

ARIZONA INDEPENDENT REDISTRICTING COMMISSION

Friday, August 3, 2012
1:32 p.m.

Location

**Evans House
1100 West Washington Boulevard
Phoenix, Arizona 85007**

Attending

Colleen C. Mathis, Chair (via teleconference)
Jose M. Herrera, Vice Chair (via teleconference)
Scott Day Freeman, Vice Chair
Linda C. McNulty, Commissioner (via teleconference)
Richard P. Stertz, Commissioner (via teleconference)

Ray Bladine, Executive Director
Buck Forst, Information Technology Specialist
Kristina Gomez, Deputy Executive Director

Mary O'Grady, Legal Counsel
Joe Kanefield, Legal Counsel

Reported By:
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Phoenix, Arizona
August 3, 2012
1:32 p.m.

P R O C E E D I N G S

(Whereupon, the public session commences.)

CHAIRPERSON MATHIS: This meeting of the Arizona
Independent Redistricting Commission will now come to order.

Today is Friday, August 3rd. The time is
1:32 p.m.

And I don't know if there's a flag there. We
could do the pledge first if people are inclined to do so at
Evans House.

RAY BLADINE: We don't have a flag.

CHAIRPERSON MATHIS: Okay. I think we'll just all
say it inside and move on to roll call.

Let's start with the Commission.

So, Scott Freeman.

VICE-CHAIR FREEMAN: Here.

CHAIRPERSON MATHIS: Sorry, I should say
Vice-Chair Freeman. I'm out of practice after five months.

Vice-Chair Herrera.

VICE-CHAIR HERRERA: Here.

CHAIRPERSON MATHIS: Commissioner McNulty.

1 COMMISSIONER McNULTY: Here.

2 CHAIRPERSON MATHIS: Commissioner Stertz.

3 COMMISSIONER STERTZ: Here.

4 CHAIRPERSON MATHIS: We have a quorum.

5 Other folks in the room I assume are legal
6 counsel, Joe Kanefield and Mary O'Grady.

7 RAY BLADINE: Correct.

8 CHAIRPERSON MATHIS: Great.

9 And our mapping consultants, Strategic Telemetry,
10 both Ken Strasma and Andrew Drechsler on the line.

11 RAY BLADINE: Correct. And Willie is in the
12 audience.

13 CHAIRPERSON MATHIS: Oh, great.

14 Hi, Willie.

15 WILLIE DESMOND: Hi.

16 CHAIRPERSON MATHIS: And then I sense that Marty
17 Herder is there taking a transcript.

18 VICE-CHAIR FREEMAN: Yes.

19 RAY BLADINE: He can't answer, but he nodded.

20 CHAIRPERSON MATHIS: Okay. Great.

21 Glad everybody is there.

22 And staff, I know that Ray Bladine, our executive
23 director.

24 Is there anybody else in the room from staff?

25 RAY BLADINE: Kristina is with me and Anna is also

1 with us.

2 CHAIRPERSON MATHIS: Okay. Great.

3 Thanks, everyone, for being here.

4 Anybody else I am missing in terms of
5 introductions?

6 VICE-CHAIR FREEMAN: I think that's it.

7 We have some members of the public here as well.

8 CHAIRPERSON MATHIS: Okay. Great.

9 Is Buck there?

10 VICE-CHAIR FREEMAN: Yes, he's here.

11 CHAIRPERSON MATHIS: Oh, great.

12 Hi, Buck.

13 Are we streaming this, or. . .

14 VICE-CHAIR FREEMAN: We are streaming.

15 And just for any of you who are talking on a
16 speaker phone, just your voices are cutting out a little
17 bit. So just be careful.

18 Particularly with Jose. We were barely catching
19 him there. So try to please speak up.

20 CHAIRPERSON MATHIS: Okay. Good advice.

21 Well, with that, it's been five months since we
22 all last convened, and a lot has happened. Obviously we
23 have two maps, a legislative and a congressional map, that
24 have been precleared by the Department of Justice. And I
25 congratulate everybody who helped make that a reality. It

1 was a historic moment for our state, and I was very proud of
2 it.

3 So with that, I will move on to our next agenda
4 item. Discussion and possible action regarding contract
5 amendment/extensions for legal counsel, fiscal year '13, for
6 Osborn Maledon and Ballard Spahr.

7 And I assume Ray will be giving us background
8 here. I know he sent out a lot of information to us all
9 that I hope everybody received.

10 Ray, are you there?

11 RAY BLADINE: Yes, I am. Do you want me to go
12 ahead?

13 CHAIRPERSON MATHIS: Yeah, that would be great.

14 RAY BLADINE: Okay.

15 I did send all the commissioners and we have
16 copies for the public of the materials that I put together
17 talking about the legal service contract amendment
18 extensions.

19 As you all know, sometime ago we were delegated by
20 SPO to carry out our own procurement. Since that time, we
21 had been doing that.

22 And so the contract with Strategic Telemetry and
23 all of the additional attorneys we've had to hire over the
24 last year, we have done as a Commission.

25 We have done our best to try to track the process

1 used by SPO in doing that and tried to utilize the basic
2 contracts that we had before and have extended them for
3 purposes of legal staff.

4 As you also know, the Constitution does provide
5 that the Commission has independent authority to contract.

6 So that establishes that we have an ability to
7 move forward and review and extend contracts for legal
8 services.

9 The information I sent you included letters from
10 both firms that made a request for additional increases in
11 fees. And they are reflective of actions their individual
12 firms have taken in terms of their overall billing rates, is
13 the way I understand it.

14 And I'm going to say it that way so if I misstate
15 that one of the attorneys correct me.

16 One of the issues we had in the last contract is
17 we ended up with a disparity amount between the two law
18 firms as to the rates that were charged. One of the
19 recommendations that I make to you in my recommendations to
20 you is that we have the same rates for both firms, since
21 they are doing basically the same work for us.

22 And I know both of the firms agree with that.

23 The memo, the cover memo that I prepared for you
24 also transmits the two letters and it transmits draft of
25 contract amendments that, again, as I mentioned, follow as

1 best we can the process that is used by the State
2 Procurement Office.

3 In all cases the rates that are being proposed are
4 reductions off of the standard rates these firms charge for
5 their services.

6 They, in one case for certain, are lower than the
7 rate that is agreed to by the firm on the Attorney General's
8 list of legal services.

9 In the recommendation I make to you, I have
10 basically recommended that the fee structure for both firms
11 be the same. In the first page I have made a recommendation
12 as to which those rates are.

13 It really is your responsibility, your authority
14 to give me direction as to what you would like me to do with
15 regard to entering into and/or amending contracts for the
16 legal services for our legal team.

17 With that, Madam Chair, I'll be available for
18 answering any questions, and I'll turn it back to you.

19 CHAIRPERSON MATHIS: Okay. Thanks, Ray, for the
20 background and context.

21 Any questions from the commissioners on what Ray
22 sent or said?

23 VICE-CHAIR FREEMAN: Madam Chair, this is Scott
24 Freeman.

25 CHAIRPERSON MATHIS: Go ahead.

1 VICE-CHAIR FREEMAN: When we originally retained
2 counsel, the State Procurement Office was assisting and
3 handling that procurement.

4 It assisted -- while the commissioners provided
5 the terms of the scope of work, it prepared the RFP and
6 assisted the Commission with the evaluation process. And
7 ultimately we have a contract with two firms that it served
8 as the procurement office for the Commission in handling, I
9 thought, our instructions to Ms. Clark, who was serving as
10 the procurement officer, was to harmonize the rates.

11 So, if anything else comes out of this, I am just
12 suggesting that they do be harmonized.

13 CHAIRPERSON MATHIS: I would agree with that.
14 Any other comments from other commissioners?

15 COMMISSIONER STERTZ: Madam Chair.

16 CHAIRPERSON MATHIS: Mr. Stertz.

17 COMMISSIONER STERTZ: Nice to chat with all of you
18 again.

19 In regards to -- this is a question for
20 Mr. Bladine. In taking into account Mr. Freeman's request
21 to harmonize the rates, what I do know is that there has
22 been -- this is the lion's share of the IRC funded legal
23 expenses, and they will be the lion's share of the budget
24 going forward.

25 When you developed the budget that you sent

1 presented to the state legislature, did you take into
2 consideration regarding these increases that you're
3 proposing?

4 RAY BLADINE: Commissioner Stertz, I'm not exactly
5 sure how to answer the question, but I'll do it this way, is
6 that in the budget that was submitted for fiscal year '13,
7 which was submitted about a year ago now, no. There was not
8 any increase provided for attorney fees.

9 On the other hand, we did not also go through and
10 approach it that way. We basically worked off of what the
11 governor had proposed at that time, and that was a
12 1.7 million dollar appropriation, and that was based upon
13 what the last Commission had spent to that time.

14 So really the basis for the budget for '13 is more
15 related to what happened in the past than any specific rates
16 or salaries.

17 COMMISSIONER STERTZ: Madam Chair.

18 CHAIRPERSON MATHIS: Go ahead.

19 COMMISSIONER STERTZ: And in follow up to that
20 then, Mr. Bladine, what I'm hearing is that, is that when I
21 ask a question that when you made your presentation to
22 the state legislature for the increase for the fiscal
23 year '12, '13 request, that you ultimately were greater,
24 even though it was a reduction from what you had presented,
25 in the number that you presented what were -- was there

1 any consideration for expansion of fees either to the
2 attorneys in mind or was this just a budget number that was
3 based on a projection from 2002, 2003 -- or 2012, 2013,
4 going forward.

5 RAY BLADINE: Commissioner Stertz, it's a little
6 of each. And you raise a good point.

7 It was based on both kind of projection of what
8 happened in the past, but at that time we had a good idea of
9 what our legal fees had been to that point. So some of it
10 was at that time taking a look at what our legal fees are
11 likely to be to the end of that fiscal year.

12 That was the appropriations that we got of
13 700,000.

14 But the answer to the first part of your question,
15 did any fee increase we anticipated in making that request,
16 is, no, we did not.

17 COMMISSIONER STERTZ: Madam Chair, another follow
18 up.

19 Are you receiving estimates based on scope of
20 services as the need -- let me rephrase that.

21 Are you requesting that you get budget numbers or
22 estimates for costs of what some of these legal services are
23 going to be, or are we just giving a carte blanche to the
24 attorneys to bill us until they see that they don't need
25 to -- just as a response to the work that's being put in

1 front of them?

2 RAY BLADINE: Commissioner Stertz, when we talk
3 about the budget part, I can go into that more.

4 I guess my answer would be right now we're really
5 talking about the rates that we're going to pay the
6 attorneys. On the budget side of it, right now we're not
7 looking at very specific -- we're not looking at any
8 specific information as regards to the legal challenges we
9 have.

10 We're using historic data that was inflated.

11 And I can go over that with you in the budget
12 part.

13 So in looking at their requested fees, I did not
14 in any way try to figure out what might be the total cost to
15 us.

16 COMMISSIONER STERTZ: Okay.

17 Madam Chair, staying on the agenda idea item of
18 talking about an increase in fees, the marketplace right
19 now, obviously everyone is aware that things are tough for
20 everybody in the outside world, and I know that in other
21 cases that I've been -- that I've worked with private
22 counsel on, when we would enter into a -- and go into
23 negotiation, we look at our fee structure, and that fee
24 structure remained intact, even if it went over a
25 several-year period as it was established right from the

1 get-go.

2 So I would guess that as competitive as the
3 marketplace is and as extraordinary high as these number
4 are, whether or not there's been a commensurate increase on
5 each one of each firms' general billing practices, I think
6 that we need to respect what's going on in the state of
7 Arizona and hold their -- hold the fees where they are right
8 now, at least for the next couple of years.

9 CHAIRPERSON MATHIS: Okay. Comments from other
10 commissioners?

11 VICE-CHAIR FREEMAN: Madam Chair, this is Scott
12 Freeman.

13 CHAIRPERSON MATHIS: Go ahead.

14 VICE-CHAIR FREEMAN: A few questions.

15 First to Mr. Bladine. Did we request that the
16 attorneys provide us with a budget for the upcoming year?

17 RAY BLADINE: No, we did not ask them for a budget
18 at this time. We will, but we have not.

19 VICE-CHAIR FREEMAN: In terms of future billings,
20 has the discussion been strictly the nature of hourly rates,
21 or have there been discussions involving alternative fee
22 arrangements that the Commission might have?

23 RAY BLADINE: I guess the answer would be it's
24 just been on hourly rates.

25 VICE-CHAIR FREEMAN: With respect to hourly rates,

1 I know last year when we were involved in the attorney
2 procurement, the Commission was provided with a document
3 that listed the approved counsel for the state of Arizona
4 and the rates. And I know we don't have that document with
5 us now, but do we know whether there's been across-the-board
6 increases in those rates?

7 And I guess as a corollary to that question, it's
8 been mentioned that the Attorney General -- the rate for
9 work with the Attorney General is a little higher. Do we
10 know if there's been an increase in the Attorney General
11 rate in the last year?

12 RAY BLADINE: Commissioner Freeman, no, we do not.

13 I did have a discussion yesterday with the
14 Attorney General's Office, and if we prepared an open
15 meeting request -- I'm sorry, a public records request, they
16 provide us our current list. I did not feel I should do
17 that at that time, but we could certainly see what it is.

18 I don't have an answer right now as to what
19 changes may have happened to the Attorney General.

20 CHAIRPERSON MATHIS: Any other questions?

21 COMMISSIONER STERTZ: Madam Chair.

22 CHAIRPERSON MATHIS: Mr. Stertz.

23 COMMISSIONER STERTZ: Mr. Bladine, in regards to
24 staff work that's being done, for example, the -- how much
25 of our staff is, is -- did you relegate or did you delegate

1 to legal support right now?

2 RAY BLADINE: Commissioner Stertz, I'd say that
3 right now the majority probably of the time that the
4 community outreach workers have put in, which is one and
5 apart, have been to assist in gathering data either for
6 public information requests related to lawsuits or pulling
7 out data to help the legal counsel. So that has been --
8 between that and also answering recently questions from the
9 auditor, those have been the major, I'd say, workloads of
10 the office.

11 We do get additional information requests for maps
12 and those sorts of thing.

13 The majority of the work has been to support, to
14 be a part of the legal services team.

15 CHAIRPERSON MATHIS: I'm sorry, Ray, did you say
16 the audit too? I couldn't. . .

17 RAY BLADINE: Yes, we've also, in responding to
18 the auditor's questions, and they're very good at asking a
19 lot of questions, we have had a lot of staff time devoted
20 towards getting those answers.

21 CHAIRPERSON MATHIS: Okay. Thanks.

22 VICE-CHAIR FREEMAN: Madam Chair, it's Scott --

23 COMMISSIONER STERTZ: Madam Chair -- go ahead.

24 CHAIRPERSON MATHIS: Mr. Freeman first.

25 VICE-CHAIR FREEMAN: I just want to make a comment

1 that as an attorney myself I know that most people don't
2 like to pay attorneys. I could not afford myself. They're
3 expensive.

4 And it is, like Commissioner Stertz said, a major
5 component of the expense of this Commission. And of course
6 I'd like to know a few more things about what we've done in
7 the past and what we're to expect in the future in terms of
8 legal fees.

9 I do think that this is a fairly highly
10 specialized area of the law. There aren't many lawyers in
11 the state who work in this area. And certainly the work
12 product that I've seen that the Commission's attorneys have
13 prepared, while I do not agree with many of the positions
14 they take, it's been a very high caliber and quality.

15 CHAIRPERSON MATHIS: Okay. Was that Mr. Stertz
16 who also had something there?

17 COMMISSIONER STERTZ: One brief comment on that.

18 Again, my hope is that I'd like to see -- I would
19 like to see these rates held.

20 I know that if the firms -- I mean, there are, as
21 Commissioner Freeman said, this is very specialized, but
22 there are other folks out there who would love to get these
23 contracts. And I don't want to be put into a place where
24 that we have to have substantive increases by a fairly large
25 percentage in some areas just to create parity between the

1 two firms, even though they may be less than what they're
2 normally charging for their rates.

3 When we're talking about millions and millions of
4 dollars' worth of taxpayer money dollar, there are a lot of
5 folks out there that would love to get a hold of these
6 contracts and represent the -- and I'm sure they would do
7 the same or at least an equal job of representing this
8 Commission with the money that we've already got budgeted
9 and what we've already considered for.

10 CHAIRPERSON MATHIS: Okay.

11 Any other comments from anybody?

12 COMMISSIONER McNULTY: Madam Chair, I have a
13 couple of comments and questions.

14 CHAIRPERSON MATHIS: Go ahead.

15 COMMISSIONER McNULTY: I agree with Mr. Freeman
16 that the highest prioritize from my perspective is it to
17 harmonize the rates. I too remember the Commission
18 directing the State Procurement Office to do that. And I
19 think it's important that we do that now at every level, at
20 the member level, at the associate level, at the paralegal
21 level.

22 I have a question, which doesn't have to do with
23 rates, that legal counsel may need to answer.

24 And that is, our original contract was for a term
25 of a year. And I see that the amendments would be for terms

1 of a year.

2 But typically when you engage counsel strictly for
3 litigation, you don't have a term of years. You engage them
4 for the matter. The rate may be for a year with the
5 understanding that they could propose an increase after a
6 year, but the engagement would be for the matter.

7 And I also understand that we're trying to do
8 things the way SPO did, even though we have our own
9 contracting authority and can do the things, you know, the
10 way the Commission elects to do them.

11 But I wonder if it makes sense in this case to be
12 clear in our amendment that we are engaging for the matter
13 with the understanding that the rates could -- a request to
14 adjust rates could be made or would be considered.

15 CHAIRPERSON MATHIS: Okay.

16 RAY BLADINE: Madam Chair, I think the
17 attorneys -- they'll look at the contract, but as I do
18 recall recently, the most recent contracts that we have had
19 with attorneys for litigation have said until the matter is
20 settled, not a specific time frame.

21 I would guess --

22 COMMISSIONER McNULTY: I think we should think
23 about doing that, you know, engaging for the matter in our
24 amendment. I know that the original contract with each of
25 the firms, Ballard Spahr and Maledon, were for a year.

1 We'll look at those. And that's -- of course we've
2 continued far beyond -- five or six months beyond that, but
3 I would prefer that the amendment phrase it that way.

4 RAY BLADINE: Madam Chair.

5 COMMISSIONER McNULTY: The other thing I would
6 like to look at in the contract is whether there really is a
7 waiver of subrogation. I see that we're saying in our
8 contract amendment that to the extent there might have been
9 one there won't be one anymore.

10 But I don't think there is one.

11 And I think it's just a quick look by our counsel,
12 and if it's not there, I don't think we need to address it
13 in the amendment.

14 As to the rates themselves, as I said, my priority
15 would be to harmonize the rates at the rates that Ballard
16 Spahr has been receiving.

17 I think that's imperative.

18 I'm open to considering an increase, but I would
19 be much more comfortable with an increase in the range of
20 five or ten dollars for the members, rather than the range
21 that we're looking at in these proposals.

22 And the reason for that is that I agree that the
23 caliber of work has been very, very excellent. And I'd like
24 to see our attorneys receiving the same compensation that
25 the attorneys that they are -- who are the other side of

1 this matter.

2 But we're in the business of public service here,
3 and that's just kind of the way it is. We have a limited
4 budget. We have a lot of folks looking at that budget.

5 We need to do the job, and we need to do it
6 extremely well on behalf of the people of Arizona.

7 But I think we also need to be very frugal about
8 it. I think I would prefer to see a more modest increase.

9 VICE-CHAIR HERRERA: Madam Chair.

10 CHAIRPERSON MATHIS: Mr. Herrera.

11 VICE-CHAIR HERRERA: Yes. Thank you. It has been
12 a while. I'm glad that you're all -- you guys are all doing
13 well.

14 You know, I do agree with Commissioners Freeman
15 and McNulty. I think we should harmonize the rates. But I
16 also agree with Commissioner McNulty's comments.

17 And, you know, Freeman's both, that they're --
18 these attorneys that we hired are -- they do a specialized
19 job, and I don't think there's -- I personally don't think
20 there's a lot of attorneys waiting in the wings to take over
21 their positions if they weren't having set their rates. I
22 think what they do is pretty specialized and unique.

23 And the job that they're doing for the Commission
24 and for the state is more than adequate. Their work is
25 excellent. And I would, I would recommend that we consider

1 a raise, a very moderate raise, but at least a raise
2 nonetheless.

3 And I would you agree with Commissioner McNulty's
4 proposal and comments in terms of what type of raise she
5 would like to see.

6 So those are my comments.

7 CHAIRPERSON MATHIS: Okay. Thank you.

8 Any other comments?

9 VICE-CHAIR FREEMAN: Madam Chair.

10 CHAIRPERSON MATHIS: Mr. Freeman.

11 VICE-CHAIR FREEMAN: I know there's been the issue
12 of the waiver of subrogation clause, and the lawyers right
13 now are busily looking over the contracts, so in some extent
14 I'm stalling for time here.

15 But the question that came up in my mind was if
16 that waiver provision was in the contract with
17 Ballard Spahr, and if that was an issue in terms of
18 insurance coverage, what could then -- I guess I would be
19 curious to know what could have been the ramifications of
20 that.

21 But Joe isn't listening to me right now because
22 he's doing something else.

23 JOSEPH KANEFIELD: Sorry.

24 VICE-CHAIR FREEMAN: I was trying to stall for
25 time.

1 With respect to the waiver --

2 JOSEPH KANEFIELD: I'm sorry, Madam Chair,
3 Commissioner Freeman.

4 VICE-CHAIR FREEMAN: Your mic.

5 JOSEPH KANEFIELD: Madam Chair.

6 CHAIRPERSON MATHIS: Yes, I can hear you.

7 JOSEPH KANEFIELD: Madam Chair,
8 Commissioner Freeman, we had asked for that waiver of
9 subrogation provision to be addressed because it is a
10 standard clause that's in -- has been in the state contract
11 that's issued by the Attorney General for several years.

12 The problem is the insurance provider, the
13 malpractice insurance provider that covers most of the
14 larger law firms in the state of Arizona does not cover
15 waiver of subrogation.

16 So we had to ask our firm as well as some of the
17 other firms that met with the Attorney General last year
18 before he issued his request for proposal and asked him to
19 address the situation, which he did.

20 So I wasn't sure if at the time that we made the
21 request whether the Commission had used the same subrogation
22 provision.

23 I assumed it had, because it was probably -- I
24 assumed that it was using the same general contract language
25 that the Attorney General has.

1 That's the only thing.

2 And I apologize.

3 We're looking and trying to find the language in
4 the special terms and conditions of the contract itself.

5 We -- you know, we could -- if the Commission was
6 inclined to mirror what the Attorney General has done with
7 respect to that provision in the state contract, we would be
8 more than pleased to help the Commission make that change to
9 its contract.

10 COMMISSIONER McNULTY: Madam Chair, I don't find
11 it in the contract. Perhaps it is there.

12 But I'd like to know whether it's there before we
13 debate with the need to remove it, I guess.

14 CHAIRPERSON MATHIS: Okay.

15 And, Mr. Kanefield, just so you know, it was
16 cutting out a lot when you were speaking, at least for my
17 ear. So just if everybody could be mindful to be sure to
18 speak right into the microphone.

19 So, are there any other comments or questions on
20 this?

21 I guess I'm hearing bipartisan support frankly for
22 the fact that our lawyers have done a bang-up job.

23 They are truly of the highest caliber, and I am
24 proud that they serve the Commission. And I'm very grateful
25 for all they've done for us.

1 And I also am for bipartisan support for
2 harmonization of rates.

3 I think we all assumed that the definition of the
4 harmonization is parity, and I guess it doesn't always mean
5 that in the procurement world. I think we all agree that
6 that is something that we agree on, I think.

7 So that's what I'm hearing so far.

8 But beyond that, I heard some support for some
9 modest increase. And what do people --

10 VICE-CHAIR HERRERA: Madam Chair.

11 CHAIRPERSON MATHIS: Go ahead.

12 VICE-CHAIR HERRERA: Not that this will influence
13 my decision, but out of curiosity, what's happened with the
14 last previous Commission with their attorneys and their fees
15 and -- I mean, was this an issue that came up before the
16 Commission last time?

17 CHAIRPERSON MATHIS: I can't answer that.

18 Mr. Bladine, do you know?

19 RAY BLADINE: Madam Chair, I'm looking at Kristina
20 too to see if she remembers better than I do, but I don't
21 recall seeing anything in the past that showed that they had
22 a public discussion of rates of attorney fees.

23 Let me ask Kristina if she can add to that.

24 CHAIRPERSON MATHIS: Go ahead, Ms. Gomez.

25 KRISTINA GOMEZ: Madam Chair, I don't recall any

1 open meetings discussions regarding the rates.

2 I do recall that at one point, and this was all
3 behind closed doors just within the internal office, that
4 there was discussion regarding a flat fee, and the concern
5 was the appropriation and the amounts of money left over in
6 order for us to get through litigation.

7 But those discussions did soon end, and I don't
8 know the reason why.

9 VICE-CHAIR HERRERA: Madam Chair, again, not that
10 that would influence my decision, because I don't even know
11 what their hourly rates were, if they were -- what the rates
12 of the previous attorney if they were charging way below
13 market, or anything like that.

14 It was just out of curiosity that I wanted to know
15 that information.

16 RAY BLADINE: Madam Chair, I do recall looking at
17 the rates for the last Commission's attorneys ten years ago,
18 and I believe it was in the ballpark of \$200 an hour back
19 then.

20 There may have been -- I don't believe there had
21 been an increase at any time during that period of time, at
22 least that we could find, in our records, if that's the
23 question I think you're really asking.

24 COMMISSIONER STERTZ: Madam Chair.

25 CHAIRPERSON MATHIS: Mr. Stertz.

1 COMMISSIONER STERTZ: Mr. Bladine, verify my
2 numbers. I want to make sure that we understand, because
3 Commissioner McNulty made a dollar recommendation of a five
4 or ten dollar increase or modification that might be
5 debated.

6 But I was looking at trying to understand the IRC
7 recommendation of \$325 for the principals and \$240 an hour
8 for the associates and \$165 for paralegals.

9 So if my math is right, the Osborn Maledon firm
10 raised to \$280 an hour would represent an over 16 percent
11 increase for members, 11 percent increase for associates,
12 and almost an 18 percent increase for paralegals.

13 Is that correct?

14 RAY BLADINE: Madam Chair, Commissioner Stertz, I
15 did not calculate those percentages, but I'm sure you are
16 good at math, and I bet they're right.

17 COMMISSIONER STERTZ: I'd be hard pressed to try
18 to -- I know the public is watching this very closely, and
19 making our recommendation for a 11 to 18 percent increase in
20 attorney's fees is a lot of money.

21 And that represents, that represents, on a
22 million dollars' worth of fees, \$170,000, that is going to
23 be additional fees coming out of the -- now limited to the
24 17 percent, that's going to be coming out of the taxpayers'
25 pocket.

1 VICE-CHAIR HERRERA: Madam Chair.

2 CHAIRPERSON MATHIS: Someone --

3 VICE-CHAIR HERRERA: Yeah, it's Mr. Herrera.

4 CHAIRPERSON MATHIS: Sorry, go ahead.

5 VICE-CHAIR HERRERA: I understand
6 Commissioner Stertz' concerns, but I also am comparing the
7 attorneys that we have now with the -- with what the
8 Commission went with last time, what the experience last
9 time. This Commission was able to pass both maps on the
10 first try.

11 And to me, I -- not only the work of the
12 Commission and of the mapping consultants and the staff,
13 but also the attorneys. And that we -- they need to pass
14 those maps on the first attempt probably saved us a lot of
15 money.

16 And I, I think I -- I give them a lot of credit,
17 kudos for that, for our attorneys, that we had high quality
18 attorneys that were able to do this.

19 I do appreciate Stertz' concerns about money, but
20 I also think that this Commission, I think I'm correct when
21 I state it saved quite a bit of money because we did things
22 that were different than what was done 15 years ago.

23 CHAIRPERSON MATHIS: Okay. Any other comments
24 from others?

25 (No oral response.)

1 CHAIRPERSON MATHIS: Well, again, as I've said, I
2 notice some points of agreement. And I guess we need to
3 decide if we want to have any kind of raise at all or
4 leave -- hold the rates, but at least have them equal to
5 each other.

6 VICE-CHAIR HERRERA: One at a time, would it make
7 sense for us to do them one at a time?

8 CHAIRPERSON MATHIS: Yeah, and also I'm wondering
9 on this waiver of subrogation issue, if there's anything
10 that we need to talk about with that? Is that something
11 that can be addressed later regardless of what gets decided
12 on rates?

13 Or addressed later? How does that -- how do we --
14 are we -- I guess we could direct Ray to look into this
15 matter with our legal counsel. And if something needs to be
16 added to the amendment or taken away from the amendment, we
17 can do that.

18 But I'm just curious what folks' thoughts are.

19 RAY BLADINE: Madam Chair, I would comment that
20 I'm looking over at both of our attorneys, and they do
21 believe it's a matter that I could work with them later. So
22 I don't know that we need to answer it now.

23 I believe I understand that no one wants to do
24 anything that would be different than what the state
25 contract provides with regard to subrogation, and we would

1 look at that wording and use it.

2 I believe that's what the instruction would be
3 that.

4 Yes, Joe is also nodding yes on that.

5 COMMISSIONER STERTZ: Madam Chair.

6 CHAIRPERSON MATHIS: Mr. Stertz.

7 COMMISSIONER STERTZ: If we were looking to create
8 parity between firms, even just raising the Osborn Maledon
9 rate of \$280 an hour up to the current rate of Ballard
10 Spahr's rate for principals \$300 an hour still represents a
11 seven percent increase.

12 And I don't disagree with anything that
13 Mr. Herrera says about the quality of these firms' work.
14 These firms have made a substantial amount of money, and
15 they did that work under the previous fees.

16 So I would guess that they're not going to change
17 the quality of their work even if we hold them to the fees
18 they're at now.

19 And I think it's going to be more responsible to
20 the folks that are out there.

21 We've been talking since the very first forum of
22 this Commission came together talking about the benefit of
23 the community and the public as a whole. I think that
24 includes being fiscally responsible.

25 And they didn't do a subpar job because they

1 weren't being paid under their percentage fees or agreed
2 upon number.

3 I think that if the rest of the public that was
4 out there working today was going to get a seven percent
5 raise, it would be terrific.

6 But there's just not a lot of money to be
7 spreading it around.

8 To even bring it up to parity to Ballard Spahr
9 represents a seven percent increase to principals and almost
10 a five percent increase for the associates.

11 So my recommendation is that we hold to where we
12 are. I don't think we're going to get -- and start looking
13 at things as Commissioner McNulty had said. We need to look
14 at these things as the then driven, not being an attorney,
15 I'm not speaking attorney speak. But we have cases in front
16 of us. And as we look at the two items on the agenda now,
17 we're talking about a budget for the fiscal years coming in
18 front of us that are being recommended that I'm assuming
19 that the majority of that money is in attorney's fees.

20 So these dollar and hourly recommendations that
21 are being made, even I though I can understand that everyone
22 wants to make more money, I just can't agree with it at this
23 time.

24 CHAIRPERSON MATHIS: Okay. Other comments from
25 anyone?

1 VICE-CHAIR HERRERA: Madam Chair, can we move
2 forward with the harmonization? I think we -- I think
3 there's have an agreement on that. If we can at least
4 tackle that and get that out of the way.

5 CHAIRPERSON MATHIS: I would agree with that. I'd
6 entertain a motion.

7 VICE-CHAIR FREEMAN: Well, Madam --

8 CHAIRPERSON MATHIS: And if we need to also amend
9 the contract to include discussion of matter as opposed to
10 terms, we can do that too, of course, if people are in
11 agreement.

12 VICE-CHAIR FREEMAN: Madam Chair.

13 CHAIRPERSON MATHIS: Go ahead, Mr. Freeman.

14 VICE-CHAIR FREEMAN: Well, even the harmonized --
15 as Commissioner Stertz pointed out, harmonization isn't that
16 simple, because there's lots of rates to harmonize.

17 And as Commissioner Stertz pointed out, it means
18 a -- if they were simply harmonized to the Ballard Spahr
19 rate, it means a certain percentage increase for Osborn
20 Maledon and nothing for Ballard Spahr. I mean, that would
21 be -- the other alternative is to reduce Ballard Spahr's
22 rates to bring them down into harmony with an increase in
23 Osborn Maledon's rates.

24 I'm looking at Joe and Mary right now. It's kind
25 of a uncomfortable conversation. That's what we're faced

1 with.

2 It's not a simple issue, I think, is my point.

3 CHAIRPERSON MATHIS: Yeah, Commissioner Freeman,
4 you should have dialed in.

5 That's a great point. It is true. There are
6 different ways to skin the cat.

7 So we have to figure out how we harmonize.

8 Any other discussion or ideas from other
9 commissioners? Or preferences?

10 COMMISSIONER McNULTY: Madam Chair, my -- I think
11 I would make a motion. I'll make a motion for discussion.
12 That we revise Osborn Maledon's rate to be on parity with
13 Ballard Spahr's rate in every respect.

14 That to the extent that Ballard Spahr is now
15 providing document clerks, that we harmonize their rates to
16 be on parity with Osborn Maledon's rate in that respect.

17 That we amend the contract to address the matter,
18 rather than the term. And that we -- with the understanding
19 that the original State Procurement contract provided that
20 the vendor could propose a rate increase after a year.

21 That we harmonize any subrogation provision with
22 what the State is now doing provided that that does not in
23 any way change the insurance principal -- the insurance
24 situation for the Commission.

25 And that we direct Mr. Bladine to further consider

1 and discuss with counsel a rate increase not to exceed
2 \$10 for principals and \$5 for associates.

3 So that would, with regard to Ballard Spahr, mean
4 that Mr. Adelson for purposes of Ballard Spahr's contract
5 would be treated as a member. So the cap for him would be
6 \$10 with -- but, again, with the understanding that it's
7 the strong sense of the Commission that in light of the
8 overall situation we want to keep any rate increase to a
9 minimum.

10 How's that for a short motion?

11 CHAIRPERSON MATHIS: Okay. Any -- did you get --
12 any discussion?

13 Or a second?

14 VICE-CHAIR HERRERA: Madam Chair.

15 CHAIRPERSON MATHIS: Mr. Herrera.

16 VICE-CHAIR HERRERA: You know, I hopefully wrote
17 down that motion, but I will second.

18 CHAIRPERSON MATHIS: Okay. So now if there's any
19 discussion of this motion now, we can go ahead and do that.

20 I'm sure there is.

21 COMMISSIONER STERTZ: Madam Chair.

22 CHAIRPERSON MATHIS: Mr. Stertz.

23 COMMISSIONER STERTZ: This is a question for
24 Deputy Director Bladine or legal counsel.

25 As a, as a percentage of billing historically over

1 the -- from the -- from over the last year -- or let's just
2 say, I'm trying to get a handle on how much of the work
3 currently is being done by Osborn Maledon versus Ballard
4 Spahr and what the projection of work going forward is.

5 RAY BLADINE: Commissioner Stertz, I don't have --
6 going forward I don't have any sort of estimate, because
7 frankly the two firms coordinate and work with each other
8 and trade back and forth as to their, I believe, ability to
9 respond.

10 I would guess that in the last year, without me
11 pulling up the spreadsheet, that probably we paid Osborn
12 Maledon more, because they had -- they did not have any
13 conflicts and there was a few conflicts that Ballard Spahr
14 had that kept them from representing the Commission.

15 I can pull that information out, but I don't have
16 it at the top of my head.

17 COMMISSIONER STERTZ: Well, would you guess that
18 it's running about 60/40 to be specific based on your own
19 budget for the year '13? Your -- you've got it set for
20 57/43 for Osborn Maledon over Ballard Spahr.

21 Or do you think that 60/40 split is going to
22 maintain, or do you think it's going to increase more to --
23 it appears to me from the work product and the answers that
24 have been provided that Osborn Maledon is doing more of the
25 legal work for the Commission than is Ballard Spahr.

1 Is that a good analysis?

2 RAY BLADINE: Commissioner Stertz, I did find my
3 spreadsheet, and I can now take a quick look to find Ballard
4 Spahr and Osborn Maledon.

5 It looks to me like the figures are, let's see, if
6 each of those, maybe it's 70 percent -- no, let's see.

7 Just maybe -- I'm trying to go through it.

8 The total billing for Ballard Spahr up through
9 this period of time was 764,000 and Osborn Maledon was 951.

10 CHAIRPERSON MATHIS: Right. And I think that's
11 partially due to there were some conflicts that
12 Mr. Kanefield had to recuse himself, so there were times
13 when, you know, he wasn't billing for things that probably
14 Osborn Maledon was because they were still representing us.

15 RAY BLADINE: Madam Chair, I would also want to
16 say that maybe we were cheap and we knew one of our lawyers
17 was less expensive.

18 COMMISSIONER STERTZ: Madam Chair.

19 CHAIRPERSON MATHIS: Mr. Stertz.

20 COMMISSIONER STERTZ: Mr. Bladine, and maybe legal
21 counsel can chime in on this, is the anticipation going to
22 be that going forward this is going to address any parity
23 between the two firms? The desire to create parity of
24 building structure, you would assume that -- Mr. Bladine has
25 brought up a great point. If 60 percent of the work is

1 being done currently by the firm that is charging us less,
2 we're actually doing a greater disservice to the public to
3 increase their rates so that the firm that's doing less work
4 is charging more.

5 COMMISSIONER McNULTY: But that was because there
6 were conflicts.

7 COMMISSIONER STERTZ: But, Madam Chair,
8 Ms. McNulty, is that the only reason, is the anticipation
9 that Osborn Maledon will be doing a greater share of the
10 work going forward?

11 RAY BLADINE: Madam Chair, and
12 Commissioner Stertz, I think we would expect that the
13 billings would be very similar in the future.

14 And all kidding aside, we would have expected them
15 to be that way now, but because of some conflicts and the
16 nature of the lawsuits thrown against us that they did not
17 end up that way.

18 But I think that our goal has been to use the
19 expertise of both firms where appropriate, and the two of
20 them have been very excellent in coordinating and having
21 them one take the lead or the other take the lead depending
22 upon what the issue is.

23 COMMISSIONER McNULTY: Madam Chair, I would just
24 comment that it's not the case that we're assigning work to
25 either of the lawyer firms, I don't think.

1 Mr. Bladine can correct me if I'm wrong.

2 But it appears to me that they are -- each firm is
3 fully engaged. And certainly all the materials that we've
4 received in the last month in response to these lawsuits has
5 reflected that, there they're working as a team, that they
6 are dividing the work pretty equally, that they're each
7 taking a lead on major chunks of it, and that they're
8 communicating with one another to get the job done. So I
9 think we -- there has been there except perhaps for, you
10 know, the difficult conflict situations that Mr. Kanefield
11 has a conflict.

12 RAY BLADINE: Madam Chair, Commissioner McNulty,
13 that's really a correct characterization of how our legal
14 services team has worked.

15 CHAIRPERSON MATHIS: Other comments on this
16 motion?

17 VICE-CHAIR FREEMAN: Madam Chair.

18 CHAIRPERSON MATHIS: Mr. Freeman.

19 VICE-CHAIR FREEMAN: I just want to make sure I
20 understand it.

21 The way I understand the motion is, and, please,
22 everyone correct me if I'm wrong, is first that
23 Osborn Maledon's rates across the board will be increased to
24 the rates currently charged by Ballard Spahr, which means
25 that for partners the rate would go on Osborn Maledon from

1 280 an hour to \$300 an hour, for associates 215 to 225,
2 paralegals 140 to 150, document clerks actually would go
3 down to zero, because that's what Ballard Spahr is not
4 charging us for document clerks.

5 That's step one.

6 And then is step two that there be an additional
7 increase not to exceed \$10 per hour across the board on top
8 of that?

9 COMMISSIONER McNULTY: Step one, Mr. Freeman, of
10 my motion was a little different than that. It was that the
11 rates between Ballard Spahr and Osborn Maledon would be
12 harmonized across the board. Osborn Maledon rates would be
13 increased to Ballard Spahr's with the exception that to the
14 extent that Ballard Spahr is now providing document clerks,
15 their rate would be harmonized with Osborn Maledon. So the
16 document clerks for both firms would be at \$60 an hour.
17 That was my motion.

18 And then step two, Mr. Bladine would go back to
19 the firms and talk with them about an increase from that
20 point, yes, not to exceed \$10 for members, \$5 for
21 associates.

22 But understanding the discussion that we've had
23 here today, that that isn't a blanket authorization to do
24 that. That's for purposes of discussion. Knowing that the
25 Commission really wants to hold these terms -- hold the

1 rates to, you know, the lowest possible increase that we
2 might, that we might provide, so that we, we give them a
3 little bit of increase, recognizing that they are superior
4 and that we appreciate that.

5 Yeah, so that's. . .

6 And then the what -- the matter the rest of the
7 year and the subrogation gets harmonized, because we do the
8 subrogation whatever way the State does it as long as it
9 doesn't impact our liability and insurability.

10 COMMISSIONER STERTZ: Madam Chair.

11 CHAIRPERSON MATHIS: Mr. Stertz.

12 COMMISSIONER STERTZ: If Commissioner McNulty's
13 goal, is she's trying for the representation of the
14 Commission is that we're trying to hold fees down, would she
15 be willing to amend her motion to just, say, to increase the
16 Osborn Maledon Ballard Spahr rates for principals,
17 associates, and will rate increase the Ballard Spahr rates
18 to the Osborn Maledon rates to document clerks, and then of
19 course the other issues in her motion, and redact and take
20 out the question mark of whether or not we're going to add
21 additional, additional expenses onto the Commission beyond
22 that.

23 CHAIRPERSON MATHIS: Ms. McNulty.

24 COMMISSIONER McNULTY: Can I amend my motion?

25 CHAIRPERSON MATHIS: Yes, you can.

1 Can she, legal counsel?

2 COMMISSIONER McNULTY: I would amend it to an
3 increase not to exceed \$5 across the board for lawyers. And
4 associates.

5 And that includes Mr. Adelson, who I included in
6 my original motion as a member.

7 Mr. Freeman, can you tell me how pale our
8 attorneys are?

9 VICE-CHAIR FREEMAN: I think they're trying to
10 tune out to this discussion.

11 CHAIRPERSON MATHIS: Okay. So we have an amended
12 motion. Is there a second to that?

13 VICE-CHAIR HERRERA: Madam Chair.

14 CHAIRPERSON MATHIS: Mr. Herrera.

15 VICE-CHAIR HERRERA: I'm actually confused with
16 the amendment. Can Commissioner McNulty explain that in
17 very layman's terms for me? It threw me off.

18 COMMISSIONER McNULTY: I'm sorry. The only change
19 from my original motion would be that instead of directing
20 Mr. Bladine to discuss, negotiate with the lawyers the
21 increase not to exceed \$10 an hour for partners and \$5 an
22 hour for associates, it would be to authorize him to
23 negotiate not to -- an increase above the Ballard Spahr
24 rate, which would apply to both firms, of \$5 an hour for
25 lawyers across the board.

1 VICE-CHAIR HERRERA: Okay. Thank you. I will
2 second the amended motion.

3 CHAIRPERSON MATHIS: Any discussion?

4 I just have a clarification question, Ms. McNulty.
5 So no increase then in your amended motion for the others,
6 just the members.

7 COMMISSIONER McNULTY: The members and the
8 associates. Not for document clerks would both be 60 for
9 both firms, and legal assistants would be whatever they have
10 been at Ballard Spahr.

11 CHAIRPERSON MATHIS: Okay.

12 Any other questions or comments?

13 VICE-CHAIR HERRERA: If the motion were to pass,
14 the harmonization of the rates would be effective when?
15 When would that take place?

16 CHAIRPERSON MATHIS: That's a great question.

17 And I don't know if it's something that we can do
18 retroactively to the beginning of the fiscal year, July 1,
19 or what.

20 So any advice there or guidance?

21 RAY BLADINE: Madam Chair, I believe that the
22 wording that I put in the contract is what the State would
23 require, and that is after approval and execution of the
24 contract.

25 CHAIRPERSON MATHIS: Okay. So not retroactive.

1 So in terms of my motion, how I would envision it,
2 is that with regard to the harmonization, we would be
3 approving that, and that would take effect, as to the
4 increase, that would be an authorization to Mr. Bladine to
5 negotiate, so I suppose there's a potential that if the
6 attorneys really felt strongly that that was a problem they
7 could come back to us with it.

8 But if Mr. Bladine could get that done for what
9 would be in the motion, he would just go ahead and do the
10 amount.

11 Okay.

12 Other comments?

13 COMMISSIONER STERTZ: Madam Chair.

14 CHAIRPERSON MATHIS: Mr. Stertz.

15 COMMISSIONER STERTZ: This is actually just as a
16 clarification. Currently I just want to go through the
17 numbers so that they're on the record.

18 What we're talking about is that -- assuming that
19 \$5 increase for associates and members that go into place
20 above and beyond current Osborn Maledon to Ballard Spahr,
21 and paralegals and -- would remain the same, and the
22 document clerks for Ballard Spahr would increase to the
23 Osborn Maledon rates, the dollar amount per hour for each
24 member of both firms would be \$305 per hour, for the
25 associates \$230 an hour, for the paralegals \$150 an hour,

1 and document clerks of course \$60 an hour, if I check my
2 numbers, which would mean in -- from the request that Osborn
3 Maledon makes, that's \$25 less than what they requested,
4 \$20 less than Ballard Spahr requested for the members,
5 \$5 more than was requested by Osborn Maledon for the
6 associates, 20 less than Ballard Spahr's request, equal that
7 Osborn Maledon requests for paralegals, and \$25 less than
8 what was requested from Ballard Spahr.

9 That's just as a -- for Commissioner Herrera,
10 that's my layman's approach too, to make the numbers easy.

11 CHAIRPERSON MATHIS: And then Mr. Adelson would be
12 275?

13 RAY BLADINE: Madam Chair, that's the way I'd
14 understand it. They said that -- I think earlier the motion
15 was the principals, including Mr. Adelson, would be treated
16 the same, so that -- it's at 270 now, so it would be 275.

17 CHAIRPERSON MATHIS: Okay. Sounds good.

18 Any other clarifications or comments or questions?

19 VICE-CHAIR FREEMAN: Madam Chair, let me clarify
20 that with respect to Mr. Adelson.

21 Does he go potentially from 270 to 275, or is he,
22 is he increased to the full partner rate of 300 with
23 potential to go to 305?

24 COMMISSIONER McNULTY: My motion is that he would
25 go from 270 to 275.

1 So the harmonization would only include the actual
2 members of the firm.

3 CHAIRPERSON MATHIS: Okay.

4 COMMISSIONER STERTZ: Madam Chair, I just have one
5 quick last question.

6 CHAIRPERSON MATHIS: Go ahead.

7 COMMISSIONER STERTZ: And thank you for your
8 indulgence.

9 But I have a question for our legal counsel.

10 If we -- if this motion were to fail, would they
11 reconsider their position with the Redistricting Commission
12 to the point that they might not -- would no longer want us
13 as a client?

14 CHAIRPERSON MATHIS: Legal counsel?

15 JOSEPH KANEFIELD: Madam Chair,
16 Commissioner Stertz, it's a hard question to answer.

17 I think, I think we are committed to the
18 Commission no matter what the Commission decides, at least
19 from Ballard Spahr's perspective.

20 We did ask for these increases. The request was
21 made to Mr. Bladine. This is really his -- we consider this
22 to be his recommendation to the Commission and not
23 necessarily ours.

24 Our recommendation is to, and my note is to direct
25 the request to the Commission itself.

1 But at this point we will -- whatever the
2 Commission decides to do, of course we will continue
3 representing the Commission as we have in the past to the
4 best of our ability.

5 CHAIRPERSON MATHIS: Thank you.

6 Mr. Bladine, do you have anything to add as to the
7 genesis of your recommendation and why you made it the way
8 you did?

9 RAY BLADINE: Madam Chair, Commission members,
10 I -- two things, is one I thought the harmonization was
11 important to bring out, and that was agreed to by the two
12 attorneys we talked to.

13 Second, I felt that any request made by your legal
14 counsel should be brought to you for a final decision.

15 My recommendation provided for some increase, but
16 it was really primarily to bring about the equalization.

17 So I think, again, the direction you're going is
18 very appropriate for the Commission, and I will carry out
19 whatever you ask me to do.

20 CHAIRPERSON MATHIS: Thank you.

21 Any other comments, questions?

22 COMMISSIONER STERTZ: Madam Chair.

23 CHAIRPERSON MATHIS: Mr. Stertz.

24 COMMISSIONER STERTZ: I appreciate Mr. Kanefield's
25 response.

1 Is Ms. O'Grady in the room today?

2 MARY O'GRADY: Madam Chair, Commissioner Stertz,
3 yes, I am here. And I agree with -- I share Joe's position.
4 We are committed to work with the Commission, and we'll
5 continue. And we appreciate the efforts to provide us fair
6 compensation for our work.

7 COMMISSIONER STERTZ: Thank you. I appreciate
8 those comments.

9 CHAIRPERSON MATHIS: Any other comments or
10 questions?

11 COMMISSIONER McNULTY: I just had a comment that
12 there's been, you know, a lot of criticism of the
13 Commission. And it is -- our budget is limited, and we want
14 to be very cognizant of that. But on the other hand I do
15 think we want to be fair to our professionals, and I think
16 this is a reasonable compromise.

17 CHAIRPERSON MATHIS: Thank you.

18 Other -- others?

19 COMMISSIONER STERTZ: Madam Chair.

20 CHAIRPERSON MATHIS: Mr. Stertz.

21 COMMISSIONER STERTZ: The word compromise has come
22 up many, many times in the past, and that means there's a
23 balance between -- I just heard from both of our legal
24 counsel that they are -- they would continue working for us
25 at the exact same rate. This was actually generated as a

1 request for rates to ease an area by our executive director.

2 So, again, we go back to even though there appears
3 to be a less of a number which Commissioner McNulty believes
4 is a compromise, I'm still going to not support moving
5 forward because we've just heard from both of our attorneys
6 saying that they would move forward under the existing
7 current rate structure.

8 VICE-CHAIR HERRERA: Madam Chair.

9 CHAIRPERSON MATHIS: Mr. Herrera.

10 VICE-CHAIR HERRERA: Thank you.

11 I don't know if the question asked to the
12 attorneys was fair. I'll be honest, I think that's -- that
13 Joe had mentioned, Mr. Kanefield, that the question is
14 difficult to answer.

15 Either way, I don't expect our attorneys to answer
16 it or no more pudding today.

17 I would expect to hear that from them. These are
18 professionals. They've made a commitment.

19 But I think we also made a commitment as well when
20 we took this job to do this best job we can to put -- you
21 know, to all the people working for us in terms of provide
22 them with adequate, adequate compensation. I think that was
23 also part of us, that we treat the people that are doing
24 work for us, for the State, fairly.

25 And I think the compromise -- it is a compromise,

1 that Commissioner McNulty proposing is a fair one, and I
2 think one that I would -- that even in lean times that I
3 would be -- that I would, that I would support, because of
4 the work they've done, work they've done for the state, and
5 us, and I think it is more than fair. I think that we've
6 all expressed our concerns. And I think that I completely
7 understand where Commissioner Stertz is coming from. But I
8 disagree with him, and I think this is something that we
9 should be doing, because it's the right thing to do, to
10 compensate our professionals fairly.

11 And I mean by professionals, not only attorneys,
12 but the staff, and I think so.

13 CHAIRPERSON MATHIS: Okay. Other comments?

14 (No oral response.)

15 CHAIRPERSON MATHIS: Okay. Well, I guess we'll
16 call a vote then.

17 So, all in favor?

18 VICE-CHAIR FREEMAN: Aye.

19 VICE-CHAIR HERRERA: Aye.

20 CHAIRPERSON MATHIS: Aye.

21 COMMISSIONER McNULTY: Aye.

22 CHAIRPERSON MATHIS: Any opposed?

23 COMMISSIONER STERTZ: Nay.

24 So if I heard, there was, I think, I heard four
25 ayes and one nay; is that right? Mr. Stertz being the nay.

1 VICE-CHAIR HERRERA: You're right.

2 CHAIRPERSON MATHIS: Okay. So the motion carries.
3 And it's a multi-faceted motion, but I think we've all taken
4 notes on it now and appreciate Ms. McNulty crafting that for
5 us.

6 So we'll be -- that gives Mr. Bladine the
7 direction he needs to move forward and further consider and
8 discuss things with both law firms.

9 RAY BLADINE: Madam Chair, yes.

10 CHAIRPERSON MATHIS: I think I heard you guys say,
11 the contract, it's -- this all becomes effective as of the
12 date of the contract being signed?

13 RAY BLADINE: That's correct. That is my
14 understanding.

15 CHAIRPERSON MATHIS: Okay.

16 Okay. Great. I think everyone provided really
17 good input and discussion on that, and I appreciate it.

18 VICE-CHAIR HERRERA: Madam Chair.

19 CHAIRPERSON MATHIS: Mr. Herrera.

20 VICE-CHAIR HERRERA: Just to clarify, there will
21 be a new contract that will be signed by both law firms?

22 CHAIRPERSON MATHIS: That would be my
23 understanding. Or is it an amendment to the contract?

24 RAY BLADINE: I'll ask the attorneys later which
25 way it should be, but I think it would be an amendment to

1 the existing contract, that there would be some significant
2 procedural changes potentially in that. And if they tell me
3 we need a new contract, I think I would be authorized to
4 execute that, because I'm not an attorney.

5 It kind of puts them in a bind.

6 They're responsible for the contract, but they're
7 also the one that tells me that the contracts I enter into
8 are legitimate.

9 I can see Mary is getting very uncomfortable and
10 reaching for her microphone. But I would see it as an
11 amendment of the contract.

12 COMMISSIONER McNULTY: Before Mary goes, I'll just
13 say I agree with that. I think that's what my motion
14 contemplates.

15 MARY O'GRADY: And further on that, if you need
16 separate counsel to advise you on issues relating to our
17 contract, the Commission should do so, but nothing further
18 on that.

19 CHAIRPERSON MATHIS: Okay. Any other questions
20 before we move from item two?

21 VICE-CHAIR HERRERA: Not for me.

22 CHAIRPERSON MATHIS: Okay. Great.

23 Item three, discussion and possible action
24 regarding contract amendment/extension for mapping
25 consultant in FY13, and that's Strategic Telemetry.

1 So, again, I think Ray has provided some
2 background written materials to all of the commissioners
3 that everyone hopefully had a chance to review.

4 Ray, would you like to tee this up again for us?

5 RAY BLADINE: Certainly, Madam Chair. As you
6 know, the Strategic Telemetry group has been integral in
7 developing the maps.

8 Now we are going into a phase of having to defend
9 the maps unfortunately in court. It's the same thing that
10 happened to the last Commission.

11 Last time they had to extend the contract with
12 National Demographics Corporation to provide assistance to
13 their legal counsel and be part of the legal services team
14 to defend the maps.

15 That, in essence, is what we need to provide for
16 in our future is to make sure that the legal counsel we have
17 has the support of Strategic Telemetry in analyzing and
18 reviewing data that may be questioned.

19 Kristina and I spent some time trying to go back
20 and take a look at comparable costs for last time.

21 Again, ten years has gone by.

22 It's -- the last Commission was on a different
23 time frame.

24 They had developed an interim map. We didn't.

25 But as best we could pull out, looking at just

1 litigation types of activities over the period of time of
2 about 22 months, the last Commission spent about \$32,000 a
3 month on services provided by NDC and their in-house legal
4 counsel, which was part of their team.

5 That's just to give you some perspective of what
6 the costs might be.

7 Again, we're back to some of the issues that
8 Commissioner Stertz raised earlier.

9 I can't really base my budget estimates at this
10 time on anything very specific, but the best we can do is go
11 back and take a look at what's gone on.

12 As we get further down the road, I would hopefully
13 be about to get better ideas as to the cost.

14 I would also say that in discussions with
15 Strategic Telemetry, we had talked about two options. And
16 one was a retainer for \$25,000 a month, that basically they
17 would provide all services that were necessary.

18 If you look at that in terms of what happened last
19 time, you could consider that to be a buy, since more than
20 that was spent.

21 On the other hand, we asked him for another
22 option, and that was a \$10,000 a month retainer for 40 hours
23 of work that would have a combined rate of about \$240 an
24 hour for their services. And we felt that that might be the
25 most economic for the Commission and save the taxpayers the

1 most money, because we didn't feel that perhaps we'd need
2 that much service.

3 I don't know the answer to that.

4 So part of looking at this is difficult.

5 I guess the last thing, I think, is it's important
6 to point out that the contract that we currently have with
7 Strategic Telemetry prevents them from taking on other work
8 while they're working for the Commission.

9 That does have an economic impact on them.

10 They are a small business.

11 They have been trying to reserve their staff time
12 to serve us.

13 The retainer provides an opportunity that they
14 know they have some level of commitment from us, and then
15 will also be available as we may need them.

16 Again, my recommendation to you would be option
17 one. I think I've also pointed out there may be
18 consideration to do a different option.

19 And of course, again, any direction you give me, I
20 will be happy to follow.

21 I'll be happy to try to answer any questions. And
22 I have my trusty assistant next to me who can remember what
23 happened ten years ago and I can't.

24 CHAIRPERSON MATHIS: Thanks, Mr. Bladine.

25 And so you said option one is your recommendation?

1 RAY BLADINE: Yes. That would be the \$10,000
2 retainer.

3 CHAIRPERSON MATHIS: Okay.

4 RAY BLADINE: And then have the rates take effect
5 anything above the 40 hours per month.

6 CHAIRPERSON MATHIS: Any questions for
7 Mr. Bladine?

8 VICE-CHAIR HERRERA: Madam Chair, I do have a
9 question for Mr. Bladine.

10 Mr. Bladine, what happens if they were to exceed
11 the 40 hours, if we were to accept your \$10,000 retainer for
12 up to 40 hours of work? What would happen then?

13 RAY BLADINE: Commissioner Herrera, then the rates
14 that are presented in the draft contract of 275 for the
15 president, 200 vice president, senior analyst 175, other
16 staff at 60, that would then kick in for the additional
17 work.

18 I might also remind everyone, I believe we have
19 Ken and Andrew online, if you'd like to address any
20 questions to them too.

21 But it would be after those 40 hours, then the
22 rates would be billed as outlined in the memo.

23 VICE-CHAIR HERRERA: And follow up in the -- with
24 the retainer, that means the -- if we decide to go with the
25 retainer, your option one, that means they would -- we would

1 still be a priority as we are now; correct?

2 As opposed to going with the third option, which
3 is an hourly rate. We would have no real contract with them
4 on an ongoing basis, so their staff could be doing other
5 projects, and if something were to come up with the IRC,
6 what type of priority would the IRC issues have with, you
7 know, with Strategic Telemetry if we were to go with the
8 hourly rate?

9 Does that make sense?

10 RAY BLADINE: Yes. Commissioner Herrera, I really
11 propose the two options, but clearly a third option could
12 be, no, we don't want to pay a retainer, we just want to pay
13 on an hourly basis.

14 If you took that option, then I would think
15 that Strategic Telemetry would probably ask that they be
16 allowed to do other business. And clearly they're a
17 business, so they would have to be going out and looking for
18 other work so that they --

19 VICE-CHAIR HERRERA: Correct.

20 Mr. Bladine, my point wasn't to consider a third
21 option. It was I think I was just making a point. Because,
22 you know, Strategic Telemetry is a small business, and they
23 have a right to make as much money as possible.

24 And having the amendment that we -- that was added
25 to their contract about not allowing them to pursue other

1 potential clients in the state of Arizona to me was an
2 issue.

3 And, as I said, it's just a small business, and
4 they deserve to make as much money as possible.

5 But, I would agree that option number one is the
6 probably the best option out of the three.

7 VICE-CHAIR FREEMAN: Madam Chair.

8 CHAIRPERSON MATHIS: Mr. Freeman.

9 VICE-CHAIR FREEMAN: Well, first of all, I don't
10 think they're all sitting around -- Strategic Telemetry --
11 doing nothing right now.

12 I think -- I would imagine they've probably got
13 other work going on.

14 One question I have, and, again, I have a few
15 questions, this \$10,000 retainer that's been proposed,
16 that's nonrefundable; correct?

17 So the Commission will be paying them \$10,000 a
18 month going forward even if they did no work.

19 RAY BLADINE: Commissioner Freeman, yes, but I
20 would say that if we found that we had no work for them,
21 then we would end the contract.

22 But that could happen.

23 VICE-CHAIR FREEMAN: Well, that leads to my next
24 question.

25 Because I don't know what they're doing now or

1 what they really have to do.

2 Right now the Commission I think -- there are
3 two lawsuits have that been prosecuted by the Commission
4 itself, one involving the governor, one involving the
5 Attorney General, now the County Attorney. Three lawsuits
6 that have been filed against the Commission.

7 One was brought by the leadership of the
8 legislature.

9 It essentially has to do with an issue of
10 U.S. constitutional law. It's a legal issue. And I
11 would imagine it's probably going to be resolved from a
12 motion, and a hearing before a judge and maybe an appeal
13 after that.

14 I don't know where Strategic Telemetry would be
15 involved in that.

16 The other two lawsuits, one being filed in the
17 state court, one if federal court, are more, I would say,
18 process-based challenges brought by voters against the
19 Commission.

20 Conceivably those lawsuits could -- we could need
21 the -- I could see where we would need the assistance -- the
22 Commission would need the assistance of the mapping
23 consultant.

24 But right now, where we're at now, the lawsuits
25 have been filed, and in one lawsuit the Commission has filed

1 a motion to dismiss the lawsuit basically arguing that the
2 voters who brought the suit failed to state a claim that the
3 court can grant relief for.

4 And I would imagine, although I don't know for
5 sure, that a similar motion would be filed in the other
6 lawsuit.

7 I think our response deadline is today.

8 And, to me, those are really legal issues that are
9 being briefed by both sides and will be heard by a judge,
10 and then may or may not be appealed after that.

11 If the Commission were to -- if the voters were to
12 prevail on those motions brought by the Commission and keep
13 those lawsuits alive, then discovery would ensue. And I
14 could see down the road, maybe we might need the assistance
15 of a mapping consultant.

16 But right now what do we need a mapping consultant
17 for, I guess is my question.

18 RAY BLADINE: I'll just start, but I'll ask, if I
19 may, Madam Chair, I'll ask our legal team to help out.

20 But I think we've had two invoices where we paid
21 Strategic Telemetry for assistance, and it has been on
22 developing mapping information and information in response
23 to public information requests that have come out of the
24 lawsuits where their assistance was needed so that the legal
25 team could probably operate them.

1 And if Mary or Joe want to properly respond, I'll
2 let them jump in.

3 MARY O'GRADY: Madam Chair, commissioners, to date
4 we have used Strategic Telemetry to assist us in responding
5 to public records requests that were related to litigation.
6 The counsel in the state court litigation had requested a
7 variety of documents, and including the snapshots of the --
8 that were prepared during the course of the mapping process.
9 And so we needed to work with the mapping consultants to
10 develop that. And I anticipate that we will continue to
11 have data-related questions that we will want to be able to
12 call the mapping consultant.

13 As Commissioner Freeman noted, at least one of the
14 lawsuits is a pure legal question where we won't need them.

15 And perhaps if we win all our motions to dismiss,
16 we won't need them much.

17 But we've got -- it is -- but looking forward we
18 don't know what's going to happen, and we want to make sure
19 that we can call and get information if we need it for the
20 litigation.

21 VICE-CHAIR FREEMAN: Well, Madam Chair.

22 CHAIRPERSON MATHIS: Mr. Freeman.

23 VICE-CHAIR FREEMAN: Thank you.

24 Just going back, I'm a little bit -- I'm a little
25 unclear on that.

1 Because going back to the contract that the
2 mapping consultant had with the Commission, one of the
3 things they represented and agreed to do was to sort of log
4 all the changes as we wrote them off and the reasons for
5 those changes.

6 And they stated, and I'll just quote from it, that
7 this documentation will allow AIRC and members of the public
8 to see how and why certain district configurations were
9 arrived at and to make their own judgments concerning
10 trade-offs required.

11 To me, I guess what I'm getting at is all that
12 work should have been done. We should have all that stuff.
13 We should have all the snapshots. They should be available
14 to the Commission.

15 I mean, we stated time is of the essence in the
16 contract. It was to be available to us. It was to be
17 available to members of the public. It should be all there.
18 So I don't know why we need to go back to them on these
19 issues.

20 VICE-CHAIR HERRERA: Madam Chair.

21 CHAIRPERSON MATHIS: Let me -- Mr. Freeman, are
22 you finished?

23 VICE-CHAIR FREEMAN: Yes.

24 CHAIRPERSON MATHIS: Okay.

25 Mr. Herrera.

1 VICE-CHAIR HERRERA: Yeah, two things,
2 Madam Chair, the -- I know that Mr. Bladine was talking
3 about what happened ten years ago.

4 But I don't -- I didn't get the complete picture
5 of what happened once, you know, the maps were done and the
6 lawsuits came, what type of work was NDC doing for the
7 Commission. That's my -- one question I will pose.

8 And the second question would be the -- that our
9 attorneys, what work in addition do they have.

10 I know that Mr. Bladine had recommended that first
11 option that he was talking about, the \$10,000 retainer.
12 Love to see what they think of that recommendation, these
13 attorneys, Mr. Kanefield and Mary O'Grady.

14 CHAIRPERSON MATHIS: Did you mean Strategic
15 Telemetry?

16 VICE-CHAIR HERRERA: Yeah. Yeah. I want to see
17 what NDC was doing ten years ago just to get -- I'd like to
18 get a little history to see what happened ten years ago.

19 CHAIRPERSON MATHIS: Okay.

20 VICE-CHAIR HERRERA: And also how far along were
21 they? Were there some things that NDC hadn't completed that
22 they were -- that they needed more time to complete? It's
23 easy for us as non-mapping experts to say, well, this should
24 be done.

25 I really don't know -- I don't know if it's that

1 simple. And I understand that, but I wanted to see what
2 happened ten years ago the last time the Commission was
3 doing work.

4 VICE-CHAIR FREEMAN: Madam Chair.

5 CHAIRPERSON MATHIS: Mr. Freeman.

6 VICE-CHAIR FREEMAN: That may be interesting, but
7 what I read from was the contract. This mapping consultant
8 entered into. That's what they represented and agreed to
9 do.

10 And so the Commission should have all those
11 materials. They should have the snapshots. They should be
12 available to the commissioners now and the public. There
13 should be -- there should have been created at the time the
14 rationale for the changes, not written later on in time
15 after the maps have already been approved.

16 It should all be there available to us. That's
17 what they represented and agreed to do.

18 We shouldn't have to pay to have that done again.

19 COMMISSIONER STERTZ: Madam Chair.

20 CHAIRPERSON MATHIS: Mr. Stertz.

21 COMMISSIONER STERTZ: This is a question for Ken
22 Strasma, Strategic Telemetry.

23 KENNETH STRASMA: Yes, commissioner.

24 COMMISSIONER STERTZ: Mr. Strasma, are you
25 complete with your core contract?

1 KENNETH STRASMA: I believe that we are. The
2 snapshots that Mr. Freeman alluded to.

3 COMMISSIONER STERTZ: Okay. And in regards to the
4 core contract, what are you operating under at this time?
5 Is this in a sense a holdover of the existing terms? Are
6 you just billing hourly based on need at the request of
7 staff and/or legal counsel? Or is there some other
8 arrangement that you are working under? There's no holdover
9 agreement in our contract.

10 KENNETH STRASMA: Correct. I would refer to
11 Andrew or Mr. Bladine on that question.

12 RAY BLADINE: This is Ray.

13 The way we have been paying for the services now
14 have been basically discussions between us and the legal
15 staff saying what was necessary.

16 I believe we have been charging at the proposed
17 rates that were set forward here today with the
18 understanding that you haven't approved that, but that's the
19 only thing we had to go on, because there is no hourly rate
20 in the contract to carry out the services that have been
21 completed, and that it's a continuation of the current
22 contract, but basically providing services that our legal
23 counsel needs.

24 So under the fact that they've been retained
25 before to provide this, and with what seemed to be

1 reasonable rates, we basically have procured their services.

2 COMMISSIONER STERTZ: Madam Chair.

3 Mr. Bladine, is there an hourly schedule that
4 Mr. Strasma is providing for all of the team members?

5 RAY BLADINE: Commissioner Stertz, yes, there is.

6 And I believe it's the -- if you take a look at
7 Exhibit 3, there's a copy of a draft contract there that
8 lays out the amount. And it is -- I can read it to you if
9 you like. It's 275 for president, 200 for vice president,
10 175 to senior analyst, and other staff at \$60 an hour.

11 COMMISSIONER STERTZ: Madam Chair.

12 CHAIRPERSON MATHIS: Mr. Stertz.

13 COMMISSIONER STERTZ: If the current contract is
14 complete and the request for additional services have been
15 for the most part -- and if I'm mischaracterizing this,
16 Mr. Bladine or legal counsel, I apologize -- if the work
17 product that is needed would be for something specific to
18 any particular piece of litigation, would it not make sense
19 for the -- any additional services to be sourced out through
20 our legal counsel? Add to their scope as an add service
21 for -- if they needed something specific from Strategic
22 Telemetry?

23 RAY BLADINE: That --

24 COMMISSIONER STERTZ: I'm not sure that there's a
25 need for the Commission to have an engagement at all on

1 going forward with a contract that's already been completed
2 in its entirety.

3 RAY BLADINE: Commissioner Stertz, I'll let the
4 lawyers see what their -- my only reason for thinking that
5 perhaps the Commission should have a role with the staff is
6 to have a discussion with legal staff as to what services
7 Strategic are providing. And that's more of a secondary
8 control.

9 But you're certainly correct. The work that's
10 going to be done is going to be requested by the legal
11 counsel, and perhaps there would be another way to structure
12 that.

13 I think Mary wants to talk, Madam Chair.

14 COMMISSIONER STERTZ: Madam Chair, a follow up to
15 that.

16 CHAIRPERSON MATHIS: Go ahead.

17 COMMISSIONER STERTZ: This goes back to the
18 clarification issue that was just as a matter by matter
19 basis. And, again, this again would be at the discretion of
20 legal counsel working together with staff at the pleasure of
21 the commissioners, would be if they needed legal or needed
22 specific expertise from Strategic Telemetry above and beyond
23 all aspects of the work product that was to be included in
24 their scope of services that has already been, has already
25 been completed, then they should bring forward that as a

1 change order request of additional services for a separate
2 specific outreach to Strategic Telemetry for a specific
3 matter.

4 CHAIRPERSON MATHIS: Other comments on this or
5 questions.

6 VICE-CHAIR HERRERA: Madam Chair.

7 CHAIRPERSON MATHIS: Mr. Herrera.

8 VICE-CHAIR HERRERA: Yeah, I'd like to see -- I
9 think Ms. O'Grady kind of answered, or I'd like to hear
10 their opinion of the need for a retainer for the -- for
11 Strategic Telemetry and the importance and how it would
12 affect not having that retainer.

13 CHAIRPERSON MATHIS: Okay. I agree.
14 Is that possible, legal counsel?

15 MARY O'GRADY: Madam Chair, I think in terms of
16 the terms of the contract, I think it makes sense for
17 Strategic Telemetry and Mr. Bladine to address that, rather
18 than us, if that's okay.

19 COMMISSIONER McNULTY: Madam Chair, can I share my
20 thoughts before we do that?

21 CHAIRPERSON MATHIS: Go ahead.

22 COMMISSIONER McNULTY: We did -- the mapping that
23 we did involved the generation and review and delivery to
24 the public on our website and in every hearing of so much
25 data. I mean, it was unprecedented the amount of data that

1 we considered as we produced the maps. And it's pretty
2 technical and sophisticated stuff.

3 And they're the experts on that sort of stuff.

4 And I don't think we can say, well, you know,
5 we're going, we're going to have another meeting whenever we
6 need them to give us some input or some explanation or some
7 data.

8 I think we need them to be available to do that
9 for us.

10 Having said that, I would prefer to bill them
11 hourly, just because -- this works both ways.

12 I mean, on the one hand I understand the concerns
13 about the uncertainty, but on the other hand as the
14 Commission I'm concerned about the uncertainty.

15 And I think it's going to be hard for our
16 lawyers -- you know, we're just responding to people that
17 are suing us. That's all we're doing right now.

18 And for our lawyers or, you know, for Ray to try
19 to budget or our lawyers to try to think what's going to be
20 involved, that's not possible. That's not something that's
21 within our control. We just have to react to what is being
22 sent our way, and we need our team to do that.

23 But having said that, it could be a couple months
24 while things are in motion process that we don't need
25 Strategic Telemetry very much.

1 And although I really do sympathize with their
2 concern about not knowing when we're going to need them and
3 for what, I do think that when we do need them they're going
4 to have some time to respond.

5 It's not as if we're going to be calling them like
6 we did for the whole year last year and say Willie has to
7 stay up all night so that he has something to present to us
8 and the public in the hearing the next morning.

9 That's not the phase that we're at.

10 So with that, you know, I'd like the lawyers to
11 comment on that a little bit too in responding to the
12 retainer question.

13 CHAIRPERSON MATHIS: Okay.

14 Legal counsel?

15 MARY O'GRADY: Madam Chair, from our -- and
16 commissioners, again, I thought that retainer issue was not
17 something the lawyers specifically requested.

18 What we request is that we can talk to the mapping
19 consultant when we need to for the purpose of the litigation
20 and -- because we really do need access to them.

21 I think there was a question earlier as to whether
22 it's a contract with the lawyers or a contract with the
23 Commission. It can be structured either way. And either
24 way -- it can be structured either way.

25 RAY BLADINE: Madam Chair, I think I'd also point

1 out that I think the item before us is whether we want to
2 extend the contract.

3 Certainly there could be another way to do it.

4 We pretty much again parallel what happened
5 ten years ago. That doesn't mean it's necessarily the
6 correct way.

7 But the Commission did directly last time contract
8 with the mapping consultant for legal services beyond the
9 initial mapping.

10 And clearly, based on what happened last time and
11 what's happened now, we're going to need our services to
12 assist our legal team.

13 And whether you want to pay a retention or not is
14 completely up to you.

15 I did recommend it, because I thought that it was
16 a good way to make sure we had them available and on line to
17 provide us services. And that anything beyond that we would
18 pay on an hourly basis.

19 I thought it was a better solution for us than
20 paying a \$25,000 a year retainer.

21 On the other hand, as I point out, it looked like
22 last time for the same work we paid about -- the Commission
23 paid about \$32,000.

24 So, I guess my personal recommendation to you
25 would be to continue to have a separate contract between the

1 Commission and the mapping consultant. But that's your
2 decision, of course.

3 VICE-CHAIR HERRERA: Madam Chair.

4 CHAIRPERSON MATHIS: Mr. Herrera.

5 VICE-CHAIR HERRERA: The commissioner made a
6 comment about the type of lawsuits that are going
7 forward are, are -- I guess, if I'm putting it correctly,
8 let me know Mr. Freeman, they're very different than what
9 happened ten years ago, that they -- that this time around
10 we may not be needing -- especially now we don't need
11 Strategic Telemetry or their mapping expertise now. We may
12 later.

13 And I want to see if that is -- if the -- if our
14 attorney feel -- if they agree with that comment and see
15 what they feel about that comment and see what their opinion
16 is.

17 Because I -- I know -- I know they're -- it's --
18 it seems like they're -- it is a tough issue, but I do value
19 their input, and I feel like I'm not getting their input.
20 That's why I'm at a loss, I'll be honest.

21 VICE-CHAIR FREEMAN: Well, Commissioner Herrera,
22 that's not what I said, but I don't think that's --

23 VICE-CHAIR HERRERA: Okay. No, I, I -- I knew I
24 was going to get it wrong. So I -- I got it wrong. I
25 apologize.

1 But I think you know what I'm getting at. I just
2 want the -- our attorneys to just speak up on that -- on the
3 conversation that Mr. Freeman was having about the lawsuits
4 that are happening and the need or the lack of that we won't
5 be needing them as much.

6 If you can comment on that, Joe or Mary, I would
7 appreciate that.

8 MARY O'GRADY: Madam Chair, commissioners,
9 Commissioner Herrera, we need to have access to the mapping
10 consultant for the purposes of litigation.

11 We have three lawsuits pending not counting
12 the open meeting law appeal. One of them, the challenge,
13 the legislature has challenged to the Commission's authority
14 to do congressional redistricting at all. That's just a
15 legal question that we will not need a mapping consultant
16 for.

17 The other two, one is state constitutional
18 procedures issued. And the other raises federal
19 constitutional challenges based on one person, one vote. We
20 will -- I do want, Joe and I both would like to have access
21 to the mapping consultant for those litigations, for those
22 lawsuits.

23 In terms of how different this will be from last
24 decade, our hope is to win these quickly and have this done,
25 unlike last decade. But we don't know how that's going to

1 play out.

2 VICE-CHAIR FREEMAN: And, Madam Chair --

3 VICE-CHAIR HERRERA: If I could follow up, if I
4 could follow up, the retainer, if we were to do the
5 retainer, that Ms. O'Grady or Mr. Kanefield, would you have
6 enough work to keep them busy for that retainer, the \$10,000
7 retainer?

8 MARY O'GRADY: Madam Chair, commissioners, I don't
9 know.

10 It's like I said, the reason we consulted the
11 previously was to assist us in responding to a public
12 records request.

13 Not suggesting that it's part of formal discovery,
14 but it was submitted by plaintiff's counsel in the state
15 court lawsuit.

16 And so we can't necessarily anticipate what's
17 around the corner.

18 But we're not advocating -- you know, an hourly
19 fee works fine from our perspective.

20 The retainer issue is something that has come up
21 between Ray and Strategic.

22 From the lawyers' perspective, we just want to
23 make sure that we can have access to the mapping consultant
24 when we need them for purposes of the litigation.

25 And I guess one other piece I would like to

1 clarify is whether we're paying for work twice when we --
2 this work for the public records request. We're not.

3 They did preserve the snapshots as required under
4 contract, but I had not -- we had not previously asked them
5 for them until this public records request came up.

6 And so part of this was working with us to make
7 sure that we understand and what we are -- what the nature
8 of the information that we have in reviewing this carefully
9 and analyzing it and looking at legislative privilege issues
10 before we produce it.

11 VICE-CHAIR FREEMAN: Madam Chair.

12 CHAIRPERSON MATHIS: Mr. Freeman.

13 VICE-CHAIR FREEMAN: And how Ms. O'Grady just
14 characterized what I said is pretty fair. That's what I
15 meant.

16 And I understand counsel wants to have access to
17 the mapping consultant and they need to have access to the
18 mapping consultant in the future.

19 My point is right now I'm having trouble
20 understanding what it is we actually need the mapping
21 consultant for and what we have been asking him to do,
22 because when I go back and look at the contract, to me
23 it seems like this stuff -- we should already have this
24 stuff.

25 There's another provision in the contract that

1 talks about the snapshots. You know, it said, it said, they
2 represented and agreed that in addition to the hourly
3 snapshots, a user can save the snapshots after each major
4 change, including a brief description of the goals behind
5 the change.

6 I assume those are the Commission's change, not
7 what the lawyers decided were the goals.

8 And that later on they represented and agreed that
9 they would make those snapshots available at any time to
10 AIRC members and staff.

11 So, I mean, in terms of -- if we don't have this
12 in our own archives, on our own system, and if it's sitting
13 there on a secured server that's controlled more by
14 Strategic Telemetry, I would think that it would just be a
15 matter of giving us the password and we could get that stuff
16 into our hands.

17 VICE-CHAIR HERRERA: Madam Chair.

18 CHAIRPERSON MATHIS: Mr. Herrera.

19 VICE-CHAIR HERRERA: You know, I think Ms. O'Grady
20 was very clear that the contract that they -- that the
21 contract that Strategic Telemetry agreed to has already been
22 fulfilled.

23 We're not paying them for, you know, for the same
24 job or whether there's something they didn't complete in
25 the original contract that they're now asking to be paid

1 for.

2 I think they were both pretty clear on that.

3 What I'd like to ask is a question to Mr. Strasma.
4 The difference between the retainer, let's just say the
5 two motions were either the retainer or the hourly fee, if
6 you could explain to me what the, what the impact would be
7 of either one.

8 I mean, you run a small business, and I want your
9 honest opinion, to be frank with us.

10 What, if we decide to go with the retainer, how
11 would that look like? If we decide with the hourly fee, how
12 would that look like?

13 What impact would it have you working with us and
14 our attorneys.

15 KENNETH STRASMA: We would want to want to discuss
16 with. . .

17 VICE-CHAIR FREEMAN: Ken, Ken, we can't hear you.

18 KENNETH STRASMA: Is this any better?

19 VICE-CHAIR FREEMAN: Yes.

20 KENNETH STRASMA: Okay. I was just saying if we
21 went on a straight hourly fee, we would want to revisit the
22 question of the hourly rates, just because there are
23 economies of scale and to be able to plan capacity ahead
24 of time, to having a retainer, which is why we thought it
25 was more efficient and more cost effective for the

1 Commission.

2 There are a lot of questions that come up, public
3 records request, the way things are actually in the lawsuits
4 that are all, you know, a slightly different take.

5 And, yes, the data exists on, you know, an
6 external hard drive that's delivered to the Commission, but
7 the questions arise about what it means, how to use it, how
8 to access it. We do want to be available for those, and to
9 answer the substantive questions that come up in the
10 lawsuits.

11 We would be willing to consider the hourly
12 retainer, although we would want to negotiate the rates, if
13 we, if we did not have the ability to plan that we would
14 have under the monthly retainer.

15 The other thing that we would then request is that
16 the prohibition against other work in Arizona not be
17 extended.

18 Because that is a significant cost to us, agreeing
19 to not to accept other clients in Arizona.

20 And if we don't know for certain that we would be
21 doing work for the Commission, we would have to, we would
22 have to start taking those others clients.

23 VICE-CHAIR HERRERA: Thank you.

24 Madam Chair, can I have a quick follow up for
25 Mr. Bladine?

1 Mr. Bladine, the amendment or the prohibition for
2 pursuing other work in Arizona for NDC also, was that added
3 to their contract?

4 RAY BLADINE: Madam Chair, I believe that we did
5 add at some point in time, if I recall it right, that during
6 the period of time they were providing services for us they
7 would not take on other work in the state of Arizona.

8 VICE-CHAIR HERRERA: No, and I understand that we
9 added that to Strategic Telemetry. I'm talking about NDC.

10 Was NDC -- did they have the same kind of
11 prohibition or restriction when they were doing work for the
12 IRC ten years ago?

13 RAY BLADINE: Councilman Herrera --
14 Councilman Herrera. Man, I'm getting. . .

15 Commissioner Herrera.

16 I'm really slipping back.

17 VICE-CHAIR HERRERA: I got a promotion.

18 RAY BLADINE: Yeah, I guess so. Maybe.

19 I don't know for sure, but I'm not aware that
20 anything I saw that there was that kind of a provision.

21 I think Kristina is telling me she didn't see
22 anything like that either.

23 VICE-CHAIR HERRERA: And if I remember correctly,
24 that provision was not included -- I mean, I never even
25 heard of that provision for NDC when they did work for us

1 ten years ago.

2 And, again, I'm trying to be as considerate for
3 Strategic Telemetry being a small business that they are.
4 And some of the restrictions that we added to their
5 contract, I think we should be fair to them and fair to the
6 attorneys that I want them to be available whenever our
7 attorneys need them.

8 And that would be by going -- by having that
9 retainer, not the hourly fee.

10 Because I'm assuming -- you know, I want Ken to
11 answer that.

12 If we go on an hourly fee, and you do find other
13 clients, whether especially in Arizona, we no longer would
14 have the preference, I guess, would no longer be the -- you
15 know, if you're doing work for another client that are
16 committed to you, you would give preference to that
17 particular client and not necessarily make us a priority.
18 Is that, is that correct?

19 KENNETH STRASMA: We would definitely continue to
20 make the AIRC a priority.

21 But, you know, it's true, there are situations,
22 like Mr. Desmond who is now based in Arizona, if he needed
23 to travel for other clients, he might not be in the state
24 when needed, our response time might not be as quick as we
25 would otherwise wish.

1 I want to echo what the legal counsel said. We're
2 committed to this process. We're very proud of the fact
3 that this Commission was able to get it precleared on the
4 first try. And, you know, we want to be part of the team
5 that successfully defends these maps and hopefully this all
6 to conclusion quite quickly.

7 But we also do need to be up front with you about
8 our ability to set aside the time that you would need for
9 this.

10 VICE-CHAIR HERRERA: Thank you.

11 Actually in my mind I completely agree with part
12 of the team, and this is a review, you're the reason,
13 according to the attorneys, according to the staff,
14 according to the Commission, why we were able to preclear on
15 the first try. And I want to make sure that we treat you
16 like we do the attorney, and treat Strategic Telemetry just
17 as fair.

18 COMMISSIONER STERTZ: Madam Chair.

19 CHAIRPERSON MATHIS: Mr. Stertz.

20 COMMISSIONER STERTZ: Mr. Strasma, you talked
21 about reconsideration of your hourly rate.

22 Do you have a billing schedule that you currently
23 use for your hourly time? And if so, what are those
24 numbers?

25 KENNETH STRASMA: I don't have that in front me.

1 Andrew may.

2 ANDREW DRECHSLER: And I don't have that in front
3 of me either.

4 VICE-CHAIR HERRERA: May I ask, would the rate be
5 higher than the ones that were voted earlier today? Is
6 that -- was that -- would that be a fair guess?

7 KENNETH STRASMA: Yes. That's what I was
8 suggesting, is that if we were to agreed to do this on
9 an ad hoc basis, we would need to charge higher hourly
10 rates.

11 COMMISSIONER STERTZ: Madam Chair.

12 CHAIRPERSON MATHIS: Mr. Stertz.

13 COMMISSIONER STERTZ: Ken, as one of the other
14 guys in the room that hides in front of paychecks rather
15 than just the back, I understand the issue regarding small
16 business specifically and the need for stabilization of cash
17 flow.

18 You now have the key representative, the worker,
19 the guy that did the bulk of the boots on the ground work,
20 Willie Desmond, is now living, because of personal reasons,
21 in Scottsdale, Arizona, which would be a true asset, a true
22 asset for the Commission as well as Willie, welcome to
23 Arizona.

24 The question implies that if Willie has to travel,
25 Willie's going to travel whether or not we've got you under

1 retainer or not; correct? Willie is not -- will not be
2 working solely for the Commission if we have you under
3 retainer; is that correct?

4 KENNETH STRASMA: That's correct. The retainer is
5 not a full-time commitment.

6 We would, however, be able to give more priority
7 in his schedule and mine and others on the team if we're on
8 a retainer basis.

9 COMMISSIONER STERTZ: Sure. And I understand
10 that.

11 Now let me ask this question.

12 If, in this retainer have you considered this
13 being a rolling retainer?

14 KENNETH STRASMA: Could you just define that term
15 for me?

16 COMMISSIONER STERTZ: It means that if we continue
17 our agreement with you and get 40 hours per month of work
18 product that would be blended between you, Willie, Andrew,
19 and other potential staff members, at which lends the \$250
20 an hour rate, if none of that was used, let's say, in the
21 month of September, would that \$10,000 -- are we entering
22 into 120,000 for a -- \$120,000 contract with you for the
23 next 12 months, plus anything above the 480 hours that you
24 would be committing to for that 120,000?

25 Or, would you be willing to look at a rolling

1 \$10,000 retainer, which is specifically how retainer
2 agreements work. When an attorney is entering into a
3 retainer agreement, that's not a guaranteed sum whether or
4 not they work or don't work on that case. They bill
5 against that retainer, and continue the retainer to roll
6 forward.

7 It just secures the financial responsibilities
8 between the parties.

9 But not making \$120,000 commitment to you for the
10 next 12 months.

11 KENNETH STRASMA: Right. And, you know, while I
12 point out that the 120,000 is certainly less than the cost
13 of the contract drawing maps and the public hearings and all
14 the extra work that that entailed, we would be open to,
15 again, sort of a blended arrangement where, you know, some
16 number of hours would roll over from month to month. So if
17 we work 20 hours in one month and 60 in the next, for the
18 duration of the matter, as it was put in the previous
19 discussion, I would have to crunch the numbers and see
20 exactly what that would be.

21 I wouldn't want to say that it would be a matter
22 of zero and all of the hours could roll over.

23 But I definitely would be open to something.

24 COMMISSIONER STERTZ: Madam Chair, if can continue
25 on this path.

1 Ken, when we're -- when you're looking at quoting
2 work, is it possible for you to, once you're given, for
3 example, you were given scope of work that was required by
4 legal counsel sometime in the last 60 days of something that
5 you needed delivered to them; correct?

6 And for that you billed the Commission based on an
7 hourly rate for a scope of work time that was invested in
8 that work; is that correct?

9 KENNETH STRASMA: Right.

10 COMMISSIONER STERTZ: Is that a good sort of
11 analysis of what's in play?

12 KENNETH STRASMA: Yes, I believe so.

13 COMMISSIONER STERTZ: Okay.

14 So is it possible for you, you've been doing this
15 long enough, to know going forward that you can estimate
16 what a project might be once it was requested from the legal
17 team?

18 For example, if they requested for you something
19 that was above and beyond work that was included as part of
20 your deliverables for the work product that you've already
21 performed, for example, if you needed to provide expert
22 testimony, that would be above and beyond, or need to give a
23 detail of analysis above and beyond what was in the
24 original.

25 So you would be able to estimate how much that

1 would cost, could you not?

2 KENNETH STRASMA: With some difficulty, and no
3 guarantee of how precise that estimate would be. I could
4 estimate how I could, you know, in my best judgment respond
5 to that question.

6 As we found with a lot of the, you know, random,
7 you know, map requests, information requests from members of
8 the public, follow-ups that often happen when, you know,
9 someone might have some level of confusion about some of the
10 data or information on the AIRC website.

11 It's hard to predict the total amount of time it's
12 taken to fulfill these requests.

13 So attempts to make estimates, but sometimes the
14 actual amount of time is less and more often I'm afraid
15 more.

16 COMMISSIONER STERTZ: Sure.

17 ANDREW DRECHSLER: Commissioner Stertz, this is
18 Andrew. And I think a good example of that is just
19 something that I faced yesterday.

20 The Commission office called me and asked me to
21 call a citizen in the state and help explain the boundaries
22 of a certain district.

23 And this is a request that I've helped on a number
24 of different times for citizens.

25 And the range of that request is as short as

1 ten minutes, and there's been times where we followed up
2 hours, a few hours. It's not moreover over a course of a
3 few days helping to explain that.

4 And we -- so that's, I think, that's a good
5 example of the unpredictability of, you know, the requests
6 that come up.

7 COMMISSIONER STERTZ: Madam Chair.

8 Andrew, thank you very much. That gives me a
9 heads up of the latitude that the staff has been taking in
10 using outsourced additional service money to the cost of the
11 taxpayer for a work product that frankly staff should be
12 handling.

13 And, Mr. Bladine, could you give me some rational
14 understanding of why you would outsource describing to a
15 citizen the boundaries of the district?

16 VICE-CHAIR HERRERA: Madam Chair, before
17 Mr. Bladine answers that, I think it's really unfair. I
18 think we hired a mapping consultant because they're experts
19 in what they do, not because -- we didn't hire staff because
20 they were experts on maps and how to describe boundaries or
21 for -- all that. We don't even know the questions that are
22 being asked. But they're not -- Ray is not an expert.
23 Kristina is not an expert. No one on the staff is an
24 expert.

25 The only people who are experts are the mapping

1 consultants. And if I --

2 COMMISSIONER STERTZ: You would --

3 (Multiple people talking simultaneously.)

4 VICE-CHAIR HERRERA: -- let me -- the mapping
5 consultants are the expert.

6 I would, I would -- and I commend Mr. Bladine for
7 directing those calls to the people that can actually answer
8 the questions of the public correctly and do the research
9 that they need to do to make sure that every question that's
10 being asked by the public is being answered correctly and
11 with data to back it up.

12 The staff cannot do that.

13 I have a lot of respect for the staff, but that's
14 not what we hired for them for. When we interviewed them,
15 we didn't even ask them, do you know mapping, do you know
16 how to use mapping tools. That was never asked, not
17 expected of them.

18 So to ask about that and to frame that question
19 that way is extremely unfair. And I -- you know, I would
20 love to see what Mr. Bladine says, but I just wanted to make
21 that comment before Mr. Bladine answers that question.

22 COMMISSIONER STERTZ: Madam Chair.

23 CHAIRPERSON MATHIS: Mr. Stertz.

24 COMMISSIONER STERTZ: I just want to apologize to
25 Mr. Herrera for trying to interrupt him, but your

1 characterization of this is completely false.

2 Our staff is there to act -- if you want to read
3 through all of our -- all of the work that we have done, if
4 this staff is there just to answer the phones and to process
5 state work, we're paying these people way too much money.

6 We'll get into that in the next discussion, but it
7 sounds to me and I'd like to know -- and please don't
8 interrupt when I'm asking our deputy director a question. I
9 don't need your analysis leading into it --

10 VICE-CHAIR HERRERA: No, Madam Chair, but I have a
11 right to respond to some of these allegations and the
12 way you frame questions that the staff is basically
13 incompetent and all they do is push paper, I think take
14 offense to that.

15 You know, we, we have put this staff through a
16 lot, not only us, the public, the attorneys, and for you,
17 Mr. Stertz, to talk to them that way is really extremely
18 disrespectful.

19 Yes, I take offense to that.

20 CHAIRPERSON MATHIS: Okay.

21 Mr. Bladine, do you want to respond to anything?

22 Or, Mr. Drechsler. Anything to add on that?

23 ANDREW DRECHSLER: Thank you, Madam Chair. I
24 would love to follow up that we have worked a lot with staff
25 over the course of the year, and to make sure that they

1 understand the map, how they can best answer the public's
2 question. And it is, it is -- and the example that I gave
3 was an example of, to follow up Mr. Strasma, on how one
4 project is unpredictable.

5 And you can go check the public record that we've
6 been keeping for the Commission that I can go in and record
7 how and when I speak to public citizens. And the vast
8 majority of calls that do go into the Commission's office
9 are handled by the staff. They are able to explain, but
10 there are times where a question -- that they do come to us
11 with a question and ask us to help out.

12 So I'm sorry if I mischaracterized that all
13 questions or the vast majority of the questions that come
14 into the Commission's office are coming to me.

15 It's on occasions that we do get questions from
16 the staff that we try to help on.

17 Again, my point was more to point out the scope of
18 a particular time.

19 It's hard to define, and isn't necessarily you can
20 put a -- this will take 15 minutes or this will take
21 five hours on a project.

22 We can guesstimate, but it's difficult to do that.

23 CHAIRPERSON MATHIS: Thank you. Yes, I understood
24 what your example meant.

25 And, Mr. Bladine, do you have anything you wanted

1 to say?

2 RAY BLADINE: Madam Chair, I just think Andrew
3 really explained it. We don't call Andrew every time we get
4 a citizen request or a media inquiry.

5 The vast majority of them we can cover. But
6 sometimes we get questions that go into how is this done or
7 how is that done, and we -- while we, like all of you,
8 participated in the process, we did monitor the process, not
9 really participate, and Andrew is often able to answer
10 questions that we can't for the citizens, community groups,
11 or agencies.

12 But clearly we don't do -- we don't expect them to
13 be our public information office. We really do handle most
14 of the things ourselves.

15 CHAIRPERSON MATHIS: Thank you.

16 COMMISSIONER STERTZ: Madam Chair.

17 CHAIRPERSON MATHIS: Mr. Stertz.

18 COMMISSIONER STERTZ: Yes. Mr. Bladine, thank
19 you. You're asked a lot how to answer these questions, but
20 the reason we ask is that's how we clear things completely.
21 And thank you for your clarification.

22 I assume nothing less than our staff would be able
23 to handle all of the -- almost everything other than the
24 most complex of work. And, and by clarification, I now
25 understand that to be the case.

1 CHAIRPERSON MATHIS: Okay. Any further comments
2 on this?

3 VICE-CHAIR FREEMAN: Madam Chair.

4 CHAIRPERSON MATHIS: Questions?

5 VICE-CHAIR FREEMAN: Madam Chair.

6 CHAIRPERSON MATHIS: Mr. Freeman.

7 VICE-CHAIR FREEMAN: Thank you.

8 When the Commission retained -- first of all,
9 Strategic Telemetry doesn't just work in Arizona.

10 The Arizona Independent Redistricting Commission
11 is not its only job. It's a nationwide company. I believe
12 it has offices in Wisconsin, New York, and Washington, D.C.,
13 and now maybe there's a satellite Scottsdale office with
14 Mr. Desmond.

15 But last year Strategic Telemetry made, I think,
16 it was a number of approaching \$700,000 for its work here in
17 Arizona. It was 687 or something, around that ballpark.

18 I have no idea whether that's a significant
19 portion of the revenue that Strategic Telemetry made last
20 year or not.

21 But I do recall when the Commission retained them,
22 one provision that was put into the contract was prohibition
23 on doing other work in this state.

24 And I think one of the reasons was not only might
25 a conflict arise but to allay public concerns, or attempt to

1 allay public concerns about Strategic Telemetry's
2 participation in the redistricting process.

3 Now, going right now I don't see what it is that
4 they're doing. Perhaps there's an occasional very technical
5 question raised by the public or perhaps there's a need to
6 get a map and there's some question with that by counsel.
7 But, I mean, six months from now, we're not going to -- if
8 the lawsuits are still ongoing and viable, conceivably,
9 there could be a lot of work and they could be making a
10 lot more money from the Commission, because they will be
11 needed to participate in the discovery portion of the
12 litigation.

13 And I think that that same prohibition on doing
14 other work in Arizona should apply.

15 The reasons for putting it in place in the
16 beginning are just as valid now.

17 And I guess one question I would have is if
18 Strategic Telemetry, I know what used to be on the website,
19 or perhaps still is, they do work for progressive candidates
20 and, and for the Democratic party. Done a lot of work that,
21 for the unions, et cetera, et cetera.

22 We all know that history.

23 And if -- I don't know whether it's really
24 appropriate to ask Mr. Strasma the question, but I'm going
25 to throw it out there other anyway.

1 Is there other work in Arizona that they're
2 actively seeking or they've been requested to be involved in
3 and is it for candidates?

4 What's the nature of the work that they foresee in
5 Arizona that they would like to pursue?

6 KENNETH STRASMA: Thank you, commissioner.

7 The -- I'm not at liberty to discuss anyone who's
8 approached us or not.

9 We have had the -- and actually I have been
10 pleased to be able to say that we're not able to discuss
11 taking political work in Arizona. It would -- it makes all
12 of our lives easier. So it's definitely my preference if we
13 could just continue with that understanding.

14 However, as you pointed out, we do a lot of work
15 for organizations and campaigns. And this is a time when
16 people are seeking our services. So if we, if we do have a
17 retainer arrangement, we would be happy to continue that
18 prohibition on work in Arizona.

19 If it's an ad hoc as-needed basis, then I would,
20 you know, just want to be able to treat the AIRC as we
21 would, you know, other clients and not have the AIRC stand
22 in front of all other potential Arizona clients. Although,
23 you know, as I said, I don't think that would be ideal.
24 It's better if we're able to say that we're not doing other
25 work in Arizona.

1 VICE-CHAIR HERRERA: Madam Chair.

2 CHAIRPERSON MATHIS: Mr. Herrera.

3 VICE-CHAIR HERRERA: Yeah, Mr. Bladine, if could
4 you enlighten me and tell me with a comparison the amount of
5 money that, that we've paid out to Strategic Telemetry and
6 also compared to what happened ten years ago. I would like
7 to see what at the same point, at the same time with the
8 last Commission, how much they had paid NDC.

9 RAY BLADINE: Madam Chair.

10 CHAIRPERSON MATHIS: I heard -- sorry. Go ahead.

11 RAY BLADINE: Madam Chair, the total amount we
12 paid to Strategic Telemetry is 756,000, but that includes
13 pass through for, as I recall, Maptitude and some of the
14 other things that we purchased.

15 Their fee was 600,000 for the base services. And
16 then, as I recall, we probably paid another 30, 40,000 for
17 extra meetings and for travel as reimbursement.

18 So what I have is a total of 756.

19 I'm going to ask Kristina -- actually she just put
20 it in front of me. It looks like NDC on a comparable basis
21 we paid about 1,034,000 during that time period, during the
22 first year.

23 COMMISSIONER STERTZ: Madam Chair.

24 CHAIRPERSON MATHIS: Mr. Stertz.

25 COMMISSIONER STERTZ: I appreciate Mr. Herrera

1 trying to make the analysis, but they're not really
2 comparable because the litigations are different and the use
3 of the consultants are different.

4 However, what I would like to do I would like to
5 start to bring this to a close if I can and just ask the
6 questions of Strategic.

7 When I first started talking about a rolling
8 retainer, you need a minimum to cover a couple of things
9 here you're looking for. One is to keep us high up on the
10 priority list and having cash flow coming out of the AIRC
11 that's going to meet a minimum requirement for X amount of
12 time.

13 I know that once we're through this purpose, past
14 the litigation, the season that we're currently in of
15 litigation, of litigation requirements, that this is going
16 to dwindle off to being nothing.

17 And I know that you're not going to want to be --
18 one, I'm not going to want to support a nine-year agreement
19 paying \$10,000 a month just so that you don't have to work
20 in Arizona.

21 That to me is -- doesn't make any sense for the
22 Commission, the state, or Strategic Telemetry.

23 On the other hand, in the short term, it sounds
24 like there's a need base for legal counsel and for staff to
25 have ready access.

1 You'd like to manage your cash flow so you know
2 what you're going to get paid every month from the
3 Commission so you can keep -- so we can keep your attention.

4 With that being said, is a \$5,000 a month
5 guaranteed minimum acceptable to you for the next six months
6 and then rolling over the other 5,000 into a rolling
7 retainer?

8 VICE-CHAIR HERRERA: Madam Chair, this is
9 Commissioner Herrera.

10 Before he answers that question, I thought
11 Ms. Gomez was going to address the Commission. I still want
12 to hear what she has to say.

13 So, with all due respect to Commissioner Stertz, I
14 would like for Kristina Gomez to make the comments that she
15 was going to make before Mr. Stertz' comment.

16 CHAIRPERSON MATHIS: Okay. I didn't know she was
17 going to make a comment.

18 VICE-CHAIR HERRERA: Maybe I heard Mr. Bladine
19 incorrectly, but I thought he was referring to Kristina to
20 clarify or to add additional information.

21 Maybe she doesn't have any, but I thought that
22 that was what he was -- had in mind.

23 RAY BLADINE: Madam Chair, I'm sorry I confused
24 the situation.

25 But Kristina whispered into my ear the cost for

1 NDC last time, so I didn't let her have the mic.

2 VICE-CHAIR HERRERA: Okay. And maybe just for --
3 can you -- so comparing apples to apples -- and I understand
4 that the Commission things that things were different ten
5 years ago and all of a sudden things are really different
6 for the Commission this time around.

7 But to me I think it's a fair comparison and I
8 think it's a comparison that we need to make, that for the
9 work that Strategic Telemetry has done from the beginning,
10 and the work is exceptional, what they were trying to do is
11 also is clean up some of the mess that some other mapping
12 consultants made, and also making sure that the -- that
13 we -- that our maps passed on the first attempt.

14 So I think I -- I commend Strategic Telemetry for
15 all the work that they've done and also the attempts to save
16 as much money as possible. As you can see by the
17 comparisons and time frame, there is a significant amount of
18 savings from ten years ago. And you can say whatever you
19 want that it was different ten years ago, but money is
20 money, and they did pass that money, so I want to commend
21 them for that. I want to make sure I put that on the
22 record.

23 CHAIRPERSON MATHIS: Okay. Thanks.

24 Before we keep going, you guys, it's -- I'm sure
25 Mr. Herder could probably use a break. It's already 3:40.

1 Should we take a ten-minute recess?

2 VICE-CHAIR FREEMAN: Yes, please.

3 CHAIRPERSON MATHIS: Okay. So the time is 3:41,
4 and we'll take ten minutes, and come back then.

5 (Brief recess taken.)

6 CHAIRPERSON MATHIS: The time is 3:58 p.m. We'll
7 enter back into public session.

8 We're in the midst of discussing the Strategic
9 Telemetry contract.

10 I'm just looking for the agenda. It's agenda item
11 number three that we are on right now.

12 So further other comments and questions about this
13 contract amendment/extension from anyone, commissioners or
14 anyone else?

15 VICE-CHAIR HERRERA: Madam Chair.

16 CHAIRPERSON MATHIS: Mr. Herrera.

17 VICE-CHAIR HERRERA: Yeah, I don't have any other
18 comments, other than to say that I do unfortunately have
19 another commitment at around 4:30, closer to 5:00 o'clock.
20 And it doesn't seem like we're reaching an agreement on this
21 issue. So I was wondering if anybody has a -- I would like
22 to see if we can either speed it up or postpone it for
23 another day.

24 Unless somebody else has anything else to say,
25 because I don't want to miss out on this conversation, but I

1 do have a prior appointment.

2 COMMISSIONER STERTZ: Madam Chair.

3 CHAIRPERSON MATHIS: Mr. Stertz.

4 COMMISSIONER STERTZ: Before we went to break, I
5 had asked a question, you know, that was interrupted. And
6 I'd like if we can get that answer from Strategic Telemetry,
7 to give an option that for them to consider regarding a
8 rolling retainer with a guarantee.

9 And I wonder if Ken has had the opportunity to do
10 that.

11 KENNETH STRASMA: Yes, Commissioner Stertz, we
12 have and we would certainly be open to that concept. We
13 would want to be as flexible as possible for something that
14 works for the Commission.

15 COMMISSIONER STERTZ: Would you be willing to make
16 a motion to enter into a six-month engagement letter with a
17 \$5,000 guaranteed minimum and a rolling \$5,000 retainer, all
18 of which to be applied against hourly work, that and
19 maintaining the exclusivity agreement for the duration of
20 that agreement.

21 COMMISSIONER McNULTY: Madam Chair, can you hear
22 me?

23 CHAIRPERSON MATHIS: Yes, I can, Ms. McNulty.

24 COMMISSIONER McNULTY: Could I jump in?

25 I'm not comfortable with our retainer that is

1 unlike a legal retainer. And maybe it's just because I've
2 practiced law too long, but we don't get any guaranteed
3 minimums in our business.

4 We, we -- to the extent we get retainers, they're
5 to ensure payment, and we bill against them, and if at the
6 end of the month there's something less than the retainer,
7 it does roll over to the next month, but then we bill
8 against that. So we're never in a situation where we're
9 receiving money that doesn't get billed again. If it isn't
10 billed again, it's returned to the client.

11 And I understand that this is a really difficult
12 situation for Strategic Telemetry to plan, and it's
13 impossible for us to give them any guidance because we can't
14 plan either.

15 But I used to work for a small law firm before I
16 worked for a big law firm, and it's kind of the same thing.
17 You know, some weeks you just had to stay up late and work
18 all weekend and other weeks you kind of wondered if you were
19 going to have work the next day, and it's a little bit of
20 the nature of the beast.

21 As much as I support and applaud everything
22 they've done for us and am grateful that they're here and
23 believe that we need their technical expertise as we go
24 forward, I would rather pay for an hourly.

25 And as to the Arizona representation issue, I

1 could be way off base here, but it's kind of my thought that
2 we're in an election year now and if there was anything
3 really cool that was going to come their way, in this year
4 it's come and gone.

5 And I would like to see that issue maybe addressed
6 in the same way as potential increases of legal fees that we
7 talked about in the legal contract, that maybe at the end
8 much the year we could revisit that, but keep it in place
9 for this year.

10 So, so, that's my perspective.

11 I would rather see a proposal for an hourly rate,
12 to direct Mr. Bladine to go negotiate an hourly rate with
13 some not to exceeds, maybe increasing what they -- out of
14 their -- they've given us, like, \$25 an hour or something,
15 not to exceed that.

16 But that's just my thinking.

17 And the reason I jumped in, Mr. Stertz, although I
18 really think it's a good idea what you're proposing, and I
19 like it, and I think it might be a good solution, I don't
20 think I can support it for the reasons I just said, because
21 I think we got to be billing them for actual -- they've got
22 to bill us for what they've actually done.

23 That's my only thing.

24 VICE-CHAIR HERRERA: Madam Chair, is
25 Commissioner McNulty making a motion?

1 VICE-CHAIR FREEMAN: Madam Chair.

2 CHAIRPERSON MATHIS: I don't know. I didn't hear
3 her say that but --

4 COMMISSIONER McNULTY: I don't know if I can
5 because Mr. Stertz just made a motion.

6 VICE-CHAIR FREEMAN: Madam Chair.

7 CHAIRPERSON MATHIS: Mr. Freeman.

8 VICE-CHAIR FREEMAN: I would agree with some of
9 what Commissioner McNulty said.

10 I know, having practiced law not as long
11 as Commissioner McNulty, but for a few years, that
12 sometimes you enter into agreements with clients on a flat
13 fee basis.

14 If the -- the fee ultimately still must be
15 reasonable, but if you get the case resolved quickly, you've
16 obviously made a little money. If the case drags on for
17 years and years, it's probably a loser for you financially.

18 And I think Commissioner Stertz has proposed an
19 interesting one, which would keep them on retainer, \$5,000 a
20 month, with a rolling 5,000 on top of that, we would get
21 some number of hours out of them.

22 I think over the last couple of months they've
23 billed us on the order of \$10,000.

24 RAY BLADINE: Yes.

25 VICE-CHAIR FREEMAN: So that's -- that comes out

1 about right, if all, if all we have use for them going
2 forward is to resolve some very technical public inquiries
3 or assist in some way the counsel, that seems to be sort of
4 spot on.

5 So I would second Commissioner Stertz's motion.

6 CHAIRPERSON MATHIS: Okay. Any discussion on the
7 motion?

8 Commissioner Stertz's motion.

9 COMMISSIONER McNULTY: My comment would be if
10 we're pretty sure we can bill them \$5,000 a month, then, you
11 know, that's what we should do.

12 And then they're going to be in pretty good shape,
13 because, you know, that's kind of what they know. But I
14 would prefer to do that than have an arrangement where we
15 guaranteed something independent of the billing.

16 COMMISSIONER STERTZ: Madam Chair.

17 CHAIRPERSON MATHIS: Mr. Stertz.

18 COMMISSIONER STERTZ: And I appreciate that,
19 Commissioner McNulty.

20 The goal is that we've heard from
21 Commissioner Herrera, from legal team, and the staff, as
22 well as from Strategic Telemetry, that they are responsive.
23 They will have us at the top of their list. And I
24 understand also that this is a compromise between what was
25 being proposed and what was -- would be another way of

1 looking at it, which would be just hourly.

2 It meets the goal of having Strategic available
3 and meets the other goal of over the next six months ending,
4 as we're acutely aware, we are in an election season, and it
5 takes that question out of play for Strategic Telemetry,
6 which they would heartily like to keep, I believe, because
7 they felt very comfortable being able to say, sorry, we are
8 under an exclusive agreement, but at the end of this year
9 all of that can be reevaluated.

10 RAY BLADINE: Madam Chair.

11 CHAIRPERSON MATHIS: Mr. Bladine.

12 RAY BLADINE: I hate to raise this issue, because
13 I like the approach, and I know we're getting somewhere, but
14 I want to ask -- I'm not clear what we get for the first
15 \$5,000, and I want to make sure that our attorneys don't
16 have a problem with the Arizona Constitution gift clause.

17 I would think there's a way we could structure
18 this, but as you know we have to get something for public
19 money we're spending.

20 So I would like to, with your permission, ask the
21 two attorneys to comment on that.

22 CHAIRPERSON MATHIS: Sure.

23 MARY O'GRADY: Yeah, our Constitution does require
24 that any payment of public funds have -- we -- public
25 moneys, we have to receive value for that, for that money

1 that's paid.

2 So we need to make sure that -- and this kind of
3 goes along with Commissioner McNulty's concern about the
4 concept of retainer at all.

5 We need to make sure that if they're getting
6 \$5,000, they get \$5,000 and we get \$5,000 of work.

7 And so I want to make sure that it's structured
8 then -- and maybe I need to understand how this is going to
9 work so that we do have and can establish that we have
10 received value for the money that we are paying.

11 Based on the billing history, we've exceed that
12 \$5,000 in every month so far that we've been in litigation,
13 and we can establish that.

14 And we would need to make sure that we receive
15 value for the funds that are paid.

16 VICE-CHAIR FREEMAN: Madam Chair.

17 CHAIRPERSON MATHIS: Mr. Freeman.

18 VICE-CHAIR FREEMAN: Well, then my question is, is
19 there a problem then under the gift clause with the
20 proposals that are -- have been presented to the Commission
21 right now, with a \$10,000 nonrefundable retainer?

22 RAY BLADINE: Maybe.

23 MARY O'GRADY: Perhaps. I mean, I --

24 COMMISSIONER McNULTY: I would rather be prudent
25 and make sure we don't have an issue.

1 VICE-CHAIR HERRERA: Madam Chair. If it is an
2 issue, then -- and I think the discussion we've been having
3 on those two options are a waste of our time. That's how I
4 feel.

5 This should have been brought to us in the
6 beginning.

7 Because if this is the case, then the proposal
8 that Commissioner McNulty has proposed and the concern that
9 she raised are extremely valid.

10 So I apologize.

11 I didn't -- you know, that wasn't -- something
12 that I was not familiar with. I'll be honest.

13 It's my ignorance and my mistake, but this should
14 have been brought up from the beginning, this particular
15 clause.

16 And based on what I'm hearing, then neither
17 retainer, whether it be \$5,000 retainer, a \$10,000 retainer,
18 or \$20,000 retainer would -- then we would have issues with
19 which -- whatever one we pick.

20 COMMISSIONER STERTZ: Madam Chair.

21 CHAIRPERSON MATHIS: Mr. Stertz.

22 COMMISSIONER STERTZ: I think I've got this,
23 what -- really what Ms. McNulty, this is all becoming is
24 debate that Mr. Strasma is trying to stabilize cash flow for
25 this agreement.

1 Is what I -- is that correct, Mr. Strasma?

2 KENNETH STRASMA: That is correct,
3 Commissioner Stertz. If I may, of course we understand the
4 constraints you're working under. And if that doesn't work,
5 we'll work with you to make the hourly rate work.

6 COMMISSIONER STERTZ: Well, let me proffer this.
7 If we were to enter into a \$30,000 six-month agreement that
8 equated to 144 man-hours that would be billed out at equally
9 during the course of the next six months, and anything on a
10 monthly basis would be billed hourly, would that be
11 satisfactory? Would that meet the constraints of the gift
12 clause?

13 I mean, obviously it will be, because it would be
14 very similar to how we are already operating under the base
15 contract, which was billed out on a flat fee per month
16 basis.

17 VICE-CHAIR HERRERA: Madam Chair.

18 CHAIRPERSON MATHIS: Mr. Herrera.

19 VICE-CHAIR HERRERA: Yeah, I'm still, with the
20 issue, I'm still -- based on what we're talking about, the
21 common term from Commissioner McNulty and also our attorney,
22 Mary O'Grady, that I would not be comfortable supporting --
23 and I apologize for changing my mind. I probably would not
24 support any type of a -- let me rephrase that.

25 I would probably, I would probably be more

1 supportive of the proposal that Commissioner McNulty
2 mentioned. And, because I think her concerns are extremely
3 valid. And, especially with the gift clause, I was not that
4 aware of and familiar with.

5 I am, I am now.

6 So, I just -- I would be more support of obtaining
7 the hourly fee and negotiating the rates with having
8 Mr. Bladine negotiate the rates with Strategic Telemetry.

9 COMMISSIONER STERTZ: Madam Chair.

10 CHAIRPERSON MATHIS: Mr. Stertz.

11 COMMISSIONER STERTZ: Mr. Strasma, would you be
12 willing to maintain for the next six months your exclusivity
13 without having a base amount or a set contract with us?

14 KENNETH STRASMA: I would. I -- just for
15 clarification in my mind, would it meet the commissioners'
16 needs if we were to say our exclusivity prohibits our
17 working for legislative or congressional candidates in
18 Arizona but could work for other organizations?

19 COMMISSIONER STERTZ: I think that to date in
20 regards to Mr. Herrera's time constraints are too
21 extraordinary.

22 KENNETH STRASMA: Okay.

23 In the interest of coming to a resolution, I'll
24 just say yes, that we would continue our exclusivity.

25 VICE-CHAIR HERRERA: Just for clarification

1 that -- Madam Chair.

2 CHAIRPERSON MATHIS: Mr. Herrera.

3 VICE-CHAIR HERRERA: The exclusivity, what do you
4 mean by exclusivity, Mr. Strasma?

5 KENNETH STRASMA: Political campaigns in Arizona
6 so --

7 VICE-CHAIR HERRERA: Oh.

8 KENNETH STRASMA: -- work in other states, and we
9 could do non-political work in Arizona, would be my
10 understanding --

11 VICE-CHAIR HERRERA: Okay. I just want make sure.
12 So the exclusivity only pertains to the state of
13 Arizona.

14 KENNETH STRASMA: Correct.

15 VICE-CHAIR HERRERA: Okay. Thank you for the
16 clarification.

17 COMMISSIONER STERTZ: Madam Chair.

18 CHAIRPERSON MATHIS: Mr. Stertz.

19 COMMISSIONER STERTZ: During the break time has,
20 Mr. Strasma, Andrew, have you been able to pull up your
21 normal fee schedule?

22 KENNETH STRASMA: He has.

23 COMMISSIONER STERTZ: Do you want to share or -- a
24 number that you would feel comfortable with we could give
25 direction to staff to --

1 KENNETH STRASMA: Certainly. If we were on a
2 straight hourly basis, we would be comfortable doing myself
3 president at 325, vice president at 225, senior analyst at
4 195, and all other staff as 70.

5 COMMISSIONER STERTZ: And that relates, and your
6 billing rate, Mr. Strasma, for Mr. Desmond, he's a senior
7 analyst; is that correct?

8 KENNETH STRASMA: That's correct, 195.

9 COMMISSIONER STERTZ: Okay.

10 VICE-CHAIR HERRERA: And, Madam Chair, just to
11 confirm with Ken Strasma, the -- this would be at an
12 as-needed basis. There would be no contract. Is that
13 correct?

14 KENNETH STRASMA: That would be my understanding.

15 VICE-CHAIR HERRERA: Okay.

16 COMMISSIONER STERTZ: Madam Chair.

17 COMMISSIONER McNULTY: Madam Chair.

18 CHAIRPERSON MATHIS: Mr. Stertz.

19 COMMISSIONER STERTZ: There would be a contract.

20 VICE-CHAIR HERRERA: What -- so that -- okay.
21 So -- somebody explain that to me for -- how would be that
22 different? So it would be -- the contract would stipulate
23 the hourly fee. I understand that. But there would be no
24 guarantee of work.

25 COMMISSIONER McNULTY: Yes. I would see an

1 amendment to the contract that they would provide technical
2 expertise on an ongoing basis consistent with the original
3 contract at these rates.

4 VICE-CHAIR HERRERA: I would be in favor of that.

5 CHAIRPERSON MATHIS: I would too.

6 I think that it's a much cleaner way to go,
7 frankly, than just provide -- it takes a lot of guess --
8 guessing out of this whole thing if we can just say bill us
9 for the work they do at these rates.

10 VICE-CHAIR HERRERA: Commissioner McNulty, would
11 you like to make a motion?

12 COMMISSIONER STERTZ: Madam Chair.

13 COMMISSIONER McNULTY: Ask Mr. Stertz if he would
14 amend his motion.

15 COMMISSIONER STERTZ: I'll amend my motion to
16 billing rate, that the existing contract be amended that the
17 billing rate for hourly work by Strategic Telemetry of
18 325 per hour, for vice president 225 per hour, for senior
19 analyst at 195 hour, and for other staff \$70 an hour be
20 added as an amendment to the current contract, and terms --
21 and all other terms and conditions of the current contract
22 remain intact.

23 VICE-CHAIR HERRERA: Madam Chair, let me clarify.
24 We said 325 for the president?

25 CHAIRPERSON MATHIS: Right.

1 VICE-CHAIR HERRERA: And 225 for the vice
2 president, 195 to senior analyst, \$70 for other staff.

3 CHAIRPERSON MATHIS: That's what I heard.

4 VICE-CHAIR HERRERA: Okay. Then I would support
5 that, that motion, or that -- yeah, the amended motion.

6 CHAIRPERSON MATHIS: So that's a second to
7 amendment -- the amended motion by Mr. Stertz?

8 VICE-CHAIR FREEMAN: I think I have to agree,
9 since I seconded his motion so --

10 VICE-CHAIR HERRERA: You're right. Mr. Freeman
11 seconded the motion.

12 CHAIRPERSON MATHIS: Okay. Any other discussion
13 on this one?

14 (No oral response.)

15 CHAIRPERSON MATHIS: All in favor?

16 VICE-CHAIR FREEMAN: Aye.

17 COMMISSIONER McNULTY: Aye.

18 CHAIRPERSON MATHIS: Aye.

19 VICE-CHAIR HERRERA: Aye.

20 COMMISSIONER STERTZ: Aye.

21 CHAIRPERSON MATHIS: Any opposed?

22 (No oral response.)

23 CHAIRPERSON MATHIS: The motion carries
24 unanimately.

25 So the amended contract will be drafted by

1 Mr. Bladine, I assume.

2 RAY BLADINE: Yes, with help from our legal
3 counsel.

4 CHAIRPERSON MATHIS: Okay. Great.

5 Thank you, Mr. Strasma, Mr. Drechsler. And
6 Mr. Desmond, of course, too.

7 I want to say that, just like our legal counsel,
8 our mapping consultant was of the highest caliber and
9 continues to be of the highest caliber. And they've done
10 extraordinary work for us. They've always risen to the
11 occasion and done whatever we directed them to do, and were
12 just extremely professional and excellent throughout. So
13 thank you, guys, for all your work.

14 And with that, I think we're on the next agenda
15 item.

16 Which is number four.

17 And that's the executive director report.

18 I'm sure Ray feels like he's been giving that the
19 whole time, but there's more to report.

20 RAY BLADINE: Madam Chair, I think what I maybe
21 will try to do is with Kristina's help just summarize some
22 of this material.

23 And I think you have a lot of it in front of you,
24 and I'll try to do what I think is the most important first
25 just in case we run out of time.

1 But let me start with, we did send you in July a
2 status report. And most of the material in the first few
3 pages of that have -- we've already dealt with, but I think
4 I'd like to ask Kristina to take a second and talk
5 specifically about the Maptitude, kind of what we've been
6 doing with public information.

7 And that would, I think, pretty much cover what we
8 need to talk about there.

9 Kristina.

10 KRISTINA GOMEZ: Madam Chair, Commission members,
11 first of all, I'd like to talk about Maptitude.

12 We did not renew the Liquid Web contract, and that
13 is the host server.

14 And also we will not renew the Maptitude online
15 mapping tool.

16 I did send out an e-mail on May 30th discussing
17 all of the details regarding this, but we will be saving
18 roughly \$12,300.

19 Quickly, next item.

20 Public education of the new districts.

21 We are continuing with our ongoing public
22 education of the newly drawn districts.

23 We have a great feature now on our website. It's
24 the district locator.

25 This allows the public and staff to go in and

1 to enter people's addresses. Once they do that and hit
2 the find button there on the website, they're able to
3 access their congressional district and their legislative
4 district.

5 So that's been a really good feature for staff to
6 help out the public.

7 Also we have individual district maps.

8 The Secretary of State's Office called us.
9 They've received several phone calls from the public, we
10 also received several phone calls from the public, urging us
11 and asking if we could produce individual district maps.

12 Ten years ago we didn't do it until the last
13 minute, just because of the cost involved and because there
14 was ongoing issues with the preclearance map.

15 So this time around, since we do have a precleared
16 leg and congressional map, we went ahead, and we -- the
17 total amount for those individual maps were \$8,000.

18 However, with the help of the Secretary of State's
19 Office, we split that cost. So the Commission paid \$4,000
20 for the -- for these maps, and the Secretary of State's
21 Office also paid a \$4,000 amount.

22 The next item, public input and the media finders.

23 Public input has somewhat slowed down a little.

24 We figured that we would go ahead and send you any
25 and all public input for now via e-mail, so you can still

1 read the public's comments.

2 We will always send you any written public
3 comments via e-mail or U.S. mail until the Commission ends.

4 So you will still receive written public input.
5 But as far as the binders, we will not send you any
6 additional binders until we have enough public comments.

7 So, sorry.

8 I know you all really like those binders.

9 CHAIRPERSON MATHIS: Yep.

10 KRISTINA GOMEZ: And then the U.S. Census Office,
11 they called. Their question was really regarding materials
12 that we submitted. The Census Bureau has inserted the
13 congressional and state legislative plans into their TIGER
14 geographic database system.

15 So I needed help from our mapping consultants in
16 order to process this request.

17 This is a typical request from every single state,
18 so we're not the only ones that have to go through this.

19 So this is up on their website as well.

20 And also streaming, unless we're told otherwise,
21 we are recommending that the Commission no longer stream any
22 meetings until necessary.

23 I don't know what the Commission's feedback is on
24 streaming or not, but it is a -- I believe it's a monthly
25 cost. It's around \$350.

1 So we recommend not to renew our streaming
2 service, until we're told otherwise.

3 CHAIRPERSON MATHIS: I'm sorry, Ms. Gomez. I
4 couldn't make up out what you were saying on the \$350.
5 What's for that?

6 KRISTINA GOMEZ: That's our streaming charge.

7 CHAIRPERSON MATHIS: Streaming. Okay. Got it.

8 KRISTINA GOMEZ: I'm sorry, and that's the monthly
9 charge.

10 CHAIRPERSON MATHIS: Okay.

11 KRISTINA GOMEZ: But we will still record all of
12 our meetings and post them on the website.

13 CHAIRPERSON MATHIS: Okay. Are we going month to
14 month now on the streaming cost, or how is that working?

15 KRISTINA GOMEZ: Yes, it is month to month right
16 now.

17 CHAIRPERSON MATHIS: Okay.

18 So what do you all need direction from us on in
19 terms of any expenditures?

20 RAY BLADINE: I think at this point the only thing
21 that I really should go to is the staffing proposal.

22 I also want to make sure that you're aware of what
23 our budget situation is and has been.

24 Perhaps if I could just do a quick summary of the
25 budget and then go to the staffing report. Would that be

1 acceptable?

2 CHAIRPERSON MATHIS: Sounds great.

3 RAY BLADINE: As you all know, we've had a
4 terrible time, just like the last Commission has, in trying
5 to identify whether reasonable costs on an annual or fiscal
6 year basis.

7 The first Commission had a six million dollar
8 appropriation at the start. They ran out of money what
9 would be comparable to our year, fiscal year, '13-'14.

10 We've had to go to the legislature already to get
11 a supplemental appropriation.

12 The last Commission --

13 CHAIRPERSON MATHIS: And that's because we started
14 with three and a half million.

15 RAY BLADINE: That's correct. We started with
16 three and a half million.

17 We had the 700,000 that the legislature provided
18 us.

19 We had asked for an additional amount of money to
20 provide some reserve for unknown legal fees. We did not get
21 that.

22 We ended the fiscal year '12 having overspent
23 fiscal year '12 the three and a half million, 300 --
24 3,700,000 by about \$50,000.

25 The legislature had authorized that we could use

1 '13 money to spend -- to pay in '12, so that did not become
2 an issue for us.

3 At the present time we have as requested by our
4 budget liaison, Megan Darian, at the Board's office,
5 submitted a budget that comes out to the -- basically
6 4,100,000 -- or 4,450,000 appropriated by the legislature.
7 However, you will see that I did a fiscal year '13 analysis
8 based upon what happened in 2001 and inflated. That comes
9 out that we would be short perhaps \$360,000.

10 I want to point out that this is all -- I mean, I
11 would call it a swag at this point.

12 We're doing the best we can looking what happened
13 years ago to project what might be reasonable for us.

14 As we get further in the year, like we did last
15 year, we'll keep revising this on a month to month to month
16 basis, when we get a better idea of how many lawsuits are we
17 really going to have, what are the costs likely to be, and
18 I'll start asking our legal staff to give us better
19 estimates.

20 At the present time, I have submitted a draft to
21 Megan for fiscal year '13.

22 Again, I did the same thing. I based it upon what
23 happened last time, ten years ago, with a contingent -- with
24 an increase for inflation. And that comes out to a request
25 of 2,595,000.

1 We still -- right now we would be at a total
2 amount of appropriation of 5,650,000, which would still be
3 below the initial six million that the other Commission had
4 at this time.

5 With that additional amount of two some, and the
6 2,500,000, in the '14 fiscal year, if we were to get that,
7 then we would be somewhere, if I remember right, and I don't
8 have it in front of me, but 8,000,000 -- I think it's like
9 8,000,000 something. And that would still be below what was
10 appropriated last time.

11 And of course we have had inflation since then.

12 So the bottom line is I just really wanted to make
13 sure you were kind of aware of what the budget figures
14 looked like for last time, what they look like for now.

15 I really think it's like we did last time. I'm
16 going to need to monitor it and send you periodic reports to
17 tell you where we are and, and discuss with you what the
18 budget is looking like.

19 My estimate now would be if I -- if this very
20 gross estimate were correct, that we could run out of funds
21 in December. But I really -- I wouldn't want to bet
22 anything on that at this time, because I just really don't
23 have enough data.

24 Madam Chair, I think that pretty much covers
25 the -- what I wanted to say about budget, but I would also

1 be willing, of course, to answer any questions.

2 CHAIRPERSON MATHIS: Okay. Thank you.

3 Any questions for Mr. Bladine on the budget or the
4 numbers he just referred to?

5 (No oral response.)

6 CHAIRPERSON MATHIS: You want to jump to the
7 staffing plan?

8 RAY BLADINE: Yes, thank you, Madam Chair.

9 I prepared a memo also dated July 19th to you that
10 kind of gave you an overview again of what our staffing has
11 been and where we are now.

12 As I pointed out in that memo and have in the
13 past, our staffing levels are somewhat of a moving target
14 too.

15 We've been reducing them as we've seen the
16 workload reduced.

17 We want to be as good stewards as possible of the
18 taxpayers' money.

19 We also want to be in a situation where we can
20 respond quickly to any changes that come about because of
21 litigation.

22 We've had, as I think all of you know, a very good
23 working relationship with legal staff. Our staff does
24 provide as best we can research and data for them so that
25 they don't have to have their staff doing it.

1 Recently, and I can let Kristina cover some of the
2 items, but recently we have done backup research for the
3 legal staff.

4 As I've also mentioned to you and you're aware, we
5 have had an audit, the legislature required, and we've had
6 staff working on getting numbers and answering questions on
7 that.

8 And I see that in the next few months anyway that
9 we probably will have a continuing workload of responding to
10 whatever happens in terms of lawsuits in the future.

11 Given that, I don't see that I need to be
12 providing full-time service to you.

13 I clearly don't want to ever have you feel that
14 I'm abandoning ship, because I don't want to abandon ship.
15 Although there are days I might want to abandon ship. But
16 today is not one of them.

17 But I think that I could probably on a quarterly
18 basis with Kristina in the office continue to be
19 knowledgeable enough to answer your questions and provide
20 assistance to the legal team and Kristina.

21 So I'm proposing on that I go to a quarter-time
22 basis, and really flexing my hours depending what's
23 necessary. If I need to come in and work a week or whatever
24 it is, I'll do it.

25 I'm guessing that the biggest thing I may have

1 ahead of us would be issues related to future appropriations
2 and the legislature. And certainly I'm prepared to deal
3 with that.

4 I then would ask Kristina, and your approval, that
5 she would take over really day-to-day operations. And she's
6 already done a lot of that.

7 There unfortunately seems to be a lot of paperwork
8 that comes through that we need to proof and sign off on.

9 She also would supervise the staff in the office,
10 respond to information requests, and supervise the
11 preparation of any reports we need to provide.

12 Anna would continue to handle the administrative
13 budget matters.

14 And I would see her as continuing in that role.

15 The community outreach representatives, we would
16 have one and a half, one and less than a full initially.
17 That would be Lisa.

18 She would be continuing to be the one most
19 knowledgeable about answering the questions.

20 It's kind of when she can't answer a question on
21 mapping with a citizen or group, then it gets referred to
22 you and then the mapping consultant if we need to.

23 As you know, Buck has moved on. However, he's out
24 in the other room making sure that everything is functioning
25 properly for us. And we need to still work out the details

1 on how Buck will be able to provide service through
2 basically and intergovernmental service agreement and
3 perhaps an individual contract.

4 So really I guess what I'm asking for is your
5 concurrence of moving in this direction.

6 I'm also proposing that since Kristina will be
7 taking on additional responsibility that you authorize me to
8 proceed with a pay increase to recognize the additional
9 work.

10 I was going to have Kristina go through in more
11 detail what the staff has been doing, but I'll leave that
12 for questions if someone wishes to have questions about
13 that, Madam Chair, I think that's an overview of where I see
14 us.

15 They'd requested.

16 THE REPORTER: I need to re-boot.

17 VICE-CHAIR FREEMAN: We need to take a break for
18 the court reporter.

19 CHAIRPERSON MATHIS: It's 4:34 p.m. We'll go a
20 few minutes.

21 (Brief recess taken.)

22 CHAIRPERSON MATHIS: The time is 4:41 p.m., and
23 we'll go back into public session.

24 We are now still on agenda item four, with the
25 executive director.

1 And he just gave us a staffing report, and
2 recommendations. And any comments on what Mr. Bladine
3 presented, or questions?

4 COMMISSIONER McNULTY: I think it makes a lot of
5 sense. If the others are comfortable with it, I am.

6 VICE-CHAIR HERRERA: Madam Chair, I am as well.

7 CHAIRPERSON MATHIS: Okay.

8 COMMISSIONER STERTZ: I say go.

9 VICE-CHAIR FREEMAN: Madam Chair, I think we can
10 take action on this, so I move that we, the Commission,
11 implement the staffing plan presented by the executive
12 director.

13 COMMISSIONER McNULTY: I second that.

14 CHAIRPERSON MATHIS: Any discussions?

15 (No oral response.)

16 CHAIRPERSON MATHIS: All in favor?

17 VICE-CHAIR FREEMAN: Aye.

18 VICE-CHAIR HERRERA: Aye.

19 COMMISSIONER McNULTY: Aye.

20 COMMISSIONER STERTZ: Aye.

21 CHAIRPERSON MATHIS: Aye.

22 Any opposed?

23 (No oral response.)

24 CHAIRPERSON MATHIS: The plan staffing plan
25 passes.

1 Thank you, Mr. Bladine, for putting that together.

2 And just also reiterate that our staff have also
3 been of the highest caliber. I'm really proud of all of
4 them. I think we all are. They've done an extraordinary
5 job in tough circumstances, and I appreciate their continued
6 efforts.

7 And thank you, guys.

8 RAY BLADINE: You're welcome. We all have enjoyed
9 working with the Commission, and appreciate your support.

10 I guess I would -- there's one last thing I'd like
11 to mention.

12 We do have an item that just says legislative
13 audit review. And since our auditors have been nice enough
14 to sit here through the whole time, I just wanted to say
15 briefly that they have spent a lot of time with us. They
16 spent a lot of time with Megan going through transactions.
17 They've been very professional. They've asked us a lot of
18 hard questions. Sometimes we might have under our breaths
19 said, oh, no, not again.

20 They are telling us that currently the reports and
21 review with their management that probably in the next few
22 weeks we'll have a draft of it and with a final report in
23 September. And I see Rick Meyers, the supervisor, nodding
24 yes, and Mia and Winette that has to put up with us also are
25 here.

1 I just want to let you know that's where we are on
2 that.

3 CHAIRPERSON MATHIS: Did you say Rick Meyers?

4 RAY BLADINE: Yes.

5 CHAIRPERSON MATHIS: That's not Regent Rick
6 Meyers. It's a different Rick Meyers.

7 RAY BLADINE: I'm not sure who regent is.

8 CHAIRPERSON MATHIS: I didn't know that.

9 Okay. Great. Well, we'll look forward to seeing
10 the draft.

11 And I also commend the staff on working so closely
12 with the auditors to provide them what they need.

13 And you guys have done a great job doing that, so
14 thank you.

15 Any other comments on the legislative report --
16 I'm sorry, on the executive director report?

17 (No oral response.)

18 CHAIRPERSON MATHIS: Okay.

19 Item five, legal issues and lawsuits update.

20 I assume that's coming from Mr. Kanefield or
21 Ms. O'Grady.

22 MARY O'GRADY: Thank you, Madam Chair,
23 commissioners. I'll start, and Joe will follow up if he
24 wants to supplement.

25 We just want to just go through the pending

1 lawsuits briefly, so you know the status.

2 The open meeting law litigation has been fully
3 briefed to the court appeals and we are just waiting for
4 oral argument to be scheduled.

5 In the state court action, which is the challenge
6 for the congressional districts based on various state
7 constitutional theories, plaintiff is Leach, the plaintiffs
8 filed their response for a motion to dismiss, and we are
9 working on our reply that we will file on August 15th, and
10 oral argument at a status conference is set in that case
11 August 22nd.

12 That's the only case where there's oral argument
13 actually scheduled on any of these matters.

14 In the federal court litigation, a one person, one
15 vote challenge to the legislative districts, lead plaintiff
16 is Harris, there we will be filing our motion to dismiss the
17 first amended complaint any moment.

18 And in the legislative lawsuit, well, also on
19 Harris, the Navajo Nation will be filing something next
20 Friday. They are proposing interveners in that lawsuit.

21 The legislature lawsuit, which is the legislature
22 challenge in federal court to the Commission's authority to
23 do congressional redistricting at all, based on election
24 clause of the federal Constitution, we are filing -- we will
25 be filing that case soon.

1 We have a motion to dismiss.

2 And we'll keep you informed on that.

3 We're awaiting a ruling. It's been fully briefed
4 whether this case requires a three judge panel as originally
5 appointed, and we moved to reconsider that decision, so
6 we're waiting for a decision on that.

7 And that is the status of the pending lawsuits.

8 CHAIRPERSON MATHIS: Thank you.

9 Any questions from commissioners?

10 (No oral response.)

11 CHAIRPERSON MATHIS: Anything else from legal
12 counsel?

13 Item six is call for public comment.

14 And I am of the understanding that we don't have
15 public comment.

16 Is that correct, Mr. Bladine? Or
17 Vice-Chair Freeman?

18 VICE-CHAIR FREEMAN: That's correct.

19 CHAIRPERSON MATHIS: Thank you.

20 That brings us to adjournment.

21 So the time is 4:47 p.m. Thank you all for making
22 yourself available today for the meeting, and thanks to our
23 mapping consultant, legal counsel, and staff for pulling it
24 all together for us.

25 VICE-CHAIR HERRERA: Madam Chair.

1 CHAIRPERSON MATHIS: Mr. Herrera.

2 VICE-CHAIR HERRERA: Before we hang up, I know
3 that Commissioner Stertz also did, that I would also like to
4 welcome Willie to Arizona. I had no idea he moved to
5 Arizona. I checked my e-mail.

6 But welcome, Willie. And if you're buying beer,
7 invite me. I'm available.

8 Let me know where and when.

9 CHAIRPERSON MATHIS: I don't even know if Willie
10 is still in the room.

11 VICE-CHAIR HERRERA: Somebody give him that
12 message for me.

13 Thank you, guys.

14 CHAIRPERSON MATHIS: Thank you. Have a good
15 weekend.

16 The meeting is adjourned. It's 4:48 p.m. Thanks.
17 (Whereupon, the meeting adjourned.)

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1 STATE OF ARIZONA)
2 COUNTY OF MARICOPA) **ss.**

3
4 **BE IT KNOWN** that the foregoing proceeding was
5 taken before me, Marty Herder, a Certified Court Reporter,
6 CCR No. 50162, State of Arizona; that the foregoing
7 128 pages constitute a true and accurate transcript of all
8 proceedings had upon the taking of said meeting, all done to
9 the best of my skill and ability.

10 **DATED** at Chandler, Arizona, this 6th day of
11 August, 2012.

12
13 _____
14 C. Martin Herder, CCR
15 Certified Court Reporter
16 Certificate No. 50162
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