HALL: Sure.

MS. OSBORNE: It's what we want to know. Want to know how precincts changed, how

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Boards of Supervisors changed. That would be the suggestion, take districts now, pour data through, look at what you have. That way you will understand the district boundaries now and then you can take a look at that. It is certainly up to you, whatever you want our services to be in that format. But that is what you are wanting to look at.

This is for you. Things have changed. When we drew the lines in '70, '80, and
'90. You will be drawing the lines with different, fairly well-defined instructions, if you will. I am not an attorney. But case law always guides how we go down this path. And we were at one point directed to draw in a race-based environment. We had to make certain that our districts had so much of a population of minority. And now it is very different, you cannot draw in a race-based environment.

It's almost like drawing with blinders on and then take blinders off, see if you've drawn a tree or rock.

When we went through the last adventure, it was very different for us. We have to look back at the end, see if you've caused any retrogression. Had to go out there. We had two areas that we removed from our minority majority district. They were not adjacent, not contiguous, one seven miles down a dry river bed and one seven miles up a red line stripe.

Our community of interest was school districts. If you envision, if you will, various portions of Maricopa County, that is a -- on Indian land and children go to school in Mesa School District. Their shopping is done in the Scottsdale and Mesa District, their commerce, all those things that happened. It was not attached to District Five, my majority minority district.

So we had to prove that all up to the Justice Department, why had I changed a district that was at 67 percent down to 63 percent. Usually 65 percent, about in there, for the total minority population means that you can effect having the ability for a minority being elected. So you had to look back after you had drawn all
this, see what had we drawn, now see what had we accomplished.

In my county, and we’re not the most important thing you do, we are not. Because it is all 15 that have to fit into this complex.

You have five million consultants watching everything you do and depending on what you do. You don’t just have one or two or five consultants out there. When you do, you have some things that are reality.

My county is 62 percent -- 60 percent, about, we’re guessing -- we all use Tim’s crystal ball -- probably 60 percent of the population, but 62 percent of Republicans, only 50 percent of your Democrats.

So at the end of what Mr. Turner was talking about, and trying to make competitive districts, that’s one of the things you are going to have to look at. And demographics is the other.

At least when we were going through our census, some counties did not do redistricting, didn’t buy into the mid-decade census. That’s not something counties do for free. They have to buy into that. We did pay for that and used it in redistricting.

COMMISSIONER HALL: Do you provide services for other counties, also, since I’m sure some of them aren’t as technologically advanced?

Do you do some of this for them also?

MS. OSBORNE: Mr. Chairman,

Mr. Hall, we’ve done it on a limited basis in the past. This time we’ve been helping out contract Leg. counsel to do their work and are now doing
some printable maps for precincts, and things. The
15 of us work together trying to make the entirety
of these districts work for all of us, because
there are some current legislative districts that
go into four, five counties.

COMMISSIONER HALL: Last question.
So you anticipate that by the end of March, you
guys will have overlaid the new census data onto
the existing districts in your county?

MS. OSBORNE: Mr. Chairman, we
hope we will, hopefully, 24 hours after Tim gets
it, not that we'll push him

MS. MINKOFF: He won't sleep for a
week.

CHAIRMAN LYNN: It is a matter of
merging the data program. It's not as if -- Tim
won't lose any sleep over that 24 hours, I think.
It's a lot easier than it sounds, I'm suggesting.

MS. OSBORNE: I'll let him answer
for himself.

CHAIRMAN LYNN: He shook his head.

Mr. Elder.

COMMISIONER ELDER: Let me
address this question to Tim. Which way did you
turn the tract, or block group? There's a ton of
things that we should, or at least I would like to
look at, such as growth, where the growth has
occurred and what direction, primarily because it
would seem as though you've got areas that are
fairly static in growth that maybe in an urban core
don't have much development, no more homes being
built, whatever it might be, and then fringe areas
in a great development stage.

If you put your tract so -- let's
put it at a current fringe and another tract to the
side of it. That's where all the growth would go
and it would be, we know, and understand, as soon
as we understand a plan, say it's balanced to the
exact number of people in it. Two days later four
more houses got built. Somebody else moved in. So
it's outdated from that basis. That said, if you
turned the block group, both tracts, for the growth
pattern, it might stay balanced longer.

Is there any way or use of
technology that would allow us to see what
direction this growth is so we might be able to
draw the lines to reflect that growth?

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MR. JOHNSON: Sure. You would be
able to first compare to actual counts from '90,
and there would also be projected counts. I know
there's a five-year count and I believe yearly
counts, also, depending on what the source is. So
you can predict it either way. You can see what
has grown and what will grow.

COMMISSIONER ELDER: All right.
Thank you.

CHAIRMAN LYNN: Ms. Minkoff?
COMMISSIONER MINKOFF: Thank you,
Mr. Chairman.

You said earlier you have eight of
the counties, Maricopa County and seven others, in
your data base, and the other seven are at Leg.
counsel. Will you be able to integrate all 15
counties with new census data so we can look at the
state as a whole when we are trying to redistrict?

MR. JOHNSON: Yes. That was
actually the outcome of what I did is I merged them
all together, so the seven counties I put together
are merged with the eight counties the Census put
together into one statewide planner they have.

COMMISSIONER MINKOFF: You have
CHAIRMAN LYNN: Couple questions.

Based on the information that has come to me, at least, there are at least two or three national consultants who do this sort of thing. And I'm going to make some statements, but they are really questions. May I assume the types of software they use are at least similar to what you are using as a base software to do this work?

MR. JOHNSON: Very similar, yes.

CHAIRMAN LYNN: And would there be any, from your perspective, any particular advantage or disadvantage in employing one of those national consultants as opposed to working with you, Leg. counsel, and others within the State of Arizona?

MS. OSBORNE: Mr. Chairman, that's a hard question to answer. We can provide you the technical support. We can provide you on the head of a pin how many people live in any place. What the consultants may provide you that we cannot are the involvement with the communities of interest, someone that goes out and identifies the different -- the different information that we don't have.

Maybe there's a different
degree -- it actually depends on how much the Commission wants to be involved in the hands-on moving of this line here, move this line here. A consultant can do all that for you, hand it to you, and you can decide what you want to do. If you want to do that work and Tim to do the technical parts, you may decide you want us to provide technical help and have a consultant come in and do other things.

CHAIRMAN LYNN: Let me perhaps use an incomplete analogy. Let's say we were trying to repair an automobile. Tim might be our mechanic, but we need to tell him what to do and he would do it. If we hired a consultant, he would be an automotive expert and make a lot of those decisions himself or herself. We wouldn't necessarily have to direct as much as he'd present alternatives to us for work being done.

MS. OSBORNE: Consultant, the consultant probably says you need the car, it needs to be washed before it goes back to the consumer in addition to needing to be fixed.

I don't want to present ourselves as something we're not. We're not the person that's going to diagnose what else you need to prove to justice, what other pieces of information they may want. We can technically tell you everything. But there's another component to this. It's the administrative component and legal component.

CHAIRMAN LYNN: Sure.

MS. OSBORNE: I can tell you when we are doing redistricting, we live it daily and our attorneys live it daily, because it is -- you need to make certain that you have on your announcement to come to the meetings that you've
done your due diligence to get your people here that are hearing impaired, that are visually impaired, all those things that have to happen. And for anything going on in elections in Arizona, you are responsible to translate everything to Spanish. And nine counties in Arizona have to translate into native American languages, and those are not written. So it is that other half that is -- or two-thirds -- that is not -- is actually a problem that you have, or opportunity, as we call them.

My folks just go under the table when I say "opportunity."

CHAIRMAN LYNN: Mr. Elder.

COMMISSIONER ELDER: Looking at the timeline, is it something that, based on the responsibilities that you have for precincts, and all that coming up in June, I guess my question is asking, as a response, if we say "we need this by," is Tim a sole source to where we would be able to get that in the timeline we need? Second question would be would Tim be better used as a point of contact, how to get in and out of the network of stuff that is already existing and then there would be another either firm or consultant hired that would sit in our, whatever it was, 3,300 square foot of office space the ADOA said, so Tim could say, "You ought to ask the question that way. You'll have problems with him processing data if you don't."

MS. OSBORNE: Mr. Chairman, that's up to you. Maricopa County stands ready to, if you need Tim this afternoon to start work, we can do.
that for you.

But the work we can do -- it's a decision for this body to decide where else to draw that line. We can give you the map as it is. We can give you the determination on what we ask Tim to say, what would you need for machinery, what do you need for connectivity, what do you need for that type of thing. Then the Commission has to decide: What are we going to do with this now? We have all this wonderful data. Where are we going to move the lines? You either need to have a consultant start along this path -- Tim's not here for that. Tim is here to move lines where you tell him or a consultant, or whatever you want.

COMMISSIONER HALL: In essence, you can do a third of the work.

MS. OSBORNE: Mr. Chairman, Commissioner Hall, we can do one-third of the work and cheer you on through the other two-thirds.

CHAIRMAN LYNN: Mr. Huntwork.

COMMISSIONER HUNTWORK: Is there any benefit that would be derived by the election directors here in Arizona if we worked with you in this process? Would there be anything left over when we were done that improved where you are today and got you in a better position for the future?

MS. OSBORNE: Mr. Chairman, Mr. Huntwork, that's a good question. Of course the election directors feel we're the closest to the situation. We know where the freeway is going to go through where it's not on a map. We know where the Ahwatukee -- a wonderful community of interest, if you think about it, because when it started, it was a group of red-tiled roofs in back of the mountain back there. Whoever was going to
be moving there? It became of interest to us because nobody could get to polling places, had to vote out of the fire station.

Communities of interest we've come to know up close and personal. We feel having 15 election directors, having us somehow involved in this, however that comes to be, we would certainly want to continue to work with the Commission. If you decided to hire a consultant today and we're not part of that, we certainly want to be one of the groups saying please move it two foot over here, I actually have a river. The folks that come from the rural communities are painfully aware when the lines get drawn in, and we tend to use the word "woofy," fashion. We have to live with that. We feel that would be a help.

CHAIRMAN LYNN: Is that a legal term, Mr. Bales, woofy?

MR. BALES: I imagine it is somewhere.

CHAIRMAN LYNN: Any other questions?

One last --

COMMISSIONER HALL: I'll compliment you. I heard your name 10 times in the last two weeks, that you are the queen of elections.

Thank you for your input. I appreciate your expertise and experience.

MS. OSBORNE: Thank you for having us.

CHAIRMAN LYNN: I want to ask one last question, if I may, Ms. Osborn. Speaking only for myself, the use -- the input from the 15 election officials of the State of Arizona seems to be a very important thing that we need to integrate.
in a very formal way. And again, I'm only speaking for myself here. But because our output, if you will, is your input, and you need to take what we give you and make other things happen with that input, also because the 15 election officials have a tremendous amount of, I guess, what I call on-the-ground experience in areas we may not have and certainly don't represent completely with respect to geographic representation of the state, could you, not necessarily now, but would you share with the Commission ways in which we might make use of that group in the fullest extent of how you think they might be used and we'll take that under consideration and try to incorporate that in what we do?

MS. OSBORNE: Absolutely.

Thank you, Mr. Chairman. If we would be permitted to do so, I would like to get back with the directors and try to provide you a format to do that and a way for us to communicate so that when we do finish this, and it's all done, you are just looking back, looking forward to the other nine years of your appointment.

CHAIRMAN LYNN: The hibernation period.

MS. OSBORNE: Hibernation period.

Thank you. We'd be very grateful.

CHAIRMAN LYNN: I think your input would be invaluable, as I believe input from all groups in the community who have an interest in this process is invaluable, particularly that group.

Any last questions?
COMMISSIONER MINKOFF: I would just like to thank both of you. This was absolutely an amazing presentation. I don't know how people ever did redistricting before computers and Tim.

I thank you very much for showing us the capabilities that you have and for offering to help us as we go forward.

MS. OSBORNE: You are certainly welcome.

Thank you very much.

CHAIRMAN LYNN: I'd like to add my thanks as well. We should formally communicate with the Board of Supervisors of Maricopa County in terms of their generosity in terms of allowing us to make use of Tim.

MS. OSBORNE: I actually report to Helen Purcell, County Recorder.

Our office is a bipartisan office. She's Republican. I'm Democrat. Only three counties have a recorder and elections. Too big. Simply too big. A million two voters, could not do it separate. But we do things for the board, too. I will share that. Thank you very much.

CHAIRMAN LYNN: Appreciate that very much.

I think it's appropriate at this point, it's half past 12:00, to break for the lunch hour.

What I would like to do before we break is just make a brief comment to those who may not be joining us after lunch, and some of you may find that you have other things to do this afternoon. As you may know, there's no precedent
for what we're doing. This is a new process. And we are all very new at it.

One of the restrictions in the law that was passed is that the people who are to be chosen for this need to meet certain criteria. And most of those criteria are ones that make us, in one degree or another, novices at this. There were some very specific things that we -- tests we needed to pass in order to be selected for the Commission. And one of those things was that we weren't actively involved in some major way in partisan political doings, candidates, chairman of things.

What you are witnessing is a new process. It's not been done in Arizona before.

Number two, you are witnessing people who are, if I may use the word, struggling with the task. What you will see in early meetings of this Commission are questions asked, statements made, and things done that may not look or sound like polished political opinions, because they aren't. And they won't be. And I would ask both the public and the press for at least the consideration that this is being done honestly and as even-handedly as we can make it happen, and at least take those things into consideration.

When you hear something is said that may sound like it may be implying something else or have a hidden agenda or a sinister motive, you might at least first chalk it up to inexperience and we're feeling our way along.

I would ask anyone to try to organize a business with an audience in the room. It is a rather daunting task. And I wouldn't suspect that you could get very far if you also
followed the rules of open meetings and the other restrictions under which we operate.

So what I ask for is your indulgence, literally, that we will do this in the best manner we can. And we are just now getting to know one another. So that is another dynamic that is a work in progress.

But I would only tell you that I am confident that the five people sitting before you are going to do the level best job they can with the interest of every Arizonan, every Arizonan, at heart.

And when we are finished, all the tests will still take place. The Department of Justice will still look at the plan. The courts will have their say if people are not satisfied. The Legislature will comment. All of those things will occur.

We will do the best job we can. And all we are asking is the opportunity to do that in the best environment we can create.

With that said I'd like to break for lunch.

May we reconvene at 1:30? Will that work?
the basement across the street, have it be part of the open meeting.

COMMISIONER ELDER: Do that, invite them, address on the front door, wish to attend, reconvene here 45 minutes later.

CHAIRMAN LYNN: After we look at the space.

COMMISIONER ELDER: After we look at the space.

CHAIRMAN LYNN: We won't know -- if they're not coming, they won't know.

COMMISIONER MINKOFF: Order in lunch, or go --

CHAIRMAN LYNN: Have we ordered or --

MR. BALES: We've not ordered.

There's a cafeteria here. If you want, place orders, have orders available in time, pretty quick.

CHAIRMAN LYNN: Work through lunch?

COMMISIONER MINKOFF: Order lunch, look at the space. It allows time for lunch to get here, take a lunch break.

COMMISIONER HUNTWORK: Given the complication of an open meeting, perhaps we should defer the tour to the end of the day. That way anyone who didn't want to participate in it could --

COMMISIONER ELDER: No difference.

CHAIRMAN LYNN: Good plan to me. Plan on that as we conclude the business. I think it's important at least from a personal standpoint to maybe order lunch, at least
go outside and see if there is a sun and some fresh
air and other things which might suggest a little
refreshment.

With that, we'll stand adjourned
until -- recessed, until 1:30.

COMMISSIONER MINKOFF: Okay.

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(Whereupon, a recess was taken
from 12:40 until 1:40 p.m.)

CHAIRMAN LYNN: The Commission
will come to order.

We're back in session slightly
behind our intended schedule for the afternoon
session. And we are in the agenda --

Mr. Bales, we have additional
presentations this afternoon?

MR. BALES: Yes, Chairman Lynn.

Earlier I mentioned we arranged
Terri Skladany to give some information on public
records, open meetings, and conflict of interest.
She's here and ready to do that, if that's how you
would like to proceed.

CHAIRMAN LYNN: That's fine,
without objection.

MR. BALES: Terri Skladany is
chief counsel for ethics training within the
Attorney General's Office and has more than 10
years with the Attorney General's Office on open
meeting law, open forum. Terri previously was with
the Attorney General's Office and there served as
independent counsel to state board agencies. She
speaks with that benefit of knowledge.

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CHAIRMAN LYNN: Please spell your
name for the reporter.
first name Terri, T-E-R-R-I.

Mr. Chairman, members of the Commission, I appreciate this time to speak to you on open meeting law, public records law, and ethics. I wanted to get a feel for whether any of you had served in public offices before, what your familiarity is with public service ethics law.

CHAIRMAN LYNN: I think sort of by definition you probably have neophytes, although some of us have been around public officials who have been bound by those requirements; but that would be as close as we've gotten.

MS. SKLADANY: Based on my experience, before I get on to the substance of the law, I'd like to spend a couple minutes speaking with you about your perspective. Because in the job I currently have and job I had prior to this, representing state bodies, it occurred to me that many of the issues that you will have presented to you over the next couple years are really going to challenge you in making decisions on difficult ethical issues.

Although you might know the law and although you might be aware of the facts, how you balance your decision making is sometimes a lot more difficult than just being aware of the law and the facts.

So, I would like to talk to you about perspective before substance. In making decisions that are presented to you, you have to keep in mind you are here to do the public business. Oftentimes public ethics law, public meeting law, open meeting law, public records standards, require you behave in a certain way, you keep your records in a certain way, that you treat
the public in a certain way.

The public has certain rights that the Legislature has determined public bodies must respect in order to have open government. When making tough ethical decisions, I've looked at my decision making, and I've tried to come up with a couple recommendations for you.

The first and foremost is don't ever hesitate to rely on your gut instincts. Oftentimes they will be your first indication there might be a problem.

Your second, I think, good help is your legal counsel. If you have a problem if you feel uncomfortable about something, don't hesitate to speak with him or her; because they can act as your sounding board and they can act as an evaluator to you to help you feel more comfortable or help you point out a problem you can take a different approach on.

I have also identified three standards that I think will be helpful to you. First, in ethical decision making, when you have a tough decision: authenticity, awareness, and courage. I've selected these three, and I have a little pictorial and a quote for you so you remember.

Authenticity. It is not the same to talk of bulls as to be in the bull ring. Oftentimes the decisions that you are going to be faced with are going to be difficult because people will evaluate them based on their own perspectives, facts that might have not been in your consciousness or awareness at the time. So expect your decisions to be second guessed.
It's not something that should come as a surprise to any of you, but be aware.

Second is awareness. "Being aware is more important than being smart" is a quote from Phil Jackson.

Chairman Lynn: And a picture of Phil, not a very flattering one.

Ms. Skladany: This is one of my favorites, a devil pointing one direction, angel pointing the other direction.

The reason I say being aware is more important than being smart is because if you are aware of the facts, if you are aware of the law, if aware of your own gut instincts and focus doing the right thing and representing the public, you will do the right thing.

Oftentimes I think a smart decision confuses us because we start playing the angles, start explaining to ourselves why we really don't have to abide by the rules. We give ourselves ways out. From my experience, those are the most costly mistakes we can ever make.

If there's a rule, we need to be way on the inside of the line, especially when we're under as much public scrutiny as many of our boards and commissions are.

A component of awareness is honorable process. And the quote I have here for you is "It is good to have an end to journey
toward, but it is the journey that matters, in the end."

Basically, this explains open meeting laws. The process is what is important. Oftentimes, it's been my experience that people will disagree with your decisions. But if they feel like they've gotten a fair shake, if they feel like they understand how you've made your decisions, on what basis your decisions were made, and they have opportunity to be heard at the appropriate time, they can accept decisions that they might disagree with.

Finally, and this is my favorite one, a quote from Harry Truman. "Hell? I never give them hell. I just tell them the truth and they think it's hell."

I think this is probably the keynote of the kind of challenges you'll have. It really does take courage to make tough decisions.

People oftentimes don't like what you have to say. But I commend you for making those tough decisions and your giving of time and efforts and energy to benefit the public.

What I've given you is a handout that our office develops for statewide elected officials and agency heads. We don't give ethics training. That's a statutory mandate for Department of Administration. I'm giving you this handout with a heads up for any pitfalls. The handout does give a description of all state ethics laws, a brief overview. If you have any questions, it's a good resource. The same laws apply to you. The Legislature determined certain entities should be trained by different state agencies. You are within the Department of Administration's training jurisdiction.
You can have this as a reference. It will be a good one for you.

I also have given you two handouts, one about public records, the written and spoken word, and the other about statutory conflicts of interest. I've also given you a conflicts of interest form in case you need it.

I've not had time to update the open meeting handout. I will give Joe Kanefield or Scott a copy for you within the next few weeks.

I'm going to start with open meeting law. And I'll probably use about 20 minutes of time going over the three topics.

Open meeting law is the standard I want to start with first because I believe that is the standard that might get you into trouble if you ever have a problem. And that's because having open meetings is oftentimes unfamiliar to people that have not worked in the public sector.

In Arizona, we have two sunshine laws, open meeting law and public records law. And the purpose of them is to insure that the public knows how its public officials are conducting the public business.

Open meeting law does that from the perspective of insuring that the public has adequate notice, they have an agenda of what you are going to be discussing, and they have the opportunity to come, listen to your deliberations, see how you vote, and observe the process.

The open meeting law does not give them the right to participate in that process. The right to participate is either governed by your
enabling legislation or your own decision making to allow calls to the public which allows them to speak with you on topics that you've identified.

Open meeting law is driven by two core concepts. First, all meetings of the public body shall be open and public meetings. The second is meetings of public bodies shall focus on an agenda, and the public official shall decide only matters identified on that agenda unless there is an emergency. And cases decided by the Court of Appeals and the Supreme Court define emergencies very narrowly. So it should be extremely rare that you will ever have an emergency that would allow you to escape the 24-hour notice and agenda requirements of the open meeting law.

The purpose of the notice is to expose your decision making to the public, to allow the public to know what you are going to be discussing, what you are going to be deciding, and to allow them to come and attend your meetings in the event they are interested.

That's why the Legislature and the courts are so strict about having you only be able to talk about and decide things on the agenda, because a member of the public would not know things that you might decide to discuss an hour before time or two hours before time. You have to stick with your agenda and only discuss and decide matters on your agenda.

As I stated, the open meeting law does allow you to have calls to the public. There are two different type of calls to the public you can put on your agenda. One is to allow them to speak with you on a specified, predetermined topic. You can identify limits to the amount of time that
they can spend. You can ask people not to repeat
one another. And you can place appropriate time
and matter restrictions on them.

The second type of call to the
public is what we call an open call to the public.
And that's when members of the public can come and
speak with you about any item. It doesn't have to be on the agenda. It just has to be within the
scope of your jurisdiction.

When you have an open call to the
public on your agenda, you can respond to any
criticism that someone might make of you
individually. You cannot discuss a matter. You
cannot decide a matter. You can ask your executive
director to place a matter on the agenda for your

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next meeting, or you can ask your executive
director or staff to look into the matter; but you
cannot have someone introduce a topic that is not
already listed on your agenda.

CHAIRMAN LYNN: Ms. Skladany, in
making a distinction between the two types of calls
or calls to the public, would the first of those
also be called a public hearing or is that
different?

MS. SKLADANY: I haven't read your
statutory limits. Ordinarily public hearings
relate to due process limitations. My guess, in
the types of responsibilities you have, public
hearing has a different meaning. That meaning
would be where the public would be able to come and
speak with you about things that are to be decided
by you. So I think that would be an agenda item
that would be specifically noticed, and I think the
topics would be identified by you as well. If that
were the case, then you could discuss the public
comment. You could make decisions based on public
comment. But again, you would have to have the topic adequately identified so people would know what you were going to authorize them to speak to you about.

CHAIRMAN LYNN: Let me be clear how that might differ from the first set of public comments mentioned.

If an item is specifically addressed and is listed on the agenda, we invite public comment on that item hypothetically at some point in the process we'll actually have a draft plan on which we might hold formal hearings. That might be one way to do it. But we might also have people who wish to speak to that plan. If we put that plan on the agenda, and it was noticed, and people wished to speak, the fact that it's noticed on the agenda and they speak to us does not then constitute, if I'm hearing you correctly, our ability to further discuss and perhaps make a decision on that point unless that decision making was also on the agenda?

MS. SKLADANY: If they are addressing you on a topic that is listed on the agenda and you've identified public comment on that topic, you can talk with them about it.

CHAIRMAN LYNN: Can or cannot?

MS. SKLADANY: You can.

If they raise "I would like to talk to you about the boundaries in Pima County," which is on the agenda, "but I also think you need to know about Cochise County," if you don't have Cochise County on, you can't respond to them and discuss with them items related to Cochise County.
You have to limit your discussion and interaction with them to the items on the agenda. The only exception to that would be an emergency. And like I said, that's rarely ever used.

Yes, ma'am.

COMMISSIONER MINKOFF: If an item is on the agenda, does that authorize us, in addition to discussing it, in addition to eliciting public comment and reacting to it, to also make whatever decisions we believe are appropriate regarding that agenda item or do we have to separately list on the agenda a vote will be taken or decision will be made?

MS. SKLADANY: It's better if you identify, if you are going to take action, possible decision or vote, possible decision. You don't have to take it. If it's on the agenda, you would be free to take it. It's good insurance for you if you decide that would be the most -- the best thing for the Commission.

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COMMISSIONER ELDER: Mr. Chairman.

Does it have to be line item by line item or can it be a -- almost a preamble or ending statement where it says "action may be taken on any item of the agenda above"?

MS. SKLADANY: You can do it that way as well, as long as it's clear to the public what you are going to be doing.

The Legislature wants to make sure the public isn't blindsided. If they are just expecting you to discuss and not vote, that's not adequate. If you make them aware that yes, you might vote on any item they are put on notice.

CHAIRMAN LYNN: Mr. Huntwork.
COMMISSIONER HUNTWORK: Just a question. If we were to, despite best efforts, inadvertently make a mistake on something that doesn't involve any action, and I think I understand what happens if you take an action that is contrary, if we just make a mistake and say something inadvertently that is inappropriate, what would the consequences be?

MS. SKLADANY: If you don't take a vote and just discuss?

COMMISSIONER HUNTWORK: Yes.

MS. SKLADANY: Public criticism. Someone might file a complaint with either the County Attorney's Office or our office.

Oftentimes, when it comes to open meeting law violations, we recognize people aren't perfect. It's more a stairstep approach. If there are intentional violations of the open meeting law, you can be removed from office, $500 per violation penalty, your actions can be void. With inadvertent mistakes, it shouldn't affect the operation of the board as long as you don't make a decision.

But it's always easier, if you have a concern, check with your legal counsel.

What I believe happens is oftentimes the entities that are concerned about open meeting law violations and public records violations are the media. They are trying to insure that the public gets the information by their presence. And I think sometimes it might pose a concern for them that you might be doing things on the fast and loose side of the law.

So, you know, as much as you possibly can, if you can watch open meeting law, I think it will serve you well. But mistakes do...
happen with everybody. And with a new entity like this, it will take you awhile to get into the swing of the restrictions and the limitations. But once you do, it will become second nature.

Executive sessions. There is an exception to open meeting law that allows you to go into executive session, which means everyone needs to leave except the people that are absolutely necessary for you to have the executive session. The open meeting law authorizes seven. I think you probably will only potentially use two or three.

You are authorized to go into executive session for discussion and consideration of personnel matters, hiring of someone, interviewing of staff, et cetera.

Discussion or consideration of records exempt by law from public inspection, confidential documents.

Consultation for legal advice with your attorneys.

Discussion and consultation to consider your position in pending or contemplated litigation.

I think those are going to be the four that you really might use.

What I need to bring home to you on this point is just because an executive session is authorized doesn't mean you have to go into executive session. What you need to do before you have an executive session is to have it on the agenda and then to have a public vote, and it has to be a majority of the quorum to vote to go into executive session.
For public policy concerns, just because you can go into executive session doesn't mean you should. People oftentimes get suspicious when public officials decide things behind closed doors. If you possibly can, have decision making and discussion in public. You can't make a decision or have a vote in executive session. That all needs to be done in public.

If you can possibly have the discussion in public, that would serve you best.

There might be certain things you want, such as legal advice, you need to have confidential. And that's certainly appropriate. But be aware and limit your use of executive session and limit the time you spend in executive session.

Oftentimes we get complaints from individuals because a public body has gone into executive session for two or three hours. And that's really excessive.

Preventive action, and this is probably the most important thing I'll tell you. It's where public bodies are most prone get into problems other than executive session. First is related matters not on the agenda. Don't take a chance. If someone challenges you, courts are very narrow in their evaluation of how you describe things on the agenda and what additional things you can pile on to that description. The best course of action is describe things more broadly which will allow you to have a little flexibility. If you describe things very narrowly, you'll not be able to piggyback onto those because the items will not have been on the agenda.

Roving discussions in executive
This is a problem experienced with boards, an inadvertent problem. Oftentimes you go into executive session for legal advice. You can ask your attorney questions. You can give him or her the facts on which he or she can build their legal advice. You can't start discussing among yourselves what the -- what your evaluation is of that legal advice. For example, you might ask, "Do we have the authority to do -- take this course of action?" Your attorney will say, "Yes, you can do these three things." Well, then you can't start discussing among yourselves whether the first thing is better, second thing is better, or third thing is better. You have to have that discussion in public.

The final thing. Splintering --

CHAIRMAN LYNN: Again, this gets very technical, and I apologize. Using your scenario, let's assume we've asked a legal question of counsel in executive session and we've called an executive session. And I agree with you that should be few and far and the least of what we do. But assuming that's the case, let's say for the sake of argument there's a pending lawsuit that would certainly warrant some discussion in executive session. We talk to our attorney in executive session and ask the attorneys' opinion and they give us options.

MS. SKLADANY: Uh-huh.

CHAIRMAN LYNN: Now, to discuss those options in public, without disclosing the nature of the options that were achieved in the executive session, is it perfectly acceptable to
simply number them and refer to them as option one, two, three, as we know them and the public doesn't?

MS. SKLADANY: You can do it that way.

Open meeting law has a little wiggle room here. The question is excellent. It can give the chance to talk about wiggle room.

Under the open meeting law exception, when it comes to litigation, it does allow you to instruct your attorneys. And that's a little bit of a difficult thing to do, because you can't take a vote. However, you can kind of reach a consensus and say to your attorneys, "I would like you to look into negotiating this." My recommendation is then when you come out of that executive session you take a vote confirming the instructions that you gave your attorney in executive session.

CHAIRMAN LYNN: Without specificity.

MS. SKLADANY: Right.

If the litigation settled, you have to have the settlement agreement approved in public forum. Open meeting law does allow you to keep certain things confidential that otherwise would really negatively impact your ability to operate and protect the public.

CHAIRMAN LYNN: Thank you.

MS. SKLADANY: One thing I wanted to talk to you about. I don't know how extensively you are going to be using computers. Computers are technology we didn't have when the open meeting law was written 25 years ago. If you do communicate with the executive director and one another via computer, be very careful. Open meeting law does not require you to be in the same place to have a
meeting, just requires that you have a quorum

So you can communicate and discuss
options with each other by computer through e-mail
and violate the open meeting law. So be very
careful.

Your executive director can advise
you about any pending issues, informational only.
And he can send it -- and she can send it to all of
you. You can send it back and say, "Please put
that on the next agenda."

When it comes to you communicating
with each other about your feelings about something
or your decisions about something or how you are
leaning, that is discussion. And that has to only
occur at a public meeting.

The open meeting law prevents a
quorum of you from discussing anything. So two of
you could have that discussion. There are a couple
pitfalls with that. One of you might tell a third.
Three of you aren't discussing anything together,
but through that serial communication, you've
implicated a majority of the board. That is called
polling, and that is a violation of the open
meeting law.

Additionally, if two of you
discuss a matter that is going to be coming before
you, it prevents the rest of the board from hearing
that discussion and from benefiting from that
discussion.

So it's best, again, to have your
discussion here while you are all together and even
to try and stay away from discussing things
yourselves, even if it's only two of you.

COMMISSIONER ELDER: Mr. Chairman.

CHAIRMAN LYNN: Mr. Elder.
either don't understand it or it seems like it limits the way that we would -- at least I would like to be able to proceed, in many cases, where I would maybe put on an e-mail or take a question to the executive director in the context of: I think an issue has come up I would like to address would the rest of you like to put it on the agenda? Now, is that a discussion of a particular issue if I define the issue? MS. SKLADANY: I think it would be.

COMMISSIONER ELDER: How do I implement that?

MS. SKLADANY: Have you decided yet how things are going to get on your agenda?

CHAIRMAN LYNN: Not specifically. It would be my hope as Chair that any member could put an item on the agenda and it wouldn't take more than one member's desire to have it on.

MS. SKLADANY: You can communicate with the executive director and say, "I would like this to be on the agenda." I think if you decide that the decision must be made by the Chair, you could contact the executive director and he or she could ask the Chair. I don't think that would be a problem.

Again, it's procedural. It's not discussion. It's between or among less than a quorum. But you have to be careful with that. Because it is kind of a slippery slope and easy then for inadvertent information to get out and have a discussion started where none of you had
intended that from the beginning.

Does anybody have any more
questions about open meeting law?

CHAIRMAN LYNN: Just --

Anybody else? I have a couple
more.

The Chair of an organization --
Commission like this, enjoys no special
consideration, and that's a question not a
statement, under the open meeting law? In other
words, in trying to act as Chair and trying to get
information from the members of the Commission, I'm
under the same exact constraints as any member
would be?

MS. SKLADANY: Yes. That's
correct.

CHAIRMAN LYNN: So obviously that
makes it more difficult.

Let me ask the obvious question.

A quorum of this Commission appears at an event.

MS. SKLADANY: Uh-huh.

CHAIRMAN LYNN: Not necessarily a
public event, but we show up at a restaurant.

MS. SKLADANY: Uh-huh.

CHAIRMAN LYNN: And eat. The
presumption is that we may discuss or may not
discuss business regarding the Commission.

MS. SKLADANY: Uh-huh.

CHAIRMAN LYNN: Assuming we've all
been read our rights and we know what the law says
and we know that the appearance of the conflict is
as bad as a conflict, all of those things
considered, are you suggesting, would it be your
legal counsel to us three of us never show up in
the same place regardless of the conversation?

MS. SKLADANY: I think you have to
take a step back and evaluate what the function is. The open meeting law does not prohibit social contacts even if all of you were there. But you are right, it's the perception. People will say we have a quorum of members here. We saw the quorum of members here. We assume they were talking about the public's business.

I think oftentimes people's imaginations have a tendency to run away with them.

CHAIRMAN LYNN: Thank you.

Ms. Minkoff.

COMMISSIONER MINKOFF: I have a question about the problem of three or more of us talking outside of a meeting.

Let's assume that we had a meeting set up for one day next week and something came up and three of us contacted the Chairman and said we have an emergency, we can't make it. Now, we don't have a quorum so we can't have a meeting. We have
to schedule another meeting. The only way to do that is for us to be in contact with one another. A decision will be made. The decision is to have a meeting at such and such a time and such and such a place. As long as that particular meeting is noticed and that's the only decision we made, is that violation of open meeting law?

How do we get to a meeting if we've had one canceled?

MS. SKLADANY: The best way to do that, I know you don't have an executive director, have someone prepare a meeting schedule. Have that presented and you approve it. Otherwise, I think if it's a violation of open meeting law, it's a very technical violation. I wouldn't have heartburn over that. There might be a disagreement with some individuals, but at most it would be a technical violation.

I think as you are getting up and running, there are certain constraints that you have that other boards and public bodies might not have.

CHAIRMAN LYNN: Or to schedule through the executive -- say to the executive director, "We need to schedule a meeting because we didn't have a quorum" then let that person talk individually to the five of us to coordinate schedules.

MS. SKLADANY: That would be the best.

CHAIRMAN LYNN: That's the best way to do it.

Mr. Huntwork.

COMMISSIONER HUNTWORK: Can a
third party cause a violation of this, if someone speaks individually to members of the Commission, calls a third and says the other two said so and so, a lobbyist, or even a reporter, or any third party?

MS. SKLADANY: That's called hub and spokes. That can be a problem.

Sometimes public bodies, this is for purposeful violations of open meeting law, will get a third party to do the polling to evaluate people's perspectives, where people are coming from, how people are leaning, and then report back.

COMMISSIONER HUNTWORK: If clearly independent, non --

MS. SKLADANY: If independent, you will not consciously be violating open meeting law.

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Again, I think you have to be careful. Keep your antenna up. If you feel like someone is trying to get information from you, what you might say to him is "We're going to discuss that next week. Why don't you come to the meeting and you can hear what we have to say."

Sometimes you have to just be very cautious. Although you'd not be intending to violate the open meeting law, that third person can create a discussion and might even be able to say how you were leaning. And again, that would have a very negative view from a public perspective of how this body was going to be making decisions. So I think it's something that you have to be careful of.

COMMISSIONER HUNTWORK: One other thought that has occurred to me is when we have communications with counsel, with our lawyer, there's no -- it doesn't sound like there's any special exception for that type of communication,
either.

MS. SKLADANY: For open meeting law, there is executive session, if asking for legal advice.

COMMISSIONER HUNTWORK: Not talking executive session, saying between meetings or in connection with an issue we're wondering about --

CHAIRMAN LYNN: Contact with counsel between meetings.

MS. SKLADANY: If you individually contact counsel, it's not violation of open meeting law.

COMMISSIONER HUNTWORK: Two, three members?

MS. SKLADANY: Contact counsel, yeah. The problem that has occurred in some states is where counsel is acting as the hub and actually helping people violate the open meeting law by passing information around. That person under Arizona's current open meeting law would also be liable for violation of open meeting law and could be fined.

Now I'm going on to public records. Public records should only take five minutes. Conflicts of interest should take a little over.

If you look at the public records handout, the thing you need to know about public records is because this body is a public entity, the records that you keep in relation to your statutory mandate and the work that you do as a Commission are public records. Be aware the
information has to be accurate. It has to be complete. Pay particular attention to the tone of your correspondence or the things that you write or minutes that you have.

Your notes, your calendars, your e-mails and your voice mails are all public records. So again, sometimes you might not think that something like this might get out, a voice mail you leave for one another or voice mail you leave for a third party, but it can come back to negatively impact you.

I don't know if you remember maybe a year and a half ago quite a hubbub in City of Phoenix. Someone left a voice mail that was inappropriate. It was intended as a joke. Again, it became public, caused a great deal of embarrassment for the City of Phoenix and the individual.

Be cautious. Recognize you are in the public eye and use your best judgment when it comes to information you keep.

Before the meeting Scott and I were talking about notes that board members would make during meetings. I don't know if there is any case law about the notes you might take for your own private purposes about things that have gone on for the meeting, but I would again be cautious. Recognize there is a chance and possibility they might be public records, just so that you are aware of that.

Also be aware that under the open meeting law you are required to keep minutes of your meetings. If they are recorded, you can use the tape recording as your minutes or within three days you have to have written minutes.
Some public bodies tape record their minutes and then as they are being transcribed, once they are approved, you can destroy the tape. You don't need to keep that because the written minutes are a depiction and representation of the decision and discussion the public body had.

You can deny access to public records under three bases. First is if the records that you are keeping are made confidential by statute. I think probably very few of the records you will be evaluating are in fact confidential by statute.

The second basis you can deny access to public records are privacy interests. If you evaluate public disclosure would invade an individual's privacy and that invasion outweighs the public's right to know, you can deny access.

Third is the best interests of the State. Oftentimes public bodies try to hang their hats on that exception, and it's not a real strong exemption. What you have to do is balance whether disclosure of the information being requested would be so detrimental to the operation of this entity and the State that that disclosure would outweigh any of the public's right to know. Since you are doing the public's business, I think that exemption probably, again, would be very little -- of very little use to you.

Ramifications if you refuse to disclose: negative publicity and public opinion, people will think you are trying to hide something; liability for legal costs, including attorneys' fees.

If someone makes a public records request, you don't have to immediately give them...
the document they are requesting. The response to

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that public records request needs to be within a reasonable amount of time. People can make the request any time during the normal business day.

If the record is available, you should respond in a very reasonable, appropriate amount of time. Sometimes a public records request will be made for voluminous documents. Contact the person making the request. Let them know how many documents are involved and about how long it will take you. If you have some of the documents available, turn over the ones you have available. But try your best to work with them so they don’t feel like you are being an obstructionist and keeping them from written materials you have collected in the course and scope of your responsibilities.

The law does allow you to make reasonable copies — charges for copies. And there is an authorization for additional charges if someone is making a request for a commercial purpose.

Again, most of this information is probably going to be handled by your legal counsel and executive director. So it’s really just here for your convenience.

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The thing to remember is the tone and tenor and substance of the records that you have. Just make sure that they are available to the public and they present a professional tone.

Anybody have any questions on public records?

CHAIRMAN LYNN: Mr. Huntwork.
COMMISSIONER HUNTWORK: My question would be if I -- at my office, particularly, almost everything in my normal records involves confidentiality with somebody else. And unless I set up a different system in all of them communications relating to this Commission would be mixed in with what would otherwise be confidential information. I would assume the privacy exception would protect the danger of somebody coming in and looking through the system.

How, exactly, does that -- how exactly does that work? It's up to me affirmatively to segregate the information and provide it when requested, I guess, as needed?

MS. SKLADANY: Right. Correct.

Things you do in your personal business and personal life are not public records.

They are not kept within the course and scope of your work as a public official. Be aware, though, if you have a calendar that is State property, that was paid for with State funds, and you keep your personal appointments there as well as your appointments with this committee, there would be an argument that would be a public record and you would have to turn that over.

CHAIRMAN LYNN: Ms. Minkoff.

COMMISSIONER MINKOFF: Individual notes many of us are making during the course of these are subject to public records law?

MS. SKLADANY: I don't know any case on this. My point is there's a very good argument it would be.

COMMISSIONER MINKOFF: If I look at them later on, don't need them anymore, do I
need to keep them anyway? I can't destroy any notes?

MS. SKLADANY: No. That can be left to your discretion. Some people keep everything they create, drafts of documents -- and it really depends on your individual preferences and the way that you keep your materials.

If you decide this really isn't helpful, minutes cover it, you can destroy it. It would not be destruction of public record.

What would be problematic is if you had the habit of keeping all of your notes, a public records request came in, you decided, oh, gee, there's a couple pages here I don't really want to give. That would be problematic.

But it really depends on how you keep -- how you keep your records.

If someone were to come up and ask you for a copy of your records, I think there would be arguments that they would be public records. I don't think a court has really ruled on that. But maybe that is something that Scott and Joe can look into to give you more definitive guidance.

CHAIRMAN LYNN: Mr. Elder.

COMMISSIONER ELDER: In an earlier presentation you used the term confidential documents or confidential.

MS. SKLADANY: Yes.

COMMISSIONER ELDER: In this part of the presentation I haven't heard anything confidential.

What types are confidential?

MS. SKLADANY: Often confidential.
by statute, health information, medical records, HIV information, possibly a juvenile's arrest record. But ordinarily it's statutorily prescribed. Might be some cases and constitutional protection for certain types of confidential information. But if the time comes, that can be assessed.

The last is statutory conflicts of interest. I put this as last because I don't think you are going to run into too many conflicts of interest, but you should be aware of them. I've given you a handout on conflicts of interest and a conflict of interest form in the event any of you have conflicts of interest.

The statutory standard for standards on conflict of interest for a public official or employee with a substantial interest or anyone who has a relative with a substantial interest in any decision of the public agency shall make that interest known in the public records and shall refrain from participation in any way on any decision.

In English, what that means is if you or one of your relatives, relative is defined very broadly, includes your spouse, your child, your grandchild, your parent, your grandparent, your brother or sister of whole or half blood and their spouses and parent, brother, sister, or brother or sister of your spouse. That's a range of people.

If you or a relative that has a financial interest in a decision or ownership interest in a decision, the Legislature decided you can't wear two hats. You can't have financial interest and then be asked as a public official to make a decision on whether or not you are going to
gain or lose money or gain or lose property. Therefore, the Legislature decided you need to disclose that interest, put it in the public record before the decision comes up, and refrain from participating.

You can't talk to one another about it outside of a meeting. You can't talk to one another about it or pass notes in a meeting. You have to refrain in any way.

One thing you have to be careful of is oftentimes people will think "I can wear two hats in this situation. I can be fair. I can be honest, even though I might have a financial interest." And you don't have the ability to make that judgment call.

Although you have a tremendous amount of discretion in decisions you make, the Legislature decided on your behalf if you have a financial interest in any matter that comes before you or a relative has financial or ownership interest in any decision that comes before you, you have to disclose and not participate.

Let me give you an example. If you are making decisions on, specifically, redistricting and someone wants to come in and contract with you to provide you with information, you'll be spending public money for that. If your brother owns that company, or your child owns that company, you would have a conflict; because whether you decide to go with them has a direct pecuniary effect on their income. So you would have to disclose that on the conflict of interest form at a meeting, and then you'd have to refrain from participating.

CHAIRMAN LYNN: May I raise
another perhaps ridiculous hypothetical? But what
I think is more appropriate for this group is our
charge is to redraw district boundaries for state
legislative and congressional offices. We go about
our business. And at the end of the year, my
daughter decides that she’s going to run for the
Legislature and somehow my decision making in this
regard is construed as benefiting that decision.

MS. SKLADANY: Uh-huh.

CHAIRMAN LYNN: Over the last two
weeks we’ve been talking. We have a request --
By the way, for the press in the
room, my daughter is not running for public office,
has made that clear. She has no interest
whatsoever.

MS. SKLADANY: We’ve had some
evaluation about whether public office is, in fact,
a proprietary interest. We haven’t been able to
find any cases on that. My belief, and again this
is my own individual, personal belief, is it’s not
the kind of pecuniary or proprietary interest the
Legislature had in mind with the conflicts of
interest.

With that said, however, there’s
an appearance of impropriety there. Even though
you don’t have to recuse yourself because of
conflict of interest, my best advice to you would
be at the meeting, advise people of that to avoid
any appearance of impropriety; you are not going to
participate in this discussion on this point. That
way it will take out any possible inkling that in
some way you were using your position for personal
gain.
CHAIRMAN LYNN: But in order to do that I would first have to have known --

MS. SKLADANY: Right.

CHAIRMAN LYNN: -- her interest was there, using my example, before I could even think of a conflict.

MS. SKLADANY: Right. So if there were any rumblings.

CHAIRMAN LYNN: I think she does know better.

COMMISSIONER MINKOFF: I do have an actual situation I disclosed on my application for the Commission. My daughter works for a state agency; however, she has no more or less interest in the decisions of this Commission than any other resident of the State of Arizona. What we do does not impact directly on her job.

Do I have to disclose this other than the way I did on my application for the Commission?

MS. SKLADANY: Very good question.

Conflicts of interest, 10, what they define as remote interests. Even if you have or a relative has a pecuniary proprietary interest in the decision, if it falls within one of the remote interests, it's one where you get a get-out-of-jail-free card and can participate --

COMMISSIONER MINKOFF: I looked at remote interests, but it says public agency except if it is the same governmental agency. She works for State of Arizona. This is a Commission of the State of Arizona.

MS. SKLADANY: This would be class interest. If there is a class of at least 10 people and your daughter's interests are no greater than anybody else in that class, she would
undoubtedly fall within that class interest and
bring the conflict into remote interest so there
would be not a problem

CHAIRMAN LYNN: Other questions?
Okay.

MS. SKLADANY: I'll get ready to
wrap it up.

Three questions you need to ask
yourself to identify conflict, bottom of page one,
top of page two. Will the decision either effect

Conflicts of interest are very
tricky. They are usually not clear cut. My
recommendation is if you think you might have a
conflict, talk to your attorneys. It really helps
when you talk to someone else about it and that
person does not have any stake whether you are in
or out. They might need to do some research, but
together you'll be able to make a better decision
than any one of you could have made on your own.
That's a real good help.

I'll give you time to sleep on it
and think about it. Think about it ahead of time.
It's real hard to talk with your attorneys five
minutes before a meeting and be able to get as good
an answer as if you had told them five days before
a meeting.

The reason for the standard is to
limit the ability to have you as a public official
use your public capacity for private benefit.
Preliminary steps. If you can evaluate any potential conflicts of interest now, you'll be better off. File your conflicts of interest forms now. If it's something that comes to your attention at a meeting, you can make that disclosure on the record, but it has to be complete disclosure identifying that you do have a conflict of interest and what the substantial interest is and then recuse yourself.

Oftentimes public officials will step down from the dias so they're not in any way associated with the other members. It's not required under conflicts of interest law, but I think it's a good idea. It's perception.

Other prohibited acts identified on page three. Can't represent another for payment before this board.

You will obtain confidential information as a member of this board, possibly. You can't disclose that unless there is specific authorization.

You can't use your position on this board to gain any private benefit that you otherwise wouldn't have.

You cannot receive additional compensation, either directly or indirectly, for any matter that you are serving on as a member of this board.

Basically you get paid, I guess you are per diem and the good feeling of knowing you've done the best job you could. You can't take anything in addition.

There are criminal penalties with
conflicts of interest as well as civil penalties.

Knowingly, intentionally violating conflict of interest law is a Class 6 felony, which is pretty serious. If reckless negligence, it's a Class 1 misdemeanor.

If you do talk things over with your attorney, it will take your conduct out of that intentional or reckless, making decisions based on all information available and you won't be making decisions in a vacuum. Protection.

Additionally, civil counts, any person harmed by the conflict of interest can file a lawsuit in our office or the County Attorney's Office.

Rule of necessity. Don't think you'll need it but you should be aware of it. If a quorum if a majority of you have a conflict of interest, you can all disclose that conflict of interest and act.

Basically what the Legislature didn't want to have happen is have all of you here and not be able to do the statutory mandate. If you are all here, if a majority has conflict, you can disclose it and then act. If you only have three people here and the majority of three people have conflict, you need to come back and wait until you have a full board before you can make a decision and implicate the rule of necessity.

That's all I have to say. If anybody --

CHAIRMAN LYNN: Questions.

Mr. Huntwork.

COMMISSIONER HUNTWORK: I'm thinking of the decisions that we would be called upon to make that might come in where conflict of interest rules might come into play. Don't seem
be very many. Hiring staff, hiring consultants, selecting space. It seems to be a pretty short list. Are you thinking of anything beyond that that might -- maybe we should be particularly aware of?

MS. SKLADANY: No. Usually when I teach people about ethics law, I put conflicts of interest first; it has such far-reaching negative implications for you. I didn't. I put it last because I didn't think there are too many things you would have conflicts of interest on with your kinds of decision making.

I would agree with you.

CHAIRMAN LYNN: Any questions?

Ms. Skladany, thank you very much.

MS. SKLADANY: My pleasure.

CHAIRMAN LYNN: Most enlightening.

Very complete. And it just makes it harder to do what we need to do. But that's the law and we'll do the best we can with it.

Thank you very much for joining us.

MS. SKLADANY: You are welcome.

CHAIRMAN LYNN: Mr. Bales.

MR. BALES: Mr. Lynn, I'd like to make two brief points to follow Ms. Skladany's presentation on openness of process and the manner in which you keep records.

What you do are important for reasons independent of state statutes. First, with regard to the preclearance submission to the

Justice Department, they will be interested in knowing precisely how you have sought input from
various parts of the community and, because of that, the openness of the process. Similarly, they will ask for as part of the submission records of virtually every meeting you've had, the efforts you've made to get input from different segments of the community, indeed, even to the point of wanting to see every map that the Commission considers and wanting to know the reasons why particular maps have been rejected and the ones you ultimately select chosen instead.

Again, fully apart from the State's statutory framework you need to be conscious as going through this you're making a record partly for purposes of the preclearance submission.

Secondly, as you all recognize, redistricting is very a contentious process. If litigation later does ensue, virtually everything you've done will be discoverable. So even if strictly speaking a particular communication may not constitute a public record for the purpose of state law, it may very well be the kind of thing that can be discovered in litigation.

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The last item I think that you have --

CHAIRMAN LYNN: One second,

Mr. Bales.

Mr. Elder.

COMMISSIONER ELDER: Maybe I'm mistaken or misheard. Are you saying the record or keeping of a record, each of us are supposed to be keeping a record of the process or are we talking about the record of the transcription or recorded minutes of the meeting?

MR. BALES: I should clarify.
What I was clarifying, the record of what you do, principally things such as the minutes, transcripts, making sure you ultimately, your executive director, staff, have kept a careful record of notices sent out, any documents considered at particular meetings, that kind of thing.

It won't be your responsibility individually to do that, assuming that you have a staff that is going to be doing it for you.

COMMISSIONER ELDER: Another question based on the presentation from Tim and how easily it would be to say "Let's include this block, this block, this block." Include those, then do a spreadsheet and numbers don't come out to where they have to balance, or whatever it might be. Every time there's an iteration, moving things around, part of that, we have to keep each plan, this one was rejected, didn't balance, this was rejected, didn't balance? Or do we say "Yeah, that's one we should keep." Vote on it. "Yeah, let's keep that as part of our record"?

With electronics, it seems quick and easy to move things around, see what if or query what if we did this. And do we have to keep each one of those?

MR. BALES: It will depend partly on how you decide how to set up the process for preparing and considering maps. Maricopa County, last go around, every map they printed out on a plotter for consideration by the Board of Supervisors, they kept record of and it was part of the submission to the Department of Justice. Now, in coming up with something that could be printed out, they would direct staff, "These are considerations," and staff would make changes on
their own and never, perhaps, print a map that obviously violated, say, the one person one vote requirement.

If you collectively are looking over the shoulder of the technician, giving direction, "Take this in, put that out," then you probably would need to be careful to make more of a record than if people are just bringing you maps at public session that they have generated given your sort of instructions.

Do you see what I'm trying to describe?

COMMISSIONER ELDER: I think I see.

It seems as though at least what seems to be productive is to be able to have that up on the wall where everybody in the room can see it, public, whatever, and we go in and say, "What happens if we include this area here?" We do that spread, and we have the six conditions, compactness, get down the line and say, "Well, that doesn't meet four or five of the criteria. Wrong way to go. Bring that line back and bring that over here. Does that then resolve some issues that came up that made the unacceptable plan, in our idea."

MR. BALES: Well, if that were the manner you decide ultimately to proceed, I think it would be important to make a record, this is easy to do with computers, of each iteration you collectively consider, act upon, and simultaneously make a record why it was you took the step you did. And that, too, could be done in probably a
straightforward fashion in most ways.

COMMISSIONER ELDER: Okay.

CHAIRMAN LYNN: As contrasted, perhaps, with -- again, this is just out there as a contrast -- employing a consultant, giving the consultant a set of parameters to follow beyond those that might otherwise be mandated by election law or whatever, and having that consultant present options to us.

In other words, the manipulation, I use that word ill-advisedly, but the modeling, let's say, of those various parameters done by the consultant away from the Commission in their own manner of doing business then don't become part of the public record until they are presented to us in some fashion. And at that point they become part of our work product and are considered by us? I mean that would be another --

MR. BALES: That's another way.

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That's somewhat analogous to how Maricopa County worked. They'd give direction to staff. Staff would come back with several versions. Ms. Osborne said there were 36 different maps. Each of the maps was kept and was part of the submission to Department of Justice. There were, I'm sure, innumerable iterations to get to that.

CHAIRMAN LYNN: To get to the 36.

Mr. Elder?

Mr. Huntwork.

COMMISSIONER HUNTWORK: I'm intrigued by the laptop computer. It suggested we could do this ourselves at home taking a line, moving six different precincts, and voila, have a new map. I was thinking it might be really informative and help each of us understand. And I
was thinking that might be made available to the
public, and so on, too. Everybody could do it,
assuming software licensing was available, and so
on.

But the questioning is what about
those types of thoughts, if we are simply playing
around with the software to get ideas, see how
things work, would that be a public record? How --
what versions would we be required to save? In

other words, it may not be practical to do that at
all, I guess, is the question.

CHAIRMAN LYNN: Are you asking for
an opinion, personal opinion?

COMMISSIONER HUNTWORK: No. I
guess I'm just reflecting -- sort of just
speculating. Maybe, perhaps, we shouldn't do this.
But it seemed like that would be a very powerful
tool and maybe we just don't have it available to
us because of some of these limitations.

COMMISSIONER ELDER: I'd like to
interject here, also, I think Mr. Lynn made comment
we're novices at this. We may not know the right
questions to ask yet. And being able to say here's
a query, here's a series of questions we would like
you then to integrate into the data base and
produce an outcome. We say, "We're not getting any
results at all to fulfill requirements of the
Commission." Through the process we'll be learning
how to pose the question, how to develop the data,
develop the lines, then give us a responsible line
on the map for redistricting. And those trials and
attempts, you know, saying "What happens if we do
move this?" It didn't give us the results. If
not, "Why not?" That is part of our education
process of redistricting. Is that still part of
the record and the --

MR. BALES: Well, again, you need
to think of the record in two respects, the public
records law for purposes under Arizona statutes and
what you'll need to do with regard to the Justice
Department. Conceivably any maps that you, since
you are the ultimate decision makers, consider
collectively and accept or reject. Those are
things you are going to want to include in your
submission. I mean the Department will
specifically ask to see every map that you
considered. I don't think that extends so broadly
to mean that if one of you on your own sitting at
home on a Saturday came up with what you think
would be a conceivable plan and never passed it on
to the full Commission that you would have to
provide that.

To go back to Mr. Huntwork's
question, you are absolutely right. Anyone with a
$1,200 laptop and willingness to spend $3,000 or so
for the software can do something very similar to
what Mr. Johnson demonstrated today. It's
off-the-shelf software. The census data will be
publicly available.

I suspect that the challenge you
are going to have will be less your own ability to
maybe experiment with different plans but instead,
you'll probably be getting lots of suggestions,
because the software is so readily available. And
what you are going to need to do is identify a way
that you, through public meetings, assess the
different suggestions you are getting and make some
decisions on what makes sense and what doesn't make
sense given the directions and the proposition.
And then lastly I need to say the specific question of if you were on your own laptop to begin experimenting with different plans individually, whether that would be a public record in the state law sense, I don't know the answer offhand. I suspect from what Ms. Skladany just told you that there would be an argument that it is. We could certainly research that for you and provide you with more specific advice. I can't give you an answer just off the top.

CHAIRMAN LYNN: Other questions at this point?

Okay.

Mr. Bales, anything more on the subject of briefing on any of the rules, regulations that were on the agenda?

MR. BALES: No.

I understand from your comments this morning that you would like us to work with the Governor's Office and DOA in terms of coordinating the mandatory public service orientation and see if that can be done in a format so perhaps teleconferencing, for instance, can be done --

CHAIRMAN LYNN: We'd appreciate exploration of that, at least, since the four-hour chunk, which, again, would be connected with the meeting would not be terribly productive. If we could schedule to do it where we live, or whatever, without any interaction of the public, it would still be fine. May still have to be noticed, I understand that part. But the entire agenda would be that briefing.

MR. BALES: Sure. There is
possibility the NAU Distance Learning Program might be able to arrange for Mr. Hall not to have to come to Phoenix or Tucson, even do it via videoconferencing. We'll explore that, too.

CHAIRMAN LYNN: I'm sure he'd appreciate that.

All right. The next item on the agenda is selection of counsel, I believe. Why don't we at least begin a discussion on that topic. Mr. Hall?

COMMISSIONER HALL: I would ask that this be placed on the agenda, Mr. Chairman, in light of the fact that -- first of all, let me just say how grateful I am, I think all of us on this Commission are, to the Attorney General's Office with respect to their tremendous service and expertise and experience as evidenced by all that we've received today. And their counsel has been and I'm sure for some time will continue to be invaluable. So Mr. Bales, you and your staff. But I think in the future at some point, sadly probably sooner than later, we're going to need some independent counsel with respect to a variety of issues, especially as we get into the process of actually approving lines that are drawn. Because obviously there's going to be a perception of partisanship regardless. And consequently, I'm suggesting that we need to initiate the process of making requests for proposals to an entity or entities that would not only have experience and expertise and qualifications that would be necessary to provide us the counsel that we need but also would not have any conflicts or anything...
that would be perceived to be as a conflict.

So that's why I placed this on the agenda. I would suggest that we're going to still, you know, continue to need the Attorney General's assistance as we transit into that phase. And at some point I think there's going to have to be some independency of the counsel themselves.

Obviously the most independent counsel we could identify would be someone out of state. I'm not so sure we need to move to that level of extremity. That may be an item for discussion amongst us.

I think it's also been suggested that we maybe have two members of counsel, one Republican, one who is a Democrat. Maybe we mitigate that and save money and get one independent. I don't know.

I think that it's something we all need the wheels rolling on and maybe the Attorney General's Office can give us some counsel to proper procedures for soliciting that input, or whatever.

That's why I felt it pertinent we get moving on that item.

CHAIRMAN LYNN: Ms. Minkoff.

COMMISSIONER MINKOFF: Thank you, Mr. Chairman.

I agree that I think that is a very good idea. And I think that we do need to get some independent counsel. However, it seems to me that the primary areas where we need independent counsel or counsels are in the area of election law and primarily in the area of redistricting. I think we're still going to need to rely on the Attorney General's Office for issues such as the kinds of things we've dealt with today, compliance with the requirements of the State of Arizona.
Constitution, statutes, et cetera, conflicts of interest, open meeting laws, how certain things are done. So I'm certain that we will continue to be needing support from the Attorney General's Office in those areas. But I think it is appropriate to look for independent counsel specifically in the area of election law and redistricting.

Mr. Chairman, I want to comment on the fact Mr. Mendoza this morning made what I thought was a very interesting and important suggestion, that we might want to consider adding diversity, which is one of our most current and most important matters to be considered through our selection of counsel.

There are a number of ways that I can think of to do that. And I think we will need to explore that as we go along. But I do -- I did think that that was a good idea and one that we should consider and should keep in mind as we go through this process.
outside counsel.

Chairman Lynn: Let me jump in and give my two cents. I think we have one opportunity at a time to either make very good and appropriate decisions or decisions that are other than good and appropriate. And we have two big ones coming up. The first is, and I don't know which order they'll come in, one is staff, executive staff, and the other is counsel, independent or other, but the decision for counsel.

I would hope that the Commission would, in every instance, make a decision that says to the public that we are concerned about being as independent, as fair, as broadly based as representative and inclusive, to use just a few adjectives, as we can be. Now, that's far easier said than done. But it seems to me in the context of the discussion we have at hand, it may very well be reality and appearance are two different things.

Appearance of conflict or appearance of a problem with selection is just as devastating as a real problem with a selection. In that context, I think, my feeling is that we probably ought to seek outside counsel. And knowing how difficult it is to find people who are qualified by virtue of their background and experience in this particular part of the law and then simultaneously not be affiliated with one
party or another, because that's where most of this work is done, is within party structures or within political processes, that perhaps we ought to seek co-counsel, one from the Democratic party, or one that is affiliated or known as, and one is that on the other side of the political fence. That's not to exclude all the rest of the parties, but I don't think we need more than two counsel, to be perfectly candid.

That's my opinion. So I throw that out into discussion as well.

Mr. Huntwork.

COMMISSIONER HUNTWORK: My quick reaction is that that is somewhat consistent with the philosophy of Proposition 106 and the way the board is constituted, too, which did recognize that we have two Democrats, two Republicans, and an independent. And perhaps having a Republican, a lawyer who has represented Republican interests in the past and one who has represented Democrats, would be an effective way to carry forward that same philosophy and assure that we have the best input and the best advice from different perspectives.

CHAIRMAN LYNN: The Chair is looking for a motion or more comment, whichever.

COMMISSIONER HALL: I'll do both.

CHAIRMAN LYNN: Mr. Hall.

COMMISSIONER HALL: My only question, Mr. Bales, is it within the parameter, do you feel comfortable with assisting in drafting of an RFP with respect to counsel as to what those qualifications would entail?

What is your counsel with respect to that process?

MR. BALES: Mr. Hall, I think the
best way for you to proceed, if that's the route
you choose to go, would be to -- through Mr. Lynn,
get the assistance of the Director of the
Department of Administration. They handle the
contracting and soliciting of bids, that kind of
thing. They can help you with that.

COMMISSIONER HALL: I understand
that. My question: Do they have the expertise or
personnel that can appropriately state what it is
we want?

CHAIRMAN LYNN: Notice the
expertise.

COMMISSIONER HALL: We want
another one of you that doesn't work for the
Attorney General's Office. Got one?

Can you resign real quick and then
maybe --

COMMISSIONER MINKOFF: And
register as an independent?

COMMISSIONER ELDER: We haven't
asked whether Mr. Kanefield or -- never mind.

MR. BALES: We can certainly work
with DOA to help them. There are a handful of
state agencies that do have authority to contract
for independent counsel. Maybe the agencies have
examples of what you are talking about, although
obviously you need to tailor it to redistricting.

COMMISSIONER HALL: I'm sure we'll
get unsolicited input. I'm trying to get my hands
around this. The concern is I think this needs to
happen in a relatively rapid pace in light of the
fact we're looking at mid-March we're going to be

actually getting down to the nuts and bolts of this
matter. I guess my fear is go through DOA, official RFP, and, et cetera, that that is a rather, with all due respect, bureaucratic process. I guess we're open to any input you may have.

MR. BALES: Department of Administration will be able to expedite the process, and I think they can do that pretty much in whatever fashion you wish to direct.

CHAIRMAN LYNN: Counsel, as with the executive director, would be an uncovered position, go through an expedited process and come up with answers quickly.

MR. BALES: I think DOA could very quickly put together an equivalent job description and give you guidance in terms of how to communicate that. And you could give them whatever guidelines you wanted to impose in terms of the kinds of qualifications, how long you wanted the process to be over.

COMMISSIONER HALL: I think we know but don't know how to say it. If you'll help us do it.

Therefore, I make a motion.

CHAIRMAN LYNN: I knew there was a motion in there somewhere.

COMMISSIONER HALL: Mr. Chairman, I move that we as a Commission authorize you to work with Mr. Bales, or whoever, in preparing a -- is RFP the appropriate word -- preparing a proposal or a solicitation for counsel and bring back to this Commission five to ten names, five Republican and five Democratic people who would qualify or are qualified or have the experience with respect to election laws, et cetera, for us to make a determination.
CHAIRMAN LYNN: Is there a second?

COMMISSIONER MINKOFF: I'll second it so we can discuss it.

CHAIRMAN LYNN: Moved and seconded.

Is there discussion?

COMMISSIONER ELDER: Mr. Chairman, could we possibly modify the motion, take two, three names on either side? It seems 10 people, or 10 firms qualified, is excessive.

COMMISSIONER MINKOFF: How about up to five so it doesn't have to be five?

COMMISSIONER HALL: What is the pleasure --

Mr. Chairman, I have further comment on that subject. I have -- my question or concern is that I don't really want anybody prescreening the names that I have the opportunity to consider. My thought would be to go the other direction and just put out a request for proposal and let us consider, at least to have access to, the applications of all attorneys interested.

CHAIRMAN LYNN: All applicants and consider them in an open meeting?

COMMISSIONER HUNTWORK: Yes.

CHAIRMAN LYNN: Mr. Bales?

MR. BALES: Chairman Lynn, I would be happy to be helpful to DOA if you clarify what you are asking people to submit or to propose. I think, for example, you are likely to have law firms interested in proposing to provide the representation on an hourly basis. And I'm not clear from what you said if you are interested in seeking that or if you wanted to propose or you wanted to have people that would propose to work as
individual attorneys. So I think you need to resolve whether you are going to invite both or one or the other.

And it also was unclear from what you were saying whether you were looking for a person to basically work for the Commission on essentially a full-time basis as the Commission's attorney or if, again, you were looking to retain counsel. And that's typically done on more of an hourly basis.

CHAIRMAN LYNN: And I guess inherent in those questions is really the question of what the need for the Commission is. Is the need to have someone like an executive director on staff full time or is the need to have someone in effect on call when we have a legal issue, certainly to be present at meetings, but when we have a legal issue to discuss or need to have an attorney deal with a legal issue for us that they are available. And so I don't know the answer to that basic question.

Mr. Huntwork.

COMMISSIONER HUNTWORK: I think those are very good questions. And my strong reaction is that it would be the latter, that we are looking to have access to the best attorneys in this field, in the State of Arizona. And I add that in response partly to an earlier comment, too.

I think the independence of hiring someone out of state is an interesting idea; but the knowledge of our state which would come from hiring lawyers here would probably, in my opinion, be more valuable and outweigh that consideration, especially if we
assure a balance by hiring diverse, two diverse attorneys to participate.

And I think the talent pool will be greatly expanded if we have the ability to hire the services on an hourly basis rather than requiring somebody to resign from whatever position they have in order to work full time for the Commission for a short time and then be out of work, I suppose.

CHAIRMAN LYNN: Ms. Minkoff.

COMMISSIONER MINKOFF: I agree. I think the quality of the applicant will be much superior if we do this on an hourly basis rather than on a full-time basis.

I would also like to suggest that rather than soliciting applications from law firms, I would prefer to hire an individual. If that individual is a member of a firm and has access to other people in the firm to do things at his or her direction, that's fine. I have no quarrel with that. But I would want an individual or, as we're talking about, two individuals that we can relate to, that we can make requests to, and that is answerable to this Commission rather than having to deal with a firm where somebody may say: Well, gee, that's not my responsibility. Why don't you call so and so.

I just want one person to interact with or two.

CHAIRMAN LYNN: There is a motion on the floor and discussion in conflict with the motion.

COMMISSIONER HALL: Want me to amend the motion for greater specificity?

CHAIRMAN LYNN: Let me restate it.
The motion is to set the process in place to get five names on each side of the political spectrum with respect to attorneys who may serve in that counsel position. Mr. Huntwork has expressed a concern to not have any screening done prior to the time that the applicants for those positions are considered by the Commission, which would indicate that he'd like those applications to come directly to the Commission and have those discussed by the Commission subsequent to review by each of us. So those points I see as conflict at the moment.

Mr. Hall.

COMMISSIONER HALL: I guess my concern is that we all know in our great state there's a number of attorneys. And I don't know if it behooves us to spend our whole time looking at 50 or 60 applications, in the event that were to occur. I guess I'm just trying to expedite the process. That's where I'm heading with that, Mr. Huntwork.

I have no desire to look at 30 applications from attorneys. I guess we could. So I guess maybe we could adopt a committee, or something, ask three members to prescreen.

CHAIRMAN LYNN: Probably two to prescreen.

COMMISSIONER HALL: Two to prescreen.

Maybe you and Mr. Huntwork would want to prescreen and whittle down.

What is your feeling? Do you want to look at every application?

CHAIRMAN LYNN: Mr. Huntwork.

COMMISSIONER HUNTWORK: Let me state more specifically what I'm more concerned
about and perhaps that will suggest a solution to someone else besides me.

*My main concern is if someone else is screening the applications, I don't know, can't control what criteria they're using for that purpose. And I would like to not have somebody making such a vital decision on my behalf.*

I feel I was appointed to participate in the making of that decision. So I don't know that there is an easy way out. If we do a subcommittee, I suggest one Democrat, one Republican on the subcommittee.

**Commissioner Hall:** Would you --

I'm sorry.

**Chairman Lynn:** Ms. Minkoff?

**Commissioner Minkoff:** I feel the problem may be solved as this is a somewhat specialized area of law. It's not like we're just looking for a corporate litigator, hundreds of applications. There are not that many that do election law, specifically redistricting, and have experience in it. If we write the description with that specificity, it will limit the numbers we get because not that many have done it.

**Commissioner Hall:** I'll amend my motion.

**Chairman Lynn:** Go for it.

**Commissioner Hall:** Mr. Chairman, I amend the motion where we just request applications from counsel and from both parties that have party affiliation with both parties and that we -- those applications are sent to every member of this Commission wherein we have the opportunity to review on an individual basis and...
able to convene at whatever future meeting date and
make decision with respect to those; that counsel
would serve similar to it does any municipal body
wherein they attend public meetings and are on an
at-will basis with respect to performance of
duties.

CHAIRMAN LYNN: Acceptable to the
second?

COMMISSIONER MINKOFF: Acceptable
to the second.

CHAIRMAN LYNN: There's a motion
on the floor.

Any further motion?

COMMISSIONER MINKOFF: Need to add
proposals that come in should also state
compensation desired or would that just --

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COMM COMMISSIONER HALL: I think that's
standard.

CHAIRMAN LYNN: We certainly would
ask what compensation would be. Given the nature
of the thing, what we'd be asking for, most likely,
would be on an hourly basis.

COMM COMMISSIONER HUNTWORK:
Mr. Chairman, I have a follow-up question on that.
Just -- is it -- if we go through
this process, are we required, is there anything in
this process that requires us to take the lowest
bid?

MR. BALES: I don't think so. I
think, given the procurement and contracting
authority you have and given the nature of what you
are obtaining, you don't have to hire this through
a competitive bidding process.

COMM COMMISSIONER HUNTWORK: So we can
evaluate the credentials and qualifications in
light of the hourly rate and make the best decision we can?

MR. BALES: I think that is correct. We or someone else or someone else you designate should work through Department of Administration and see what constraints would be.

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COMMISSIONER HUNTWORK: Thank you.

COMMISSIONER HALL: Mr. Bales, do you have any other comments while having discussion with respect to that motion or input?

MR. BALES: No. I think you've clarified the questions I had in terms of the directions.

CHAIRMAN LYNN: Any further discussion on the motion?

If not, all in favor say "aye."

(Vote taken.)

CHAIRMAN LYNN: Opposed, say "no."

It carries unanimously.

Without objection, I'll take it upon myself to contact the Department of Administration and begin the process. And I will incorporate in the communication with the Department of Administration the kinds of criteria that we've discussed in our deliberation today with respect to the type of attorneys we're looking for, the type of experience, particularly in election law, and affiliations with political parties.

COMMISSIONER HALL: Experience with Department of Justice.

CHAIRMAN LYNN: All of that.

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Ms. Minkoff.

COMMISSIONER MINKOFF: Where
should these applications be directed? In other words --

CHAIRMAN LYNN: Department of Administration will take care of that. They'll collect them, disseminate them. We'll review them and it will be a subject for another meeting.

COMMISSIONER MINKOFF: Obviously as this is a public meeting, people will find out we're looking for this even before Department of Administration comes up with criteria. Should applications go to Department of Administration?

CHAIRMAN LYNN: That's where it will be noticed, and that's where applications will be collected.

Okay. The next item on the agenda is, again, call to the audience. And I would ask again those that are here to, when they stand, to speak, that they give their name clearly. If it's a difficult name, if you wouldn't mind spelling it for the reporter.

And again, bear in mind, this is the time for consideration and discussion of comments and complaints from the public. Action taken as a result of the public comment will be limited to directing staff to study the matter or rescheduling the matter for further consideration and decision at a later date. We will not engage in conversation of items brought up not related to items on the agenda today.

Are there members of the audience who wish to be heard today?

Okay. In any order, gentlemen.

MR. SISSONS: Good afternoon, Mr. Commissioner, Mr. Chairman, members of the Commission.

My name is Tony Sissons,
S-I-S-S-O-N-S, and --

CHAIRMAN LYNN: Would you speak up, Mr. Sissons. It's difficult to hear, and the microphone is not particularly useful.

MR. SISSONS: I'm president of Research Advisory Services in Phoenix. It's a small geodemographics consulting firm. And I have had some amount of practice in redistricting for counties. Now, in that practice I have discovered, I've discovered what I think will impact on this Commission as it tries to put together the presubmittal -- preclearance materials towards the end of the process. And this relates to the data base of prior election results that has been accumulating in the Secretary of State's Office through the decade as a result of the state law that was passed just after the 1990 redistricting.

I have a fact sheet on this, which if you don't mind, I could hand out to you and -- because there are some illustrations of the kinds of problems that are in those data files. And it would be helpful, I think, if you were to be looking at those as we talk.

CHAIRMAN LYNN: Mr. Sissons, just for point of clarification.

MR. SISSONS: Sure.

CHAIRMAN LYNN: What we do not have the opportunity to do today is entertain formal presentation on an issue. That's something we could schedule for a future meeting, and we perhaps could do that. If there's information you'd like us to have, share it with Mr. Bales. He'll get it to us and we can review it. If it requires we look at it and hear a presentation at the same time, that probably should be held for a
future meeting.

COMMISSONER MINKOFF: Uh-huh.

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MR. SISSONS: I do understand,
Mr. Chairman.

My sense of it is -- this is a
problem that I've been trying to bring to the
attention of people, the appropriate people,
since -- well, certainly, three or four years ago,
but more recently, before the -- before the
election. I brought it to the attention of
legislative counsel. They are aware of the
problem. They have even sought a quote from an
outside firm to fix the problem. And then before
that, I guess before that contract was decided --
and I certainly put in a bid to do the work with
legislative counsel to do the work. Then the
election happened and it became clear that the
Legislature wouldn't be involved in the
redistricting process.

So this whole issue seems to have,
well, left people's radar screens. And I think
it's one that -- I think it's one that is going to
be a problem unless it's dealt with as soon as
possible. And that's why, the reason for my sort
of trying to inject myself onto your agenda on
Tuesday.

CHAIRMAN LYNN: I appreciate that.

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We will not even get data for another three weeks
of any kind.

MR. SISSONS: I understand.

CHAIRMAN LYNN: I think what would
be useful, to the extent you have this problem
committed to writing, so that we may understand it
and consider it in due course, if you would submit
that to us so we can share that with the entire
Commission. And that would certainly, it seems to
me, be the subject of a future discussion at an
appropriate time. But at this point, it -- we
can't do anything with the information.

Ms. Minkoff.

COMMISSIONER MINKOFF:

Mr. Chairman, if I can make a suggestion, I'm
learning how agenda items and public comment mesh
together. It seems what Mr. Sissons is saying is
technical enough if the data is available, it
should be presented to Tim Johnson to comment on it
before it's put on the agenda for us.

CHAIRMAN LYNN: We don't know if
we'll be using Mr. Johnson's good offices or not.
Let's capture the information, keep it in the
context of what we'll be doing in the future, and
address it with appropriate authority when it's
time and appropriate.

I don't want you to miss the
opportunity, Mr. Sissons. I'm not sure today is
that opportunity.

MR. SISSONS: Okay. Might I just
ask your permission to give you a one-page fact
sheet and about four illustrations of the problem?

CHAIRMAN LYNN: Sure.

MR. SISSONS: From my perspective.

CHAIRMAN LYNN: When you say
"give," Mr. Sissons, you want to also present this
to us in oral form or would you like us just to
have it? There will be other opportunities is what
I'm saying. I'm not sure that we're -- we'll keep
it fresh if we do it today.

I'm sorry.

MR. SISSONS: Well, really, I --
if -- I guess what I'm really hoping for is that
there will be -- that this Commission will
recognize that there really is a problem that this
Commission will have to deal with and will take
action, some action, to bring about the changes
that are suggested to be needed here.

CHAIRMAN LYNN: And with all due
respect, we understand your point. We take your

point. We will accept the material.

MR. SISSONS: Okay.

CHAIRMAN LYNN: And none of us
will forget that this is an issue, as we get
through the process.

So obviously we will have other
opportunities to discuss it.

COMMISSIONER HALL: Would it be
safe to summarize the problem as a data accuracy
problem?

MR. SISSONS: It's data accuracy,
and it's also that the format of the materials that
were submitted to the Secretary of State's Office
are -- need a lot of work to be put into a format
that a redistricting computer can use.

COMMISSIONER HALL: Thank you.

CHAIRMAN LYNN: Again we're
bordering on violation of open meeting law in the
sense this is not on the agenda. We cannot discuss
it.

Let us accept the information.

We'll at an appropriate time put it on the agenda
for discussion.

Thank you, Mr. Sissons.

MR. SISSONS: Thank you.

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I'm with the Latino Coalition for Political Action, Chairman of the Redistricting Subcommittee, and have been working a lot with the Hispanic Legislative Caucus, other Hispanic organizations throughout the state.

I want to make a couple comments. One, due to the fact there is, of course, a lack of minority representation, I think it's real important that the minorities get a chance to participate prior to any funding being allocated through this process. I think it's real important in order to increase fair and equal representation. I think it becomes increasingly important that the minorities play a part in this political process. One way would be putting together an advisory, minority advisory committee, that would take part in the redistricting process to take -- give you comments and recommendations regarding contracts and independent counsels, specific plans that may be submitted to the Commission. I think that is one way to get the minorities involved in this process.

The second is outreach, advisory outreach, an advisory council to work on outreach, getting the Hispanic committee involved, African people involved, Native American people involved. A comment was made earlier, hearing impaired. If someone came in hearing impaired, there would be no way for them to be accommodated at this point if they wanted to address this Commission. Could they address this Commission without the proper staffing?

So I think that's another area that needs to be addressed.
As far as independent legal counsel, again, a minority. At least the Hispanic community which I speak for would support such an idea as long as they had input into the process.

I think that's been the biggest uproar in the minority community is the fact that they have no representation right now currently, in the redistricting process. And having an advisory committee, or something, ad hoc, however you want to call it, be part of the redistricting process, especially before any contracts or any money is being allocated.

I hope you take those two considerations.

Thank you.

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CHAIRMAN LYNN: Thank you, Mr. Gallardo.

Other members of the public wish to be heard?

Okay.

COMMISSIONER MINKOFF: Future meeting.

CHAIRMAN LYNN: Future agenda items and meeting dates.

The Chair would entertain comments from the Commission on items for the next agenda and would remind the Commission that given the schedule, we really have an extremely difficult timetable here. The idea census data will become available in approximately one month and within that month, if we don’t staff the office, select a location, and, in my opinion, then, create a website and other methods of outreach, hire counsel, at a minimum those things within that month, we're going to be significantly behind the curve. And that gives us a tremendous challenge in
less than a month. So with that said --

COMMISSIONER MINKOFF: I think you just stated our agenda for the next meeting.

CHAIRMAN LYNN: Well, I don't know how much of it then we can --

Mr. Bales, what would a reasonable time frame, assuming I contact -- Monday is a holiday, is it not, for the State? Assuming I contact the Department of Administration on Tuesday, or even later this afternoon, and indicated to them that we were interested in two recruitments, both uncovered recruitments, one for an executive and for counsel or co-counsel, what is a reasonable time frame to have applications in hand and some review --

Maybe you can can't answer this.

Maybe it's out of your purview.

MR. BALES: Well, I know that L.A. Hibbs, Director of the Department of Administration, is aware of the compressed timetable you are working under and actually has experience helping people set things up on a very expedited basis, the Alt Fuel Office, for example.

I think they'd work with you next week, if you wanted announcements out next week soliciting applications, so that could actually been done next week. You have discretion as to what kind of timetable you want to have applications submitted. So conceivably you could,

two weeks from today, have applications in hand and set.

CHAIRMAN LYNN: Although we might not have time to review them applications back in.
MR. BALES: Again, it depends on what direction is given Department of Administration on how positions are posted.

CHAIRMAN LYNN: I think we're clear with respect to co-counsel we're reviewing as a Commission. I don't know we've made any determination yet with respect to executive staff, that process.

COMMISSIONER MINKOFF: Uh-huh. And we're going to have to interview.

COMMISSIONER HALL: What would you think, Mr. Chairman, if like about mid-March, the 16th, we were to reconvene? I'm just pulling out a date.

COMMISSIONER MINKOFF: I think we need to do it before then.

COMMISSIONER HUNTWORK: Uh-huh.

COMMISSIONER HALL: Will we have anything back before that date to review it?

CHAIRMAN LYNN: One of the questions is whether or not other than personnel issues before us, are there other issues we need to deal with between now and then?

COMMISSIONER MINKOFF: Space.

CHAIRMAN LYNN: Space being one. I'm still hopeful we're going to be looking at space available from DOA this afternoon.

COMMISSIONER MINKOFF: Right.

CHAIRMAN LYNN: Mr. Elder.

COMMISSIONER ELDER: One aspect that doesn't depend on census data being back, historical data from 1990 through '94, what is the basis for redistricting as it stands today that we'll be starting from and modifying.

Now, I didn't understand here
whether there was a database in place we could
look at along with graphics, maps, with computers,
whatever.

COMMISSIONER MINKOFF: There is.

COMMISSIONER ELDER: But if we
could do that even the week prior, you know, 7th,
8th, 10th, whatever it might be of March, so we had
that history and that background prior to receiving
the census data, I would like to do that.

CHAIRMAN LYNN: Other comments?

COMMISSIONER MINKOFF: The other

thing I think we need to decide fairly quickly is
what technical support we're going to employ,
whether we're going to work with Maricopa County
Elections Department totally, partially, an outside
consultant totally, partially.

CHAIRMAN LYNN: I'm aware of at
least two national consultants who do this kind of
work and who have been of assistance to other
redistricting commissions. And my question to this
Commission is whether or not they would entertain
or want to have presentations from one or both of
those groups.

COMMISSIONER HALL: Yes.

COMMISSIONER MINKOFF: Uh-huh.

Absolutely.

CHAIRMAN LYNN: And so that
becomes an issue of scheduling which certainly
could happen by the next meeting.

The other thing, Mr. Bales, we had
asked -- I think we had requested some review of
the other independent redistricting commissions
with respect to their -- some sense of their
methodology and their employment of staff and their
use of counsel, just to get a sense of how other
commissions similarly constituted were operating.
Is that being undertaken?

MR. BALES: We have information from the State of Washington. And we've got -- haven't made contact with any other states.

CHAIRMAN LYNN: Perhaps by next meeting that could be more fully responded to?

MR. BALES: Yes.

CHAIRMAN LYNN: Okay. So that's yet another item.

COMMISSIONER HUNTWORK:

Mr. Chairman.

CHAIRMAN LYNN: Mr. Huntwork.

COMMISSIONER HUNTWORK: I would like to suggest we include as a specific item on our next meeting discussion of minority concerns that have been raised and, in fact, we perhaps even make room for that on all agendas as we go along.

If I understood discussion of the open meeting law correctly, we really couldn't even discuss that today despite the fact it's publicly a very important issue and maybe the most important issue that the public perceives for our Commission at this time. So I would not want to have a technicality prevent us from being able to deal with a critically important issue of that kind.

Perhaps it would be best to not try to synchronize calendars at this moment but rather to ask Mr. Bales to contact each of you individually, get a range of dates that are available, and to coordinate our next meeting. But look for, I would think, the week of March 5th,
perhaps, as one possible meeting date and then even a subsequent meeting the week of the 12th.

So if you could take a look at those two weeks on your calendar and be prepared to speak with someone from Mr. Bales' office about your availability.

COMMISSIONER HALL: Well, do we anticipate by the week of the 5th that we'll really have anything back?

CHAIRMAN LYNN: We have some of these other items that don't really require responses. If we want to deal with these, we probably ought to get them out of -- in order to be dealt with before we get to the responses from--

COMMISSIONER HALL: It's your opinion that the combination of all those is more than one meeting; is that what I hear you saying?

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CHAIRMAN LYNN: My concern would be, if we're going to take applications and all of us look at them we'll need time to do that prior to the meeting.

COMMISSIONER HALL: Right.

CHAIRMAN LYNN: To do our own review.

I'm trying to make enough time they can come in, we can receive them, do whatever screening we'll do individually, and come back to the meeting with the idea we'll then hopefully call -- have some people here to talk to and make some decisions.

COMMISSIONER HALL: Okay. Uh-huh.

COMMISSIONER MINKOFF:

Mr. Chairman, one other thing. If the space being offered to us, or any other space that we may find, is open space that is going to need some tenant
improvements, we need to make a decision on that very quickly. Because tenant improvements take time. Once we hire staff, they need a place to work.

CHAIRMAN LYNN: My understanding is the space today has two finished offices and an open plan for the rest of the space. We're conceivably talking about counsel that's going to be hourly, meaning on call.

COMMISSIONER MINKOFF: Right.

CHAIRMAN LYNN: Executive director, support staff. It's not an immediate issue.

COMMISSIONER MINKOFF: No utility hookups, data ports, that kind of thing that has to be brought into an office.

CHAIRMAN LYNN: I'm sure the building is wired. We'd be putting very minor infrastructure in, because the State does this all the time.

So -- does that time frame make sense, Mr. Elder?

COMMISSIONER ELDER: Time frame sounds fine.

One of my questions -- I guess my sis do we have to have some sort of a motion to approve the selection of the office and commence the process of getting the communications and all the other elements done?

COMMISSIONER MINKOFF: Uh-huh.

COMMISSIONER ELDER: If so, I don't know whether it violates open meeting law.

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We ought to authorize or be able to do that in the
interim or have ADOA proceed at our direction once that decision is made rather than waiting until the 5th, or 12th, with the data base coming somewhere in mid-March. And we should at least be ready to be up and running by the mid-March date. We can't wait until the 15th and then do TIs and use partitions or whatever it might be in a shell office space.

CHAIRMAN LYNN: I might suggest, if you are speaking with respect to office space, per se, my suggestion, again, subject, Mr. Bales, to some difficulty that I may be running into, is that we recess this meeting; that the five of us go across the street, take a look at the space that is available. If we find it to be acceptable space -- again, you are all welcome to join us, because it will be a continuation of the open meeting -- we'll go across the street and we will see if we like the space. If we do, we can vote on the spot to take it. We simply could vote on the spot not to take it and to authorize the Department of Administration to begin a search for acceptable office space immediately and bring us options.

COMMISSIONER ELDER: Could we ask

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Mr. Bales, can we -- is that really part of our Commission or do we have to do all this in like open meeting, as far as leasing, renting --

COMMISSIONER MINKOFF: Yes.

COMMISSIONER ELDER: Improving a space?

MR. BALES: You could do it different ways depending on how much you collectively as a Commission want to be involved. You could determine you want DOA to identify and provide you with built-out space and they would then do that.
If you are going to make a collective determination to pick a particular space, you probably need to do that through an open meeting because it's collective action by the board.

The procedure Chairman Lynn just outlined would be permissible. Go over there. If you determine you want to work with that space, you could vote accordingly and direct your Chair to have the appropriate communications with DOA. If that is unappealing to you, you could direct they identify alternatives that could be presented at another meeting.

Or you could, as a third alternative, you could vote to designate your Chair or another person to work directly with DOA to try to come up with a specific proposal for the Board to approve.

CHAIRMAN LYNN: Mr. Huntwork.

COMMISSIONER HUNTWORK: Mr. Huntwork, I like that last idea the best.

There are a couple things I want to say. I think if this truly is a continuation of an open meeting, I think we would have to have the various stenographers, tape recording equipment, and so on, brought along with us so we can continue to maintain a record of the meeting. And I think it's impractical to think that we would be making a decision that way.

We could go there, I suppose, adjourning there, come back. Nevertheless, another concern, I almost never take the very first thing offered to me. Occasionally I lose out on a good deal that way, but very rarely. So the idea of authorizing a
committee, even a committee of one, to obtain further options and come back with a recommendation seems like a much better idea to me.

CHAIRMAN LYNN: Well, I, for my part, assuming that the office needs to be in some proximity to the State Capitol and State resources, that means it's going to be somewhere in the greater Maricopa County area. For my part, I would be more than happy to vest that authority as far as the Commission is concerned to a subcommittee composed of Mr. Huntwork and Mrs. Minkoff who reside here to get those spaces.

COMMISSIONER MINKOFF: Thanks.

CHAIRMAN LYNN: And make a decision where we're housed where parking is accessible, where there is handicapped access, where it is available to the general public and it has sufficient room to do our work.

COMMISSIONER HUNTWORK: One more s, Mr. Chairman. If we in fact appoint a committee, when the committee gets together, does that committee have to comply with open meeting laws?

CHAIRMAN LYNN: Only if more than three.

MR. BALES: Not if two.

CHAIRMAN LYNN: If two, you are fine. That's why I said two.

COMMISSIONER MINKOFF: If we identify something and we both agree that this is the perfect space, do we bring it back to the committee or are we just authorized to say, "This is it. Move us in"?
Recognizing that the president had a very interesting dilemma in terms of the amount of money certain space might cost, the ex-President, I'll say.

Chairman Lynn: Recognizing that

Commissioner Minkoff: We'll spend less.

Commissioner Elder: I'd hope so.

Chairman Lynn: Given the guideline of DOA of $13 a square foot, understanding what the market is in greater Phoenix, if at or below market, you are fine.

Commissioner Minkoff: He said it's going up to $15 in Phoenix.

Chairman Lynn: At or below market for Phoenix, we're fine.

Commissioner Hall: How do you spell micromanagement?

I guess my feeling is that we need space that is close enough to the Capitol. And I would like to make a motion we accept the space we have sight unseen and use it.

Chairman Lynn: There's a motion to accept the DOA space sight unseen. Is there a second?

Hearing none, Ms. Minkoff.

Commissioner Minkoff: I would like to suggest, however, we go over and look at the space immediately. While I normally do not accept the first thing I see, I'm not going to be living there. This is a temporary office. If it's adequate--

Chairman Lynn: Does no one like the idea of a subcommittee to do that?

Commissioner Huntwork: I like it.

Commissioner Hall: I didn't hear a motion, Mr. Chairman.
I make a motion we appoint
Mrs. Minkoff and Mr. Huntwork as our subcommittee
to accept the space --
I'm teasing.
CHAIRMAN LYNN: Look at the DOA
space and make a determination.
COMMISSIONER HALL: -- look at the
DOA space and make a determination if it meets our
needs and is available.

CHAIRMAN LYNN: And find other
space if it doesn't meet our needs?
MR. HALL: And find other space
they can find, yes.
CHAIRMAN LYNN: Second to that
motion?
COMMISSIONER ELDER: Second.
CHAIRMAN LYNN: Discussion?
All those in favor, say "aye."
(Vote taken.)
CHAIRMAN LYNN: All those opposed,
"no."
A little quick, but it carries.
If you'd be so kind, we'd
appreciate it. We trust your judgment in getting
the ball rolling for that space or alternate
locations that they will find for you.

MR. BALES: Mr. Chairman, you
earlier discussed the possibility of presentations
from two national consulting firms. I think if you
are interested in that, they would probably be very
accommodating in terms of doing something quickly.
And because the decision you make with regard to
that may affect how you do whatever you do in March
with census data, you might want to consider trying
to do that before March 5th. Because if you do
choose to use one of those consultants, it may also
have consequences for what other staff you want to
have and whether you want to work out any
arrangement with Maricopa County for them to help
you, particularly with at least the original
issuance of census data and putting that into
existing legislative districts.

I just wanted to raise that
possibility in case you want to try to set that up
at an earlier date.

CHAIRMAN LYNN: Well, given where
we are today, I have some serious scheduling
problems next week. We're looking, at a minimum
the week of the 26th.

COMMISSIONER MINKOFF: Uh-huh.

CHAIRMAN LYNN: To make that
happen.

Mr. Bales, I'm happy to -- are you
saying instead of or in addition to a meeting on
the 5th, the week of the 5th?

MR. BALES: I was thinking
probably in addition to. I understood you were
focusing on the 5th on questions of counsel and

possibly your executive director.

CHAIRMAN LYNN: Or the 12th,
depending on the timing. So it may be instead of
the week of the 5th, the week of the 12th might
have counsel -- maybe that's too late.

All right.

COMMISSIONER HALL: Mr. Chairman.

CHAIRMAN LYNN: Mr. Hall?

COMMISSIONER HALL: Is there
anyone that does not feel like we could not benefit from utilizing the services as provided by the Maricopa County Elections Office, whether or not we hire a consulting service we'd utilize to supplement what they did, to the extent they could, right?

CHAIRMAN LYNN: I don't know. I'd like to hear from a consultant what their capabilities are. It might be completely duplicative.

COMMISSIONER HALL: Well, what I guess what I'm saying, if we handed data updated to a consulting firm said deduct that from whatever you are going to provide us, what would be the -- instead of giving us a full job, bid on two-thirds of the job.

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CHAIRMAN LYNN: Let's save discussion for the presentation from consulting firms. They could answer that. Based on that answer, we could make a determination who could do what.

MR. BALES: We might also, in the same forum, might want Maricopa County back again to talk about what kind of things they could do and what arrangements would be.

For example they had a contract with Leg. counsel to do updating work they did for Leg. counsel. I think they'd want to have a similar arrangement with you if they were to be committing their time, resources on an ongoing, forward basis.

CHAIRMAN LYNN: All right.

COMMISSIONER MINKOFF: Are we looking at the week of the 26th?

CHAIRMAN LYNN: Yeah. Can all of you look at the week of the 26th for a moment?
COMMISSIONER MINKOFF: Yeah.

Uh-huh.

CHAIRMAN LYNN: I hate to say it. From my perspective, Friday is my best day.

COMMISSIONER MINKOFF: I cannot make it at all Tuesday or Wednesday of that week.

COMMISSIONER ELDER: Friday is fine.

CHAIRMAN LYNN: March 2nd.

COMMISSIONER MINKOFF: Friday I'll have to change some things.

COMMISSIONER HALL: You are anticipating which agenda items at that meeting?

CHAIRMAN LYNN: March 2nd we'd attempt to have at a minimum the two presentations, one or two presentations from the national consultants, assuming they could be here for that meeting. We would -- and we certainly could accommodate some of these other agenda items that we had scheduled, some discussion of historical, the historical perspective. I think the technical support issue goes part and parcel with the consultants discussion. And we should be able to have some information back on the other commissions that have been researched.

So I think that -- that may comprise the bulk of the agenda.

COMMISSIONER MINKOFF: Do we want a presentation from Maricopa County also in addition to two consultants, in addition to services they'd provide and costs of those services?

CHAIRMAN LYNN: I think with two
national consultants, we should have Maricopa County back to listen to and participate in that discussion.

COMMISSIONER ELDER: Mr. Chairman, also one other aspect was brought up. We have the 15 records -- not records, but election representatives that could be put into a group that would also provide us with input as to where we are and where we’re at.

COMMISSIONER MINKOFF: I think Karen Osborne said she would be glad to facilitate that.

CHAIRMAN LYNN: Are you suggesting, Mr. Elder, that that be on the agenda as well?

COMMISSIONER ELDER: Yes.

CHAIRMAN LYNN: Okay.

COMMISSIONER HALL: So are we tentatively scheduling a meeting for March 2nd?

CHAIRMAN LYNN: March 2nd, 10:00 a.m

COMMISSIONER HALL: Anyone object to moving it to 9:30?

CHAIRMAN LYNN: It was 10:00 for you.

COMMISSIONER HALL: I understand.

CHAIRMAN LYNN: 9:30 work for everyone?

COMMISSIONER HALL: I found out I can get here earlier.

CHAIRMAN LYNN: 9:30 on the 2nd will be our next public meeting.

It will be appropriately noticed. We have more time to get notice out, the agenda completed and noticed.
With reference to comments made earlier today about availability of the agenda in various places and the notice of meeting in various places, it was our intent and always has been our intent to make sure in addition to the public noticing required for meetings we also make that material available to the press. The unfortunate thing this week, we met Tuesday, needed to schedule a meeting for Friday. So we were somewhat constrained in how freely we could get that information out. We are not as constrained on this time frame and we will make that information available more widely so those that wish to attend may do so.

COMMISSIONER HALL: Are we meeting here?

CHAIRMAN LYNN: I think we ought to stay where we are until we move for good, don't you think?

COMMISSIONER HUNTWORK: Mr. Chairman, two comments on that, if I could. Number one, this arrangement is somewhat uncomfortable. I cannot see the faces of my fellow Commissioners. And, you know, I've spent the entire six hours leaning out like this. If there were a room that could accommodate with a curved dias, I would much prefer to do that.

The second consideration in my mind, at least, is that it certainly ought to be said, at least, we are the Independent Redistricting Commission. So far the meetings have been in offices of the Secretary of State for a very practical matter, because we had to be sworn in and assume our duties. The second meeting is here because we met very quickly and didn't have a lot of time to look for something else. But at
least symbolically I would prefer, if there is such

...
We thank Lisa for being here as well.

COMMISSIONER HALL: Mr. Chairman, I move we adjourn.

CHAIRMAN LYNN: No need. It's on the agenda. All I have to say is: We are adjourned.

COMMISSIONER HALL: Thank you very much.

(Whereupon, the hearing concluded at approximately 3:51 p.m.)

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BE IT KNOWN that the foregoing hearing was taken before me, LISA A. NANCE, RPR, Certified Court Reporter, Certificate Number 50349; that the proceedings were taken down by me in shorthand and thereafter reduced to typewriting under my direction; that the foregoing 226 pages constitute a true and accurate transcript of all proceedings had upon the taking of said hearing, all done to the best of my 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 25th day of February, 2001.

LISA A. NANCE, RPR
Certified Court Reporter
Certificate Number 50349

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Phoenix, Arizona