

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

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2

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

	03-24-11	AZ Independent Redistricting Commission.txt	
5		APPROVAL OF 3-9-11 MINUTES	10
6	III	PUBLIC COMMENT	
7		Manny Bustamante	10
		A. David Braun	14
		Marsha Bushing	18
8	IV	INTRODUCTION OF MEGAN DARIAN	20
9	V	OPEN MEETING LAW AND ROBERT'S RULES	21
10		OF ORDER TRAINING	
11	VI	EXECUTIVE DIRECTOR POSITION DESCRIPTION	48
12		AND OTHER ADMINISTRATIVE SUPPORT	
13		Exhibit 1 PDQ of the executive	67
		director position	
		description	
14	VII	REQUEST FOR PROPOSAL PROCESS FOR SECURING	74
15		LEGAL AND OTHER CONSULTATIVE SUPPORT	
16	VIII	OFFICE SPACE OPTIONS	110
17	IX	RECORDS FROM PREVIOUS COMMISSION IN	119
18		ARCHIVAL STORAGE	
19	X	BUDGET AND APPROPRIATIONS	123
20	XI	AGENDA ITEMS AND DATES OF FUTURE MEETINGS	124
21	XII	ADJOURNMENT	133
22			
23			
24			
25			

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1 TRANSCRIPT OF PROCEEDINGS

2 CHAIRPERSON MATHIS: Great. This meeting

3 will come to order. This is the second meeting of the

4 Arizona Independent Redistricting Commission. And I'd

5 like to start with a pledge of allegiance, so if we could

6 all rise.

7 (Pledge of Allegiance.)

8 CHAIRPERSON MATHIS: I'd like to inform

03-24-11 AZ Independent Redistricting Commission.txt
9 everyone that if you would like to address us during the
10 public comment session -- section, that there are requests
11 to speak forms outside that you can fill out and give to
12 me.

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

17 If I could now begin with the roll call.

18 Vice Chair Freeman?

19 VICE CHAIRPERSON FREEMAN: Here.

20 CHAIRPERSON MATHIS: Vice Chair Herrera?

21 VICE CHAIRPERSON HERRERA: Here.

22 CHAIRPERSON MATHIS: Commissioner McNulty?

23 COMMISSIONER McNULTY: Here.

24 CHAIRPERSON MATHIS: Commissioner Stertz?

25 COMMISSIONER STERTZ: Here.

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1 CHAIRPERSON MATHIS: We have a quorum.

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

7 So thanks for joining us, Chris.

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

11 Did everyone have a chance to review those?

12 COMMISSIONER McNULTY: Yes.

13 VICE CHAIRMAN FREEMAN: Madam Chairman, I

14 have one change. On page 2, third paragraph from the
15 bottom, I think this was a change I noticed in the last --

16 CHAIRPERSON MATHIS: Yes.

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

19 CHAIRPERSON MATHIS: Okay.

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

22 CHAIRPERSON MATHIS: would you mind
23 repeating that? I just found it.

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

5

1 asked why Ms. Lanning" --

2 CHAIRPERSON MATHIS: Stertz.

3 VICE CHAIRMAN FREEMAN: Mr. Stertz.

4 CHAIRPERSON MATHIS: Okay. Any other
5 corrections?

6 COMMISSIONER McNULTY: I think I had one or
7 two. I just need to find them.

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

11 CHAIRPERSON MATHIS: Okay.

12 COMMISSIONER McNULTY: That's the only
13 thing.

14 CHAIRPERSON MATHIS: Any other corrections?

15 VICE CHAIRPERSON HERRERA: No.

16 CHAIRPERSON MATHIS: without objection,
17 then, if we could go ahead and approve these minutes as

03-24-11 AZ Independent Redistricting Commission.txt
18 amended, based on these two amendments that were just
19 noted.

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

23 VICE CHAIRMAN FREEMAN: I'll second.

24 CHAIRPERSON MATHIS: All in favor?

25 VOICE VOTES: Aye.

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6

1 CHAIRPERSON MATHIS: Any opposed?

2 (No verbal response.)

3 CHAIRPERSON MATHIS: Okay. These minutes
4 pass as amended.

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

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

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

20 CHAIRPERSON MATHIS: Oh, that's right. Yes.
21 You did. Thank you for noticing that. So your motion is
22 amended to just include --

23 VICE CHAIRPERSON HERRERA: Include the
24 February 24th meetings, the amended, revised minutes.

25 CHAIRPERSON MATHIS: Right. Right. Because

7

1 we're discussing the March 9th minutes now. Thank you.

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

4 MR. MUNNS: Right.

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

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

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

22 CHAIRPERSON MATHIS: Right. More accurate
23 than the minutes.

24 MR. MUNNS: Right.

25 CHAIRPERSON MATHIS: So great.

8

1 COMMISSIONER MCNULTY: Madam Chairman, move
2 that we substitute the transcript for the minutes of that
3 meeting.

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

6 VICE CHAIRPERSON HERRERA: I second that.

7 CHAIRPERSON MATHIS: Any discussion?

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

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

25 CHAIRPERSON MATHIS: No problem.

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

4 MR. MUNNS: Since they're your minutes,
Page 7

5 they'll need to be available within three days after your
6 meeting. So you can check to see how fast the transcript
7 will be available, and perhaps you may want to record a
8 meeting as a backup so the recording can be available
9 until the transcript is finalized, something like that.

10 CHAIRPERSON MATHIS: Okay. Great.

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

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

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

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

21 CHAIRPERSON MATHIS: Okay. Any other
22 discussion?

23 COMMISSIONER STERTZ: Could you restate the
24 motion?

25 COMMISSIONER McNULTY: I would move that we

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1 substitute the transcript of the March 9th meeting for the
2 draft minutes that were taken and allow the commissioners
3 the opportunity to review the transcript upon receipt and
4 make any comments and corrections.

5 VICE CHAIRPERSON HERRERA: I second that.

6 CHAIRPERSON MATHIS: All in favor?

7 VOICE VOTE: Aye.

8 CHAIRPERSON MATHIS: Any opposed?

9 03-24-11 AZ Independent Redistricting Commission.txt
(No verbal response.)

10 CHAIRPERSON MATHIS: Okay. So the motion
11 carries.

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

15 VICE CHAIRPERSON HERRERA: Third one.

16 CHAIRPERSON MATHIS: Oh, great. A third.
17 Thank you.

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

21 Manny?

22 MR. BUSTAMANTE: Good afternoon.

23 CHAIRPERSON MATHIS: Good afternoon.

24 MR. BUSTAMANTE: Is it okay if I sit?

25 CHAIRPERSON MATHIS: Sure.

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1 VICE CHAIRPERSON HERRERA: Of course.

2 MR. BUSTAMANTE: Thank you.

3 Good afternoon, members of the commission.

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

7 The service you're going to be performing --
8 the volunteerism on behalf of the people of Arizona is a
9 very important one. I want the commission to know I'm
10 going to be available to assist the commission during this
11 redistricting process. I wish to have an ongoing dialogue
12 with this commission, and I look forward to working with
13 the commission during this process.

14 I notice many issues the commission's going
15 to face over the next several months, and today's meeting
16 is more administrative in nature. However, what I'm going
17 to speak to the commission about today will become your
18 chief concern as commissioners. And that's going to be
19 your ability to draw legal and fair maps. What's going to
20 affect that ability to draw those legal and fair maps is
21 the Voting Rights Act. And the commission must, in
22 accordance with the supremacy clause of the Constitution,
23 give priority consideration to the federal Voting Rights
24 Act including both section 2 and section 5.

25 Section 5 of the Voting Rights Act protects

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1 minority voters from any election procedures, including
2 this redistricting, that retrogress or harm the interests
3 of minority voters with respect to the benchmark plans.
4 In our case, section 5 prohibits any redistricting plan
5 that harms minority voting strength. Therefore, section 5
6 prohibits this commission from any redistricting plan that
7 dilutes or negatively affects Hispanic citizens' voting
8 interests.

9 In addition, we're going to ask the
10 commission to pay attention to the requirements of
11 section 2 of the Voting Rights Act. In light of the
12 Supreme Court's decision in Bartlett v. Strickland, as the
13 Supreme Court stated in that case, much remains to be done
14 to ensure that citizens of all races have equal
15 opportunity to share and participate in our democratic
16 processes and traditions, and section 2 must be
17 interpreted to ensure that that continued -- progress

03-24-11 AZ Independent Redistricting Commission.txt
18 continues.

19 I'm available to work with this commission
20 throughout this redistricting process to ensure that the
21 voting rights of Hispanic citizens and all minorities are
22 protected during this process. Our group wants to work
23 with this commission to ensure that there's no
24 retrogression of Hispanic citizens' voting interests and
25 no retrogression of any kind in the Hispanic majority

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1 districts.

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

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

20 This commission cannot ensure that a
21 district will be a majority/minority citizen voting age
22 population district if the commission does not create a

23 district that has sufficient Hispanic population to ensure
24 that Hispanics are the majority of the citizens in that
25 district. If this commission does not ensure that

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1 districts have a majority population of Hispanic citizens
2 of voting age, then the result will be those majority
3 Hispanic voting age districts will likely fail to be able
4 to elect a candidate of choice because their vote would be
5 overwhelmed by the majority of citizens of voting age.

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

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

15 CHAIRPERSON MATHIS: Thank you.

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

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

25 Anyway, I want to talk about item 7 and 9.

15

1 In reference to item 7, the appointment of outside
2 counsel, I noticed that currently you have the attorney
3 general's office representing you, which was, in fact, the
4 procedure 10 years ago. The first commission made this --
5 deliberately made this sort of decision in reference to
6 whether to continue to retain the attorney general or
7 whether to go to outside counsel.

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

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

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1 Commissioner McNulty in reference to my concerns about
2 that conflict of interest.

3 As I -- You are partisan appointees even
4 though you certainly have to work together as, you know,

5 one commission to ultimately come up with appropriate and
6 legal maps that will survive your own evaluations and the
7 Justice Department's evaluation and ultimately the Court's
8 evaluations. Because almost invariably, there will be
9 litigation, and you should expect that and not be
10 surprised or upset when it comes, because there's always
11 going to be some politician or some group or some party or
12 city or county that's upset with the redistricting map
13 that you've drawn.

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

22 I think the lawyers will recognize -- the
23 two lawyers that are already members of the commission
24 that there is going to be an inherent conflict of
25 interest, at least from my perception, if the attorney

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1 general is trying to represent two Democrats, two
2 Republicans in this ultimately political process that you
3 are -- you're entering. So that is my pitch in reference
4 to item 7.

5 In reference to item 9, which may not get
6 very much attention -- it may not be controversial, but
7 it's just something that I have noticed -- currently the
8 website for the commission is, of course, the old website

03-24-11 AZ Independent Redistricting Commission.txt
9 with all the maps and details and information from the
10 2001 process. I hope you retain that forever. It is a
11 major historical piece of reference. Don't give it to the
12 archives yet. Keep it as an available resource for you to
13 use. If you have the time and energy, going through it
14 will give you an idea of what the commission did 10 years
15 ago and the struggles that they were having.

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

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

25 And I thank you for your attention. Good

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1 luck.

2 CHAIRPERSON MATHIS: Thank you.

3 COMMISSIONER STERTZ: Thank you.

4 VICE CHAIRPERSON HERRERA: Thank you.

5 CHAIRPERSON MATHIS: We have one more
6 speaker from the public, Marsha Bushing. She's
7 executive director, and you'll have to -- it says. Oh,
8 you're going to talk about the executive director
9 position.

10 MS. BUSHING: Yes.

11 CHAIRPERSON MATHIS: Sorry.

12 You're from -- If you could say where
13 you're -- who you represent.

14 MS. BUSHING: I don't represent anybody
15 other than myself.

16 And I am Marsha Bushing. And thank you,
17 each of you, for serving on the commission.

18 And before I start talking about that, I
19 just want to echo what David said about the website. It
20 is very helpful, and it would be a shame to take it down,
21 because I think not only each of you will find it useful
22 as you go forward, but I think members of the public may
23 find it very useful as well.

24 But off that subject and on to the executive
25 director, I missed the meeting in Tucson, so you,

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1 obviously, have geared up a lot more since the meeting
2 where, Madam Chairman, you were chosen, and there's staff
3 and audio/visual. But I think it's really important that
4 you, in fact, continue the audio/visual. And what I came
5 here in part to say as to the executive director is if
6 part of your requirements or qualifications for the
7 executive director would include somebody that has A/V
8 understanding and training, it might be very helpful if
9 you don't otherwise have a full-time A/V person to help
10 you out. And in particular, I know one of the issues is
11 budgets this year. And in mediations and arbitrations, I
12 have conducted long-distance audio/visual as easy as doing
13 two web cams, a Skype, and a screen -- Skype on -- on
14 computer and screen.

15 So you can, I mean, install Skype for free.
16 The web cams are less than a hundred dollars apiece, and,
17 you know, the screen can either be the wall or a screen,

03-24-11 AZ Independent Redistricting Commission.txt
18 so you can set up remote access from all parts of the
19 state pretty easily, particularly if one or more of you
20 can't attend a meeting and just have it that way.

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

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1 to view the meetings contemporaneously.

2 Thank you.

3 CHAIRPERSON MATHIS: Thank you.

4 VICE CHAIRPERSON HERRERA: Thank you.

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

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

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

20 And I thank you, Bill.

21 VICE CHAIRPERSON HERRERA: Is he here?

22 CHAIRPERSON MATHIS: Yes.

23 Bill, if you could stand up?

24 Thank you.

25 VICE CHAIRPERSON HERRERA: Thank you, Bill.

21

1 CHAIRPERSON MATHIS: We all appreciate that.

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

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

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

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

21 So I'll start with the open meeting law.
22 And this seems like it would be a very simple law, and
23 succinctly stated, it just means that all meetings of any
24 public body need to be public meetings, and any interested
25 person can attend and listen. So it's kind of simple,

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1 but, you know, we've got a whole bunch of law that goes
2 along with that. This concept is reenforced for this
3 commission because the Constitution imposes the same
4 public access requirements on you and actually puts a
5 lengthier notice period. The usual notice period is 24
6 hours for a public body. For the commission, it's 48
7 hours. So I think that shows some intention that this
8 commission be very accessible to the public.

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

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

23

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

3 So I'm going to kind of do this in a top
4 five sort of things you need to know, sort of like

5 Letterman except not as funny and only half.

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

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

24 But we do caution public officers that it
25 can happen unintentionally a lot, because sometimes

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1 conversations just happen, and before you know it, you
2 might have -- something might have slipped out that
3 someone told you and you unknowingly created a quorum of
4 the commission. So we encourage commissioners not to talk
5 to other commissioners outside of the meeting about
6 commission business.

7 we do that, first, because of what I just
8 mentioned with the possibility of an unintentional

03-24-11 AZ Independent Redistricting Commission.txt
9 violation. And, second, our open meeting law enforcement
10 team gets tons of complaints all the time about the public
11 seeing people talking to each other outside the meeting if
12 even it's not a quorum, so it undermines public
13 confidence. They think that there's a lot of backroom
14 negotiation going on and they're not getting full access.
15 So we always encourage public officers, members of the
16 commission, to be very sensitive to that and not to talk
17 to other commissioners outside of a meeting.

18 Now, I know I'm sensitive to the fact that
19 sometimes there are -- conversations are necessary. It's
20 an appointed political position, so keeping in mind my
21 first encouragement, I would definitely keep it only to
22 one person and never try to talk to a third person about
23 it. I mean, you just don't want to run that risk. Even
24 if you're intending to keep it compartmentalized, you
25 never know when something might slip out. So that's one

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1 of the hardest things I've had to deal with public
2 officers on, is trying to keep that -- keep everything
3 just for the meeting and have all these discussions at
4 that point.

5 Now, there's been a change in law a couple
6 years ago. I'm sure a lot of you remember maybe
7 Scottsdale had a training where they talked about what
8 board members can say to the public, and it was very much
9 "Please don't talk to the public about any of your
10 business." So the legislature actually changed the law on
11 that, so now commissioners can speak to the public in
12 other venues than in a commission meeting about positions
13 on sort of commission-related business. You can talk to

14 press at a press conference, address a group of people,
15 and even other commissioners can be in the audience,
16 preferably not a quorum, though.

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

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

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

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

14 Okay. In meetings, you can only talk about
15 things that are on the agenda. The staff and your
16 counsel, they will put together an agenda that covers --
17 they'll tell you everything you're going to be talking

03-24-11 AZ Independent Redistricting Commission.txt
18 about, also tells the public what you're going to be
19 talking about and deciding. If there's something you want
20 to be on the agenda, you should contact the executive
21 director, and, essentially, the chair will put it on or
22 the executive director will put it on so that the board
23 can discuss it.

24 Now, agenda items, as I mentioned before,
25 they have to be specific enough so that people can tell

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1 what you're going to be discussing or deciding. That's
2 another one of the main areas that our enforcement team
3 sees a lot. Try to be as specific as possible. As you
4 notice, when we put the lease spaces down on your agenda,
5 we gave addresses so people know what's going to be talked
6 about instead of something like, you know, office space
7 discussion. Doesn't really give much information.

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

20 So the best practice is just to try and
21 stay, you know, exactly on the agenda and very closely
22 related thereto. Anything new that comes up, go ahead put

23 it on the next agenda for a more full discussion. It also
24 allows staff time to get you any additional information
25 you may need on that discussion as well.

28

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

17 what happens is a commissioner will need to
18 make a motion to go into executive session and state the
19 reason for the executive session, whether it's for legal
20 advice, to discuss personnel matters, things like that.
21 And then there needs to be a vote -- second and a vote on
22 that. At that point, it's become a private meeting, and
23 so the public will either need to be escorted out of the
24 meeting room, and we usually recommend they take
25 everything with them just to be sure there's no recorders

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1 or anything you might not be aware of.

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

6 So -- Or you can retreat into a boardroom.
7 This meeting room actually has a confidential boardroom
8 right next door, so you can go there, and the public can
9 stay here and chat while you're in executive session.

10 So everything in executive session is
11 confidential and can't be discussed or released outside of
12 the executive session. There are several sort of
13 authorizations in statute for other people to get it.
14 Board members who weren't present at the meeting can
15 access the executive session because -- or commissioners
16 because they're going to need to know what was going on
17 with the commission even though they were absent. The
18 attorney general can have access to investigate open
19 meeting law issues, and courts can have access to also
20 investigate open meeting law issues, and the county
21 attorneys as well.

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

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

4 You need to make sure you stay on point with
Page 25

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

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

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

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1 There are a couple of them that do allow for
2 some discussion while you're in executive session, and so
3 your counsel who will be in there with you can tell you
4 about that. Personnel context allows for some discussion.
5 Several of the executive sessions allow for instruction to
6 your attorneys and representatives. So that would be in
7 the case of liti- -- settlement of negotiation or
8 negotiation of a lease. You may want to have more of a

03-24-11 AZ Independent Redistricting Commission.txt
9 free-flow discussion between yourselves and your
10 representative as to what your sort of preferred lease
11 rate would be or your settlement options. In the case of
12 personnel, you may be talking about salary or discipline
13 or which executive director you would like to appoint,
14 that kind of thing. So those are kind of the exceptions
15 to the discussion of rule, but still no voting and no
16 straw votes.

17 Also the open meeting law does require
18 minutes for executive sessions. I usually recommend that
19 the executive session be recorded for maximum security for
20 the commission. I say that because the way courts have
21 structured the open meeting law challenge is the burden of
22 proof is on the complainant to say that something happened
23 in executive session that's not lawful.

24 If there -- If it a colorable claim,
25 essentially, that something could have happened, the

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1 burden actually shifts to the public body to prove that it
2 did not violate the open meeting law, so if you kind of
3 have a general summary of what happened in there, that
4 might not be as persuasive as being able to say to the
5 judge, "Look, here's an audio recording of our entire
6 open -- executive session. You know, we were entirely
7 compliant the whole time," and then the case is done.
8 whereas if you're going to be arguing about sort of a
9 summary of what happened, that could drag out a little
10 longer. So I usually record -- recommend recording them,
11 then keeping those secured. The minutes of the executive
12 session are just as confidential as anything else. They
13 need to be separately kept from the regular minutes and

14 secured.

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

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

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1 that go with that.

2 No questions? Okay.

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

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

16 There is an exception to that. The open
17 meeting law does allow the commission to respond to

03-24-11 AZ Independent Redistricting Commission.txt
18 criticism. We advise to keep that very general and very
19 short. I can't even really think of any -- I don't see it
20 happen very often, but usually if it's important enough
21 that somebody's complaining about it, it's probably
22 important enough to put it on an agenda so you can have a
23 full discussion about it instead of trying to be very
24 short and general in your response. It's kind of a short
25 topic, but it's pretty important.

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34

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

21 I say that because the temptation is always
22 to hit "Reply All" or maybe even mistakenly to hit "Reply

23 All" instead of "Reply" when a board member -- a
24 commissioner sends out -- like "I found this newspaper
25 article that's relevant to what we'll be talking about

35

1 next week." You might want to send that to a quorum of
2 the commission, and then someone might reply all, saying,
3 "Oh, that's really good" or something. So it's good just
4 to avoid that by sending that article to the executive
5 director, who will then include it in the commission
6 packet or do a separate e-mail out to everyone with that
7 information.

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

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

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

22 We actually do have an attorney general
23 opinion out about e-mail communications, and I can send
24 that to anyone if they're interested. It actually has
25 some helpful examples on page 9, where it goes through a

36

1 number of common situations that board members find
2 themselves in, whether it's receiving letters from the
3 public that you want the rest of the commission to see,
4 coming across information you'd like to share with the
5 rest of the commission, that kind of stuff. So just let
6 me know. I can send that out, or I can send it to Megan,
7 who would be able to send it to you as well.

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

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

15 How am I doing on time?

16 CHAIRPERSON MATHIS: I actually have a
17 question.

18 MR. MUNNS: Okay.

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

25 MR. MUNNS: Actually, yeah, the commission

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37

1 can have a telephonic meeting. You just have to make sure
2 it's noticed in -- it's on the notice in the agenda that
3 it will be telephonic. You'll still need to have a public
4 space where the public can come and listen to all the

5 discussions and deliberations, so then you can vote and
6 you can do everything just like a normal meeting. It's
7 just that there's a couple extra notice requirements on
8 that and then the space requirements.

9 CHAIRPERSON MATHIS: Great. Thank you.

10 MR. MUNNS: Okay. So how to run a meeting.
11 I've given everyone a -- sort of a PowerPoint that goes
12 over this. Essentially, everyone relies on Robert's
13 Rules, and the question is, why even use those? It seems
14 you go to some of these meetings and then they seem very
15 stilted and overly formal, you know, "Mr. Chair," all this
16 stuff.

17 But the way it works is it promotes
18 efficiency by organizing everyone's speaking so that no
19 one's speaking over each other. There's a way of telling
20 who's going to speak first and make sure that there's not
21 confusion and too much -- too many people trying to talk
22 at the same time. It also promotes fairness by allowing
23 everyone to be able to express their own thoughts on a
24 matter before the commission acts on it. The way the
25 process is built up is it encourages discussion before a

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38

1 final vote on a matter. And finally, it kind of provides
2 legitimacy and familiarity. This is the
3 generally-accepted process for doing sort of multimember
4 decision-makers, so there's kind of a familiarity from
5 people who have never even served -- been on a board but
6 they have seen a lot. They kind of know how things are
7 going to work from board to board. Even if you've never
8 been on the commission before, you were on, let's say, the

03-24-11 AZ Independent Redistricting Commission.txt
9 behavioral health board, you kind of know how, you know,
10 the process works. And the other thing is it does kind of
11 lend to legitimacy because you're using generally-accepted
12 rules of procedure, and it gives you a little bit of
13 ability to forecast how things will shake out.

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

25 And there's some flexibility for the

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39

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

7 Now, the role of the chair under Robert's
8 Rules is basically to run the meeting, to be in charge.
9 She will recognize the speakers and make sure everyone
10 gets to speak in turn and make sure no one's talking over
11 other people. That helps keep the record clear, as Meri
12 asked us to do. It also helps keep sort of the procedures
13 moving. So part of her job will be to make sure that sort

14 of -- kind of bringing an end to kind of fruitless
15 arguments or to make sure that -- to try to build
16 compromise or whatever is necessary to kind of make sure
17 the commission gets its job done.

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

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

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

16 Also the chair's responsible for preventing
17 disruptions from the public. A disruptive public member

03-24-11 AZ Independent Redistricting Commission.txt
18 can be asked to leave after several warnings highlighting
19 the disruptive behavior and asking them to correct
20 themselves. So usually, it needs to be pretty egregious,
21 speaking out, yelling, or something like that before that
22 can happen. And I'd probably encourage you to speak to
23 your counsel before exercising that authority.

24 Also throughout the rest of this
25 presentation, there's going to be suggested language in

41

1 your handouts for motions and the like, so I won't be
2 going through that.

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

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

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

22 And I'm just going to briefly go through the
Page 35

23 motion process, which is how you'll resolve most of the
24 agenda items. The basic motion is "I move that the
25 commission do X," there will be a second, usually a

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1 discussion, and then the vote. The chair should make sure
2 that there's only one motion at the table -- on the table
3 at a time, which sometimes can be confusing if it's sort
4 of one of those issues where it gets a little bit heated
5 and there's multiple motions coming out. So you should
6 probably go with the first one, make -- see if there's a
7 second on that, and then resolve that one.

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

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

23 But the formal -- if you're doing a more
24 formal option, it will be you have to discuss after
25 there's a motion and a second on the table, so that's kind

43

1 of up to the commission how to do it.

2 After there's been a motion, a second, and
3 discussion, the chair will call for the vote. And a
4 vote can be either a voice vote, essentially all in favor
5 say aye, or it can be a roll call where everyone -- there
6 will be a roll call and every person will say aye or nay
7 or abstain after their name is called.

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

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

21 There's another option on voting which is
22 the unani- -- unanimous consent vote, which, I think, the
23 commission is familiar with, which is especially good for
24 adjourning meetings. Basically it works, the chair will
25 say, "If there's no objection, I will adjourn the

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1 meeting," and then wait a second, and hearing no
2 objections, "This meeting is adjourned." That's kind of
3 is how it works. But if someone objects, you would just
4 go through the regular motion-making process.

5 CHAIRPERSON MATHIS: I have a question on
6 that.

7 MR. MUNNS: Yes.

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

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

16 CHAIRPERSON MATHIS: Okay. Thank you.

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

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

7 So, you know, the chair has already said,
8 you know, "I have a motion and a second to do X." And

03-24-11 AZ Independent Redistricting Commission.txt
9 someone says, "Well, I move that we amend the motion to do
10 Y." Since you've already repeated it, then the motion
11 maker would say, you know, "I'm fine with that" -- No.
12 Sorry. Go back. Then the commission would vote. If they
13 vote it down, then you would vote on the original motion
14 without amendment. If they vote to accept the amendment,
15 then you can vote on the amended motion. So it's a little
16 more awkward, but that's why I encourage discussion before
17 the motions start flying, because it cuts down on the
18 amendments and everything. You kind of get a good feel
19 for where everyone's at before the first motion's made.

20 And the other kind of special motion is to
21 force a vote. Sometimes discussion will go on and on when
22 you have a motion and a second on a table, and so you kind
23 of just want to move forward. Sometimes the chair can
24 call a vote or a commissioner can call for the vote to cut
25 off the discussion. That's actually another form of

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46

1 motion. You'll need a second. There's no discussion on
2 the motion. And then there will be a vote on whether to
3 cut off discussion and go straight to a vote on the
4 original motion. So that's sort of the other special
5 motion I see a lot.

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

12 So -- And then finally adjournment, which
13 we've already discussed, the chair can just adjourn the

14 meeting if there's no objection, or you can use the
15 unanimous consent option, or you can do the formal motion
16 process, "I move to adjourn," "Second," and then vote on
17 it. The chair should note the time the meeting ends for
18 the minutes. And then you're all done.

19 You should probably make sure that -- I
20 recommend, because of the open meeting law considerations,
21 not to have commissioners sort of hanging around talking
22 about stuff afterwards because it gives kind of an
23 appearance that maybe the meeting's still going on; they
24 just wanted the public to leave. I've actually see some
25 boards do this unintentionally where they forgot something

47

1 at the meeting and then "Everyone's here. Let's talk
2 about it now" kind of thing. So that would be an open
3 meeting law violation. If it turns out you forgot
4 something, just put it on the next agenda and deal with
5 it.

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

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

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

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

03-24-11 AZ Independent Redistricting Commission.txt
18 practice.

19 CHAIRPERSON MATHIS: Okay.

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

22 CHAIRPERSON MATHIS: Okay. Thank you.

23 Does that conclude the training?

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

25 CHAIRPERSON MATHIS: Okay. Thank you very

48

1 much, Chris. I appreciate the information. Got some
2 homework to read all this.

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

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

22 The page Major Responsibilities, which is
Page 41

23 the third page, is kind of the one that talks about the
24 duties, and as it's been described to me, it's not -- it
25 doesn't have to be perfect, this position description

49

1 qualification, in terms of the exact percentages of how
2 much the time this person's going to be spending in each
3 of these areas. And we can adjust these primary
4 responsibilities too as we need to once the person's hired
5 in the job and we determine they need to be doing more
6 with the website or whatever it is, that we can
7 incorporate that into it.

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

17 So any commissioners have any --

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

22 CHAIRPERSON MATHIS: Okay. Any other input?

23 COMMISSIONER STERTZ: Madam Chair, may we
24 discuss the process subsequent to the release or the
25 approval of this document?

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1 CHAIRPERSON MATHIS: Certainly.

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

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

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

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

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51

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

4 MS. MASS: I'll probably take it.

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

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

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

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52

1 them.

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

7 CHAIRPERSON MATHIS: And -- Go ahead.

8 COMMISSIONER STERTZ: Madam Chair, are those

03-24-11 AZ Independent Redistricting Commission.txt
9 discussions that we would -- we want to have memorialized
10 today?

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

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

21 CHAIRPERSON MATHIS: Okay.

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

25 MS. MASS: No.

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53

1 CHAIRPERSON MATHIS: There's no legal
2 requirement.

3 MS. MASS: No.

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

7 MS. MASS: That's correct.

8 CHAIRPERSON MATHIS: Okay. Great.

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

13 CHAIRPERSON MATHIS: Okay. Thank you.

14 VICE CHAIRPERSON HERRERA: Madam Chair?

15 CHAIRPERSON MATHIS: Yes.

16 VICE CHAIRPERSON HERRERA: I do have a
17 question. I don't know if you can answer it. Are the --
18 Once we decide on the people we want to interview, are
19 these interviews done in open meeting?

20 CHAIRPERSON MATHIS: That's a great
21 question. I don't have an answer. I don't know if
22 counsel can answer that.

23 MR. MUNNS: You can interview in executive
24 session.

25 VICE CHAIRPERSON HERRERA: Thank you.

54

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1 COMMISSIONER McNULTY: Madam Chair, if
2 I understand correctly, we wouldn't need to establish the
3 time right now that we were going to leave the application
4 process open; we could just leave it open until --

5 MS. MASS: You could. You could. Or you
6 can notify Susan.

7 COMMISSIONER McNULTY: Or we could determine
8 now that we wanted to leave it open for 3 days or 5 days
9 or 10 days?

10 MS. MASS: Typically, Susan can do
11 everything from -- every day she can send you resumes and
12 update the spreadsheet, or at the end of each week, she
13 could do it. I think it really depends on your timeline,
14 internal timeline as far as how soon do you need to have
15 the executive position filled. So that will dictate how
16 quickly the process needs to go.

17 COMMISSIONER McNULTY: From the perspective

03-24-11 AZ Independent Redistricting Commission.txt
18 of the Department of Administration kind of backing out
19 the amount of time we would need to interview and make the
20 selection, how much time do you need between the date that
21 we close acceptance of applications and the date of
22 appointment?

23 MS. MASS: Typically, what we would do is --
24 again, if there's a sense of urgency -- which, I assume,
25 there is -- we could send you every two to three days an

55

1 updated list of the resumes, send the resumes out to you,
2 and if you have a sufficient number that you feel is
3 adequate, then we can close the posting off at that point,
4 and then we would start the prescreen process, make sure
5 that they pass all the background verifications, and we
6 would schedule interviews for them at your next executive
7 session.

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

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

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

20 MR. MUNNS: To approve?

21 COMMISSIONER McNULTY: To approve the
22 position description that they draft based on what we

23 might approve today, do we have to have another -- do
24 we -- the five of us have to be together in a room again
25 or --

56

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

11 Is my understanding correct from DOA?

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

18 CHAIRPERSON MATHIS: Commissioner Freeman?

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

24 MR. MUNNS: I believe it would be because it
25 would be an action of the commission to sort of close that

57

1 period early.

2 VICE CHAIRMAN FREEMAN: So then perhaps what
3 we need to decide is are we going to leave it open for a
4 week, week and a half, two weeks and see what we have? If
5 we don't have sufficient, we can reopen it, I suppose.

6 CHAIRPERSON MATHIS: Sounds -- That's fine.
7 Any other -- any --

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

11 CHAIRPERSON MATHIS: Right.

12 VICE CHAIRPERSON HERRERA: Should it?

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

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

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

20 CHAIRPERSON MATHIS: In the position
21 description qualification? No.

22 Ron, would you like to address that?

23 MR. LOYD: No, Madam Chair, commissioners,
24 that does not have to be in the position description, so
25 that is a separate -- it's -- Depending on what the grade

58

1 is, which is on the position description, the salary range
2 is posted on our website, the Department of Administration
3 internal website, so that can change -- the salary can
4 change sometimes, and so it's kind of a fluid document

5 where it just relates to the grade, E-3.

6 VICE CHAIRPERSON HERRERA: Thank you.

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

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

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

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

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

25 CHAIRPERSON MATHIS: Okay. Any other

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59

1 thoughts?

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

4 MR. LOYD: It is not. The salary range
5 chart itself goes by the job code, which is posted at the
6 top. So you would look -- when you bring up the salary
7 range, the job code is the first thing you would see
8 and -- on our website, and the job code indicates that

03-24-11 AZ Independent Redistricting Commission.txt
9 that job is an E-3 on the website. So it is not on this
10 form. You're correct.

11 CHAIRPERSON MATHIS: Thank you. Okay.
12 Mr. Herrera?

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

21 CHAIRPERSON MATHIS: Seven days that it's
22 posted?

23 VICE CHAIRPERSON HERRERA: Correct.

24 COMMISSIONER STERTZ: A question for
25 counsel. When -- If there is a commissioner that has

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60

1 a -- an applicant in mind that may not be aware of the
2 posting, is it appropriate for the -- is there any issues
3 at all with a commissioner contacting a potential
4 applicant?

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

8 CHAIRPERSON MATHIS: I asked that question
9 of counsel.

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

12 CHAIRPERSON MATHIS: I did. And he
13 confirmed that --

14 Wait. Say your question again. I've lost
15 my train of thought.

16 COMMISSIONER STERTZ: If a commissioner --

17 CHAIRPERSON MATHIS: Contacts?

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

20 CHAIRPERSON MATHIS: Right.

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

24 CHAIRPERSON MATHIS: No. Jim has told me
25 that it is okay for us, as commissioners -- individual

61

1 commissioners, to approach someone and let them know about
2 the posting or if we think they'd be qualified to go ahead
3 and apply or -- He said as long as you are doing a public
4 posting -- you know, you're doing a public search as it
5 is, it's okay to go ahead and approach people
6 individually.

7 COMMISSIONER STERTZ: Thank you.

8 VICE CHAIRPERSON HERRERA: Madam Chair?

9 CHAIRPERSON MATHIS: Yes.

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

14 CHAIRPERSON MATHIS: Yes. Yeah. And
15 actually, Susan Laurence has -- in HR has volunteered to
16 be that person, to -- the collecting focal point for any
17 expressions of interest. So, in fact, I have received

03-24-11 AZ Independent Redistricting Commission.txt
18 some, and I have forwarded them to her to let her know
19 that this person's saying they're interested in the ED
20 position so that she can acknowledge receipt of their
21 interest and then let them know as the process unfolds.

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

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

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62

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

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

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

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

20 CHAIRPERSON MATHIS: Okay.

21 COMMISSIONER McNULTY: Madam Chair?

22 CHAIRPERSON MATHIS: Yes.

23 COMMISSIONER McNULTY: I presume perhaps
24 that we will be meeting next week. And if we were, that
25 we could either extend it or we could leave it open and

63

1 close it next week.

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

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

8 VICE CHAIRPERSON HERRERA: Seven business
9 days --

10 CHAIRPERSON MATHIS: Okay. Okay.

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

14 CHAIRPERSON MATHIS: Right.

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

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

23 I'm wondering if I hear a motion to approve
24 this position description questionnaire as distributed
25 this morning by HR so that we can move forward with

64

1 the rest of the process in terms of hiring an executive
2 director.

3 VICE CHAIRPERSON HERRERA: Madam Chair?

4 CHAIRPERSON MATHIS: Yes.

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

9 CHAIRPERSON MATHIS: Great.

10 Do I hear a second?

11 COMMISSIONER STERTZ: Second.

12 CHAIRPERSON MATHIS: Any discussion?

13 All in favor?

14 VOICE VOTE: Aye.

15 CHAIRPERSON MATHIS: Any opposed?

16 (No verbal response.)

17 CHAIRPERSON MATHIS: Great. Motion carries.

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

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

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

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1 VICE CHAIRPERSON HERRERA: I think the
2 first -- the first Monday of next week should be the first
3 day, because they'll be needing at least a full day, so
4 I'm assuming they'll need Friday and not posting it

5 Saturday and Sunday and posting it on Monday, which is the
6 28th.

7 VICE CHAIRPERSON FREEMAN: So it's on the
8 4th.

9 VICE CHAIRPERSON HERRERA: Does that makes
10 sense?

11 COMMISSIONER STERTZ: 6th would be seven
12 working days.

13 CHAIRPERSON MATHIS: would someone like to
14 motion that? Is that -- was that a motion?

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

17 CHAIRPERSON MATHIS: Do I hear a second?

18 COMMISSIONER McNULTY: Second.

19 CHAIRPERSON MATHIS: Any discussion?

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

24 VICE CHAIRMAN FREEMAN: Right.

25 COMMISSIONER STERTZ: And would you also

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66

1 accept a -- the inclusion of that the posting be in not
2 only on the state of Arizona site but also in newspaper,
3 Monster, and other applicable forms of advertisement that
4 fall within the general purview of the A- -- Department of
5 Administration.

6 VICE CHAIRMAN FREEMAN: I agree with that.

7 CHAIRPERSON MATHIS: Any other comments?

8 COMMISSIONER McNULTY: I second it.

9 CHAIRPERSON MATHIS: We have an amended
10 motion? Or is that a new motion?
11 COMMISSIONER STERTZ: He's actually amended
12 motion.
13 CHAIRPERSON MATHIS: Okay. Okay.
14 COMMISSIONER STERTZ: And she seconded the
15 amended motion.
16 CHAIRPERSON MATHIS: Okay. Great.
17 Do you have another --
18 COMMISSIONER STERTZ: would the maker of the
19 motion also accept the -- that we denote -- because there
20 have been multiple PDQs in distribution over the last
21 three days -- that we actually mark this document as an
22 exhibit for the record?
23 VICE CHAIRMAN FREEMAN: I agree.
24 CHAIRPERSON MATHIS: Okay.
25 COMMISSIONER MCNULTY: Second as amended.

67

1 CHAIRPERSON MATHIS: So do I need to restate
2 that motion -- the amended motion?
3 MR. MUNNS: Unless it's -- If it's clear at
4 all, yeah.
5 VICE CHAIRPERSON HERRERA: It's clear to me.
6 CHAIRPERSON MATHIS: So -- well, I guess
7 for my own clarification, I want to make sure I
8 understand.
9 So we're going to -- we have a motion on
10 the floor that's been seconded to leave this position
11 posting open until -- it's wednesday, April 6th?
12 VICE CHAIRMAN FREEMAN: Correct.
13 VICE CHAIRPERSON HERRERA: 5:00?

14 CHAIRPERSON MATHIS: Close of business.
15 Good idea. Close of business, Wednesday, April 6th.
16 VICE CHAIRMAN FREEMAN: With the assumption
17 built in that it will -- the posting will begin no later
18 than Monday.
19 CHAIRPERSON MATHIS: Monday, March 28th.
20 Thank you.
21 And that we will also be posting this in a
22 variety of sites that are normal for this level of
23 position that we're seeking.
24 And the -- and I'm of the understanding HR
25 can help us with those outside sites as well, right?

68

1 MS. MASS: Yes. We will do that.
2 I have a question.
3 CHAIRPERSON MATHIS: Yes, please.
4 MS. MASS: Do you want us to send you the
5 resumes, like, every two days, or do you want to wait
6 until the seven-day period is over before we send you the
7 spreadsheet and the resumes?
8 CHAIRPERSON MATHIS: I prefer to get them as
9 I receive them.
10 MS. MASS: Okay.
11 CHAIRPERSON MATHIS: If possible. As you
12 receive them.
13 MS. MASS: And the position description was
14 good as it's presented today, or did you have any other
15 changes?
16 VICE CHAIRPERSON FREEMAN: We already
17 approved, right?

03-24-11 AZ Independent Redistricting Commission.txt
18 CHAIRPERSON MATHIS: No. It's as -- Right.
19 It's already approved. We're good. This is the final
20 one.
21 So we need to vote on that motion as
22 amended. All in favor?
23 VOICE VOTE: Aye.
24 CHAIRPERSON MATHIS: Any opposed?
25 (No verbal response.)

69

1 CHAIRPERSON MATHIS: Great. The motion
2 carries as amended.
3 COMMISSIONER McNULTY: Madam Chair, could I
4 ask Mr. Munns a question?
5 CHAIRPERSON MATHIS: Yes.
6 COMMISSIONER McNULTY: So as we get the
7 resumes, may we all receive them, or does that violate --
8 CHAIRPERSON MATHIS: Good question.
9 MR. MUNNS: You can all receive them, but
10 you can't talk about them with each other until the
11 meeting.
12 COMMISSIONER McNULTY: Thank you.
13 CHAIRPERSON MATHIS: Should that, then, go
14 perhaps to our interim executive director, those resumes,
15 and she sends them to us, or is it okay for the -- for
16 Susan or Jackie to send them?
17 MR. MUNNS: It's probably best to go to your
18 interim ED, so that way they can -- she can also keep
19 track of who you're getting as well --
20 CHAIRPERSON MATHIS: Okay.
21 MR. MUNNS: -- keep a master list.
22 CHAIRPERSON MATHIS: So they'll go to Megan,

23 and Megan will distribute to all of us. Great.

24 Okay. We're moving right along here. Oh,

25 actually, we're still on item VI, because there is the

70

1 clause and other administrative support. And I wanted to
2 see -- You know, we talked about possibly having a
3 position where the pers- -- a person would maybe do
4 outreach for us as well as be kind of an IT expert to
5 handle all this electronic outreach that we want to be
6 doing as a commission. And Susan Laurence did send me a
7 couple of position descriptions of other boards that have
8 done this. Mostly they're web/IT folk, if I could just
9 characterize them that way, as opposed to, you know,
10 having necessarily all the outreach and communications
11 advance team-type experience.

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

19 So I just wanted to raise that as a thing to
20 consider by the commission, as well as if there's any
21 other position description qualifications that have been
22 distributed that were from the previous commission.
23 There's the executive assistant, the public information
24 officer, those -- any of those folks, if the commission
25 would like to discuss any of those today, if there's any

71

1 strong opinions or feelings about hiring those people.

2 VICE CHAIRPERSON HERRERA: Madam Chair?

3 CHAIRPERSON MATHIS: Yes.

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

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

14 VICE CHAIRPERSON HERRERA: So that's four?

15 CHAIRPERSON MATHIS: Uh-huh. Yes.

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

21 CHAIRPERSON MATHIS: Right.

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

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72

1 CHAIRPERSON MATHIS: Okay. The public
2 information officer, if I'm not mistaken, last time
3 handled a lot of press inquiries too. And they were only
4 engaged for about a year and a half, is my understanding.

5 So they weren't with the commission the whole time. But
6 especially during the mapping and the work of the
7 commission, they were utilized heavily to handle press and
8 then also do some outreach with the public.

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

18 CHAIRPERSON MATHIS: Okay. Any other
19 comments on that?

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

23 COMMISSIONER STERTZ: Correct.

24 CHAIRPERSON MATHIS: Okay. And I believe
25 unless we're able to somehow shift the one that's already

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73

1 in the system, this -- let me use the right term -- this
2 public information officer, I don't know if that can be
3 expanded, so to speak, to have this web A/V-type
4 responsibility or if it really needs to be a new position
5 that we would need to create. But we'll have to get some
6 advice.

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

03-24-11 AZ Independent Redistricting Commission.txt
9 IT position.

10 CHAIRPERSON MATHIS: Right.

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

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

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

23 One of the roles of the executive director
24 is that they're going to be helping us in the hiring, and
25 I'm sure they'll want a say in who they have supporting

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74

1 them on staff. So the sooner we have that person on
2 board, the better.

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

11 So given that, we've done some -- a little
12 bit of homework too on that front where a -- let me first
13 just say that as for legal counsel, we have three options,

14 and those have been discussed a little bit today.

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

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

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

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75

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

5 I should stay near the microphone.

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

11 VICE CHAIRMAN FREEMAN: Madam Chairman?

12 CHAIRPERSON MATHIS: Yes.

13 VICE CHAIRMAN FREEMAN: I did receive it.

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

03-24-11 AZ Independent Redistricting Commission.txt
18 outside counsel, a Republican and a Democrat.

19 As much as we've enjoyed the services of the
20 attorney general's office, as was mentioned earlier, that
21 position -- these lawyers, in a way, serve at the pleasure
22 of the attorney general, who is -- who heads the
23 department, and that's a partisan political office. And I
24 think the Constitution that -- the provision of the
25 Constitution that breathes life into this commission

76

1 mentions that we are to be independent and fair and be
2 politically balanced. And to do that, I think we're
3 better served by hiring outside counsel.

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

14 Another concern is, you know, the
15 attorney-client relationship is going to be important for
16 us. That's a relationship that's built on trust, on
17 mutual respect. There needs to be a rapport there. And I
18 think if any member of this commission doesn't feel like
19 whatever counsel we retain, if we would just hire a single
20 counsel hoping to strike some sort of balance, they're not
21 being listened to at all, the bases aren't being covered,
22 I think that damages and undermines that relationship a

23 little bit, and it doesn't look good in terms of public
24 perception. So I -- I think I -- with respect to what
25 was prepared for the last IRC, I think there needs to be

77

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

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

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

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

78

1 achieve and want them to do.

2 So if we could -- It sounds like
3 Mr. Freeman is okay except for there -- it sounds like
4 there might be some updating with regards to some of the
5 statutes.

6 Any other comments on this statement of work
7 draft?

8 COMMISSIONER MCNULTY: Madam Chair, I had a
9 number of comments on the draft. I appreciate
10 Mr. Freeman's perspective. I haven't reached a conclusion
11 yet about who or how -- who our legal counsel should be or
12 how it should be set up. And I -- My perspective is that
13 we should seek applications from qualified counsel
14 and then address the issue that Mr. Freeman has raised.

15 And that may ultimately be exactly what we
16 need to do, but I do feel reluctant to, from the get-go,
17 build into our process the assumption that we have to
18 have, within the commission, a Republican lawyer and a
19 Democratic lawyer. And the reason for that is because as
20 a lawyer, the law is not partisan. The law is not
21 Democratic law or Republican law. The law is the law.

22 And I understand that there are different
23 ways to interpret the law in order to achieve different
24 direct- -- objectives and that this may not work. But
25 ideally, it seems to me, given that we are Republicans,

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79

1 Democrats, and an Independent, that it would make sense to
2 have a lawyer or a law firm who represents the AIRC, all
3 five of us, and tells us what the implications of the law
4 are for each -- from each of our perspectives, whether it

5 be Republican, Democrat, or Independent.

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

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

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

24 So my point is that I would like not to -- I
25 would like to approach this in the other way, to seek

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80

1 proposals from the most qualified lawyers that we can
2 find. I think some of this -- I think a lot of what they
3 did last time is very good. I think some of it is a
4 little too particular. I don't think we absolutely have
5 to have counsel who have all of these qualifications. I
6 think many of these things are important, and there are a
7 couple of things on here that -- couple -- some things
8 that need to be on here that aren't, such as knowledge of

03-24-11 AZ Independent Redistricting Commission.txt
9 Arizona law and the pertinent case law.

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

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

22 CHAIRPERSON MATHIS: well, I would prefer
23 to, if we could, get through this document today,
24 the statement of work. And that's not to say we're going
25 to make the decision today on which path we're going to

81

1 choose. It's more to get the statement of work finalized
2 so that then we can go out to these three different
3 pathways and, you know, figure out what do we want to do.
4 Do we want to stick with the AG list? Do we want to give
5 this to the AG's office, see if they want to respond to
6 us? Do we want to create our own RFP and go off the list,
7 so to speak? So what I would really like to do, if we
8 could, is finalize the statement of work document and
9 agree upon what we want to put out to people.

10 COMMISSIONER McNULTY: well, Madam Chair,
11 following up on that, then I would suggest that in lieu of
12 saying in paragraph 1.1, third line, one Republican and
13 one Democrat, that we -- that the line read "Counsel to

14 provide legal representation to the AIRC on an hourly
15 basis" and that we then add, under specific requirements,
16 a new section or sections, following the format that we
17 have here, something to the effect that we would ask
18 whether the lawyers have previously represented public or
19 private entities in connection with the redistricting
20 process, and if so, you know, whether in the capacity as a
21 Democrat, Republican, or on a nonpartisan basis. And then
22 as number 4.6, whether the lawyer would seek to represent
23 the AIRC as a Democrat, a Republican, or on a nonpartisan
24 basis.

25 CHAIRPERSON MATHIS: I'm sorry. Before we

82

1 leave Ms. McNulty's comments, you had mentioned, I think,
2 that the qualifications -- you didn't feel that
3 necessarily all of these are necessarily required. Are
4 they more, like, a preferred, in your opinion?

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

14 And 3.1.3, the last phrase, "and experience
15 in successfully submitting such requests to the
16 U.S. Department of Justice," given that that only -- their
17 only opportunity to do that was once every decade perhaps,

03-24-11 AZ Independent Redistricting Commission.txt
18 I'm not sure someone couldn't represent us well without
19 having that.

20 3.1.5, experience in representing state
21 agencies, boards, and commissions, I think that's a little
22 redundant with 3.1.1. I think a lot of the people that
23 know a lot about public records law don't necessarily
24 represent state agencies. They actually represent private
25 firms that follow state agencies, or they represent public

83

1 interest groups. So I'd like to see in 3.1.5, instead of
2 this, a statement that whoever we hire would know Arizona
3 law applicable to the redistricting process, including our
4 constitutional provision and the pertinent case law.

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

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

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

20 Yes.

21 VICE CHAIRMAN FREEMAN: And I appreciate
22 Commissioner McNulty's comments, and I think a lot of

23 them, I agree with you, can be solved by making it clear
24 that this isn't the sine qua non of what we need in terms
25 of applicants. These are preferred qualities. So we need

84

1 to make that clear. I think I agree with you we should
2 add a provision on familiarity with Arizona law with
3 respect to what we're doing on this commission and the
4 case law that flowed from the first IRC.

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

11 I think with respect to 3.13, the Voting
12 Rights Act has been amended in the last 10 years. We
13 probably want to update the citation. That's not a big
14 point. But to sections -- reference sections 1971 through
15 1973c 2006.

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

20 Going back up to section 2 on background, I
21 just notice there appears to be a typo that's carried
22 through. The provision of the Constitution that
23 authorizes us to hire outside counsel is sections 19 and
24 20. It looks like 19 and 2, which I don't think is quite
25 right.

85

1 But as for purpose, I still think -- I
2 don't think having a statement that we're looking for one
3 Democrat and one Republican ties our hands necessarily. I
4 don't think it ties our hands in any way. I still think
5 that should be in there, and I guess it's because I still
6 think that's ultimately what we're going to have to do. I
7 suppose once we get the applications and the responses to
8 the RFP, I still don't think that -- we're not tying our
9 hands to necessarily hire one or the other, but I would
10 prefer to have that language in there at this point.

11 I guess one last point, going to section
12 4.4, we're, in essence, asking for references there, and I
13 would put in that last line "co-counsel and opposing
14 counsel." Sometimes it's much more beneficial to talk to
15 the opponents of the lawyers and get their thoughts than
16 perhaps allied co-counsel. Putting that wording in there
17 gives us -- gives them the option, I think, of providing
18 us one or the other.

19 CHAIRPERSON MATHIS: Okay. Thank you for
20 your comments.

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

23 VICE CHAIRPERSON HERRERA: No, Madam Chair.

24 So what happens with both of the -- these
25 requests for changes made by both commissioners? How do

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86

1 you mesh that together?

2 CHAIRPERSON MATHIS: Yeah, that's a good
3 question. I would hope that we could actually finally
4 agree on a statement of work today, during this meeting if

5 we can. And then what would happen is -- I don't think,
6 because of open meeting law, I can actually synthesize the
7 comments myself. I think it probably should be done by
8 our interim executive director or someone at ADOA that's
9 going to be working with us on the RFP process.

10 MR. MUNNS: That'd be best.

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

14 COMMISSIONER STERTZ: Well -- Go ahead.

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

23 CHAIRPERSON MATHIS: Yeah. I was thinking,
24 though, that in a way, I think it would be great to have
25 legal counsel on board in order to help us make that

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87

1 decision on the other consultative support, just because
2 they will have, we hope, experience in redistricting law
3 and could help us make the right choice on those
4 consultants. So in a way I kind of feel like legal
5 counsel is pretty important to get on board even before
6 the other consultative support.

7 COMMISSIONER STERTZ: Madam Chair, I
8 think you've got several things that you've tried to roll

03-24-11 AZ Independent Redistricting Commission.txt
9 into one discussion point here. And I want to see if I
10 can cull this down.

11 You've outlined three separate options for
12 choosing counsel.

13 CHAIRPERSON MATHIS: Right.

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

88

1 went forward.

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

8 In all deference to your statement,
9 Commissioner McNulty, I have never in my 30 years of
10 business practice not found an attorney that doesn't have
11 a political position and a political leaning, even if they
12 make a statement that they don't. And I get very troubled
13 in thinking that we could try to find an individual that

14 would be able to have that neutral position. I think that
15 the other commission in that analysis determined that it
16 was troubling for them to try to find one as well,
17 although the view of it from an altruistic sense might be
18 good. I think that in looking at the results that took
19 place and the success that they had out of having separate
20 legal counsel was smart and prudent. So from my
21 perspective, the purpose as crafted into 1.1 still -- I'm
22 most comfortable with.

23 In regards to the AG's office, the AG's --
24 the current -- I agree with Commissioner Freeman
25 regarding the list of -- that was provided to us that

89

1 currently is -- are in the preapproved list. There were
2 84 pages plus 7 in a supplemental and 21 in a second
3 supplemental. I don't know whether or not, from the legal
4 profession, that that covers all law firms that are most
5 qualified, because the qualifications that appears to me
6 are being adjusted right now, and I wouldn't know that.
7 So I don't know whether or not, from the DOA's
8 perspective, whether or not that limits us to potentially
9 someone that has a higher level of qualifications because
10 the qualifications haven't been finally crafted from that
11 list of whether or not that speeds up the process.

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

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

17 Yes. I mean, having an existing contract

03-24-11 AZ Independent Redistricting Commission.txt
18 that the Attorney General's office has in place that
19 already has the defined contract terms, the payment terms,
20 things like that identified, basically upon choosing --
21 using your scope of work and then interviewing off of that
22 listing, you could then effectuate and be able to start
23 utilizing those services as soon as you made a decision.
24 You can do that as fast as you wished, within a couple
25 weeks probably.

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90

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

8 COMMISSIONER STERTZ: 84 pages of firms.

9 MS. CLARK: Yeah, right.

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

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

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

22 CHAIRPERSON MATHIS: Of course.

23 COMMISSIONER STERTZ: How can one process --
24 a DOA be expedited to a day and another process be
25 expedited to 8 to 10 weeks?

91

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

18 COMMISSIONER STERTZ: Madam Chair?

19 CHAIRPERSON MATHIS: Yes.

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

24 MS. CLARK: I can't speak -- I mean, what
25 we have been identified -- and that might be more of a

92

1 question for Mr. Munns, but it's my understanding, and
2 previously because the state procurement office did handle
3 procurements in the past, that we have delegated the
4 commission procurement authority. They are required to
5 follow procurement rules, and so then are subjected to the
6 procurement code.

7 COMMISSIONER STERTZ: Madam Chair?

8 CHAIRPERSON MATHIS: Can we get advice from
9 counsel?

10 MR. MUNNS: Well, that would definitely be
11 something I would have to research, because that's a very
12 interest issue, sort of the constitutional relationship
13 with the procurement code. I'd have to take a look at
14 that.

15 COMMISSIONER McNULTY: Madam Chair, I agree
16 with Mr. Stertz. My understanding is that pursuant to the
17 constitutional provision, we have been authorized to do
18 our own procurement and that we would not be subject to
19 the procurement code. I also think that much of this
20 is -- we -- we will drive the time frame for much of this
21 and that if we get on it, it really doesn't matter whether
22 it's someone who's with the -- on the list or not on the
23 list. We're going to have to go through the same process
24 of interviews and teasing out whether they are folks we
25 can work with; if we do have counsel from both parties,

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93

1 whether they're folks who can work with one another;
2 whether we can work as a team; whether our independent
3 member is going to feel comfortable with the
4 representation that -- that we're selecting and all of

5 those things. And that's going to be relevant to whoever
6 it is. And this is quite an important decision.

7 COMMISSIONER STERTZ: I think you've --

8 VICE CHAIRMAN FREEMAN: I agree.

9 COMMISSIONER STERTZ: Yeah.

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

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

20 CHAIRPERSON MATHIS: Okay. Thank you.

21 I think that even if we have the independent
22 procurement authority to move forward on our own, we still
23 need to finalize a statement of work, and I'm wondering if
24 this is something we can accomplish today, based upon the
25 comments that have been provided so far by Commissioners

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94

1 Freeman and McNulty, or if -- how people are feeling about
2 proceeding. Any thoughts?

3 COMMISSIONER McNULTY: Madam Chair, I have
4 two thoughts. First, I'm not going to belabor the point,
5 but I do think that by including one Republican and one
6 Democrat in our purpose statement, that we are
7 discouraging anyone from applying to represent the entire
8 commission, and we are, essentially, foregoing that

03-24-11 AZ Independent Redistricting Commission.txt
9 option. Having said that, if that's what the group is
10 inclined to do, I'd be willing to work with Mr. Freeman as
11 a subcommittee of sorts to hammer out the language of
12 the draft and bring it back next time, if that makes
13 sense.

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

21 And I think the first IRC, you know, you
22 mentioned the attorneys working together well. I think
23 that's an important thing for us to look into, and I think
24 there was a good relationship last time. I'm not aware of
25 any material disagreement at all. And the last council, I

95

1 think, was well served -- or last commission was well
2 served. So if that's something we could do, work as a
3 subcommittee and hammer out some language, I'm happy to do
4 it.

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

8 MR. MUNNS: Probably, but it may -- since
9 there's not a quorum, it might be easier if they just did
10 it informally, because a subcommittee is held to the same
11 open meeting law requirements as a commission, so you'd
12 have to notice, have minutes and everything for every time
13 you two talked about it.

14 COMMISSIONER McNULTY: Let the record
15 reflect I did not say the word "subcommittee."

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

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

24 CHAIRPERSON MATHIS: Is that correct?
25 Accurate?

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96

1 MR. MUNNS: Right.

2 CHAIRPERSON MATHIS: Okay. Great.

3 I would like to also just add to this
4 statement of work that I think it's going to be really
5 important that we try to be as cost-effective as we can be
6 just generally across the board, and if there's a way for
7 these -- if we do do an RFP, for instance, if there's a
8 way for counsel or attorneys to provide ways of showing us
9 how they're being cost-effective -- for instance, not --
10 not trying to be onerous, but just to possibly assign
11 lesser complex -- less complex tasks to lesser counsel, so
12 to speak, associate counsel, for instance, as opposed to
13 using the top gun for dealing with something to do with
14 open meeting law. And I don't know if there's a way to
15 incorporate that into the statement of work or if that's
16 just assumed that people would respond in such a way, but
17 I just wanted to raise that issue.

03-24-11 AZ Independent Redistricting Commission.txt
18 VICE CHAIRMAN FREEMAN: I was thinking,
19 Madam Chairman, before we leave that, our -- the
20 question -- perhaps it's for counsel -- are we required to
21 hire counsel on an hourly basis? Can we -- can the
22 attorneys responding to our request propose alternate
23 billing arrangements to the commission?

24 MR. MUNNS: I'm not aware of any restriction
25 in the Constitution on your formation for that. But if

97

1 the procurement code has a different limitation, Jean
2 might be able to answer that.

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

11 COMMISSIONER STERTZ: Madam Chair?

12 CHAIRPERSON MATHIS: Yes.

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

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

18 COMMISSIONER STERTZ: Fiscal oversight is --
19 from a layman's point of view means oversight of the
20 fiscal operations, not -- not -- It clearly -- to me,
21 that the commission has standing in -- in procurement
22 contracting authority. And, therefore, we can work

23 aggressively to bring counsel on staff outside of normal
24 procedural requirements that may be currently in place at
25 DOA, but I'd like to get confirmation of that, please.

98

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

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

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

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

25 MR. MUNNS: Right. Right.

99

1 COMMISSIONER STERTZ: -- and may hire staff
2 and consultants for the purposes of this section,
3 including legal representation.

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

6 COMMISSIONER STERTZ: Okay. You guys do it.

7 CHAIRPERSON MATHIS: Any other comments?

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

10 COMMISSIONER STERTZ: Yeah. Right.

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

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

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100

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

3 COMMISSIONER STERTZ: Thank you.

4 CHAIRPERSON MATHIS: Okay. And then the

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

13 MS. CLARK: Madam Chair?

14 CHAIRPERSON MATHIS: Yes.

15 MS. CLARK: We did look, and we do not have
16 any of that information because of the timing, you know,
17 and the retention, so --

18 CHAIRPERSON MATHIS: Okay. And I've also
19 checked to see if the people who have looked into our
20 box -- the boxes from the previous commission have been
21 able to locate anything with regards to RFP, and they have
22 not. So I'm not sure yet -- we know the name of the
23 vendor that was used, but we were -- we thought it would
24 be helpful to be able to look at that statement of work to
25 see, you know, how it was crafted and -- and whether we

101

1 want to proceed similarly or not.

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

4 VICE CHAIRMAN FREEMAN: Madam Chairman?

5 CHAIRPERSON MATHIS: Yes, Mr. Freeman.

6 VICE CHAIRMAN FREEMAN: Have we asked the --
7 the vendor?

8 CHAIRPERSON MATHIS: No, we have not. So

03-24-11 AZ Independent Redistricting Commission.txt
9 that is something that can be done. We can just contact
10 them directly. I can.

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

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

19 VICE CHAIRMAN FREEMAN: Madam Chairman?

20 CHAIRPERSON MATHIS: Yes.

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

24 CHAIRPERSON MATHIS: Okay.

25 VICE CHAIRMAN FREEMAN: This is a core

102

1 function of this commission. I think we can all make our
2 own independent decision on that. I'm not saying I
3 wouldn't like to hear from lawyers or counsel on that, but
4 I think that's something we could start doing now. If we
5 could -- If I might suggest, if we could get the RFP --
6 let's say hypothetically, the vendor has it handy and can
7 shoot it to us, then perhaps we form another unofficial
8 subcommittee with -- and I volunteer with Commissioner
9 Stertz and Commissioner Herrera --

10 VICE CHAIRPERSON HERRERA: Sure.

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

13 COMMISSIONER STERTZ: I volunteer or

14 voluntold.

15 Madam Chair?

16 CHAIRPERSON MATHIS: Yes, Mr. Stertz.

17 COMMISSIONER STERTZ: I think that -- I
18 think that as -- and I think that makes perfect sense.
19 Our purview should be that we should be looking for the
20 best, the brightest, and the most competent, that we'll be
21 bringing forward the most comprehensive and fairest and
22 most independent view of our task at hand with the highest
23 level of competence available to us within the nature of
24 this overwhelming task.

25 And in doing independent research, there are

103

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

8 VICE CHAIRPERSON HERRERA: Madam Chair?

9 CHAIRPERSON MATHIS: Yes.

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

17 Not only that, but also the issue with

03-24-11 AZ Independent Redistricting Commission.txt
18 what's going on in California, with -- there is an
19 organization that applied to -- to be the consultant, and
20 one of the requirements from the California commission was
21 to ask for the organization to disclose their donors
22 (sic), and one of them chose not to, and they were
23 disqualified. So I want to make sure that we -- we
24 want to get as much detail from the companies that are
25 applying so we don't have to go through that, you know,

104

1 mess, I guess.

2 CHAIRPERSON MATHIS: Commissioner Stertz.

3 COMMISSIONER STERTZ: Thank you.

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

8 VICE CHAIRPERSON HERRERA: Sure.

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

15 VICE CHAIRPERSON HERRERA: Correct.

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

21 VICE CHAIRPERSON HERRERA: May I respond?

22 CHAIRPERSON MATHIS: Yes, Mr. Herrera.

23 VICE CHAIRPERSON HERRERA: No, my intent was
24 not to do that.

25 But I think we have every right to, as we do

105

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

15 CHAIRPERSON MATHIS: Okay. Mr. Freeman.

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

25 But I also -- You know, we don't want to

106

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

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

17 CHAIRPERSON MATHIS: Sounds good.

18 Any other comments?

19 COMMISSIONER STERTZ: No.

20 CHAIRPERSON MATHIS: Ms. McNulty.

21 COMMISSIONER McNULTY: I would only comment
22 that I -- I have the same -- some of the same concerns
23 about counsel and -- and when we broadcast -- when we
24 post, that we cast it broadly.

25 CHAIRPERSON MATHIS: Okay.

107

1 COMMISSIONER McNULTY: See what we get. And
2 then evaluate who works best.

3 CHAIRPERSON MATHIS: Great. All right.

4 So --

5 VICE CHAIRPERSON HERRERA: Madam Chairman?

6 CHAIRPERSON MATHIS: Oh, I'm sorry.

7 Jean? No, please.

8 MS. CLARK: Madam Chair, Commissioners, I
9 did want to indicate that currently -- although the
10 question is do you fall underneath the procurement code or
11 not, but statutorily, we do not have any legal authority
12 for local preference laws. We do have, for small
13 businesses, less than \$50,000, but there is no local
14 Arizona preference law, statutory authority at this point.
15 There is a bill going through the legislature right now,
16 but that has not been determined yet.

17 Secondly, if it would be helpful, if there
18 are any other states that you feel might be -- have gone
19 through this process that you might be interested in,
20 like, their RFPs on this -- you know, on this topic of
21 things, if there's particular ones you'd like us to reach
22 out to, I mean, I could try to reach out to my
23 counterparts in other states to see what type of RFPs and
24 scopes of work they have for this type of service too. So
25 I just offer that as an option.

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108

1 CHAIRPERSON MATHIS: I appreciate that. I
2 think that would be wonderful to have. So if you could
3 proceed.

4 MS. CLARK: Okay.

5 CHAIRPERSON MATHIS: Thank you. And thanks
6 for the clarification too regarding the local authority.

7 MS. CLARK: Sure.

8 CHAIRPERSON MATHIS: Any other comments

03-24-11 AZ Independent Redistricting Commission.txt
9 before we move on?

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

15 I want to be sensitive to the time. It's
16 3:15. Do we need to do a recess for a short break?

17 VICE CHAIRPERSON HERRERA: I would love a
18 bathroom break.

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

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

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

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109

1 (A recess ensued.)

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

4 We're on item number VIII on the agenda,
5 discussion and possible action on office space options.
6 And if you see on the agenda, there's quite a number of
7 them. Apparently the last commission didn't really have a
8 lot of choice when it came to office space. There just
9 wasn't a lot available. And we have a lot of choice. So
10 I had the great fortune of traveling around with some of
11 the ADOA folk this mornings, and Nola Barnes has been
12 extremely helpful in coordinating this for us. She's come
13 up with a list of options that might serve us. And by no

14 means is this list exhaustive or meant to be in any way
15 complete. It's just a start.

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

25 And to that end, I'm -- I want to introduce

110

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

7 So thank you very much, Buck, for that.

8 MR. FORST: No problem.

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

12 So in talking about just some of the space
13 we saw today -- and the reason we're meeting in this room
14 today is there is office space actually in this building
15 that's available right out that door. And so, you know,
16 this is certainly an option. There's a lot of options
17 along the capital mall area, as you can see from your

03-24-11 AZ Independent Redistricting Commission.txt
18 agenda, the different addresses. And then I've listed a
19 couple Tucson spaces that ADOA let me know about just as
20 another alternative.

21 They did look to see if there's any space
22 between Tucson and Phoenix, and there isn't, so we're
23 going to be in one place or the other. We have talked
24 about, as a commission, as possibly having a small,
25 reduced kind of space in Tucson, since three of the

111

1 commissioners are down there and -- but my thinking is
2 that it would be most likely that the headquarters -- and
3 it would make sense, just administratively -- would be in
4 the Phoenix area.

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

9 Mr. Stertz.

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

14 CHAIRPERSON MATHIS: Nothing that I saw
15 today. What it does have is there's some space right on
16 Washington Avenue that I actually really liked. It's the
17 oldest space. It was built in 1893, and it's a very neat
18 house -- Victorian house that's right there. And the nice
19 thing about that whole area is you can -- staff could then
20 walk to meetings -- a lot of different options for meeting
21 space. So you wouldn't have to have the meeting at
22 the Victorian house, because it really couldn't

23 accommodate a big public meeting, I don't think, very
24 well. Whereas there are some meeting spaces, though, that
25 are close by that would be easy to walk to and very

112

1 accessible, I think.

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

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

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

24 CHAIRPERSON MATHIS: There is. And
25 it ranges from literally studs, just like no TI

113

1 improvement at all, to finished space with even some
2 furnishings already in the space. So it's a wide range of
3 options, and -- But of the ones that I saw today, I -- I
4 just -- I felt like being in that capital mall area
5 definitely has advantages just because you are so close to
6 folks at the ADOA and administrative help, so -- But
7 I'm open to other thoughts.

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

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

20 Any thoughts from the other commissioners on
21 space?

22 COMMISSIONER MCNULTY: Madam Chairman,
23 I agree with what Mr. Herrera just said. I love the idea
24 of a Victorian house. Sounds like fun.

25 CHAIRPERSON MATHIS: It's actually --

114

1 There's parking -- There's a huge parking structure right
2 next to it. For those of you who don't know where this
3 is, it's -- the Arizona Department of Environmental
4 Quality, I think, is right kind of an L shape almost

5 around the Victorian house, and it's just sitting there.
6 The ceilings are about 20 feet, literally, super high, and
7 it's actually very well finished in terms of the carpet
8 and lights.

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

11 Thank you. That's so much nicer.

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

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

24 MR. FORST: Sure.

25 CHAIRPERSON MATHIS: Thank you. Yeah,

115

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

3 The doors are -- Maybe the doors are
4 20 feet and the ceiling is 30 feet. It's super -- it's
5 super tall and high. I'm not a good judge of height,
6 but --

7 COMMISSIONER McNULTY: Madam Chair, silly
8 question, but it does have air conditioning, right?

9 CHAIRPERSON MATHIS: That is another thing
10 that Buck and -- or someone is going to help us -- Nola
11 maybe -- to ask, because we did bring that up. We want to
12 make sure that the staff isn't sweltering in the summer in
13 there.

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

22 CHAIRPERSON MATHIS: Okay. That sounds
23 good.

24 Any thoughts on that? Other comments?

25 VICE CHAIRPERSON HERRERA: I agree.

116

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

4 VICE CHAIRPERSON HERRERA: Madam Chair,
5 one --

6 CHAIRPERSON MATHIS: Yes.

7 VICE CHAIRPERSON HERRERA: Make sure you
8 make that work.

9 CHAIRPERSON MATHIS: What?

10 VICE CHAIRPERSON HERRERA: Make that
11 location work.

12 CHAIRPERSON MATHIS: Oh, yeah. Okay. Sure.
13 I -- It's pretty neat, I have to say. And yeah, I think

14 staff would very much appreciate it. And as I said,
15 there's parking right there. And I didn't mention this,
16 but the Carnegie library's right across the street. It
17 has public meeting space available right on -- perfect
18 segue. Thank you.

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

117

1 downstairs, how that happens. So it may have to be on
2 that first floor. There is just a conference room right
3 off the main part of the library, so that's another spot.

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

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

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

17 CHAIRPERSON MATHIS: Any other comments on

03-24-11 AZ Independent Redistricting Commission.txt
18 that?

19 COMMISSIONER MCNULTY: Madam Chair, my only
20 thought would be maybe to maybe defer that until we have
21 the executive director and the executive director's
22 assistant and see if it turns out it would be useful to
23 have a satellite space. I do hope that we can meet
24 regularly in Tucson, not more often than here, of course,
25 but have a fully functional meeting place that allows

118

1 people to see the meetings from up here for the times that
2 we aren't here.

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

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

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

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

21 And I'm grateful to Dr. Sturgeon, the
22 director of history and archives, who provided a box

23 inventory list that you were all given a copy of, and that
24 shows you all the boxes they have and what's in them.

25 They did look through them to see if they

119

1 could find that RFP, for instance, for the mapping
2 consultant, and weren't able to. And they also have
3 looked for any financial records, because something we
4 talked about previously -- and I can talk about it in the
5 next agenda item -- is burn rate, trying to figure out
6 what the last commission was experiencing with regards to
7 burn rate early in the days of the first meetings and
8 first years. And so I'll talk about that in item X.

9 But once we have an ED in place, I was
10 thinking, you know, that's when we can -- if there's any
11 documents that we want to have copies made of, for
12 instance, that the ED can assist us with that, unless
13 there's anything earlier, they're happy to provide us with
14 anything that you see on that list. So just to let you
15 know it's out there, and we can make that happen.

16 COMMISSIONER STERTZ: Madam Chairman?

17 CHAIRPERSON MATHIS: Yes.

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

23 CHAIRPERSON MATHIS: I do not know the rules
24 on public records. I've been told by Dr. Sturgeon that
25 they allow free copies of material to state agencies up to

120

1 a certain amount, and then after that, they charge you per
2 sheet on any copies you want made.

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

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

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

121

1 were the 75 boxes? whose garage were they in? why can't
2 we find documents? why can't we find, you know,
3 historical documents? This -- we are creating a
4 historical track here that will not only help us to defend

5 the positions that we're taking -- and the accuracy of
6 that's going to help us do that.

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

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

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

122

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

3 CHAIRPERSON MATHIS: Right.

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

6 CHAIRPERSON MATHIS: Understood.

7 Any other comments on that?

8 VICE CHAIRPERSON HERRERA: No.

9 CHAIRPERSON MATHIS: Okay. Hearing none, I
10 will definitely be pursuing this. And it will be a future
11 agenda item, and we'll get better educated on what the
12 possibilities are.

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

24 So I'm getting that confirmed to find out
25 how far back can we go and just try to get a sense -- some

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123

1 financial snapshots over time would be helpful to just
2 understand how quickly they were spending money and on
3 what items.

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

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

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

12 CHAIRPERSON MATHIS: Yes.

13 Okay. And that's a good segue to the next
Page 105

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

23 VICE CHAIRMAN FREEMAN: Madam Chairman,
24 earlier I think you asked us to send you scheduling
25 conflicts, so I'd hate to commit, although I like the

124

1 Thursday afternoon meeting.

2 CHAIRPERSON MATHIS: Okay.

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

6 CHAIRPERSON MATHIS: Okay.

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

9 CHAIRPERSON MATHIS: Sure.

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

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

15 VICE CHAIRMAN FREEMAN: Not for me.

16 CHAIRPERSON MATHIS: Okay. Any other
17 thoughts?

03-24-11 AZ Independent Redistricting Commission.txt
18 VICE CHAIRMAN FREEMAN: To a certain degree,
19 I can control my schedule, but there are times when I
20 cannot.

21 CHAIRPERSON MATHIS: Right. I understand.

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

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

125

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

5 CHAIRPERSON MATHIS: So Thursdays and
6 Fridays so far.

7 Any thoughts, Mr. Herrera?

8 VICE CHAIRPERSON HERRERA: Fridays work for
9 me.

10 CHAIRPERSON MATHIS: Fridays you like.

11 VICE CHAIRPERSON HERRERA: They tend to be
12 less bad.

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

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

21 But I would like to set the next meeting
22 date, if we could. Next week, if possible. I don't

23 know -- Unfortunately, I can't do Friday next week, but
24 Thursday would work. So I don't know.

25 VICE CHAIRPERSON HERRERA: what day -- what

126

1 day is the --

2 VICE CHAIRMAN FREEMAN: 31st, I believe.

3 COMMISSIONER MCNULTY: That works for me,
4 Madam Chair.

5 CHAIRPERSON MATHIS: Great.

6 So we're going to say Thursday, the 31st.
7 Is the afternoon better for people? Or is anytime next
8 Thursday?

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

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

16 VICE CHAIRPERSON HERRERA: why don't we meet
17 in the location we're considering?

18 CHAIRPERSON MATHIS: Is that possible to do
19 that soon? In a week, do you think, Nola? Sorry. I
20 should acknowledge you.

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

23 CHAIRPERSON MATHIS: Maybe in that --

24 MS. BARNES: -- is more probable. The --
25 the office space itself probably doesn't --

127

1 CHAIRPERSON MATHIS: Right. It doesn't --

2 MS. BARNES: It doesn't lend itself to ADA
3 compliance or a public meeting.

4 CHAIRPERSON MATHIS: Right. And there's --
5 yeah, there are no furnishings at all yet, but the public
6 library that's right across --

7 VICE CHAIRPERSON HERRERA: Actually, I was
8 referring to that, yeah --

9 CHAIRPERSON MATHIS: Oh, great.

10 VICE CHAIRPERSON HERRERA: -- having the
11 meeting there.

12 CHAIRPERSON MATHIS: Perfect. Okay.

13 COMMISSIONER STERTZ: Madam Chair, because
14 we're going to be voting on the -- a couple of -- we're --
15 we're going to be bringing forward a couple of fairly
16 serious pieces that we'll be voting on, which is who we're
17 going to be picking for counsel and how we're going to
18 be -- how we're going -- sending an RFP out, there
19 might -- we want to make sure that there is the
20 opportunity for, one, sufficient public and, second, that
21 we want to make sure that we've got audio/visual capacity
22 for recordation of the meeting other than through
23 reporting.

24 CHAIRPERSON MATHIS: And in terms of -- Are
25 you suggesting webstreaming or --

128

1 COMMISSIONER STERTZ: Suggesting that we
2 just pick a -- we pick a house that's got a big enough
3 room.

4 CHAIRPERSON MATHIS: Oh, okay. Great.

5 Perfect. I think the -- the public library, actually,
6 would accommodate us in this instance based on the meeting
7 setup we saw today. But we'll confirm that, so maybe
8 we'll hold on exactly the venue for the meeting until we
9 confirm that, A, it's available and, B, can -- does it
10 have what we need for this meeting.

11 VICE CHAIRPERSON HERRERA: Madam Chair?

12 CHAIRPERSON MATHIS: Yes.

13 VICE CHAIRPERSON HERRERA: Can we pick a
14 time, then?

15 CHAIRPERSON MATHIS: Yes.

16 So Mr. Stertz, you said --

17 COMMISSIONER STERTZ: I would love mornings.

18 CHAIRPERSON MATHIS: Okay.

19 COMMISSIONER STERTZ: That would be great
20 this particular Thursday.

21 CHAIRPERSON MATHIS: Okay.

22 COMMISSIONER STERTZ: I appreciate you being
23 able to accommodate me.

24 VICE CHAIRPERSON HERRERA: What about an
25 8:00 start? Is that too early?

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129

1 COMMISSIONER McNULTY: Yes.

2 CHAIRPERSON MATHIS: Thank you.

3 COMMISSIONER STERTZ: Madam Chairman.

4 CHAIRPERSON MATHIS: If we're -- if it's in
5 Phoenix.

6 COMMISSIONER STERTZ: Being that I know the
7 route coming up through downtown, coming around the
8 Broadway curve is impossible between -- so if it could be

03-24-11 AZ Independent Redistricting Commission.txt
9 about 9:30 as a start, we miss the -- we miss the one-hour
10 delay coming into town.

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

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

15 COMMISSIONER MCNULTY: Thank you.

16 CHAIRPERSON MATHIS: Okay. Great.

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

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

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

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130

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

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

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

9 CHAIRPERSON MATHIS: Right.

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

12 CHAIRPERSON MATHIS: Okay.

13 MR. MUNNS: -- the ED side.

14 COMMISSIONER STERTZ: Madam Chair?
15 CHAIRPERSON MATHIS: Yes.
16 COMMISSIONER STERTZ: I'd like to add
17 a broader -- begin the discussion of what our intent as a
18 commission is in regards to public access for information,
19 and it'll allow us to have some discussion and some
20 requests from legal counsel what we can and cannot do in
21 regards to things like sending out Tweets, Facebook
22 posting, whether or not there's any -- what -- what that
23 may or may not have ramifications towards from a legal
24 point of view and -- and what our -- what our expectations
25 as a -- as a commission are to getting that sort of data

131

1 out.

2 CHAIRPERSON MATHIS: So a discussion on
3 social media.

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

6 CHAIRPERSON MATHIS: Okay.

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

13 CHAIRPERSON MATHIS: Okay. Any other
14 thoughts on that? This also kind of relates to us moving
15 forward too on creating a position description
16 qualification around somebody who is that outreach/web IT
17 master, and -- and so we'll be -- I'll be talking to Susan

03-24-11 AZ Independent Redistricting Commission.txt
18 Laurence about that and seeing what we might be able to
19 draft and forward for everyone -- forward to everyone for
20 their consideration.

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

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

132

1 (The public meeting was concluded at
2 3:58 p.m.)

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133

1 STATE OF ARIZONA)

2 COUNTY OF MARICOPA)

3 I, Meri Coash, hereby certify that the
4 foregoing pages numbered from 1 to 132, inclusive,
5 constitute a full, true, and accurate record of the
6 proceedings had in the above matter, all done to the best
7 of my skill and ability.

8 DATED this day of , 2011.

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11 Meri Coash, CCR #50327

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