

1 meet our obligations to the State, protect ourselves as much
2 as we can against litigation, we would like to be able to
3 cross the finish line and -- and produce, you know, the --
4 the legitimate fair maps, and so I think we're following
5 very, very sound advice.

6 The other thing I'd just like to emphasize how
7 excited I personally am to move now into this next phase
8 of -- of learning about our state; learning -- you know, so
9 many of us focused on communities of interest in our
10 interview process, and -- and it's something that I think we
11 all really want to understand and learn about, and so I look
12 forward to tapping into public comments that -- that are
13 helping us understand who you are, where you live, how it
14 fits in the constitutional criteria, and I think it's just a
15 very excited stage for our community.

16 Unless there's any other spontaneous thoughts,
17 we'll move to Agenda Item No. V, which is the executive
18 director's report and discussion thereof.

19 Director Schmitt, take V away and I'm -- you're
20 going to be on tap for No. VI shortly after.

21 DIRECTOR SCHMITT: All right. Thank you,
22 Chairwoman.

23 So last week Valerie and I had some initial
24 training for the website. We've been working on some
25 updates and chipping away where we can. We moved the

1 "Contact Us" page to the main menu so it's easier to find
2 for the public; we're adding a newsletter link so if people
3 would like to sign up for a newsletter in the future,
4 they'll be able to do that.

5 Again, if there's other elements that they'd like
6 to see on the website, you can go to the "Contact Us" page
7 or comment in the public comment section.

8 We also added a newsroom feature. So there it has
9 the link to the RFP award and also the differential data
10 presentation that we had a couple of weeks ago.

11 In regards to the mapping consultant, the award was
12 posted on Friday on ADOA's procurement portal, so we're able
13 to start meeting with the mapping consultant and having an
14 initial meeting; and then hopefully they can do a
15 presentation for the public next week or at least do an
16 introduction.

17 In regards to hiring, we're still -- we still don't
18 have approval for the additional hires yet, but as soon as
19 we do, I'll post the three positions that were already
20 approved.

21 One area where I do think I need approval from the
22 Commission is in regards to the IT system. I know that we
23 discussed it before, but before ordering anything or moving
24 forward, I wanted to make sure that you all were comfortable
25 in the direction that we were going.

1 COMMISSIONER LERNER: Brian, can you elaborate on
2 that, the IT, please?

3 DIRECTOR SCHMITT: Sure. So consulting with
4 Counsel and IT folks at ADOA, we're looking into purchasing
5 new computers and moving over to Office off of Google.

6 So I have a couple of quotes for the hardware;
7 we're still waiting on the software. That's kind of the
8 final piece, but I should have that -- we have a meeting
9 Thursday, so hopefully we can get that all figured out by
10 then.

11 COMMISSIONER MEHL: And, Brian, what kind of a
12 budget will you need for that?

13 DIRECTOR SCHMITT: The hardware is for a set of --
14 they set up for ten users. I don't know if you all are
15 comfortable with the current laptops or you would like newer
16 ones for the hardware; it's about 25,000 for ten users.

17 COMMISSIONER MEHL: And for the software?

18 DIRECTOR SCHMITT: So they're still working that
19 out. I think it's going to be ballpark \$200 a user per
20 year.

21 COMMISSIONER LERNER: I guess, Brian, from my
22 perspective, once you get this kind of formalized, if you
23 could just --

24 DIRECTOR SCHMITT: Sure.

25 COMMISSIONER LERNER: -- come back with exactly

1 what you need, that will be helpful for us to be able to
2 give approval.

3 DIRECTOR SCHMITT: Absolutely.

4 CHAIRPERSON NEUBERG: But I think conceptually if
5 there's any feedback that you would like to offer now, I
6 think that would be helpful.

7 COMMISSIONER LERNER: Personally, my feeling is
8 whatever we need to do to make everything work is the way we
9 should go. So I'm comfortable with whatever changes you --
10 you feel we need, I just would like to see sort of a
11 specific proposal of "This is exactly what I need," so.

12 But I'm comfortable with making that transition if
13 that's what you feel is going to be necessary.

14 CHAIRPERSON NEUBERG: I -- I -- you know, our IT
15 needs are -- are, you know, paramount, so I -- thank you for
16 looking into this, and anything we can do to secure our --
17 our methods of communication and all of it is very
18 important.

19 Anything else, Brian, on Agenda Item No. V?

20 DIRECTOR SCHMITT: That is all I have on my end.

21 CHAIRPERSON NEUBERG: Okay. Commissioners? If
22 there's no other questions, we'll move into Agenda Item No.
23 VI, discussion and possible action on community outreach
24 coordinator and other potential hires and duties of all IRC
25 staff positions.

1 Director Schmitt, you're up again.

2 DIRECTOR SCHMITT: Thank you, Chairwoman.

3 So on this item, again, we're still in a holding
4 pattern trying to get the approval for the increase in FTE
5 authority, soon as I have that I will post three positions
6 that you all have already approved.

7 CHAIRPERSON NEUBERG: Okay.

8 COMMISSIONER MEHL: And, Brian, is that -- is that
9 approval imminent? Is there anything you need help from us
10 on?

11 DIRECTOR SCHMITT: I believe it's imminent. I
12 don't know if it's going to be wrapped into the budget, but
13 I do believe we should have it soon.

14 COMMISSIONER LERNER: If you --

15 CHAIRPERSON NEUBERG: Yeah -- go ahead.

16 COMMISSIONER LERNER: I'm sorry. If you can just
17 let us know once you do post those, that will be great.

18 DIRECTOR SCHMITT: Sure.

19 COMMISSIONER LERNER: Because it may happen in
20 between meetings.

21 Thank you.

22 DIRECTOR SCHMITT: Yeah, absolutely.

23 CHAIRPERSON NEUBERG: I appreciate the questions
24 because it actually dawned on me this morning, you know,
25 it's May 18th, you know, and just because there's census

1 delays, we have a lot of work to do and -- and particularly
2 the essence of what the public comments are, which -- which
3 is wanting us to understand who everybody is, you know, it
4 requires a fully staffed team to get on the road; and -- and
5 so, personally, I'm actually feeling a sense of urgency
6 right now. So I appreciate these questions and whatever we
7 can do to expedite the process, I think would, you know,
8 serve all of our interests.

9 Okay. If no other discussion, we'll move to Agenda
10 Item No. VII, discussion and possible action on legal
11 counsel briefing.

12 (A) public records compliance, there's initial
13 guidance.

14 I do want to ask a question of our legal counsel
15 because the next two agenda items, Agenda Item No. VIII,
16 which is discussion and possible action on census data and
17 delay and ways to mitigate its disruption, there's going to
18 be an element of executive session in both and, you know,
19 the rationale is similar, and I can explain it to the
20 public; but would it make sense to take those two agenda
21 items together, give a synopsis to the public of what we're
22 doing, then go into executive session and then come back?

23 Alternatively, if it's cleaner and neater to just
24 take them separately, well -- well, I will follow your
25 advice.

1 MR. HERRERA: Madame Chair, given that at least in
2 our view our Agenda Item No. VIII, it's unlikely we would go
3 into executive session unless the Commissioners had specific
4 questions.

5 CHAIRPERSON NEUBERG: Okay.

6 MR. HERRERA: I think the information we provide
7 under VIII would be appropriate for public meeting.

8 CHAIRPERSON NEUBERG: Okay.

9 MR. HERRERA: So I would suggest we go into
10 executive session for Agenda Item No. VII.

11 CHAIRPERSON NEUBERG: Okay. You got it. So Agenda
12 Item No. VII, discussion and possible action on legal
13 counsel briefing.

14 Is there anything, Counsel, that you'd like to
15 share before I entertain a motion to go into executive
16 session in order to receive this briefing?

17 MR. HERRERA: No, Madame Chair.

18 CHAIRPERSON NEUBERG: Okay. With that, I'll
19 entertain a motion to go into executive session for the
20 purpose of obtaining legal advice to further implement
21 and/or advance these legal issues pursuant to A.R.S.
22 38-431.03(A)(3).

23 COMMISSIONER MEHL: This is Commissioner Mehl. I
24 move we go into executive session.

25 CHAIRPERSON NEUBERG: Do I have a second?

1 COMMISSIONER YORK: This is Commissioner York.

2 Seconds.

3 CHAIRPERSON NEUBERG: Any further discussion?

4 Commissioner Mehl.

5 COMMISSIONER MEHL: Aye.

6 CHAIRPERSON NEUBERG: Commissioner Lerner.

7 COMMISSIONER LERNER: Aye.

8 CHAIRPERSON NEUBERG: Commissioner York.

9 COMMISSIONER YORK: Aye.

10 CHAIRPERSON NEUBERG: Commissioner Neuberg is an
11 aye.

12 With that 4-0 vote we'll move into executive
13 session.

14 Joining the Commissioners will be Val, our
15 Executive Director, Angela, the Ballard Spahr and Snell &
16 Wilmer team, and I believe that is it.

17 With that, I will see you all in executive session.
18 Please exit out of this current link.

19 (Whereupon the proceeding is in executive session
20 from 8:33 a.m. until 9:36 a.m.)

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24 (Whereupon the proceeding resumes in general
25 session.)

1 CHAIRPERSON NEUBERG: Okay. Welcome back,
2 everybody. We're going to reconvene to the public session.
3 I think we have our Commissioners as well as our legal
4 counsel, our Executive Director, and Angela, our
5 transcriptionist.

6 So, with that, thank you for your patience with the
7 public for Agenda Item No. VII. We had a very thorough
8 presentation from our legal counsel -- thank you so much --
9 on public records.

10 I know it's frustrating when we do some of this
11 training in executive session, but I think it's just
12 important to highlight that one of the greatest values of
13 doing this in executive session, is that, with the complex
14 issues of public records, the Commissioners have an
15 opportunity to ask personal questions to make sure that
16 we're abiding by the letter of the law in a way that is
17 comfortable to really ensure, again, the integrity of the
18 process.

19 So I know it's frustrating for the public, but I
20 think it is something that is essential for us.

21 And, with that, the majority of what we discussed,
22 meaning the presentation from our counsel will eventually be
23 made public; we'll either post it on our website or provide
24 it in some manner such that everybody is aware of the
25 training we received on the importance of preserving public

1 record and being prepared to share those public records with
2 the public if necessary.

3 And unless there's any other conversation, we'll
4 now move to Agenda Item No. VIII, discussion and possible
5 action on census data and delay and ways to mitigate its
6 disruption.

7 Agenda Item (A) potential invitation to Census
8 Bureau and State Demographer to provide presentation.

9 With that, I will turn it over to our legal counsel
10 to share what is on your mind.

11 MR. HERRERA: Thank you, Madam Chairwoman.

12 I think, you know, on this agenda item we would
13 just report that we have made a request and -- and given an
14 invitation to both the Census Bureau and State Demographer,
15 to give a presentation before the Commission in public
16 session.

17 Specifically at the Census Bureau, we've asked that
18 their chief of redistricting as well as their senior advisor
19 for data acts and privacy come and present to the
20 Commission. That is something that they have done by
21 other -- or for other Redistricting Commissions already, so
22 we anticipate we'll be able to schedule that hopefully
23 sometime in the next few weeks.

24 And, Brett, I don't know if you want to touch on
25 the State Demographer.

1 MR. JOHNSON: Yes. Brian and I have both been in
2 touch with the Arizona Commerce Authority that where -- who
3 houses the State Demographer; we've answered some questions,
4 initial questions as to kind of expectations of the
5 presentation, looking back ten years and the looking forward
6 for 10 years, and some other information that would help
7 with the communities of interest as referenced by the
8 Chairwoman.

9 So that -- that request is in -- in the works, and
10 there's some good dialogue with the Commerce Authority.
11 Hopefully we'll have a better response and even a timeline
12 to a presentation next week.

13 COMMISSIONER LERNER: This is Commissioner Lerner.
14 When -- when they present, would it be possible for them to
15 do a little bit of a compare/contrast on their data?

16 What are some of the differences that exist between
17 the types of data that the Census has and the Demographer
18 has, just as part of their overall presentation, I think it
19 would be helpful for us to understand that so we're clear
20 when looking at data.

21 MR. JOHNSON: Yeah, and -- and,
22 Commissioner Lerner, you read -- you read my mind.

23 So the Census Bureau -- and I'll defer to Roy, the
24 Census Bureau is going to be stuck with Census Bureau data,
25 that's just -- they have their -- their, you know, box and

1 they stay -- usually stay within it. Although they'll
2 probably obviously bring the academic aspect to it as to how
3 that data is analyzed.

4 In regard to the State Demographer, actually the
5 first part of the presentation is exactly what we asked for
6 is what data does the Demographer utilize, why do they use
7 that type of data, and then how it can also be used going
8 forward.

9 Off the top of my head I know it's used for
10 purposes of building freeways, right? You don't build the
11 freeway out in the middle of nowhere -- maybe in Alaska you
12 build a freeway out in the middle of nowhere -- but you --
13 you ensure, you know, people are going to be growing toward
14 that.

15 But you read our mind and hopefully they give you
16 that kind of background in the front -- front end.

17 MR. HERRERA: It's likely the Census Bureau
18 presentation is going to be a bit more standardized since
19 they are dealing with sort of the national perspective and
20 they've already been given, as I mention, presentations to
21 others and I -- so their -- their presentation they've been
22 giving is actually available online; I think it's pretty
23 standard; but, nevertheless, I think the Commission will be
24 free to ask questions to the extent that are Arizona
25 specific, and to the extent the Census Bureau representative

1 know hopefully they can answer that.

2 CHAIRPERSON NEUBERG: Yeah, I -- personally I find
3 that exactly what is exciting for me is the opportunity to
4 ask questions. Because, you know, everybody in our
5 community who is following this process has genuine
6 questions about the data that's coming out; and it's not
7 partisan, it's just truly, you know, an academic, you know,
8 desire to understand, you know, what data is going to be
9 provided to us.

10 So I'm really excited to hear what they have to
11 share and for us to be able to ask our Arizona-specific
12 questions about how their data is going to, you know, help
13 us figure out our communities here. So I'm excited by this.

14 COMMISSIONER MEHL: I have a question. This is
15 Commissioner Mehl.

16 There were some actions brought by some other
17 states against the Census Bureau. Is there any update on
18 any of that?

19 MR. HERRERA: Turn that over to Eric.

20 MR. SPENCER: Yeah, Commissioner Mehl, there's been
21 no decision reached in the Alabama case yet, but there was a
22 Sixth Circuit oral argument on the Ohio case.

23 Just by way of background, the Ohio case merely
24 involved the delay in the census data, it did not relate to
25 the use of differential privacy data. I listened to that

1 oral argument last week, and I think Ohio is going to get
2 crushed; they just don't have a good idea about what they
3 want from the Census Bureau, and what they want is
4 impossible to grant them. The Census Bureau is not going to
5 speed up and give information faster than August 16th.

6 So my -- my prediction is the Sixth Circuit will --
7 will wonder why they're there.

8 But the Alabama case is more important, and that
9 decision is yet to be record.

10 MR. JOHNSON: And to our friends at Ohio who are
11 watching, that's Eric's personal opinion as to what the
12 Court may or may not do.

13 I'll also side with that opinion.

14 MR. SPENCER: And let me say it -- let me add a bit
15 why I think that.

16 The -- the Ohio -- Ohio filed that lawsuit prior to
17 the Census Bureau moving up and compromising from its
18 original official September 30th data delivery date and --
19 and then it subsequently agreed to give the legacy data by
20 August 16th. So most of the questions from the judges on
21 the Sixth Circuit were, you know, "Hey, Ohio, now that the
22 Census Bureau moved up by six weeks, doesn't that allay your
23 concerns?" And the Ohio lawyers said, "Yes, it does." And
24 the Circuit Court said, "Okay. Why are we here?" And the
25 Ohio attorney basically said, "Well, we want you to enter a

1 court order that forces the Census Bureau to deliver the
2 legacy data on August 16th in the way that they promise."

3 So I -- I sense some skepticism from the judges
4 about why it was necessary to enter a court order to
5 formalize something the Census Bureau has already agreed to
6 do by August 16th. So that's -- that's the reason for my
7 skepticism about how that case is going to turn out.

8 But at the end, the attorney conceded so much that
9 there's -- there's only really a sliver left of that case
10 that is relevant.

11 Again, Eric's personal opinion.

12 CHAIRPERSON NEUBERG: Informative.

13 And anything else from either our counsel or
14 Commissioners on the census data delay?

15 I -- I look forward to the academic presentation
16 and conversation. It's complicated and, you know, we'll --
17 we'll do our best to do right for the State.

18 With that, we'll move to Agenda Item No. IX, which
19 is discussion of future agenda item requests.

20 I heard Director Schmitt talk about the likelihood
21 next week -- which I'm sure our community would love --
22 which is some kind of presentation from our new mapping
23 consulting team.

24 In addition to that, is there anything else that
25 our -- you know, my fellow Commissioners would like to

1 recommend that we bring up next week?

2 Okay. With that, we'll move to Agenda Item No. X,
3 discussion and possible action on the scheduling of future
4 meetings.

5 We are slated as usual every Tuesday. The 25th,
6 next week, I -- Vice Chair Watchman is not here; we can
7 check in with him on his schedule, but I'm not aware of any
8 hard stops by any fellow Commissioners over the next, I'd
9 say, several weeks -- three weeks, if we would go that far.

10 COMMISSIONER LERNER: Chair Neuberg, I was
11 wondering if we wanted to consider having our meetings begin
12 at 8 o'clock in the future.

13 I have no hard stops or anything, but just whether
14 that would be something others would -- would like? And it
15 depends on staff and, I know, there's many considerations, I
16 understand that, but I wanted to throw it out there as a
17 possibility of an option is that we would begin at 8:00
18 instead of at 9:00 in the future.

19 CHAIRPERSON NEUBERG: I -- I open it up for
20 conversation.

21 And, you know, I think you're right. We -- we have
22 a large team, and the question is, you know, how does
23 everybody feel, you know, being prepared and ready to go on
24 a regular basis at that hour?

25 For me, it's not a problem at all.

1 COMMISSIONER MEHL: Is it a hardship on staff to do
2 8 o'clock versus even an 8:30 start?

3 I have no idea.

4 DIRECTOR SCHMITT: Not on my end.

5 I don't know if Counsel...

6 COMMISSIONER YORK: Look at Roy smiling.

7 MR. JOHNSON: Eric was making his usual derogatory
8 comment about the U.S. Navy, but we will be ready to go at
9 8 o'clock.

10 COMMISSIONER YORK: Roy, I find Arizonans tend to
11 get up with the sun anyways, so I get up earlier.

12 I know it helps Commissioner Watchman because he's
13 Navajo time, which is actually Mountain Standard. So our
14 9 o'clock is his 10 o'clock, so our 8 o'clock would be his
15 9 o'clock, so will probably help him.

16 CHAIRPERSON NEUBERG: All right. Well, it sounds
17 like based on consensus, just get ready for the public and
18 our team that you're on early, you know, duty. So I'm --
19 I'm comfortable with 8 o'clock.

20 So next week 8:00 a.m. and in terms of, you know,
21 finite time, that's to be determined.

22 COMMISSIONER YORK: Fantastic.

23 CHAIRPERSON NEUBERG: Okay. So, with that, Agenda
24 Item No. XI, which is the next meeting date.

25 It is May 25th and with a start time at 8:00 a.m.

1 With that, we'll move to Agenda Item No. XII,
2 closing of public comments.

3 Please note members of the Commission may not
4 discuss items that are not specifically identified on the
5 agenda. Therefore, pursuant to A.R.S. 38-431.01(H), action
6 taken as a result of public comments will be limited to
7 directing staff to study the matter, responding to any
8 criticism, or scheduling the matter for further
9 consideration and decision at a later date.

10 With that, we are into Agenda Item No. XIII,
11 adjournment.

12 I will entertain a motion to adjourn.

13 COMMISSIONER MEHL: This is Commissioner Mehl. I
14 move we adjourn.

15 CHAIRPERSON NEUBERG: Do I have a second?

16 COMMISSIONER YORK: This is Commissioner York
17 seconds.

18 CHAIRPERSON NEUBERG: Any discussion?

19 Okay. Commissioner Mehl.

20 COMMISSIONER MEHL: Aye.

21 CHAIRPERSON NEUBERG: Commissioner Lerner.

22 COMMISSIONER LERNER: Aye.

23 CHAIRPERSON NEUBERG: Commissioner York.

24 COMMISSIONER YORK: Aye.

25 CHAIRPERSON NEUBERG: Commissioner Neuberg is an

1 aye.

2 And, with that, we say we missed you,
3 Vice Chair Watchman. We will adjourn, and I look forward to
4 seeing everybody next Tuesday the 25th at 8:00 a.m.

5 Have a great day, everybody.

6 (Whereupon the proceeding concludes at 9:51 a.m.).

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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, Angela Furniss Miller, Certified Reporter No. 50127, 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 Litchfield Park, Arizona, this 1st of June, 2021.



Angela Furniss Miller, RPR, CR
CERTIFIED REPORTER (AZ50127)

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