ARIZONA INDEPENDENT REDISTRICTING COMMISSION

PUBLIC MEETING

Date: March 24, 2011
Time: 1:00 p.m.

Location: Medical Examiner's Room
9535 East Doubletree Ranch Road
Scottsdale, Arizona

MEMBERS PRESENT:
Colleen Coyle Mathis, Chairperson
Scott Day Freeman, Vice Chairperson
Jose M. Herrera, Vice Chairperson
Linda McNulty, Commissioner
Richard Stertz, Commissioner

Also present: Christopher Munns
Assistant Arizona Attorney General

INDEX

1  I N D E X
2 ITEM                                             PAGE
3  I  CALL TO ORDER                                3
4  II  APPROVAL OF 2-24-11 MINUTES                 5
                     Page 1
TRANSCRIPT OF PROCEEDINGS

CHAIRPERSON MATHIS: Great. This meeting will come to order. This is the second meeting of the Arizona Independent Redistricting Commission. And I'd like to start with a pledge of allegiance, so if we could all rise.

(Pledge of Allegiance.)

CHAIRPERSON MATHIS: I'd like to inform
everyone that if you would like to address us during the public comment session -- section, that there are requests to speak forms outside that you can fill out and give to me.

I'd also like to note that we have a court reporter today, Meri, and she has requested that we each speak one at a time, as we're accustomed to doing, so she can make sure to take an accurate record.

If I could now begin with the roll call.

Vice Chair Freeman?

VICE CHAIRPERSON FREEMAN: Here.

CHAIRPERSON MATHIS: Vice Chair Herrera?

VICE CHAIRPERSON HERRERA: Here.

CHAIRPERSON MATHIS: Commissioner McNulty?

COMMISSIONER McNULTY: Here.

CHAIRPERSON MATHIS: Commissioner Stertz?

COMMISSIONER STERTZ: Here.

CHAIRPERSON MATHIS: We have a quorum.

I'd like to recognize as well that Assistant Attorney General Chris Munns is over here, and he's acting as counsel today for us. And Jim Barton is on a business trip so couldn't make it. But he's -- Chris is from the Solicitor General's Division, the same area as Jim.

So thanks for joining us, Chris.

This brings us to item II of the agenda, the minutes. So some revised meeting minutes from the February 24th meeting were distributed.

Did everyone have a chance to review those?

COMMISSIONER McNULTY: Yes.

VICE CHAIRMAN FREEMAN: Madam Chairman, I
have one change. On page 2, third paragraph from the 
bottom, I think this was a change I noticed in the last --

CHAIRPERSON MATHIS: Yes.

VICE CHAIRMAN FREEMAN: I believe Mr. --
it's Mr. Stertz asked that question.

CHAIRPERSON MATHIS: Okay.

VICE CHAIRMAN FREEMAN: That was the only 
change I had.

CHAIRPERSON MATHIS: Would you mind 
repeating that? I just found it.

VICE CHAIRMAN FREEMAN: Sure. Second page,
third paragraph from the bottom, it begins, "Mr. Freeman 

asked why Ms. Lanning" --

CHAIRPERSON MATHIS: Stertz.

VICE CHAIRMAN FREEMAN: Mr. Stertz.

CHAIRPERSON MATHIS: Okay. Any other 
corrections?

COMMISSIONER MCNULTY: I think I had one or 
two. I just need to find them.

In paragraph 4 on page 1, Secretary Bennett 
explained that five candidates. I thought we should 
clarify "for the independent position for the interview."

CHAIRPERSON MATHIS: Okay.

COMMISSIONER MCNULTY: That's the only 
thing.

CHAIRPERSON MATHIS: Any other corrections?

VICE CHAIRPERSON HERRERA: No.

CHAIRPERSON MATHIS: Without objection,
then, if we could go ahead and approve these minutes as
amended, based on these two amendments that were just noted.

VICE CHAIRPERSON HERRERA: I make a motion to approve the meeting minutes for February 24th and March 9th as amended.

VICE CHAIRMAN FREEMAN: I'll second.

CHAIRPERSON MATHIS: All in favor?

VOICE VOTES: Aye.

CHAIRPERSON MATHIS: Any opposed?

(No verbal response.)

CHAIRPERSON MATHIS: Okay. These minutes pass as amended.

And then we have another set of minutes from the March 9th meeting. Those were distributed. Did everyone have a chance to review them? Any corrections to those minutes?

COMMISSIONER McNULTY: Madam Chair, I was concerned that those minutes might in a number of respects not be entirely in sync with our transcript and wondered if we should review them once we receive a copy of the transcript. I don't see anywhere it's wholly inconsistent, but I do see some things that probably need to be clarified, that we could do with the benefit of the transcript.

VICE CHAIRPERSON HERRERA: I would need to amend my motion because I included the March 9th meeting minutes.

CHAIRPERSON MATHIS: Oh, that's right. Yes. You did. Thank you for noticing that. So your motion is amended to just include --
VICE CHAIRPERSON HERRERA: Include the February 24th meetings, the amended, revised minutes.

CHAIRPERSON MATHIS: Right. Right. Because we're discussing the March 9th minutes now. Thank you.

Andy -- If I could ask counsel on that, if -- We do have a transcript of the March 9th meeting.

MR. MUNNS: Right.

CHAIRPERSON MATHIS: And so would it be appropriate to send that out to everyone for approval, and that would take the place of the March 9th minutes? Or how does that get addressed?

MR. MUNNS: Well, it -- The open meeting law doesn't really require that you approve them. And given that it's a transcript from a court reporter, I don't think the board would have to -- I mean, the commission -- would have to review, you know, a hundred-page transcript and actually vote on it. You could rely on the court reporter to make an accurate copy, and counsel and the executive director would be able to look at it and make sure that there's no typos or anything.

So if you want to substitute the transcript instead of written minutes, that would work fine, because it accurately represents everything that was said.

CHAIRPERSON MATHIS: Right. More accurate than the minutes.

MR. MUNNS: Right.

CHAIRPERSON MATHIS: So great.
COMMISSIONER McNULTY:  Madam Chairman, move that we substitute the transcript for the minutes of that meeting.

CHAIRPERSON MATHIS:  Do I hear a second to that motion?

VICE CHAIRPERSON HERRERA:  I second that.

CHAIRPERSON MATHIS:  Any discussion?

VICE CHAIRMAN FREEMAN:  Yes.  I have some concerns about just not approving transcripts.  I would prefer the transcript, if we could just go with the transcript instead of minutes and that satisfies the open meeting law, I'm fine with that, but I am always used to reviewing transcripts and approving them before they become final and official transcripts.  Certainly in terms of -- context of litigation, the person who is being deposed always has that opportunity, at least, to review and double-check the transcript, and I know it means somebody has to read them.  I'm happy to read them.

MR. MUNNS:  And actually, Madam Chair, I -- the -- all of the commissioners will receive a copy of the transcript so they can review it and send any changes to the executive director so that, you know, it will be an accurate transcript.  I forgot.  Sorry I didn't mention that.

CHAIRPERSON MATHIS:  No problem.

Counsel, is there also some kind of rule that we need to have the transcript posted within a certain amount of time at the end of the meeting?

MR. MUNNS:  Since they're your minutes,
they'll need to be available within three days after your meeting. So you can check to see how fast the transcript will be available, and perhaps you may want to record a meeting as a backup so the recording can be available until the transcript is finalized, something like that.

CHAIRPERSON MATHIS: Okay. Great.

So we need to vote on that motion, I believe. Any other discussion before we vote?

VICE CHAIRMAN FREEMAN: Well, is the motion that we just simply adopt the unofficial transcript as our minutes of the last commission hearing?

COMMISSIONER McNULTY: Subject to an opportunity of the commissioners to review and clarify and correct.

VICE CHAIRMAN FREEMAN: If that's the motion, I have nothing further to say.

CHAIRPERSON MATHIS: Okay. Any other discussion?

COMMISSIONER STERTZ: Could you restate the motion?

COMMISSIONER McNULTY: I would move that we substitute the transcript of the March 9th meeting for the draft minutes that were taken and allow the commissioners the opportunity to review the transcript upon receipt and make any comments and corrections.

VICE CHAIRPERSON HERRERA: I second that.

CHAIRPERSON MATHIS: All in favor?

VOICE VOTE: Aye.

CHAIRPERSON MATHIS: Any opposed?
No verbal response.)

CHAIRPERSON MATHIS: Okay. So the motion carries.

So we are at item III now on the agenda, and that's the call for public comment. I have two requests up here to speak.

VICE CHAIRPERSON HERRERA: Third one.

CHAIRPERSON MATHIS: Oh, great. A third.

Thank you.

Great. So we'll start with Manny Bustamante. He is counsel at the Hispanic Center for Constitutional Law.

Manny?

MR. BUSTAMANTE: Good afternoon.

CHAIRPERSON MATHIS: Good afternoon.

MR. BUSTAMANTE: Is it okay if I sit?

CHAIRPERSON MATHIS: Sure.

VICE CHAIRPERSON HERRERA: Of course.

MR. BUSTAMANTE: Thank you.

Good afternoon, members of the commission.

My name is Manny Bustamante. I'm here on behalf of the Hispanic Center for Constitutional Law. And I want to thank you for serving on this commission.

The service you're going to be performing -- the volunteerism on behalf of the people of Arizona is a very important one. I want the commission to know I'm going to be available to assist the commission during this redistricting process. I wish to have an ongoing dialogue with this commission, and I look forward to working with the commission during this process.
I notice many issues the commission's going to face over the next several months, and today's meeting is more administrative in nature. However, what I'm going to speak to the commission about today will become your chief concern as commissioners. And that's going to be your ability to draw legal and fair maps. What's going to affect that ability to draw those legal and fair maps is the Voting Rights Act. And the commission must, in accordance with the supremacy clause of the Constitution, give priority consideration to the federal Voting Rights Act including both section 2 and section 5.

Section 5 of the Voting Rights Act protects minority voters from any election procedures, including this redistricting, that retrogress or harm the interests of minority voters with respect to the benchmark plans. In our case, section 5 prohibits any redistricting plan that harms minority voting strength. Therefore, section 5 prohibits this commission from any redistricting plan that dilutes or negatively affects Hispanic citizens' voting interests.

In addition, we're going to ask the commission to pay attention to the requirements of section 2 of the Voting Rights Act. In light of the Supreme Court's decision in Bartlett v. Strickland, as the Supreme Court stated in that case, much remains to be done to ensure that citizens of all races have equal opportunity to share and participate in our democratic processes and traditions, and section 2 must be interpreted to ensure that that continued -- progress
I'm available to work with this commission throughout this redistricting process to ensure that the voting rights of Hispanic citizens and all minorities are protected during this process. Our group wants to work with this commission to ensure that there's no retrogression of Hispanic citizens' voting interests and no retrogression of any kind in the Hispanic majority districts.

The United States Supreme Court stated that for equal protection of our citizens, we needed to have one person and one vote. The Supreme Court stated that we cannot create districts where voters have unequal voices. Hispanic citizens and all minorities have fought long and hard for the right to vote and have their vote heard in our country. Hispanics have a right to be heard and have their vote count.

Under the Voting Rights Act, Hispanic citizens have a right to elect a representative of choice where the requirements of the Constitution and the Voting Rights Act are met. Arizona currently has two majority/minority Hispanic districts, and this commission cannot permit those two Hispanic districts to become diluted. To ensure that Hispanic voting interests are protected under section 5 of the Voting Rights Act, this commission will need to use the citizen voting age population in the redistricting process.

This commission cannot ensure that a district will be a majority/minority citizen voting age population district if the commission does not create a
district that has sufficient Hispanic population to ensure that Hispanics are the majority of the citizens in that district. If this commission does not ensure that districts have a majority population of Hispanic citizens of voting age, then the result will be those majority Hispanic voting age districts will likely fail to be able to elect a candidate of choice because their vote would be overwhelmed by the majority of citizens of voting age.

As this commission is aware, Arizona is a preclearance state, and the redistricting plan will need preclearance before it can be approved. Therefore, this commission will need to ensure that any new plan does not violate section 5 in any way.

I want to work with this commission to ensure that any re- -- any redistricting plan created complies with the Voting Rights Act and protects the voting interests of Hispanics. Thank you.

CHAIRPERSON MATHIS: Thank you.

Our next speaker, David Braun. And the subject, it looks like, is item 7 and 9 on today's agenda.

MR. BRAUN: Good afternoon, members of the commission. My name is A. David Braun. I'm an attorney. And just for your background, 10 years ago I represented a number of plaintiffs in reference to the congressional aspect of redistricting. Seems interesting that we're meeting at the Board of Medical Examiners, and we can find out where all the bodies are buried maybe.

Anyway, I want to talk about item 7 and 9.
In reference to item 7, the appointment of outside
counsel, I noticed that currently you have the attorney
general's office representing you, which was, in fact, the
procedure 10 years ago. The first commission made this --
deliberately made this sort of decision in reference to
whether to continue to retain the attorney general or
whether to go to outside counsel.

The Arizona Supreme Court has given use of
guidance in reference to your function during this whole
process, and they've decided very specifically that the
commission is not an administrative agency of the state,
nor is it certainly a judicial body; it is equivalent to a
legislative process. And you're subject to, of course,
all the lobbying that legislators receive, all the e-mails
and phone calls and contacts and the things that you've
probably already gotten in reference to this process. And
you're going to receive a lot more.

I think it's essential in making a decision
as to whether to continue to retain the attorney general
or to appoint outside counsel to consider certain factors.
Notwithstanding the affability or the competence or the
perceived neutrality of the attorney general -- the
individual that may be assigned to represent the
commission, there's a real inherent conflict of interest.
I've already written to Commissioner Herrera and

As I -- You are partisan appointees even
though you certainly have to work together as, you know,
one commission to ultimately come up with appropriate and legal maps that will survive your own evaluations and the Justice Department's evaluation and ultimately the Court's evaluations. Because almost invariably, there will be litigation, and you should expect that and not be surprised or upset when it comes, because there's always going to be some politician or some group or some party or city or county that's upset with the redistricting map that you've drawn.

Anyway, on that basis, I think you need to have outside counsel equivalent to what our legislature has. They have a Democratic outside -- Democratic counsel and a Republican counsel in the legislature. Because I can't see, among the five of you being solely represented by the attorney general, having -- I don't see how the attorney general, rather, can represent all five of you with varying interests in this matter.

I think the lawyers will recognize -- the two lawyers that are already members of the commission that there is going to be an inherent conflict of interest, at least from my perception, if the attorney general is trying to represent two Democrats, two Republicans in this ultimately political process that you are -- you're entering. So that is my pitch in reference to item 7.

In reference to item 9, which may not get very much attention -- it may not be controversial, but it's just something that I have noticed -- currently the website for the commission is, of course, the old website
with all the maps and details and information from the 2001 process. I hope you retain that forever. It is a major historical piece of reference. Don't give it to the archives yet. Keep it as an available resource for you to use. If you have the time and energy, going through it will give you an idea of what the commission did 10 years ago and the struggles that they were having.

You're going to have the same sort of struggle. I can see the Hopis and the Navajos coming to you and having a conflict. We've already had the first gentleman who spoke concerning the voting rights issue. The same sort of legal issues and political issues that were present 10 years ago are present currently.

So that's my pitch for history and the use of that -- those documents that you may find useful during the current process.

And I thank you for your attention. Good luck.

Chairperson Mathis: Thank you.
Commissioner Stertz: Thank you.
Vice Chairperson Herrera: Thank you.
Chairperson Mathis: We have one more speaker from the public, Marsha Bushing. She's executive director, and you'll have to -- it says. Oh, you're going to talk about the executive director position.

Ms. Bushing: Yes.
Chairperson Mathis: Sorry.
You're from -- If you could say where you're -- who you represent.
MS. BUSHING: I don't represent anybody other than myself. And I am Marsha Bushing. And thank you, each of you, for serving on the commission. And before I start talking about that, I just want to echo what David said about the website. It is very helpful, and it would be a shame to take it down, because I think not only each of you will find it useful as you go forward, but I think members of the public may find it very useful as well. But off that subject and on to the executive director, I missed the meeting in Tucson, so you, obviously, have geared up a lot more since the meeting where, Madam Chairman, you were chosen, and there's staff and audio/visual. But I think it's really important that you, in fact, continue the audio/visual. And what I came here in part to say as to the executive director is if part of your requirements or qualifications for the executive director would include somebody that has A/V understanding and training, it might be very helpful if you don't otherwise have a full-time A/V person to help you out. And in particular, I know one of the issues is budgets this year. And in mediations and arbitrations, I have conducted long-distance audio/visual as easy as doing two Web cams, a Skype, and a screen -- Skype on -- on computer and screen. So you can, I mean, install Skype for free. The Web cams are less than a hundred dollars apiece, and, you know, the screen can either be the wall or a screen,
so you can set up remote access from all parts of the state pretty easily, particularly if one or more of you can't attend a meeting and just have it that way.

And I know that from other experiences, the Web-based services for anybody viewing the meetings these days has gotten a lot cheaper, and it would be very helpful for members of the public, regardless of where you decide your offices are going to be, to be able to be --

to view the meetings contemporaneously.

Thank you.

CHAIRPERSON MATHIS: Thank you.

VICE CHAIRPERSON HERRERA: Thank you.

CHAIRPERSON MATHIS: Okay. That ends the public comments period.

Item IV on the agenda is the introduction of Megan Darian, who is State Boards Administrator. And she's going to be on loan to us -- to this commission from the ADOA. She's standing in the back. And I'm very grateful to Megan for her help in getting us up and running. And there are a number of people from ADOA who are in this room and will also be speaking during this meeting at various points in the agenda.

But I'd also like to give a sincere thank you to Bill Hernandez, who is also here today. Bill went to bat for us, understanding that we really were in need of an interim executive director until we could get an executive director on board.

And I thank you, Bill.

VICE CHAIRPERSON HERRERA: Is he here?

CHAIRPERSON MATHIS: Yes.
Bill, if you could stand up?

Thank you.

VICE CHAIRPERSON HERRERA: Thank you, Bill.

CHAIRPERSON MATHIS: We all appreciate that.

So that takes us to item V, which is probably why most everyone's here today, the open meeting law and Robert's Rules of Order Training by the AG's office, Christopher Munns.

MR. MUNNS: Hello, Madam Chairman, members of the commission.

I have put two handouts at each spot for you. One is a handout I prepared on the open meeting law. It's a little more detailed than the presentation I'll be giving. And the other is a PowerPoint done by one of my colleagues on effectively running a meeting. I also have copies of those out in the foyer for the public if they're interested.

I'll start with the open meeting law and then go quickly through the running the meeting. Some of these concepts might be familiar to some of you, so I hope you'll bear with me. And if you have any questions, please interrupt me at anytime. I actually prefer doing Q and A better than just lecturing nonstop.

So I'll start with the open meeting law. And this seems like it would be a very simple law, and succinctly stated, it just means that all meetings of any public body need to be public meetings, and any interested person can attend and listen. So it's kind of simple,
but, you know, we've got a whole bunch of law that goes along with that. This concept is reenforced for this commission because the Constitution imposes the same public access requirements on you and actually puts a lengthier notice period. The usual notice period is 24 hours for a public body. For the commission, it's 48 hours. So I think that shows some intention that this commission be very accessible to the public.

In addition to just the availability of the body for the public to attend, the commission also has to provide notice and agendas for every meeting, and these have to have enough information that a reasonable person in the public could know what you're going to be talking about and deciding.

Now, the purpose for these sunshine laws, like the open meeting law, is to protect the relationship of the public -- between the public and its officials, to promote accountability of public officials to the constituents. And this also allows members of the public to come in and by seeing what's going on, to be able to more meaningfully participate in public life. So those are kind of the three things that should always guide you in any sort of open meeting law quandary, because some areas of the open meeting law can get kind of vague, and so you might have to use a gut feel sort of decision.

Usually in that case, we advise to err on the side of being open to the public.

So I'm going to kind of do this in a top five sort of things you need to know, sort of like...
Letterman except not as funny and only half.

So the first thing, probably one of the most important things you need to remember as commissioners, is not to talk about commission business outside of an open meeting with a quorum of your fellow commissioners. All discussions, deliberations, proposals for legal action with the quorum of the board need to happen at a commission meeting. So anything outside the meeting between the quorum violates the open meeting law. And for this commission, the quorum is three people.

Also, the open meeting law can be circumvented by what we call splintering the quorum. That means one person talks to less than a quorum but does so one at a time and then passes on information from one to the next. So you, essentially, achieve a quorum just not all in the same place. That has also been held to be an open meeting law violation. I don't see that happening intentionally very much anymore. Most public servants are honorable and don't do that.

But we do caution public officers that it can happen unintentionally a lot, because sometimes conversations just happen, and before you know it, you might have -- something might have slipped out that someone told you and you unknowingly created a quorum of the commission. So we encourage commissioners not to talk to other commissioners outside of the meeting about commission business.

We do that, first, because of what I just mentioned with the possibility of an unintentional
violation. And, second, our open meeting law enforcement team gets tons of complaints all the time about the public seeing people talking to each other outside the meeting if even it's not a quorum, so it undermines public confidence. They think that there's a lot of backroom negotiation going on and they're not getting full access. So we always encourage public officers, members of the commission, to be very sensitive to that and not to talk to other commissioners outside of a meeting.

    Now, I know I'm sensitive to the fact that sometimes there are -- conversations are necessary. It's an appointed political position, so keeping in mind my first encouragement, I would definitely keep it only to one person and never try to talk to a third person about it. I mean, you just don't want to run that risk. Even if you're intending to keep it compartmentalized, you never know when something might slip out. So that's one of the hardest things I've had to deal with public officers on, is trying to keep that -- keep everything just for the meeting and have all these discussions at that point.

    Now, there's been a change in law a couple years ago. I'm sure a lot of you remember maybe Scottsdale had a training where they talked about what board members can say to the public, and it was very much "Please don't talk to the public about any of your business." So the legislature actually changed the law on that, so now commissioners can speak to the public in other venues than in a commission meeting about positions on sort of commission-related business. You can talk to
press at a press conference, address a group of people, and even other commissioners can be in the audience, preferably not a quorum, though.

But there are two qualifiers on that. The opinion or discussion cannot be principally directed at or directly given to another member of the public body. So you can't have like a sham press conference just to have some communications. And the other one is you have -- there can't be a concerted plan to engage in collective deliberation or to take legal action. So that would be more kind of sort of sham proceedings to get proposals out there for other people to see.

This is kind of a rapidly developing area of the law. It's brand-new, brand-new statute. And then when you put in things like Facebook or any sort of Internet communications, there's all sorts of pitfalls there. So if you're going to be doing anything like this, I would encourage caution as well as probably contacting whoever your legal counsel's going to be about that if you plan to do something -- any sort of address outside of a commission meeting.

Any questions on that point before I move on to the second one?

Okay. So we've covered no talking outside of meetings about commission business.

Okay. In meetings, you can only talk about things that are on the agenda. The staff and your counsel, they will put together an agenda that covers -- they'll tell you everything you're going to be talking
about, also tells the public what you're going to be
talking about and deciding. If there's something you want
to be on the agenda, you should contact the executive
director, and, essentially, the chair will put it on or
the executive director will put it on so that the board
can discuss it.

Now, agenda items, as I mentioned before,
they have to be specific enough so that people can tell
what you're going to be discussing or deciding. That's
another one of the main areas that our enforcement team
sees a lot. Try to be as specific as possible. As you
notice, when we put the lease spaces down on your agenda,
we gave addresses so people know what's going to be talked
about instead of something like, you know, office space
discussion. Doesn't really give much information.

Now, there's an interesting thing in the
open meeting law that says you can talk about matters on
the agenda or items related thereto. Sort of with the
common theme of what I've been saying, we usually advise
to keep the "related to" part very directly related to the
agenda item, and if you see that your agenda item has kind
of spun off into maybe another discussion, I usually use
the example of like we talked about office space, it turns
into a budget discussion, perhaps it would be best to put
the budget discussion on the agenda for the next meeting
so you can have a full discussion about that with no
worries about the open meeting law.

So the best practice is just to try and
stay, you know, exactly on the agenda and very closely
related thereto. Anything new that comes up, go ahead put
it on the next agenda for a more full discussion. It also allows staff time to get you any additional information you may need on that discussion as well.

So the third point is be familiar with executive sessions, how and when to use them. Executive session is the one exception to the open meeting law, essentially. It allows the commission to meet and discuss in private without the public present. It's very limited and very strictly interpreted by the courts. There's seven areas where it can occur. I've got those listed in the handout I gave to you. It needs to be on the agenda that an executive session is possible for that item for pretty much every one except for legal advice and confidential documents, which being kind of the nature of what they are, it's unforeseeable sometimes that those might pop up and the board -- the commission might need to go into executive session to get legal advice or to review some confidential documents it wasn't aware would be introduced.

What happens is a commissioner will need to make a motion to go into executive session and state the reason for the executive session, whether it's for legal advice, to discuss personnel matters, things like that. And then there needs to be a vote -- second and a vote on that. At that point, it's become a private meeting, and so the public will either need to be escorted out of the meeting room, and we usually recommend they take everything with them just to be sure there's no recorders
or anything you might not be aware of.

   It's a little paranoid, I know, but you need
to be sure that it is private, because these executive
sessions are protected by law. Every discussion that's
confidential, it can be enforced through state law.

   So -- Or you can retreat into a boardroom.

This meeting room actually has a confidential boardroom
right next door, so you can go there, and the public can
stay here and chat while you're in executive session.

   So everything in executive session is
confidential and can't be discussed or released outside of
the executive session. There are several sort of
authorizations in statute for other people to get it.

Board members who weren't present at the meeting can
access the executive session because -- or commissioners
because they're going to need to know what was going on
with the commission even though they were absent. The
attorney general can have access to investigate open
meeting law issues, and courts can have access to also
investigate open meeting law issues, and the county
attorneys as well.

   When you're in executive session, you need
to sort of be mindful the whole time. I'm very
uncomfortable every second I'm in it because how narrowly
it's construed. There's no final action or voting in

executive session, so that means not even a vote to leave
executive session. The chair would just adjourn and
resume the open session. It's a common mistake I see.

   You need to make sure you stay on point with
the reason why you're in executive session. So if you're in there for legal advice, you can't sort of talk about something else, "Oh, we're while we're in here, let's talk about the personnel matters we also have on the agenda." You need to stick with just the legal advice on the item you went in on.

And also with legal advice, there's no discussion between the commissioners. It's just a discussion between the counsel for the commission and individual commissioners. Everyone can hear it, but the discussion how to apply legal advice needs to happen in open session. So you can ask enough questions so you're clear as to what the legal advice is, but then how you're going to proceed with that legal advice, that discussion needs to happen out back in open session.

Also with no votes or anything like that, there need -- there can't be any straw votes or any sort of consensus gathering while you're in executive session. That's a common temptation, especially in the legal advice executive session since you're all in there.

There are a couple of them that do allow for some discussion while you're in executive session, and so your counsel who will be in there with you can tell you about that. Personnel context allows for some discussion. Several of the executive sessions allow for instruction to your attorneys and representatives. So that would be in the case of liti- -- settlement of negotiation or negotiation of a lease. You may want to have more of a
free-flow discussion between yourselves and your representative as to what your sort of preferred lease rate would be or your settlement options. In the case of personnel, you may be talking about salary or discipline or which executive director you would like to appoint, that kind of thing. So those are kind of the exceptions to the discussion of rule, but still no voting and no straw votes.

Also the open meeting law does require minutes for executive sessions. I usually recommend that the executive session be recorded for maximum security for the commission. I say that because the way courts have structured the open meeting law challenge is the burden of proof is on the complainant to say that something happened in executive session that's not lawful. If there -- If it a colorable claim, essentially, that something could have happened, the burden actually shifts to the public body to prove that it did not violate the open meeting law, so if you kind of have a general summary of what happened in there, that might not be as persuasive as being able to say to the judge, "Look, here's an audio recording of our entire open -- executive session. You know, we were entirely compliant the whole time," and then the case is done. whereas if you're going to be arguing about sort of a summary of what happened, that could drag out a little longer. So I usually record -- recommend recording them, then keeping those secured. The minutes of the executive session are just as confidential as anything else. They need to be separately kept from the regular minutes and
secured.

I usually encourage board members and commission members to work with each other to stay in compliance, so usually the lawyers in there are kind of nagging you and telling you not to talk about this, not to talk about that. But to the extent that you can also do it amongst yourself, it helps, and not everyone will hate the lawyer for doing it.

So are there any questions about executive session? I know I kind of just briefly covered that. It's in more detail in your packets, especially, like, each ground for executive session and some of the quirks that go with that.

No questions? Okay.

Number 4 is call to the publics -- calls to the public are for listening and not talking. You guys have already done the call -- did the call to the public, and you did great on it. Essentially, it's just time for members of the public to address the commission on any item that's within the commission's jurisdiction. Even if that item is not on the agenda, the public can bring it to your attention.

Now, what the commission members can do is more restricted. You cannot engage or discuss the matter with the public member who's addressing you. You can direct staff to investigate the matter, or you can have staff put it on an agenda for future discussion.

There is an exception to that. The open meeting law does allow the commission to respond to
criticism. We advise to keep that very general and very short. I can't even really think of any -- I don't see it happen very often, but usually if it's important enough that somebody's complaining about it, it's probably important enough to put it on an agenda so you can have a full discussion about it instead of trying to be very short and general in your response. It's kind of a short topic, but it's pretty important.

Any questions on calls to the public?
Okay. And the last topic in my top five things to be careful of is be careful using e-mails in your communication with other commission members. This one, it gets a lot of people in trouble because it's so easy to do. E-mails among a quorum of members talking about commission business are a violation of the open meeting law just like it would be if you called everybody or if you kind of met up for a drink after work or something. It would be just as bad. So our best practice advice is not to e-mail other commission members about commission business. Save it all for the meeting. Use staff to kind of communicate about that stuff. If you need -- If you want to put something on the agenda, if you found some information that you think the rest of the commissioners should consider at the meeting before acting, that stuff's good to send to the -- to your executive director, who will then make sure it's disseminated, and it minimizes any risk of unintentional open meeting law violations.

I say that because the temptation is always to hit "Reply All" or maybe even mistakenly to hit "Reply
All" instead of "Reply" when a board member -- a commissioner sends out -- like "I found this newspaper article that's relevant to what we'll be talking about next week." You might want to send that to a quorum of the commission, and then someone might reply all, saying, "Oh, that's really good" or something. So it's good just to avoid that by sending that article to the executive director, who will then include it in the commission packet or do a separate e-mail out to everyone with that information.

Just like with any other communication or phone call, serial sort of e-mails will violate the open meeting law, being one commissioner e-mails another and then that e-mail gets forwarded to a third. That's just as much an open meeting law violation as, you know, sort of calling everyone up in sequence or passing along.

To some degree, the e-mails, they are a little more complicated, but they're still basically just another form of communication, so a lot of the same rules apply.

We do -- I've talked to you about "Reply All," and we do advise just never hit that. If we could just disable that button on sort of public accounts, that would be awesome, but we can't do that.

We actually do have an attorney general opinion out about e-mail communications, and I can send that to anyone if they're interested. It actually has some helpful examples on page 9, where it goes through a
number of common situations that board members find themselves in, whether it's receiving letters from the public that you want the rest of the commission to see, coming across information you'd like to share with the rest of the commission, that kind of stuff. So just let me know. I can send that out, or I can send it to Megan, who would be able to send it to you as well.

That's pretty much all I had on the open meeting law. If there's any questions -- I kind of kept it to the things that are most of concern to you and not some of the technical nuts and bolts about posting notices and agendas and that kind of stuff.

If there's no questions, I'll move on, on how to run a meeting.

How am I doing on time?

CHAIRPERSON MATHIS: I actually have a question.

MR. MUNNS: Okay.

CHAIRPERSON MATHIS: Chris, I'm curious to know -- and we don't have to address it today, but at some point, if you can send me information on just running telephonic meetings, any special rules surrounding that and how -- if we can vote and things like that electronically.

MR. MUNNS: Actually, yeah, the commission can have a telephonic meeting. You just have to make sure it's noticed in -- it's on the notice in the agenda that it will be telephonic. You'll still need to have a public space where the public can come and listen to all the
discussions and deliberations, so then you can vote and
you can do everything just like a normal meeting. It's
just that there's a couple extra notice requirements on
that and then the space requirements.

CHAIRPERSON MATHIS: Great. Thank you.

MR. MUNNS: Okay. So how to run a meeting.

I've given everyone a -- sort of a PowerPoint that goes
over this. Essentially, everyone relies on Robert's
Rules, and the question is, why even use those? It seems
you go to some of these meetings and then they seem very
stilted and overly formal, you know, "Mr. Chair," all this
stuff.

But the way it works is it promotes
efficiency by organizing everyone's speaking so that no
one's speaking over each other. There's a way of telling
who's going to speak first and make sure that there's not
confusion and too much -- too many people trying to talk
at the same time. It also promotes fairness by allowing
everyone to be able to express their own thoughts on a
matter before the commission acts on it. The way the
process is built up is it encourages discussion before a
final vote on a matter. And finally, it kind of provides
legitimacy and familiarity. This is the
generally-accepted process for doing sort of multimember
decision-makers, so there's kind of a familiarity from
people who have never even served -- been on a board but
they have seen a lot. They kind of know how things are
going to work from board to board. Even if you've never
been on the commission before, you were on, let's say, the
behavioral health board, you kind of know how, you know, the process works. And the other thing is it does kind of lend to legitimacy because you're using generally-accepted rules of procedure, and it gives you a little bit of ability to forecast how things will shake out.

Because the Robert's Rules of Order in their purest sense conflict with various provisions of the open meeting law and other state laws, we have to use a modified version of it, so it's not a strict application of the Robert's Rules. They're very -- Robert's Rules are very detailed. They have priority of motions. Certain things can be discussed before other things. Votes have to be taken on certain motions before other motions. So a lot of that stuff a lot of public bodies don't use. They kind of use the general guidance of the Robert's Rules of Order but not the specifics.

And there's some flexibility for the commission to decide how formal it wants to be on some of these rules. We always encourage at least -- at the minimum to try to maintain a sort of professional appearance and use instead of -- kind of familiar first names, use Mr. Jones or Mr. -- so it's a very professional kind of setting.

Now, the role of the chair under Robert's Rules is basically to run the meeting, to be in charge. She will recognize the speakers and make sure everyone gets to speak in turn and make sure no one's talking over other people. That helps keep the record clear, as Meri asked us to do. It also helps keep sort of the procedures moving. So part of her job will be to make sure that sort
of -- kind of bringing an end to kind of fruitless
arguments or to make sure that -- to try to build
compromise or whatever is necessary to kind of make sure
the commission gets its job done.

The chair also helps keep the record clear
by restating motions and announcing the results of votes.
She will also be stopping side conversations. I see this
happen in a lot of public bodies. Side conversations that
aren't intelligible to the public actually violate the
open meeting law if they're about commission business
because it's a discussion about official business that
they can't hear, which violates one of the -- you know,

the primary tenets of the open meeting law that they be
able to hear everything.

A lot of times, I know the side
conversations are about personal matters or whether we can
take a break or something, but I'd still encourage the
commission to speak up about that. If it's a break, be
forthright with that. Because once again, the perception
from the public is perhaps you're talking about official
business that you don't want the rest of the public to
hear. So we get a lot of complaints about that as well.
And usually, it turns out that it's just one board member
asking for a bathroom break, unfortunately, but, you know,
it results in a complaint to the AG's office and press and
all that. So we try to keep side conversations to a
minimum, if any at all.

Also the chair's responsible for preventing
disruptions from the public. A disruptive public member
can be asked to leave after several warnings highlighting
the disruptive behavior and asking them to correct
themselves. So usually, it needs to be pretty egregious,
speaking out, yelling, or something like that before that
can happen. And I'd probably encourage you to speak to
your counsel before exercising that authority.

Also throughout the rest of this
presentation, there's going to be suggested language in
your handouts for motions and the like, so I won't be
going through that.

As you can see, when you start the meeting,
usually the chair will announce the name of the body, the
date and time of the meeting, and then have a roll call to
establish a quorum and attendance in your minutes. The
chair can also in, you know, the discretion of the
commission have commissioners introduce themselves so that
people know what their role is on the commission and have
staff and counsel introduce themselves as well.

What the commission cannot do is have
members of the public identify themselves. The only time
you can ask a public person to identify themselves is if
they're going to address the commission, and -- because
the open meeting law requires that the minutes have the
name of everyone who addresses the commission.

So after you get through the start of the
meeting, the order of business is basically defined by the
agenda, as I've told you. You just go from item to item.
You can take them out of order if you desire. It doesn't
require a separate vote.

And I'm just going to briefly go through the
motion process, which is how you'll resolve most of the agenda items. The basic motion is "I move that the commission do X," there will be a second, usually a discussion, and then the vote. The chair should make sure that there's only one motion at the table -- on the table at a time, which sometimes can be confusing if it's sort of one of those issues where it gets a little bit heated and there's multiple motions coming out. So you should probably go with the first one, make -- see if there's a second on that, and then resolve that one.

The chair should repeat the motion so that it's clear on the record and clear for the other commissioners what people will be voting on, then ask for a second. If there's a second, usually that's when there will be discussion.

There's some flexibility on this. A lot of boards and commissions don't do it this way. There can be discussion before motions are made as well. Because sometimes you -- you'll have, like, 10 or 12 motions if you can't have a discussion as to what everyone's thinking. So I do encourage some commissions to have discussions amongst themselves about what they think about the appropriate action, and you can kind of see where the consensus is going, and it can minimize some of the motions being made.

But the formal -- if you're doing a more formal option, it will be you have to discuss after there's a motion and a second on the table, so that's kind
of up to the commission how to do it. After there's been a motion, a second, and discussion, the chair will call for the vote. And a vote can be either a voice vote, essentially all in favor say aye, or it can be a roll call where everyone -- there will be a roll call and every person will say aye or nay or abstain after their name is called.

The vote needs to be public and observable. We can't have any secret ballots or any form of voting that can't be seen by the public. I've seen the show of hands, which is -- I guess is acceptable because it's observable, but the chair needs to be especially diligent to announce the result of the vote. Some chairs forget that, but usually after the vote is called, the chair should say "motion passes" or "motion fails" so it's clear on the record, especially if you're doing a hand vote.

If there's a tie vote, it means there's no action. So the commission has to deliberate further and put another motion on the table because no majority has been able to achieve a consensus.

There's another option on voting which is the unanimous consent vote, which, I think, the commission is familiar with, which is especially good for adjourning meetings. Basically it works, the chair will say, "If there's no objection, I will adjourn the meeting," and then wait a second, and hearing no objections, "This meeting is adjourned." That's kind of is how it works. But if someone objects, you would just go through the regular motion-making process.
CHAIRPERSON MATHIS: I have a question on that.

MR. MUNNS: Yes.

CHAIRPERSON MATHIS: Can I just adjourn the meeting if it's an agenda item? Because I had been told that by a few people and --

MR. MUNNS: You know, I've allowed them to. I'm not -- I'm pretty sure Robert's Rules strictly enforced would have a motion, but I don't see a problem with that because it's not really an official action of the commission or anything, so --

CHAIRPERSON MATHIS: Okay. Thank you.

MR. MUNNS: Now, there's a couple specifically motions that come up a lot. First, it's kind of -- is modifying a motion, which is a motion is on the table and there's been a second, but someone wants to sort of tweak it a little bit, and then everyone will be happy with it. So if that motion to modify is brought up before the chair repeats the motion, then the motion may occur, and the second can just agree to it, it will be fine, then you can vote on the modified motion.

But if the chair's already repeated the motion, saying, "I've got a motion and a second to do X," then the person who wants to modify -- let's say motion to amend the original motion, and then that needs to be voted on before you vote on the original. So it just makes the record clear.

So, you know, the chair has already said, you know, "I have a motion and a second to do X." And
someone says, "Well, I move that we amend the motion to do Y." Since you've already repeated it, then the motion maker would say, you know, "I'm fine with that" -- No. Sorry. Go back. Then the commission would vote. If they vote it down, then you would vote on the original motion without amendment. If they vote to accept the amendment, then you can vote on the amended motion. So it's a little more awkward, but that's why I encourage discussion before the motions start flying, because it cuts down on the amendments and everything. You kind of get a good feel for where everyone's at before the first motion's made.

And the other kind of special motion is to force a vote. Sometimes discussion will go on and on when you have a motion and a second on a table, and so you kind of just want to move forward. Sometimes the chair can call a vote or a commissioner can call for the vote to cut off the discussion. That's actually another form of motion. You'll need a second. There's no discussion on the motion. And then there will be a vote on whether to cut off discussion and go straight to a vote on the original motion. So that's sort of the other special motion I see a lot.

I do see some boards just say "Call for the vote," and the chair will respect it and do that, and the rest of the board will do it. What I've told us is kind of best practice, but I don't think it's a huge violation if the commission, as a matter of course, respects call for a vote from one of the commission members.

So -- And then finally adjournment, which we've already discussed, the chair can just adjourn the
meeting if there's no objection, or you can use the unanimous consent option, or you can do the formal motion process, "I move to adjourn," "Second," and then vote on it. The chair should note the time the meeting ends for the minutes. And then you're all done.

You should probably make sure that -- I recommend, because of the open meeting law considerations, not to have commissioners sort of hanging around talking about stuff afterwards because it gives kind of an appearance that maybe the meeting's still going on; they just wanted the public to leave. I've actually see some boards do this unintentionally where they forgot something at the meeting and then "Everyone's here. Let's talk about it now" kind of thing. So that would be an open meeting law violation. If it turns out you forgot something, just put it on the next agenda and deal with it.

And when I say "the next agenda," it doesn't have to be a full month. You can have special meetings or whatever's convenient for the commission to deal with something. So all that's needed is the 48-hour notice period.

So that's all I had on running of the meeting. If you have any questions or anything --

CHAIRPERSON MATHIS: I have a question. You mentioned the commissioner can call for the vote, that it doesn't have to just be the chair. And you said that that does have to be seconded if the commissioner calls --

MR. MUNNS: That was -- that's the best
practice.

CHAIRPERSON MATHIS: Okay.

MR. MUNNS: I've seen it done a little more informally. And that can be up to the commission.

CHAIRPERSON MATHIS: Okay. Thank you. Does that conclude the training?

MR. MUNNS: Yes. If there are no questions.

CHAIRPERSON MATHIS: Okay. Thank you very much, Chris. I appreciate the information. Got some homework to read all this.

So that takes us to the next agenda item, which is discussion and possible action on the executive director position description and other administrative support. We all had some homework this time between meetings. At our last meeting, there was general consensus that everyone felt like the executive director position is the most important thing that we need to get moving on, and so we decided that as a commission, we'd focus on that first.

What we did is we worked with the HR division at ADOA. Thanks to Ron Loyd and Susan Laurence. They've been very helpful to us in walking us through the process of how we do that. And Ron sent around a position description qualification for the ED position and asked us to each respond back to him with -- if we had any input. And he distributed today a document that is actually -- contains the input he received. So it's got the edited -- edits that he incorporated to that original draft. If I can find it myself.

The page Major Responsibilities, which is Page 41
the third page, is kind of the one that talks about the
duties, and as it's been described to me, it's not -- it
doesn't have to be perfect, this position description
qualification, in terms of the exact percentages of how
much the time this person's going to be spending in each
of these areas. And we can adjust these primary
responsibilities too as we need to once the person's hired
in the job and we determine they need to be doing more
with the website or whatever it is, that we can
incorporate that into it.

So this is really just a way to get this
going so that once the position description qualification
is approved and finalized by us, then Susan Laurence can
take this and create the job description and then to get
to do the posting and resumes and all the things that we
need to do to get somebody on board. So it's pretty
important that we get this piece going. And I'm wondering
if everyone had a chance to review it and if there's any
input on what you see in front of you.

So any commissioners have any --
VICE CHAIRPERSON HERRERA: No, I don't. I
just -- Madam Chair. The changes that, I think, both you
and Commissioner McNulty made were -- I think were right
on. I like it. I don't have anything to add.

CHAIRPERSON MATHIS: Okay. Any other input?
COMMISSIONER STERTZ: Madam Chair, may we
discuss the process subsequent to the release or the
approval of this document?
CHAIRPERSON MATHIS: Certainly.

COMMISSIONER STERTZ: The process that I understand it to be would be that this would be then turned into a posting of a job description.

CHAIRPERSON MATHIS: My understanding is a position description first that Susan Laurence then writes up based on the position description qualification, and then she then moves forward. And she's not here today, but she has a colleague, Jackie Mass, here if we need to get into detail on the process that they'll need to undergo.

But my understanding is that once that job description is written based on this position description qualification, she begins to post it and then collect resumes for us, and actually, she's also acting as the person -- the receptor, so to speak, of any expressions of interest that we get from the public. So if anybody sends any of us an e-mail or approaches us directly on interest in that position, we can direct them to her, and she will ensure that their interest is noticed, and she can ensure that they're aware of when the position's posted.

COMMISSIONER STERTZ: I'm sure after the collection -- after the deadline has been met and the collection of the potential applicants are made, how is the -- what is the process for vetting?

CHAIRPERSON MATHIS: That is a question that I would ask Ron Loyd about. Ron's -- or Jackie Mass, either one.

MS. MASS: I'll probably take it.
After the resumes have been collected, Susan will basically put them in groups, like high priority, met all qualifications, met some of the qualifications, met very few of the qualifications. She'll provide a spreadsheet for you. She'll send that in addition to all the resumes that you will receive. You will have a period of time to look those over. I don't know if you go back into open session -- or closed session then to determine which candidates that you would like to interview.

She can set up the interviews for you. She can do the prescreening for you. She can prepare all the interview questions for you. And you need to determine your timeline, because everything will have to be backed up toward that timeline.

So if your objective is to have somebody on board within, you know, two months, then here's when you need to have the job posting done. Here's how long it will take for the spreadsheet to be completed, and then you'll have to allow -- in case you have anybody from out of town, you have to determine how long it will be before you can fly those people in or do a conference call with them.

And also you need to determine whether you're going to just utilize azstatejobs.gov website, which is our official website, or if you determine that you would like to advertise in another medium, like a CareerBuilder or Monster, newspaper.

CHAIRPERSON MATHIS: And -- Go ahead.
COMMISSIONER STERTZ: Madam Chair, are those
discussions that we would -- we want to have memorialized today?

CHAIRPERSON MATHIS: I would like to, if possible, finalize the position description qualification, since that's the first step in the process, so that they can then begin to do their jobs to continue to -- continue the process, but I don't -- unless people would like to discuss specific candidates or something today, which I am not sure we're at that stage yet, but --

VICE CHAIRPERSON HERRERA: Madam Chair, I would not -- I agree with you with finalizing the job description so it could move forward.

CHAIRPERSON MATHIS: Okay.

A clarifying question for Jackie, if I can. It's my understanding that there is no posting requirement in terms of it needs to be up --

MS. MASS: No.

CHAIRPERSON MATHIS: There's no legal requirement.

MS. MASS: No.

CHAIRPERSON MATHIS: But it's just more of a nice-to-do sort of thing that we'll post it for a period of time. And we'll be --

MS. MASS: That's correct.

CHAIRPERSON MATHIS: Okay. Great.

MS. MASS: Usually what we do is three days, maximum until we have received enough -- adequate resumes and feel the process can be closed. We leave it open until filled kind of thing.

CHAIRPERSON MATHIS: Okay. Thank you.
VICE CHAIRPERSON HERRERA: Madam Chair?
CHAIRPERSON MATHIS: Yes.
VICE CHAIRPERSON HERRERA: I do have a question. I don't know if you can answer it. Are the -- Once we decide on the people we want to interview, are these interviews done in open meeting?
CHAIRPERSON MATHIS: That's a great question. I don't have an answer. I don't know if counsel can answer that.
MR. MUNNS: You can interview in executive session.
VICE CHAIRPERSON HERRERA: Thank you.

COMMISSIONER McNULTY: Madam Chair, if I understand correctly, we wouldn't need to establish the time right now that we were going to leave the application process open; we could just leave it open until --
MS. MASS: You could. You could. Or you can notify Susan.
COMMISSIONER McNULTY: Or we could determine now that we wanted to leave it open for 3 days or 5 days or 10 days?
MS. MASS: Typically, Susan can do everything from -- every day she can send you resumes and update the spreadsheet, or at the end of each week, she could do it. I think it really depends on your timeline, internal timeline as far as how soon do you need to have the executive position filled. So that will dictate how quickly the process needs to go.
COMMISSIONER McNULTY: From the perspective
of the Department of Administration kind of backing out
the amount of time we would need to interview and make the
selection, how much time do you need between the date that
we close acceptance of applications and the date of
appointment?

    MS. MASS: Typically, what we would do is --
again, if there's a sense of urgency -- which, I assume,
there is -- we could send you every two to three days an
updated list of the resumes, send the resumes out to you,
and if you have a sufficient number that you feel is
adequate, then we can close the posting off at that point,
and then we would start the prescreen process, make sure
that they pass all the background verifications, and we
would schedule interviews for them at your next executive
session.

    COMMISSIONER McNULTY: One more question.
Once you receive our approval of the position description
questionnaire, you take that and create the description
and do the posting without any further approval from us?

    MS. MASS: No. We can absolutely send it to
you, and you can look it over, see if there's any
additions or corrections you want to make to it, get it
back to us, and the minute that you approve it, it will be
posted that day.

    COMMISSIONER McNULTY: I would ask
Mr. Munns, then, whether we have to have a meeting in
order to do that.

    MR. MUNNS: To approve?

    COMMISSIONER McNULTY: To approve the
position description that they draft based on what we
might approve today, do we have to have another -- do we -- the five of us have to be together in a room again or --

MR. MUNNS: My understanding is if you submit this -- approve this document, that's what they're going to be working up, you can rely on that. But if you have it sent back to you for more comments and additions that are going to have to be made to it, you'll have to approve that subsequent one as well. You can rely on them. If you approve this as-is, they're just going to translate this into a posting and not change anything. So you wouldn't need to approve anything because there would be no changes. If -- if that's --

Is my understanding correct from DOA?

MS. MASS: Yes. Whatever you want to do. If you want us to -- Once you've approve it today on the position description, we can get the posting ready, we'll have all the key factors in there, and we can just post it immediately, if that's what you would prefer doing.

CHAIRPERSON MATHIS: Commissioner Freeman?

VICE CHAIRMAN FREEMAN: Perhaps another question for counsel. If we pull -- if we decide we have sufficient resumes now, we want to pull the posting and proceed with the interview process, is pulling the posting an official act that's going to require us to meet?

MR. MUNNS: I believe it would be because it would be an action of the commission to sort of close that
VICE CHAIRMAN FREEMAN: So then perhaps what we need to decide is are we going to leave it open for a week, week and a half, two weeks and see what we have? If we don't have sufficient, we can reopen it, I suppose.

CHAIRPERSON MATHIS: Sounds -- That's fine.

Any other -- any --

VICE CHAIRPERSON HERRERA: I do have one question. The job description does not list a salary range or a grade level.

CHAIRPERSON MATHIS: Right.

VICE CHAIRPERSON HERRERA: Should it?

CHAIRPERSON MATHIS: Ron gave us some information -- background information on the salary range for that position. I've got it right here.

Executive director is grade E-3, salary range $70,540 to $126,973.

VICE CHAIRPERSON HERRERA: So does that need to be in the --

CHAIRPERSON MATHIS: In the position description qualification? No.

Ron, would you like to address that?

MR. LOYD: No, Madam Chair, commissioners, that does not have to be in the position description, so that is a separate -- it's -- Depending on what the grade is, which is on the position description, the salary range is posted on our website, the Department of Administration internal website, so that can change -- the salary can change sometimes, and so it's kind of a fluid document.
where it just relates to the grade, E-3.

VICE CHAIRPERSON HERRERA: Thank you.

CHAIRPERSON MATHIS: Any other questions or
discussion about the position description?

COMMISSIONER STERTZ: Madam Chair, other
than by name, where does the E-3 grade show up on the PDQ
that we're looking at currently?

CHAIRPERSON MATHIS: I'm looking at that
myself, see if I see --

COMMISSIONER STERTZ: Or does it need to be
added just for clarification?

And secondly, while you're looking at that,
I'm going to give a recommendation that to get the
widest -- because we are looking at a compressed time
period, the widest array of advertisement would be
preferred to get out, because it -- with a compressed time
frame, we can't rely on a group of -- a wider group going
to a smaller location, so advertising on all resources
that would be typical for this type of position would be
preferred.

CHAIRPERSON MATHIS: Okay. Any other

By the way, I did not see, Ron, where this
is -- the E-3 is noted on the PDQ.

MR. LOYD: It is not. The salary range
chart itself goes by the job code, which is posted at the
top. So you would look -- when you bring up the salary
range, the job code is the first thing you would see
and -- on our website, and the job code indicates that
That job is an E-3 on the website. So it is not on this form. You're correct.

CHAIRPERSON MATHIS: Thank you. Okay.

Mr. Herrera?

VICE CHAIRPERSON HERRERA: I'm okay with this. I think they -- the ADOA knows what they're doing, and I have complete faith in them. But I do -- what I do want to do is for us to come up with a date or a week or whatever so we don't have to meet again to close the whole application process. I would be comfortable with a week. I think the minimum is three days. So a total of seven days would be sufficient.

CHAIRPERSON MATHIS: Seven days that it's posted?

VICE CHAIRPERSON HERRERA: Correct.

COMMISSIONER STERTZ: A question for counsel. When -- If there is a commissioner that has a -- an applicant in mind that may not be aware of the posting, is it appropriate for the -- is there any issues at all with a commissioner contacting a potential applicant?

MR. MUNNS: You know, I'm going to have to look into that one. Employment law is not my primary area, so --

CHAIRPERSON MATHIS: I asked that question of counsel.

MR. MUNNS: Yeah, I thought so. Did you ask Jim that?

CHAIRPERSON MATHIS: I did. And he confirmed that --
Wait. Say your question again. I've lost my train of thought.

COMMISSIONER STERTZ: If a commissioner --

CHAIRPERSON MATHIS: Contacts?

COMMISSIONER STERTZ: -- contacts someone that may or may not be aware --

CHAIRPERSON MATHIS: Right.

COMMISSIONER STERTZ: -- that the posting is in place and the time frame has been set, is there any conflict?

CHAIRPERSON MATHIS: No. Jim has told me that it is okay for us, as commissioners -- individual commissioners, to approach someone and let them know about the posting or if we think they'd be qualified to go ahead and apply or -- He said as long as you are doing a public posting -- you know, you're doing a public search as it is, it's okay to go ahead and approach people individually.

COMMISSIONER STERTZ: Thank you.

VICE CHAIRPERSON HERRERA: Madam Chair?

CHAIRPERSON MATHIS: Yes.

VICE CHAIRPERSON HERRERA: We do have our interim ED, Megan Darian, who we could send the information to, who -- and she could probably send the information to the individual.

CHAIRPERSON MATHIS: Yes. Yeah. And actually, Susan Laurence has -- in HR has volunteered to be that person, to -- the collecting focal point for any expressions of interest. So, in fact, I have received
some, and I have forwarded them to her to let her know
that this person's saying they're interested in the ED
position so that she can acknowledge receipt of their
interest and then let them know as the process unfolds.

VICE CHAIRPERSON HERRERA: Could we have her
contact information so we could --

CHAIRPERSON MATHIS: Have her contact? I'm
sorry.

VICE CHAIRPERSON HERRERA: So if I get a
request, I can send it directly to her? Right now, I
don't have any information on -- Susan's information.

CHAIRPERSON MATHIS: Yes, of course.
I'll send out Susan's contact information to everybody and
make sure you have it.

VICE CHAIRMAN FREEMAN: Madam Chairman,
assuming we approved what we have put together right now,
how quickly could it be posted? Could it be tomorrow?

MS. MASS: Literally -- and just to add to
that, the salary range and the E-3 will be on the job
posting. So it will be obvious to the applicants what
the -- what the position will pay. It will take us one
day to complete the job posting. If you want to give us
the authority to just post it, it will be posted that day,
and if you want to leave it for one week, then we will do
that. If you want us to extend that one week because
you're not getting sufficient applicant flow, we can
extend it.

CHAIRPERSON MATHIS: Okay.

COMMISSIONER MCNULTY: Madam Chair?

CHAIRPERSON MATHIS: Yes.
COMMISSIONER McNULTY: I presume perhaps that we will be meeting next week. And if we were, that we could either extend it or we could leave it open and close it next week.

CHAIRPERSON MATHIS: Yes. I think we're going to be having more frequency in our meetings, so we could easily do that.

And I had a clarifying question for Mr. Herrera. You suggested seven days. Is that seven days or seven working days, business days?

VICE CHAIRPERSON HERRERA: Seven business days --

CHAIRPERSON MATHIS: Okay. Okay.

VICE CHAIRPERSON HERRERA: -- excluding Saturday and Sunday. And if we don't get enough applicants, we could always extend that.

CHAIRPERSON MATHIS: Right.

And there was one other thing about this. There is a hiring freeze with all state agencies, I'm presuming. And so we had to fill out a justification to fill form, and that's been done, and that's working through the process, and hopefully that will be approved very shortly. So --

Okay. So great discussion, everyone, and great questions.

I'm wondering if I hear a motion to approve this position description questionnaire as distributed this morning by HR so that we can move forward with
the rest of the process in terms of hiring an executive
director.

VICE CHAIRPERSON HERRERA: Madam Chair?

CHAIRPERSON MATHIS: Yes.

VICE CHAIRPERSON HERRERA: I'd like to make
a motion to approve the position description questionnaire
for the executive director position, as given us to us by
the ADOA.

CHAIRPERSON MATHIS: Great.

Do I hear a second?

COMMISSIONER STERTZ: Second.

CHAIRPERSON MATHIS: Any discussion?

All in favor?

VOICE VOTE: Aye.

CHAIRPERSON MATHIS: Any opposed?

(No verbal response.)

CHAIRPERSON MATHIS: Great. Motion carries.

This position description questionnaire
stands as distributed, and we'll be working and moving
forward with Susan Laurence on the next steps.

So thank you very much, Ron and Jackie, for
your advice and guidance.

VICE CHAIRMAN FREEMAN: Madam Chairman, do
we need to have a motion formalizing that we're going to
leave it open until April 4th?

VICE CHAIRPERSON HERRERA: I think the
first -- the first Monday of next week should be the first
day, because they'll be needing at least a full day, so
I'm assuming they'll need Friday and not posting it
Saturday and Sunday and posting it on Monday, which is the 28th.

VICE CHAIRPERSON FREEMAN: So it's on the 4th.

VICE CHAIRPERSON HERRERA: Does that makes sense?

COMMISSIONER STERTZ: 6th would be seven working days.

CHAIRPERSON MATHIS: Would someone like to motion that? Is that -- was that a motion?

VICE CHAIRMAN FREEMAN: Sure. I'll move that we leave the posting up until April 6th.

CHAIRPERSON MATHIS: Do I hear a second?

COMMISSIONER McNULTY: Second.

CHAIRPERSON MATHIS: Any discussion?

COMMISSIONER STERTZ: Yes, please. Could you clarify that that -- that the posting leaves it open with the assumption that it's -- that it's posted no later than Monday?

VICE CHAIRMAN FREEMAN: Right.

COMMISSIONER STERTZ: And would you also accept a -- the inclusion of that the posting be in not only on the state of Arizona site but also in newspaper, Monster, and other applicable forms of advertisement that fall within the general purview of the A- -- Department of Administration.

VICE CHAIRMAN FREEMAN: I agree with that.

CHAIRPERSON MATHIS: Any other comments?

COMMISSIONER McNULTY: I second it.
CHAIRPERSON MATHIS: We have an amended motion? Or is that a new motion?

COMMISSIONER STERTZ: He's actually amended motion.

CHAIRPERSON MATHIS: Okay. Okay.

COMMISSIONER STERTZ: And she seconded the amended motion.

CHAIRPERSON MATHIS: Okay. Great.

Do you have another --

COMMISSIONER STERTZ: Would the maker of the motion also accept the -- that we denote -- because there have been multiple PDQs in distribution over the last three days -- that we actually mark this document as an exhibit for the record?

VICE CHAIRMAN FREEMAN: I agree.

CHAIRPERSON MATHIS: Okay.

COMMISSIONER McNULTY: Second as amended.

CHAIRPERSON MATHIS: So do I need to restate that motion -- the amended motion?

MR. MUNNS: Unless it's -- If it's clear at all, yeah.

VICE CHAIRPERSON HERRERA: It's clear to me.

CHAIRPERSON MATHIS: So -- Well, I guess for my own clarification, I want to make sure I understand.

So we're going to -- We have a motion on the floor that's been seconded to leave this position posting open until -- it's Wednesday, April 6th?

VICE CHAIRMAN FREEMAN: Correct.

VICE CHAIRPERSON HERRERA: 5:00?
CHAIRPERSON MATHIS: Close of business.

Good idea. Close of business, Wednesday, April 6th.

VICE CHAIRMAN FREEMAN: With the assumption built in that it will -- the posting will begin no later than Monday.

CHAIRPERSON MATHIS: Monday, March 28th.

Thank you.

And that we will also be posting this in a variety of sites that are normal for this level of position that we're seeking.

And the -- and I'm of the understanding HR can help us with those outside sites as well, right?

MS. MASS: Yes. We will do that.

I have a question.

CHAIRPERSON MATHIS: Yes, please.

MS. MASS: Do you want us to send you the resumes, like, every two days, or do you want to wait until the seven-day period is over before we send you the spreadsheet and the resumes?

CHAIRPERSON MATHIS: I prefer to get them as I receive them.

MS. MASS: Okay.

CHAIRPERSON MATHIS: If possible. As you receive them.

MS. MASS: And the position description was good as it's presented today, or did you have any other changes?

VICE CHAIRPERSON FREEMAN: We already approved, right?
CHAIRPERSON MATHIS: No. It's as -- Right.

It's already approved. We're good. This is the final one.

So we need to vote on that motion as amended. All in favor?

VOICE VOTE: Aye.

CHAIRPERSON MATHIS: Any opposed?

(No verbal response.)

CHAIRPERSON MATHIS: Great. The motion carries as amended.

COMMISSIONER McNULTY: Madam Chair, could I ask Mr. Munns a question?

CHAIRPERSON MATHIS: Yes.

COMMISSIONER McNULTY: So as we get the resumes, may we all receive them, or does that violate --

CHAIRPERSON MATHIS: Good question.

MR. MUNNS: You can all receive them, but you can't talk about them with each other until the meeting.

COMMISSIONER McNULTY: Thank you.

CHAIRPERSON MATHIS: Should that, then, go perhaps to our interim executive director, those resumes, and she sends them to us, or is it okay for the -- for Susan or Jackie to send them?

MR. MUNNS: It's probably best to go to your interim ED, so that way they can -- she can also keep track of who you're getting as well --

CHAIRPERSON MATHIS: Okay.

MR. MUNNS: -- keep a master list.

CHAIRPERSON MATHIS: So they'll go to Megan,
Okay. We're moving right along here. Oh, actually, we're still on item VI, because there is the clause and other administrative support. And I wanted to see -- You know, we talked about possibly having a position where the person would maybe do outreach for us as well as be kind of an IT expert to handle all this electronic outreach that we want to be doing as a commission. And Susan Laurence did send me a couple of position descriptions of other boards that have done this. Mostly they're Web/IT folk, if I could just characterize them that way, as opposed to, you know, having necessarily all the outreach and communications advance team-type experience.

But that is something that I just wanted to raise as a possible position description that we might want to create as a commission, because even though we're focusing on the executive director position right now, that other staff is going to need to also get moving as well. We're going to need to hire other people to help that executive director.

So I just wanted to raise that as a thing to consider by the commission, as well as if there's any other position description qualifications that have been distributed that were from the previous commission. There's the executive assistant, the public information officer, those -- any of those folks, if the commission would like to discuss any of those today, if there's any
strong opinions or feelings about hiring those people.

VICE CHAIRPERSON HERRERA: Madam Chair?

CHAIRPERSON MATHIS: Yes.

VICE CHAIRPERSON HERRERA: The -- There was, I think, three other positions, correct, in addition to the executive director. You had mentioned the executive assistant, the public information officer, and the third description which I'm blanking on. I think it was the outreach person.

CHAIRPERSON MATHIS: Right. They had -- There was an executive assistant, then an executive administrative secretary, a press secretary or public information officer, and a receptionist.

VICE CHAIRPERSON HERRERA: So that's four?

CHAIRPERSON MATHIS: Uh-huh. Yes.

VICE CHAIRPERSON HERRERA: You know, after reviewing the job description of the public information officer from last time, I really feel that the executive director we hire should have those qualifications. And I think they're included in the job description.

CHAIRPERSON MATHIS: Right.

VICE CHAIRPERSON HERRERA: So I don't really see a need for public information officer if we hire the right ED, but I do see a need for the other positions, including the community outreach person.

CHAIRPERSON MATHIS: Okay. The public information officer, if I'm not mistaken, last time handled a lot of press inquiries too. And they were only engaged for about a year and a half, is my understanding.
So they weren't with the commission the whole time. But especially during the mapping and the work of the commission, they were utilized heavily to handle press and then also do some outreach with the public.

COMMISSIONER STERTZ: Madam Chair, I'm going to make the suggestion that we work diligently to get the PDQ outline under way for the -- your A/V tech folk, as you described it, quickly because that is -- the development of that platform for communication with the general public is imperative for us to begin right out of the gates, and it's probably going to be as important as any administrative person that the ED is going to have on their staff.

CHAIRPERSON MATHIS: Okay. Any other comments on that?

VICE CHAIRPERSON HERRERA: Madam Chair, if we could review the PDQs at the next meeting and approve them, that would be, I think, ideal.

COMMISSIONER STERTZ: Correct.

CHAIRPERSON MATHIS: Okay. And I believe unless we're able to somehow shift the one that's already in the system, this -- let me use the right term -- this public information officer, I don't know if that can be expanded, so to speak, to have this web A/V-type responsibility or if it really needs to be a new position that we would need to create. But we'll have to get some advice.

MS. MASS: Typically, the PIO position is very different from your web position. One's more of an
CHAIRPERSON MATHIS: Right.

MS. MASS: One is more of a communications position.

CHAIRPERSON MATHIS: There is also already in the system a community outreach coordinator, and I wondered if that person maybe could be expanded, that role, to include -- if they have the IT and Web background, experience, that they could manage our website and other things, but we'll talk to HR about that and whether or not we need to create a new PDQ or not. But I appreciate your comments.

Any other thoughts on these positions, the executive assistant or anything?

One of the roles of the executive director is that they're going to be helping us in the hiring, and I'm sure they'll want a say in who they have supporting them on staff. So the sooner we have that person on board, the better.

Next item on the agenda, item VII, discussion and possible action on Request for Proposal process for securing legal and consultative support. So while we discussed how the executive director position is a priority for us as a commission, we did -- there was general consensus last time that we also want to concurrently be moving forward on securing legal counsel and other consultative support.

So given that, we've done some -- a little bit of homework too on that front where a -- let me first just say that as for legal counsel, we have three options,
and those have been discussed a little bit today.

One is continuing on with attorney general's office and their counsel.

The second would be to utilize counsel that comes from the AG con- -- the attorney general contract list. It's an approved list that's already got all the counsel on there that -- for a variety of different services, and we can look through that and choose counsel that way.

Or we can issue our own request for proposal and go off the list, so to speak, and hire whoever we'd like.

So those are the three options. But regardless of the option we choose, we have to get that statement of work -- or scope of work paragraph approved. Or it's about a page and a half that went around.

I should stay near the microphone.

And so I thought it would be good if we could talk about that first, the scope of work. Since regardless of what option we choose, we really need to get that finalized, and I wanted to see if everyone received it, first of all, and if they have any comments.

VICE CHAIRMAN FREEMAN: Madam Chairman?

CHAIRPERSON MATHIS: Yes.

VICE CHAIRMAN FREEMAN: I did receive it.

And this -- It's my understanding it's what the first IRC used, and I would endorse what was done before. I think the first IRC faced this issue, and this was the solution they came up with, hiring outside counsel, hiring dual
outside counsel, a Republican and a Democrat.

As much as we've enjoyed the services of the attorney general's office, as was mentioned earlier, that position -- these lawyers, in a way, serve at the pleasure of the attorney general, who is -- who heads the department, and that's a partisan political office. And I think the Constitution that -- the provision of the Constitution that breathes life into this commission mentions that we are to be independent and fair and be politically balanced. And to do that, I think we're better served by hiring outside counsel.

I think that solves part of the problem. I don't think it solves the entire problem because any lawyer we may look to to hire, we're going to be looking for someone who has experience in the political area, in election law, in campaign finance law, redistricting issues. Inevitably, there's going to be some political charge to them one way or another, and we don't want to get ourselves in a position where whoever we do retain, if we go that route, where we have somehow damaged our independence in some way.

Another concern is, you know, the attorney-client relationship is going to be important for us. That's a relationship that's built on trust, on mutual respect. There needs to be a rapport there. And I think if any member of this commission doesn't feel like whatever counsel we retain, if we would just hire a single counsel hoping to strike some sort of balance, they're not being listened to at all, the bases aren't being covered, I think that damages and undermines that relationship a
little bit, and it doesn't look good in terms of public
perception. So I -- I think I -- With respect to what
was prepared for the last IRC, I think there needs to be

some minor updating, some citations as to what we're
looking for.

And I did have a question for counsel in
terms of -- or perhaps for the Department of
Administration. There is a call out in there for -- we're
looking for counsel to serve us and bill us, presumably,
on an hourly basis. And I don't know if we're locked into
receiving services on an hourly basis. There might be --
we might not want to tie our hands that way and look for
more creative options. So I would look for that question
to be addressed, hopefully.

But otherwise, I think we should go with a
-- we should look to outside counsel. I think it serves
the interests of independence and fairness, balance, and
so we should go with what the first IRC did. So I would
endorse what have been circulated to all of us pretty
recently in terms of a description of work.

CHAIRPERSON MATHIS:  Okay. Yeah, this
statement of work, regardless of whatever path we choose,
we've got to get this kind of finalized so that we can --
it's kind of like the PDQ for the HR position. We --
we've got to get this going in order to get the RFP out,
if that's the direction we choose, and even if we stick
with AG counsel, it's good to have the statement of work
defined so that they understand what it is we want to
achieve and want them to do.

So if we could -- It sounds like

Mr. Freeman is okay except for there -- it sounds like

there might be some updating with regards to some of the

statutes.

Any other comments on this statement of work
draft?

COMMISSIONER McNULTY: Madam Chair, I had a

number of comments on the draft. I appreciate

Mr. Freeman's perspective. I haven't reached a conclusion

yet about who or how -- who our legal counsel should be or

how it should be set up. And I -- My perspective is that

we should seek applications from qualified counsel

and then address the issue that Mr. Freeman has raised.

And that may ultimately be exactly what we

need to do, but I do feel reluctant to, from the get-go,

build into our process the assumption that we have to

have, within the commission, a Republican lawyer and a

Democratic lawyer. And the reason for that is because as

a lawyer, the law is not partisan. The law is not

Democratic law or Republican law. The law is the law.

And I understand that there are different

ways to interpret the law in order to achieve different

direct- -- objectives and that this may not work. But

ideally, it seems to me, given that we are Republicans,

Democrats, and an Independent, that it would make sense to

have a lawyer or a law firm who represents the A IRC, all

five of us, and tells us what the implications of the law

are for each -- from each of our perspectives, whether it
be Republican, Democrat, or Independent.

Now, ultimately, that may simply not be workable, but my thought would be to seek proposals from qualified lawyers and to ask them to tell us whether their background and experience has been with one party or another or whether they would propose to represent us on a nonpartisan basis and see what we get and then proceed from there.

So I had marked -- I think we're a little different from the legislature. We're a much smaller body, and I understand the legislature has Democratic and Republican counsel, and, again, that may be what we absolutely need to do.

It's also true that we have -- I mean, the logical conclusion of the argument is we need three lawyers, because we also need an Independent lawyer. And that's circular because if we could find that lawyer, then we would only need one lawyer because we would have an independent lawyer. And I --

So my point is that I would like not to -- I would like to approach this in the other way, to seek proposals from the most qualified lawyers that we can find. I think some of this -- I think a lot of what they did last time is very good. I think some of it is a little too particular. I don't think we absolutely have to have counsel who have all of these qualifications. I think many of these things are important, and there are a couple of things on here that -- couple -- some things that need to be on here that aren't, such as knowledge of
Arizona law and the pertinent case law.

But I'd like to see who's out there and how they respond to us and how they respond to questions about the kinds of issues that Mr. Freeman has raised and the kind of issues that I'm raising and then make the decision rather than deciding at the front end we're not going to use these people and we aren't -- we're not even going to inquire about this possibility, we're going to do this, and limit our -- potentially limit our options.

So having said that, I had marked some -- marked this up with some thoughts. And I don't know the best way to make those available to my other commissioners in compliance with the law.

CHAIRPERSON MATHIS: Well, I would prefer to, if we could, get through this document today, the statement of work. And that's not to say we're going to make the decision today on which path we're going to choose. It's more to get the statement of work finalized so that then we can go out to these three different pathways and, you know, figure out what do we want to do. Do we want to stick with the AG list? Do we want to give this to the AG's office, see if they want to respond to us? Do we want to create our own RFP and go off the list, so to speak? So what I would really like to do, if we could, is finalize the statement of work document and agree upon what we want to put out to people.

COMMISSIONER MCNULTY: Well, Madam Chair, following up on that, then I would suggest that in lieu of saying in paragraph 1.1, third line, one Republican and one Democrat, that we -- that the line read "Counsel to
provide legal representation to the Airc on an hourly basis" and that we then add, under specific requirements, a new section or sections, following the format that we have here, something to the effect that we would ask whether the lawyers have previously represented public or private entities in connection with the redistricting process, and if so, you know, whether in the capacity as a Democrat, Republican, or on a nonpartisan basis. And then as number 4.6, whether the lawyer would seek to represent the Airc as a Democrat, a Republican, or on a nonpartisan basis.

Chairperson Mathis: I'm sorry. Before we leave Ms. McNulty's comments, you had mentioned, I think, that the qualifications -- you didn't feel that necessarily all of these are necessarily required. Are they more, like, a preferred, in your opinion?

Commissioner McNulty: Well, I thought about -- I thought about saying the following qualifications would be important to the consideration of the candidate. I'm not sure they're all essential. And some of them, I think, are -- a couple things that I thought about removing, where in 3.1.2, there's a reference in the second line to the nomination processes, and I'm not sure that that has a bearing on what we're doing.

And 3.1.3, the last phrase, "and experience in successfully submitting such requests to the U.S. Department of Justice," given that that only -- their only opportunity to do that was once every decade perhaps,
I'm not sure someone couldn't represent us well without having that.

3.1.5, experience in representing state agencies, boards, and commissions, I think that's a little redundant with 3.1.1. I think a lot of the people that know a lot about public records law don't necessarily represent state agencies. They actually represent private firms that follow state agencies, or they represent public interest groups. So I'd like to see in 3.1.5, instead of this, a statement that whoever we hire would know Arizona law applicable to the redistricting process, including our constitutional provision and the pertinent case law.

And then my last thought was on 3.1.6, experience in federal court litigation involving constitutional or federal statutory issues. I think that is probably important, but I'm not sure that it has to be someone who, you know, has been involved in multiparty document intensive cases, which kind of sounds like we're setting ourselves up for that.

My last two comments, as I'm talking -- I might as well finish -- I don't think there's any compensation information in here. Maybe that's handled separately in the same way as the ED would be handled, and also a deadline for -- the deadline issue that we talked about.

CHAIRPERSON MATHIS: Okay. Any other comments on this scope -- this statement of work?

Yes.

VICE CHAIRMAN FREEMAN: And I appreciate Commissioner McNulty's comments, and I think a lot of
them, I agree with you, can be solved by making it clear that this isn't the sine qua non of what we need in terms of applicants. These are preferred qualities. So we need to make that clear. I think I agree with you we should add a provision on familiarity with Arizona law with respect to what we're doing on this commission and the case law that flowed from the first IRC.

I think I don't have a problem with having a preference for someone who has some experience in multiparty litigation and document-intensive cases. To me, that would be a plus for us, because we could find ourselves in a situation potentially where if not -- well, lots of documents, perhaps lots of data to crunch.

I think with respect to 3.13, the Voting Rights Act has been amended in the last 10 years. We probably want to update the citation. That's not a big point. But to sections -- reference sections 1971 through 1973c 2006.

I think we probably want someone also -- I'm referring to 3.16 -- to have experience in state and federal court litigation. Probably would be advantageous for us.

Going back up to section 2 on background, I just notice there appears to be a typo that's carried through. The provision of the Constitution that authorizes us to hire outside counsel is sections 19 and 20. It looks like 19 and 2, which I don't think is quite right.
But as for purpose, I still think -- I don't think having a statement that we're looking for one Democrat and one Republican ties our hands necessarily. I don't think it ties our hands in any way. I still think that should be in there, and I guess it's because I still think that's ultimately what we're going to have to do. I suppose once we get the applications and the responses to the RFP, I still don't think that -- we're not tying our hands to necessarily hire one or the other, but I would prefer to have that language in there at this point.

I guess one last point, going to section 4.4, we're, in essence, asking for references there, and I would put in that last line "co-counsel and opposing counsel." Sometimes it's much more beneficial to talk to the opponents of the lawyers and get their thoughts than perhaps allied co-counsel. Putting that wording in there gives us -- gives them the option, I think, of providing us one or the other.

CHAIRPERSON MATHIS: Okay. Thank you for your comments.

Any other comments on the statement of work as written and amended so far?

VICE CHAIRPERSON HERRERA: No, Madam Chair.

So what happens with both of the -- these requests for changes made by both commissioners? How do you mesh that together?

CHAIRPERSON MATHIS: Yeah, that's a good question. I would hope that we could actually finally agree on a statement of work today, during this meeting if
we can. And then what would happen is -- I don't think, because of open meeting law, I can actually synthesize the comments myself. I think it probably should be done by our interim executive director or someone at ADOA that's going to be working with us on the RFP process.

MR. MUNNS: That'd be best.

CHAIRPERSON MATHIS: Okay. Yeah. So do we want to have any other discussion just about the language that's in this statement of work?

COMMISSIONER STERTZ: Well -- Go ahead.

VICE CHAIRMAN FREEMAN: Madam Chair, I know we want to get this out. We need to get this out and get moving, but if -- We're also going to be talking about our consultants as well, and we don't have a working draft on that, at least that I'm aware of, at this point. We may be faced with synthesizing this and the draft on the consultants and coming back perhaps sooner than we had originally thought, at least as of 30 minutes ago.

CHAIRPERSON MATHIS: Yeah. I was thinking, though, that in a way, I think it would be great to have legal counsel on board in order to help us make that decision on the other consultative support, just because they will have, we hope, experience in redistricting law and could help us make the right choice on those consultants. So in a way I kind of feel like legal counsel is pretty important to get on board even before the other consultative support.

COMMISSIONER STERTZ: Madam Chair, I think you've got several things that you've tried to roll...
into one discussion point here. And I want to see if I can cull this down.

You've outlined three separate options for choosing counsel.

CHAIRPERSON MATHIS: Right.

COMMISSIONER STERTZ: Then you've also outlined by discussion points between Commissioners Freeman and McNulty that there are two schools of thought regarding purpose. And then there is the general qualification component of what the expectations of the legal counsel would be. All of those have got a lot of teeth to each one of them. I've spent an enormous amount of time -- I guess I've got -- must have too much time on my hands -- reading minutes and studying what the previous commission went through. And when it comes to purpose, it was -- became very clear to me that the decision that they made was the correct one as the duration of the commission went forward.

In purposes of qualifications, I am ready, willing, and able to defer that to the two legal minds on this commission to use judgment to bring forward best practices for this type of position, along with counsel -- with the current AG representative to give us guidance, what the expectations for an RFP would be.

In all deference to your statement, Commissioner McNulty, I have never in my 30 years of business practice not found an attorney that doesn't have a political position and a political leaning, even if they make a statement that they don't. And I get very troubled in thinking that we could try to find an individual that
would be able to have that neutral position. I think that the other commission in that analysis determined that it was troubling for them to try to find one as well, although the view of it from an altruistic sense might be good. I think that in looking at the results that took place and the success that they had out of having separate legal counsel was smart and prudent. So from my perspective, the purpose as crafted into 1.1 still -- I'm most comfortable with.

In regards to the AG's office, the AG's -- the current -- I agree with Commissioner Freeman regarding the list of -- that was provided to us that currently is -- are in the preapproved list. There were 84 pages plus 7 in a supplemental and 21 in a second supplemental. I don't know whether or not, from the legal profession, that that covers all law firms that are most qualified, because the qualifications that appears to me are being adjusted right now, and I wouldn't know that. So I don't know whether or not, from the DOA's perspective, whether or not that limits us to potentially someone that has a higher level of qualifications because the qualifications haven't been finally crafted from that list of whether or not that speeds up the process.

So if I may ask the question of the DOA, if going to a general RFP to outside counsel, will that delay the process of acquisition?

MS. CLARK: Jean Clark, the state procurement administrator with DOA.

Yes. I mean, having an existing contract
that the Attorney General's office has in place that already has the defined contract terms, the payment terms, things like that identified, basically upon choosing -- using your scope of work and then interviewing off of that listing, you could then effectuate and be able to start utilizing those services as soon as you made a decision. You can do that as fast as you wished, within a couple weeks probably.

You have to, when you're looking at this list, as you said -- and I'm not the expert -- you, knowing your qualifications of what you're looking for, need to make sure that you're only targeting those firms that were awarded for that specialty, you know, of law. So it's not all 80 -- you know, 84 firms that you would be considering. You would have to be --

COMMISSIONER STERTZ: 84 pages of firms.

MS. CLARK: Yeah, right.

You'd have to whittle that down to which firms really, you know, are focusing on the area of expertise that you're looking for and the qualifications you identified.

By far, for us to issue an RFP, which we are more than willing to assist you with, will take more time. I mean, it's probably roughly -- I mean, in a rush process, it's probably at least 8 weeks, more like 10 weeks, for us to be able to, you know, advertise and issue and negotiate and your time for evaluation and things.

COMMISSIONER STERTZ: May I ask another question of that same --

CHAIRPERSON MATHIS: Of course.
COMMISSIONER STERTZ: How can one process --
a DOA be expedited to a day and another process be
expedited to 8 to 10 weeks?

MS. CLARK: Well, because of the --
Basically, when we consider the procurement code, right,
you need to finalize your scope of work, which you're
doing. We need to then finalize the RFP, which is some of
the decisions you're making on the scope of work and the
language that would be in the RFP. The contract terms
need to be discussed and agreed to, along with how do you
want to price it. So we need to have time to be able to
put that together. Then it needs to be issued out to the
community, has to be advertised in the paper. It has to
be published for at least 14 days, legally by statute.
Proposals are submitted. Then you're going to want to
review all those proposals, evaluate, have meetings,
discuss the evaluations of those offers, and then, you
know, there can be discussions and then contract award.
So it's roughly -- You know, if you look at it, it's
roughly an eight-week process.

COMMISSIONER STERTZ: Madam Chair?

CHAIRPERSON MATHIS: Yes.

COMMISSIONER STERTZ: My understanding is
that the commission does not fall under this -- the
procurement guidelines and that we may adjust the
guidelines as we see fit.

MS. CLARK: I can't speak -- I mean, what
we have been identified -- and that might be more of a
question for Mr. Munns, but it's my understanding, and
previously because the state procurement office did handle
procurements in the past, that we have delegated the
commission procurement authority. They are required to
follow procurement rules, and so then are subjected to the
procurement code.
COMMISSIONER STERTZ: Madam Chair?
CHAIRPERSON MATHIS: Can we get advice from
counsel?
MR. MUNNS: Well, that would definitely be
something I would have to research, because that's a very
interest issue, sort of the constitutional relationship
with the procurement code. I'd have to take a look at
that.
COMMISSIONER MCNULTY: Madam Chair, I agree
with Mr. Stertz. My understanding is that pursuant to the
constitutional provision, we have been authorized to do
our own procurement and that we would not be subject to
the procurement code. I also think that much of this
is -- We -- we will drive the time frame for much of this
and that if we get on it, it really doesn't matter whether
it's someone who's with the -- on the list or not on the
list. We're going to have to go through the same process
of interviews and teasing out whether they are folks we
can work with; if we do have counsel from both parties,
whether they're folks who can work with one another;
whether we can work as a team; whether our independent
member is going to feel comfortable with the
representation that -- that we're selecting and all of
those things. And that's going to be relevant to whoever it is. And this is quite an important decision.

COMMISSIONER STERTZ: I think you've --

VICE CHAIRMAN FREEMAN: I agree.

COMMISSIONER STERTZ: Yeah.

CHAIRPERSON MATHIS: Okay. Any other advice from counsel on this or thoughts that you would suggest?

MR. MUNNS: I'll just take a look at it right away. I was just looking at your constitutional provision. It does have a clause in there about fiscal oversight from DOA. Then you'll have procurement authority. So I'll need to take a look at that and talk to one of our procurement experts on that take, and I can get back to you with our thoughts on independent procurement authority for the commission.

CHAIRPERSON MATHIS: Okay. Thank you.

I think that even if we have the independent procurement authority to move forward on our own, we still need to finalize a statement of work, and I'm wondering if this is something we can accomplish today, based upon the comments that have been provided so far by Commissioners Freeman and McNulty, or if -- how people are feeling about proceeding. Any thoughts?

COMMISSIONER McNULTY: Madam Chair, I have two thoughts. First, I'm not going to belabor the point, but I do think that by including one Republican and one Democrat in our purpose statement, that we are discouraging anyone from applying to represent the entire commission, and we are, essentially, foregoing that
Having said that, if that's what the group is inclined to do, I'd be willing to work with Mr. Freeman as a subcommittee of sorts to hammer out the language of the draft and bring it back next time, if that makes sense.

VICE CHAIRMAN FREEMAN: Madam Chairman, I'd be happy to do that. And I think one thing that needs to be stated is the counsel who is retained by us, we're all going to decide that whether Republican or Democrat, that they have to represent the entire commission at all times. They're not representing just two commissioners. That -- I just wanted to say that.

And I think the first IRC, you know, you mentioned the attorneys working together well. I think that's an important thing for us to look into, and I think there was a good relationship last time. I'm not aware of any material disagreement at all. And the last council, I think, was well served -- or last commission was well served. So if that's something we could do, work as a subcommittee and hammer out some language, I'm happy to do it.

CHAIRPERSON MATHIS: I believe it. As I think -- Legally, are we -- are there allowed to be subcommissions of the commission that did this?

MR. MUNNS: Probably, but it may -- since there's not a quorum, it might be easier if they just did it informally, because a subcommittee is held to the same open meeting law requirements as a commission, so you'd have to notice, have minutes and everything for every time you two talked about it.
COMMISSIONER McNULTY: Let the record reflect I did not say the word "subcommittee."

MR. MUNNS: It's not a formal of subcommittee. The two commissioners, not being a quorum, can talk about it and get something together for the commission to consider.

VICE CHAIRMAN FREEMAN: Just so I am clear, we can then exchange drafts, and then when we get to some agreement, we can send it to our -- to the interim ED and public issue it to the commission.

CHAIRPERSON MATHIS: Is that correct?

Accurate?

MR. MUNNS: Right.
CHAIRPERSON MATHIS: Okay. Great.

I would like to also just add to this statement of work that I think it's going to be really important that we try to be as cost-effective as we can be just generally across the board, and if there's a way for these -- if we do do an RFP, for instance, if there's a way for counsel or attorneys to provide ways of showing us how they're being cost-effective -- for instance, not -- not trying to be onerous, but just to possibly assign lesser complex -- less complex tasks to lesser counsel, so to speak, associate counsel, for instance, as opposed to using the top gun for dealing with something to do with open meeting law. And I don't know if there's a way to incorporate that into the statement of work or if that's just assumed that people would respond in such a way, but I just wanted to raise that issue.
VICE CHAIRMAN FREEMAN: I was thinking, Madam Chairman, before we leave that, our -- the question -- perhaps it's for counsel -- are we required to hire counsel on an hourly basis? Can we -- can the attorneys responding to our request propose alternate billing arrangements to the commission?

MR. MUNNS: I'm not aware of any restriction in the Constitution on your formation for that. But if the procurement code has a different limitation, Jean might be able to answer that.

MS. CLARK: No, there's -- there is not any limitation. The only limitation on the procurement code is that you can take that pricing, be it if you wish to be at a retainer or if you wish the hourly, pricing can be a factor, but it can't be a sole determining factor when we're, you know, soliciting for, you know, legal counsel services. So no, I mean, we can look at different methods on how you would wish to have the solicitation priced.

COMMISSIONER STERTZ: Madam Chair?

CHAIRPERSON MATHIS: Yes.

COMMISSIONER STERTZ: Question of counsel for us also, in subsection 19 of the -- where it refers to this issue, is there a definition of "fiscal oversight"?

MR. MUNNS: No. That was -- that's what I was going to look into, because it's an interesting term.

COMMISSIONER STERTZ: Fiscal oversight is -- from a layman's point of view means oversight of the fiscal operations, not -- not -- It clearly -- to me, that the commission has standing in -- in procurement contracting authority. And, therefore, we can work
aggressively to bring counsel on staff outside of normal procedural requirements that may be currently in place at DOA, but I'd like to get confirmation of that, please.

MR. MUNNS: And that's what I was going to look at. First, there's a question about DOA's role, and then there was a question if the procurement code applies at all to the commission, which I think it's a pretty significant question. I'll have to take a look at that.

COMMISSIONER McNULTY: Madam Chair, I don't think the question we're asking is whether the procurement code applies at all. I think it's simply asking whether we can retain counsel without following the list and whether fiscal oversight would be defined as Mr. Stertz just defined it.

MR. MUNNS: Well, you can clearly retain counsel that's not on that approved list. The question is going to be when you try to retain counsel not on that list, are you going to have to follow the RFP process set forth in the procurement code, which is generally applicable to all state agencies, whether there's an exemption for the commission. So that would mean that you wouldn't have to go through that posting process or -- because I understand the desire is for something quick. Maybe I'm misunderstanding Mr. Stertz's question.

COMMISSIONER STERTZ: No. It's just clear that the commission shall have procurement and contracting authority --

MR. MUNNS: Right. Right.
COMMISSIONER STERTZ: -- and may hire staff and consultants for the purposes of this section, including legal representation.

MR. MUNNS: I'm going to be looking at that and trying to research that.

COMMISSIONER STERTZ: Okay. You guys do it.

CHAIRPERSON MATHIS: Any other comments?

COMMISSIONER McNULTY: I wasn't suggesting that we not post and have an RFP.

COMMISSIONER STERTZ: Yeah. Right.

CHAIRPERSON MATHIS: All right. Okay. So in terms of moving forward on this, it sounds like our two legal members of the commission are going to look at this draft and statement of work and take into consideration what we all discussed today and provide their feedback to Megan Darian for synthesis and completion into one document, and then counsel is also going to be looking into what kind of authority we have in order to proceed with an RFP of some kind. If that's the path that we end up choosing.

I really would like to thank Jean Clark for coming today. She's been very helpful outside of this meeting too in terms of advising me on some things associated with the RFP process, and we appreciate her time today.

Does anyone have any other questions regarding the RFP process while she's here?

COMMISSIONER STERTZ: Thank you.

CHAIRPERSON MATHIS: Okay. And then the
next item that's part of -- it's part of this agenda item is other consultative support. And we have not been able to locate yet the RFP that was used for the mapping consultant last time, and they're still looking for it. State procurement office had some system changes in the past 10 years, and so they're digging through their old systems to see if they can find any information on that RFP.

MS. CLARK: Madam Chair?
CHAIRPERSON MATHIS: Yes.
MS. CLARK: We did look, and we do not have any of that information because of the timing, you know, and the retention, so --
CHAIRPERSON MATHIS: Okay. And I've also checked to see if the people who have looked into our box -- the boxes from the previous commission have been able to locate anything with regards to RFP, and they have not. So I'm not sure yet -- we know the name of the vendor that was used, but we were -- we thought it would be helpful to be able to look at that statement of work to see, you know, how it was crafted and -- and whether we want to proceed similarly or not.

So any thoughts on locating the RFP? Does anyone have any information with regards to that?

VICE CHAIRMAN FREEMAN: Madam Chairman?
CHAIRPERSON MATHIS: Yes, Mr. Freeman.
VICE CHAIRMAN FREEMAN: Have we asked the -- the vendor?
CHAIRPERSON MATHIS: No, we have not. So
that is something that can be done. We can just contact them directly. I can.

Okay. But it is an important thing that we also want to keep on the agenda going forward is -- is making some progress on that consultative support, and -- and it may be that legal counsel should be retained before --

Does anyone have thoughts on that? In fact, the order of whether the legal counsel should be in place before we're working on the consultative RFP?

VICE CHAIRMAN FREEMAN: Madam Chairman?

CHAIRPERSON MATHIS: Yes.

VICE CHAIRMAN FREEMAN: I don't think we need legal counsel. That, to me, doesn't strike me as something falling within the purview of legal advice.

CHAIRPERSON MATHIS: Okay.

VICE CHAIRMAN FREEMAN: This is a core function of this commission. I think we can all make our own independent decision on that. I'm not saying I wouldn't like to hear from lawyers or counsel on that, but I think that's something we could start doing now. If we could -- If I might suggest, if we could get the RFP -- let's say hypothetically, the vendor has it handy and can shoot it to us, then perhaps we form another unofficial subcommittee with -- and I volunteer with Commissioner Stertz and Commissioner Herrera --

VICE CHAIRPERSON HERRERA: Sure.

VICE CHAIRMAN FREEMAN: -- to put together at least a first draft of what that should look like.

COMMISSIONER STERTZ: I volunteer or
voluntold.

Madam Chair?  
CHAIRPERSON MATHIS: Yes, Mr. Stertz.
COMMISSIONER STERTZ: I think that -- I think that as -- and I think that makes perfect sense. Our purview should be that we should be looking for the best, the brightest, and the most competent, that we'll be bringing forward the most comprehensive and fairest and most independent view of our task at hand with the highest level of competence available to us within the nature of this overwhelming task.

And in doing independent research, there are several extraordinary companies that have tailored their skills across the nation to do this work in the states that have independent redistricting commissions. So I'm looking forward to crafting that sort of language to get out a concise, defined, and we'll -- unless Mr. Herrera disagrees, we can bring that -- bring forward that for distribution, review prior to the next meeting.

VICE CHAIRPERSON HERRERA: Madam Chair?  
CHAIRPERSON MATHIS: Yes.
VICE CHAIRPERSON HERRERA: Yeah, I don't disagree at all with that comment. The only issue -- and I raised this last time -- is that we should give preference to Arizona firms. Anytime we're spending Arizona money, I think we should try to keep -- do our best to keep the money in Arizona. So that would be one of my -- something I think we should include in that RFP.

Not only that, but also the issue with
what's going on in California, with -- there is an
organization that applied to -- to be the consultant, and
one of the requirements from the California commission was
to ask for the organization to disclose their donors
(sic), and one of them chose not to, and they were
disqualified. So I want to make sure that we -- we
want to get as much detail from the companies that are
applying so we don't have to go through that, you know,
mess, I guess.

CHAIRPERSON MATHIS: Commissioner Stertz.

COMMISSIONER STERTZ: Thank you.

Commissioner Herrera, I will -- Yet the
concept of bringing forward disclosure falls perfectly
with the -- with the format of the first word of our --
we, the Arizona Independent Redistricting Commission.

VICE CHAIRPERSON HERRERA: Sure.

COMMISSIONER STERTZ: But I highly disagree
that we would give any preference -- I don't even believe
that it's -- would be legal to give preference to a state
of Arizona contractor. However much as I may agree with
the concept, we are looking for the best and the
brightest.

VICE CHAIRPERSON HERRERA: Correct.

COMMISSIONER STERTZ: And by having
preference, that would mean that if we would have -- that
means that we are -- would be potentially excluding the
best and the brightest, and I don't think that that's what
your intent is.

VICE CHAIRPERSON HERRERA: May I respond?

CHAIRPERSON MATHIS: Yes, Mr. Herrera.
Vice Chairperson Herrera: No, my intent was not to do that.

But I think we have every right to, as we do with any job description, to add certain requirements or recommendations. It's not a requirement, but I would say it would be highly preferred, because I think we are spending the Arizona taxpayers' money, and we have every -- we should take that into consideration that the money stay in Arizona. Then the best and the brightest should be the first thing that I'm looking -- we should all be looking at. But I think hiring people, the best and the brightest in Arizona, there's nothing wrong with that, and I think people -- our taxpayers would probably want us to do that, for the money to stay in Arizona. And -- But, again, best and the brightest is the most important thing, but having the money stay in Arizona is not too far behind it.

Chairperson Mathis: Okay. Mr. Freeman.

Vice Chairman Freeman: Madam Chair, I do have concerns about, you know, inserting any sort of artificial criteria that might tilt the scales with this RFP. I think we want to keep the language broad so we can cast the biggest net, and then we can make those judgments. I mean, there is some concern about -- in my mind, legally, in terms of, you know, overt direct discrimination against people from other states and companies from other states.

But I also -- You know, we don't want to
get ourselves in a position, I think, where we've inserted
a criteria to tilt the scales and limit us or force us to
pick -- and that was some of the concern, I think, that
came up with the California independent commission was
that they inserted the criteria -- or at least some have
said -- alleged that was designed to pick the consultant.
And I -- I don't want to do that here.

I mean, I don't know what the universe we're
dealing with in terms of Arizona consultants is. Is it
three? Is it only two? Is it only one? And are we
inserting a criteria that's going to force us or heavily
tilt the scales into picking that person? And it may not
be a person we would feel would be completely independent.
So I think hopefully the two of you can hash something out
or propose a draft or drafts, and we'll get back together
and talk about it more, I guess.

CHAIRPERSON MATHIS: Sounds good.
Any other comments?
COMMISSIONER STERTZ: No.
CHAIRPERSON MATHIS: Ms. McNulty.
COMMISSIONER MCNULTY: I would only comment
that I -- I have the same -- some of the same concerns
about counsel and -- and when we broadcast -- when we
post, that we cast it broadly.
CHAIRPERSON MATHIS: Okay.

COMMISSIONER MCNULTY: See what we get. And
then evaluate who works best.
CHAIRPERSON MATHIS: Great. All right.

So --
VICE CHAIRPERSON HERRERA: Madam Chairman?
CHAIRPERSON MATHIS: Oh, I'm sorry. Jean? No, please.
MS. CLARK: Madam Chair, Commissioners, I did want to indicate that currently--although the question is do you fall underneath the procurement code or not, but statutorily, we do not have any legal authority for local preference laws. We do have, for small businesses, less than $50,000, but there is no local Arizona preference law, statutory authority at this point. There is a bill going through the legislature right now, but that has not been determined yet.
Secondly, if it would be helpful, if there are any other states that you feel might be--have gone through this process that you might be interested in, like, their RFPs on this--you know, on this topic of things, if there's particular ones you'd like us to reach out to, I mean, I could try to reach out to my counterparts in other states to see what type of RFPs and scopes of work they have for this type of service too. So I just offer that as an option.

CHAIRPERSON MATHIS: I appreciate that. I think that would be wonderful to have. So if you could proceed.
MS. CLARK: Okay.
CHAIRPERSON MATHIS: Thank you. And thanks for the clarification too regarding the local authority.
MS. CLARK: Sure.
CHAIRPERSON MATHIS: Any other comments
before we move on?

So thank you. I appreciate the commissioners both for legal counsel and for the other consultative support that you two groups are going to be getting together and working this out, so I appreciate that.

I want to be sensitive to the time. It's 3:15. Do we need to do a recess for a short break?

VICE CHAIRPERSON HERRERA: I would love a bathroom break.

CHAIRPERSON MATHIS: Okay. Do I need a motion to recess? I can just recess.

MR. MUNNS: No. But just state a specific time how long it's going to be.

CHAIRPERSON MATHIS: Okay. Yes, we'll take a brief recess, 10 minutes. If everyone could be back at 3:25.

(A recess ensued.)

CHAIRPERSON MATHIS: Okay. The meeting will come to order.

We're on item number VIII on the agenda, discussion and possible action on office space options. And if you see on the agenda, there's quite a number of them. Apparently the last commission didn't really have a lot of choice when it came to office space. There just wasn't a lot available. And we have a lot of choice. So I had the great fortune of traveling around with some of the ADOA folk this mornings, and Nola Barnes has been extremely helpful in coordinating this for us. She's come up with a list of options that might serve us. And by no
means is this list exhaustive or meant to be in any way complete. It's just a start.

I did see some -- There's kind of two issues with regards to this. There's the office space that's going to house the executive director and executive assistant, if there is one, and any other staff, and then the issue of meeting space -- meeting room space. And the meetings can occur kind of anywhere that's suitable for accommodating the public. And we've discussed as a commission how important it is going to be to ensure that as many people can watch these meetings as possible.

And to that end, I'm -- I want to introduce Buck Forst, who is over there at the computer. He works at ADOA and is the IT expert and is actually recording our meeting today, taping it. And it's going to be uploaded when we have a website so that people can actually click on it and be able to watch the proceedings if they choose to do so.

So thank you very much, Buck, for that.

MR. FORST: No problem.

CHAIRPERSON MATHIS: And he's also going to help consult on IT for our office space because we know we're going to need that.

So in talking about just some of the space we saw today -- and the reason we're meeting in this room today is there is office space actually in this building that's available right out that door. And so, you know, this is certainly an option. There's a lot of options along the capital mall area, as you can see from your
agenda, the different addresses. And then I've listed a
couple Tucson spaces that ADOA let me know about just as
another alternative.

They did look to see if there's any space
between Tucson and Phoenix, and there isn't, so we're
going to be in one place or the other. We have talked
about, as a commission, as possibly having a small,
reduced kind of space in Tucson, since three of the
commissioners are down there and -- but my thinking is
that it would be most likely that the headquarters -- and
it would make sense, just administratively -- would be in
the Phoenix area.

But I would love to open that up for
discussion and hear anyone's thoughts on where office
space should be, and then also if you have any thoughts on
meeting space. So feel free.

Mr. Stertz.

COMMISSIONER STERTZ: Madam Chair, is there
a space located in -- I'll call capital city, the downtown
area, that has similar accommodations to this space?

Electronically --

CHAIRPERSON MATHIS: Nothing that I saw
today. What it does have is there's some space right on
Washington Avenue that I actually really liked. It's the
oldest space. It was built in 1893, and it's a very neat
house -- Victorian house that's right there. And the nice
thing about that whole area is you can -- staff could then
walk to meetings -- a lot of different options for meeting
space. So you wouldn't have to have the meeting at
the Victorian house, because it really couldn't
accommodate a big public meeting, I don't think, very well. Whereas there are some meeting spaces, though, that are close by that would be easy to walk to and very accessible, I think.

So there are spaces I didn't see today that are in the executive tower. And I don't know if Nola would like to actually address anything too.

This is Nola Barnes, if you would like to stand up. She's been very helpful with our space options, so --

MS. BARNES: Madam Chair, members of the commission, there is space at 1700 West Washington. I want to say on the 6th floor. The Department of Commerce, as many of you might know, has been rolled into the Arizona Commerce Authority and will more than likely be relocating out of that space. So there is space available at 1700. Even if you didn't have your staff there, there's several board rooms on the mall. The pharmacy board has a very large conference room that's set up similar to this, at least from an infrastructure perspective. The DOA building has several conference rooms. So conference room space on the mall isn't necessarily at a premium. It's just really available if you schedule at least a couple days in advance. Office spacewise, as you saw today, there's plenty of state-owned office space available.

CHAIRPERSON MATHIS: There is. And it ranges from literally studs, just like no TI
improvement at all, to finished space with even some
furnishings already in the space. So it's a wide range of
options, and -- But of the ones that I saw today, I -- I
just -- I felt like being in that capital mall area
definitely has advantages just because you are so close to
folks at the ADOA and administrative help, so -- But
I'm open to other thoughts.

VICE CHAIRPERSON HERRERA: Madam Chair, I'm
not picky on the space, but I think I would agree with you
that we do need a -- probably have our headquarters near
the mall, near the capital. I think it makes sense. Good
access to the media, to people at the legislature, if they
want to attend. So I think we should consider that.

CHAIRPERSON MATHIS: Uh-huh. I did check,
also, just so everyone knows, the 44th and Thomas area
too. That was another office space that's listed, and
that's definitely not on the mall but another state
building that has office space available. But yeah, I
tend to agree that being near the mall is pretty useful.

Any thoughts from the other commissioners on
space?

COMMISSIONER McNULTY: Madam Chairman,
I agree with what Mr. Herrera just said. I love the idea
of a victorian house. Sounds like fun.

CHAIRPERSON MATHIS: It's actually --

There's parking -- There's a huge parking structure right
next to it. For those of you who don't know where this
is, it's -- the Arizona Department of Environmental
Quality, I think, is right kind of an L shape almost
around the Victorian house, and it's just sitting there. The ceilings are about 20 feet, literally, super high, and it's actually very well finished in terms of the carpet and lights.

And yeah, that's right. I forgot. Buck took some pictures for us this morning.

Thank you. That's so much nicer.

And it's great. We were really -- There's actually downstairs and upstairs. And Nola has assured me that we don't need to take both, that we can -- she would just charge us for what's allocated to us. But -- So we would need to figure out, you know, how much we would want of it, but there's no one -- there are no tenants in it currently.

And, you know, we -- one thing we talked about with Buck is we need to have it assessed for IT abilities, like just to ensure that there are T1 lines, at least, going into the building. And he's going to look into that for us, I think.

MR. FORST: Sure.

CHAIRPERSON MATHIS: Thank you. Yeah,

thanks for the photo. Are there other -- any other photos that we would -- oh, that gives you a sense.

The doors are -- Maybe the doors are 20 feet and the ceiling is 30 feet. It's super -- it's super tall and high. I'm not a good judge of height, but --

COMMISSIONER McNULTY: Madam Chair, silly question, but it does have air conditioning, right?
That is another thing that Buck and -- or someone is going to help us -- Nola maybe -- to ask, because we did bring that up. We want to make sure that the staff isn't sweltering in the summer in there.

So, Madam Chair, with the assumption that -- that this building is -- meets HVAC requirements, T1 line, necessary utilities, et cetera, and is ADA compliant, I would defer to the chair to making the decision on space, or at least requesting a proposal from DOA about what the cost would be to the commission so that we could take -- bring that forward at our next meeting for review and possible action.

Okay. That sounds good.

Any thoughts on that? Other comments?

I agree.

Great. Okay. Well, I'll work with Nola and Buck and others at ADOA to get some more details on that particular space.

Madam Chair, one --

Yes.

Make sure you make that work.

What?

Make that location work.

Oh, yeah. Okay. Sure.

It's pretty neat, I have to say. And yeah, I think
staff would very much appreciate it. And as I said, there's parking right there. And I didn't mention this, but the Carnegie library's right across the street. It has public meeting space available right on -- perfect segue. Thank you.

It's -- This is literally just across the street. The public meeting space isn't -- I don't know how high-tech it is, so that's something else we'd need to look into, but this -- you can see how it's set up for a meeting there. There's also a meeting downstairs, and I'm not sure, though, if that's ADA accessible. So we --

The library itself is, but I don't know getting downstairs, how that happens. So it may have to be on that first floor. There is just a conference room right off the main part of the library, so that's another spot.

VICE CHAIRPERSON HERRERA: That's our executive session --

CHAIRPERSON MATHIS: Right. Yeah, we'll have to cross the street.

COMMISSIONER STERTZ: Madam Chair, last count regarding the City of Tucson location, I'm going to suggest that because there are general meeting spaces available from time to time as an as-needed basis, that we would work together with the DOA's coordinator for space for either small or large session meetings and that we would consider that this be the central location for the AIRC and not have a secondary, specific dedicated office at this time.

CHAIRPERSON MATHIS: Any other comments on
COMMISSIONER MCNULTY: Madam Chair, my only thought would be maybe to maybe defer that until we have the executive director and the executive director's assistant and see if it turns out it would be useful to have a satellite space. I do hope that we can meet regularly in Tucson, not more often than here, of course, but have a fully functional meeting place that allows people to see the meetings from up here for the times that we aren't here.

CHAIRPERSON MATHIS: Agreed. And we did -- we were hopeful that we could maybe do webstreaming, actually, for this meeting, but we just had too short a time to be able to accomplish that. But that is a goal for this commission too, to be able to offer this accessible -- live is what I meant to say. To offer this live to folks. So that'll be a goal for the future to accomplish.

Well, great. Thank you for taking a look and for the photos, Buck. That's super helpful.

And we'll move forward with ADOA on getting some more details for that space.

Okay. Item IX. So discussion and possible action on records from previous commission in archival storage. The good news is that the boxes containing the records from the previous commission were found. They were located, I should say, and they are in the state library, in the archives division of the state library.

And I'm grateful to Dr. Sturgeon, the director of history and archives, who provided a box.
inventory list that you were all given a copy of, and that shows you all the boxes they have and what's in them. They did look through them to see if they could find that RFP, for instance, for the mapping consultant, and weren't able to. And they also have looked for any financial records, because something we talked about previously -- and I can talk about it in the next agenda item -- is burn rate, trying to figure out what the last commission was experiencing with regards to burn rate early in the days of the first meetings and first years. And so I'll talk about that in item X. But once we have an ED in place, I was thinking, you know, that's when we can -- if there's any documents that we want to have copies made of, for instance, that the ED can assist us with that, unless there's anything earlier, they're happy to provide us with anything that you see on that list. So just to let you know it's out there, and we can make that happen.

COMMISSIONER STERTZ: Madam Chairman?

CHAIRPERSON MATHIS: Yes.

COMMISSIONER STERTZ: The question regarding taking documents out of the library for review, either taking them to the new commission office or off property for review, how does that work based on the fact that they are now entered into archive?

CHAIRPERSON MATHIS: I do not know the rules on public records. I've been told by Dr. Sturgeon that they allow free copies of material to state agencies up to
a certain amount, and then after that, they charge you per
sheet on any copies you want made.

But it sounds like anyone can go to their
location, archives and public records, and make requests
of documents to be copied. I don't know. If there's
anybody from ADOA, by the way, that knows that area well
and wants to weigh in, they're -- I would welcome it, but
otherwise --

COMMISSIONER STERTZ: Madam Chairman, the
reason I'm asking the question is twofold. One is that to
properly archive the data of this commission going
forward, our goal is not only to have it in paper form but
also electronic so that all the documents that we have,
not only of the things that are in writing but also to
document all of our meetings and to have these available
electronically as a clear record of our actions.

But it would be a discussion point at a
later time to be able to look back and to attempt to
archive electronically the previous 10 years' worth of
work. Even though that wouldn't come under our normal
purview, I'd like to find out whether or not that would be
something that the -- either the archival library would do
or -- because I don't want to be taking budget money out
of our budget to be able to do that, but I don't like the
idea, in -- of the discussion that's taking place of where

were the 75 boxes? Whose garage were they in? Why can't
we find documents? Why can't we find, you know,
historical documents? This -- We are creating a
historical track here that will not only help us to defend
Page 103
the positions that we're taking -- and the accuracy of
that's going to help us do that.

CHAIRPERSON MATHIS: That's a good thought.
Then we need to being looking forward and thinking about
what we're doing now too in the best way. So it might
make some sense to actually have somebody from archives
and storage talk to us about what might be possible for
the previous commission's records in terms of digitizing
them, and, you know, not all of it may be necessarily
something we want to do, or maybe all of it is. I just
don't know. But that's worth exploring.

And then also any advice they could give us
on looking forward, how we should be documenting our
things so that the future -- in 10 years from now, the
next commission will have that.

COMMISSIONER STERTZ: Madam Chair, there are
legal precedent regarding digital documents and that sort
of thing, and I would want to make sure that whatever path
that we're setting now and in conversations with DOA,
they've got knowledge, the archival library is going to
have knowledge, I would love to have that discussion begin

before we start to burn dollars in going down a particular
path.

CHAIRPERSON MATHIS: Right.

COMMISSIONER STERTZ: And then we need to
change gears and that we haven't spent our money wisely.

CHAIRPERSON MATHIS: Understood.

Any other comments on that?

VICE CHAIRPERSON HERRERA: No.
CHAIRPERSON MATHIS: Okay. Hearing none, I will definitely be pursuing this. And it will be a future agenda item, and we'll get better educated on what the possibilities are.

So the last -- yeah, item X, discussion and possible action on budget and appropriations. Last time we had that copy that everyone received, that was the expenditures of the previous commission through 2005. And that's the only financial document so far that I've come across. The controller at ADOA, Joe Witmer, is going to look for us to see what is in their system currently, because they handled the financial reporting of the previous commission, so there is -- they can go back so far, but they can't go back to the early days of the commission, is what my understanding is.

So I'm getting that confirmed to find out how far back can we go and just try to get a sense -- some financial snapshots over time would be helpful to just understand how quickly they were spending money and on what items.

And our executive director, once they're on board, they would also -- they're going to be helping -- they're going to be creating the budget. So that will also be a important component to this.

Any other comments on the budget and appropriations for agenda item X?

COMMISSIONER STERTZ: Just suggest that it be a continuing agenda item.

CHAIRPERSON MATHIS: Yes.

Okay. And that's a good segue to the next
one, agenda items and dates of future meetings. If we could, I'd like to -- we're probably going to have to be meeting more frequently, you know, maybe even on a weekly basis, and I don't know if -- if you're ready to commit a certain day, maybe, that the commission is at least going to strive for trying to meet, like if Thursdays are better or Fridays. But I -- I'd welcome any -- any thoughts on that on when we might set up a regular meeting. It might help all of us with planning.

VICE CHAIRMAN FREEMAN: Madam Chairman, earlier I think you asked us to send you scheduling conflicts, so I'd hate to commit, although I like the Thursday afternoon meeting.

CHAIRPERSON MATHIS: Okay.

VICE CHAIRMAN FREEMAN: It works well for me for the foreseeable future, but I'd hate to commit to it right now --

CHAIRPERSON MATHIS: Okay.

VICE CHAIRMAN FREEMAN: -- because I might have something two months from now --

CHAIRPERSON MATHIS: Sure.

VICE CHAIRMAN FREEMAN: -- that can't be moved and I wouldn't be able to make it.

CHAIRPERSON MATHIS: Are there certain days that are, though, generally better? And understanding that there could be exceptions to that.

VICE CHAIRMAN FREEMAN: Not for me.

CHAIRPERSON MATHIS: Okay. Any other thoughts?
VICE CHAIRMAN FREEMAN: To a certain degree, I can control my schedule, but there are times when I cannot.

CHAIRPERSON MATHIS: Right. I understand.

COMMISSIONER McNULTY: There are some days that are less bad.

CHAIRPERSON MATHIS: Yeah, that's another way to phrase it. Are there some days that are less bad?

COMMISSIONER McNULTY: Thursday afternoon is less bad for me three out of four days of the month. I have another Thursday during the month when it's bad. And Fridays are less bad.

CHAIRPERSON MATHIS: So Thursdays and Fridays so far.

Any thoughts, Mr. Herrera?

VICE CHAIRPERSON HERRERA: Fridays work for me.

CHAIRPERSON MATHIS: Fridays you like.

VICE CHAIRPERSON HERRERA: They tend to be less bad.

COMMISSIONER STERTZ: And Thursday is a fantastic day. I -- I try to keep my Fridays and Mondays open.

CHAIRPERSON MATHIS: Okay. So we basically -- Because Thursdays and Fridays are good for me too. So maybe we can just be aiming for those days generally, and we won't set up a definite schedule at the moment.

But I would like to set the next meeting date, if we could. Next week, if possible. I don't
know -- Unfortunately, I can't do Friday next week, but Thursday would work. So I don't know.

VICE CHAIRPERSON HERRERA: What day -- what day is the --

VICE CHAIRMAN FREEMAN: 31st, I believe.
COMMISSIONER McNULTY: That works for me, Madam Chair.
CHAIRPERSON MATHIS: Great.
So we're going to say Thursday, the 31st. Is the afternoon better for people? Or is anytime next Thursday?

COMMISSIONER STERTZ: Next particular Thursday, I'm baby-sitting my granddaughter on Thursday -- late Thursday afternoon, so if we could do morning, it would be great.

CHAIRPERSON MATHIS: We could also discuss venue. Is there preferences on where we meet next time? Tucson or Phoenix or --

VICE CHAIRPERSON HERRERA: Why don't we meet in the location we're considering?
CHAIRPERSON MATHIS: Is that possible to do that soon? In a week, do you think, Nola? Sorry. I should acknowledge you.

MS. BARNES: You might meet across the street --

CHAIRPERSON MATHIS: Maybe in that --
MS. BARNES: -- is more probable. The -- the office space itself probably doesn't --
CHAIRPERSON MATHIS: Right. It doesn't --
MS. BARNES: It doesn't lend itself to ADA compliance or a public meeting.
CHAIRPERSON MATHIS: Right. And there's --
yeah, there are no furnishings at all yet, but the public
library that's right across --
VICE CHAIRPERSON HERRERA: Actually, I was
referring to that, yeah --
CHAIRPERSON MATHIS: Oh, great.
VICE CHAIRPERSON HERRERA: -- having the
meeting there.
CHAIRPERSON MATHIS: Perfect. Okay.
COMMISSIONER STERTZ: Madam Chair, because
we're going to be voting on the -- a couple of -- we're --
we're going to be bringing forward a couple of fairly
serious pieces that we'll be voting on, which is who we're
going to be picking for counsel and how we're going to
be -- how we're going -- sending an RFP out, there
might -- we want to make sure that there is the
opportunity for, one, sufficient public and, second, that
we want to make sure that we've got audio/visual capacity
for recordation of the meeting other than through
reporting.
CHAIRPERSON MATHIS: And in terms of -- Are
you suggesting webstreaming or --
COMMISSIONER STERTZ: Suggesting that we
just pick a -- we pick a house that's got a big enough
room.
CHAIRPERSON MATHIS: Oh, okay. Great.
Perfect. I think the -- the public library, actually, would accommodate us in this instance based on the meeting setup we saw today. But we'll confirm that, so maybe we'll hold on exactly the venue for the meeting until we confirm that, A, it's available and, B, can -- does it have what we need for this meeting.

VICE CHAIRPERSON HERRERA: Madam Chair?
CHAIRPERSON MATHIS: Yes.
VICE CHAIRPERSON HERRERA: Can we pick a time, then?
CHAIRPERSON MATHIS: Yes.
So Mr. Stertz, you said --
COMMISSIONER STERTZ: I would love mornings.
CHAIRPERSON MATHIS: Okay.
COMMISSIONER STERTZ: That would be great this particular Thursday.
CHAIRPERSON MATHIS: Okay.
COMMISSIONER STERTZ: I appreciate you being able to accommodate me.
VICE CHAIRPERSON HERRERA: What about an 8:00 start? Is that too early?

COMMISSIONER MCNULTY: Yes.
CHAIRPERSON MATHIS: Thank you.
COMMISSIONER STERTZ: Madam Chairman.
CHAIRPERSON MATHIS: If we're -- if it's in Phoenix.
COMMISSIONER STERTZ: Being that I know the route coming up through downtown, coming around the Broadway curve is impossible between -- so if it could be
about 9:30 as a start, we miss the -- we miss the one-hour
delay coming into town.

CHAIRPERSON MATHIS: Okay. Would that work
for you, Mr. Herrera?

VICE CHAIRPERSON HERRERA: If it works for
Ms. McNulty, it works for me.

COMMISSIONER McNULTY: Thank you.

CHAIRPERSON MATHIS: Okay. Great.

So our next meeting is at least set for
March 31st at 9:30 in the morning, and we will confirm
venue.

Future agenda items for that meeting,
any- -- anything anyone wants to raise?

COMMISSIONER McNULTY: I'd like to talk
about the website a little bit, sooner than later, so
that -- that we make sure we've reserved the domain name
we need and that kind of thing.

CHAIRPERSON MATHIS: Uh-huh. Okay. Any
other agenda items? There are some, obviously, continuing
from this meeting that we're going to be covering.

Counsel, can you think of anything that we
need to do at a next meeting?

MR. MUNNS: If you carry over most of your
agenda items from this one, you should be fine, and then
add the website.

CHAIRPERSON MATHIS: Right.

MR. MUNNS: Maybe I'll help fine-tune some
of these for some new developments on the RFP side and --

CHAIRPERSON MATHIS: Okay.

MR. MUNNS: -- the ED side.
COMMISSIONER STERTZ: Madam Chair?

CHAIRPERSON MATHIS: Yes.

COMMISSIONER STERTZ: I'd like to add a broader -- begin the discussion of what our intent as a commission is in regards to public access for information, and it'll allow us to have some discussion and some requests from legal counsel what we can and cannot do in regards to things like sending out Tweets, Facebook posting, whether or not there's any -- what -- what that may or may not have ramifications towards from a legal point of view and -- and what our -- what our expectations as a -- as a commission are to getting that sort of data out.

CHAIRPERSON MATHIS: So a discussion on social media.

COMMISSIONER STERTZ: Social media and communications and how we're going to --

CHAIRPERSON MATHIS: Okay.

COMMISSIONER STERTZ: I think it's -- and I'm not trying to speak for all the commissioners, but I believe that our goal is to get as much information out to as many people as quickly as possible and as live as possible from all corners of the state as we're moving through this next phase.

CHAIRPERSON MATHIS: Okay. Any other thoughts on that? This also kind of relates to us moving forward too on creating a position description qualification around somebody who is that outreach/Web IT master, and -- and so we'll be -- I'll be talking to Susan
Laurence about that and seeing what we might be able to
draft and forward for everyone -- forward to everyone for
their consideration.

Any other future agenda items that we want
to ensure get on the next agenda in a week?

Okay. Hearing none, looks like we're at
item XII, which is adjournment. And since there's no
further business, this meeting is adjourned.

(The public meeting was concluded at
3:58 p.m.)
I, Meri Coash, hereby certify that the foregoing pages numbered from 1 to 132, inclusive, constitute a full, true, and accurate record of the proceedings had in the above matter, all done to the best of my skill and ability.

DATED this day of , 2011.

Meri Coash, CCR #50327