

BEFORE THE
CITIZENS REDISTRICTING COMMISSION

State Capitol, Room 126
Sacramento, CA 95814

THURSDAY, FEBRUARY 24, 2011
9:00 A.M.

Reported by:
Kent Odell

APPEARANCES

MEMBERS PRESENT:

Connie Galambos Malloy, Chair
Jodie P. Filkins Webber, Vice Chair
Gabino T. Aguirre
Angelo N. Ancheta
Vincent P. Barabba
Maria Blanco
Cynthia M. Dai
Michelle R. Di Guilio
Stanley R. Forbes
Lilbert "Gil" R. Ontai
M. Andre Parvenu
Jeanne E. Raya
Michael Ward
Peter S. Yao

STAFF PRESENT:

Dan Claypool, Executive Director
Kirk Miller, Counsel
Janeece Sargis, Administrative Assistant
Rob Wilcox, Director of Communications

PRESENTATION:

Hans Johnson, Public Policy Institute of California

PUBLIC COMMENT:

Tony Bernhardt, former Yolo County Clerk
Douglas Johnson, Rose Institute of State and
Local Government
Rob Lapsley, California Chamber of Commerce, Vice
President and Political Director
Malka Kopel, California Forward, on behalf of
California Forward, the League of Women Voters
of California, and California Common Cause
John Ryan, Senior Government Major at Sacramento State,
and member of California Young Democrats
Hans Johnson, Public Policy Institute of California
Jim Wright, Voter, San Jose
Sam Walton, NAACP

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P R O C E E D I N G S

FEBRUARY 24, 2011 9:00 A.M.

CHAIRMAN GALAMBOS MALLOY: Good morning, Commissioners. It's now 9:00, I'd like to convene this meeting of the California Citizens Redistricting Commission. I'm Connie Galambos Malloy, I'll be your Chair for the next few days in accordance with our rotating leadership structure, along with my counterpart, Commissioner Jodie Filkins Weber, who will be serving as Vice Chair. We did meet here in Sacramento yesterday, we are in the space so graciously offered to us by the Legislature, and yesterday we spent the full day in our advisory Committee meetings for which we will be having reports back throughout the day today.

Our first item of business will be to call roll.

MS. SARGIS: Commissioner Aguirre - Here;
Commissioner Ancheta - Here; Commissioner Barraba -
Here; Commissioner Blanco - Here; Commissioner Dai -
Here; Commissioner Di Guilio - [Inaudible]; Commissioner
Filkins Weber - Here; Commissioner Forbes - [Here];
Commissioner Galambos Malloy - Here; Commissioner Ontai
- Here; Commissioner Parvenu - Here; Commissioner Raya -
Here; Commissioner Ward - Here; Commissioner Yao - Here.

We have a quorum.

1 CHAIRMAN GALAMBOS MALLOY: Excellent. And I
2 understand Commissioner Di Giulio is en route, will be
3 joining us shortly.

4 So, the first thing I would like to do is to
5 point everybody to the detailed agenda, the expanded
6 agenda that was posted online. I would like to run
7 through it point by point so that Commissioners and the
8 audience, both here and watching at home, have a sense
9 of when to anticipate the various agenda items. Of
10 course, here we are at 9:00 this morning, we are right
11 on time, running through the detailed agenda. Depending
12 on how long the agenda takes us, we also have a proposal
13 around our meeting procedures that we will be moving
14 into shortly. We will be going into a recess at 9:30,
15 which we had not anticipated. We have been working on
16 trying to secure a meeting with the Governor's Office,
17 based on the letter that we sent to the Governor's
18 Office, following up on our Claremont meeting,
19 requesting a formal liaison in support for the
20 Commission to be able to move through many of, shall we
21 say, bureaucratic hurdles that we're facing, in order to
22 meet our August 15th deadline. We have been appointed a
23 liaison, the Director of External Affairs for the
24 Governor, and we'll be meeting with that staff person at
25 9:45. So we'll go into recess at 9:30. Commissioner

1 Filkins Webber and myself, Daniel Claypool, and Kirk
2 Miller, our staff, will be joining us for that meeting.
3 We will come back into session as a full Commission at
4 11:00; luckily, the Governor's Office is right around
5 the corner. At 11:00, we will move into our Executive
6 Director's Report, then into the Advisory Committee
7 Reports starting off first with Finance and
8 Administration. I'm anticipating we will be breaking
9 for lunch at 12:30, so there will be time for
10 Commissioners and the audience to grab a snack if you
11 need it while we are meeting with the Governor, because
12 we won't be breaking until at least 12:30.

13 When we come back from lunch, we'll have our
14 report from the Legal Advisory Committee, followed by a
15 presentation led by Hans Johnson from the Public Policy
16 Institute of California, regarding Census Undercount
17 Considerations. Later in the afternoon, we'll move into
18 the Technical Advisory and Outreach Committees. At the
19 end of each day, we will invite public comment for
20 matters not on the agenda, and we will also have our
21 Director of Communications, Rob Wilcox, provide a
22 summary of the day's accomplishments.

23 Moving ahead to Friday, at 8:30 a.m., there has
24 been a request for a tour of the Capitol, a VIP tour of
25 the Capitol for Commissioners, and so at 8:30 a.m.

1 tomorrow, those who are interested can join us at Room
2 126 here in the Capitol Building. Is a half an hour
3 really long enough to do a tour of the Capitol? Okay, I
4 just wanted to clarify. At 9:00 a.m., then, we will
5 convene the meeting and we'll start with our one
6 outstanding committee report back, which will be the
7 Public Information Committee. Then, we'll move into the
8 Conflict of Interest Considerations for Staff and
9 Consultant Hires. We will have a Bagley-Keene Training,
10 which I understand will be led by our staff counsel,
11 Kirk Miller, so we'll be doing that before the lunch
12 hour on Friday. After we break for lunch, which I
13 anticipate will be around noon tomorrow, we will have
14 Doug Johnson from the Rose Institute, he will be
15 presenting on Redistricting Matters, including Technical
16 Considerations, Demographic Matters, and Outreach
17 Strategies. Around 2:00, we will begin our discussion
18 of Schedule, Operation, and Location of Future Meetings,
19 based on the fact that today we'll be getting more
20 details on the projects for what our Educational
21 Workshops and other types of events, how those are being
22 calendared. And then, later in the afternoon, we will
23 move into public comment for items not on the agenda,
24 and close out the day with the summary of our Commission
25 Highlights and Accomplishments.

1 We have a little bit of extra time that is built
2 into tomorrow's agenda to allow us some flexibility
3 again because we are trying to schedule meetings with
4 folks in Sacramento that we need to be in contact with,
5 including the Attorney General's Office and the
6 leadership of the Legislature, so if we do have any
7 movement on those appointments, we will revise the
8 agenda accordingly.

9 With that, any questions on the detailed agenda?
10 Great, so let's transition and Commissioners should have
11 a piece of paper that says on it "Draft Meeting
12 Procedures." So, the background for this is that I
13 received quite a bit of feedback from both
14 Commissioners, and I believe we received some public
15 comment, as well, as to our ability to move through our
16 meetings efficiently and effectively, and rather than
17 spend a lot of time becoming absolute experts in
18 Robert's Rules of Order, I worked with Kirk Miller to
19 develop some proposals on how we could clarify some of
20 the issues that we've been having procedurally during
21 the meetings. So, with that, I'll run through this and
22 then would like to open it for feedback.

23 So our Draft Meeting Procedures and, again, this
24 is just a draft, that we would start as we have today
25 with welcoming comments from the Chair, that we would

1 run through the description of the expanded agenda and
2 the timing of the various discussions, much as we've
3 done today, and that our procedure for public comment is
4 as follows, which reflects previous conversations and
5 decisions we've made: Comments from each public member
6 are limited to five minutes, again, as we move forward
7 in the process we may be revisiting this; as the desire
8 for public comment becomes greater, we may have to move
9 to a three-minute time horizon, but for now, five
10 minutes is what we've agreed on, that we offer
11 opportunity for public comment before voting on each
12 individual agenda item, except as described in (C) which
13 is below, "Prior Opportunity to Comment." When a matter
14 was discussed in a committee and is coming before the
15 full Commission for a vote without substantial change
16 from what was approved in the Committee, no further
17 comment would be taken.

18 In regards to items not on the agenda, and this
19 would need to be in addition to this proposal in this
20 write-up, that we would be entertaining items not on the
21 agenda; the public comment would come at the end of the
22 close of every business day.

23 For motions, the clerk will record all motions
24 as they are made by Commissioners. Immediately after
25 the motion is made, the Clerk would read the motion back

1 to us, to ensure that we're all on the same page about
2 what motion is on the floor, and we can confirm that
3 it's correctly recorded. After the wording is
4 confirmed, discussion will be open and, in the event we
5 do have amendments, we would follow the same procedure,
6 we would give pause so that the Clerk could read back to
7 us the amendment and then we would have our discussion
8 following that. So, I would invite feedback from others
9 on any suggested edits to this. I would say what I
10 would like to come out of this conversation with is any
11 tweaks that we want to implement for this meeting, but
12 that we could revisit this at the close of tomorrow's
13 session to see if there's any lessons we've learned that
14 we would want to incorporate for March.

15 COMMISSIONER DAI: I think this is great. I
16 would just say that we should make sure there is a
17 second on our motion before we move forward.

18 COMMISSIONER WARD: I'm sorry, Commissioner Dai,
19 I couldn't hear you. A second what?

20 COMMISSIONER DAI: That a motion is actually
21 seconded before we go through the trouble of reading it
22 back.

23 CHAIRMAN GALAMBOS MALLOY: And in response to
24 that, I will also say that we've gotten feedback from
25 staff, it has been very difficult for staff and for the

1 clerk to actually hear who is seconding the motion, so,
2 as Chair and Vice Chair, we will try and really be
3 tracking that, but those of you who are making seconds,
4 I would invite you to really make sure that your voice
5 is heard.

6 COMMISSIONER WARD: I had a comment,
7 Commissioner. This is great work, thank you so much for
8 putting this together. I was curious, though, as to the
9 public comment that is open for agenda and non-agendized
10 items, that's only going to happen at the end of the
11 day? Then, I'm just wondering, since the public
12 feedback was that they'd like to know when it's going to
13 happen so that they can just show up for that, make
14 their comment and leave, and being that our ending times
15 are so fluid at the moment, would it be better to bump
16 that up to the start of the business meeting and then
17 not have it at the end?

18 CHAIRMAN GALAMBOS MALLOY: My thinking behind
19 this is that, as we move into the coming months, we will
20 need to be increasingly more efficient about how we move
21 through our business meetings. We will need to
22 potentially not have them last three and four days, but
23 to compress them in order to accommodate the many
24 different other events that we will be appearing at. It
25 is very difficult as a Chair to plan an agenda with an

1 unknown of how long public comment will happen at the
2 beginning because of the fact that the agenda is not
3 just built around ourselves and our discussions, we're
4 also inviting trainers, consultants, other speakers,
5 etc. So, point well taken in terms of the public
6 needing to know when their public comment would be best
7 integrated into the agenda. What I would suggest is,
8 then, we have a standing time towards the close of
9 business where we transition into public comment, even
10 if we have not reached the point in the agenda that we
11 had hoped to, but that way it's clear for members of the
12 public when they can show up and have their opportunity.

13 VICE CHAIRMAN FILKINS WEBBER: I certainly
14 agree. Just in some of my public participation at
15 various meetings, on occasions in which certain agenda
16 items have run long, and due to circumstance of time,
17 especially since most City Council meetings occur at
18 night, they would then push up non-agendized items to a
19 particular designated time. And I certainly agree that
20 we, if the public comment runs out within a half an
21 hour, we could choose to get back to our regular
22 scheduled business, or adjourn the meeting for the
23 following business days. So, if we considered proposing
24 something around 4:00, or 3:00, I certainly concur on
25 that, and I think that's good for the public to be aware

1 of that. Thank you, Commissioner Ward.

2 CHAIRMAN GALAMBOS MALLOY: Any other general
3 feedback? Commissioner Yao.

4 COMMISSIONER YAO: On the public comment, a
5 couple thoughts, one is I think at the beginning of the
6 meeting we probably should entertain public comment
7 because most of the people show up in time for the
8 meeting because they would want to have the opportunity
9 to address us, and not offering that probably is not
10 real appropriate. And also, after a long break, like
11 right after lunch, we probably should open it up for
12 public comment and, if you so choose to do it at the end
13 of the day, that's fine, too. These meetings obviously,
14 we're trying to get something done, but at the same
15 time, it is a public meeting and not getting public
16 input is an issue, or not giving them convenient time
17 for public input. On Item number 8, about the five
18 minutes vs. three minutes, an acceptable practice is to
19 ask for how many speakers do we have, have a show of
20 hands from the public, and if you have fewer than six
21 people, then maybe proceed with the five minutes per
22 speaker; if you have any more than that, then
23 automatically jump to a three-minute thing. And the
24 Chair always has the option of allowing the speaker to
25 go beyond the standard amount of time to speak. So,

1 thank you.

2 CHAIRMAN GALAMBOS MALLOY: Excellent. So then,
3 my suggestion would be, for today, because of the timing
4 of our meeting with the Governor that's coming up here
5 fairly quickly, we have about 15 minutes if we want to
6 entertain public comment, which we can do. And I will
7 work on tomorrow's agenda, I say let's try something
8 different, let's try doing the public comment later in
9 the day and, then, at the close of the business meeting
10 tomorrow, we can set in place what we'd like the
11 procedures to be, moving forward.

12 So, with that, I would like to ask if there are
13 any members of the public who would like to make comment
14 on items not on the agenda. Excellent. And just to
15 check, I think I saw three hands in the audience? We
16 have four, perfect.

17 MR. BERNHARDT: Good morning. My name is Tony
18 Bernhardt. I am the former County Clerk from Yolo
19 County and, though retired, I have been tracking your
20 activities with some interest. When I saw the draft for
21 the RFP yesterday on the Web, I was moved to come in. I
22 have just a few comments. I prepared a memo which I
23 distributed to the Commissioners, so I just wanted to
24 highlight a couple of things. My big concern has to do
25 with, as we move towards the technical part of the

1 process that we don't lose sight of the impartiality
2 element. The portion of the RFP that points at
3 impartiality as only one-fourth of 10 percent at the end
4 of the RFP, and I would recommend that it would be
5 expanded, maybe even made a separate section, and that
6 experience from any potential bidder would be, with
7 independent Commissions, be rated a little bit more
8 prominently than experience for partisan agencies.
9 You're also - I'm just concerned with partisan creep, I
10 guess, and so I would also - my suggestion would be
11 that, in looking at the applications for the proposals,
12 that you request the partisan make-up of the management
13 and staff of the different bidders, as well. And I
14 guess one thing that jumped out at me was the
15 possibility for litigation at the end of the whole
16 process, and to inquire of potential bidders whether or
17 not their work has led to litigation because, they may
18 be cheaper, but that may not be much help in the end.
19 And I guess the last item which is really the most
20 important is that you consider expanding the
21 exclusionary criteria that applied to the Commissioners
22 to bidders, particularly those who may be coming from
23 out of state because my guess is that you will receive
24 some inquiries and proposals from people who have been
25 out of state, and if you've been working on

1 reapportionment for the State Legislature for Arkansas,
2 for example, or doing partisan work in other states,
3 that would certainly be of interest, I think, and my own
4 preference would be to see you guys adopt the same
5 exclusionary criteria for consultants as for you guys,
6 yourself. So, those are my comments, and you have my
7 memo which goes into a little bit more detail. Thank
8 you for your attention.

9 CHAIRMAN GALAMBOS MALLOY: Thank you, Mr.
10 Bernhardt. I'd like to invite the next member of the
11 public, Mr. Johnson?

12 MR. JOHNSON: Good morning. Douglas Johnson
13 with the Rose Institute of State and Local Government.
14 Unfortunately, I can't stay for all of today, so if you
15 might indulge me, if I could have just three quick
16 comments on the invitation to bid, very general things?
17 One is, on the scoring matrix, that is a traditional
18 government thing and most government contracts have
19 that. My understanding is it's not required, that you
20 don't have to use a point system, so you might inquire
21 of staff if you can just take a look at the whole
22 proposal, as entirety, and not have to restrict yourself
23 to assigning points and percentages and priorities, more
24 look at the whole proposal. Related to that, something
25 that is made possible if you do break out of that, is I

1 would suggest that you do menu pricing, have proposers
2 offer services and prices for those services, and not
3 just say, "Here's our package, take it or leave it,
4 here's are altogether price." That would give you the
5 possibility of looking at putting together kind of the
6 best of both worlds if you have two or three proposals,
7 as well. And I guess that's the third point, is give
8 yourself in the wording the power to choose certain
9 pieces from the menu. And then, the only other pieces
10 on public comment, I would definitely encourage you to
11 set times through the day where you just say, at a time
12 certain, we're going to open up the floor to public
13 comment. That would allow people - you know, it's
14 really hard to get here and spend all day here,
15 especially when you're traveling and you guys may go
16 from 9:00 to 8:00 or something like that. It would be
17 nice to have people knowing that, at 10:30, the
18 Commission is going to take a pause and take public
19 comment from people who can't be here at other times.
20 So, that would be my suggestion on that front. Thank
21 you very much.

22 CHAIRMAN GALAMBOS MALLOY: Thank you, Mr.
23 Johnson. I would like to invite the next member of the
24 public.

25 MR. LAPSLEY: Madam Chair, good morning,

1 members, thank you for the opportunity to be here this
2 morning. My name is Rob Lapsley. I represent the
3 California Chamber of Commerce and I serve as the Vice
4 President and Political Director. The California
5 Chamber of Commerce has 15,000 members, we represent
6 over one million employees in California. We have 450
7 local chambers that we work with, who are affiliates of
8 the State Chamber, and all of us have been a strong
9 supporter of this process. We are grateful for what you
10 are doing in taking the time in your lives to come in
11 here and conduct the process that is critical to the
12 future of California. We also are proud to say that we
13 were strong supporters of Proposition 20 and even more
14 proud to say that we were strong opponents of
15 Proposition 27. Thank you for what you are doing. I am
16 here today for just a few brief comments, but ones that,
17 as we watch this process unfold, we wanted to just share
18 so that we are on the record this morning with you in
19 what is now a critical time for the Commission to move
20 forward. We've been very grateful, as well, for the
21 work of Elaine Howell and your Executive Director, Dan
22 Claypool, for getting you to where you are today, but
23 you are now at a critical time for making a couple of
24 key decisions. And the decisions as we see them, and
25 have followed closely, focus on the ability to, 1) be

1 transparent as you select the staff process;
2 transparency is key. I have been through two
3 redistrictings in my previous capacity as the head of a
4 caucus in 1991 when we dealt with our redistricting
5 process and ultimately pushed it to the courts, and then
6 I also served as Undersecretary of State for eight years
7 and watched the redistricting process during that time
8 in 2001. In 1991, results were clear, the courts came
9 out with one of the fairest systems we ever saw, that is
10 our hope with the Commission, we are confident that will
11 happen. In 2001, frankly the results speak for
12 themselves, one of the biggest gerrymanders we ever saw,
13 and we are confident that that will not happen as the
14 Commission does its work. However, staffing is key.
15 And our hope with this process is that there will be a
16 balance as you figure out your ways to execute this so
17 that any perceptions of whether there is partisanship,
18 or misunderstandings, or anything from both sides, will
19 be addressed right up front and there will be in your
20 process the ability to balance how the lines get drawn
21 and, if it's a peer review process, how that process
22 will take place so everyone outside of this room and the
23 audience members is huge. I know you don't see them
24 necessarily in your meetings, but the audience is huge
25 and the stakes, as we know, are the most important, but

1 everyone is watching. And how we conduct that balance
2 will serve to drive this process forward to see whether
3 or not there is going to be an uproar, honestly, or not
4 in this process. So, it's a King Solomon decision, I
5 shared kind of that perspective with Mr. Claypool last
6 week. And we know that you're up to that task, but it
7 is key, so we would ask that that transparency and
8 balance in the decision of who you hire be uppermost in
9 your minds as you go through that. Lastly, please know
10 that, as you work through making that decision of who
11 you bring in, not to be constrained by the bureaucratic
12 box, you have a large coalition behind you, you have a
13 large coalition who believe in you, you have a large
14 coalition who are ready to work for you. If the
15 Legislature and the Governor need to provide additional
16 resources, we are ready, willing, and able to move
17 forward on your behalf, in your support, to try and get
18 you the resources you need, to be able to provide that
19 balance, provide that transparency, and do the jobs that
20 obviously the people of California are entrusting you to
21 do, and we know you will do. So, please know that. We
22 are ready and willing and able, and we will do
23 everything we possibly can to do that. It is only fair,
24 given the timelines that you have to deal with. So,
25 again, bureaucracy, budget, we're ready to go to help,

1 transparency is everything from our perspective as you
2 make your decisions, and then the balance as you choose
3 your staff so that we don't have to fight over the
4 perceptions of any potential partisanship. Again, thank
5 you for what you are doing. We are grateful. We look
6 forward to your results. We know you will be
7 successful, and we are here to help you achieve that.
8 So, thank you.

9 CHAIRMAN GALAMBOS MALLOY: Thank you, Mr.
10 Lapsley. I would like to invite the next member of the
11 public. I believe we have two more folks in the queue?

12 MS. KOPEL: Good morning, Madam Chair and
13 members of the Commission. My name is Malka Kopel and I
14 am from California Forward and I wanted to make a few
15 comments today on behalf of our organization, the League
16 of Women Voters of California, and California Common
17 Cause. And our comments are with regard to public
18 access, transparency, and balance, as well. We first
19 want to say that, as strong supporters of Proposition
20 11, we want to pledge our support to this Commission.
21 We want your work to be as successful as you want it to
22 be, and anything that we can do to help with it, please
23 let us know. Regarding public input, we know that you
24 are committed to establishing practices demonstrating
25 that public input is valued and welcomed, and we

1 strongly support that value and approach. As has been
2 said before, there are many people who are watching,
3 they are not all here today, but they're out in the
4 blogosphere and viewing electronically and there are
5 many people interested, as we are, in helping this be a
6 success. The ability of the public to participate in
7 the process was one of the main elements of Proposition
8 11 and we know that you know that. Because supporters
9 want the results of the process to be fair, we also want
10 to encourage balance as you move forward with your
11 hiring practices. It is important for the Commission to
12 demonstrate a staff hiring process that reflects the
13 same principles that applied to your selection,
14 including diversity, impartiality, and relevant skills,
15 and partisan balance. We have a few suggestions that we
16 want to share with you regarding some of these items,
17 first are the results with regard to public input. As
18 has been said, it's important for people who are here in
19 person, but also people participating from afar, to
20 understand ahead of time what will be discussed and
21 when, and very much appreciate you giving us timed
22 agendas and allowing the public to know, as far as you
23 know, when things will be discussed, and we appreciate
24 that very much, and also knowing in advance when the
25 public will have an opportunity to comment is also very

1 helpful. We would encourage you to provide methods for
2 people not able to attend in person to participate
3 remotely. Obviously, this would include taking
4 suggestions for maps and written testimony
5 electronically, but also we would encourage you to
6 consider opportunities for people to participate related
7 to the issues that you are deliberating currently. For
8 example, we would encourage you to consider allowing
9 opportunities during the meeting for those watching on
10 the livestream to comment, perhaps at the same time that
11 the public is commenting. It could allow you the
12 opportunity if you chose to take it to respond to
13 questions, but it also could be an opportunity for
14 people to weigh in. We also encourage you and
15 understand the challenges and appreciate what you've
16 been doing to work around those challenges to, as much
17 as possible, post presentations ahead of time,
18 Powerpoint presentations, or handouts that will be given
19 out in person, so that people who are watching can
20 better understand what is happening. And, of course, as
21 soon as possible after the meeting, posting transcripts
22 or the video, or, if that's not possible, at least a
23 summary of what happened. And I understand the
24 challenges you're having with your website, appreciate
25 that, but it is important for people to know what

1 happened if they couldn't be there. I also wanted to
2 say a couple of things about transparency. Prop. 11, as
3 you know, particularly around transparency of hiring and
4 staff, as you know, Prop. 11 specifically requires the
5 Commission to establish clear criteria for the hiring
6 and removal of staff for communication protocols and for
7 Code of Conduct, so, as much as you can, making that
8 information publicly available will be helpful. That
9 includes, as you have been making it available, Requests
10 for Proposal, so that people understand - not only the
11 people who are planning to respond to that, but that
12 others understand what you are looking for and how you
13 are making your decisions.

14 CHAIRMAN GALAMBOS MALLOY: I just want to note,
15 we're at five minutes. Given our imminent appointment
16 with the Governor's Office, if you could begin to wrap
17 your comments?

18 MS. KOPEL: Yes, and I would also encourage you
19 to post staff bios on the website, as well as you have
20 for Commissioner bios, and then, as far as balance in
21 staff, consider including both Republicans and
22 Democrats, and demographic diversity among your staff,
23 particularly Map Drawers or Technical Consultants and
24 Legal Counsel. Thank you.

25 CHAIRMAN GALAMBOS MALLOY: Thank you. Welcome.

1 We have our last member of the public commenting for
2 this moment.

3 MR. RYAN: Good morning, Madam Chair and members
4 of the Commission. My name is John Ryan, I'm a Senior
5 Government Major at Sacramento State, I'm also a member
6 of the California Young Democrats. I'm here this
7 morning to express comment for Jess Durfee, he is the
8 Chair of the California Democratic Party's Redistricting
9 Subcommittee. Unfortunately, Jess couldn't make it this
10 morning, so he's asked me to enter his comment for him.
11 So, Jess' letter reads: "Dear Members of the Citizens
12 Redistricting Commission: My name is Jess Durfee, I am
13 the Chair of the California Democratic Party's
14 Redistricting Subcommittee, as well as the Chair of the
15 San Diego Democratic Party. At your last meeting, there
16 was some discussion about who you might hire as your
17 Technical Consultant. Two names mentioned were Karin
18 MacDonald from the Statewide Database and Douglas
19 Johnson from the Rose Institute. The Commission may be
20 tempted to try to have their cake and eat it too, to
21 hire both MacDonald and Johnson. I am writing to
22 express that Democrats would strongly oppose such an
23 arrangement. The simple fact is that hiring a non-
24 partisan and Republican does not equal bipartisanship
25 and is both unfair and inconsistent with the Voters

1 First Act. MacDonald submitted a letter on February 14th
2 responding to questions raised by members of the Los
3 Angeles Republican Party. Regardless of what weight the
4 Commission gives that letter, a decision by the
5 Commission to consider someone who is a registered
6 Declined to State and self-identifies as an Independent
7 as the Democratic representative on its line drawing
8 staff is unjust on its face. Such a motion is
9 particularly concerning given that there is no dispute
10 Johnson is a Republican. Not only is he a Republican,
11 he is a Republican with strong ties to Republicans. In
12 my opinion, the fact that he is a former employee of a
13 member of the Republican Congressional Delegation should
14 disqualify him if the Commission wishes to live up to
15 not only the letter, but the spirit of the law.
16 Regardless, if he were included as a Technical
17 Consultant, the Commission must include a registered
18 Democrat with equally strong Democratic credentials.
19 Further, Johnson's Republican ties extend beyond
20 California. His business lists the Florida State Senate
21 as a client. The 2001 Florida Redistricting was one of
22 the most partisan gerrymanders in the country, indeed, a
23 Federal Court found the Republican controlled
24 Legislature intended to maximize the number of
25 Republican Congressional and legislative seats through

1 the redistricting process, and use its majority power to
2 control the types of Bills and Maps that would be
3 considered in the House and Senate. In a state where
4 Democrats outnumber Republicans by more than five
5 percent in Florida, Republicans outnumber Democrats in
6 the State Senate by more than 2:1. The problem was so
7 severe that, when citizens qualified two initiatives to
8 reform the redistricting process, the Florida Senate
9 tried to put a sham proposition on the ballot to act as
10 a poison pill. The courts and the voters saw through
11 the act and passed the citizen initiative by more than
12 2.5 million in opposition, paid for by the Florida
13 Republican party. The Commission needs to be extremely
14 careful not to create an impression that its staff is
15 dominated by Republicans. This is particularly true,
16 given its decision to hire Rob Wilcox as its
17 Communications Director. Wilcox is a former Legislative
18 Republican staffer and candidate for State Assembly, a
19 staff that include two former Republican Congressional
20 Legislative staffers would rightfully raise severe
21 concerns for Democrats. If you want to hire a Democrat
22 and a Republican, fine. In conclusion, if you want to
23 hire a non-partisan, fine, but the notion that hiring a
24 non-partisan and a Republican is in any way balanced or
25 consistent with the purpose of the Voters First Act is

1 wrong." Thank you for allowing me to address the
2 Commission since Mr. Durfee could not be here, and I
3 appreciate your efforts in this project.

4 CHAIRMAN GALAMBOS MALLOY: Thank you, Mr. Ryan.
5 Are there any other members of the public who would like
6 to comment at this time on matters not on the agenda?
7 Seeing none, I will call this meeting into recess. We
8 will reconvene at 11:00 a.m. following our meeting with
9 the Governor. And our public comment for today will
10 come at the end of the day, and based on the agenda, I'm
11 anticipating that will be at about 6:00 p.m. Thank you,
12 we'll see you at 11:00.

13 (Recess at 9:36 a.m.)

14 (Reconvene at 11:03 a.m.)

15 CHAIRMAN GALAMBOS MALLOY: Good morning, it's
16 now 11:03. I'd like to reconvene this meeting of the
17 California Citizens Redistricting Commission after a
18 brief recess. During the recess, myself, as Acting
19 Chair, Vice Chair, Commissioner Filkins Webber, our
20 Chief Counsel, Kirk Miller, and our Executive Director,
21 Dan Claypool, went to meet with Ms. Alexis Wilson, she
22 is the Deputy Director of External Affairs for the
23 Governor's Office. I feel like it was a productive
24 meeting. The next steps coming out of that conversation
25 were that Alexis requested that we put in writing via e-

1 mail some demonstration of the different types of
2 challenges that we're facing in dealing with the
3 different agencies and departments, and then her role
4 would be to intervene on our behalf to ensure that our
5 Commission is given priority on the various challenges
6 we're facing, given our tight timeline for conducting
7 that work. So, I believe we have a point person on
8 staff who will be drafting that e-mail within the hour,
9 and we've appointed Dan as the direct point of contact
10 with this liaison to the Governor's Office. And with
11 that, I will pass it over to Dan to begin his report. I
12 would like it noted for the record that all
13 Commissioners are present.

14 MR. CLAYPOOL: Thank you. So, I'd like to give
15 you a little bit of information on what's occurred since
16 just last week, but actually I will go all the way
17 through the things that I had mentioned in my e-mail to
18 the Commissioners last week regarding the progress,
19 since the Claremont meetings, because that will bring
20 the public up to speed on our progress, as well.

21 Since Claremont, which is hard to believe was 12
22 days ago, your staff has worked all 12 days, and
23 continues to work hard on your behalf. As through
24 today, we've seen the completion of the draft for the
25 Invitation for Bid for the Line Drawing Consultant and

1 the Request for Information for gathering information
2 for hiring our Voter Rights Act Attorney. As of this
3 meeting, we have reviewed the draft IFB in the Technical
4 Committee and distributed the draft for public review
5 prior to having the document completed and distributed
6 by the Department of General Services. I think we will
7 be hearing - I hope we will be hearing - during our
8 Advisory Committee Summaries some type of estimate as to
9 when Department of General Services intends to release
10 that IFB and that RFI, but as in all things with State
11 Government, we have to wait until they're satisfied with
12 it before we will be given permission to release it to
13 the public for the solicitation of bids. We will
14 incorporate any changes from public comment or from the
15 Commissioners' review that are required and complete the
16 draft process of the document through DGS, and we're
17 looking for an early distribution of both documents next
18 week.

19 In preparation for the contracting cycle, I had
20 anticipated that the Commission would need to meet on
21 March 17th and 18th and 19th to review, and discuss, and
22 score those requests, in order to make an award and
23 complete the competitive bid process by the end of the
24 month. This was discussed with both the Chair and the
25 Vice Chair, as well as the Vice Chair for that meeting.

1 I believe that we're going to have a conversation
2 briefly after my address as to what we may have to do
3 because this review by the public, as well as DGS, is
4 extending the time that they're going to need to put the
5 actual Invitation for Bid and the Request for
6 Information out, it's going to push our timeline a
7 little forward on our review process, which means that
8 we may need to schedule an event in between. But,
9 again, that will be the Chair and the Vice Chair will be
10 discussing that.

11 With regard to the bid, it is important to note
12 that the Commissioners will need to make themselves
13 available for the earliest possible review of the
14 returned request so that the processes can be completed
15 as soon as possible, and awards made for these two
16 critical positions. A discussion of these contracts and
17 alternatives to the contracting process, if problems
18 arise, and our process for completing the contract
19 review and award, will be made in the upcoming Advisory
20 Committee Reports.

21 As I noted last week, we have discontinued our
22 efforts to obtain delegated authority for our contracts.
23 The process was simply too time-consuming for staff time
24 and we were provided a point of contact with the
25 Department of General Services to help facilitate the

1 organization's review and approval of the contracts that
2 we need to put into place to finish redistricting. This
3 would be a recommended area of change for the Commission
4 upon completion of this first Redistricting Commission
5 effort.

6 We continue to push our contract forward through
7 DGS for IT services, including a Web Designer,
8 Webmaster, and Desktop Support and Office Supplies. To
9 facilitate our efforts, we have identified three
10 Contract Specialists, Retired Annuitants with
11 significant contract experience, and procured their
12 initial services with Personal Services Contracts. This
13 is a preliminary contract while we attempt to get all
14 three hired on a full-time basis for approximately two
15 months. This would put us almost entirely through our
16 primary contracting phase. The most senior specialist
17 is Carol Umfleet, who has already given the Technical
18 Committee and Legal Committee a full briefing on the
19 contracting options available for the IFB and the RFI,
20 previously mentioned; the second individual is Oral
21 Washington, a Procurement Specialist; and the final
22 individual is William Rich, an IT Procurement
23 Specialist.

24 We also identified a Senior Legal Counsel,
25 Marian Johnston, who will assist the Chief Counsel on

1 the Commission by providing representation in
2 subcommittees when Kirk is unavailable, assisting in
3 training, and providing outside counsel when Kirk needs
4 assistance. Ms. Johnston has extensive State and
5 private experience, including a nomination to be a
6 Federal Judge. She will be working six months at half-
7 time.

8 We assisted in the completion of the planning
9 for the Educational Outreach meetings, using the Center
10 for Collaborative Policy. The planning phase took place
11 this week, including visits by Commissioners Ontai and
12 Aguirre for an all-day session on Friday in our offices
13 where the final logistics for the medium were set in
14 place. This includes a full schedule for where the
15 events are planned and the dates on which they will
16 occur, starting with March 12th in the Sacramento area.
17 We also assisted with the Center for Collaborative
18 Policy to provide 30 Public Input meetings. This topic
19 will be further discussed when the Advisory Committees
20 give their reports.

21 Our Communications Director reached out to the
22 alliance of groups that are supporting the Commission
23 through a conference call to determine how we can work
24 with the groups to maximize our effectiveness in the
25 outreach to California groups and communities. In

1 addition, Rob spent the week connecting with news
2 organizations, groups, and individuals to organize
3 support for our efforts in providing media training to
4 individual Commissioners. Rob is also trying to arrange
5 a meeting with the Director of General Services so that
6 we can obtain further support for our contracting
7 services.

8 Our Chief Counsel spent the interim time working
9 with members of our Legal Advisory Committee in the
10 review of candidates for the Voter Rights Act Attorneys.
11 Kirk also spent time identifying available trainers for
12 the Bagley-Keene Act requirements and Public Records Act
13 requirements. This included a discussion with the legal
14 staff and the Bureau of State Audits regarding the
15 possibilities of the provision of this training by that
16 organization one more time. Staff identified providers
17 for the Commissioners, required Ethics training and
18 Sexual Harassment training, we are currently setting up
19 online training for both sessions. We will provide the
20 information to the Commissioners in the week following
21 the session so that the training can be completed before
22 we start into the main meeting schedule for educational
23 outreach and public input. Now, we do have a provider,
24 I believe, for the Chamber of Commerce online service at
25 \$798.00, and I just got that information, and then I

1 believe the Sexual Harassment training may be for free,
2 but we'll keep you posted. Neither one of these
3 trainings are going to cost us a great deal of money.

4 The Chief Counsel and I met with staff from all
5 four Legislative Caucuses and a member of the Speaker's
6 Office. They reiterated the Legislature's full support
7 for the Commission and confirmed that the funding for
8 the Statewide Database was in place. They also asked us
9 to seek a Commission determination regarding how best to
10 fulfill the requirement to provide Redistricting
11 software to the public, as required by the Act. They
12 stated that the Commission could request funding for the
13 projects that it thought would best fulfill the
14 obligation and have that be part of the Commission's
15 budget. They also stated that the Commission could
16 suggest that projects it thought should be funded under
17 a line item in the legislative budget or some
18 combination of the two approaches were also
19 possibilities. We stated that we would bring these
20 ideas to this session of the Commission for a discussion
21 and decision and we have had a partial discussion of
22 that in the Finance and Administration Advisory
23 Committee.

24 We continue to search for selected staff beyond
25 Contracting for the retired Annuitants mentioned above,

1 this includes a Budget Officer that remains unfilled at
2 this time. For this position, we have continued
3 advertising for candidates and sent another e-mail blast
4 out to our interested persons, stating that there has
5 been a salary change, which was approved in our last
6 meeting. Fred Radcliffe of the Secretary of State's
7 Office will provide the resumes of candidates as they
8 arrive and we will review and respond to them until the
9 position is filled. Rob Wilcox took the lead on
10 determining the availability of the Coro Fellows
11 suggested to us. In our initial search online, we found
12 that the Coro Fellow application process for 2011-2012
13 is closed and that it does not have a program for
14 Sacramento. Given our timeframe, no further inquiries
15 were made or considered necessary. However, during this
16 session, we've been approached about the possibility of
17 obtaining a Coro Fellow from the Los Angeles area and we
18 are currently determining whether this would be
19 feasible, and she is, in fact, sitting in my office
20 right now working on that. Her name is Rani Woods, she
21 is an extraordinarily engaging person and I told her she
22 was already staff, but unpaid staff.

23 Raoul Villaneuva and Christina Shupe have had
24 discussions with UC Davis and CSU Sacramento for
25 assistance with our Web needs that follows a parallel

1 path to our contracting efforts with DGS. In addition,
2 they have discussed internships with CSU Sacramento and,
3 in a short period of time, have two interested
4 individuals. The earliest availability for the student
5 interns, however, is March 28th. We are also reaching
6 out to community groups for volunteers who might be able
7 to augment our staff. This also, I should just put in
8 here, it's not part of what I've given you, but this
9 includes a conversation we had earlier with Mr. Lapsley
10 and I'll discuss that below.

11 We continue to receive significant assistance
12 from the Secretary of State. Our only area of concern
13 was a logistical difficulty that arose regarding the use
14 of our website. We lost access to it for posting public
15 comments and Commission documents for approximately two
16 days because of an election in Southern California. The
17 website remains a primary area of concern for staff.
18 Until we receive our approval for website authority and
19 assistance, we're augmenting our posting capabilities by
20 using California Forward's site, which they graciously
21 offered to us, and launching a Facebook page to post
22 documents.

23 We completed a letter to the Governor's Office
24 and forwarded it with our Chair's signature last
25 Thursday, we requested a high level contact to the

1 Governor's Office to act on our behalf when state
2 agencies or departments are hindering our ability to
3 complete essential tasks such as contracting. The
4 meeting we had today was, as our Chair said, quite
5 productive, and we have that contact and so I believe
6 that this was a fruitful letter to send forward.

7 We have completed the Code of Conduct
8 requirement for our staff and it is being reviewed by
9 our Chief Counsel. Rob Wilcox has completed the
10 communications protocol. The only remaining component
11 required by the Act is a procedure for hiring and
12 dismissing staff. This process will be completed this
13 following week and the draft document will be forward to
14 Commissioners for their review and comment. When that's
15 over, I intend to put that in a policy manual and start
16 adding the different policies that we've agreed on in
17 this Commission so that, when this Commission hands its
18 work off to the next Commission, they'll have a good
19 basis for starting their meetings.

20 Finally, we had a meeting with Rob Lapsley, Vice
21 President and Political Director for the State Chamber
22 of Commerce. Mr. Lapsley stated that the Commission has
23 the continued support of the chamber, he also offered
24 immediate support by trying to find staff assistance,
25 and Rob Wilcox has taken the lead in working with the

1 Chamber on behalf of the Commission.

2 So, if we had had an extra day, we could have
3 added an extra few items, but that is what we've been
4 doing since we last saw you. Any questions?

5 CHAIRMAN GALAMBOS MALLOY: Questions from the
6 Commissioners?

7 MR. CLAYPOOL: I actually - can I just make a
8 point of clarification? I said California Forward
9 because that's who I thought this was going through, but
10 Rob has told me our documents are going up on the
11 RedistrictingCalifornia.org through Common Cause, so
12 both great organizations.

13 CHAIRMAN GALAMBOS MALLOY: Excellent.
14 Commissioner Yao.

15 COMMISSIONER YAO: Mr. Claypool, the portion
16 that discussed the redistricting software being
17 available to the public, what's proposed is to include
18 that as part of our funding request, additional funding
19 request to them, and for us to acquire or provide that
20 software to the public? Is that the understanding?

21 MR. CLAYPOOL: Actually, when we met with them,
22 and Kirk was in the meeting and he can correct me where
23 he needs to, but the understanding as I understood it
24 was that the Legislature looked to this Commission as
25 being a body that was already looking for ways to

1 provide outreach, and they explained that they
2 understood that it was their responsibility to provide
3 this public software and this access. But, if we were
4 looking at that process already, and we agreed as a
5 Commission that it was a good idea to give direction to
6 where those resources should go, that we could give them
7 those suggestions and then either fund it through our
8 own budget, in which case they would work diligently on
9 our behalf to ensure that we receive that funding, or
10 ask them to fund it through their own budget, based on
11 our suggestion. And I think that the offer was made
12 primarily because it relieved the Caucuses and the
13 Speaker's Office of having to go out and devote staff
14 services to something that this Commission was already
15 doing.

16 COMMISSIONER YAO: So is the Technical Advisory
17 Committee going to take on this task in terms of
18 identifying what software?

19 COMMISSIONER DI GUILIO: That was something we
20 are going to report out today and I think, just for a
21 point of clarification, it's not so much software that
22 we as a Commission will provide, but the options also
23 include - there are a number of other organizations and
24 applications that we had some suggestions that would
25 provide that public access and it would be a matter of

1 whether we would financially support those, we would vet
2 those institutions or organizations, individuals, and we
3 could provide a -

4 COMMISSIONER YAO: Okay, as long as you're going
5 to cover it later on, let's defer to that. I just need
6 to understand as to what exactly that means in terms of
7 what you had reported on. So, thank you.

8 CHAIRMAN GALAMBOS MALLOY: Other questions or
9 comments regarding the Executive Director's Report?

10 COMMISSIONER BLANCO: Just clarification about
11 the meeting between our Communications Director and
12 Director of General Services. What's that item? I just
13 wanted to know more.

14 MR. CLAYPOOL: Actually, I could let Rob talk
15 about this. Rob actually had a relationship with the
16 former Acting Director because there is no permanent
17 Director at this time, and so Rob reached out to him
18 through his contact to say, "We're having problems, can
19 we get a meeting with you?" We had one scheduled and we
20 were going to go to it, but then it was right around the
21 time that the Governor's order for the freeze was
22 imposed and our meeting was canceled. I think it would
23 still be a fruitful meeting to have, but at this time,
24 with the - and we will still pursue it - but with the
25 discussion that we had with the Governor's Office, if

1 the Governor's Office makes the communication with the
2 Director of General Services, or the Assistant Director,
3 it may be a meeting that's unneeded because we've
4 reached out to a higher authority.

5 CHAIRMAN GALAMBOS MALLOY: Thank you. Other
6 questions or comments on the report?

7 COMMISSIONER DI GUILIO: This is just a
8 generalization, but this weekend, I was trying to
9 organize the massive amounts of paperwork that I've been
10 receiving, and I would like to suggest for any documents
11 that we distribute with the Commission, it would be very
12 helpful to have dates on them and who they're from, so
13 if we needed to backtrack to find out where the source
14 of it was, as well as dates, just the basic information
15 that would help us to document and keep track of things,
16 that's just a suggestion for staff and for fellow
17 Commissioners.

18 CHAIRMAN GALAMBOS MALLOY: Thank you, point well
19 taken. I had one additional suggestion. As you look
20 into volunteers, Fellows, etc., I'm thinking about the
21 timing and I know that we're coming into this late into
22 the quarter or semester, basically the academic year,
23 and spilling into the summer. So, I'm interested in
24 exploring PhD candidates that are doing work in Policy
25 or Political Science, who might either be - and it could

1 be Masters students, as well, who are between their
2 first and second year, looking for internships, looking
3 for subject matter for their theses. I have - I can
4 forward to you - I have a spreadsheet that I've
5 collected some of the main Political Science and Policy
6 Programs across the state, and I'm wondering if we can
7 just task staff with doing some outreach to find out if
8 that's a possibility.

9 MR. CLAYPOOL: And I received that spreadsheet
10 and will take a look at it.

11 CHAIRMAN GALAMBOS MALLOY: Okay, great. Are
12 there any other questions or comments on the Executive
13 Director's Report? If not, we will transition into our
14 report backs from our Advisory Committees, and first up
15 will be the Finance and Administration Report back, to
16 which I will defer to my right, Commissioner Dai.

17 COMMISSIONER DAI: Thank you. The main
18 substance of the Finance and Administration Advisory
19 Committee's discussion was, of course, around a pro
20 forma budget as we need to submit a Request for
21 Augmentation to our budget. We also discussed staffing
22 and IT services, and all that, most of which have
23 already been covered in Mr. Claypool's report, so I
24 will not go through that. So, without further ado, Mr.
25 Claypool, do you have a new version of the Pro Form

1 Budgets?

2 MR. CLAYPOOL: Actually, I had discussed this
3 with the Chair and, no, I didn't have time to attach all
4 of the different things that need to be attached. Also,
5 there have been some changes and some additions that I
6 haven't had time to add in, I would hope to be able to
7 defer this until tomorrow at some time to go through it,
8 I know it's going to tighten it up, but I would rather
9 give you something that was a little more polished than
10 to just kind of wing it through what we did yesterday,
11 so -

12 COMMISSIONER DAI: Okay, in that case, let
13 me just provide a high level summary and then we can
14 defer the rest of the report until later. Basically,
15 what Mr. Claypool provided us was a line by line listing
16 of projected expenses and broken out by fiscal year.
17 We did make some changes, the Committee had some
18 suggestions, we asked Mr. Claypool to be more explicit
19 about some of the assumptions which we as a Commission
20 may choose to adjust. These projections include the
21 costs for staff, of course, the cost for us as
22 Commissioners, travel expenses, communication budget,
23 and a whole series of contracts, many of which have
24 been discussed in the other Advisory Committees.

25 Basically, to net this out, the total projected

1 expenses for through fiscal 2011-'12, which end on June
2 30th, 2012, was a little over \$6 million. As you know,
3 we had \$2.5 million coming in to this year, and we
4 already - this will clearly provide the justification
5 for the one million dollar augmentation, which would
6 give us \$3.5 million through the end of this fiscal
7 year, and then we'll need to make another request for an
8 additional augmentation. Like I said, there are still a
9 couple of things that we need to make some adjustments
10 for, there were a couple items that weren't accounted
11 for, for example, we had since some discussion about the
12 need to have a line item to cover hiring social
13 scientists and political scientists, other experts
14 beyond our line drawing consultants and beyond our
15 Voting Rights Act attorneys. So, these items are going
16 to be added to the budget.

17 There are some assumptions in there about
18 staffing and one of the discussions that we need to take
19 up as a full Commission is to consider what kind of
20 staffing we will need beyond August, what kind of
21 skeleton staff we'll need moving forward, considering
22 the possibility of litigation and potentially needing to
23 respond to Public Records Requests. Of courses, there's
24 a report that the Commission is obligated to write based
25 on our experience as the first Citizens Redistricting

1 Commission, so we'll need staff to complete that, as
2 well. So, that's something that we should all be
3 thinking about and be prepared for a discussion tomorrow
4 on that. So that, I think, is the broad brush of it.

5 The other, in terms of the process, there will
6 need to be an initial letter to the Department of
7 Finance that, Mr. Claypool, we were going to shoot for
8 today, is that still going to happen?

9 MR. CLAYPOOL: No, and, clearly, not because - I
10 have to get the information for the consultants, as well
11 as I needed to speak with Commissioner Yao about the
12 adjusted amount for the travel and so forth. We're
13 really looking for getting that letter out to you in
14 time for you to review it and send it on, it's not a
15 long letter, it may have to be something that, after we
16 get these documents, the letter comes to you next week
17 and you can take a look at it. It is something that is
18 for my signature as we roll it forward and so I'm not
19 going to need a Chair's signature for it, but I'd like
20 you to see it and see what's being put out in your name,
21 and then that will be the first one, that is the letter
22 to release for the \$1 million, as you said. And then
23 the second letter is going to look a lot like it, as a
24 matter of fact, we're not going to recreate a lot of the
25 wheel, but it will be what's called a "Finance Letter,"

1 have a similar format, and that's obviously for the
2 augmentation.

3 COMMISSIONER DAI: And then --

4 CHAIRMAN GALAMBOS MALLOY: May I ask one
5 question? Mr. Claypool, would it be reasonable to
6 assume that we would have the revised budget by 9:00
7 tomorrow morning?

8 MR. CLAYPOOL: Yeah, as long as - and I'm going
9 to look to my Commissioners who are going to give me
10 that amount for my consultants, I'm looking around so
11 that I can stare at you - and get that amount of money.
12 But also, you know, I had to talk with Rob about the
13 media, the personal media and, again, I need to adjust
14 you travel budget up because, if you can believe it, in
15 that budget I had you low on travel. So, thank you.

16 COMMISSIONER DAI: So there are a couple
17 adjustments and as soon as - I believe the Department of
18 Finance has given us a couple of extensions now, they
19 understand what we're going through, but we need to get
20 that money released as soon as possible.

21 The final item was we had asked to kind of look
22 at our burn rate so we get a sense of what we're
23 spending, we knew it was about \$100 last time, so we got
24 a little better picture of it this time. Basically the
25 Expenditures Report shows total obligations, contracts

1 out already of about \$80,000, just to give everyone an
2 idea. Now, this does not, however, reflect staff
3 salaries, any of the Commission reimbursements, or per
4 diems, so that's not a totally accurate picture, but I'm
5 sure this will improve as Mr. Claypool makes some
6 progress on getting a budget in place.

7 MR. CLAYPOOL: It also has, as you well know,
8 that we have many contracts out in place right now with
9 individuals on the personal procurement contractors for
10 under \$5,000, so it's going to deplete it. My statement
11 to the Finance Administration Advisory Committee was
12 that I do not believe that it sums the total more than
13 \$143,000, so I believe that an accurate number for you
14 to look at is that we would have somewhere in the
15 neighborhood of \$2.2 million remaining in that fund.
16 And the only other thing I would like to clear up is
17 that I had a sum in our budget for \$180,000 for rent
18 that I said I wasn't sure about. Know that the Governor
19 has provided that, and provided it rent-free, that was
20 the basis, that's the gift that was given to us by the
21 Governor's Office.

22 COMMISSIONER DAI: Excellent.

23 CHAIRMAN GALAMBOS MALLOY: Is that it?

24 COMMISSIONER DAI: Uh huh.

25 CHAIRMAN GALAMBOS MALLOY: Okay, Commissioner

1 Yao.

2 COMMISSIONER YAO: As Commissioner Dai
3 expressed, we're going to discuss this a little more
4 when the full report is ready, but a couple thoughts
5 that you should be aware of. Depending where we want to
6 draw the lines is what we think our responsibility is on
7 the budget; for example, we feel that once we submitted
8 the Map and completed the Report, our task is done, done
9 in terms of fulfilling our responsibilities in terms of
10 why we're picked, what jobs we're going to do, and from
11 that point on, obviously, if we encounter lawsuits, then
12 that hopefully will come from a different part of money,
13 talking about defending it, and if that were the case,
14 then all the record disclosures and so on and so forth
15 would come from that part of the money. The differences
16 between the two ways of looking at it, one is what
17 Commissioner Dai presented in terms of saying we
18 anticipate we're going to have work beyond mid-August.
19 It adds about a million dollars, approximately a million
20 dollars, to the overall budget. And what that drives
21 is, if we ask for another million dollars to cover that,
22 then it's likely that we encounter more resistance in
23 terms of additional funding. So, this is something that
24 you should probably think about between now and tomorrow
25 when we start thinking about it.

1 The second point I want to convey to you is,
2 even after we write the letter of augmentation request
3 for the million dollars and the number we were working
4 through yesterday was about \$2.1 million for the second
5 letter. We don't know when we're going to get a
6 response to those requests, so between now and then, Mr.
7 Claypool is pretty confident that we're going to get
8 that additional million dollars. So that, basically,
9 would put us on a firm budget basis, as firm as we can
10 think of at this point. So, with the \$6 million the
11 Commissioner and I mentioned to you, we're probably
12 going to have to basically operate to a \$3.5 million
13 budget until we get some confidence that the \$6 million
14 or somewhere thereabout, is the proof. So, between now
15 and the data that we get answered back as to whether
16 that \$6 million is going to get approved, we're not
17 going to be able to operate much higher than that \$3.5
18 million budget plan. So, all the things that you're
19 considering in terms of your Subcommittee meetings, you
20 need to take that into consideration, that, as much as
21 we feel we should proceed to operate to what it takes to
22 do the job, it's likely that we are going to have an
23 operating plan of that \$3.5 million. Again, that's a
24 subject of discussion for tomorrow. If we don't want to
25 operate under that \$3.5 million plan, we want to blow

1 right through it, that's the time to generate a
2 discussion on that.

3 COMMISSIONER FORBES: Let me - this is just a
4 question to think about for tomorrow - hearing what
5 Commissioner Yao has commented on, but also looking to
6 it somewhat like the Chamber of Commerce, their Chamber
7 had a say as to whether it would be possible, feasible,
8 desirable, to look for some private funding to fund this
9 \$2.5 million shortfall loan basis - hopefully it would
10 never have to become a grant - but a loan basis, that
11 until we got word regarding the extra \$2.5 million, and
12 I'd just like the staff to think about that.

13 CHAIRMAN GALAMBOS MALLOY: Commissioner Dai.

14 COMMISSIONER DAI: Yeah, I just wanted to
15 respond. First of all, the current budget with some
16 tweaks, and we just got \$180,000 back based from
17 yesterday, based on the assumption that we were going to
18 have to pay rent, we're well under \$3.5 million through
19 this fiscal year, so I think we're actually in good
20 shape. Mr. Claypool is quite confident, as is the rest
21 of the Finance and Administration Committee, that we'll
22 get at least the one million dollar augmentation, so
23 that's why we're using \$3.5 million as the number. The
24 \$2 million plus overage, which would come in the next
25 fiscal year is what Commissioner Yao rightly pointed

1 out, if there is a delay in the California Budget
2 process, it's obviously going to affect us. Now, there
3 was a proposition passed that required the Legislature
4 to approve the budget on time, but it's still a
5 question, so there are some risks there.

6 CHAIRMAN GALAMBOS MALLOY: Though this
7 conversation - Mr. Claypool, just a moment - will be
8 much easier to have once we all have some hard numbers
9 in front of us, so my plan is to adjust tomorrow's
10 agenda so that we can accommodate -- essentially finish
11 - the Finance and Administration Committee's Report
12 first thing in the morning at 9:00, and then we would
13 just adjust down the times of all the other things we
14 had discussed that are on the agenda. Mr. Claypool.

15 MR. CLAYPOOL: Oh, I just had a couple points of
16 clarification. The first one is, this budget is
17 required by the Department of Finance to extend you
18 through the entire Fiscal Year '11-'12. It's not an
19 option as far as Finance for you to consider that you'll
20 shutter the doors and everybody disappears, they want to
21 see you as a continuing entity, as you are going to be
22 Commissioners for 10 years. So, how you choose to be a
23 Commission is certainly your prerogative, if you choose
24 to meet once a year at New Years and have champagne, it
25 can be that, or if you choose to meet quarterly and

1 bring in data, see how you're doing, run an operation
2 like that, you can choose to do that. Now, they may not
3 fund that, but that's what I was saying when I said you
4 have to decide what type of organization you're going to
5 be after this, and it's not too soon to start thinking
6 about what types of staff functions. Beyond August 15th,
7 there will be many staff functions that can't shut down
8 because of the Public Records Act, we're going to have
9 to be archiving data and so forth, so, really, we can't
10 look at August 15th as a walk away date. August 15th is
11 simply a date that is a very significant date to us, at
12 which there will be a continuing body of work. As to a
13 million for past that date, I'm not sure, I didn't think
14 it was nearly that much, but it will be some amount of
15 money and it won't be insignificant, but when we look at
16 this entire budget and we look at what I'm talking
17 about, it's what I'm required to submit to the
18 Department of Finance, so that they can make a
19 determination as to how much funding we get. And so,
20 that's kind of the spread of the operation, and that's
21 why it reflects that, so I will have that tomorrow and
22 we can go over it in more detail.

23 CHAIRMAN GALAMBOS MALLOY: Commissioner Forbes.

24 COMMISSIONER FORBES: Yes, I did have one
25 question, this is not for tomorrow, but I think it would

1 help me. Are there State requirements regarding
2 Commission life, on extended Commission? And I don't
3 know, but are there?

4 MR. CLAYPOOL: Actually, you have one of the
5 only ones I've ever seen, I believe in the Act it says
6 that they will fund you until you decide how you're
7 going to - is it dissolve? I don't want to say that
8 because it sounds so bad, but, you know, until you
9 choose not to be a Commission anymore. In Arizona, they
10 simply said, you know, "This is a waste of money, we're
11 not going to do this anymore."

12 COMMISSIONER FORBES: Obviously we have to
13 believe in ourselves - we have this 10-year appointment,
14 but I didn't know whether -

15 MR. CLAYPOOL: No, you have the 10-year
16 appointment, period. You don't have to choose to have a
17 staff, but you are a Commissioner for 10 years. Or, you
18 actually, I should say, you are a Commissioner until the
19 first Commissioner is selected.

20 COMMISSIONER FORBES: Right, I remember reading
21 that in the Act, I just didn't know whether there was a
22 standard that the State had set for other Commissions.

23 MR. CLAYPOOL: Well, most Commissions stay in
24 perpetuity. I mean, they have an ongoing function, and
25 that's why I'm saying to you, you have to decide whether

1 there are any aspects of this Commission that you want
2 to be ongoing, whether there's a benefit to keeping the
3 door open with one person answering the phone call,
4 whatever it is, but you have to make that decision prior
5 to the end of '11-'12.

6 CHAIRMAN GALAMBOS MALLOY: Thank you, Mr.
7 Claypool. With the goal of continuing through our
8 Advisory Committee Reports, and knowing that we will
9 come back to this tomorrow morning, first thing, we will
10 transition to the Legal Advisory Committee. Who is my
11 representative? Commissioner Blanco.

12 COMMISSIONER BLANCO: I am, and with help from
13 my fellow Commissioners and our General Counsel. So,
14 there were several items that the full Commission asked
15 us to discuss in the Advisory Committee and then come
16 back to this body, and a lot of that, they were requests
17 made of Mr. Miller. And I'm going to list those and we
18 can go through what we discussed and what we're
19 reporting back to you. Then, the last part of the
20 meeting was devoted to the Voting Rights Attorney hire
21 and everything involved with that - dates, what we're
22 looking for, everything.

23 So, the first item on sort of the business that
24 we were asked to consider, and I'll list them, there
25 was, 1) the Disclosure Policy by Commissioners that we

1 were asked to look at, the recommendation on what that
2 would look like; 2) we were asked to discuss and come
3 back with a recommendation on whether the conflict
4 standards that were applied to Commissioners should be
5 applied to staff and contractors; 3) we were asked to
6 look at the issue of Section 8253 as to what it means to
7 discuss redistricting matters and also sort of the
8 corollary to that, to receive information, and
9 Commissioners wanted clarification on those two issues;
10 and then, 4) we had a request to also consider what
11 might happen in the future when not all members of a
12 Commission are present at an Input Meeting, where
13 information is presented by members of the community
14 about their area; could Commissioners that were not
15 present vote if they had not attended that meeting? So,
16 we considered all of those and, if you don't mind, Mr.
17 Miller, maybe we could just take them in that order, the
18 disclosure, the conflicts, the 8253, and the vote issue.

19 MR. MILLER: I think that's a good order.
20 First, let me provide the policy that we did approve in
21 the Committee relative to what we're just calling
22 "Disclosures." Let me just give you a moment to read it
23 and I'll offer some color commentary.

24 The purpose of this policy is very simple. It's
25 simply to set a standard, if you will, for all

1 Commissioners, that when there is a personal knowledge,
2 a familiarity on a personal basis with anyone with whom
3 we might contract as a consultant or hire as a staff
4 member, that if the Commissioner is voting on that
5 person or firm, and knows them personally, that he or
6 she advise the Commission of that fact. There is a
7 different test legally if there is a financial
8 relationship, then the Commissioner can't vote on that
9 person, but a mere - I call it "mere" - personal
10 relationship does not preclude voting. The effort here,
11 of course, is disclosure so everyone knows what you're
12 talking about. Now, we considered a procedure that, if
13 the rest of the Commission had a concern about that
14 relationship, they might ask the other Commissioner to
15 abstain. In reflecting on that, I felt that that was
16 legally questionable. Given the unique purpose and
17 function of this Commission, the way that people were
18 selected, and the fact that you're broken into groups of
19 Republicans, Democrats, and Decline to State, that it
20 would not be proper for the Commission to take away from
21 its whole a voting member simply because of a stated
22 relationship. To some extent, one brings his or her
23 baggage, if you will, his or her experience to the
24 Commission, and that's not a reason to preclude someone
25 from voting. So, kind of a long explanation about a

1 short policy, I apologize, any questions about that?

2 CHAIRMAN GALAMBOS MALLOY: Questions from the
3 Commissions?

4 VICE CHAIRMAN FILKINS WEBBER: Yes. In
5 reviewing this particular policy, have you given any
6 consideration regarding the necessity for the
7 Commissioner to provide this disclosure? In other
8 words, this is absent of time. In other words, this
9 doesn't indicate the necessity of a Commission member to
10 actually provide the disclosure before a discussion,
11 before a consideration of proposals for contracts, for
12 any timeframe in which we would require or request that
13 this disclosure take place. So, obviously, given the
14 fact that it's absent as it is presently drafted, it
15 could give the appearance that the Commission member
16 could wait until, I don't know, August 14th?

17 MR. MILLER: That's a very good comment. How
18 about if we add it after the first sentence, a sentence
19 that says "such disclosure shall occur prior to the
20 Commission voting on the firm or individual?"

21 VICE CHAIRMAN FILKINS WEBBER: It's too late.
22 Because we would like to - I would like to be aware of
23 this potential conflict during the time in which I am
24 assessing a Commissioner's comments regarding the topic,
25 not prior to a vote, in order for us to make a proper

1 determination of the assessment, of the weight to be
2 provided to a Commissioner's comment. So, quite
3 possibly something along the lines of maybe "prior to
4 any Commission member considering the person -

5 COMMISSIONER DAI: Prior to any motion?

6 VICE CHAIRMAN FILKINS WEBBER: No. Again, it's
7 got to be before the discussion.

8 COMMISSIONER DAI: Well, the discussion would
9 happen right after a motion is made.

10 VICE CHAIRMAN FILKINS WEBBER: Not necessarily,
11 for instance, we're going to see proposals we don't know
12 who the individuals are, let's just use a current
13 example that's going to come up. If all of those
14 proposals are provided online, or if they're for public
15 comment, all of the Commission members are having access
16 to it, as well as the public, I would like the first
17 order of business when we're considering a person or a
18 firm to be a disclosure of a Commission member, before
19 there is any discussion among any Commission member
20 because, in order for us to make a proper assessment of
21 the weight to be provided to the testimony of a
22 particular Commission member, it's got to be assessed
23 upfront. So, before this Commission were to consider
24 any person, proposal, firm, in an open public hearing,
25 that that would be the appropriate time, prior to any

1 discussion.

2 COMMISSIONER WARD: Could we add a clause,
3 "shall advise the Commission of the relationship as soon
4 as it is realized, no later than the motion being placed
5 on the floor?" It seems like, as soon as it is realized
6 should be the time that it's brought to the Commission's
7 attention.

8 CHAIRMAN GALAMBOS MALLOY: Commissioner Filkins
9 Webber, would you like to suggest some revised language?

10 VICE CHAIRMAN FILKINS WEBBER: Yes, I was, but
11 I'll draft it right now if necessary, or Kirk can
12 certainly chime in, but based on my comments.

13 CHAIRMAN GALAMBOS MALLOY: Commissioner Ancheta.

14 COMMISSIONER ANCHETA: Well, it seems like
15 you're going to want something immediately or at the
16 earliest opportunity, shall advice, right? Just as soon
17 as you figure out there's a relationship, tell us. I
18 think that's what you're getting at, as early as
19 possible.

20 VICE CHAIRMAN FILKINS WEBBER: Yes, I'm getting
21 at as early as possible, but before - so maybe it could
22 be something prior to any public hearing, regarding the
23 individual or firm, or at the opening of a public
24 hearing regarding the person or the firm. You can't - I
25 certainly don't appreciate that it would be something as

1 vague as, "as soon as you come to the realization," or
2 "as soon as practicable," that, to me, doesn't work. I
3 think you know you have the relationship and it should
4 be the first order of business discussed with this
5 Commission prior to consideration of the person or the
6 firm, from my perspective.

7 CHAIRMAN GALAMBOS MALLOY: Other comments,
8 questions?

9 COMMISSIONER FORBES: Just one possible phrase,
10 and this may be too general for you, but let me try
11 this, "Whether or not for compensation, the Commissioner
12 shall advise the Commission at the earliest
13 opportunity."

14 CHAIRMAN GALAMBOS MALLOY: My understanding of
15 your previous comments, Commissioner Filkins Webber, was
16 that that type of language might be too vague. Other
17 comments, questions, or suggestions for actual language?

18 COMMISSIONER AGUIRRE: Yes, Chair.

19 CHAIRMAN GALAMBOS MALLOY: Yes, Commissioner
20 Aguirre.

21 COMMISSIONER AGIURRE: In the elected area, City
22 Council being an example, and County Board of
23 Supervisors being another, whenever you have a public
24 hearing, you actually, you know, pose the question,
25 "Does anybody have any conflicts of interest that they

1 would like to declare at this time?" And, "Any ex parte
2 contacts?" "Any kind of relationship with a firm or
3 individual that we're going to be discussing?" Those
4 are just like three basic questions that occur before
5 any such hearing, so that could be incorporated so that,
6 you know, at least, before you enter into a discussion,
7 you put everything on the table.

8 CHAIRMAN GALAMBOS MALLOY: Thank you. I think I
9 had a comment in the stack, Commissioner Ontai?

10 COMMISSIONER ONTAI: Yes. Should a time element
11 be part of this? Let's suppose, you know, this person
12 vaguely going back 40 years ago, would that be relevant?

13 VICE CHAIRMAN FILKINS WEBBER: Are you asking
14 me?

15 COMMISSIONER ONTAI: Opening it up.

16 CHAIRMAN GALAMBOS MALLOY: I like your
17 suggestion, Commissioner Aguirre, to be - because it
18 will provide an opportunity for us to also proactively
19 go on record, addressing this at the beginning of any
20 consideration, then for the public to be able to hear
21 that information. Can you read through again the three?
22 You mentioned conflict of interest, ex parte
23 relationship, or there were three different categories?

24 COMMISSIONER AGUIRRE: It would be, "Are there
25 any conflicts of interest?" "Are there any ex parte

1 contacts that you would like to relate?" And the other
2 one was, "Is there any other kind of relationship that
3 you would like to share regarding yourself and the firm
4 or individual?" It kind of covers it all.

5 CHAIRMAN GALAMBOS MALLOY: Commissioner Filkins
6 Webber.

7 VICE CHAIRMAN FILKINS WEBBER: So, for proposed
8 language purposes, we can probably do - and I like
9 Commissioner Aguirre's suggestion, and that might be a
10 part of our draft meeting procedures, that we consider
11 adding, but I would suggest as far as the policy, just
12 before the last sentence, "The Commissioner shall advise
13 the Commission of the relationship about the individual
14 or firm, and such disclosure shall occur prior to the
15 Commission's consideration of any person or firm seeking
16 to perform services of any type for the Commission."
17 So, at any time before this, as a full Commission
18 considers services, and then we can add the additional
19 consideration of our meeting procedures before we're
20 going to consider a person, or a firm, just open it up
21 to the Commission, just as Commissioner Aguirre had
22 suggested regarding conflicts of interest, ex parte
23 contacts, and relationship.

24 CHAIRMAN GALAMBOS MALLOY: Commissioner Blanco,
25 and then Mr. Miller in the stack, and then I would be

1 open to entertain a motion to formally adopt a modified
2 version of this Disclosure Policy.

3 COMMISSIONER BLANCO: So, I think that's good
4 language, I like "consideration" because consideration
5 can be even just a discussion about, you know, an entity
6 or a person, so I like it because it captures the
7 earliness. And I think that the issue of having sort of
8 an affirmative procedure that we build into the meeting
9 procedures is - my only question there is, now we're
10 adding things that aren't in the act, that weren't in
11 the act even for - I mean, we're adding ex parte, which
12 isn't - I'm not even sure that that's an applicable
13 concept, what ex parte communication means in this
14 concept, that's a very technical phrase. So, rather
15 than load this up with stuff that we really haven't
16 considered, what I would say is that we take the
17 language that we are agreed upon for the disclosure, and
18 that is the language that is incorporated into our
19 procedures on a regular basis, instead of adding on all
20 these other categories.

21 CHAIRMAN GALAMBOS MALLOY: Mr. Miller.

22 MR. MILLER: I believe Commissioner Filkins
23 Webber's amendment to the draft is a good one. I was
24 proposing almost something identical. If you could give
25 us your language, I would suggest that we adopt what you

1 have with that addition?

2 VICE CHAIRMAN FILKINS WEBBER: I was going to
3 propose the following motion. Shall I just read in?

4 MR. MILLER: Yeah, I think that would be a good
5 idea.

6 VICE CHAIRMAN FILKINS WEBBER: That the Citizens
7 Redistricting Commission accept a Disclosure Policy for
8 Hiring to include mandatory disclosure of whenever a
9 Commissioner is personally acquainted with, or has
10 personal knowledge regarding any person or firm seeking
11 to perform services of any type for the Commission,
12 whether or not for compensation, the Commissioner shall
13 advise the Commission of the relationship about the
14 individual or firm. Such disclosure shall occur prior
15 to the Commission's consideration of any person or firm
16 seeking to perform services of any type for the
17 Commission."

18 CHAIRMAN GALAMBOS MALLOY: I have a motion. Do
19 I have a second?

20 COMMISSIONER DAI: Before we second it, the
21 final sentence?

22 VICE CHAIRMAN FILKINS WEBBER: Oh, "In the event
23 a financial relationships exists, the Commissioner shall
24 abstain from voting."

25 COMMISSIONER DI GIULIO: Can I just have a point

1 of clarification on that? I'm not a legal person, but
2 when you mentioned individual or firm, "firm" to me, in
3 my mind, is a private entity. Does that include
4 organizations like nonprofit organizations or agencies?
5 Because I would think that would be important to
6 encompass. If "firm" doesn't encompass that, I would
7 like to think that we should put that in -

8 COMMISSIONER DAI: "Entity?"

9 VICE CHAIRMAN FILKINS WEBBER: Entity.

10 COMMISSIONER BARRABA: Second.

11 CHAIRMAN GALAMBOS MALLOY: Entity. Given the
12 addition with the last sentence, does Commissioner
13 Barraba still second the motion?

14 COMMISSIONER BARRABA: Absolutely.

15 CHAIRMAN GALAMBOS MALLOY: Excellent. So we
16 have a motion and a second. I would like to open the
17 floor to the discussion. Commissioner Yao.

18 COMMISSIONER YAO: In anticipation of some of
19 the other legal issues we're going to discuss, sitting
20 through one of the Advisory Committee meetings, we have
21 thought about applying the same requirement of
22 Commissioners to staff. So, I don't know whether you
23 want the first sentence of the proposal to read whenever
24 a Commissioner or staff, and staff, so that we kind of
25 take that into consideration, as well.

1 CHAIRMAN GALAMBOS MALLOY: Just for
2 clarification, are you proposing an amendment to the
3 existing motion?

4 COMMISSIONER YAO: Let me not create an
5 amendment at this point in time because I think, later
6 on in the discussion, in the Subcommittee discussion,
7 we're going to talk about whether we're going to apply
8 the Conflict of Interest, and so on, to staff. But I
9 want to kind of bring the thought up, saying that if
10 there's such requirement, or we're thinking of such
11 requirement, we may want to take advantage of this
12 opportunity to correct it once and for all, as compared
13 to having to come back and address it, that's all. I
14 don't think I want to make an amendment at this point in
15 time.

16 CHAIRMAN GALAMBOS MALLOY: Thank you. Any other
17 discussion based on the reading by Commissioner Filkins
18 Webber?
19 Commissioner Filkins Webber.

20 VICE CHAIRMAN FILKINS WEBBER: As long as no one
21 else has any other comment, just Commissioner Yao, on
22 your point, we may have a problem with my suggested
23 addition regarding the timing if we were to just simply
24 add Commissioners and staff because, then, the proposal
25 for such disclosure to occur prior to Commission's

1 consideration, or for person or firm, might necessarily
2 apply to a staff. So I recognize you didn't amend it,
3 but maybe we should consider a similar policy and we can
4 just draft it slightly differently for staff, and that
5 certainly would cover that issue, as well.

6 CHAIRMAN GALAMBOS MALLOY: So, anticipating we
7 will be talking in more depth about staff and
8 consultants here shortly, last chance for discussion?
9 Then, I would say we call a vote. Could I have a show
10 of hands, all in favor? All opposed? Excellent, the
11 motion passes with full support.

12 Moving on to the next item, Maria, the Conflict
13 of Interest.

14 MR. MILLER: Let me just give a moment of
15 background on this before I pass it out.

16 CHAIRMAN GALAMBOS MALLOY: Mr. Miller, may I
17 interrupt you? We had a procedural mishap on my part, I
18 did not open the floor to public comment before we took
19 a vote. So, we have no public comment, we will continue
20 on. Go ahead.

21 MR. MILLER: Thank you. This next policy was
22 considered by both the Legal Committee and the Technical
23 Advisory Committee yesterday. We believe it
24 memorializes the practice of the Commission to date and
25 the laws it relates to hiring of staff and consultants,

1 but it hasn't been placed in a document. And we just
2 thought that would be a good idea, particularly in light
3 of the fact that we're coming up on the hiring of two
4 important consultants, the line drawing consultant and
5 the VRA. The essence of the policy is as follows: As
6 you are I am sure keenly aware, the statute itself
7 places very stringent conflict tests on all
8 Commissioners, a long list of things that you could not
9 have done prior to serving as Commissioners. The
10 statute also gave the Commission flexibility with
11 respect to hiring staff and consultants. You can apply
12 the very same tests that the statute applies to the
13 Commission, but you're not required to do so, and that's
14 reflected also in the regulations that the State Bureau
15 of Audits prepared to implement the statute. So, what
16 I'm about to pass out to you tries to capture that
17 policy for the Commission.

18 CHAIRMAN GALAMBOS MALLOY: And, Mr. Miller, do
19 we have copies available for the public, or is it
20 online?

21 MR. MILLER: It is not yet online, but we do
22 have copies for the public.

23 CHAIRMAN GALAMBOS MALLOY: Thank you.

24 COMMISSIONER DI GUILIO: May I ask very quickly,
25 I think the issue, again, would be very helpful with any

1 type of title when we do put things online for the
2 public, for them to recognize what's being discussed, so
3 again, it's a keen point.

4 CHAIRMAN GALAMBOS MALLOY: I agree, and given
5 that this is not yet available online, perhaps, Mr.
6 Miller, you would be so kind as to read it aloud.

7 MR. MILLER: Sure. I'll do my best to do a
8 dramatic reading: "Section 8252, the Voters First Act,
9 contains various conflict of interest provisions that
10 were used to preclude Applicants from serving on the
11 Commission. In addition, the Bureau of State Audits
12 developed regulations implementing the Act, generally,
13 and specifically with respect to this Section 8252, as
14 it relates to Commissioner conflicts. These regulations
15 set forth detailed criteria, not contained in the Act,
16 itself, including by way of example, precluding service
17 by candidates who were pointed to an office by the
18 Governor. The Bureau has also documented that the
19 regulations relating to conflicts are intended to apply
20 to the selection of Commissioners, as opposed to staff
21 and consultants. With respect to hiring of staff and
22 consultants, it's the policy of the Commission to apply
23 the criteria contained in the Regulations to the
24 selection of the Executive Director. It is also the
25 Commission's policy to require full disclosure of prior

1 employment and consulting work by any applicant for
2 staff or consulting positions as part of the selection
3 process. In order to permit a broad-based pool from
4 which highly qualified candidates may be selected, the
5 Act and the Regulations authorize the Commission to
6 apply its conflict provisions with discretion, while
7 also assuring the impartiality of staff and
8 consultants."

9 CHAIRMAN GALAMBOS MALLOY: I would like to open
10 the floor for discussion. Commissioner Dai.

11 COMMISSIONER DAI: Yes. Mr. Miller, did you
12 consider delineating some of the appointments to office
13 by the Governor, some of which are non-partisan offices?

14 MR. MILLER: Well, I tried to let the law speak
15 for itself, rather than trying to restate any provision
16 of the Act in this policy.

17 COMMISSIONER DAI: So, just to clarify, then, so
18 the understanding would be - it would be any office that
19 was appointed by the Governor?

20 MR. MILLER: As it relates to the Commission,
21 that is the case.

22 CHAIRMAN GALAMBOS MALLOY: Commissioner Barraba.

23 COMMISSIONER BARRABA: I didn't have -

24 CHAIRMAN GALAMBOS MALLOY: Okay. Commissioner
25 Filkins Webber.

1 VICE CHAIRMAN FILKINS WEBBER: Did the Legal
2 Advisory Committee have a discussion regarding the
3 language of the statute and the fact, although I can't
4 find it right now to quote it, but I will, this is a
5 discussion that this Commission has held prior when we
6 were discussing whether the conflict of interest would
7 be applied to the Executive Director, and in so doing,
8 did the Legal Advisory Committee consider the language
9 and use in the Voters First Act of the word "shall" -
10 and it shall apply the conflicts of interest to staff -
11 did you consider the legal differences between the
12 drafter's use of the word "shall" vs. the drafter's use
13 of the word "may," in light of the information this
14 Commission has received from the Bureau that it did not
15 intend to apply that section to staff, despite the fact
16 that the drafters used the word "shall" instead of the
17 word "may?"

18 COMMISSIONER BLANCO: We did not have that
19 discussion and, I think, partly because none of the
20 members - I'm not sure about Commissioner Forbes - had
21 been here for the discussion on the Executive Director
22 because we all were seated after that. But maybe - I
23 think it's a good discussion to have, and maybe you can
24 clarify exactly what you're referring to, Commissioner.

25 MR. MILLER: I think I have the language here,

1 but if you don't have it quite yet. This is in Section
2 8253(a)(5), and where was it?

3 VICE CHAIRMAN FILKINS WEBBER: Yes, I'm
4 referring, in particular, to the third sentence: "The
5 Commission shall apply the conflicts of interest listed
6 in Paragraph 2 of subdivision (a) of 8252 to the hiring
7 of staff, to the extent applicable." That is the
8 particular sentence that was directly at issue some time
9 ago when we were considering the hiring of the Executive
10 Director, in particular, and I can look it up again as
11 to what the basis was for my determination, or my
12 recommendation, that it be applied in accordance with
13 the spirit of this Act, overall, and the use, as you
14 know, Counsel, of the word "shall" vs. a discretionary
15 "may." There was also some discussion as to what it
16 meant to the extent applicable, but I've also received
17 information previously that the Bureau did not intend
18 for it to apply to staff, but I think that we are well
19 far along in Legislative interpretation as attorneys and
20 in this country to know that there is a difference
21 between the word "shall" and the word "may" in
22 legislation, and the fact that they did not use the word
23 "may" leaves me to believe that it's not discretionary.
24 And this policy that is being proposed appears to be
25 discretionary.

1 COMMISSIONER DI GIULIO: Could I ask a point of
2 clarification very quickly? What I heard there, and
3 what, Mr. Miller, you were just referring to was
4 applying those conflicts of interest to staff. Does
5 staff include consultants? Because, in the language of
6 your recommendation, it says staff and consultants, so I
7 didn't know if consultants are considered staff, or is
8 that a different issue?

9 MR. MILLER: The implication here would be they
10 be treated the same way by the Commission, not that they
11 are the same. The same test would apply.

12 COMMISSIONER DI GIULIO: Is that what the legal
13 statute would be interpreted as? Or is that your
14 interpretation of it?

15 MR. MILLER: That is our interpretation of it.
16 As to "shall" vs. "may," what we're focusing on is the
17 "as applicable," and how the Commission chooses to use
18 the flexibility that is provided by that word.

19 CHAIRMAN GALAMBOS MALLOY: I'd like to - I'm
20 sorry, were you continuing, Mr. Miller?

21 MR. MILLER: Well, I was just going to say, we
22 know the Commission did apply it strictly to the
23 Executive Director and we picked that up in the policy
24 to say that the Commission made that determination.
25 It's my understanding given the people even hired as

1 staff, and discussions with the Bureau of Audits and the
2 Secretary of State's Office, that a decision was made
3 not to use the same standard for others. And, in fact,
4 we know that's the case.

5 CHAIRMAN GALAMBOS MALLOY: I'd like to invite
6 other Commissioners who have not yet had the chance to
7 speak on this matter to please chime in. Commissioner
8 Barraba.

9 COMMISSIONER BARRABA: Being the least qualified
10 legal person on the Commission, it sounds to me in non-
11 legal terms, that the Act really puts restrictions on
12 our selection. And it would seem to me that if there
13 were someone out there who was really right for the job,
14 and by chance they had been appointed to a job by the
15 Governor because they were right for this job, that we
16 should have the ability to say, you know, "I'm going to
17 hire that person" because our job is to make sure we got
18 the right person, and our job is to administer how that
19 person operates. And it would seem to me that we should
20 have that flexibility because we went through, and the
21 State of California spent a lot of money to make sure
22 that we are an impartial body, that's -

23 CHAIRMAN GALAMBOS MALLOY: I'd like to continue
24 to invite Commissioners who have not yet spoken on this
25 matter. Commissioner Ancheta.

1 COMMISSIONER ANCHETA: Well, I don't have any
2 disagreement with the "shall" language, it is mandatory
3 language, but I agree with Mr. Miller's analysis that,
4 "to the extent applicable" affords the Commission some
5 flexibility to apply some discretion in terms of whether
6 these criteria should be applicable to particular
7 positions. So, I take a different reading compared to -
8 if that's Commissioner Filkins Webber's interpretation,
9 I take a broader reading and tend to side with Mr.
10 Miller on that interpretation.

11 CHAIRMAN GALAMBOS MALLOY: Additional discussion
12 from Commissioners who have not yet spoken? Seeing
13 none, the comment that I would have on this discussion
14 is that, as a Commission, we are subject to many
15 different processes, and regulations, and dynamics that
16 are making our jobs very difficult, and I would suggest
17 that, where we do have flexibility, that we allow
18 ourselves that flexibility to, on a case by case basis,
19 apply some of these standards. You know, having been a
20 part of some of the previous processes, the sooner we
21 apply some of these criteria, in effect, we narrow our
22 options without ever having a chance to take them into
23 consideration, where it comes to staffing and consultant
24 hires. So, that would be my feedback. I have not heard
25 a formal motion on the floor regarding this. I want to

1 see, is there any additional discussion not just from
2 Commissioners who haven't spoken, but other
3 Commissioners who have?

4 COMMISSIONER BLANCO: Yes. I wasn't here for
5 the discussion about the Executive Director, but I am -
6 I obviously am aware that if somebody says "where
7 applicable," that must have a meaning, right? Now, it
8 seems to me that the line - and I wasn't here, and this
9 may have been what you discussed - is decision-making
10 authority. I mean, the Commissioners have these strict
11 guidelines, we will be making decisions, we will be
12 voting on maps, our Executive Director has decision-
13 making authority. To me, when it says "as applicable,"
14 you're really talking about - I mean, you could keep
15 going down staff all the way to an IT staff person that
16 is dealing with phones, etc. etc. that might have
17 worked, you know, and to me, that language "as
18 applicable" means use your discretion about whether this
19 is a person in a decision-making authority. Now, I
20 agree, I'm sort of interpreting here, but I do think
21 that "as applicable" has meaning, or it wouldn't be
22 there, and two, that what we're trying to do, I think we
23 have to be mindful about what a conflicts policy tries
24 to accomplish, and to me, you're really at the decision-
25 making for high influenced positions, really trying to

1 make sure that you don't have people that are partisan,
2 or unable to be impartial. As you go further down the
3 level of authority, I think we would be really, you
4 know, creating a situation for us that would make it
5 very difficult to function. So, you know, I don't know
6 if that means we define something more - I think it
7 starts getting complicated if we try to define "as
8 applicable," but that's how I view what the conflicts
9 policy is attempting to do, is apply to people in a
10 position to make decisions.

11 CHAIRMAN GALAMBOS MALLOY: Commissioner Filkins
12 Webber.

13 VICE CHAIRMAN FILKINS WEBBER: Given,
14 Commissioner Blanco, that you were not present at that -
15 if you look at the sentence and my interpretation is you
16 are correct, that the language exists there for a
17 particular purpose. The laundry list of conflicts that
18 are identified in Paragraph 2 of Subdivision (a) of 8252
19 does not apply to everybody. There are individuals
20 whose conflict would not necessarily be with the
21 Governor's Office, there are individuals who might not
22 have a conflict as being a former elected official, that
23 is how you would apply it to "to the extent applicable."
24 The matter in which the sentence is phrased, "The
25 Commission shall apply the conflicts of interest that

1 are listed...," to the extent applicable to that
2 particular staff member; you're not going to apply a
3 list of conflicts to a Governor appointee who was not a
4 Governor appointee. You're not applying that conflict
5 of interest to that particular staff member. That's my
6 interpretation of what the necessity is for the language
7 "to the extent applicable." I don't see it that
8 broadly. I think that the case authority, certainly I
9 give the discretion over to, obviously, we have staff
10 counsel for that, but I do feel strongly that the
11 drafter's intent for the particular purpose of this
12 Commission and the necessity of the conflict of interest
13 as they apply to the Commission members, and using the
14 language of "shall" in a day and age where it's not
15 ambiguous at all, just leads me to believe that I don't
16 think we have discretion here, but that's my opinion.
17 And as stated previously, I just wanted to provide
18 clarification as to what my opinion was previously
19 because I know you were not present at those -

20 COMMISSIONER BLANCO: Yeah, and I think that is
21 very helpful. I think you're right about the "as
22 applicable." And so, maybe really what we're talking
23 about is this question of how far, you know, do we have
24 discretion as to which staff - level, you know.

25 VICE CHAIRMAN FILKINS WEBBER: Yeah, my

1 interpretation, I don't know that it applies to
2 consultants, I see staff as staff, consultants are
3 consultants, are separate outside independent contractor
4 vendors that I don't consider to be staff, just for
5 clarification further on my opinion.

6 CHAIRMAN GALAMBOS MALLOY: At this point, I'd
7 like to start moving us towards a decision point. I
8 know that Commissioner Filkins Webber was not able to
9 participate in the legal committee yesterday where much
10 of this discussion would normally be taking place, so in
11 order to avoid having a recreation of the Legal
12 Committee here, I'd like to entertain any suggestions to
13 changes of the language of this policy. And, if there
14 is some, I'm welcome to entertain it; if not, I'd like
15 to move to someone making a motion on this.

16 COMMISSIONER DAI: Yes, actually I tend to agree
17 with Commissioner Barraba, I think we have a lot of
18 constraints on our work here, I think that we were
19 picked to be squeaky clean and impartial, and picked for
20 our ability to judge whether our staff or other
21 consultants can behave in an impartial manner and do our
22 bidding, and I think, given that this policy reflects
23 how we actually have behaved with regard to seven out of
24 eight of the approved hires, I would like to move that
25 we adopt this policy as is.

1 CHAIRMAN GALAMBOS MALLOY: Do I have a second?

2 COMMISSIONER WARD: I'll second that.

3 CHAIRMAN GALAMBOS MALLOY: I'd like to open the
4 floor for discussion from the Commissioners.
5 Commissioner Yao.

6 COMMISSIONER YAO: Question for Mr. Miller. In
7 proposing this - or in allowing the Commission to make
8 the motion and vote on this, are we in violation of the
9 Act, as Jodie Filkins Webber has suggested? At least
10 that's the way I interpreted it, that we really don't
11 have an option in this particular case, and that by
12 formally deciding that we do have an option, because I
13 need a legal response from you as to whether we do or
14 don't.

15 MR. MILLER: We would never put this - bring it
16 to the Commission in this form if we didn't think it was
17 a proper motion. If it's helpful to you, the process
18 used in bringing this was, first, extensive discussions
19 with the lawyers who worked with the Commission prior to
20 the time I was here, and that was specifically Cy
21 Rickards at the Secretary of State's office, and the
22 Chief Counsel at the Bureau of Audits. I wanted to
23 understand what the Bureau of Audits had in mind when it
24 prepared the Regulations that implement the Act, and the
25 information I received is reflected in the policy that

1 we brought to the Commission.

2 CHAIRMAN GALAMBOS MALLOY: Any additional
3 discussion on the part of the Commissioners before we
4 open it up to the public? Commissioner Di Giulio.

5 COMMISSIONER DI GIULIO: This may be because I'm
6 just low blood sugar because it's close to lunch, but I
7 just want to make sure I'm clear on what it is that this
8 motion, that this actually says here. It's my
9 understanding that basically, if we approve this, it's
10 giving us the flexibility, it's not saying "we must,"
11 it's not tying our hands as to the flexibility we're
12 looking for.

13 CHAIRMAN GALAMBOS MALLOY: Mr. Miller.

14 MR. MILLER: That's correct. I would just - one
15 nuance - this motion, or this procedure, is not intended
16 to give you anything more than we believe the law gives
17 you now; rather, it's intended to reflect in one place
18 what we think the totality of the law gives the
19 Commission. Does that answer your question?

20 COMMISSIONER DI GIULIO: Yeah, I think so, I was
21 just trying to summarize some of the earlier discussion
22 that was going on -

23 MR. MILLER: But, I'm sorry, the second part of
24 that is, it is to give you flexibility. If you were to
25 see a conflict that applies to a Commissioner and you

1 feel that that conflict should disqualify a staff or a
2 consultant, you can still apply that, you're not taking
3 anything away from your power, either.

4 COMMISSIONER DI GIULIO: Okay, this is just
5 basically saying this is the "may" option, this is not
6 the "shall" option?

7 CHAIRMAN GALAMBOS MALLOY: This is the "may"
8 option, with the exception of the Executive Director, as
9 I understand it. Any additional discussion?
10 Commissioner Yao.

11 COMMISSIONER YAO: You know, I support it in
12 terms of applying the conflict of interest and the
13 ethics requirements on anybody that is working on this
14 Redistricting issue, my comment really has nothing to do
15 with that. I kind of see ourselves as treading on thin
16 ice by redefining how we interpret the Voters First Act.
17 I think, in both cases, whether we address the
18 "would/shall" implies that we are going to apply it to
19 staff, and this memo, as proposed, is suggesting that we
20 also should apply it in cases where it's applicable.
21 But I'm afraid that, instead of just talking about a
22 conflict of interest, we may be opening a can of worms
23 by allowing us to take exception to the wording of the
24 First Act and allow us to behave in a manner that's
25 maybe, for lack of a better word, "convenient" for us to

1 do our business. So, on that basis, I have a little
2 difficulty in terms of being convinced that this
3 conflict policy is indeed a good thing for us to
4 address.

5 CHAIRMAN GALAMBOS MALLOY: Commissioner Ancheta,
6 then Commissioner Dai, and Commissioner Ward.

7 COMMISSIONER ANCHETA: Well, I did want to state
8 that Commissioner Filkins Webber's interpretation is
9 certainly a viable one, I'm not saying that that's not a
10 possible interpretation, and I disagree, I think we do
11 have more flexibility, but I feel confident in our Chief
12 Counsel that he has exercised due diligence in terms of
13 trying to get what probably is not going to be the
14 definitive interpretation because, short of some
15 litigation in a court saying this is what it means, we
16 have to work as a Commission to get things done. So, I
17 feel we've done sufficient - or exercised due diligence
18 in trying to move this forward. We can be as strict as
19 we want when we start applying this policy, in my
20 opinion; I think if we are, in fact, exercising our
21 discretion, we can be very strict if we choose to do so,
22 that's our option. Again, as Commissioner Blanco
23 mentioned, there may be certain positions where, is it
24 critical that our Administrative Assistant go through
25 all these criteria? I think we should probably check

1 into it, but would that necessarily disqualify a
2 candidate because they worked for the Republican Party
3 30 years ago? I don't know. I think we ought to be
4 able to have some flexibility at certain levels of
5 hiring and working with consultants. I think, again, to
6 keep with the spirit of the Act, we should be quite
7 strict in terms of high level consultants and high level
8 hiring, I think we have that discretion, and we should
9 exercise that as appropriate. But I think we ought to
10 just sort of move forward and give ourselves some room
11 if we need to sort of lighten those restrictions.

12 CHAIRMAN GALAMBOS MALLOY: Again, there is a
13 motion on the floor. I'm entertaining discussion before
14 we open it up for public comment, and we are approaching
15 our stated time for lunch. Commissioner Dai.

16 COMMISSIONER DAI: Given that reminder, I will
17 defer. I believe that Commissioner Ancheta covered my
18 point.

19 CHAIRMAN GALAMBOS MALLOY: And Commissioner Ward
20 was in the stack, and then I see Commissioner Raya.

21 COMMISSIONER WARD: I thank Commissioner Ancheta
22 for his input, I ditto that, and I'd just like to say
23 for the record, I don't see this motion as a "may" vs.
24 "shall" option. I just want the Commission to
25 reconsider that language. I think we're all clear on

1 what the Act says, as "shall," and Commissioner Filkins
2 Webber has just done an astute job and does a great job
3 of keeping us on our toes in regards to the Act, I think
4 she's done a yeoman's job with that. But, the issue
5 we're interpreting is "as is applicable," and so I think
6 Kirk has done a great job of explaining that this does
7 not take anything away or expand to the Act, it's just
8 simply a consolidation of how we choose to interpret it
9 as a body. And we have to take ownership of this
10 Commission and make these decisions as a body so we can
11 move forward with the process. Thank you.

12 CHAIRMAN GALAMBOS MALLOY: Thank you.
13 Commissioner Raya.

14 COMMISSIONER RAYA: Well, when we had this
15 discussion at the time we hired our Executive Director,
16 I was strongly, you know, on the side of what "shall"
17 means and I still am, but here is where I'm going to
18 hang my hat on Mr. Miller's head, that's why we hired
19 legal counsel, so we wouldn't have to make these
20 decisions and hang on our own interpretations, even
21 though we may think we know exactly how we want to
22 interpret the law. Anyway, I just think that's where we
23 are, this didn't arise in a vacuum, it arose because, as
24 in so many other things, our hands are - we seem to be
25 having our hands tied behind our back at every turn.

1 And if Mr. Miller is willing to go with that, then I am
2 too.

3 CHAIRMAN GALAMBOS MALLOY: Any additional
4 discussion? Commissioner Forbes.

5 COMMISSIONER FORBES: I have one question for
6 Mr. Miller. Why didn't you simply take the language
7 that is in Paragraph 5 there? Because, to me, the out
8 word is "to the extent applicable," I mean, that's your
9 flexibility phrase. Simply quote what the thing says
10 and we'll deal with "to the extent applicable" when
11 someone comes before us. Why muddy the water by using
12 different language from language that is in the statute,
13 itself?

14 CHAIRMAN GALAMBOS MALLOY: Mr. Miller.

15 MR. MILLER: I guess it's - there are two
16 things, several thoughts occur to me, that's a - I like
17 neatness in drafting and I think that your approach
18 could be a short and neat way to address this. Lawyers
19 sometimes get lost in the totality of the language that
20 is available and the reason is, you have a lot of
21 language in the Regulations, in particular, that without
22 the supporting memos that have been prepared by the
23 Department of Audits at the time they wrote the
24 Regulations, and the conversations, I just thought left
25 - well, it requires you to bring a lot of things

1 together to define the intention of "applicable." So,
2 this was an effort to scoop up more than exists merely
3 by that word. And I guess it's because you have the
4 Regulations, as well as the applicable language, and I
5 thought both need to be addressed in the policy. And
6 further, as I said earlier, this better memorializes the
7 action the Commission has already taken than the short
8 form you're suggesting.

9 COMMISSIONER FORBES: So there's nothing
10 inconsistent as you understand it between what you
11 proposed and the sentence that I just read?

12 MR. MILLER: No.

13 COMMISSIONER FORBES: Okay.

14 MR. MILLER: I mean, the effort is to make clear
15 between the Statute and the Regulations, and you're
16 bound by both, how they should be read together and used
17 by the Commission.

18 COMMISSIONER FORBES: Okay, thank you.

19 CHAIRMAN GALAMBOS MALLOY: Last call for a
20 discussion on part of the Commissioners.

21 VICE CHAIRMAN FILKINS WEBBER: Just for the
22 record, and with all due respect to Mr. Miller, I
23 disagree, Stan, and I just want you to know that.

24 CHAIRMAN GALAMBOS MALLOY: Seeing no further
25 discussion, I would like to open this motion up for

1 public comment.

2 MR. WRIGHT: Good morning, Commissioners. Jim
3 Wright, a voter from San Jose. Let me crystallize the
4 issue for you and state a very extreme case. Let's say
5 you offer -- or advertise -- for a position and there is
6 a single candidate, only one person applies and they've
7 got a real problem, a really big problem relative to the
8 rules that you have to apply. You can still hire that
9 person, but build a box around the person, and tell him
10 what his boundaries are, what they can do, how far they
11 can go, how closely you're watching what they're doing.
12 Thank you.

13 CHAIRMAN GALAMBOS MALLOY: Thank you. Are there
14 any other members of the public who would like to
15 comment on the motion on the floor? Seeing none, I'd
16 like to call the vote. I would like to do a roll call,
17 please.

18 MS. SARGIS: Commissioner Aguirre - Yes;
19 Commissioner Ancheta - Yes; Commissioner Barraba - Yes;
20 Commissioner Blanco - Yes; Commissioner Dai - Yes;
21 Commissioner Di Guilio - Yes; Commissioner Filkins
22 Webber - No; Commissioner Forbes - Yes; Commissioner
23 Galambos Malloy - Yes; Commissioner Ontai - Aye;
24 Commissioner Parvenu - Yes; Commissioner Raya - Yes;
25 Commissioner Ward - Yes; Commissioner Ward - No.

1 MS. SARGIS: The motion passes.

2 CHAIRMAN GALAMBOS MALLOY: Thank you. I'd like
3 to request for staff to provide the revised - any
4 policies that we've passed today, if you could provide
5 the final documents to us again, I think there was a
6 revision that happened to the Disclosure Policy and if
7 you could also make those available online later today.
8 We still have two items to cover under the Legal
9 Committee. We will be reconvening at 1:30 and we can
10 take those items up then. I heard "low blood sugar
11 comments" and I concur. With that, we will come back in
12 approximately an hour at 1:30. We are on recess for
13 lunch.

14 (Recess at 12:32 p.m.)

15 (Reconvene at 1:33 p.m.)

16 CHAIRMAN GALAMBOS MALLOY: Good afternoon, I'd
17 like to reconvene this meeting of the California
18 Citizens Redistricting Commission, it's now 1:35, we
19 were on a brief lunch recess. And at this time, we will
20 have the Legal Advisory -- Commissioner Blanco, I
21 apologize -- I am about to ask you to reconvene and pick
22 up where we left off with a report back from the Legal
23 Advisory Committee. We had two outstanding items of
24 business to attend to, so I will pass it to you.

25 COMMISSIONER BLANCO: Thank you. So, the next

1 two items, before we get to the discussion on the Voting
2 Rights Attorney hire, which I know we're all antsy to
3 get to, was the request for a clarification on the issue
4 of Section 8253 of the Regs, and the issue raised by
5 Commissioner Ontai about the vote when not present, and
6 I know Commissioner Yao has one standing thing he wants
7 us to also finish up with. But let's go with these two
8 items, and then we'll see what our time is like.

9 MR. MILLER: Obviously, the provision of the
10 Voters First Act that seems on its face to say
11 Commissioners can't discuss or receive any information
12 about the Act, and that's found at 8253(a)(3) in your
13 Hymnal, and I say, can't receive that information
14 outside of a public hearing, is obviously of concern,
15 and we think it doesn't quite say what it means. So,
16 I've been working extensively with Rob, who in turn has
17 been working with Commissioners individually on the
18 approach to speaking to the press, or speaking at
19 meetings, as well as preparing information for the
20 website. We believe what this is intended to say is
21 that Commissioners are not to have any conversations
22 about a particular district, or receive information
23 specifically looking at how a map will be drawn, or
24 lobbied about the methodology used. I think it would
25 probably unfairly short-circuit the process that Rob

1 Wilcox is engaging in with each of you to try and
2 summarize that in a couple of minutes at this meeting,
3 except in the most broad terms, to say that I believe it
4 does admonish Commissioners, if you will, not to provide
5 opinions about the process, other than to say that we're
6 going to follow the Statute and be fair and objective in
7 discharging our work, but not to comment on a particular
8 piece of data, or how the State will look at the end, or
9 how the district will look, again, except just to say
10 we're going to apply the criteria that the Statute gives
11 us in an equitable manner, after receiving extensive
12 input. That's the most high level description of what I
13 think is a fair way to interpret a sentence that is
14 intended to have some meaning.

15 The flip side that was also posed on the
16 committee was the receipt of information. I understand
17 that there's been a discussion that that might be
18 written so broadly as to preclude you from picking up
19 the definitive textbook on redistricting - I can almost say that
20 word now - redistricting, or attending a seminar on that
21 subject. Again, that seems like an unfair reading
22 because those are very general matters. I think it does
23 preclude you from going to a meeting and seeking input
24 about how any individual district is going to look. I
25 think it would preclude you from meeting with the

1 Supervisor from Yolo County who would like to see the
2 district look a particular way, and receiving
3 information about that district outside of a public
4 meeting - that same Supervisor could come here, of
5 course, and make that presentation, but that's a
6 different forum. So, we would be glad to follow-up in
7 any way that would be helpful to the Commission. As I
8 say, I'm kind of compressing what is a longer discussion
9 that Mr. Wilcox is having individually, but just trying
10 to reflect the sense of what our discussion was on the
11 committee.

12 CHAIRMAN GALAMBOS MALLOY: Mr. Miller, I
13 actually have a question to follow-up on what you just
14 said. I was pleased to see that we were offered the
15 document here from the National Conference of State
16 Legislatures. I remember back in January when we were
17 barely seated as a full Commission that that came up,
18 that they were having a conference in Washington, D.C.,
19 that could potentially be resourceful for us as the
20 Commission, and we were counseled to not even think
21 about it at that point in time because there were
22 concerns about us receiving information about
23 redistricting matters there. So, if I'm understanding
24 you correctly, then, at this point in time, that type of
25 a conference, or I believe on the 15th of March, there's

1 something coming up regarding Census Data here in
2 Sacramento, that those types of forums Commissioners
3 could consider participating in, that we would be
4 legally able to do that.

5 MR. MILLER: I remember my comments last time
6 about we're working with a mapping compass rather than a
7 GPS on the freeway, and I think that requires judgments
8 to be made about these principles on an ongoing basis.
9 And I'm just reacting quickly to your hypothetical. You
10 know, when it comes to a presentation on Census Data, I
11 think maybe we want to look more closely about that
12 because that's directly inputted into what we're doing
13 here, might be more problematic than a conference that
14 covers the United States and is geared towards the
15 principles of redistricting. So, I think each does
16 deserve a thoughtful look and the specific agenda of
17 what it entails, and be careful and thoughtful given
18 that this is broad language that is in the statute.

19 CHAIRMAN GALAMBOS MALLOY: So then, process-
20 wise, is your recommendation that we take each of these
21 questions on a case-by-case basis and confer with you
22 and make a determination?

23 MR. MILLER: I think that would be a prudent way
24 with respect to conferences.

25 CHAIRMAN GALAMBOS MALLOY: Thank you.

1 Commissioner Filkins Webber.

2 VICE CHAIRMAN FILKINS WEBBER: I think that was
3 part of my question is, well, I foresee and I think some
4 of the experiences that the Commissioners has had, or
5 each of us individually being asked to speak at certain
6 events, I understand the limitations on what we can talk
7 about and I think, actually, at this point, where we've
8 gotten, it's given us quite a bit to talk about, you
9 know, the process and in providing instruction. I guess
10 the question becomes, if we do look at it on a case-by-
11 case basis, my concern is, if we get down to a more
12 local level where we have more contacts at a local
13 level, that we should be - are you instructing us to be
14 more conscientious that, for instance, if we're asked to
15 make opening remarks, we can make opening remarks
16 regarding the process of redistricting, and what this
17 Commission is doing, but, then, if the purpose of the
18 remaining portion of the meeting were to get into
19 details regarding, you know, subject areas in a given
20 locale, that we should probably politely excuse
21 ourselves and not be subjected to the appearance of
22 impropriety if we were at a more local level, just
23 attending what might very well be a public function.
24 But what are your thoughts in that regard?

25 MR. MILLER: I think you've stated that very

1 well. I think, as you described that situation, that is
2 an example where you'd be better off excusing yourself
3 after your remarks because you are getting, then,
4 information - it's a kind of lobbying, even if it is in
5 a public forum. And I think that's the kind of
6 information the Statute contemplates you should receive
7 only here.

8 VICE CHAIRMAN FILKINS WEBBER: Thank you.

9 CHAIRMAN GALAMBOS MALLOY: Additional questions
10 for Mr. Miller? Seeing none, Commissioner Blanco, I
11 think we can proceed onto the next point.

12 COMMISSIONER BLANCO: The next point was the
13 issue raised by Commissioner Ontai about - let me see if
14 I'm phrasing this correctly - that when we hold the
15 Input Hearings, and if we go to a model where not all
16 Commissioners are present, would somehow the
17 Commissioners that are not present at that meeting be
18 precluded from voting? Is that not correct?

19 COMMISSIONER ONTAI: Yes. What would happen
20 under that case?

21 COMMISSIONER BLANCO: So, we did discuss this
22 quite at length in our Advisory Committee meeting. Do
23 you want to sort of state where we ended up?

24 MR. MILLER: Admittedly, we didn't have the
25 benefit of any particular research on this, but in broad

1 strokes, I think it was the sense of the committee, and
2 I think research would confirm this, that given the
3 process, the totality of the process that is
4 contemplated by this statute, that missing a meeting in
5 a particular area where input was received should not
6 preclude the Commissioner from voting either on that
7 District or on the totality of the map. I don't know
8 that we know presently how the voting process will work,
9 but I believe it's highly probable at the end of the day
10 there's going to be a vote on a map that reflects the
11 entire state. And between the fact that you have an
12 opportunity to review the record from that meeting that
13 hypothetically you didn't see, and you have the - you're
14 also voting on something that was designed by others who
15 were there and charged with following the Act, between
16 those two things, I think it's actually more reasonable
17 to say the Commissioners should participate and vote
18 than to recues him or herself.

19 COMMISSIONER ONTAI: I think that's
20 satisfactory. So, if the absent Commissioner were to
21 look at the archival data and the taping of that event,
22 that would be satisfactory.

23 MR. MILLER: Well, certainly. And even if you
24 didn't see all of that particular input, you're
25 balancing not only that small geographic area, but

1 you're taking into account the map of the entire state
2 in reaching the conclusion, and you're taking in the
3 benefit of the advice of the line drawer who was there
4 and received that input directly.

5 CHAIRMAN GALAMBOS MALLOY: Additional questions
6 for Mr. Miller or the Legal Committee? Okay,
7 Commissioner Yao.

8 COMMISSIONER YAO: Maybe this goes to the
9 subject matter that we're discussing, maybe it kind of
10 bridges into the previous topic that we talked about in
11 terms of receiving information. I think any time any of
12 us present, whether it's in a shopping mall, or whether
13 it's right here in Sacramento, people would offer
14 information to us. For example, it was communicated
15 that, during the educational workshop, we are not to
16 receive any information, we're not to accept any
17 information that was offered to us. I find it very very
18 difficult to adhere to that kind of guideline. I think
19 information that's offered to us is beyond our control,
20 I don't think we can do anything other than receive it,
21 it's what we do afterward, perhaps, is something we can
22 do. I'm hoping to get some kind of guidelines from you
23 saying that we really should be open to receiving
24 information and that we should try to distribute it, or
25 get that information back to staff so that they can

1 properly disseminate it to the rest of the
2 Commissioners. And I want to put this issue to bed in
3 terms of we shouldn't be receiving any information, no
4 matter what the information is.

5 MR. MILLER: Well, I would have trouble walking
6 the road all the way down with you on that
7 interpretation of the words, which do say Commission
8 members and staff may not communicate or receive
9 information about redistricting matters from anyone
10 outside of a public hearing. With those words, I think
11 it would be hard for me to say that that includes being
12 open to the receipt of information outside of a public
13 hearing. Now, I certainly can appreciate the
14 awkwardness of somebody coming up and saying, "I want
15 you to take this," and you say, "No," and holding up a
16 cross and saying, "I can't accept that." Whatever works
17 best for you! One thing you could say, though, is "it
18 would be best if you would provide this to the CRC staff
19 in Sacramento, who will post this on our website." If
20 you could deflect it in that way, that would be the best
21 practice. If that's absolutely impossible, you know,
22 send it to us, let us post it. I don't know that you
23 can have an absolutely perfect game of 14 Commissioners
24 over nine innings never receiving anything. But I think
25 the effort should be very strongly geared toward not

1 receiving information of that type outside of the public
2 hearing, given the language that we have.

3 CHAIRMAN GALAMBOS MALLOY: Commissioner Aguirre.

4 COMMISSIONER AGUIRRE: Yes. I'm not sure
5 whether Commissioner Yao has any further questions
6 regarding that. The area that I'm not clear on is
7 actually the kind of interaction that would occur
8 between Commissioners and the public in a hearing
9 situation. I understand that public comment is where we
10 generally receive information, but it really doesn't
11 allow for a discussion to occur at that time, although
12 we may ask some clarifying questions. But in a hearing
13 situation, in my experience in Municipal Government,
14 that really does allow for discussion of the information
15 that's presented. So, we've been told, as I recall,
16 that in those hearings we are going to receive this
17 information, to generally not engage the public at all,
18 and if we are to engage the public, that we go through a
19 proxy, perhaps yourself, perhaps our Communications
20 Director, and perhaps our Executive - somebody else.
21 So, that to me doesn't seem respectful of the public and
22 it really doesn't allow for us to really get to the gist
23 of what the information is trying to communicate. So,
24 what guidance might you give us in that regard?

25 MR. MILLER: Well, first on the legal side, the

1 Bagley-Keene Act wouldn't preclude you from having
2 interaction with a person from the public who is in
3 front of you. So, from a purely legal perspective, you
4 can engage. I think it's more a question of what is the
5 best practice, given the challenge of hearing from a lot
6 of people, doing it within the amount of time the
7 Commission has and can allot for that interaction to
8 occur, the awkwardness of trying to persuade someone if
9 they say, "You absolutely have not looked at X, Y and Z
10 in our District," you feel that you have, you know, you
11 can make that statement perhaps generally back, but it's
12 just so easy to get into a long and awkward colloquy
13 once that process has started. But the short answer,
14 then, is it's not the Act that's constraining your
15 conversations, it's a matter of how you feel it's most
16 prudent for the Commission to receive the input.

17 CHAIRMAN GALAMBOS MALLOY: Commissioner Filkins
18 Webber.

19 VICE CHAIRMAN FILKINS WEBBER: Along those
20 lines, your suggestion is that it may not be in this
21 Commission's best practice to engage the public on - and
22 I'm assuming essentially, Commissioner Aguirre, what
23 your question is, is when we have an agenda item, for
24 instance, on input, and we have received some
25 suggestions from the training that we've had that, in

1 particular, the public may be asked to advise us in the
2 Input Hearings regarding the identity of streets, or
3 what their suggested boundaries are, obviously there is
4 nothing in Bagley-Keene that would prevent a Commission
5 member from making inquiry of a member of the public
6 regarding what their recommendation is. For instance,
7 if they come before you and say, "Well, the church on
8 the corner is the best place to draw a line," and if
9 they provide us no further information, you're not
10 suggesting that the Commission shouldn't just ask the
11 question, "Well, what streets are the Church on?" Or,
12 are you just saying, too, the better practice is to
13 maybe find a balance between how we deal with the
14 public? And I'm assuming we're just really looking at
15 the input hearings where the Commission - it's an
16 agendaized item, we can engage the public in that regard.
17 Can you feather that out a little further?

18 MR. MILLER: I am saying that the benefits of
19 the colloquy back and forth with the public just needs
20 to be balanced with the totality of the exercise and the
21 amount of time that's available, and that it can be kind
22 of hard call. But I'm in no way suggesting that you're
23 precluded from a follow-up question, which is probably
24 the best way, actually, to respond is with a follow-up
25 question, or with a statement back. But the possibility

1 of getting into a disagreement that becomes lengthy and
2 not as helpful is one to be alert to. If I could, I
3 think your hypothetical lends itself, maybe, to another
4 example of receiving information that you might just be
5 mindful, it's kind of like a jury where the Judge says,
6 "The evidence is presented in the courtroom, you can't
7 go down to the corner of 13th and K and see where the
8 cars collided on your own." You know, I wouldn't take
9 the information and then go walk that neighborhood to
10 make an independent determination, I think that would be
11 the kind of thing that the Act asks you not to do.

12 CHAIRMAN GALAMBOS MALLOY: Commissioner Di
13 Guilio.

14 COMMISSIONER DI GUILIO: I think one point, and
15 Commissioner Aguirre was mentioning this, was the
16 interaction of the Commission at the Input Hearings, I
17 do think there will be a high level of interaction,
18 probably, with the line drawer and the public. I think
19 they will be able to ferret out some of the issues with
20 the public if it's unclear what they're defining in
21 terms of their community of interest, I think the line
22 drawer to some degree will be able to probably help with
23 that. And I think between a line drawer, maybe even the
24 VRA expert, and then the Commissioners, I would imagine
25 we could probably engage the public enough, hopefully,

1 that they would feel like they were heard and we got the
2 information we needed from them.

3 CHAIRMAN GALAMBOS MALLOY: Any additional
4 questions or discussion points on this item?

5 COMMISSIONER BLANCO: I didn't see this as being
6 limited to the Input Hearings, I think we've already had
7 situations just in general in the public comment period
8 that, for some of us, have felt awkward where there's
9 just this silence, you know, somebody says something.
10 And I think - I wasn't sure, I'll just speak for myself,
11 whether I could ask a follow-up question, or a
12 clarification, when somebody makes a suggestion, and
13 that we were just supposed to go [inaudible] [00:22:23],
14 and sometimes I have heard things that I would want a
15 clarification on some suggestions we've received through
16 public comment, so it's not just the input, it's even
17 today, tomorrow, you know, the whole public comment
18 period, in general.

19 CHAIRMAN GALAMBOS MALLOY: Commissioner Filkins
20 Webber.

21 VICE CHAIRMAN FILKINS WEBBER: So, Mr. Miller,
22 can you clarify that for the Commission? There are
23 different rules about discussion for agendized vs.
24 agendized [sic] items. Is that correct?

25 MR. MILLER: Where -

1 VICE CHAIRMAN FILKINS WEBBER: As far as in
2 following up on Commissioner Blanco's request for
3 further clarification regarding where you can engage in
4 public comment and when you can't.

5 MR. MILLER: Well, I think there are two rules,
6 1) you need to give the public a specific opportunity to
7 engage on an agendized item, and you should, at the end
8 of the meeting, I think it's the best place, ask if
9 anyone would like to speak to an item that's not on the
10 agenda, but you know, during the course of the meeting
11 where you're focusing on a subject, I would keep those
12 comments limited to the subject the Commission is about
13 to take action on.

14 VICE CHAIRMAN FILKINS WEBBER: Uh huh, well, I
15 guess my question is, am I correct that if it is a non-
16 agendized item and a member of the public comes before
17 this Commission, is this Commission entitled to engage,
18 ask further questions, or - that's what I'm saying, with
19 the member of the public vs. an agendized item where, as
20 I understand it, I think we could engage with a member
21 of the public. But I'm not certain.

22 MR. MILLER: Right, I understand what you're
23 saying. What this means is essentially the member of
24 the public has nominated subject for discussion and they
25 can do that, but as you are saying, since the Commission

1 did not give notice that *it* was going to address that
2 item, I think you should refrain from engaging with a
3 member of the public on that item.

4 CHAIRMAN GALAMBOS MALLOY: And I'll just comment
5 that, as Acting Chair, and having learned from the
6 Chairs that have gone before me, there are issues that
7 can arise during that final public comment period that
8 can flag for us what we need to agendaize for the
9 meetings that are coming down the line, and that's
10 really how we've been using that information because,
11 given our constraints around meeting notice, of course
12 we would not engage on that topic at the time.

13 Are there any other discussion items or
14 questions? If not, I'd really like to move ahead to the
15 VRA discussion. We have Hans Johnson, who will be
16 joining us at 2:30, and would like to try to wrap-up the
17 VRA discussion before then. Ms. Blanco.

18 COMMISSIONER BLANCO: Sure, thank you. So, we -
19 Mr. Miller, do people have copies of the -

20 MR. MILLER: We did not prepare copies of the
21 proposed solicitations for lawyers.

22 COMMISSIONER BLANCO: Okay. All right, so we
23 had an extensive discussion about the timing of when we
24 would require people to submit, and the timing for our
25 final decision on the hire, and how we would do - which

1 body and with what timing could we do the first cut vs.
2 sort of final decisions.

3 COMMISSIONER ANCHETA: Just to interject,
4 because at some point I think there will probably be
5 some comparisons between the line drawing consultant and
6 the bidding process there, and this position, and I
7 think Mr. Miller could chime in, as well, the procedures
8 that he is suggesting, and I think it's a good one, it's
9 to proceed a little bit differently, which is not to
10 sort of treat it like a regular competitive bid, but to
11 put together - what he's put together is essentially a
12 request for information, which is sort of a more open-
13 ended process, not bound by all the strictures that are
14 required for competitive bid, but it allows us a lot of
15 leeway to get a lot of different types of proposals and
16 applications, and there are specific criteria that he
17 can highlight the specifics there, but the process is, I
18 think, a little bit different, but it gives us some
19 flexibility to look at any number of different
20 possibilities, including various types of consulting
21 arrangements, working with an individual attorney, or a
22 firm, or another entity, having a staff attorney
23 configuration is another possibility. So, just as in
24 how we're looking at it, we're trying to keep it as
25 open-ended as possible so we can get a really good pool

1 and have some options. I just wanted to interject that,
2 but -

3 COMMISSIONER BLANCO: That's great and we're
4 also - we're not limited, we're not under the same, as I
5 think was mentioned earlier today, we're not under the
6 same contracting rules, which is very helpful in terms
7 of this being able to hopefully work sort of in a more
8 expeditious manner.

9 So I think what would be good is if you could
10 take us through the Request for Information, and on the
11 timing that we're going to propose to you, because it is
12 a recommendation, we should have some serious
13 conversation because it's a very tight timeline and also
14 obviously your input on whether you feel comfortable
15 with some of the recommendations we're making about who
16 reviews all the applications vs. who makes the final
17 decisions, etc., etc. So, maybe you could walk us
18 through it.

19 CHAIRMAN GALAMBOS MALLOY: Just a request, will
20 we be getting this document?

21 MR. MILLER: If you would like it, we'll
22 certainly make it available to you.

23 CHAIRMAN GALAMBOS MALLOY: Okay.

24 MR. MILLER: This is the draft form that we were
25 working from yesterday, which will - it's been provided

1 to the members of the Committee.

2 CHAIRMAN GALAMBOS MALLOY: Just for future, I
3 think moving forward, where there are items that are
4 coming forward as a recommendation from any of the
5 Committees, where there are documents that are being
6 brought forth as part of that, we would like to have
7 them as a full Commission. I think it would help the
8 discussion move along.

9 COMMISSIONER BLANCO: Should we take - I mean,
10 should we take a break and make copies? Because you
11 might want to really look at this and have this in your
12 hands.

13 CHAIRMAN GALAMBOS MALLOY: Do we have the
14 capacity to make copies in the building?

15 COMMISSIONER YAO: Make I ask what decision
16 we're trying to reach today?

17 COMMISSIONER BLANCO: We're trying to reach a
18 decision on whether this description is the one we want
19 to post. It includes what qualifications, how we're
20 asking the cost issue, we're asking them to submit their
21 proposal, it's very substantive, in addition to the
22 process of how we then select. But the Request for
23 Information that we're going to send out is something
24 that I believe Commissioners should approve.

25 CHAIRMAN GALAMBOS MALLOY: With that in mind, I

1 would like to request for staff to make copies of this
2 document. We have another agenda item that we could
3 transition to during that lag time. Or, do you have
4 other items? I had understood that was the last item
5 from your committee.

6 COMMISSIONER BLANCO: What we can do, we can do
7 two things, there is one small item that Commissioner
8 Yao has, but we could go on the timing and then go back
9 to the substance because -

10 CHAIRMAN GALAMBOS MALLOY: That works.

11 COMMISSIONER BLANCO: So, do you want me to do
12 the timing or do you want to?

13 MR. MILLER: Go ahead, why don't you?

14 COMMISSIONER BLANCO: Right! So, if you can
15 pull up your - well, we don't have one, but looking at
16 the calendar, what we are proposing is that the
17 applicants submit their SOQ to us by March 14th, and we
18 had a pretty long discussion about whether that was a
19 doable deadline, you know, if we approved today, and we
20 posted this, whether that was a reasonable amount of
21 time to ask people to pull together -

22 CHAIRMAN GALAMBOS MALLOY: Commissioner Blanco
23 has the floor, March 14th is a Monday, for clarification.

24 COMMISSIONER BLANCO: Right. And we concluded
25 that it's tight, it's fast, but that we could get a good

1 quality pool of applicants by March 14th. The next step,
2 and this is really where it gets tight, is that the
3 Advisory Committee would do a first cut on the next day,
4 on 3/15, and that would be an Advisory Committee Meeting
5 open to the public, obviously, where we would actually
6 go through all the materials, all the applicants from
7 whom we received information, and this would also allow
8 for public comment about the Applicants because it would
9 be an Advisory Committee Meeting. And then, at the end
10 of that meeting, we would have made a cut. Then, the
11 Advisory Committee again would interview the remaining
12 candidates, you know, in a Public Advisory Committee
13 meeting on March 17th. And we would, depending on what
14 format we use, whether we end up with - we recommend a
15 one attorney proposal, or two Voting Rights Attorneys,
16 we won't know yet, then we would come to the full
17 Commission on the 18th of March, and the persons who we
18 interviewed on the 17th, we would ask them to stay, we
19 would be making a recommendation on the hire to the full
20 Commission, but you would have a chance to also
21 interview those candidates in full Commission on the
22 18th. And we would vote on that date. So, that's the
23 timing. Is that correct?

24 COMMISSIONER FORBES: Yes, one reason that we
25 have the small gap and interview around Tuesday,

1 immediately, is that we anticipate that we have got the
2 potential of getting candidates from all over the
3 country. They have to have the ability to get here, so
4 we're not in a position to - we're trying to leave at
5 least a couple of days for them to schedule an airplane
6 to get here for the 17th, so that's why we're meeting on
7 the 15th to come up with some names.

8 COMMISSIONER ANCHETA: In addition to that, I
9 believe we suggested to Mr. Miller that, whatever final
10 version is put together, there is in effect a schedule
11 put forth that has both the deadline and the schedule
12 for interviews and secondary reviews, so that at least -
13 you may not get it, but at least you'll know that that's
14 the scheduling and you can kind of work that schedule
15 into your own schedule.

16 CHAIRMAN GALAMBOS MALLOY: Any other background
17 information from the Legal Committee or from Legal
18 Counsel before we open it up for discussion?
19 Commissioners. Commissioner Yao.

20 COMMISSIONER YAO: Are you thinking of
21 interviewing one, two, three people on the 17th? Or no
22 more than that type of number?

23 COMMISSIONER BLANCO: Yes. Of course, we have
24 no way of knowing how many applications, but we're
25 hoping four, maximum. I mean, I think that's been our

1 practice, in general, with some of our hires, and I
2 think, depending on the quality of the applicants, it
3 could be two. But I would say we really don't want to
4 go more than four, if that's okay with -

5 COMMISSIONER YAO: And you did state - this is a
6 public meeting, right? The interview?

7 COMMISSIONER BLANCO: It will be. Both the
8 interview and of all the candidates at the Advisory
9 Committee, and then when the full Commission, it will be
10 a public meeting.

11 COMMISSIONER YAO: If we're going the 17th and
12 18th, they're open meetings.

13 COMMISSIONER BLANCO: Correct.

14 CHAIRMAN GALAMBOS MALLOY: Commissioner Di
15 Guilio.

16 COMMISSIONER DI GUILIO: I guess I just have a
17 couple comments. The first would be to tag a little bit
18 onto Commissioner Yao's question about the number of
19 candidates. I would hope that maybe the Legal Committee
20 would keep it open, only because if we are, maybe if the
21 Commission decides to maybe have a balance with two,
22 that if you have, let's say, only four candidates, that
23 might only give you choices of two and two, so to speak,
24 so maybe some consideration in terms of breadth within
25 the two different types of VRAs.

1 COMMISSIONER BLANCO: Uh huh.

2 COMMISSIONER DI GIULIO: The second one would
3 be, again, just a point of clarification, you would do -
4 the Advisory Committee would do the interviews on March
5 17th, and then, on March 18th, when you go to the full
6 Commission, would that be simply your recommendation for
7 the VRA hire? Or would it be, as a result of the
8 interviews, then we would be, as a full Commission,
9 considering all of those that you had interviewed?

10 COMMISSIONER BLANCO: You would be interviewing
11 the persons or entities that we recommend to you.

12 COMMISSIONER DI GIULIO: So if it was a
13 recommendation for just one or two, we would only be
14 looking at those candidates, not the full slate of those
15 you interviewed?

16 COMMISSIONER BLANCO: Correct.

17 COMMISSIONER DI GIULIO: Okay.

18 CHAIRMAN GALAMBOS MALLOY: Additional questions
19 and discussion? Commissioner Filkins Webber.

20 VICE CHAIR FILKINS WEBBER: I'm not sure if this
21 would be appropriate yet, but we do have quite a few
22 considerations to get into as far as scheduling, so for
23 March, and I've been working diligently with staff
24 because - in anticipation that I would be Chair for
25 March, so we have a lot of considerations, so it's quite

1 possible, based on your timing, that there might need to
2 be some adjustments regarding your - maybe not
3 necessarily your due date, but consideration of the
4 Advisory interview for the 17th and full Commission on
5 the 18th, because we have a lot of other considerations.
6 So, I don't necessarily think that we would be keeping
7 these dates right now, we've got a lot more to hear from
8 in today's meeting, so I don't know if we can schedule
9 anything yet, but scheduling will be an issue.

10 COMMISSIONER FORBES: The one thing we do have
11 to consider, though, is we want to put the dates in the
12 request.

13 VICE CHAIR FILKINS WEBBER: I understand, but
14 right now we've got a number of considerations based on
15 the information we're going to receive today regarding
16 the Technical Consultant, the ability to be able to make
17 decisions regarding that, and whether at this point
18 we're looking at this date, based on the information
19 that I've been discussing with staff, you're looking at
20 three Commission meetings over three weeks, and I don't
21 think that would be an effective use of our time. So,
22 I'm just saying, there's a number of other factors that
23 will play into the dates, so just keep that in mind,
24 that I don't at this point think that the dates as you
25 have them right now might work, but - and if you need

1 additional time, I think, as we get through today's
2 agenda and we'll have some scheduling, if you wanted to
3 push the 14th because you might want to do greater
4 outreach, we would have time to likely do that in
5 anticipation of later meetings in the month of March.

6 COMMISSIONER BLANCO: So, can I suggest because
7 we really do want to - we've got this drafted in pretty
8 final form and we want to get it out - that I don't know
9 if it would be appropriate today, but at the latest
10 tomorrow, that we do finalize our scheduling so that we
11 know?

12 CHAIRMAN GALAMBOS MALLOY: According to where we
13 left off with the agenda, the scheduling would happen
14 right after your committee closes its comments. We
15 could take - because we do have to go live if we are
16 going to have a March 10th meeting, we have to post our
17 agenda today, correct?

18 COMMISSIONER BLANCO: Correct.

19 MR. CLAYPOOL: Yes. Today is the day to post
20 for March 10th, and we have this issue. The issue with
21 the VRA contract, as it works with the one for the
22 Technical Committee, is the Technical Committee contract
23 is still at DGS, and they've got to approve that one.
24 We won't know the dates that they're going to put on
25 that contract until they finalize it. So, we had

1 originally hoped that they would finalize it today, and
2 then those dates worked with getting the bids back by
3 the 15th, and then having them on the 18th, and so we did
4 the entire planning for that phase against that
5 schedule. Now, they're taking it and saying that we
6 might not see it until next week. It's a day for day
7 push and, so, what happens is it could push the review
8 of the one for the Technical Committee into the
9 following week. If we want to have the same
10 consideration period for both contracts, then we would
11 have to wait to let this one so that we can coordinate
12 it with that one.

13 COMMISSIONER BLANCO: So, I would really urge us
14 not to wait. I mean, at some point you have to pick one
15 date around which you structure your other meetings, and
16 what I'm concerned about, if this has turned into a
17 rolling date, that we have no - we can't pin it down.

18 MR. CLAYPOOL: You're absolutely right,
19 Commissioner. We have no control over that contract
20 with DGS until they approve it and give it to us. As
21 soon as they do, then we have the dates and then we get
22 the control back, but until we get that, you're correct.

23 COMMISSIONER BLANCO: And so it seems to me
24 that, once we get - if it's in our interest to pin down
25 one set of dates that we know we have to do, and it's

1 firm, and then not keep all the balls up in the air, and
2 pick one that's firm, and then plan around it, so I
3 still - obviously, we still have to discuss the other
4 things, but I would like to think that we can end today
5 with an idea of when we can do these interviews and the
6 decision-making on the attorney without having to wait
7 for an unknown number of days before we hear back on all
8 the other potential hiring or contracting decisions,
9 that would be my recommendation.

10 CHAIRMAN GALAMBOS MALLOY: Commissioner Blanco,
11 as your Chair, it is my goal that we will come out of
12 today with those dates so that you can move forward with
13 this. Are there other aspects of the VRA considerations
14 we can look at now, and then loop back to the scheduling
15 issues later in the day? And we do not yet have copies?
16 Or we do?

17 MR. MILLER: I know you're not anxious for
18 another dramatic reading, but the criteria are
19 relatively short and specific. If you wanted me, I
20 could highlight those and I think -

21 CHAIRMAN GALAMBOS MALLOY: Please do, in the
22 interest of moving ahead.

23 MR. MILLER: -- about what we get out of the
24 contract. We're looking for the following things from
25 the lawyers who are going to perform this work: "The

1 ability to advise staff, the Commission itself, and
2 consultants regarding the requirements of State and
3 Federal Law relevant to redistricting and, in
4 particular, demonstrate expertise with respect to
5 Section 2 and 5 of the Voting Rights Act." That's the
6 heart of it right there. In demonstrating this, we're
7 going to ask them to describe their specific experience
8 with redistricting activities, including the other
9 attorneys that they may have worked with. Back to the
10 conflicts issue, we want to know the names of the
11 entities or private parties they have worked with on
12 redistricting matters, the principal legal issues that
13 they've had to address through that work, the outcome of
14 their work, how successful were they? Did it result in
15 litigation? If it did result in litigation, how did
16 that come out? We're asking them to describe their
17 litigation experience and, at the same time, making it
18 clear that this is not a proposal or a request to
19 provide litigation counsel to us, but we want to know
20 what they've done in that regard. Then, we ask them to
21 sum it all up and tell us how the totality of that
22 experience qualifies them to do this work for us. From
23 a qualifications standpoint, that's how this looks in a
24 nutshell.

25 CHAIRMAN GALAMBOS MALLOY: Thank you. Questions

1 from Commissioners. So, Ms. Blanco, are there other
2 aspects of this besides the timeline that we need to be
3 aware of, or make any decisions on?

4 COMMISSIONER BLANCO: So, another - the
5 arrangements are a very important part of this, so we
6 are - the way we're proposing that we handle - this is
7 the way it will be stated in the Request for Information
8 that goes out, what we're proposing is that we ask the
9 Applicants whether they're individuals, law firms,
10 whoever they may be, that they actually present us with
11 a budget of what it would cost them to do what we are
12 asking to have done, and we will include in there, in
13 order to allow them to be a little bit more precise
14 about the package, the financial package, we're going to
15 list like how many meetings are expected to more or less
16 go to in terms of some of the Input Meetings, or full
17 Commission, you know, so that they can think in terms of
18 time if they need to think in terms of time, and we're
19 leaving it open - we say we prefer a flat fee, rather
20 than hourly, but we're not ruling anything out. And
21 we're going to, instead of saying - we're going to call
22 this, you know, "what you would bill us for your legal
23 services," so that's how we're going to phrase it. We
24 had a discussion about whether - and I think
25 Commissioner Ancheta mentioned it - I think we should be

1 open and we talked about, it could be a staff attorney,
2 so it really is -- we're leaving it very broad, but we
3 do want them to come back to us with a number, and we
4 just have to give them enough information so that that
5 number is based on some facts, and not just pure
6 speculation on their part. So, that is something I
7 think we need to get agreement by the Commission, that
8 this kind of structure, you know, that we're going to
9 include in the Request for Information, is okay with the
10 Commission, that we leave it - that they come back to us
11 and we leave it very broad what the form of payment
12 might be. Do you want to add something to that?

13 MR. MILLER: I think that's right. It is
14 because our long-term schedule is not yet clear, I think
15 it's very difficult for a law firm, in particular, to
16 give a fixed price because of so much uncertainty. So,
17 options are to permit them to give a range of fees. We
18 would request an estimate rather than a hard bid with a
19 range and, in particular, with respect to attending
20 meetings, I think it would be fair to let them price
21 those a la carte. You know, perhaps they could tell us,
22 "My fee for the day is...," whatever it is and, obviously,
23 multiply that by the number of days used.

24 CHAIRMAN GALAMBOS MALLOY: Commissioners.

25 COMMISSIONER PARVENU: I'm referring now to the

1 draft budget that was prepared by Mr. Claypool and
2 distributed to the Finance and Administration Advisory
3 Committee and we have two line items here, one is for
4 the Voters Rights Attorney, the line drawing, with a
5 total of \$150,000 spread over the two fiscal years, and
6 a second category for a VRA Attorney, a contingency. Is
7 the primary intention to review the applications and
8 find the highest qualified individual that is extremely
9 knowledgeable with the Voter Rights Act, that could be
10 the one attorney that can cover the full gamut? Or is
11 it necessarily required that we break that down and
12 consider a second attorney? Wouldn't preferably the
13 ideal situation to have one extremely qualified person
14 and we have Commissioner Blanco here, and Commissioner
15 Ancheta to work with them, as well as Mr. Miller here,
16 to round that off, in terms of cost savings, that would
17 reduce the proposed budget by \$150,000 if ideally we
18 could achieve that goal?

19 MR. CLALYPOOL: Well, first of all, I had put
20 those in just anticipating that there might be a need.
21 Actually, Commissioner Blanco and Commissioner Ancheta
22 had both - and we're coming up with a different
23 terminology for that - more of a fund that would extend
24 across whatever we needed in that category, and I'm
25 going to be working with them to change the language of

1 that. Having said that, I think it's in keeping with a
2 lot of things that are in this budget; this budget is
3 primarily to see, you know, to make sure we cover the
4 things that we want to see covered to their fullest
5 extent, and then to have someone either tell us, yes,
6 you can have this, or, no, you can't. But that was the
7 intention of having these three line items, it was
8 always intended that we would have the most qualified
9 single or the most qualified two. But again, I would
10 defer to the Commissioners.

11 COMMISSIONER BLANCO: What we envisioned, what
12 we're referring to here is that, instead of it saying
13 "Voting Rights Attorney" and then, "Second Voting Rights
14 Attorney Contingency," this might be a line item that
15 reads "Legal Services." And we would collapse it into
16 \$300,000; in other words, we would combine those, have
17 that be the budget for legal services right now, has
18 those two, and then we would hope that we don't use all
19 that and that doing it like that gives us the
20 flexibility to say maybe it's an attorney and X, "an
21 attorney plus 10 hours of this here," so by calling it
22 "legal services," we buy ourselves some flexibility and
23 we put just one number to that line item. But, I mean,
24 I think the best of all worlds is one person who is
25 highly qualified, who all of us agree is impartial, that

1 we feel confident survives the scrutiny of the public in
2 terms of perceived bias, etc., all those considerations,
3 and comes in under \$300,000! You know, that would be
4 the ideal.

5 COMMISSIONER PARVENU: I appreciate your
6 response and I do appreciate -- the approach is a very
7 wise approach to allow us flexibility to have that
8 range.

9 CHAIRMAN GALAMBOS MALLOY: Commissioner Dai.

10 COMMISSIONER DAI: Yes, I just wanted to
11 clarify, Commissioner Blanco brought this up in the
12 Finance and Administration Advisory Committee meeting
13 yesterday, that litigation would be a separate item, so
14 if it just says "Legal Services," maybe we need to say
15 "Legal Services exclusive of Litigation," or something,
16 just to make that clear.

17 COMMISSIONER BLANCO: Right, yeah, we should put
18 that in, it's definitely in what's going to go out to
19 the Applicants, but we should probably put it in our
20 budget, as well.

21 CHAIRMAN GALAMBOS MALLOY: Additional questions
22 or comments on the fee arrangements, specifically?
23 Commissioner Blanco, are there other aspects of this for
24 consideration?

25 COMMISSIONER FORBES: There is one that we

1 talked about that I noticed the change did not make it
2 in this draft.

3 MR. MILLER: There aren't changes from
4 yesterday.

5 COMMISSIONER FORBES: Huh?

6 MR. MILLER: We haven't made the changes.

7 COMMISSIONER FORBES: You have not made the
8 changes. One thing I just want to point out, then, we
9 discussed this yesterday, that it makes reference to
10 attorneys in law firms, we thought that was a
11 restrictive term, we want to have attorneys and legal
12 entities, I mean, wherever you find that because there
13 could be any number of things besides law firms that
14 might want to apply.

15 CHAIRMAN GALAMBOS MALLOY: Can I also ask if
16 there were any substantive additional changes that were
17 made from this document yesterday that have not yet been
18 integrated?

19 COMMISSIONER BLANCO: I'm trying to look at my
20 notes.

21 COMMISSIONER ANCHETA: This is not too
22 substantive, it's more of a change in terms. Section 5,
23 page four, I guess, numbered paragraph 3, where the term
24 - four lines down - where the terms "racial
25 gerrymandering," which is sort of a term of art that is

1 applied to a certain line of cases, we thought instead
2 of the term gerrymandering, there are multiple
3 pronunciations, actually, because of Governor Gerry,
4 that term probably is not the best one to use. My
5 suggestion was to have a specific reference to the names
6 of the cases, specifically Shaw vs. Reno, and Miller vs.
7 Johnson line of cases. Anybody who applies for this
8 will know exactly what we're talking about by referring
9 to those cases, so I don't think that should be an
10 issue. But the term itself could be sort of
11 inflammatory, so we decided to cut that out.

12 COMMISSIONER BLANCO: Right, thanks. Yeah. And
13 I think that, plus the change of law firm, are the two
14 major changes, and the - I've looked at all my notes, I
15 think that's pretty much it, right?

16 MR. MILLER: I'm going to try to give them a
17 little more guidance on the fee estimate piece, but I
18 think it is fair to say that the document you see here
19 is substantially similar to what the final form will be.

20 CHAIRMAN GALAMBOS MALLOY: Commissioner Filkins
21 Webber - I'm sorry, Commissioner Ancheta, were you
22 responding?

23 COMMISSIONER ANCHETA: Oh, yeah, just on the fee
24 arrangements, and I think I brought this up yesterday,
25 which was that I do think it's important to have the

1 Staff Attorney option within the realm of possibilities
2 here because the "Fee Arrangements" tends to sound like
3 you're billing us in some way, either by hourly or by
4 flat fee. I actually - personally, I always think a
5 Staff Attorney is actually better for this kind of thing
6 because, one, it's cheaper, and two, you get them all
7 the time because they work for you. So, that's my
8 preference, that may not be what we get in the pool, of
9 course, because there may be very qualified candidates
10 who want to do whatever arrangement they offer, but I
11 think that ought to be specifically in there to make
12 sure that is an option that is available.

13 CHAIRMAN GALAMBOS MALLOY: I'd like to take
14 pause for a moment to just note that we are at 2:30, Mr.
15 Johnson is here from the Public Policy Institute of
16 California. We have inquired whether he has any
17 flexibility to his schedule, and he has graciously
18 offered to go as late as 3:00 with the beginning of this
19 presentation, and so I'm hoping that we can continue and
20 wrap this agenda item up before we make that transition.

21 COMMISSIONER BLANCO: I think we're done. I
22 think this change around the Staff Attorney is not just
23 a wording change, but something we really wanted to
24 bring to the Commission. It sort of takes us full
25 circle; when we started all of this, we were talking

1 about hiring an attorney and that's kind of how the Act
2 is written and the Regs sort of envisioned hiring an
3 attorney like you're going to have somebody on staff.
4 And we've, for a variety of reasons, I think, have sort
5 of started to go in the direction of maybe we can hire
6 somebody's services. And I think we'd like to go back
7 to you and say let's keep the staff attorney possibility
8 as a real viable one, and even find out if there's a
9 preference for that on the part of the Commission. So,
10 that would be my question to the Commissioners, is if we
11 could flesh that out a little bit.

12 CHAIRMAN GALAMBOS MALLOY: Commissioner Dai.

13 COMMISSIONER DAI: Yes. I think that's a good
14 approach, I think it would save us money. I think this
15 RFI, you know, vehicle, though, is not a professional*
16 [ph.] [00:57:19] way to get a Staff Attorney, so is
17 there a way for us to both do a job posting and put the
18 RFI in parallel, and see what we get?

19 MR. MILLER: I - go ahead.

20 MR. CLAYPOOL: You can post a job for this
21 Commission, we just would have to go back and establish
22 that position with the State Controller's Office, so --
23 we're getting pretty good at that when we are
24 establishing positions. So, you can absolutely, in my
25 mind, do that. You can post for it in the same capacity

1 that we did, and then I'm going to look back at Carol,
2 even though she's going to go like this and tell me not,
3 but we can also, I think - we can send out a request.
4 So, yes, both vehicles are available to you, you can
5 always withdraw the request, you can always not accept
6 the persons that apply for the job.

7 COMMISSIONER DAI: I would recommend that we do
8 that, then.

9 MR. MILLER: And I'll also make it clear in this
10 solicitation that we're anxious to hear from people that
11 have that interest. I have one question with some
12 trepidation for the Commission, if I can. The Committee
13 has identified a short list of lawyers, academics, who
14 might be available to offer training on Voting Rights
15 issues to the Commission. I've contacted one, she had
16 an interest, but was unavailable for this week. Is that
17 training something you would still like to receive? And
18 what is the flexibility on receiving it?

19 CHAIRMAN GALAMBOS MALLOY: I'll chime in as
20 Chair, who was trying to schedule it for this meeting.
21 I think the interest is, given the substantive nature of
22 the issues at hand, we would like to have more training
23 rather than less, and start earlier, rather than later.
24 So, please continue -

25 MR. MILLER: I'll pursue the names that have

1 been surfaced by the Committee with the idea of trying
2 to get one of those people for our next meeting.

3 CHAIRMAN GALAMBOS MALLOY: Thank you, Mr.
4 Miller. Commissioner Filkins Webber.

5 VICE CHAIRMAN FILKINS WEBBER: I have a question
6 regarding Section 2 on the RFI. Under the second
7 paragraph, can you - and this doesn't coincide with what
8 Commissioner Blanco had advised, it says that the
9 qualifications would be used by staff to recommend two
10 or more attorneys to the full Commission.

11 MR. MILLER: You're correct, that paragraph
12 needs to come out to be consistent with the methodology
13 we developed on the committee. This was a straw man
14 document to get the discussion going, and this is
15 another change that was made.

16 VICE CHAIRMAN FILKINS WEBBER: One other
17 suggestion, just as I'm looking at it, again, it
18 bothered me when I saw it as part of the Legal Advisory
19 Committee, even though I didn't have an opportunity to
20 participate yesterday, and when I read it again, I just
21 wanted to bring it up. Under Section 2, again, the
22 first paragraph, it states that you're seeking the SOQ
23 from attorneys and firms which, I know, I guess that's
24 going to change, to provide [quote] "legal services to
25 assist Counsel for legal advice..."

1 MR. MILLER: Uh huh - well, that's not well-
2 phrased.

3 VICE CHAIRMAN FILKINS WEBBER: Okay, and then it
4 says, "...representation to assist the CRC." How I see
5 this particular individual is that they would be
6 providing legal services to the entire Commission,
7 including Mr. Miller and staff, so if that could be
8 broader. I don't want someone to think that they're
9 just assisting counsel because, obviously, inquiry and
10 their required representation and scope of work would be
11 at the mandate of the Commission and not just assisting
12 you as an assistant, and that's how I was reading it,
13 originally.

14 MR. MILLER: Your comments are correct and we'll
15 be sure that's clear.

16 VICE CHAIRMAN FILKINS WEBBER: Thank you.

17 CHAIRMAN GALAMBOS MALLOY: So, Commissioner
18 Blanco, I have a process suggestion. Perhaps we can,
19 for purposes of moving this conversation and this
20 recommendation forward, entertain a motion to approve
21 this with the changes as noted, without the dates, and
22 then we can transition into a conversation which
23 Commissioner Filkins Webber will lead around some of the
24 scheduling issues and, then, once we formalize how these
25 dates fit together in the next few minutes, then we can

1 build those back in. Does that make sense?

2 COMMISSIONER BLANCO: With one addition, which
3 is the description with the changes that we've discussed
4 and the process that we laid out, regardless of the
5 timeline, the process for who does the first cut, and
6 the interviews, and that whole - so I would say both
7 those things, and putting the exact dates aside.

8 CHAIRMAN GALAMBOS MALLOY: Commissioner Filkins
9 Webber. Oh, sorry. Commissioner Dai.

10 COMMISSIONER DAI: And I just want to add that
11 we are directing staff to go ahead and create a job
12 posting, as well, in parallel with this process.

13 CHAIRMAN GALAMBOS MALLOY: So, I would be happy
14 to entertain a motion.

15 VICE CHAIRMAN FILKINS WEBBER: I'm sorry, I
16 thought there was further discussion regarding the
17 process, separate and apart from the ROQ.

18 MR. CLAYPOOL: And I just wanted kind of a
19 clarification from Commissioner Dai. A job posting
20 identical to the one that we originally posted for -

21 COMMISSIONER DAI: Chief Counsel?

22 MR. CLAYPOOL: Chief Counsel. Or do we want -

23 COMMISSIONER DAI: You included Voting Rights
24 Act in there, right?

25 MR. CLAYPOOL: Okay.

1 COMMISSIONER DAI: Actually, I would suggest
2 that Mr. Miller take a look at that job posting and make
3 any tweaks necessary to be consistent.

4 MR. MILLER: I think we would want to focus it
5 and limit it to Voting Rights lawyers in this posting.

6 COMMISSIONER DAI: Yeah.

7 CHAIRMAN GALAMBOS MALLOY: Commissioner Filkins
8 Webber, do you have feedback or discussion around the
9 process?

10 VICE CHAIRMAN FILKINS WEBBER: Yes, I do,
11 actually. Giving consideration to some of the dates and
12 availability of Commission members, as this process goes
13 about, I think it's very important that, if this
14 Commission were to consider the Advisory Committee to do
15 the first round of cuts, and considering individuals to
16 interview that each of the Commission members from each
17 party be present. In other words, that I believe
18 originally as staffed, for lack of a better word, the
19 Advisory Committee - Legal Advisory Committee - was made
20 up of Commissioner Forbes as Undeclared, myself as the
21 Republican, and Commissioner Blanco was the Democrat.
22 Given the potential partisan discussion that may come up
23 concerning potential candidates, I feel it is necessary
24 that at least one individual from each of those parties
25 be present for that, and that that should be taken into

1 consideration for the initial cut, as well as the
2 interview.

3 CHAIRMAN GALAMBOS MALLOY: Commissioner Di
4 Guilio.

5 COMMISSIONER DI GUILIO: I would like to go back
6 to Commissioner Blanco's inquiry about the process. I
7 guess I would like to have another point of
8 clarification. I do like the way you've structured it
9 in terms of the Advisory Committee would take on a lot
10 of this initial vetting process. I guess part of my
11 question would be whether or not, if we as Commissioners
12 are there at the meeting, are we allowed, similar to an
13 Advisory Committee where additional Commission members
14 who are not on that Advisory Committee can sit in and
15 participate, maybe not necessarily in the interview, but
16 is there an opportunity for Commissioners who are
17 present to engage in the conversation as the legal
18 committee members are making their determination? How
19 do you envision that?

20 COMMISSIONER BLANCO: Yeah, we talked about
21 this, although not as in-depth, and I wish we had, but
22 we did - because we had this concern, we're making a
23 first cut and, yeah, that's a lot of responsibility.
24 So, one, we knew we wanted to do it obviously in a
25 public hearing setting, and then we said whatever other

1 Commissioners that aren't officially seated on the Legal
2 Advisory Committee hopefully will come and participate,
3 but I think you're right, that we should actually spell
4 out what that means, that if they want to attend, what
5 does that mean? You know, does everybody that is there
6 have the same interviews, votes, and all of that? I
7 think we should just discuss that, but we did consider
8 that people might want to come that aren't standing
9 members of the Advisory Committee.

10 CHAIRMAN GALAMBOS MALLOY: I have two
11 Commissioners in the stack, I believe Commissioner
12 Ancheta and Commissioner Ward.

13 COMMISSIONER ANCHETA: Yeah, and going back to
14 Commissioner Filkins Webber's concern, which I share,
15 around the division of the groups by party, or non-
16 affiliation, I've been attending these meetings, I'm not
17 sure if I'm officially on them, but I am a Democrat, and
18 I don't know if it comes down to voting, so I think we
19 should be clear about - and I think it's fine for
20 anybody to participate in these committee meetings. I
21 think I'm officially listed only as a member of the
22 Technical Committee, I'm not sure.

23 COMMISSIONER DAI: Commissioner Ancheta, give it
24 up, you're going to have to join the Legal Advisory
25 Committee.

1 COMMISSIONER ANCHETA: Right, but given that,
2 and I don't know how we're looking at - since there will
3 be - there may be disagreements, and if you have four
4 Commissioners, two who are Democrats, that's not an
5 evenly divided slate of people, we might want to think
6 about what that means. Now, obviously we're just sort
7 of doing it because a bunch of lawyers who can serve on
8 the Legal Committee, but I am attentive to the balance,
9 and I think that's a very legitimate concern, and we're
10 trying to figure out Commissioner Filkins Webber's
11 schedule, it's a very tight one for those two weeks,
12 it's a very challenging process we have to go through
13 because our schedule is very tight.

14 CHAIRMAN GALAMBOS MALLOY: I have two
15 Commissioners in the stack before Commissioner Filkins
16 Webber, so Commissioner Ward and then Commissioner
17 Barraba.

18 COMMISSIONER WARD: Thank you, Chair. As I
19 heard Commissioner Blanco outline the process, I guess
20 the piece that was rambling around in my mind is why are
21 we changing the process from what we've done in the
22 past? I mean, it seems like it was an expeditious way
23 to do things. All the CVs of people that have applied
24 were sent out, we racked and stacked them as
25 individuals, which is representative of the entire

1 Commission, and then staff compiled the highest
2 responses, or the top candidates, and then we sat down
3 as a body and interviewed those people in closed
4 session. And I'm just curious as to why we're talking
5 about for a position that's inevitably going to be
6 contentious, when we've already seen that, for
7 Communications Director we're being criticized, VRA,
8 this is a big hire, and I'm just curious as to why we
9 would change our process and take it out of a full
10 committee input like that and not just go with what has,
11 in essence, been fair, expeditious, and fruitful?

12 CHAIRMAN GALAMBOS MALLOY: Response from the
13 committee?

14 COMMISSIONER BLANCO: We had a long discussion
15 about that and we were really just trying to expedite
16 things. We just thought, what if we get 20 applicants
17 and we were looking at the calendar and the timing,
18 thing should the full Commission get all the
19 applications and interview and, you know, go through
20 them all, and then interview the ones, and then - I
21 mean, so there was no - it was strictly trying to
22 expedite the process, that was the only thing. And we
23 did go back and forth because we were concerned about
24 what an important decision it was, and even when you
25 make the cut. In fact, we had a conversation about that

1 anybody could put somebody back in, you know, if we gave
2 you all - that all the Commission would have all the
3 applications, and if somebody didn't make it into our
4 cut, that somebody wanted back in, that that could
5 happen, or you could just say, "I really want this
6 person in the final cut." So we had a lot of
7 conversation about this because we were trying to
8 balance how to make this streamlined vs. what an
9 important decision it was. So -

10 COMMISSIONER FORBES: Yeah, that was exactly the
11 rationale.

12 CHAIRMAN GALAMBOS MALLOY: Commissioner Forbes.

13 COMMISSIONER FORBES: I mean, Jodie was only
14 available on the 17th.

15 COMMISSIONER BLANCO: That's right.

16 COMMISSIONER FORBES: If we got the things at
17 5:00 on Monday, the 14th, that only left you two days to
18 both review the material, assemble your priority
19 ranking, and get that out, and then we had to pick the
20 people - we had to give them some kind of notice as to
21 when they were going to get there, so it was strictly
22 schedule-driven.

23 CHAIRMAN GALAMBOS MALLOY: Commissioner Barraba.

24 COMMISSIONER BARRABA: It seems to me that this
25 particular job, you would have to have some degree of

1 understanding and experience relative to the Voting
2 Rights Act and the legal issues. And it would seem to
3 me that, again, with the idea of expediting the process,
4 that we have some very qualified people here and I think
5 Commissioner Filkins Webber was at least one member of
6 each party, so if we got two, I don't see it as a big
7 problem. But the expedite is really important at this
8 point and we eventually get to vote, so it's not like
9 we've been disenfranchised from voting for this, so I
10 think the approach they've put together is really quite
11 efficient.

12 CHAIRMAN GALAMBOS MALLOY: Commissioner Filkins
13 Webber, you were in the stack some time ago, I don't
14 know if you still are. Go ahead.

15 VICE CHAIRMAN FILKINS WEBBER: Primarily, I
16 guess my point regarding the partisanship representation
17 on the Commission and participation in that regard,
18 because being one of the first eight, which I don't want
19 to differentiate us, but we really have gone through
20 quite this process of having to review all these
21 applications of certain people, I mean, we've done a
22 lot, and also because there were certain concerns that
23 were made by various Commission members throughout the
24 staff process, and staff hiring process, that I feel
25 necessitates -- and based on some comments that were

1 made before -- necessitates appropriate representation
2 at either an Advisory level if the Advisory Committee is
3 charged with the task of making the initial cut, but I
4 think Commissioner Dai's comment, or I think it was
5 Commissioner Blanco, they don't have voting power as it
6 is at the Committee level, so I think your point of
7 putting somebody back into the pool, if the full
8 Commission is entitled to looking at all of the
9 materials, I certainly would encourage that, as well.

10 CHAIRMAN GALAMBOS MALLOY: You'll have to be
11 honest and tell me who was in the line-up next.

12 COMMISSIONER FORBES: Okay, what I would
13 suggest, because I think Commissioner Filkins Webber is
14 correct, I think it's better to have an assigned, if you
15 will, Republican there, and so I know her schedule
16 doesn't permit her to be there, as I understand it, on
17 that Tuesday, but if we could get an assigned Republican
18 representative, it might address the fair concern.

19 CHAIRMAN GALAMBOS MALLOY: Commissioner Yao.

20 COMMISSIONER YAO: The other deviation it
21 appears that we are taking is this is the first public
22 interview and public selection process of any of the
23 staff members, and I think, at the minimum, we need to
24 reflect that on the job posting and also on the RFI, so
25 there won't be any surprises if there are people that

1 are reluctant to be interviewed in this manner because,
2 to my knowledge, this is the first time we have deviated
3 from that private closed session interview.

4 MR. MILLER: You are correct and I was just
5 going to say, in addition, we're going to state in this
6 request that their responses will be public, as well.

7 CHAIRMAN GALAMBOS MALLOY: Commissioner Ward.

8 COMMISSIONER WARD: Again, I apologize if I've
9 missed this, but I'm still unclear, why are we changing
10 again from what we've done with all prior staff hires?
11 Why are we making this a public interview as opposed to
12 the way we've agreed to do business in the past?

13 MR. MILLER: Actually, we don't have a choice in
14 the matter, as it turns out. There is an exception in
15 Bagley-Keene for employees that would not apply to
16 Consultants, which these are really Consultants.

17 CHAIRMAN GALAMBOS MALLOY: I have a
18 clarification around that, though, because we are doing
19 the simultaneous staff posting, is my understanding, so
20 would - if there were applications that came in for the
21 staff posting, would those interviews be handled any
22 differently than those who came in as consultants?

23 MR. MILLER: This is the value of synergy in a
24 large group to these issues that are not otherwise
25 crystal clear. Let me just say that, if we have someone

1 who would like to be an employee, we would have the
2 option of interviewing that person in a different forum
3 and I think we ought to then determine if it makes sense
4 to treat that person differently than others when we see
5 what the line-up looks like.

6 CHAIRMAN GALAMBOS MALLOY: Commissioner Ontai.

7 COMMISSIONER ONTAI: Well, going back to the
8 balancing act here, if it helps, I will volunteer my
9 Republicanism in that process.

10 CHAIRMAN GALAMBOS MALLOY: Thank you for
11 volunteering that, Commissioner Ontai. Commissioner Di
12 Guilio.

13 COMMISSIONER DI GUILIO: Just because I know we
14 are running short on time, but I would like it if maybe
15 we could finish up this issue, I want to clarify that it
16 sounds like the Commission has agreed that we would
17 allow the Advisory Committee to do the first legwork and
18 then other Commissioners can participate, but the
19 recommendation would come from the Legal Advisory
20 Committee, with the full Commission making the final
21 decision. Is that what we've all agreed to as a -

22 CHAIRMAN GALAMBOS MALLOY: And given the level
23 of discussion we've had on this topic, I would like to
24 entertain a formal motion if someone would not mind
25 obliging me on that.

1 COMMISSIONER DAI: I would like to move that we
2 adopt the Request for Information as amended, and that
3 we also adopt the recommended process from the Legal
4 Advisory Committee and, in parallel, that we are also
5 directing staff to prepare a congruent Staff Attorney
6 posting at the same time.

7 MR. MILLER: There will be a short delay while
8 the Clerk tries to capture perfectly.

9 CHAIRMAN GALAMBOS MALLOY: Excellent, and then,
10 according to our meeting procedures, we would just have
11 that repeated back to us.

12 COMMISSIONER DAI: After a second.

13 VICE CHAIRMAN FILKINS WEBBER: I have one
14 question before the second. When you say "as amended,"
15 do you mean to remove the dates?

16 COMMISSIONER DAI: I made - there were a number
17 of changes that were made, that were not in our copy,
18 the Legal Committee had made.

19 VICE CHAIRMAN FILKINS WEBBER: Okay, but then,
20 do you still agree in your motion that would also be
21 based on a recommendation of -

22 COMMISSIONER DAI: Yeah, leave the dates open.

23 VICE CHAIRMAN FILKINS WEBBER: You mean leave
24 them out.

25 COMMISSIONER DAI: We have a second.

1 COMMISSIONER BARRABA: [Second - Inaudible]

2 MR. MILLER: Now we're going to try to perfect.

3 CHAIRMAN GALAMBOS MALLOY: To re-visit our
4 meeting procedures.

5 MR. MILLER: I remember, as talented as Janeece
6 is, we did not get a Certified Court Reporter in
7 addition to her other skills.

8 CHAIRMAN GALAMBOS MALLOY: Could we please have
9 the motion restated?

10 MS. SARGIS: The motion is to adopt the RFI, as
11 amended, and also adopt the recommendation procedures
12 recommended by the Legal Advisory Committee, and also
13 direct staff to prepare staff legal position information
14 to be advertised.

15 CHAIRMAN GALAMBOS MALLOY: The floor is open for
16 discussion. Commissioner Ward.

17 COMMISSIONER WARD: Sorry, again, I seem to be
18 the one that missed the train. I just want to, before I
19 put in my vote, just make sure I understand. The
20 Subcommittee is going to go ahead and par the applicant
21 pool down, conduct some interviews, and then bring their
22 recommendations to the full body, at which point the
23 full body can, at will, review applications, and either
24 concur with the Advisory Board's recommendations, or add
25 people back into the pull, and then we're going to

1 conduct another round of interviews based off of what
2 the whole Commission agrees. Am I wrong on that?

3 CHAIRMAN GALAMBOS MALLOY: I'd like to defer to
4 the person who made the motion, if you could clarify
5 what your intent was.

6 COMMISSIONER DAI: Yes. No, my intent wouldn't
7 be to have a second round of interviews, that we would
8 go ahead - if you want to participate, you can show up
9 for the hearing that the Legal Committee is going to
10 have, it's an open public hearing, you can participate
11 as a Commissioner, you can review the applications in
12 advance if you want, and you know, put your two cents in
13 during the Legal Committee's decisions to make that cut.
14 So, I would not propose a second round of interviews of
15 the full Commission.

16 COMMISSIONER WARD: That helps me because I
17 didn't see how that was more expedient than what we've
18 done in the past, now I understand. Thank you.

19 CHAIRMAN GALAMBOS MALLOY: Additional
20 discussion.

21 COMMISSIONER BLANCO: To clarify, we do want to
22 bring the final persons we're recommending to the full
23 Commission for a Commission interview.

24 COMMISSIONER PARVENU: And to follow-up on that,
25 just a point of clarification, the day that the

1 remaining Commissioners need to be here will be Friday,
2 the 18th only?

3 CHAIRMAN GALAMBOS MALLOY: We have strict down -
4 there are no dates on the table at this moment, we will
5 be revisiting the scheduling issues as a package, which
6 will come after we have our presentation from Mr.
7 Johnson, and after we have a break, so we are adopting
8 the process and then the content of the actual request
9 for information. Further discussion?

10 COMMISSIONER DAI: I actually just wanted to
11 address Commissioner Filkins Webber's concern that was
12 echoed by a couple of other Commissioners about making
13 sure we have appropriate partisan representation on that
14 day. Do we want to specifically call that out if there
15 is a problem with attendance, just to make that part of
16 that motion, as well?

17 CHAIRMAN GALAMBOS MALLOY: Are you suggested -
18 are you amending your motion, Commissioner Dai?

19 COMMISSIONER DAI: I'm suggesting that might be
20 advisable, I'm asking the question.

21 COMMISSIONER WARD: What I took away from your
22 recent comments was that it's open for any interested
23 Commissioner, which means we can't necessarily predict
24 or ensure the quality across that -

25 COMMISSIONER DAI: Well, I was more concerned

1 about the actual attendance of the Legal Advisory
2 Committee members.

3 COMMISSIONER WARD: Are the Commissioners that
4 show up to be a part of that process not going to carry
5 equal weight, then? Is that correct?

6 CHAIRMAN GALAMBOS MALLOY: My understanding from
7 what I've heard as Chair is there is a concern that
8 there is a minimum level of representation from members
9 of the Legal Advisory Committee that reflects the multi-
10 partisanship of which that Committee has membership, so
11 that there would be a Republican, there would be a
12 Democrat, and there would be a Decline to State. Now,
13 to me, a question that presents is, if Commissioner
14 Filkins Webber is not able to play that role,
15 Commissioner Ontai has offered to lend his
16 Republicanism, for lack of a better term, and to
17 essentially fill that seat. Is that something the
18 Commission feels comfortable with? He does not bring
19 the legal background that Jodie does, but they do share
20 a political persuasion. The discussion is still open.
21 Any additional comments?

22 COMMISSIONER YAO: I think, in answering
23 Commissioner Ward's concern, any Commissioner attending
24 any Advisory Committee that are not on the Commission
25 [sic] has not voice when it comes to voting, okay?

1 COMMISSIONER DAI: However, you would still be
2 able to express your opinion, which I'm sure your fellow
3 Commissioners would take under advisement.

4 CHAIRMAN GALAMBOS MALLOY: Noting that we are
5 getting to 3:00, I would encourage that, if you've made
6 a point before, that we not repeat it. If you have
7 anything new to add to the discussion, please weigh-in.
8 Okay, seeing no discussion other than Mr. Miller -

9 MR. MILLER: I just wanted to point out that
10 this is the type of decision that is subject to the
11 Special Majority Vote in the Statute.

12 CHAIRMAN GALAMBOS MALLOY: Thank you - at the
13 time that it goes to the full Commission. I appreciate
14 that. So, at this time, I'd like to invite any
15 interested members of the public who have comment to
16 offer on this particular agenda item to come forward.
17 Seeing none, I'd like to call the vote and if we could
18 please do a roll call.

19 MS. SARGIS: Commissioner Yao - Yes;
20 Commissioner Ward - No; Commissioner Raya - [Inaudible]
21 [01:23:36]; Commissioner Parvenu - [Inaudible];
22 Commissioner Ontai - Aye; Commissioner Galambos Malloy -
23 Yes; Commissioner Forbes - Yes; Commissioner Filkins
24 Webber - Yes; Commissioner Di Guilio - Yes; Commissioner
25 Dai - Yes; Commissioner Blanco - Yes; Commissioner

1 Barraba - Yes; Commissioner Ancheta - Yes; Commissioner

2 Aguirre - Thank you, yes.

3 The motion passes.

4 COMMISSIONER FORBES: I can see flowers.

5 CHAIRMAN GALAMBOS MALLOY: It appears to have
6 passed. What I would like to do at this point is, Mr.
7 Johnson, you have been so gracious to oblige us with the
8 last half hour of your time. I had a request for a
9 five-minute bio break to allow some Commissioners to run
10 to the restroom and come right back. Can you
11 accommodate that? Okay. In the mean time, we can bring
12 you up here and get you settled. Thank you, we will be
13 on recess for the next five minutes.

14 (Recess at 2:58 p.m.)

15 (Reconvene at 3:05 p.m.)

16 CHAIRMAN GALAMBOS MALLOY: Good afternoon, it is
17 3:05 p.m. We are going to reconvene this meeting of the
18 California Citizens Redistricting Commission with a
19 presentation by Mr. Hans Johnson of the Public Policy
20 Institute of California. Before he begins, I do have
21 one item that one of our Commissioners would like to
22 disclose. Commissioner Blanco.

23 COMMISSIONER BLANCO: In keeping with our new
24 policy, I want to inform the Commission that I serve on
25 the Board of the Public Policy Institute of California,

1 where Mr. Johnson works, and we know each other through
2 my service on the Board of his organization.

3 CHAIRMAN GALAMBOS MALLOY: Thank you, Ms.
4 Blanco. I will hand the floor over to you.

5 MR. JOHNSON: Thank you. Thank you, Chair and
6 Commission members. This is actually the second time
7 I've addressed at least part of the Commission. I spoke
8 to - I think it was the original eight members - a
9 couple months ago, talking about the demography of
10 California. Today, I will be talking about Census and
11 Census measurement issues.

12 Clearly, the Census is a key component of the
13 political process in the United States, it is the key
14 ingredient that you are going to be using to establish
15 new political boundaries, and as such, confidence and
16 participation in the Census is key to its success. A
17 key question arises, then, and that is, if the Census
18 does not count everybody and, in particular, if certain
19 people or groups of people are missed in the Census,
20 should it be adjusted? And, if so, how? And then, for
21 this Commission, should it consider using those adjusted
22 numbers? So, I'm going to talk from a set of handouts
23 that you've been given and I will tell you what page
24 number I'm on as I go through them. So, right now we're
25 going to turn to page 2, which is just on the backside

1 of the title page. And I'm going to just give you a
2 brief outline of this discussion. And please interrupt
3 as a I proceed if you have questions.

4 CHAIRMAN GALAMBOS MALLOY: Mr. Johnson, I'm
5 going to interrupt immediately. We had asked staff to
6 post this to the Web. Is it available to members of the
7 public online yet?

8 [Inaudible response] [01:27:15]

9 CHAIRMAN GALAMBOS MALLOY: Okay, and we do have
10 some copies here. It will be posted by the end of
11 today. Again, keep in mind, public watching at home, we
12 are facing some tremendous technical difficulties, but
13 we'll do our best. Thank you, proceed.

14 MR. JOHNSON: So, first of all, I'll talk a
15 little bit about the 2010 Census, itself, and then I'll
16 talk specifically about California and its population
17 and some characteristics of the state that make us a
18 state that's relatively hard to count in the Census, and
19 then I'll finally turn to specific undercount concerns
20 and issues in the third part of this talk.

21 So, first, now we're turning to slide 3, Census
22 Basics. Why take a Census? Well, certainly the
23 Constitutionally mandated reason is to apportion the
24 House of Representatives. The reason we're here today
25 is to determine political districts, these

1 reapportionment and redistricting, of course, are
2 different things. It's also used to disburse hundreds
3 of billions of dollars in Federal funds every single
4 year. And then, finally, less so for the Census than
5 previous Censuses, it's used to kind of serve as a
6 benchmark for who we are as a people, what kind of
7 progress we might be making, and develop a more full
8 understanding of our nation. The 2010 Census had, as
9 its main goal, to count everyone once, only once, and in
10 the right place. Sounds pretty simple, but of course it
11 is a huge undertaking in population - in a country with
12 a population of over 300 million people.

13 This Census was unlike any other Census, it was
14 among the shortest in history, there were only 10
15 questions for the first person, the Respondent to the
16 Census in each household, and then seven questions about
17 all other members of the household. So, this was
18 unique. Let's go ahead and turn, then, to the next
19 page, so page 4 here. So, who is counted in the Census?
20 Well, it is every resident of the United States,
21 including unauthorized immigrants. The Census Bureau
22 has a detailed listing of who should count and who
23 shouldn't count. The basic idea is someone who lives
24 here permanently in the United States should be counted
25 and, if you don't live in the United States permanently,

1 you should not be counted. Now, there are some
2 exceptions and there are some lawsuits that have been
3 filed on those topics and issues, as well. So, for
4 example, if you are a member of the Military serving
5 abroad, you will be counted as a member of the U.S.
6 population, and it's called the Overseas Population, and
7 that is if you are serving long-term overbroad; if
8 you're short-term overbroad, then you're counted based
9 on where you live in the U.S. Utah, which just barely
10 lost having another representative from the 2000 Census,
11 if they'd had a few more people, they would have gained
12 another representative, argued that Missionaries should
13 be included in the U.S. abroad population, and they
14 should be counted not just as U.S. Abroad, but based on
15 the state that they came from. For obvious reasons,
16 Utah has a lot of Missionaries. And they did not
17 succeed in having the definition of who counts and who
18 does not count to include Missionaries. In this 2010
19 Census, Missionaries are not counted in the U.S. Census,
20 even though they might be U.S. Citizens, if they are
21 living permanently abroad. So, that is who is counted.
22 Where people are counted, I kind of just talked about
23 that a little bit, but there is this concept of the
24 Place of Usual Residence and that is, according to the
25 Bureau, where a person lives and sleeps most of the

1 time. And realize, that how the Census counts people
2 isn't necessarily how voting eligibility is determined,
3 or where you are allowed to vote is determined, these
4 are not the same concepts. So, Place of Usual
5 Residence, you'll see here college students, people in
6 Military Barracks, Prisoners, are all based on the
7 location of those institutions. Snowbirds - this is a
8 little bit of a joke - but snowbirds are based on where
9 they live most of the time, but States like Michigan
10 that have a lot of snowbirds and, of course,
11 jurisdictions want more people to be counted for some of
12 the reasons we already talked about, including funding,
13 Michigan issued a statement that snowbirds from Michigan
14 should respond in the Census that they live in Michigan;
15 with kind of a clarification, well, that's only really
16 true, according to the Bureau, is if you spend most of
17 your time in Michigan, and if you don't, you should be
18 counted in Arizona where Arizona wants snowbirds to be
19 counted in Arizona. So, the basic idea, though, is you
20 are counted where you live, even if you are a prisoner
21 or college student who might have another kind of home
22 somewhere else.

23 So, let's skip slide 5 and 6 and go straight to
24 slide 7. This looks really great in Powerpoint, but not
25 so much here in this black and white format here on the

1 hard copy. And this is just to give you a sense, then,
2 of the difference between the 2000 Census and the 2010
3 Census. So, you'll see on the left for each resident,
4 the kinds of topics that were covered in the 2000
5 Census, including in the long form of the 2000 Census,
6 and then you'll see the topics that were covered in the
7 2010 Census, and then you'll see the same thing happen
8 repeated in terms of the questions that are asked of the
9 entire household, entire housing unit. And you'll see
10 that, in the 2010 Census, there are very few pieces of
11 information that are gathered - the gender, age,
12 Hispanic origin, race, relationship to the household,
13 which is the head of the household, and then, on the
14 household side, the number of residents in the
15 household, and then tenure, which means whether the
16 house is owned or rented, that's it. So it's a very
17 short Census. Hopefully, that will encourage, and did
18 encourage, greater participation, and a more accurate
19 count. Certainly, one of the key concepts that has been
20 continued into the Census, one of the few content items
21 that has continued into the 2010 Census from previous
22 Censuses, are questions on Hispanic origin and race, so
23 on slide 8 I have shown you what those questions were
24 from the Census. The formatting didn't quite show up
25 here. But it's important to keep in mind that, even the

1 counting of people is partly a political process.
2 Groups will advocate to be either included, well,
3 included, no one wants to be excluded in the Census,
4 getting a check-off box means you are more likely to get
5 more people responding that they are of that ethnic
6 identity, so you will see, for example, on Question 9,
7 you can't see the boxes in this hard copy, but for
8 example, there are check-off boxes for specific sub-
9 Asian groups, and then also in Question 9, just in the
10 lead language there where it says "mark one or more
11 boxes," it is the first time in 2000, and then repeated
12 to 2010, that people were able to identify as a "more
13 than one race." Keep in mind also that these questions
14 on really Hispanic or Latino identity are separate from
15 the Race question, which is also a part of a process of
16 determining how data is to be collected, and so someone
17 can be both Hispanic and White and, in fact, many people
18 in the Census respond that way, you could be Hispanic
19 and Black, as well, so that Latino or Hispanic is not
20 mutually exclusive of Race in the United States Census.

21 So let's go ahead and go to slide 10. So now
22 we're going to switch to why is California a hard to
23 count state, and now we're going quickly to slide 11.
24 So, there are certain populations that you could imagine
25 are more difficult to count than others, some of the

1 populations are difficult to count, I've listed here,
2 they are people who rent, low-income households,
3 immigrants, especially non-English speaking households,
4 Latinos and African-Americans tend to have higher
5 undercount rates, and young males tend to also have
6 higher undercount rates. Certainly, some of these hard
7 to count populations are the same group, so many
8 immigrants, for example, come from non-English speaking
9 households. And California has relatively large shares
10 of each one of these groups; for example, our home
11 ownership rates in California are lower than they are in
12 the rest of the nation, we certainly have a large
13 immigrant population, our poverty rates are actually
14 slightly higher than the rest of the nation, and so on.

15 In the next slide, I talked a little bit about -
16 or I showed you some information on ethnic diversity of
17 our state's population. Of course, we do not have yet
18 our 2010 final numbers on race and ethnicity from the
19 United States Census, but we'll be getting that soon,
20 within the next month, as you all know. But, as of
21 2009, according to a large survey that's taken every
22 year in the United States called the American Community
23 Survey, you will see that California had no ethnic group
24 that constituted a majority of the State's population,
25 it was 42 percent non-Hispanic White, it was 37 percent

1 Hispanic, 13 percent Asian and Pacific-Islander, it was
2 6 percent African-American, and 2 percent multi-racial.
3 California is certainly one of the most diverse places
4 anywhere in the world, and this population mix is
5 something that is reflected in only a few other states,
6 and I would say, even then, not to the same extent of
7 diversity that we have in California, not only
8 statewide, but also as shown on the next slide, which I
9 don't think is numbered, but it's the map that says
10 "Ethnic Majorities by Census Tract." And, again, this
11 looks so beautiful in color, so you'll just have to
12 trust me that it is absolutely gorgeous. But
13 California's ethnic diversity is spread fairly well
14 throughout the State and, in fact, certainly in all the
15 urban areas of California. We have large areas of
16 California where -- this is a map by Census Tract where
17 there is no ethnic majority in the Census Tract, so it's
18 kind of hard to see here, but if you look at the Bay
19 Area, you could see a lot of areas that are white here,
20 that is actually outside, surrounding the Bay,
21 especially in the South Bay, Fremont for example, you
22 see it in Los Angeles, as well, the Census Tracts that
23 are in white are Census Tracts where there is no ethnic
24 majority in the population, certainly a distinguishing
25 feature of California. And then, again, immigrants tend

1 to be more difficult to count.

2 So, if we turn now to the next slide, which
3 again I don't see a number, but it's Percent Foreign
4 Born, 1880 to 2006. You'll see that California has a
5 much higher share of its population that is foreign born
6 than the rest of the United States, that there have been
7 rapid increases in that share over the last 30-40 years.
8 We are at levels that we had last seen at the turn of
9 the 19th Century, and certainly this population also
10 tends to be fairly hard to count. If we turn to the
11 next slide, titled "Immigrants Come to California from
12 Dozens of Countries," you'll see that a lot of the
13 diversity that I'm talking about in terms of race and
14 ethnicity, or just immigrant and non-immigrant, is not
15 fully reflective of the complete diversity of our State.
16 Here, I'm showing you over 60 different countries that
17 have contributed at least 10,000 immigrants to
18 California's population, and you'll see that our
19 diversity is really quite stunning and, again, I think
20 unique in all the developed world.

21 And then, finally, if we turn to the next map,
22 California's population is unevenly distributed. We
23 have large German centers, parts of which are very
24 difficult to count, we have agricultural areas, we have
25 rural areas, and all of this poses a kind of challenge

1 in counting such a diverse state, not only in terms of
2 ethnicity, in terms of immigrant status, but also in
3 terms of locations.

4 All right, so now let's turn specifically to the
5 Census undercount. So now I'm on Slide 18. There are
6 different types of Census errors, so let's be very clear
7 in terminology and what we mean when we talk about an
8 undercount. And most people, when they talk about an
9 undercount, mean net undercount, which I'll get to in a
10 minute, but first there is this idea of an undercount,
11 so someone who is not counted in the Census is a part of
12 the undercount, that's pretty obvious. But there's also
13 an overcount that a lot of people don't realize, and
14 there are people who are counted more than once, so if
15 we go back to our snowbird example, there might be some
16 very conscientious person in Iowa who fills out his or
17 her Census form in Iowa, and then, when they go to
18 Arizona, fills out the Census form that is sitting at
19 their residence in Arizona, as well. I - this is kind
20 of an aside story, but my family has a cabin in the
21 Sierra Nevada's which is actually on Forest Service
22 land, my dad and his brothers built it, it's a very
23 modest place, you have to get to it on a dirt road. In
24 the winter, including on April 1st, it is covered in
25 snow, there is usually about - in fact, this last April

1 1st, 2010, there was about six feet of snow up there, or
2 seven feet, you have to climb in through the windows if
3 you go in the winter, you're kind of a fool if you go in
4 the winter, but I went up there in May to try to open
5 the cabin, there was too much snow even then to open it,
6 but hanging from a window -- because you couldn't hang
7 it from the door because there was too much snow --
8 hanging from a window was a Census form, which I took
9 pictures of. As a Demographer, this was really an
10 exciting thing. So, you know, if I'd filled out that
11 form and sent it in, then I would have been double-
12 counted, that's how double-counting often occurs. The
13 net undercount, then, is the difference between the
14 undercount minus the overcount. And when people talk
15 about the undercount, or when lawsuits are filed, or
16 when people are concerned about not having equal
17 representation because they weren't counted in the
18 Census, they're usually talking about the net
19 undercount. So, in California, I'll get you some of the
20 numbers in a minute, we tend to have high net undercount
21 rates; that obviously means we have high undercount
22 rates, as well, but it's not just the undercount, then,
23 when you're talking about net undercount rates.

24 There are other kinds of errors that come up, of
25 course, in taking a Census. There's misreporting. So,

1 there is a well-known phenomena called "age heaping"
2 where if someone is asked their age, a disproportionate
3 number of people who are, say, 29 or 31, will round to
4 30. I don't know why you'd round up if you're 29, but
5 some people do, and you could see this if you look at an
6 age profile and see a dip at 29 and a peak at 30 and a
7 dip at 31, and you see that in every age that ends in
8 zero, and every age that ends in 5. To get around this,
9 the Census Bureau actually asks "What is your date of
10 birth?" And guess what? People who were born in 1959
11 will often say they were born in 1960, and people who
12 were born in 1961 will often say they were born in 1960,
13 as well, so you see the same kind of patter of age
14 heaping. The unadjusted counts from the Census, which
15 is what you all are probably going to end up working
16 with, and we'll get to that in a few minutes, do not
17 adjust for things like that. There are other Census
18 Bureau data files that do that, so when we do population
19 projections for California, for example, we don't want
20 to include those age spikes in the data because we don't
21 think they're real, and so we just smooth them out, and
22 when we do population projections, we take that into
23 account. And the Census Bureau actually provides a file
24 that does that. There are other kinds of misreporting
25 that occurs at the individual level that the Census

1 Bureau really doesn't have much control over. In the
2 short form of the Census, there is probably not much
3 they will be doing to try and correct for that, but
4 sometimes they can and they do. So, a good example
5 would be, in previous Censuses where educational
6 attainment was asked, if someone said that they had a
7 six-year-old who had a PhD, the Census Bureau would have
8 an algorithm that would go through and correct that, and
9 it would eliminate the PhD from the six-year-old. Those
10 algorithms are used consistently in processing Census
11 Data, so that, again, because this Census has very few
12 questions, there's a lot less of that which occurs, but
13 to the extent the internal inconsistencies are apparent
14 in people's reporting in the Census, the Census will try
15 to correct for that.

16 There are Miscoding errors, this simply happens
17 in any sort of computing process, again, hopefully those
18 are small, but people do fill in, you know, bubble forms
19 in doing the Census and there could be problems
20 associated with that. And then there is this - I
21 already kind of alluded to this, but there is an
22 incorrect inference, so if someone has, say, a 17-year-
23 old who they report has a PhD, and the Census Bureau
24 takes that away from them, in some cases it is actually,
25 you know, it's possible there might be someone who has a

1 17-year-old with a PhD. Sometimes those inferences are
2 not entirely correct.

3 All right, let's go to Slide 19. So, a key
4 question is then, well, how do you know who the people
5 are that you didn't count? Or, how do you know how many
6 there were that you didn't count? And historically,
7 there have been two primary approaches, the first one is
8 called a Demographic Analysis and it operates only at
9 the very macro level, and by macro level I mean
10 nationally for states, and maybe for very large
11 jurisdictions with many many people, so maybe a place
12 like Los Angeles County, it might be possible to do
13 this. And basically, it's quite simple, you take the
14 last known count, which for 2010 would be the 2000
15 Census, you add all the births and all the deaths that
16 occurred in that jurisdiction over the 10 years, and
17 then you add or subtract net migration. So, births are
18 thought to be universally recorded in the United States,
19 in California we think that it's practically 100
20 percent, deaths also are thought to be almost
21 universally recorded, so we have, we think, very good
22 administrative data to use to estimate births and
23 deaths. The big problem in demographic analysis is
24 estimating net migration. The 2000 Census came in much
25 higher than had been anticipated according to

1 demographic analysis nationwide, which meant a number of
2 things, either the 2000 count was wrong, or was way too
3 low, and the 2010 Census was much more accurate, or it
4 meant there was a lot of overcounting in the 2010 Census
5 or it meant that demographic analysis estimates of net
6 migration were wrong, and that there were a lot more in
7 that case because we're talking about the nation, the
8 only kind of migration that you're thinking about, then,
9 is to and from the U.S., so that's immigration, and so
10 it might have been the case that there were a lot more
11 immigrants coming to the United States between 2000 and
12 2010 than demographic analysis had previously suggested.
13 And the Census Bureau, to its credit, has volumes and
14 volumes of material on how they assess the accuracy of a
15 Census through demographic analysis, and all their
16 estimates are available, and they're very open about the
17 process, and I think the end result - my personal and
18 kind of professional opinion as a Demographer - is that
19 demographic analysis is an uncertain measure in and of
20 itself because of this problem of migration, and that I
21 don't personally think it is a very good way to estimate
22 undercount. And I think the 2000 Census suggested that,
23 even at a national scale, where it should be easier to
24 do this, it's quite hard to do this, let alone at a very
25 small scale, like Census Tracts, where it would be

1 insane to try to do this.

2 Okay, so then the main way that the undercount
3 is measured is what are called post-Census surveys. And
4 this is a survey, a very large survey that is taken just
5 after the Census to assess whether the survey
6 Respondents were included in the Census. So, let's turn
7 to the next slide, Slide 20. So, there have been a
8 number of post-enumeration surveys, they really began in
9 1950, but it wasn't until 1980 that they became very
10 large in size, and I'm showing you here in the bullets
11 the names of those different post-enumeration surveys,
12 but they all are doing basically the same kind of thing.
13 And what it is, it's a case-by-case matching of people
14 in the survey, from the survey's independent Census, the
15 household addresses are independent, so they're created
16 through an independent process, with persons in the
17 Census. And it's basically a capture/recapture method,
18 so you go out and you ask people whether they were
19 counted in the Census, you get all the information that
20 you gathered in the Census about them, and then you go
21 and you try to find them, and you see in that household,
22 is that person - did we get a Census from that
23 household? And if we did, was this person who we found
24 in the survey also in the Census survey - or, in the
25 Census, itself, Census, not a survey - 100 percent, or

1 close to 100 percent. There is another part of this.
2 There are people who are missed in the Survey, so you go
3 to the household and, say they say there are five people
4 there, they give you all their information about them,
5 then you go to the Census and you see, wait, there were
6 six people from this household who were counted in the
7 Census. And so, then that is actually another kind of
8 error and those two things together give the Census
9 Bureau a means of trying to estimate what the undercount
10 rate was for a particular group. And the way they
11 report the data, we'll see in a minute, is primarily by
12 State, sometimes by County, and certainly by Race and
13 Ethnic Group.

14 CHAIRMAN GALAMBOS MALLOY: Mr. Johnson, I might
15 pause. I sensed a few Commissioners that might have
16 questions. Commissioner Filkins Webber.

17 VICE CHAIRMAN FILKINS WEBBER: Did I understand
18 you correctly, does the Census do the Post-Enumeration
19 Survey?

20 MR. JOHNSON: The Census does the Post-
21 Enumeration Survey, as well.

22 VICE CHAIRMAN FILKINS WEBBER: Thank you.

23 MR. JOHNSON: And the size of the survey is
24 huge, and in 2010, it's 300,000 households, so you can
25 imagine we're talking millions and millions of dollars

1 to do that survey. The entire Census process, itself,
2 of course, is hundreds of billions of dollars. These
3 are huge undertakings. And I should say, I think almost
4 any academic and researcher who looks at what our Census
5 Bureau does is impressed by how much they do, and how
6 hard they work, to make the data accurate, and how
7 honest and open they are, usually, about inaccuracies -
8 not always - and California and other places have filed
9 lawsuits in the past about some of these things.

10 CHAIRMAN GALAMBOS MALLOY: Additional questions
11 on the points presented so far?

12 COMMISSIONER ONTAI: Yeah, on the Post-
13 Enumeration Surveys, is that a scientific or random
14 sampling that they do?

15 MR. JOHNSON: So, yes, it is, but with 300,000
16 households, you can imagine, it's a huge undertaking.
17 There are a couple of things they want to do, and so
18 they will sample entire blocks, for example, so they
19 have block groups, so there's - I don't know if you had
20 a lesson yet in Census Geography? Okay, good. So, they
21 will sample an entire block to see, you know, who was
22 counted in the Post-Enumeration Survey, and then who was
23 there at the time of the Census. It's a good sample.
24 All right -

25 COMMISSIONER BARRABA: Can I clarify - it comes

1 as close to a probability sample as you're going to be
2 able to implement because the areas are drawn randomly,
3 and then the sample within the area is a random process.

4 MR. JOHNSON: Yes, exactly. So, some people
5 would call it a multi-stage random - stratified random
6 sample. All right, so let's turn to Slide 21, then.
7 So, it turns out, when you do these analyses, and again,
8 here now I'm relying on the Post-Enumeration Surveys for
9 these estimates. In 1990, California had a net
10 undercount rate of 2.7 percent. That means that, by the
11 Census Bureau's best estimate, our state's population
12 was about 800,000 higher than what was officially
13 counted in the Census. The United States as a whole had
14 an undercount rate of 1.6 percent, so much lower than in
15 California. In 2000, California was only one of only 10
16 states with an undercount, so I mentioned this a little
17 earlier, when the 2000 Census results came in, it was
18 shocking to a lot of us, the size of the U.S.
19 population, it was substantially higher than what the
20 Census Bureau had previously estimated through their
21 demographic analysis. And there was a big debate about
22 how - whether there was an undercount, or not, and how
23 large that undercount might have been. If you go online
24 and you look at different reports about the undercount
25 from the 2000 Census, you will see different estimates

1 partly reflecting the Census Bureau's openness about
2 their process of identifying and estimating the size of
3 the undercount in 2000. In the end, the final estimate
4 was that the United States population was slightly
5 overcounted, and if you turn to Slide 22, although it
6 looks like some of the state is missing, I don't know
7 what happened here, but in any event, the pattern is
8 similar in 1990 and 2000 in terms of the pattern across
9 ethnic groups, the levels are very different. So,
10 undercount rates also vary a lot by group.

11 So let's first of all take the total line there
12 for 1990 and 2000, you'll see again California had a
13 higher undercount rate than the United States in 1990.
14 In 2000, California had a very small undercount rate of
15 0.1 percent, that's only about 40,000 people, statewide.
16 The United States had an overcount, so that negative
17 means you had a negative undercount, which is an
18 overcount of about a half a percent. In 1990, you'll
19 see here, and I'm sorry it didn't appear for 2000,
20 you'll see the undercount rate broken down by different
21 race and ethnic groups, so, for example, in California
22 the undercount rate for Whites, which also includes
23 White Hispanics, so this is not mutually exclusive in
24 this account, and usually I try to make things mutually
25 exclusive, but I got this from the Bureau, which often

1 doesn't do that, in any event it was somewhat higher,
2 twice the rate of the rest of the United States. You'll
3 see for African-Americans in California, the undercount
4 rate in 1990 was eight percent. That's one out of 12,
5 that's a very high rate. American Indians, 3.2 percent,
6 Asians, 2.2 percent, and Latinos, an undercount rate of
7 around 5 percent, both in California and the United
8 States. For all these groups, it's not shown here, but
9 in 2000, the undercount rates came down quite a bit, and
10 certainly nationally, and I believe this is true in
11 California, as well, the differential undercount was
12 also smaller than it was in 1990.

13 All right, so let's turn, then, to slide 23.
14 Here, I'm showing you a little bit of the geography of
15 the undercount in 1990, and remember, this is the year
16 we had a pretty high overall undercount rate, and you'll
17 see that the counties that tended to have the highest
18 undercount rate were counties that had a lot of the
19 characteristics of hard to count populations that we've
20 already talked about, as some were said, Tulare, Fresno,
21 Imperial, and Kings, are all agricultural counties,
22 large Latino populations, a lot of immigrants, a lot of
23 households where English is not the first language, and
24 a lot of households also that have multi-families living
25 under one roof, or you might have second units that are

1 a garage, for example, that don't even have a legal
2 address, so those are some of the factors that play into
3 the high undercount rates there. And then, if you look
4 at the other end of the spectrum here in terms of
5 counties, you'll see that counties like Marin, Placer,
6 Contra Costa, San Mateo, El Dorado, counties that are
7 fairly mostly suburban, even El Dorado, most of its
8 population lives in the western portion here, closer to
9 Sacramento. Counties that are fairly wealthy are much
10 easier to count and have lower undercount rates.

11 And then, if we repeat this on the next slide
12 for the 2000 Census, you'll see some of the same
13 pattern. Now, one thing you'll notice is there are more
14 counties listed here, so the Census Bureau did release
15 undercount estimates for all 58 counties in 2000, and
16 here it's mostly the same pattern, although at the
17 bottom end, you'll see some counties that I really don't
18 have a good explanation for, places like Alpine and Eno
19 are at the bottom, Mono is a county that had a
20 relatively high undercount rate, and it's hard to figure
21 out how Mono County is that different than Eno County; I
22 think they're very small counties in terms of
23 population, so we probably shouldn't spend much time on
24 them. But, in general, you'll see again that some of
25 these suburban large counties do quite well in terms of

1 the count, in fact, were overcounted in California, and
2 then some of these other counties that have large Latino
3 and agricultural populations were more likely to suffer
4 from an undercount.

5 All right, let's go, then, to slide 25. Okay, so
6 now we're at 2010. Any questions so far? I feel like
7 I'm kind of rushing through this, but it's late in the
8 day and probably people want to do that. So, the big
9 question that we face now is, well, how good was our
10 count in 2010? So, we have the total number, in fact,
11 let's just go to Slide 26. So, California Department of
12 Finance and the Census Bureau both produced estimates
13 prior to the Census that are based on this demographic
14 accounting method that I told you about before. The
15 difference between the estimates of the Department of
16 Finance is the top line here, the Census Bureau is the
17 bottom line, is 1.5 million people, it's the largest
18 difference ever between the California Department of
19 Finance and the Census Bureau, I think that no other -
20 well, I know that no other state has ever had this kind
21 of difference, no other state had this difference going
22 into the 2010 Census. So, you know, we were all sitting
23 at the edge of our seats to see what the number would
24 look like when it came in right around the holidays, and
25 it came in at 37.3 million, which is very much in line

1 with the Census Bureau's estimates of the state's
2 population, but very far from the California Department
3 of Finance estimates. So, the answer to the question,
4 "How well is California counted in 2010," is I don't
5 know. Certainly, if you believe the Census Bureau's
6 demographic counting measure to be more accurate, which
7 I've already said I don't have a lot of faith in either
8 of those demographic counting methods in terms of
9 evaluating the count, but it certainly is consistent the
10 Bureau, so they are in a very comfortable position
11 there. It is not consistent with what the California
12 Department of Finance had found.

13 CHAIRMAN GALAMBOS MALLOY: Commissioner Yao.

14 COMMISSIONER YAO: Could you say a couple words
15 about the Department of Finance estimate?

16 MR. JOHNSON: Right. So, the key difference,
17 they agree on births and deaths because, as I said,
18 those are administrative data, they're universally
19 recorded, and everyone uses the same data there. Where
20 they disagree is on net migration to and from
21 California. And they actually are in strong agreement
22 about net international migration, immigration to
23 California, it's actually domestic migration, movements
24 between California and other states where there is a
25 very sharp disagreement between the California

1 Department of Finance and the Census Bureau. And that
2 disagreement stems from the base administrative data
3 that they used to try to estimate domestic migration.
4 The California Department of Finance uses driver's
5 license address changes, as well as tax records, as well
6 as school enrollments. The United States Census Bureau
7 relies on IRS tax return records almost entirely for
8 their estimates of domestic migration to and from
9 states. In general, demographers believe that using
10 more data is a better way to go, rather than using less
11 data, so prior to this Census, I had been saying that I
12 - because people were, even before the Census, you'd get
13 a call from a Reporter saying, "What's the population in
14 California?" And you can't answer the question without
15 telling them about the Department of Finance and the
16 Census Bureau. Prior to the Census, I was saying I
17 thought the Department of Finance had better methods, I
18 still do think, in theory, they do. You know, there is
19 the famous - I think it's a Yogi Berra quote - "In
20 theory, theory and practice agree; in practice, they
21 don't." So, in theory, using more data is better, in
22 practice, it might not be; it might be that the Census
23 counted California very well and the Census Bureau's
24 estimates were correct, but it might not be. And the
25 answer is going to depend partly on what we find out

1 from the Post-Enumeration Survey. And I'll get to that
2 in a minute. Let me just note that -

3 COMMISSIONER BLANCO: I have a question about
4 this slide.

5 MR. JOHNSON: Sure.

6 COMMISSIONER BLANCO: I think it's just because
7 it's late in the day. So, the title is "Was California
8 Undercounted?" And is this supposed to show the
9 undercount?

10 MR. JOHNSON: No, I'm sorry. So, this shows the
11 total population in California from 2000 to 2009, as
12 estimated by the Department of Finance, the top line,
13 and the Census Bureau, the bottom line. So, you'll see
14 in 2000, they started off in the same spot, and just
15 over - this is actually July 1st, 2000 - it was just
16 after the Census, so they both start off at about \$34
17 million, and then the Census Bureau's estimate for
18 California in 2009 was 37 million, the Department of
19 Finance was 38.5 million. Carried forward, then, to the
20 2010 Census, you'll see that the Census result, which is
21 the star there of 37.3 million came in almost perfectly
22 on the line that the Census Bureau had in terms of their
23 estimates of the state's population, far lower than what
24 the California Department of Finance had estimated.

25 COMMISSIONER BLANCO: Okay, so this slide is not

1 really an undercount.

2 MR. JOHNSON: It is not an undercount. So, the
3 reason the title is - one of the questions, "Was
4 California Undercounted in 2010," if you believe the
5 California Department of Finance numbers, you would say
6 yes, and a lot of people in California do, I don't know
7 what the position of Legislators is here, or the
8 Administration, in terms of whether they want to
9 challenge the Census, whether they will, certainly it
10 has happened in the past jurisdictions in California,
11 and in fact, one of my recommendations is that you need
12 to hire an attorney and, of course, you're doing that,
13 so that's great, but there are always, after every
14 Census, big debates about how accurate the Census was.
15 In California, a lot of people who will argue that the
16 Census was not well counted will point to this number,
17 this figure from the California Department of Finance,
18 and say, "We don't believe the Census was well counted
19 in our state, that it missed a million and a half
20 people."

21 COMMISSIONER BLANCO: Okay, thank you.

22 MR. JOHNSON: I'm not saying I necessarily agree
23 with that.

24 COMMISSIONER BLANCO: No, no, I was just trying
25 to figure out whether this was sort of the Census

1 methodology, whether you were getting at the Census
2 undercount information.

3 CHAIRMAN GALAMBOS MALLOY: Commissioner Filkins
4 Webber.

5 VICE CHAIRMAN FILKINS WEBBER: You had stated
6 that you weren't certain if anybody was going to
7 challenge it, and I thought that there had already been
8 a decision, don't know by whom, in California that they
9 were not going to challenge, at least these numbers, or
10 is there a possibility that, once the post-Census Survey
11 takes place, because if the Department of Finance is
12 correct and it goes up to 38.5, or if there was some
13 other number, and off the top of my head, I can't recall
14 what that number would be, that would push us into the
15 possibility of getting another seat for the House
16 Representative, which would certainly be - do you see
17 where I'm going with it? I mean, I thought a decision
18 had already been made because -

19 MR. JOHNSON: Yeah, and let me get to that in a
20 minute.

21 VICE CHAIR FILKINS WEBBER: Okay.

22 MR. JOHNSON: Okay and it goes to the heart of
23 what you have to consider in this, so let's get the
24 other state slides, and I already talked a little bit
25 about the method, so let's just go straight to Slide 30.

1 So, as I said, there's been a long history of debate
2 about whether the Census should be adjusted and, if so,
3 how. States and localities have filed lawsuits in the
4 past, the 1976 amendment to the Census Act required
5 sampling to be used, so sampling is an adjustment of the
6 Census enumeration, okay, so there are two primary
7 numbers that come out of a Census, there is the
8 unadjusted numbers, and there's the adjusted numbers.
9 And what you're going to get pretty soon are the
10 unadjusted numbers and that's probably what you're going
11 to have to work with, regardless of what you want to do.
12 But, in any event, let's walk through this.

13 So, the 1976 amendment to the Census Act said
14 that sampling was required to be used -- so this was
15 stronger language than anything we had had before -- if
16 feasible, to adjust the Census counts for non-
17 apportionment uses of the Census. So, that means for
18 redistricting, it means for funding. In 1990, Census
19 Bureau officials, after the Census was taken in 1990,
20 recommended using adjusted counts, so they went through
21 their Post-Enumeration Survey in 1990, they developed an
22 estimate, so an adjusted population for every state, and
23 for jurisdictions within those states, as well, and they
24 said that they thought those numbers were a more
25 accurate reflection of how many people actually lived in

1 those places than the unadjusted Census enumerations,
2 themselves. The Secretary of Commerce overruled the
3 Census Bureau and, of course, these are very politicized
4 discussions and debates, they make headlines, and
5 therefore the Census in 1990 was not adjusted. A number
6 of jurisdictions were very upset with that decision and
7 a court case that eventually was ruled on in 1999 by the
8 Supreme Court ruled, as you'll see a very close
9 decision, 5 to 4, that the unadjusted counts from the
10 Census must be used for reapportionment, but that the
11 adjusted counts could be used for other purposes,
12 including redistricting. So, it did not forbid bodies
13 like this one from using adjusted counts. It did
14 require that unadjusted counts be used for
15 apportionment, so I don't know, Commissioner Filkins
16 Webber, if that answers your question, but, yes, that
17 has been settled. For apportionment, it's done. For
18 redistricting and for funding, and between Censuses for
19 developing estimates between Censuses that are used for
20 funding, it's an open question.

21 So, then we had the 2000 Census right after that
22 and, as I said, it was surprisingly high, so a lot of us
23 thought we were going to have the same kinds of court
24 cases and battles after the 2000 Census that we did
25 after the 1990 Census because all the Supreme Court

1 really talked about was reapportionment, but it didn't
2 talk about other purposes of the Census. Census Bureau
3 officials and, actually, outside experts were convened to
4 determine whether the Census was going to provide two
5 sets of numbers that would be used for redistricting
6 after the 2000 Census. The unadjusted counts and the
7 adjusted counts. Then, jurisdictions would decide
8 amongst themselves, including states like California,
9 which numbers they would use. Of course, there was a
10 time component to this, they would have to get these
11 numbers out within a year of the Census. And at that
12 time in March of 2001, so just around the same time
13 after that Census we're in right now, after the 2010
14 Census, Census Bureau officials concluded that they were
15 unable to conclude, based on information available at
16 that time, that the adjusted Census 2000 data are more
17 accurate for redistricting. And the primary reason for
18 that was because the demographic analysis was so
19 different than the Post-Enumeration Survey, and so
20 different from the census, that they said "we can't
21 resolve this, we don't have enough time to resolve it."
22 They didn't say it couldn't be resolved, they just said
23 there wasn't enough time to resolve it.

24 So now let's, finally, go to 2010. So, as
25 you'll recall, the 2010 Post-Enumeration Survey is

1 called "Census Coverage Measurement," CCM, I don't know
2 why we can't have the same - if we're going to have
3 bureaucratic acronyms, let's just keep them the same
4 from one Census to the next, but we can't do that. So,
5 we have the CCM in 2010, which is our Post-Enumeration
6 Survey, and the Census Bureau has said that they have no
7 intent to use these numbers to adjust the Census, and
8 then you'll see here, this is from the Census Bureau's
9 Coverage Measurement website, that the primary goal of
10 the 2010 CCM Program is to measure coverage error in the
11 2000 Census, such that this information can be - and
12 this is my highlighting in bold - used to improve the
13 coverage of future Censuses. So, I don't think - well,
14 I'm quite certain - you are not going to receive two
15 sets of numbers, you won't receive adjusted numbers and
16 unadjusted numbers. And until the Census Bureau
17 conducts its full evaluation, and they have this data,
18 it is confidential data, so it requires people who work
19 in the Bureau, they do hire outside experts to come in
20 and advise them and work with them, but until they issue
21 their evaluation based on the CCM, which will not be
22 issued until 2012, we're not even going to have
23 estimates of the net undercount rates like I showed you
24 for 1990 and 2000, so we're not going to have that even
25 until 2012. What you're going to get are the unadjusted

1 enumerations.

2 So, let's turn to Slide 32 - and before we get
3 there, let me just say one other thing. The Census
4 Bureau - sure.

5 COMMISSIONER BLANCO: So we won't get that?

6 MR. JOHNSON: No.

7 COMMISSIONER BLANCO: But will there actually be
8 an undercount estimate?

9 MR. JOHNSON: So -- I don't know. The Census
10 Bureau has said that they will produce these estimates
11 of the undercount rates in 2012, which suggests you will
12 not, and suggests that they do not exist yet. In 19 --
13 just going back two decades -- in 1990, the Speaker of
14 the Assembly, who at that time was Willie Brown, filed a
15 Freedom of Information Act Request to require the Census
16 Bureau to provide to the State of California adjusted
17 counts, which the Census Bureau did have, and did comply
18 with, and we did get adjusted counts, they were not used
19 for redistricting in California. But the Census Bureau
20 at that time did have them. But it was a very different
21 era. Realize, going into this Census, we just had a
22 Census that we think, on net, was well-counted. There
23 was a lot of concern going into the 2000 Census that
24 it's not possible to conduct an accurate Census anymore,
25 so we have to do these adjustments; and then, the 2000

1 Census came in at a very high number, and so then people
2 thought, "Oh, you can count everyone." Again, there is
3 some differential undercount, but it's not nearly as bad
4 as it had been in the past. So, I think that took a lot
5 of steam out of - or wind out of the sails of people who
6 had been arguing that we needed to use statistical
7 methods to adjust the Census to get a more accurate
8 count because we think we got a pretty accurate count in
9 2000. The 2010 Census is very short, but should lead to
10 more accuracy and more participation. And the Census
11 Bureau, then, also as I showed you on the previous
12 slide, already kind of pre-ordaining that their
13 evaluation measurements are not going to be used to
14 produce another whole set of counts, whereas in early
15 Censuses in 1990 and 2000, there was discussion,
16 especially in 2000, of producing two sets of counts, the
17 unadjusted counts and the adjusted counts, and it wasn't
18 until March of 2001 that the Census Bureau said, "Oh, by
19 the way, we're not going to be producing these adjusted
20 counts that a lot of people thought we were going to be
21 producing." Okay? This time, they're not even saying
22 they're going to produce them, so I don't think it's
23 really - you know, maybe I wasted your time here - I
24 don't think it's really going to be on the table for
25 you, but this is where we get to the next slide. If you

1 are interested in trying to find out and get adjusted
2 numbers, if they even exist at the Bureau, which I have
3 no idea and I doubt actually whether they do exist at
4 this point, you would probably need to file some sort of
5 lawsuit, and I don't know whether that would need to be
6 the Legislature, whether it would be this body, I don't
7 know exactly how all that would happen, so you need to
8 consult an attorney and I know you're looking to hire an
9 attorney because I just heard that discussion.

10 So, as I said, I don't think adjusted counts are
11 going to be made available by the Census Bureau. There
12 are other decisions that you have available to you, that
13 you could pursue, that don't require any sort of
14 lawsuit, that have to do with who counts and who doesn't
15 count. And specifically, one state that I know of, and
16 I don't know if there are others, has adjusted Census
17 numbers for prisoners. And the argument there is that
18 prisoners should be allocated to their home residence
19 rather than the county, or location that they live in,
20 so that certainly prisoners are used for state
21 populations for reapportionment; but, for redistricting,
22 my understanding is, again, you would have to consult an
23 attorney and, for California, specifically, whether this
24 is a possibility, you might be able to exclude prisoners
25 in your redistricting decisions. Some states have, I

1 believe, looked into, but I don't know whether they have
2 done it, again, except for Kansas, a method if
3 allocating state prisoners to their home counties, and
4 then, in counties in California where redistricting
5 occurs at the County level, so we're talking like
6 Supervisorial Districts, some counties with very small
7 rural populations and very large prisons have decided to
8 exclude prisons from their redistricting. So, for
9 example, in Lassen County, Susanville, which
10 incorporated - anybody from Susanville here, I'd
11 outline, you are on the Web, so I'll be careful --
12 Susanville incorporated its prison to increase its
13 population, so that, in funding formulas that are based
14 on population, Susanville gets a lot more money now than
15 it did before it had incorporated its prison. In
16 drawing political boundaries, Lassen County, which is
17 where Susanville is located, does not use the prison
18 because, if they are going to, they would have a
19 district that would be nothing but the prison because
20 the population in the prison is so large relative to the
21 county. And, of course, prisoners cannot vote, so that
22 they would have a district with - I don't know how you
23 would represent a district where no one could vote. So,
24 I mean, there are logistical reasons why a county might
25 decide to exclude a prison for redistricting, that I

1 don't think necessarily exists here for this body
2 because your districts are going to include a lot of
3 people, but there might be other kinds of fairness
4 issues that you might want to take into account and,
5 again, these are legal issues, and not necessarily
6 demographic issues. So that concludes my presentation.
7 If there are questions, I'd be happy to answer them.

8 CHAIRMAN GALAMBOS MALLOY: I'd like to note just
9 that we are - I know that Mr. Johnson needs to be in
10 Berkeley by 5:30, so we'll have five minutes for
11 questions and discussion.

12 COMMISSIONER BLANCO: So I'm still not clear, so
13 there won't be adjusted counts, they may be around in
14 2010, but we won't have them available to us, either the
15 data won't be there, or we won't have it for our - if we
16 wish to use it. We will have, though, an estimate of
17 the undercount?

18 MR. JOHNSON: The Census Bureau will not produce
19 its first - this is my understanding as of today - the
20 Census Bureau will not produce its first estimates of
21 the undercount until 2012.

22 COMMISSIONER BLANCO: So it's not just that we
23 won't have adjusted counts, we won't have an undercount
24 estimate.

25 MR. JOHNSON: Yeah, and let me be very clear,

1 too, the difference between the unadjusted and adjusted
2 counts are the undercount, the net undercount.

3 CHAIRMAN GALAMBOS MALLOY: Additional questions.
4 Commissioner Yao.

5 COMMISSIONER YAO: Back in March 2001, they were
6 not able to reach any conclusion on which number was
7 better, have they reached a conclusion since then? Or
8 are they keeping that secret?

9 MR. JOHNSON: Among Statisticians, among
10 Demographers, about whether the adjusted counts for 2000
11 were better than the unadjusted counts, my reading of
12 that literature suggests to me that, certainly, there is
13 consensus that at the national and state levels, the
14 adjusted counts were more accurate. The big debate,
15 then, is that small levels of geography are the adjusted
16 counts more accurate than unadjusted counts, and there I
17 can't conclude other than to say it's probably not
18 possible to say which ones are more accurate at the very
19 local levels of geography, so we're talking like Census
20 block groups or Census tracts. But for very large
21 areas, including Congressional Districts in a state like
22 California, legislative districts in our state where
23 we're talking hundreds of thousands of people in each
24 one of those districts, I think probably it's almost
25 certain that the adjusted counts in 2000 were more

1 accurate than the unadjusted counts. That is my reading
2 of the literature and my understanding as a Demographer;
3 you would find and could find other Demographers who
4 would disagree, although, at the state level, I don't
5 think you would find many who would disagree.

6 CHAIRMAN GALAMBOS MALLOY: Commissioner Ontai,
7 were you in the queue?

8 COMMISSIONER ONTAI: Yeah. So, this is just
9 theoretical, so if the adjusted count corrects the
10 undercounted population in 2012, does this Commission
11 redraw the lines again?

12 MR. JOHNSON: No, I don't think so. I don't
13 know any - and I should have said this in the
14 presentation - I do not know of any state that has used
15 adjusted counts to draw its boundaries. It would be
16 really noteworthy and newsworthy if you were going to do
17 that, and I think, again, there had been this kind of
18 movement from 1980 and 1990 when the undercount was
19 seriously studied for the first time in 1980 and 1990,
20 there was a movement that was, "We need to do something
21 because the undercount is big and it's growing, and it's
22 going to be even harder to count people in 2000 because
23 we're all flooded with information and mail every day,
24 and so there had been a kind of trajectory towards, I
25 think, adjusting. And the Census Bureau itself

1 recommended adjusting the 1990 Census, but then came
2 this pretty good count in 2000, which changed that whole
3 trajectory, and I think now you would really be an -
4 well, I know you would be an outlier among states were
5 you to use adjusted counts from the 2010 Census.

6 CHAIRMAN GALAMBOS MALLOY: Commissioner Filkins
7 Webber.

8 VICE CHAIRMAN FILKINS WEBBER: Along those
9 lines, we assume that undercounts have occurred, and
10 obviously the statistics you show on Slide 22 show that,
11 but there is a big difference between what occurred in
12 1990 and 2000, and also understanding that the outreach
13 efforts from the Census Bureau, and we've heard from
14 those specialists and what they've done, my first
15 question, (a) is the general consensus that they did a
16 good job in 2010, so that there's a possibility that we
17 would have even less of an undercount than what was seen
18 in 2000, since that was pretty low?

19 MR. JOHNSON: The reason I showed you those
20 estimates, the demographic estimates from the Department
21 of Finance and the Census Bureau, was party to try to
22 answer that question, did we have a good count in
23 California, and my answer is I don't know whether we did
24 or not, but let me just say one other thing. The
25 Director of the Census Bureau has released a few tidbits

1 of information about the Post-Enumeration Survey, the
2 CCM that was done after the 2010 census; again, the
3 complete results that give you the estimate of the
4 undercount and the adjusted numbers is not available and
5 won't be until 2012, by my understanding, but in those
6 tidbits, he has said that they have very good
7 impressions, information that suggests that the 2010
8 count was actually better than the 2000 count.

9 VICE CHAIRMAN FILKINS WEBBER: Along those
10 lines, did the Department of Finance come out with any
11 numbers in 2000? And how far off were they in 2000?

12 MR. JOHNSON: They were actually pretty close in
13 2000, so that was another reason why I had been saying I
14 thought the Department of Finance had a better system,
15 they had been shown to be quite accurate in previous
16 Censuses, this is the first Census when they have been
17 so far off.

18 CHAIRMAN GALAMBOS MALLOY: With that, we're
19 actually at time, slightly over, and I thank you so much
20 for coming and accommodating the shifts in time, and for
21 coming a second time. So, we will be in touch as future
22 potential needs arise for more training. But, thank you
23 for your time.

24 MR. JOHNSON: Right, yeah, I'm always happy to
25 address the Commission. Thanks for your time.

1 VICE CHAIRMAN FILKINS WEBBER: Thank you.

2 CHAIRMAN GALAMBOS MALLOY: Okay, Commissioners,
3 so, after regrouping a bit - I'm sorry, Commissioner
4 Barraba?

5 COMMISSIONER BARRABA: Can I just make a few
6 comments on - I didn't want to keep him from going off
7 to Berkeley, but I would suggest - I just went through
8 the first part of this report and it talks a lot about
9 what states have done relative to the use of adjusted
10 counts and not used, and it's probably worth reading,
11 including a major section on how to handle the prisoner
12 situation, which I think is something that I think can
13 be addressed by us. Relative to the difference between
14 the State Department of Finance and the Census Bureau,
15 you'd have to ask yourself the question, does everybody
16 who moves out of the State of California turn in their
17 driver's license. And if you think some keep them, and
18 they're still registered here, then you would have to
19 question the Department of Finance's estimate. And I
20 think that's where the biggest difference is between the
21 two parties. The second point I would make relative to
22 our function, which is to draw the lines, though I would
23 be very comfortable with an adjusted count after it's
24 all done, which by the way I'm not sure that - the first
25 time you hear the adjusted count will not be the last

1 time you hear about it because, as soon as it's revealed
2 and the process that was used to do it, there will be
3 further studies, and that number will be constantly
4 under review. As it relates to anything below the state
5 line, particularly when we're starting to move Census
6 tracts around, there is no way to justify that the
7 averages that you found for the state, or for the
8 regions within the state, can't be applied to those
9 smaller areas. So, we would be moving - that would
10 assume, for example, that if you had an undercount of
11 African-Americans throughout the state, that that
12 undercount ratio was equal in every area in which
13 there's an African-American, and I think you would have
14 to question that. So, my feeling is that, given the
15 situation, we better stick with the count and not worry
16 about how much change there's going to be because, first
17 of all, we won't have it, and that debate will go on
18 well beyond 2012.

19 CHAIRMAN GALAMBOS MALLOY: So what I would
20 suggest at this time, this logically flows into our
21 Technical Advisory Committee, it is actually one of the
22 listed agenda items, I had initially scheduled about an
23 hour, I would say at this point let's aim for between 45
24 minutes to an hour, and if you're able to land on the
25 lower side of that, that would be fabulous. We do need

1 to loop back to scheduling later in the day, however, it
2 would be very difficult to do that without having heard
3 from our Technical and our Outreach Committees because,
4 again, we are trying to mesh all of these various
5 timelines. So, what I'm planning is we'll have between
6 45 minutes and an hour for technical, the same for
7 outreach, then we would handle our calendaring and our
8 public comment and our accomplishments for the day. So,
9 it has been a long day, we do have a bit more work to do
10 here. With that, I'll hand it over to Commissioner Di
11 Guilio.

12 COMMISSIONER DI GUILIO: Okay, and knowing the
13 time constraints, I'll try and keep this brief. I
14 think, just to touch on the areas that have been listed
15 on the agenda, just for your information of what we had
16 done in our Technical Advisory Committee, issues related
17 to the collection of non-Census Data and the adjustment
18 to Census Data, those were issues that we had initially
19 discussed, but based on our time constraints for the
20 Advisory Committee, we had decided to table that, and
21 particularly in light of the presentation from Hans
22 Johnson. So, we as an advisory committee had looked to
23 two main issues, that of the once RFP, then IFB, now
24 something else as I understand it, so I'd like to just
25 briefly talk about that, and that would also include a

1 presentation from Mr. - some discussion from Mr.
2 Claypool. So, I'd like to focus on that issue, as well
3 as there are a couple decisions that may need to come
4 from that, and then also an element of that would be the
5 Peer Review component of it for discussion. And then,
6 lastly, to also have a brief discussion, maybe, of the
7 options for redistricting software that we touched on
8 earlier today, especially as it relates to the Budget
9 Committee.

10 So, just to recap briefly, as you recall at our
11 meeting in Claremont, we had decided for the Technical
12 Consultant, to go out to bid, and that as a process, as
13 we have found out, is a two to six-month process, so the
14 staff has been working with the State - they're going at
15 warp speed at the timeline we have, so it's taken on a
16 couple of different incarnations, so I think at this
17 point it might be best for Mr. Claypool to discuss where
18 we are, and may I also maybe suggest that we hand out
19 that initial draft? Because there are some elements
20 similar to the Legal proposal, there are some things
21 that will be changing in here, but I think if you had a
22 basic idea of what it is we're talking about, it will
23 give you some framework. So, Mr. Claypool.

24 MR. CLAYPOOL: So, the original concept in
25 Claremont was the Request for Proposal, and next to me,

1 for those of you who don't know her, is Carol Umfleet,
2 and she is our Expert. So, we had talked about a
3 Request for Proposal, but it was going to be too
4 cumbersome a process, it was six to eight weeks. We
5 moved it to an IFB, an Invitation For Bid, because it
6 was a more streamlined process. But one of the things
7 that we left in it, that we were talking about over the
8 last few days, was this scoring component where you
9 would have to score these individuals and that's how you
10 would make a determination as to which bidder you felt
11 was the most component to do the work. This, however,
12 as we've gotten into this process of doing it in public,
13 fully in public, has created some great consternation.
14 This process of scoring was never intended to be
15 something that was done in public, it was always
16 intended to be done by actually - in most places - done
17 by your staff, and then a recommendation is made. But
18 the scoring committee would look at these scores, there
19 would be this give and take of, well, if this person is
20 this, then that person is that, that works well when
21 you're in with a group, but has caused DGS to have some
22 concerns about how it could look in public because,
23 quite honestly, I don't believe it's ever been done in
24 public, neither does Carol, and she's been at it a lot
25 longer than I have. So, what we propose to them, and

1 what will streamline our process, and Carol believes
2 will bring us back in line with the dates that had been
3 proposed by the Legal Committee for the VRA Attorney, is
4 to go to a pure invitation for bid, which Doug Jonson
5 alluded to today, and I'm going to ask Carol to explain
6 it because she knows the process better than I do. So,
7 just the parameters of how it works.

8 MS. UMFLEET: Essentially what will occur is
9 that it will be pass, fail, and then a cost. So you
10 will not be sitting there and looking at 25 different
11 technical qualifications and trying to assess a score
12 for each one in contrast to the other, in a public
13 environment. But because we will not be breaking those
14 specifications down into five points, 10 points, 15
15 points, or 500 or 1,000 or 2,000, because we're not
16 having to prepare that, it will help streamline the bid
17 and enable us to more quickly award it, and there will
18 be less threat that we will fail at an award, and then
19 it's going to greatly help you in a public forum to come
20 to a conclusion and pick a winner.

21 COMMISSIONER DI GIULIO: Just to clarify in
22 relationship to the proposal, while the scope of work
23 and the material that you have here would remain the
24 same, starting on page 13, because I don't think you
25 have the same color coded, that scoring points table is

1 what Ms. Umfleet is referring to, that would no longer
2 be a part of the Invitation to Bid on page 13.

3 MS. UMFLEET: And also, knowing that it's going
4 to be public and it's going to be done by the
5 Commission, even taking that Section 6, which is the
6 Requirements, you know hopefully we'll be able to put
7 that in a more clear, concise manner so that it will
8 streamline the evaluation also, and it won't be in a
9 paragraph like what you're looking at, so understand the
10 formatting may change a little bit. But all the time it
11 takes for us to make these changes and updates, it's
12 just one more day we don't get the bid released, so we
13 are trying to do everything as quickly as we can, and
14 then also understand that, once the Procurement Division
15 has the bid structure identified and we've got
16 everything we want in it, Legal has to look at it and
17 then Legal may have some questions and want something
18 else from us, so those are some of the things that are
19 going to bear on when we can release this bid. The bid
20 also has to be advertised, I believe it's going to be a
21 minimum of three days, so that's why we don't have a
22 release date for you at this point, but Procurement
23 Division is very committed to getting this awarded, they
24 understand we've got 30 days and it needs to be done by
25 the end of March, so we're very hopeful that it will be

1 done. Do you want me to talk about some of the
2 obstacles?

3 MR. CLAYPOOL: Well, first of all, I would like
4 to emphasize why didn't we start with this if it's so
5 much easier, why did we have a scoring table to start
6 with? One of the things that you're going to find with
7 the pass/fail is that it's much more subjective, which
8 in one sense assists in a public forum; on the other
9 hand, you're not going to have the benefit of being able
10 to go line by line and have that structure that, when
11 you are on the committee and you're behind a closed
12 door, and you're kind of going through it, that
13 structure was intended to give you just that -
14 structure. And so this is going to be - it might be a
15 little bit harder for you as a group to kind of get your
16 hands around, well, how much different is this one than
17 that one, without having that. So, some people may end
18 up making their own chart - I'm not proposing anything,
19 I'm just saying that's why we originally were looking at
20 that hybrid, but now, because of the concerns with the
21 public forum and the Department, we thought this is just
22 the fastest way to get this one out and it also will be
23 the easiest one for you to deal with in an absolute
24 public forum. Now, I'd like Carol just to tell you
25 where the pitfalls might occur with this.

1 MS. UMFLEET: Because a typically bid like this
2 would take two to six months, and we're trying to get it
3 done in one month, there are a couple of places in the
4 schedule that could slip and cause, you know, some
5 concern about our being able to award by the end of
6 March, one of them is, if we have to make changes to the
7 requirements, an Addendum would be required to that bid
8 document. A minimum of five days would be required.
9 That might not be fatal, we might still be able to make
10 an award, it would depend a bit on what the problem was
11 and how much discussion would be required and how many
12 days, and so forth, but it's not absolutely fatal. The
13 other obstacle could be a protest that we would receive
14 from a bidder that thinks they should have received the
15 award. I believe with the new format, and it being a
16 bid, it's less likely that we will receive a protest, so
17 I think that's another good bonus for making the switch.
18 But what happens is, if we receive a protest, it's going
19 to be within a week, it's going to be the last week of
20 March, and the authority for resolving that protest is
21 with the Department of General Services, but we would
22 not be able to make an award until the protest was
23 either withdrawn or resolved. So, what would happen is,
24 if the protest has - if Department of General Services
25 determines the protest has no merit, it depends on at

1 what point they consider it resolved, do they send the
2 protester a letter and state that we don't think you
3 have merit? I'm not sure if that's where it ends and at
4 that point it's resolved, and I have tried to reach the
5 Attorney at General Services to give clarity on that,
6 but I've not been able to reach her yet. But, at any
7 rate, I think the biggest threat to an award will be a
8 protest, and we won't know right up until the end
9 whether we're going to get one or not, and then whether
10 there's merit.

11 If we are unable to award, there are going to be
12 two alternatives, one will be an interagency agreement
13 with another State agency or a University, that will
14 entail simply just meeting with that entity and agreeing
15 to the terms, and issuing a contract. I guess the hold-
16 up there could be if we couldn't come to an agreement on
17 terms in a timely manner because at that point, we've
18 got a week or less, probably, before April 1. So,
19 perhaps we could do that if we could, as I said, come to
20 an agreement on terms and conditions. That document
21 would also require approval by our Department of General
22 Services Legal Office. The other alternative would be a
23 non-competitive bid contract and the approval on that
24 document will be if there is no agency secretary or
25 department director, which I do not believe there is for

1 this Commission, it would be the top two Executive
2 officials, the signature from them would be required for
3 that document. It would also have to go through Legal,
4 Department of General Services Legal. And generally for
5 a protest like that, you make a case that it's the only
6 source for what you need, and so what we would have to
7 do is we would have to make a business case. We'd have
8 to make a business case, and I do think that we have one
9 because we will have gone through a competitive process,
10 we will have looked at all the criteria, and compared
11 the suppliers, and we will have a price. So, I do think
12 we will have a good business case, but it's not a given
13 whether that will be approved or not, but, again, it's
14 one of the two options we'll have if we don't make an
15 award.

16 MR. CLAYPOOL: So, that's what would happen,
17 but, again, by streamlining this, we think that the most
18 near term important thing in my mind is, we have a good
19 chance of being able to bring this process in alignment
20 with the process for the VRA Attorney and getting it
21 done in one meeting so that we don't have to - the worst
22 case scenario is we would have to do the VRA Attorney
23 that week and come back the next week and do this one,
24 or when we can. But it does - it eliminates needing to
25 have the meeting on the 10th or the 11th, and then having

1 the possibility of three weeks in a row with meetings.

2 So, any questions for myself or Ms. Umfleet?

3 CHAIRMAN GALAMBOS MALLOY: Commissioner Ancheta
4 and then Commissioner Barraba.

5 COMMISSIONER ANCHETA: And I have to apologize
6 if this was discussed at meetings where I wasn't on the
7 Commission yet. But I'll ask the question because I
8 think it's a very smart strategy to pursue some of these
9 multiple options. I understand because I asked this
10 yesterday at the Technical Committee, that there's sort
11 of going in parallel, for example, the non-competitive
12 bid will probably - we'd want to wait a little bit and
13 sort of see, when we get into a competitive process,
14 we'll kind of get a sense of where we would go.

15 MS. UMFLEET: I do believe that we will need to
16 develop the documents for our alternative approaches so
17 that, if we have to exercise them, at least we'll have
18 the documentation in place, and then just have to finish
19 with the process and hopefully be able to do it in a
20 week. So, we won't wait until the last minute to start
21 preparing these documents.

22 COMMISSIONER ANCHETA: So the question I would
23 have is, and again, I apologize if this has been
24 discussed before and it was dismissed, and this is a
25 different kind of model, but I'll just throw it out

1 there because it's another way of looking at it, which
2 is, had there ever been explored the option of basically
3 building an in-house staff, which is to have basically a
4 Chief Map Drawer, the computer equipment, the plotter,
5 the software, support staff, having that built in and
6 basically staff the Commission in that way. And, again,
7 there are some advantages and also disadvantages, and I
8 don't know the pool out there, if anybody wanted to work
9 for the Commission, vs. having a fairly large contract,
10 there may not be anybody who actually wants to work for
11 us, so maybe that takes care of it anyway. But, I raise
12 it simply because, given the challenge we had with
13 contracting vs. hiring, if that was ever explored as a
14 possibility.

15 MR. CLAYPOOL: Initially when I came to this
16 Commission with a staff of 18 and everybody looked at me
17 like I'd said something wrong, and that was 18 to just
18 do the venues, just do the part that CCP is doing, the
19 scheduling of venues, moving this group around, just all
20 the things logistically that I thought would occur just
21 in setting up where we might appear. We never explored
22 the option of the line drawers just because of just this
23 specialization that's involved with it, and that most of
24 those people that are doing it, the ones who know what
25 they're doing, already are doing it with someone, and so

1 it just made more sense to run that contract. Now,
2 having said that, I think the closest we have is if it
3 were to bog down for any reason, is the interagency
4 agreement, and now that there has been a resolution in
5 Berkeley with the Statewide Database and its payment and
6 its setting it up and its assurance will be given to us.
7 I believe there has also been kind of an ease of tension
8 for the possibility for an interagency agreement in that
9 direction. But, as far as I know within state agencies,
10 they're probably the only group that we have that we
11 could do an interagency agreement with because, on
12 contacting the Northridge Chico Group, while they're
13 very well intentioned, and they're working to become
14 proficient in this area, I don't know that they have the
15 same level of experience as the Commission would expect
16 to have in their line drawers.

17 COMMISSIONER ANCHETA: Can I just follow-up on
18 that. I've heard, and again, this is soon to be
19 confirmed, that some of the challenges that would occur
20 with working with the Statewide Database are that,
21 because it is a UC unit, and there are - and I think
22 Karin MacDonald alluded to this - they would have to
23 build up their staff significantly in order to handle
24 this level of work, and there's a challenge in terms of
25 hiring UC staff to sort of engage in that build-up.

1 MR. CLAYPOOL: I believe that what would occur
2 would be basically an absorption of Q2 staff into the UC
3 system in some manner, in order to accommodate the
4 interagency agreement.

5 CHAIRMAN GALAMBOS MALLOY: I believe,
6 Commissioner Di Guilio, do you have some responses to
7 the conversation?

8 COMMISSIONER DI GUILIO: Keep it going, it's all
9 right, thank you.

10 CHAIRMAN GALAMBOS MALLOY: Okay. Commissioner
11 Barraba.

12 COMMISSIONER BARRABA: The, uh - I have nothing
13 to add. Maybe I do. And it's the background against
14 which we're working, and a lot has been brought up about
15 the need to make sure that we have a bipartisan approach
16 to this activity. I think the phrase that was used this
17 morning was "a balance approach." My feeling is that
18 the State of California and its citizens worked hard to
19 create a Commission that was balanced, and based on my
20 experience in dealing with the people around this dais,
21 it is a very balanced Commission, and the dialogue has
22 been open and clear, and it's very good. My feeling is
23 that it's up to this balanced Commission to ensure that
24 the drawing of lines, no matter who the drawer of lines
25 is, represents the direction that this balanced

1 Commission so directs. And so, to the extent we have to
2 have a Republican and a Democrat line drawer just seems
3 incomprehensible to me because we're going to give a
4 person the directions to draw the lines, and then we
5 could compare how those lines are drawn with the
6 directions we gave, and if we choose, we could have a
7 peer review process in place as an option to say, "Hey,
8 bring in somebody who has done this before. Do you
9 think these lines reflect the direction that we gave?"
10 And if we needed that to make us more comfortable, or
11 anyone else more comfortable. But, the notion of having
12 multiple - and I want to make sure that's my point - is
13 the notion of multiple line drawers, I think, should be
14 out of consideration.

15 COMMISSIONER DI GUILIO: I would like to follow-
16 up on that, I think it's a very important point, but
17 before I do so, I'd like to just see if there's any
18 other questions for Mr. Claypool about the process.

19 CHAIRMAN GALAMBOS MALLOY: Commissioner Filkins
20 Webber and then Commissioner Yao.

21 VICE CHAIRMAN FILKINS WEBBER: Other than page
22 14, with the scoring methodology, is there - because
23 I've noticed we've been talking about the RFP, and now
24 this says "Invitation for Bids," and I know there had
25 been a change, so is this the actual document minus page

1 14 that would go to DGS?

2 MS. UMFLEET: That document has gone to DGS and,
3 really, one of the iterations is that the content of
4 this document represented an RFP, but they were actually
5 going to try to issue an IFB using this content, even
6 though it was a little out of the norm. So, the fact
7 that it's called an IFB didn't change the fact that we
8 were going to do a scoring and the content reflected
9 what would typically be a request for a proposal.

10 VICE CHAIRMAN FILKINS WEBBER: Well, I'm asking,
11 where are we at right now? DGS has this document -

12 MS. UMFLEET: Yes, they do.

13 VICE CHAIRMAN FILKINS WEBBER: -- if they take
14 off page 14, then we're in an accelerated process for
15 their approval of an Invitation to Bid?

16 MS. UMFLEET: As I mentioned before, it would be
17 my thought that we might want to look a little more
18 closely at the requirements in Section 6 and make them a
19 little more formatted so they're easier to follow for
20 everybody, for the evaluation. So, there may be some
21 formatting change, and I believe that Raoul in our
22 office is looking at a couple of other changes, but
23 primarily what you have is what will be worked with.

24 COMMISSIONER DI GUILLIO: So, to clarify that,
25 I'm starting on page 6, the Scope of Work, what Raoul

1 had done originally is he had color coded - I know it's
2 not there for you - the sections that were available for
3 comment, and there are some sections that are
4 terminology, obviously, that are not available for
5 editing, but Section 6, which is what Ms. Umfleet is
6 referencing, it's a section that is the Scope of Work
7 which will incorporate some of those changes and
8 modifications, and while this is not open for changing
9 from public, I do believe there is some input if
10 Commissioners would like to have input in this Section,
11 that's still a possibility.

12 VICE CHAIRMAN FILKINS WEBBER: Okay, do you have
13 a deadline as to when you would want the Commission
14 members to provide any recommendations so that we can
15 move this forward with DGS?

16 MS. UMFLEET: It would truly have to be as
17 quickly as possible because we're not controlling that
18 date, we are ourselves waiting for Procurement Division
19 to give us that final date. The minute we get it, we
20 are able to share it with you, but at this point, I
21 would just say as quickly as possible.

22 COMMISSIONER DI GUILIO: And I might say, too,
23 the Technical Committee did have a chance to look
24 through it yesterday and I think we had made some minor
25 suggestions, but I think the Technical Committee felt

1 like this encompassed what we were hoping to -

2 VICE CHAIRMAN FILKINS WEBBER: I'm sorry, I
3 guess maybe I'm confused.

4 CHAIRMAN G: All right, let me chime in, as
5 well. Raoul sent this out via e-mail, and I'm assuming
6 it went - did it go to the whole Commission? Or did it
7 just go to me as Chair? He sent it out on February 21st,
8 Statement of Work, and he said that that the comments
9 were due by close of business Wednesday, 2/23.

10 MR. CLAYPOOL: Right, but then if you remember,
11 it went yesterday because, and similar by the way to the
12 VRA contract, now that you've seen it, it's going
13 online, and so because it's been produced as a public
14 document. So we, yesterday, when it went online, we
15 made the determination that we would give the public 24
16 hours to comment, and they have. We've received
17 comments about this process. And so, what we would do
18 is, many of the comments, as well intentioned, they will
19 become irrelevant when we change this scoring system.
20 So what I would say to you is there is still time to
21 make a comment about this content, but we would need to
22 have your comments, and they would have to be somehow
23 run by the Technical Committee, or however we choose to
24 do it, I would say, you know, by noon tomorrow would
25 be..."

1 VICE CHAIRMAN FILKINS WEBBER: I certainly
2 wasn't suggesting that. I guess my - just within right
3 now, we were under the impression it was going to be a
4 Request for Bid, so what I'm saying is, if I rip this
5 off, this document is with DGS right now -

6 MR. CLAYPOOL: Right.

7 VICE CHAIRMAN FILKINS WEBBER: Okay, and are
8 they in a position, absent something that happens here
9 at this Commission, to consider this - to approve it, I
10 guess - and give us the date? Or is there something
11 that we need to do affirmatively right now to say that
12 this is okay for them to consider as an Invitation for
13 Bid, to start the date running? I just want to know,
14 where is the delay right now? Is it with us to make a
15 decision that this IFB is what we're doing now? Or is
16 it with DGS? Because we've ripped off page 14 and 15?
17 It's just a really practical question.

18 MS. UMFLEET: Actually, it's a combination. We
19 have some input that we need to consider, so the
20 Statement of Work is not finalized to that degree, and
21 it has to be final for Procurement Division to release
22 that bid. We've asked them to go ahead and consider
23 these dates and get them to us, but, again, we're just -
24 we're subject to whatever they decide.

25 VICE CHAIRMAN FILKINS WEBBER: So it's with us

1 for changing Section 6.

2 COMMISSIONER DI GIULIO: And it is with staff to
3 make those adjustments based on the Technical
4 Committee's recommendations and any public input, so in
5 terms of the Commissioner's responsibilities, as long as
6 you are okay with what the system is set up now and
7 removing the scoring as it originally was, then it is
8 with staff to finalize that with DGS.

9 VICE CHAIRMAN FILKINS WEBBER: Provided the
10 Commission agrees, then when would you get that to -

11 MR. CLAYPOOL: We are literally in a
12 collaborative phase and, so, that's why I said, if there
13 are things that are bothering you, if you look through
14 it tonight and say, "Wait a minute, I don't like this
15 language," and we literally had a change in removing a
16 sentence when we were with the Technical Committee, so
17 we just removed it, and we sent it over, and we're
18 changing it. The biggest thing that has been - the time
19 suck, if you will - has been working around that scoring
20 mechanism, and that's why when we take it off, it
21 becomes a more palatable product for everybody
22 concerned. So, it will be early next week, I'm
23 assuming, at the earliest, that we can get them to look
24 at it and finalize it and approve it, so we have that
25 time in between to tweak it slightly, we couldn't make a

1 major change to it, but we could certainly make changes.

2 MS. UMFLEET: Some of the schedule, it's not
3 just Procurement Division because, once they get our
4 final input, they've got to do the document and the
5 codes, the certs, the contract terms and conditions,
6 those things they have to get together and make fit, but
7 then it has to go up to DGS Legal, and then it's got to
8 be advertised before a release date can be published.

9 VICE CHAIRMAN FILKINS WEBBER: Then the time
10 runs -

11 MS. UMFLEET: That's the release date - the bid
12 is literally from the release date to the award date.

13 VICE CHAIRMAN FILKINS WEBBER: And that process
14 is 10 days?

15 MS. UMFLEET: Well, we're hoping to be able to
16 accomplish it within a four-week period. There will be
17 a few days remaining at the end of the month, we hope,
18 in case we need to do some alternative process. If we
19 get an Addendum, we may use up those few days we're
20 hoping to allow at the end of the schedule; but, the
21 fact is, until we get a release date from Procurement -

22 MR. CLAYPOOL: By the way, the four weeks isn't
23 four weeks before anything happens, the original four
24 week date that we were talking about, if we had gotten
25 it done today with the original format, had us getting

1 the bids in on the 15th, doing the selection process
2 during the same time as VRA, then we would have a period
3 for protest, and then we would have another period, you
4 know, after we awarded. And then we would execute a
5 contract. So, what Carol is talking about when we say
6 the "release date," I believe when they start
7 advertising it to -- the execution of the contract is
8 what we're trying to get in four weeks. So that's the
9 process.

10 CHAIRMAN GALAMBOS MALLOY: So, Commissioner Di
11 Guilio, just to clarify, are you requesting of the full
12 Commission that we consider - that we make a decision on
13 this as a process and that you are also asking that all
14 Commissioners who have feedback that they would like to
15 offer to the content of this do so by noon tomorrow?

16 COMMISSIONER DI GUILIO: I think that's the
17 point -- where we are right now. Although I do think
18 there's one aspect of this that Commissioner Barraba
19 touched on, that I think it's only fair to bring to the
20 full Commission that we should discuss before we move
21 forward if that's okay, and I know that we are quickly
22 losing time. Would that be okay if we go into the next
23 issue?

24 CHAIRMAN GALAMBOS MALLOY: Please do.

25 COMMISSIONER DI GUILIO: Okay. And I do want to

1 just finish up with what Mr. Claypool said, is at this
2 point, I think the Technical Committee is moving forward
3 with this process, but we do understand, as it was
4 mentioned, that there are things that can come up along
5 the way that can really throw a wrench at it, as long as
6 the full Commission is aware that the Technical Advisory
7 Committee will be coming back if protests are lodged,
8 depending on when it happens, that might change things
9 quite a bit, but at this point, this is the
10 understanding that we're moving forward with.

11 So, the other issue that I think, as
12 Commissioner Barraba mentioned, was a discussion about
13 this balance. One of the options that was raised and
14 was included in this was the option of a peer reviewer,
15 and I would just mention really quickly, on page 1, the
16 last paragraph, there is a little discussion about the
17 Peer Reviewer component, and on page - I'm sorry, I had
18 it - page 4, number 6, it says "Commission Peer Review,"
19 just to point those out, one of the points of
20 discussion, as you all are aware, is this idea of
21 balance. The reality is, with a line drawer, the actual
22 line drawing component can only be done by one
23 organization, it cannot be done by two different
24 entities. So, this was a point of discussion in terms
25 of, are there options for us to be able to have another

1 set of eyes, another involvement in this process if we
2 needed it. So, the option for a Peer Reviewer was
3 suggested and has been incorporated into this proposal.
4 I think it goes back - it goes back to what Commissioner
5 Barraba said, that if the Commission would like to have
6 a full-blown Peer Reviewer as a second option, like two
7 forms of VRA, then we have to as a Commission direct
8 staff to start a whole other Invitation to Bid or
9 another IFB, wherever we are, RFB, ITB, for the process
10 to select a second Peer Reviewer. There are some
11 significant pros and cons to both of those. I think the
12 other option - so that is a point of discussion for the
13 full Commission. The other option that we, as the
14 Technical Advisory Committee, has suggested that we have
15 an option to have a smaller pool up to maybe \$5,000, or
16 we could have a consultant if we needed to have a
17 reference point, if we as a Commission came to a point
18 where maybe we didn't agree with a line drawer, or our
19 directions were something different, we would have an
20 individual who could serve as a Peer Reviewer in the
21 process to provide some outside opinions as opposed to a
22 full-blown second peer reviewer. I'm not sure if any of
23 the other Commissioners would like to discuss that, I
24 know the issue of having - there was a lot of logistical
25 issues with having two people giving recommendations to

1 the Commission, I think the good side is maybe they
2 agree quite a bit, it gives us validation for what we're
3 doing, but if there was a significant disagreement, we
4 also open ourselves up to issues of - we open ourselves
5 up to issues. So, I think the option of having maybe
6 smaller contracts with individuals available to assist
7 the Commission when we have issues that the line drawers
8 are bringing forward to us, was something that the
9 Technical Advisory Committee - correct me if I'm wrong -
10 thought was one of the better options, but I'd like to
11 put that out for the Commission for full discussion.

12 CHAIRMAN GALAMBOS MALLOY: Does anyone else from
13 the Technical Committee have anything they'd like to
14 add?

15 COMMISSIONER BARRABA: Yeah, we were really
16 looking for flexibility and speed because it's going to
17 be hard enough, given what we've got to do to get the
18 line drawer to get going, so we felt that this approach
19 still allowed us the ability to bring in another point
20 of view, but not have to go through a whole new process
21 of identifying and screening and everything else we've
22 got to do, which would show up, you know, two months
23 later. So, this really felt like a way of balancing it,
24 giving us a chance to say, "You know, that's kind of a
25 question, maybe we should get somebody else in here,"

1 but only when we saw that situation.

2 COMMISSIONER PARVENU: I would like to add, in
3 reference to Commissioner Di Guilio's comment for the
4 second option of having a peer reviewer with a contract
5 less than \$5,000 for him or her, that we consider having
6 three individuals - Republican, Democrat, and Decline to
7 State, to review. So it would be not one individual,
8 but a panel of perhaps three. I'd like to offer that as
9 consideration, as well.

10 CHAIRMAN GALAMBOS MALLOY: Commissioner Yao.

11 COMMISSIONER YAO: When I hear Commissioner
12 Barraba describe what he thinks is the process, and I
13 hear you, Commissioner Di Guilio, describe the process,
14 I don't hear the same process. The way I see it is more
15 data is not a bad thing, okay, even though it's
16 contrarian opinions, or contrarian observations. And if
17 this proposal allows us that flexibility, I'm for it.
18 But at this point in time, Commissioner Di Guilio, you
19 seem to be pressing this Commission to make a decision
20 as to whether we should or shouldn't have a peer review,
21 and I'm not sure I have enough data to make that call.
22 And when I listen to Commissioner Barraba, he basically
23 has indicated that we have built into this proposal the
24 flexibility of adding a peer reviewer, so I need to
25 maybe have the Technical Commissioners -

1 COMMISSIONER DI GIULIO: That might be my fault
2 in terms of not clarifying that. I think I wanted to
3 bring your attention to the peer review aspect because
4 we've included it in the original proposal to give us
5 flexibility later on to incorporate that, but if the
6 Commission would like to have a full - I keep saying
7 full-blown, there must be a better - an actual peer
8 reviewer that would be above \$5,000, it has to go
9 through the same process that we are going through right
10 now, and in order to do that, we as a Commission would
11 have to direct them to start that process immediately.
12 If, as a Commission we say, "Yes, we like the idea of a
13 peer reviewer, but we'll keep the limit to \$5,000," we
14 do not have to make a decision on directing staff to do
15 that today. Does that clarify?

16 CHAIRMAN GALAMBOS MALLOY: So, I do have a
17 stack, I know various people want to chime in on that,
18 I'd like to start with Mr. Claypool, and I do think,
19 based on the feedback I'm hearing, we need a little bit
20 more information. I don't think everyone has been privy
21 to the same level of information around what peer review
22 constitutes, so I'll start with Mr. Claypool, then
23 Commissioner Filkins Webber, and then Commissioner
24 Blanco.

25 MR. CLAYPOOL: I'll try to keep it brief. This

1 entire concept -

2 CHAIRMAN GALAMBOS MALLOY: And Commissioner
3 Ward, I'm sorry, where were you in the stack? Where in
4 the line-up do you fall? Okay, thank you.

5 MR. CLAYPOOL: I'll try to keep it brief. This
6 concept came out of my conversation with the Executive
7 Director from Arizona, and they had, even though they
8 couldn't remember exactly where this process fell, or
9 what it cost, they had a peer reviewer that came and
10 looked at the lines and the concept was to add balance
11 because there was so much consternation over who was
12 drawing the lines, and whether it was being fair, that
13 they wanted this second view so that they could point
14 out that they were taking this effort. The peer review
15 would go under a contract primarily the same as the IFB,
16 we would, I think, for this Commission's benefit, run it
17 through so that we could look at the different
18 candidates and vet them and pick someone that we thought
19 was fair and balanced for the objective of looking at
20 these lines. It doesn't have to start right now and, in
21 fact, we would stagger the start so that some of the
22 people who might be bidding to be our line drawer could
23 then bid to also be the peer review, therein again lies
24 the balance. It can be a contract where we do it by
25 when we need them, it can be an hourly contract for the

1 same as if we were going to use the \$5,000 bid, we could
2 say, you know, we want you to look at this, we want you
3 to look at that, or we want you to look at everything.
4 The last and most important thing is that I don't know
5 what these people will charge, but I don't know that we
6 can have one person do it up to \$5,000 and then give
7 them another contract because then we'll be splitting
8 contracts and that's not legal in State Government. So,
9 that's the view of the peer review, and it was mainly
10 brought about because of the concern that, if we
11 selected any single line drawer, that people might have
12 an objection and individuals might feel as though there
13 was no check, or no balance to that position.

14 CHAIRMAN GALAMBOS MALLOY: Commissioner Filkins
15 Webber.

16 VICE CHAIRMAN FILKINS WEBBER: So, as I
17 understand it, is that the purpose of paragraph 6 is to
18 advise the Technical Expert that he must, he or she,
19 must make available his maps and supporting
20 documentation to the potential peer reviewer, so this
21 does not mandate that the Commission is doing that, this
22 is just discretionary so that the scope of work is
23 inclusive, that the individual is aware of the
24 possibility that their work would be subject to review.
25 The other comment that I had is that I'm a little on the

1 side of Commissioner Yao that I believe we do need to
2 think about this, but not until we select the Technical
3 Expert will be know where the balance is supposed to be.
4 So, I think that the peer review efforts, as I think
5 about their participation in this entire process and the
6 balance, wouldn't necessarily come until just maybe two
7 months away maybe for us to consider, but then we'll be
8 able to make that determination as to who the individual
9 will be that would better select for the balance, I
10 guess, is what I'm saying. So we don't necessarily need
11 to make a decision today whether we're going to have a
12 peer review, or do we?

13 COMMISSIONER DI GUILIO: I guess, just
14 originally, yeah, maybe Ms. Umfleet has to address it
15 because it was my understanding in our conversation
16 yesterday, she was asking us to do that, but maybe I
17 could let her address that a little bit more.

18 MS. UMFLEET: Just one comment. The consultant
19 we choose will be through a bid process and it's not
20 going to be just us choosing them, it's going to be a
21 competitive bid and we will end up with who wins the
22 bid.

23 VICE CHAIRMAN FILKINS WEBBER: Why is that?

24 MS. UMFLEET: Well, just like any competitive
25 bid, including the one we're doing for this consultant

1 who is going to draw the lines, we're going to put out
2 our requirements and they're going to come in with a
3 response, and we're going to have to award based on the
4 criteria in this bid document, and we can't know right
5 now, literally, who is going to win this bid, and the
6 same in the case of a peer review consultant. We're not
7 going to just, through a bid process, we're not going to
8 be able to just pick someone, we will end up with
9 someone after a competitive bid process. Now, for the
10 \$5,000 contract, we do get to just go award a contract.

11 CHAIRMAN GALAMBOS MALLOY: Commissioner Blanco.

12 COMMISSIONER BLANCO: So I have a couple of
13 concerns and a couple of suggestions. One, I agree, and
14 I know there's a desire to move this forward in the
15 event that we need a peer review because we're aware of
16 the process, but I don't think we should move ahead
17 assuming that we're going to do - I'd like to have more
18 of a discussion, not move forward with the process of
19 putting together the paperwork for a bid for the peer
20 review, and I have a couple points. First, I think on
21 this document, this is - we can ask whoever -- our IFB,
22 or whatever it is called, can say that we want access to
23 all the underlying documents and documents that this
24 line drawer uses to draw the lines, we can say that
25 without having to say that it's for the purposes of a

1 peer review. I mean, that is standard, actually, with
2 these situations with experts that you get to keep -
3 it's your property, in a sense, you know. And so, I
4 think we could do that without having to inject into
5 this document already the notion of a peer review. I
6 think, if it's in here, then it almost becomes a
7 decision that we are going to have a peer review, so I
8 don't think we need to have that in there in order to
9 accomplish the goal of making sure the person makes all
10 their data available to us, and that it is our data, not
11 their data. So, that's number one.

12 I am concerned about the peer review from a
13 slightly different perspective. I understand that we're
14 trying to deal with making sure that whatever we have
15 not only is impartial, but is perceived as impartial.
16 Legally, I think the peer review could be problematic
17 for us. If we came up with a map, the line drawer draws
18 a map, we look at it, and we've worked with this person
19 all along because the line drawer doesn't control us, we
20 control, so it's our intellectual input that goes into
21 the line drawer philosophy, our legal thinking, etc.
22 etc. goes into those lines. And then, we send it out to
23 peer review and we have somebody that says, "This is
24 completely off. I think that there's no basis, in fact,
25 for this Section 2 district over here," or, "You missed

1 a Section 2 district over here." And then we say,
2 "Thank you very much, but we considered all those things
3 and we're going to go ahead with...", or we tweak it a
4 little bit based on the peer review, but we basically go
5 ahead with the map that we had gotten from our expert.
6 We are opening up a whole can of worms in terms of
7 litigation that you've now had another map with other
8 underlying assumptions that you were aware of and that
9 you've refused to adopt. So, I think that we should
10 think about what that review process is. I think we
11 should have a review process, but I'm saying I think we
12 have to think carefully about either what we call it or
13 how we do it, or how extensive, or for what purpose, and
14 just be aware that we control this process. I couldn't
15 agree more with Commissioner Barraba. This map drawer
16 is not going to go into a room and draw maps and then
17 come back and go, "Here are your maps." These maps are
18 our maps that this person is drawing for us. I think we
19 could have along the way a lot of consultations with
20 people, perhaps outside of - it's us that are telling
21 the map drawer what to do. We could be informed
22 consistently throughout the process to make sure that,
23 as we're going along, you know, "Is this particularly
24 difficult for anyone here? Let's check it out," blah,
25 blah, blah. So, I'm reluctant to actually codify the

1 language of peer review in any of our documents yet, and
2 I think I'm leaning towards not having it, in general,
3 be something that we call that, and I'm not disagreeing
4 with the notion that we have - that we should all along
5 the way be checking ourselves, and our assumptions, and
6 where we end up, but I'm very concerned about a full-
7 blown second review of something we've already - that is
8 our product, in that sense.

9 CHAIRMAN GALAMBOS MALLOY: So, I have three
10 Commissioners that are in the line-up, now I'm seeing
11 four. I would like to remind the Commission that our
12 goal for the next few minutes is that we do need to take
13 action on this Invitation for Bids, we do not need to
14 make a decision today on the issue of the peer review.
15 So, with that in mind, Commissioner Ward.

16 COMMISSIONER WARD: Thank you, Chair. I
17 appreciated you clarifying with Mr. Claypool those
18 clarifying comments, it answered a lot of my questions
19 with the \$5,000 bids, splitting bids, and then bringing
20 in multiple different people, I just saw that as being
21 something that was concerning for me. Two questions I
22 guess I had was, one, you know, I only need one, I
23 guess, it seems to me that we might need to make a
24 determination, possibly, about a peer review at this
25 point with this, largely because, if we do decide to go

1 with the small groups and we don't, but if we decide
2 that, not being a lawyer, and so having a little bit of
3 a different viewpoint as a citizen, that whatever maps
4 the Commission were to put forward to a line drawer, and
5 then have a second set of eyes come in, maybe have a
6 whole different perspective, that seeing that the
7 Commission then took that data and, in a report, wrote
8 why they did or did not choose to draw the line where
9 they did, would only strengthen the position of the
10 Commission. I would feel at peace with that, and that's
11 something that obviously we need to get in the process,
12 in the mill working immediately. So, I would just ask
13 if that is something as a concept we need to decide, so
14 they can go ahead and put out that request for a peer
15 review.

16 CHAIRMAN GALAMBOS MALLOY: So, Commissioner
17 Aguirre, then Commissioner Filkins Webber, and then
18 Commissioner Yao.

19 COMMISSIONER AGUIRRE: Yeah, without taking a
20 while on this, generally, as a member of the Technical
21 Committee, we discussed this at length, and one of the
22 things that I kind of compared it to was, in the
23 scientific community, in the academic community, there
24 is this concept called Peer Review, and peer review
25 essentially guarantees the quality of the product and

1 the integrity of the process. So, if that's something
2 that's important to us, then I think we should include
3 it. Whether it happens during the process, whether it
4 happens at the end of the process, whether we pay them
5 on an hourly basis, whether we take one contract with
6 one firm, or have several firms look at it, regardless
7 of what format that takes, I think that the getting -
8 and what I would consider like an additional advisor to
9 the Commission on a very technical aspect of our work,
10 would, I think, broaden our ability to meet the
11 objectives of drawing some maps that are not only
12 impartial and fair, but also to have a second opinion,
13 so to speak, validating the conclusion of our map drawer
14 and the results that come out of that, I think it's a
15 plus for the Commission, so I would say that we should
16 include it, you know. If we decide now, that's fine; if
17 we decide later, I'm going to argue the same point.

18 CHAIRMAN GALAMBOS MALLOY: Thank you.
19 Commissioner Filkins Webber.

20 VICE CHAIRMAN FILKINS WEBBER: I concur with
21 Commissioner Aguirre, peer review exists in various
22 settings, and the point, and I think which is beneficial
23 and a necessity for it to be included here is so that
24 the Technical Expert will be aware of the level of
25 scrutiny in his work, and materials, and the entire

1 scope of his contract could be subject to. So, just
2 calling it our documentation, or our information, I
3 think, is insignificant when you're talking about an
4 expert, an independent contractor, vendor, it's not our
5 staff, it's not our employee, so I think that they need
6 to be advised that their level of work will be subject
7 to this scrutiny. I also feel that later on in the
8 process, we can make a determination regarding the full
9 extent of what the peer review will do, but I would like
10 to caution this Commission that I've seen it in public
11 comment, and I've heard it again here today, and I have
12 a little bit of hesitation, I have not drawn lines
13 before, don't know how many of you have, the expert that
14 we're hiring on, we are relying on and we've heard
15 plenty of public comment regarding the possibility of
16 those individuals that would be providing proposals, and
17 we're going to be hearing more. But I, in directing
18 that technical expert, may not know what the end result
19 will be, they do, and the information that they're going
20 to end up utilizing may very well be hidden from view
21 for us, in particular, at least in my understanding of
22 how it's going to be done. And, again, I haven't drawn
23 lines before, but I want to be conscientious about that,
24 and I think the peer review will be one aspect in which
25 this public can feel comfortable that we are considering

1 it now, regardless of who the final technical expert
2 will end up being after this proposal process is over.

3 CHAIRMAN GALAMBOS MALLOY: Commissioner Yao.

4 COMMISSIONER YAO: I want to thank Commissioner
5 Aguirre to doing a lead-in for me. The peer review, as
6 we call it in the world of scientific design, or
7 scientific activity, is typically called "in process
8 review," it's not a review that takes place at the end
9 of the process where you have a product, and then you
10 start identifying what's wrong with the product, it's an
11 in-process review, and I doubt if there is any company
12 in this world that is approaching a design without some
13 kind of in-process review. The in-process review is
14 just that, you get people that are the equivalent in
15 capability to the person that is designing the product,
16 in our case, the map drawers, that will take the data
17 that are being generated while the drawing is in
18 process, and offer up his or her observations as to what
19 else could be done, what's wrong with it, what's good
20 about it, and then any of the issues will be exposed to
21 this group so that we can make adjustments to the
22 product along the way. This is information that is very
23 invaluable to us, and at this stage of the game, without
24 building in that flexibility in this proposal, I think
25 it's absolutely the wrong thing to do. So, I want to

1 again encourage Commissioners to build that in here and,
2 as necessary, we'll launch an activity similar to what
3 we're doing in terms of launching an RF - using the
4 right term - Invitation for Bid, and get the input from
5 [quote unquote] "the experts" as to what is a proper
6 peer review, or proper in-process review, and then deal
7 with that issue accordingly. To eliminate that
8 opportunity in this proposal, I think, at this early
9 stage of the game, I think, is totally irresponsible.

10 CHAIRMAN GALAMBOS MALLOY: Commissioner Barraba.

11 COMMISSIONER BARRABA: That is in this proposal,
12 so it offers that opportunity. I want to get to
13 Commissioner Filkins Webber's question about never
14 having drawn a line. There is one thing that you do
15 very very well, and that is - I don't want to look at
16 the line, I want to see the outcome of the lines, I want
17 to find out what are the characteristics of the
18 districts relative to the criteria that we've been asked
19 to deal with, and I don't think you need to know how to
20 draw a line to make an assessment of whether we did that
21 job right or wrong.

22 CHAIRMAN GALAMBOS MALLOY: Uh huh, excellent.
23 Commissioner Dai.

24 COMMISSIONER DAI: Yes, I'd like to move that we
25 adopt this Invitation for Bid, which does accommodate

1 the opportunity to consider at a later stage a peer
2 review process, which I don't think we need to do right
3 this second.

4 VICE CHAIRMAN FILKINS WEBBER: Second.

5 CHAIRMAN GALAMBOS MALLOY: Can I have a reading
6 back of the motion on the floor?

7 MS. SARGIS: The motion is to adopt the IFB for
8 Redistricting Services.

9 CHAIRMAN GALAMBOS MALLOY: I have a motion and a
10 second. The floor is open for discussion.

11 COMMISSIONER DI GUILIO: Just a clarification,
12 minus the scoring aspect of it.

13 COMMISSIONER DAI: Yeah, as amended.

14 MS. SARGIS: As amended.

15 COMMISSIONER DI GUILIO: Thank you.

16 CHAIRMAN GALAMBOS MALLOY: Commissioner Blanco.

17 COMMISSIONER BLANCO: Yes, I just wanted to say
18 that I really appreciate Commissioner Yao's comments, he
19 said it more artfully what I was trying to say, that I
20 think in-process review is absolutely what we need.

21 What I'm concerned about is we finish, and then we turn
22 something over after we have a final product to somebody
23 else to sort of pick it apart. That is the process that
24 concerns me. I completely agree that we need to have
25 all the assumptions as we're building our maps and

1 everything, constantly we need to have that review
2 process, it's this other - I heard sort of this other
3 notion that then we would finish and give it to
4 somebody, and that was the aspect that concerned me.

5 CHAIRMAN GALAMBOS MALLOY: Given the time, the
6 floor is open for discussion, I would encourage
7 Commissioners who have something new to say to weigh-in.
8 Mr. Claypool.

9 MR. CLAYPOOL: Only that possibly to try to work
10 with this, should we call it an in-process review? It
11 was always intended to be an in-process review, and if I
12 made it sound like it was going to be after it was over,
13 that was not the intention of the idea.

14 CHAIRMAN GALAMBOS MALLOY: I'll defer to
15 Commissioner Dai who made the motion.

16 COMMISSIONER DAI: Yes, I would like that
17 reflected and also will note for the rest of the
18 Commission that this was a line item in the Budget, so
19 that should also be changed there.

20 MR. CLAYPOOL: Thank you.

21 MS. SARGIS: Is that an amendment to your
22 motion?

23 COMMISSIONER DAI: I'm amending my own motion.
24 Do you agree?

25 VICE CHAIRMAN FILKINS WEBBER: Second.

1 CHAIRMAN GALAMBOS MALLOY: The floor is still
2 open for Commissioner discussion. Before I open it up
3 to the public, any further Commissioner feedback on this
4 topic? Seeing none, are there any members of the public
5 who would like to comment on the existing motion?

6 MR. WALTON: My name is Sam Walton and I'm with
7 the NAACP. I'd just like to comment, and I know you are
8 all tired, so I'm going to keep it real short. The end
9 product that you're going to have from whatever staff
10 through the analysis, trust me, they're going to know it
11 much better than you're going to know it, and from where
12 I'm sitting, I would rather have those people under more
13 scrutiny than the Commissioners. I would rather have
14 their work reviewed more intensely than the Commission
15 analysis, so I just want to share that. I think the
16 idea of having the process in review, I think it's a
17 good thing, and as you go forward, as you adopt this and
18 look for the consultants to do the work, I think it's
19 really important to try to make sure that you have a way
20 of being able to see through all of these filters
21 because, certainly, in the final analysis, it's going to
22 be on you. But you're going to have some people who are
23 going to have a whole lot more information than you're
24 going to have, and you're in a rush, you've got to meet
25 some deadlines, you've got to achieve the end result,

1 but I am convinced that just because you are a diverse
2 Board, that it doesn't produce the end product of a
3 product that reflects the interests of all of the people
4 in California, so this next level is going to be
5 critical and I'd just stop there, to say, you know,
6 you've got a major challenge in making this next
7 decision. And the thing you're adopting today, I hope
8 it's tight because we're all going to suffer if it's
9 not. Thank you.

10 CHAIRMAN GALAMBOS MALLOY: Thank you. Are there
11 any other members of the public who would like to
12 comment?

13 MR. JOHNSON: Hi, again, Douglas Johnson from
14 the Rose Institute. First, I want to say, just kudos to
15 the staff, they put together an amazing document in an
16 insanely short amount of time, so I definitely want to
17 notice that. I do just want to clarify one thing. As
18 you may know, and as you'll talk a little bit more
19 tomorrow, I and other people from the Rose Institute
20 were the Technical Team in Arizona and there wasn't line
21 drawing peer review. I think where the miscommunication
22 happened is, at one point, a court put in an overseer,
23 and it was actually Bruce Cain, whose job was to report
24 back to the court on how the Commission and the
25 Plaintiffs in the case worked together, it wasn't any

1 kind of technical peer review. So, I want to offer that
2 up not in dismissing the idea, I think there's a lot of
3 promise in the idea, but in kind of encouraging you to
4 have your eyes open, you need to get started on defining
5 this role, and one piece I can mention, I know that
6 \$5,000 comes up a lot because of the contracting
7 authority, your peer reviewer is going to charge you
8 \$5,000 to set up the database and import the plan,
9 you'll burn through \$5,000 before they even look at a
10 line, so I just wanted throw that out there. And I also
11 wanted to say thank you for changing the scoring system
12 because I think that makes a lot of sense. Thank you
13 very much.

14 CHAIRMAN GALAMBOS MALLOY: Thank you. Other
15 members of the public.

16 MS. HOWARD: It's been a long day for everybody.
17 I have to say, just listening to your conversation makes
18 my head hurt, so I can't imagine how hard it must be for
19 you to sit there and know that you have to make the
20 decision, and just take all this in. For those of you
21 who haven't heard me speak, I'm Deborah Howard, and I
22 work with Rob Lapsley in the California Chamber and the
23 other Statewide Business Associations who are
24 passionately supportive of Prop. 11 and Prop. 20 and
25 really want to see this work. I want to say, "Here

1 here" to Mr. Walton's comments. And I know it's been a
2 really long day, I actually think there may be some
3 value in creating a parallel track for the in-process
4 review that you can abort at any point you decide you
5 don't need it, but there may be some value in having
6 proposals come in for the line drawing and the peer
7 review, to look at side by side, for the in-process
8 review, I want to use that, side by side. Just a
9 thought. I couldn't cope with it, but you all are
10 better people than I am. Thank you.

11 CHAIRMAN GALAMBOS MALLOY: Thank you. Are there
12 any other members of the public who would like to
13 comment on the current motion? Seeing none, I would
14 like to take a vote and let's try a show of hands on
15 this motion. Okay? All right, all in favor, raise your
16 right hand. All opposed? The motion passes. Are there
17 any other discussion points or action items from the
18 Technical Committee?

19 COMMISSIONER DI GUILIO: I would just wrap it up
20 - oh, I'm sorry.

21 COMMISSIONER DAI: Yeah, I was just going to
22 suggest that we also direct staff to get going on the
23 interagency option, just as a back-up.

24 MR. CLAYPOOL: We're already starting.

25 COMMISSIONER DI GUILIO: Just to quickly close

1 the Technical Advisory Committee, I think it would just
2 be helpful to know, well, there's two things, one was
3 just the option, in terms of the process for review, at
4 this point because of where we are, we found out just a
5 short while ago, at this point, I believe we are going
6 to be following the same review process that the Legal
7 Advisory Committee will be following, but as we don't
8 know when DGS's timeline is, and how that will work, at
9 this point, the Technical Advisory Committee will be
10 under that assumption, just to let you know that that's
11 the review process for these bids.

12 And, secondly would be, while I think it's the
13 details we don't have time to go into, the options for
14 the Commission to consider in terms of the software that
15 are available to the public, I think it's important just
16 to mention only as related again to the budget, and
17 maybe this is something as a liaison we can work with
18 that, if you are in a hurry to get that line item
19 authorized, I think the Technical Advisory Committee, it
20 felt that keeping that aspect in, in terms of options
21 for the Commission to consider vs. giving the
22 responsibility for the software outreach to the
23 Legislators, was something that the Technical Advisory
24 Committee thought would be better kept within the
25 Commission, particularly as you saw some of the comments

1 from Ms. Kopel from California Forward, in terms of
2 public access to this process, there are things that the
3 Technical Advisory Committee was reviewing in terms of
4 augmenting the Redistricting Assistance Centers,
5 financing online redistricting sources, and public open
6 source options for the software. Those are some things
7 to consider. I would just suggest, even though we're
8 not going to get into the details of that, that I think
9 the Technical Advisory Committee would support that line
10 item. I'm not sure how you would like to phrase it and
11 maybe we can work with the Finance and Administration,
12 but in terms of expanding our outreach and increasing
13 public access, that was the only other thing in terms of
14 the software options.

15 CHAIRMAN GALAMBOS MALLOY: Thank you.
16 Commissioner Ward.

17 COMMISSIONER WARD: Thank you, Chair. I just
18 want to ask the Chair for her opinion on the fact that
19 we've spent at least 25 minutes talking about an in-
20 process review, and it seemed like there was general
21 consensus on that, and we approved a document using that
22 language, it if would be quick and appropriate to
23 actually take a vote and make an agreement that we as a
24 body have decided to have an in-process review as a
25 milestone that might alleviate public concern around the

1 rest of the contracting process that we're doing.

2 CHAIRMAN GALAMBOS MALLOY: I am happy to take a
3 vote on any motion that is on the floor, I do not have
4 one as of yet. Would you like to make one?

5 COMMISSIONER WARD: Certainly. I'd like to move
6 that we agree that we would like to have an in-process
7 review in place.

8 COMMISSIONER AGUIRRE: I'll second that.

9 CHAIRMAN GALAMBOS MALLOY: Could I have that
10 motion repeated back?

11 MS. SARGIS: Could you re-state it, please?

12 COMMISSIONER WARD: We agree to have an in-
13 process review.

14 CHAIRMAN GALAMBOS MALLOY: The floor is open for
15 discussion.

16 COMMISSIONER DAI: So, I thought it was
17 interesting that Arizona did not have that and I thought
18 that was something that we ought to discuss as a
19 Commission because, are we adding a step that frankly
20 was a result of a misunderstanding? That's just a
21 question.

22 COMMISSIONER DI GIULIO: Can I suggest that
23 maybe there might be a slight amendment to that, that we
24 consider this is still an option and that maybe the
25 Technical Advisory Committee can take this up in terms

1 of what options are available for an in-process peer
2 review? I think there are a lot of elements to it and
3 we could give you additional information that you might
4 be able to make that more informed consideration about
5 what an in-process peer review might look like?

6 COMMISSIONER WARD: With the motion I was
7 proposing, I was preferring not to define it in any way,
8 just to simply make a blanket statement as a body that
9 we've obviously agreed on a document which we're using.
10 The terminology says we're going to potentially have an
11 in-process review, I'd like to just firm that up again
12 mostly to assure the public that we hear them, that we
13 agree to an in-process review.

14 CHAIRMAN GALAMBOS MALLOY: Other Commissioners?

15 COMMISSIONER ANCHETA: So just a question for
16 Commissioner Ward, is that, if we were to decide at some
17 point we don't need an in-process review, does your
18 motion require us to have one? In other words, are we
19 locked into having one? Can we not have one, given your
20 motion?

21 COMMISSIONER WARD: Not if you vote yes on my
22 motion.

23 COMMISSIONER ANCHETA: Thank you.

24 CHAIRMAN GALAMBOS MALLOY: Further discussion?
25 Commissioner Yao.

1 COMMISSIONER YAO: I think the motion simply, if
2 it passes, gives direction to the Technical Advisory
3 Committee to pursue the goal of setting up a peer review
4 process - in-process review effort, whatever that means
5 at this point in time. I think it's simply this
6 Commission's open communication with the Technical
7 Advisory Committee to explore and identify the best way
8 to make that happen. And then hopefully you will come
9 back to this Commission for approval on whatever
10 recommendations that you make.

11 CHAIRMAN GALAMBOS MALLOY: Commissioner Dai,
12 were you in the queue?

13 COMMISSIONER DAI: Yes, I was. That's not
14 actually what I heard in the motion, so I would be
15 interested in a motion that basically deferred to the
16 Technical Committee to propose something, particularly
17 given the new information we heard from public comment,
18 as opposed to requiring us to have one.

19 CHAIRMAN GALAMBOS MALLOY: Commissioner Parvenu
20 and then Commissioner Ward.

21 COMMISSIONER PARVENU: I understand that the in-
22 process review was adopted with regard to this document,
23 alone, and I just want to clear up something for my
24 benefit. Would the in-process review apply to other
25 aspects of our work? And if that is the case, I think

1 the scope of that needs to be better defined or
2 delineated and the actual application of this process,
3 and exactly what it entails in terms of our ongoing and
4 projected activities, I just need a bit more
5 clarification.

6 CHAIRMAN GALAMBOS MALLOY: Commissioner Ward.

7 COMMISSIONER WARD: Thank you, Chair. Let me
8 focus this to the Chair. I'm happy to remove this from
9 the table if it's going to take too much time. My goal
10 was that we've kind of introduced a concept here and,
11 because of the scrutiny and the fair public comment
12 regarding this important decision of hiring who is going
13 to be our consultants for this, it seems as a body, I
14 was hoping after all the debate we had, that we could
15 just simply agree that, as a body, we feel it
16 appropriate to have in-process review. What that
17 process is, it's completely open for the Technical
18 Committee to determine, even if that in-process review
19 is in-house with our Subcommittee. But the point as a
20 milestone, we can say that there is going to be some in-
21 process review and, simply, we are not going to take
22 what maps are fed to us, fed back, and call that a map,
23 or there is a line process review and we agree as a body
24 that it's important to have something beyond just what
25 the map drawer and the consultants hand us.

1 CHAIRMAN GALAMBOS MALLOY: If I may, what I have
2 heard from the conversation that we've had here today,
3 that conceptually the Commissioners are very interested
4 in this approach, that I think we would be amenable to
5 tasking the committee to do some more research and bring
6 us back with a more detailed sense. I think we have
7 varying levels of exposure to peer review, to in-process
8 reviews, and I'm sensing that we would want to have as
9 robust a conversation about this as we have had about
10 the other process that we have moving. So, as a process
11 point, perhaps you would consider tabling or withdrawing
12 your motion and we could task the committee to come back
13 to the next meeting with more information for us to
14 consider.

15 COMMISSIONER WARD: I'd like to withdraw my
16 motion.

17 CHAIRMAN GALAMBOS MALLOY: Thank you. With
18 that, I know it's late in the day and I do know that it
19 has been a while since we've taken a bio break, so I'm
20 going to request we do a quick five minutes, at which
21 time we will come back and we will do our Outreach
22 Committee report back. If possible, I'd like to end
23 that around 6:00, which based on the prep we did, I
24 think it is possible. Again, at 6:00, we had said that
25 we would have time for public comment, and then, at the

1 close, we will need to do some scheduling and we would
2 have a summary of our accomplishments. So, with that, a
3 five-minute bio break. We are on recess.

4 (Recess at 5:15 p.m.)

5 (Reconvene at 5:25 p.m.)

6 CHAIRMAN GALAMBOS MALLOY: I'd like to reconvene
7 the Citizens Redistricting Commission. It is late in
8 the day, it is 5:25 p.m., and where we left off, we have
9 been in process today of moving through our committee
10 report backs from our various advisory committees. We
11 finished up with our Technical Advisory Committee right
12 before our recess, and our final committee report back
13 for today will be from the Outreach Advisory Committee.
14 And for that, I will pass the floor to Commissioner
15 Ontai, and our guests from CCP. Commissioner Ontai.

16 COMMISSIONER ONTAI: Connie, I'm glad you gave
17 us a little break there. I got done all the way through
18 this thing, and I decided I needed a hydraulic brake
19 very badly. It came in very timely. Aloha Kakou,
20 Kakou, that's Hawaiian for Hello, Everybody. And since
21 we're doing outreach, can I urge everybody to start
22 reaching out, to whatever languages you guys know, so
23 I'll start with that. But, the Outreach Committee - I'm
24 going to try to highlight it with several major points,
25 and then open it up to the Commissioners if they want to

1 respond to each, but I think we're going to hold off on
2 calendar dates until tomorrow, if I'm correct. Right?

3 CHAIRMAN GALAMBOS MALLOY: Yes, you are correct.

4 COMMISSIONER ONTAI: Because it's not possible
5 for us to do it tonight.

6 CHAIRMAN GALAMBOS MALLOY: Yeah, well, the
7 reason that we were rushing to do that was to meet a 14-
8 day notice requirement for March 10th, based on the
9 timelines that we have adjusted today, we will no longer
10 be trying to meet on the 10th, so that's why we have a
11 little space to do that tomorrow.

12 COMMISSIONER ONTAI: All right, good. Given our
13 overall timeline that I shared with the Commission at
14 the Claremont session, if you remember the graph, what
15 we did following that was to meet with CCP, we have
16 representatives Sarah and Charlotte here, to try to plug
17 in some significant benchmark dates and events within
18 that structured timeline, and then present that to this
19 Commission so that we have a sense of a little more fine
20 grain tune as to the rhythm on how this is being done,
21 so we're going to hand out some handouts. Does
22 everybody have it? Oh, great, great, everybody has it,
23 fantastic, thank you. Now, I think if you turn to the
24 schedule, I'm going to hit that first, and it starts out
25 with March 2011, looks like this, about half way

1 through, page 13.

2 MR. RUBIN: Commissioner, could I just make a
3 quick announcement?

4 COMMISSIONER ONTAI: Sure.

5 MS. RUBIN: Good afternoon - or good evening,
6 everyone. As you know, I'm Sarah Rubin from CCP. I
7 just wanted to announce for members of the public who
8 might be watching right now, that this document with the
9 calendar is up on the Redistricting CA - I believe it's
10 up on the Redistricting CA website, they were uploading
11 it to the Web so that, as you looked at it, folks could
12 follow along, and you're on page 13.

13 COMMISSIONER ONTAI: Excellent, excellent.
14 Thank you, Sarah. So what we have here are dates that
15 we have tentatively selected for two types of public
16 outreach. We're calling the first type Educational
17 Workshops and they're essentially getting out to the
18 community and simply describing what redistricting is
19 all about, how to get involved, the appropriate lexicon,
20 and some idea of what mapping is all about, not the
21 actual mapping input, but how do you learn to do that
22 and what are the instruments you use? So, we have 12th,
23 19th, 26th, 23rd, 27th, and the 30th set aside as
24 Educational Workshops for March, next month. And as you
25 can see right underneath that, it shows the regions that

1 were presented to us by Karin MacDonald's map - do you
2 recall that map that she presented to us? We are using
3 those same regions and, then, underneath that, we show
4 Visit 1 so that what it's saying is that, every time we
5 meet at this Region, it's Visit 1. We may go back and
6 have a second or third visit later on, but we wanted to
7 call that out. So, that gives you some sense of what
8 that phase would be for March. Now, if you turn that
9 over to May - to April - we have the beginning of the
10 second phase, or second type of outreach, and that is
11 the actual community input, or what we're calling pre-
12 map input hearings. So this is where we're actually
13 going to have to take public testimony, have a Mapper
14 there, and again we've got to distribute it by region
15 and the number of visits, so this would be Visit 2, for
16 example, in Region 9 in the Sacramento Area. Is
17 everybody following what I'm doing? Okay, so on this
18 April schedule we have April 2nd, April 9th, April 16th,
19 and April 30th set aside for community input. If you
20 notice, we have three educational workshops, as well, so
21 there's some overlapping here. There's always going to
22 be citizens who are out there, and as we begin the
23 process of getting out to the communities, there's
24 always going to be citizens who are going to become
25 aware for the first time what's happening, so we have to

1 build in some mechanisms so that Educational Workshops
2 continue to happen; we don't have a lot of time to do
3 that, but in April, there is going to be some
4 overlapping.

5 So, if you turn that over to May, and here you
6 could see that it's all community input meetings, and
7 we've got some designated dates here, May 4th, May 7th,
8 May 14th, May 15th -- and I want you to take a very close
9 look at that, I'll come back to that -- May 21st, and May
10 22nd. Now, going back to May 15th, I'm sorry, May 25th is
11 what I wanted you to look at, this is a tentative date
12 that we would like this Commission to release its first
13 trial maps, and this is a significant date, not only for
14 ourselves, but also for the public in which we think
15 it's important for the public to get a sense of when
16 this is going to happen. We can discuss this 25th, but I
17 think it's very crucial that we focus on a date which we
18 feel we can realistically release our first trail maps.

19 Now, if you recall, from the timeline master
20 plan that I shared with you I Claremont, I had mentioned
21 that week as the week in which we would release that
22 trial map because, if we had to make changes to that
23 trial map, backing up from August 15th, we would only
24 have three opportunities to make any changes. Am I
25 making sense so far? Okay, so we go on to the next

1 month, June. And you'll see meetings on June 4th, June
2 5th, June 8th, 11th, 12th, 18th, 22nd, 25th, and 26th, this is
3 after the release of our maps and we're taking community
4 response to those maps. So, these are tentative dates
5 which, again, follow those regions that were shared with
6 us by Statewide Database. And you'll notice each of
7 those regions show Visit 3 or 4. Depending on the
8 results and response we get back from the communities or
9 regions on that trial map, we may have to go back in
10 certain areas more than once, or twice, or three times,
11 so where those contentious areas may arise, it might
12 behoove us to spend more time in those areas. So, these
13 are baseline dates, we can always come back and add more
14 dates. To some degree, we're setting the pace, but we
15 also have to be aware that there may be changes and
16 there may be more intense events that will come out of
17 this. Now, if you look at the following month, July and
18 August we left completely open because we think we
19 probably need to wait and see what kind of responses we
20 get back, and then decide what happens at that point, so
21 I'm leaving it entirely flexible and from that point on,
22 we may have to take a totally different approach.

23 CHAIRMAN GALAMBOS MALLOY: Commissioner Filkins
24 Webber and then Commissioner Aguirre.

25 VICE CHAIRMAN FILKINS WEBBER: My first question

1 is, the Educational Workshops, as I understand them,
2 which maybe I don't have sufficient information on them,
3 but I suspect that they have a designated time limit, so
4 it doesn't matter the number of people that appear at
5 the workshop. Is that correct? Feel free to chime in,
6 Sarah.

7 MS. RUBIN: Oh, I was just going to mention for
8 those of you that weren't in the Outreach Subcommittee,
9 on page 8 is an outline of what the whole workshop would
10 be, we have a proposed what we call a "facilitation
11 plan," it's like an annotated agenda. But the example
12 is for an evening one, which would be from 6:00 to 9:00
13 p.m., and we're proposing that a Saturday would be from
14 1:00 to 4:00 p.m. as the timeframe.

15 VICE CHAIRMAN FILKINS WEBBER: Okay, so you have
16 it established as essentially three hours for the
17 Educational Workshop, so, again, it doesn't matter the
18 number of people that appear?

19 MS. RUBIN: Correct.

20 VICE CHAIRMAN FILKINS WEBBER: My second
21 question is, what discussion did your subcommittee have
22 - or, excuse me, your advisory committee have - in the
23 determination of the actual dates for the regions and
24 the assignment of the regions for the input? I think
25 it's evident, based on all the information that's out

1 there and some of the preliminary suggestions regarding
2 population growth, and in particular, given that I am
3 from Riverside County, there is a suggestion that
4 Riverside County is probably the third fastest and
5 largest growing county in the last 10 years in the
6 entire United States, and of course, I'm not going to be
7 geographically partial, but you've put Inland Empire for
8 Input Hearing on Wednesday evening, and I can - so I
9 just want to know what the process of the decision-
10 making was in putting Inland Empire's first Input
11 Hearing on a Wednesday night vs. the possibility of
12 having - or, for that matter, any other region, like
13 Orange County, you know, population-wise, did you take
14 into consideration population? Did you take into
15 consideration the possibility of what individuals would
16 be appearing at these meetings in making a decision
17 regarding whether Input Hearings would be held on
18 Saturdays vs. weekdays?

19 COMMISSIONER ONTAI: We did, but I'll let Sarah
20 answer that.

21 MS. RUBIN: Okay, so first of all, yes, we
22 thought about all the things you're bringing up. Now,
23 the ones that are listed mid-week, what we are
24 requesting is that, first of all, I should say that we
25 wanted to make sure, since there is a limited number

1 Saturdays and Sundays, that it's not possible to do
2 everything on Saturdays and Sundays. Further, we've
3 gotten some feedback that, in some areas, people have
4 had better responses holding things on week day
5 evenings, rather than on weekends because, on Saturdays,
6 a lot of people have sports things for their kids, and a
7 lot of people do religious things on Sunday mornings,
8 which is one reason we're focusing on afternoons for
9 weekends. So, if somebody - if a region is at one time
10 on a week day, we wanted to make sure a different visit
11 there was always on a weekend, so that we didn't, say,
12 for one region only go there on a week day. Next, for
13 the ones that we have marked on Wednesdays, we simply
14 put those in the middle of the week as a placeholder,
15 but we would like to have the flexibility to do some
16 outreach and research in that region, and find out what
17 would work best there. And, in fact, I know something
18 Commissioner Ontai is probably on the tip of his tongue,
19 is that, given feedback we've already gotten, there are
20 some places where maybe it's marked for a Sunday, that a
21 Sunday isn't a good idea in that area. So, in a way,
22 we're giving you this as a first draft calendar, it's
23 almost like a dartboard, so we have something to say
24 this isn't working, because if you don't have something
25 to change from, it's hard to get going. So, we actually

1 are specifically requesting that you allow us the
2 flexibility to now do research, and if I find out that
3 when I go to what we're calling Region 5, the Central
4 Coast Tri-Valley Area, that Sunday is a terrible day to
5 have a workshop there, but Tuesday is the best night of
6 all, then I would like to have the flexibility to move
7 it from, say, the 12th to the 14th. And we would like you
8 to allow us to do that and come to your next meeting in
9 March with the new version, with that refined level of
10 information.

11 COMMISSIONER ONTAI: Yes.

12 CHAIRMAN GALAMBOS MALLOY: Commissioner Dai,
13 then Commissioner Yao, Commissioner Ancheta, and
14 Commissioner Aguirre.

15 COMMISSIONER DAI: So, my question is, there is
16 an implied order and sequence, and I think you're north
17 to south is what I see annotated here. We had talked
18 about potentially needing input, particularly from the
19 Section 5 Voting Rights Act counties earlier, and then
20 probably some of the areas in the south with very dense
21 populations are going to be more contentious, and we see
22 that we have multiple meetings in those areas, which I
23 think makes sense. Has that been considered in making
24 sure we have enough lead time to get that input?

25 MS. RUBIN: Yes.

1 CHAIRMAN GALAMBOS MALLOY: Commissioner Yao.

2 COMMISSIONER YAO: By scheduling the meetings on
3 Saturday, and it's almost every Saturday, that pretty
4 much would preclude the entire Commission from meeting
5 ever on Saturday between now and the end of the Input
6 Sessions.

7 COMMISSIONER ONTAI: On the Community Input
8 Meetings, yes, that would be -

9 COMMISSIONER YAO: Right, on the Input Meetings
10 outside of the Educational Workshops where there is -
11 because when we do need the entire Commission to make
12 decisions, we pretty much cannot schedule anything on
13 Saturday. Now, that basically would limit the
14 Commission in meeting from Wednesday, Thursday, and
15 Friday, unless we start the meeting on Tuesday, but then
16 about half of the dates you have these mid-week meetings
17 and, again, that takes away the flexibility of this
18 Commission from ever getting together. I know we're
19 going to talk about a schedule afterward, but I kind of
20 see our group meeting as increasing, as compared to
21 decreasing, and if we do bless this schedule, we kind of
22 have to make decisions on that basis.

23 COMMISSIONER ONTAI: Yeah, the thinking was, as
24 we begin to progress into the post-map process, and we
25 may not have as many business meetings, however, we may

1 have a lot of discussions on consultants giving us
2 advice on the mapping and VRA, issues along that line.
3 So, and maybe I'm wrong, but I don't anticipate a lot of
4 business issues coming up.

5 CHAIRMAN GALAMBOS MALLOY: One final comment.

6 COMMISSIONER YAO: Again, I don't know what's
7 going to happen either from this point on, so if that's
8 the assumption, then that certainly is a rationale for
9 us scheduling the way it is, but in the event that we
10 have more decisions to make, okay, as a group, that
11 greatly limits our ability to get three or four solid
12 days of work in, in any given time.

13 COMMISSIONER ONTAI: That's a good point, and I
14 think we'll have to play that by ear.

15 CHAIRMAN GALAMBOS MALLOY: And as we transition,
16 that is something that those of us who are on the
17 rotating leadership structure are taking into
18 consideration, and are trying to put mechanisms in place
19 so that our meetings are able to run more efficiently,
20 so that we're able to condense what used to be three
21 days worth of business meeting into two days, maybe we
22 can go to one and a half days, because really we're
23 transitioning into what the meat of our job is on the
24 maps, and by then we will have some of these major
25 infrastructure issues already in place. So, right now,

1 we're spending so much time dealing with contracts, and
2 this, that and the other, so once we get all of that up
3 and running, that will eliminate some of our need to
4 meet so frequently. Commissioner Ancheta, Commissioner
5 Aguirre, Commissioner Barraba, and then Commissioner
6 Filkins Webber, and then Commissioner Di Guilio.

7 COMMISSIONER ANCHETA: So three points,
8 questions, or comments. So, and I don't know if this
9 was in what we had asked for this contractor, but I know
10 we had talked about at the last meeting having a couple
11 of statewide - at least having statewide Input Hearings,
12 I'm not sure if we had a statewide workshop planned, but
13 is that not in here because that wasn't part of the
14 contract? Or is it something that's just not here,
15 because I don't see that.

16 COMMISSIONER ONTAI: Do we have it in there?

17 MS. RUBIN: We haven't had enough time to work
18 on the Input Hearing design and to give you a more
19 detailed level, we'll do that for you at your next
20 meeting, whenever it is.

21 COMMISSIONER ANCHETA: And that's fine --

22 COMMISSIONER ONTAI: We did not forget that.

23 COMMISSIONER ANCHETA: Yeah, just wondering.

24 Point 2, and this is just a comment, I'm just - and
25 we've been working with certain days, I'm just feeling a

1 lot less comfortable about the May 25th release date
2 because that's so tight after the last Input Hearing.
3 Just as a suggestion, I'd be more inclined to maybe push
4 that back a bit and then condense the post-map Input
5 Hearings because I just suspect we're going to have to
6 spend a lot more time after we've completed all the
7 Input Hearings, actually working through the maps - as a
8 comment. And then, third, which is a question going to
9 the content of a lot of what is actually going to be
10 distributed and talked about at, at least, the outreach
11 meetings, is it correct that we do not have Q2 on board
12 at this point? And we don't have a content -

13 COMMISSIONER ONTAI: We may have Q2 there, and
14 we may not, that's partly tied into our previous
15 discussions and maybe at this point Dan can fill us in
16 where we are with that.

17 MR. CLAYPOOL: That's - we're still in flux on
18 that.

19 COMMISSIONER ANCHETA: Okay, because the point -
20 and this is a point, actually, I wanted to get this
21 through the Technical Committee, but it got tabled, but
22 one concern I would have more generally is that the
23 content of what is being distributed, and there's a lot
24 of stuff there, whether it's Q2 developed, or looking at
25 other materials that have been developed, but there are

1 some questions about provisions in the Act which I think
2 are still rather vague at this point and at some point
3 the Commission, certainly before the first Educational
4 Workshop, needs to sort of figure out if it wants to
5 clarify that for the public, and that includes, for
6 example, neighborhood community of interest, and further
7 examples of communities of interest, Voting Rights Act
8 related information. We can provide more general
9 information to the public, but I think at some point
10 we're going to have to sort of answer those questions so
11 the public will know at some point, before they start
12 giving us things, that we need more specificity. So,
13 again, that could have been done - if we're going to go
14 with Q2 or somebody to generate some of those materials,
15 but if that's a bit in flux, I think the Commission will
16 have to sort of step up and work through those questions
17 and develop those materials.

18 COMMISSIONER ONTAI: And that's a vital comment.
19 Sarah, where are we going to put that in there?

20 MS. RUBIN: Well, our expectation for the March
21 12th workshop, it's been a little bit talked about, but
22 to some degree, I think you all need to think about your
23 March 12th workshop as a pilot because you have so many
24 unknowns still, so the idea is that next week we'll be
25 creating the materials for - assuming you want us to do

1 it, which you haven't voted on yet, for the moment,
2 assuming that next week we would start to create the
3 materials for your toolkit, and then they all would need
4 to be completed at least three days before the 12th, so
5 that you can get them to a translator to be translated,
6 so that you have them back to be printed. So, my
7 expectation is that you will have almost like first
8 Version 1 of materials, and some of its will be more
9 vague than you would prefer, and we are hoping that a
10 technical person will be able to create or provide us
11 with something. But our plan is to go with what we
12 have, and as you know, the redistricting CA website has
13 a lot of great resources, and we've been talking to the
14 folks who are involved in that alliance and we think we
15 can work with people to, if they're okay, repackage some
16 of the information and then, of course, run it by your
17 Legal Counsel and your Communications Director to make
18 sure it's okay. But if you want to push back the March
19 12th workshop, that is certainly fine with us because
20 it's a very tight timeline, so we have to make the
21 materials, get them all reviewed, then get them all
22 reviewed, then get them translated, then get them
23 printed.

24 COMMISSIONER ONTAI: But the idea is to get a
25 Mapper online to try to get that language into this

1 format. There's a piece in that format that has to
2 educate the public as to what is a boundary line, what
3 is a community line, things of those issues that we
4 talked about. Until we get that consultant on board,
5 though, we'll do the best we can. And this is where
6 your input is probably important, so if you want to
7 volunteer to step up, we'd love to have you.

8 COMMISSIONER ANCHETA: I actually am happy to
9 help on that, but I think we have to figure out - I
10 don't want a vacuum, I'd rather not have rather general
11 materials going out initially and just sort of piloting
12 because, again, I think some of this data needs to be
13 fairly specific and, again, sort of garbage in, garbage
14 out kind of thing, if you don't really tell the public
15 what is useful for us, we're going to get not so useful
16 information because the public doesn't really know
17 exactly what we want. So, again, whether we can run it
18 through committees, I'm happy to work on some things
19 with staff. There's a lot of materials out there. But
20 there are particular things that the Commission as a
21 whole, I think, has to address which is, for example, do
22 we want to add any specific definitions to what a
23 neighborhood is, or are we just going to leave it as
24 such? Do we want to provide additional examples of
25 communities of interest, given what's currently in the

1 Act? That's something I think we just sort of need to
2 flesh out because that's stuff that has to ultimately
3 get into both outreach materials and has to come back to
4 us through Input Hearings.

5 COMMISSIONER ONTAI: I totally agree.

6 CHAIRMAN GALAMBOS MALLOY: Commissioner Aguirre.

7 COMMISSIONER AGUIRRE: Yes, and that's a concern
8 that we've had, and continue to have, given that we
9 expected that Q2 was going to be onboard, which has the
10 expertise and the knowledge to provide information on
11 the technical aspects of drawing, on the type of input
12 that we can solicit from the public, and the type of
13 training that goes in with the public, to develop that
14 acceptable material, and also somebody that has worked
15 with VRA kind of issues. I think Q2 has kind of been
16 that, and it's unfortunate that, at this time, you know,
17 we don't have them on board, but I know that it gets
18 technical, so... But, regarding the May 25th date for the
19 maps, we discussed that at length within our committee
20 and, you know, Mr. Ontai and myself, and CCP, and we
21 just felt that, yes, that was tight, but we felt that we
22 needed to set a target date just to kind of like drive
23 us to try to meet it, and if we make it, that would be
24 great because then it kind of falls in line within the
25 whole schedule. And if we don't make it very soon

1 thereafter, then let's get it done. So, if we need to
2 postpone, hope we don't, but you know, the flexibility
3 is there. Regarding Mr. Ontai's discussion about the
4 maps, there are certain decisions that we need to make
5 that are encompassed within the maps, and I'll just give
6 you four very quickly. Number one, it has to do with
7 the calendar itself, it's fluid, but I think we need to
8 adopt it in principle. Our consultants are essentially
9 saying, you know, these dates are kind of, you know, we
10 can change those, like for example some of the mid-week
11 dates, the option is to, even though they might be
12 scheduled on a Tuesday or a Wednesday, you know, we
13 could do any of those mid-week dates. I'm pleased to
14 see that we have some Sunday dates, which is something
15 that was requested by this Commission yesterday, so
16 adopting the Calendar in principle would be one,
17 confirming those nine regions as being geographic
18 regions from which to work from, I think, we need to do,
19 adopting the terminology that we've been kind of kicking
20 around, and that would be, more specifically,
21 "Educational Workshops" for Phase 1, "Pre-Mapping Input
22 Hearings" for Phase 2, and "Post-Map Input Hearings" for
23 Phase 3, so that would be the third one. And then, the
24 participation of Commissioners at each one of our
25 workshops, we've kind of talked around maybe nobody,

1 maybe one, maybe one, one, one, maybe the whole
2 Commission, so I think what makes sense to me is to have
3 - to commit to at least one Commissioner to each
4 Educational Workshop that would be there, present, and
5 representing the Commission that would give a welcome to
6 the group, give a little bit of information on where
7 we've been and kind of where we're going, and then, at
8 an appropriate time, when the actual works starts to
9 occur in terms of some of the substance of that
10 Educational Workshop, just kind of bow out and do that.
11 So, maybe a commitment by at least one to every single
12 educational workshop, but actually keep it open to as
13 many as would like to participate, you know, given their
14 level of interest and geographical location, themselves.
15 And then, so those would be four decisions that we would
16 need to make tonight, and then maybe we could hit those
17 very quickly because the whole issue of translation of
18 materials is something that we need to kind of like dig
19 in, so I gave you the easy ones first.

20 COMMISSIONER ONTAI: We might have to do that
21 tomorrow.

22 CHAIRMAN GALAMBOS MALLOY: Okay, I do have three
23 Commissioners in the queue. I did want to, in response
24 to Commissioner Aguirre, revisit a few decisions that
25 were made at the last meeting in Claremont. We did vote

1 formally and agreed on a nine-region outreach approach
2 across three phases, Phase 1 before Census Data is
3 released, Phase 2 as maps are being drawn, using Census
4 Data and initial public input, and Phase 3, once the
5 maps are completed, so of the four decision points, I
6 think two have already been covered, which leaves the
7 Commissioner participation in the various phases, and
8 approving the calendar and principle.

9 I had one additional question for staff for
10 clarification before moving to Commissioner Barraba.
11 Can you clarify what happened with our sole source
12 contract with Q2. I have in my notes that we did
13 approve a short-term contract with them for Phase 1.

14 MR. CLAYPOOL: Okay, and if you can help me, so
15 we had a short-term contract with them for 50 hours to
16 give us - okay, so now we're moving on the actual edu -

17 CHAIRMAN GALAMBOS MALLOY: Educational
18 Workshops.

19 MR. CLAYPOOL: For Saturday.

20 CHAIRMAN GALAMBOS MALLOY: For Phase 1, meaning
21 that we would be having an Educational Workshop in each
22 of the nine regions.

23 MR. CLAYPOOL: Okay, so we had the two, the
24 first two that I just mentioned, and then we talked
25 about having the Phase 1, but we talked about doing it

1 by competitive bid - or, I'm sorry, either a non-
2 competitive bid, or rolling it under the interagency
3 agreement with CCP. I don't believe we ever tracked on
4 non-competitive bid.

5 CHAIRMAN GALAMBOS MALLOY: So, according to my
6 notes, which I did take these notes during our last
7 meeting, I did repeat them back to the full Commission
8 as a summary of our accomplishments at the close of our
9 meeting in Claremont, one of our decisions made was
10 "approved a sole source control with Q2 Data Research to
11 provide Phase 1 Educational meetings/Community
12 Workshops, based on nine region approach, in addition to
13 collaborating with CCP on design for first statewide
14 Input Hearing on February 26th, 2011, in Sacramento."

15 MR. CLAYPOOL: Your notes are correct, but what
16 we were working on was trying to fold that contract
17 under CCP's contract as a subcontractor because we were
18 just looking at the length of time it was going to take
19 to make a non-competitive bid. So that's been the
20 issue, that's been the technical issue so far, and
21 you've already heard from our contracting expert as to
22 the length of time it takes to do a non-competitive bid,
23 so I apologize for glossing over that, or for actually
24 forgetting it, because I had already moved to the only
25 thing that we thought could make that happen. And then,

1 there have been some other little glitches along the
2 way, but the primary one was the length of time. The
3 only way a non-competitive bid will work for Q2 to come
4 aboard is if we can structure it so that all the payment
5 comes at the very end of the process, and then get
6 approval from DGS because they would technically be
7 working on a portion of these workshops without having a
8 contract in place. So, those are the issues that we're
9 struggling with right now, and it's that and a couple of
10 other reasons we are also looking at other providers
11 that could provide the technical expertise to provide
12 the work at the Educational Workshops. So...

13 CHAIRMAN GALAMBOS MALLOY: I guess - and I'm
14 moving on to Commissioner Barraba - I am surprised that
15 this did not come up in your report, or in Finance and
16 Administration. I'm glad we're learning of it now, it
17 does explain a lot of the issues that we're dealing
18 with, with timing. So, Commissioner Barraba, you have
19 the floor. We can always loop back to this issue later.
20 Technical Committee, I guess you have already been
21 dealing with how we navigate this glitch in our plans.

22 COMMISSIONER DI GUILIO: Maybe that's me, can I
23 apologize? We should have probably brought up a little
24 bit, as well, too. It's my understanding in talking
25 with Mr. Claypool that, even though we had - the

1 Commission's desire was to have a sole source contract,
2 that that wasn't possible, and staff had moved on to try
3 and look at other options, and it was brought up just
4 briefly yesterday in the Outreach Meeting, as well, too,
5 in terms of other options to do this. I think the
6 Outreach Committee is very well aware that this is a
7 missing component, and I think, between CCP and staff,
8 they're working to try and solve this issue, but our
9 hands are slightly tied at the moment.

10 CHAIRMAN GALAMBOS MALLOY: Okay, thank you for
11 the update. Commissioner Barraba.

12 COMMISSIONER BARRABA: On the regions, in the
13 early part of it, you identify Region 7 as being Salinas
14 and Watsonville, and at the end, you identify it as the
15 South Bay Central Coast Region, and if you mean South
16 Bay like San Jose, that's -

17 MS. RUBIN: I'm sorry, what page are you on so I
18 can follow you?

19 COMMISSIONER BARRABA: Okay, when you first
20 described the -

21 MS. RUBIN: Oh, I see -

22 COMMISSIONER BARRABA: Region 7, you identify it
23 as Central Coast, Salinas, and Watsonville, that's on
24 page 6 of your report.

25 MS. RUBIN: Oh, I see. You know what's happened

1 is that what was in this document yesterday, we have
2 updated to reflect comments that the Outreach Committee
3 made, and it's my mistake that I updated the Calendar
4 and I didn't go back to page 6 to make the description
5 match up. So, Karin MacDonald's original recommendation
6 for the Educational Workshops specified Salinas or
7 Watsonville, and that's what yesterday's calendar had,
8 but in response to comments that we got in the Outreach
9 group, we changed it to the more generic names on
10 Karin's nine-region map because people found it
11 confusing.

12 COMMISSIONER BARRABA: My only point is that -

13 MS. RUBIN: Are you confused?!

14 COMMISSIONER RAYA: Now it's really clear.

15 COMMISSIONER BARRABA: If you're including Santa
16 Clara County with Santa Cruz and the other counties,
17 that's a long trip for people.

18 MS. RUBIN: Exactly.

19 COMMISSIONER BARRABA: And I would think that
20 Santa Clara County and San Mateo County have a lot more
21 in common relative to the Silicon Valley, in the
22 interest of that community. So, I was just a little
23 confused by that.

24 MS. RUBIN: Yeah, so the map that Karin
25 MacDonald proposed, we didn't - we never felt like it

1 was our place to comment on whether or not the groupings
2 of the counties were appropriate or not. We simply used
3 that framework. If you would like to revisit the
4 framing of that map, it's whatever you want, we're happy
5 to adopt whatever framing of the counties that you would
6 like.

7 COMMISSIONER BARRABA: We could do that in
8 another activity.

9 CHAIRMAN GALAMBOS MALLOY: Commissioner Filkins
10 Webber is next in the queue.

11 VICE CHAIRMAN FILKINS WEBBER: Two questions. I
12 agree with the target date, even though I appreciate
13 that you want to put a date down there, I was just
14 wondering with the last Input Hearing, just as
15 Commissioner Ancheta had suggested, the final Input for
16 this phase is two days before your target day. What do
17 you envision that we would be doing - I am assuming we
18 would be working 12 hours, I guess, on the 23rd, 24th and
19 25th, I don't know. But, so, even though appreciate a
20 target date, if you really want to think about a target
21 date, I'm just assuming that we would be working right
22 up to that day, right after the last Input, we would be
23 working on the maps for the initial release, so I just
24 don't know that it was practical, even if we just pushed
25 to Friday, you know, before Memorial Day Weekend, we

1 could have a good weekend, but even four days seems like
2 it would be enough time maybe to do that, I just didn't
3 know what you were envisioning for those two days before
4 that target date.

5 COMMISSIONER AGUIRRE: Yeah, we had to twist Mr.
6 Ontai's arm to postpone it to the 25th, he actually had
7 it earlier.

8 COMMISSIONER ONTAI: Let's move it to Friday,
9 the 27th, not a problem.

10 VICE CHAIRMAN FILKINS WEBBER: Okay, and my
11 second question is - my second question is, now I'm a
12 little confused and a little frustrated, is that as I
13 understood it, following Claremont, that Ms. MacDonald,
14 when we had considered the sole source contract, as I
15 understand, was going to be providing the content for
16 the Educational Workshops, and now that we see that
17 there is a mix-up and that we are not able to do that,
18 we are now being asked to consider a schedule, but yet
19 we have no content for that schedule. Is that correct?
20 I mean, at least as to the Educational Workshops,
21 because I know, I mean, that's what we're trying to work
22 on now, and we'll get to the Input later. Am I correct?
23 Or frustrated?

24 MR. CLAYPOOL: No, and in fact, when we were in
25 the Budget Committee, we actually did have a discussion,

1 we didn't link it to the sole source contract, but we
2 eliminated a line item for \$20,000 that was for the
3 outreach. And the discussion at that time was that it
4 was \$20,000 that we were having difficulty finding a
5 funding source for. So, it is a line item and it is
6 crossed out. We, at that time, I had discussed, that we
7 do have options, and we are pursuing those options, but
8 it just became the tight schedule, as I believe I
9 explained at that time, the very tight schedule, in
10 which to obtain Q2's services under the vehicle that we
11 were using. So -

12 VICE CHAIRMAN FILKINS WEBBER: I certainly
13 appreciate that - I didn't mean to interrupt, but in the
14 interest of time -

15 MR. CLAYPOOL: Sure.

16 VICE CHAIRMAN FILKINS WEBBER: -- but, what is
17 the solution to content? Because I certainly agree with
18 what Commissioner Ancheta said, you know, the
19 information you're going to get is only as good as we're
20 going to ask the public to provide to us, and do we have
21 options in that regard?

22 MR. CLAYPOOL: We have. We're talking to
23 another source of these services that is well-qualified
24 to provide them.

25 COMMISSIONER ONTAI: Charlotte, expand on that

1 because -

2 CHAIRMAN GALAMBOS MALLOY: Would CCP or Mr.
3 Claypool like to expand more on that?

4 MS. CHORNEAU: Yeah, I was going to add to that
5 just that the Educational Workshop, the technical piece,
6 it's one piece, so we do have a framework and an agenda,
7 and there's a lot of other things we want to accomplish
8 in the workshop besides just that. We also have a copy
9 of Karin's usual curriculum that we've been able to look
10 at and talk with her staff about, and we are looking at
11 options to fill in kind of the technical piece, I just
12 didn't mention that. There are other things that we
13 wanted to accomplish such as clarifying the process to
14 get engaged with the Commission, and other things like
15 that.

16 VICE CHAIRMAN FILKINS WEBBER: If I may just
17 follow-up in that regard.

18 MS. CHORNEAU: Yes, please.

19 VICE CHAIRMAN FILKINS WEBBER: If we are being
20 asked this evening to consider this contract, when do
21 you anticipate having a proposal to this Commission
22 regarding - or maybe you don't, I don't know - you're
23 going to go out there at these Educational Workshops
24 with this content and this Commission is not going to be
25 aware of what that content is? Or when will we have the

1 option of taking a look at it when you're looking at
2 March 12th being the first day?

3 MR. CLAYPOOL: I will be discussing with the
4 individual that we are hoping to place this with
5 tonight. And I would assume that we could have that
6 discussion tomorrow.

7 CHAIRMAN GALAMBOS MALLOY: So, if I may as the
8 Chair suggest some adjustments to our agenda, given the
9 nature of this conversation, we won't be able to resolve
10 all the issues that have arisen around these proposals,
11 this evening. What I'd like to do, though, which I do
12 feel is fairly urgent, is for us to visit what the plan
13 is for our Saturday, or two days from now, what will we
14 be doing here in Sacramento at our first Input Hearing,
15 and what I would like to suggest is that, when we
16 reconvene tomorrow morning, that we reconvene on this
17 specific issue. Essentially, tomorrow morning, we'll
18 need to finish up our outstanding Advisory Committee
19 Meetings, starting with this one, we have some
20 outstanding items to deal with on the Budget Advisory
21 Committee, and then we never got to our Communications,
22 Public Information Committee. So, if that's okay with
23 folks, we are approaching 6:10, we did say we were going
24 to hear from the public around 6:00, so we are running
25 late on that. If we could spend no more than 10 minutes

1 on the plan for Saturday, and then close with public
2 comment. Commissioner Blanco?

3 COMMISSIONER BLANCO: I think there is another
4 loose end that just struck me, that we might have to do
5 tomorrow. We had talked about Voting Rights Act
6 training for the Commission.

7 CHAIRMAN GALAMBOS MALLOY: Yes, we had talked
8 about that and, as Mr. Miller talked about earlier
9 today, he did have a short list of potential individuals
10 who could provide that training. Our preferred
11 individual on that list was not available for this
12 session, so we will have a Bagley-Keene training
13 tomorrow, we will not have the VRA training tomorrow.
14 The reason I bring it up is, in thinking of the
15 schedule, when is that? We're trying to plan all our
16 meetings now very carefully, like the Voting Rights
17 Attorney, you know, the idea behind that was that we
18 would have that under our belt before we hired the
19 Attorney, so that we would have that background to be
20 able to be an informed Commission when we were making
21 those decisions. And that's why I bring it up, is it's
22 part of the whole sequence of events that we had agreed
23 upon, which was to have that knowledge before we could
24 go into a hiring process.

25 CHAIRMAN GALAMBOS MALLOY: Thank you for

1 reminding us of that. So, we can build that into the
2 piece we'll need to do around scheduling and reconciling
3 all these timelines tomorrow. So, with that, I'd like
4 to transition us into thinking about Saturday, two days
5 from now.

6 MS. RUBIN: So, you have a draft agenda, it's
7 the third page in the packet with the paperclip that
8 looks pink on top.

9 MS. CHORNEAU: There's two handouts. You have
10 it right next to you.

11 MS. RUBIN: Does everyone see it? Okay, so
12 everyone got it? I'm sorry, I just want to make sure
13 we're all looking at the same time. It's with the pink,
14 I think it's the second or third page with the times on
15 it. Everyone with me? Okay, so we're - it's pretty
16 simple, we're starting at 9:00, you see the list of
17 folks who have registered to present. Right now, it
18 seems like your session could be ending mid-afternoon,
19 but we still have time in the afternoon for additional
20 folks if they e-mail or call to present, and then you're
21 scheduled to end at 6:30. We want to start public
22 comment, you know, quite a bit before that because the
23 first part is for groups, and then public comment, we
24 assume there will be individuals who want to share with
25 you, and then we end, at the latest, at 6:30.

1 CHAIRMAN GALAMBOS MALLOY: With that, the floor
2 is open for discussion and questions regarding
3 Saturday's agenda.

4 COMMISSIONER AGUIRRE: Madam Chair?

5 CHAIRMAN GALAMBOS MALLOY: Commissioner Aguirre.

6 COMMISSIONER AGUIRRE: Yes, there's a couple of
7 questions, one is are the hearings going to be in this
8 room? [Inaudible response] Okay, and then, secondly,
9 there may be -

10 CHAIRMAN GALAMBOS MALLOY: I'm sorry, just to
11 repeat, yes, the plan is for the meeting on Saturday to
12 be held in this exact room, Room 126.

13 COMMISSIONER AGUIRRE: And then the other
14 question related to there may be some visuals that are
15 going to be provided by some of these individuals in the
16 way of projected items on walls, or - so I had
17 previously requested, or asked whether we would have the
18 possibility of having screens that we would be able to
19 see, and that the public might be able to see, you know,
20 simultaneously. So, that just seems to be a more
21 efficient way of getting to the presentations, given
22 that the public and ourselves will be engaged with the
23 same material, so those are a couple of questions.

24 CHAIRMAN GALAMBOS MALLOY: And we'll work
25 tomorrow morning when the Legislative staff is here to

1 determine what's possible, and if that's not possible,
2 that they would provide that, we can identify
3 potentially other groups here in Sacramento who might be
4 able to allow us to borrow some equipment. Commissioner
5 Di Giulio.

6 COMMISSIONER DI GIULIO: Based on this agenda,
7 I'd like a little clarification on - I see a lot of
8 individuals that are scheduled to talk, but I don't know
9 what they're talking about, and I don't know what the
10 intention is to talk to us as Commissioners. Are they
11 trying to inform the public? I see short discussions by
12 a lot of people and was wondering how that came to be,
13 and what the purpose is.

14 CHAIRMAN GALAMBOS MALLOY: Perhaps you could
15 reiterate the language of the notice that we reviewed
16 and had sent out some time ago.

17 MS. CHORNEAU: Yeah, and also, in your other
18 packet with the staple on page 2, if you want to look at
19 the - there's a description there and an outline, we
20 actually, I guess, we provided to everyone that
21 registered an outline to make sure that they covered
22 certain points to you, and that's what's on page 2, to
23 put some structure around the session.

24 MS. RUBIN: The overarching idea is that there
25 are folks out in the community, all across the state,

1 who have been doing work to organize their constituents
2 around this issue and/or plan to through the spring and
3 summer, and they will be coming to you to explain what
4 they've been doing and what they plan to do, and the
5 idea is, then, you have kind of a baseline, some view of
6 what's happening across the state.

7 CHAIRMAN GALAMBOS MALLOY: And this was an item
8 that we had decided as a Commission, the goal of the
9 session was not to receive formal community of interest
10 testimony, but as with any of our Commission meetings or
11 events, there is a possibility that type of information
12 is provided. Commissioner Di Giulio.

13 COMMISSIONER DI GIULIO: Just one more follow-up
14 with that. Now that this is - I don't know if this was
15 actually posted before the public, but now that the
16 public has a chance to see it, if there are
17 organizations that feel like they haven't had their
18 voice heard on this, are - or do we anticipate that
19 there will just be that - there will be the public
20 comment for them to follow the same format? I'm just
21 concerned that -

22 MS. RUBIN: No -

23 COMMISSIONER DI GIULIO: -- some groups will
24 look at this and say, "We're not at the table, how do we
25 get on here?"

1 MS. RUBIN: I'm sorry, I don't really understand
2 the question.

3 COMMISSIONER DI GIULIO: I guess I see - as I
4 understand it, we had the call for organizations who
5 would like to make the presentation, we opened that up,
6 are you allowing other organizations now that this has
7 been published, they can see this, and they say, "My
8 group is - I would like to get on here, as well, too,"
9 is it too late for them to get on?

10 MS. RUBIN: No.

11 COMMISSIONER DI GIULIO: Or is that public
12 comment?

13 MS. RUBIN: No, so if you're a group, the idea
14 is you need to be a group, so right now you see we have
15 at 3:10 a break for 10 minutes, so at 3:20, if anybody
16 can let us know they're interested in presenting, then
17 they'll just be in the queue, and the idea is a way
18 we've asked everyone to keep their present - the big
19 issue with this is we have to stay on time, so everyone
20 has been asked to keep their presentation to 15 minutes
21 or less, so if you come up, you present for less than 15
22 minutes, this assumes that you will keep your Q&A to
23 five minutes or less, which I would say pretty much
24 means one to three questions. So that's really what
25 we're asking you all to consider, is to get through all

1 of the presentations, and assuming more will come, and
2 to leave plenty of time, I'd really like to leave an
3 hour for public comment because I do assume plenty of
4 individuals will come, you need to keep the Q&A to five
5 minutes.

6 COMMISSSIONER ONTAI: But just to be clear, to
7 the viewing audience, it is an open-ended event, so
8 anyone can come up.

9 CHAIRMAN GALAMBOS MALLOY: And according to our
10 agenda, we are agendized to go through Sunday, if need
11 be. Commissioner Filkins Webber.

12 VICE CHAIRMAN FILKINS WEBBER: That's what my
13 question is behind Commissioner Ontai, since we are
14 scheduled until 6:30, if based on the wonderful work of
15 our Chair, we get and we don't have any additional
16 presenters after 3:10, you've got basically three hours,
17 let's assume that the public comment goes on for an hour
18 and a half, you still have another hour and a half there
19 that we have to - this meeting room will remain open and
20 we must still be here, even though we may not be on the
21 record, because a member of the public could come in at
22 any time. Is that - and I just want to make sure that
23 the public is aware of that. That's my understanding
24 and anticipation of how this hearing is going to go, and
25 that we will be open for public comment, whether people

1 are here or not, until 6:30 on Saturday. Am I accurate
2 in that assessment?

3 CHAIRMAN GALAMBOS MALLOY: I would like to pull
4 in our Counsel to follow-up on that because, the way our
5 agendas are normally framed, we are 9:00 a.m., in the
6 case of this meeting, 9:00 a.m. to 6:30 p.m., or
7 conclusion of business. So, Mr. Miller, if you could
8 clarify.

9 MR. MILLER: This form does say adjourn by 6:30
10 at the bottom. I think maybe we should highlight that,
11 so that you're not in a position of feeling that you
12 need to stay if at what appears to be the conclusion of
13 business, there is no one here. So, I think you're well
14 within your rights to frame this in a way that permits
15 you to leave at such time as there isn't someone here
16 wishing to speak.

17 CHAIRMAN GALAMBOS MALLOY: Commissioner Filkins
18 Webber.

19 VICE CHAIRMAN FILKINS WEBBER: Well, then, just
20 in follow-up in that, and from the interest of the
21 public, certainly if I wasn't serving on this Commission
22 and I had a late day and thought I could get here by
23 6:00, not knowing that the business had concluded at
24 5:00, I would be a little troubled, so at least is this
25 agenda posted on the redistricting?

1 MS. RUBIN: No, I just created it, you know,
2 everyone has been e-mailing me each day, each day I've
3 been updating it, and then I wanted to share it with you
4 so that you could see who is registered, but, you know,
5 I could go back to my office after this and have four
6 more requests.

7 MR. MILLER: But the form of language the Chair
8 provided, I think, is a useful way to indicate that it
9 could - the meeting could end before 6:30.

10 CHAIRMAN GALAMBOS MALLOY: Thank you for that
11 clarification. Commissioner Ward, then Commissioner
12 Yao.

13 COMMISSIONER WARD: Thank you, Chair. I was
14 just curious, my understanding of this agenda was that
15 groups had to sign-up and you guys did a little bit of
16 vetting with that, but now I'm confused. Are we saying
17 that groups can just show up and go for it, and then,
18 also, an hour and a half of public comment, I thought
19 this was a structured group comment. Are then opening
20 it up for an hour and half of just general public
21 testimony?

22 MS. RUBIN: We didn't set a deadline for groups
23 to register, which maybe was an oversight because,
24 actually before I came here today, I double-checked our
25 flyer, so given that you have plenty of time, I feel

1 like you might as well leave it open. You know, I'm
2 comfortable if someone e-mails me at 3:00 p.m. tomorrow
3 on Friday to add them on, I'm sure you want to hear -
4 I'm assuming you want to hear everyone who wants to come
5 from the groups, and as long as they follow the
6 structure of the 15 minutes, then I think the more the
7 merrier, and then, as far as the public comment,
8 assuming you're following your regular public comment
9 structure where any individual can pretty much say
10 anything they want.

11 COMMISSIONER WARD: So groups can, then, just
12 show up on Saturday, without having pre-coordinated a
13 time or a place on the agenda?

14 MS. RUBIN: If you don't register, and you're a
15 group or an individual, then we request that you provide
16 the information you want to convey to the Commission
17 during the public comment. So, unless you pre-register,
18 which let's say is by close of business Friday, then you
19 won't be on the list of registered groups, and your name
20 wouldn't be on this list, and then you would just come
21 in at the public comment period.

22 CHAIRMAN GALAMBOS MALLOY: And remembering back
23 to the conversation we had in Claremont, that the
24 purpose of the registration was really to give us an
25 ability to forecast how long of a day, or potentially

1 two days, we would need to schedule in order to
2 accommodate, this so it wasn't mean to be absolute, but
3 to be really an estimate of what we'd need.
4 Commissioner Yao.

5 COMMISSIONER YAO: From the announcement, it's
6 identified that we'd have three objectives, the
7 objective of this session is to give the Commissioners a
8 general understanding of the redistricting education,
9 that's number one, outreach done by the citizen-based
10 organizations, that's two, and the future plan of these
11 entities for additional outreach. Are they going to be
12 sticking to these topics and not attempt to just take
13 advantage of 15 minutes before the entire Commission?
14 Is there any quality control on this activity? Because
15 I am a little concerned, just looking at some of the
16 titles, the headings, that we may not be meeting the
17 objectives of this particular meeting.

18 COMMISSIONER ONTAI: Oh, well, did you all
19 receive this, this copy that was sent out by Sarah?
20 This is the format that we announced for any
21 organization that would like to make a presentation this
22 Saturday, that they follow, so that we get a consistent
23 package of information. And this is what we would
24 anticipate would be uniform data that we can look at.

25 MS. CHORNEAU: And that's the same as the

1 outline on page 2, just so you know. Also, yeah, we
2 made that available when we put out the invitation and
3 the announcement so that people could see it.

4 MS. RUBIN: And I would just add on that the
5 Powerpoint is on the We Draw the Lines website, but I
6 did want to add that it's a suggested format, but people
7 are not required to use it, and so I do think it's
8 possible some people could share with you things that
9 you don't perceive as important, but they want to be
10 telling you. So, I think you're right, somebody could
11 spend some of the 15 minutes saying things that aren't
12 exactly what you want to hear, we are not vetting
13 everybody's Powerpoint, I guess, is the response. So I
14 don't know exactly everything you're going to hear on
15 Saturday.

16 CHAIRMAN GALAMBOS MALLOY: Based on the lateness
17 of the hour, are there any major questions or concerns
18 that need to be clarified tonight? Commissioner Ward.

19 COMMISSIONER WARD: I'm sorry, my original
20 question, I'm still unclear, and I do think it's
21 important because, if we don't have a time by which we
22 have groups notify or register, if we don't have a cut-
23 off point, my fear is just that, given that we're
24 already at 3:10 and you have a 10-minute break, that
25 will leave us, what, five groups before we have an hour

1 and a half of public comment, and if anyone can just
2 show up, and you're saying that we run overflow to
3 public comments, I think we're limiting those to five
4 minutes or something like that, I'm just - for fear of
5 this getting out of control - you're the professionals,
6 I trust that you have this under control, I just don't
7 understand how you do, so I'd just like to know.

8 MS. RUBIN: Well, I think it was an oversight
9 that we didn't put a deadline to register, so we could
10 talk about, you know, if you all think we should be
11 trying to put in a deadline. I don't think it's
12 necessary and I think, for any group who is perceiving,
13 "I have 15 minutes," and they haven't registered, we
14 simply say, "You have five minutes," that's it.

15 COMMISSIONER ONTAI: And this is an example
16 where, you know, there are hiccups in this process and
17 we are ironing it out.

18 CHAIRMAN GALAMBOS MALLOY: So, Commissioner
19 Barraba.

20 COMMISSIONER BARRABA: I have every confidence
21 that the Chairperson of this committee will be able to
22 moderate that kind of activity with due respect to
23 everybody's interest.

24 COMMISSIONER BLANCO: I have one burning
25 question, which is why was Fathers Day on the Calendar

1 and not Mothers Day?!

2 CHAIRMAN GALAMBOS MALLOY: And we can take that
3 up again tomorrow morning, or tonight over dinner, okay.
4 What I'd like to suggest, if there are no other
5 questions or concerns, that we close - yes -

6 MS. RUBIN: We can't do Mothers Day, that was an
7 oversight. That's in May, right?

8 COMMISSIONER BLANCO: Second Monday of every
9 May.

10 MS. RUBIN: Okay, May 15th, we have to change
11 that, we definitely cannot do May 15th.

12 CHAIRMAN GALAMBOS MALLOY: Commissioners,
13 Commissioners, we are not adjourned just yet, or on
14 recess. So, can I ask you to join us again tomorrow
15 morning, first thing? I can clarify with you exactly
16 what time, there are many more questions and issues that
17 we didn't get to work on with the larger plan, but I
18 think we're in good shape for Saturday, so thank you for
19 coming, we appreciate that.

20 MS. CHORNEAU: Thank you.

21 MS. RUBIN: Thank you.

22 CHAIRMAN GALAMBOS MALLOY: It is a half an hour
23 later than I had intended to open the floor for public
24 comment for items not on the agenda, but here we are, so
25 any members of the public, you're welcome to come

1 forward at this time.

2 MR. WRIGHT: Yes, it's tiring this afternoon,
3 isn't it. Good afternoon, Jim Wright again. There's
4 one item that's been bothering me and that is that, as
5 you're collecting the information with the Input
6 sessions, what are you going to do with it? Consider
7 the picture behind your Chairman here. And consider
8 that I, as speaker, want to change something on that
9 picture, that little island in the lower right bothers
10 me, okay, it needs to be a little bigger, it needs to be
11 a little bit to the left, that's the kind of information
12 you're going to be getting in the Input sessions.
13 People are going to give you snippets of their
14 neighborhood, not information about a district as a
15 whole, okay? What are you going to apply that to? All
16 of those little pieces of information, you need to apply
17 it to some matrix that already exists. Now, there are
18 some options available to you, you could start with the
19 1991 maps, you could start with the 2001 maps, you could
20 start with the counties of the state, or you could have
21 somebody sit down and draw a set of balanced districts
22 that can then be your target for any adjustments that
23 you might want to make, both ones that you think of, and
24 ones that are brought to you during the input sessions.
25 Okay? This gives you a target to throw those arrows at,

1 okay, really a way to get things started. I call it a
2 strawman. You need a strawman, okay? Maybe it's the
3 2001 maps, maybe it's the 1991 maps, or maybe you have
4 somebody draw some initial maps for you to use as your
5 strawman. Okay? You need two of them, you need one for
6 the 80 Assembly Districts, you need another one for the
7 53 Congressional Districts. Don't worry about the
8 Senate Districts or the BOA Districts because those get
9 nested, okay? And you need to decide what your base is,
10 and I think you can do it this week because on your
11 agenda you have an item for regarding redistricting
12 matters, this is a very key matter, what are you going
13 to use for your base? Question. Please answer it.
14 Thank you.

15 CHAIRMAN GALAMBOS MALLOY: Thank you. Are there
16 any other members of the public who would like to
17 comment on matters not on the agenda? Seeing none, we
18 are about to adjourn for the evening. I would like to
19 make a couple of quick announcements regarding
20 tomorrow's schedule when we reconvene. A reminder,
21 there will be a State Museum tour at 8:30 a.m. for
22 Commissioners. We'll meet right outside this room, Room
23 126. Yuli* is the contact for that and, then, our
24 meeting for the General Session is actually in Room 437,
25 which I understand we go through the elevators and go up

1 to the fourth floor, so thank you for that. In terms of
2 our agenda for tomorrow morning, when we start up at
3 9:00 a.m., we'll be inviting public comment for items
4 not on the agenda. We will pick back up with the
5 outstanding items from the Outreach Committee that we
6 began to delve into this evening, then we will pick up
7 the outstanding items from the Budget, and Mr. Claypool
8 will be expecting a revised Budget to aid in that
9 conversation, and then Mr. Wilcox and the Public
10 Information Committee will actually get a chance to
11 report back, at long last. We will break for lunch. We
12 will again invite public comment immediately after
13 lunch. Mr. Johnson from the Rose Institute will be
14 making a presentation, we will have a training on
15 Bagley-Keene by our Chief Legal Counsel, Mr. Miller. We
16 have a few other updates to provide on trainings, and we
17 will work on scheduling and any other redistricting
18 matters. Commissioner Yao.

19 COMMISSIONER YAO: It appears that we have
20 enough information to make the decision as to whether
21 we're going to meet on Sunday or not. It may be good if
22 we can allow the public to know, so that they don't have
23 the option, if we decide not to have it on Sunday, to
24 appear before this group for the Outreach presentation
25 to this group, or if we decide to make a decision saying

1 that we are going to have a meeting on Sunday, then they
2 can count on being here on Sunday, because I think
3 making that late decision as to whether we're going to
4 or not going to meet for the whole day would be an
5 extreme hardship on everybody.

6 CHAIRMAN GALAMBOS MALLOY: Commissioner Filkins
7 Webber.

8 VICE CHAIRMAN FILKINS WEBBER: I don't know that
9 we're in a position to do that right now, only because
10 we've just seen the agenda for Saturday, which ends with
11 the last individual at 3:10, and they've left it open
12 because we don't have a deadline, that at least we'll
13 know maybe in the next 24 hours whether or not there
14 would be any other groups that sign-up. But I just
15 hesitate in making any type of announcement right now
16 because we also don't know how many members of the
17 public are going to show up, and we have it agendized
18 for Sunday at this time. I think it's a little
19 premature.

20 CHAIRMAN GALAMBOS MALLOY: What I would like to
21 do as Chair is to suggest that we provide an update as
22 we near the close of business tomorrow, when we'll have
23 a better sense of additional organizations that may have
24 signed up, but that we reserve the right and the
25 capacity to meet on Sunday, assuming the space is still

1 available to us on Sunday. Correct? I'm asking our -
2 correct? Okay, good, so we have the space on Sunday, so
3 we do have the option. I would like to express, it is
4 my intention if there is a way to accommodate all the
5 input that we are given on Saturday, that Saturday will
6 be our last day here, but, again, we have to revisit
7 that tomorrow. Commissioner Yao.

8 COMMISSIONER YAO: Is hotel rooms available
9 Saturday night? Okay.

10 CHAIRMAN GALAMBOS MALLOY: Yes. Do we have a
11 deadline by which we need to alert the hotel?

12 MS. SARGIS: No, they assured us that there were
13 plenty of rooms available.

14 CHAIRMAN GALAMBOS MALLOY: Okay, excellent.
15 With that, I would like to close business for the day
16 and adjourn. We will be meeting here - oh, Mr. Wilcox,
17 you're going to do our summary of accomplishments.
18 We're so excited to feel like we have accomplished
19 something in this very long day, so, please, take it
20 away.

21 MR. WILCOX: All right. The Commission meeting
22 was called to order by Chair Galambos Malloy at 9:00
23 a.m., there were several members of the public who made
24 comments, including representatives of the Rose
25 Institute, California Chamber of Commerce, California

1 Forward, and a letter which was read, which was written
2 by a County Democratic Party Chair. The Commission
3 adjourned at 9:30 for a meeting with the Governor's
4 Office attended by the Chair, Vice Chair Filkins Webber,
5 Commission Executive Director Claypool, and Commission
6 Chief Counsel, Mr. Miller.

7 The Commission reconvened at 11:00 a.m., and the
8 Chair reported that it was a very good meeting, the
9 Governor's Office offered to help assist the Commission
10 in navigating various State Departments to ensure that
11 the Commission is able to move forward with its work in
12 an expedient manner. The Governor's Office requested
13 the Commission for a letter explaining what the
14 Commission's needs are, and where they currently are in
15 the process. The Governor's Office also waived the rent
16 for the Commission's office. Mr. Claypool gave his
17 Executive Director's Report, which detailed an update on
18 the Commission's work, including completion drafts for
19 Requests for Information for Line Drawers and Voting
20 Rights Attorney, working to push contracts through
21 General Services for IT and Webmaster, Office Supplies,
22 etc., hired specialists, retired annuitants, to help
23 with contracts and procurement, and move forward on
24 completion of planning of educational outreach meetings.
25 Mr. Claypool's full report can be found at

1 RedistrictingCA.org.

2 Commissioner Dai presented the Finance and
3 Administration Advisory Committee Report, the total
4 estimated expenditures by the Commission are \$6 million
5 through June 2002 [sic] [2012], the full budget
6 presentation was deferred until tomorrow's meeting.

7 Commissioner Blanco presented the Legal Advisory
8 Committee's Report, the Commission adopted by a vote of
9 14 to 0, a policy of mandatory disclosure prior to an
10 item's consideration by Commissioners who are personally
11 acquainted with a person or entity seeking employment or
12 business with the Commission. If the Commissioner has a
13 financial relationship with the individual or entity,
14 they are to abstain from voting.

15 The Commission adopted on a 12 to 2 vote a
16 procedure with respect to the hiring of staff and
17 consultants to require full disclosure of prior
18 employment or consulting work by any applicant for staff
19 or consulting positions as part of the selection
20 process. In order to permit a broad pool from which
21 highly qualified applicants may be selected, the Act and
22 the Regulations authorize the Commission to apply its
23 conflict provisions with discretion, while also assuring
24 the impartiality of staff and consultants.

25 The Commission adopted on a 13 to 1 vote a

1 Request for Information to obtain the Voting Rights Act
2 Attorney, and instructed staff to go forward with
3 preparing a posting for hiring on the Web. The motion
4 also set forth that the Legal Advisory Committee would
5 interview candidates to make a recommendation to be
6 considered by the full Committee.

7 Hans Johnson of the Public Policy Institute gave
8 the Commission a presentation on the Census and Census
9 Management issues, the presentation will be online this
10 evening at RedistrictingCA.org.

11 Commissioner Di Giulio presented the Technical
12 Advisory Committee Report, and the Commission adopted by
13 a 14 to 0 vote the Request for Information for
14 Redistricting Services as amended, to delete the
15 proposed scoring process.

16 Commissioner Ontai presented the Outreach
17 Committee Report, which will be completed tomorrow
18 morning, and this report will be posted on
19 RedistrictingCA.org shortly, please follow us if you're
20 listening and watching us on *Twitter*, *WeDrawTheLines*,
21 and we now have our *Facebook* page up, California
22 Citizens Redistricting Commission. Thank you.

23 CHAIRMAN GALAMBOS MALLOY: Thank you, Mr.
24 Wilcox, it's so great to have you on board. And thank
25 you, Commissioners, for a great day's work. We are

1 hereby adjourned, see you tomorrow in Room 437 at 9:00

2 a.m. Thank you.

3 (Adjourned at 6:39 p.m.)

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