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1                   REPORTER'S TRANSCRIPT OF PROCEEDINGS taken  
2 at 1400 West Washington, Suite B-10, Phoenix, Arizona,  
3 on the 10th day of January, 2008, commencing at the hour  
4 of 10:03 a.m. of the said day. The proceedings were  
5 reported by DOREEN C. BORGMANN, RMR, CRR, and a  
6 Certified Reporter in and for the County of Maricopa,  
7 State of Arizona.

8

9 APPEARANCES:

10 COMMISSIONERS:

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

14 ALSO PRESENT:

15                   LISA HAUSER, ESQ., Counsel for the Commission  
16                   DOUG JOHNSON, Contractor, NDC  
17                   ADOLFO ECHEVESTE, Executive Director  
                    Independent Redistricting Commission

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1 P R O C E E D I N G S

2 CHAIRMAN LYNN: Adolfo, is there anybody in the  
3 office from the public?

4 MR. ECHEVESTE: No.

5 CHAIRMAN LYNN: Okay.

6 MR. ECHEVESTE: Staff -- Lou and Kristina -- and  
7 the redorder.

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

12 MS. HAUSER: Okay.

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

15 MS. HAUSER: No. He can't.

16 CHAIRMAN LYNN: Okay. Let me call roll then.  
17 Ms. Minkoff.

18 VICE-CHAIRMAN MINKOFF: I'm here.

19 CHAIRMAN LYNN: Mr. Elder.

20 MR. ELDER: Present.

21 CHAIRMAN LYNN: Mr. Hall.

22 MR. HALL: Yes.

23 CHAIRMAN LYNN: Mr. Huntwork.

24 MR. HUNTWORK: Present.

25 CHAIRMAN LYNN: The chairman is present. So all

1 five members are present. Lisa Hauser is staff attorney  
2 to the Commission, also present, and Commission staff in  
3 the office.

4 VICE-CHAIRMAN MINKOFF: And Doug.

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

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

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

15 MS. HAUSER: Well, let me defer to Doug on that.

16 CHAIRMAN LYNN: Okay.

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

18 So take it away, Doug.

19 CHAIRMAN LYNN: Mr. Johnson.

20 MR. JOHNSON: Okay. I'll be brief, because this  
21 isn't the most exciting thing of all times.

22 Essentially, there's a lot of work that the Census does  
23 to get ready for the next decennial census, mainly  
24 focused on making sure that their boundaries are  
25 correct. You guys may remember that -- was it Sierra

1 Vista called us a week before the final legislative plan  
2 was adopted and said that we've split their city, and it  
3 turned out that Census had the wrong order for their  
4 city because they hadn't worked with the Census Bureau.

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

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

19           And so everyone is essentially comfortable  
20 with the Commission. As long as it's in existence,  
21 we'll continue to be the liaison. And leg. counsel  
22 wanted the Commission to designate leg. counsel as their  
23 formal designee so that they wouldn't be caught in this  
24 Catch 22 of they're not the official redistricting  
25 authority, but the official redistricting authority

1 doesn't exist.

2                   So these are laid out fairly well in the  
3 resolution, I think. The underlying issue here is that  
4 Census Bureau -- this is a voluntary preparation base.  
5 If there's any controversy or Democrat versus  
6 Republican, you know, conflict or any hitches, the  
7 Census Bureau just walks away from the state. They say,  
8 you know, it's not worth it to them to get caught in the  
9 mix. So they just want to see is everyone working  
10 together well, and if so, then they work with the state.  
11 So this is kind of our way of showing we're all working  
12 together well, and then we're off and running.

13                   CHAIRMAN LYNN: Okay.

14                   MR. JOHNSON: Most of the work is actually done  
15 by the counties and then cities when it's actually being  
16 done.

17                   CHAIRMAN LYNN: All right. For the benefit of  
18 the recorder, I'm going to ask the members of the  
19 Commission to identify themselves when they speak. This  
20 is the chairman again. And given Doug's explanation of  
21 the draft resolution, I would entertain a motion to  
22 adopt the draft resolution as presented.

23                   VICE-CHAIRMAN MINKOFF: Mr. Chairman?

24                   CHAIRMAN LYNN: Ms. Minkoff.

25                   VICE-CHAIRMAN MINKOFF: Yes. Andi Minkoff. And

1 I would move the adoption of the resolution as  
2 presented.

3 CHAIRMAN LYNN: Thank you. Is there a second?

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

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

9 MR. HUNTWORK: Mr. Chairman.

10 CHAIRMAN LYNN: Mr. Huntwork.

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

14 VICE-CHAIRMAN MINKOFF: Where are you?

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

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

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

19 VICE-CHAIRMAN MINKOFF: Oh, okay.

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

21 VICE-CHAIRMAN MINKOFF: Okay.

22 MR. HUNTWORK: And I'm at the final sentence  
23 where it says "serve," "...designates the nonpartisan  
24 Arizona Legislative Council to serve...." I would like  
25 to insert the words "at its own expense."



1                   And, secondly, after the word "commencing,"  
2 I would like to insert the words "only if and when."  
3 The second one is really a retentative lawyer change  
4 that I would prefer to see. That's the convention I  
5 usually use when drafting similar concepts. And I think  
6 it adds some clarity to the statement.

7                   The first one I am suggesting because I  
8 believe that we not only have no authority to tax, but  
9 we also have no authority to spend money as well. I  
10 think it's implicit. We ought to make it explicit.  
11 There may be money left in other budget.

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

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

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

18                  CHAIRMAN LYNN: Sure.

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

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

24                  MR. HUNTWORK: Very well. I move that we amend  
25 the proposed resolution by inserting the words "at its

1 own sole cost and expense" following the words "to  
2 serve."

3 CHAIRMAN LYNN: Is there a second to that  
4 amendment?

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

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

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

15 MS. HAUSER: That's correct.

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

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

1 that?

2 CHAIRMAN LYNN: Absolutely. Ms. Hauser.

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

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

1 floor to respond to the comments made.

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

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

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

22 VICE-CHAIRMAN MINKOFF: How lovely.

23 MR. HUNTWORK: And that was the advice that,  
24 Lisa, I'm sure that we did receive from you. So since  
25 we're designating them, I mean, the theory behind this

1 is that -- and I think it's probably legally a defensive  
2 theory to begin with, because if we really cease to  
3 exist, we can't have an agent out there acting on our  
4 behalf. And probably the legislature needs to adopt  
5 some law to fix that saying once the Commission ceases  
6 to exist, leg. council is the proper value or something  
7 like that. But I'm not suggesting we go there at all.  
8 All I want to do is fix this within the four corners of  
9 what we're dealing with. But I do think it should say  
10 "at no expense to the Commission."

11 MS. HAUSER: Mr. Chairman.

12 CHAIRMAN LYNN: Yes. Ms. Hauser.

13 MS. HAUSER: Just with respect to the legal  
14 advice given previously with respect to work that the  
15 Commission was doing without appropriated funds or  
16 expecting to have to do without appropriated funds, the  
17 principle there is different than this one. And I would  
18 just say that the ordinary principles of agency don't  
19 necessarily apply in this particular situation given the  
20 structure of State government and particularly given the  
21 Attorney General opinion that was issued recently  
22 concerning the questions that we had about carrying out  
23 our work. I mean, the Attorney General has clearly  
24 indicated there that we can't pay for any of the work  
25 that would go on after our existence, and we can't agree

1 to do so. But the work still has to go on. And this is  
2 a way that we can accomplish that. And I would not have  
3 any concerns whatsoever about anything coming back on  
4 commissioners individually.

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

10 CHAIRMAN LYNN: Thank you.

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

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

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

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

18 CHAIRMAN LYNN: Thank you. Then with the amended  
19 amendment, "at no further expense to the Commission,"  
20 further discussion on the amendment?

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

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

25 Hearing none, we'll do this by roll call

1 because it's very hard to do this otherwise. Let me  
2 call the roll on the amendment. Ms. Minkoff.

3 VICE-CHAIRMAN MINKOFF: Yes.

4 CHAIRMAN LYNN: Mr. Elder.

5 MR. ELDER: Yes.

6 CHAIRMAN LYNN: Mr. Hall.

7 MR. HALL: Do we mind reading it again?

8 CHAIRMAN LYNN: Sure.

9 MR. HALL: We had two amendments; right?

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

11 And this first one is --

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

14 CHAIRMAN LYNN: Thank you.

15 And Mr. Huntwork?

16 MR. HUNTWORK: Aye.

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

19 Mr. Huntwork.

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

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

24 VICE-CHAIRMAN MINKOFF: Andi Minkoff, and I'll  
25 second it.

1 CHAIRMAN LYNN: Thank you.

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

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

6 CHAIRMAN LYNN: I understand.

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

10 CHAIRMAN LYNN: Further discussion on the  
11 amendment? Hearing none, roll call. Ms. Minkoff.

12 VICE-CHAIRMAN MINKOFF: Yes.

13 CHAIRMAN LYNN: Mr. Elder.

14 MR. ELDER: Yes.

15 CHAIRMAN LYNN: Mr. Hall.

16 MR. HALL: Aye.

17 CHAIRMAN LYNN: Mr. Huntwork.

18 MR. HUNTWORK: Yes.

19 CHAIRMAN LYNN: Chair votes aye. Motion carries.

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

23 VICE-CHAIRMAN MINKOFF: We have the motion.

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



1 on that motion? Hearing none, roll call. Ms. Minkoff.

2 VICE-CHAIRMAN MINKOFF: Yes.

3 CHAIRMAN LYNN: Mr. Elder.

4 MR. ELDER: Yes.

5 CHAIRMAN LYNN: Mr. Hall.

6 MR. HALL: Aye.

7 CHAIRMAN LYNN: Mr. Huntwork.

8 MR. HUNTWORK: Yes.

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

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

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

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

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

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

24 CHAIRMAN LYNN: Lisa, I think that was a question  
25 to you.

1 MS. HAUSER: Oh. No, that's not on the agenda.

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

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

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

10 (The proceedings adjourned at 10:19 a.m.)

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1 STATE OF ARIZONA            )  
                                  )     SS.  
2 COUNTY OF MARICOPA        )

3                                    CERTIFICATE

4  
5        BE IT KNOWN that the foregoing proceedings were taken  
6 before me, DOREEN C. BORGMANN, RMR, CRR, Certified  
7 Reporter, Certificate No. 50644, State of Arizona; that  
8 the proceedings were taken down by me in shorthand and  
9 thereafter reduced to computer print under my direction;  
10 that the foregoing 18 pages constitute a true and  
11 correct transcript of all proceedings had upon the  
12 taking of said proceedings, all done to the best of my  
13 skill and ability.

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

17        DATED at Phoenix, Arizona, this 17th day of January,  
18 2008.

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21                                    \_\_\_\_\_  
22                                    DOREEN C. BORGMANN, RMR, CRR  
23                                    Certified Reporter  
24                                    Certificate No. 50644  
25