STATE OF ARIZONA

ARIZONA INDEPENDENT REDISTRICTING COMMISSION

REPORTER'S TRANSCRIPT OF PROCEEDINGS

PUBLIC SESSION

Phoenix, Arizona
March 19, 2001
10:00 a.m.

ARIZONA INDEPENDENT REDISTRICTING
COMMISSION

LISA A. NANCE, RPR
Certified Court Reporter
Certificate No. 50349
THE STATE OF ARIZONA INDEPENDENT REDISTRICTING

COMMISSION convened in Public Session on March 19, 2001, at 10:00 a.m., at the Industrial Commission of Arizona, 800 West Washington, First Floor Auditorium, Phoenix, Arizona, in the presence of:

APPEARANCES:

CHAIRMAN STEVEN W. LYNN
COMMISSIONER JAMES R. HUNTWORK
COMMISSIONER JOSHUA MARK HALL
COMMISSIONER ANDI MINKOFF
COMMISSIONER DANIEL R. ELDER
BILL HERNANDEZ, Acting Executive Director
JOSEPH KANEFIELD, Assistant Attorney General
LOA SCHELL, Acting Secretary
LISA A. NANCE, RPR, CCR, Court Reporter

ATWOOD REPORTING SERVICE
Phoenix, Arizona
SPEAKERS FROM CALL FOR PUBLIC COMMENT:

Cortland Coleman

AGENDA DESIGNATED SPEAKERS:

None.
Open Session
Phoenix, Arizona
March 19, 2001
10:00 o'clock a.m.

PROCEDINGS

CHAIRMAN LYNN: Good morning. I would like to call the Independent Redistricting Commission to order.

First order of business is the approval of the March 2nd minutes. You have them in your packet. Are there additions or corrections to the minutes?

Ms. Minkoff.

COMMISSIONER MINKOFF: Mr. Chairman, I have one question and a correction. On the bottom of page two under "hiring counsel," the very last sentence on that page, it says, "Commissioner Hall made a motion." And there's nothing about how that motion was disposed of, whether it died for lack of a second, whether withdrawn, failed, or anything of that sort.

CHAIRMAN LYNN: Motion carried unanimously on the following page.

COMMISSIONER MINKOFF: No. That's the next one. Says Commissioner Hall made a
motion, et cetera. Then says moved by
Commissioner Minkoff and seconded by Commissioner Elder, and that's the one that carried
unanimously. There's no mention of what happened
to Commissioner Hall's motion.

COMMISSIONER HUNTWORK: Last
sentence, motion seconded by Commissioner Hall, is
that referring back? I think that might be --

CHAIRMAN LYNN: Commissioner Hall,
do you remember --

COMMISSIONER HALL: Basically --

COMMISSIONER MINKOFF: We have a lot
of motions and no result.

COMMISSIONER HALL: Basically, it
never went to vote. Never went to vote. I think
we amended the motion is my recollection.

CHAIRMAN LYNN: May have withdrawn
it.

COMMISSIONER ELDER: I think we had
withdrawn it. Somebody asked if I'd withdraw my
second.

COMMISSIONER MINKOFF: I think it
was withdrawn.

CHAIRMAN LYNN: All right. We'll
note that was withdrawn.

ATWOOD REPORTING SERVICE
Phoenix, Arizona
Others, Ms. Minkoff?

COMMISSIONER MINKOFF: And the next one, also no action on it. I presume that was also, "Commission scheduled a two-day meeting, first day for application screening, second day interview," and no mention of what happened to that one. Then motion by Commissioner Hall. That is the one amended and finally passed.

CHAIRMAN LYNN: Well, we did pass the motion to have a two-day interview process.

COMMISSIONER MINKOFF: Right.

CHAIRMAN LYNN: So we'll make that --

COMMISSIONER MINKOFF: That will pass.

CHAIRMAN LYNN: That will -- make it clear that motion carried.

COMMISSIONER MINKOFF: Okay.

CHAIRMAN LYNN: Others?

If not, the Chair will entertain the minutes as amended.

COMMISSIONER ELDER: So moved.

CHAIRMAN LYNN: Is there a second?

COMMISSIONER HALL: Second.

CHAIRMAN LYNN: All in favor, say
"aye."

(Vote taken.)

CHAIRMAN LYNN: Opposed, say "no."

Motion carries.

Next item is public comment.

For the two-day meeting that we will have today and tomorrow, we have scheduled four opportunities for the public to comment, early in both meetings and late in both meetings.

The schedule, just for your information, is that today we will be considering the applications for both legal counsel and executive director. That's the substance of today's meeting. We will be screening those applications either in open session or in executive session at the pleasure of the Commission. And at some point, then, at the end of that process, we will narrow the selections, or narrow the applications, down to those we wish to interview. Those interviews will take place tomorrow.

At that point, and I can't tell you exactly what that point will be, but at that point in the meeting, when we have finished the screening, we will again ask for public comment.

ATWOOD REPORTING SERVICE
Phoenix, Arizona
before closing the meeting today and recessing
until tomorrow at 8:30.
So that's sort of the way the
schedule is going to work.
I would ask that, first of all, a
couple quick housekeeping announcements. First
one is, if you are joining us for the first time
and expect to be here more than a couple hours
today, the only safe place to park is on top of
the parking garage on the west side of the
building. If parked otherwise, you may be
ticketed if there more than three hours. That's
just for your own protection and edification.
We also have a circumstance today
where the Phoenix firefighter whose services are
today will create a traffic issue for us,
depending on your schedule and hours. From about
11:30, give or take, to 12:30 or 1:00 o'clock, the
street to our south, Washington, I'm sorry, will
be closed off; and the procession will be moving
past. So, that's just for your information.
Okay. Public comment. Anyone
wishing to address the Commission may do so at
this time. And, obviously, as always, matters
that are presented for public comment are for

ATWOOD REPORTING SERVICE
Phoenix, Arizona
public comment only and not for discussion by the Commission.

If you will, please, state your name clearly for the record when you do speak. And you may want to join us up front, either, your choice.

MR. COLEMAN: I'd be happy to join you up front at the microphone.

Mr. Chairman, members of the Commission, I'm Cortland Coleman, the current executive director for the Arizona Democratic Party.

My comment today will be brief regarding EDS, the technical consultant we heard from last meeting. EDS had an impressive and thorough display, I thought. I think they would be a good firm to bring on for redistricting here in Arizona. There was one concern that has come to our attention since that meeting, and that is with regard to the office that they committed to open here in Arizona and staff. And I think that is a good idea and something that is something very necessary; however, the gentleman they proposed to staff it is Mr. Joel Wilson. While I have no doubt Mr. Wilson is a fine, upstanding gentleman, he's a former employee of Mr. Jeff
Everyone is familiar with the rancor under Mr. Groscost. I don't think somebody coming from under such tutelage would be appropriate. I think it would be highly inappropriate, akin to myself staffing it, a partisan Democrat.

I thought EDS thorough, impressive, and if they would revise that proposal, we'd be a hundred percent behind it.

As stated last meeting, if Mr. Wilson were the staff member here committed to Arizona, there would be serious questions not only in the minds of our party, I think all Arizona, as we try to move forward in a more independent, nonpartisan way.

I thank the Commission for your time.

CHAIRMAN LYNN: Other members of the public wishing to comment at this time? Seeing none, we'll close public comment.

Next item on the agenda is redistricting consultant update.

Mr. Hernandez, do you wish to be heard or should I just explain what I think I know

ATWOOD REPORTING SERVICE
Phoenix, Arizona
about that procedure at this point?

MR. HERNANDEZ: I'll leave it to you.

CHAIRMAN LYNN: All right. We will have circulated to the Commission today on an informal basis a draft of the RFP for consultant services. I'd like you to give Mr. Hernandez your comments by tomorrow on that RFP. And that RFP will be issued, probably, Wednesday, if we can get your comments in and incorporated by tomorrow.

That RFP will then be open for, let's say, a 10-day period with specific notification going to a list of consultants that we either will have or have assembled. And it would -- it seems to me it's going to necessitate another meeting of the Commission around the first week in April in order to consider formally the applications for consultants.

We should have those applications in advance, have the opportunity to review them, much the same way as we have for counsel and executive director, and have the opportunity to have presentations from those we feel appropriate and recommendations at that time.

Mr. Hernandez, anything to add to

ATWOOD REPORTING SERVICE
Phoenix, Arizona
that?

MR. HERNANDEZ: No, sir.

COMMISSIONER ELDER: Clarification.

Data processing consulting? Didn't say what consulting.

CHAIRMAN LYNN: Right. Map drawing and number crunching.

The way the RFP is written, it is national or local or both. So we have the right to take one or more than one of the applicants. And that's the way it's written.

Any other questions?

Ms. Minkoff.

COMMISSIONER MINKOFF: We've had presentations from the County Election Department about systems they might provide us. Would they fall in the purview of the RFP or is that a separate decision for the Commission to make?

CHAIRMAN LYNN: My sense is many services being offered by Maricopa County Election Division either are or could be offered by others. My suggestion would be -- I should ask the question rather than assume it.

Can you respond to such an RFP?
Karen, is that something your office would do?

MS. OSBORNE: Mr. Chairman, members of the Board, you can, we checked with legal counsel on both besides. You can enter into an IGA for us for our parts of the services.

We'd be most happy to respond just like any other vendor if that's more comfortable to the Commission.

CHAIRMAN LYNN: What would be useful to the Commission. I'd find it useful to have you respond to the RFP, see how the services Maricopa County Elections offers or plans to offer fall into the spectrum of services offered by consultants.

MS. OSBORNE: We'd be most happy to do that, Mr. Chairman.

CHAIRMAN LYNN: Anything else on the issue of consultant update?

Okay. Next item on the agenda is, and you have in your packet, a draft inter-agency service agreement, ISA, with the Department of Administration, for services relating to accounting and intermittent receptionist work.

I believe this was circulated ahead of time. You should have all had copies of it.
before the meeting.

Are there comments, concerns, questions, amendments to the ISA?

Mr. Huntwork?

COMMISSIONER HUNTWORK: Mr. Chairman, I understand this is a routine and normal thing for a Commission such as ours to do. And I'm in favor of the approach. In paragraph three, however, I just had a little bit of a problem with the language. And I would like to change that to say, "The department shall not," at the beginning of that provision.

CHAIRMAN LYNN: So you want to make it more of a declarative statement, "The department shall not infringe in any way upon the prerogatives of the Commission."

COMMISSIONER HUNTWORK: Yes.

CHAIRMAN LYNN: Without objection, we'll make that change in paragraph three. Any other comments?

If not, the Chair would entertain a motion authorizing the Chair to execute the ISA with the Department of Administration with the amendment that has been suggested.

COMMISSIONER MINKOFF: So moved.
CHAIRMAN LYNN: Second?

COMMISSIONER HUNTWORK: Second.

CHAIRMAN LYNN: Thank you.

Discussion?

COMMISSIONER HALL: Is the fee negotiable?

CHAIRMAN LYNN: Mr. Hernandez?

MR. HERNANDEZ: Mr. Chairman, Mr. Hall, I do not know that it is. Lori Meeks is the administrator of the State Boards Office.

Lori, want to address that?

MS. MEEKS: At this point, I'd have to discuss that with my supervisor. It's possible the fee is negotiable. I can't give you any yes or no answer, though, right now.

CHAIRMAN LYNN: That's an interesting premise. I would assume the fee was not negotiable.

COMMISSIONER HALL: Given that answer, it is negotiable.

MS. MEEKS: I'd have to see what -- basically, it's a reimbursement cost. I'd have to make sure that I would be able to get reimbursed properly for the services.

CHAIRMAN LYNN: I'm assuming that
the hourly figure is not only reflective of the
actual personnel involved but also a burden or
overhead figure.

MS. MEEKS: Correct.

CHAIRMAN LYNN: Associated costs.

Mr. Elder.

COMMISSIONER ELDER: Mr. Chairman,
under, I guess, it's the third box in the table,
says "status reports," I would like to make sure
that our executive director is in control of
budget, budget management, and knows where the
funds are being expended. And if the status
reports include like monthly spread sheets of what
the distributions are expected to be, approve it,
say yes, and go back to this group, that's fine.

CHAIRMAN LYNN: My intent is what
we're signing is support for the executive
director and staff for office, accounting support
at their direction.

COMMISSIONER ELDER: I didn't read
it as support in the office.

CHAIRMAN LYNN: Ms. Meeks, would you
like to clarify that?

MS. MEEKS: It is just support only.

It does not give us the authority to expend funds

ATWOOD REPORTING SERVICE
Phoenix, Arizona
on behalf of the Commission.

COMMISSIONER ELDER: I guess where
maybe it's semantics between Steve and I is my
understanding is you would be doing some of this
work back wherever you do this work and other
times there would be a receptionist on an
as-needed basis, other personnel might be in the
office.

For the most part, this
administrative operation or process goes on in
your home station, whatever you call it; is that
correct?

MS. MEEKS: Correct.

COMMISSIONER MINKOFF: Isn't your
office in the same building our offices are going
to be in?

MS. MEEKS: Yes.

COMMISSIONER MINKOFF: So it would
be very easy for the executive director then to
supervise whatever is going on and whatever
services you are providing.

MS. MEEKS: Certainly.

CHAIRMAN LYNN: Okay. Any other
questions or comments?

COMMISSIONER MINKOFF: Mr. Chairman.
CHAIRMAN LYNN: Ms. Minkoff.

COMMISSIONER MINKOFF: In case the fee is negotiable, and we don't know whether it is or not, can we amend the motion to authorize the Chairman to discuss and agree on the final amount not to exceed $23 or not?

CHAIRMAN LYNN: Acceptable to the maker?

COMMISSIONER ELDER: I seconded.

That would be fine.

CHAIRMAN LYNN: Who made the motion?

COMMISSIONER ELDER: Mr. Huntwork.

CHAIRMAN LYNN: Mr. Huntwork, is that acceptable?

COMMISSIONER HUNTWORK: Yes.

CHAIRMAN LYNN: Mr. Elder?

COMMISSIONER ELDER: Yes.

CHAIRMAN LYNN: Then as amended, any further discussion?

COMMISSIONER ELDER: Call the question.

CHAIRMAN LYNN: All those in favor, signify by saying "aye."

(Vote taken.)

CHAIRMAN LYNN: Opposed, "no."

ATWOOD REPORTING SERVICE
Phoenix, Arizona
Motion carries.
The Chair will meet with Ms. Meeks.
You may want to call the office, get information on how negotiable the rate may be so during one of the breaks you and I can arm wrestle and see what we can come up with.

Next item on the agenda is screening by the Commission for legal counsel. As noted on the agenda, screening may or may not take place in open meeting, may also take place in executive session at the prerogative of the Commission.

I'd like to ask the Commission at this time what their prerogative is.

Ms. Minkoff.

COMMISSIONER MINKOFF: Mr. Chairman, as committed as I am to the concept of open meetings, I think when we're talking about sensitive issues about who we should interview, not interview, there may be comments that would not be appropriate to be made in a public meeting. And I would suggest that we do this in executive session.

COMMISSIONER ELDER: Second.

CHAIRMAN LYNN: Is there discussion?

All in favor of going into executive

ATWOOD REPORTING SERVICE
Phoenix, Arizona
session for the purpose of discussing legal
counsel, signify by saying "aye."

(Vote taken.)

CHAIRMAN LYNN: Opposed, "no."

Motion carries.

The Commission will stand in

executive session.

CHAIRMAN LYNN: I don't know that we

have --

Bill, we don't have another room to
go to rather than asking all these folks to leave,
which would be easier. And space is probably a

premium.

With our apologies, we're going to

have to stay here and ask all of you to leave.

And we will call you back as soon as we are able:

(Discussion off the record.)

CHAIRMAN LYNN: If I can have the

attention of the Commission one second. It's been
suggested because we have two discussions and the
possibility of executive session on both, legal
counsel and executive director, on both, we take
the opportunity to excuse the audience for both
discussions simultaneously, do our screening of
both, then reconvene and make whatever decisions

ATWOOD REPORTING SERVICE
Phoenix, Arizona
we want to make.

Without objection of the Commission, we'll adjourn for both. That way they only leave once. And when you come back, we'll have our work done.

(Whereupon, the Commission went into Executive Session.)

(Be it noted that on 3-20-01 the Commission upon motion made, seconded and carried, voted to have the proceedings from the Executive Session which are reflected in the transcript herein as part of the public record to be undesignated from Executive Session and made public.)

PERSONS PRESENT:

CHAIRMAN STEVEN W. LYNN
COMMISSIONER JAMES R. HUNTWORK
COMMISSIONER JOSHUA MARK HALL
COMMISSIONER ANDI MINKOFF
COMMISSIONER DANIEL R. ELDER
JOSEPH KANEFIELD, Assistant Attorney General
LOA SCHELL, Acting Secretary
LISA A. NANCE, RPR, CCR, Court Reporter
JOHN ADLER, State Procurement Office
MARTH LYNCH, State Procurement Office
ATWOOD REPORTING SERVICE
Phoenix, Arizona
CHAIRMAN LYNN: We made a motion to go into executive session to consider legal counsel, screening for legal counsel. The suggestion was made by someone in the audience because items were contiguous on the agenda and we need to do both, we go ahead and screen both in executive session, both legal counsel and executive director. What I did, I got their attention, got their concurrence without objection.

MR. KANEFIELD: When you come back, make it clear that's what you did.

COMMISSIONER MINKOFF: They won't put us in jail?

MR. KANEFIELD: No, they won't put you in jail.

CHAIRMAN LYNN: Before we get started, I think it would be useful for the Commission to hear if there are any special rules that apply or should apply for an executive session discussion. Obviously we cannot make any decisions in executive session. We can screen. That is to say we can talk about our own feelings in terms of any of the applicants that we've been...
presented with.

What my understanding is, what we cannot do is we cannot decide in executive session who's actually going to be called for an interview and who isn't. That has to be done in open meeting.

MR. KANEFIELD: Right.

CHAIRMAN LYNN: So we can stop short of deciding that. But we can do everything up to that point.

MR. KANEFIELD: Right. You just can't take a straw poll or vote. But you can certainly express your opinions, discuss the applications, and then go back into open session, decide, take a vote on who you are going --

CHAIRMAN LYNN: From the department, any additional briefing?

MR. ADLER: My name is John Adler with the Arizona State Procurement Office.

In doing this RFP, or doing this process, we are trying to kind of guide you down the narrow legal path. We've done some things a little out of the ordinary, public meeting evaluation by committee, things like this. In this remaining part of the process, we want to
pick firms, or pick individuals, I think what we stated in the RFP, pick persons susceptible for receiving award. If they have a reasonable chance for receiving a contract, we should pick them and then let them come in. That's how we create this short list.

CHAIRMAN LYNN: Mr. Elder.

COMMISSIONER ELDER: Question: What do you mean by them having a chance of being accepted? Some criteria states if you are a Democrat, you can't be on -- no.

MR. ADLER: I'll let that one go. What we wanted is we stated in the request for proposal certain criteria. We need to limit ourselves to that criteria. Should have experience with public meeting law, with redistricting, some federal law. That's what we should make our choice with. But if there are offers or individuals that submit proposals that obviously don't have the criteria necessary to support the Commission, then what we want to do is eliminate them right offhand.

COMMISSIONER ELDER: Are there any process types of things we have to have in place as far as what they did or how they submitted that
either affect that criteria of either being acceptable criteria or not?

MR. ADLER: No, sir. There's not. I looked through the proposals pretty carefully. No crossing Ts, dotting Is type issues you need to be careful of.

COMMISSIONER ELDER: My only question, on the spreadsheet cover sheet, didn't get covered, did get covered, not the basis for disqualification?

MR. ADLER: If did not cover an issue, if clear in the proposal, they don't have it, or did not cover it, and it's a critical issue, we can make a determination they are not susceptible for award.

If I can say one more thing: I'm not a big -- I'm not like a lot of traditional procurement officers. I don't eliminate proposals because they forgot to sign a page or put a document in. I'm big on facts, if we asked for certain information and they didn't do it.

COMMISSIONER ELDER: My question is do we have the option to be able to, for us, the Commission, to waive that oversight and not you waive the oversight.

ATWOOD REPORTING SERVICE
Phoenix, Arizona
MR. ADLER: Yes, sir, you do. But qualify that. If we waive it for one, we have to waive it for all. It's just the fairness of the process.

COMMISSIONER MINKOFF: You, I presume, sent us every application you received.

MR. ADLER: Yes, ma'am.

COMMISSIONER MINKOFF: You screened these applications?

MR. ADLER: Yes, ma'am.

COMMISSIONER MINKOFF: Are you prepared to advise us that one or more may not have met the qualifications and should not be considered by the Commission?

MR. ADLER: Yes, ma'am. There was -- actually, I have the originals here.

CHAIRMAN LYNN: The question is do you want to hear that information?

COMMISSIONER MINKOFF: Yes. I think I would like to hear the information.

COMMISSIONER ELDER: Then there's several also I got faxed or that were mailed direct, did not come with a state cover letter. I want to know whether they are acceptable to be considered or not, also.
COMMISSIONER MINKOFF: For attorney or --

CHAIRMAN LYNN: I don't think so.

MR. ADLER: They are required by, required by the request for proposal, required to submit to our office and reach our office by a certain deadline. That's the law. If they come to you by mistake, they haven't gone through the proper process.

COMMISSIONER HUNTWORK: Are you saying we would not have authority to waive that?

MR. ADLER: They don't have proposals to us.

COMMISSIONER MINKOFF: This is true only for the attorney position, not for the executive director position?

MR. ADLER: Yes, ma'am.

COMMISSIONER HALL: And why is that?

MR. ADLER: According to law, the offers have to be at the place directed.

COMMISSIONER HALL: Why not the executive director?

MR. ADLER: This is procurement.

Executive director is a hire.

COMMISSIONER HALL: Okay.
CHAIRMAN LYNN: All right.

COMMISSIONER HALL: Mr. Chairman.

CHAIRMAN LYNN: Mr. Hall?

COMMISSIONER HALL: I'm just curious

if there's a feeling among the Commission, you
know. I'm trying -- if there's a feeling among
the Commission of any that would just
automatically be disqualified and we can kind of
cut to the chase a little bit.

CHAIRMAN LYNN: I think we were
going to hear the ones that didn't meet minimum
qualifications. That would clearly get the number
started in the right direction.

MR. ADLER: I'd like to say, one
unique challenge, we are looking at persons and
have proposals by firms. If one of the firms is
chosen, you may have to ask them is this a package
deal. Offering a Republican lawyer, Democrat
lawyer, some assistance and clerical support and
everything else. If they are interviewed
tomorrow, that's probably one of your first
questions: Is this a package deal? Is this take
all or take one?

The only one -- I saw one proposal

in here, and this was submitted by Miniat &

ATWOOD REPORTING SERVICE
Phoenix, Arizona
Wilson, PC. And I could not find a lot of experience in here that would qualify them. It appeared to be that all the experience that they showed was settlement of tort claims. So I don't know if that's -- and I could not find in here whether they designated in here Republican, Democrat.

CHAIRMAN LYNN: Without objection, eliminated Miniat, Wilson?

COMMISSIONER HUNTWORK: Mr. Chairman, can I ask something here? I can see these gentlemen great but can't see my fellow Commissioners. Is there any way to fix this?

CHAIRMAN LYNN: One way is if you take your stuff, slide back, and we talk to one other.

COMMISSIONER HUNTWORK: That is great.

MR. KANEFIELD: You need to advise everyone the executive session is confidential.

CHAIRMAN LYNN: Consider yourself admonished nothing should leave this room in terms of deliberations in executive session.

MR. KANEFIELD: We're also supposed to make a sweep, make sure nobody left a backpack
with a tape recorder.

COMMISSIONER HUNTWORK: I do see something there and something in the back row.

CHAIRMAN LYNN: Again, to the point, do we have consensus, Miniat, Wilson should be eliminated from consideration?

COMMISSIONER HUNTWORK: Yes.

COMMISSIONER ELDER: I think so.

CHAIRMAN LYNN: Thank you.

Were there others that did not meet minimum criteria?

MR. ADLER: Barring that, the rest of them seemed to have certain levels of experience and qualification.

CHAIRMAN LYNN: Let me ask one question. I was not in my office on Friday. Apparently one of the Commissioners received a fax, maybe one did not, maybe all did, from Brown and Bain. Did everybody receive a fax from Brown and Bain?

COMMISSIONER HALL: Way before we did the RFP.

COMMISSIONER ELDER: Before we did the RFP.

CHAIRMAN LYNN: They subsequently

ATWOOD REPORTING SERVICE
Phoenix, Arizona
decided not to submit, didn't submit to the procurement department.

COMMISSIONER MINKOFF: That's correct.

CHAIRMAN LYNN: All right. So we're not considering them.

Then, as I understand it, we have one, two, three, four, five, six proposals under consideration.

Mr. Huntwork.

COMMISSIONER HUNTWORK: Mr. Chairman, I don't know when I should disclose this. I believe it should be at the beginning. One of the applicants is a law firm with which I was a partner for 15 years, from 1977 to 1992, Jennings, Strouss & Salmon. I do not believe that fact would cloud my judgment in any way. And I have no ongoing professional association or relationship with that law firm. So if -- unless I am advised differently by our counsel, it would be my intention to participate in discussion of that firm as well as everybody else.

CHAIRMAN LYNN: It should be noted the Jennings, Strouss & Salmon proposal discloses ATWOOD REPORTING SERVICE Phoenix, Arizona
the same declaration and contained the same
information.

MR. KANEFIELD: You have no
continuing pecuniary or proprietary interest in
the firm?

COMMISSIONER HUNTWORK: None.

MR. ADLER: If I may address the
Commission, the only concern I may caution you
about, the matter of perception sometimes comes
up. I understand lawyers understand the law
better than private sector counterparts.
Occasionally there are complaints, not conflict of
interest. That certainly is a concern for us.
I'm just warning you that is something we may have
to deal with.

CHAIRMAN LYNN: Mr. Hall?

COMMISSIONER HALL: Mr. Chairman, as
long as we're addressing any potential, as far as
you can you reach with these issues, it's better
to be safe than sorry, I'm vice president of the
Land Title Association of Arizona, for which
Mr. Miller, who is a partner in Miller, LaSota &
Peters, is a paid professional lobbyist for that
association of which I am a member.

CHAIRMAN LYNN: Okay.
COMMISSIONER MINKOFF: While we're on the subject of disclosure, Fredda Bisman, who is apparently the lead attorney for the Mariscal, Weeks proposal, is someone who I know casually.

CHAIRMAN LYNN: Any other declarations of association?

CHAIRMAN LYNN: I know Barry Corey who is one of the submitters, Corey & Kime. I've known Barry for 20 years. Probably met others.

Okay. We don't have a procedure in place to actually go through this. I guess the best way to do it, and again, short of decision making, is to perhaps take each of the -- each of the proposals, to ask your just general comments about the proposal without going to the place of actually deciding whether or not they ought to be interviewed, and then move on to the next after we've had our opportunity to comment so each of us will have a sense of one's personal feeling about each of the applicants.

Is that reasonable, Mr. Kanefield, Mr. Adler?

MR. ADLER: Chairman Lynn and the Commission, I agree with that.

I would suggest looking at each

ATWOOD REPORTING SERVICE
Phoenix, Arizona
offer for three things: a strength, note those;
deficiency, and note those, or weakness, and note those; and then look at them and say are they, we have to ask ourselves, is this firm, is this person, reasonably susceptible for winning an award? If we put them through all the hoops tomorrow, is there a chance they would be successful in winning a contract? If not, there's no chance, putting them through the hoops in noting strengths, weaknesses, deficiencies, if it's a qualifying deficiency, chances are there's nothing we can do about it. If there are other weakness in the proposal or concern, chances are we can address that tomorrow in the interviews.

CHAIRMAN LYNN: Okay.

Uncharacteristic for me, let me start. Let me start with Corey & Kime. I happen to know them and know the firm.

My comment on Corey & Kime, I don't see anything in their background that particularly qualifies them with respect to election law, with respect to redistricting, with respect to the kinds of judgments and decisions that we will have to ask our counsel to render opinions on.

The primary area of experience for

ATWOOD REPORTING SERVICE
Phoenix, Arizona
this particular firm seems to be with respect to
school districts. And that's where they've made
most of their legal resume. And in that regard,
it seems to me that even though I know the firm
and know their capabilities, that they really are
not, in my judgment, as well-qualified as many of
the other applicants. And I'm not prepared to
interview them.

COMMISSIONER HALL: I agree with
that.

MS. MINKOFF: I would share that as
well.

CHAIRMAN LYNN: Okay. Who else
would like to --

Let's do this the way we do
Christmas cards at my house. Pick one and hold
forth and we'll talk about it.

Anybody else?

Ms. Minkoff?

COMMISSIONER MINKOFF: The proposal
from Miller, LaSota & Peters, I think that they
probably have as much experience with
redistricting and election law as any of the other
firms that we have seen. My one concern, as
Mr. Adler mentioned, is it is a proposal from a

ATWOOD REPORTING SERVICE
Phoenix, Arizona
firm rather than individuals. And one of the
tings we would have to talk about, if we decided
to engage them, is are we engaging the firm, are
we engaging Mr. LaSota as a Republican and
Mr. Peters as a Democrat? That's an issue we'd
have to deal with.

I was very impressed with the
proposal and I would like to talk with them.

CHAIRMAN LYNN: Any other comments
about Miller, LaSota & Peters?

COMMISSIONER MINKOFF: Also very
thin for something from a lawyer.

CHAIRMAN LYNN: You found that --

COMMISSIONER ELDER: Refreshing.

CHAIRMAN LYNN: Refreshingly good.

CHAIRMAN LYNN: Anything else about
the firm?

COMMISSIONER HALL: I agree with the
comments.

COMMISSIONER HUNTWORK: Have to make
a first-cut discussion.

COMMISSIONER HUNTWORK: How many --

CHAIRMAN LYNN: The motion said up
to five.

COMMISSIONER MINKOFF: Attorneys, up

ATWOOD REPORTING SERVICE
Phoenix, Arizona
to six.

CHAIRMAN LYNN: In this case, this is one and one.

COMMISSIONER HUNTWORK: Two.

COMMISSIONER ELDER: Could you have two -- round robin discussion, can we hire a Republican, Democrat firm here, or another firm opposite?

Procurement people are shaking their head yes.

The answer is yes.

MR. ADLER: Yes, we can.

COMMISSIONER MINKOFF: Only two applicants for individuals, Lisa Hauser and Jose Rivera. Others are firms, one Republican, one Democrat.

CHAIRMAN LYNN: Consensus is keep Miller, LaSota & Peters in the running.

Mr. Huntwork?

COMMISSIONER HUNTWORK: While focused on that, the other firm that made, I think, an acceptable proposal was Jennings, Strouss & Salmon. I thought it was a very impressive proposal.

CHAIRMAN LYNN: I think they need to
be in there as well.

COMMISSIONER HUNTWORK: I suggest we put them in the same --

CHAIRMAN LYNN: I think we should do that.

COMMISSIONER MINKOFF: I have kind of a different comment for a change. It's not going to be unanimous. When we get down to the two individual proposals, I think those are people we want to talk to, Lisa Hauser and Jose Rivera. Therefore, the numbers, we'll pick one of two, Mariscal, Weeks or Jennings, Strouss.

Based on what I know of individuals in the firms, and the firms --

CHAIRMAN LYNN: Let me interrupt you before you go too much further, Andi, because that's not necessarily true. If in fact we were to say we want to interview Lisa and Jose as individuals, we could actually say we want to interview Jack LaSota from that firm and -- whoever the Democrat was from Jennings.

COMMISSIONER ELDER: Or when we notify them, considering them as a Democrat representative.

COMMISSIONER HALL: Three appears;

ATWOOD REPORTING SERVICE
Phoenix, Arizona
to exclude by numbers, it's irrelevant.

COMMISSIONER MINKOFF: Four left.

Presumably two people from this firm, Republican, Democrat. Not six firms, six attorneys. Three Republicans, three Democrats.

CHAIRMAN LYNN: That was the motion.

COMMISSIONER HALL: I understand.

COMMISSIONER MINKOFF: Knowing what I know of Mariscal, Weeks, I think they are an outstanding firm. They do excellent work. Very thorough, very client-friendly firm. I've never used them myself, have no real connection, just what I know of them, some people whose opinions I respect. This is a firm I want to talk to.

COMMISSIONER HALL: My concern with respect to this particular firm was similar to Mr. Lynn's concern relative to that other one we just eliminated.

How much experience do these folks have specifically with these voting rights issues?

COMMISSIONER MINKOFF: Fredda Bisman was the Chief Attorney for City of Scottsdale for a number of years. The chief attorney for any municipality has dealt with voting rights issues.

CHAIRMAN LYNN: I don't agree with
that comment. City attorneys may have offices, one or more attorneys that specializes in that area. Being Chief Attorney doesn't mean you're the expert attorney in anything.

I think it's a fine firm. I was not impressed with their background in this area. I don't have a lot of interest in talking with them, personally.

COMMISSIONER ELDER: Well, let me -- being one of the people, maybe the only person that regularly goes into selection committees on the other side, when I get an RFP on something that excites me, I look to see what pieces excite me around an issue I don't know. I may very well be competent in the process, may know how to get to point B, haven't been there, can show from a body of experience I have the body of experience and skills that I can get to that point.

I look at the types of diversity of work they've done. I don't have a problem interviewing them. Matter of fact, I'd like to, because it appears they do the same thing I do: We have this body of experience. We can put the effort in to make it happen.

But just, you know, I would like to

ATWOOD REPORTING SERVICE
Phoenix, Arizona
CHAIRMAN LYNN: I get a sense from the Commission this one might be middle ground at the moment.

COMMISSIONER HUNTWORK: I agree. I would like to weigh in on it, though. I agree with the comment that it's a very fine firm and has an outstanding reputation. And I also agree with the comment that they have not disclosed any depth in our field. And if they had it, they sure would have. So I am --

COMMISSIONER ELDER: Say midground for now.

Do we need --

From the motion, do we need to interview three firms or three people?

CHAIRMAN LYNN: Up to. I think we ought -- and following the advice, and maybe this was not the intent of the advice, I don't want to call anybody in for interview, for either of the positions, legal counsel or executive director, that are in any way perfunctory. I'd like the sense when we ask somebody for an interview they have a legitimate shot at being counsel, period. If they don't, there's no reason to inconvenience...

ATWOOD REPORTING SERVICE
Phoenix, Arizona
COMMISSIONER ELDER: I'd like to weigh in on Miniat & Wilson PC. I looked through their credentials. They are injury law attorneys.

CHAIRMAN LYNN: We eliminated them. They don't meet the minimum.

COMMISSIONER ELDER: Don't meet the minimum.

One other I had, Corey & Kime.

CHAIRMAN LYNN: I said they didn't meet the minimum.

COMMISSIONER ELDER: We have the two I really didn't think we should interview just by virtue.

CHAIRMAN LYNN: I don't think that's going to happen.

Now, there was an affirmative statement made by Ms. Minkoff, we haven't discussed it, but we ought to, that we think -- I don't want to put words in your mouth, you believe Mr. Rivera and Ms. Hauser, we would like to interview.

COMMISSIONER MINKOFF: I think both are quality applicants.

CHAIRMAN LYNN: Let's hear from ATWOOD REPORTING SERVICE Phoenix, Arizona
COMMISSIONER HUNTWORK: I agree.

COMMISSIONER ELDER: I don't know the former, but I read through Lisa Hauser two or three times saying, "Hey, this looks like it's hitting the target."

COMMISSIONER MINKOFF: In terms of experience in election law, both Lisa Hauser and Jose LaSota are clearly way above the others.

CHAIRMAN LYNN: If there's -- if those two are in, and Miller, LaSota & Peters are in, and Jennings, Strouss & Salmon are in --

COMMISSIONER MINKOFF: That's it.

CHAIRMAN LYNN: Yeah. We have the prerogative, even though a motion --

COMMISSIONER HUNTWORK: The question is whether Mariscal, Weeks, which is one on the boat.

COMMISSIONER HALL: Mariscal, Weeks, they are more qualified to represent me in the title industry. That's where their experience is. I just don't see -- I think they're a quality firm. I just don't see the election. This is a very specialized area, folks. By reason of the fact statewide we received seven applicants is

ATWOOD REPORTING SERVICE
Phoenix, Arizona
indicative of that fact. Of seven, two or three are pushing it.

COMMISSIONER MINKOFF: I think quite honestly it may be the way they put the proposal together.

COMMISSIONER HALL: It's outstanding.

COMMISSIONER MINKOFF: They didn't make it as strong as they could have. I've done some things in my head. It's the only law firm I ever saw that lists that everybody alphabetically. Very democratic.

COMMISSIONER HUNTWORK: Let me explain that to you.

COMMISSIONER ELDER: Funny you should ask.

COMMISSIONER HUNTWORK: Little firms don't do it, don't want to advertise how big they are. Big firms don't, because there's not enough room. They are the optimum size, can do it.

CHAIRMAN LYNN: Interesting, did it alphabetically according to height. No.

We can't make a decision.

Go ahead, Dan.

COMMISSIONER ELDER: I have a
question here directed to Mr. Kanefield. Would
you mind leaving the room just a moment?
Can we ask our attorney of record,
or whatever, to leave the room just a moment?
CHAIRMAN LYNN: Really want to do
that?
COMMISSIONER ELDER: Sure. I wanted
to ask a question about the State Attorney
General.
CHAIRMAN LYNN: It's confidential
anyway.
MR. KANEFIELD: Want me to stay?
COMMISSIONER HALL: Decided to use
you --
COMMISSIONER ELDER: We talked about
using the Solicitor General and State Attorney
General's Office as our legal representative.
Then it evolved to Republican and Democrat. I'm
trying to figure out why. Is Mr. Kanefield too
young or Mr. Bales too young, too young to
remember the range war on redistricting? What is
it in the proposals different than they're
offering or have the ability to do? What am I to
throw out, find out? What am I supposed to be
looking for?
COMMISSIONER HALL: In my opinion,
you won't find any firm with resources more
qualified than the Attorney General's Office on
election law. I don't think there's any argument
on that point. I think that these guys by reason
of what they do have had to hit that ball so many
times, I don't think that's the issue.

I think that the issue is, reality
is, we have to deal with a tremendous amount of
public perception and it is going to be the
perception of some, whether we like it or not, by
reason of the fact that there's partisan
leadership at the head of the Attorney General's
Office there would be inappropriate influence.

I think what we're trying to do is
insure not only to the public, also when we come
up with an end result, to present this and have it
pass muster, to say look, we have, quote unquote,
the Independent Redistricting Commission,
independent, our counsel has given us independent
advice. We've taken every step to assure it's
independent.

I thought when we addressed it way
back, we would still solicit advice from the
Attorney General when needed. I thought that's

ATWOOD REPORTING SERVICE
Phoenix, Arizona
what we understood.

I think it's more of a perception issue, if you will.

COMMISSIONER ELDER: The only thing I can see that was an issue would be that if the redistricting is challenged; not if, when it is challenged, they would be named right along with us. They would be, in effect, part of the --

COMMISSIONER HALL: They're going to anyway.

COMMISSIONER ELDER: That way could they act as independent, providing advice and counsel to us, if they were preparing the case, in effect?

CHAIRMAN LYNN: Well, in truth, even though the Attorney General's Office was willing to continue to be our counsel, it did present a potential conflict for them if somehow the Commission acted in such a way as either against their advice or not asking the question and did something through its consultants that put the State or them in jeopardy in terms of having to defend the law versus what we did.

Now, the Attorney General has communicated with me -- I don't think anybody else
got a copy of the letter, so I'll share it with you -- that indicated since we were seeking independent counsel, that the Attorney General's Office is probably going to attend all of our meetings anyway at her direction to watch out for the interests of the State and to be vocal about issues where their office feels that we may be in dangerous territory, even without soliciting that answer.

Joe, I don't know -- Joe, do you know the letter I'm referring to Janet wrote?

MR. KANEFIELD: Yes.

CHAIRMAN LYNN: That's essentially the substance of the letter. She wanted us to know they'd be attending regardless. That interest is not abated in any way for us to hire our own counsel to serve as counsel for the Commission.

MR. KANEFIELD: That's a good summary of the letter.

COMMISSIONER ELDER: That makes me feel better. We're looking at the best and brightest in the field. They may be the best and brightest. We have a conflict perception. That
may be valid.

Thank you.

COMMISSIONER HUNTWORK: What you said is a very important point. I'm wondering, how will they input, comment, during the public comment session or --

CHAIRMAN LYNN: That's one way of doing it. My sense is Attorney General Napolitano hasn't been bashful in communicating by letter in addition to that if she feels or staff feels there's something we should know.

So I think we'll hear it both ways.

I would also suspect, although I can't, maybe Joe you can speak to this, that if there were issues that we were flirting with --

COMMISSIONER HUNTWORK: Right.

CHAIRMAN LYNN: -- I would think the Attorney General would want to communicate with our counsel directly as a matter of course and advise us if we were getting dangerously close to this, that, or whatever, if they saw that as a problem.

COMMISSIONER HUNTWORK: There is a procedure for asking for formal opinions.

CHAIRMAN LYNN: As a State

ATWOOD REPORTING SERVICE
Phoenix, Arizona
Commission, we still have the right to do that whether we have our own counsel or not.

COMMISSIONER HALL: I think, correct me if I'm wrong, without objection, we welcome, want to stay as far away from the edge as we can, welcome any and all input, direction, with respect to those issues. I think it's just a win-win field to have that structure.

CHAIRMAN LYNN: Ms. Minkoff.

COMMISSIONER MINKOFF: Question.

What -- one of the concerns I have, I know why we need to engage a Republican and Democrat as counsel. However, now, in the case of firms that have provided proposals to us, where there's a Republican, Democrat in the same firm, any problems they have, they'll have to work out in-house before they come to us. If we were to hire two separate individuals, we may have a situation of one lawyer telling us one thing and the other lawyer telling us something completely different so we're caught in the middle of competing legal advice.

At that point can we go to the Attorney General's Office and they be the tie breaker?
COMMISSIONER HALL: Well, I --

Go ahead, Jim.

MR. KANEFIELD: Asking that question, no.

CHAIRMAN LYNN: That's not a function they perform, from my standpoint. From my standpoint.

COMMISSIONER HUNTWORK: Get a straight answer from a lawyer.

CHAIRMAN LYNN: I'm very comfortable hiring either a firm, a firm's Republican, Democrat, or individual Republican, very comfortable having one of each. I don't see the situation where they're going to tell us two different things; because we're going to instruct them not to. My instructions I think to the attorneys, once hired, would be: You need to work those things out before you get to us. And we want a consensus opinion based on whatever your particular points of view are. But you are going to have to work those things out and argue them out, if they come out, before they come out to us, because it does no good to have each.

COMMISSIONER HUNTWORK: Very often what will happen here, particularly because we're

ATWOOD REPORTING SERVICE
Phoenix, Arizona
dealing with a new law, we may find ourselves with
a recommendation that isn't clear-cut and we have
to exercise our own judgment.

My feeling on this is I would like
to hear the -- all of the issues so that I can
decide. I don't want a guardian gatekeeper for
the issues.

I doubt that we will get -- we have
two lawyers we're talking about working on the
issues. They may not necessarily agree on every
single recommendation of what they want us to do
but will do a great job of presenting issues for
us so we make up our own mind.

COMMISSIONER ELDER: My preference,
like the Supreme Court, have a minority opinion,
say these are the points that were in question to
us. We feel this is the direction to go, give us
that, then say here's the pros, here's the cons,
and very short, three-, four-sentence paragraphs
on the issue.

CHAIRMAN LYNN: Mr. Hall.

COMMISSIONER HALL: I don't -- this
is kind of how I'm envisioning it. I look at, for
example, two firms.

COMMISSIONER MINKOFF: Three firms.
COMMISSIONER HALL: Okay.

COMMISSIONER HUNTWORK: Mariscal.

COMMISSIONER HALL: In my mind I kicked that one out. Thinking out loud here.

Anyway, I guess what I'm saying is if we're going to go out and get two different counsels, I think it would be foolish for us to address both parties with the same firm. In other words, why not tap into dual resources? That's why I'm saying, if we were to say, take on top of my stack, representing two principals, represent either party, I would foresee us designating one or the other party as representative one and then identifying somebody else as the representative of the other. One firm has people that represent -- every firm probably has people from both party. As long as we tap into resources, why not tap into more than one pool of resources and utilize the strength of --

After having read all I have before me, that's how I envision it. Not specifying who for where, saying generally I foresee two separate entities.

COMMISSIONER MINKOFF: Yet I believe there's something to be said for finding a single
firm to provide us both a Republican, Democratic perspective, just because I believe these people are going to have to work together. And these are people already experienced with working together who are used to coming up with a work product, you know, allowing for all the possibilities and interpretations, and so on. I think that may very well be a strength.

CHAIRMAN LYNN: One of the interesting things, and this is just observation, may not even be correct, I don't have as much experience in the Phoenix legal community as I do the Tucson legal community, but it occurs to me in the two firm applications that we've been discussing, not so much the Mariscal proposal but Jennings, Strouss & Salmon and Miller, LaSota & Peters, you sort of have, they are offering two people, one of whom seems much more prominent to me than the other. I may be wrong about that. You are shaking your head yes. You are shaking your head no. I may be wrong.

I know the name Ernie Calderon. I know it, not because I know him, I just know it, have heard it. I don't know David Cantelme. I don't know.
So one is more visible just in terms of awareness than the other. I know the name Jack LaSota but don't know --

COMMISSIONER MINKOFF: Jack LaSota was Attorney General.

COMMISSIONER ELDER: I don't know Tom Peters.

COMMISSIONER MINKOFF: He's primarily a litigator, and he's an incredible attorney.

CHAIRMAN LYNN: And we don't need a litigator. If we need a litigator, we'll hire somebody else. This is staff counsel we're talking about. If we need a litigator, we'll go out and get a killer litigator, in my opinion, to defend our position.

COMMISSIONER HALL: To summarize what you're saying, correct me if what I'm saying this is wrong, really, gentleman, this is a Democrat proposal trying to cover the other aspect.

COMMISSIONER MINKOFF: Not at all.

COMMISSIONER ELDER: Can we ask them to submit Republican, Democrat, or both, equal time, have the person we're going to see, what
you'll get Republican, what you see Democrat, even though both one firm, interview, select Republican or Democrat out of that firm, or both? How does that work from a procurement standpoint?

MR. ADLER: Thank you. We called for individual lawyers.

There's no problem having one coming from one firm, if that's what you choose. It said, choose the most qualified Republican and most qualified Democrat.

CHAIRMAN LYNN: While a submission of convenience, one submission, two from Jennings, Strouss & Salmon, two from Miller, LaSota & Peters.

MR. ADLER: Could be one is imminently qualified and one a throw-in.

COMMISSIONER ELDER: That's what I was going for. When they come in, have both presented, not the lead guy strong, oh, I have a guy in the wings. I want the guy in the wings to interview, too.

CHAIRMAN LYNN: We'll interview both, if that's the way we go.

COMMISSIONER HUNTWORK: One thing to throw in along the lines of the way you're
suggesting, one of the lawyers in each case is probably more prominent in the community. There's also the problem of hierarchy in a law firm. Committees set salary, committees review performance. Really to know what is going on, you have to know the internal workings of the law firm.

Could have either Democrat or Republican, one could have much more clout within his particular organization. That doesn't necessarily correspond to prominence in the community. The issue wouldn't come up if we hired one individual from a law firm. It conceivably could come up if we tried to hire two.

CHAIRMAN LYNN: What is interesting, I hadn't thought about it before we got submissions in, I hadn't thought about a single firm submitting two names. Not that I didn't think it possible, I hadn't thought about it; because the way we solicited, wanted a Democrat and Republican. I thought it interesting it happened that way. It doesn't mean anything. I didn't think it would come in quite the way it did.

COMMISSIONER MINKOFF: If that's the

ATWOOD REPORTING SERVICE
Phoenix, Arizona
case, then, I think it probably means Mariscal,
Weeks does not make the cut. I really did get a
picture this was a team submission. Fredda Bisman
is the contact person. She is a Democrat. But I
didn't see she was an applicant.

Not Miller, LaSota and Jennings,
Strouss, not in that sense.

CHAIRMAN LYNN: Right, in that
sense.

COMMISSIONER MINKOFF: If looking at
lawyers, not firms, maybe they do have a problem.

MR. ADLER: If it's the opinion from
the Commission one lawyer from a firm is
imminently qualified, nobody else is, it could be
the opinion of the Commission to bring in that
person. You could do that.

COMMISSIONER ELDER: That's what I'm
going for. Credentials of this person is somebody
we want to talk to. If they're not going to
commit that person to us, there's no reason to
interview.

MR. ADLER: If I could throw in.

CHAIRMAN LYNN: For example, I want
to understand what you are saying. If we made the
judgment that we wanted to talk to David Cantelme

ATWOOD REPORTING SERVICE
Phoenix, Arizona
and not to Ernie Calderon, we can do that.

MR. ADLER: Certainly could. We asked for individuals. If they choose to force it, we're a package --

CHAIRMAN LYNN: We need to know that.

MR. ADLER: -- we could say "I'm sorry. This is the want of the Commission."

You'll notice with Mariscal, Weeks, they actually have 14 members proposed. And at least according to calculations, three Democrats, one Republican. Looked a couple times, I'm a little close, two lead lawyers, two lawyers to talk about maybe back as public meeting specialists.

COMMISSIONER MINKOFF: Other two lawyers were litigators. Presumably they would be waiting in the wings to represent us in case there was litigation. One managing partner to supervise everything, and the other is Fredda Bisman. She'd be the attorney everybody would deal with, maybe the Democratic submission, Fredda Bisman.

CHAIRMAN LYNN: Let me ask a general question, so we know. We solicited and you received sealed bids with a monetary hourly rate
for the attorneys in question.

MR. ADLER: Yes, sir.

CHAIRMAN LYNN: When would it be appropriate for us to know that and do we take it into account before the fact or after the fact of selection?

MR. ADLER: We can open them. I don't know exactly how structured it is. The law doesn't say we have to seal envelopes and look at them separately. Generally we look at the technical qualifications first. We try not to let dollars influence that. People have a habit of letting money influence and say "Wow," eliminating a firm off the top.

At this point in time today I could open those up and let you know what those are or, if you want to wait until after interviews, do it then.

CHAIRMAN LYNN: You don't even know what the spread was?

MR. ADLER: No, sir, I don't.

Generally, the other thing we do, if you, after you make a decision, if you tell me you want to go back and negotiate, we can do it, too.

CHAIRMAN LYNN: Given that's in the

ATWOOD REPORTING SERVICE
Phoenix, Arizona
rules, I defer to you, Jim, the only attorney on it. Is it acceptable, if we chose a firm that submitted a dollar bid, 360 an hour, don't want to pay more than 300.

COMMISSIONER HUNTWORK: It's acceptable in the industry. The trick is how we do that and interface that with the process. If we want to select somebody tomorrow and not have to wait, you know, have this rescheduled, make a final decision, that would be a little tough. We could say: Hire them, agree to charge no more than X dollars. We can't have negotiation with them unless right now in the interview. I don't think we want to do that.

CHAIRMAN LYNN: I think tomorrow, we would probably, we would probably want to have an additional executive session after the interviews tomorrow, seems to me, to discuss performance interviews. At that point, would you then let us know the dollar figures associated with each finalist?

MR. ADLER: If you choose to, I can let you know now.

CHAIRMAN LYNN: No. I don't want it to prejudice me before the interview.

ATWOOD REPORTING SERVICE
Phoenix, Arizona
COMMISSIONER HALL: Prejudice?

CHAIRMAN LYNN: For me. Look, it's just me talking. We have more than enough money
to do this job.

COMMISSIONER MINKOFF: Exactly.

CHAIRMAN LYNN: The difference
between the lowest priced attorney and highest
priced attorney over the length of time we're
going to use them, my guess, it would not be more
than 10 to 15 thousand dollars differential, start
to finish. And given that it's that insignificant
a number in the overall budget, I'm not sure I
care.

COMMISSIONER MINKOFF: I'm not sure
I care even if more than that. I want the best
people as long as we have the money to pay for it.
I don't want to waste money. I want to be
respectful of the taxpayer's money.

COMMISSIONER HALL: You both argued
all the more why we should see the numbers now.

COMMISSIONER MINKOFF: I want to see
the best people. When picked, if the most
expensive firm by far, if I'm convinced they'll
provide a better product than anybody else, that's
the firm we want.

ATWOOD REPORTING SERVICE
Phoenix, Arizona
CHAIRMAN LYNN: I assume you want that information up front.

COMMISSIONER HALL: I think we ought to have all the facts. I totally agree.

CHAIRMAN LYNN: When do you want it?

COMMISSIONER HALL: Yesterday.

Right now is great. I agree I don't think it's that significant a factor.

For me, I have the opposite consideration. I think you can tell a lot by a person's --

When I've hired counsel, and correct me if I'm wrong, Jim, if they're charging more money, normally they're a little better attorney.

If one of the guys are here at 150 an hour, it says something.

COMMISSIONER HUNTWORK: I don't think attorneys, or most professionals, sell their services by saying "I'm the cheapest one." "I'm the best one for your job and people hire me on that basis."

COMMISSIONER ELDER: If I have somebody right out of school, they may charge $30 an hour. After 30 years' experience, they may be worth $300 an hour or 360.
CHAIRMAN LYNN: Or some other number.

COMMISSIONER ELDER: If you want to see how much, you take a look at them. I don't want to see them. I want to find out who we feel most comfortable with.

COMMISSIONER HUNTWORK: Make it available to whoever wants them and do it that way.

CHAIRMAN LYNN: That's fine.

I think after tomorrow, same thing, ought to do it with ISA. If negotiable, leave it up to the Chair, or whoever, after we make selections, to try to get the best rate we can and do the best we can.

COMMISSIONER MINKOFF: What I don't want to happen is for us to vote to hire firm X, authorize you to negotiate a fee reduction, and when you can't do it, come back and pick somebody else.

Pick somebody and get the best deal we can from them, pick them knowing we can go with them.

CHAIRMAN LYNN: Not a deal breaker.

COMMISSIONER ELDER: Something that
happened to me on a regular basis, I'd come in,
"We want to use your firm, but your fees are more
than we want to spend. What can you recommend to
reduce the fees?" Now, if the form of that says
we can't get the person, we'll give you a
secondary attorney in the office, no, that's not
acceptable. If they say "Well, if you do this
work and we provide you only these services," and
that's acceptable, that's fine.

COMMISSIONER MINKOFF: You are not
leading a public meeting. When we make a
decision, tomorrow or whatever time, I want it to
be our decision, not subject to negotiating fees.

COMMISSIONER ELDER: I know it's
counsel. We're selecting this firm. In the case
of architects, engineers, the city may only be
able to spend eight percent of the total project
cost, put in the proposal 9.6 percent: Have to
get it down. How do you recommend doing that?
I've gone back, presented a different scope of
work.

CHAIRMAN LYNN: Jim.

COMMISSIONER HUNTWORK: Slightly
different topic. One thing I wanted to get on the
table before we change subjects at all, I think

ATWOOD REPORTING SERVICE
Phoenix, Arizona
the litigation expertise is, in my mind, at least,
at this stage, almost irrelevant to the decision
we're making now. One particular reason for that
in my mind is that whoever our counsel is during
this stage may not even be able to represent us in
litigation. There's an ethical provision dealing
with being a witness in the case. And I think
with the way it stands now it's not a flat-out
prohibition, but they're supposed to withdraw if
anything you say or do could be prejudicial to
your client. So it would be very sensitive. I
expect whoever our attorney is to not even want to
be the litigator.

COMMISSIONER MINKOFF: Why would
they be a witness? Is it not all work product and
protected?

COMMISSIONER HUNTWORK: A lot of
what we do, a lot of things happening, number one,
they'll be with us in executive sessions, of
course; and executive sessions will be subject to
a limited form of discovery. Number two, I
suspect there will be individual conversations
between some of us and our attorneys that people
will want to ask questions about.

COMMISSIONER MINKOFF: And those

ATWOOD REPORTING SERVICE
Phoenix, Arizona
aren't privileged?

COMMISSIONER HUNTWORK: They are privileged. But remember, so are our executive sessions.

CHAIRMAN LYNN: To an extent.

COMMISSIONER MINKOFF: Those are discoverable.

COMMISSIONER MINKOFF: I always thought conversations between an attorney and client are privileged and an attorney would not be called to testify.

COMMISSIONER HUNTWORK: I don't know the answer to that question. The client -- they may be. It may be one of the questions we can ask them, how to set this up most effectively.

Remember, the client is the whole Commission. And maybe we have to have a rule we can't speak to them individually. Maybe we have to have a rule that says -- that says any conversation with us is a conversation -- is part of --

COMMISSIONER MINKOFF: Has to be.

Otherwise Steve can't call up --

CHAIRMAN LYNN: I think it's a great point to get on the record to discuss later.

ATWOOD REPORTING SERVICE
Phoenix, Arizona
I would like to --

Josh, I'll get to you.

I would like to move that ahead.

COMMISSIONER HALL: That's what I

was wanting to do.

CHAIRMAN LYNN: Only that we're at
closure on the attorney issue. I'd like to verify
that and move to executive director.

I'd like to give Lisa a five-minute

stretch and break. This is going a lot faster

than normal testimony.

Let me summarize where we are.

(Discussion off the record.)

CHAIRMAN LYNN: Where I think we are

is still under consideration for interviews
tomorrow are Lisa Hauser, Jose de Jesus Rivera,
the firm of Miller, LaSota & Peters proposing
Mr. LaSota and Mr. Peters, and Jennings, Strouss &
Salmon with Mr. Cantelme and Mr. Calderon.

COMMISSIONER HALL: Which is three

and three.

CHAIRMAN LYNN: That's where I think

we are.

COMMISSIONER HALL: Is it not?

MR. ADLER: It is.
CHAIRMAN LYNN: Yeah.

COMMISSIONER HALL: Next item.

COMMISSIONER MINKOFF: Next item,
five-minute break.

CHAIRMAN LYNN: If that's where we are, let's take a five-minute break, just five minutes, if we could, so Lisa can stretch.

MR. ADLER: Just housekeeping, but what time would you like for us to have them there when --

CHAIRMAN LYNN: We start at 8:30 tomorrow.

MR. ADLER: Okay.

CHAIRMAN LYNN: We have a call to the public first. I'd say we should start scheduling --

Would you rather hear execs here first tomorrow or legal first? I don't care, as a point --

COMMISSIONER ELDER: Get there, need to give attorneys more time than the executive people or --

MR. ADLER: I'd run them in first.

COMMISSIONER MINKOFF: Run attorneys in first, know where we start and how long --
COMMISSIONER ELDER: Court doesn't start til 10:00, 11:00 o'clock.

CHAIRMAN LYNN: Most all the folks knew they needed to keep tomorrow free for potential interviews.

COMMISSIONER MINKOFF: Start at 8:45 or 9:00 o'clock.

CHAIRMAN LYNN: Have them here at 8:30, begin at 8:30.

COMMISSIONER HUNTWORK: They won't mind.

COMMISSIONER MINKOFF: How long do we anticipate for each one?

CHAIRMAN LYNN: Depends on how many questions we want to ask.

COMMISSIONER MINKOFF: Do that also today, make up a list. Seems to me we're supposed to ask the same questions of every applicant.

COMMISSIONER ELDER: We are.

CHAIRMAN LYNN: We are. The way you did with me, I don't know know whether you have the same questions -- I would suggest the following: First, it is -- it was difficult, and I think somewhat unfair, to have a public interview process with all applicants present.

ATWOOD REPORTING SERVICE
Phoenix, Arizona
What I would propose tomorrow, both with the execs and with the legal, is have the applicants in one at a time. And once they've interviewed, they can stay; but they can't join us until they interview. Therefore, nobody has an advantage over anybody else. We'd instruct anybody here publicly to not discuss anything with the applicants outside as they wait. Same thing would be true with executive directors, come in one at a time, wait one at a time, interview, and then they can stay. At that time then each would have the same opportunity to answer questions.

With respect to questioning, what I suggest is this evening, afternoon or evening, each of us prepare a number of questions to ask generically the executive director or the legal applicants and that we go through as many of those rounds of questions as you would like tomorrow with the idea you would simply ask the same question of each of the applicants. That way they'd all be asked the same thing.

Joe? Joe.

MR. KANEFIELD: Couple things I'd suggest. You can't exclude people from the meeting. It's an open meeting.
COMMISSIONER HUNTWORK: Has to be voluntary.

MR. KANEFIELD: You can't exclude.

CHAIRMAN LYNN: If applying for a job, I'd expect they'd comply. I'm guessing we can do that.

MR. KANEFIELD: The other thing, now the procedure for the interview. I suggest you do that in open meeting, keep the executive session for discussion of applicants.

CHAIRMAN LYNN: Let's take a five-minute break, be prepared to talk about executive directors.

Thanks, Joe.

Thanks, Lisa.

(Recess taken.)

(Whereupon, Commission proceedings were held in Executive Session that remained so designated.)

* * * *

Open Session
Phoenix, Arizona
March 19, 2001
12:10 o'clock p.m.

ATWOOD REPORTING SERVICE
Phoenix, Arizona
APPEARANCES:

CHAIRMAN STEVEN W. LYNN
COMMISSIONER JAMES R. HUNTWORK
COMMISSIONER JOSHUA MARK HALL
COMMISSIONER ANDI MINKOFF
COMMISSIONER DANIEL R. ELDER
BILL HERNANDEZ, Acting Executive Director
JOSEPH KANEFIELD, Assistant Attorney General
LOA SCHELL, Acting Secretary
LISA A. NANCE, RPR, CCR, Court Reporter
CLAUDIA SMITH
CHRISTINE BRONSON

Members of the Public were also present.

ATWOOD REPORTING SERVICE
Phoenix, Arizona
CHAIRMAN LYNN: Call the Commission back into open session at 12:10 p.m.

With respect to the agenda item number six, legal counsel, and our desire to interview legal counsel tomorrow, the Chair would accept affirmative motions for any applicant who wished to be interviewed.

Mr. Huntwork.

COMMISSIONER HUNTWORK: Mr. Chairman, before we do that, I had disclosed in executive session, but I think that I should also say in public meeting, that one of the applicants for legal counsel, the firm of Jennings, Strouss & Salmon, I worked for them, with them, for 15 years, from 1977 until 1992. I no longer have any financial interest or other type of interest which I would consider to be a current conflict and intend to participate in the discussion of that applicant as well as the others.

I did want to disclose the past relationship.

CHAIRMAN LYNN: Thank you,

Mr. Huntwork.
Any other comments from the Commission?

The Chair would entertain an affirmative motion.

COMMISSIONER ELDER: Mr. Chairman, I would like to propose we interview Lisa Hauser.

CHAIRMAN LYNN: Is there a second?

COMMISSIONER MINKOFF: Second.

CHAIRMAN LYNN: All in favor of interviewing Lisa Hauser, signify by saying "aye."

(Vote taken.)

CHAIRMAN LYNN: Opposed, say "no."

We'll schedule Lisa Hauser for an interview.

Ms. Minkoff.

COMMISSIONER MINKOFF: Mr. Chairman, I would move that we interview Jack LaSota and Donald Peters from the firm of Miller, LaSota & Peters.

CHAIRMAN LYNN: Is there a second?

COMMISSIONER HALL: Second.

CHAIRMAN LYNN: Discussion?

If not, all those in favor, say "aye."

(Vote taken.)

ATWOOD REPORTING SERVICE
Phoenix, Arizona
CHAIRMAN LYNN: Opposed, say "no."

Motion carries.

Mr. Huntwork.

COMMISSIONER HUNTWORK: Mr.

Chairman, I propose we interview Jose Rivera.

COMMISSIONER MINKOFF: I'll second that.

CHAIRMAN LYNN: Discussion?

Hearing none, all those in favor, say "aye."

(Vote taken.)

CHAIRMAN LYNN: Opposed say "no."

Motion carries.

We will interview Jose de Jesus Rivera.

Any other motions?

COMMISSIONER HALL: My turn now?

I move we interview Mr. Earnest Calderon with the firm of Jennings, Strouss & Salmon.

COMMISSIONER ELDER: Second.

CHAIRMAN LYNN: Is that a single interview --

COMMISSIONER HALL: We can do David J. Cantelme.

ATWOOD REPORTING SERVICE
Phoenix, Arizona
CHAIRMAN LYNN: -- as well.

Second?

COMMISSIONER ELDER: Yes.

CHAIRMAN LYNN: Discussion?

All those in favor, say "aye."

(Vote taken.)

CHAIRMAN LYNN: Opposed, say "no."

Motion carries.

We'll be interviewing two attorneys from the firm of Jennings, Strouss & Salmon.

We will be interviewing two attorneys from the firm of Miller, LaSota & Peters.

We will be interviewing two individuals attorneys, Lisa Hauser and Jose de Jesus Rivera.

Those interviews will take place tomorrow in open meeting.

With respect to screening of the executive director candidates.

COMMISSIONER HALL: One question.

With respect to order of the legal counsel, are we going to allow that just to be random?

CHAIRMAN LYNN: We've asked -- I hope that folks from procurement will simply set
up some slots and call people and get them filled as best we can.

COMMISSIONER HALL: Okay.

CHAIRMAN LYNN: No set order to the interview. I think the same thing would be true of executive director once we get to that.

With respect to the executive director, we have had, I believe, a total of 15 applications. 18 -- 17?

COMMISSIONER MINKOFF: Two are on there twice.

CHAIRMAN LYNN: Right. With and without letter. So it's 14, 15?

COMMISSIONER ELDER: 15.

COMMISSIONER MINKOFF: 15.

CHAIRMAN LYNN: I'm going to read the names. And I'm going to ask that we take a straw vote.

Claudia, if you will, kind of keep track for us.

And without objection, any applicant who receives at least three votes of the Commission will be asked for interview.

Hearing no objections, let me read the names. Would you please vote on each of the

ATWOOD REPORTING SERVICE
Phoenix, Arizona
following candidates you feel deserves an
interview.

Louis Rhodes?

(Hand vote taken.)

CHAIRMAN LYNN: Mr. Rhodes will not
be interviewed.

Enrique Medina Ochoa?

(Hand vote taken.)

CHAIRMAN LYNN: Mr. Ochoa will be
interviewed.

Grady Bailey, Jr.?

(Hand vote taken.)

CHAIRMAN LYNN: Mr. Bailey will be
interviewed.

Ilia Terrazas?

(Hand vote taken.)

CHAIRMAN LYNN: Ms. Terrazas will be
interviewed.

Norris Nordvold?

(Hand vote taken.)

CHAIRMAN LYNN: Mr. Nordvold will
not be interviewed.

William G. Hernandez?

(Hand vote taken.)

CHAIRMAN LYNN: Mr. Hernandez will

ATWOOD REPORTING SERVICE
Phoenix, Arizona
be interviewed.

Malena Albo?

(Hand vote taken.)

CHAIRMAN LYNN: Ms. Albo will be interviewed.

Joseph A. Galli, Jr.?

(Hand vote taken.)

CHAIRMAN LYNN: Mr. Galli will not be interviewed.

Judy Eisenhower?

(Hand vote taken.)

CHAIRMAN LYNN: Ms. Eisenhower will not be interviewed.

Steve Gallardo?

(Hand vote taken.)

CHAIRMAN LYNN: Mr. Gallardo will not be interviewed.

Rosendo Gutierrez?

(Hand vote taken.)

CHAIRMAN LYNN: Mr. Gutierrez will not be interviewed.

Don Luria?

(Hand vote taken.)

CHAIRMAN LYNN: Mr. Luria will not be interviewed.

ATWOOD REPORTING SERVICE
Phoenix, Arizona
Cara Elizabeth Walsh?
(Hand vote taken.)
CHAIRMAN LYNN: Ms. Walsh will not be interviewed.

Alex Rodriguez?
(Hand vote taken.)
CHAIRMAN LYNN: Mr. Rodriguez will not be interviewed.

Augusta Knight?
(Hand vote taken.)
CHAIRMAN LYNN: Ms. Knight will not be interviewed.

I have five interviews for tomorrow: Enrique Medina Ochoa, Grady Bailey, Jr., Ilia Terrazas, William G. Hernandez, and Malena Albo. For the record, since that was a straw vote, could we have an affirmative motion to interview those five individuals?

COMMISSIONER MINKOFF: So moved.
CHAIRMAN LYNN: Second?
COMMISSIONER HALL: Second.
CHAIRMAN LYNN: Thank you, Mr. Hall.
All those in favor, signify by saying "aye."
(Vote taken.)
CHAIRMAN LYNN: Opposed, "no."

The "ayes" have it unanimously.

It is so ordered.

COMMISSIONER MINKOFF: Mr.

Chairman --

CHAIRMAN LYNN: Ms. Minkoff?

COMMISSIONER MINKOFF: Will the

Department of Administration then coordinate with

the Procurement Office to schedule these?

CHAIRMAN LYNN: I believe we've

instructed, or haven't instructed but will, should

instruct, we'll begin with attorney interviews

tomorrow morning. To the extent possible, we'd

like to keep them -- not be jumping back and

forth. That would be useful for us to keep the

interviews for attorneys together and the

interviews for executive director together.

So we'd like to start with the

interview for attorneys first thing at 8:30

tomorrow, allow a half hour for each interview.

And we're interviewing six, so that's three hours,

plus a break.

MR. ADLER: Want me to schedule --

CHAIRMAN LYNN: Have the executive

directors in the afternoon. It would be easier.

ATWOOD REPORTING SERVICE
Phoenix, Arizona
Start at 1:00 o'clock with the executive directors. If we finish earlier, it will give us more of a lunch break. That will be easier.

Ms. Minkoff.

COMMISSIONER MINKOFF: A logistic question. Of the six attorneys interviewing, in two cases they're from the same firms. Are we going to interview those individuals individually or together?

CHAIRMAN LYNN: We're hiring individually. My suggestion is we interview individually and it's not necessary, therefore, to schedule back to back, necessarily. We're looking at six individuals. In two cases they happen to be from the same firm.

Okay. Are we clear on the schedule tomorrow?

Mr. Hall?

COMMISSIONER HALL: Want to mention the preference with interviewees staying out of the room until their turn?

CHAIRMAN LYNN: Do it tomorrow. Don't need to do it until tomorrow. Since voluntary, it might be useful to have that said when the applicant is scheduled for an interview.
COMMISSIONER ELDER: Somebody not
scheduled until 10:30, might show up at 8:30.

CHAIRMAN LYNN: We wouldn't
necessarily know.

Let me make this suggestion and see
how you feel about that. My suggestion about that
is that we ask all the applicants, in fairness to
the other applicants, to remain outside the room
until they have been interviewed. Once they've
been interviewed, they may stay for the rest of
the open meeting.

Again, we have no authority to force
that to happen. We're asking them to voluntarily
remain outside until their interview has been
conducted and then join us.

Without objection, we'll ask
interviewees be informed of that request and that
they be told it is in fact voluntary, but it would
be a -- in fairness to the other applicants that
they do that.

Any other comments on the screening
for executive director?

If not, we'll move to the second
public comment period for the day.

Is there anyone in the audience
wishing to be heard in public comment?

Seeing none, the Commission will stand in recess until 8:30 tomorrow morning at this same location.

(Whereupon, the hearing adjourned at approximately 12:22 p.m.)

* * * * *

ATWOOD REPORTING SERVICE
Phoenix, Arizona
BE IT KNOWN that the foregoing hearing was taken before me, LISA A. NANCE, RPR, CCR, Certified Court Reporter in and for the State of Arizona, Certificate Number 50349; that the proceedings were taken down by me in shorthand and thereafter reduced to typewriting under my direction; that the foregoing 85 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 March, 2001.

____________________
LISA A. NANCE, RPR
Certified Court Reporter
Certificate Number 50349

ATWOOD REPORTING SERVICE
Phoenix, Arizona