

1 STATE OF ARIZONA
2 ARIZONA INDEPENDENT REDISTRICTING COMMISSION
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9 REPORTER'S TRANSCRIPT OF PROCEEDINGS
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12 PUBLIC SESSION
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15 Phoenix, Arizona
16 February 16, 2001
17 10:00 a.m.
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24 ARIZONA INDEPENDENT LISA A. NANCE, RPR
25 REDISTRICTING Certified Court Reporter
COMMISSION Certificate No. 50349

1 THE STATE OF ARIZONA INDEPENDENT REDISTRICTING
2 COMMISSION convened in Public Session on
3 February 16, 2001, at 10:00 a.m., at the Arizona
4 Attorney General's Office, 15 South 15th Avenue
5 Washington, Basement Conference Room A, Phoenix,
6 Arizona, in the presence of:

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8 APPEARANCES:
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10 CHAIRMAN STEVEN W. LYNN
11 COMMISSIONER JAMES R. HUNTWORK

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COMMISSIONER JOSHUA MARK HALL
12 COMMISSIONER ANDI MINKOFF
13 COMMISSIONER DANIEL R. ELDER
14 SCOTT BALES, Solicitor General
15 JOSEPH KANEFIELD, Assistant Attorney General
16 JAN MCLEMORE, Legal Secretary
17 LISA A. NANCE, RPR, CCR, Court Reporter
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1 AGENDA DESIGNATED SPEAKERS:

2 ELAINE LeTARTE
3 CHRISTINE BRONSON
4 CLAUDIA SMITH
5 ROBERT A. PATTERSON
6 TIM JOHNSON
7 KAREN OSBORNE
8 TERRI SKLADANY
9

10 SPEAKERS FROM CALL FOR PUBLIC COMMENT:

11 DAVID MENDOZA
12 MATT MONTOYA
13 ANTHONY SISSONS
14 BART TURNER
15 MR. GALLARDO
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ATWOOD REPORTING SERVICE
Phoenix, Arizona

1 Open Session
2 Phoenix, Arizona
3 February 16, 2001
4 10:00 o'clock a.m.

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

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7 CHAIRMAN LYNN: Good morning.
8 I'd like to call the Arizona
9 Independent Redistricting Commission to order.
10 My name is Steve Lynn. I'll be
11 chairing the meeting.

12 And the first order of business is
13 the approval of the February 13th minutes which
14 have been distributed this morning.

15 Are there any additions or
16 corrections to the minutes?

17 COMMISSIONER ELDER: Mr. Chairman,
18 I'd like to make a correction, please. On article
19 Number 5, deliberation of fifth member,
20 "Commissioner Lynn informed the public that the
21 Commission would go into executive session."
22 Commissioner Lynn had not been nominated or elected
23 at that time.

24 COMMISSIONER MINKOFF: Good point.
25 COMMISSIONER ELDER: I believe it
 was Commissioner Hall that made the recommendation

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1 or request to go into executive session.

2 CHAIRMAN LYNN: We'll note that
3 correction.

4 COMMISSIONER MINKOFF: Okay.

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5 CHAIRMAN LYNN: Any other

6 additions or corrections to the minutes?

7 COMMISSIONER HALL: Yes.

8 Commissioner Elder was the one that made the
9 motion. Commissioner Minkoff seconded it.

10 COMMISSIONER MINKOFF: On

11 deliberation?

12 COMMISSIONER ELDER: Election.

13 COMMISSIONER MINKOFF: Yeah.

14 COMMISSIONER HALL: Right. Sorry.

15 COMMISSIONER MINKOFF: Yeah.

16 CHAIRMAN LYNN: Okay.

17 May I have a motion to accept the

18 minutes?

19 COMMISSIONER MINKOFF:

20 Mr. Chairman, I move acceptance of the minutes as
21 corrected.

22 CHAIRMAN LYNN: Second?

23 COMMISSIONER ELDER: Second.

24 CHAIRMAN LYNN: Those in favor say
25 "aye."

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1 (Vote taken.)

2 CHAIRMAN LYNN: Those opposed,
3 "no."

4 Motion carries.

5 Next order of business, selection
6 of Vice Chair.

7 What is the pleasure?

8 COMMISSIONER HALL: Mr. Chairman,
9 I make a motion to nominate Andi Minkoff as Vice
10 Chair.

11 CHAIRMAN LYNN: Second?

12 COMMISSIONER ELDER: Second.

13 CHAIRMAN LYNN: Discussion?

14 Hearing none, all those in favor
15 say "aye."

16 (Vote taken.)
17 CHAIRMAN LYNN: Those opposed,
18 "no."
19 Motion carries unanimously.
20 Thank you.
21 COMMISSIONER MINKOFF: Thank you.
22 Don't miss too many meetings.
23 CHAIRMAN LYNN: Item four, public
24 service orientation.
25 Mr. Bales.

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1 MR. BALES: Thank you, Mr. Lynn.
2 There's a representative here from the Governor's
3 Office, Elaine LeTarte, who is going to speak to
4 you briefly about matters, as I understand, related
5 to government ethics.

6 We also have been talking with the
7 Department of Administration in the Governor's
8 Office about scheduling the regular public service
9 orientation of which there was a bit of discussion
10 last meeting. That is a statutorily required
11 orientation program that addresses a large number
12 of topics.

13 We've learned in our conversations
14 with the Department of Administration that it
15 really takes about four hours to provide the
16 necessary training.

17 Given that, we've also arranged
18 this afternoon to have one of the lawyers from our
19 office make a brief presentation to you just
20 limited to three topics, open meetings law, public
21 records law, and conflicts of interest, with the
22 thought those would be things you'd want to hear
23 about fairly quickly.

24 My suggestion would be that we or
25 someone else that you would direct would continue

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1 working with the Governor's Office and Department
2 of Administration to try to see if there is a way
3 to schedule your four-hour public service training
4 at a convenient and early time.

5 If you don't otherwise arrange for
6 that, the next regularly scheduled course would be
7 in April. You have been all tentatively signed up
8 for that course. I understood you wanted to have
9 the training earlier, if possible.

10 CHAIRMAN LYNN: Thank you,
11 Mr. Bales.

12 My understanding is that that
13 course is not necessarily one that has to be held
14 where all of us happen to be present in the same
15 location. We even have the option perhaps of doing
16 it in a teleconference mode where it could be
17 broadcast to various parts of the state and we
18 wouldn't have to travel.

19 So what is your pleasure on that
20 one?

21 Try to ask Mr. Bales to set
22 something up at a time when it will be
23 convenient --

24 COMMISSIONER MINKOFF: As soon as
25 possible.

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1 CHAIRMAN LYNN: We'll have a short
2 version and do the long version as soon as
3 practicable.

4 COMMISSIONER HALL: That's great.

5 CHAIRMAN LYNN: Next item of
6 business --

7 COMMISSIONER HALL: Mr. Bales, do
8 you have another copy of the agenda?

10 copy.

11 You might want to hear from
12 Ms. LeTarte from the Governor's Office before you
13 move on. Her comments really relate to a public
14 service office.

15 CHAIRMAN LYNN: Ms. LeTarte, would
16 you state your name for the reporter.

17 MS. LeTARTE: It's Elaine,
18 E-L-A-I-N-E, LeTarte, L-e-T-A-R-T-E.

19 As Mr. Bales has said, the ethics
20 course is mandated for all state employees and
21 board and commission members. The advantage to the
22 package, while this course goes on regularly for
23 employees, the advantage to the particular course
24 we do twice a year through the Governor's Office
25 for Appointments, the Governor's Office for

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1

1 Appointments works with the office I'm from,
2 Governor's Office for Excellence, works together,
3 have tailored scenarios to be those board and
4 commission members face as opposed to different
5 kind of scenarios staff members may face.

6 What you have here is a packet we
7 did last October 1. A version of this very close
8 if not the same will be used as a basis for April
9 1. And certainly we're willing -- we're more than
10 happy to provide it, if you are going to have a
11 special session yourselves.

12 We gave you the instructor's cheat
13 sheet. After the scenarios, we have penciled the
14 comment the way we think the answer ought to go.
15 You can, at your leisure, take a look at these
16 things, at your next session discuss it with the
17 Assistant Attorney General.

18 If you have no other questions,
19 I'm sure you don't because you just had a chance to

20 look at it, my office would be happy to help.
 21 Also, the Attorney General's Office would be
 22 informative if not more so.

23 CHAIRMAN LYNN: Thank you,
 24 Ms. LeTarte. We'll disseminate your phone number
 25 if the Commission members have questions in the

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1

1 interim Thank you very much for being here. We
 2 appreciate it.

3 Next item on the agenda,
 4 presentation by the Department of Administration
 5 relative to personnel and office space.

6 MR. BALES: Mr. Lynn, there are
 7 three representatives here from the Department of
 8 Administration I think can answer questions you
 9 might have about such issues as hiring staff,
 10 arranging for office space, and so forth.

11 People here are Christine Bronson
 12 who is a personnel manager with the Department of
 13 Administration; Claudia Smith, who works in human
 14 relations; and then Mr. Bob Patterson here who
 15 works on space related matters.

16 I don't think -- you could proceed
 17 either way. You could hear from them, perhaps ask
 18 questions based on what they tell you, or you could
 19 raise specific questions to start with.

20 CHAIRMAN LYNN: I think we'd like
 21 to hear from all three, if we could, and that will
 22 prompt some questions.

23 MS. BRONSON: My name is Christine
 24 Bronson. I'm --

25 COMMISSIONER MINKOFF: Speak up a
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1

1 little, please.

2 CHAIRMAN LYNN: You might want to

3 use the microphone.

4 MS. BRONSON: My name is Christine
5 Bronson. I'm a personnel manager, the person that
6 provides personnel services to all smaller
7 agencies, boards, commissions; service 80 agencies
8 and approximately 8,000 employees.

9 With me today is Ms. Claudia
10 Smith, manager of the Employees Relations Unit
11 within the Department of Administration. Her unit
12 is primarily responsible for strategic planning for
13 personnel, also employee investigations,
14 investigating grievances, and also legislation
15 review and monitoring.

16 My office is more than happy to
17 assist you with any needs you might have in the
18 areas of recruitment and classification,
19 compensation, hiring your staff, and so forth.

20 Mr. Bales' office asked us to be
21 here today and provide you with any assistance you
22 may need.

23 Feel free to contact our office.
24 If you have any questions for us, I'm more than
25 welcome, more than happy to take your questions.

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1

1 CHAIRMAN LYNN: Ms. Bronson, could
2 you briefly outline the process by which we'd begin
3 to engage staff by using the Department of
4 Administration?

5 MS. BRONSON: Certainly. There
6 are several decisions that need to be made by the
7 Commission, such as what kind of staff you would be
8 looking for. There are generally two types under
9 the personnel system. There are covered employees
10 and uncovered employees. So you would need to
11 determine whether you wanted to hire covered staff
12 or uncovered staff. And from there we could take a

13 look at what kind of organizational design you
 14 would be looking at.

15 COMMISSIONER ELDER: Excuse me,
 16 Mr. Chairman.

17 CHAIRMAN LYNN: Mr. Elder?

18 COMMISSIONER ELDER: Maybe I'm
 19 naive and don't know. What is the difference
 20 between a covered and uncovered staff person?

21 MS. BRONSON: Covered staff are
 22 under the State Merit System Personnel Rules,
 23 Department of Administration, Department of
 24 Administration Code. Uncovered staff not covered
 25 under the merit system, are exempted by statute

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1

1 from the personnel system. There are still some
 2 stipulations that apply to both. Uncovered staff
 3 have a little bit -- there's a little bit more
 4 flexibility.

5 COMMISSIONER ELDER: How would
 6 that affect the operation of the Commission,
 7 whether they were covered or uncovered?

8 MS. BRONSON: Claudia, would you
 9 like to --

10 MS. SMITH: Mr. Chairman, members
 11 of the Commission, the difference between the two,
 12 I think Christina fairly well outlined. However,
 13 the covered employees must be hired competitively.
 14 You have to do a little broader recruitment. There
 15 are some probation periods, those type of things,
 16 that would fall under the covered service.

17 If you went with the uncovered
 18 service, the exemption, I don't know how long you
 19 are going to be in operation, how long you plan on
 20 having your staff on board. That could be one
 21 factor for your consideration.

22 There are certain federal laws
 23 that both services are bound by, the FLSA, the

24 ADA --

25 MS. BRONSON: Americans with
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1

1 Disabilities Act, Family Medical Leave Act, Title
2 VII of the Civil Rights Act.

3 CHAIRMAN LYNN: Ms. Minkoff.

4 COMMISSIONER MINKOFF: There are a
5 number of other states that have independent
6 redistricting commissions. Have you, have you, or
7 is it possible to have anyone contact those states
8 and find out what their staffing complement is so
9 that we can look at that and use that as a guide to
10 making our own decisions?

11 MS. BRONSON: That's a good idea.

12 CHAIRMAN LYNN: Mr. Bales may have
13 begun that process, may have information on that
14 score.

15 MR. BALES: That's correct.

16 We talked with representatives
17 from only a few commissions. I understand there's
18 10 to 11 states that have commissions that work to
19 one degree or another on redistricting.

20 I suggest we coordinate with DOA
21 so only one person is making that effort and
22 provide that information for you.

23 CHAIRMAN LYNN: Any other
24 questions?

25 THE REPORTER: Would you spell
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1

1 your last name?

2 MS. SMITH: S-M-I-T-H.

3 THE REPORTER: B-R-O-N-S-O-N?

4 MS. BRONSON: Yes.

5 CHAIRMAN LYNN: If there are no
6 further questions, thank you for coming. We

7 appreciate it, and we'll be in touch.

8 Mr. Hall?

9 COMMISSIONER HALL: Before we move
10 off that agenda item, from a practical standpoint
11 then, what would you recommend, or what, to
12 initiate the process, if you would, to acquire an
13 executive director.

14 CHAIRMAN LYNN: It seems clear
15 staffing is critical for this group. We need staff
16 in place in a short period of time. We can do this
17 in one of a couple different ways, it seems to me.
18 If you would like me to be the liaison with the
19 Department of Administration to begin the process,
20 I can do that. If you would like to perhaps form a
21 small subcommittee on personnel, a couple members,
22 we can do it that way. But from what has been
23 talked about this morning, it seems clear that for
24 our purposes and for our time frame, we would be
25 looking at probably uncovered staff.

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1

1 I mean that just -- that's the way
2 it strikes me. And I'm obviously open to any other
3 point of view. But it seems as though with the
4 bulk of the work that we'll be doing, even though
5 this is a 10-year appointment, most of what will be
6 done is in the first seven or eight months of the
7 10 years. That's the time when staff is going to
8 be most critical. And it would seem appropriate
9 that we attempt to go as rapidly as possible but as
10 thoroughly as possible to a point where we have
11 staff in place.

12 What is your pleasure?

13 Ms. Minkoff.

14 COMMISSIONER MINKOFF: I have a
15 question.

16 If the desire is to hire uncovered

17 staff, and I agree with you it seems to be the
 18 reasonable way to go, how abbreviated can it be?
 19 We have a sense of urgency to get staff here.

20 With the merit selection, it's a
 21 much longer process, publicizing it, getting
 22 resumes, going through the entire process. How
 23 does it work when you decide to hire uncovered
 24 staff? How quickly can you do it?

25 MS. BRONSON: First of all, we

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1

1 need to establish the positions for the staff. We
 2 can expedite that with you, work with the
 3 classification unit and make sure those are
 4 expeditiously processed. Once the positions are in
 5 place, then we can -- you can go ahead and appoint
 6 your staff to those positions.

7 It depends on if you want to
 8 conduct a full recruitment. If you want to
 9 advertise in the newspaper, of course, that would
 10 take a little longer, and so forth.

11 It depends on recruitment.

12 CHAIRMAN LYNN: Another question.
 13 Mr. Hall?

14 MS. BRONSON: We do also have an
 15 existing data base of resumes in the system where
 16 if we enter into the data base the selection
 17 criteria that you are looking for, then we can
 18 already from the data base pull individuals' names
 19 that meet those criteria.

20 CHAIRMAN LYNN: Thank you.

21 Mr. Hall?

22 COMMISSIONER HALL: Am I correct
 23 in saying at this phase we're looking for an
 24 executive director?

25 CHAIRMAN LYNN: Yes.

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1 COMMISSIONER HALL: That's really
2 the main issue. If necessary, any additional staff
3 would be funneled through them.

4 CHAIRMAN LYNN: I think so.

5 COMMISSIONER HALL: Wouldn't that
6 be the point?

7 CHAIRMAN LYNN: Yes.

8 COMMISSIONER HALL: We're talking
9 one position, are we not? Are we in agreement on
10 that?

11 CHAIRMAN LYNN: I think so.

12 COMMISSIONER MINKOFF: Initially.

13 COMMISSIONER HUNTWORK: That was
14 going to be my question.

15 CHAIRMAN LYNN: I think we're
16 looking for someone to run the office portion of
17 this and provide staff support in a nonlegal
18 capacity for the Commission. That would be an
19 individual. And I would certainly think that that
20 individual then would make recommendations to us as
21 to support staff that would be necessary beyond
22 that one individual.

23 MS. BRONSON: If I could ask, do
24 you know what kind of knowledge, skills, and
25 abilities you would be looking for in an executive

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1 director?

2 CHAIRMAN LYNN: In addition to
3 being able to walk on or above water and do it
4 quickly?

5 Clearly the kinds of things --
6 obviously we have not talked about job description
7 kinds of qualifications; but certainly someone who
8 has been an executive, if you will, of either with
9 respect to a Commission, a deliberative body of
10 some sort, or someone that has staffed an office

11 that has done this kind of work, not necessarily
12 redistricting, per se, obviously that would be a
13 plus, but I don't know, since this is a new
14 experience in Arizona, whether we'll find someone
15 with those kind of skills. But the ability to do
16 research, the ability to supervise additional
17 staff, and to supervise contracts with consultants,
18 should that be something that we undertake in the
19 future. Someone who is used to providing
20 information to a group like this in a form that is
21 usable.

22 COMMISSIONER HALL: Public
23 relations.

24 CHAIRMAN LYNN: Public relation
25 skills, computer skills. Those kind of skill sets

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2

1 we're looking for.

2 Someone who is used to being
3 visible, because it will be a very visible
4 position, as is ours.

5 MS. BRONSON: Would you like my
6 office to work directly with you or Mr. Bales or
7 how can we best assist you?

8 COMMISSIONER HUNTWORK:

9 Mr. Chairman, I suggest they prepare a job
10 description based on the comments they've received
11 and offer it to you for review and perhaps you
12 could circulate it to us on an informal basis for
13 further comment.

14 CHAIRMAN LYNN: Is that acceptable
15 to the Commission?

16 Let's proceed that way.

17 Ms. Bronson, if you would do that,
18 I'll be happy to review it with you, make it
19 available to the other Commissioners for review and
20 comment, get it back to you as revised and move

21 forward.

22 MS. BRONSON: Sounds fine.

23 COMMISSIONER HALL: Bring five
 24 applicants, have them wean down the applicant pool
 25 to five, or what is the recommendation?

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2

1 CHAIRMAN LYNN: I'd like to not
 2 limit the search to just the pool available through
 3 that process.

4 I would also be more than happy to
 5 take recommendations from anyone who believes that
 6 there is someone in the community who can fill this
 7 role and can perform the duties. And I think at
 8 the point where we can collect a certain number of
 9 resumes and in some manner screen them to the point
 10 that we have a workable group, we would have
 11 interviews and select.

12 COMMISSIONER MINKOFF: Uh-huh.

13 Mr. Chairman, a related topic that
 14 we talked about in our last meeting when you talked
 15 about circulating this among the five of us, we had
 16 asked --

17 And do you have for us a list of
 18 the phone, fax, and e-mail addresses of all the
 19 Commissioners?

20 MR. BALES: I do, Ms. Minkoff.

21 CHAIRMAN LYNN: We'll have those
 22 circulated.

23 COMMISSIONER HUNTWORK:

24 Mr. Chairman, I'd request, although it might entail
 25 a lot of work, any resumes we receive be circulated

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2

1 or available to all of the Commissioners rather
 2 than having a prescreening by someone else.

3 CHAIRMAN LYNN: Absolutely.

4 Appreciate that. We'll do it that way.

5 MS. BRONSON: Thank you.

6 Mr. Elder?

7 COMMISSIONER ELDER: Mr. Chairman,

8 I'd like to add one other criteria, if at all
 9 possible, somebody that is knowledgeable or at
 10 least knows the process of the legal operations of
 11 the Commission from the standpoint of notification,
 12 who has to be notified if we get comments, how do
 13 they distribute, how do they manage a commission's
 14 business. So that would be one additional
 15 criteria.

16 CHAIRMAN LYNN: Recognizing we do
 17 additionally have legal staff to perform some of
 18 those functions, obviously someone that has worked
 19 with a commission before or body like this, the
 20 learning curve would be much less.

21 MS. BRONSON: Understandable.

22 CHAIRMAN LYNN: Any other
 23 comments?

24 Ms. Bronson, thank you very much.
 25 Thank you for being here.

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2

1 Mr. Patterson?

2 THE REPORTER: Your full name,
 3 please.

4 MR. PATTERSON: Robert A.
 5 Patterson.

6 I'm from the Department of
 7 Administration, Building and Planning Services.

8 In terms of office space, we have
 9 selected, which was easy since there was only one
 10 open office space on the Capitol Mall, a space, and
 11 refurbished it in an open office configuration.
 12 It's across the street at 1400 West Washington.
 13 It's about 3,300 square feet, which from the
 14 standards we use, would support a staff of up to 15

15 people.

16 As I say, it's refurbished, pretty
17 much an open office. There are two offices within
18 it.

19 And the service that we would
20 offer you is space planning, once you've decided on
21 the organizational functions, space planners ready
22 to meet with you, decide how the space needs to be
23 configured and configure it appropriately for you.
24 That's my function. I'm the tenant improvement
25 manager. That's what I do.

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2

1 We also coordinate such things as
2 voice and data cabling, any relocation or moving.

3 We don't do furniture, but we
4 could advise you about how to proceed with
5 selecting, procuring, and so forth.

6 Basically anything that has to do
7 with the physical facility we'll either do for you
8 or help you coordinate.

9 CHAIRMAN LYNN: Other questions?

10 Ms. Minkoff.

11 COMMISSIONER MINKOFF: Is this
12 space available for us to look at?

13 MR. PATTERSON: Yes.

14 COMMISSIONER MINKOFF: If we
15 decide it's not going to meet our needs, are we
16 authorized to go out into the market and find other
17 space?

18 MR. PATTERSON: I can't speak to
19 that. I don't know of anything would preclude you
20 from doing that. We also offer that service. I --
21 not me, but one of my close colleagues does
22 leasing. And we support that from the shopping and
23 finding the space right through the lease
24 negotiations and signing the lease. So, yes, if

25 that should -- if that should be what you need to

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2

1 do.

2 COMMISSIONER MINKOFF: Right.

3 MR. PATTERSON: We're the point of
4 contact for that, too.

5 CHAIRMAN LYNN: Mr. Elder?

6 COMMISSIONER ELDER: What about
7 access, public access, parking, linkages? I parked
8 half a mile away to get here. Is there access so
9 people can get to the office?

10 MR. PATTERSON: The parking on the
11 far side of that building is one of the more open
12 areas. I don't know if you noticed all the
13 construction fences around here, but we're just
14 beginning the construction of two major new
15 buildings on parking lots -- on what were parking
16 lots. So parking is going to be pretty tough. But
17 we coordinate that to -- in terms of showing you
18 what is available and trying to make sure that it
19 is available.

20 CHAIRMAN LYNN: Is it the case,
21 Mr. Patterson, that the lots around that particular
22 building, 1400, are most often full and
23 inaccessible for public access?

24 MR. PATTERSON: They are
25 considerably more full than they were before we put

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2

1 up the fences. I believe there's still going to be
2 available parking within a block of that building
3 on the north side.

4 COMMISSIONER HALL: Is there a
5 suite number or floor?

6 MR. PATTERSON: It's in the
7 basement level. And it does not have a suite

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8 number at this point. But we'd be glad to take you
9 over there at any time to look at it.

10 CHAIRMAN LYNN: Mr. Huntwork?

11 COMMISSIONER HUNTWORK: What is
12 the total cost of this to us? Is this being
13 offered to us for free or is there an
14 administrative charge of some sort and how much
15 would it be?

16 MR. PATTERSON: We paid for the
17 refurbishment with building renewal, because it was
18 deteriorated and needed to be restored to that
19 level.

20 Tenant improvements are usually
21 funded by the agency occupying the space. The cost
22 is very much dependent on what you want to do.
23 Offices, typically, we can do for -- if I do it
24 with our own in-house crew, which we would probably
25 do for timing and cost-effectiveness, we could

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2

1 probably do it for on the order of \$10 a square
2 foot given what we've got there.

3 COMMISSIONER HUNTWORK: Is there a
4 rental charge in addition?

5 MR. PATTERSON: Yes, there is.
6 The rental charge currently is \$13.15 a square
7 foot. I believe that goes up to 15 in the next
8 fiscal year. And then typically out in the private
9 sector rates are higher than that. And depending
10 on the time frame, short time frame lease, the
11 price goes up pretty dramatically if you can't
12 commit.

13 COMMISSIONER HUNTWORK: Is this
14 space we could occupy as long as we needed it and
15 then move out at any time?

16 MR. PATTERSON: Yes. Our space
17 around the mall is. You could occupy it. You
18 could occupy it next week if you needed to.

19 CHAIRMAN LYNN: Any other
20 questions?

21 Mr. Patterson, are you aware of
22 other State facilities either leased or owned
23 outside the mall area that might have space
24 available? My thinking is that the 3,300 square
25 feet is probably more than we'll need.

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2

1 MR. PATTERSON: Yes.

2 CHAIRMAN LYNN: Might there be
3 some spaces, either remnant space or other space,
4 that would be available at a location that might
5 offer more centralized or more accessible parking
6 or are you aware of any?

7 MR. PATTERSON: We're, I think, at
8 about 99 percent occupancy. So it's pretty full.

9 In terms of that space being
10 larger than you need, any part of it would be
11 available to you.

12 CHAIRMAN LYNN: I understand.

13 MR. PATTERSON: We can divide it.

14 COMMISSIONER MINKOFF: Subdivide
15 it.

16 MR. PATTERSON: Use the rest of it
17 for other purposes.

18 The only other space I'm aware of
19 is a small space I think on the order of 1,000
20 square feet up in north Phoenix up -- I think just
21 off 16th Street up by the Pointe north of --
22 between Glendale and Northern. We have one small
23 office suite up there. And I think that's the
24 only --

25 CHAIRMAN LYNN: Other available

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3

1 space.

2 MR. PATTERSON: In an ADOA managed
3 building in the metropolitan area.

4 CHAIRMAN LYNN: Okay. Any other
5 questions of Mr. Patterson?

6 Thank you, Mr. Patterson. We'll
7 be in touch.

8 MR. PATTERSON: Thank you.

9 CHAIRMAN LYNN: Any other
10 information to come to us in terms of presentation
11 by the Department of Administration?

12 Mr. Bales?

13 MR. BALES: I don't think so,
14 Mr. Lynn. I think those are all the DOA
15 representatives.

16 CHAIRMAN LYNN: If we could please
17 move to item --

18 COMMISSIONER HALL: Before we move
19 on, how did you want to proceed on with respect to
20 the space?

21 CHAIRMAN LYNN: What is the
22 pleasure?

23 COMMISSIONER MINKOFF: I would
24 think if the agenda allows it, I'd like to walk
25 over, look at it today.

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3

1 CHAIRMAN LYNN: Right before --
2 COMMISSIONER ELDER: At a break,
3 or lunch time, something like that.

4 CHAIRMAN LYNN: Mr. Patterson,
5 would that be possible?

6 MR. PATTERSON: Certainly would.

7 CHAIRMAN LYNN: Do we need to
8 check in with somebody or --

9 MR. PATTERSON: I'll take you over
10 there personally.

11 COMMISSIONER HALL: You'll have

12 lunch there, is that right?

13 CHAIRMAN LYNN: All right. Any
14 other questions?

15 COMMISSIONER HALL: No.

16 COMMISSIONER HUNTWORK: I do have
17 a question. Who is going to advise the Commission
18 about per diem expenses and like that? Is that
19 somewhere else in the --

20 CHAIRMAN LYNN: Some of it is in
21 there, and some of it I think we'll get in the
22 longer orientation that we get.

23 Mr. Bales, do we have any other
24 information about those kind of things today?

25 MR. BALES: I understood that for

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Phoenix, Arizona

3

1 the time being, until you get regular staff, DOA
2 will directly handle the processing of the
3 reimbursement forms. And I thought they would be
4 available. And I think we'll be able to get those
5 for you before the end of the day.

6 COMMISSIONER MINKOFF: Great.

7 CHAIRMAN LYNN: Okay. Thank you.

8 Then without objection, we'll move
9 to item six on the agenda, presentation by the
10 Attorney General's Office.

11 Mr. Bales?

12 Good, more paper.

13 MR. BALES: Much of this involves
14 things you asked for.

15 Actually, I do have several
16 different things for you. First is the list of
17 addresses and e-mail addresses that Ms. Minkoff
18 requested. Our office has prepared this from the
19 application forms you submitted and from what you
20 provided at the last meeting. I need to caution
21 you again, though, to be careful in terms of your
22 simultaneous communications to not run afoul of the

23 open meeting law. If a quorum is conversing via
 24 the internet, that most likely would constitute a
 25 meeting for purposes of the open meeting law.

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3

1 The second thing that I have for
 2 you is in response to a request from Ms. Minkoff
 3 regarding definition of the phrase "communities of
 4 interest." I prepared a brief, a one-page memo on
 5 that question.

6 Do you want me to answer this or
 7 just have the memoranda?

8 COMMISSIONER MINKOFF: Well, I
 9 haven't read it yet, so I don't know.

10 COMMISSIONER ELDER: Mr. Chairman,
 11 I prefer to have him go ahead --

12 CHAIRMAN LYNN: If you would,
 13 Mr. Bales, a brief discussion of what we have and
 14 what your conclusion is.

15 MR. BALES: To summarize as
 16 succinctly as I think I can, what the law in effect
 17 says is a community of interest is an area that is
 18 somehow defined through a common thread of relevant
 19 interest.

20 And I realize I've just given you
 21 a definition that is somewhat circular. Let me try
 22 to put it in context, though.

23 Over the last decade, the United
 24 States Supreme Court has identified community of
 25 interest, or communities of interest, as one of the

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3

1 traditional considerations that enters into
 2 redistricting.

3 The reason identifying traditional
 4 redistricting factors has become important is that
 5 the Supreme Court has also said that if the people

6 drawing district maps allow racial considerations
7 to predominate over the traditional redistricting
8 considerations, the resulting plan will be subject
9 to strict scrutiny. And as a practical matter,
10 that means it's likely the resulting plan will
11 likely violate the detection clause.

12 Communities of interest, along
13 with such things as respecting boundaries of
14 political subdivisions, are the kinds of
15 traditional factors that can enter into a plan.
16 And so long as those are the predominant factors,
17 the plan will not be evaluated on a strict scrutiny
18 basis and will stand a better chance of being
19 upheld in court.

20 Unfortunately, in terms of your
21 specific question, the phrase communities of
22 interest is not specifically defined in Proposition
23 106 or elsewhere in Arizona law, whether statutes
24 or cases. And the United States Supreme Court,
25 although it has often talked about communities of

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3

1 interest, has not itself given an explicit
2 definition.

3 It's suggested things
4 appropriately can determine communities of
5 interest, goes back to my point about there being
6 some common thread of interest, such things as
7 common economic or social characteristics,
8 neighborhoods' boundaries, areas defined in terms
9 of people that rely on common public transportation
10 facilities or share, perhaps, community
11 institutions, such as churchs, or schools. Those
12 have all been identified as valid bases for
13 identifying communities of interest.

14 The other important qualification
15 on that is the Court has suggested if you try to

16 define a community of interest solely on racial
17 grounds, then it will not be viewed as a plan based
18 on traditional redistricting factors. It has to be
19 on something beyond just race alone used to
20 determine an area as a community of interest.

21 Another important point, the
22 courts recognized in the redistricting process you
23 can seek input from residents themselves in terms
24 of what they see as their community of interest or
25 their area of shared concerns.

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3

1 So I realize I've given you a very
2 lawyerly answer, but I think that's what you are
3 stuck with given the law.

4 CHAIRMAN LYNN: Mr. Huntwork then
5 Ms. Minkoff.

6 COMMISSIONER HUNTWORK:

7 Mr. Chairman, I'm concerned. This is a very
8 important issue, of course, and it's critically
9 important that we thoroughly understand it. I'm
10 also concerned that asking the kinds of questions
11 that might provide a complete understanding could
12 be misconstrued in the context of an open meeting.

13 My question would be, would it be
14 appropriate to seek further clarification of this
15 and other legal issues with our counsel in
16 executive session rather than in the forum of an
17 open meeting?

18 CHAIRMAN LYNN: I'll leave that
19 determination to Mr. Bales.

20 MR. BALES: Well, you are
21 certainly entitled to go into executive session to
22 receive legal advice. And if you feel that your
23 ability to ask questions or if you feel that there
24 are areas which you would like to be able to have
25 confidential advice of counsel, it's appropriate to

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1 go into executive session. Again, the restriction
2 is the one we discussed at your last meeting. If
3 you come to the point of actually acting on
4 something, you need to go back into public session
5 to do that.

6 But Mr. Huntwork's question, can
7 you get legal advice in executive session, the
8 answer is yes. It's up to you if you think you
9 would like to get that advice in that context.

10 CHAIRMAN LYNN: In that same
11 context, should we desire to go into executive
12 session even though not on the agenda today, would
13 it be appropriate to do that today even though not
14 posted?

15 MR. BALES: Yes.

16 COMMISSIONER MINKOFF: Yeah.

17 CHAIRMAN LYNN: I'd suggest if
18 it's the Commission's pleasure to continue
19 discussion of this item or any items in executive
20 session, hold the item til the end of the session
21 so you don't inconvenience people here for other
22 parts of the agenda, if that's acceptable.

23 Other questions for Mr. Bales?

24 Ms. Minkoff.

25 COMMISSIONER MINKOFF: Yes. I

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1 have a question that I'm not sure that the memo
2 addresses.

3 We've got two issues regarding
4 community of interest, as I see it. One is how the
5 courts are going to view communities of interest
6 you summarized here. The other is how the
7 Department of Justice view them in terms of the
8 preclearance we need to get for any plan we need to
9 adopt.

10 Is there an inherent conflict
11 between DOJ requirements and court decisions?

12 MR. BALES: It's fair to say that
13 over the last 10 years there's been a great deal of
14 flux in the law in this area. Someone has probably
15 aptly described the redistricting process as
16 walking a legal tightrope. You on one hand, in
17 order to obtain preclearance, have to avoid
18 retrogression, make sure plans leave minority
19 groups no worse off than under the status quo.
20 That will force you to some extent to consider
21 racial issues in the redistricting process. On the
22 other hand, the Supreme Court has held that if
23 racial considerations predominate in identifying
24 particular districts, the resulting plan may be
25 subject to strict scrutiny and struck down as

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3

1 violating the legal protection clause.

2 COMMISSIONER MINKOFF: What is
3 strict scrutiny?

4 MR. BALES: Means only justify
5 state action here. The redistricting plan, if it's
6 narrowly tailored to further compelling state
7 interest.

8 Again, I apologize I have to give
9 you that kind of legalistic answer. If, in a
10 particular case, there were only one plan that
11 would satisfy the requirements of the Voting Rights
12 Act, that might constitute a sufficient compelling
13 interest to justify a plan in which racial
14 considerations predominated over traditional
15 redistricting factors. But I should say, in
16 most -- in the cases where the Supreme Court has
17 considered the issue where it's held that strict
18 scrutiny is required, it's gone on to find the
19 particular plans unconstitutional.

21 Mr. Hall.

22 COMMISSIONER HALL: I agree with
23 Mr. Huntwork we may at some point need to probably
24 sit down and get some additional clarification on
25 these issues. I'm wondering if it's not a tad

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4

1 premature until we draw a line.

2 You know, I -- I think we need to
3 have an up-front idea of what the parameters are.
4 But until we actually get down to some census
5 figures and drawing lines, I don't know if I really
6 need to go into executive session to hash the
7 legalities of it.

8 COMMISSIONER HUNTWORK: I would
9 agree completely. I think we have at this point
10 other matters that --

11 CHAIRMAN LYNN: More pressing.
12 COMMISSIONER HUNTWORK: -- that
13 are more pressing. And something like this and
14 other legal questions that will undoubtedly arise
15 can and should be deferred for a while.

16 CHAIRMAN LYNN: But we'll reserve
17 that right should it become necessary.

18 Mr. Elder?

19 COMMISSIONER ELDER: One of the
20 things I questioned here, and it may come up in our
21 next agenda item, based on the census, is that I
22 would really like to know what kind of data bases
23 and information we'll receive directly relating
24 communities of interest where we have data, where
25 we have information to be able to make a reasonable

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4

1 decision. So without that, I don't think -- I
2 agree I don't think we should go into executive

3 session until we have some idea of what we have to
4 work with and identify the issues involved.

5 CHAIRMAN LYNN: I take your point.
6 I'm sure as the day unfolds we'll get a lot more
7 information on which to make those kind of
8 judgments.

9 Any other questions of Mr. Bales
10 on this particular submission? If not, we'll move
11 ahead to other matters from the Attorney General's
12 Office.

13 MR. BALES: Thank you, Mr. Lynn.

14 The next thing I have to give you,
15 actually in response to a question Mr. Elder raised
16 at the last meeting, that is information concerning
17 the basis for the drawing of the existing district
18 boundaries.

19 I have two things to give you.
20 There's a District Court decision from the District
21 Court here in Arizona that relates to the
22 congressional districts.

23 You may recall in the last go
24 round of redistricting, the Legislature deadlocked
25 over congressional districts. The house passed one

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4

1 plan, the Senate another. As a result, the
2 district boundaries were ultimately drawn by the US
3 District Court.

4 There is a published decision
5 where the court explains, to some extent, how it
6 came up with the boundaries. So I have copies of
7 that for you.

8 COMMISSIONER ELDER: While handing
9 those out, do you have the original plan that was
10 rejected as well as what the court came up with?

11 MR. BALES: I don't have that with
12 me. We could get copies of that.

13 As you see in the opinion, there

14 were several different plans that were proposed to
15 the court. And the court adopted a modified
16 version of what it refers to in the opinion as, I
17 believe, the independent compromise plan. There
18 was another reason I wanted to give you this
19 particular opinion. You'll see in the end of the
20 judge's ruling how the plans are defined. And they
21 are largely defined in terms of a category of
22 census information called the vote tabulation
23 district, or voting district, VTB.

24 When we talk later about the
25 nature of census information, that's one of the

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4

1 things that will be coming out in March based on
2 the updated census information.

3 The other thing that I've copied
4 for you regarding the creation of the districts
5 last go-round is a -- an attachment that
6 accompanied the submission to the Department of
7 Justice seeking preclearance for the legislative
8 districts.

9 The attachment gives a very brief
10 description of the proposed districts in terms of
11 the demographics and in some instances explains why
12 the configuration was as proposed.

13 I need to caution you, however,
14 the proposed plan for legislative districts that
15 was submitted was objected to by the Department of
16 Justice.

17 So the summaries that I'm giving
18 you relate to the plan as proposed. There were, I
19 believe, about five districts that ultimately had
20 their boundaries slightly modified to accommodate
21 the Justice Department. I can identify for you
22 those particular districts. And you just need to
23 keep that in mind as you are reading the

24 description of what was proposed. The districts
 25 that ultimately were modified were four, eight, and

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4

1 nine, 10, 11, 12, and 14. These are districts
 2 largely down in Southern Arizona. And the reason
 3 the modifications were made is the department
 4 objected that district eight had not been drawn in
 5 a way that created a minority majority district.
 6 And to respond to that objection, the Legislature,
 7 ultimately, in 1993 changed the boundaries for
 8 these particular districts as compared to the plan
 9 that was originally proposed.

10 But here are copies of the summary
 11 regarding the Legislature's proposed plan in 1992.

12 And just to go back to Mr. Elder's
 13 question, any of the items that are referred to in
 14 these materials, such as alternate plans or the
 15 other documents that were submitted the last time
 16 to the department for preclearance purposes. I
 17 believe we could locate and get these for you if
 18 you wanted to see those.

19 CHAIRMAN LYNN: Mr. Elder, any
 20 further comment or does this begin to get at the
 21 request?

22 COMMISSIONER ELDER: Well, I
 23 haven't been able to peruse it, so I have no idea
 24 yet; but it may very well.

25 CHAIRMAN LYNN: Okay. It will

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4

1 give you a start.

2 COMMISSIONER ELDER: Thank you,
 3 Mr. Bales.

4 MR. BALES: The next thing I have
 5 in response to Mr. Elder's request, he asked if
 6 we'd put into memo format the timetable we

7 discussed at your last meeting. I've done that.

8 I would like to emphasize, again,
 9 this timetable in many respects is merely a
 10 possible timetable. Many of the identified targets
 11 or dates are ones that you ultimately have to
 12 determine if they are ones that you would like to
 13 try to achieve.

14 There are some dates, however,
 15 that are largely out of your control. And it's
 16 probably worth focusing on those just briefly.

17 The first and most relevant date
 18 is next month, because that's the anticipated date
 19 the Census Department will distribute to states, in
 20 CD ROM format, detailed demographic data necessary
 21 to actually do the redistricting.

22 The dates identified below on that
 23 through the rest of the summer are all dates that
 24 are merely possible or tentative dates that you
 25 could adopt if you wish.

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4

1 This timetable reflects the point
 2 I made at your last meeting that in terms of
 3 avoiding disrupting the other elections, the
 4 election schedule of the state for 2002, the ideal
 5 would be for you to have a plan to the department
 6 and precleared not later than late this year.

7 CHAIRMAN LYNN: Okay. Any
 8 questions or comments on the time line?

9 Mr. Bales.

10 MR. BALES: You sound surprised
 11 you are still asking me for things.

12 No, in seriousness, the other
 13 items that I've prepared for you, and this may be
 14 something you want to consider later on your
 15 agenda, it in some respect relates to the issue of
 16 legal counsel. But I've prepared a brief summary
 17 of the election law work that is done in the

18 Attorney General's Office so you can appreciate the
 19 kind of things we do. It's accompanied by a
 20 one-page summary that talks about the backgrounds
 21 of the three people who so far have worked on
 22 matters relating to the Redistricting Commission,
 23 and that would be Mr. Kanefield, a lawyer named
 24 Diana Varela in the Civil Rights Division who works
 25 on preclearance matters, and myself. I have that

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4

1 for you. It's again, probably, something if you
 2 will consider at all you might want to address with
 3 regard to the legal counsel issue.

4 CHAIRMAN LYNN: Just on that
 5 issue, and we can get to that in more detail when
 6 we discuss the counsel, on that issue, Mr. Bales,
 7 if -- if we were to decide to continue to avail
 8 ourselves of the services of the Attorney General's
 9 Office to provide primary legal counsel, are you
 10 then saying that the specific representatives of
 11 the AG's Office would be the three that you
 12 mentioned, yourself, Mr. Kanefield, and the woman
 13 that you referred to?

14 COMMISSIONER HALL: Ms. Varela.

15 CHAIRMAN LYNN: Diana Varela.

16 MR. BALES: Well, certainly they
 17 are the people that would be working on it for the
 18 time being. Our thought would be if you asked the
 19 Attorney General's Office to continue to provide
 20 legal service, it would be the Attorney General's
 21 Office. I can't promise you that each of those
 22 individuals would be always working on the matter
 23 or would be only working on the matter. We
 24 usually, with state agencies, have assigned
 25 attorneys. Sometimes assignments change. People

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4

1 come and go from the office.

2 CHAIRMAN LYNN: Would there be a
3 primary contact we could maintain continuity with?

4 MR. BALES: Yes.

5 CHAIRMAN LYNN: You wouldn't know
6 who that would be at this time?

7 MR. BALES: Well, I think for the
8 present, it would continue to be me and
9 Mr. Kanefield out of the Solicitor General's
10 Office.

11 CHAIRMAN LYNN: Okay. I just
12 wanted to clarify that so when we discuss it we
13 know exactly what we're dealing with.

14 MR. BALES: Okay.

15 CHAIRMAN LYNN: Other than a
16 penchant for providing a significant amount of
17 paper, you also provide us with a significant
18 amount of information.

19 MR. BALES: To clarify, typically
20 when the Attorney General's Office represents state
21 agencies, one person is assigned. Mr. Kanefield
22 typically represents the Secretary of State in
23 election matters. Another attorney in the office,
24 Todd Long, regularly represents the Clean Elections
25 Commission. We would, I imagine, have a lawyer to

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4

1 be regularly assigned to the Redistricting
2 Commission. And I would expect that I would
3 continue to work on aspects of the work for the
4 Commission as well.

5 CHAIRMAN LYNN: Okay. Thank you.

6 COMMISSIONER HUNTWORK:

7 Mr. Chairman, is this an appropriate time to ask
8 detailed questions about how the Attorney General
9 would provide these services or will we have the
10 opportunity to do that later?

11 until item eight, selection of counsel. We'll be
12 there fairly shortly.

13 Mr. Bales.

14 MR. BALES: That concludes what I
15 had under this agenda item. I'm also the person
16 that's going to talk to you about the census data,
17 so if you --

18 CHAIRMAN LYNN: Any other
19 questions or comments on the AG briefing, before we
20 go to the census information?

21 22 If not, please proceed.

23 MR. BALES: We have for you an
24 information packet that the US Census Department
25 distributed a few weeks ago at the National

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5

1 Conference of State Legislators Annual Program on
2 Legislative and Congressional Redistricting. This
3 is a general information packet.

4 I thought the most useful thing
5 for today would be, if you just wanted to turn to
6 the map that they have on the right-hand side of
7 the packet, because this -- it shows the way that
8 the census will be providing the information next
9 month. And it partly answers Mr. Elder's question
10 about what level of detail you'll be getting.

11 This particular map that the
12 Census Department has been distributing is for a
13 county in Jersey.

14 CHAIRMAN LYNN: We don't have to
15 redistrict that, do we?

16 MR. BALES: You don't.

17 And really, I guess, the important
18 things are just to begin to understand the
19 different subcategories of census data. Because if
20 you look on the map, and there's also a key to the
21 map that is in your packet, they have a different

22 base of basically dividing up any geographic area.
 23 If you look over on the right-hand side of the key,
 24 there is something called a census tract, which on
 25 the map would correspond to any of the big, red

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5

1 numbers.

2 For example, if you look in the
 3 upper right-hand corner of the map 108 in the
 4 label, it also has a label "Deerfield Township."
 5 That's a census tract.

6 Census tracts generally have about
 7 4,000 people in them. Census tracts in turn are
 8 broken down into categories that are called block
 9 groups and blocks. And if you look on your map,
 10 the block -- the blocks are the smaller, four-digit
 11 numbers. For example, 3000 in the upper right-hand
 12 corner, that designates a particular census block.
 13 And you can tell from the map the size of the
 14 blocks varies depending on the density of the
 15 population.

16 So if you look over on this side
 17 of the map, you have essentially an urban area.
 18 The census blocks become much smaller.

19 The other information that is on
 20 this map relates to yet a third category, something
 21 called voting districts, or VTDs. This is what I
 22 was referring to earlier about a category of census
 23 information.

24 The voting districts are shown on
 25 this map by virtue of the big, blue dots, the

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5

1 broken blue dotted line. And they are the
 2 five-digit big, blue numbers on the center of the
 3 map, VTD, or voting district 25001.

4 The Census gets data from states

5 and their subdivisions and tries to draw VTDs that
6 in some degree corresponds to voting units within
7 states, such as precincts. They don't exactly
8 correspond in all states. Here I believe the
9 asterisk indicates if in fact it corresponds to the
10 actual political voting district.

11 But next month when the Census
12 issues its data, the most important version of it
13 will be the computerized data on a CD ROM disk.
14 And it will provide population data by these
15 different subunits both for total population and
16 voting age population. And census data will also
17 provide demographic information, Hispanic,
18 non-Hispanic, and various categories by race.

19 COMMISSIONER MINKOFF: Can I stop
20 you for a question at this point?

21 MR. BALES: Uh-huh.

22 COMMISSIONER MINKOFF: On the
23 voting districts, if the boundaries that they have
24 do not correspond exactly to our precinct
25 boundaries, how do we use the information and why

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5

1 do they not correspond to our precinct boundaries?

2 MR. BALES: The -- the Census
3 looked to the states to provide data on political
4 subdivision boundaries. Arizona data was not
5 completely submitted -- was not completely
6 collected and was not submitted on the timetable
7 the Census desired.

8 The Legislature has contracted
9 with Maricopa County Elections Department to
10 basically use one of their GIS people, a person,
11 Tim Johnson, who is going to talk with you later
12 today. And they've been working to computerize
13 political boundary information for Arizona. And I
14 think that process may have been completed.

15 MR. JOHNSON: It is.

16 MR. BALES: So once we get the
17 census data, it will be a straightforward process
18 to feed the census data into things that will show
19 for our actual legislative districts how many
20 people are in the district. And similarly, once
21 you begin thinking of different possible maps, as
22 you propose a boundary, you can quickly see what
23 that does in terms of population.

24 COMMISSIONER MINKOFF: Will we
25 have information precinct by precinct as well? My

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5

1 understanding is a precinct has to be entirely
2 within one district so everybody in the same
3 district votes the same ballot.

4 MR. BALES: That relates to the
5 timetable.

6 Once you draw, per the timetable,
7 legislative districts, the County Supervisors
8 redraw the precincts so they fall in one
9 legislative district, one congressional district.

10 CHAIRMAN LYNN: Other questions?
11 Okay. Proceed.

12 MR. BALES: The last thing I have
13 to mention on census, various states identify to
14 the Census Redistricting Office particular contacts
15 within the state to be receiving the information.
16 The way it works when they actually have the state
17 specific data, they Fed Ex to designated recipients
18 and within a day begin posting information on the
19 internet so it's publicly accessible. It's
20 probably a good idea for you to determine someone
21 to be designated the recipient so you are getting a
22 copy directly. It could be Mr. Lynn as the Chair.

23 Since this isn't going to happen
24 for a bit of time, if you've identified a
25 particular office space, you could simply have the

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5

1 Census Redistricting Office send it to there.

2 The other thing they'll make
3 available are these actual hard copy county block
4 maps. It's a large number of big, paper maps. But
5 if you want that information, and typically I think
6 nearly every state has requested it, they would
7 also send that to the person that you identify to
8 them as your contact.

9 COMMISSIONER HALL: So essentially
10 Arizona, the State of Arizona has grown 1.5 million
11 in 10 years. Is that the nuts and bolts of it?

12 MR. BALES: Census data on
13 reapportionment suggested -- 1.5 is a good rough
14 number. A little over 3.6 million in 1990. I
15 think the figure is 5.23 million for the 2000
16 census.

17 CHAIRMAN LYNN: Okay.

18 MR. BALES: The talk about the
19 census was really meant to be census for a prelude
20 to the presentation from Maricopa County. My
21 thought is it would be useful for Mr. Johnson to
22 show you some existing computer software, how
23 Maricopa County has merged computerized census data
24 with the GIS, Geographic Information Systems,
25 computerized map making data to give you --

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Phoenix, Arizona

5

1 basically show you how the software does meld with
2 the new census data.

3 That concludes my presentation.

4 CHAIRMAN LYNN: Mr. Elder?

5 COMMISSIONER ELDER: Mr. Chairman,
6 I was going to say, while that is being set up or
7 whatever, I'd like to recommend we take like a
8 10-minute break and we adjourn --

9 CHAIRMAN LYNN: All right. Why
10 don't we do that.

11 It's -- let's say it's 11:00
12 o'clock now. Be back at 11:10. 11:15?

13 COMMISSIONER ELDER: Let's ask.
14 How long do you anticipate the
15 presentation to be?

16 MS. OSBORNE: The presentation, 15
17 minutes.

18 If you'd like to take a 15-minute
19 break, it would help us get stuff set up.

20 CHAIRMAN LYNN: We'll recess for
21 15 minutes. We'll reconvene at a quarter after.

22 We'll stand at recess.

23 (Recess taken.)

24 CHAIRMAN LYNN: Well, we violated
25 our own rule.

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Phoenix, Arizona

5

1 I'd like to call the Commission
2 meeting back to order, please.

3 Next on the agenda would be the
4 presentation by Maricopa County. But in deference
5 to the members of the public who are here --

6 And first I want to say that we
7 very much appreciate having the public here. These
8 meetings will always be public. They will always
9 be open. That's our commitment. And we not only
10 want, we expect and we need input from all segments
11 of the community.

12 What I thought I might do, in
13 deference to the members of the public who are
14 here, and it's a fairly lengthy agenda today, is
15 ask if there are people who were going to address
16 us under item 10, call to the public, who would
17 prefer to do that before the lunch hour so they
18 might resume their other activities. I'd be more

19 than happy to accommodate that so you can have some
 20 of your day back which I know would be important to
 21 you and we'd like to respect that.

22 Are there members of the public
 23 who would have spoken later who would find it more
 24 convenient to speak now?

25 Mr. Mendoza.

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5

1 Anybody else?

2 At this point, without objection,
 3 if we suspend the rules and allow Mr. Mendoza to
 4 make his comments, I'd be happy to entertain those
 5 now --

6 Yes, sir. You as well could
 7 speak.

8 MR. MONTOYA: Matt Montoya. I'd
 9 be happy to do that.

10 CHAIRMAN LYNN: Let me give the
 11 public this admonition I'm asked to read.

12 This is the time for consideration
 13 and discussion of comments and complaints from the
 14 public. Action taken as a result of the public
 15 comment will be limited to directing staff to study
 16 the matter or rescheduling the matter for further
 17 consideration and decision at a later date.

18 Let me also say by way of
 19 introduction to public comment, as I indicated,
 20 we're going to maintain a posture of public
 21 meetings all the way through this, not only in
 22 Phoenix, hopefully throughout the state. We expect
 23 to go to other parts of the state and present
 24 information and to seek comment.

25 As with any form of representative
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 Phoenix, Arizona

5

1 government, clearly not all areas of interest or

2 all people can be represented in any one body.

3 Clearly when there are only five
 4 of us, we can't represent the entire state in terms
 5 of every breakdown that might be either racial,
 6 ethnic, any other balance that you might think of.
 7 However, with all forms of effective representative
 8 government, it is not only appropriate but it is
 9 incumbent upon those representing people of their
 10 constituents, if you will, people of Arizona, to
 11 seek input from all, and I want to emphasize all,
 12 factions, groups, areas of interest, communities of
 13 interest, individuals who wish to address the work
 14 that we are about. And, therefore, we will be
 15 doing that in every conceivable way we can think
 16 of, including website, other open opportunity
 17 meetings.

18 So it's very important for us to
 19 hear from the public. It's very important for the
 20 public to have dialogue and input. We represent
 21 you, try to represent all of you. And we'll take
 22 any comments you wish to give us at any time we're
 23 in session.

24 So with that preface, Mr. Mendoza,
 25 I'd be happy to hear from you and relinquish some

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 Phoenix, Arizona

6

1 of your day back to you in good order.

2 Those wishing to speak, state your
 3 full name for the reporter before you speak.

4 MR. MENDOZA: Thank you. My name
 5 is David Mendoza.

6 I come before the Commission to --
 7 I guess wearing several hats. I'm currently the
 8 legislative director for a public employee union
 9 called AFSME. And my full-time job is lobbying at
 10 the State Legislature on different issues,
 11 primarily public employee issues. I am also the
 12 Affirmative Action Coordinator for the state party,

13 Democratic Party. So certainly that's a different
14 hat that I am wearing. And I'm a party officer.

15 I want to just make an observation
16 and then just make a couple recommendations for
17 your consideration. The observation is I was a
18 candidate for Congressional Representative District
19 One last cycle. Because of the way the districts
20 are, have been drawn, it was a noncompetitive
21 district, 35 percent Democrat, 55 percent
22 Republican. I ended up losing the election.

23 I hope -- I know how important
24 this work is for the citizens of this state and
25 those that have thrown themselves into this

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Phoenix, Arizona

6

1 process. So hopefully your work will be fair and
2 you will come out with some districts that are in
3 fact competitive and allow everyone to participate
4 in the redistricting process.

5 The other is the controversy
6 surrounding this Commission, the fact there is no
7 minority on this Commission. I'm not going to go
8 into all the details. Certainly all of you are
9 aware of the public outcry from primarily the
10 Hispanic community about not being represented on
11 this Commission.

12 I would like to, just looking at
13 your agenda, I see that there are a couple
14 opportunities for this Commission, and that is
15 selection, certainly, of executive director. That
16 could give you some, if it is a minority, certainly
17 that would be a positive step.

18 I notice as you were giving out
19 the recommended qualifications, skills and
20 abilities for the executive director, you mentioned
21 office skills, legal skills, and all of that stuff,
22 which, of course, are very important. But I

23 believe in my heart that certainly being a minority
 24 would also add and bring something to the
 25 Commission, a viewpoint that perhaps may not be on

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 Phoenix, Arizona

6

1 the Commission.

2 The other, of course, is the legal
 3 counsel. As you deliberate that issue on the
 4 agenda, there is another opportunity for a minority
 5 representation to the Commission.

6 And those are my recommendations.
 7 Certainly you have a lot of work ahead of you. I
 8 don't envy you the work. But I, from my point of
 9 view, offer you God's speed. And I hope you do a
 10 great job.

11 CHAIRMAN LYNN: Thank you,
 12 Mr. Mendoza, very much.

13 Mr. Montoya.

14 MR. MONTOYA: Matt Montoya,
 15 please, from St. Johns.

16 I would like to thank the
 17 committee for letting me speak.

18 CHAIRMAN LYNN: Mr. Montoya.

19 MR. MONTOYA: I'm a minority, like
 20 you said. Joshua Hall is from my district there.
 21 I can understand the frustration and the people
 22 that are unhappy about not having minorities, but I
 23 can -- from my point of view, Joshua Hall can
 24 represent me better from my end of town, state,
 25 than somebody from Maricopa County. That's all

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 Phoenix, Arizona

6

1 I've got to say, that I can be represented better
 2 with him over there from my home town than somebody
 3 from Maricopa, Scottsdale, Phoenix, or whatever.

4 Thank you.

5 COMMISSIONER HALL: Thank you.

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6 CHAIRMAN LYNN: Any other members

7 of the public that would like to speak now as
8 opposed to later? We'll give the opportunity later
9 this afternoon.

10 State your name for the record.

11 MR. TURNER: Bart Turner,

12 Executive Director of Valley Citizens League, also
13 past board member of Arizona Common Cause, a member
14 lobbyist for the American League of Women Voters.

15 First of all, I'd like to
16 congratulate all of you on your appointment to the
17 Commission and express our point of sincere thanks
18 for the obligations you've undertaken.

19 I'd like to mention I was on the
20 drafting committee for 106 and campaign committee
21 for the 106 campaign. I want to pledge to each of
22 you collectively or individually my willingness to
23 share with you any insights I can about that
24 process and the intention of the drafters and the
25 way in which the proposition was represented to the

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Phoenix, Arizona

6

1 state, voters in the state, during the campaign and
2 all of that.

3 I will be happy to serve as a
4 resource for you in that respect, should you desire
5 it.

6 I want to briefly touch on three
7 things that have come up so far. And as -- as was
8 mentioned earlier, I wish you God speed on your
9 work.

10 First, on the open meetings
11 concept and open meetings law, I think you'll find
12 over time there will be an indirect relationship
13 between the amount of time that is spent in
14 executive session and the degree of public
15 confidence that will be held in the work that the
16 Commission does. Certainly there may be occasions

17 in which an executive session is appropriate.
18 Clearly every opportunity you have to be in open
19 session and to move as much as possible into the
20 open session not only builds public confidence in
21 an organization, it also serves a great service to
22 the public by allowing us to receive education in
23 issues surrounding the redistricting process.

24 I would like to also suggest, and
25 I know this just being the first meeting you have,

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Phoenix, Arizona

6

1 I trust things will improve in the area of having
2 agendas available to the public, us knowing where
3 official agendas will be posted physically,
4 possibly having agendas, minutes, as well, on the
5 internet.

6 Possibly the Secretary of State's
7 Office can assist being the central location where
8 those agendas are available, also having agendas
9 available at meetings you hold today and copies
10 staff are distributing to Commissioners, having
11 those available to the public, utilizing overheads
12 wherever possible so everyone in attendance can see
13 information under consideration, having the call to
14 the public at the beginning of the meeting so that
15 people can comment if they have something they
16 would like to share which isn't directly related to
17 an agenda item they would like to hold for when the
18 agenda item is under consideration, they can do as
19 you've so politely given us an opportunity to do,
20 make those comments and get on to other business we
21 may have.

22 Also I'm very heartened you've
23 taken into consideration availability of parking,
24 public parking, where staff may be housed as well
25 as where meetings may be held, which may or may not

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Phoenix, Arizona

1 be in the same location. I'm very heartened by
2 that.

3 Questions come up over the
4 competitive nature of districts, came up in the
5 interview process. I'd share with you, as I did
6 when Proposition 106 was being presented, the basic
7 process was having incumbents involved in the
8 redistricting process, left it open to the natural
9 human concern of their reelection. And by moving
10 to an Independent Redistricting Commission and
11 developing criteria for the redistricting process,
12 the natural outfall of that would be that
13 competition would be increased in districts --
14 areas where competition would naturally exist.

15 It was not the design of this
16 proposition to force a situation of reverse
17 gerrymandering outcome, have 30 equal or
18 competitive districts, or even eight congressional
19 districts, that the competitiveness will be a
20 natural outfall by drawing lines along appropriate
21 communities of interest. In that respect, natural
22 boundaries that respect existing political
23 boundaries input, we put competitiveness as the
24 sixth priority of the proposition, not at first,
25 but the sixth. And we also -- and we did that --

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Phoenix, Arizona

1 and we worded it subservient to other priorities.
2 And we did that with purpose.

3 Lastly, it's also come up,
4 consideration of addresses of incumbents in the
5 process and if it would be appropriate to do so in
6 the game. And clearly the interest of the
7 individuals and organizations that drafted this and
8 the way that it was represented to the voters of
9 Arizona during the campaign process, and in fact

10 what we think they relied on to approve this by
 11 wide margin, is the address of incumbents or
 12 challengers to incumbents would not be considered
 13 in any part of the process. It may exist in the
 14 same paragraph. It's not a comma, semicolon. It
 15 specifically says, "Addresses of incumbents shall
 16 not be considered." If anything else was more crux
 17 to the proposition, it's that. I'd like you to
 18 hold that as you continue with this process.

19 I thank you for the opportunity to
 20 talk with you today. Again, anything I can provide
 21 for you, I'd be more than happy to do so, answer
 22 any questions you have for me.

23 CHAIRMAN LYNN: Thank you very
 24 much.

25 Any other members of the audience

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 Phoenix, Arizona

6

1 wish to be heard this morning before we continue
 2 with the presentation?

3 Seeing none --

4 Mr. Bales, would you introduce the
 5 next presenter, if you would, please.

6 MR. BALES: Thank you, Mr. Lynn.

7 Before doing so, I would like to
 8 mention during the break a number of members of the
 9 public requested copies of items we distributed to
 10 you earlier today. We're glad to make copies
 11 available. I'd ask that anyone that desires copies
 12 write their name down on a sheet of paper by the
 13 door. We'll try to have copies made over the lunch
 14 hour. One item, however, that's logically
 15 impossible to copy, and that's the census
 16 information packet we provided to you which has a
 17 large map. I've left a copy on the table. I
 18 believe anyone interested could obtain that
 19 document from the Census Bureau itself.

20 Other items, we'd be glad to have

21 copies made over lunch.

22 As far as moving on to the next
23 agenda item I want to introduce Karen Osborne, who
24 many of you know, Director of Elections for
25 Maricopa County. Prior to having that position,

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Phoenix, Arizona

6

1 she served as Elections Director for the State of
2 Arizona.

3 Frankly, I don't know of anyone
4 else who is as knowledgeable about the practical
5 workings of elections in the State of Arizona. I
6 think she could answer questions you might have
7 about how what you do has a consequence or relates
8 to what needs to be done at the county level in
9 terms of things like redrawing precinct lines.

10 She's also been a leader I think
11 among the county election directors and is
12 well-connected.

13 There is, in fact, a community of
14 those people around the state. You might want to
15 think as you move down the road how to draw on
16 their collective knowledge in terms of things like
17 identifying communities of interest or using them
18 as a way to solicit information from different
19 groups within the state.

20 She is accompanied by Tim Johnson,
21 the person down here to my left, who works for
22 Maricopa County as a GIS technician. He over the
23 past year worked extensively on helping prepare the
24 redistrict boundaries for Maricopa County's
25 Supervisorial Districts, which I believe just last

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Phoenix, Arizona

7

1 spring were approved by the Department of Justice.
2 And we've asked them to come and provide a bit of a
3 demonstration of what the technology now is in

4 terms of redistrict mapping.

5 So with that, I'll leave it to

6 Ms. Osborne and Mr. Johnson.

7 MS. OSBORNE: Good morning. I'm
8 Karen Osborne, Director of Elections. As he
9 explained it, Tim Johnson is the brains behind our
10 group.

11 We're here out of
12 self-preservation. The better your lines are, the
13 better our lines are.

14 In Maricopa County, we have over
15 75 districts that split our precincts, cities,
16 counties, water districts, fire districts, all
17 those things that play into the end of the
18 election. And certainly the very first thing that
19 happens is the drawing of the congressional lines
20 and legislative lines. And everything has to keep
21 up to that.

22 Last year the Legislature passed a
23 bill all Boards of Supervisors will redistrict by
24 this June, which adds an extra little group of
25 interest to what you are doing; because now we have

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Phoenix, Arizona

7

1 to go out and redistrict our Boards of Supervisors
2 based on our new census data. And then we have to
3 come back in and because we can't split a precinct,
4 we have to make sure we don't have any traps in
5 here.

6 You'll hear me talk about Dos
7 Precinct in Maricopa County. Two people. It's a
8 legislative district south of the congressional
9 line which whips around it. Two people are trapped
10 in the center. If we had it with one, we'd call it
11 Uno, I guess.

12 Let me talk just a minute before
13 Tim starts about what has been built for you.

14 You'll hear a lot of terms we want to qualify:
15 VTD, voter tabulation district, to
16 us means precinct voting precinct.

17 When you talk about blocks, block
18 groups, and tracts, a block is the smallest group
19 of people that have been identified. You have
20 groups of blocks. And then you have census tracts.
21 And all of the information -- actually, when we
22 started out, when I started out participating in
23 this in 1980, 1980 was tough. And Mr. Shumway, Jim
24 Shumway, was our Elections Director. We decided at
25 that time it would be best to go to the Census

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Phoenix, Arizona

7

1 Department and say, "If we can give you these
2 precinct boundaries, can you give us back the
3 information in those boundaries?" And they said,
4 "Yes, we could."

5 So they came up with the wonderful
6 terminology of VTD, voter tabulation district.

7 So in 1990 when census information
8 came back, we did have it by precinct.

9 In '97 the Census Bureau sent us
10 these huge paper maps. All county election
11 directors sat down and said, "This is where we
12 believe we would like our information to come back,
13 because these are specific geographic problems we
14 have." Most obvious is the Grand Canyon, the Salt
15 River, some of those things that hit us up close
16 and personal somebody back East may not see because
17 it's flat. South Mountain is huge but very flat on
18 a one-dimensional map.

19 When we got the information back
20 in, we need to have it in usable format. Each of
21 the counties work to provide dimensions and areas
22 so when they sent census takers out, we'd have a
23 logical way of getting the information back.

24 We provided our census -- I mean

25 our precinct data to the Census Department. And

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Phoenix, Arizona

7

1 there was an individual who for seven of the
2 counties did their work. And we came down to
3 pretty much the end, and there were seven counties
4 who had not provided those boundaries to make, if
5 you will, a bucket to pour the census data in.

6 So legislative counsel contracted
7 with Maricopa County. And Tim did the work. And
8 it's been completed. That information is in the
9 hands of Leg. counsel so we do have identified a
10 bucket to put the census information in when it
11 comes back, if you will.

12 To answer Ms. Minkoff's question,
13 you will be able to look at the census data once it
14 is compiled into those precincts. So you have some
15 of that.

16 I'll let Tim take over now. This
17 is the interesting part. This is the part that
18 shows you what is out there.

19 Keep in mind, the end result you
20 come up with has to be approved by either the
21 federal courts or the Department of Justice.

22 What you do today, the logs, that
23 administrative part has to be kept and held. We do
24 a lot of redistricting on Justice of the Peace
25 Precincts, have just gone through our redistricting

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Phoenix, Arizona

7

1 for Board of Supervisors, and continue to find the
2 more homework we do up front, the less we have to
3 explain at the back.

4 It is a system of proving up.

5 I'll turn it over to Tim at this
6 point and then we'll continue.

7 Go ahead, Tim.

8 MR. KANEFIELD: Want the lights
9 down?

10 MR. JOHNSON: What we decided to
11 do --

12 CHAIRMAN LYNN: Would it be
13 possible to spin the computer around and face us?

14 MR. JOHNSON: I wanted to bring a
15 presentation and live applications to kind of
16 demonstrate what the census geography will look
17 like, have counts attached to it and applications
18 we've used in the past and are preparing to use for
19 our redistricting, since we've been there, too.
20 And we're getting ready to do that again.

21 I'll start off with a quick
22 overview of what the Census Bureau TIGER geography
23 looks like.

24 TIGER data base is actual physical
25 features the counts are going to be attached to.

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Phoenix, Arizona

7

1 TIGER stands for topographically integrated
2 geographic encoding reference. That's what it
3 means.

4 It means it's really an instant
5 GIS data base on CD ROM. They send out text files.
6 Using a translation program, you can extract what
7 the features are, what geography is, that counts
8 will be compiled by. It contains transportation
9 features, landmarks, water features, physical
10 things on the ground that can be put on a map. It
11 also has jurisdictional boundaries, cities,
12 counties, legislative, congressional districts,
13 school districts, and so on.

14 Then statistical areas we're
15 talking about, those are blocks, block groups, and
16 tracts, also, as Karen said, the voting precincts,
17 or VTDs. Which when you get to the TIGER CD ROMS,

18 you'll have eight of 15 counties' VTDs. The other
 19 seven exist at the State Legislature, external of
 20 TIGER; but they have the means to get the TIGER
 21 information on the voter tabulation districts for
 22 the other seven counties.

23 CHAIRMAN LYNN: Is that Leg.

24 counsel or --

25 MR. JOHNSON: Yes, Leg. counsel.

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 Phoenix, Arizona

7

1 I'll begin with -- I'm not able to
 2 read too well on the screen -- a block. The block
 3 the State Capitol sits on is the smallest bit of
 4 geography that contains a count. The boundaries of
 5 a block always have to be a physical feature,
 6 something the census enumerator can see on the
 7 ground so he knows where he's counting. And that's
 8 pretty important because in the rural areas where
 9 physical features aren't very well-defined, like
 10 unnamed washes could be in TIGER. For voting
 11 precinct purposes, it may have been cleaner and
 12 easier to use a section of land, public land survey
 13 section boundary. That it's pretty easy to
 14 determine, but it's not valid for a census
 15 boundary. And that's going to come into play a
 16 couple slides away when we get into the voting
 17 precincts.

18 But there's over 158,000 blocks in
 19 Arizona.

20 The next group is a block group.
 21 And it's just simply a group of blocks. The blocks
 22 are nested within block groups. A block group
 23 doesn't nest in blocks. And there's about 3,600 of
 24 these in Arizona.

25 COMMISSIONER ELDER: Is there a

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 Phoenix, Arizona

7

1 basis by which they group individual blocks to a
 2 block group?

3 MR. JOHNSON: It's by -- there's a
 4 population threshold. I believe -- the block is
 5 almost specifically a city block. And then a block
 6 group, I don't know what the number exactly is, but
 7 they have a target for -- I think someone was
 8 saying earlier for a tract it's about 6,000, and
 9 for block group I don't know what it is.

10 COMMISSIONER ELDER: I guess what
 11 I'm looking at, as opposed to being horizontal, why
 12 not vertical? Is there a ratio on how you develop
 13 block groups?

14 MR. JOHNSON: Just by population.
 15 Other than that, I don't know.

16 And the biggest one is the tracts.
 17 You had been talking about those earlier. They
 18 range in physical size from about a square mile up
 19 to several thousand square miles. Up in the Grand
 20 Canyon area is the largest one. There's about
 21 1,100 of those in Arizona.

22 CHAIRMAN LYNN: Tim, it may be
 23 coincidental. It appears as though, to Mr. Elder's
 24 point earlier, they are at least in some fashion
 25 using major arterials, or major roadways, in this

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 Phoenix, Arizona

7

1 case, freeways, to delineate those groups when that
 2 is feasible. Is that reasonable to assume?

3 MR. JOHNSON: Yeah, exactly. In
 4 the urban areas, that's very common. Outside could
 5 be county boundary -- they are usually significant
 6 boundaries.

7 Next are VTDs, voter tabulation
 8 districts, or voting districts, as we call them.
 9 VTDs are, of course, set up for administration of
 10 elections. It so happens that the voting precinct
 11 the State Capitol sits in, which is Dunbar

12 Precinct, it shares tract boundaries. But that's
13 coincidental. It's not always going to be the
14 case, especially in the rural areas.

15 And how a precinct will exist in
16 TIGER, or Leg. counsel, is grouping of blocks.
17 There's a certain number of blocks that will equal
18 a voting district, VTD.

19 And this is where actual
20 precincts, actual ones defined the Board of
21 Supervisors has for each county, may not be
22 definable in TIGER because of use of invisible
23 features, or planning for future growth, or things
24 like that, things you can't put in the TIGER data
25 base.

ATWOOD REPORTING SERVICE
Phoenix, Arizona

7

1 COMMISSIONER MINKOFF: Tim, let me
2 ask a question. You said VTDs don't necessarily
3 have common boundaries with census tracts, but they
4 do with census blocks?

5 MR. JOHNSON: They do. For the
6 TIGER representations, they do.

7 COMMISSIONER MINKOFF: So a census
8 block cannot be split between precincts.

9 MR. JOHNSON: Right. In actuality
10 they can and often do, but for TIGER
11 representations, they don't. They are all nested
12 within. They are groupings of blocks. There are
13 about 2,000 of these in Arizona, actually 2,027.

14 So now I --

15 COMMISSIONER MINKOFF: Let me ask
16 another question. If you say that for this program
17 a census block is not split but sometimes in
18 actuality it is --

19 MR. JOHNSON: Yes.

20 COMMISSIONER MINKOFF: Then this
21 program is not an accurate representation of what

22 exists, is it?

23 MR. JOHNSON: Statistically, yes,
24 it is, but not -- not in a legal description sense.

25 COMMISSIONER MINKOFF: Well, if

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Phoenix, Arizona

8

1 you have a census block that is not split on this
2 software, and we're massaging numbers using this
3 software, but that census block actually isn't
4 wholly within the Dunbar Precinct but part of it is
5 within an adjoining precinct, then we're not
6 getting accurate numbers, are we?

7 MR. JOHNSON: Yes, actually you
8 are, because the count of that block is absolute.
9 So the population count is within those boundaries.

10 There is the chance for, when you
11 get to the voter registration part of it, there
12 will be some trading back and forth.

13 When I did the project for county,
14 I tried to consider that when I had to make those
15 type of decisions, where are the people here.

16 And what it came down to in
17 practice is the most significant places that this
18 happens are the rural areas where -- I'll keep
19 using the section line example, because that's real
20 common throughout all the counties is to use a
21 section line throughout counties.

22 If the section line goes here and
23 there's a wash or something that goes back and
24 forth across it, there's probably not anybody
25 living in that area, or if there were, I would try

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8

1 to assign the block to whichever area has the
2 greater number of people.

3 So there's going to be -- there
4 will be some plus or minus; but generally, in the

5 most heavily populated areas, they are pretty
 6 much -- pretty right on.

7 COMMISSIONER ELDER: If there is a
 8 variation, will that variation show up in the data
 9 base that the judiciary would use to evaluate the
 10 fairness and the competitiveness --

11 In other words, is the data that
 12 we're going to get and be able to use to develop
 13 our redistricting the same data base, the same
 14 subdivisions that, say, the federal people would
 15 use to evaluate?

16 MR. JOHNSON: Yes. Exactly the
 17 same. Yeah.

18 With TIGER, everybody is going to
 19 be on the same page. In fact, it's been said that
 20 the actual precinct lines are actually lifted.

21 So if you are considering drawing
 22 a legislative district boundary that follows a
 23 precinct line in a rural area and are not sure if
 24 that's an actual precinct or not, it doesn't matter
 25 if you use that line. The precinct would have to

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8

1 be redrawn to follow it, anyway. So . . .

2 Any more questions on that topic?

3 Okay. So getting on the
 4 Geographic Information Systems in redistricting,
 5 the principles behind this -- or rather
 6 capabilities, it lets you develop plans and
 7 proposals quickly, let's you analyze things without
 8 having to get out paper, complex spread sheets that
 9 have to be used. You can do that before, after, or
 10 during the process, whenever you want.

11 It simplifies greatly, cuts down
 12 the labor. You can analyze plans according to
 13 geography, draw communities of interest, if you can
 14 define it, then determine if you are affecting it,
 15 splitting it, anything like that. And you can

16 reproduce or modify your existing plans.

17 Plan X would be printed the same
18 no matter who is looking at it or who is doing it.

19 The basic steps are that
20 demographic data is assigned to building blocks.
21 And it's quoted here because it could be any of
22 those groups. It could be a block, block group,
23 tract, or precinct. You could build your district
24 out of any of those. And then you assign the
25 building blocks a district code in software to

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8

1 combine blocks with similar code to a new district.

2 Remove interior lines, and you're
3 left with your districts. And at the same time you
4 total the demographics and compare, test, analyze
5 new precincts or any bench marks or standards you
6 adopt. Finally you generate the output, maps,
7 charts, tables, reports, whatever you adopt as
8 standard outputs.

9 To visualize that, this is just a
10 group of blocks. Each of them has an identifying
11 number. You need to identify it and get tabular
12 information, which would be census counts that
13 links physical geography to tabular information
14 which contains all demographic data, Hispanic,
15 white, black, American Indian, and goes on for how
16 many being counted by. As you assign a block to a
17 new district, you can see in the tabular example a
18 column that contains the numbers from one to four,
19 assuming we are targeting four districts here. As
20 you go, districts are shaded as to what assignments
21 would be. So you get a preview of what districts
22 would look like.

23 And then when you get to where
24 districts are where you want them to look, remove
25 interior lines and summarize the information.

1 And that's it for the slide show
2 part.

3 I can show you in practice what
4 this looks like.

5 This is the redistricting software
6 that we used for the last Board of Supervisors
7 redistricting. So this is, in general, the Metro
8 area of the county. And we have five districts,
9 five supervisorial districts, so five groupings of
10 color over here.

11 You can see the table of
12 information has columns for each of the
13 demographics that we're concerned with, and it's
14 related to precincts. So the precincts are the
15 voting blocks in this case. And then the extent --
16 this is the -- the bulk of this is commercially
17 available, Arcview GIS, and it's from Environmental
18 Systems Research Institute. It's off-the-shelf
19 software that we don't sell, or anything like that.
20 We've added this component on top of it, just makes
21 life easier for our redistricting. And we can --

22 Assume in here, what this allows
23 is I'm drawing a polygon that is going to group all
24 those precincts. In our particular software, we're
25 able to look at four variables simultaneously. I

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1 have set it up to do, right now, looking at voters,
2 people, 23,202 voters and 7,970 people in that
3 area, I can see, before I've done anything to
4 affect how many people I affect.

5 CHAIRMAN LYNN: How many variables
6 can you use with the same methodologies? How many
7 will it take?

8 MR. JOHNSON: The way this is

9 coded, up to four. As principles go, it can be
10 unlimited.

11 If I were to assign it to five, it
12 puts it in District Five and gives their color.

13 As I go, I can view what districts
14 look like if I were to finish at that point.

15 This is all the demographic
16 information. I can run a check or a series of
17 checks to see if it's within an acceptable range of
18 population, which this one does; or it can analyze
19 geographically using some methods for compactness,
20 and so on. It could analyze that.

21 Note the voter registration -- the
22 checks can be anything that you decide you are
23 going to be mathematically testing for.

24 This one is telling me I'm not
25 within the range we were hitting for, plus or minus

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8

1 five percent of an ideal district. This one is
2 telling me that I'm not there. Then it gives a
3 summary of what the range you can hit is. It tells
4 me one is for 73, District Four. District Four
5 doesn't have enough people. Till I get where I
6 want, I can -- I can start going through the steps
7 to produce the apel et.

8 This particular process is going
9 to identify the areas different from this version
10 of my proposal to the original districts. So you
11 can see the yellow areas are changed from what the
12 districts were to what they would be under this
13 configuration and labeled how many people are in
14 each affected area.

15 The next process it does is
16 actually combining voting precincts into a new
17 district layer, so that would be the boundary
18 lines.

19 The next one is we identified a

20 certain number of things we wanted to show on our
 21 maps as far as charts, and it automatically
 22 generated those. This is new population. This, of
 23 course, low, have to fix that. Voting age,
 24 minority percent. Change population from existing
 25 to proposed, and number of active voters by party.

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8

1 Another thing that can be done --
 2 I just basically translated all the information
 3 into an Excel spread sheet so that it can be
 4 presented or this could be saved and e-mailed to
 5 whoever wanted it.

6 And finally, once all that is
 7 done, our software would assemble this into a map
 8 that can now be printed and distributed.

9 That's how quickly we can develop
 10 plans. Except for deciding where the line should
 11 be, that's how quickly the software can generate a
 12 proposal for them

13 So that's what we used last time.
 14 And another issue that must come
 15 up is the public involvement and how you can get
 16 the greatest number of people to comment on these
 17 lines and view them and give their input. And
 18 since we have that issue, too, I have a prototype
 19 type website that we're developing which allows the
 20 public to visit the site. They can view and
 21 comment on the plans however they see fit.

22 So what this is is this is just a
 23 grouping of the plans from our last round of
 24 redistricting. We got up 236, so just a handful of
 25 them

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8

1 And as a visitor to the site
 2 selected one, it grabs the plan and puts it onto a

3 dynamic map of the county that the visitor can now
4 zoom in, zoom out, pan or identify some basic map
5 features similar to our Arcview application but not
6 nearly as full-featured.

7 The idea is anybody with a web
8 browser can get into this and have this kind of
9 functionality.

10 And this particular view, we're
11 showing not much happens until you get down to the
12 street level, it's more or less available then.

13 Just as a sample, there's some
14 election info already on this, early votes
15 returned, ballots cast in general election, just
16 some -- whatever variables we wanted to present,
17 kind of an example how that can be done.

18 The visitor can get some
19 information about the -- about the streets. That's
20 17th Avenue in Phoenix. Here's address range, zip
21 codes, and so on.

22 If they want to see the
23 demographic of -- they can also see this in
24 relation to other boundaries, like the existing
25 legislative district lines. That's the justice

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8

1 precincts.

2 So you can see the current lines,
3 how the other lines would be in relation to
4 whatever the proposal is. They can view the
5 demographic information as a table.

6 And this probably looks real
7 familiar to this. It's actually the same thing.
8 And also, the visitors can comment.

9 Just using a group of -- some sort
10 of rules about what kind of criteria would have to
11 be met to be part of the official redistricting
12 record, as far as we figure, if we let people

13 comment anonymously, if they want something to go
 14 to justice they have to at least give contact
 15 information so they can be asked a little more
 16 about it. And the other thing is it adds a rating
 17 system for whatever the person feels about the
 18 plan.

19 Anyway -- and then the comments
 20 are significant. And what happens to them, if they
 21 went into the data base on a web server, in this
 22 case my laptop is acting as a web server, on that
 23 data base it tells me what plan they were looking
 24 at, when they visited, and whatever they wrote in;
 25 also tells you how they rated it. And that will

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9

1 give us a base to see what the public thinks about
 2 the plans.

3 And that's generally it as far as
 4 what we've got in the works.

5 MS. OSBORNE: Thank you, Tim.

6 Now you can see why he makes it
 7 easy for us to do our redistricting.

8 When we did this in 1990, 1992
 9 actually, we had some pins and a map and a 186 in
 10 the basement, and it took us forever.

11 All the information that you see
 12 is the building blocks that you will need, the
 13 building blocks that we need to prove this all up
 14 to justice, or however it's going to be done.

15 We'd be happy to answer any
 16 questions.

17 Actually, the reason the timetable
 18 pushes you so fast is because after you finish, we
 19 look at our board lines, we make the new precinct
 20 lines. We hope to be able to January 1 come out to
 21 the public with new precinct maps. Because when we
 22 have the precinct maps, that's how all of the
 23 signatures are gathered. That's how all of the

24 work at the very basic level of elections happens.

25 And these -- we will try to avoid some of the

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9

1 contests we had on petition challenges last time.
2 Because in '92, we had a lot of people that were
3 thrown off the ballot simply because they didn't
4 know where their district lines were.

5 We'd be happy to answer any
6 questions that you would have.

7 CHAIRMAN LYNN: Questions?

8 Jim

9 COMMISSIONER HUNTWORK: This is
10 amazing technology and helpful in how it goes about
11 our business. Looks to me it like it all fits in a
12 single laptop computer; is that correct?

13 MR. JOHNSON: Sure does, yeah.

14 COMMISSIONER HUNTWORK: Tell me
15 about the proprietary nature of this. Is it
16 something that can be shared, that members of the
17 Commission could use, that other counties could
18 use, that public interest groups who wish to
19 consider other alternatives and bring them forward
20 could all take advantage of or is there some
21 restriction on that?

22 MR. JOHNSON: Well, the software
23 itself our system is built on is commercially
24 available. It's pretty standard throughout -- has
25 a GIS software package. The redistricting part of

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9

1 it that we've developed is pretty easily shared.

2 There is also -- there are some --
3 a couple companies that make the same thing that we
4 did and sell it.

5 And, yeah, it's definitely very
6 conceivable that each of you could have access to

7 the technology on a laptop of your own and come up
8 with your own plans. Once you have the software
9 that automates all those tasks, you can see it's
10 really not that hard to select precincts and you
11 don't need a lot to know about GIS.

12 MS. OSBORNE: For constituents,
13 Mr. Chairman, members of the Committee, to make
14 comments -- we found it very, very difficult to get
15 people to come to public meetings. They have other
16 things going on in their lives. We thought it was
17 redistricting and Board of Supervisors, only.

18 We'd put it up with the map and
19 new districts: Please share comments. And then we
20 went back out with suggestions we had.

21 We would be most happy,
22 Mr. Chairman, members of the Committee, to provide
23 any expertise that we have. What we can offer you
24 is if you would like to have Tim's help, if you
25 would like to have Maricopa County's help, we can

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9

1 help you with the technology. We can help you with
2 Tim's ability to do these things. What we don't
3 have, we have enough to say grace over, kind of,
4 back at our shop. We don't have the ability to
5 offer you someone to come in and do the executive
6 director bit, all those things that have to happen.

7 But as far as Tim and the
8 technology, we are more than willing to help.

9 I would also offer all 15 election
10 directors have contacted me. And they are all more
11 than willing to help you make this a success.
12 Because in their own -- they are very familiar with
13 their own county lines, very familiar with their
14 own precinct lines. And they want it to work,
15 because then the faster and better it ends up for
16 us all.

18 Ms. Minkoff.

19 COMMISSIONER MINKOFF: Couple
20 questions. Number one, since we want the process
21 to be as open as possible, and obviously we are
22 going to be sitting and looking at maps and saying
23 how about moving this line over here, and how about
24 taking this precinct out and putting this one in,
25 et cetera, can that be done the same way you just

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9

1 showed us this demonstration on as part of a public
2 meeting?

3 MR. JOHNSON: Yes.

4 COMMISSIONER MINKOFF: So just put
5 it up on the wall, screen, something like that, and
6 the public can observe what we're doing and talking
7 about?

8 MR. JOHNSON: Yes.

9 COMMISSIONER MINKOFF: Secondly,
10 the software you're talking about, as a MAC user, I
11 have to ask a question. Is it only PC available or
12 MAC compatible?

13 MR. JOHNSON: The Arcview
14 software, there is a MAC version. The
15 redistricting component, I'm not sure. I think so.
16 When you develop the extensions to Arcview, it's
17 cross platform, but some considerations like how
18 files are moved around, stuff like that -- I know
19 that there is for the base. I don't know if there
20 is for the extension.

21 COMMISSIONER MINKOFF: Can you
22 find that out?

23 MR. JOHNSON: Sure.

24 Mr. Hall?

25 COMMISSIONER HALL: We're

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1 anticipating mid-March the US Census Department
2 will send out data on CD ROM format, correct?

3 MS. OSBORNE: Yes, Mr. Chairman.

4 COMMISSIONER HALL: Anticipating
5 late March to update census data, overlay on
6 existing districts. Do you folks do that or do you
7 do that automatically regardless of whether we ask
8 you to or --

9 MS. OSBORNE: Mr. Chairman,
10 Mr. Hall, it's entirely up to you. We will be
11 working on Maricopa County. If you would like
12 to --

13 COMMISSIONER HALL: Is that
14 typically the first step, however? Do you take --
15 when you get new census data, what is the first
16 thing you do with Maricopa County, or when you are
17 over at the State, what is the first thing you do
18 with it?

19 MS. OSBORNE: Mr. Chairman,
20 Mr. Hall, usually the first thing you do is take
21 data in. Everybody wants to know how much has a
22 district changed.

23 COMMISSIONER HALL: Sure.

24 MS. OSBORNE: It's what we want to
25 know. Want to know how precincts changed, how

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1 Boards of Supervisors changed. That would be the
2 suggestion, take districts now, pour data through,
3 look at what you have. That way you will
4 understand the district boundaries now and then you
5 can take a look at that. It is certainly up to
6 you, whatever you want our services to be in that
7 format. But that is what you are wanting to look
8 at.

9 This is for you. Things have
10 changed. When we drew the lines in '70, '80, and

11 ' 90. You will be drawing the lines with different,
 12 fairly well-defined instructions, if you will. I
 13 am not an attorney. But case law always guides how
 14 we go down this path. And we were at one point
 15 directed to draw in a race-based environment. We
 16 had to make certain that our districts had so much
 17 of a population of minority. And now it is very
 18 different, you cannot draw in a race-based
 19 environment.

20 It's almost like drawing with
 21 blenders on and then take blenders off, see if
 22 you've drawn a tree or rock.

23 When we went through the last
 24 adventure, it was very different for us. We have
 25 to look back at the end, see if you've caused any

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9

1 retrogression. Had to go out there. We had two
 2 areas that we removed from our minority majority
 3 district. They were not adjacent, not contiguous,
 4 one seven miles down a dry river bed and one seven
 5 miles up a red line stripe.

6 Our community of interest was
 7 school districts. If you envision, if you will,
 8 various portions of Maricopa County, that is a --
 9 on Indian land and children go to school in Mesa
 10 School District. Their shopping is done in the
 11 Scottsdale and Mesa District, their commerce, all
 12 those things that happened. It was not attached to
 13 District Five, my majority minority district.

14 So we had to prove that all up to
 15 the Justice Department, why had I changed a
 16 district that was at 67 percent down to 63 percent.
 17 Usually 65 percent, about in there, for the total
 18 minority population means that you can effect
 19 having the ability for a minority being elected.
 20 So you had to look back after you had drawn all

21 this, see what had we drawn, now see what had we
 22 accomplished.

23 In my county, and we're not the
 24 most important thing you do, we are not. Because
 25 it is all 15 that have to fit into this complex.

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9

1 You have five million consultants watching
 2 everything you do and depending on what you do.
 3 You don't just have one or two or five consultants
 4 out there. When you do, you have some things that
 5 are reality.

6 My county is 62 percent -- 60
 7 percent, about, we're guessing -- we all use Tim's
 8 crystal ball -- probably 60 percent of the
 9 population, but 62 percent of Republicans, only 50
 10 percent of your Democrats.

11 So at the end of what Mr. Turner
 12 was talking about, and trying to make competitive
 13 districts, that's one of the things you are going
 14 to have to look at. And demographics is the other.

15 At least when we were going
 16 through our census, some counties did not do
 17 redistricting, didn't buy into the mid-decade
 18 census. That's not something counties do for free.
 19 They have to buy into that. We did pay for that
 20 and used it in redistricting.

21 COMMISSIONER HALL: Do you provide
 22 services for other counties, also, since I'm sure
 23 some of them aren't as technologically advanced?
 24 Do you do some of this for them also?

25 MS. OSBORNE: Mr. Chairman,

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9

1 Mr. Hall, we've done it on a limited basis in the
 2 past. This time we've been helping out contract
 3 Leg. counsel to do their work and are now doing

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4 some printable maps for precincts, and things. The
5 15 of us work together trying to make the entirety
6 of these districts work for all of us, because
7 there are some current legislative districts that
8 go into four, five counties.

9 COMMISSIONER HALL: Last question.

10 So you anticipate that by the end of March, you
11 guys will have overlaid the new census data onto
12 the existing districts in your county?

13 MS. OSBORNE: Mr. Chairman, we
14 hope we will, hopefully, 24 hours after Tim gets
15 it, not that we'll push him

16 MS. MINKOFF: He won't sleep for a
17 week.

18 CHAIRMAN LYNN: It is a matter of
19 merging the data program. It's not as if -- Tim
20 won't lose any sleep over that 24 hours, I think.
21 It's a lot easier than it sounds, I'm suggesting.

22 MS. OSBORNE: I'll let him answer
23 for himself.

24 CHAIRMAN LYNN: He shook his head.

25 Mr. Elder.

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10

1 COMMISSIONER ELDER: Let me
2 address this question to Tim. Which way did you
3 turn the tract, or block group? There's a ton of
4 things that we should, or at least I would like to
5 look at, such as growth, where the growth has
6 occurred and what direction, primarily because it
7 would seem as though you've got areas that are
8 fairly static in growth that maybe in an urban core
9 don't have much development, no more homes being
10 built, whatever it might be, and then fringe areas
11 in a great development stage.

12 If you put your tract so -- let's
13 put it at a current fringe and another tract to the
14 side of it. That's where all the growth would go

15 and it would be, we know, and understand, as soon
16 as we understand a plan, say it's balanced to the
17 exact number of people in it. Two days later four
18 more houses got built. Somebody else moved in. So
19 it's outdated from that basis. That said, if you
20 turned the block group, both tracts, for the growth
21 pattern, it might stay balanced longer.

22 Is there any way or use of
23 technology that would allow us to see what
24 direction this growth is so we might be able to
25 draw the lines to reflect that growth?

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10

1 MR. JOHNSON: Sure. You would be
2 able to first compare to actual counts from '90,
3 and there would also be projected counts. I know
4 there's a five-year count and I believe yearly
5 counts, also, depending on what the source is. So
6 you can predict it either way. You can see what
7 has grown and what will grow.

8 COMMISSIONER ELDER: All right.

9 Thank you.

10 CHAIRMAN LYNN: Ms. Minkoff?

11 COMMISSIONER MINKOFF: Thank you,
12 Mr. Chairman.

13 You said earlier you have eight of
14 the counties, Maricopa County and seven others, in
15 your data base, and the other seven are at Leg.
16 counsel. Will you be able to integrate all 15
17 counties with new census data so we can look at the
18 state as a whole when we are trying to redistrict?

19 MR. JOHNSON: Yes. That was
20 actually the outcome of what I did is I merged them
21 all together, so the seven counties I put together
22 are merged with the eight counties the Census put
23 together into one statewide planner they have.

24 COMMISSIONER MINKOFF: You have

25 all of it in your computer?

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10

1 MR. JOHNSON: I turned it over to
2 them

3 COMMISSIONER MINKOFF: Okay. With
4 many backups.

5 MR. JOHNSON: I hope.

6 COMMISSIONER ELDER: Maybe four or
7 five.

8 CHAIRMAN LYNN: Couple questions.

9 Based on the information that has
10 come to me, at least, there are at least two or
11 three national consultants who do this sort of
12 thing. And I'm going to make some statements, but
13 they are really questions. May I assume the types
14 of software they use are at least similar to what
15 you are using as a base software to do this work?

16 MR. JOHNSON: Very similar, yes.

17 CHAIRMAN LYNN: And would there be
18 any, from your perspective, any particular
19 advantage or disadvantage in employing one of those
20 national consultants as opposed to working with
21 you, Leg. counsel, and others within the State of
22 Arizona?

23 MS. OSBORNE: Mr. Chairman, that's
24 a hard question to answer. We can provide you the
25 technical support. We can provide you on the head

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10

1 of a pin how many people live in any place. What
2 the consultants may provide you that we cannot are
3 the involvement with the communities of interest,
4 someone that goes out and identifies the
5 different -- the different information that we
6 don't have.

7 Maybe there's a different

8 degree -- it actually depends on how much the
 9 Commission wants to be involved in the hands-on
 10 moving of this line here, move this line here. A
 11 consultant can do all that for you, hand it to you,
 12 and you can decide what you want to do. If you
 13 want to do that work and Tim to do the technical
 14 parts, you may decide you want us to provide
 15 technical help and have a consultant come in and do
 16 other things.

17 CHAIRMAN LYNN: Let me perhaps use
 18 an incomplete analogy. Let's say we were trying to
 19 repair an automobile. Tim might be our mechanic,
 20 but we need to tell him what to do and he would do
 21 it. If we hired a consultant, he would be an
 22 automotive expert and make a lot of those decisions
 23 him or herself. We wouldn't necessarily have to
 24 direct as much as he'd present alternatives to us
 25 for work being done.

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10

1 MS. OSBORNE: Consultant, the
 2 consultant probably says you need the car, it needs
 3 to be washed before it goes back to the consumer in
 4 addition to needing to be fixed.

5 I don't want to present ourselves
 6 as something we're not. We're not the person
 7 that's going to diagnose what else you need to
 8 prove to justice, what other pieces of information
 9 they may want. We can technically tell you
 10 everything. But there's another component to this.
 11 It's the administrative component and legal
 12 component.

13 CHAIRMAN LYNN: Sure.

14 MS. OSBORNE: I can tell you when
 15 we are doing redistricting, we live it daily and
 16 our attorneys live it daily, because it is -- you
 17 need to make certain that you have on your
 18 announcement to come to the meetings that you've

19 done your due diligence to get your people here
 20 that are hearing impaired, that are visually
 21 impaired, all those things that have to happen.

22 And for anything going on in
 23 elections in Arizona, you are responsible to
 24 translate everything to Spanish. And nine counties
 25 in Arizona have to translate into native American

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10

1 languages, and those are not written. So it is
 2 that other half that is -- or two-thirds -- that is
 3 not -- is actually a problem that you have, or
 4 opportunity, as we call them

5 My folks just go under the table
 6 when I say "opportunity."

7 CHAIRMAN LYNN: Mr. Elder.

8 COMMISSIONER ELDER: Looking at
 9 the time line, is it something that, based on the
 10 responsibilities that you have for precincts, and
 11 all that coming up in June, I guess my question is
 12 asking, as a response, if we say "we need this by,"
 13 is Tim a sole source to where we would be able to
 14 get that in the time line we need?

15 Second question would be would Tim
 16 be better used as a point of contact, how to get in
 17 and out of the network of stuff that is already
 18 existing and then there would be another either
 19 firm or consultant hired that would sit in our,
 20 whatever it was, 3,300 square foot of office space
 21 the ADOA said, so Tim could say, "You ought to ask
 22 the question that way. You'll have problems with
 23 him processing data if you don't."

24 MS. OSBORNE: Mr. Chairman, that's
 25 up to you. Maricopa County stands ready to, if you

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 Phoenix, Arizona

10

1 need Tim this afternoon to start work, we can do

2 that for you.

3 But the work we can do -- it's a
4 decision for this body to decide where else to draw
5 that line. We can give you the map as it is. We
6 can give you the determination on what we ask Tim
7 to say, what would you need for machinery, what do
8 you need for connectivity, what do you need for
9 that type of thing. Then the Commission has to
10 decide: What are we going to do with this now? We
11 have all this wonderful data. Where are we going
12 to move the lines? You either need to have a
13 consultant start along this path -- Tim's not here
14 for that. Tim is here to move lines where you tell
15 him, or a consultant, or whatever you want.

16 COMMISSIONER HALL: In essence,
17 you can do a third of the work.

18 MS. OSBORNE: Mr. Chairman,
19 Commissioner Hall, we can do one-third of the work
20 and cheer you on through the other two-thirds.

21 CHAIRMAN LYNN: Mr. Huntwork.

22 COMMISSIONER HUNTWORK: Is there
23 any benefit that would be derived by the election
24 directors here in Arizona if we worked with you in
25 this process? Would there be anything left over

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Phoenix, Arizona

10

1 when we were done that improved where you are today
2 and got you in a better position for the future?

3 MS. OSBORNE: Mr. Chairman,
4 Mr. Huntwork, that's a good question. Of course
5 the election directors feel we're the closest to
6 the situation. We know where the freeway is going
7 to go through where it's not on a map. We know
8 where the Ahwatukee -- a wonderful community of
9 interest, if you think about it, because when it
10 started, it was a group of red-tiled roofs in back
11 of the mountain back there. Whoever was going to

12 be moving there? It became of interest to us
 13 because nobody could get to polling places, had to
 14 vote out of the fire station.

15 Communities of interest we've come
 16 to know up close and personal. We feel having 15
 17 election directors, having us somehow involved in
 18 this, however that comes to be, we would certainly
 19 want to continue to work with the Commission. If
 20 you decided to hire a consultant today and we're
 21 not part of that, we certainly want to be one of
 22 the groups saying please move it two foot over
 23 here, I actually have a river. The folks that come
 24 from the rural communities are painfully aware when
 25 the lines get drawn in, and we tend to use the word

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 Phoenix, Arizona

10

1 woofy, fashion. We have to live with that. We
 2 feel that would be a help.

3 CHAIRMAN LYNN: Is that a legal
 4 term, Mr. Bales, woofy?

5 MR. BALES: I imagine it is
 6 somewhere.

7 CHAIRMAN LYNN: Any other
 8 questions?

9 One last --

10 COMMISSIONER HALL: I'll
 11 compliment you. I heard your name 10 times in the
 12 last two weeks, that you are the queen of
 13 elections.

14 Thank you for your input. I
 15 appreciate your expertise and experience.

16 MS. OSBORNE: Thank you for having
 17 us.

18 CHAIRMAN LYNN: I want to ask one
 19 last question, if I may, Ms. Osborn. Speaking only
 20 for myself, the use -- the input from the 15
 21 election officials of the State of Arizona seems to
 22 be a very important thing that we need to integrate

23 in a very formal way. And again, I'm only speaking
 24 for myself here. But because our output, if you
 25 will, is your input, and you need to take what we

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 Phoenix, Arizona

10

1 give you and make other things happen with that
 2 input, also because the 15 election officials have
 3 a tremendous amount of, I guess, what I call
 4 on-the-ground experience in areas we may not have
 5 and certainly don't represent completely with
 6 respect to geographic representation of the state,
 7 could you, not necessarily now, but would you share
 8 with the Commission ways in which we might make use
 9 of that group in the fullest extent of how you
 10 think they might be used and we'll take that under
 11 consideration and try to incorporate that in what
 12 we do?

13 MS. OSBORNE: Absolutely.

14 Thank you, Mr. Chairman. If we
 15 would be permitted to do so, I would like to get
 16 back with the directors and try to provide you a
 17 format to do that and a way for us to communicate
 18 so that when we do finish this, and it's all done,
 19 you are just looking back, looking forward to the
 20 other nine years of your appointment.

21 CHAIRMAN LYNN: The hibernation
 22 period.

23 MS. OSBORNE: Hibernation period.

24 Thank you. We'd be very grateful.

25 CHAIRMAN LYNN: I think your input

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 Phoenix, Arizona

11

1 would be invaluable, as I believe input from all
 2 groups in the community who have an interest in
 3 this process is invaluable, particularly that
 4 group.

5 Any last questions?

6 COMMISSIONER MINKOFF: I would
7 just like to thank both of you. This was
8 absolutely an amazing presentation. I don't know
9 how people ever did redistricting before computers
10 and Tim.

11 I thank you very much for showing
12 us the capabilities that you have and for offering
13 to help us as we go forward.

14 MS. OSBORNE: You are certainly
15 welcome.

16 Thank you very much.

17 CHAIRMAN LYNN: I'd like to add my
18 thanks as well. We should formally communicate
19 with the Board of Supervisors of Maricopa County in
20 terms of their generosity in terms of allowing us
21 to make use of Tim.

22 MS. OSBORNE: I actually report to
23 Helen Purcell, County Recorder.

24 Our office is a bipartisan office.
25 She's Republican. I'm Democrat. Only three

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Phoenix, Arizona

11

1 counties have a recorder and elections. Too big.
2 Simply too big. A million two voters, could not do
3 it separate. But we do things for the board, too.

4 I will share that. Thank you very
5 much.

6 CHAIRMAN LYNN: Appreciate that
7 very much.

8 I think it's appropriate at this
9 point, it's half past 12:00, to break for the lunch
10 hour.

11 What I would like to do before we
12 break is just make a brief comment to those who may
13 not be joining us after lunch, and some of you may
14 find that you have other things to do this
15 afternoon. As you may know, there's no precedent

16 for what we're doing. This is a new process. And
17 we are all very new at it.

18 One of the restrictions in the law
19 that was passed is that the people who are to be
20 chosen for this need to meet certain criteria. And
21 most of those criteria are ones that make us, in
22 one degree or another, novices at this. There were
23 some very specific things that we -- tests we
24 needed to pass in order to be selected for the
25 Commission. And one of those things was that we

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Phoenix, Arizona

11

1 weren't actively involved in some major way in
2 partisan political doings, candidates, chairman of
3 things.

4 What you are witnessing is a new
5 process. It's not been done in Arizona before.

6 Number two, you are witnessing
7 people who are, if I may use the word, struggling
8 with the task. What you will see in early meetings
9 of this Commission are questions asked, statements
10 made, and things done that may not look or sound
11 like polished political opinions, because they
12 aren't. And they won't be. And I would ask both
13 the public and the press for at least the
14 consideration that this is being done honestly and
15 as even-handedly as we can make it happen, and at
16 least take those things into consideration.

17 When you hear something is said
18 that may sound like it may be implying something
19 else or have a hidden agenda or a sinister motive,
20 you might at least first chalk it up to
21 inexperience and we're feeling our way along.

22 I would ask anyone to try to
23 organize a business with an audience in the room
24 It is a rather daunting task. And I wouldn't
25 suspect that you could get very far if you also

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1 followed the rules of open meetings and the other
2 restrictions under which we operate.

3 So what I ask for is your
4 indulgence, literally, that we will do this in the
5 best manner we can. And we are just now getting to
6 know one another. So that is another dynamic that
7 is a work in progress.

8 But I would only tell you that I
9 am confident that the five people sitting before
10 you are going to do the level best job they can
11 with the interest of every Arizonan, every
12 Arizonan, at heart.

13 And when we are finished, all the
14 tests will still take place. The Department of
15 Justice will still look at the plan. The courts
16 will have their say if people are not satisfied.
17 The Legislature will comment. All of those things
18 will occur.

19 We will do the best job we can.
20 And all we are asking is the opportunity to do that
21 in the best environment we can create.

22 With that said I'd like to break
23 for lunch.

24 May we reconvene at 1:30? Will
25 that work?

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Phoenix, Arizona

1 COMMISSIONER HALL: Mr. Chairman,
2 want to go look at the space over lunch?

3 CHAIRMAN LYNN: Mr. Bales
4 indicated if we do that as a group, it constitutes
5 part of the meeting.

6 COMMISSIONER HALL: Only go in
7 twos?

8 CHAIRMAN LYNN: If you'd like to
9 do it as a group, we can take all of you, look at

10 the basement across the street, have it be part of
11 the open meeting.

12 COMMISSIONER ELDER: Do that,
13 invite them address on the front door, wish to
14 attend, reconvene here 45 minutes later.

15 CHAIRMAN LYNN: After we look at
16 the space.

17 COMMISSIONER ELDER: After we look
18 at the space.

19 CHAIRMAN LYNN: We won't know --
20 if they're not coming, they won't know.

21 COMMISSIONER MINKOFF: Order in
22 lunch, or go --

23 CHAIRMAN LYNN: Have we ordered
24 or --

25 MR. BALES: We've not ordered.

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Phoenix, Arizona

11

1 There's a cafeteria here. If you want, place
2 orders, have orders available in time, pretty
3 quick.

4 CHAIRMAN LYNN: Work through
5 lunch?

6 COMMISSIONER MINKOFF: Order
7 lunch, look at the space. It allows time for lunch
8 to get here, take a lunch break.

9 COMMISSIONER HUNTWORK: Given the
10 complication of an open meeting, perhaps we should
11 defer the tour to the end of the day. That way
12 anyone who didn't want to participate in it
13 could --

14 COMMISSIONER ELDER: No
15 difference.

16 CHAIRMAN LYNN: Good plan to me.
17 Plan on that as we conclude the
18 business. I think it's important at least from a
19 personal standpoint to maybe order lunch, at least

20 go outside and see if there is a sun and some fresh
 21 air and other things which might suggest a little
 22 refreshment.

23 With that, we'll stand adjourned
 24 until -- recessed, until 1:30.

25 COMMISSIONER MINKOFF: Okay.

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 Phoenix, Arizona

11

1 (Whereupon, a recess was taken
 2 from 12:40 until 1:40 p.m.)

3 CHAIRMAN LYNN: The Commission
 4 will come to order.

5 We're back in session slightly
 6 behind our intended schedule for the afternoon
 7 session. And we are in the agenda --

8 Mr. Bales, we have additional
 9 presentations this afternoon?

10 MR. BALES: Yes, Chairman Lynn.

11 Earlier I mentioned we arranged
 12 Terri Skladany to give some information on public
 13 records, open meetings, and conflict of interest.
 14 She's here and ready to do that, if that's how you
 15 would like to proceed.

16 CHAIRMAN LYNN: That's fine,
 17 without objection.

18 MR. BALES: Terri Skladany is
 19 chief counsel for ethics training within the
 20 Attorney General's Office and has more than 10
 21 years with the Attorney General's Office on open
 22 meeting law, open forum. Terri previously was with
 23 the Attorney General's Office and there served as
 24 independent counsel to state board agencies. She
 25 speaks with that benefit of knowledge.

ATWOOD REPORTING SERVICE
 Phoenix, Arizona

11

1 CHAIRMAN LYNN: Please spell your
 2 name for the reporter.

4 first name Terri, T-E-R-R-I.

5 Mr. Chairman, members of the
6 Commission, I appreciate this time to speak to you
7 on open meeting law, public records law, and
8 ethics. I wanted to get a feel for whether any of
9 you had served in public offices before, what your
10 familiarity is with public service ethics law.

11 CHAIRMAN LYNN: I think sort of by
12 definition you probably have neophytes, although
13 some of us have been around public officials who
14 have been bound by those requirements; but that
15 would be as close as we've gotten.

16 MS. SKLADANY: Based on my
17 experience, before I get on to the substance of the
18 law, I'd like to spend a couple minutes speaking
19 with you about your perspective. Because in the
20 job I currently have and job I had prior to this,
21 representing state bodies, it occurred to me that
22 many of the issues that you will have presented to
23 you over the next couple years are really going to
24 challenge you in making decisions on difficult
25 ethical issues.

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Phoenix, Arizona

11

1 Although you might know the law
2 and although you might be aware of the facts, how
3 you balance your decision making is sometimes a lot
4 more difficult than just being aware of the law and
5 the facts.

6 So, I would like to talk to you
7 about perspective before substance. In making
8 decisions that are presented to you, you have to
9 keep in mind you are here to do the public
10 business. Oftentimes public ethics law, public
11 meeting law, open meeting law, public records
12 standards, require you behave in a certain way, you
13 keep your records in a certain way, that you treat

14 the public in a certain way.

15 The public has certain rights that
16 the Legislature has determined public bodies must
17 respect in order to have open government. When
18 making tough ethical decisions, I've looked at my
19 decision making, and I've tried to come up with a
20 couple recommendations for you.

21 The first and foremost is don't
22 ever hesitate to rely on your gut instincts.
23 Oftentimes they will be your first indication there
24 might be a problem.

25 Your second, I think, good help is

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Phoenix, Arizona

11

1 your legal counsel. If you have a problem, if you
2 feel uncomfortable about something, don't hesitate
3 to speak with him or her; because they can act as
4 your sounding board and they can act as an
5 evaluator to you to help you feel more comfortable
6 or help you point out a problem you can take a
7 different approach on.

8 I have also identified three
9 standards that I think will be helpful to you.
10 First, in ethical decision making, when you have a
11 tough decision: authenticity, awareness, and
12 courage. I've selected these three, and I have a
13 little pictorial and a quote for you so you
14 remember.

15 Authenticity. It is not the same
16 to talk of bulls as to be in the bull ring.

17 Oftentimes the decisions that you
18 are going to be faced with are going to be
19 difficult because people will evaluate them based
20 on their own perspectives, facts that might have
21 not been in your consciousness or awareness at the
22 time. So expect your decisions to be second
23 guessed.

25 come as a surprise to any of you, but be aware.

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Phoenix, Arizona

12

1 With authentic decision making, you'll make
2 evaluations based on facts, based on the law, and
3 based on your best judgment. And they will serve
4 you well.

5 Second is awareness. "Being aware
6 is more important than being smart" is a quote from
7 Phil Jackson.

8 CHAIRMAN LYNN: And a picture of
9 Phil, not a very flattering one.

10 MS. SKLADANY: This is one of my
11 favorites, a devil pointing one direction, angel
12 pointing the other direction.

13 The reason I say being aware is
14 more important than being smart is because if you
15 are aware of the facts, if you are aware of the
16 law, if aware of your own gut instincts and focus
17 doing the right thing and representing the public,
18 you will do the right thing.

19 Oftentimes I think a smart
20 decision confuses us because we start playing the
21 angles, start explaining to ourselves why we really
22 don't have to abide by the rules. We give
23 ourselves ways out. From my experience, those are
24 the most costly mistakes we can ever make.

25 If there's a rule, we need to be

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Phoenix, Arizona

12

1 way on the inside of the line, especially when
2 we're under as much public scrutiny as many of our
3 boards and commissions are.

4 A component of awareness is
5 honorable process. And the quote I have here for
6 you is "It is good to have an end to journey

7 toward, but it is the journey that matters, in the
 8 end."

9 Basically, this explains open
 10 meeting laws. The process is what is important.
 11 Oftentimes, it's been my experience that people
 12 will disagree with your decisions. But if they
 13 feel like they've gotten a fair shake, if they feel
 14 like they understand how you've made your
 15 decisions, on what basis your decisions were made,
 16 and they have opportunity to be heard at the
 17 appropriate time, they can accept decisions that
 18 they might disagree with.

19 Finally, and this is my favorite
 20 one, a quote from Harry Truman. "Hell? I never
 21 give them hell. I just tell them the truth and
 22 they think it's hell."

23 I think this is probably the
 24 keynote of the kind of challenges you'll have. It
 25 really does take courage to make tough decisions.

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 Phoenix, Arizona

12

1 People oftentimes don't like what you have to say.
 2 But I commend you for making those tough decisions
 3 and your giving of time and efforts and energy to
 4 benefit the public.

5 What I've given you is a handout
 6 that our office develops for statewide elected
 7 officials and agency heads. We don't give ethics
 8 training. That's a statutory mandate for
 9 Department of Administration. I'm giving you this
 10 handout with a heads up for any pitfalls. The
 11 handout does give a description of all state ethics
 12 laws, a brief overview. If you have any questions,
 13 it's a good resource. The same laws apply to you.
 14 The Legislature determined certain entities should
 15 be trained by different state agencies. You are
 16 within the Department of Administration's training
 17 jurisdiction.

18 You can have this as a reference.
 19 It will be a good one for you.
 20 I also have given you two
 21 handouts, one about public records, the written and
 22 spoken word, and the other about statutory
 23 conflicts of interest. I've also given you a
 24 conflicts of interest form in case you need it.
 25 I've not had time to update the

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 Phoenix, Arizona

12

1 open meeting handout. I will give Joe Kanefield or
 2 Scott a copy for you within the next few weeks.

3 I'm going to start with open
 4 meeting law. And I'll probably use about 20
 5 minutes of time going over the three topics.

6 Open meeting law is the standard I
 7 want to start with first because I believe that is
 8 the standard that might get you into trouble if you
 9 ever have a problem. And that's because having
 10 open meetings is oftentimes unfamiliar to people
 11 that have not worked in the public sector.

12 In Arizona, we have two sunshine
 13 laws, open meeting law and public records law. And
 14 the purpose of them is to insure that the public
 15 knows how its public officials are conducting the
 16 public business.

17 Open meeting law does that from
 18 the perspective of insuring that the public has
 19 adequate notice, they have an agenda of what you
 20 are going to be discussing, and they have the
 21 opportunity to come, listen to your deliberations,
 22 see how you vote, and observe the process.

23 The open meeting law does not give
 24 them the right to participate in that process. The
 25 right to participate is either governed by your

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 Phoenix, Arizona

12

1 enabling legislation or your own decision making to
2 allow calls to the public which allows them to
3 speak with you on topics that you've identified.

4 Open meeting law is driven by two
5 core concepts. First, all meetings of the public
6 body shall be open and public meetings. The second
7 is meetings of public bodies shall focus on an
8 agenda, and the public official shall decide only
9 matters identified on that agenda unless there is
10 an emergency. And cases decided by the Court of
11 Appeals and the Supreme Court define emergencies
12 very narrowly. So it should be extremely rare that
13 you will ever have an emergency that would allow
14 you to escape the 24-hour notice and agenda
15 requirements of the open meeting law.

16 The purpose of the notice is to
17 expose your decision making to the public, to allow
18 the public to know what you are going to be
19 discussing, what you are going to be deciding, and
20 to allow them to come and attend your meetings in
21 the event they are interested.

22 That's why the Legislature and the
23 courts are so strict about having you only be able
24 to talk about and decide things on the agenda,
25 because a member of the public would not know

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Phoenix, Arizona

12

1 things that you might decide to discuss an hour
2 before time or two hours before time. You have to
3 stick with your agenda and only discuss and decide
4 matters on your agenda.

5 As I stated, the open meeting law
6 does allow you to have calls to the public. There
7 are two different type of calls to the public you
8 can put on your agenda. One is to allow them to
9 speak with you on a specified, predetermined topic.
10 You can identify limits to the amount of time that

11 they can spend. You can ask people not to repeat
12 one another. And you can place appropriate time
13 and matter restrictions on them.

14 The second type of call to the
15 public is what we call an open call to the public.
16 And that's when members of the public can come and
17 speak with you about any item. It doesn't have to
18 be on the agenda. It just has to be within the
19 scope of your jurisdiction.

20 When you have an open call to the
21 public on your agenda, you can respond to any
22 criticism that someone might make of you
23 individually. You cannot discuss a matter. You
24 cannot decide a matter. You can ask your executive
25 director to place a matter on the agenda for your

ATWOOD REPORTING SERVICE
Phoenix, Arizona

12

1 next meeting, or you can ask your executive
2 director or staff to look into the matter; but you
3 cannot have someone introduce a topic that is not
4 already listed on your agenda.

5 CHAIRMAN LYNN: Ms. Skladany, in
6 making a distinction between the two types of calls
7 or calls to the public, would the first of those
8 also be called a public hearing or is that
9 different?

10 MS. SKLADANY: I haven't read your
11 statutory limits. Ordinarily public hearings
12 relate to due process limitations. My guess, in
13 the types of responsibilities you have, public
14 hearing has a different meaning. That meaning
15 would be where the public would be able to come and
16 speak with you about things that are to be decided
17 by you. So I think that would be an agenda item
18 that would be specifically noticed, and I think the
19 topics would be identified by you as well. If that
20 were the case, then you could discuss the public
21 comment. You could make decisions based on public

22 comment. But again, you would have to have the
 23 topic adequately identified so people would know
 24 what you were going to authorize them to speak to
 25 you about.

ATWOOD REPORTING SERVICE
 Phoenix, Arizona

12

1 CHAIRMAN LYNN: Let me be clear
 2 how that might differ from the first set of public
 3 comments mentioned.

4 If an item is specifically
 5 addressed and is listed on the agenda, we invite
 6 public comment on that item, hypothetically at some
 7 point in the process we'll actually have a draft
 8 plan on which we might hold formal hearings. That
 9 might be one way to do it. But we might also have
 10 people who wish to speak to that plan. If we put
 11 that plan on the agenda, and it was noticed, and
 12 people wished to speak, the fact that it's noticed
 13 on the agenda and they speak to us does not then
 14 constitute, if I'm hearing you correctly, our
 15 ability to further discuss and perhaps make a
 16 decision on that point unless that decision making
 17 was also on the agenda?

18 MS. SKLADANY: If they are
 19 addressing you on a topic that is listed on the
 20 agenda and you've identified public comment on that
 21 topic, you can talk with them about it.

22 CHAIRMAN LYNN: Can or cannot?

23 MS. SKLADANY: You can.

24 If they raise "I would like to
 25 talk to you about the boundaries in Pima County,"

ATWOOD REPORTING SERVICE
 Phoenix, Arizona

12

1 which is on the agenda, "but I also think you need
 2 to know about Cochise County," if you don't have
 3 Cochise County on, you can't respond to them and
 4 discuss with them items related to Cochise County.

5 You have to limit your discussion
 6 and interaction with them to the items on the
 7 agenda. The only exception to that would be an
 8 emergency. And like I said, that's rarely ever
 9 used.

10 Yes, ma' am.

11 COMMISSIONER MINKOFF: If an item
 12 is on the agenda, does that authorize us, in
 13 addition to discussing it, in addition to eliciting
 14 public comment and reacting to it, to also make
 15 whatever decisions we believe are appropriate
 16 regarding that agenda item or do we have to
 17 separately list on the agenda a vote will be taken
 18 or decision will be made?

19 MS. SKLADANY: It's better if you
 20 identify, if you are going to take action, possible
 21 decision or vote, possible decision. You don't
 22 have to take it. If it's on the agenda, you would
 23 be free to take it. It's good insurance for you if
 24 you decide that would be the most -- the best thing
 25 for the Commission.

ATWOOD REPORTING SERVICE
 Phoenix, Arizona

12

1 COMMISSIONER ELDER: Mr. Chairman.
 2 Does it have to be line item by
 3 line item or can it be a -- almost a preamble or
 4 ending statement where it says "action may be taken
 5 on any item of the agenda above"?

6 MS. SKLADANY: You can do it that
 7 way as well, as long as it's clear to the public
 8 what you are going to be doing.

9 The Legislature wants to make sure
 10 the public isn't blindsided. If they are just
 11 expecting you to discuss and not vote, that's not
 12 adequate. If you make them aware that yes, you
 13 might vote on any item, they are put on notice.

14 CHAIRMAN LYNN: Mr. Huntwork.

15 question. If we were to, despite best efforts,
16 inadvertently make a mistake on something that
17 doesn't involve any action, and I think I
18 understand what happens if you take an action that
19 is contrary, if we just make a mistake and say
20 something inadvertently that is inappropriate, what
21 would the consequences be?

22
23 MS. SKLADANY: If you don't take a
24 vote and just discuss?

25 COMMISSIONER HUNTWORK: Yes.

ATWOOD REPORTING SERVICE
Phoenix, Arizona

13

1 MS. SKLADANY: Public criticism
2 Someone might file a complaint with either the
3 County Attorney's Office or our office.

4 Oftentimes, when it comes to open
5 meeting law violations, we recognize people aren't
6 perfect. It's more a stairstep approach. If there
7 are intentional violations of the open meeting law,
8 you can be removed from office, \$500 per violation
9 penalty, your actions can be void. With
10 inadvertent mistakes, it shouldn't affect the
11 operation of the board as long as you don't make a
12 decision.

13 But it's always easier, if you
14 have a concern, check with your legal counsel.

15 What I believe happens is
16 oftentimes the entities that are concerned about
17 open meeting law violations and public records
18 violations are the media. They are trying to
19 insure that the public gets the information by
20 their presence. And I think sometimes it might
21 pose a concern for them that you might be doing
22 things on the fast and loose side of the law.

23 So, you know, as much as you
24 possibly can, if you can watch open meeting law, I
25 think it will serve you well. But mistakes do

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13

1 happen with everybody. And with a new entity like
2 this, it will take you awhile to get into the swing
3 of the restrictions and the limitations. But once
4 you do, it will become second nature.

5 Executive sessions. There is an
6 exception to open meeting law that allows you to go
7 into executive session, which means everyone needs
8 to leave except the people that are absolutely
9 necessary for you to have the executive session.
10 The open meeting law authorizes seven. I think you
11 probably will only potentially use two or three.

12 You are authorized to go into
13 executive session for discussion and consideration
14 of personnel matters, hiring of someone,
15 interviewing of staff, et cetera.

16 Discussion or consideration of
17 records exempt by law from public inspection,
18 confidential documents.

19 Consultation for legal advice with
20 your attorneys.

21 Discussion and consultation to
22 consider your position in pending or contemplated
23 litigation.

24 I think those are going to be the
25 four that you really might use.

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13

1 What I need to bring home to you
2 on this point is just because an executive session
3 is authorized doesn't mean you have to go into
4 executive session. What you need to do before you
5 have an executive session is to have it on the
6 agenda and then to have a public vote, and it has
7 to be a majority of the quorum to vote to go into
8 executive session.

9 For public policy concerns, just
10 because you can go into executive session doesn't
11 mean you should. People oftentimes get suspicious
12 when public officials decide things behind closed
13 doors. If you possibly can, have decision making
14 and discussion in public. You can't make a
15 decision or have a vote in executive session. That
16 all needs to be done in public.

17 If you can possibly have the
18 discussion in public, that would serve you best.

19 There might be certain things you
20 want, such as legal advice, you need to have
21 confidential. And that's certainly appropriate.
22 But be aware and limit your use of executive
23 session and limit the time you spend in executive
24 session.

25 Oftentimes we get complaints from

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13

1 individuals because a public body has gone into
2 executive session for two or three hours. And
3 that's really excessive.

4 Preventive action, and this is
5 probably the most important thing I'll tell you.
6 It's where public bodies are most prone get into
7 problems other than executive session. First is
8 related matters not on the agenda. Don't take a
9 chance. If someone challenges you, courts are very
10 narrow in their evaluation of how you describe
11 things on the agenda and what additional things you
12 can pile on to that description. The best course
13 of action is describe things more broadly which
14 will allow you to have a little flexibility. If
15 you describe things very narrowly, you'll not be
16 able to piggyback onto those because the items will
17 not have been on the agenda.

18 Roving discussions in executive

19 session. This is a problem experienced with
 20 boards, an inadvertent problem. Oftentimes you go
 21 into executive session for legal advice. You can
 22 ask your attorney questions. You can give him or
 23 her the facts on which he or she can build their
 24 legal advice. You can't start discussing among
 25 yourselves what the -- what your evaluation is of

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13

1 that legal advice. For example, you might ask, "Do
 2 we have the authority to do -- take this course of
 3 action?" Your attorney will say, "Yes, you can do
 4 these three things." Well, then you can't start
 5 discussing among yourselves whether the first thing
 6 is better, second thing is better, or third thing
 7 is better. You have to have that discussion in
 8 public.

9 The final thing. Splintering --

10 CHAIRMAN LYNN: Again, this gets
 11 very technical, and I apologize. Using your
 12 scenario, let's assume we've asked a legal question
 13 of counsel in executive session and we've called an
 14 executive session. And I agree with you that
 15 should be few and far and the least of what we do.
 16 But assuming that's the case, let's say for the
 17 sake of argument there's a pending lawsuit that
 18 would certainly warrant some discussion in
 19 executive session. We talk to our attorney in
 20 executive session and ask the attorneys' opinion
 21 and they give us options.

22 MS. SKLADANY: Uh-huh.

23 CHAIRMAN LYNN: Now, to discuss
 24 those options in public, without disclosing the
 25 nature of the options that were achieved in the

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13

1 executive session, is it perfectly acceptable to

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2 simply number them and refer to them as option one,
3 two, three, as we know them and the public doesn't?

4 MS. SKLADANY: You can do it that
5 way.

6 Open meeting law has a little
7 wiggle room here. The question is excellent. It
8 can give the chance to talk about wiggle room

9 Under the open meeting law
10 exception, when it comes to litigation, it does
11 allow you to instruct your attorneys. And that's a
12 little bit of a difficult thing to do, because you
13 can't take a vote. However, you can kind of reach
14 a consensus and say to your attorneys, "I would
15 like you to look into negotiating this." My
16 recommendation is then when you come out of that
17 executive session you take a vote confirming the
18 instructions that you gave your attorney in
19 executive session.

20 CHAIRMAN LYNN: Without
21 specificity.

22 MS. SKLADANY: Right.

23 If the litigation settled, you
24 have to have the settlement agreement approved in
25 public forum. Open meeting law does allow you to

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13

1 keep certain things confidential that otherwise
2 would really negatively impact your ability to
3 operate and protect the public.

4 CHAIRMAN LYNN: Thank you.

5 MS. SKLADANY: One thing I wanted
6 to talk to you about. I don't know how extensively
7 you are going to be using computers. Computers are
8 technology we didn't have when the open meeting law
9 was written 25 years ago. If you do communicate
10 with the executive director and one another via
11 computer, be very careful. Open meeting law does
12 not require you to be in the same place to have a

13 meeting, just requires that you have a quorum.
14 So you can communicate and discuss
15 options with each other by computer through e-mail
16 and violate the open meeting law. So be very
17 careful.

18 Your executive director can advise
19 you about any pending issues, informational only.
20 And he can send it -- and she can send it to all of
21 you. You can send it back and say, "Please put
22 that on the next agenda."

23 When it comes to you communicating
24 with each other about your feelings about something
25 or your decisions about something or how you are

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Phoenix, Arizona

13

1 leaning, that is discussion. And that has to only
2 occur at a public meeting.

3 The open meeting law prevents a
4 quorum of you from discussing anything. So two of
5 you could have that discussion. There are a couple
6 pitfalls with that. One of you might tell a third.
7 Three of you aren't discussing anything together,
8 but through that serial communication, you've
9 implicated a majority of the board. That is called
10 polling, and that is a violation of the open
11 meeting law.

12 Additionally, if two of you
13 discuss a matter that is going to be coming before
14 you, it prevents the rest of the board from hearing
15 that discussion and from benefiting from that
16 discussion.

17 So it's best, again, to have your
18 discussion here while you are all together and even
19 to try and stay away from discussing things
20 yourselves, even if it's only two of you.

21 COMMISSIONER ELDER: Mr. Chairman.
22 CHAIRMAN LYNN: Mr. Elder.

23 either don't understand it or it seems like it
24 limits the way that we would -- at least I would

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13

1 like to be able to proceed, in many cases, where I
2 would maybe put on an e-mail or take a question to
3 the executive director in the context of: I think
4 an issue has come up I would like to address would
5 the rest of you like to put it on the agenda?

6 Now, is that a discussion of a
7 particular issue if I define the issue?

8 MS. SKLADANY: I think it would
9 be.

10 COMMISSIONER ELDER: How do I
11 implement that?

12 MS. SKLADANY: Have you decided
13 yet how things are going to get on your agenda?

14 CHAIRMAN LYNN: Not specifically.
15 It would be my hope as Chair that any member could
16 put an item on the agenda and it wouldn't take more
17 than one member's desire to have it on.

18 MS. SKLADANY: You can communicate
19 with the executive director and say, "I would like
20 this to be on the agenda." I think if you decide
21 that the decision must be made by the Chair, you
22 could contact the executive director and he or she
23 could ask the Chair. I don't think that would be a
24 problem.

25 Again, it's procedural. It's not

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13

1 discussion. It's between or among less than a
2 quorum. But you have to be careful with that.
3 Because it is kind of a slippery slope and easy
4 then for inadvertent information to get out and
5 have a discussion started where none of you had

6 intended that from the beginning.

7 Does anybody have any more
8 questions about open meeting law?

9 CHAIRMAN LYNN: Just --

10 Anybody else? I have a couple
11 more.

12 The Chair of an organization --
13 Commission like this, enjoys no special
14 consideration, and that's a question not a
15 statement, under the open meeting law? In other
16 words, in trying to act as Chair and trying to get
17 information from the members of the Commission, I'm
18 under the same exact constraints as any member
19 would be?

20 MS. SKLADANY: Yes. That's
21 correct.

22 CHAIRMAN LYNN: So obviously that
23 makes it more difficult.

24 Let me ask the obvious question.
25 A quorum of this Commission appears at an event.

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14

1 MS. SKLADANY: Uh-huh.

2 CHAIRMAN LYNN: Not necessarily a
3 public event, but we show up at a restaurant.

4 MS. SKLADANY: Uh-huh.

5 CHAIRMAN LYNN: And eat. The
6 presumption is that we may discuss or may not
7 discuss business regarding the Commission.

8 MS. SKLADANY: Uh-huh.

9 CHAIRMAN LYNN: Assuming we've all
10 been read our rights and we know what the law says
11 and we know that the appearance of the conflict is
12 as bad as a conflict, all of those things
13 considered, are you suggesting, would it be your
14 legal counsel to us three of us never show up in
15 the same place regardless of the conversation?

16 MS. SKLADANY: I think you have to

17 take a step back and evaluate what the function is.
18 The open meeting law does not prohibit social
19 contacts even if all of you were there. But you
20 are right, it's the perception. People will say we
21 have a quorum of members here. We saw the quorum
22 of members here. We assume they were talking about
23 the public's business.

24 I think oftentimes people's
25 imaginations have a tendency to run away with them

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14

1 If you do attend a function, use your good
2 conscience. Use your best judgment. Don't talk
3 about business.

4 If it's a function where it might
5 be related to some of the things that you will be
6 deciding here, where you are kind of going to find
7 out about facts or get a perspective about how
8 people are leaning or what their concerns are and
9 you go or appear as a quorum, you probably should
10 notice that as a meeting, even though you're not
11 going to decide anything, to protect you so people
12 know you are going there. It's an event that might
13 be within your statutory responsibilities. And I
14 think you would be better served to notice it and
15 let anybody show up.

16 CHAIRMAN LYNN: Thank you.

17 Ms. Minkoff.

18 COMMISSIONER MINKOFF: I have a
19 question about the problem of three or more of us
20 talking outside of a meeting.

21 Let's assume that we had a meeting
22 set up for one day next week and something came up
23 and three of us contacted the Chairman and said we
24 have an emergency, we can't make it. Now, we don't
25 have a quorum so we can't have a meeting. We have

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Phoenix, Arizona

1 to schedule another meeting. The only way to do
2 that is for us to be in contact with one another.
3 A decision will be made. The decision is to have a
4 meeting at such and such a time and such and such a
5 place. As long as that particular meeting is
6 noticed and that's the only decision we made, is
7 that violation of open meeting law?

8 How do we get to a meeting if
9 we've had one canceled?

10 MS. SKLADANY: The best way to do
11 that, I know you don't have an executive director,
12 have someone prepare a meeting schedule. Have that
13 presented and you approve it. Otherwise, I think
14 if it's a violation of open meeting law, it's a
15 very technical violation. I wouldn't have
16 heartburn over that. There might be a disagreement
17 with some individuals, but at most it would be a
18 technical violation.

19 I think as you are getting up and
20 running, there are certain constraints that you
21 have that other boards and public bodies might not
22 have.

23 CHAIRMAN LYNN: Or to schedule
24 through the executive -- say to the executive
25 director, "We need to schedule a meeting because we

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1 didn't have a quorum," then let that person talk
2 individually to the five of us to coordinate
3 schedules.

4 MS. SKLADANY: That would be the
5 best.

6 CHAIRMAN LYNN: That's the best
7 way to do it.

8 Mr. Huntwork.

9 COMMISSIONER HUNTWORK: Can a

10 third party cause a violation of this, if someone
 11 speaks individually to members of the Commission,
 12 calls a third and says the other two said so and
 13 so, a lobbyist, or even a reporter, or any third
 14 party?

15 MS. SKLADANY: That's called hub
 16 and spokes. That can be a problem.

17 Sometimes public bodies, this is
 18 for purposeful violations of open meeting law, will
 19 get a third party to do the polling to evaluate
 20 people's perspectives, where people are coming
 21 from, how people are leaning, and then report back.

22 COMMISSIONER HUNTWORK: If clearly
 23 independent, non --

24 MS. SKLADANY: If independent, you
 25 will not consciously be violating open meeting law.

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14

1 Again, I think you have to be
 2 careful. Keep your antenna up. If you feel like
 3 someone is trying to get information from you, what
 4 you might say to him is "We're going to discuss
 5 that next week. Why don't you come to the meeting
 6 and you can hear what we have to say."

7 Sometimes you have to just be very
 8 cautious. Although you'd not be intending to
 9 violate the open meeting law, that third person can
 10 create a discussion and might even be able to say
 11 how you were leaning. And again, that would have a
 12 very negative view from a public perspective of how
 13 this body was going to be making decisions. So I
 14 think it's something that you have to be careful
 15 of.

16 COMMISSIONER HUNTWORK: One other
 17 thought that has occurred to me is when we have
 18 communications with counsel, with our lawyer,
 19 there's no -- it doesn't sound like there's any
 20 special exception for that type of communication,

21 either.

22 MS. SKLADANY: For open meeting
 23 law, there is executive session, if asking for
 24 legal advice.

25 COMMISSIONER HUNTWORTH: Not

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14

1 talking executive session, saying between meetings
 2 or in connection with an issue we're wondering
 3 about --

4 CHAIRMAN LYNN: Contact with
 5 counsel between meetings.

6 MS. SKLADANY: If you individually
 7 contact counsel, it's not violation of open meeting
 8 law.

9 COMMISSIONER HUNTWORTH: Two, three
 10 members?

11 MS. SKLADANY: Contact counsel,
 12 yeah. The problem that has occurred in some states
 13 is where counsel is acting as the hub and actually
 14 helping people violate the open meeting law by
 15 passing information around. That person under
 16 Arizona's current open meeting law would also be
 17 liable for violation of open meeting law and could
 18 be fined.

19 Now I'm going on to public
 20 records. Public records should only take five
 21 minutes. Conflicts of interest should take a
 22 little over.

23 If you look at the public records
 24 handout, the thing you need to know about public
 25 records is because this body is a public entity,

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14

1 the records that you keep in relation to your
 2 statutory mandate and the work that you do as a
 3 Commission are public records. Be aware the

4 information has to be accurate. It has to be
5 complete. Pay particular attention to the tone of
6 your correspondence or the things that you write or
7 minutes that you have.

8 Your notes, your calendars, your
9 e-mails and your voice mails are all public
10 records. So again, sometimes you might not think
11 that something like this might get out, a voice
12 mail you leave for one another or voice mail you
13 leave for a third party, but it can come back to
14 negatively impact you.

15 I don't know if you remember maybe
16 a year and a half ago quite a hubbub in City of
17 Phoenix. Someone left a voice mail that was
18 inappropriate. It was intended as a joke. Again,
19 it became public, caused a great deal of
20 embarrassment for the City of Phoenix and the
21 individual.

22 Be cautious. Recognize you are in
23 the public eye and use your best judgment when it
24 comes to information you keep.

25 Before the meeting Scott and I

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14

1 were talking about notes that board members would
2 make during meetings. I don't know if there is any
3 case law about the notes you might take for your
4 own private purposes about things that have gone on
5 for the meeting, but I would again be cautious.
6 Recognize there is a chance and possibility they
7 might be public records, just so that you are aware
8 of that.

9 Also be aware that under the open
10 meeting law you are required to keep minutes of
11 your meetings. If they are recorded, you can use
12 the tape recording as your minutes or within three
13 days you have to have written minutes.

15 their minutes and then as they are being
16 transcribed, once they are approved, you can
17 destroy the tape. You don't need to keep that
18 because the written minutes are a depiction and
19 representation of the decision and discussion the
20 public body had.

21 You can deny access to public
22 records under three bases. First is if the records
23 that you are keeping are made confidential by
24 statute. I think probably very few of the records
25 you will be evaluating are in fact confidential by

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14

1 statute.

2 The second basis you can deny
3 access to public records are privacy interests. If
4 you evaluate public disclosure would invade an
5 individual's privacy and that invasion outweighs
6 the public's right to know, you can deny access.

23 If someone makes a public records
24 request, you don't have to immediately give them

25 the document they are requesting. The response to

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14

1 that public records request needs to be within a
2 reasonable amount of time. People can make the
3 request any time during the normal business day.

4 If the record is available, you
5 should respond in a very reasonable, appropriate
6 amount of time. Sometimes a public records request
7 will be made for voluminous documents. Contact the
8 person making the request. Let them know how many
9 documents are involved and about how long it will
10 take you. If you have some of the documents
11 available, turn over the ones you have available.
12 But try your best to work with them so they don't
13 feel like you are being an obstructionist and
14 keeping them from written materials you have
15 collected in the course and scope of your
16 responsibilities.

17 The law does allow you to make
18 reasonable copies -- charges for copies. And there
19 is an authorization for additional charges if
20 someone is making a request for a commercial
21 purpose.

22 Again, most of this information is
23 probably going to be handled by your legal counsel
24 and executive director. So it's really just here
25 for your convenience.

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15

1 The thing to remember is the tone
2 and tenor and substance of the records that you
3 have. Just make sure that they are available to
4 the public and they present a professional tone.

5 Anybody have any questions on
6 public records?

7 CHAIRMAN LYNN: Mr. Huntwork.

8 **COMMISSIONER HUNTWORK:** My
9 question would be if I -- at my office,
10 particularly, almost everything in my normal
11 records involves confidentiality with somebody
12 else. And unless I set up a different system in
13 all of them communications relating to this
14 Commission would be mixed in with what would
15 otherwise be confidential information. I would
16 assume the privacy exception would protect the
17 danger of somebody coming in and looking through
18 the system.

19 How, exactly, does that -- how
20 exactly does that work? It's up to me
21 affirmatively to segregate the information and
22 provide it when requested, I guess, as needed?

23 **MS. SKLADANY:** Right. Correct.

24 Things you do in your personal
25 business and personal life are not public records.

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15

1 They are not kept within the course and scope of
2 your work as a public official. Be aware, though,
3 if you have a calendar that is State property, that
4 was paid for with State funds, and you keep your
5 personal appointments there as well as your
6 appointments with this committee, there would be an
7 argument that would be a public record and you
8 would have to turn that over.

9 **CHAIRMAN LYNN:** Ms. Minkoff.

10 **COMMISSIONER MINKOFF:** Individual
11 notes many of us are making during the course of
12 these are subject to public records law?

13 **MS. SKLADANY:** I don't know any
14 case on this. My point is there's a very good
15 argument it would be.

16 **COMMISSIONER MINKOFF:** If I look
17 at them later on, don't need them anymore, do I

18 need to keep them anyway? I can't destroy any
19 notes?

20 MS. SKLADANY: No. That can be
21 left to your discretion. Some people keep
22 everything they create, drafts of documents -- and
23 it really depends on your individual preferences
24 and the way that you keep your materials.

25 If you decide this really isn't

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Phoenix, Arizona

15

1 helpful, minutes cover it, you can destroy it. It
2 would not be destruction of public record.

3 What would be problematic is if
4 you had the habit of keeping all of your notes, a
5 public records request came in, you decided, oh,
6 gee, there's a couple pages here I don't really
7 want to give. That would be problematic.

8 But it really depends on how you
9 keep -- how you keep your records.

10 If someone were to come up and ask
11 you for a copy of your records, I think there would
12 be arguments that they would be public records. I
13 don't think a court has really ruled on that. But
14 maybe that is something that Scott and Joe can look
15 into to give you more definitive guidance.

16 CHAIRMAN LYNN: Mr. Elder.

17 COMMISSIONER ELDER: In an earlier
18 presentation you used the term confidential
19 documents or confidential.

20 MS. SKLADANY: Yes.

21 COMMISSIONER ELDER: In this part
22 of the presentation I haven't heard anything
23 confidential.

24 What types are confidential?

25 MS. SKLADANY: Often confidential

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15

1 by statute, health information, medical records,
2 HIV information, possibly a juvenile's arrest
3 record. But ordinarily it's statutorily
4 prescribed. Might be some cases and constitutional
5 protection for certain types of confidential
6 information. But if the time comes, that can be
7 assessed.

8 The last is statutory conflicts of
9 interest. I put this as last because I don't think
10 you are going to run into too many conflicts of
11 interest, but you should be aware of them. I've
12 given you a handout on conflicts of interest and a
13 conflict of interest form in the event any of you
14 have conflicts of interest.

15 The statutory standard for
16 standards on conflict of interest for a public
17 official or employee with a substantial interest or
18 anyone who has a relative with a substantial
19 interest in any decision of the public agency shall
20 make that interest known in the public records and
21 shall refrain from participation in any way on any
22 decision.

23 In English, what that means is if
24 you or one of your relatives, relative is defined
25 very broadly, includes your spouse, your child,

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15

1 your grandchild, your parent, your grandparent,
2 your brother or sister of whole or half blood and
3 their spouses and parent, brother, sister, or
4 brother or sister of your spouse. That's a range
5 of people.

6 If you or a relative that has a
7 financial interest in a decision or ownership
8 interest in a decision, the Legislature decided you
9 can't wear two hats. You can't have financial
10 interest and then be asked as a public official to
11 make a decision on whether or not you are going to

12 gain or lose money or gain or lose property.
13 Therefore, the Legislature decided you need to
14 disclose that interest, put it in the public record
15 before the decision comes up, and refrain from
16 participating.

17 You can't talk to one another
18 about it outside of a meeting. You can't talk to
19 one another about it or pass notes in a meeting.
20 You have to refrain in any way.

21 One thing you have to be careful
22 of is oftentimes people will think "I can wear two
23 hats in this situation. I can be fair. I can be
24 honest, even though I might have a financial
25 interest." And you don't have the ability to make

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Phoenix, Arizona

15

1 that judgment call.

2 Although you have a tremendous
3 amount of discretion in decisions you make, the
4 Legislature decided on your behalf if you have a
5 financial interest in any matter that comes before
6 you or a relative has financial or ownership
7 interest in any decision that comes before you, you
8 have to disclose and not participate.

9 Let me give you an example. If
10 you are making decisions on, specifically,
11 redistricting and someone wants to come in and
12 contract with you to provide you with information,
13 you'll be spending public money for that. If your
14 brother owns that company, or your child owns that
15 company, you would have a conflict; because whether
16 you decide to go with them has a direct pecuniary
17 effect on their income. So you would have to
18 disclose that on the conflict of interest form at a
19 meeting, and then you'd have to refrain from
20 participating.

21 CHAIRMAN LYNN: May I raise

22 another perhaps ridiculous hypothetical? But what
 23 I think is more appropriate for this group is our
 24 charge is to redraw district boundaries for state
 25 legislative and congressional offices. We go about

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15

1 our business. And at the end of the year, my
 2 daughter decides that she's going to run for the
 3 Legislature and somehow my decision making in this
 4 regard is construed as benefiting that decision.

5 MS. SKLADANY: Uh-huh.

6 CHAIRMAN LYNN: Over the last two
 7 weeks we've been talking. We have a request --

8 By the way, for the press in the
 9 room, my daughter is not running for public office,
 10 has made that clear. She has no interest
 11 whatsoever.

12 MS. SKLADANY: We've had some
 13 evaluation about whether public office is, in fact,
 14 a proprietary interest. We haven't been able to
 15 find any cases on that. My belief, and again this
 16 is my own individual, personal belief, is it's not
 17 the kind of pecuniary or proprietary interest the
 18 Legislature had in mind with the conflicts of
 19 interest.

20 With that said, however, there's
 21 an appearance of impropriety there. Even though
 22 you don't have to recuse yourself because of
 23 conflict of interest, my best advice to you would
 24 be at the meeting, advise people of that to avoid
 25 any appearance of impropriety; you are not going to

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15

1 participate in this discussion on this point. That
 2 way it will take out any possible inkling that in
 3 some way you were using your position for personal
 4 gain.

6 that I would first have to have known --

7 MS. SKLADANY: Right.

8 CHAIRMAN LYNN: -- her interest
9 was there, using my example, before I could even
10 think of a conflict.

11 MS. SKLADANY: Right. So if there
12 were any rumblings.

13 CHAIRMAN LYNN: I think she does
14 know better.

15 COMMISSIONER MINKOFF: I do have
16 an actual situation I disclosed on my application
17 for the Commission. My daughter works for a state
18 agency; however, she has no more or less interest
19 in the decisions of this Commission than any other
20 resident of the State of Arizona. What we do does
21 not impact directly on her job.

22 Do I have to disclose this other
23 than the way I did on my application for the
24 Commission?

25 MS. SKLADANY: Very good question.

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15

1 Conflicts of interest, 10, what
2 they define as remote interests. Even if you have
3 or a relative has a pecuniary proprietary interest
4 in the decision, if it falls within one of the
5 remote interests, it's one where you get a
6 get-out-of-jail-free card and can participate --

7 COMMISSIONER MINKOFF: I looked at
8 remote interests, but it says public agency except
9 if it is the same governmental agency. She works
10 for State of Arizona. This is a Commission of the
11 State of Arizona.

12 MS. SKLADANY: This would be class
13 interest. If there is a class of at least 10
14 people and your daughter's interests are no greater
15 than anybody else in that class, she would

16 undoubtedly fall within that class interest and
17 bring the conflict into remote interest so there
18 would be not a problem.

19 CHAIRMAN LYNN: Other questions?

20 Okay.

21 MS. SKLADANY: I'll get ready to
22 wrap it up.

23 Three questions you need to ask
24 yourself to identify conflict, bottom of page one,
25 top of page two. Will the decision either effect

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Phoenix, Arizona

15

1 positively or negatively an interest of you or one
2 of your relatives? Is the interest pecuniary or
3 proprietary in nature? Finally, if the answer to
4 both of your questions is yes, is the interest one
5 that is not statutorily designated as a remote
6 interest?

7 Conflicts of interest are very
8 tricky. They are usually not clear cut. My
9 recommendation is if you think you might have a
10 conflict, talk to your attorneys. It really helps
11 when you talk to someone else about it and that
12 person does not have any stake whether you are in
13 or out. They might need to do some research, but
14 together you'll be able to make a better decision
15 than any one of you could have made on your own.
16 That's a real good help.

17 I'll give you time to sleep on it
18 and think about it. Think about it ahead of time.
19 It's real hard to talk with your attorneys five
20 minutes before a meeting and be able to get as good
21 an answer as if you had told them five days before
22 a meeting.

23 The reason for the standard is to
24 limit the ability to have you as a public official
25 use your public capacity for private benefit.

1 Preliminary steps. If you can
2 evaluate any potential conflicts of interest now,
3 you'll be better off. File your conflicts of
4 interest forms now. If it's something that comes
5 to your attention at a meeting, you can make that
6 disclosure on the record, but it has to be complete
7 disclosure identifying that you do have a conflict
8 of interest and what the substantial interest is
9 and then recuse yourself.

10 Often times public officials will
11 step down from the dias so they're not in any way
12 associated with the other members. It's not
13 required under conflicts of interest law, but I
14 think it's a good idea. It's perception.

15 Other prohibited acts identified
16 on page three. Can't represent another for payment
17 before this board.

18 You will obtain confidential
19 information as a member of this board, possibly.
20 You can't disclose that unless there is specific
21 authorization.

22 You can't use your position on
23 this board to gain any private benefit that you
24 otherwise wouldn't have.

25 You cannot receive additional

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Phoenix, Arizona

1 compensation, either directly or indirectly, for
2 any matter that you are serving on as a member of
3 this board.

4 Basically you get paid, I guess
5 you are per diem, and the good feeling of knowing
6 you've done the best job you could. You can't take
7 anything in addition.

8 There are criminal penalties with

9 conflicts of interest as well as civil penalties.
 10 Knowingly, intentionally violating conflict of
 11 interest law is a Class 6 felony, which is pretty
 12 serious. If reckless negligence, it's a Class 1
 13 misdemeanor.

14 If you do talk things over with
 15 your attorney, it will take your conduct out of
 16 that intentional or reckless, making decisions
 17 based on all information available and you won't be
 18 making decisions in a vacuum. Protection.

19 Additionally, civil counts, any
 20 person harmed by the conflict of interest can file
 21 a lawsuit in our office or the County Attorney's
 22 Office.

23 Rule of necessity. Don't think
 24 you'll need it but you should be aware of it. If a
 25 quorum, if a majority of you have a conflict of

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 Phoenix, Arizona

16

1 interest, you can all disclose that conflict of
 2 interest and act.

3 Basically what the Legislature
 4 didn't want to have happen is have all of you here
 5 and not be able to do the statutory mandate. If
 6 you are all here, if a majority has conflict, you
 7 can disclose it and then act. If you only have
 8 three people here and the majority of three people
 9 have conflict, you need to come back and wait until
 10 you have a full board before you can make a
 11 decision and implicate the rule of necessity.

12 That's all I have to say. If
 13 anybody --

14 CHAIRMAN LYNN: Questions.

15 Mr. Huntwork.

16 COMMISSIONER HUNTWORK: I'm
 17 thinking of the decisions that we would be called
 18 upon to make that might come in where conflict of
 19 interest rules might come into play. Don't seem to

20 be very many. Hiring staff, hiring consultants,
 21 selecting space. It seems to be a pretty short
 22 list. Are you thinking of anything beyond that
 23 that might -- maybe we should be particularly aware
 24 of?

25 MS. SKLADANY: No. Usually when I

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16

1 teach people about ethics law, I put conflicts of
 2 interest first; it has such far-reaching negative
 3 implications for you. I didn't. I put it last
 4 because I didn't think there are too many things
 5 you would have conflicts of interest on with your
 6 kinds of decision making.

7 I would agree with you.

8 CHAIRMAN LYNN: Any questions?

9 Ms. Skladany, thank you very much.

10 MS. SKLADANY: My pleasure.

11 CHAIRMAN LYNN: Most enlightening.
 12 Very complete. And it just makes it harder to do
 13 what we need to do. But that's the law and we'll
 14 do the best we can with it.

15 Thank you very much for joining
 16 us.

17 MS. SKLADANY: You are welcome.

18 CHAIRMAN LYNN: Mr. Bales.

19 MR. BALES: Mr. Lynn, I'd like to
 20 make two brief points to follow Ms. Skladany's
 21 presentation on openness of process and the manner
 22 in which you keep records.

23 What you do are important for
 24 reasons independent of state statutes. First, with
 25 regard to the preclearance submission to the

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 Phoenix, Arizona

16

1 Justice Department, they will be interested in
 2 knowing precisely how you have sought input from

3 various parts of the community and, because of
4 that, the openness of the process. Similarly, they
5 will ask for as part of the submission records of
6 virtually every meeting you've had, the efforts
7 you've made to get input from different segments of
8 the community, indeed, even to the point of wanting
9 to see every map that the Commission considers and
10 wanting to know the reasons why particular maps
11 have been rejected and the ones you ultimately
12 select chosen instead.

13 Again, fully apart from the
14 State's statutory framework you need to be
15 conscious as going through this you're making a
16 record partly for purposes of the preclearance
17 submission.

18 Secondly, as you all recognize,
19 redistricting is very a contentious process. If
20 litigation later does ensue, virtually everything
21 you've done will be discoverable. So even if
22 strictly speaking a particular communication may
23 not constitute a public record for the purpose of
24 state law, it may very well be the kind of thing
25 that can be discovered in litigation.

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Phoenix, Arizona

16

1 The last item I think that you
2 have --

3 CHAIRMAN LYNN: One second,
4 Mr. Bales.

5 Mr. Elder.

6 COMMISSIONER ELDER: Maybe I'm
7 mistaken or misheard. Are you saying the record or
8 keeping of a record, each of us are supposed to be
9 keeping a record of the process or are we talking
10 about the record of the transcription or recorded
11 minutes of the meeting?

12 MR. BALES: I should clarify.

13 What I was clarifying, the record of what you do,
 14 principally things such as the minutes,
 15 transcripts, making sure you ultimately, your
 16 executive director, staff, have kept a careful
 17 record of notices sent out, any documents
 18 considered at particular meetings, that kind of
 19 thing.

20 It won't be your responsibility
 21 individually to do that, assuming that you have a
 22 staff that is going to be doing it for you.

23 COMMISSIONER ELDER: Another
 24 question based on the presentation from Tim and how
 25 easily it would be to say "Let's include this

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 Phoenix, Arizona

16

1 block, this block, this block." Include those,
 2 then do a spread sheet and numbers don't come out
 3 to where they have to balance, or whatever it might
 4 be. Every time there's an iteration, moving things
 5 around, part of that, we have to keep each plan,
 6 this one was rejected, didn't balance, this was
 7 rejected, didn't balance? Or do we say "Yeah,
 8 that's one we should keep." Vote on it. "Yeah,
 9 let's keep that as part of our record"?

10 With electronics, it seems quick
 11 and easy to move things around, see what if or
 12 query what if we did this. And do we have to keep
 13 each one of those?

14 MR. BALES: It will depend partly
 15 how you decide how to set up the process for
 16 preparing and considering maps. Maricopa County,
 17 last go around, every map they printed out on a
 18 plotter for consideration by the Board of
 19 Supervisors, they kept record of and it was part of
 20 the submission to the Department of Justice. Now,
 21 in coming up with something that could be printed
 22 out, they would direct staff, "These are
 23 considerations," and staff would make changes on

24 their own and never, perhaps, print a map that
 25 obviously violated, say, the one person one vote

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 Phoenix, Arizona

16

1 requirement.

2 If you collectively are looking
 3 over the shoulder of the technician, giving
 4 direction, "Take this in, put that out," then you
 5 probably would need to be careful to make more of a
 6 record than if people are just bringing you maps at
 7 public session that they have generated given your
 8 sort of instructions.

9 Do you see what I'm trying to
 10 describe?

11 COMMISSIONER ELDER: I think I
 12 see.

13 It seems as though at least what
 14 seems to be productive is to be able to have that
 15 up on the wall where everybody in the room can see
 16 it, public, whatever, and we go in and say, "What
 17 happens if we include this area here?" We do that
 18 spread, and we have the six conditions,
 19 compactness, get down the line and say, "Well, that
 20 doesn't meet four or five of the criteria. Wrong
 21 way to go. Bring that line back and bring that
 22 over here. Does that then resolve some issues that
 23 came up that made the unacceptable plan, in our
 24 idea."

25 MR. BALES: Well, if that were the
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 Phoenix, Arizona

16

1 manner you decide ultimately to proceed, I think it
 2 would be important to make a record, this is easy
 3 to do with computers, of each iteration you
 4 collectively consider, act upon, and simultaneously
 5 make a record why it was you took the step you did.
 6 And that, too, could be done in probably a

7 straightforward fashion in most ways.

8 COMMISSIONER ELDER: Okay.

9 CHAIRMAN LYNN: As contrasted,
 10 perhaps, with -- again, this is just out there as a
 contrast -- employing a consultant, giving the
 11 consultant a set of parameters to follow beyond
 those that might otherwise be mandated by election
 12 law or whatever, and having that consultant present
 13 options to us.

14 In other words, the manipulation,
 15 I use that word ill-advisedly, but the modeling,
 let's say, of those various parameters done by the
 16 consultant away from the Commission in their own
 manner of doing business then don't become part of
 21 the public record until they are presented to us in
 some fashion. And at that point they become part
 22 of our work product and are considered by us? I
 mean that would be another --

24 MR. BALES: That's another way.

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 Phoenix, Arizona

16

1 That's somewhat analogous to how Maricopa County
 2 worked. They'd give direction to staff. Staff
 3 would come back with several versions. Ms. Osborne
 4 said there were 36 different maps. Each of the
 5 maps was kept and was part of the submission to
 6 Department of Justice. There were, I'm sure,
 7 innumerable iterations to get to that.

8 CHAIRMAN LYNN: To get to the 36.

9 Mr. Elder?

10 Mr. Huntwork.

11 COMMISSIONER HUNTWORK: I'm
 12 intrigued by the laptop computer. It suggested we
 13 could do this ourselves at home taking a line,
 14 moving six different precincts, and voila, have a
 15 new map. I was thinking it might be really
 16 informative and help each of us understand. And I

17 was thinking that might be made available to the
 18 public, and so on, too. Everybody could do it,
 19 assuming software licensing was available, and so
 20 on.

21 But the questioning is what about
 22 those types of thoughts, if we are simply playing
 23 around with the software to get ideas, see how
 24 things work, would that be a public record? How --
 25 what versions would we be required to save? In

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 Phoenix, Arizona

17

1 other words, it may not be practical to do that at
 2 all, I guess, is the question.

3 CHAIRMAN LYNN: Are you asking for
 4 an opinion, personal opinion?

5 COMMISSIONER HUNTWORK: No. I
 6 guess I'm just reflecting -- sort of just
 7 speculating. Maybe, perhaps, we shouldn't do this.
 8 But it seemed like that would be a very powerful
 9 tool and maybe we just don't have it available to
 10 us because of some of these limitations.

11 COMMISSIONER ELDER: I'd like to
 12 interject here, also, I think Mr. Lynn made comment
 13 we're novices at this. We may not know the right
 14 questions to ask yet. And being able to say here's
 15 a query, here's a series of questions we would like
 16 you then to integrate into the data base and
 17 produce an outcome. We say, "We're not getting any
 18 results at all to fulfill requirements of the
 19 Commission." Through the process we'll be learning
 20 how to pose the question, how to develop the data,
 21 develop the lines, then give us a responsible line
 22 on the map for redistricting. And those trials and
 23 attempts, you know, saying "What happens if we do
 24 move this?" It didn't give us the results. If
 25 not, "Why not?" That is part of our education

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 Phoenix, Arizona

1 process of redistricting. Is that still part of
2 the record and the --

3 MR. BALES: Well, again, you need
4 to think of the record in two respects, the public
5 records law for purposes under Arizona statutes and
6 what you'll need to do with regard to the Justice
7 Department. Conceivably any maps that you, since
8 you are the ultimate decision makers, consider
9 collectively and accept or reject. Those are
10 things you are going to want to include in your
11 submission. I mean the Department will
12 specifically ask to see every map that you
13 considered. I don't think that extends so broadly
14 to mean that if one of you on your own sitting at
15 home on a Saturday came up with what you think
16 would be a conceivable plan and never passed it on
17 to the full Commission that you would have to
18 provide that.

19 To go back to Mr. Huntwork's
20 question, you are absolutely right. Anyone with a
21 \$1,200 laptop and willingness to spend \$3,000 or so
22 for the software can do something very similar to
23 what Mr. Johnson demonstrated today. It's
24 off-the-shelf software. The census data will be
25 publicly available.

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Phoenix, Arizona

1 I suspect that the challenge you
2 are going to have will be less your own ability to
3 maybe experiment with different plans but instead,
4 you'll probably be getting lots of suggestions,
5 because the software is so readily available. And
6 what you are going to need to do is identify a way
7 that you, through public meetings, assess the
8 different suggestions you are getting and make some
9 decisions on what makes sense and what doesn't make
10 sense given the directions and the proposition.

11 And then lastly I need to say the
12 specific question of if you were on your own laptop
13 to begin experimenting with different plans
14 individually, whether that would be a public record
15 in the state law sense, I don't know the answer
16 offhand. I suspect from what Ms. Skladany just
17 told you that there would be an argument that it
18 is.

19 We could certainly research that
20 for you and provide you with more specific advice.
21 I can't give you an answer just off the top.

22 CHAIRMAN LYNN: Other questions at
23 this point?

24 Okay.

25 Mr. Bales, anything more on the

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Phoenix, Arizona

17

1 subject of briefing on any of the rules,
2 regulations that were on the agenda?

3 MR. BALES: No.

4 I understand from your comments
5 this morning that you would like us to work with
6 the Governor's Office and DOA in terms of
7 coordinating the mandatory public service
8 orientation and see if that can be done in a format
9 so perhaps teleconferencing, for instance, can be
10 done --

11 CHAIRMAN LYNN: We'd appreciate
12 exploration of that, at least, since the four-hour
13 chunk, which, again, would be connected with the
14 meeting would not be terribly productive. If we
15 could schedule to do it where we live, or whatever,
16 without any interaction of the public, it would
17 still be fine. May still have to be noticed, I
18 understand that part. But the entire agenda would
19 be that briefing.

20 MR. BALES: Sure. There is

21 possibility the NAU Distance Learning Program might
 22 be able to arrange for Mr. Hall not to have to come
 23 to Phoenix or Tucson, even do it via
 24 videoconferencing. We'll explore that, too.

25 CHAIRMAN LYNN: I'm sure he'd

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 Phoenix, Arizona

17

1 appreciate that.

2 All right. The next item on the
 3 agenda is selection of counsel, I believe. Why
 4 don't we at least begin a discussion on that topic.

5 Mr. Hall?

6 COMMISSIONER HALL: I would ask
 7 that this be placed on the agenda, Mr. Chairman, in
 8 light of the fact that -- first of all, let me just
 9 say how grateful I am, I think all of us on this
 10 Commission are, to the Attorney General's Office
 11 with respect to their tremendous service and
 12 expertise and experience as evidenced by all that
 13 we've received today. And their counsel has been
 14 and I'm sure for some time will continue to be
 15 invaluable. So Mr. Bales, you and your staff. But
 16 I think in the future at some point, sadly probably
 17 sooner than later, we're going to need some
 18 independent counsel with respect to a variety of
 19 issues, especially as we get into the process of
 20 actually approving lines that are drawn. Because
 21 obviously there's going to be a perception of
 22 partisanship regardless. And consequently, I'm
 23 suggesting that we need to initiate the process of
 24 making requests for proposals to an entity or
 25 entities that would not only have experience and

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 Phoenix, Arizona

17

1 expertise and qualifications that would be
 2 necessary to provide us the counsel that we need
 3 but also would not have any conflicts or anything

4 that would be perceived to be as a conflict.

5 So that's why I placed this on the
 6 agenda. I would suggest that we're going to still,
 7 you know, continue to need the Attorney General's
 8 assistance as we transit into that phase. And at
 9 some point I think there's going to have to be some
 10 independency of the counsel themselves.

11 Obviously the most independent
 12 counsel we could identify would be someone out of
 13 state. I'm not so sure we need to move to that
 14 level of extremity. That may be an item for
 15 discussion amongst us.

16 I think it's also been suggested
 17 that we maybe have two members of counsel, one
 18 Republican, one who is a Democrat. Maybe we
 19 mitigate that and save money and get one
 20 independent. I don't know.

21 I think that it's something we all
 22 need the wheels rolling on and maybe the Attorney
 23 General's Office can give us some counsel to proper
 24 procedures for soliciting that input, or whatever.

25 That's why I felt it pertinent we

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 Phoenix, Arizona

17

1 get moving on that item

2 CHAIRMAN LYNN: Ms. Minkoff.

3 COMMISSIONER MINKOFF: Thank you,
 4 Mr. Chairman.

5 I agree that I think that is a
 6 very good idea. And I think that we do need to get
 7 some independent counsel. However, it seems to me
 8 that the primary areas where we need independent
 9 counsel or counsels are in the area of election law
 10 and primarily in the area of redistricting. I
 11 think we're still going to need to rely on the
 12 Attorney General's Office for issues such as the
 13 kinds of things we've dealt with today, compliance
 14 with the requirements of the State of Arizona

15 Constitution, statutes, et cetera, conflicts of
16 interest, open meeting laws, how certain things are
17 done. So I'm certain that we will continue to be
18 needing support from the Attorney General's Office
19 in those areas. But I think it is appropriate to
20 look for independent counsel specifically in the
21 area of election law and redistricting.

22 CHAIRMAN LYNN: Mr. Huntwork?

23 COMMISSIONER HUNTWORK:

24 Mr. Chairman, I want to comment on the fact
25 Mr. Mendoza this morning made what I thought was a

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Phoenix, Arizona

17

1 very interesting and important suggestion, that we
2 might want to consider adding diversity, which is
3 one of our most current and most important matters
4 to be considered through our selection of counsel.

5 There are a number of ways that I
6 can think of to do that. And I think we will need
7 to explore that as we go along. But I do -- I did
8 think that that was a good idea and one that we
9 should consider and should keep in mind as we go
10 through this process.

11 CHAIRMAN LYNN: Mr. Elder, want to
12 be heard on the subject?

13 COMMISSIONER ELDER: Yes,

14 Mr. Chairman. As I probably usually will, I'll
15 ramble a little bit.

16 The independent counsel being non
17 State Attorney General or Solicitor General, they
18 may be needed on occasion. But it almost appears
19 from the process that we've been going through and
20 who we've been hearing from and comments from the
21 public, and whatever, that the State Attorney
22 General's Office may very well have the best
23 background and the best people already up to speed
24 than to go in and try to find an independent

25 outside counsel.

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Phoenix, Arizona

17

1 Now later on it may very well be
 2 we want that sounding board, that other opinion.
 3 And we want to have that person or team in place.
 4 But I'm not so sure that the State Attorney
 5 General's Office is not the best place to be.

6 CHAIRMAN LYNN: Let me jump in and
 7 give my two cents. I think we have one opportunity
 8 at a time to either make very good and appropriate
 9 decisions or decisions that are other than good and
 10 appropriate. And we have two big ones coming up.
 11 The first is, and I don't know which order they'll
 12 come in, one is staff, executive staff, and the
 13 other is counsel, independent or other, but the
 14 decision for counsel.

15 I would hope that the Commission
 16 would, in every instance, make a decision that says
 17 to the public that we are concerned about being as
 18 independent, as fair, as broadly based as
 19 representative and inclusive, to use just a few
 20 adjectives, as we can be. Now, that's far easier
 21 said than done. But it seems to me in the context
 22 of the discussion we have at hand, it may very well
 23 be reality and appearance are two different things.

24 Appearance of conflict or
 25 appearance of a problem with selection is just as

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Phoenix, Arizona

17

1 devastating as a real problem with a selection. In
 2 that context, I think, my feeling is that we
 3 probably ought to seek outside counsel. And
 4 knowing how difficult it is to find people who are
 5 qualified by virtue of their background and
 6 experience in this particular part of the law and
 7 then simultaneously not be affiliated with one

8 party or another, because that's where most of this
 9 work is done, is within party structures or within
 10 political processes, that perhaps we ought to seek
 11 co-counsel, one from the Democratic party, or one
 12 that is affiliated or known as, and one is that on
 13 the other side of the political fence. That's not
 14 to exclude all the rest of the parties, but I don't
 15 think we need more than two counsel, to be
 16 perfectly candid.

17 That's my opinion. So I throw
 18 that out into discussion as well.

19 Mr. Huntwork.

20 COMMISSIONER HUNTWORK: My quick
 21 reaction is that that is somewhat consistent with
 22 the philosophy of Proposition 106 and the way the
 23 board is constituted, too, which did recognize that
 24 we have two Democrats, two Republicans, and an
 25 independent. And perhaps having a Republican, a

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 Phoenix, Arizona

18

1 lawyer who has represented Republican interests in
 2 the past and one who has represented Democrats,
 3 would be an effective way to carry forward that
 4 same philosophy and assure that we have the best
 5 input and the best advice from different
 6 perspectives.

7 CHAIRMAN LYNN: The Chair is
 8 looking for a motion or more comment, whichever.

9 COMMISSIONER HALL: I'll do both.

10 CHAIRMAN LYNN: Mr. Hall.

11 COMMISSIONER HALL: My only
 12 question, Mr. Bales, is it within the parameter, do
 13 you feel comfortable with assisting in drafting of
 14 an RFP with respect to counsel as to what those
 15 qualifications would entail?

16 What is your counsel with respect
 17 to that process?

18 MR. BALES: Mr. Hall, I think the

19 best way for you to proceed, if that's the route
 20 you choose to go, would be to -- through Mr. Lynn,
 21 get the assistance of the Director of the
 22 Department of Administration. They handle the
 23 contracting and soliciting of bids, that kind of
 24 thing. They can help you with that.

25 COMMISSIONER HALL: I understand

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 Phoenix, Arizona

18

1 that. My question: Do they have the expertise or
 2 personnel that can appropriately state what it is
 3 we want?

4 CHAIRMAN LYNN: Notice the
 5 expertise.

6 COMMISSIONER HALL: We want
 7 another one of you that doesn't work for the
 8 Attorney General's Office. Got one?

9 Can you resign real quick and then
 10 maybe --

11 COMMISSIONER MINKOFF: And
 12 register as an independent?

13 COMMISSIONER ELDER: We haven't
 14 asked whether Mr. Kanefield or -- never mind.

15 MR. BALES: We can certainly work
 16 with DOA to help them. There are a handful of
 17 state agencies that do have authority to contract
 18 for independent counsel. Maybe the agencies have
 19 examples of what you are talking about, although
 20 obviously you need to tailor it to redistricting.

21 COMMISSIONER HALL: I'm sure we'll
 22 get unsolicited input. I'm trying to get my hands
 23 around this. The concern is I think this needs to
 24 happen in a relatively rapid pace in light of the
 25 fact we're looking at mid-March we're going to be

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 Phoenix, Arizona

18

1 actually getting down to the nuts and bolts of this

2 matter. I guess my fear is go through DOA,
3 official RFP, and, et cetera, that that is a
4 rather, with all due respect, bureaucratic process.
5 I guess we're open to any input you may have.

6 MR. BALES: Department of
7 Administration will be able to expedite the
8 process, and I think they can do that pretty much
9 in whatever fashion you wish to direct.

10 CHAIRMAN LYNN: Counsel, as with
11 the executive director, would be an uncovered
12 position, go through an expedited process and come
13 up with answers quickly.

14 MR. BALES: I think DOA could very
15 quickly put together an equivalent job description
16 and give you guidance in terms of how to
17 communicate that. And you could give them whatever
18 guidelines you wanted to impose in terms of the
19 kinds of qualifications, how long you wanted the
20 process to be over.

21 COMMISSIONER HALL: I think we
22 know but don't know how to say it. If you'll help
23 us do it.

24 Therefore, I make a motion.

25 CHAIRMAN LYNN: I knew there was a

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Phoenix, Arizona

18

1 motion in there somewhere.

2 COMMISSIONER HALL: Mr. Chairman,
3 I move that we as a Commission authorize you to
4 work with Mr. Bales, or whoever, in preparing a --
5 is RFP the appropriate word -- preparing a proposal
6 or a solicitation for counsel and bring back to
7 this Commission five to ten names, five Republican
8 and five Democratic people who would qualify or are
9 qualified or have the experience with respect to
10 election laws, et cetera, for us to make a
11 determination.

13 COMMISSIONER MINKOFF: I'll second
14 it so we can discuss it.

15 CHAIRMAN LYNN: Moved and
16 seconded.

17 Is there discussion?

18 COMMISSIONER ELDER: Mr. Chairman,
19 could we possibly modify the motion, take two,
20 three names on either side? It seems 10 people, or
21 10 firms qualified, is excessive.

22 COMMISSIONER MINKOFF: How about
23 up to five so it doesn't have to be five?

24 COMMISSIONER HALL: What is the
25 pleasure --

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Phoenix, Arizona

18

1 COMMISSIONER HUNTWORK:

2 Mr. Chairman, I have further comment on that
3 subject. I have -- my question or concern is that
4 I don't really want anybody prescreening the names
5 that I have the opportunity to consider. My
6 thought would be to go the other direction and just
7 put out a request for proposal and let us consider,
8 at least to have access to, the applications of all
9 attorneys interested.

10 CHAIRMAN LYNN: All applicants and
11 consider them in an open meeting?

12 COMMISSIONER HUNTWORK: Yes.

13 CHAIRMAN LYNN: Mr. Bales?

14 MR. BALES: Chairman Lynn, I would
15 be happy to be helpful to DOA if you clarify what
16 you are asking people to submit or to propose. I
17 think, for example, you are likely to have law
18 firms interested in proposing to provide the
19 representation on an hourly basis. And I'm not
20 clear from what you said if you are interested in
21 seeking that or if you wanted to propose or you
22 wanted to have people that would propose to work as

23 individual attorneys. So I think you need to
 24 resolve whether you are going to invite both or one
 25 or the other.

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 Phoenix, Arizona

18

1 And it also was unclear from what
 2 you were saying whether you were looking for a
 3 person to basically work for the Commission on
 4 essentially a full-time basis as the Commission's
 5 attorney or if, again, you were looking to retain
 6 counsel. And that's typically done on more of an
 7 hourly basis.

8 CHAIRMAN LYNN: And I guess
 9 inherent in those questions is really the question
 10 of what the need for the Commission is. Is the
 11 need to have someone like an executive director on
 12 staff full time or is the need to have someone in
 13 effect on call when we have a legal issue,
 14 certainly to be present at meetings, but when we
 15 have a legal issue to discuss or need to have an
 16 attorney deal with a legal issue for us that they
 17 are available. And so I don't know the answer to
 18 that basic question.

19 Mr. Huntwork.

20 COMMISSIONER HUNTWORK: I think
 21 those are very good questions. And my strong
 22 reaction is that it would be the latter, that we
 23 are looking to have access to the best attorneys in
 24 this field, in the State of Arizona. And I add
 25 that in response partly to an earlier comment, too.

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 Phoenix, Arizona

18

1 I think the independence of hiring someone out of
 2 state is an interesting idea; but the knowledge of
 3 our state which would come from hiring lawyers here
 4 would probably, in my opinion, be more valuable and
 5 outweigh that consideration, especially if we

6 assure a balance by hiring diverse, two diverse
7 attorneys to participate.

8 And I think the talent pool will
9 be greatly expanded if we have the ability to hire
10 the services on an hourly basis rather than
11 requiring somebody to resign from whatever position
12 they have in order to work full time for the
13 Commission for a short time and then be out of
14 work, I suppose.

15 CHAIRMAN LYNN: Ms. Minkoff.

16 COMMISSIONER MINKOFF: I agree. I
17 think the quality of the applicant will be much
18 superior if we do this on an hourly basis rather
19 than on a full-time basis.

20 I would also like to suggest that
21 rather than soliciting applications from law firms,
22 I would prefer to hire an individual. If that
23 individual is a member of a firm and has access to
24 other people in the firm to do things at his or her
25 direction, that's fine. I have no quarrel with

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Phoenix, Arizona

18

1 that. But I would want an individual or, as we're
2 talking about, two individuals that we can relate
3 to, that we can make requests to, and that is
4 answerable to this Commission rather than having to
5 deal with a firm where somebody may say: Well,
6 gee, that's not my responsibility. Why don't you
7 call so and so.

8 I just want one person to interact
9 with or two.

10 CHAIRMAN LYNN: There is a motion
11 on the floor and discussion in conflict with the
12 motion.

13 COMMISSIONER HALL: Want me to
14 amend the motion for greater specificity?

15 CHAIRMAN LYNN: Let me restate it.

16 The motion is to set the process in place to get
17 five names on each side of the political spectrum
18 with respect to attorneys who may serve in that
19 counsel position. Mr. Huntwork has expressed a
20 concern to not have any screening done prior to the
21 time that the applicants for those positions are
22 considered by the Commission, which would indicate
23 that he'd like those applications to come directly
24 to the Commission and have those discussed by the
25 Commission subsequent to review by each of us. So

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Phoenix, Arizona

18

1 those points I see as conflict at the moment.

2 Mr. Hall.

3 COMMISSIONER HALL: I guess my
4 concern is that we all know in our great state
5 there's a number of attorneys. And I don't know if
6 it behooves us to spend our whole time looking at
7 50 or 60 applications, in the event that were to
8 occur. I guess I'm just trying to expedite the
9 process. That's where I'm heading with that,

10 Mr. Huntwork.

11 I have no desire to look at 30
12 applications from attorneys. I guess we could. So
13 I guess maybe we could adopt a committee, or
14 something, ask three members to prescreen.

15 CHAIRMAN LYNN: Probably two to
16 prescreen.

17 COMMISSIONER HALL: Two to
18 prescreen.

19 Maybe you and Mr. Huntwork would
20 want to prescreen and whittle down.

21 What is your feeling? Do you want
22 to look at every application?

23 CHAIRMAN LYNN: Mr. Huntwork.

24 COMMISSIONER HUNTWORK: Let me
25 state more specifically what I'm more concerned

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1 about and perhaps that will suggest a solution to
2 someone else besides me.

3 My main concern is if someone else
4 is screening the applications, I don't know, can't
5 control what criteria they're using for that
6 purpose. And I would like to not have somebody
7 making such a vital decision on my behalf.

8 I feel I was appointed to
9 participate in the making of that decision. So I
10 don't know that there is an easy way out. If we do
11 a subcommittee, I suggest one Democrat, one
12 Republican on the subcommittee.

13 COMMISSIONER HALL: Would you --
14 I'm sorry.

15 CHAIRMAN LYNN: Ms. Minkoff?

16 COMMISSIONER MINKOFF: I feel the
17 problem may be solved as this is a somewhat
18 specialized area of law. It's not like we're just
19 looking for a corporate litigator, hundreds of
20 applications. There are not that many that do
21 election law, specifically redistricting, and have
22 experience in it. If we write the description with
23 that specificity, it will limit the numbers we get
24 because not that many have done it.

25 COMMISSIONER HALL: I'll amend my

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Phoenix, Arizona

1 motion.

2 CHAIRMAN LYNN: Go for it.

3 COMMISSIONER HALL: Mr. Chairman,
4 I amend the motion where we just request
5 applications from counsel and from both parties
6 that have party affiliation with both parties and
7 that we -- those applications are sent to every
8 member of this Commission wherein we have the
9 opportunity to review on an individual basis and

10 able to convene at whatever future meeting date and
11 make decision with respect to those; that counsel
12 would serve similar to it does any municipal body
13 wherein they attend public meetings and are on an
14 at-will basis with respect to performance of
15 duties.

16 CHAIRMAN LYNN: Acceptable to the
17 second?

18 COMMISSIONER MINKOFF: Acceptable
19 to the second.

20 CHAIRMAN LYNN: There's a motion
21 on the floor.

22 Any further motion?

23 COMMISSIONER MINKOFF: Need to add
24 proposals that come in should also state
25 compensation desired or would that just --

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Phoenix, Arizona

19

1 COMMISSIONER HALL: I think that's
2 standard.

3 CHAIRMAN LYNN: We certainly would
4 ask what compensation would be. Given the nature
5 of the thing, what we'd be asking for, most likely,
6 would be on an hourly basis.

7 COMMISSIONER HUNTWORK:

8 Mr. Chairman, I have a follow-up question on that.

9 Just -- is it -- if we go through
10 this process, are we required, is there anything in
11 this process that requires us to take the lowest
12 bid?

13 MR. BALES: I don't think so. I
14 think, given the procurement and contracting
15 authority you have and given the nature of what you
16 are obtaining, you don't have to hire this through
17 a competitive bidding process.

18 COMMISSIONER HUNTWORK: So we can
19 evaluate the credentials and qualifications in

20 light of the hourly rate and make the best decision
 21 we can?

22 MR. BALES: I think that is
 23 correct. We or someone else or someone else you
 24 designate should work through Department of
 25 Administration and see what constraints would be.

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 Phoenix, Arizona

19

1 COMMISSIONER HUNTWORK: Thank you.

2 COMMISSIONER HALL: Mr. Bales, do
 3 you have any other comments while having discussion
 4 with respect to that motion or input?

5 MR. BALES: No. I think you've
 6 clarified the questions I had in terms of the
 7 directions.

8 CHAIRMAN LYNN: Any further
 9 discussion on the motion?

10 If not, all in favor say "aye."

11 (Vote taken.)

12 CHAIRMAN LYNN: Opposed, say "no."

13 It carries unanimously.

14 Without objection, I'll take it
 15 upon myself to contact the Department of
 16 Administration and begin the process. And I will
 17 incorporate in the communication with the
 18 Department of Administration the kinds of criteria
 19 that we've discussed in our deliberation today with
 20 respect to the type of attorneys we're looking for,
 21 the type of experience, particularly in election
 22 law, and affiliations with political parties.

23 COMMISSIONER HALL: Experience
 24 with Department of Justice.

25 CHAIRMAN LYNN: All of that.

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19

1 Ms. Minkoff.

2 COMMISSIONER MINKOFF: Where

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3 should these applications be directed? In other
4 words --

5 CHAIRMAN LYNN: Department of
6 Administration will take care of that. They'll
7 collect them, disseminate them. We'll review them
8 and it will be a subject for another meeting.

9 COMMISSIONER MINKOFF: Obviously
10 as this is a public meeting, people will find out
11 we're looking for this even before Department of
12 Administration comes up with criteria. Should
13 applications go to Department of Administration?

14 CHAIRMAN LYNN: That's where it
15 will be noticed, and that's where applications will
16 be collected.

17 Okay. The next item on the agenda
18 is, again, call to the audience. And I would ask
19 again those that are here to, when they stand, to
20 speak, that they give their name clearly. If it's
21 a difficult name, if you wouldn't mind spelling it
22 for the reporter.

23 And again, bear in mind, this is
24 the time for consideration and discussion of
25 comments and complaints from the public. Action

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Phoenix, Arizona

19

1 taken as a result of the public comment will be
2 limited to directing staff to study the matter or
3 rescheduling the matter for further consideration
4 and decision at a later date. We will not engage
5 in conversation of items brought up not related to
6 items on the agenda today.

7 Are there members of the audience
8 who wish to be heard today?

9 Okay. In any order, gentlemen.

10 MR. SISSONS: Good afternoon,
11 Mr. Commissioner, Mr. Chairman, members of the
12 Commission.

13 My name is Tony Sissons,

14 S-I-S-S-0-N-S, and --

15 CHAIRMAN LYNN: Would you speak
16 up, Mr. Sissons. It's difficult to hear, and the
17 microphone is not particularly useful.

18 MR. SISSONS: I'm president of
19 Research Advisory Services in Phoenix. It's a
20 small geodemographics consulting firm. And I have
21 had some amount of practice in redistricting for
22 counties. Now, in that practice I have discovered,
23 I've discovered what I think will impact on this
24 Commission as it tries to put together the
25 presubmittal -- preclearance materials towards the

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Phoenix, Arizona

19

1 end of the process. And this relates to the data
2 base of prior election results that has been
3 accumulating in the Secretary of State's Office
4 through the decade as a result of the state law
5 that was passed just after the 1990 redistricting.

6 I have a fact sheet on this, which
7 if you don't mind, I could hand out to you and --
8 because there are some illustrations of the kinds
9 of problems that are in those data files. And it
10 would be helpful, I think, if you were to be
11 looking at those as we talk.

12 CHAIRMAN LYNN: Mr. Sissons, just
13 for point of clarification.

14 MR. SISSONS: Sure.

15 CHAIRMAN LYNN: What we do not
16 have the opportunity to do today is entertain
17 formal presentation on an issue. That's something
18 we could schedule for a future meeting, and we
19 perhaps could do that. If there's information
20 you'd like us to have, share it with Mr. Bales.
21 He'll get it to us and we can review it. If it
22 requires we look at it and hear a presentation at
23 the same time, that probably should be held for a

24 future meeting.

25 COMMISSIONER MINKOFF: Uh-huh.

ATWOOD REPORTING SERVICE
Phoenix, Arizona

19

1 MR. SISSONS: I do understand,

2 Mr. Chairman.

3 My sense of it is -- this is a
 4 problem that I've been trying to bring to the
 5 attention of people, the appropriate people,
 6 since -- well, certainly, three or four years ago,
 7 but more recently, before the -- before the
 8 election. I brought it to the attention of
 9 legislative counsel. They are aware of the
 10 problem. They have even sought a quote from an
 11 outside firm to fix the problem. And then before
 12 that, I guess before that contract was decided --
 13 and I certainly put in a bid to do the work with
 14 legislative counsel to do the work. Then the
 15 election happened and it became clear that the
 16 Legislature wouldn't be involved in the
 17 redistricting process.

18 So this whole issue seems to have,
 19 well, left people's radar screens. And I think
 20 it's one that -- I think it's one that is going to
 21 be a problem unless it's dealt with as soon as
 22 possible. And that's why, the reason for my sort
 23 of trying to inject myself onto your agenda on
 24 Tuesday.

25 CHAIRMAN LYNN: I appreciate that.

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Phoenix, Arizona

19

1 We will not even get data for another three weeks
 2 of any kind.

3 MR. SISSONS: I understand.

4 CHAIRMAN LYNN: I think what would
 5 be useful, to the extent you have this problem
 6 committed to writing, so that we may understand it

7 and consider it in due course, if you would submit
 8 that to us so we can share that with the entire
 9 Commission. And that would certainly, it seems to
 10 me, be the subject of a future discussion at an
 11 appropriate time. But at this point, it -- we
 12 can't do anything with the information.

13 Ms. Minkoff.

14 COMMISSIONER MINKOFF:

15 Mr. Chairman, if I can make a suggestion, I'm
 16 learning how agenda items and public comment mesh
 17 together. It seems what Mr. Sissons is saying is
 18 technical enough if the data is available, it
 19 should be presented to Tim Johnson to comment on it
 20 before it's put on the agenda for us.

21 CHAIRMAN LYNN: We don't know if
 22 we'll be using Mr. Johnson's good offices or not.
 23 Let's capture the information, keep it in the
 24 context of what we'll be doing in the future, and
 25 address it with appropriate authority when it's

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 Phoenix, Arizona

19

1 time and appropriate.

2 I don't want you to miss the
 3 opportunity, Mr. Sissons. I'm not sure today is
 4 that opportunity.

5 MR. SISSONS: Okay. Might I just
 6 ask your permission to give you a one-page fact
 7 sheet and about four illustrations of the problem?

8 CHAIRMAN LYNN: Sure.

9 MR. SISSONS: From my perspective.

10 CHAIRMAN LYNN: When you say
 11 "give," Mr. Sissons, you want to also present this
 12 to us in oral form or would you like us just to
 13 have it? There will be other opportunities is what
 14 I'm saying. I'm not sure that we're -- we'll keep
 15 it fresh if we do it today.

16 I'm sorry.

17 MR. SISSONS: Well, really, I --

18 if -- I guess what I'm really hoping for is that
19 there will be -- that this Commission will
20 recognize that there really is a problem that this
21 Commission will have to deal with and will take
22 action, some action, to bring about the changes
23 that are suggested to be needed here.

24 CHAIRMAN LYNN: And with all due
25 respect, we understand your point. We take your

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Phoenix, Arizona

19

1 point. We will accept the material.

2 MR. SISSONS: Okay.

3 CHAIRMAN LYNN: And none of us
4 will forget that this is an issue, as we get
5 through the process.

6 So obviously we will have other
7 opportunities to discuss it.

8 COMMISSIONER HALL: Would it be
9 safe to summarize the problem as a data accuracy
10 problem?

11 MR. SISSONS: It's data accuracy,
12 and it's also that the format of the materials that
13 were submitted to the Secretary of State's Office
14 are -- need a lot of work to be put into a format
15 that a redistricting computer can use.

16 COMMISSIONER HALL: Thank you.

17 CHAIRMAN LYNN: Again we're
18 bordering on violation of open meeting law in the
19 sense this is not on the agenda. We cannot discuss
20 it.

21 Let us accept the information.
22 We'll at an appropriate time put it on the agenda
23 for discussion.

24 Thank you, Mr. Sissons.

25 MR. SISSONS: Thank you.

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Phoenix, Arizona

20

1 **MR. GALLARDO:** G-A-L-L-A-R-D-O.

2 I'm with the Latino Coalition for Political Action,

3 Chairman of the Redistricting Subcommittee, and

4 have been working a lot with the Hispanic

5 Legislative Caucus, other Hispanic organizations

6 throughout the state.

7 I want to make a couple comments.

8 One, due to the fact there is, of

9 course, a lack of minority representation, I think

10 it's real important that the minorities get a

11 chance to participate prior to any funding being

12 allocated through this process. I think it's real

13 important in order to increase fair and equal

14 representation. I think it becomes increasingly

15 important that the minorities play a part in this

16 political process. One way would be putting

17 together an advisory, minority advisory committee,

18 that would take part in the redistricting process

19 to take -- give you comments and recommendations

20 regarding contracts and independent counsels,

21 specific plans that may be submitted to the

22 Commission. I think that is one way to get the

23 minorities involved in this process.

24 The second is outreach, advisory

25 outreach, an advisory council to work on outreach,

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Phoenix, Arizona

20

1 getting the Hispanic committee involved, African

2 people involved, Native American people involved.

3 A comment was made earlier, hearing impaired. If

4 someone came in hearing impaired, there would be no

5 way for them to be accommodated at this point if

6 they wanted to address this Commission. Could they

7 address this Commission without the proper

8 staffing?

9 So I think that's another area

10 that needs to be addressed.

11 counsel, again, a minority. At least the Hispanic
12 community which I speak for would support such an
13 idea as long as they had input into the process.

14
15 I think that's been the biggest
16 uproar in the minority community is the fact that
17 they have no representation right now, currently,
18 in the redistricting process. And having an
19 advisory committee, or something, ad hoc, however
20 you want to call it, be part of the redistricting
21 process, especially before any contracts or any
22 money is being allocated.

23 I hope you take those two
24 considerations.

25 Thank you.

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Phoenix, Arizona

20

1 CHAIRMAN LYNN: Thank you,
2 Mr. Gallardo.

3 Other members of the public wish
4 to be heard?

5 Okay.

6 COMMISSIONER MINKOFF: Future
7 meeting.

8 CHAIRMAN LYNN: Future agenda
9 items and meeting dates.

10 The Chair would entertain comments
11 from the Commission on items for the next agenda
12 and would remind the Commission that given the
13 schedule, we really have an extremely difficult
14 timetable here. The idea census data will become
15 available in approximately one month and within
16 that month, if we don't staff the office, select a
17 location, and, in my opinion, then, create a
18 website and other methods of outreach, hire
19 counsel, at a minimum those things within that
20 month, we're going to be significantly behind the
21 curve. And that gives us a tremendous challenge in

22 less than a month. So with that said --

23 COMMISSIONER MINKOFF: I think you
24 just stated our agenda for the next meeting.

25 CHAIRMAN LYNN: Well, I don't know

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Phoenix, Arizona

20

1 how much of it then we can --

2 Mr. Bales, what would a reasonable
3 time frame, assuming I contact -- Monday is a
4 holiday, is it not, for the State? Assuming I
5 contact the Department of Administration on
6 Tuesday, or even later this afternoon, and
7 indicated to them that we were interested in two
8 recruitments, both uncovered recruitments, one for
9 an executive and for counsel or co-counsel, what is
10 a reasonable time frame to have applications in
11 hand and some review --

12 Maybe you can can't answer this.

13 Maybe it's out of your purview.

14 MR. BALES: Well, I know that L.A.
15 Hibbs, Director of the Department of
16 Administration, is aware of the compressed
17 timetable you are working under and actually has
18 experience helping people set things up on a very
19 expedited basis, the Alt Fuel Office, for example.

20 I think they'd work with you next
21 week, if you wanted announcements out next week
22 soliciting applications, so that could actually
23 been done next week. You have discretion as to
24 what kind of timetable you want to have
25 applications submitted. So conceivably you could,

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Phoenix, Arizona

20

1 two weeks from today, have applications in hand and
2 set.

3 CHAIRMAN LYNN: Although we might
4 not have time to review them, applications back in.

5 MR. BALES: Again, it depends on
6 what direction is given Department of
7 Administration on how positions are posted.

8 CHAIRMAN LYNN: I think we're
9 clear with respect to co-counsel we're reviewing as
10 a Commission. I don't know we've made any
11 determination yet with respect to executive staff,
12 that process.

13 COMMISSIONER MINKOFF: Uh-huh.
14 And we're going to have to interview.

15 COMMISSIONER HALL: What would you
16 think, Mr. Chairman, if like about mid-March, the
17 16th, we were to reconvene? I'm just pulling out a
18 date.

19 COMMISSIONER MINKOFF: I think we
20 need to do it before then.

21 COMMISSIONER HUNTWORK: Uh-huh.

22 COMMISSIONER HALL: Will we have
23 anything back before that date to review it?

24 CHAIRMAN LYNN: One of the
25 questions is whether or not other than personnel

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Phoenix, Arizona

20

1 issues before us, are there other issues we need to
2 deal with between now and then?

3 COMMISSIONER MINKOFF: Space.

4 CHAIRMAN LYNN: Space being one.
5 I'm still hopeful we're going to be looking at
6 space available from DOA this afternoon.

7 COMMISSIONER MINKOFF: Right.

8 CHAIRMAN LYNN: Mr. Elder.

9 COMMISSIONER ELDER: One aspect
10 that doesn't depend on census data being back,
11 historical data from 1990 through '94, what is the
12 basis for redistricting as it stands today that
13 we'll be starting from and modifying.

14 Now, I didn't understand here

15 whether there was a data base in place we could
 16 look at along with graphics, maps, with computers,
 17 whatever.

18 COMMISSIONER MINKOFF: There is.

19 COMMISSIONER ELDER: But if we
 20 could do that even the week prior, you know, 7th,
 21 8th, 10th, whatever it might be of March, so we had
 22 that history and that background prior to receiving
 23 the census data, I would like to do that.

24 CHAIRMAN LYNN: Other comments?

25 COMMISSIONER MINKOFF: The other

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 Phoenix, Arizona

20

1 thing I think we need to decide fairly quickly is
 2 what technical support we're going to employ,
 3 whether we're going to work with Maricopa County
 4 Elections Department totally, partially, an outside
 5 consultant totally, partially.

6 CHAIRMAN LYNN: I'm aware of at
 7 least two national consultants who do this kind of
 8 work and who have been of assistance to other
 9 redistricting commissions. And my question to this
 10 Commission is whether or not they would entertain
 11 or want to have presentations from one or both of
 12 those groups.

13 COMMISSIONER HALL: Yes.

14 COMMISSIONER MINKOFF: Uh-huh.

15 Absolutely.

16 CHAIRMAN LYNN: And so that
 17 becomes an issue of scheduling which certainly
 18 could happen by the next meeting.

19 The other thing, Mr. Bales, we had
 20 asked -- I think we had requested some review of
 21 the other independent redistricting commissions
 22 with respect to their -- some sense of their
 23 methodology and their employment of staff and their
 24 use of counsel, just to get a sense of how other
 25 commissions similarly constituted were operating.

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Phoenix, Arizona

20

1 Is that being undertaken?

2 MR. BALES: We have information
3 from the State of Washington. And we've got --
4 haven't made contact with any other states.

5 CHAIRMAN LYNN: Perhaps by next
6 meeting that could be more fully responded to?

7 MR. BALES: Yes.

8 CHAIRMAN LYNN: Okay. So that's
9 yet another item.

10 COMMISSIONER HUNTWORK:

11 Mr. Chairman.

12 CHAIRMAN LYNN: Mr. Huntwork.

13 COMMISSIONER HUNTWORK: I would
14 like to suggest we include as a specific item on
15 our next meeting discussion of minority concerns
16 that have been raised and, in fact, we perhaps even
17 make room for that on all agendas as we go along.
18 If I understood discussion of the open meeting law
19 correctly, we really couldn't even discuss that
20 today despite the fact it's publicly a very
21 important issue and maybe the most important issue
22 that the public perceives for our Commission at
23 this time. So I would not want to have a
24 technicality prevent us from being able to deal
25 with a critically important issue of that kind.

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20

1 CHAIRMAN LYNN: Okay. Other
2 items?

3 Perhaps it would be best to not
4 try to synchronize calendars at this moment but
5 rather to ask Mr. Bales to contact each of you
6 individually, get a range of dates that are
7 available, and to coordinate our next meeting. But
8 look for, I would think, the week of March 5th,

9 perhaps, as one possible meeting date and then even
 10 a subsequent meeting the week of the 12th.

11 So if you could take a look at
 12 those two weeks on your calendar and be prepared to
 13 speak with someone from Mr. Bales' office about
 14 your availability.

15 COMMISSIONER HALL: Well, do we
 16 anticipate by the week of the 5th that we'll really
 17 have anything back?

18 CHAIRMAN LYNN: We have some of
 19 these other items that don't really require
 20 responses. If we want to deal with these, we
 21 probably ought to get them out of -- in order to be
 22 dealt with before we get to the responses from --

23 COMMISSIONER HALL: It's your
 24 opinion that the combination of all those is more
 25 than one meeting; is that what I hear you saying?

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20

1 CHAIRMAN LYNN: My concern would
 2 be, if we're going to take applications and all of
 3 us look at them, we'll need time to do that prior
 4 to the meeting.

5 COMMISSIONER HALL: Right.

6 CHAIRMAN LYNN: To do our own
 7 review.

8 I'm trying to make enough time
 9 they can come in, we can receive them, do whatever
 10 screening we'll do individually, and come back to
 11 the meeting with the idea we'll then hopefully
 12 call -- have some people here to talk to and make
 13 some decisions.

14 COMMISSIONER HALL: Okay. Uh-huh.

15 COMMISSIONER MINKOFF:
 16 Mr. Chairman, one other thing. If the space being
 17 offered to us, or any other space that we may find,
 18 is open space that is going to need some tenant

19 improvements, we need to make a decision on that
 20 very quickly. Because tenant improvements take
 21 time. Once we hire staff, they need a place to
 22 work.

23 CHAIRMAN LYNN: My understanding
 24 is the space today has two finished offices and an
 25 open plan for the rest of the space. We're

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21

1 conceivably talking about counsel that's going to
 2 be hourly, meaning on call.

3 COMMISSIONER MINKOFF: Right.

4 CHAIRMAN LYNN: Executive
 5 director, support staff. It's not an immediate
 6 issue.

7 COMMISSIONER MINKOFF: No utility
 8 hookups, data ports, that kind of thing that has to
 9 be brought into an office.

10 CHAIRMAN LYNN: I'm sure the
 11 building is wired. We'd be putting very minor
 12 infrastructure in, because the State does this all
 13 the time.

14 So -- does that time frame make
 15 sense, Mr. Elder?

16 COMMISSIONER ELDER: Time frame
 17 sounds fine.

18 One of my questions -- I guess my
 19 s is do we have to have some sort of a motion to
 20 approve the selection of the office and commence
 21 the process of getting the communications and all
 22 the other elements done?

23 COMMISSIONER MINKOFF: Uh-huh.

24 COMMISSIONER ELDER: If so, I
 25 don't know whether it violates open meeting law.

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21

1 We ought to authorize or be able to do that in the

2 interim or have DOA proceed at our direction once
 3 that decision is made rather than waiting until the
 4 5th, or 12th, with the data base coming somewhere
 5 in mid-March. And we should at least be ready to
 6 be up and running by the mid-March date. We can't
 7 wait until the 15th and then do TIs and use
 8 partitions or whatever it might be in a shell
 9 office space.

10 CHAIRMAN LYNN: I might suggest,
 11 if you are speaking with respect to office space,
 12 per se, my suggestion, again, subject, Mr. Bales,
 13 to some difficulty that I may be running into, is
 14 that we recess this meeting; that the five of us go
 15 across the street, take a look at the space that is
 16 available. If we find it to be acceptable space --
 17 again, you are all welcome to join us, because it
 18 will be a continuation of the open meeting -- we'll
 19 go across the street and we will see if we like the
 20 space. If we do, we can vote on the spot to take
 21 it. We simply could vote on the spot not to take
 22 it and to authorize the Department of
 23 Administration to begin a search for acceptable
 24 office space immediately and bring us options.

25 COMMISSIONER ELDER: Could we ask

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21

1 Mr. Bales, can we -- is that really part of our
 2 Commission or do we have to do all this in like
 3 open meeting, as far as leasing, renting --

4 COMMISSIONER MINKOFF: Yes.

5 COMMISSIONER ELDER: Improving a
 6 space?

7 MR. BALES: You could do it
 8 different ways depending on how much you
 9 collectively as a Commission want to be involved.
 10 You could determine you want DOA to identify and
 11 provide you with built-out space and they would
 12 then do that.

13 If you are going to make a
14 collective determination to pick a particular
15 space, you probably need to do that through an open
16 meeting because it's collective action by the
17 board.

18 The procedure Chairman Lynn just
19 outlined would be permissible. Go over there. If
20 you determine you want to work with that space, you
21 could vote accordingly and direct your Chair to
22 have the appropriate communications with DOA. If
23 that is unappealing to you, you could direct they
24 identify alternatives that could be presented at
25 another meeting.

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21

1 Or you could, as a third
2 alternative, you could vote to designate your Chair
3 or another person to work directly with DOA to try
4 to come up with a specific proposal for the Board
5 to approve.

6 CHAIRMAN LYNN: Mr. Huntwork.

7 COMMISSIONER HUNTWORK:

8 Mr. Huntwork, I like that last idea the best.

9 There are a couple things I want
10 to say. I think if this truly is a continuation of
11 an open meeting, I think we would have to have the
12 various stenographers, tape recording equipment,
13 and so on, brought along with us so we can continue
14 to maintain a record of the meeting. And I think
15 it's impractical to think that we would be making a
16 decision that way.

17 We could go there, I suppose,
18 adjourning there, come back.

19 Nevertheless, another concern, I
20 almost never take the very first thing offered to
21 me. Occasionally I lose out on a good deal that
22 way, but very rarely. So the idea of authorizing a

23 committee, even a committee of one, to obtain
 24 further options and come back with a recommendation
 25 seems like a much better idea to me.

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21

1 CHAIRMAN LYNN: Well, I, for my
 2 part, assuming that the office needs to be in some
 3 proximity to the State Capitol and State resources,
 4 that means it's going to be somewhere in the
 5 greater Maricopa County area. For my part, I would
 6 be more than happy to vest that authority as far as
 7 the Commission is concerned to a subcommittee
 8 composed of Mr. Huntwork and Mrs. Minkoff who
 9 reside here to get those spaces.

10 COMMISSIONER MINKOFF: Thanks.

11 CHAIRMAN LYNN: And make a
 12 decision where we're housed where parking is
 13 accessible, where there is handicapped access,
 14 where it is available to the general public and it
 15 has sufficient room to do our work.

16 COMMISSIONER HUNTWORK: One more
 17 s, Mr. Chairman. If we in fact appoint a
 18 committee, when the committee gets together, does
 19 that committee have to comply with open meeting
 20 laws?

21 CHAIRMAN LYNN: Only if more than
 22 three.

23 MR. BALES: Not if two.

24 CHAIRMAN LYNN: If two, you are
 25 fine. That's why I said two.

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21

1 COMMISSIONER MINKOFF: If we
 2 identify something and we both agree that this is
 3 the perfect space, do we bring it back to the
 4 committee or are we just authorized to say, "This
 5 is it. Move us in"?

6 CHAIRMAN LYNN: Recognizing that

7 the president had a very interesting dilemma in
8 terms of the amount of money certain space might
9 cost, the ex-President, I'll say.

10 COMMISSIONER MINKOFF: We'll spend
11 less.

12 COMMISSIONER ELDER: I'd hope so.

13 CHAIRMAN LYNN: Given the
14 guideline of DOA of \$13 a square foot,
15 understanding what the market is in greater
16 Phoenix, if at or below market, you are fine.

17 COMMISSIONER MINKOFF: He said
18 it's going up to \$15 in Phoenix.

19 CHAIRMAN LYNN: At or below market
20 for Phoenix, we're fine.

21 COMMISSIONER HALL: How do you
22 spell micromanagement?

23 I guess my feeling is that we need
24 space that is close enough to the Capitol. And I
25 would like to make a motion we accept the space we

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21

1 have sight unseen and use it.

2 CHAIRMAN LYNN: There's a motion
3 to accept the DOA space sight unseen.

4 Is there a second?

5 Hearing none, Ms. Minkoff.

6 COMMISSIONER MINKOFF: I would
7 like to suggest, however, we go over and look at
8 the space immediately. While I normally do not
9 accept the first thing I see, I'm not going to be
10 living there. This is a temporary office. If it's
11 adequate --

12 CHAIRMAN LYNN: Does no one like
13 the idea of a subcommittee to do that?

14 COMMISSIONER HUNTWORK: I like it.

15 COMMISSIONER HALL: I didn't hear
16 a motion, Mr. Chairman.

17 I make a motion we appoint
 18 Mrs. Minkoff and Mr. Huntwork as our subcommittee
 19 to accept the space --

20 I'm teasing.

21 CHAIRMAN LYNN: Look at the DOA
 22 space and make a determination.

23 COMMISSIONER HALL: -- look at the
 24 DOA space and make a determination if it meets our
 25 needs and is available.

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21

1 CHAIRMAN LYNN: And find other
 2 space if it doesn't meet our needs?

3 MR. HALL: And find other space
 4 they can find, yes.

5 CHAIRMAN LYNN: Second to that
 6 motion?

7 COMMISSIONER ELDER: Second.

8 CHAIRMAN LYNN: Discussion?

9 All those in favor, say "aye."

10 (Vote taken.)

11 CHAIRMAN LYNN: All those opposed,
 12 "no."

13 A little quick, but it carries.

14 If you'd be so kind, we'd
 15 appreciate it. We trust your judgment in getting
 16 the ball rolling for that space or alternate
 17 locations that they will find for you.

18 Mr. Bales.

19 MR. BALES: Mr. Chairman, you
 20 earlier discussed the possibility of presentations
 21 from two national consulting firms. I think if you
 22 are interested in that, they would probably be very
 23 accommodating in terms of doing something quickly.
 24 And because the decision you make with regard to
 25 that may affect how you do whatever you do in March

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1 with census data, you might want to consider trying
2 to do that before March 5th. Because if you do
3 choose to use one of those consultants, it may also
4 have consequences for what other staff you want to
5 have and whether you want to work out any
6 arrangement with Maricopa County for them to help
7 you, particularly with at least the original
8 issuance of census data and putting that into
9 existing legislative districts.

10 I just wanted to raise that
11 possibility in case you want to try to set that up
12 at an earlier date.

13 CHAIRMAN LYNN: Well, given where
14 we are today, I have some serious scheduling
15 problems next week. We're looking, at a minimum,
16 the week of the 26th.

17 COMMISSIONER MINKOFF: Uh-huh.

18 CHAIRMAN LYNN: To make that
19 happen.

20 Mr. Bales, I'm happy to -- are you
21 saying instead of or in addition to a meeting on
22 the 5th, the week of the 5th?

23 MR. BALES: I was thinking
24 probably in addition to. I understood you were
25 focusing on the 5th on questions of counsel and

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1 possibly your executive director.

2 CHAIRMAN LYNN: Or the 12th,
3 depending on the timing. So it may be instead of
4 the week of the 5th, the week of the 12th might
5 have counsel -- maybe that's too late.

6 All right.

7 COMMISSIONER HALL: Mr. Chairman.

8 CHAIRMAN LYNN: Mr. Hall?

9 COMMISSIONER HALL: Is there

10 anyone that does not feel like we could not benefit
 11 from utilizing the services as provided by the
 12 Maricopa County Elections Office, whether or not we
 13 hire a consulting service we'd utilize to
 14 supplement what they did, to the extent they could,
 15 right?

16 CHAIRMAN LYNN: I don't know. I'd
 17 like to hear from a consultant what their
 18 capabilities are. It might be completely
 19 duplicative.

20 COMMISSIONER HALL: Well, what I
 21 guess what I'm saying, if we handed data updated to
 22 a consulting firm, said deduct that from whatever
 23 you are going to provide us, what would be the --
 24 instead of giving us a full job, bid on two-thirds
 25 of the job.

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22

1 CHAIRMAN LYNN: Let's save
 2 discussion for the presentation from consulting
 3 firms. They could answer that s. Based on that
 4 answer, we could make a determination who could do
 5 what.

6 MR. BALES: We might also, in the
 7 same forum, might want Maricopa County back again
 8 to talk about what kind of things they could do and
 9 what arrangements would be.

10 For example they had a contract
 11 with Leg. counsel to do updating work they did for
 12 Leg. counsel. I think they'd want to have a
 13 similar arrangement with you if they were to be
 14 committing their time, resources on an ongoing,
 15 forward basis.

16 CHAIRMAN LYNN: All right.

17 COMMISSIONER MINKOFF: Are we
 18 looking at the week of the 26th?

19 CHAIRMAN LYNN: Yeah. Can all of
 20 you look at the week of the 26th for a moment?

21 COMMISSIONER MINKOFF: Yeah.

22 Uh-huh.

23 CHAIRMAN LYNN: I hate to say it.

24 From my perspective, Friday is my best day.

25 COMMISSIONER MINKOFF: I cannot

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22

1 make it at all Tuesday or Wednesday of that week.

2 COMMISSIONER ELDER: Friday is
3 fine.

4 CHAIRMAN LYNN: March 2nd.

5 COMMISSIONER MINKOFF: Friday I'll
6 have to change some things.

7 COMMISSIONER HALL: You are
8 anticipating which agenda items at that meeting?

9 CHAIRMAN LYNN: March 2nd we'd
10 attempt to have at a minimum the two presentations,
11 one or two presentations from the national
12 consultants, assuming they could be here for that
13 meeting. We would -- and we certainly could
14 accommodate some of these other agenda items that
15 we had scheduled, some discussion of historical,
16 the historical perspective. I think the technical
17 support issue goes part and parcel with the
18 consultants discussion. And we should be able to
19 have some information back on the other commissions
20 that have been researched.

21 So I think that -- that may
22 comprise the bulk of the agenda.

23 COMMISSIONER MINKOFF: Do we want
24 a presentation from Maricopa County also in
25 addition to two consultants, in addition to

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22

1 services they'd provide and costs of those
2 services?

3 CHAIRMAN LYNN: I think with two

4 national consultants, we should have Maricopa
5 County back to listen to and participate in that
6 discussion.

7 COMMISSIONER ELDER: Mr. Chairman,
8 also one other aspect was brought up. We have the
9 15 records -- not records, but election
10 representatives that could be put into a group that
11 would also provide us with input as to where we are
12 and where we're at.

13 COMMISSIONER MINKOFF: I think
14 Karen Osborne said she would be glad to facilitate
15 that.

16 CHAIRMAN LYNN: Are you
17 suggesting, Mr. Elder, that that be on the agenda
18 as well?

19 COMMISSIONER ELDER: Yes.

20 CHAIRMAN LYNN: Okay.

21 COMMISSIONER HALL: So are we
22 tentatively scheduling a meeting for March 2nd?

23 CHAIRMAN LYNN: March 2nd, 10:00
24 a.m.

25 COMMISSIONER HALL: Anyone object
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22

1 to moving it to 9:30?

2 CHAIRMAN LYNN: It was 10:00 for
3 you.

4 COMMISSIONER HALL: I understand.

5 CHAIRMAN LYNN: 9:30 work for
6 everyone?

7 COMMISSIONER HALL: I found out I
8 can get here earlier.

9 CHAIRMAN LYNN: 9:30 on the 2nd
10 will be our next public meeting.

11 It will be appropriately noticed.
12 We have more time to get notice out, the agenda
13 completed and noticed.

14 earlier today about availability of the agenda in
15 various places and the notice of meeting in various
16 places, it was our intent and always has been our
17 intent to make sure in addition to the public
18 noticing required for meetings we also make that
19 material available to the press. The unfortunate
20 thing this week, we met Tuesday, needed to schedule
21 a meeting for Friday. So we were somewhat
22 constrained in how freely we could get that
23 information out. We are not as constrained on this
24 time frame and we will make that information

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22

1 available more widely so those that wish to attend
2 may do so.

3 COMMISSIONER HALL: Are we meeting
4 here?

5 CHAIRMAN LYNN: I think we ought
6 to stay where we are until we move for good, don't
7 you think?

8 COMMISSIONER HUNTWORTH:

9 Mr. Chairman, two comments on that, if I could.
10 Number one, this arrangement is somewhat
11 uncomfortable. I cannot see the faces of my fellow
12 Commissioners. And, you know, I've spent the
13 entire six hours leaning out like this. If there
14 were a room that could accommodate with a curved
15 dias, I would much prefer to do that.

16 The second consideration in my
17 mind, at least, is that it certainly ought to be
18 said, at least, we are the Independent
19 Redistricting Commission. So far the meetings have
20 been in offices of the Secretary of State for a
21 very practical matter, because we had to be sworn
22 in and assume our duties. The second meeting is
23 here because we met very quickly and didn't have a
24 lot of time to look for something else. But at

25 least symbolically I would prefer, if there is such

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22

1 a space available, and if we have time to look for
2 it, to find a meeting place which is not under the
3 auspices of any other branch or commission of our
4 government but where we can truly function as an
5 independent -- appear to be an independent agency.
6 I know it's a small thing, but all other things
7 being equal, I'd prefer to do that.

8 COMMISSIONER HALL: Mr. Chairman,
9 why don't we have our newly appointed real estate
10 subcommittee do that?

11 COMMISSIONER MINKOFF: I didn't
12 volunteer for that.

13 CHAIRMAN LYNN: Thank you,
14 Mr. Hall. I'll look at that one.

15 We'll look for an appropriate
16 venue and meet here if there is one not available.
17 I'll certainly try to accommodate that.

18 Is there any other items or future
19 meeting date discussion we need to undertake at
20 this moment, recognizing our next meeting is March
21 2nd, 9:30 a.m., location to be determined?

22 If not, item 12.

23 Mr. Elder?

24 COMMISSIONER ELDER: Mr. Chairman,
25 I'd like to request we solicit the assistance of

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22

1 our recording person and court reporter so we have
2 that documentation for the next meeting.

3 CHAIRMAN LYNN: I think that would
4 have gone without saying. Thank you for saying it.

5 We will make sure we'll have the
6 court reporter here for all public meetings. It's
7 a requirement.

8 We thank Lisa for being here as
9 well.

10 COMMISSIONER HALL: Mr. Chairman,
11 I move we adjourn.

12 CHAIRMAN LYNN: No need. It's on
13 the agenda. All I have to say is: We are
14 adjourned.

15 COMMISSIONER HALL: Thank you very
16 much.

17 (Whereupon, the hearing concluded
18 at approximately 3:51 p.m.)

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6 BE IT KNOWN that the foregoing hearing was
7 taken before me, LISA A. NANCE, RPR, Certified
8 Court Reporter, Certificate Number 50349; that the
9 proceedings were taken down by me in shorthand and
10 thereafter reduced to typewriting under my
11 direction; that the foregoing 226 pages constitute
12 a true and accurate transcript of all proceedings
13 had upon the taking of said hearing, all done to
14 the best of my ability.

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

PUBL0216.TXT
DATED at Phoenix, Arizona, this

25th day of February, 2001.

23

24 LISA A. NANCE, RPR
 Certified Court Reporter
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