THE STATE OF ARIZONA

INDEPENDENT REDISTRICTING COMMISSION

REPORTER'S TRANSCRIPT OF VIDEOCONFERENCE PUBLIC MEETING

Via GoogleMeets

March 9, 2021

12:02 p.m.

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Reported By:
Deborah L. Wilks, RPR
Certified Reporter (AZ 50849)

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1 PUBLIC MEETING, BEFORE THE INDEPENDENT REDISTRICTING
2 COMMISSION, convened at 12:02 p.m. on March 9, 2021, via
3 GoogleMeets, Arizona, in the presence of the following
4 Commissioners:
5 Ms. Erika Neuberg, Chairperson
Mr. Derrick Watchman, Vice Chairman
6 Mr. David Mehl
Ms. Shereen Lerner
7 Mr. Douglas York
8 OTHERS PRESENT:
9 Ms. Yasmin Ramos, Administrative Assistant
Ms. Pamela Peiser, Assistant Attorney General
10 Ms. Caroline Guerrero, Assistant Attorney
General
11 Mr. Kyle Cummings, Assistant Attorney
General
12 Mr. John Fry, Assistant Attorney General
Ms. Jessica Klein, Assistant Attorney General
13 Mr. Andrew Tobin, Director
Ms. Nicole Sornsin, General Counsel
14 Mr. Ed Jimenez, State Procurement Administrator
15 *Members of the Public
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1 I N D E X

2 PROCEEDING: PAGE

3 ITEM I
ITEM I(A) 4
4 ITEM I(B) 5
ITEM II 5
5 ITEM III 7
ITEM IV 7
6 ITEM V 12
ITEM VI 52
7 ITEM VII 53
ITEM VIII 55
8 ITEM VIII(A) 55
ITEM VIII(B) 63
9 ITEM VIII(C) 66
ITEM VIII(D) 79
10 ITEM IX 101
ITEM X 101
11 ITEM XI 101
ITEM XI(A) 101
12 ITEM XII 102
ITEM XIII 103
13 ITEM XIV 107
ITEM XV 108
14 ITEM XVI 124
ITEM XVII 124
15 ITEM XVII 125

16

17

18

19

20

21

22

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P R O C E E D I N G

CHAIRPERSON NEUBERG: With that, I'm going to call this meeting to order.

Item Number I, call to order and roll call. Item I(A), call for quorum.

It is 12:02 p.m., Tuesday, March 9th, 2021. I call this meeting of the Independent Redistricting Commission to order.

For the record, the administrative assistant will be taking roll. When your name is called please indicate you are present. If you are unable to respond verbally we ask that you please type your name.

Yasmin.

MS. RAMOS: Thank you, Chairwoman.

Commissioner Mehl?

COMMISSIONER MEHL: Present.

MS. RAMOS: Commissioner Watchman?

VICE CHAIR WATCHMAN: Present.

MS. RAMOS: Commissioner Lerner?

COMMISSIONER LERNER: Present.

MS. RAMOS: Commissioner York?

COMMISSIONER YORK: Present.

MS. RAMOS: Commissioner Neuberg?

CHAIRPERSON NEUBERG: Present.

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MS. RAMOS: And then we also have -- from the Attorney General's Office we have Kyle Cummings, Caroline Guerrero, John Fry, and Jessica Klein. We also have our transcriber, Debbie Wilks, on the line. And from ADOA side we have Director Andy Tobin, Nicole Sornsin, our general counsel, and Ed Jimenez, our state procurement administrator, and myself, Yasmin Ramos.

Back to you, Chairwoman.

CHAIRPERSON NEUBERG: Thank you, Yasmin.

Please note for the minutes that a quorum is present.

Item I(B), call for notice.

Yasmin, was the notice and agenda for the commission meeting properly posted 48 hours in advance of today's meeting?

MS. RAMOS: Yes, it was.

CHAIRPERSON NEUBERG: Thank you very much.

Item Number II, approval of minutes from the March 2nd, 2021, general session public meeting. As a reminder, a video recording fulfills statutory requirements.

Is there any discussion regarding the public session minutes?

Do I have a motion to approve the public session minutes from March 2nd?

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COMMISSIONER LERNER: This is Commissioner Lerner. So moved.

CHAIRPERSON NEUBERG: Do we have a second?

COMMISSIONER YORK: This is Commissioner York. I second.

COMMISSIONER WATCHMAN: I second.

CHAIRPERSON NEUBERG: We'll have -- Commissioner Watchman, did you say you'll second?

VICE CHAIR WATCHMAN: I did. I'm sorry. Commissioner Watchman seconds the motion.

CHAIRPERSON NEUBERG: Okay. Any further discussion?

With that, we'll do a quick vote on the minutes.

Commissioner Watchman?

VICE CHAIR WATCHMAN: I'm sorry. I can't hear.

CHAIRPERSON NEUBERG: We need to approve the minutes, so aye or nay.

VICE CHAIR WATCHMAN: I'm sorry. Aye.

CHAIRPERSON NEUBERG: Commissioner Mehl.

COMMISSIONER MEHL: Aye.

CHAIRPERSON NEUBERG: Lerner.

COMMISSIONER LERNER: Aye.

CHAIRPERSON NEUBERG: York.

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1 COMMISSIONER YORK: Aye.
2 CHAIRPERSON NEUBERG: Neuberg is an aye, and
3 with that the minutes are passed. There were no
4 executive session minutes.
5 Item No. III, opportunity for public comments.
6 Public comment will now open at 12:05 p.m. for a
7 minimum of 30 minutes and remain open until the
8 adjournment of the meeting. Comments will only be
9 accepted electronically in writing on the link provided
10 in the notice and agenda for this public meeting. It
11 will be limited to 3,000 characters.
12 Please note, members of the Commission may not
13 discuss items that are not specifically identified on
14 the agenda. Therefore, pursuant to A.R.S.
15 38-431.01(H), action taken as a result of public
16 comment will be limited to directing staff to study the
17 matter, responding to any criticism, or scheduling the
18 matter for further consideration and decision at a
19 later date.
20 And with that we will move onto Item IV, which
21 is discussion and possible action on interview
22 questions and process/format for executive director
23 hiring.
24 The Commission may vote to go into executive
25 session, which will not be open to the public, for the

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1 purpose of obtaining legal advice and providing
2 direction to counsel pursuant to A.R.S. 38-431.03.
3 So as we stand now, we have a I think highly
4 vetted list of fabulous questions that tap into most
5 things. I am aware that there may be additional
6 questions that people are thinking about and want to
7 add. You all have that discretion to do so. And what
8 my suggestion would be in terms of the format, and our
9 hope is to be doing this next week -- and we can decide
10 the length of time for the interview after we determine
11 how many candidates we're interviewing.
12 But in terms of format, I envision, you know,
13 the five of us going around taking turns. Each
14 Commissioner would have an option to ask one question
15 and then have the ability to ask a follow-up question.
16 If there is time to go around twice, we should be
17 prepared to be able to cover, you know, all the
18 different areas that haven't been tapped into.
19 We want to remember the overarching principle
20 that we want enough consistency such that all
21 candidates are treated fairly, so if we carve out
22 niches that we are covering there is value to
23 continuing that, but there is also room in our
24 follow-up and some spontaneous questions that are
25 unique to the candidate, so we will use our discretion,

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1 understanding we don't want to violate any of the
2 employment, you know, laws that John has trained us on.
3 The other thing that I want to mention is that
4 it is our intention that we will hopefully do these
5 round -- this first round of interviews next Tuesday at
6 our regularly scheduled meeting at 9:00 a.m., whatever
7 candidates we select. It's possible, and maybe
8 probable, that we won't agree on one method and that we
9 might want to invite the top two or three back. I
10 suggest we plan for that possibility today because with
11 public records -- I mean, excuse me, open meeting law
12 we need to agendize this very early. So one option
13 would be to prepare for the first round of interviews
14 next Tuesday and then a second round of interviews with
15 only two, maybe three, either the Wednesday or
16 Thursday, so that hopefully by nine days from now we
17 are able to hire an executive director.
18 So with that, any questions? Before we go
19 into the specific candidates, any questions on the
20 process and format of what we're doing with this
21 hiring?
22 COMMISSIONER LERNER: Just as a follow-up,
23 this is Commissioner Lerner, just to make sure we're
24 clear, because I know I had sent in a few questions
25 that I think got blended in maybe with the ones that

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1 had been previously done. Just to clarify on the
2 follow-up piece, if we have follow-up questions once we
3 ask the first -- let's say the first candidate that
4 follow-up, do we need to ask each candidate that same
5 follow-up? Because I have been in things where
6 that's -- that's what happens. I just want to make
7 sure we're clear.
8 CHAIRPERSON NEUBERG: My -- so I'll answer and
9 then, you know, maybe I should just let John answer,
10 but my sense is we have the discretion to ask unique
11 questions that are relevant to the candidates, but the
12 spirit of our interview approach ought to be balanced
13 such that all candidates are treated appropriately.
14 MR. FRY: I think that's correct, Chairwoman
15 Neuberg and Commissioner Lerner. Have to use instincts
16 a little bit. There may be a follow-up question that
17 would have no application or be odd to ask than other
18 applicants, and certainly if we were to recall an
19 applicant because a question occurred to you that you
20 hadn't asked previously. But to the extent that
21 follow-up question has application to other applicants,
22 for consistency's sake not a bad idea to have.
23 COMMISSIONER LERNER: Just to clarify. Thank
24 you.
25 CHAIRPERSON NEUBERG: I also, to be honest,

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1 imagine that if we have a second round of interview,
2 which is likely to happen, we may have a very different
3 set of questions for those final candidates, so don't
4 presume that this is your only opportunity to be
5 asking, you know, really pointed questions.
6 COMMISSIONER MEHL: This is Commissioner Mehl.
7 Commissioner Neuberg, I did come with a question this
8 morning, and I sent it to Yasmin, and I assume she can
9 forward it to others, but it relates to asking
10 specifically about the Constitutional priorities that I
11 thought actually was important to add, and it really
12 got into the boundaries role of executive director,
13 your Section II, as to the question under there, if you
14 thought it was appropriate.
15 CHAIRPERSON NEUBERG: Commissioner Mehl, you
16 know what, consider it added. All commissioners have
17 the discretion to ask these types of questions that I
18 think we all common sense wise we've been trained by
19 John to know that it's not going to violate, you know,
20 disability laws or -- or anything like that. So the
21 issue then, Commissioner Mehl, is if that's going to be
22 a question of concern just be consistent across your
23 questions with applicants.
24 COMMISSIONER MEHL: Thank you.
25 CHAIRPERSON NEUBERG: It's a very appropriate

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1 question.
2 Any further conversation?
3 I don't think there is anything we need to
4 have a motion on or decide on right -- right now, and I
5 would like to come back to the decision on length of
6 time of the interview and move on to Item No. V, unless
7 there is any other further comments or questions.
8 Okay. Great. With that we're going to move
9 on to Item V, discussion and possible action on
10 executive director and other administrative support
11 positions.
12 Before we move into the meat of this I would
13 actually like to put aside the less, you know,
14 substantive material. We've had 28 candidates apply
15 for executive assistant position as of March 4th. That
16 position closes on March 12th. I don't think there is
17 any need to take action on that right now given that we
18 are on the cusp of potentially hiring an executive
19 director.
20 So with that I would like to dive in to talk
21 about the process of going through our candidates. You
22 have all received 43 applications with cover letters,
23 if they were sent along with them. And extremely
24 importantly, you received a cover letter where each
25 applicant has been assigned a number. These applicants

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are entitled to confidentiality until or unless they are invited to come back for an interview. At that point their names will be released, if they consent and desire an interview, and the public would see those names. So as we discuss the candidates, let's be respectful as we discuss their history to be careful not to comment on truly identifying characteristics.

I would also suggest, as we briefly brought up last week, that one method might be that we first go around, the five of us, and just share the numbers of the people that you would like to interview. We could look at the commonalities and then go through the strengths and weaknesses as we saw them and then end up with a vote of who wants to interview these candidates.

So how does that process sound to everybody?

VICE CHAIR WATCHMAN: Good.

COMMISSIONER LERNER: Good.

CHAIRPERSON NEUBERG: Okay. Awesome. So I am going to start going around the room. And I guess we'll stick with just voting order just for the sake of continuity.

Commissioner Watchman, can you share the numbers of the people you would like to interview?

VICE CHAIR WATCHMAN: Gladly. Thank you, Madam Chair.

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I have, my candidates, the top five for me are Candidate Number 2, Candidate Number 5, Candidate Number 15, Candidate Number 17, and Candidate Number 36.

CHAIRPERSON NEUBERG: Okay. Commissioner Mehl.

COMMISSIONER MEHL: Candidate Number 1, Number 13, Number 20, Number 23, and Number 32.

CHAIRPERSON NEUBERG: Okay. Commissioner Lerner?

COMMISSIONER LERNER: Candidate Number -- and I didn't -- I did not stick to the five. Sorry.

CHAIRPERSON NEUBERG: You didn't have to. You didn't have to.

COMMISSIONER LERNER: Okay. All right. Candidate Number 2, Number 8, Number 15, Number 17, Number 24, Number 36, and Number 43.

CHAIRPERSON NEUBERG: Okay. And Commissioner York?

COMMISSIONER YORK: Good afternoon. Good afternoon. My candidates are Candidate 1, Candidate 13, Candidate 22.

CHAIRPERSON NEUBERG: Wait. Excuse me. Did you say 22?

COMMISSIONER YORK: Yes, ma'am.

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1 CHAIRPERSON NEUBERG: Okay. Thank you.
2 COMMISSIONER YORK: Candidate 32, and
3 Candidate 34.
4 CHAIRPERSON NEUBERG: Okay. And I am
5 interested in interviewing Candidate 1, Candidate 15,
6 Candidate 17, Candidate 32, Candidate 42, and Candidate
7 43, so I have six.
8 COMMISSIONER YORK: 43. We didn't have 43.
9 CHAIRPERSON NEUBERG: Okay. Commissioner
10 York, you are -- this is a very big problem. You are
11 using an outdated numbering system, and you immediately
12 need to find the most recent one. There are 43
13 candidates, because it affects your entire list.
14 Yasmin, to make it easier, if you could just
15 kind of send it to him right now so he could look at
16 that.
17 MS. RAMOS: Yes. And it's not completely -- I
18 think I added the last one to the bottom, but I'll go
19 ahead and send it right away, the numbering.
20 CHAIRPERSON NEUBERG: Right. Everybody's list
21 should have the 43, and the one candidate that was --
22 we weren't sure if she had withdrawn or not, so there
23 is one candidate who is not in alphabetical order, and
24 that's Number 43. It is essential people are looking
25 at the same list.

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COMMISSIONER YORK: I know who that is, yes.

CHAIRPERSON NEUBERG: So can everybody please confirm that your numbers correspond with this list of 43 candidates, with the last one being out of order.

COMMISSIONER LERNER: Confirm.

CHAIRPERSON NEUBERG: Okay. So, Commissioner York, do you need to change your numbers?

COMMISSIONER YORK: No.

CHAIRPERSON NEUBERG: Oh, they're the same numbers.

COMMISSIONER LERNER: Well, I didn't pick 43.

CHAIRPERSON NEUBERG: No, but the ordering of them may have changed. So you have confirmed on the new list that it's still the same number? Because the alphabetized list changed, so numbering changed between the two lists.

COMMISSIONER YORK: I thought Yasmin just said she sent that -- she added that person, that particular applicant to the bottom. Am I right on that?

MS. RAMOS: Yes, that is correct, and that's the one you had asked about, Commissioner York.

COMMISSIONER YORK: I knew who that person was. They just weren't on the original list.

CHAIRPERSON NEUBERG: Okay.

COMMISSIONER YORK: The numbering doesn't --

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1 CHAIRPERSON NEUBERG: Okay. Terrific.
2 So here is my suggestion: Yasmin, while we
3 begin could you please just compile an order of all the
4 candidates that you identified so we can briefly just
5 discuss what people saw as their strengths and
6 weaknesses and reasons why people wanted to interview
7 them, and then after that we can come back and vote.
8 So one commonality that I already see is with
9 Candidate 1, and so there are three of us. I along
10 with Commissioner Mehl and York obviously found some
11 strengths, so would the other two commissioners like to
12 begin by, you know, sharing, you know, what criteria
13 you used in looking at the applications, what you found
14 attractive about this candidate, what weaknesses you
15 might find, and why you would recommend that we
16 interview these people.
17 COMMISSIONER YORK: Shereen, do you want to
18 start?
19 CHAIRPERSON NEUBERG: No, no. I'm asking
20 Commissioner York and Mehl because the two of you were
21 the ones who recommended Candidate 1. The others did
22 not.
23 So I would like to start with you, asking what
24 did you like about this candidate? What were the
25 positives? Were there any negatives? And then we can

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open up to concerns from the others, but I would like to hear why you picked this person.

COMMISSIONER MEHL: This is Commissioner Mehl. They have a very extensive background in a major -- in an Arizona government agency. I've talked to several people that know this person and know of their work within that agency and have talked about the really strong communication ability, very strong work ethic, a knowledge of the state and open meeting, and just overall looked like that this person had a very strong background and was spoken of very highly of by three different people that I was able to talk to that knew them.

CHAIRPERSON NEUBERG: Commissioner York, anything you want to add?

COMMISSIONER YORK: I just now have the feedback copy that I received.

This person was a people person, has ability to build communication across all parties lines, and would do a great job of building consensus and helping the Commission move forward on making our decisions.

CHAIRPERSON NEUBERG: And what I was attracted to, in addition to the kinds of things that you shared, I thought this candidate wrote a fabulous cover letter, so well-written, and, you know, demonstrated excellent

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1 communication skills, awareness of what this person's
2 strengths and weaknesses were, and a dedication to work
3 in a bipartisan way, somebody who really knows the
4 communities, somebody who has been a Flinn-Brown
5 fellow. This person could hit the ground running, and
6 I believe this person knows how to work with all sides
7 and would understand limitations where he or she would
8 need to maybe fill out the staff in other ways to
9 compensate. So when you get a talent like that, for
10 me, I want to interview them. That's how I see it.
11 Those who didn't -- weren't attracted -- or, I
12 mean, look, it's not attracted. It's making a very top
13 list. I want to emphasize these are all remarkable
14 people, and we're looking for such a unique niche, so
15 it's hard. But any -- any overt, you know, objections
16 or things you want to raise, the other Commissioners?
17 COMMISSIONER LERNER: Well, this is
18 Commissioner Lerner. As I was looking through I was
19 doing my best to try to find people who were -- who
20 seemed, at least from my knowledge, because I'm not
21 completely connected in the political arena to be as
22 independent as possible. I'm looking for somebody that
23 has a great deal of that independence. So my concern
24 in this particular case is that this person is clearly
25 not an independent. Not that that person couldn't work

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1 in that way, not saying that they couldn't, but clearly
2 was not -- is not that.
3 So that was my -- I will tell you up front
4 that was my primary concern. Certainly the person has
5 a lot of experience, but I look at it as this ED
6 position really needs to be somebody as close to
7 independent as we can get so that all parties feel very
8 comfortable speaking to that person and knowing that
9 they're going to get a balance from that person and
10 that when they do their hiring they will also get that
11 balance.
12 VICE CHAIR WATCHMAN: This is Commissioner
13 Watchman. I guess you asked for anything negative
14 side. The only things that I found was just, you know,
15 how seasoned is the individual. And so, you know, you
16 can kind of -- well, the seasonality and maybe age, you
17 know, not supposed to look at, but, you know, how
18 seasoned is the person, so, you know, qualified, but,
19 you know, more seasoning would help, but on the
20 negative side for me, but good candidate as well.
21 CHAIRPERSON NEUBERG: You know, one thing I
22 want to say in response, Commissioner Lerner and
23 Watchman, and with regard to, you know, do we find the
24 most independent person, I have to be honest. I didn't
25 see it through that lens. And the reason being I think

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1 we need the most competent person who can transcend any
2 kind of partisan issues and can we find a group of
3 staff members -- you know, and if we limit ourselves to
4 the most brilliant ones just because they -- most of
5 mine have partisan interests. You know, so do we limit
6 ourselves from the best and the brightest, even if we
7 trust their motivation and even if we commit to each
8 other that there be a diversity of opinion through the
9 broader hires? So I just wanted to share with you when
10 I did my own struggles about what kind of candidate --
11 and we all have different criteria -- I allowed for
12 some partisanship or partisan interests provided that
13 there is demonstration of an ability to work with
14 everybody and to commit to higher missions, so for that
15 reason I supported Candidate 1.
16 The next candidate, Yasmin, in the group?
17 MS. RAMOS: It would be -- are we discussing
18 all of them or just the top ones?
19 CHAIRPERSON NEUBERG: No. We're discussing
20 each one just briefly.
21 MS. RAMOS: Okay. 2.
22 CHAIRPERSON NEUBERG: Okay. Two people, Derek
23 and Shereen, picked Number 2. Do you want to share
24 briefly what you think?
25 VICE CHAIR WATCHMAN: This is Commissioner

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1 Watchman. I can start.
2 I like Candidate Number 2 for a couple of
3 reasons. One is their -- their previous work
4 experience with the State. I think that's important,
5 able to maneuver with us in the State. And then also
6 having an experience with the Attorney General's
7 Office, since they will directly have to deal with our
8 lawyers.
9 Then, of course, the education. Working on it
10 looks like their Ph.D., and so -- but I like the fact
11 that they have previous experience with the state
12 government, and I think that's important. So that's my
13 top qualifier, so thank you.
14 COMMISSIONER LERNER: This is Commissioner
15 Lerner.
16 I look at the range of experience for this
17 person, and they had both state as well as -- they also
18 had been in a local position as -- I'm not going to
19 speak to the specifics, but they also had been in local
20 positions. So they had a wide range of experience,
21 everywhere from local communities all the way up
22 through the state, and a number of different things
23 where they had been in positions of authority as well,
24 deputy director, director, and so forth.
25 And I will say this person -- there is

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1 partisanship to this person, but I felt based upon what
2 I was reading there was a balance as well in their --
3 in terms of things. So as you were speaking earlier,
4 it's not like we can get automatically nonpartisan for
5 everybody, so I tried to balance that out. So I just
6 thought that the range of experience here was
7 something. And there was also communications in here,
8 which I thought would be a nice balance as well, so
9 that's what I liked about Number 2.
10 CHAIRPERSON NEUBERG: For me, I did include
11 Number 2. I saw some real potential in Number 2. I
12 didn't feel Number 2 was as ready to hit the ground
13 running as the other candidates. I felt Number 2 would
14 be ready maybe a few months from now, and I just --
15 this unique position requires just really jumping in
16 and knowing how to handle everything right away, so
17 that was one -- that was a concern of mine. I don't
18 know if anybody else, any of the other commissioners
19 want to add any -- any concerns they had.
20 COMMISSIONER YORK: I would say real
21 briefly -- this is Commissioner York -- my concern with
22 Candidate Number 2 was just the amount of job changes
23 over the last ten years. That was concerning to me,
24 some things I look for, I guess.
25 CHAIRPERSON NEUBERG: Great.

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1 Yasmin, we're done with 1, 2. Who is next?
2 MS. RAMOS: 5.
3 CHAIRPERSON NEUBERG: Okay. Who -- it was
4 Commissioner Watchman who recommended Number 5.
5 Commissioner Watchman, would you like to
6 share?
7 VICE CHAIR WATCHMAN: Yes. Commissioner
8 Watchman here. Thank you, Madam Chair.
9 This candidate, in my opinion, I liked because
10 having experience with the governor's office, policy
11 advisor to the legislature, and then working at the
12 county level, so kind of a good knowledge and thorough
13 knowledge of the state government and had the ability
14 to communicate, being a press person, so I thought
15 those two qualities were good qualifiers for me to
16 recommend Candidate Number 5.
17 CHAIRPERSON NEUBERG: Anybody want to add
18 anything else on a pro or con?
19 COMMISSIONER MEHL: Commissioner Mehl. I
20 don't know how blunt we're supposed to be on this. I
21 talked to several people that knew Candidate 5 and
22 thought that he was -- that this person was very
23 difficult to work with.
24 CHAIRPERSON NEUBERG: Okay. Please be candid.
25 That's -- it's numbers, and we're protecting

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1 everybody's confidentiality, and we need to protect,
2 you know, the integrity of this process, so thank you.
3 Let's move on. What's after number 5?
4 MS. RAMOS: 8.
5 CHAIRPERSON NEUBERG: Okay. Commissioner
6 Lerner has Number 8.
7 COMMISSIONER LERNER: Correct. And I will
8 tell you that the main thing that drew me to
9 Commissioner 8, we had a few different people like
10 this, actually, who had experience in things like
11 conflict resolution and collaboration, those kinds of
12 characteristics. And there were several actually in
13 our pool that had that. That's what drew me to this
14 particular person. They had worked for the State as
15 well. They had other experiences with agencies, but
16 that was the primary thing. This is not -- I will be
17 honest, not the highest on my list, but it is somebody
18 who was on my list for a few of those qualities that I
19 think are important.
20 CHAIRPERSON NEUBERG: I had two flags. One
21 was that I felt that I wasn't sure that this person
22 could hit the ground running, and my second was I
23 wasn't sure what this person has been doing for the
24 last few years.
25 But if it's not a priority, I suggest we move

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on to the next one, because he was -- or she was the only one on your list. So after Number 8, Yasmin?

MS. RAMOS: 13.

CHAIRPERSON NEUBERG: Okay. 13 was on Commissioner Mehl's and Commissioner York's.

Would you like to give a recommendation for that?

COMMISSIONER YORK: This is Commissioner York. Candidate 13 did have some experience in engineering and a background in certain aspects that I thought would be important to guide the mapping process, so I was attracted to him for that, mathematics degree, and so --

CHAIRPERSON NEUBERG: Commissioner Mehl?

COMMISSIONER MEHL: As with all the candidates, as I do in my own business when I've hired, I try to call around, and I heard some good things about -- about this person. I wouldn't put that -- put them at the highest of the ones that were on my list. But he did -- but there is some good solid background here. There was a number of people who applied who came out of -- really come out of education side of the State, and of those I thought that this was a strongest of the educational background people.

CHAIRPERSON NEUBERG: I know this candidate,

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1 have known this candidate for a while, and agree with
2 your characterization of this person. My only concern
3 is I'm not sure that he or she is ready to just jump in
4 right now, but really a great candidate, and maybe at
5 the end we could be persuaded to throw one in, but I
6 don't think the candidate in my eyes rises to the level
7 of sophistication and experience that I think would be
8 helpful to us.
9 Any concerns from the other commissioners
10 about this candidate?
11 COMMISSIONER LERNER: This is Commissioner
12 Lerner.
13 I just felt that he didn't have enough
14 experience at this point. That was my main -- it was
15 an interesting background, but I felt that there was a
16 need for a little bit more seasoning.
17 CHAIRPERSON NEUBERG: Right. Okay. What is
18 next, Yasmin?
19 MS. RAMOS: The next one is 15.
20 CHAIRPERSON NEUBERG: Okay. Whose list -- so
21 15 was on Commissioner Watchman, Commissioner Lerner,
22 and Commissioner Neuberg. So who would like to start?
23 VICE CHAIR WATCHMAN: I can start. This is
24 Commissioner Watchman. You mentioned hitting the
25 ground running. This candidate is a previous employee

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of the Commission in two capacities, and so I think this person definitely --

CHAIRPERSON NEUBERG: Commissioner Watchman, please be careful about identifying criteria.

VICE CHAIR WATCHMAN: Okay. Well, previous association and extensive experience with the Arizona government, and obviously the education, so, but this person I believe could hit the ground running, and I'll just stop there.

CHAIRPERSON NEUBERG: Okay. Thank you.

COMMISSIONER LERNER: This is Commissioner Lerner.

That's how I felt. There is a lot of experience here working with the government, and I -- to me that was a priority all the way through, because we had talked about the fact that we want people with government experience who can work, and so I always looked for local, state, you know, county kind of government. That's part of what I was looking for. I just feel this person could jump in and get going pretty quickly with the background that the person has.

CHAIRPERSON NEUBERG: And I share your sentiment. I feel this person understands the job and could competently, successfully manage the job. I think this person, you know, can handle conflict and

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1 tension can really get along with people and kind of
2 serve as that connector type that you know we need in a
3 team, and I think really deserves an interview, you
4 know, given the unique contributions I think this
5 person can make. That's my sense.
6 Any opposition or any concerns on the other
7 side?
8 COMMISSIONER YORK: My concern was I really
9 appreciated that candidate's experience. My concern
10 considering the last process was not completely
11 flawless, that maybe the optics of re-introducing the
12 candidate back into the process here. That was my
13 concern.
14 CHAIRPERSON NEUBERG: I share the concern, but
15 from a slightly different perspective. My perspective
16 is, you know, each process is unique and we want, you
17 know, the opportunity to learn but have, you know,
18 fresh new eyes, and, you know, we need to make sure
19 that somebody is going to be serving our team with our
20 vision of what that team is, but that's something that
21 could you know certainly be vetted and discussed.
22 So any other comments with 17? Otherwise,
23 Yasmin, the next candidate, please.
24 MS. RAMOS: That was actually 15, and the next
25 one is 17. The next one is 17, though.

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1 CHAIRPERSON NEUBERG: Yes. Who did -- okay.
2 So Commissioner Watchman was 17, Commissioner Lerner
3 was 17, and Commissioner Neuberg is 17.
4 Lerner and Watchman, please share.
5 COMMISSIONER LERNER: So I -- this is
6 Commissioner Lerner.
7 I felt that this person had a great deal of
8 experience in -- again, in government in
9 administration. I don't want to be specific about the
10 places the person has worked, but the person certainly
11 would seem to know both state and county level kinds
12 of -- has worked in both state, county, and even
13 governor, and just a variety of different places, and I
14 feel could be -- just could have a good deal of
15 experience that they could bring to the table as part
16 of it. And worth just an interview, if nothing else.
17 CHAIRPERSON NEUBERG: Commissioner Watchman,
18 anything you want to add to that?
19 VICE CHAIR WATCHMAN: No. I guess --
20 Commissioner Watchman here. Basically I echo what
21 Commissioner Lerner has stated. Worth an interview.
22 The experience that this person has I think would be a
23 potential candidate, so, again, worth an interview.
24 CHAIRPERSON NEUBERG: I personally was very
25 attracted to this person's significant experience with

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state legislature, this person's willingness to work all across the aisle. The cover letter was so well-written, which again is just like providing a writing sample, a great communicator, and so I think this person has talent and is consistent with -- you know, I'm not afraid to be interviewing people that may have some partisan inclinations for the sake of finding that dynamic right person with, I want to note, the commitment to balance out the rest of the staff to reflect the diversity of our state, so that is why I wanted to support Number 17.

Any concerns from the other commissioners?

COMMISSIONER MEHL: Commissioner Mehl.

I would say that if you're looking at background this is one more of the partisan backgrounds we're going to see so I will have to laugh at my -- Commissioner Lerner on this one.

COMMISSIONER LERNER: You know what, I knew that. I'm willing to go with one and you can go with two.

COMMISSIONER MEHL: And the current position that they've been has also been a hot spot of controversy. That would be my other negative.

COMMISSIONER LERNER: You can laugh at me or with me.

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CHAIRPERSON NEUBERG: You know, and look, we acknowledge that, and I think -- I applaud all of you for just being transparent and open about how you're processing these applications, because, again, I'm not afraid of a partisan inclination. We all can put aside, you know, alternative pulls or interests for the sake of a commons mission that transcends that. And at the end of the day our question is who is the best person with the greatest skills who can transcend their past experience and help us accomplish our task. And I want the best and the brightest.

So with that, acknowledging that there is, you know, maybe not straight down the middle, after Number 17 where are we, Yasmin?

MS. RAMOS: 20.

COMMISSIONER MEHL: Commissioner Neuberg, I do want to clarify. My big issue was with the controversy of the current position. I was laughing about the partisan side because I am supporting several candidates that also have a partisan side.

CHAIRPERSON NEUBERG: Okay. After Number 17 did you say 20?

MS. RAMOS: Yes, 20.

CHAIRPERSON NEUBERG: Okay. Who recommended 20?

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1 COMMISSIONER MEHL: I was the only one on 20,
2 and that person is not highest on my list, and with no
3 other support I'm fine with -- with passing.
4 CHAIRPERSON NEUBERG: Okay. So let's move on.
5 What's after 20?
6 MS. RAMOS: 22, and that's Commissioner York.
7 CHAIRPERSON NEUBERG: And I believe you were
8 the only one, Commissioner York.
9 COMMISSIONER YORK: I was. This -- this
10 candidate struck -- was attracted to me a lot from his
11 experience in the professional industry and running
12 different associations. I was thinking perhaps that
13 would be a need for the executive director at some
14 point, that they be able to manage to that and add some
15 experience to that, so that was the attraction to this
16 candidate.
17 CHAIRPERSON NEUBERG: I wasn't opposed to the
18 candidate. I felt the candidate did not rise to the
19 level of the other candidates.
20 COMMISSIONER YORK: Kind of agree.
21 CHAIRPERSON NEUBERG: So let's take that --
22 yeah, that person will not be in consideration.
23 And who is after that?
24 MS. RAMOS: 23, and that was Commissioner
25 Mehl.

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1 COMMISSIONER MEHL: Once again, I'm the
2 low-end supporter of Candidate 23, and that is the most
3 partisan on my list, partisan background. I actually
4 heard very, very good things about this person, but I
5 think with no other support I'm fine moving on.
6 CHAIRPERSON NEUBERG: Great person.
7 COMMISSIONER YORK: I've heard good things
8 about this candidate as well.
9 CHAIRPERSON NEUBERG: In my eyes just not the
10 right fit.
11 Who is after that?
12 MS. RAMOS: 24, and that would be Commissioner
13 Lerner.
14 COMMISSIONER LERNER: And apparently I'm the
15 only one here so I will also do the same as others when
16 I'm the only one. I was attracted to this person
17 because of their background. I thought they had some
18 interesting things that they could bring to this and
19 different perspectives and mentioned education early on
20 with one of the candidates. I saw that with this one,
21 too, so I kind of liked that perspective. But being
22 the only one here, it's also not the top.
23 And I will mention there were a number of
24 candidates who would fit other positions that we are
25 going to need, and it would be interesting to have

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1 that. There is some that would fit some of the other
2 things we're looking at, deputies or finance, you know,
3 some of those things. That's one of the things I loved
4 about this pool was the variety of people who had some
5 of those other skill sets.
6 CHAIRPERSON NEUBERG: I agree with you
7 100 percent, Commissioner Lerner, and, you know, let's
8 do this first hire and then after that we can
9 strategically think how to fill in the rest of the
10 staff such that representation is achieved and balance
11 and, you know, but I think we just have to start right
12 now with picking the best and the brightest to really
13 get us off to this next start.
14 So who is next on the list, Yasmin?
15 MS. RAMOS: 32, and that's by Commissioner
16 Neuberg, Commissioner Mehl, and Commissioner York.
17 CHAIRPERSON NEUBERG: Mehl and York, please
18 start.
19 COMMISSIONER MEHL: I thought this was one of
20 the stronger candidates on the list, very strong
21 background with this current position. And, again,
22 I've heard extremely good things about his
23 communication skills, ability to get along with others,
24 ability to get along with people in both parties. He
25 has a strong working relationship with -- with people

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1 from both parties, and I just -- I heard a number of
2 very, very positive things on this candidate.
3 COMMISSIONER YORK: Commissioner York.
4 I would add to that he's a seasoned applicant
5 and would represent the State well. I believe his
6 current capacity is pretty neutral government job, and
7 I think this would just extend to help us do a better
8 job as a counsel.
9 CHAIRPERSON NEUBERG: I, too, felt that this
10 person is really pragmatic, really gets along,
11 effective, efficient, well-regarded, and somebody that
12 we -- somebody in my mind would I like to take a look
13 at, who can hit the ground running and do this job.
14 Any concerns?
15 Okay. Yasmin, the next?
16 MS. RAMOS: The next one would be 34, and that
17 was Commissioner York.
18 COMMISSIONER YORK: Yes. This is my last
19 choice. Not my strongest choice since I was the only
20 person who recommended him. I like his experience on a
21 national level. I like the optics into what could be
22 going on in the future and help us with some
23 decision-making, but like I said, it wasn't my
24 strongest choice.
25 CHAIRPERSON NEUBERG: If nobody else selected

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1 this candidate I suggest we move on.
2 MS. RAMOS: The next one is 36, and that is
3 Commissioner Watchman and Commissioner Lerner.
4 COMMISSIONER LERNER: I'm just pulling that
5 person's name up, if Commissioner Watchman wants to go
6 before me.
7 VICE CHAIR WATCHMAN: Well, I saw that person
8 as a person to interview for a couple of reasons. One,
9 again, experience with the government in several
10 capacities. I thought that was good. The cover
11 letter -- there is no cover letter, actually. Wrong
12 notes here. But also having experience in data
13 analysis and data review, I thought those were
14 important for the mapping, and then just education. So
15 for me this -- this individual would be a good person
16 to interview. Kind of my middle candidate, but I
17 thought someone that is worth talking to.
18 CHAIRPERSON NEUBERG: I was attracted to the
19 things that the two of you were talking about. I would
20 like to share that just in kind of looking into
21 candidates. I heard some feedback that maybe, you
22 know, this person might not be the best fit just in
23 terms of, you know, collegiality and consensus and
24 other things. And so for me, given that this person
25 didn't rise to the level of the others that I was

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1 interested in, I left this person off my list.
2 COMMISSIONER LERNER: So this is Commissioner
3 Lerner, and that's an important point that you heard.
4 I did not do the due diligence that either you or
5 Commissioner Mehl did in terms of calling people about
6 some of these. But I -- I was really impressed with
7 the experience in terms of what we need for this. I
8 thought that this person had quite a bit of things that
9 relayed very closely to what -- what roles we were
10 going to be involved in, so that was why I said, you
11 know, if we need to move forward without person that's
12 fine, but I do feel they have quite a few strengths in
13 working at the federal, state, county level and working
14 in the area that we're going to be working in as well
15 in terms of understanding -- I'm trying not to be
16 specific -- understanding some of the issues. So
17 that's why I thought they were a fairly strong
18 candidate or could be, but, again, I didn't do that
19 other piece that you just commented on.
20 CHAIRPERSON NEUBERG: Look, if you and
21 Commissioner Watchman feel this is somebody we ought to
22 really look into -- and I like to give people real
23 opportunity. It's not going -- my sense is we're not
24 going to have a huge list next week to interview, so if
25 there is somebody that's important to you I would like

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1 to know that.
2 COMMISSIONER LERNER: As we finish through
3 these I guess I'll know where my top priorities are as
4 I kind of go through.
5 VICE CHAIR WATCHMAN: I would like to keep
6 this person on the list, if we get down that point. I
7 think this candidate has potential with all the
8 attributes that we're discussing. If we could, I would
9 like to.
10 COMMISSIONER YORK: This is Commissioner York.
11 The only concern I have is this candidate had
12 lots of experience, but I was concerned maybe it wasn't
13 enough at the state government level. There is a lot
14 of stuff from at other levels in government, and so
15 that was my concern when I looked at this.
16 CHAIRPERSON NEUBERG: Thank you.
17 Okay. Next number.
18 MS. RAMOS: 42, and that was selected by you.
19 CHAIRPERSON NEUBERG: I'm the only one that
20 picked 42? Okay. Well, then, you know what, I saw --
21 I saw a dynamic person with an entrepreneurial spirit,
22 but not important enough, so we're done.
23 COMMISSIONER LERNER: Commissioner Neuberg, I
24 apparently had -- I had also 42, and I hadn't read that
25 one out, so my apologies for that. I think I was

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1 getting nervous on how many I had. I didn't keep to
2 the five. I did like that person, but I found -- I
3 will say that I didn't feel that they had as much
4 government experience. That maybe why they were on my
5 first list, and then I was a little concerned about,
6 because I have been focusing on government experience,
7 that that person didn't have as much as other
8 candidates, but I felt they had some great leadership
9 experience, and that's what attracted me to that
10 person. But then because I was using government as one
11 of my criteria that's why I had -- when I started
12 thinking I had too many I pulled that person off, but
13 if there is an opportunity I think this person has
14 great leadership skills.
15 CHAIRPERSON NEUBERG: But based on what you're
16 saying, I want to share I actually had a concern. This
17 person was on my bubble because the cover letter was
18 not impressive as a writing sample for me, and that --
19 you know, I'm a stickler. Just my background, I want
20 communication to be, you know, done in a certain way,
21 so given that there is not a lot of consensus I think
22 we can move on.
23 Last one -- I believe there was 43. Anybody
24 else who suggested 43? Okay. Let's cross this person
25 off.

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1 COMMISSIONER LERNER: I also -- I had 43 on my
2 list as well.
3 CHAIRPERSON NEUBERG: Okay.
4 COMMISSIONER LERNER: I think I had mentioned
5 43. I had not mention 42 because I had been concerned
6 about that. I did list 43, also, because I thought
7 that they had -- I mean, not going through much detail
8 with this, but I thought they had some good, again,
9 executive experience in this case, and I thought that
10 they also had experience with state government that
11 could help us so and public affairs. I thought they
12 brought quite a bit of interesting experience as part
13 of this, you know, and that's what attracted me to this
14 particular person was the range of experience, not just
15 in one field, that they had a variety of things.
16 CHAIRPERSON NEUBERG: Agree.
17 And any opposition or -- all right. So --
18 COMMISSIONER YORK: I have one question
19 regarding Candidate 43. My concern is that, yeah, the
20 experience is broad, but maybe it's in the wrong areas
21 that we're looking for as we go forward from an
22 executive director standpoint, and considering the -- I
23 don't know. I felt they needed a little more state
24 background. That was my concern.
25 CHAIRPERSON NEUBERG: Okay. I feel that I am

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1 ready to vote on the candidates where we could list
2 them one by one and if a majority would like to
3 interview them they will be interviewed, and if there
4 is less than a majority they will not be interviewed.
5 Does that sound appropriate Counsel and John?
6 MR. FRY: I'll defer to Pam on the procedural
7 question. Process-wise that makes sense to me.
8 CHAIRPERSON NEUBERG: Okay. Unless we hear
9 opposition -- let's go through the numbers again. I'm
10 sorry, Yasmin, but this can be very quick because I
11 believe that, you know, we're very thoughtful of what
12 we want. So let's at least start with Candidate Number
13 1. We'll -- I think we have to vote all five of us
14 each time, I believe.
15 MS. RAMOS: So there were a couple of them
16 that I believe were removed from the list. Just to
17 confirm it's 8, 20, 22, 23, 24, and 34, and 42.
18 CHAIRPERSON NEUBERG: Can you just quickly
19 recite the numbers that we're going to vote on?
20 MS. RAMOS: 1, 2, 5, 13, 15, 17, 32, 36, and
21 43.
22 CHAIRPERSON NEUBERG: Okay. Excellent.
23 So we're going to do a very quick vote, going
24 around, the five of us, on each of these candidates.
25 Candidate Number 1, Commissioner Watchman?

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VICE CHAIR WATCHMAN: I vote yes.

CHAIRPERSON NEUBERG: Commissioner Mehl?

COMMISSIONER MEHL: Yes.

CHAIRPERSON NEUBERG: Commissioner Lerner?

COMMISSIONER LERNER: Yes.

CHAIRPERSON NEUBERG: Commissioner York?

COMMISSIONER YORK: Yes.

CHAIRPERSON NEUBERG: Commissioner Neuberg is a yes.

1 is unanimous to be interviewed.

Candidate Number 2. Commissioner Watchman.

VICE CHAIR WATCHMAN: I vote yes.

CHAIRPERSON NEUBERG: Commissioner Mehl.

COMMISSIONER MEHL: Yes.

CHAIRPERSON NEUBERG: Commissioner Lerner.

COMMISSIONER LERNER: Yes.

CHAIRPERSON NEUBERG: Commissioner York.

COMMISSIONER YORK: No.

CHAIRPERSON NEUBERG: And Commissioner Neuberg is a no as well, but the majority rules. We will interview Candidate Number 2.

Candidate Number 5. Commissioner Watchman.

VICE CHAIR WATCHMAN: No.

CHAIRPERSON NEUBERG: Mehl.

COMMISSIONER MEHL: No.

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1 CHAIRPERSON NEUBERG: Lerner.
2 COMMISSIONER LERNER: No.
3 CHAIRPERSON NEUBERG: York.
4 COMMISSIONER YORK: No.
5 CHAIRPERSON NEUBERG: And Neuberg is a no.
6 Number 5 is crossed off.
7 On Number 13. Commissioner Watchman.
8 VICE CHAIR WATCHMAN: Yes.
9 CHAIRPERSON NEUBERG: Commissioner Lerner?
10 COMMISSIONER LERNER: No.
11 CHAIRPERSON NEUBERG: Commissioner Mehl?
12 COMMISSIONER MEHL: Yes.
13 CHAIRPERSON NEUBERG: Commissioner York?
14 COMMISSIONER YORK: Yes.
15 CHAIRPERSON NEUBERG: Commissioner Neuberg is
16 a no.
17 I believe it's 3 to 2, so we will interview
18 Number 13.
19 Number 15. Commissioner Watchman.
20 VICE CHAIR WATCHMAN: Yes.
21 CHAIRPERSON NEUBERG: Commissioner Lerner. I
22 mean, I'm sorry, Commissioner Mehl. I'm looking at
23 your --
24 COMMISSIONER MEHL: No.
25 CHAIRPERSON NEUBERG: Commissioner Lerner?

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COMMISSIONER LERNER: Yes.

CHAIRPERSON NEUBERG: Commissioner York.

COMMISSIONER YORK: Yes.

CHAIRPERSON NEUBERG: Commissioner Neuberg is a -- are we on Number 15? Yes. I am a yes.

So Number 15 will be interviewed.

We are now on Number 17. Commissioner Watchman.

VICE CHAIR WATCHMAN: Yes.

CHAIRPERSON NEUBERG: Commissioner Mehl.

COMMISSIONER MEHL: No.

CHAIRPERSON NEUBERG: Commissioner Lerner.

COMMISSIONER LERNER: Yes.

CHAIRPERSON NEUBERG: Commissioner York.

COMMISSIONER YORK: No.

CHAIRPERSON NEUBERG: And Commissioner Neuberg is a yes.

And so we will be interviewing Number 17.

Number 32. Commissioner Watchman.

VICE CHAIR WATCHMAN: Yes.

CHAIRPERSON NEUBERG: Commissioner Mehl.

COMMISSIONER MEHL: Yes.

CHAIRPERSON NEUBERG: Commissioner Lerner.

COMMISSIONER LERNER: Yes.

CHAIRPERSON NEUBERG: Commissioner York.

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COMMISSIONER YORK: Yes.

CHAIRPERSON NEUBERG: Commissioner Neuberg is a yes. We will be interviewing Number 32.

Number 36. Commissioner Watchman.

VICE CHAIR WATCHMAN: Yes.

CHAIRPERSON NEUBERG: Commissioner Mehl.

COMMISSIONER MEHL: No.

CHAIRPERSON NEUBERG: Commissioner Lerner.

COMMISSIONER LERNER: Yes.

CHAIRPERSON NEUBERG: Commissioner York.

COMMISSIONER YORK: I would say no.

CHAIRPERSON NEUBERG: Commissioner Neuberg is a no. We will take 36 off the list.

Number 43. Commissioner Watchman.

Actually, 42 was crossed off.

43. Commissioner Watchman.

VICE CHAIR WATCHMAN: No.

CHAIRPERSON NEUBERG: Commissioner Mehl.

COMMISSIONER MEHL: No.

CHAIRPERSON NEUBERG: Commissioner Lerner.

COMMISSIONER LERNER: Yes.

CHAIRPERSON NEUBERG: Commissioner York.

COMMISSIONER YORK: No.

CHAIRPERSON NEUBERG: Commissioner Neuberg is a no.

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1 And so 43 is taken off.
2 I have we will be inviting Candidates 1, 2,
3 13, 15, 17, and 32, so six final candidates.
4 COMMISSIONER MEHL: Commissioner Neuberg, is
5 it possible to change a vote on one? I would like to
6 reconsider my vote on number 13, if that would be
7 allowed, and then we could be down to five candidates
8 interview.
9 CHAIRPERSON NEUBERG: And so you would like to
10 remove your support for Candidate 13 and --
11 I'm good with that. Okay. So we have a list
12 of 1, 2, 15, 17, 32.
13 Okay. Do I have -- so I think the process now
14 is we will need a motion to support inviting these
15 candidates to an interview, preferably if we can
16 accommodate everybody's schedules, next Tuesday at
17 9:00. What we would also like to do so that if we
18 would like to keep open the possibility of having an
19 executive director next week is to look at our
20 calendars, which we will not do right now, but to see
21 if we can schedule a second interview opportunity for
22 these five candidates for either that Wednesday or
23 Thursday the 17th or 18 th, because I'm guessing that
24 we may, you know, get very close, but we may want to
25 call back a couple of people to ask, you know, kind of

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1 additional, you know, targeted questions. So let's not
2 look at our calendar right now. I just wanted to
3 highlight kind of what we should expect in terms of the
4 interview process.
5 COMMISSIONER LERNER: Commissioner Neuberg?
6 CHAIRPERSON NEUBERG: Yes.
7 COMMISSIONER LERNER: We have not decided the
8 length of the interviews, either, at this point.
9 Correct?
10 CHAIRPERSON NEUBERG: Correct. So now that we
11 have identified that we will be interviewing five
12 candidates, does anybody have, you know, an idea in
13 mind of what you feel the appropriate length of time
14 would be?
15 COMMISSIONER YORK: My opinion it would be at
16 least 20 minutes and no more than a half hour.
17 CHAIRPERSON NEUBERG: Any other thoughts?
18 COMMISSIONER LERNER: Can we recall -- and
19 maybe, Commissioner Neuberg, you can recall, were you
20 given -- when we did the independent interview was that
21 a 30-minute? Did they give a timeframe? I don't
22 remember if we did.
23 CHAIRPERSON NEUBERG: To be honest, I don't
24 recall ever receiving a time limit, so unfortunately
25 not.

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1 COMMISSIONER LERNER: I tend to agree with
2 Commissioner York. I think a 30-minute time limit
3 would be sufficient --
4 CHAIRPERSON NEUBERG: Okay.
5 COMMISSIONER LERNER: -- on this as well. We
6 should be able to get enough information to know if we
7 want to call them back from then.
8 CHAIRPERSON NEUBERG: Thirty minutes sounds
9 appropriate for me.
10 VICE CHAIR WATCHMAN: I agree. Commissioner
11 Watchman agrees.
12 CHAIRPERSON NEUBERG: Okay. So do we need to
13 look -- so we need a motion to move forward to
14 interview these five candidates that we selected. We
15 will request interviews starting -- we are scheduled
16 for our typical meeting at 9:00 a.m. next Tuesday. We
17 may have some additional business, so to accommodate
18 the people who are applying we will do our best to see
19 when they're available next Tuesday and hope to get it
20 as efficiently scheduled per our normal meetings as
21 possible. We'll plan for half-hour intervals with five
22 minutes in between just so give us a little buffer.
23 COMMISSIONER LERNER: Commissioner Neuberg,
24 should we plan on a little bit longer meeting next week
25 if we're going to want to have some time after the

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interviews to discuss whether we want to bring anybody back?

CHAIRPERSON NEUBERG: When you say a longer meeting, I'm not sure it will be longer than today's meeting. You know, we just -- I think we should expect robust agendas every single week, and so what that means, I can't give you a number of hours, but, yeah, I mean there will be extra demands next week.

COMMISSIONER LERNER: I'm only looking at this if it will be two and a half hours in interviews, and then if we have additional meeting -- additional topics to discuss and also want to discuss the candidates, that's why I was asking if we should sort of prepare for potentially a little longer.

CHAIRPERSON NEUBERG: Yes.

COMMISSIONER LERNER: That's what I mean.

CHAIRPERSON NEUBERG: I think that would be ideal if the Commissioners would block most of the day aside of next week such that we can complete our business. I don't expect the business outside of these interviews to be as robust as it is today, just as an advance notice.

Okay. So actually I need an advisement from Counsel given that we just did an official vote what kind of motion do we need in terms of just moving

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forward, I guess a generic motion to move forward with interviewing those five candidates with the format that we talked about? Do I have a motion?

COMMISSIONER YORK: This is Commissioner York.

I propose a motion that we move forward with the interview process for Candidate 1, Candidate 2, Candidate 15, Candidate 17, and Candidate 32 for the executive director position for the Independent Redistricting Commission. Interviews will be set for March 16 approximately at 9:30 in the morning, and each interview will last roughly a half an hour.

CHAIRPERSON NEUBERG: Excellent. Well done.

Do I have a second?

COMMISSIONER LERNER: Commissioner Lerner.

Well done. I second.

CHAIRPERSON NEUBERG: Okay. With that we'll do a quick dote vote.

Commissioner Watchman.

VICE CHAIR WATCHMAN: Aye.

CHAIRPERSON NEUBERG: Mehl.

COMMISSIONER MEHL: Aye.

CHAIRPERSON NEUBERG: Lerner.

COMMISSIONER LERNER: Aye.

CHAIRPERSON NEUBERG: York.

COMMISSIONER YORK: Aye.

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1 CHAIRPERSON NEUBERG: Neuberg is an aye, and
2 we look forward to extending interview opportunities
3 and interviewing our candidates next Tuesday, and we
4 hope they will accept, at which point their names will
5 go public.
6 I just saw John Fry pop up. Is there
7 something, John, that you want to add to this?
8 MR. FRY: Just that with your permission,
9 Chairwoman, if you're done with that I was just going
10 to excuse myself.
11 CHAIRPERSON NEUBERG: Yes.
12 MR. FRY: Good to see you all. Thank you.
13 COMMISSIONER YORK: Thanks, John.
14 COMMISSIONER MEHL: Thanks, John.
15 CHAIRPERSON NEUBERG: Okay. Excellent work.
16 With that we're going to move on to Agenda
17 Item No. VI, discuss on public comments received prior
18 to today's, March 9th's, meeting.
19 We have four comments that have come in.
20 Thank you, everybody. Very positive, informative. I
21 think people are appreciating our effort to do as much
22 as we can in the public eye.
23 And the other comment that I would like to
24 share that I've heard is to, again, as we think through
25 building out our staff that we keep an eye on diversity

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1 such that -- well, actually, two things. I mean, I
2 think the comments are coming from the perspective of
3 wanting representation of our constituents in Arizona.
4 As a leader I actually come at it from the perspective
5 of I know data-wise that decisions are better when
6 there is a diversity of opinion, and so we would
7 improve I believe the quality of our work if we ensure
8 that we have a diversity of opinion. So we hear the
9 public comments. Thank you for all of them.
10 Any other comments on the comments?
11 Okay. Excellent. With that we'll move on to
12 Agenda Item No. VII, discussion and possible action on
13 data census delay and ways to mitigate its disruption.
14 I had a very productive conversation last week
15 with Bo Dul from the Secretary of State office. She is
16 the election services director, and she just really
17 gave me a rundown of what the calendar should look
18 like. And without getting into the weeds, because I
19 believe we'll need to invite them back for a more
20 comprehensive, you know, kind of meeting to
21 collaborate, it's important for us to keep January 2nd
22 as a date in mind.
23 So April 4th of 2022 is the deadline for
24 candidates to, you know, file their nominating
25 petitions. There is a tremendous amount of work that

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1 the Secretary of State's office has to do logistically
2 with reprogramming everybody into their new districts,
3 you know, after all of you know the census information
4 comes in. So the feedback that I have heard is that in
5 an ideal world if we could get the Secretary of State's
6 office maps that have been approved by January 2nd we
7 would be doing our state a great service. That is a
8 ideal date. Let's focus on that, and from there, you
9 know, we'll do our best.
10 So unless there is other questions are we
11 ready to move on?
12 COMMISSIONER LERNER: Commissioner Neuberg,
13 just a question. Last time we heard about a bill that
14 was going through the legislature that would
15 potentially allow if you had been getting signatures
16 from people outside of your district. Is that still
17 moving? Do we know anything about that? That might
18 help a little bit.
19 CHAIRPERSON NEUBERG: I'll leave it to counsel
20 to maybe fill in, but my sense is this is really
21 irrelevant to what we're doing, because even if the
22 candidates are able to file in previous districts they
23 will still need to prove a certain number of petitions
24 from the new district that they want to run in. And so
25 the State may work to help give them a little more

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1 wiggle room, but at the end of the day the candidates
2 in the State would be best served if we aim for that
3 January 2nd deadline to the closest that we can. It's
4 an ideal date. We'll deal with realities. The State
5 will deal with it. But I think we should in our own
6 minds, particularly as we think about the holiday
7 breaks in December, it may be an extremely busy time.
8 Okay. With that let us move to Item No. XIII,
9 discussion and possible action on securing legal
10 counsel.
11 The RFP closes on March 19th. We are going to
12 have a couple of presentations first. VIII(A), we have
13 a presentation or overview of past Commission
14 litigation matters provided by AGO legal counsel for
15 the purpose of helping us understand really the most
16 significant criteria we ought to be thinking about when
17 we're hiring legal counsel.
18 MR. CUMMINGS: Okay. Testing. Testing.
19 Afternoon, everyone. Can you hear me?
20 COMMISSIONER YORK: Yes, Kyle.
21 MR. CUMMINGS: I don't know if the webcam is
22 showing me. On my screen I can't see myself or
23 anything, so if you can't see me I apologize, and if
24 I'm looking at another screen as I look at my notes I
25 apologize for that as well.

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1 But so as the Chairwoman said, this is just a
2 very general overview of the past cases that the last
3 IRC Commission saw go through the court system, so it's
4 a fairly straightforward thing since there were five
5 discrete cases that came before -- well, not before the
6 IRC but went through the court and involved the IRC.
7 So three of them actually went through the Arizona
8 state court system. Two of them actually went through
9 the federal court system all the way up to the Supreme
10 Court of the United States, so first I'll just focus on
11 the Arizona cases close to home for us.
12 So the first one I'd want to just look at
13 is -- and, of course, if anyone has any questions feel
14 free to chime in at any point.
15 So first case I wanted to look is *Montgomery*
16 *vs. Mathis*, and there is -- that was a case that had a
17 ruling come out in 2012 from the Arizona Court of
18 Appeals. And the background on that case was that it
19 involved an open meeting law investigation. There was
20 an allegation that there had been serial discussions
21 amongst the Commissioner outside of a public meeting,
22 and so a state agency, originally the Attorney
23 General's Office, later the Maricopa County attorney's
24 office, were investigating that allegation, and they
25 sought information from the IRC. The IRC pushed back

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on disclosing some of this information, and that wound up in a court battle over whether it needed to be disclosed or not. And the court ultimately made a number of findings on this case, the first of which was that, yes, the IRC is in fact required to comply with open meeting law requirements and also that the communications that were at issue in so for as -- I'm quoting here, "In so far as they pertain to the hiring of the mapping consultants, this information is not protected by legislative privilege."

However, in that case the court ultimately decided that the plaintiff -- well, excuse me, the investigating agency had not shown reasonable cause why the investigation needed to continue and so the court ordered that investigation halted. So that was that first case, *Montgomery vs. Mathis*, and it didn't go any further than that, just to the Court of Appeals.

The next court of case from Arizona, the *IRC vs. Brewer*, that actually went all the way up to the Arizona Supreme Court. That case involved a situation in which the Arizona governor at the time removed the IRC chairperson from the Commission and basically IRC filed suits to get that removal overturned. And, basically, just for some more background, the governor was making allegations and based that removal on what

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they termed as being improper conduct or that the chairperson had not fulfilled her duty, and the court actually came down and disagreed with the governor on that.

And, basically, the interesting thing is that the court differentiated on certain aspects of the case, saying that the court cannot step into the governor's role and basically decide whether or not to remove someone from the IRC, but what the court can do is to determine whether or not the governor actually has authority and is operating within the bounds of the law, and that's because under the law the governor has very -- has, I believe, three discrete instances in which an IRC -- person on the IRC can be removed from the Commission, and in this case the court ruled that the governor had not stated grounds within the law that would allow for the removal of the IRC chairperson. So in that case the IRC chairperson was reinstated, and that was the Arizona Supreme Court case.

Now, I know we've kind of gone in order from the Court of Appeals to the Arizona Supreme courts. The final case only went to the Arizona Superior Court, and I just left that one for last in the Arizona cases just because it had the most recent ruling, which was actually March of 2017, and that case was *Leach vs.*

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1 *IRC,* and in that case the plaintiffs actually
2 challenged the procedure that the IRC followed there
3 mapping and drafting up its maps, and that's
4 interesting just because they didn't challenge the maps
5 themselves, just the procedure used. And in that case
6 there was also some allegations of open meeting law
7 violations with -- I believe there was two different
8 sets of potential violations that there had been serial
9 communications amongst commissioners outside of a
10 public meeting and also that there had been some manner
11 of quorum -- well, not some manner. That there had
12 been a quorum formed outside of a public meeting and
13 that decisions had been made amongst that quorum. So
14 the courts ultimately addressed both issues and ruled
15 that the record had first demonstrated that, yes, the
16 committee had in fact followed the procedural
17 requirements that the Constitution in Arizona required
18 it to, and also that there had been no evidence that
19 supported the open meeting violation. And it was a I
20 want to say maybe 19-page ruling or so that just -- it
21 laid out the requirements and procedures and just
22 looked at the record to determine if there had been
23 violations of open meeting law or not.
24 So that being said, those are the Arizona
25 cases. So as I mentioned at the start, the other two

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1 cases were federal court cases, and they started at the
2 district court level and went all the way up to the
3 United States Supreme Court.
4 Now, the first of those that I wanted to look
5 at was the *Arizona State Legislature vs. IRC*, and in
6 that case the Arizona State Legislature basically
7 challenged the constitutionality of the IRC's authority
8 to draw Congressional district maps. Now, the basis
9 for arguing that it was unconstitutional was they
10 said -- they pointed to a section of the United States
11 Constitution and said that this section indicates that
12 only a state legislature has the authority to draw the
13 congressional district maps, and therefore any maps the
14 IRC draws of the Congressional districts is invalid
15 because they argued the IRC did not have the authority
16 do that. And the courts disagreed with that
17 interpretation that the state legislature put forward
18 and basically ruled and went through a fairly detailed
19 analysis of the Constitutional provision in question
20 and determined that, yes, IRC does in fact have the
21 authority in this case to draw Congressional district
22 maps.
23 Now, that was --
24 MR. TOBIN: Was that a 5-4 vote?
25 MR. CUMMINGS: Pardon me?

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1 MR. TOBIN: Was that a 5-4 vote?
2 MR. CUMMINGS: I did not check on that.
3 CHAIRPERSON NEUBERG: I think so, yeah.
4 MR. CUMMINGS: Well, with that being said,
5 though, I will say on our last Supreme Court case I
6 don't know if that was a 5-4, either, but for this one
7 that is *Harris vs. IRC*, that was a 2016 ruling, and in
8 this case the maps of the IRC were actually challenged
9 in that case. And just to quote from a summary, "A
10 group of Arizona voters challenged a redistricting plan
11 for the state's legislature on the ground that the
12 plan's districts are insufficiently equal in
13 population."
14 So in summation, basically the plaintiffs are
15 saying that, hey, these maps don't meet standards that
16 they have to and are therefore invalid, and basically
17 the court disagreed with that. And so it was kind of a
18 nuanced ruling basically saying, well, plaintiffs, you
19 can't just depend on -- point at these numbers and
20 disparities and deviations and say, well, this means
21 that there must be something wrong with the maps. The
22 deviations are too small. You have to provide other
23 evidence showing that there is a problem, and,
24 plaintiffs, you have not done so. And therefore the
25 court came down and said that, yes, the IRC -- and

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1 well, excuse me. I was jumping ahead of myself. The
2 court also went through the record and looked at the
3 evidence and determined that, yes, the IRC had in fact
4 made good faith efforts to comply with the standards
5 that need to be met for the maps, and as a result they
6 found that the plans did not -- well, the plans and
7 maps did in fact meet the standards.
8 So all that being said, those are the cases.
9 And I think just two general take-aways from that is
10 that, as you know, the IRC is subject to open meeting
11 laws and that they can in fact rise to the level of
12 court cases, so it's not just a discrete, well, was
13 there a violation of open meeting law. No. They can
14 in fact wind up in court battle, so something to keep
15 in mind going forward involving open meeting laws. And
16 it's just a very general statement, you know, these
17 five cases, though they had a wide variety of issues,
18 but overall there are a standards and procedures that
19 the IRC has to bear in mind when you guys are carrying
20 out your responsibilities.
21 So all that being said, if you have any
22 questions feel free to ask me. And, also, I did email
23 to Yasmin the PDFs of the five cases if the
24 Commissioners want to review them and just read through
25 them yourselves. So questions or --

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1 CHAIRPERSON NEUBERG: Any follow-up questions?
2 Thank you, Kyle. You know, I think that was
3 an excellent overview of, you know, just us thinking
4 about what we're needing in legal counsel, what, you
5 know, what kind of services they provide that grounds
6 us.
7 So any questions?
8 COMMISSIONER LERNER: This is Commissioner
9 Lerner. Thank you, Kyle. That was very helpful.
10 I would like if Yasmin could email those out.
11 It would be interesting to take a look closer look at
12 that, but I appreciate the summary.
13 MR. CUMMINGS: You're very welcome. If there
14 are no further questions I will take myself off the
15 camera here.
16 CHAIRPERSON NEUBERG: Thank you very much,
17 Kyle. If there are no further questions we'll move on
18 to Item VIII(B), training on methods of selecting legal
19 counsel, which will be provided by our state
20 procurement office.
21 MR. JIMENEZ: Hello. Good afternoon,
22 everybody. This is Ed Jimenez. I think I presented an
23 overview to you folks before at the state procurement
24 office, so good to see you all again.
25 So real quick today I'll do a quick

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1 run-through, where we are with the solicitation for one
2 on legal, one on the mapping consulting, so both our
3 services-type procurement, if you will. And as
4 Ms. Neuberg stated earlier, the legal proposal is due
5 on 3/19, and so that's the schedule for that one. The
6 schedule for the mapping consultant is 3/26, so both
7 are coming in this month.
8 We've gone through the process of generating
9 statements of work, getting the proposal, solicitation
10 on the street, so that activity is done. We've
11 identified some criteria for evaluating for the team
12 the evaluation process, the criteria for those
13 processes, so those things are available to the team.
14 And so the proposals, once they come in, these things
15 are available to you. If you wanted to get into the
16 details of the evaluation that would be an executive
17 session discussion, so that's kind of where we are with
18 the proposal process, and things are on track.
19 We had really good assistance from the AG's
20 office on the legal statement of work, the evaluation
21 criteria. On the mapping consultants we basically
22 followed the previous activity from last ten years and
23 used that evaluation criteria. Those areas are open
24 for discussion with this team here, and that's where we
25 are in the process.

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1 MR. TOBIN: Madam Chairman, may I jump in Ed's
2 comment there?
3 CHAIRWOMAN NEUBERG: Of course.
4 MR. TOBIN: So I'm the chief procurement
5 officer in the state. I delegate my authority to Ed,
6 who manages our procurement office. So I just want to
7 make sure that we were clear that you folks are
8 independent, and we've got an opinion that is unclear
9 from the State AG's office that you don't have
10 particular authority of your own, so the reason I
11 wanted to be here on today's meeting was to share with
12 you that ten years ago the ADOA State Procurement
13 Office delegated that authority, like I do through Ed,
14 to many of our agencies, directly to the Independent
15 Redistricting Commission. So do I this because I want
16 to make I want to make sure our pathways -- remember, I
17 am a political appointee of the executive. I am
18 running his administration office, so it's important to
19 me that we have a very clear understanding of our role.
20 We are a technical resource for you. We are here to
21 assist and get the Independent Redistricting Commission
22 off the ground and do it properly.
23 And in that spirit, I wanted to share with you
24 that I have issued a letter today to authorize the
25 Independent Redistricting Commission to have

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1 procurement authority onto themselves, and I wanted to
2 share that with you because the idea is that we -- it's
3 our goal and it's Ed's goal and the State Procurement
4 Office's goal to get you as far down the road as we can
5 that -- according to our own rules, but at some point
6 in time we have to get out of the way. I mean, there
7 is a place and time where you folks get to make those
8 decisions and we get to move out of the way, and if you
9 have state procurement authority I feel more
10 comfortable that you can make those decisions
11 yourselves, and so --
12 CHAIRPERSON NEUBERG: Commissioner --
13 MR. TOBIN: Go ahead.
14 CHAIRPERSON NEUBERG: Commissioner Tobin, we
15 understand your interests. Thank you so much for the
16 services you've provided us. We are equally committed
17 to moving as expeditiously as possible. With that I
18 would like the authority to explain to my commissioners
19 a couple of options that we have as it relates to legal
20 counsel to first find out whether or not this whole
21 procurement issue needs to be addressed.
22 MR. TOBIN: Great.
23 CHAIRPERSON NEUBERG: With that, unless there
24 is anything else with Item No. VIII(B), I would like to
25 move to Item VIII(C), discussion, consideration, and

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1 possible action on method of selecting legal counsel.
2 Okay. So this is actually quite a complicated
3 conversation based on all of my learning, and as you're
4 hearing from Commissioner Tobin there is not
5 necessarily a consensus of views amongst all agencies
6 and people with opinions on what level of authority we
7 have. At the end of the day I know we have a lot of
8 authority, but you have to weigh whether or not it's
9 worth having to fight for it if it's at the risk of
10 compromising legitimacy.
11 So my understanding with hiring legal counsel
12 is there are two main options that are legitimate and
13 sound and responsible. One option, Number 2, is for us
14 to go through the list of legal firms who have already
15 contracted with our state. They've been vetted, and
16 the State is comfortable. We wouldn't just hire based
17 on that list. We would have the authority to identify
18 the top firms that we, you know, feel could handle our
19 job. And we would determine the interview process.
20 They would come in and do oral presentations. We would
21 control the process through which we would evaluate
22 them and select them. That is Option 2.
23 If you see the law firms that you're
24 comfortable with and like on Option 2, you ought to
25 make that mark right now because that is the simplest,

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1 most expeditious way for us to do our hiring where
2 we're entirely in control of the process, where
3 everybody agrees on the rules.
4 Option No. 3 -- and we are voting today on
5 which option we're going to move forward on.
6 Option No. 3 is going through the State RFP
7 process. If we commit to going through that process,
8 we are committed to going through their ranking. And
9 we'll go through that today with timing allowed,
10 meaning we will prioritize the criteria that we are
11 looking for. And we will be, you know, looking at all
12 of these proposals that come in that are objectively
13 ranked as empirically as possible based on the criteria
14 that we determine.
15 We are authorized to invite firms if we want
16 further clarification to do oral presentations, but at
17 the end of the day the advice that I have received from
18 counsel is that it's generally expected that we would
19 be bound to go through that empirical process of the
20 ranking, so it's not like we could just do what we just
21 did with the executive director. Yes, we could discuss
22 strengths and weaknesses, but at the end the day we
23 would be plugging in what our numbers are, and there
24 would be an objective empirical determination of the
25 choice.

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1 Now, we could fight that Option 3 and say, you
2 know what, we don't like the advice we're getting, and
3 we actually think we have authority. Sure, but you
4 know what, do you want to go down that route and
5 complicate things? You know, my sense is -- and I'm
6 going to call my cards early on the table. I've
7 identified three firms that I would be interested in
8 calling in to give oral presentations. They're all on
9 Option 2. They all have relationships with the State
10 already, and I would be comfortable if the
11 Commissioners were comfortable not even going the
12 procurement route. But if you don't see the law firm
13 that you want to propose and they're going to be going
14 through the RFP process -- and that's really important,
15 and we'll decide what route we're going to go on --
16 we're going to have to follow the state guidelines
17 unless we fight for something otherwise.
18 And with that, if there are differences of
19 opinions or if counsel want to chime in to correct
20 anything I may have said incorrectly, we'll open it up
21 to the commissioners for questions.
22 COMMISSIONER MEHL: This is Commissioner Mehl.
23 COMMISSIONER LERNER: This is -- sorry.
24 COMMISSIONER MEHL: Go ahead, Shereen.
25 COMMISSIONER LERNER: Go ahead if you want to,

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Commissioner Mehl.

COMMISSIONER MEHL: I just wanted a clarification on Option 1, just a quick review, 1, 2, 3.

CHAIRPERSON NEUBERG: Option 1 is remaining with the counsel we already have at the Attorney General's Office. Option 1 is going with the State Attorney General's Office. The reason why I didn't highlight it right now is just because in our past conversations the Commission has generally given the sentiment that we're not interested in that route, but we can certainly consider it if you would like to.

COMMISSIONER MEHL: I just missed what Option 1 was so thank you.

MS. PEISER: Chair, if I could just interrupt for a moment. This is Pamela Peiser.

Just so it is clear, if the Commission was to go with Option 1 we would look to bifurcate the representation and get outside counsel for the substantive items that the Commission deals with, and that would be the things like the mapping and the elections-related items.

CHAIRPERSON NEUBERG: Thank you, Pam.

COMMISSIONER LERNER: This is Commissioner Lerner.

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1 I am unsure why we are having to make this
2 decision today. I do not feel I have knowledge. I
3 have looked at the list of firms. I don't feel I have
4 the knowledge at this point to make a decision. I
5 didn't know we were -- maybe it was on the agenda and I
6 missed it. I did not know we were going to vote on
7 this today, so I guess I would want to have time to do
8 a little more investigating of the firms that are on
9 the list before I decide if those are the only firms I
10 want to see. I don't have any problem following
11 procurement guidelines. I've done a lot of that with
12 hiring where you have to vote and score and all of
13 those kinds of things, so I'm not opposed to going
14 through the State RFP process. And we already have
15 until March 19th anyway and next week is going to be
16 taken up with the executive director. So I guess I
17 would like a little bit more time so I can actually
18 take a look at that list that we already have that's up
19 there and know a little bit more about each firm other
20 than what -- the list that we received. All we had is
21 the -- I mean, I guess that's my point right now.
22 CHAIRPERSON NEUBERG: Commissioner Lerner,
23 here is what I learned and why we don't have more time.
24 So they actually -- the State seeks to have the
25 rankings done in advance of the positions closing,

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because if you wait until the position closes and then you rank after that there is a risk of people adjusting their empirical assessments based on who they know applied. So in the effort of having it be as empirically based as possible, they like us to go through the ranking process now.

Now, I think there is a question, maybe, that if we commit -- so if we want to go through the RFP process we -- I think we need to commit to do that today and begin to rank. I think there is a question if we choose today to go through the RFP process to keep this process open as a possibility. If next week after due diligence of seeing if your preferred law firms are in fact on that list, can we then next week say, thank you so much for the RFP process, but we're going to go our own way.

MS. PEISER: This is Pamela Peiser. I would defer to either Ms. Klein or Mr. Jimenez on that.

MR. JIMENEZ: Yeah, I can jump in. So the 3/19 date is when we expect to see who responds to the solicitation. There is always a timeline in there for the evaluation, so there is time available, and you can build in a couple of weeks, three weeks, whatever we want to do for this evaluation period if that helps this Committee. That's an easy process, and you would

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1 then get an opportunity to see who all who all
2 submitted those solicitations and give you plenty of
3 time to go through and review those, so that's open for
4 you folks as well.
5 COMMISSIONER MEHL: This is Commissioner Mehl.
6 I'm curious as to what criteria the State uses
7 in its ranking and whether that would really be helpful
8 to us or not.
9 MR. JIMENEZ: Yes, so I can address that. So
10 we came up with the evaluation criteria as I mentioned
11 earlier with help from the AG's office on how to do the
12 selection criteria and make those decisions, and that's
13 a piece we haven't shared, I don't believe, with you
14 folks, because we'd rather share that in an executive
15 session, and so that's available for you.
16 CHAIRPERSON NEUBERG: And correct me if I'm
17 wrong, we can do that in this meeting because we have
18 an Agenda Item No. VIII(D), evaluation of request for
19 proposals, where we have an alerted in the agenda that
20 we might go into executive session, so if we decide we
21 want to pursue this route potentially do we have that
22 authority to do so today?
23 MR. JIMENEZ: Yes. I have the data available,
24 and if you all want to do that we can do that.
25 COMMISSIONER LERNER: So this is Commissioner

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1 Lerner.
2 It sounds like we actually have a little more
3 flexibility than we thought, which makes me feel a
4 little more comfortable with all -- with this process,
5 just so that it would -- I feel like I would have a
6 little more time to do my homework on this.
7 But it sounds like from what you're saying,
8 Mr. Jimenez, where we don't have to actually make that
9 decision finalized today about 2 or 3, which is what
10 I'm assuming we're choosing between one of those two,
11 but that if we choose go with 3 and then 2 the next
12 time we would still be okay. Is that correct, or am I
13 misreading that?
14 MR. JIMENEZ: We could open up the timeframe
15 for Option 3 that allows enough time for the evaluation
16 process. And if you want one week, two weeks, three
17 weeks, we can allow that in our timeline schedule.
18 CHAIRPERSON NEUBERG: Can I ask, because I had
19 a different sense from you know just other
20 conversations. I don't know, Pam or Caroline, is there
21 anything you want to add about the value of making that
22 decision today about going to Option 2 or 3, because I
23 was led to believe that there was some kind of reason
24 why we should be making that decision today.
25 MS. PEISER: This is Pamela Peiser. The

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1 initial point in the decision would be to limit the
2 amount of resources that are being utilized going
3 forward. You know, ADOA is providing resources in the
4 RFP. If it's not needed, I presume they would choose
5 not to continue on. I would have to defer to ADOA on
6 whether or not you could complete the procurement
7 process and keep those names on deck for future
8 purpose. I don't believe the way the RFP was written
9 that that's a possibility, and I would defer to them on
10 that answer. In terms of making an approved decision
11 today, though, if -- you know, it's a question of how
12 quickly you want to have outside counsel, assuming
13 that's the choice, on board. You know, you do have the
14 benefit that the census is delayed, so that's provided
15 some additional time, so things are not necessarily as
16 rushed for the substantive work that the IRC does.
17 CHAIRPERSON NEUBERG: Is there anything that
18 ADOA wants to clarify?
19 MR. TOBIN: Ed, do you have anything you want
20 to clarify in this issue? I think they're talking
21 about holding on information beyond -- for however
22 long. Do you have anything you want to clarify on
23 this?
24 MR. JIMENEZ: No. You know, it's our role to
25 provide the customer service, and we have the

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1 solicitations that are out there. First one scheduled
2 again on the 19th. We can set a timeline that allows
3 you opportunity to review all the bids that have come
4 in, all the solicitations we've received, and that
5 gives you time to review who came in on this. And like
6 I said, we can do up to two weeks, three weeks, should
7 you need that amount of time.
8 I understand, Director Tobin, Option 2 is
9 taking an existing list of contracts, legal services.
10 I understand that piece, but this is about
11 you're the customer. We are open to help you whichever
12 way you folks would like to go.
13 MR. TOBIN: Madam Chairwoman and Members of
14 the Board, it's our effort to accelerate this process
15 for you and get out of way. It's independent for a
16 reason. And we feel like we're doing our job to get
17 that information to you, get that word out. I believe
18 you have the information that you need to select from.
19 Ed has gone out for -- when did we make the
20 announcement for those to apply, Ed?
21 MR. JIMENEZ: The announcement for the legal
22 services is on the State's procurement website, and
23 that's the link that's on the slide here that Yasmin
24 can supply to you. And the mapping consultants was
25 done in an Arizona Procurement System, APC, and all

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that information is available to you folks. It's available out there. It's public. Again, this will be available on 3/19 for the legal, and we can turn this over to you folks, and you can use the information however you would like to going forward, and so that's available for you folks. Same with mapping consultants.

CHAIRPERSON NEUBERG: I would like to make a proposal just given what I'm hearing where people are at. So if we just wait until next week and we make an explicit decision of which option we take, it's incumbent on the Commissioners to know is your law firm on that preexisting list, and we tell ADOA do nothing between now and then, don't move towards ranking, let's not invest energy or effort so we're not draining your services, I'm hearing that if next week we decide, okay, you know what, we don't like the list on Option 2, we want to go with the RFP process, I'm hearing that there would be sufficient time for ADOA to work with us through that process and this week would not add any additional burden on ADOA.

MR. TOBIN: So, Ed, can I ask you a question?

MR. JIMENEZ: Yes, sir.

MR. TOBIN: Is Option 2 and 3 two different lists, because Option 2 is an old list and the new list

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1 is Option 3? Is that what I'm hearing?
2 MR. JIMENEZ: No. Option 2 is for purely
3 under state contract --
4 MR. TOBIN: Yeah, the old list.
5 MR. JIMENEZ: That's what in our system today.
6 Option 3 has that, but it was sent to all the same
7 parties in addition to additional law firms as well.
8 It will be a little bit bigger list.
9 MR. TOBIN: That's what I wanted. And, yeah,
10 so we've gone out for bid to create the most options we
11 could possibly find in Option 3 for you folks. That's
12 what we did. So, you know, we're not here to make
13 recommendations for you, but the broadest review that
14 you could get is us putting an solicitation out on your
15 behalf that says, here are all those who are
16 interested. Go make a decision. If you want us to
17 help some more we will, but I've delegated you
18 authority to do what you please.
19 COMMISSIONER YORK: So this is Commissioner
20 York. Thank you, Director Tobin.
21 Commissioner Neuberg, I believe based on this
22 information and what I can understand from the
23 clarification from Director Tobin that we should just
24 proceed to consider Option 3 and see those RFPs coming
25 in and after next week make the evaluation.

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1 CHAIRPERSON NEUBERG: Then I would suggest
2 that we move into Agenda Item VIII(D), so that if we're
3 keeping the hope alive of moving forward with the RFP
4 that we would go through our rankings. Would that be
5 effective or a waste of time if we're not entirely
6 100 percent sure of moving forward with Option 2 or 3?
7 Thoughts?
8 COMMISSIONER YORK: Who is ranking? The
9 Department of Administration is doing the ranking?
10 CHAIRPERSON NEUBERG: We were going to receive
11 some additional counsel to learn, and then in executive
12 session actually go through some of our rankings with
13 what our criteria are. The benefit of doing that in
14 executive session is you're not telegraphing that to
15 all the firms that are sending in proposals to know,
16 you know, what our top priorities are. Otherwise, they
17 would be able to, you know, craft their proposals based
18 on what they're hearing from us. But if we're very
19 seriously looking down going down the RFP route I think
20 there is value today in beginning the process so that
21 we don't slow ourselves down.
22 COMMISSIONER YORK: I would agree with that.
23 I would like to head down that path.
24 COMMISSIONER LERNER: And I concur as well,
25 but it's worth at least looking at that at this point

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1 so we don't slow up, and then we can make a final
2 decision next week I assume.
3 MR. TOBIN: Madam Chairwoman and Members, you
4 we're here to serve you until you don't need us
5 anymore. Part of my job is to help you not need us
6 anymore. So we're here to help. Are you talking about
7 going into executive session now to discuss those items
8 or not?
9 CHAIRPERSON NEUBERG: Yes. It sounds like
10 consensus is that we would like to move forward with
11 exploring the ranking in executive session.
12 And, Pam, unless -- you know, if anybody else
13 has any other guidance or concerns that would be my
14 suggestion.
15 Yes, Commissioner Tobin -- I mean Director
16 Tobin.
17 MR. TOBIN: I've been advised by your counsel
18 that my attorney is not allowed to go into executive
19 session with me, and I'm not going to have my staff go
20 in without me and my lawyer to executive session so
21 that --
22 CHAIRPERSON NEUBERG: Director Tobin, let's
23 first see if we're going to go into executive session.
24 Do I have a motion to go into executive
25 session for the purpose of getting legal counsel on

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1 evaluating requests for proposals?
2 COMMISSIONER LERNER: So move. This is
3 Commissioner Lerner.
4 MS. PEISER: A clarification. I'm sorry. Are
5 you wanting to get counsel on evaluating the proposals,
6 or are you wanting to actually do the evaluations? If
7 I understand the procurement process in general
8 correctly, those would be two different things.
9 CHAIRPERSON NEUBERG: My understanding is dong
10 the ranking such that we are prepared in case we go
11 this route that the work has been done. That is my
12 understanding of this.
13 MR. JIMENEZ: If I could, let me add some
14 clarification. Is that okay?
15 CHAIRPERSON NEUBERG: Yes, please.
16 MR. JIMENEZ: So what we were going to share
17 with this committee is the evaluation criteria that we
18 have come up with, and then I was going to suggest that
19 this evaluation committee can change the ranking of the
20 different categories based on where you see you feel
21 the importance is. So on the mapping, we use the same
22 criteria as the last time around. That's real simple.
23 On the legal side of the house, we use
24 assistance from the AG's office. Those haven't been
25 given points or rankings. The hope was to do that with

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you folks and let you folks go ahead and do that. You can choose your own story.

CHAIRPERSON NEUBERG: Correct. And my sense is that there are grounds to do that work in executive session, and that is what we're talking about.

MS. PEISER: I'm sorry to interrupt again. Just so it is clear that the agenda was specified going into executive session for the purposes of outside counsel but not for the mapping evaluations, so that would need to be put off.

CHAIRPERSON NEUBERG: No mapping conversation. I don't believe anybody is talking about mapping.

Okay. So --

VICE CHAIR WATCHMAN: I'll second the motion this is Commissioner Watchman. I'll second the motion that Commissioner Lerner put on the table.

CHAIRPERSON NEUBERG: To go into executive session to evaluate requests for proposals?

VICE CHAIR WATCHMAN: Yes.

CHAIRPERSON NEUBERG: Any further discussion?

With that we'll do a vote.

Commissioner Watchman.

VICE CHAIR WATCHMAN: Aye.

CHAIRPERSON NEUBERG: Commissioner Mehl.

COMMISSIONER MEHL: Aye.

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1 CHAIRPERSON NEUBERG: Commissioner Lerner.
2 COMMISSIONER LERNER: Aye.
3 CHAIRPERSON NEUBERG: Commissioner York.
4 COMMISSIONER YORK: Aye.
5 CHAIRPERSON NEUBERG: Commissioner Neuberg is
6 an aye.
7 We will move to go into executive session, and
8 please note that it will be a different link. Any
9 other further direction from staff on this?
10 COMMISSIONER YORK: Can we take a bio?
11 CHAIRPERSON NEUBERG: Oh, yes, please. We'll
12 do a ten-minute break.
13 (Brief recess taken.)
14 CHAIRPERSON NEUBERG: So, Pam, we are back in
15 general session and all five commissioners are here.
16 MS. PEISER: Chairwoman, before the
17 adjournment there was discussion about going into
18 executive session. I don't believe that that was
19 wrapped up.
20 CHAIRPERSON NEUBERG: Okay. I apologize.
21 MS. PEISER: Director Tobin did want to have
22 his attorney with Ed in executive session, and I don't
23 believe it was clear just from all the conversation
24 that ADOA is welcome to have their attorney, which is
25 the Attorney General's Office, in executive session as

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1 far as answering questions for the discussion of the
2 confidential material.
3 MR. TOBIN: Madam Chairwoman, the attorney
4 general is -- always we have a great relationship. I
5 have general counsel and myself who are here, and
6 that's who we want to have this conversation with Ed.
7 What Pam is trying to do is say only the Attorney
8 General's Office assigned to ADOA can represent us,
9 which I totally disagree with her evaluation, so our
10 answer is as long as Nicole Sornsin, general counsel,
11 ADOA, can join us, we're happy to be there, and that's
12 all there is to it. So Pamela doesn't want Nicole in
13 the room, and I don't understand why.
14 CHAIRPERSON NEUBERG: Commissioner Tobin, for
15 the sake of counsel and the Commissioners can you
16 please outline your explicit reasoning for why these
17 people should be included in executive session as it
18 relates to state statute?
19 MR. TOBIN: Sure. I am the designee, the
20 state procurement authority. Ed is designated by me as
21 the director of SPO. My general counsel, who I rely on
22 to assist me in my spirit, who attends all of these
23 meetings that I'm attending with our staff as well, is
24 our chief general counsel, and that's who I use for my
25 legal advice, and that's why I don't go into these

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1 without her. Using the attorney general's view that
2 suggest that I don't have general counsel at all is
3 absurd, and so that's the reason, Erika.
4 CHAIRPERSON NEUBERG: Counsel, can you please
5 respond why you feel that participation is
6 inappropriate?
7 MS. PEISER: Under A.R.S. 41-192, I believe,
8 the Attorney General's Office is legislatively
9 designated to be counsel of record for the Arizona
10 Department of Administration. As far as entering
11 executive session, only persons who are reasonably
12 necessary -- sorry. I'm going to the provision in the
13 statute. Their presence needs to be reasonably
14 necessary in order for the public body to carry out its
15 executive session responsibilities as those that occur
16 in executive session. So, you know, the statute for
17 counsel of record is clear. Unfortunately, that's the
18 way the legislature has left it so that's how it is.
19 And then as far as executive session, anybody
20 who -- assuming it's been properly agendized -- that
21 can provide the articulation that they are reasonably
22 necessary for the public body to carry out its duties
23 may be there.
24 MR. TOBIN: Yeah, and that's what I'm saying.
25 She's my general counsel and you are not, Pamela,

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1 and --
2 MS. PEISER: And I understand Ms. Sornsin is
3 in indeed general counsel. Unfortunately, under the
4 Arizona Revised Statutes she's not considered the
5 Department of Administration's legal counsel.
6 MR. TOBIN: Well, under that scenario I don't
7 have legal representation under any circumstances and
8 why should I ever have counsel? So I think the
9 interpretation that you're hearing from the AG's office
10 representative here is first off unnecessary, and it
11 clearly -- we only even put this interpretation here
12 recently so I don't think that was very fair so we
13 could have this conversation prior to this. So I would
14 ask -- you know, the Independent Redistricting
15 Commission can do what they want. They can vote to
16 allow us in. I don't know what harm it would be,
17 anyway. But they can into vote to allow us in to
18 executive session. We're only going to be here to
19 represent your interests or ADOA interests to support
20 you. So I would ask the Commission to go ahead and
21 admit counsel and myself.
22 CHAIRPERSON NEUBERG: Pam, can you please
23 clarify: Would you and your colleagues walk out if
24 Commissioner Tobin and his counsel participated?
25 MS. PEISER: If Commissioner -- I'm sorry.

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1 Director Tobin is welcome to have Ms. Klein with the
2 Attorney General's Office present with Mr. Jimenez to
3 deal with the confidential records. That's not an
4 issue at all. However, if the Attorney General's
5 Office believes that there is an open meeting violation
6 that is going to occur then we cannot be there when
7 that violation is occurring and would have to leave.
8 But Ms. Klein -- there is no issue on our end with Ms.
9 Klein being there. It's my understanding that she
10 represents the Department of Administration in the
11 procurement matters.
12 MR. TOBIN: Ms. Sornsin represents me as well
13 in procurement matters and represents me as well as all
14 the way through the process in procurement matters, as
15 does Jessica Klein. I think this is ridiculous we're
16 having this conversation at the time and expense for
17 the IRC. I do not see how this violates open meeting
18 law. It was indicated on your agenda that you would
19 potentially go into executive session so I see no
20 violation here.
21 CHAIRPERSON NEUBERG: Well, I would like to
22 share with my commissioners that I err on the side of
23 abundance of caution with going with our legal counsel,
24 and if there is any question that something may present
25 a problem I would rather go on the safe side, and so I

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1 think that we are going to have to weigh in on this
2 difference of opinion about whether or not we're
3 comfortable with having ADOA counsel join us in the
4 executive session. There is a significant risk that if
5 we allow that that our counsel will walk out.
6 MR. TOBIN: So let me make this clear then,
7 Chairwoman, as well: I'm not going to leave my staff
8 on the call without ADOA counsel. If we had more time
9 from the AG's office to have discussed this maybe we
10 could have come to a solution before this morning, and
11 maybe we should just let us go back to general session
12 and we can meet with the AG's office another time and
13 try to move it along. I'm happy to leave the
14 information that Ed was going to present with you and
15 Jessica Klein. Maybe she can share that with you,
16 because I really don't want to slow you down.
17 CHAIRPERSON NEUBERG: Right.
18 MS. PEISER: And if I could just maybe
19 clarify: I am not saying that Director Tobin is not
20 allowed to have Ms. Sornsin provide interim advice, but
21 she can't provide advice on behalf of the agency
22 outside of the agency.
23 MR. TOBIN: That's ridiculous. We're not
24 outside the agency. The director of the agency is in
25 your meeting. I'm entitled to counsel.

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1 CHAIRPERSON NEUBERG: You know, I understand
2 that this is a sensitive, complicated conflict about
3 jurisdiction here, but as the chair of this specific
4 Commission with our specific mission, selfishly I'm
5 going to come back and say what I feel is in our best
6 interest is to do what's safe and to err on the side of
7 caution and to respect legal advice we're receiving at
8 this point, because I don't want to delay this process.
9 We need independent staff and representation. And with
10 that, at the risk of losing our representation, I would
11 like to recommend that we go into executive session in
12 the manner through which the attorney general's
13 counsels are comfortable.
14 MR. TOBIN: Thank you.
15 CHAIRPERSON NEUBERG: I believe we need a
16 motion, and I don't know if we need to make explicit in
17 this motion who is invited to go to executive session
18 and who is not, and so I would like counsel to make
19 those clarifications.
20 MS. PEISER: If maybe I can get a
21 clarification. Are you saying you are following the
22 AG's advice, or are you saying you are not?
23 CHAIRPERSON NEUBERG: I am following the AG's
24 advice.
25 MS. PEISER: Based on that, then the

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1 appropriate people to go into the executive session to
2 do the rankings on the evaluation -- and I may be using
3 those procurement words too loosely, but to do those
4 rankings in executive session would be the Commission,
5 the secretary that's been assigned from the ADOA,
6 whoever would be presenting the information on behalf
7 of ADOA regarding the RFP, and then those people who
8 are reasonably necessary to assist Mr. Jimenez with
9 carrying that out.
10 MR. TOBIN: There you go. Thank you, Madam
11 Chairwoman. I appreciate it, and I'll make sure we
12 email all of the data that Ed has to all of the
13 committee members so that you all have what we were
14 going to present.
15 CHAIRPERSON NEUBERG: Okay. Ed is going to
16 present, yes? He is included in this executive
17 session, Director Tobin.
18 MR. TOBIN: No. I do not feel comfortable
19 with my staff coming in there under this rule that the
20 AG's office has. In theory if Nicole wasn't a lawyer
21 and I just had her represent me nobody would argue, I'm
22 guessing, but this makes no sense to me, so --
23 CHAIRPERSON NEUBERG: Okay. Director Tobin,
24 are you aware that this decision will delay our
25 process?

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1 MR. TOBIN: I'm disappointed because we worked
2 very hard to accelerate this process to be notified by
3 the attorney general just before this meeting that they
4 were not going to be supporting me having counsel
5 there. So I'm sorry, but we've begun working with you
6 guys all week long to achieve this, so we just want to
7 be helpful, and I feel compelled directing my staff
8 that work for me. And so I'm going to email all of
9 that stuff to you. Jessica Klein is the attorney
10 general's attorney who helps us in procurement. I'm
11 sure she could come in and visit with you and explain
12 it.
13 MS. KLEIN: Director Tobin, this is Jessica
14 Klein. I am here if needed.
15 MR. TOBIN: Well, good. Then Ed can send the
16 email in to the data that we prepared. And, Jessica,
17 since you're with the AG's office I think you can
18 explain what we've done.
19 MS. PEISER: Director Tobin, you know, this
20 exact issue came up approximately six weeks ago and at
21 that time -- and I believe it was the January 21st
22 meeting or 22nd meeting, and at that time we discussed
23 with Ms. Sornsin her purpose in executive session.
24 MR. TOBIN: Yes, because at the time Ed said I
25 should be appointed an acting executive director, and I

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1 didn't see anything like that that required that and I
2 declined. That's when that situation came up, so I
3 think that's very different here.
4 CHAIRPERSON NEUBERG: You know, I find I want
5 to share as the chair of this Commission as just a
6 citizen volunteer I'm disappointed that the five
7 commissioners are having to experience conflicting
8 guidance amongst our professionals. We are just
9 singularly focused with advancing our mission with as
10 much integrity as possible. I want to reiterate just
11 based on past mistakes over the past years I believe
12 erring on the side of caution is best. I'm going with
13 counsel's advice. I feel it is very important, and if
14 ADOA is not comfortable following through with Item No.
15 VIII(D) we can reconvene and figure out a way in which
16 we can receive that information.
17 MR. TOBIN: Madam Chairwoman, and members of
18 this Commission, you know we are available to meet and
19 help assist you at a moment's notice, and we've always
20 been there. So this is -- I regret that this is the
21 stand that this attorney general -- assistant attorney
22 general is taking, and I apologize for it. It could
23 have been handled better earlier, and I apologize for
24 that to this Commission, too. I'm happy to have a --
25 to pursue this conversation at another time at your

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1 convenience.
2 CHAIRPERSON NEUBERG: I would like to get some
3 feedback from the other commissioners and actually from
4 our staff about the efficiency of moving forward with
5 any conversation about Item No. VIII(D) or if
6 collectively we feel that it's best to shelf this until
7 next week. It will not slow down our executive
8 director hire, and I do not believe it will ultimately
9 slow down our hire of legal counsel.
10 COMMISSIONER LERNER: Commissioner Neuberg, is
11 this -- if we think that this can get resolved in the
12 next week so that we would know how to get into
13 executive session, then I would say it's fine with me
14 to delay that. It also gives us some time for all of
15 us to look at the list that we received as well, so a
16 combination of --
17 MR. TOBIN: Sure. I'll have that information
18 sent Commissioner Lerner and to all the commissioner so
19 you can see it. That won't delay the process as best
20 we can so that you can see what we were planning.
21 CHAIRPERSON NEUBERG: So, Pam, I would like to
22 hear from you would it make sense to maybe shelve
23 VIII(D) until next week without slowing the process
24 down?
25 MS. RAMOS: Commissioner Neuberg, we lost --

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1 oh, never mind. We got him back. Sorry about that.
2 MS. PEISER: If the RFP is not close yet, I
3 think it can be shelved without too much of a delay,
4 but -- and I would have to defer to Ms. Klein on this.
5 Once the RFP itself closes I believe that certain
6 things have to be done, you know, on each side of that
7 closing to comply with the procurement code.
8 MS. KLEIN: Pam, this is Jessica Klein. Just
9 generally speaking, you can make changes to the
10 solicitation before the offer due date and time, and
11 you can cancel the solicitation at any time. So if
12 after you get those offers in you decide that you just
13 want to choose somebody off the list you can do that at
14 that time with the full range of options, as Director
15 Tobin and Mr. Jimenez said earlier.
16 CHAIRPERSON NEUBERG: So my understanding is
17 that we can table until next week the decision of
18 Option 2 and Option 3 with a very serious
19 responsibility of the commissioners to research the
20 list of firms that have already been vetted and
21 approved by the state in Option 2, and that if we
22 choose to go through Option 3 we will have to move
23 forward with process VIII(D) to do the rankings, and a
24 week from now I would hope that there would be some
25 consensus about the appropriate representation from the

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1 AG's office and ADOA. And it is my understanding that
2 the strategy would not slow the process down in any
3 away. Am I correct?
4 MS. RAMOS: Yes, and just for clarification
5 even thought the ADOA didn't go into executive session
6 today we will still be forwarding the information along
7 to the Commission.
8 CHAIRPERSON NEUBERG: Thank you.
9 MS. SORNSIN: Yes. May I provide an
10 additional appointment of clarification along the lines
11 of what Yasmin just added in?
12 CHAIRPERSON NEUBERG: If you introduce
13 yourself because my tiles are all messed up and I can't
14 see who is speaking.
15 MS. SORNSIN: Absolutely. Thank you, Chair.
16 This is Nicole Sornsin, general counsel of
17 ADOA. As Yasmin pointed out, we do have the materials
18 available Ed was going to present at the meeting.
19 We're happy to share those with you now. In fact, I
20 think you may already have or Yasmin may already have
21 them. And so if you would like to discuss those
22 options among yourselves in executive session with the
23 assistance of assistant attorney general Jessica Klein,
24 who is very well-versed in procurement, that may also
25 be helpful for you if you do not want until next week.

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CHAIRPERSON NEUBERG: And would that arrangement satisfy ADOA and AG?

MR. TOBIN: Yes. I'm fine with that. None of my staff would be in that meeting without a lawyer so I'm fine with that.

CHAIRPERSON NEUBERG: Pam?

MS. PEISER: I didn't catch everything that Ms. Sornsin said. It was kind of some of it broke up. I apologize for that. So I heard --

MS. SORNSIN: I'm happy to clarify again. This is Nicole Sornsin.

MS. PEISER: Yes. That's better now.

MS. SORNSIN: Pam, what I was suggesting was that we are willing to share the one- or two-page slide that identifies the criteria options for the Commission to consider without us being personally present at the executive session, and then the Commission is welcome to consider the advice of assistant attorney general Jessica Klein, who is obviously well-versed in procurement, for assistance during that executive session.

MS. PEISER: That would be fine.

MR. TOBIN: I already shared this earlier: We're fine with that.

CHAIRPERSON NEUBERG: Okay. So under those

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1 circumstances would it make sense then for us to move
2 into executive session for Item No. VIII(D), the
3 evaluation of requests for proposals, RFP for the
4 procurement of legal counsel? Do we have grounds to be
5 comfortable with who is invited into that executive
6 session?
7 MS. PEISER: I'm assuming the question was
8 directed towards me.
9 CHAIRPERSON NEUBERG: Yes, Pam, please.
10 MS. PEISER: Sorry. I apologize.
11 Yes. Ms. Klein can come in as an assistant
12 attorney general who represents ADOA --
13 CHAIRPERSON NEUBERG: Okay. So with this I
14 believe --
15 MS. PEISER: -- to provide the procurement
16 advice to ADOA.
17 MS. SORNSIN: I'm sorry. I just want to
18 clarify, Pam. Jessica Klein would not be representing
19 ADOA necessarily. She would be representing the
20 Commission and helping them to interpret advice,
21 because I understand the Attorney General's Office
22 represents the Commission as well.
23 MS. PEISER: That is correct, and I'm sorry I
24 didn't articulate that very well. Ms. Klein has
25 substantive knowledge regarding the procurement

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1 processes and is best able to explain them.
2 CHAIRPERSON NEUBERG: Okay. So are we now at
3 consensus about who is invited to come to an executive
4 session for us to move forward with the evaluations of
5 the RFPs?
6 COMMISSIONER YORK: Yes.
7 CHAIRPERSON NEUBERG: Okay. Do I have -- do
8 we need to explicitly mention the names.
9 MS. PEISER: That would be done on the record
10 in executive session.
11 CHAIRPERSON NEUBERG: Okay. I'm sorry. I
12 didn't catch the exact name, but let's include that in
13 the motion. We need a motion to go into executive
14 session with inviting the particular representative
15 that we've been discussing.
16 COMMISSIONER MEHL: So moved.
17 CHAIRPERSON NEUBERG: Do we have a second?
18 COMMISSIONER LERNER: Second.
19 CHAIRPERSON NEUBERG: With that, a quick vote.
20 Commissioner Watchman.
21 VICE CHAIR WATCHMAN: No.
22 CHAIRPERSON NEUBERG: No to go into executive
23 session?
24 VICE CHAIR WATCHMAN: That's correct.
25 CHAIRPERSON NEUBERG: Okay. Mehl.

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COMMISSIONER MEHL: Aye.

CHAIRPERSON NEUBERG: Lerner.

COMMISSIONER LERNER: Aye.

CHAIRPERSON NEUBERG: York.

COMMISSIONER YORK: Aye.

CHAIRPERSON NEUBERG: Neuberg is an aye, 4 to 1. We will move now to go into executive session. And I don't want to prematurely end the call, so, Pam, you let me know when I can move into the other link.

MS. PEISER: This is Pamela Peiser. I think that would be fine.

CHAIRPERSON NEUBERG: Okay. Thank you.

(Whereupon the proceeding is in executive session from 2:42 p.m. until 3:00 p.m.)

* * * * *

(Whereupon all members of the public are present and the proceeding resumes in general session.)

CHAIRPERSON NEUBERG: So here we are. Welcome back to our public meeting. Do we have everybody necessary on call? We have Pam. We have all commissioners.

COMMISSIONER YORK: Jessica, Yasmin.

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1 CHAIRPERSON NEUBERG: Do we need -- I don't
2 believe with our next agenda item we need anybody from
3 ADOA. So with that if we could just sum up what we
4 just discussed in executive session and what our
5 conclusions are with regard to moving forward.
6 MS. PEISER: If I could stop you. There is no
7 discussion of executive session unless there would be a
8 vote based on --
9 CHAIRPERSON NEUBERG: Okay. I would like to
10 just give direction about our strategy of moving
11 forward.
12 MS. PEISER: Yes.
13 CHAIRPERSON NEUBERG: And with that strategy
14 it is possible for us to keep open Option 2 and 3, and
15 we will reconvene next week. We can learn from the RFP
16 process, and if at any point if we that we decide that
17 we no longer need the full services of going through
18 that process, we can do -- we can move into our
19 independent hire, and we will make that determination
20 next week. And that was an excellent productive
21 conversation about the various processes that are
22 available to us, and I feel very confident that we're
23 going to be able to get all the information we need to
24 make excellent decisions about our legal counsel.
25 With that is there any other conversation

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1 before we move on to Agenda Item No. IX, which is
2 discussion and possible action on mapping consulting
3 support?
4 Okay. Excellent. Along that front, the RFP
5 on the mapping consultant is scheduled to close on
6 March 26th, and so given the, you know, extension of
7 that deadline there is nothing on my end that I feel
8 that we need to discuss unless that's on anybody's
9 list.
10 COMMISSIONER YORK: No.
11 CHAIRPERSON NEUBERG: With that we'll move on
12 to Item No. X, discuss and possible action on budget.
13 I have no new updates. If there is any
14 questions or comments?
15 With that, we'll move to Item No. XI,
16 discussion and possible action on bill paying of
17 incurred expenses.
18 XI(A), we do have one new bill from our
19 transcription, so we will need a motion to approve
20 paying that bill.
21 COMMISSIONER YORK: This is Commissioner York.
22 I motion to approve and pay the invoice dated 3/1 from
23 Miller Certified Reporting and for the Independent
24 Redistricting Commission.
25 CHAIRPERSON NEUBERG: Thank you. Do we have a

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1 second?
2 VICE CHAIR WATCHMAN: Commissioner Watchman
3 seconds.
4 CHAIRPERSON NEUBERG: Any conversation?
5 With that, a vote.
6 Commissioner Watchman.
7 VICE CHAIR WATCHMAN: Aye.
8 CHAIRPERSON NEUBERG: Mehl.
9 COMMISSIONER MEHL: Aye.
10 CHAIRPERSON NEUBERG: Lerner?
11 COMMISSIONER LERNER: Aye.
12 CHAIRPERSON NEUBERG: York.
13 COMMISSIONER YORK: Aye.
14 CHAIRPERSON NEUBERG: Neuberg is an aye. And
15 with that we've authorized the payment on the bill on
16 March 1st.
17 We'll move on to Item No. XII, discussion on
18 ADOA resources and updates. We're touching base on IT,
19 human resources, procurement, financial and facilities.
20 The only update I have for the fellow commissioners is
21 we have been approved by ADOA to move forward with
22 getting our badges. That will allow us the security of
23 entering our physical building, you know, per our, you
24 know, comfort, and, you know, doing all of that
25 paperwork to make sure that that's in place. And I

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1 will be in touch if there are specific logistical
2 things you need to do to get on the list, but I'm
3 hopeful that in the next couple of weeks after we have
4 an executive director we can begin to move into our
5 physical lotion and we will be authorized to access
6 that location as a workspace.
7 Any updates from ADOA or any questions on
8 those five items?
9 MS. RAMOS: No updates from me, just that the
10 facility is ready to be moved into.
11 CHAIRPERSON NEUBERG: Okay. Excellent.
12 With that we'll move to Item No. XIII, update,
13 discussion, and possible action on Howard Open Meeting
14 Law Complaint, provided by AGO legal counsel. The
15 Commission may vote to go into executive session which
16 will not be open to the public for the purpose
17 obtaining legal advise specifically related to the
18 Howard Open Meeting Law Complaint, A.R.S.
19 38-431.03(A)3.
20 We did earmark this last week as a topic that
21 we might want to get more legal advice on, and so we do
22 have the ability to go into executive session to seek
23 more counsel on this.
24 Let's actually first open it up to counsel, if
25 there is a public meeting update, and then we can

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1 address that second, whether there is a need for
2 executive session.
3 MS. PEISER: Thank you. This is Pamela Peiser
4 with the Attorney General's Office.
5 I did make contact with Deputy County Attorney
6 Colleen Connor from the Pinal County Attorney's Office.
7 She is the deputy county attorney who has been assigned
8 to this particular investigation. I let her know that
9 I was going to have to meet with the Commission during
10 an open meeting before I could tell her anything else,
11 but at this point the initial thing to determine is
12 whether or not the Commission wants to -- or how the
13 Commission wishes to progress. The options are to use
14 the Attorney General's Office. The second option is
15 outside counsel. And then the third option is not
16 using counsel at all, but instead the Commission,
17 either through a designated person, executive director,
18 or even if the Commission wishes to address it as a
19 group, would then respond to the investigation. But in
20 terms of the substantive investigation, so far there
21 has been no specific inquiries made that I'm aware of.
22 CHAIRPERSON NEUBERG: Would the Commissioners
23 like to go into executive session to ask any more
24 pointed legal questions about this open case?
25 Okay. The general consensus -- I know that

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1 the transcription person is -- there is no verbal
2 acknowledgements, but I would like to acknowledge that
3 I visually saw all four commissioners, and there were,
4 you know, nos, no desire to get an update on this in
5 executive session.
6 And so with that we will move on to Item
7 No. -- unless, Pam, there is something else you want to
8 add?
9 MS. PEISER: Well, what would be helpful would
10 be if the Commission wants to make a determination as
11 to whether or not they want to go it alone, have the
12 Attorney General's Office continue to represent them on
13 this, or to hire outside counsel. That would allow me
14 to pass on to the investigating attorney who to contact
15 during the course of the investigation.
16 CHAIRPERSON NEUBERG: From my sense, Pam,
17 wouldn't it make sense for the AG's office to continue
18 to handle this until we hire outside counsel?
19 COMMISSIONER YORK: Yes.
20 MS. PEISER: And that is I should say a fourth
21 option, you know, continue with the AG's office as you
22 have been until you have outside counsel, and then you
23 can reevaluate it from there. Obviously, though for
24 maybe some people it's not, but obviously if there is a
25 change in representation, if I get anything I would

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1 pass it along, so it's not like, you know, a change of
2 address where you get someone's mail and then nothing
3 ever happens to it.
4 COMMISSIONER MEHL: This is Commissioner Mehl.
5 I move that we continue with the AG's office for now
6 for this investigation.
7 CHAIRPERSON NEUBERG: Yeah. I think there is
8 overwhelming consensus on that, Pam. Do we need the
9 motion?
10 MS. PEISER: You do need a vote, and if you
11 wish to clarify if you want me to work with the whole
12 Commission if stuff comes up, or a point of contact,
13 that will make it one way to expedite the matter should
14 something come up.
15 CHAIRPERSON NEUBERG: Okay.
16 COMMISSIONER MEHL: Commissioner Mehl.
17 I amend my motion to add that Chairwoman
18 Neuberg would be the point of contact for the AG's
19 office in this matter.
20 CHAIRPERSON NEUBERG: Do we have a second?
21 COMMISSIONER LERNER: This is Commissioner
22 Lerner. I'll second.
23 CHAIRPERSON NEUBERG: Okay. Any further
24 discussion?
25 Commissioner Watchman, a vote aye or nay.

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1 VICE CHAIR WATCHMAN: I vote aye.
2 CHAIRPERSON NEUBERG: Commissioner Mehl.
3 COMMISSIONER MEHL: Aye.
4 CHAIRPERSON NEUBERG: Commissioner Lerner.
5 COMMISSIONER LERNER: Aye.
6 CHAIRPERSON NEUBERG: York.
7 COMMISSIONER YORK: Aye.
8 CHAIRPERSON NEUBERG: Neuberg is an aye.
9 And with that we ask the AG's office to
10 continue to represent us on the Howard complaint and
11 that I will be appointed contact to address further
12 matters on that.
13 With that we'll move on to agenda Item No.
14 XIV, discussion of future agenda item requests. I
15 think we also we need to clarify here that first we're
16 going to be discussing our already regular session that
17 we have scheduled for March 16th. Obviously, you know,
18 looking on the agenda we may want to keep, you know,
19 most of the items on there, but particularly include
20 the interview of those five candidates. We will upon
21 conclusion of this meeting immediately reach out to
22 these candidates.
23 I assume, Yasmin, you'll be doing that, or
24 maybe we'll follow up with what protocol is on that,
25 but we hope to add on that agenda next Tuesday, the

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1 interview of the five candidates.
2 COMMISSIONER YORK: So that was Option 5 on
3 this week's agenda. There are other piece of the
4 agenda, Commissioner Neuberg, we need to make sure we
5 have very clear is Option A, the piece around the legal
6 decision.
7 CHAIRPERSON NEUBERG: Correct. We will need
8 to make sure that we have the full option on the agenda
9 to address all legal requirements with the RFP with
10 legal.
11 As always, Commissioners, you know, we will
12 aim to post this with more than 48 hours' notice, so if
13 there are additional items that come to your attention
14 that you would like to add please feel free to reach
15 out to Yasmin for consideration.
16 There is also -- you know, we're going to need
17 to discuss the agenda items for an additional meeting
18 potentially for next week, and let's move into Item No.
19 XV, because this is a perfect segue, discussion and
20 possible action on the scheduling of future meetings.
21 You know, we discussed hopefully -- if the candidates
22 are available we hope to interview our five executive
23 director candidates on the 16th. I think personally it
24 would be wonderful if, you know, look, in an ideal
25 world if five of us came upon a consensus candidate

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upon those five interviews, fabulous. Let's leave that open as possibility. If that does not happen and we have additional questions that we would like to bring the top two or three candidates back for, I think it would be in our interest to schedule a special meeting that we can do in advance. We would have -- we would honor the open meeting laws and publish that 48 hours in advance with the possibility of inviting back the top candidates of the five.

As we're looking at your calendars, Wednesday, Thursday, Friday, if necessary, would you like to look at your calendars and see if there is consensus to what is available?

COMMISSIONER YORK: Commissioner Neuberg, I am unavailable on that Thursday, the 18th.

COMMISSIONER MEHL: This is Commissioner Mehl.

I'm unavailable on Wednesday.

CHAIRPERSON NEUBERG: The entire day?

COMMISSIONER MEHL: I have two major meetings on Wednesday that would be very difficult to change.

CHAIRPERSON NEUBERG: Let me ask something, because the likelihood is that we're bringing back two people for interviews. If you think about at most, it's a second interview, a half hour each, we're looking at at most a two-hour meeting. And if we're

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1 blocking out the entire days on Wednesday and Thursday,
2 considering we also need staff to be part of it, this
3 would potentially preclude from us hiring an executive
4 director next week and pushing it off for a week.
5 COMMISSIONER LERNER: Could I make a
6 suggestion? If Wednesday and Thursday are unavailable,
7 we have the two commissioners, what if we called
8 somebody back later the day on Tuesday, or is it
9 because it has to be noticed? Is that it? But if we
10 notice that we would do something at like 4:00 that day
11 to bring them back, is that possible on that Tuesday,
12 since Wednesday and Thursday are difficult? What about
13 that as a suggestion? I'm going to have to run in just
14 a moment. I'm sorry.
15 COMMISSIONER YORK: Yes. That works for me.
16 CHAIRPERSON NEUBERG: That works for me. I
17 mean, it's a long day for the applicants, but it's an
18 interesting idea, and I'm open.
19 COMMISSIONER YORK: Friday is also available.
20 COMMISSIONER MEHL: I am open all day Tuesday,
21 so I could do that, and I'm open all day Friday.
22 Wednesday I could make a 3:30, but I don't know that
23 that would give us time to do much, but I would be
24 scrambling to get open by 3:30 on Wednesday.
25 COMMISSIONER LERNER: Well, if we are having a

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1 meeting from 9:00 to 12:00 for our interviews and we
2 take a few hour break and then come back to together
3 potentially at 4:00, let's say, for our final two
4 interviews, if needed, we would then be done by 5:30
5 with some time, you know, for discussion following it.
6 It's just a thought to try to -- it's a long day, but
7 it does give the candidates a break and us in the
8 middle, so it's just a suggestion as one option.
9 COMMISSIONER MEHL: Commissioner Mehl.
10 I like the suggestion, Shereen, but I would
11 recommend that we could come back at 3:00, still have a
12 good break, and then have time for staff to be done by
13 5:00 so we're not asking them to stay later.
14 COMMISSIONER LERNER: Good point. I'm fine
15 that.
16 VICE CHAIR WATCHMAN: That works for me.
17 CHAIRPERSON NEUBERG: And that works for me.
18 I just want to be clear: I don't think we can be
19 constrained with the number of hours with the meeting
20 in the morning with, you know, punching on some of the
21 legal counsel issues. You know, I think we should
22 still expect the robust agenda.
23 You know, look, I want to compliment my
24 commissioners. I think we move deliberately. You
25 know, expediently. I have a lot of confidence we can

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1 get things done very quickly, but don't underestimate
2 that there might not be some, you know, critical items
3 that we're going to have to give thought to. But I
4 love the idea of getting this done next Tuesday.
5 COMMISSIONER LERNER: And just as another
6 note, if we wanted to, I mean, I leave my Tuesday
7 mornings open, so I'm fine with if we wanted to start a
8 little earlier if we're concerned about timing at all,
9 if we wanted to go at 8:30 or something to begin our
10 meeting, if we went a little longer. And then we can
11 end and then still have a little bit of a break and
12 have the candidates have a little bit of a break and
13 then come back at 3:00.
14 MS. RAMOS: Just one thing to keep in mind is
15 that the live stream, the YouTube live stream, there is
16 a four-hour cap that we have on our end so we would
17 probably have two different links in the morning
18 session and afternoon session.
19 CHAIRPERSON NEUBERG: And that would be fine.
20 I have a slight preference to keeping it at 9:00, only
21 for the sake of staff, commissioners, and the public.
22 I think the more we can stick to consistency I think
23 it's more user friendly for our state, so if everybody
24 is amenable I would propose that we meet 9:00 a.m. on
25 the 16th. We'll have our full robust meeting with as

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1 many of the interviews as we can hopefully accommodate.
2 We have a four-hour window, and then we can reconvene.
3 Do we want -- it was suggested 3:00 p.m. Is that a
4 comfortable time for the commissioners? We'll
5 reconvene at 3:00 p.m., and if we can arrange the
6 interviews we would then request that our top
7 candidates come back at that point for a second
8 interview where we can address, you know, other
9 questions.
10 COMMISSIONER LERNER: And, Yasmin, would that
11 be something that they could be advised to please leave
12 that open because they may get called back, so when
13 they are called for the interview on Tuesday they know
14 that there is a potential for a second?
15 MS. RAMOS: Yes. And I will work out the
16 details with Chairwoman because there is a couple of
17 questions that I have on how to get these done.
18 So I will follow up with you, Chairwoman.
19 CHAIRPERSON NEUBERG: Okay.
20 COMMISSIONER LERNER: And I have to run but
21 still have quorum, because I'm now running late.
22 CHAIRPERSON NEUBERG: You participated in all
23 of the meaningful activities. Thank you so much for
24 your flexibility and accommodation, Commissioner
25 Lerner.

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1 COMMISSIONER LERNER: Thank you.
2 CHAIRPERSON NEUBERG: Okay. Yasmin --
3 COMMISSIONER MEHL: This is Commissioner Mehl.
4 Let's make sure we do allow for a possible
5 executive session discussion at that 3:00 meeting also,
6 because we may do interviews and then want to go into
7 executive session to discuss them. We may not, but
8 let's at least put on the notice so that is a
9 possibility.
10 CHAIRPERSON NEUBERG: Agreed. And, you know
11 what, thank you for bringing that up, Commissioner
12 Mehl. In fact, we need to actually think about
13 something important. With that second interview are we
14 desiring to do that in public session or in executive
15 session?
16 COMMISSIONER YORK: I think it needs to be a
17 public session personally.
18 COMMISSIONER MEHL: I'm good with public.
19 VICE CHAIR WATCHMAN: Yeah, I prefer public.
20 CHAIRPERSON NEUBERG: Okay. With the second
21 session and I'm not opposed, but we just have to
22 understand that none of the candidates will be provided
23 an opportunity to share any sensitive information, any
24 sensitive conflicts of interest, any sensitive
25 accommodations they might need. If there are sensitive

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1 questions that we have, it's just recognizing that all
2 of that will be done in the public eye, and this is
3 unique.
4 COMMISSIONER MEHL: This is Commissioner Mehl.
5 I think to clarify we want to have the ability
6 to take -- go into executive session either with the
7 candidate or just as a Commission, but I think we
8 should start off with whatever second interviews being
9 public, and then if we do have questions that need to
10 be in executive session we can call the executive
11 session.
12 CHAIRPERSON NEUBERG: I'm not entirely sure we
13 can do it that way.
14 Counsel, do we need to clarify up front with
15 the candidates whether this will be done in public or
16 executive session, and what kind of flexibility do we
17 have on this issue?
18 MS. PEISER: You're going to want to make sure
19 that the letter -- sorry. I'm grabbing my code book.
20 The notice to them where they choose whether or not
21 they're going to be in executive session or open
22 meeting is provided to them, so that, of course, fits
23 there with the notice requirements for posting.
24 And then, I'm sorry, could you repeat the
25 second part of that. I apologize.

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1 CHAIRPERSON NEUBERG: Well, I think
2 Commissioner Mehl, the most important thing is that
3 people that we invite to interview, if we were to
4 choose to interview in executive session I believe that
5 they are entitled to ask to be interviewed in public.
6 Am I correct, Pam?
7 MS. PEISER: Yes.
8 CHAIRPERSON NEUBERG: And so because of that
9 we need to in advance think through what the strategy
10 is so that we give our candidates that option for what
11 they prefer to do.
12 MS. PEISER: The other consideration that you
13 may need to leave room for is whether or not a person
14 changes their mind kind of at the 11th hour, so to
15 speak, about interviewing in public session as well.
16 COMMISSIONER YORK: Yeah, because they might
17 have a current job.
18 CHAIRPERSON NEUBERG: You know, here is how --
19 I'll just go first and share how I'm thinking. You
20 know, I have so much respect for, you know, my four
21 colleagues here who have shared my commitment to do
22 this in as transparent and as accessible the way for
23 the public as possible. With such a critical hire, if
24 we're concerned about sensitive questions, about
25 conflicts of interest, and, also, again kind of just

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1 issues with accommodations that somebody might need,
2 for the sake of hiring the best choice as much as -- as
3 much as I'm hesitant to do things in executive session,
4 there is something about this that feels a little bit
5 responsible and safe. I know it's a tough choice.
6 MS. PEISER: If I could maybe add something.
7 I realize very much the Commission wishes to move as
8 promptly as possible. Having an interview in -- or the
9 second interviews, I should say in, open session or in
10 general, maybe some separation between the two more
11 than a couple of hours would allow people to kind of
12 tie up loose ends as they need to. You know, the
13 reality is a lot of times people do apply for jobs and
14 they wait until it's a little more firm before they
15 tell their current employer, so it's something to
16 consider, even though I do fully understand you wish to
17 move things as promptly as possible.
18 CHAIRPERSON NEUBERG: That's a great point,
19 Pam, but at the end of the day we need to move, and we
20 need the applicants to really know in their heart is
21 this a yes or a no, and so if they need considerable
22 time to be reflecting on it then they may not be the
23 best applicant.
24 COMMISSIONER YORK: Commissioner Neuberg, can
25 we give the applicant the option to whether to meet in

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1 public or meet in executive session?
2 CHAIRPERSON NEUBERG: I don't know.
3 MS. PEISER: I'm double-checking the statute
4 right now.
5 CHAIRPERSON NEUBERG: Yeah. That's a very
6 interesting idea, to defer to the preference of those
7 who we would invite back for that final interview, and
8 I like the idea of accommodating their preference. I
9 think that's --
10 COMMISSIONER MEHL: This is Commissioner Mehl.
11 I don't know why we can't just keep the
12 flexibility and have a public notice that there is a
13 second meeting at 3:00, in that notice say that there
14 will be interviews and that those interviews may be
15 public or they may be in executive session, and
16 structure the notice that way. Send the letter to the
17 applicant saying if you are invited to a second
18 interview you may be -- you'll be asked -- you might be
19 asked whether you're willing to have it in executive
20 session or not, and have them respond as to whether
21 they're okay with that. And that way with can go in --
22 we can make up our mind at 3:00 when we start the
23 meeting how we want to go about it, having then heard
24 everything we would have heard earlier in the day.
25 CHAIRPERSON NEUBERG: I know that sounds

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simple to everybody around the table, but it's actually a complicated legal question. One thing that I have learned through this entire process is that every question, you know, requires consideration on a lot of different levels.

MS. PEISER: I'm still looking at this. I apologize. I have not forgotten.

CHAIRPERSON NEUBERG: No problem, Pam.

While Pam is looking into this, just out of curiosity, you know, taking the pulse of my fellow four commissioners, what would your preference be with those second interviews in terms of executive session or in public, aside from letting the applicants choose?

COMMISSIONER YORK: Probably executive session for me. Commissioner York.

COMMISSIONER MEHL: Commissioner Mehl.

I flatly don't know. I have no idea.

CHAIRPERSON NEUBERG: Okay.

VICE CHAIR WATCHMAN: This is Commissioner Watchman. I'm torn. I do believe in public transparency, and that's what we indicate that we do, you know. But, however, if the candidate for whatever reason wants to have the meeting in executive session, then, you know, if it's legal then we should try to honor that. But I'm torn at this point. Maybe Pamela

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1 has better information for us to make a better
2 decision.
3 CHAIRPERSON NEUBERG: I lean with the
4 Commissioner York in that, you know, I think we have
5 bent over backwards to be as transparent and accessible
6 as possible in doing all of our initial interviews in
7 the public eye, as transparent as could be. And if in
8 our final conversations there is sensitive topics, you
9 know, part of me feels that we have the prerogative and
10 maybe it's appropriate to provide these avenues to
11 which our candidates can communicate more confidently.
12 So it's two to two. We're in open debate.
13 MS. PEISER: Maybe I can provide a little more
14 information that might be helpful, and then Ms.
15 Guerrero will jump in if she thinks that there is
16 something I've missed.
17 So it is my understanding is that the
18 Commission can set the parameters of the interview, so
19 you guys can determine they're going to be, you know,
20 in the open meeting or in executive session. If they
21 are in executive session, the applicant by way of the
22 letter that's sent can request that it be held in open
23 session but cannot demand that it be in executive
24 session. Now, they can make the request, and if the
25 Commission chooses to honor it then they may do so.

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1 CHAIRPERSON NEUBERG: I'm not sure that
2 answers Commissioner Mehl's question.
3 MS. PEISER: Then I truly apologize.
4 Commissioner Mehl, could you restate it, then, just so
5 I can make sure, because I thought that was your
6 question.
7 COMMISSIONER MEHL: What I asked is could we
8 notice the meeting so that we let the public and the
9 applicants know that the interviews might be conducted
10 in public or might be in executive session and give us
11 the flexibility to do, so which would include sending a
12 letter to the applicant asking if they are willing to
13 have it in executive session instead so that we have
14 had their permission.
15 MS. PEISER: The more -- sorry. I thought
16 somebody was chiming in. The more -- I want to say
17 conservative, but that's not quite the word I want to
18 use. The more reserved approach would be to say you do
19 it in executive session, and then everybody expects it
20 to be in executive session. If you choose then to do
21 it in public session, then it is more open than more
22 people originally anticipated, so that would be
23 permissible.
24 CHAIRPERSON NEUBERG: And, Commissioner Mehl,
25 to accommodate I think what you're getting at, if we

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1 were to decide to do those second interviews in
2 executive session the candidates would be allowed to
3 choose in public session if they preferred, so they
4 would be allowed to choose either way through that
5 method.
6 COMMISSIONER MEHL: Having heard Pam on that
7 advice, I'm fine then noticing it as executive session.
8 I'm good with that.
9 MS. PEISER: What I would just add for a
10 suggestion is that you would want to make it clear,
11 though, to the applicants that the Commission may vote
12 prior to doing it in the open session that it's being
13 agendized in such a manner to allow for that, because,
14 frankly, they may feel sandbagged, you know, if it's
15 supposed to be in executive session and then all of a
16 sudden they hang up and realize, you know, the whole
17 world has been watching.
18 COMMISSIONER YORK: I would never sandbag
19 anyone, so I agree with that.
20 CHAIRPERSON NEUBERG: So it sounds like the
21 consensus might be to move forward with inviting the
22 last two or three top candidates to interview for the
23 second time in executive session where all candidates
24 would be given the option to interview in public if
25 they were to choose so.

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We need to actually pick a time we're going to do it. We said, what, at 3:00 p.m.?

COMMISSIONER MEHL: 3:00, yes.

CHAIRPERSON NEUBERG: If it will work, yes. So do we need -- do we now need a motion to approve this? Everybody's notifications are getting loud. I think we're winding down.

Do we need a motion to approve this strategy of interviewing the final candidates in executive session unless they were -- well, they have the right to choose to do it in public?

MS. PEISER: Will that be the proviso, that the agenda will be noticed such that the Commission may vote prior to the interview to have it in open session.

CHAIRPERSON NEUBERG: If that's allowed, then yes.

MS. PEISER: It's a question of what action you guys -- what action you guys want to take is what needs to be voted on, and then whatever is voted on is what needs to be agendized.

CHAIRPERSON NEUBERG: I would recommend that we move forward with authorizing an executive session interview of the final two to three candidates, unless they prefer a public interview.

COMMISSIONER YORK: So moved.

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1 CHAIRPERSON NEUBERG: Do we have a second?
2 COMMISSIONER MEHL: Second.
3 CHAIRPERSON NEUBERG: Any further discussion?
4 With that we have a quorum. We'll vote.
5 Commissioner Watchman.
6 VICE CHAIR WATCHMAN: Aye.
7 CHAIRPERSON NEUBERG: Mehl.
8 COMMISSIONER MEHL: Aye.
9 CHAIRPERSON NEUBERG: York.
10 COMMISSIONER YORK: Aye.
11 CHAIRPERSON NEUBERG: Neuberg is an aye.
12 And with that we will move forward to
13 interview in executive session for the second round of
14 interviews unless the candidates decide otherwise.
15 So with that we'll move on to Item No. XVI,
16 announcements.
17 We will reconvene next week, Tuesday,
18 March 16th, at 9:00 a.m. we hope to have along that
19 agenda the interview with our candidates. We will
20 reach out to those candidates this afternoon. And we
21 will reconvene at 3:00 p.m. for our second round of
22 interviews.
23 And with that, we will move on to Item No.
24 XVII, closing of public comments. Please note members
25 of the Commission may not discuss items that are not

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1 specifically identified on the agenda. Therefore,
2 pursuant to A.R.S. 38-431.01(H), action taken as a
3 result of public comment will be limited to directing
4 staff to study the matter, responding to any criticism,
5 or scheduling the matter for the further consideration
6 and decision at a later date.
7 And with that, unless there is further comment
8 from our staff and commissioners, I am listening, I
9 will move to Agenda Item XVIII. After a very
10 effective, productive meeting, thank you, everybody, we
11 will move to adjourn. We'll take a quick vote to
12 adjourn.
13 Commissioner Watchman.
14 VICE CHAIR WATCHMAN: Aye.
15 CHAIRPERSON NEUBERG: Mehl.
16 COMMISSIONER MEHL: Aye.
17 CHAIRPERSON NEUBERG: Lerner. Oh, she's gone.
18 York.
19 COMMISSIONER YORK: Aye.
20 CHAIRPERSON NEUBERG: Neuberg. Aye.
21 With that, we are adjourned and thank you,
22 everybody, for your participation and your hard work.
23 (The proceedings concluded at 4:39 p.m.)
24
25

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C E R T I F I C A T E

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

BE IT KNOWN that the foregoing proceedings were taken before me, Deborah L. Wilks, Certified Reporter No. 50849, all done to the best of my skill and ability; that the proceedings were taken down by me in shorthand and thereafter reduced to print under my direction.

I CERTIFY that I am in no way related to any of the parties hereto nor am I in any way interested in the outcome thereof.

I FURTHER CERTIFY that I have complied with the requirements set forth in ACJA 7-206. Dated at Phoenix, Arizona, this 23rd of March, 2021.

Deborah L. Wilks
_____
Deborah L. Wilks, RPR, CR
CERTIFIED REPORTER (AZ50849)

* * *

I CERTIFY that Miller Certified Reporting, LLC, has complied with the requirements set forth in ACJA 7-201 and 7-206. Dated at LITCHFIELD PARK, Arizona, this 23rd of March, 2021.

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