

BEFORE THE  
CALIFORNIA CITIZENS REDISTRICTING COMMISSION

In the matter of  
Full Commission Business Meeting

State Capitol Building  
Room 437  
Sacramento, California

Thursday, April 7, 2011

3:20 P.M.

Reported by:  
Kent Odell

APPEARANCES

Commissioners Present

Lilbert R. "Gil" Ontai

Gabino T. Aguirre

Angelo Ancheta

Vincent Barabba

Cynthia Dai

Michelle DiGuilio

Stanley Forbes

Connie Galambos Malloy (Via Telephone)

M. Andre Parvenu

Jeanne Raya

Michael Ward

Peter Yao

Commissioners Absent

Maria Blanco

Jodie Filkins-Webber

Staff Present

Dan Claypool, Executive Director

Kirk Miller, Legal Counsel

Rob Wilcox, Communications Director

Janeece Sargis, Administrative Assistant

Raul Villanueva, Business Manager

Marian Johnston

APPEARANCES (CONT.)

Also Present

Public Comment

David Salaverry

Raquel Vargas

Jeff Walker

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P R O C E E D I N G S

CHAIRPERSON ONTAI: Is everybody ready? All right, I think we're on. Is everybody ready?

Okay, so just a little house matter here. You'll all see a red cup going around, right? You see it? We're going to do a little experiment.

COMMISSIONER YAO: Why don't we do a roll call first?

COMMISSIONER WARD: Is this a Hawaiian thing?

CHAIRPERSON ONTAI: It's a Hawaiian thing. No liquor will be served, I want to make that perfectly clear. This is called talking cups so that I can keep track of who's -- who wants to speak. I want you to put the cup in front of you when you want to speak, okay.

When you don't want to speak pull it back. And this way, as we go around, I'll want to know who wants to speak and I'll get everybody.

Does that make sense?

All right, so let's convene our meeting. It is 3:15, I think.

And let's take a roll call. Janeece?

ADMINISTRATIVE ASSISTANT SARGIS: Commissioner Aguirre?

COMMISSIONER AGUIRRE: Here.

ADMINISTRATIVE ASSISTANT SARGIS: Commissioner

1 Ancheta?  
2 COMMISSIONER ANCHETA: Here.  
3 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
4 Barabba?  
5 COMMISSIONER BARABBA: Here.  
6 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
7 Blanco?  
8 Commissioner Dai?  
9 COMMISSIONER DAI: Here.  
10 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
11 DiGuilio?  
12 COMMISSIONER DI GUILIO: Here.  
13 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
14 Filkins-Webber?  
15 Commissioner Forbes?  
16 COMMISSIONER FORBES: Here.  
17 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
18 Galambos Malloy?  
19 Commissioner Ontai?  
20 CHAIRPERSON ONTAI: Here.  
21 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
22 Parvenu?  
23 COMMISSIONER PARVENU: Here.  
24 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
25 Raya?

1 COMMISSIONER RAYA: Here.

2 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
3 Ward?

4 COMMISSIONER WARD: Here.

5 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
6 Yao?

7 COMMISSIONER YAO: Here.

8 ADMINISTRATIVE ASSISTANT SARGIS: There's a quorum  
9 present.

10 CHAIRPERSON ONTAI: Okay. Mr. Claypool, did you  
11 want to say something?

12 EXECUTIVE DIRECTOR CLAYPOOL: I just wanted to  
13 remind you of the motion we need fairly quickly to  
14 transfer the authority to sign the Q2 contract from  
15 Commissioner Filkins-Webber, who is aware of it, to you,  
16 so that we can get that over to the Department of General  
17 Services.

18 CHAIRPERSON ONTAI: All right, so that's the first  
19 thing we should talk about. Thank you.

20 Before I do that, I would like to ask anyone from  
21 the public if you would like to come up to say anything  
22 that's not on our agenda? Anyone back there in the  
23 audience? None, okay.

24 So there is a matter of quickly deciding whether  
25 Commissioner Jodie Wilkins -- Filkins-Webber or myself

1 should sign the contract that would authorize Q2 to  
2 proceed with their work.

3 And it's very important because she will be our  
4 mapper for Saturday and Sunday. But we're up to a  
5 deadline to get that before the GDS.

6 So, I'd like for the Commission to consider making  
7 a motion immediately to authorize who should sign that  
8 contract.

9 And I see Commissioner Raya has immediately put up  
10 her red cup.

11 COMMISSIONER RAYA: I move that we give our  
12 current Chair, Commissioner Ontai, the authority to sign  
13 the Q2 contract in lieu of Commissioner Filkins-Webber.

14 COMMISSIONER DAI: Second.

15 CHAIRPERSON ONTAI: Okay. Did you get that,  
16 Janeece?

17 ADMINISTRATIVE ASSISTANT SARGIS: The motion is to  
18 transfer authority to sign the Q2 contract from  
19 Commissioner Filkins-Webber to the current Chair,  
20 Commissioner Ontai.

21 CHAIRPERSON ONTAI: Okay, questions?

22 I'll call for the motion, all those in favor say  
23 aye?

24 (Ayes)

25 CHAIRPERSON ONTAI: Opposed? The ayes have it.

1           Okay, Dan, I guess you can proceed. Anything  
2 else, Mr. Claypool?

3           EXECUTIVE DIRECTOR CLAYPOOL: No. I apologize,  
4 I'm reading two things at once on the telephones.

5           No, we will take that and then get it over to the  
6 Office of Legal Services right now.

7           CHAIRPERSON ONTAI: Hooray, we have a mapper for  
8 this weekend.

9           EXECUTIVE DIRECTOR CLAYPOOL: We have the  
10 paperwork in so that, hopefully, they will have it  
11 approved by 5:00 o'clock tomorrow so that we can have a  
12 mapper this weekend. Yes, sir.

13          CHAIRPERSON ONTAI: Fantastic. Okay, so let's go  
14 on to Item Number 2, Legal Advisory Committee report on  
15 Voting Rights Act counsel's retention.

16          Mr. Claypool?

17          EXECUTIVE DIRECTOR CLAYPOOL: Actually, I believe  
18 that we had scheduled the training first, is that correct?

19          CHAIRPERSON ONTAI: Okay, we can do that. Let's  
20 do the training, first.

21          MS. JOHNSTON: Okay. The Public Records Act is  
22 California's equivalent to the Freedom of Information Act,  
23 which you may be more familiar with, which is the federal  
24 statute giving right of access to government documents.

25          We have already received two Public Records Act

1 requests for Commissioner records and I assume we will be  
2 receiving more of them.

3           So to prepare you for responding to that, we  
4 thought it would be good to review. I know you've had  
5 some training on it, already, but just to review some of  
6 the highlights of it.

7           The right to public records under California law  
8 is both constitutional and statutory. In your case it's  
9 statutory twice because of the Public Records Act and then  
10 because of your own enabling statutes.

11           The first thing to keep in mind is that there's an  
12 extremely, extremely broad definition of records. And  
13 basically it's everything, everything that is in writing,  
14 be it by electronic means, by computers, by magnetic tape,  
15 by whatever, if it's in writing it's a record for purposes  
16 of the Public Records Act.

17           Public records are open to inspection at any time,  
18 which means if someone comes into your office and asks to  
19 see a certain document, if it's available at that office  
20 you're required to show it to them.

21           What is more likely to happen and has happened in  
22 these two cases is you get a written request for public  
23 documents. It doesn't need to be written, it could be  
24 oral and would still have to be honored.

25           It has to have a response within ten days, saying

1 whether or not you intend to comply with it. And normally  
2 the response is we intend to comply except as to any  
3 matters that are privileged.

4           Then the process begins of trying to gather all  
5 the documents that might be responsive to whatever the  
6 request is. For those purposes, I believe Kirk has now  
7 sent out a memo for each of the -- just for the first  
8 request. The second has been drafted and you'll be  
9 getting it soon.

10           And it's with all reasonable speed that we're  
11 supposed to provide the documents to the person requesting  
12 it, so I would urge you to go ahead and review your files  
13 and get any information back. We've asked you to send it  
14 to Kermit and he will collate the information, and then  
15 we'll review it before we provide it to the person who has  
16 requested it.

17           But that means you need to review the notes that  
18 are on your computers, you need to review your e-mail that  
19 you have saved.

20           One of the things to keep in mind, you haven't yet  
21 adopted a record retention policy, but one of our  
22 recommendations in that policy is that if something is  
23 merely of transitory importance that it not be retained  
24 because if it is retained, then it needs to be produced.

25           So as of this point, since we don't have the

1 record retention policy in place, whatever currently is  
2 exists is what are the records of the agency.

3           There are a few exceptions and I've put the  
4 highlighted ones down at the bottom of the training page.  
5 If it's purely preliminary, a draft of something that's  
6 not retained in the ordinary course of business, at this  
7 point you don't know whether or not it's retained, so you  
8 would have to assume that it is to be retained, it may be  
9 withheld if the public interest in withholding those  
10 records clearly outweighs the public interest in  
11 disclosure.

12           That's a very tough standard to meet and in most  
13 cases the courts have said that the public interest  
14 outweighs the interest in confidentiality.

15           So unless it's purely a draft -- I mean at some  
16 point when you get a draft map that you are considering,  
17 and it's not ready for public view because you're still  
18 working through what's going to be your proposal, I think  
19 you might consider that to be within that category where  
20 public disclosure would be damaging. Because it really  
21 isn't anything for people to consider, yet, because it's  
22 only thoughts in motion, nothing that you've agreed upon.

23           Another exception to records pertaining to  
24 pending -- to pending litigation, if it's under the  
25 attorney/client or work product privilege.

1 Personnel or medical records, basically, that's to  
2 protect the right of privacy.

3 If you've noticed that in posting the public  
4 comments on the website, we have taken out personal  
5 identifying information of address and telephone numbers  
6 because that's the sort of personal information that does  
7 not need to be disclosed to the public.

8 Records that are protected from disclosure by  
9 state or federal law and, again, that goes back to the  
10 evidentiary privileges. I don't assume you'll have any  
11 pre-penitent records, but certainly attorney/client  
12 records would be included within that.

13 I don't know of any other statutory privileges  
14 which would probably come within that.

15 And then there's a general catchall category on  
16 the facts of the particular case, the public interest  
17 served by not disclosing the record clearly outweighs the  
18 public interest served by disclosing the record.

19 Now, as different from the first category of  
20 documents where I talked about, this one really means that  
21 you have to focus on the public's interest in not  
22 disclosing it. And that's, again, a very, very tough  
23 standard to meet.

24 Any questions so far about the Public Records Act?

25 CHAIRPERSON ONTAI: I do.

1 MS. JOHNSTON: Yeah.

2 CHAIRPERSON ONTAI: What if we can't get it all  
3 together in ten days?

4 MS. JOHNSTON: Then we tell them that we're  
5 working on it to do our best and we'll get it to them as  
6 soon as we possibly can. But you should make every effort  
7 you can to get it within the required time period.

8 CHAIRPERSON ONTAI: Calendar days?

9 MS. JOHNSTON: Yes.

10 CHAIRPERSON ONTAI: Calendar days. Okay, any  
11 questions, Commissioners?

12 MS. JOHNSTON: And then following on that, a  
13 little bit of training on the Record Retention Act, even  
14 though you don't have a policy, you just have a proposed  
15 policy now, to think about the different categories of  
16 records that you, personally, are going to be keeping.

17 The recommendation from the Department of General  
18 Services is that if things are purely transitory, like  
19 transmittal letters, they not be kept once they're no  
20 longer needed because it just clutters up everything and  
21 they've got to be then considered public records, and  
22 maintained as public records, and there's really no need  
23 to accumulate unnecessary documents.

24 COMMISSIONER WARD: I was just going to ask can  
25 you give us an example, like a specific example?

1 MS. JOHNSTON: A typical transmittal letter would  
2 be enclosed please find the contract forwarded by such and  
3 such, which has now been signed by our executive officer.  
4 The transmittal letter, itself, has no value other than to  
5 communicate what it is that you're getting. Clearly,  
6 you'd have to keep the underlying document.

7 But the transmittal letter, itself, once it's  
8 accomplished its purposes -- it's a substitute for someone  
9 coming and handing it to you, personally.

10 The same thing often happens with e-mails. If  
11 you're forwarded an e-mail of some communication regarding  
12 public input, for example, the message from whoever it is  
13 on the Commission staff that forwards it to you has no  
14 significance, other than making sure that you have  
15 received the underlying document.

16 So those are the sort of things which they  
17 consider of transitory value.

18 Okay. The two exceptions to what may be destroyed  
19 and not kept in the ordinary course of business is, one,  
20 if there's a Public Records Act request for it. Once a  
21 request is made, then the record cannot be destroyed or  
22 discarded until the record request has been complied with.

23 So, if you haven't gotten rid of it before the  
24 request is made, you can't get rid of it after the request  
25 is made unless it's -- until after it's been produced.

1           And the same will hold, we're not at the point yet  
2 of any litigation, but if any litigation does occur then  
3 all documents must be maintained as they are in that point  
4 in time, because those could become evidentiary records in  
5 the courts, whatever litigation it is.

6           So you'll be talking more about record retention  
7 requirements as you develop your record retention policy,  
8 but just to keep those things in mind as you're going  
9 through your records.

10           We did have, I don't know if you noticed, one  
11 public comment about the fact that a lot of Commissioners  
12 are using their laptops and no one knows quite what you're  
13 using the laptops for. But if, in fact, you are keeping  
14 notes on your laptop for your own personal use those,  
15 because they're related to the Commission's business,  
16 would be considered records that could be subject to  
17 disclosure. So it's up to you to decide how long you're  
18 going to keep those records, in what form you're going to  
19 keep those records, but just to keep in mind the potential  
20 that they would have to be disclosed at some point in  
21 time.

22           COMMISSIONER RAYA: May I ask --

23           MS. JOHNSTON: Yes?

24           COMMISSIONER RAYA: With respect to that would you  
25 recommend that we download -- okay, I'm getting a Verizon

1 phone card, this one's giving me too much trouble. Would  
2 you recommend that we maybe download our notes onto a  
3 flash drive or some other way of -- so that we take them  
4 off our -- you know, our hard drive and --

5 MS. JOHNSTON: It would certainly be easier to  
6 retrieve them if you had them segregated in some way.  
7 Maybe keep a folder on your computer for CRC matters.

8 COMMISSIONER RAYA: But if we were actually -- you  
9 know, do we run the risk at some point of somebody saying  
10 they want the whole thing, the whole computer in order --

11 MS. JOHNSTON: No, you would not have to produce  
12 anything on your computer that was not related to CRC  
13 business.

14 COMMISSIONER RAYA: Okay.

15 MS. JOHNSTON: But the task of segregating things  
16 later on might be a lot more difficult so if you can do  
17 that at the initial stage, it would be better.

18 COMMISSIONER RAYA: Thank you.

19 MS. JOHNSTON: Any other questions?

20 CHAIRPERSON ONTAI: I have one more.

21 MS. JOHNSTON: Uh-hum.

22 CHAIRPERSON ONTAI: So we send that all to you, e-  
23 mails, say, for example, and how does Kermit organize  
24 this?

25 MS. JOHNSTON: We will then go through -- as

1 you've seen in the first e-mail that went to you, saying  
2 what the documents were being asked for, we will then go  
3 through and assign them to what category they satisfy.  
4 And if we disagree with, say, maybe you've included  
5 something that we don't think needs to be responded to,  
6 needs to be included in the response, we'll let you know  
7 that.

8           But we have to duplicate and make a copy. We can  
9 charge reasonable copying costs for it, but we have to  
10 make a copy of whatever it is and provide it to the  
11 requester.

12           CHAIRPERSON ONTAI: I see, so you will screen it.

13           MS. JOHNSTON: Exactly.

14           CHAIRPERSON ONTAI: And if you see something there  
15 that's not related to the request, you'll send that back  
16 to us or notify us?

17           MS. JOHNSTON: Correct.

18           CHAIRPERSON ONTAI: So you're going to cull it  
19 down to what is appropriate.

20           MS. JOHNSTON: Right.

21           CHAIRPERSON ONTAI: I see.

22           MS. JOHNSTON: So you should err on the side of  
23 being all-inclusive in what you send to us. It's much  
24 better to disclose more than you need to than to fail to  
25 disclose something that is required to be disclosed.

1 CHAIRPERSON ONTAI: Okay.

2 Commissioner Barabba?

3 COMMISSIONER BARABBA: Does the requester -- doers  
4 the requester need to identify the purpose of their  
5 request?

6 MS. JOHNSTON: No. You don't even have to give  
7 your real name. You can simply say I want to see it and  
8 because it's a public record there doesn't have to be any  
9 reason for the request, other than you want to see it.

10 COMMISSIONER BARABBA: Okay.

11 CHAIRPERSON ONTAI: Commissioner DiGuilio?

12 COMMISSIONER DI GUILIO: I have two questions.  
13 One is, so in the course of us doing work or we're  
14 creating drafts, and if we -- I don't want to say destroy,  
15 it sounds so purposeful, but if it's just not --

16 MS. JOHNSTON: Retained.

17 COMMISSIONER DI GUILIO: Retained, I guess, yeah.  
18 It's just we're being inundated with a ton of things, if  
19 we just kind of clear out and then later on it comes to be  
20 that that could have been something that would have --  
21 someone would have wanted under a Public Records Act,  
22 we're not required to somehow try and find -- I mean if  
23 it's gone, it's gone, we don't even remember what it was  
24 we --

25 MS. JOHNSTON: Well, that's why it's important to

1 have a record retention policy. As long as when you're  
2 maintaining your records you follow the record retention  
3 policy and don't --

4 COMMISSIONER DI GIULIO: I see, okay.

5 MS. JOHNSTON: -- get rid of things that under  
6 that policy should be retained, then you don't have any  
7 trouble.-- get rid of things that under that policy should  
8 be retained, then you don't have any trouble.

9 COMMISSIONER DI GIULIO: Okay. And just my second  
10 question is just trying to understand the Public Records  
11 Act in general. So there's no limit to how many of these  
12 we could get or -- because I'm sure for staff, as well as  
13 for us going back just this last time, it took a while  
14 just to go everything, so we could be spending a  
15 significant amount of time and taxpayer's money. I'm just  
16 trying to --

17 MS. JOHNSTON: It's true, it could be an enormous  
18 burden but that's --

19 COMMISSIONER DI GIULIO: That's just the way it  
20 is.

21 MS. JOHNSTON: -- in the constitution saying  
22 there's the right of access, plus in your statute, so  
23 that's just a fact of life that you need to live with.

24 CHAIRPERSON ONTAI: Commissioner Ward?

25 COMMISSIONER WARD: My understanding of the Google

1 e-mail that we're using now is that that's already being  
2 archived and available, or at least that was my  
3 understanding prior to this.

4           So at this point we wouldn't have to forward  
5 anything that's out of our Google e-mail account in  
6 response to these, correct, because that's already --

7           MS. JOHNSTON: I don't think that your Google  
8 accounts are being monitored by anyone. I think they  
9 could be at some point retrieved. But, for instance, if  
10 you delete something off of your Google e-mail, it's gone.

11           COMMISSIONER WARD: Do you know anything about  
12 this -- I know that we were originally using our own,  
13 individual e-mail accounts and one of the reasons we -- or  
14 as I understood it, or had a note that we went to the  
15 Google was because that was all going to be automatically  
16 archived, for easy data mining and for a quicker response  
17 to these kinds of things.

18           So I wasn't -- I wasn't thinking that we needed to  
19 report out of the Google e-mail.

20           MS. JOHNSTON: Before my time.

21           EXECUTIVE DIRECTOR CLAYPOOL: I'm actually going  
22 to defer to Commissioner Dai, because I believe you have  
23 more information about the Cloud than I do.

24           COMMISSIONER DAI: Well, I don't know how our  
25 Google domain is administered, but I would imagine that

1 the administrator of the domain, crc.ca.gov, should  
2 have -- I mean, you could literally just do a search and  
3 probably pull up that e-mail.

4 I had assumed and was operating under the same  
5 assumption Commissioner Ward was, that anything in our  
6 Google e-mail is archived. And when you delete it in  
7 Google it doesn't go away, I hate to tell you that.

8 MS. JOHNSTON: That's not my understanding from  
9 Christina, if you delete it off of that. At some point,  
10 if someone went to heroics, on doing high-tech recovery of  
11 lost data, perhaps they could retrieve it. But apart from  
12 that it is gone, even out of the Cloud.

13 I guess it would be the possibility of having  
14 staff do that for you, but that's a Commissioner's choice  
15 of whether you'd rather go through your own e-mail or have  
16 someone else go through your e-mail.

17 EXECUTIVE DIRECTOR CLAYPOOL: And we really run  
18 into an issue with staff doing that, I think. I would --  
19 I would be uncomfortable asking staff to go through your  
20 e-mail accounts.

21 COMMISSIONER DI GIULIO: I think for  
22 Commissioners' sake to go through, since we could have a  
23 lot of these requests and we also know, looking at our e-  
24 mails, we could do the search and quickly determine if  
25 that -- those dozen e-mails are -- seem -- we remember the

1 train of conversation better than staff would. That would  
2 just be my suggestion.

3 COMMISSIONER DAI: Yeah. I mean it's very simple.  
4 I mean, you Google not only the e-mail, but every chat  
5 session is searchable, so if you just put in the couple of  
6 words -- you know, the last public records request was on  
7 Q2. If you just put Q2 and all of the relevant e-mails  
8 and chat sessions will come up.

9 CHAIRPERSON ONTAI: Commissioner Ward, anything  
10 else?

11 COMMISSIONER WARD: No.

12 CHAIRPERSON ONTAI: Commissioner Ancheta?

13 COMMISSIONER ANCHETA: So my question has to do  
14 with the Cloud actual, physical handouts. And I think for  
15 the request we just got I indicated that I received copies  
16 of documents that I think everybody got, and the staff  
17 also got, and I simply said you have it already, in my  
18 reply to Kermit, for example.

19 And this is more of maybe internal protocol, than  
20 anything else. I'm assuming that if the full Commission  
21 has received something, I don't need to turn over my copy,  
22 that it's already part of the record and I can simply say,  
23 again Kermit, or any other staff member, you have it.

24 MS. JOHNSTON: As long as it's something we can  
25 identify. There was one Commissioner who submitted -- who

1 referred to something that we're not sure we can find a  
2 copy of.

3 COMMISSIONER ANCHETA: Okay.

4 MS. JOHNSTON: And if that occurs, then we'll  
5 probably ask you to make a copy of yours. But if it's  
6 something in the office that we can identify, that's fine.

7 COMMISSIONER ANCHETA: Yeah, I was sending in sort  
8 of, for example, applications to the full Commission that  
9 everybody got, I'm assuming I don't have to turn over my  
10 copy, you've got it.

11 MS. JOHNSTON: Correct.

12 CHAIRPERSON ONTAI: Are you done, Commissioner  
13 Ancheta?

14 COMMISSIONER ANCHETA: Oh, yes.

15 CHAIRPERSON ONTAI: Commissioner Yao?

16 COMMISSIONER YAO: Yeah, the question is really a  
17 matter of procedure, procedural as compared to anything  
18 else.

19 Maybe some of you find that this process is  
20 relatively easy in terms of being searched and identified,  
21 that part is easy. But forwarding each e-mail to Kermit,  
22 you in essence have to open it, forward it, and then go on  
23 to the next one and on and on.

24 And as I said, a lot of these e-mails are mass  
25 distributed to all the Commissioners and I -- if all of us

1 make the assumption that somebody else is going to cover  
2 that e-mail that may be a false assumption.

3 But if I turn around and send all that e-mail to  
4 Kermit and he's going to be opening three -- 14 times a  
5 few hundred, and it just seems like this whole process it  
6 not in full control.

7 Is there any kind of protocol where we can put it  
8 into one folder and then send the folder over to Kermit  
9 saying that's from Peter Yao, or is there any process  
10 where we -- is there any tool that we have that will make  
11 this process a little less foolproof?

12 MS. JOHNSTON: I think you can save all your e-  
13 mails and then forward them as an attachment in one e-  
14 mail.

15 EXECUTIVE DIRECTOR CLAYPOOL: Might I suggest that  
16 we have Christina put together a plan for how it might  
17 best be handled by those of us who are technologically  
18 challenged, including myself, and that way we can -- we  
19 can just have one way that we do it. Okay.

20 COMMISSIONER YAO: Okay, thank you.

21 CHAIRPERSON ONTAI: Yeah. Commissioner, well  
22 done, okay.

23 COMMISSIONER AGUIRRE: And regarding time  
24 considerations, Mr. Claypool, that we're not running afoul  
25 of any kind of time requirements for responding to Kermit

1 or --

2 CHIEF LEGAL COUNSEL MILLER: Not yet. The hard  
3 requirement, as Marian explained, was that when we receive  
4 one of these requests that we respond with an indication  
5 that we have documents that are responsive and we'll  
6 produce them, and that has to be done within ten days.

7 Then the obligation is to, as expeditiously as we  
8 can, gather the documents and that varies. If it's a very  
9 perfunctory request, respond quickly. Sometimes it does  
10 take longer because of a very broad request, but we don't  
11 have a specific number of days where you must respond,  
12 other than the ten-day requirement.

13 COMMISSIONER AGUIRRE: Okay, thanks.

14 CHIEF LEGAL COUNSEL MILLER: I just -- just as a  
15 jointer to this, I believe the committee had an  
16 opportunity to look at the proposed record retention  
17 policy today and it will be coming back to the full  
18 Commission tomorrow.

19 If that is correct, I think it might be useful for  
20 us to take some of your questions this evening and see if  
21 we can come back in connection with the policy, and maybe  
22 work this a little bit further tomorrow.

23 CHAIRPERSON ONTAI: Any other comments?

24 COMMISSIONER DAI: Yeah, I actually would like to  
25 make sure every Commissioner has a copy of that policy, so

1 maybe as some homework tonight you can take a look at it.

2 I know that the Finance and Administration  
3 Committee got it.

4 CHAIRPERSON ONTAI: I don't have a copy.

5 COMMISSIONER DAI: I think everyone else did not.  
6 So, if you don't have a copy, please take one as it comes  
7 along. This is -- got it.

8 Section 4 is the one regarding records retention.  
9 And the Finance and Administrative Advisory Committee did  
10 not actually have that long to look at it, so I would  
11 recommend that everybody review it tonight and come with  
12 questions.

13 CHIEF LEGAL COUNSEL MILLER: Just when Marian  
14 prepared that, those time frames do follow State  
15 guidelines, so they're not subjective standards that we're  
16 suggesting to the Commission.

17 CHAIRPERSON ONTAI: Is there anything else? Okay.  
18 Unless there was an added item, Mr. Claypool, to our  
19 agenda, I think there's nothing left.

20 EXECUTIVE DIRECTOR CLAYPOOL: We have the -- so we  
21 have the Legal Advisory Committee report that remains.  
22 And Commissioner Galambos Malloy would like us to phone  
23 her in on this.

24 CHAIRPERSON ONTAI: Okay. Oh, that's right,  
25 that's right.

1 EXECUTIVE DIRECTOR CLAYPOOL: As covered in our  
2 agenda.

3 CHAIRPERSON ONTAI: That's correct.

4 COMMISSIONER GALAMBOS MALLOY: Hello.

5 ADMINISTRATIVE ASSISTANT SARGIS: Hello,  
6 Commissioner, we're getting ready to discuss the Legal  
7 Advisory report out, so I'll put you on the speakerphone.

8 COMMISSIONER GALAMBOS MALLOY: Thank you.

9 CHAIRPERSON ONTAI: Okay. So is this a report  
10 that Commissioner Ancheta, as the chair of the Legal  
11 Committee for today, want to make a report or is this  
12 something you want to jointly do with Commissioner  
13 Filkins-Webber?

14 COMMISSIONER ANCHETA: I can report out.  
15 Commissioner Filkins-Webber was absent today and so was  
16 Commissioner Blanco. But Commissioner Forbes and I, who  
17 are regular members of the committee attended, as well as  
18 Commissioner Ward was present, and Commissioner Ontai, and  
19 Commissioner Raya. Commissioner Barabba was also there.  
20 Commissioner Parvenu came in as well. So, our numbers  
21 were there.

22 And we did receive both a report from Mr. Miller  
23 regarding this issue, as well as the actual supplemental  
24 disclosure from the Gibson Dunn firm.

25 Let me again reframe -- or just frame the basic

1 question we're looking at. As you recall, there was an  
2 issue that came up because of some new information that we  
3 received regarding Gibson Dunn, after we had already  
4 reviewed their application and had moved that they be --  
5 that we enter into a contract with them as our Voting  
6 Rights Act counsel.

7 In essence that a number of areas of disclosure  
8 were not satisfied and disclosed to us in the initial  
9 application, including federal lobbying activity, as well  
10 as a number of campaign contributions that came from their  
11 political action committee.

12 And because of that information or our hearing  
13 about the fact that some of that information hadn't been  
14 originally disclosed, the staff did engage in some follow  
15 up with the firm, and the firm has been in conversation  
16 with Mr. Miller and did provide us with a document which  
17 gives -- not all the information that we need, but at  
18 least gives us a basic understanding of some of the  
19 underlying disclosures that need to be looked at.

20 They are referencing by -- or including references  
21 to some online databases, which cover more -- in more  
22 detail the disclosures. In particular, their lobbying  
23 activities at the federal level, at both the House of  
24 Representatives and the Senate level.

25 So that's not actually in the disclosure report

1 that they filed with us, but the staff as well as at least  
2 a couple members of the committee have gone through those  
3 various lobbying reports.

4           The bottom line is that after some discussion with  
5 Mr. Miller, as well as discussion by Commissioner Forbes  
6 and myself, as well as others who were participating,  
7 including some statements that were read at the -- and we  
8 can reread those, if you'd like, statements by  
9 Commissioner Filkins-Webber and Commissioner Blanco, who  
10 are absent today.

11           We reached the conclusion that the firm at this  
12 point, because of the supplemental disclosure has, to our  
13 satisfaction, submitted what we need to know in terms of  
14 disclosing relevant material. And that the information  
15 that has been disclosed does not rise to the level where  
16 there would be either a sufficient conflict of interest or  
17 sufficient concerns about impartiality that would either  
18 compromise the contract or disqualify them in any way from  
19 continuing as our Voting Rights Act counsel.

20           That's the basic conclusion that we reached and  
21 I'm happy to address, you know, specific questions. Mr.  
22 Miller can certainly address questions as well, but that's  
23 where we came out of the meeting.

24           CHAIRPERSON ONTAI: Mr. Miller, do you want to  
25 make a report?

1 CHIEF LEGAL COUNSEL MILLER: I think that's a  
2 pretty comprehensive report of our discussion, so I don't  
3 have anything to add to that.

4 CHAIRPERSON ONTAI: Okay, questions? Commissioner  
5 DiGuilio?

6 COMMISSIONER DI GUILIO: I'm just curious to hear  
7 from the Legal Advisory Committee. Just of the material  
8 that Mr. Miller had given us, it gave what sounds like  
9 some of the -- correct me if I'm wrong, in terms of some  
10 of the donations -- or not donations, the contributions  
11 made. It seems like there's -- there's a couple aspects  
12 here.

13 One is there's a number of what seems to be just  
14 private companies. I mean I don't know if you've had an  
15 opportunity --

16 COMMISSIONER ANCHETA: That's for lobbying or for  
17 contributions?

18 COMMISSIONER DI GUILIO: Well, I guess some of  
19 this is what I was trying to determine from which this one  
20 is versus the ones in the back. This is the --

21 COMMISSIONER ANCHETA: Yeah, I think the longer  
22 list, which would have -- if you're looking at one of them  
23 as a table, which as the firm's name as well as lobbying  
24 clients, and then some activities based on quarters,  
25 that's probably the house database report.

1 COMMISSIONER DI GIULIO: Right.

2 COMMISSIONER FORBES: One reason why -- explained  
3 to us why the list is as long as it is, is that unlike  
4 California, where you simply register as a lobbyist for a  
5 particular company, every single contact in the house has  
6 to be identified as a separate entry, so that's why you  
7 end up with a long list.

8 COMMISSIONER DI GIULIO: So did you find in your  
9 advisory committee that a lot of these were -- the  
10 majority of these were private companies versus  
11 politically based?

12 COMMISSIONER ANCHETA: Yeah. I mean, our  
13 conclusion -- a couple conclusions that we reached. And  
14 again, we -- I know I did, prior to the committee meeting,  
15 did some checking into the different companies, and where  
16 they're located. And, you know, I didn't try to go  
17 through every possible, you know, ramifications, but it  
18 seemed to me that the -- just about every one of them  
19 had -- one, were out of state. Two were commercial  
20 interests or appear to be commercial interests. And,  
21 three, appear to be quite remote from state business or  
22 activities within California.

23 There are a couple of California-based companies  
24 but, again, my sense, and we didn't go too deep in terms  
25 of, you know, what was the actual transaction, that it

1 seemed to me that those were going to be commercially  
2 related.

3 COMMISSIONER DI GIULIO: And then there's the last  
4 one was in terms of the actual contributions that were  
5 somehow related to California, did you -- I didn't go  
6 through and mark them, but was there an equal contribution  
7 for Democrats and Republicans for the most -- I mean it  
8 looks like there's a mix of both there.

9 COMMISSIONER FORBES: There's two kinds of  
10 contributions listed. One is the firm, itself, has a PAC  
11 that contributes and they contribute to both parties.  
12 None of the attorneys that will be working for us have any  
13 management role in that PAC.

14 COMMISSIONER DI GIULIO: Okay.

15 COMMISSIONER FORBES: With regard to individual  
16 contributions, none of the attorneys involved in our case  
17 have donated as much as \$2,000, so none of them would for  
18 that reason be conflicted out.

19 COMMISSIONER DI GIULIO: Thank you.

20 COMMISSIONER ANCHETA: And as you know, there have  
21 been some media reports regarding, you know, maybe a  
22 larger percentage are going to one party versus another.  
23 We have to look, I think, at what the law requires us to  
24 look at, which is the \$2,000 limit, or 2,000 and above to  
25 campaigns.

1           And, again, in the aggregate, if one looks at a  
2 bunch of small contributions, that may skew it in a  
3 certain way or in either direction, perhaps.

4           But based on what the Act actually says about, you  
5 know, \$2,000 or more to campaigns, that's what's listed,  
6 basically, in the sheet that the firm provided.

7           And, you know, they're sizeable donations, they're  
8 not small donations by any means, but they cover -- and to  
9 the extend you're looking for some problems of  
10 impartiality, in other words are they leaning very  
11 strongly in one direction versus another, I don't think we  
12 got that sense.

13           You know, in some campaigns it seems like they're  
14 backing both the Democrat and the Republican, and maybe  
15 that makes good sense in terms of how you're donating  
16 because you think, well, one of them is going to win,  
17 right, and have some influence over a future elected  
18 official, maybe that's the best way to go.

19           But, again, I think what we were looking for was  
20 some sense of impartiality, in other words they're giving  
21 history seems to have pushed them strongly in one  
22 direction. I don't think we uncovered any of that in what  
23 was listed.

24           CHAIRPERSON ONTAI: Any other questions,  
25 Commissioner DiGuilio? Any others?

1           So, what is the Commission's --

2           COMMISSIONER FORBES: Well, in this regard we  
3 would ask that the Commission accept our report with  
4 respect to the retain of Gibson, Dunn and Crutcher and I  
5 just -- I mean we've already hired them, but we had to  
6 come back and we just wanted to affirm our report that  
7 upon further review that they do not -- that they don't  
8 have a conflict of interest issue.

9           CHAIRPERSON ONTAI: Commissioner Ward?

10          COMMISSIONER WARD: If I recall right, sitting in,  
11 we also were asking to delegate the authority, to assign  
12 that to Mr. Miller, I believe, correct?

13          COMMISSIONER FORBES: Correct.

14          COMMISSIONER WARD: Was that ultimately the action  
15 item we were looking for with this?

16          COMMISSIONER FORBES: There's a second part to  
17 this and that dealt with the financial issues and the  
18 delegation at that point. So this is just the first part.

19          CHAIRPERSON ONTAI: Okay, so what is the sense of  
20 the Commission, shall we go forward with the already  
21 approved contract for the Gibson Dunn firm?

22                 Commissioner Aguirre?

23          COMMISSIONER AGUIRRE: Was that in the form of a  
24 motion?

25          COMMISSIONER FORBES: Well, I do entertain a

1 Commission motion to that, that you accept the report and  
2 reaffirm the hiring of --

3 CHAIRPERSON ONTAI: Okay, so you're putting that  
4 as a motion?

5 COMMISSIONER FORBES: I can make the motion or  
6 another Commissioner can make it. I'll make the motion,  
7 if that's the easier thing. Is that the Commission accept  
8 the report of the Legal Advisory Committee with respect to  
9 the retention of Gibson, Dunn and Crutcher as our Voting  
10 Rights Act counsel.

11 CHAIRPERSON ONTAI: Okay. Is there a second?

12 COMMISSIONER BARABBA: Second.

13 CHAIRPERSON ONTAI: Second by Commissioner  
14 Barabba.

15 Janeece, did you get that?

16 ADMINISTRATIVE ASSISTANT SARGIS: Yes, the motion  
17 is to recommend the Legal Advisory Committee's report and  
18 retain Gibson, Dunn and Crutcher as the VRA counsel.

19 CHAIRPERSON ONTAI: Oh, she's amazing. Okay, I'll  
20 call for the question.

21 All those in favor, and we'll take a roll count.

22 Oh, I'm sorry, is there anyone out there in the  
23 audience that would like to come up and make a comment,  
24 please do so.

25 Thank you.

1           MR. SALAVERRY: All of the information that's in  
2 front of the -- David Salaverry, again. All the  
3 information that's in front of the Commission is coming  
4 out very, very rapidly and there's not a lot of time to  
5 dig into the details.

6           That notwithstanding, I'd like to make you guys  
7 aware that Gibson Dunn, according to this paper that you  
8 have from them as a disclosure, donated \$7,000 to Mr.  
9 Howard Berman's campaign for Congress.

10           As you are probably aware, Howard Berman is also  
11 connected to Nancy Pelosi and her effort to abolish this  
12 Commission through Proposition 27.

13           Howard Berman, according to the L.A. Weekly,  
14 donated \$10,000 to Proposition 27. And I believe that  
15 this revelation, alone, should cause the Commission great  
16 concern, especially since there is no firewall that I know  
17 of, between whoever the attorneys were at this large firm,  
18 Gibson Dunn, and their PAC, and the attorneys who will be  
19 actually working directly with the Commission.

20           The whole thing, you know, to my way of looking at  
21 it really does not pass the smell test. And I understand  
22 that you guys are in a hurry to hire somebody and to get  
23 on with the work but, you know, you really have not  
24 drilled down to the bottom of this in a way that I think  
25 is appropriate. So, I would just like to make that one

1 public comment.

2 And also to say that of course it came out in the  
3 hearings that, you know, Commissioner Blanco was the one  
4 who picked up the phone and called Mr. Brown, of Gibson  
5 Dunn, in order to invite him to come bid.

6 So, again, you know, does this to your mind pass  
7 the smell test? Thank you.

8 CHAIRPERSON ONTAI: Thank you. Is there anyone  
9 else? I apologize we didn't call it earlier. No one  
10 else?

11 Okay, so -- okay, please.

12 UNIDENTIFIED FEMAL SPEAKER: First of all, thank  
13 you for allowing us to comment.

14 CHAIRPERSON ONTAI: Oh, you're quite welcome.

15 UNIDENTIFIED FEMALE SPEAKER: I wanted to  
16 comment -- I have my notes and, of course, left them  
17 there, so I'll try to remember.

18 I'm just -- I think it's impractical to think that  
19 anybody that comes to give advice comes without prejudice,  
20 and so that maybe we're being unrealistic in saying that  
21 we're going to have someone to come and be without  
22 prejudice.

23 Instead, maybe as they did with the Commissioners,  
24 why can't we have someone that's declared a Republican and  
25 declared a Democrat so that the -- I don't know if that's

1 practical, but it would then absolve you of any prejudice  
2 that we could point a finger on any of these issues. Then  
3 it would be something that would be -- absolve everyone.

4 I just think it's unrealistic to think that  
5 anybody's coming with undue prejudice. I mean I'm coming  
6 with prejudice, right, and I'm sure everybody has their  
7 issues.

8 So thank you for hearing me.

9 CHAIRPERSON ONTAI: Thank you.

10 Commissioner Ancheta?

11 COMMISSIONER ANCHETA: I'm sorry, I was  
12 wondering -- I was reminded of this when I was giving --  
13 that when I was giving my report that both Commissioner  
14 Blanco and Commissioner Filkins-Webber -- I'm sorry, let  
15 me -- no, I'm sorry --

16 CHAIRPERSON ONTAI: Yeah, well --

17 COMMISSIONER ANCHETA: Should I just finish or --

18 CHAIRPERSON ONTAI: Can we suspend your comments?

19 COMMISSIONER ANCHETA: No, I can wait, sorry.

20 CHAIRPERSON ONTAI: Yeah, please come on up.

21 MS. VARGAS: Thank you for remembering to  
22 recognize public comments. I just want to make mention,  
23 my name is Raquel Vargas. And, you know, one of the  
24 things that I'm reminded of is that Nielsen Merksamer came  
25 in with a huge firewall, and that should be recognized as

1 you all are discussing Gibson Dunn, who has not come in  
2 with any firewall at all. That Nielsen Merksamer came in  
3 with a huge firewall and that should be noted.

4 CHAIRPERSON ONTAI: Thank you. Was there any  
5 discussion on the firewall with Gibson Dunn firm?

6 CHIEF LEGAL COUNSEL MILLER: Yes, there was. And  
7 they would be willing to create such a wall, if you will,  
8 with members of the management committee, which is a term  
9 I'm using to describe the leadership of the PAC, that's  
10 the Political Action Committee.

11 We can do that if -- if the committee desires that  
12 we do that.

13 CHAIRPERSON ONTAI: Well, in view of the recent  
14 data that we've received, I would think that that would be  
15 a fair thing to consider, but let me open this up for a  
16 discussion.

17 CHIEF LEGAL COUNSEL MILLER: Well, just a comment.  
18 If it's helpful to the Commission obviously they will do  
19 that. I'd just note that in speaking with Mr. Brown and  
20 Mr. Kolkey, they actually didn't know who those people  
21 were in the firm.

22 And the reason I only mention that is because I  
23 think from a firm culture perspective, or from a real  
24 concern about improper influence, it's difficult to  
25 conclude that that's a risk.

1           Nonetheless, if there is a concern, that firewall  
2 can be created.

3           CHAIRPERSON ONTAI: Commissioner DiGuilio and --

4           COMMISSIONER DI GUILIO: I'll just speak to the  
5 issue before Commissioner Ancheta --

6           CHAIRPERSON ONTAI: Excuse me, let me -- there's a  
7 point of order.

8           COMMISSIONER DI GUILIO: Oh, sorry.

9           COMMISSIONER WARD: Point of order, yeah, right.  
10 We had a motion on the table, do we need to go ahead and  
11 vote on that and then discuss further things at this point  
12 or --

13          CHAIRPERSON ONTAI: Are we still part of that  
14 discussion or --

15          COMMISSIONER ANCHETA: Well, my original comments  
16 were going to the original motion, but I'll hold back for  
17 a second.

18          CHAIRPERSON ONTAI: Okay. Actually, we have two  
19 distinct ideas, we have the motion to go ahead with the  
20 continued contractual arrangement with the Gibson Dunn  
21 firm and then we have the separate matter of whether we  
22 should put a firewall language in that contract, itself.  
23 Correct? So there's no motion on that last one.

24          CHIEF LEGAL COUNSEL MILLER: Yeah, for clarity it  
25 would probably be best to vote on the first motion and

1 then take up further discussion on a different item.

2 CHAIRPERSON ONTAI: Okay. All right. Thank you,  
3 Commissioner Ward.

4 Any other discussions? Commissioner Ancheta?

5 COMMISSIONER ANCHETA: Yeah, and I do apologize, I  
6 don't think Commissioner Ontai didn't see the additional  
7 public comment, so I apologize for interjecting there.

8 But I did want to mention, because I didn't  
9 include this in my summary, that both Commissioner Blanco  
10 and Commissioner Filkins-Webber spoke in favor of  
11 retaining the Gibson Dunn firm.

12 And Commissioner Ward read Commissioner Filkins-  
13 Webber's statement and I read Commissioner Blanco's  
14 statement. I think Commissioner Blanco's statement was  
15 circulated to the Commission members. It was not? Was it  
16 Filkins-Webber who circulated it?

17 Okay, neither one of them were circulated.

18 In either case, both were read in their totality  
19 at the committee -- by the -- at the committee meeting.  
20 And, again, both spoke in favor of -- and if you want me  
21 to or you want Commissioner Ward to highlight them, or  
22 read parts of them we can do that. But otherwise I -- I  
23 just wanted to mention that because I didn't make it clear  
24 that they both spoke in favor of retaining Gibson Dunn.

25 CHAIRPERSON ONTAI: And just for the record, could

1 we read that letter from Commissioner Filkins-Webber,  
2 since she actually chaired that process, right?

3 COMMISSIONER ANCHETA: Sure. Do you want me to do  
4 it or Commissioner Ward? I can read it, I'm assuming we  
5 have the same copy, or do you want -- do you want to do  
6 it, again?

7 COMMISSIONER WARD: Why don't you do it?

8 COMMISSIONER ANCHETA: Okay. Okay, so this is an  
9 e-mail from Commissioner Filkins-Webber to the Commission  
10 membership, dated Wednesday, April 6<sup>th</sup>, 9:47 p.m.

11 "Dear Commission, in my absence from this week's  
12 meetings I wish to advice you, as the lead of  
13 the Legal Advisory Committee, that I have reviewed  
14 the supplemental disclosure from our VRA  
15 attorneys, Gibson, Dunn and Crutcher. In doing  
16 so, it is evidence that their 'lobbying' services  
17 were at the federal level and appear to be on  
18 behalf of private companies. The disclosure  
19 alleges that Gibson Dunn has not been a lobbyist  
20 in California.

21 In regard to their political contributions, it  
22 appears the firm's contributions have been to  
23 political candidates who hold office following  
24 elections in districts at issue in our  
25 redistricting efforts.

1           However, it appears that contributions were  
2           made equally to politicians and candidates from  
3           the Democratic Party and Republican Party.  
4           Further, the amounts paid to those presently  
5           holding office do not appear to be significant  
6           to warrant criticism that such could result in  
7           undue influence by any politician in the nature  
8           of our proceedings by virtue of the firm's  
9           representation of the Commission.  
10          Finally, it should be noted that although the  
11          supplemental disclosure states that the four  
12          identified attorneys to provide services to the  
13          Commission have not been registered lobbyists,  
14          the supplemental disclosure fails to mention  
15          whether any four of the four attorneys made any  
16          personal contributions of \$2,000 or more to any  
17          congressional, state or local candidate for  
18          elected public office within the last ten years.  
19          I have asked Mr. Miller to make inquiry of  
20          Mr. Brown and/or Mr. Kolkey regarding this issue,  
21          and trust he will advice you of his findings.  
22          Should there be no issue of personal  
23          contributions, time is of the essence and I  
24          recommend that we move forward with the previous  
25          awarded contract to Gibson, Dunn and Crutcher.

1 Thank you, Commissioner Jodie Filkins-Webber.”

2 Mr. Miller can report specifically on his  
3 conversations, but we did discuss the nature of the  
4 individual contributions of the four named attorneys and,  
5 in essence, none of them have made contributions over  
6 \$2,000 that would be required to be disclosed.

7 CHAIRPERSON ONTAI: Can you confirm that, Mr.  
8 Miller?

9 MS. JOHNSTON: I did the search of the  
10 contribution website, of the Secretary of State, and none  
11 of the four had any sizeable contributions.

12 CHIEF LEGAL COUNSEL MILLER: And the firm  
13 confirmed that, as well, there’s a match.

14 CHAIRPERSON ONTAI: Okay. So, that it’s public  
15 record, I just wanted to get that all in front of the  
16 community.

17 Any other questions before we call the vote?

18 Oh, I’m sorry, Commissioner Yao, right next to me.

19 COMMISSIONER YAO: When we got to the motion  
20 that’s on the floor I really would appreciate if  
21 Commissioner Ancheta would perhaps consider withdrawing  
22 the motion so that we have an opportunity to talk about  
23 the firewall as part of the consideration, as compared to  
24 approving it and then have no opportunity to talk about  
25 the firewall. I do understand that the data -- the data

1 does support us taking -- in terms of moving ahead with  
2 the approval.

3 And I, at this point in time, would want to do  
4 that. But again, in the same light I would really like  
5 the opportunity to consider setting up the firewall with  
6 regard to anything else that we may find from this point  
7 on, in terms of keeping it from influencing this process.

8 So, just a request specifically to the  
9 Commissioners that motioned and seconded the motion that's  
10 on the floor right now.

11 COMMISSIONER ANCHETA: I would withdraw it then,  
12 Commissioner Yao.

13 CHAIRPERSON ONTAI: And the second? Do we need a  
14 second to withdraw?

15 COMMISSIONER BARABBA: Yes.

16 CHAIRPERSON ONTAI: Okay. Commissioner Raya?

17 COMMISSIONER RAYA: Oh. Okay, so now we're onto  
18 the subject of the firewall?

19 CHAIRPERSON ONTAI: Yeah.

20 COMMISSIONER RAYA: Okay. We awarded the  
21 contract, I think we went through a pretty rigorous  
22 process. We also asked for and received supplemental  
23 information. And I think there are points at which we  
24 have to have confidence in our judgment, in the job that  
25 we've done, the decision that we've made. And I'm sure

1 that all the way down the road we're going to have  
2 opinions and perhaps even other information brought to us.  
3 I think if something really shocking and horrible  
4 surfaced, we would know how to deal with it.

5 I don't think we're at that place and I would not  
6 be in favor of imposing any further conditions on the  
7 contract.

8 CHAIRPERSON ONTAI: Okay. Commissioner DiGuilio?

9 COMMISSIONER DI GUILIO: I guess I feel that at  
10 this point, although I agree with that we -- as we've said  
11 over and over, with any contractor, we, as a Commission,  
12 have the ultimate say, we are the ones that will be making  
13 the decisions.

14 I feel that under -- with this issue, for the  
15 consistency of what we've done with prior contracts, I  
16 think in the similar manner with Q2, we developed a --  
17 even though Mr. Cain was not a part of the contract, it  
18 wasn't -- there was letters from individuals saying he  
19 wouldn't be, we decided to put a firewall on just to make  
20 that cut clean.

21 And I feel like similar in this situation, I would  
22 imagine that there's still not going to be any involvement  
23 with the attorneys that will be a part of our project and  
24 the PAC. But I think for the sake of consistency and just  
25 keeping it clean, and if it's not going to affect the

1 operations of what's going -- of the contract, itself, I  
2 don't see any harm in having a firewall, particularly  
3 since we're now probably an expect in developing firewall  
4 language, that that would be very easy and it would just  
5 cover our bases.

6 CHAIRPERSON ONTAI: Thank you. Commissioner Ward?

7 COMMISSIONER WARD: I'd like to ask Mr. Miller,  
8 regarding the contract that we have sitting, ready to go,  
9 does implementing a firewall now in any way delay or  
10 change our ability to get that done?

11 CHIEF LEGAL COUNSEL MILLER: I don't believe that  
12 it would.

13 CHAIRPERSON ONTAI: Commissioner Yao?

14 COMMISSIONER YAO: Again, my thought at this point  
15 is not to insist on any particular firewall in signing the  
16 contract, but simply gain an understanding with them that  
17 if we feel that there are any necessity to set up a  
18 firewall in the future based on any new data that comes  
19 forward, we have the right to do so as part of the -- as  
20 part of the contract.

21 Again, these data that are presented before us  
22 came in a very quick pace. And even though at this point  
23 in time we concur that they're complete and acceptable to  
24 us, and based on some of the public comment saying that,  
25 well, part of the Prop. 27 donation is not necessarily

1 directly reflecting on what's being decided before us, but  
2 in the future, maybe, if that was considered to be  
3 important for any reason, we have the latitude of asking  
4 them to set up a firewall.

5 I'd like to have that understanding be built into  
6 the contract.

7 CHAIRPERSON ONTAI: I do have a question. The  
8 language that Commissioner Filkins-Webber and staff, Mr.  
9 Miller, worked out was a very simple paragraph, what, four  
10 or five sentences, but very fair and very straight forward  
11 in terms of protecting our interest. I would assume it's  
12 going to be a similar statement?

13 CHIEF LEGAL COUNSEL MILLER: Yes, I believe you're  
14 referring to the paragraph we came up with for Q2 and it  
15 would be similar to that.

16 CHAIRPERSON ONTAI: Yeah, I think it's very sound.  
17 Unless the Commissioners wants to see how that looks like,  
18 I think it's in our interest.

19 Is there anyone wants to see it?

20 Okay, Commissioner Raya, you want to see it?

21 COMMISSIONER RAYA: You know, I just want to be  
22 clear it's not -- it's not the -- I have complete  
23 confidence in whatever language was drafted, and I also  
24 believe that if something comes up down the road it's a  
25 contract. If something that would come up I believe might

1 rise to the level of maybe not a breach, but some  
2 violation of the terms of the agreement, if we found that  
3 they had failed to disclose something else that was really  
4 a material matter, I just -- you know, I just don't  
5 think -- it's not a matter of what's in it, I just don't  
6 think it's what I would want to do.

7 CHAIRPERSON ONTAI: Okay. So, what is our desire?  
8 Commissioner DiGuilio?

9 COMMISSIONER DI GUILIO: I'm just wondering if my  
10 fellow Commissioners, it sounds like there may be some --  
11 there could be agreement on Gibson Dunn, but there may be  
12 some disagreement on the firewall. And I would suggest  
13 that maybe we separate those two in just two separate  
14 motions. I don't know if that -- I know we originally had  
15 that and we withdrew so we could have a discussion of the  
16 firewall, but I'm wondering if we made it ahead of -- had  
17 a motion on --

18 CHAIRPERSON ONTAI: Why don't you make a motion  
19 and we can proceed.

20 COMMISSIONER DI GUILIO: And let me have someone  
21 else chime in on it.

22 COMMISSIONER BARABBA: If we could just ask the  
23 original motioner to give direction to the staff to make  
24 sure that we're covered if we need to put a firewall in,  
25 and just keep it simple.

1 CHAIRPERSON ONTAI: All right. Commissioner Raya?

2 COMMISSIONER RAYA: Well, I just want to say I  
3 don't want to obstruct the process, I want to get the  
4 thing done. If I'm the only person that feels that way,  
5 you know, that's -- I mean I will go along with the  
6 consensus of the Commission. I'm not going to hold this  
7 thing up forever, that's not my intention.

8 CHAIRPERSON ONTAI: All right. Anyone else?  
9 Commissioner Aguirre?

10 COMMISSIONER AGUIRRE: Given that discussion, I  
11 make a motion that we accept the report and retaining  
12 Gibson Dunn.

13 CHAIRPERSON ONTAI: I need a second.

14 COMMISSIONER BARABBA: Second.

15 CHAIRPERSON ONTAI: Second by Commissioner  
16 Barabba. So, I see your cup up there. Commissioner  
17 DiGuilio? I want to just make sure everybody has a  
18 chance.

19 Okay, so can we hear the motion?

20 ADMINISTRATIVE ASSISTANT SARGIS: The motion is  
21 that the Commission accept the report of the Legal  
22 Advisory Committee to retain Gibson, Dunn and Crutcher as  
23 the VRA counsel.

24 CHAIRPERSON ONTAI: Okay. One last request for  
25 questions? I'll call the motion.

1 Janeece?  
2 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
3 Yao?  
4 COMMISSIONER YAO: Yes.  
5 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
6 Ward?  
7 COMMISSIONER WARD: Yes.  
8 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
9 Raya?  
10 COMMISSIONER RAYA: Yes.  
11 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
12 Parvenu?  
13 COMMISSIONER PARVENU: Definite yes.  
14 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
15 Ontai?  
16 CHAIRPERSON ONTAI: Yes.  
17 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
18 Galambos Malloy?  
19 COMMISSIONER GALAMBOS MALLOY: Yes.  
20 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
21 Forbes?  
22 COMMISSIONER FORBES: Yes.  
23 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
24 DiGuilio?  
25 COMMISSIONER DI GUILIO: Yes.

1 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner

2 Dai?

3 COMMISSIONER DAI: Yes.

4 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner

5 Barabba?

6 COMMISSIONER BARABBA: Yes.

7 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner

8 Ancheta?

9 COMMISSIONER ANCHETA: Yes.

10 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner

11 Aguirre?

12 COMMISSIONER AGUIRRE: Yes.

13 ADMINISTRATIVE ASSISTANT SARGIS: The motion

14 passes.

15 CHAIRPERSON ONTAI: Okay. It's unanimous.

16 Now, the question of the firewall, how do you want

17 to handle that, is that just a direction to staff to put

18 that in the contract or do we need a motion for that?

19 What is --

20 CHIEF LEGAL COUNSEL MILLER: It would be helpful

21 to have a better sense of the Commission's view on what

22 you'd like us to do with respect to the firewall.

23 CHAIRPERSON ONTAI: All right, then I'll need a

24 motion.

25 COMMISSIONER DI GIULIO: I make a motion to

1 include a firewall.

2 CHAIRPERSON ONTAI: Motion by Commissioner  
3 DiGuilio to put language that protects the Commission and  
4 it's defined as firewall.

5 CHIEF LEGAL COUNSEL MILLER: You know, I would  
6 just suggest in concept it would essentially say that the  
7 members of the Management Committee of the Gibson Dunn  
8 Political Action Committee will not work on or have other  
9 contacts with the lawyers doing the work on behalf of the  
10 Commission.

11 COMMISSIONER DI GUILIO: That's what I meant to  
12 say.

13 (Laughter)

14 CHAIRPERSON ONTAI: I need a second. Was there a  
15 second?

16 COMMISSIONER BARABBA: I second.

17 CHAIRPERSON ONTAI: Commissioner Barabba seconds.  
18 Further questions? Commissioner Parvenu?

19 COMMISSIONER PARVENU: Nope.

20 CHAIRPERSON ONTAI: Commissioner Ancheta?

21 COMMISSIONER ANCHETA: I would support the motion,  
22 although I think it may be more useful to have language  
23 that is a bit more general or also would include any  
24 potential conflicts that might arise through the lobbying  
25 activities, in addition to the PAC. But that can be a

1 separate motion, I'm happy to support this motion as  
2 currently --

3 CHAIRPERSON ONTAI: No, I think we should wrap it  
4 all up in one language.

5 Mr. Miller, your thoughts on that?

6 CHIEF LEGAL COUNSEL MILLER: I'm afraid I don't  
7 understand what the words would be in the motion, so if  
8 you could restate it for a little more direction, as it  
9 relates to lobbying activities?

10 ADMINISTRATIVE ASSISTANT SARGIS: Is this an  
11 amended motion?

12 COMMISSIONER ANCHETA: No, I'm not proposing, I'm  
13 speaking in support of the motion, I'm not proposing any  
14 amended language at this point. I was merely suggesting  
15 that we might want to consider whether firewalls need to  
16 be specific as in terms of the PAC or as Commissioner Yao,  
17 I think has been suggesting, is that we may need to be  
18 more fluid if situations arise where there would be a need  
19 for a firewall.

20 So, for example, this particular firm has engaged  
21 in lobbying activities in the City of Los Angeles and  
22 there may be some conflict that arises through  
23 representation in that particular area and perhaps a  
24 firewall would be appropriate.

25 So, I don't know, there are possibilities there.

1 But, clearly, we don't have to even address it, if we  
2 don't want to. It can simply be the PAC and make it  
3 clean. I'm simply suggesting there may be some other  
4 areas where firewalls could be appropriate, but it's  
5 difficult to anticipate all of them, as Commissioner Yao I  
6 think has pointed out.

7 CHAIRPERSON ONTAI: Mr. Miller?

8 CHIEF LEGAL COUNSEL MILLER: I believe it would be  
9 in the Commission's best interest and in the relationship  
10 with the firm to limit the motion to the PAC in that the  
11 history of the lobbying that has been disclosed does not  
12 present a concern to the Commission, and the ability to  
13 monitor that over 900 lawyers against a standard that I  
14 don't know how we would articulate exactly what lobbying  
15 would be -- would constitute a violation or would be of  
16 significant -- enough concern to the Commission as to  
17 create a conflict. I think at that point that's a much  
18 more difficult motion to craft and would be much more  
19 difficult to include in the contract than that which  
20 relates just to the PAC.

21 COMMISSIONER ANCHETA: Okay.

22 CHAIRPERSON ONTAI: Commissioner Ancheta?

23 COMMISSIONER ANCHETA: Can I just, just for  
24 clarity's sake, what I'm suggesting as a firewall would be  
25 between the four named attorneys and anybody else doing

1 lobbying, so that the scope of representation and work  
2 done by the four would be isolated from anybody else doing  
3 other lobbying.

4 I'm not concerned about monitoring all their  
5 lobbying, but there's a firewall that prevents interaction  
6 between those four and others in the same way that we're  
7 preventing some interaction between those four and the PAC  
8 management committee.

9 CHAIRPERSON ONTAI: So you're shaking your head,  
10 Mr. Miller.

11 CHIEF LEGAL COUNSEL MILLER: I did misunderstand  
12 your intent, that's an easier situation.

13 CHAIRPERSON ONTAI: Okay, so this -- we're still  
14 in discussion. We do have a motion, but it will have to  
15 be amended by the maker of the motion, if -- if you'd like  
16 to modify that language to include a statement like that?

17 COMMISSIONER DI GIULIO: I think that Commissioner  
18 Ancheta's intention is that basically the firewall is  
19 between those four and the other activities that would  
20 happen in the lobbying firm -- I mean in the firm, whether  
21 it be lobbying or whether it be PAC activity, so the  
22 firewall is between those four and everyone else, that's  
23 the intention.

24 CHAIRPERSON ONTAI: Okay.

25 COMMISSIONER DI GIULIO: It may need to be

1 reworded as such, or can you capture that?

2 ADMINISTRATIVE ASSISTANT SARGIS: So you're  
3 amending that motion, is that right?

4 COMMISSIONER DI GIULIO: Yes.

5 CHAIRPERSON ONTAI: She's amending her motion.  
6 And is that acceptable to the seconder?

7 COMMISSIONER DI GIULIO: Yes.

8 CHAIRPERSON ONTAI: Thank you.

9 CHIEF LEGAL COUNSEL MILLER: Could I ask a  
10 clarifying question?

11 CHAIRPERSON ONTAI: Yes, please.

12 CHIEF LEGAL COUNSEL MILLER: Is it correct that  
13 the intent would be lobbying with respect to political  
14 matters? Let me just give an example. Let's say two  
15 lawyers are handling a litigation matter for General  
16 Electric and the firm has -- and one of our lawyers has  
17 done that work, the firm has also lobbied on behalf of  
18 General Electric. It would create a problem within the  
19 firm for those -- if those two lawyers couldn't work  
20 together on a General Electric matter, if they were  
21 presently doing so.

22 Now, I'm just making up that hypothetical, but I'm  
23 just trying to anticipate reasonable consequences that  
24 could flow from the nature of the activity that they're  
25 doing. And I don't know that that would occur, but I

1 expect that we would receive a conversation about its  
2 potential implications.

3 COMMISSIONER DI GIULIO: Maybe before I official  
4 address that, could it be something that we say that we  
5 intend for this to be a firewall between the four and the  
6 rest of the firm based on anything that deals with the PAC  
7 or the political aspects of lobbying, subject to review by  
8 our legal counsel. So that if there's some type of issue  
9 that they need to -- I would think that if it's non-  
10 political that there's smart people here, they could  
11 figure that out. If it's something that may have a tinge  
12 of politics to it that they would bring it to the  
13 attention of our legal counsel and you can make a decision  
14 as to whether it comes --

15 CHIEF LEGAL COUNSEL MILLER: Would you be  
16 comfortable being more specific and relating it to  
17 redistricting matters?

18 COMMISSIONER DI GIULIO: Okay.

19 CHIEF LEGAL COUNSEL MILLER: Because, you know,  
20 all lobbying activity is, by its nature, political.

21 COMMISSIONER DI GIULIO: Okay. I will -- I accept  
22 that amendment that it's related to redistricting  
23 lobbying.

24 CHAIRPERSON ONTAI: Matters.

25 Commissioner Ancheta, are you done?

1 COMMISSIONER ANCHETA: I'm sorry.

2 CHAIRPERSON ONTAI: Commissioner Ward?

3 Oh, you're done, too.

4 (Laughter)

5 COMMISSIONER WARD: Is that how that works?

6 CHAIRPERSON ONTAI: Oh, you're working fine.

7 Okay. So we have a motion. Could you read the  
8 motion, Janeece, the final amended amended motion.

9 ADMINISTRATIVE ASSISTANT SARGIS: Okay. Correct  
10 me if I'm wrong. The amendment is that there be firewall  
11 language included in the contract that would state that  
12 the four attorneys named in the contract be firewalled  
13 from other members of the firm in regards to anything  
14 relating to redistricting matters, and that this would be  
15 at the discretion of the legal counsel. Was that  
16 included?

17 COMMISSIONER DI GUILIO: The only thing that maybe  
18 I see missing was did we specifically mention the PAC?

19 CHAIRPERSON ONTAI: Oh, the PAC's in there, too.

20 COMMISSIONER DI GUILIO: Yes.

21 CHAIRPERSON ONTAI: That's in the original one,  
22 isn't it?

23 ADMINISTRATIVE ASSISTANT SARGIS: Other members of  
24 the firm, would that include the PAC?

25 COMMISSIONER DI GUILIO: I think that was

1 separate.

2 CHIEF LEGAL COUNSEL MILLER: I think it would be  
3 helpful to say the PAC management team.

4 ADMINISTRATIVE ASSISTANT SARGIS: Management team.  
5 Okay, do you want me to read it again?

6 COMMISSIONER DI GIULIO: Yeah.

7 CHAIRPERSON ONTAI: Please.

8 ADMINISTRATIVE ASSISTANT SARGIS: Firewall  
9 language be included in the contract that the four  
10 attorneys named in the contract be firewalled from other  
11 members of the firm and the PAC management team in regards  
12 to anything relating to redistricting matters, at the  
13 discretion of the legal counsel.

14 COMMISSIONER DI GIULIO: I would say the PAC  
15 management team and other members of the firm relating to  
16 redistricting.

17 CHIEF LEGAL COUNSEL MILLER: Well, I'm sorry, when  
18 we start saying other members of the firm without  
19 restriction, then you're limiting them to working within  
20 the group of four and we don't want to do that. I think  
21 what we're trying to say is no contact with the PAC  
22 management team regarding any matter related to  
23 redistrict, no contact with lawyers engaged in lobbying  
24 with respect to redistricting activities.

25 COMMISSIONER DI GIULIO: If you could capture

1 that, that's -- I would confirm.

2 CHAIRPERSON ONTAI: Are you ready, Janeece?

3 ADMINISTRATIVE ASSISTANT SARGIS: I think so.

4 Okay. The firewall language would read that there would  
5 be no contact -- the four attorneys named in the contract,  
6 no contact with the PAC management team in redistricting  
7 matters and no contact with other members of the firm  
8 involved in lobbying when it comes to redistricting  
9 matters.

10 CHAIRPERSON ONTAI: Is that clear to everyone?

11 COMMISSIONER DI GIULIO: Okay.

12 CHAIRPERSON ONTAI: Mr. Miller?

13 CHIEF LEGAL COUNSEL MILLER: I'm sorry, I can't  
14 move that motion but --

15 (Laughter)

16 CHAIRPERSON ONTAI: Okay, hearing no other  
17 questions, let's call the vote.

18 ADMINISTRATIVE ASSISTANT SARGIS: We have a  
19 second?

20 CHAIRPERSON ONTAI: Oh, I need -- I'm sorry, is  
21 there a -- did we have a second? Mr. Barabba?

22 COMMISSIONER BARABBA: Oh, I support it.

23 CHAIRPERSON ONTAI: Yeah, it's been amended so  
24 many times, we need to make sure the second has approved  
25 it. Okay.

1 CHIEF LEGAL COUNSEL MILLER: And you might seek  
2 public comment on the revised motion.

3 CHAIRPERSON ONTAI: I will so do so. Please line  
4 up now, so we know you do want to speak to us. Anyone?  
5 Come on. Okay, I gave you a chance.

6 All right, let's call the motion.

7 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
8 Aguirre?

9 COMMISSIONER AGUIRRE: Yes.

10 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
11 Ancheta?

12 COMMISSIONER ANCHETA: Yes.

13 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
14 Barabba?

15 COMMISSIONER BARABBA: Yes.

16 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
17 Dai?

18 COMMISSIONER DAI: Yes.

19 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
20 DiGuilio?

21 COMMISSIONER DI GUILIO: Yes.

22 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
23 Forbes?

24 COMMISSIONER FORBES: Yes.

25 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner

1 Galambos Malloy?

2 COMMISSIONER GALAMBOS MALLOY: Yes.

3 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner

4 Ontai?

5 CHAIRPERSON ONTAI: Yes.

6 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner

7 Parvenu?

8 COMMISSIONER PARVENU: Yes.

9 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner

10 Raya?

11 COMMISSIONER RAYA: Yes.

12 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner

13 Ward?

14 COMMISSIONER WARD: Yes.

15 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner

16 Yao?

17 COMMISSIONER YAO: Yes.

18 ADMINISTRATIVE ASSISTANT SARGIS: The motion

19 passes.

20 CHAIRPERSON ONTAI: Okay, I think that's the end

21 of our agenda.

22 COMMISSIONER FORBES: No, we have one other issue.

23 Do you want to bring it up or do you want me to bring it

24 up?

25 COMMISSIONER ANCHETA: You can bring it up.

1           COMMISSIONER FORBES: Okay. The second part of  
2 the recommendation from the Committee was that -- was to  
3 authorize the Commission staff to enter into the contract  
4 with Gibson Dunn for an amount not to exceed \$299,000 to  
5 provide legal services required by the Commission with  
6 respect to the Voting Rights Act. That's more than we had  
7 talked about before and I had asked Mr. Miller to comment  
8 on the increase.

9           CHIEF LEGAL COUNSEL MILLER: When we received  
10 the -- the responses from the law firms, we did a couple  
11 of things. First, the Legal Advisory Committee did an  
12 excellent job of scoping out the work that was  
13 contemplated by the firm.

14           And when I spoke to them about round two of this  
15 we were very clear in providing to the firms that scope of  
16 work and asked them what they could do for \$150,000, where  
17 that number arises, because that's the number we hoped  
18 would be a good number for this work.

19           We didn't really feel anyone did everything we  
20 needed at that number, some were closer to it than others.

21           Following the approval of the firm we went over  
22 and went through that scope of work again, got a number  
23 back from them that we could not work with, it was  
24 \$365,000, and I said that's -- we're not going to be able  
25 to do that.

1           So we worked further with the firm, looked for  
2 places where economies and efficiencies could be  
3 identified.

4           And also you'll recall following that initial  
5 selection, I'm stepping back now in time, we revisited our  
6 budget in the Legal Advisory Committee and determined that  
7 while that was a number we would like, more was needed and  
8 that Mr. Claypool would look for dollars in other portions  
9 of our budget to enhance the dollars that we could use for  
10 these services.

11           We put a ceiling on that at \$299,000 and that  
12 number has been baked into the Commission's overall budget  
13 and I believe was reviewed by the Technical Advisory  
14 Committee today.

15           So managing these things is difficult and it's  
16 particularly difficult with big firms who are used to  
17 having much more generous dollars to deal with.

18           But I believe we've developed the best work plan  
19 we can and one of the best I've ever seen to bring this in  
20 at no more than 299,000.

21           So it's with that in mind that the Commission is  
22 asking or the Committee is asking that you grant authority  
23 for us to proceed with and conclude a contract on those  
24 terms.

25           COMMISSIONER FORBES: Pawn to king four.

1           CHAIRPERSON ONTAI: Commissioner Forbes?

2           COMMISSIONER FORBES: Yes, thank you. I'm quite  
3 sure that the subcommittee would rather spend less money,  
4 but since -- at least my view is that since this money is  
5 in the budget, this is a place we cannot go wrong because  
6 this is -- this is one area that we have the potential of  
7 getting really torpedoed.

8           And so I think to be unduly concerned about the  
9 amount of money is to be penny wise and pound foolish in  
10 this case. And so that's why I mean I would rather not  
11 spend this much money, but this is simply what the  
12 representation we're going to need costs. And so I would  
13 encourage the Commission to accept this recommendation.

14          CHAIRPERSON ONTAI: Any other comments?

15          Commissioner Yao?

16          COMMISSIONER YAO: Commissioner Forbes, clarify  
17 the -- your comment for me? The \$299,000, that's the  
18 maximum we're going to pay for the total responsibility  
19 that we're asking the firm to assume on our behalf?

20          COMMISSIONER FORBES: That's correct. And that we  
21 hope it will be less. And that also includes the report  
22 that goes at the end.

23          COMMISSIONER YAO: Okay. So it doesn't mean that  
24 we stop asking questions at \$299,000?

25          COMMISSIONER FORBES: No, it doesn't, it doesn't

1 mean that. And it doesn't mean we have to spend 299, you  
2 know.

3 COMMISSIONER YAO: Thank you, that's the  
4 clarification I'm seeking.

5 CHAIRPERSON ONTAI: Yes, it's a not to exceed  
6 299,000.

7 COMMISSIONER FORBES: Correct.

8 CHAIRPERSON ONTAI: Any other comments?

9 All right, so what is your desire?

10 COMMISSIONER FORBES: Then I'll make a motion that  
11 the Commission authorize the Commission staff to enter  
12 into a contract with Gibson Dunn not to exceed \$299,000 to  
13 provide the legal services required by the Commission with  
14 respect to the Voting Rights Act.

15 COMMISSIONER YAO: I'll second that motion.

16 CHAIRPERSON ONTAI: Seconded by Commissioner Yao.

17 Questions?

18 This is sailing along too smoothly.

19 (Laughter)

20 CHAIRPERSON ONTAI: Public comment. Please,  
21 public comment. Thank you.

22 MR. SALAVERY: Yeah, hi, David Salaverry again.

23 So, I'm hearing that Gibson Dunn asked for 365 and then  
24 you guys negotiated it down to 299, which is double what  
25 you went in with. Well, you know, I'm a building

1 contractor, myself, and I'd just say that if I could get  
2 these kind of contracts, I'd be really happy.

3           The 299 not to exceed I don't think it's going to  
4 go any less than 298.5, and your putting 150K on top of  
5 that is what I'm understanding for the RPV. So, your  
6 total legal cost is getting, you know, very, very high,  
7 it's getting to a significant portion of your total  
8 budget.

9           You know, in the situation in the State of  
10 California where we're \$28 billion in the whole, and you  
11 guys have already been talking about going back to the  
12 Legislature for more money, I don't see this as being, you  
13 know, a great thing to bring to the Legislature in terms  
14 of what you're paying Gibson Dunn here.

15           I understand it's now, at this point, probably a  
16 done deal and you're not going to back away from paying  
17 them the amount of money they want. But I would have been  
18 a lot happier, as a taxpayer, if you guys had done your  
19 budget stuff ahead of the time and then, you know, had all  
20 your discussions about what your total budget is and then,  
21 you know, figured in what you could afford to pay for  
22 these lawyers.

23           Again, you know, the Gibson Dunn stated at their  
24 first interview that they were going to go to their  
25 management committee and basically beg them to let these

1 four lawyers work for you guys for 350, which is this  
2 great deal off of their 800 to 900 per hour.

3 Well, you know, in my world 350 is a heck of a lot  
4 money per hour, and 800 to 900 is like -- I mean, it's  
5 kind of scandalous. I mean, even some of the lawyers on  
6 this Committee had to weigh in, Filkins-Webber, I remember  
7 saying that, yes, you know, 800, 900 dollars an hour is  
8 pretty high.

9 So, you know, there are these budget issues that I  
10 think you guys should consider more carefully. I think  
11 that what's going to end up happening, if the Legislature  
12 does not come back with more money for you, is you're  
13 going to have to pull it out of some other pocket. And  
14 what other pocket are you going to be pulling it out of  
15 down the road?

16 You know, I mean where are you going to find the  
17 savings to go ahead and pay these very, very expensive  
18 lawyers and, also, the 150 for the RPV. So, you need to  
19 consider all this stuff pretty carefully and that's my  
20 public comment. Thank you.

21 CHAIRPERSON ONTAI: Thank you.

22 Anyone else, please, from the audience? No.

23 Okay. So, Janeece, could you please call the  
24 roll?

25 ADMINISTRATIVE ASSISTANT SARGIS: Would you like

1 the motion restated?

2 CHAIRPERSON ONTAI: Yes, state it one more time?

3 ADMINISTRATIVE ASSISTANT SARGIS: The motion is  
4 for the Commission to grant Commission staff authority to  
5 enter into a contract not to exceed 299,000 with Gibson,  
6 Dunn and Crutcher to provide legal services required by  
7 the Commission with respect to the Voters Rights Act.

8 CHAIRPERSON ONTAI: Questions? Is it clear to  
9 everyone?

10 Please call.

11 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
12 Aguirre?

13 COMMISSIONER AGUIRRE: Yes.

14 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
15 Ancheta?

16 COMMISSIONER ANCHETA: Yes.

17 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
18 Barabba?

19 COMMISSIONER BARABBA: Yes.

20 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
21 Dai?

22 COMMISSIONER DAI: Yes.

23 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
24 DiGuilio?

25 COMMISSIONER DI GUILIO: Yes.

1 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
2 Forbes?  
3 COMMISSIONER FORBES: Yes.  
4 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
5 Galambos Malloy?  
6 COMMISSIONER GALAMBOS MALLOY: Yes.  
7 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
8 Ontai?  
9 CHAIRPERSON ONTAI: Yes.  
10 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
11 Parvenu?  
12 COMMISSIONER PARVENU: Yes.  
13 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
14 Raya?  
15 COMMISSIONER RAYA: Yes.  
16 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
17 Ward?  
18 COMMISSIONER WARD: Yes.  
19 ADMINISTRATIVE ASSISTANT SARGIS: Commissioner  
20 Yao?  
21 COMMISSIONER YAO: Yes.  
22 ADMINISTRATIVE ASSISTANT SARGIS: The motion  
23 passes.  
24 CHAIRPERSON ONTAI: Is there anything else,  
25 Commissioner Forbes, that we're not aware of?

1           COMMISSIONER ANCHETA: I think that's not all of  
2 our -- we will report a few other items at the slot  
3 tomorrow, but that's pretty much it on the Gibson Dunn  
4 matter.

5           CHAIRPERSON ONTAI: All right, good. Comments,  
6 questions from the other Commissioners?

7           Commissioner Ward?

8           COMMISSIONER WARD: Was it that we're going to  
9 wait until tomorrow then to ask for approval for staff to  
10 be able to move that contract forward?

11          CHIEF LEGAL COUNSEL MILLER: Well, I think  
12 Commissioner Ward's referring to the experts in connection  
13 with the polarized voting. Is that correct, Commissioner  
14 Ward?

15          COMMISSIONER WARD: Yes.

16          CHAIRPERSON ONTAI: Okay, then hearing none, I  
17 think we've reached the end of our agenda.

18          Is there any comments from the public? Please.

19          MR. WALKER: Thank you. Hopefully, I can actually  
20 give you some public comments about redistricting this  
21 afternoon. My name's Jeff Walker, I'm from Camarillo,  
22 California, in town on business and saw the opportunity to  
23 give you some feedback from our part on the world on,  
24 certainly, I think we should see in keeping Eastern  
25 Ventura County intact as a district.

1 I know you deal with communities of interest.  
2 Really, our cities of Simi Valley, Thousand Oaks,  
3 Camarillo and Moorpark are the young cities of Ventura  
4 County. We didn't grow up with the legacy industries of  
5 fishing, and ag, and oil, like some of the other cities in  
6 our county have. We're younger cities and as a result our  
7 growth has been suburban oriented.

8 And, really, when you look from a geographic stand  
9 point, we share two watersheds, the Calleguas Water  
10 District, the watershed, and the Cauyama Creek watershed.

11 There are certainly tons of issues related to  
12 water and its drainage, and it's nice to keep that whole  
13 watershed intact, the way it is now.

14 We also have a significant amount of open space in  
15 this area, including some significant wildlife corridors  
16 which, again, I think we would like to keep intact as a  
17 district.

18 Transportation is another issue that we have a  
19 shared community. We share a very strained 101, 118, 23  
20 freeway system and we also share a commuter rail system.

21 What hits home to me is I had a cousin who was on  
22 the Metro Link 111 train, maybe you're not aware, you  
23 know, collided with a freight train. There were 19 out of  
24 the 25 victims of that, that were from this area, were  
25 from Eastern Ventura County.

