

BEFORE THE
CITIZENS REDISTRICTING COMMISSION

State Capitol, Room 2040
Sacramento, CA 95814

TUESDAY, MARCH 15, 2011
9:00 A.M.

Reported by:
Peter Petty

APPEARANCES

LEGAL ADVISORY COMMITTEE MEMBERS PRESENT:

Angelo Ancheta
Maria Blanco
Stanley Forbes
Michael Ward present for
Member Jodie Filkins Webber

OTHER COMMISSIONERS PRESENT:

Cynthia Dai

STAFF PRESENT:

Kirk Miller, Legal Counsel
Janece Sargis, Administrative Assistant
Dan Claypool, Executive Director

ALSO PRESENT:

PUBLIC COMMENT:

Dr. Dan Bronstein [ph.]
Eugene Lee, Asian Pacific American Legal Center

Legal Advisory Committee Meeting

Tuesday, March 15, 2011

9:00 a.m. - 5:30 p.m.

I N D E X

	Page
1. Retention of Voting Rights Counsel	4
The Legal Advisory Committee will review the responses to the Request for Information issued for VRA counsel and select a group for further consideration on March 17 th .	
Public Comment	6, 33, 54, 68, 83, 96, 127, 261
Adjournment	266
Certificate of Reporter	267

P R O C E E D I N G S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MARCH 15, 2011

9:09 A.M.

CHAIRMAN ANCHETA: Okay, it looks like we're on the record. Good morning. This is a meeting of the Legal Advisory Committee for the Citizens Redistricting Commission. Why don't we begin by calling the roll.

MS. SARGIS: Commissioner Blanco - Here; Commissioner Filkins Webber - Absent; Commissioner Forbes - Here; Commissioner Ancheta - Here; Commissioner Ward - Here.

CHAIRMAN ANCHETA: We would also note that Commissioner Cynthia Dai has joined us, as well, for this meeting. Commissioner Ward has volunteered to step in today because Commissioner Filkins Webber, who normally sits on the Committee, is unable to join us this morning. And Commissioner Ward is a member of the Republican Party and we're trying to maintain the party balance for today's meeting.

We have one item on the agenda this morning, which is to review applications for the Voting Rights Act Attorney position. This is a position that will be subject either to a contract with that particular firm or attorney, or possibly even an employment relationship, but we have not limited necessarily the scope of how we are looking at the applications, or how we are looking at

1 the relationship with the Commission. So, any number of
2 outcomes are possible here.

3 This is an Advisory Committee, so we are today
4 tasked with reviewing the applications that have been
5 submitted, we will be making recommendations for
6 interviewing which will be the next step in the process
7 so that, on Thursday, the 17th, this Committee will meet
8 again, presumably we will narrow the pool to a smaller
9 number of Applicants, we will have interviews on
10 Thursday, the 17th; again, ideally we will have narrowed
11 that even further and we'll present a smaller number of
12 candidates to the full Commission, which will conduct an
13 interview on Friday. And ideally, again, we will have a
14 final decision as of that date.

15 We, I think at the outset wanted to have a little
16 bit of discussion about the process for reviewing the
17 applications, there have been, as far as I know, nine
18 applications that were submitted to the Commission,
19 copies, I believe, were available online and a limited
20 number are available here in the room. Those of you who
21 are interested can certainly consult those copies. We
22 had some ideas, but lets' talk a little bit about it
23 upfront of how we're going to go through the
24 applications. We certainly will want to spend a little
25 bit of time on each application, but because we are going

1 to narrow the number and, of course, there are a number
2 of us here and we may have differences of opinion on how
3 we might rank, I think it would be helpful initially to
4 have some discussion about the process - actually, I'm
5 taking something out of order - is there any member of
6 the public who would like to comment on any matters
7 pertinent to the Legal Committee, but not specifically
8 dealing with an application before the committee? So,
9 we'll have opportunity for specific applicants in due
10 course, but wants to address the committee on a matter
11 relevant to the committee, but not on the applications,
12 to come forward. So, one individual? Why don't you come
13 up? The time limit is basically five minutes.

14 DR. BRONSTEIN: Good morning. My name is Dr. Dan
15 Bronstein and I live at 1401 El Capitan Street in Davis,
16 California. I'm a friend of a friend and sort of far
17 neighbor of Mr. Tony Bernhard. Tony sent the Commission
18 an e-mail yesterday, but can't be here today to read his
19 testimony, so he asked me to read the following
20 statement: "The Voting Rights Act Counsel must be free
21 of actual or perceived conflicts. This is why the
22 Commission must apply the conflict provisions set forth
23 in Proposition 11. The text of Proposition 11
24 contemplates those conflict provisions should apply to
25 consultants hired by the Commission. Now, I agree with

1 comments made by Commissioner Filkins Webber at the
2 February 24th Commission meeting where she said that
3 conflict of interest provisions *shall* apply to the
4 selection of counsel, not *may* apply to Voting Rights
5 counsel. There is no need to waive any potential
6 conflict here since so many well qualified attorneys have
7 applied who do not have any conflicts. However, several
8 bidders do have disabling conflicts under Prop. 11:
9 Nielson, Merksamer, Parrinello, Gross & Leoni - Ms. Leoni
10 was a registered state lobbyist in the last 10 years.
11 The firm is also a registered lobbying firm. These are
12 disabling conflicts. Ms. Leoni and firm have represented
13 the Republican Party and Republican leaning interest
14 groups, including the Florida Senate, which is run by
15 Republicans, and the American Legislative Exchange
16 Council, a Republican leading organization of members of
17 State Legislatures as far as redistricting matters. That
18 is a disabling conflict. Gibson, Dunn & Crutcher - Dan
19 Kolkey has been a member of the Central Committee of the
20 State Republican Party in the last 10 years; this is a
21 disabling conflict. He also was the Legal Affairs
22 Secretary for Governor Wilson, a well known Republican
23 Governor. White & Case - Aalok Sharma and John Sturgeon,
24 representing the Republican Legislative Caucuses during
25 litigation surrounding the 2001 Legislative Districting

1 Plans, that is a disabling conflict. Finally, Arent Fox
2 - Steve Haskins worked for the Assembly Republicans
3 during the last round of redistricting, that is a
4 disabling conflict. These attorneys have clear conflicts
5 under Proposition 11 and should be disqualified."

6 That is Mr. Bernhard's statement. Thank you for
7 giving me the opportunity to appear in his place.

8 CHAIRMAN ANCHETA: Thank you, Dr. Bronstein. Are
9 there any additional comments from the public at this
10 point? Okay, again, we will have further public
11 opportunities for public comment throughout the day in
12 terms of individual applicants and discussion that the
13 Commission will be undertaking today. And Mr. Miller,
14 our Chief Counselor, Mr. Miller, has joined us, as well,
15 so we will at this point discuss our process, again, our
16 nine applications, and we want to narrow that down
17 hopefully at least by half so we can have a manageable
18 number of interviews on Thursday. Does anybody want to
19 chime in? I know there have been some ideas that have
20 been sort of tossed around and we haven't finalized any
21 particular process yet. No doubt, we do have to undergo
22 some ranking and have a cut point in terms of applicants
23 that we will interview on Thursday, and those that we
24 won't. So, does anybody want to start in on the process
25 suggestion? Commissioner Blanco.

1 COMMISSIONER BLANCO: Well, I'll just propose
2 something and then we'll see where we go. I think one
3 possible way we could do this is to decide - have the
4 Advisory Committee members each select four, either a
5 firm or an individual, four applicants, to be brought
6 back for interviews on Thursday the 18th [sic], and see
7 if we coincide on those, if there might be consensus on
8 the same four, and if we each had a different four, then
9 I think we could do some kind of - we could do some kind
10 of preference voting for the four that remain to see if
11 we have some top ranked that coincide, again, or we could
12 do five that we all want to keep and then do a rank order
13 for three or something like that; in other words, some
14 combination of first doing a first straw assessment of
15 four or five, we can discuss how many, to be brought back
16 for an interview, and then what we do if there is no
17 consensus. That's just to open the conversation.

18 CHAIRMAN ANCHETA: Okay. Commissioner Ward.

19 COMMISSIONER WARD: Thank you. I think
20 Commissioner Blanco has got a great idea. It seems like
21 lessons learned to date with the Commission is that we've
22 tried this a variety of ways and it seems like one of the
23 most effective has been for each Commissioner to list
24 their top - in this case - probably five candidates and
25 then account for those to see who the top - you know,

1 rank order those as we list them, and then we can
2 determine from there where we sit, if we want to - there
3 might be clear distinctions as we found in the past, and
4 then determine who we want to invite for an interview,
5 but I think an initial straw is a good way to go, and I
6 would just suggest each Commissioner list their top five
7 because, as we've seen in the past, the general number of
8 interviews we've held for other positions, has been
9 around four, and we generally seem to err on the side of
10 around four candidates, so it seems like we ought to list
11 five being that sometimes our third and fourth are
12 divergently different, and it seems like we seem to find
13 some common ground in the fit. So, if we start with
14 that, we might save some time.

15 CHAIRMAN ANCHETA: Commissioner Forbes, do you
16 have any -

17 COMMISSIONER FORBES: No, I'm satisfied. I think
18 we need to get four or five, and then we can - I would
19 like to hear from staff, though, before we actually make
20 our initial cut, I would like to get staff's reaction
21 before I make my final - my choice of four or five.

22 CHAIRMAN ANCHETA: Sure. Okay.

23 COMMISSIONER FORBES: If staff has comments.

24 CHAIRMAN ANCHETA: Mr. Miller, I think you can
25 chime in at this point.

1 MR. MILLER: Just a couple of preliminaries. We
2 prepared for you some suggested criteria for your
3 evaluation and I just have copies of that, if you wish to
4 refer to it. And, also, we've prepared a sheet that
5 might be helpful to the discussions today. This sheet
6 lists the firms in alphabetical order, that is the sole
7 criteria for the list is the alphabet. And then, I'll
8 just note that somehow on the list, Gibson, Dunn wasn't
9 shown, so I just penciled that into the correct
10 alphabetical order, and then, in a very shorthand form,
11 have tried to summarize the criteria that are described
12 in a little more detail in the attached sheet. So, that
13 may be helpful to you in the process.

14 I also wanted to note, at the Commission's
15 request, we also posted this job as an in-house job for
16 Voting Rights Act lawyer. We posted that broadly, we
17 received a relatively small number of applicants. I
18 haven't provided you those resumes because none of the
19 applicants who responded had Voting Rights Act
20 experience. Some of them are State employees and,
21 obviously, we will provide those to you if you wish, but
22 it seemed like a closed session was more appropriate for
23 that, for confidentiality, and given the fact that there
24 really isn't a comparison in the experience of those who
25 applied for an in-house position and these firms, I

1 wasn't sure you'd want to take that additional step.

2 CHAIRMAN ANCHETA: Okay, thank you. Now, are
3 these criteria and the sheet available to the public at
4 this point? Or just for the Commission right now?

5 MR. MILLER: We will make them available to the
6 public.

7 CHAIRMAN ANCHETA: Okay, thank you. Well, let
8 me, since we're in the process, let me just quickly go
9 through these criteria so the public is aware of -

10 MR. MILLER: Excuse me, they have been posted.

11 CHAIRMAN ANCHETA: Oh, I'm sorry, never mind,
12 then, as long as they've been posted and copies are
13 available.

14 COMMISSIONER BLANCO: There are some extras here.

15 CHAIRMAN ANCHETA: We have some extras, as well,
16 very good. Okay, and again, for those in the public who
17 are just sort of listening in, but don't have a copy,
18 there are various criteria that we will be reviewing.
19 Among them are experience and knowledge around Section 2
20 of the Federal Voting Rights Act, Section 5 of the Voting
21 Rights Act, experience with various types of
22 Constitutional cases, Equal Protection analyses involving
23 what is known as a Shaw v. Reno and Miller v. Johnson
24 line of cases, experience with the 15th Amendment, which
25 protects the right to vote under the Constitution, I

1 guess racial discrimination and the right to vote,
2 various redistricting experience, experience advising
3 governmental bodies, and various areas of capacity,
4 including the ability to work with a Commission with
5 multiple members, advisory committees, Chief Counsel,
6 staff, ability to attend multiple Input Meetings, a very
7 important criteria for them - being able to provide work
8 product and advice under very short deadlines, and then
9 the ability to develop an evidentiary record and, as
10 needed, work with the litigation defense team if there's
11 any subsequent litigation. And then we also have
12 additional areas looking at cost, a very important factor
13 in terms of the Commission's work, and any actual or
14 potential conflicts of interest that may exist. And we
15 are attempting, as much as possible, certainly, to comply
16 with the requirements of the Voters First Act in terms of
17 conflicts. There are existing conflict requirements that
18 apply to the Commissioners and the Commission itself has
19 adopted a policy regarding staff that requires us to look
20 carefully at the conflict requirements that are also
21 applicable to Commissioners and, as necessary, to
22 disqualify an applicant if we feel those conflicts are
23 sufficient.

24 Okay, so do we have - I'm sorry, Commissioner
25 Forbes.

1 COMMISSIONER FORBES: I just have one question,
2 again of staff. We heard some comments from Dr.
3 Bronstein regarding conflicts and whether certain
4 applicants should be conflicted out of our
5 considerations. Does staff have any comment on that?

6 MR. MILLER: In light of the policy that was
7 prepared, the task is really for the Commission to look
8 at the actual conflict against the policy and, I think,
9 make a judgment that's not necessarily a legal judgment,
10 but one within your discretion within the confines of the
11 policy.

12 COMMISSIONER FORBES: Now, at least what I'm able
13 to read out of this, we don't have the sort of background
14 representation - maybe I missed it, but you made
15 reference to "counsel had," had participated in
16 representing, the Legislature representing Republicans,
17 or whatever, I don't know if that is in this data. Is
18 it?

19 MR. MILLER: Yeah, as part of the Request for
20 Information, we requested firms to describe where they
21 had a potential conflict, and I think they've done a good
22 job in responding to that question.

23 COMMISSIONER FORBES: All right, thank you.

24 CHAIRMAN ANCHETA: So at this point, to address
25 let's address an agreement that, at least initially, we

1 want to take sort of a straw vote among the committee
2 members and then have some discussion after that
3 regarding whether there's any conflicts, or concurrences,
4 and then if there's any reservations and they exist, we
5 can discuss individual applicants as needed.

6 COMMISSIONER BLANCO: Just on the conflicts, I
7 think most of it is in the applications, Commissioner
8 Forbes. There are some things that I think were
9 mentioned that are not. I know I did my research on all
10 the applicants beyond what was in the applications and
11 there are some other things that are not necessarily in
12 the applications. So, I think my suggestion would be
13 that we use our discretion, but maybe if we move forward
14 to the next stage that we do a more thorough analysis in
15 our own look at the conflicts if we get to that point.

16 CHAIRMAN ANCHETA: Okay, does anyone want to go
17 first? I actually didn't look at my fifth because I only
18 had four. So I have like a little extra time - if we're
19 doing five.

20 COMMISSIONER BLANCO: Is this just for - are
21 these just notes for ourselves?

22 MR. MILLER: That's correct.

23 COMMISSIONER BLANCO: Okay.

24 CHAIRMAN ANCHETA: So, if somebody has a five,
25 but I want to take another look at my list again, I have

1 a top four. Or, do you want to take just a few minutes
2 to recess and then come back on the record?

3 COMMISSIONER BLANCO: Do we have to have five?

4 MR. MILLER: Occasionally in life you get a lot
5 of discretion. And you know, the important thing is that
6 all these applications have been available to the public
7 and they've been available to you to consider, and you
8 have no obligation to bring back any particular number,
9 or to nominate any particular number. I think it does
10 make sense to, actually, you might start without ranking
11 your top four or five and, indeed, I think it's fair for
12 one Commissioner to have five, and another to have four,
13 but just to see where those names fall out and then
14 perhaps, after that, begin the discussion of the merits
15 of each of those, and I would suggest only after you've
16 discussed them that you make a determination as to the
17 actual number that you want to bring back on Thursday
18 because, you know, it is a substantial task for the firm
19 to come up and there may be more clarity about the top
20 two than we have now, but I think those things - just it
21 makes sense to make the decisions incrementally based on
22 where people seem to be in their view of the firms.

23 CHAIRMAN ANCHETA: Well, I'll start. Given that,
24 I can start if no one else wants to sort of jump in.
25 Well, first of all, just as a comment on the pool, this

1 is a really great pool of applicants, in my opinion. I
2 think this presents us with a number of applicants who
3 have direct experience on the Voting Rights Act, as well
4 as all of them seem to have strong backgrounds, at least
5 on more general election law, as well, although some are
6 stronger than others. I think this pool is also a very
7 interesting pool because we have a number of - if you
8 want more to categorize some of these applicants, I think
9 a good variety of types of firms and attorneys and
10 consultants because we have a range here which includes -
11 one is - a number of applicants who are former Department
12 of Justice Voting Section Attorneys who have quite a bit
13 of experience working with the Federal Government and
14 with compliance issues, are now doing consulting work, or
15 individual practices. We have what might be called
16 "boutique" firms, or at least one boutique firm, where
17 they specialize in election law and Voting Rights law, so
18 they have quite a bit of experience in those areas of
19 law, and then we have a number of very large firms, some
20 of the largest in the country, in the world, that have a
21 lot of variety in their practices, and include among them
22 political law and election law, and Voting Rights, as
23 well. So, I think this a great pool to work with, so I
24 think we have a lot of different choices. And I was
25 also, at least in my review, some of these differences,

1 not that they're entirely apples and oranges, and we do
2 have to ultimately take the best candidate, but I think
3 it gives the Commission a lot of options in terms of the
4 types of attorneys. And that's sort of part of my
5 consideration because, even though I'm going to put out
6 about four or five names here, I think, given my list
7 here, I think there are probably at least one from each
8 category that sort of gives the choice to the full
9 Commission in terms of types of counsel. And each will
10 carry sort of an advantage and disadvantage. I think,
11 certainly, with a solo practitioner, we would have a lot
12 of questions regarding, you know, resources, capacity,
13 and the ability to do the work with the Commission. With
14 a larger firm, although a number of the firms have
15 indicated that they would reduce their fees, there's
16 always a concern that, well, can we afford this legal
17 help, even though it's certainly excellent legal - or
18 excellent law firms that, if the firms were charging full
19 price, we would have some challenges there.

20 So, let me list my top candidates, and this is
21 not in any particular order here. Maybe consistent with
22 my categories, I'll just list a couple. I thought that
23 Gerald Hebert, who sort of fits into the category of a
24 former DOJ attorney, would be very solid, a lot of
25 experience on both Section 5 and Section 2; GRD

1 Consulting, which is Professor Daniels, Gilda Daniels'
2 consulting firm, again, someone that has quite a bit of
3 experience having worked with the Justice Department's
4 Voting Rights Section, is now - she's an academic, but I
5 think this consulting firm is part of her practice
6 outside of the formal academic setting; I'm going to
7 throw in the pool Nielson, Merksamer, even though I share
8 some concerns regarding the conflicts policy, I want to
9 talk about some of that, but I think in terms of
10 experience, they are certainly highly qualified in terms
11 of having worked on Voting Rights litigation and advising
12 a lot of different jurisdictions on compliance with the
13 Voting Rights Act; Gibson, Dunn & Crutcher falls into
14 that sort of third category, a large firm that has
15 multiple practice areas, but has, I think, relevant
16 experience in terms of the Voting Rights Act; and - I'm
17 going to stop there, actually. So, those are my four.
18 So, does anyone want to go next?

19 COMMISSIONER WARD: I'm happy to.

20 CHAIRMAN ANCHETA: Okay.

21 COMMISSIONER WARD: Maybe I'll start with reading
22 in for Commissioner Filkins Webber. She had some
23 selections. Is it all right if I go ahead and enter
24 those for the record?

25 MR. MILLER: I think so. She's not voting here,

1 but you can inform the Commission as to her feelings.

2 COMMISSIONER WARD: Sure. Thank you. Her top
3 five in no particular order were also Gilda Daniels,
4 White & Case, Munger, Tolles, Gibson, Dunn, and Nielson,
5 Merksamer & Leoni.

6 For myself, I'd like to consider Gibson, Dunn,
7 White & Case, Federal Compliance, also Gilda Daniels, and
8 Nielson, Merksamer & Leoni.

9 CHAIRMAN ANCHETA: I'm sorry, just because I'm --
10 could you repeat Commissioner Filkins Webber's five
11 again, please?

12 COMMISSIONER WARD: Absolutely. Gilda Daniels,
13 White & Case, Munger, Tolles, Gibson, Dunn, and Nielson,
14 Merksamer & Leoni.

15 CHAIRMAN ANCHETA: Okay, thank you.

16 COMMISSIONER BLANCO: And yours, Commissioner
17 Ward? I'm sorry.

18 COMMISSIONER WARD: Sure. Again, the five would
19 be Federal Compliance, Gilda Daniels, White & Case,
20 Gibson, Dunn, and Nielson, Merksamer & Leoni.

21 COMMISSIONER BLANCO: Okay, I can go ahead. I'm
22 just going to give top four, well, let me do five and I
23 won't do them in order at this point. My five are
24 Federal Compliance Consulting, Gilda Daniels, Gerald
25 Hebert, Munger, Tolles & Olson, and Gibson, Dunn.

1 COMMISSIONER FORBES: Okay, mine are Federal
2 Consulting, GRD Consulting, and Munger, Tolles & Olson.
3 I just had three.

4 CHAIRMAN ANCHETA: And I have sort of a fifth one
5 in there, but I would put Munger, Tolles as my fifth one,
6 but I'll throw it in there, if we're doing five, we're
7 not obligated to, obviously. Commissioner Dai, did you
8 want to add something?

9 COMMISSIONER DAI: No, I'm actually pretty happy
10 with your selections.

11 COMMISSIONER BLANCO: Commissioner Ancheta, could
12 you repeat yours?

13 CHAIRMAN ANCHETA: Oh, sure. So, Gerald Hebert,
14 GRD Consulting, Gibson, Dunn & Crutcher, Nielsen,
15 Merksamer, and Munger, Tolles.

16 COMMISSIONER BLANCO: Thanks.

17 COMMISSIONER WARD: Chairman, with that count, it
18 does look like that helped give us a pretty good straw
19 ranking of who we might want to consider. Based off of
20 that input, Gilda Daniels received five considerations
21 and we should put her at the top, with the most, and
22 Munger, Tolles & Olson and Gibson, Dunn both had four,
23 which would round out our top three, and then there was a
24 tie for third with Federal Compliance, and Nielson,
25 Merksamer and Leoni with three.

1 CHAIRMAN ANCHETA: Okay. So, in terms of
2 process, and again, we're not - what Commissioner Ward
3 went through is not a ranking relative to - or any
4 relative ranking, it's simply indicating the number of
5 votes that each firm or attorney received, based on the
6 four members of the Committee today. Again, repeating
7 that, GRD Consulting had five - let's just list the top
8 ones - so GRD Consulting had five, Munger, Tolles & Olson
9 had four, Gibson, Dunn & Crutcher had four, Federal
10 Compliance Consulting had three, Nielsen, Merksamer, et
11 al., three, Gerald Hebert, two, and then White & Case,
12 two. And we had no votes for Arent Fox and Best, Best &
13 Krieger. Thank you for doing that, Commissioner Ward,
14 it's very helpful.

15 Okay, well, how shall we proceed? Again, we have
16 a number of candidates who got a lot of votes and, maybe
17 just for purposes of advancing them, I'm sort of happy to
18 discuss all of them, but at least, for example, for GRD
19 Consulting, if we want to go through sort of relating
20 ranking, we may want to discuss each of these, but we can
21 also sort of proceed and just say, well, maybe some of
22 the top ones, given the number of votes, could simply
23 advance. I think we should probably discuss all of them,
24 so the public is aware of some of the merits and the
25 strengths and weaknesses of each firm. There are a

1 couple ways we can proceed.

2 COMMISSIONER FORBES: I do think, though, I mean,
3 that it's likely that three of them are going to go
4 forward and I would like to have the discussion revolve
5 around whether we're going to do three or five, and then
6 discuss whether or not the two three's are both going to
7 advance. I think that something that I want to bring up
8 again is that, and we've had this in other discussions in
9 other contexts, appearance matters. And I am very
10 cautious about proposing someone who has very strong
11 party identification. I think that gets us into a place
12 we don't want to go.

13 CHAIRMAN ANCHETA: Okay.

14 COMMISSIONER FORBES: So I just make that
15 observation as we discuss the five.

16 CHAIRMAN ANCHETA: Sure. Okay, so one point that
17 you brought up initially, which is that we may want at
18 this point to narrow it further, or at least discuss how
19 many applicants we want to advance to Thursday's
20 interview round, and I think you threw out the number
21 three, but that's not necessarily dispositive, but I
22 guess we should have a discussion about whether we should
23 further narrow it down to a smaller number of applicants.

24 COMMISSIONER DAI: I would say that we should and
25 I actually would be interested in discussing the couple

1 that we may want to eliminate and start that way,
2 instead, and then we can talk about the merits of the
3 ones remaining and see whether there's three or four.

4 CHAIRMAN ANCHETA: Okay.

5 COMMISSIONER BLANCO: Uh huh, right.

6 COMMISSIONER WARD: I think that's a great idea,
7 I concur with that. It seems like, again, with the
8 considerations given with the straw pool, the top three
9 firms showing the most considerations are pretty clear.
10 It seems to me like we could, being that we held the poll
11 for a reason, simply decide if we wanted to, again,
12 invite the fourth or fifth, and determine which one of
13 those we would want to do at that point. But, if we have
14 one, two, and three clearly separated through our
15 consideration poll, then I prefer to move them forward
16 and move on.

17 COMMISSIONER BLANO: So, I think we should
18 eliminate from consideration and discussion the two that
19 received only two votes if people are okay with that.

20 CHAIRMAN ANCHETA: Okay, and that would be Hebert
21 and -

22 COMMISSIONER BLANCO: Hebert and White & Case.
23 So then that leaves us with five and the question is, do
24 we want to narrow that? Or leave it at five?

25 CHAIRMAN ANCHETA: Okay. Well, I would again be

1 inclined to look at a lower number, I'm not sure if it's
2 three or four, but I definitely want to reduce the number
3 from a five. I also think five going to four is not a
4 big change, but I'd like to have some discussion,
5 certainly, on the merits of the applicants. Now, this is
6 a suggestion, we might want to start with a conflicts
7 discussion because that may eliminate some we have
8 concerns about, I think we do know, and as public comment
9 noted, there are a couple of applicants who have
10 connections with major parties, and again, that's not an
11 automatic disqualifier, but it's certainly something we
12 want to take a very close look at. So, shall we start in
13 on a couple of those applications?

14 COMMISSIONER BLANCO: Yes.

15 CHAIRMAN ANCHETA: Does anybody want to start?

16 COMMISSIONER WARD: I can start if you'd like.

17 CHAIRMAN ANCHETA: Okay.

18 COMMISSIONER WARD: It seems like what we're
19 considering at this point, according to the Federal
20 Compliance and Nielson, Merksamer, et al., and I think
21 personally Nielson, Merksamer, who were in my top five,
22 largely because it seems unique capabilities that they
23 stood out from the rest, that they offer not only
24 experience, and all of the criteria listed, but also what
25 their ability and willing scope to provide *Maptitude*

1 support, and not only technical input, and provide a
2 legal opinion to it, but provide options, legal options
3 in the form of map data. I thought that was a very
4 critical key skill set that they offered, that helped
5 them stand out. And as a general statement, I know with
6 all the staff we've hired, there's a general
7 understanding that, as we get more specialized in the
8 staff and positions that we're looking for and to support
9 the Commission needs, that's a specialized field, and
10 it's very hard to find someone with no baggage, that
11 brings absolutely no perception of having ever worked for
12 any party, or have any perception of a conflict of
13 interest, that also has the level of skill and experience
14 that this Commission expects and needs. So, I completely
15 agree that the conflict of interest is very important and
16 of the utmost concern, I think it's important, though, to
17 note that with broad experience in these areas is going
18 to come some perceptions, perhaps, of an inability to be
19 impartial, or a tilting of some sort. But I don't think
20 that, in and of itself is a reason not to consider them,
21 at least to the open Commission.

22 CHAIRMAN ANCHETA: Okay. Other Commissioners
23 care to comment on this particular applicant at this
24 point? Yes.

25 COMMISSIONER DAI: So, I agree that this firm

1 does seem to have some issues with our conflicts policy,
2 but I think a mitigating factor was the fact that they
3 were lead counsel for Prop. 11 and 20. So, that would be
4 one mitigating factor.

5 CHAIRMAN ANCHETA: Okay. Commissioner Blanco?

6 COMMISSIONER BLANCO: I have two conflict
7 concerns, one that has been stated, I think by the
8 public, and also my own, which is the fact that the firm
9 is actually registered as a lobbying firm with the
10 California Legislature. For me, even if it wasn't that
11 they also represented a particular party in California, a
12 firm being registered as a lobbying firm, I think, means
13 that we are bringing along a lot of other people in the
14 process. I mean, it's not listed here, and we didn't ask
15 them to, but all the clients that are represented by the
16 firm in their lobbying capacity, but it makes me -
17 without a complete listing, and just I suspect we have a
18 firm that represents a lot of entities that have a stake
19 in the political process in, perhaps, a partisan way, I
20 don't know. But the firm itself being a lobbying firm
21 with this Legislature worries me in terms of both actual
22 conflicts, some of which we may not know about, but also
23 perception wise. It's tough because I agree with
24 Commissioner Ward, their experience, particularly their
25 Section 5 experience, is great and, you know, very hands

1 on, and they obviously know California and know
2 California redistricting very well.

3 The other conflict, though, why I didn't advance
4 them to an interview, is the fact that in this round of
5 redistricting, they have clients already, and most of
6 them are smaller school districts and water districts and
7 irrigation districts, some Board of Ed., but they also
8 represent San Diego County in this round, Tulare County
9 in this round, Monterey County in this round, and Merced
10 County in this round, and one of the things we're going
11 to have to be dealing with in the drawing of the maps is
12 having to deal with situations about all kinds of county
13 issues, do we keep counties intact, do we separate
14 counties? I mean, we haven't gotten to that, but
15 counties and how you handle counties in mappings is
16 always an issue. And I think the fact that the firm -
17 and I don't know for a fact, I got the impression it was
18 either Ms. Leoni or her partners who actually represent
19 those counties, the people that would be involved with
20 our work, for me, is another kind of conflict of why I
21 couldn't move them forward for an interview.

22 CHAIRMAN ANCHETA: Okay, other - Commissioner
23 Forbes, did you want to comment?

24 COMMISSIONER FORBES: No, nothing further.

25 CHAIRMAN ANCHETA: Commissioner Ward.

1 COMMISSIONER WARD: Yeah, I think this is a great
2 discussion and is very fair. But, again, now, with this
3 particular firm, discussing whether or not it's worthy to
4 advance them to the interview stage, I think, for myself,
5 fairly clear that they're worthy of interviewing and
6 consideration in light of that, as the public themselves
7 can see by looking at the different firms that submitted,
8 those sources of conflict of interest seem to be the
9 majority that did reply. So, again, as I kind of
10 discussed before, there is a little bit of an expectation
11 of there being some muddy hands when it comes to getting
12 the level of expertise we're looking for, for this
13 Commission. So, in and of itself, I don't believe that
14 any of those conflicts of interest are disqualifying
15 factors. The lobbyist's position is something that is
16 certainly worthy of discussion, but I do think it's
17 important to note that the Registered Lobbyist, as
18 listed, one, which would be Leoni, and they have offered
19 remedies in the form of being able to firewall her out;
20 in other words, there are options to deal with that. Mr.
21 Parrinello and Mr. Skinnell, it says, are not registered
22 lobbyists and they have not represented candidates for
23 partisan office, except occasionally in enforcement
24 proceedings before California Fair Political Practices
25 Commission. So, being that there are potential remedies

1 for, at least, addressing these conflicts of interest,
2 and understanding that most firms bring similar conflicts
3 of interest to the table, I don't think that, in and of
4 itself, that this disqualifies them for at least a
5 further interview, being that they are certainly a
6 leading candidate when it comes to skill sets and
7 capabilities that they can bring to the Commission. You
8 know, a statement that really stood out, too, given
9 their, I think, non-debatable depth of experience in
10 these matters is - and considering what is our goal -
11 what is it that we desire out of this, which is excellent
12 unbiased Voting Rights Act and legal guidance and
13 justification for the lines as we draw, that will
14 withstand contests, is that with their broad experience,
15 they boast a redistricting plan for a public entity, for
16 which the firm has been counsel, has ever been
17 successfully challenged in court, a redistricting plan
18 for a California public entity subject to Section 5, the
19 Voting Rights Act, of which the firm has been counsel,
20 has drawn an objection from the United States Attorney
21 General, that's what we want. And I just think that,
22 given their experience, make them worthy of an interview.

23 CHAIRMAN ANCHETA: Yes, Commissioner Forbes.

24 COMMISSIONER FORBES: Yes. I agree with
25 Commissioner Ward. I mean, I am very troubled by the

1 lobbying component and I think that Ms. Leoni may not be
2 able to participate at all, we may have to look at this
3 application and just take her page off of it because of
4 her being - because of her lobbying interest, and recent
5 lobbying interest. I did read and underline the same
6 passage that Commissioner Ward just wrote. I mean, it's
7 impressive that everything they've done has withstood
8 challenge.

9 COMMISSIONER BLANCO: Uh huh.

10 COMMISSIONER FORBES: And so, I would concur that
11 I think that at least we ought to hear what they have to
12 say.

13 CHAIRMAN ANCHETA: Commissioner Blanco.

14 COMMISSIONER BLANCO: I would agree with that,
15 you know, if we're talking about moving forward for the
16 interview. I personally wouldn't, you know, I think
17 we're going to end up with a lot of people to interview,
18 and there are enough conflicts that I wouldn't go that
19 far with this firm, but I've got no opposition to
20 bringing them forward for an interview.

21 CHAIRMAN ANCHETA: All right, so let me sort of
22 chime in. I agree with all that's been said in terms of
23 the potential conflicts, both party and lobbying-related,
24 and I do share Commissioner - and this is actually a
25 concern I have with all of the applicants who do, in

1 fact, have the capacity to work with the State of
2 California, because that's a lot to do and if you're
3 going to be doing a lot of other work, we all know that
4 this is sort of the season for redistricting, so we
5 understand that a lot of people are sort of kicking it
6 into high gear, but we want not your undivided attention,
7 but close to full attention. But, again, I don't feel
8 that, at least at this point, I have enough information
9 to say this firm ought to be disqualified, but I do have
10 some serious concerns. I think we can get more
11 information and talk about what the possibilities would
12 be through the interviewing processes, and there's no
13 question that, in terms of the work they've done, they're
14 highly qualified to do the work, so I certainly agree
15 with the Commissioners on that point, this is a very
16 solid firm in terms of VRA experience.

17 Are there any members of the public who might
18 want to comment on this particular Applicant? We're not
19 sort of finalizing any decision, but since we're going
20 through them in sort of some order, do we have any public
21 comment here at this point? Okay, seeing none, are there
22 other issues we want to raise with some of the other
23 applicants, then, at least in terms of - I'm sorry, is
24 there a comment? Mr. Lee, did you want to join us for a
25 comment? Sure.

1 MR. LEE: Up here?

2 CHAIRMAN ANCHETA: Yeah.

3 MR. LEE: Good morning, Honorable Commissioners.
4 I'm Eugene Lee with the Asian Pacific American Legal
5 Center. And I wanted to provide some comments which are
6 both general in nature and with respect to this
7 particular applicant.

8 In terms of the general comment I wanted to make,
9 which I think applies to this applicant, as well as other
10 applicants, it's more to look at the work that applicants
11 have done in terms of consulting, jurisdictions drawing
12 lines, but I also think it's equally important to look at
13 the work that applicants have done defending against
14 efforts to vindicate both the Voting Rights Act, as well
15 as the California Voting Rights Act, which has been an
16 important supplement to the protections of the Federal
17 Voting Rights Act. So, I think I would request that the
18 Committee look at both work during the line drawing
19 process, but also efforts to guard jurisdictions against
20 potential liability or actual claims under the Voting
21 Rights Act, or California Voting Rights Act, that's very
22 important to look at.

23 I also wanted just to make a comment on the idea
24 of a firewall for this particular applicant and one of
25 the attorneys, that when I looked at the application, it

1 did seem that Ms. Leoni, the Applicant, that it was
2 suggested be firewalled, would actually be doing most of
3 the work for this firm, and so I guess I just would
4 wonder how that would actually work in practice if Ms.
5 Leoni were unable to perform work on behalf of Nielson,
6 Merksamer, what would the firm actually be doing, given
7 that the firm is contemplating that she would be the one
8 to do Majority [inaudible].

9 CHAIRMAN ANCHETA: Thank you, Mr. Lee. Were
10 there any other members of the public who wish to comment
11 on this applicant? Okay, seeing none. Again, are there
12 now any other firms that we'd like to discuss in terms of
13 conflicts of interest? Commissioner Forbes?

14 COMMISSIONER FORBES: No, it's a question of
15 experience, not conflict of interest.

16 COMMISSIONER DAI: Do we want to discuss the next
17 lowest?

18 CHAIRMAN ANCHETA: And it doesn't have to - it's
19 a fluid discussion. Just keep going.

20 COMMISSIONER WARD: I was just going to ask to
21 make sure that I'm on the same page with the panel here,
22 my understanding at this point is that we're in agreement
23 that we are interested in interviewing Gilda Daniels,
24 Munger, Tolles & Olson, Gibson, Dunn, and the previous
25 firm, Nielson, Merksamer, Parrinello, Gross & Leoni?

1 COMMISSIONER FORBES: Uh huh.

2 COMMISSIONER WARD: So, at this point, we've
3 agreed on four.

4 COMMISSIONER BLANCO: Right.

5 COMMISSIONER FORBES: Right.

6 COMMISSIONER WARD: Okay, thank you. So -

7 CHAIRMAN ANCHETA: So we're almost done.

8 COMMISSIONER DAI: Commissioner Ancheta, are you
9 comfortable with that?

10 CHAIRMAN ANCHETA: If we're going with four, I'm
11 fine with four. I mean, if we want to narrow it down to
12 three, we have to narrow it, but if we're going with
13 four, I'm fine with that.

14 COMMISSIONER WARD: A fifth option, right, would
15 be the next highest would be Federal Compliance.

16 COMMISSIONER BLANCO: Right, and I wanted to
17 speak to that, actually. You know, because I was - part
18 of my thinking about Nielson also had to do with how many
19 we can actually move forward, and FCC was actually one of
20 my top three. So, you know, and how we get to those
21 difficult conversations.

22 CHAIRMAN ANCHETA: Sure.

23 COMMISSIONER BLANCO: I thought that this
24 application, Mr. Adelson, just met so many of the
25 criteria that we've been discussing now for months in

1 terms of, you know, I remember us fantasizing about could
2 be attract a Senior DOJ attorney to this work, you know,
3 given that they tend to have the most experience in a
4 non-partisan setting on Voting Rights, and that they tend
5 to have both Section 2 and Section 5, and then I see that
6 he did this New York statewide, which is, you know, we
7 had talked about comparables in some ways about size and
8 diversity, and we have New York Statewide Legislative and
9 Congressional Statewide New York, which I really thought,
10 boy, that's pretty broad experience. And, in addition to
11 - we had talked about submissions of Section 5, review of
12 Section 5, so -- also, in addition, a big plus for me was
13 the experience of this candidate with the Section 203,
14 the Minority Language provisions of the Voting Rights
15 Act, which are very important in California and nobody
16 else highlighted Section 203 in their application, which
17 I think is, again, something that is very important for
18 us. I went ahead and, I mean, I'm not sure whether I
19 should mention this, but when I was doing my own research
20 on these firms, I came across a Powerpoint that his firm
21 had done for the Navajo County Arizona Redistricting,
22 which I will recommend to everybody, it's an outstanding
23 Powerpoint that walks everybody that was dealing with
24 that redistricting, and as their attorney, through all
25 the steps that have to occur, including all the Input

1 Hearings, what you do at the Input Hearings, what
2 information you solicit, and I thought, you know, it was
3 very graphic that this person not only knows sort of the
4 law from a DOJ perspective, but now has worked with
5 clients that are in the same situation we are, of about
6 to go out into the Input process, and is very keen on
7 eliciting public input into the redistricting process.
8 So, I think - I don't know why they didn't get more
9 votes, they were in my top votes, and I would like to see
10 them go forward for an interview.

11 COMMISSIONER DAI: If I voted, they were in my
12 top three, too.

13 COMMISSIONER WARD: I'll back you up on that
14 Commissioner Blanco. They're in my top three, as well,
15 and I had seen that Powerpoint that you speak of and was
16 equally impressed with it. And I think something else to
17 note about them is that there was other DOJ experience in
18 the applicant pool, and I think he is the only DOJ Team
19 Leader that actually had litigation experience and,
20 again, I'm not a lawyer, I've certainly worked with a
21 number of them to know that that is certainly a
22 perspective that's going to be important for us, to have
23 that litigation experience. And, you know, as a general
24 comment for the panel, I don't have any problem with
25 anything in five. I think we cannot be too contemplative

1 on this issue and if we have a strong candidate in a
2 fifth place here that's worthy of an interview, why not?
3 What do we have to lose other than a little bit of time?

4 COMMISSIONER DAI: I would like, hopefully, as
5 the Advisor to the Advisory Committee here, I would like
6 this Committee to consider reducing it down to three or
7 four in light of conflicts, and I actually would love to
8 hear some discussion on some of the other top candidates,
9 specifically with regard to conflicts because, as Mr.
10 Miller pointed out, it is a lot of trouble for these
11 folks to come out here, and if we're going to eliminate
12 them for conflicts, I think we should eliminate them now.

13 CHAIRMAN ANCHETA: Commissioner Ward.

14 COMMISSIONER WARD: Thank you. The only issue I
15 have is, again, being an advisory panel here, and again,
16 you're on the panel at large, I think I would just be
17 leery - it seems like we've done a good job of evaluating
18 these candidates on merit and where there is significant
19 concern, discussing that, and maybe - I just personally
20 don't like the idea of going through that discussion and
21 limiting people away from the full panel, and giving them
22 an opportunity to evaluate those and make those kinds of
23 decisions. It seems like, to me, the purpose was to find
24 the cream of the great crop that we've been given, and
25 move on, and although I agree five interviews is -

1 COMMISSIONER DAI: A lot.

2 COMMISSIONER WARD: -- a lot, but it's consistent
3 with our interview models from the past and I think most
4 of us would agree that that's worked out just about
5 right, so limiting that from what it's been in the past,
6 I think, you know, might be unnecessary.

7 CHAIRMAN ANCHETA: Well, let me chime in because
8 I didn't give this candidate my initial vote, but I'm
9 happy to move him forward. I think, in my own mind, what
10 I was doing, and I mentioned this upfront, I was sort of
11 categorizing some of these applicants and there's no
12 question in my mind that Mr. Adelson is qualified to do
13 it, I was simply ranking - I think if you look at sort of
14 the level of experience relative to some of the other
15 solo or small consulting firm practitioners, that I
16 thought he was not quite as highly ranked as the others,
17 based on the depth of experience, but I'm certainly happy
18 to move him forward for interviewing if other
19 Commissioners want to do that.

20 COMMISSIONER BLANCO: Commissioner Ancheta, could
21 you say more about that? Compared to who did you think
22 he had less experience? I'm just curious. Because I
23 think he had tremendous experience.

24 CHAIRMAN ANCHETA: Oh, I thought Gerald Hebert
25 had more experience. I think Professor Daniels has

1 slightly more, but we could try to quantify that a bit
2 more, but I don't know, it's really nitpicking, I think
3 all three of those applicants have more than sufficient
4 experience to do the job. But, I think, again, in my own
5 sort of internal ranking, I was thinking, well, I've got
6 to kind of make some cuts here, and if I'm going to cut,
7 if I want to maybe take a look at a large firm option,
8 I'm going to have to just pick the top two in that sort
9 of small firm solo category. And, again, I haven't
10 worked out a very thorough sort of one to nine rating, so
11 I have no problem, again, given what's been said - and my
12 own review of the application, that this is certainly a
13 strong applicant.

14 COMMISSIONER DAI: I'm kind of curious if any of
15 the other Commissioners would like to comment on Mr.
16 Hebert since he was also, you know, presumably an
17 independent and a lot of experience, curious why some of
18 you didn't rank him higher.

19 COMMISSIONER BLANCO: I don't know if that's a
20 useful conversation at this point. No, I'm serious, then
21 we sort of - I mean, I think we did our straw poll, you
22 know, we are trying to narrow it down. In fact, I know
23 that we're trying to be really deliberate, I would
24 suggest even now with two out that I would even suggest -
25 I agree with Commissioner Dai, I would like to narrow it

1 down and do sort of a top three with voting preference.
2 But it may be that this Advisory Committee is not
3 comfortable with that, especially since we are an
4 Advisory Committee, and that may be too big a role for
5 us.

6 CHAIRMAN ANCHETA: Okay, Commissioner Ward.

7 COMMISSIONER WARD: Thank you. Just to rehash, I
8 think we had agreed already, right, on four, the panel
9 already made a determination that there was four
10 interviews we had agreed on, and I believe we were just
11 simply trying to determine at this point if we wanted to
12 open it up to a fifth for FCC. If I'm wrong, perhaps I
13 am, but that's where I thought we were at.

14 CHAIRMAN ANCHETA: Other thoughts? Yes,
15 Commissioner Blanco.

16 COMMISSIONER BLANCO: Well, my only concern with
17 that is I didn't quite see it like that, if we had
18 discussed FCC first, it would have been - that one moves
19 forward and Nielson, do we let them in for the fifth.
20 So, I don't think that's really how I would characterize
21 the discussion. I think they have the same number of
22 three choices for them, so I think they're both exactly
23 the same in my mind, it's not whether we let another one
24 in, now that everybody has agreed to have them go
25 forward. So, the real issue for me is whether we narrow

1 it down to four, which is what we said at the beginning,
2 but some people had said five, so whether we try to go
3 down to four, or we even try to go down to three, but at
4 this point, I don't think we're trying to see if we put
5 another one in, in addition to Nielson.

6 CHAIRMAN ANCHETA: Commissioner Dai?

7 COMMISSIONER DAI: Yeah, I think, you know, this
8 is an advisory committee, this is where we have a lot of
9 our legal fire power, so I think if this committee is
10 willing - whether it be conflicts or experience, or
11 whatever, any one of these other criteria, I think it
12 would be useful to try to narrow the pool if this
13 committee feels comfortable doing that.

14 COMMISSIONER FORBES: I'm hoping that the
15 candidates, the applicants, have heard our discussion,
16 are watching our discussion, or at least read it, and
17 will hear our concern about conflicts of interest that we
18 here - that we have expressed, and have been expressed by
19 the public. If I were an applicant and I heard some of
20 these comments, perhaps I would reevaluate whether -- you
21 know, you might invite them, but they may decline to
22 come, having heard what we've had to say. I think the
23 five that we've talked about are all, for the various
24 reasons we've said, people I would like to hear from
25 before I make a paper screen. Whether they choose to

1 come based on the comments that have been made, they may
2 so select out, and I personally would go for that.

3 CHAIRMAN ANCHETA: Well, I'm sensing some
4 agreement, let's make sure. Is the sentiment sort of
5 moving toward simply advancing five, the five that we
6 have - I think we've got it down to five.

7 COMMISSIONER FORBES: Yeah, that's where I am.

8 CHAIRMAN ANCHETA: Okay, I'm in agreement with
9 doing five. Commissioner Blanco, did you -

10 COMMISSIONER BLANCO: No, I just think, I mean, I
11 would be tempted, even if it didn't have an impact, I'd
12 be curious to see what would happen if we did a straw
13 ranked for three. Almost just to get a sense of what,
14 even in reporting back to the Commission, to say, you
15 know, we're going to move five forward, but we want to
16 let you know, when we did the top three, this is how it
17 came out.

18 CHAIRMAN ANCHETA: Okay, Mr. Miller?

19 MR. MILLER: I'm sorry to interrupt this
20 discussion. A couple of thoughts occurred to me and
21 they're related. On Thursday, in a perfect world, we
22 would have this meeting on Thursday where we start in the
23 morning and have more time, unfortunately, we can't start
24 until 3:00 because one of the Commissioners will not be
25 able to come in the morning, so we're starting later in

1 the day at 3:00. With that in mind, with the fact that
2 there's the potential for a discussion of many more
3 factors as they relate to each firm, for example, cost,
4 and the ability to deploy resources in California, and
5 another - I think it's kind of a sleeper, but I think
6 it's worthy of the Commission's thoughts - is lawyers who
7 have worked with either a public or a private Board or
8 Commission before, that it might be useful for the
9 committee to, if you will, vet it's top firms a little
10 bit further in this setting in anticipation of perhaps a
11 little shorter meeting than we might prefer on Thursday.

12 CHAIRMAN ANCHETA: Okay.

13 COMMISSIONER BLANCO: I agree with that. That
14 doesn't mean we don't move them forward, but I think we
15 should discuss maybe the five, maybe with the eye towards
16 narrowing, if nothing else, with the eye towards
17 gathering information for the full Commission and really
18 saying, okay, now let's look at this application and look
19 at everything, the litigation, cost, experience of
20 Commissions, and just really go in depth with each firm,
21 and that way we can maybe help the full Commission do its
22 work on Thursday.

23 CHAIRMAN ANCHETA: Okay, Commissioner Dai?

24 COMMISSIONER DAI: Yeah, I would really endorse
25 that as a non-lawyer representing the rest of the

1 Commission here. It would be really helpful to me if
2 this committee actually went through this matrix for
3 these five candidates and, short of actually ranking
4 them, at least communicating pluses and minuses in each
5 category so that there's a full kind of screen of
6 information for the full Commission to consider, who may
7 feel less confident about ranking them, particularly on
8 some of the legal details, and assessing that experience.

9 CHAIRMAN ANCHETA: Well, I think Commissioner Dai
10 makes a very good point in terms of our building the
11 record for the full Commission for its meeting on Friday.
12 So, a question I might ask, Commissioner Dai, sort of
13 playing the role of the non-committee member, but who
14 certainly - and her input is, of course, welcome. On
15 Friday, let's sort of go forward, let's assume we've
16 tried to narrow it further on Thursday based on your
17 interviews, what would you envision as sort of an ideal
18 set of circumstances for the full Commission to consider
19 in terms of further narrowing? And, again, building a
20 sufficient record for the full Commission? The Committee
21 will meet again on Thursday, I don't have a problem with
22 five, assuming we can fit it in, that is an important
23 consideration.

24 COMMISSIONER DAI: Yeah, when you adjourn at
25 10:00...!

1 CHAIRMAN ANCHETA: Given that other committees
2 are meeting at the same time, not everybody is going to
3 attend our committee meeting, that really Friday is the
4 key day, that if we narrowed our five down to one or two,
5 it may not make a difference if we interview five or
6 three simply because, by Friday, the full Commission gets
7 recommendations. So, I'm curious if you think - I can go
8 either way on this, I'm not feeling strongly about five
9 or three, but three would be better, I guess. To the
10 extent that the full Commission will be looking at this
11 on Friday, where do you think we ought to be by Friday?

12 COMMISSIONER DAI: By Friday, what I would like
13 to see are probably ranked 1, 2 and 3 firms, with a list
14 of pros and cons for each one, you know, certainly cost
15 being a key consideration. I'm sitting here in my
16 capacity as liaison to the Finance and Administration
17 Committee, you know, balanced with obviously all the
18 other considerations. I think Mr. Miller brought up a
19 good point, some of these folks are located on the East
20 Coast, there is an issue of responsiveness and ability to
21 travel. Some of these folks have many other clients,
22 there's a concern about ability to focus and give us the
23 attention that we need. There are a bunch of other
24 considerations that I would hope that this committee has
25 really sussed out for the full Commission.

1 CHAIRMAN ANCHETA: Now, I think we had some
2 discussion about whether the full Commission would be
3 doing any actual interviewing. Do you have any feelings
4 regarding that?

5 COMMISSIONER DAI: My feeling is, especially if
6 you choose to interview five firms, that you're going to
7 have pretty, I hope, solid opinion. I personally would
8 not feel the need to do an interview if I had a
9 confident, unanimous recommendation from this committee.
10 Now, if you are tied and unable to break that tie in the
11 committee, then that would be the only situation where I
12 would feel the need to interview someone again.

13 CHAIRMAN ANCHETA: Other comments from the
14 Commissioners?

15 COMMISSIONER WARD: Again, think that's great
16 input from Commissioner Dai, that's again, that's the
17 normal here - I envision the same kind of thing. My
18 expectation would have been and is of the advisory
19 committee, is a strong recommendation and if there's a
20 split or a recommendation of several, then that's where
21 it comes out on Friday. But in regards to today, again,
22 my understanding is the major objective is to determine
23 who our top choices are of firms that we feel have the
24 capacity to provide the Commission the best legal
25 guidance in this matter and invite them for an interview.

1 And then, at interview, to be able to go ahead and flush
2 out some ranking criteria. Again, I have some suggested
3 criteria by which to evaluate these resumes and things,
4 but as we've seen in almost every staff position so far,
5 where were leaning as a team on paper and what we got in
6 person were often different. And again, because of the
7 importance of this, I realize it's a short day, and it's
8 a bit of an ominous task, but I don't want to arbitrarily
9 just cut our options for expediency on such an important
10 position. Just my thoughts.

11 CHAIRMAN ANCHETA: Okay. Well, Mr. Miller, how
12 much time is allocated for the Committee meeting? You
13 mentioned it starts at 3:00.

14 MR. MILLER: The published time is 3:00 to 6:30,
15 but the meeting is scheduled at the Capitol and we can go
16 later than that.

17 COMMISSIONER DAI: Until close of business. So,
18 like I said, when you end at 10:00, I will expect a fully
19 completed matrix. So, this is just a suggestion. We
20 have the time today, I know that everyone has spent time
21 looking at these paper applications, I happen to be of
22 the opinion that the application does count, that you
23 can't just make it up because you happen to be a good
24 interviewer later. You know, again, I'm a non-lawyer,
25 but one of the applications mentioned there were 52

1 Congressional Districts, I mean, these are just little
2 details that, you know, I would expect from my attorneys
3 some attention to detail. So, these things, to me, do
4 count. I would hope that we could use some of the time
5 today to at least flesh out concerns that we might have
6 with certain applicants, so that these are things that do
7 get flushed out in the interviews.

8 CHAIRMAN ANCHETA: Right. Right, and I agree
9 with that and I think what we should do, because we have
10 allocated the full - we don't have to take - until 5:00
11 necessarily, but I think we should, as Commissioner Dai
12 suggests, raise in discussion of however number - many we
13 actually do move forward, some of the strengths and the
14 weaknesses so that we are - and I don't think we need to
15 have any surprise questions, obviously, just to surprise
16 them, that we flesh out both the interview questions and
17 concerns we have with individual applicants so that, when
18 we do the interviews on Thursday, that it's no secret
19 that these are the issues we're considering and I think,
20 again, as we've gone through them already, there is some
21 indication of what some of the strengths and weaknesses
22 already are. But I guess the major question right now is
23 do we want to try to reduce the number further through
24 some discussions today.

25 COMMISSIONER BLANCO: I think we should do

1 strengths and weaknesses. I think we should do them in
2 detail. I do think that this is - if we were a hiring
3 committee at a workplace, you know, we would do this, and
4 then we would actually even identify questions,
5 particular questions for particular applications that are
6 posed by their application. And I think that's exactly
7 what we need to do for the full Commission because we're
8 going to present something to them and they're not going
9 to have a lot of time, so we really have to do this here
10 today, go through all of these five, discuss them fully,
11 their strengths, weaknesses, the criteria, and even
12 identify questions to ask them at the interview on
13 Thursday, and then we'll have really full report for the
14 Commission that includes both what we've discussed here
15 about the applicants, plus what we derive from the
16 interviews because, otherwise, we won't be able to do the
17 interviews and then get through all our really in-depth
18 discussion of each candidate that the Commissioners are
19 going to need to have.

20 COMMISSIONER DAI: Right.

21 CHAIRMAN ANCHETA: I would agree with that. Why
22 don't we proceed in this way, why don't we - we may take
23 a break in a little bit just for, as Commissioner Dai has
24 used, the "bio break," bathroom break for those of us who
25 use the term "bathroom" -- why don't we proceed in that

1 way and then, again, if as we go through our review we're
2 feeling, well, it's really tough, let's just go to all
3 five, or, let's narrow it down to three, or maybe we're
4 down to two, let's have that discussion, and then, as we
5 sort of start wrapping up on the vetting of each of the
6 five applicants, we will ideally have, I guess, maybe
7 some dropping out of a couple of applicants, but we'll
8 have some confidence that we're moving forward with the
9 right number for interviewing, at least.

10 COMMISSIONER BLANCO: Right.

11 CHAIRMAN ANCHETA: Commissioner Ward.

12 COMMISSIONER WARD: Thank you. It sounds like a
13 fantastic plan, this is a great panel to work with. I
14 just want to put in the point that I think one of the
15 important reasons for me to do the ranking, and then
16 broaden our options for interview is, considering the
17 fact that Commissioner Filkins Webber is not here, you
18 know, who is an attorney who has some expertise in that
19 matter, and helps balance the panel, is not going to be
20 here to be part of those discussions, I think everything
21 - I think our roadmap that you've laid out, Chair, is
22 fantastic, I'm a big fan of that, but when it comes to
23 dissecting these firms and then adding to that a
24 recommendation for whether or not they be interviewed
25 based on that, I think that would be something that I

1 just don't know is a balanced approach considering the
2 make-up of this panel at this time. That would be my -
3 it seems like the criteria and the way we've selected
4 potential interviewees is certainly fair and broad-based,
5 but if we're going to have a discussion on discussion of
6 these proposals and these firms, with which to make a
7 decision, or whether or not to thin the herd or not from
8 where we're at right now, I think that could present a
9 perception of imbalance, again, being that I'm not a
10 lawyer, and I'm sitting in for certainly one with
11 expertise, just something to consider.

12 CHAIRMAN ANCHETA: Well, let me ask, I understand
13 the underlying concern, although I think actually having
14 a non-lawyer on this panel may be an advantage, as well,
15 simply because the Commission is a client, right? And
16 it's a client that's going to be paying money for some
17 real expensive legal help, and in terms of issues of
18 accountability, budgeting, understandability for the non-
19 lawyer, I think it's very valid we have a non-lawyer sort
20 of think, "Well, what does that mean?" You know,
21 Commissioner Blanco and I, in particular, we're very
22 versed in these things and we just don't spout off
23 acronyms and phrases and things like that, I think it's
24 very important to have - and, again, to the extent you
25 represent a part of the full Commission, as well, I think

1 it's real important to have a non-lawyer here, too. But
2 I understand your concerns, I want to acknowledge that.

3 COMMISSIONER DAI: Yeah, and I think we don't
4 need to make that decision now, let's have the discussion
5 first and see where we are, and see where we are after we
6 have the discussion.

7 CHAIRMAN ANCHETA: Okay, is there any member of
8 the public who wants to comment on the discussion so far,
9 otherwise we'll take a short break. Okay -

10 COMMISSIONER BLANCO: Maybe you can recap what
11 we're going to do after the break for everybody?

12 CHAIRMAN ANCHETA: Sure. Well, what we've done
13 so far is we have narrowed our applicant pool down to
14 five applicants and we are very mindful of what we're
15 going to be doing in the next couple of days, both in
16 terms of the follow-up interviews on Thursday, as well as
17 presenting ideally a much smaller list of top candidates
18 to the full Commission on Friday. So, what we are going
19 to try to do, following the break, is have a pretty
20 thorough discussion about each of the applicants, going
21 through strengths and weaknesses, and, again, issues
22 around cost and conflict and other capacity issues, and
23 we shall see if that further narrows it, it may or may
24 not. But at least at that point, I think we'll have a
25 pretty sufficient record in terms of what we are looking

1 for on Thursday, as well as a lot of information for the
2 full Commission on Friday. I'm sorry, is there a member
3 of the public who would like to comment at this point?
4 Sure. Come on up. Anyway, that's sort of the basic
5 outline for the rest of the day.

6 MR. LEE: Good morning again, Commissioners. I
7 wanted to go to the matrix that I think you all are going
8 to look at and I wanted to make a comment on the matrix.
9 First off, I just wanted to voice support for the idea of
10 going through this and trying to flesh these things out
11 for the full Commission to consider, I think that's a
12 really great idea. On the matrix, itself, the second
13 column from the right, "Conflicts," I guess I just wanted
14 to provide some comments on what I think should be
15 important there, and so it's what some of you have talked
16 about already, which is connections with political
17 parties. I guess I would also look at connections with
18 partisan elected officials who played a key role in past
19 redistrictings. And I think just as important as those
20 kinds of political connections are efforts with respect
21 to vindicating or defending against Voting Rights Act
22 claims and also the California Voting Rights Act claims.
23 I mentioned that earlier this morning. And I think this
24 column "Confidence" could probably be more aptly named
25 "Public Trust," so, how do these applicants fare in terms

1 of engendering public trust among California's
2 population, particularly California's diverse segments of
3 the population, segments that historically have been
4 under-represented, and also under-engaged in the
5 redistricting process. And so, from our perspective,
6 it's really important to engender public trust among
7 California's diverse population to ensure participation
8 from those groups that historically have not been
9 particularly involved in redistricting before. And so,
10 with that kind of underlying principle, I would say that
11 looking at applicants' past experience with Voting Rights
12 Act claims is really important and I would make the
13 suggestion that experience in vindicating those sorts of
14 claims be giving priority as something that will help
15 increase public trust among California's diverse
16 population. So, I just wanted to provide those comments.

17 CHAIRMAN ANCHETA: Thank you, Mr. Lee. Are there
18 any additional members of the public who wish to comment
19 at this point? And, again, we'll certainly have other
20 opportunities as we go into our more specific discussions
21 throughout the day. Okay, it is 10:30, why don't we come
22 back at 10:40, take a 10-minute break. Thank you.

23 (Recess at 10:30 a.m.)

24 (Reconvene at 10:46 a.m.)

25 CHAIRMAN ANCHETA: We are back on the record.

1 Again, this is a meeting of the Legal Advisory Committee
2 of the Citizens Redistricting Commission. Just to
3 summarize, we have narrowed our applicant pool down to
4 five applications and we are at this point going to do a
5 pretty in-depth review of each of the five applications.
6 Ideally, we could narrow them; if not, we will simply
7 advance these five for interview. And the other purpose
8 of the discussion today is just to develop a good and
9 solid record for our use on Thursday, as well as for the
10 use of the full Commission on Friday.

11 And, again, we've allocated the full day for
12 this, we will take a lunch break, certainly, and a couple
13 other breaks, but ideally we will wrap up by sometime
14 this afternoon, but we will continue until we are
15 finished with the discussion. Commissioner Blanco.

16 COMMISSIONER BLANCO: The only thing I would say,
17 I think, because Commissioner Ward may feel like he
18 should say it, is that, really, we didn't decide that the
19 purpose of this was to narrow, and then also provide
20 stuff for the Commission, but that, really, the major
21 objective here is to go in depth and prepare the record
22 for the Commission, and if that leads to some narrowing,
23 it leads to some narrowing.

24 CHAIRMAN ANCHETA: It's not necessarily that
25 we're going to narrow it, but it may occur, it may not,

1 but the main thing is to get to discussing that and then
2 to have a good record for the committee's purpose and for
3 the full Commission on Friday. All right, as a person
4 whose last name starts with "A," I'm always willing to go
5 out of order, but we can do that, or just go randomly,
6 either way. I always hated alphabetical order as a
7 child, and I usually do as an adult, but we can do that
8 if we want to, that's fine.

9 COMMISSIONER BLANCO: So, is that an "F" or an
10 "A?"

11 CHAIRMAN ANCHETA: Well, nobody starts with "A,"
12 so I think we'll go with the official names since a
13 number of the applicants are individuals, but they are
14 doing - either they're set up as limited corporations or
15 dba's, doing business as, so it looks like "F" would come
16 first, anyway, but regardless. So why don't we start
17 with Federal Compliance Consulting. Again, Mr. Adelson
18 is the - I hope I'm pronouncing that correctly - Mr.
19 Adelson is the head of that firm. Would anyone care to
20 start the discussion? We went through various criteria
21 that we have on our grid, we can maybe just start with
22 general impression and strengths and weaknesses? I'm not
23 bound to anything, in particular. Commissioner Dai.

24 COMMISSIONER DAI: I feel like we've done the
25 general impressions already. I would like to actually

1 start filling in this matrix.

2 COMMISSIONER BLANCO: Yes.

3 CHAIRMAN ANCHETA: Okay, so shall we just go
4 ahead with some of the various criteria that are listed
5 on our grid here? And, again, do members of the public
6 have - is that available to the members of the public at
7 this point? I can summarize if this - is this on the
8 Web?

9 MS. SARGIS: It's on the Web and there are
10 copies.

11 CHAIRMAN ANCHETA: And we do have copies, okay,
12 very good. And as we go along, I'll simply highlight
13 which criteria we are looking at. Okay, so just taking
14 it in order, we have - can I suggest we flip columns 1
15 and 2 because I would actually like to look at Voting
16 Rights Act experience first and then look at
17 redistricting experience, and the reason I think that's
18 distinct is because a number of firms may have been
19 involved in litigation, or in compliance if they were
20 affiliated with the Justice Department, but that can
21 happen pretty much any time in terms of litigation, so
22 it's not necessarily tied to redistricting, but certainly
23 it is helpful to have redistricting experience. But, as
24 the public knows, this is every 10 years or so, for the
25 most part, so I'd like to start with relevant VRA

1 experience in Section 2 and Section 5.

2 COMMISSIONER FORBES: Well, I'm ready to jump
3 into that one because one of the primary reasons why this
4 candidate was on my list was that comment, for example,
5 during the 2000 Redistricting Cycle, Bruce was the DOJ's
6 Team Leader for Section 5 review of the City Council
7 plans for New York City, and Phoenix, Arizona's
8 Congressional and legislative redistricting plans. I
9 mean, that to me was right - it could not be more on
10 point of what we want to have done in the Voting Rights
11 Act, so that was - so I gave him a high rating based on
12 that.

13 CHAIRMAN ANCHETA: Right, and so the public
14 knows, this is not a competitive bid, by the way, there
15 is an exception within the law regarding State
16 contracting that applies to attorneys and legal services,
17 so we're not doing a competitive bid, and we're not doing
18 sort of a formal ranking that one might see with a
19 competitive bid process. We do have a set of criteria
20 that we're trying to work with and, no doubt, there will
21 be ranking or maybe trying to think along the lines of
22 points, but we're not going into sort of formal point
23 systems, so that the public is aware that this is not
24 quite as regimented as the competitive bid contracting
25 process. I just wanted to throw that in there so folks

1 would be aware of it.

2 COMMISSIONER FORBES: That was my basic comment
3 on the Voting Rights - it could not be more on point to
4 me.

5 COMMISSIONER BLANCO: Uh huh.

6 CHAIRMAN ANCHETA: Do other Commissioners want to
7 chime in? At least on Voting Rights Act experience?

8 COMMISSIONER WARD: I noted it earlier under kind
9 of the matrix that talks about litigation experience and,
10 again, I think it's worthy just to note the second time
11 that he brings, as a DOJ Team Leader, litigation
12 experience along with that, and I do believe he was the
13 only candidate that brought that to the table, so
14 certainly that's noteworthy.

15 CHAIRMAN ANCHETA: Now, just a comment, not
16 specific necessarily to this candidate, but because we do
17 have a couple of candidates who are former DOJ attorneys,
18 and that, unless they did subsequent litigation while
19 they were in private practice, some of their experiences
20 are going to be different from the typical firm, or
21 attorney, who has been in private practice, so that, for
22 example, a Section 5 review by the Department of Justice
23 is a certain kind of experience where you're looking at
24 the application, you're looking at the law, the
25 regulations, you're trying to look at the facts, you may

1 be working with some experts to determine whether
2 particular change in the law should be pre-cleared,
3 whether there's a retrogression, which is one of the
4 legal standards for Section 5. That's a little different
5 - and it can be different from what one might see if one
6 were going to be litigating a case, or bringing some sort
7 of court action, even though, again, the Justice
8 Department does litigate cases, certainly, Section 5 and
9 Section 2, on occasion, so compliance work, no less
10 important, certainly, but is going to be different from
11 what we might see with a firm who is litigating. But I
12 think he has a lot of very relevant experience,
13 certainly, in terms of having been a DOJ attorney.

14 COMMISSIONER BLANCO: I just wanted to point out
15 that, further on in his application, in addition to doing
16 the DOJ legal work, which includes the type of litigation
17 and certification that you described, if you look at page
18 11, when he was in private practice from '88 to '93, he
19 has done Federal trial and Appellate Court practice, and
20 jury and bench trials, and some of the cases are quite
21 complex, they're not Voting Rights, but they're clergy
22 malpractice, and a case of first impression, financial
23 fraud, legal malpractice and defect litigation, those are
24 - to me, that's complex litigation that has its own -
25 that even though it's not Voting Rights, the kind of

1 complexity in terms of analysis you have do financial and
2 discovery and appearing in court, so I think that he has
3 a lot of litigation experience, more than other
4 candidates, even though it's not in the Voting Rights
5 context. You know, it's been a while, that's true. So,
6 it's not recent and maybe some other candidates have more
7 recent, but I wanted to point out that his litigation
8 experience does go beyond DOJ litigation experience. The
9 working with public and private Boards and Commissions, I
10 wanted to talk about this application in terms of that.
11 I think, in reading this, when you see his training and
12 technical assistance, you know, it's not necessarily
13 boards and commissions, but you see that he's dealt with
14 State Election Directors, District and County attorneys,
15 associations, Airport Authorities, you know, tribes,
16 different - various tribes, Department of Transportation
17 in Maryland, Transit Authority, so you get the sense that
18 this is a person that does understand public entities
19 very well, both at a local level and at a State level,
20 and I'm not sure how much at a Federal level, except DOJ,
21 which is Federal, of course. So, my thought, especially
22 after looking at his Powerpoint that he did for the
23 Navajo Redistricting, that -

24 CHAIRMAN ANCHETA: That something that was
25 available online or -

1 COMMISSIONER BLANCO: I think he has a link to it
2 because I think that's how I got it, I'm not sure. Do
3 you remember?

4 CHAIRMAN ANCHETA: And that would be available on
5 the Commission's website, there may be an active link, or
6 at least some indication of what that is.

7 COMMISSIONER BLANCO: Yeah, when I looked at
8 that, I thought, this is a person, like I indicated
9 earlier, that in terms of - so I talked about working
10 with public boards, in terms of meetings with
11 commissions, consultants, and communities, I was very
12 impressed with the roadmap he laid out for one particular
13 redistricting that included all the meetings, what they
14 were going to look like, exactly the kind of work that
15 we've been wanting to have somebody tell us what the
16 attorney does in this, in this process that we're about
17 to engage in. Cost? I think the cost - my sense from
18 looking at the other applications - so was it \$2,000 -
19 not to exceed, which I liked, I liked the *not to exceed*
20 language - and it's hopeful that it would be less, and it
21 seemed comparable to the other applications, that didn't
22 seem out of the range of other folks. And his travel
23 was, I thought, very reasonable, and average with others
24 and lower than others that we received, so I thought in
25 terms of cost for us, it was competitive in the sense

1 that it's not out of the range of the other applications.

2 COMMISSIONER WARD: Can I make a comment on cost
3 real quick? Just before -

4 CHAIRMAN ANCHETA: Commissioner Ward.

5 COMMISSIONER WARD: I just want to note that his
6 fees were in line, it did seem, but he did stipulate on
7 this public meetings a three-hour timeframe for that, and
8 I just wanted to make note of that.

9 COMMISSIONER BLANCO: Yeah.

10 COMMISSIONER WARD: Line item thereafter.

11 CHAIRMAN ANCHETA: So that was an assumption that
12 he stated, no meeting would last more than three hours,
13 and that's the dollar figure he quoted.

14 COMMISSIONER DAI: But he was also included prep
15 time in that.

16 CHAIRMAN ANCHETA: Right.

17 COMMISSIONER BLANCO: The main concern, and this
18 is what I would really want to focus on in the interview
19 with this candidate, is his capacity as a sole
20 practitioner, you know, to do this. And it appears that
21 he has other clients right now, he lists on page 5 that
22 he's going to be representing Gila County, Navajo, Pinal,
23 Greenlee, Graham, Mojave, and mostly tribal districts and
24 mainly in Arizona, so I don't know how much time that
25 takes, but that's a question I had in terms of both does

1 he have a staff - you know, how is he going to staff a
2 California project and his other current clients for the
3 redistricting? So, that's really - everything else for
4 me was outstanding, but I am concerned about capacity.

5 CHAIRMAN ANCHETA: Other Commissioners?

6 COMMISSIONER FORBES: I just want to add, I was
7 [inaudible] my comments to Voting Rights Act, but
8 capacity was the issue, was an issue for me. But other
9 than that, I thought it was across the board an excellent
10 application.

11 CHAIRMAN ANCHETA: Commissioner Dai?

12 COMMISSIONER DAI: Yeah, I liked also that he has
13 this extensive training experience and got good ratings
14 on that, I mean, again, speaking as a non-lawyer who
15 wants someone who can explain things to me well, so to me
16 that was a plus.

17 CHAIRMAN ANCHETA: Commissioner Ward.

18 COMMISSIONER WARD: I thank Commissioner Blanco
19 for that thorough input, great things to think about, and
20 I agree with the capacity concern, and in the interview
21 we would want to know if that's why he wanted to limit
22 the three-hour public meetings, being that, again, when
23 you consider travel, [inaudible], how available he is
24 going to be to the Commission's needs.

25 CHAIRMAN ANCHETA: And I agree with all the

1 concerns that have been stated, as well as both the very
2 strong degree of experience that the candidate has. You
3 know, one thing that we might want to think about moving
4 forward, and this is for the full Commission, as well, is
5 we have a general sense of what we would like and what we
6 think we need from the Voting Rights Attorney, but I
7 think as we're moving forward, and so by Friday, this
8 should be part of the discussion, as we're getting pretty
9 clear on what the time commitments will be, and I think
10 particularly when we're dealing with anyone who is out-
11 of-state, that there's a very clear sense of what could
12 be done out-of-state and what would be essential for
13 anyone that we retain to be obligated to do. So, for
14 example, there may be certain meetings that they have to
15 be there, whether it's Input Hearings, or Business
16 Meetings, or various discussions where we're actually
17 reviewing, whether it's Section 5, or Section 2, a
18 potential Section 2 types of districts, that our attorney
19 is with us, not by phone, or being contacted by e-mail,
20 so I think that's something we should be asking anybody
21 who is out of the - actually, out of Sacramento to some
22 extent, to know what your ability to be with us
23 physically in terms of meetings and other types of
24 meetings that we might have. But, I agree, this is a
25 very strong candidate, has a lot of very close

1 experience, doesn't have as much - again, to the extent
2 that someone has sort of entered the private sector, may
3 not have as much sort of recent Voting Rights Act
4 litigation experience, but I wouldn't consider that a
5 liability, necessarily. He has a very good record, I
6 think, in terms of - again, I think it's going to come
7 out of the interview, but that appears to have a very
8 good record working with public bodies and as a trainer,
9 which I think will be very useful in terms of advising
10 the Commission as a whole, so I think that would be a
11 great asset to us. And, again, I agree that the
12 underlying concern is regarding capacity and, again,
13 anybody who is sort of a solo, I would be very careful
14 about asking what their other time commitments are and
15 what they'll be able to bring to us as the State of
16 California's body. Any additional comments on this
17 candidate?

18 COMMISSIONER DAI: Just to note that there are no
19 conflicts of interest.

20 COMMISSIONER BLANCO: Yeah.

21 CHAIRMAN ANCHETA: Right, okay. Are there any
22 members of the public that would care to comment on the
23 application of the Federal Compliance Consulting? And,
24 again, this is LLC, Limited Liability Corporation, so the
25 attorney and CEO is Bruce Adelson. Is there any public

1 comment at this point on this application? And we'll
2 probably have a summary opportunity at the end, but if
3 anyone wants to come up, we're happy to take your comment
4 at this point, and just limit it to this particular
5 application at this point.

6 MR. LEE: I wanted to follow-up on the comment I
7 made earlier about really looking at the degree to which
8 applicants promote public trust in the Commission's
9 process, and I think this applicant, Federal Compliance
10 Consulting, he scores very well in that area. As a
11 former DOJ attorney, he is the sort of applicant, or his
12 firm is the sort of applicant that kind of lets people
13 know he's got experience in carefully measuring questions
14 of VRA compliance and has judiciously used the
15 Government's resources in pursuing VRA enforcement claims
16 when necessary, and has experience in indicating those
17 sorts of claims, and so, I think for those reasons I
18 would say his firm does pretty well in that area, very
19 well in that area.

20 CHAIRMAN ANCHETA: Okay, thank you, Mr. Lee. Are
21 there any other public comments at this time? Seeing
22 none -

23 COMMISSIONER FORBES: Commissioner Ancheta, can I
24 just -

25 CHAIRMAN ANCHETA: Go ahead.

1 COMMISSIONER FORBES: Just for a question on
2 Thursday, and maybe just a one question that deals with
3 capacity, in his Statement of Qualifications, he says he
4 will be the principal attorney, spending time, but that
5 implies that there could be others, so the question is,
6 are there others? Or is that just the way the language
7 came out.

8 CHAIRMAN ANCHETA: Okay. Yeah, I think that's a
9 very relevant question to ask any of the smaller
10 candidates, do you have the current capacity for - do you
11 have other attorneys, or will you be able to take on
12 additional capacity to provide the services? Anything
13 else on this candidate? Okay, so let's move on to GRD
14 Consulting and this is -

15 COMMISSIONER DAI: Actually, do we want to do
16 Gibson, Dunn?

17 CHAIRMAN ANCHETA: Oh, I'm sorry, you're right.
18 I had them at the bottom of my list and they are
19 alphabetically earlier. Okay, so Gibson, Dunn &
20 Crutcher.

21 COMMISSIONER BLANCO: Commissioner Ancheta?
22 Before we start this conversation, in keeping with our
23 disclosure --

24 CHAIRMAN ANCHETA: Sure.

25 COMMISSIONER BLANCO: -- requirements. I know

1 Mr. Brown well, he - when I was the Executive Director of
2 the Lawyers Committee for Civil Rights, he served on the
3 Board of Directors, and so he was my boss. And he had -
4 was co-counsel on cases that I had the ultimate authority
5 that I approved, and had the authority to settle as
6 Executive Director at the Lawyers Committee, and he
7 mentioned some of those cases in his file.

8 CHAIRMAN ANCHETA: Okay, so the Lawyers Committee
9 for Civil Rights in San Francisco was co-counsel on
10 Sanchez vs. City of Modesto, is that correct?

11 COMMISSIONER BLANCO: He worked with the Lawyers
12 Committee on the Sanchez v. City of Modesto when I was
13 there. I think the Madera School District case was after
14 I left, I'm not sure, and there was another - I thought
15 there was another case, but maybe he didn't work on it.
16 I thought he had done a case with us in Merced about -

17 CHAIRMAN ANCHETA: And that may simply not have
18 been highlighted as that location -

19 COMMISSIONER BLANCO: Yeah, I thought he had done
20 a Merced case at the Lawyer's Committee that was also a
21 Voting Rights case, but I do know him and, in fact, when
22 we were asked to go out and drum up candidates, I called
23 Mr. Brown and told him how exciting a position this was
24 and that I thought, given his experience, he should
25 apply. So, I just wanted to disclose that.

1 CHAIRMAN ANCHETA: Okay, and just for clarity
2 sake, you are, of course, no longer affiliated with the
3 Lawyers Committee for Civil Rights. Do you know if Mr.
4 Brown is actually still on the Board?

5 COMMISSIONER BLANCO: He is the Chair of the
6 Board now.

7 CHAIRMAN ANCHETA: He still is the Chair.

8 COMMISSIONER BLANCO: And I'm no longer
9 affiliated with them, I'm not on their membership and I'm
10 not affiliated, but you know, I have worked with him and
11 I do know him. And I should say that it was a work
12 relationship and I don't think it impairs my ability to
13 be fair and unbiased. If anything, I think I might be
14 able to help the Commission with some insights about him
15 and his qualities. I don't know the other member of the
16 team he's proposing to work with.

17 CHAIRMAN ANCHETA: Okay. Do any of the
18 Commissioners have any questions about the disclosure by
19 Commissioner Blanco? Okay, so we're open for comments.

20 COMMISSIONER DAI: Let me make a few kind of
21 preliminary comments. So, this was the application that
22 noted that there were 52 Congressional Districts, so to
23 me that's an attention to detail thing that I would
24 expect from a large firm, that they would have plenty of
25 people to double-check those kinds of things. Having

1 said that, I liked the fact that you might say this firm
2 has kind of taken a bipartisan approach in their
3 selection of attorneys. I think that Mr. Brown clearly
4 has extensive experience representing minority groups and
5 defending the California Voting Rights Act, has done
6 those racially polarized voting and was very involved
7 with drafting Prop. 11 and Prop. 20, plus the predecessor
8 Proposition 77 that failed, but has clearly strong
9 Republican ties. I like the fact that they recognize
10 that this was an opportunity for public service on the
11 fees part, so those are a couple of my comments.

12 CHAIRMAN ANCHETA: Other Commissioners?

13 COMMISSIONER FORBES: I just have one comment on
14 the fee structure, and then I'll have others, as well,
15 but it was a minus for me that they don't give you a
16 number, that "you have to pick us first, and then we'll
17 figure out how much we're going to charge you." I mean,
18 that was troublesome to me.

19 MR. MILLER: Mr. Ancheta, if I might.

20 CHAIRMAN ANCHETA: Sure, Mr. Miller.

21 MR. MILLER: I noticed that, obviously, as well
22 in the review and did call Mr. Brown to see if they could
23 elucidate us a little bit further on that and obviously
24 can't speak for the firm, but in the discussion he
25 indicated that he had done some more work on the issue

1 and, while this is preliminary in all respects, their
2 firm structure is similar from the perspective of the
3 other large firms represented and that a partner at his
4 level, Mr. Kolkey's level, would typically bill at about
5 \$800 an hour or higher, and the number suggested was
6 about \$500 for this work.

7 CHAIRMAN ANCHETA: Was it your sense that there
8 would be a proportion reduction in, say, less senior
9 partners or associates?

10 MR. MILLER: We actually did not address that
11 issue.

12 CHAIRMAN ANCHETA: Okay, well, that's certainly
13 helpful information. But I share that concern, too, that
14 we don't have at least some ballpark figures on the full
15 range of services and, again, I think a number of the
16 other firms have indicated this senior partner level, you
17 know, partner, and associate level fees, and whether they
18 can reduce or not, which this firm has not given us too
19 much detail on.

20 COMMISSIONER WARD: May I just add?

21 CHAIRMAN ANCHETA: Go ahead.

22 COMMISSIONER WARD: Understanding that \$500 per
23 hour addition, and I can add some question regarding what
24 other fees and travel and hearings, and all the other
25 information. One caveat they had on there was that, any

1 fee proposal would have to be approved by their
2 Management Committee, and I'm just - going to be a non-
3 lawyer - was concerned as to what that means. Maybe
4 there's a standard explanation, but I'm not aware of what
5 that is.

6 CHAIRMAN ANCHETA: Well, it's a big, yeah, I
7 mean, and Mr. Miller can chime in, but it's a big firm
8 and they're in business, and whenever there is certainly
9 either a reduction in fee, or possibly pro bono activity,
10 you want to know how much money the firm is going to
11 make, and I think like any business they can adjust their
12 fees as appropriate for a particular client, but they
13 have standard fees that they bill at, and if they're
14 going to reduce it, that has an impact on the whole firm,
15 and typically the way larger firms will work, there will
16 be a managing partner or a managing committee that sit on
17 top of a lot of these questions across - because these
18 are very very big firms, you know, hundreds of lawyers,
19 and that's sort of the oversight committee in terms of
20 that question. Again, presumably this is a pretty
21 significant job for the firm and they want to know, well
22 - there has to be somebody in the management that is
23 saying, "Okay, that's fine, we trust you," or, "That's
24 not going to work for us, you need to kind of negotiate
25 back with the client to do something different." But

1 it's going to represent the internal decision-making
2 structure of a large firm.

3 COMMISSIONER WARD: Should there be an interview?
4 Is that information that we would expect them to have a
5 committed idea, a fee structure?

6 COMMISSIONER FORBES: Well, I would think they
7 need to speak to it. I mean, because, and this is
8 something maybe we can come up with a number, or we can
9 look at the other applications and see - I mean, \$500.00
10 an hour in and of itself doesn't mean a thing unless you
11 know the hour multiple. And so, what are other firms
12 estimating? What do we estimate the amount of time it's
13 going to take? And then we can multiply by \$500
14 ourselves and come up with our own gross number.

15 CHAIRMAN ANCHETA: Right, and that's partly our
16 responsibility - a lot of it is our responsibility, too,
17 because we need to decide, well, we have X number of
18 dollars, now we have budgeted that, we can go up to that
19 if we need to exceed it because we really need to get
20 certain products or advice done, we can face that as it
21 comes by, but I think we - and I'm glad Commissioner Dai
22 is here, as well, because I don't always remember all the
23 numbers we had in the budget, but it's really important
24 that we are sticking to that budget. And a number of
25 these firms - well, all of them - they come at cost.

1 COMMISSIONER FORBES: I mean, it's all fine and
2 good to say that the Management Committee has to approve
3 it, but I do not like - we pick you, everybody else go
4 home, and all of a sudden the Management Committee says
5 now, then we are in a hard place.

6 CHAIRMAN ANCHETA: Right.

7 COMMISSIONER FORBES: And that's a place I don't
8 know that we can go.

9 CHAIRMAN ANCHETA: That's a very good point. And
10 this is very helpful, this is exactly why we like you to
11 speak up on these issues because, again, you represent a
12 sector of a large - actually, a majority of the
13 Commission, and being a non-attorney, so that's very
14 helpful. Hmm? Oh, no, members of the full Commission.
15 On the Committee, we have a majority of lawyers, but on
16 the full Commission, most, thank goodness, are not all
17 lawyers. Okay, other comments on Gibson, Dunn?

18 COMMISSIONER BLANCO: Well, I'm just - I'm going
19 to be methodical on all of these.

20 COMMISSIONER DAI: Yes, please.

21 COMMISSIONER BLANCO: So, in terms of starting
22 with the Voting Rights experience, Section 2 and 5,
23 between the two attorneys that are presenting themselves
24 here as members of the team, Mr. Brown and Mr. Kolkey,
25 they do have that experience. I want to say a little bit

1 about Mr. Brown's experience, and he talks about it, so
2 it's not just my personal knowledge, it's on the
3 application. California has a Voting Rights Act that was
4 passed, I don't know, five or six, I can't remember how
5 many years ago, but in the last decade, that in many many
6 regards tracks the Federal Voting Rights Act. It has
7 some variations, which I don't want to bore you with the
8 details -

9 CHAIRMAN ANCHETA: And just for clarification, it
10 should not apply to our work because it's really only
11 applies to the local government, but just in case you're
12 wondering, where did that law come from, but it isn't
13 directly applicable to the Commission.

14 COMMISSIONER BLANCO: Right. But because it's
15 one of those situations in the law where two statutes are
16 parallel to each other and modeled - one is modeled after
17 another - Mr. Brown's litigation has been in that arena,
18 with the California Voting Rights Act. But the work that
19 you do in terms of analyzing whether an electoral
20 district violates Section 2 is the same as under Section
21 2 of the Voting Right Act, you have to look at the impact
22 on minority representation. As he describes, he's had to
23 do numerous racial polarization analysis for the cases
24 because he's been on the plaintiff's side where you're
25 alleging that a particular configuration violates Section

1 2, and so he has to do a racial polarization analysis.
2 The difference are in the remedies between the two
3 statutes. So, I think his experience qualifies there. I
4 want to interject because of my knowledge, that I think
5 Mr. Brown is extremely sharp lawyer, I mean, he's - I've
6 worked with him and in terms - his demeanor is very calm,
7 he's very deliberate, very knowledgeable, very soothing,
8 he is, I mean, he's that kind of person that would really
9 work well in a team. And then, Mr. Kolkey's experience
10 is more directly Federal experience. So, I think they
11 comply with that part and also with the redistricting
12 experience, particularly Mr. Kolkey, not so much Mr.
13 Brown. Litigation experience, the same. I think both
14 members of the team have extensive litigation experience,
15 and recent, which is important. Working with public and
16 private boards and commissions, I didn't see as much in
17 here as maybe others did, as I've seen with some of the
18 other people that we have in the pool, so I don't know
19 with either column, working with public or private
20 boards, or training, and that kind of stuff that we
21 talked about with the other candidate, ability to train
22 and interact with the public, and hearings. I don't know
23 that they've done a lot of that public hearing or
24 Commission work. So, I don't know, I think their past
25 experience kind of outweighs that, and their litigation

1 experience definitely outweighs that. So, I don't really
2 think they have that. In terms of conflicts, I think
3 that we got public comment verbally and I was just going
4 online to see if we'd received any written public
5 comment, and it was the same one that was read earlier,
6 about Mr. Kolkey as having represented - well, one,
7 within the past 10 years, he's been Associate Member of a
8 Central Committee of the California Republican Party, and
9 for Commissioners, that would have been an automatic
10 disqualifier, it actually states Central Committees of
11 the State. And I think it's something in the perception
12 column that could be quite controversial, was that the
13 firm itself, Ted Olson is an attorney with the firm and
14 was the attorney in the Gore v. Bush - was the lead
15 attorney in the Gore v. Bush case and that's not Mr.
16 Kolkey, but it is the firm and he's a partner in the
17 firm, and that might engender some, you know, if we go on
18 this trust model vs. direct conflict, which are sort of
19 two different ideas that I think have been helpfully
20 interjected by the public. I think there might be some
21 issues around both Mr. - I'm not rambling, I'm trying to
22 find the section - Mr. Kolkey represented the Arizona
23 House of Representatives and that was the Republican
24 House, and in fact, the Court eventually rejected the
25 Republican plans that were drawn there for Congress. And

1 he has represented Republican Governors when
2 redistricting plans have gone from the Legislature up to
3 the Governor, he's been represented - not Democratic
4 Governors, but rather Republican Governors. On the flip
5 side, he was an Appellate Judge, which I think speaks
6 highly of his ability to be impartial and that's a strict
7 review that I think the judicial, you know, when Judges
8 are nominated, that's always something they look for in
9 the qualifications, and obviously he's passed, and did
10 serve as an Appellate Judge, so I think that kind of
11 mitigates potentially some of the bias concerns.

12 CHAIRMAN ANCHETA: Commissioner Ward.

13 COMMISSIONER WARD: Yeah, I just wanted to add
14 that I thought equally that -- this was my second choice
15 when I ranked them, I felt that, considering those
16 conflicts of interest, that this firm demonstrated that
17 they played kind of all sides of the field, you know, in
18 representation, and it was noteworthy that - I believe it
19 was Kolkey if I recall right, was a principal drafter of
20 Prop. 20 and a drafter since then of Prop. 11, so again,
21 definitely something to consider and, again, considering
22 public comment being that they've worked with leading
23 Voting Rights advocates and I think the racial
24 polarization experience is, again, experience that is
25 relevant to what we are looking for.

1 CHAIRMAN ANCHETA: Other comments? I'll chime in
2 in a minute, but other comments? Okay, and I'm not going
3 to hold it against Mr. Kolkey that he advanced the
4 deadline to August 15th.

5 COMMISSIONER DAI: Oh, yeah!

6 CHAIRMAN ANCHETA: They forgot to update the
7 three-day notice in the last month, but that's okay. I
8 hear - again, I think it's not quite as deep in terms of
9 Voting Rights experience, and certainly, I think it's
10 comparable to the California VRA as having very similar
11 legal requirements and in terms of litigation and working
12 with expert witnesses, I think it's directly relevant.
13 And, again, it's not quite as deep as what we might see in
14 other applicants, but I think it's certainly strong
15 experience. And, again, I think it's very interesting
16 that you do have -- at least the primary attorneys that
17 are listed are not necessarily mirror images, but sort of
18 complement each other in terms of both background and
19 work on plaintiff vs. defendant side, Mr. Kolkey, of
20 course, has a number of different sort of experiences
21 related to - and it is an issue in terms of conflict, in
22 terms of working with Republicans, but it's certainly not
23 an automatic disqualifier and I want to explore some of
24 that more thoroughly if we're going to move the firm
25 forward. But I think it presents an interesting balance,

1 I think, in terms of having both of the lead attorneys
2 having somewhat different backgrounds. Again, I share
3 some of the concerns about whether the ties to the
4 Republican Party are so strong that they might be
5 disqualified, but I'm not at this point willing to say
6 "don't come in for an interview." I tend to rank this
7 firm somewhere in the middle, however, not necessarily
8 close to the top because, again, the depth of experience
9 is not quite the same as others, but I think there come a
10 number of advantages with working with a large firm, not
11 the least of which is basically a round the clock service
12 when you need them, that's one of the advantages of a
13 large firm, and when there were very tight deadlines,
14 they can get the work done, I have no question about
15 that, or no lack of confidence in that ability. But,
16 again, I think I share both the merits of the
17 applications as well as some of the concerns about
18 potential conflicts. Other thoughts? I'm not quite
19 going through every point, but I think Commissioner
20 Blanco covered them fairly well in terms of each of our
21 criteria.

22 No additional Commissioner Comments? Okay,
23 another opportunity for the public to comment on this
24 application, it's for Gibson, Dunn and Crutcher. Please
25 come up.

1 MR. LEE: Commissioners, I want to make a couple
2 comments with respect to this applicant. I wanted to
3 start off with Mr. Kolkey and, as Commissioner Blanco
4 pointed out, if the Committee or the Commission were to
5 apply their conflicts provisions in Prop. 11 to Mr.
6 Kolkey, he would be conflicted out because of his
7 election to State Office within the past 10 years and
8 also his membership in a Party Central Committee within
9 the past 10 years. And so I just, you know, I think
10 that's worth noting in terms of the question of public
11 trust in the Commission's process. The conflicts policy
12 that the Commission has adopted gives the Commission the
13 discretion to apply these conflicts and, if the
14 Commission were not to apply these conflicts, then that
15 would be a conscious choice not to. I think that the
16 parallel situation to Nielson, Merksamer is a little bit
17 different in the sense that Ms. Leoni is the lead
18 attorney, or would be the lead attorney for Nielson,
19 Merksamer, and she would be conflicted out in the same
20 manner as Mr. Kolkey would be if the Commission applied
21 the conflicts to all applicants. But with Nielson,
22 Merksamer, if Ms. Leoni were firewalled out of
23 involvement, that seems to raise the question of the
24 service that the firm would provide, given that she was
25 contemplated to be the lead attorney and, as their

1 application states, involved in 100 percent of the work
2 that the firm would do for the Commission. Whereas, in
3 this instance, it's a little bit different if Mr. Kolkey
4 were to be firewalled out, but Gibson, Dunn were to
5 continue doing work for the Commission. The Gibson, Dunn
6 application doesn't quite spell out the percentage
7 breakdown for allocation of work among the attorneys, but
8 one can just kind of look at the numbers and, if Mr.
9 Kolkey were firewalled out, there would still be three
10 members of the Gibson, Dunn team who would be working for
11 the Commission. I wanted to address your question of
12 perceived partisan balance and I actually don't think
13 that's an issue here if Mr. Kolkey were conflicted or
14 were firewalled out. I don't think there's a perception
15 that the remainder of the Gibson, Dunn team would be
16 partisan imbalanced. The work that Mr. Brown and the two
17 associates have done in vindicating California Voting
18 Rights Act claims, I don't see that as partisan work at
19 all. I want to be very careful not to conflate
20 partisanship with pro-VRA work, or pro-California Voting
21 Rights Act work, or work to advance electoral
22 opportunities for underrepresented communities. And so,
23 if Mr. Kolkey were conflicted out, I don't think that
24 creates any partisan imbalance.

25 And so, I guess the last comment I want to make

1 is to raise the suggestion that perhaps the Commission
2 might want to go back to Gibson, Dunn and ask if they
3 would be willing to render service without Mr. Kolkey as
4 part of the team, given that the remainder team seems
5 very capable, has done a lot of work around racially
6 polarized voting, as was previously mentioned by the
7 Commissioners here today, and has done a lot of work to
8 try to promote equal opportunities for underrepresented
9 communities, though as I was sitting in the audience,
10 that struck me as an interesting possibility that the
11 Commission may want to consider.

12 COMMISSIONER FORBES: Can I ask you a follow-up
13 question?

14 MR. LEE: Yes.

15 COMMISSIONER FORBES: So you are equating Ms.
16 Leoni's current - being a registered lobbyist - with the
17 fact that Mr. Kolkey was in the Subcommittee within the
18 last 10 years?

19 MR. LEE: That's right, and both would constitute
20 conflicts under Prop. 11, the same conflicts that apply
21 to the Commission's selection process, those conflicts
22 included being a registered lobbyist within the past 10
23 years -

24 COMMISSIONER FORBES: Right.

25 MR. LEE: -- or being elected to state office, or

1 being a member of a party Central Committee. And so, I
2 think you're asking -

3 COMMISSIONER FORBES: My point is, and I haven't
4 decided where I'm coming down on this, is that one is a
5 current active lobbyist role, the other is something - I
6 don't know how long ago it was, but it was a while ago,
7 so, granted - and since we do have the discretion,
8 apparently, of the ability to decide how these things
9 play out, I just wanted to get your reactions to whether
10 they were equivalent if something happened 10 years ago,
11 equivalent to some things happening today, and that's
12 what I'm pondering.

13 MR. LEE: Uh huh. That's a good question, I'm
14 not sure I'm prepared to answer.

15 COMMISSIONER FORBES: Right, that's just the
16 response I have and to the committee members, you know,
17 is whether we're talking apples and apples or something
18 else is going on. Thank you.

19 CHAIRMAN ANCHETA: Thank you, Mr. Lee. I think,
20 you know, Commissioner Forbes raises a very good point,
21 which is, in looking at the conflict of interest policy,
22 and at our last full Commission meeting we had some
23 discussion about this, and the formal policy that we're
24 adopting is, at least for staff, is basically not as
25 rigid as the Voters First Act requirements for Commission

1 members, but it's a really good question, which is, well,
2 if we're going to stray from that a little bit, how far
3 could we stray or want to stray.

4 COMMISSIONER FORBES: Right.

5 CHAIRMAN ANCHETA: I still want to reserve that
6 for some discussion.

7 COMMISSIONER FORBES: Right, exactly.

8 CHAIRMAN ANCHETA: Not right now, but I think
9 it's a very very good point to raise. Any other comments
10 on the Gibson, Dunn application? Okay, shall we move on
11 to - now we have GRD Consultants, so this is Professor
12 Gilda Daniels. I'll disclose something, but I don't
13 think it's that big - I met and I've been on a panel with
14 Professor Daniels, I think, a long time ago, a year ago,
15 I was on a panel at Indiana University in Indianapolis,
16 we were on a panel on Election Administration. I
17 presented a paper, I think she was moderating, and I
18 think we may have met on some other occasions, but that's
19 about it - FYI, not a major connection, obviously.

20 COMMISSIONER FORBES: The couple of things that I
21 have - I'll just jump in there - I can't tell from the
22 application the extent to which she has litigation
23 experience. She said she has some, but I can't tell how
24 much. A second concern I have is her ability to respond.
25 With another job and being on the East Coast, the ability

1 to actual service our meetings, I have a concern about
2 that. Also, I don't know that she - that I can tell from
3 her application, and maybe I missed it, but that she has
4 had as much experience working with the public and
5 private boards. So, just some of the comments that I
6 wanted to make.

7 CHAIRMAN ANCHETA: Other comments at this point?
8 Well, and this goes to the VRA experience, I agree that
9 it's not entirely clear from her application, although we
10 might be able to infer a few things just given her
11 position, but I'm not sure, given her position which was
12 Deputy Chief, which is a senior position within the
13 Voting Section, I don't have any doubt she was
14 supervising a lot of litigation.

15 COMMISSIONER BLANCO: Was or wasn't?

16 CHAIRMAN ANCHETA: Would have been supervising.

17 COMMISSIONER BLANCO: Oh, she would have been,
18 okay.

19 CHAIRMAN ANCHETA: But, having said that, there's
20 really close supervision, then there's really sort of
21 being on top of a case and being the chief litigator vs.
22 "I'm doing a lot of other stuff, including managing this
23 department and that department, and I'm delegating a lot
24 of responsibility to my line attorneys to litigate the
25 cases." So, I'm not clear based on the application

1 whether it's the former, or the latter, or some
2 combination of things. Again, I'm assuming, certainly in
3 terms of knowledge and expertise, she would be able - she
4 has quite a lot of experience in terms of that, but in
5 terms of direct litigation experience, it's not entirely
6 clear from the application what she did as the Deputy
7 Chief and to what extent she had control over - I suspect
8 she had a fair amount of control over the dockets in the
9 sense that she had a fair amount of say subject to the
10 chief's approval of whether certain cases would go
11 forward or not. But, again, whether she's sort of deep
12 in doing depositions and working on pleadings, and
13 various elements of litigation, I'm not entirely clear.

14 COMMISSIONER BLANCO: Can I say something about
15 that?

16 CHAIRMAN ANCHETA: Yeah.

17 COMMISSIONER BLANCO: So, I was very very
18 impressed with this application for a variety of reasons,
19 but just on the question of what - I'll do my little
20 methodical thing later - somebody's got to do it -

21 CHAIRMAN ANCHETA: Well, we're waiting for you to
22 do it.

23 COMMISSIONER BLANCO: But in looking at the
24 resume, which is Attachment A on page 8, so as Deputy
25 Chief, she states that she directed all phases of

1 discovery and conducted settlement negotiations and that
2 she supervised the attorneys. If you go down one to her
3 tenure at the Lawyers Committee for Civil Rights under
4 the Law Voting Rights Project, it states that she
5 litigated violations of the Voting Rights Act,
6 particularly Section 2 cases, and the National Voter
7 Registration Act, at both the Federal trial and Appellate
8 levels, so - and then highlights that by saying that she
9 conducted all phases of discovery and negotiated
10 agreements. So, my sense is, if she didn't do it as
11 Deputy Chief, she was definitely doing it in her time at
12 the Lawyers Committee and, in fact, argued cases --

13 CHAIRMAN ANCHETA: And prior - prior - because
14 she -

15 COMMISSIONER BLANCO: Then I get back - and you
16 keep going to her first tour of duty at DOJ and she does
17 say that she litigated the cases, did the discovery, and
18 that she argued several cases in the Federal District
19 Court, so I think this person has tremendous Voting
20 Rights Litigation discovery, etc. So, I'm not concerned
21 at all about her litigation, in fact, I think she may be
22 one of the ones with the most litigation if you include
23 discovery, which, as having worked in a nonprofit as
24 opposed to a big firm, when you work at a nonprofit like
25 she has, you do your own discovery, you do your own

1 litigation, you do your own interrogatories, you prepare
2 your arguments, which is not necessarily always the case
3 with big firms, and partners, you know, there's a
4 different level of hands on litigation experience and,
5 so, without knowing the details, it's very possible that,
6 because of where she's practiced that she has the most
7 litigation direct hands-on litigation experience of other
8 than, say, FCC counsel, that as compared to the big
9 firms, she might have more. I'm not sure about that, but
10 it's there for -

11 CHAIRMAN ANCHETA: I ranked her close to the top
12 in terms of my - at least in that criteria. I guess the
13 one question I had was I'm assuming that there was some
14 work done around the 2000 Redistricting cycle, it's not
15 highlighted as far as I could tell, in particular. But
16 I'm assuming, particularly just to Section 5 reviews,
17 that she was involved in that.

18 COMMISSIONER BLANCO: That's what I'm assuming,
19 that she's at DOJ at that time if you look at the
20 timeline, and that she was reviewing a lot of the
21 redistricting plans that came before - which is
22 incredibly helpful -

23 COMMISSIONER DAI: That was when she was Deputy
24 Chief.

25 COMMISSIONER BLANCO: Yeah, which is very

1 helpful. That means that all the redistricting - we
2 should ask her that.

3 CHAIRMAN ANCHETA: Yeah.

4 COMMISSIONER BLANCO: But all the redistricting
5 plans that had Section 5, that were in the Section 5
6 state, it looks like her division would have been
7 reviewing those. So, that would be something to ask, but
8 I'm sort of assuming that, that she did all redistricting
9 reviews. So, in terms of redistricting experience, like
10 you say, it may not be the same as with the folks that
11 actually were hired as attorneys by particular - by
12 Republican Caucus, or by the Democratic Assembly Members,
13 in this or that state, to do the work as attorneys, but
14 she did it possibly in the review process. It's a
15 different participation in the redistricting process,
16 which I like, the fact that the participation was more of
17 a reviewing the redistricting plans, rather than -
18 although both give you tremendous insight into how it's
19 done. I don't know, as I think you indicated, or maybe
20 somebody else did, how much she's done in terms of public
21 boards and commissions, I do see a lot of panels and - by
22 the way, there is a litigation -- on page 10, she has all
23 her - a partial list of cases that she's been involved
24 in, it's quite lengthy. She has participated on a lot of
25 panels and I sort of - that's not quite training, but

1 it's a little bit like that. And the cost, I thought,
2 was in line with the other applications, it's 200, which
3 is pretty similar, \$200,000, and she says "should not
4 exceed," but that she thinks it could be less. So,
5 again, I think that's up to us to kind of begin to really
6 narrow that down somewhat for people. And her travel was
7 lower, her estimate for the travel expenses was lower.
8 Finally, I would say that the one thing, of course, that
9 does concern me, and I like the fact that she cited very
10 recent cases around the Voting Rights Act, like the most
11 recent Section 5 case, etc. My concern, of course, is
12 that she's on the East Coast. I don't know if she could
13 take a leave from teaching. I would explore that with
14 her, whether she could and whether she could move out
15 here for the duration of the work if she took a leave.
16 So, I would want to really really explore that with her.
17 Finally, I think it would be really great to have a
18 woman, she's the only - well, that's not true, Leoni
19 also, but it would be great to have a woman of color on
20 the team, of both the staff team and also on this sort of
21 redistricting team. But we have good diversity in our
22 candidates as it is, but that was a nice thing to see.
23 And we had talked a lot about Professors, and here we
24 are, DOJ and Professor! So, that was a plus for me.

25 CHAIRMAN ANCHETA: Other comments?

1 COMMISSIONER BLANCO: And no conflicts.

2 CHAIRMAN ANCHETA : Commissioner Ward.

3 COMMISSIONER WARD: Again, great candidate, I
4 think across the board she scored high with all of us, I
5 believe, so I think that speaks to the strength of her
6 application and I do share the concern of capacity. A
7 lawyer once said that "big firms are big for a reason,"
8 they can handle a lot of clients, and I think that's a
9 valid concern that I definitely would want to explore in
10 an interview.

11 CHAIRMAN ANCHETA: Yeah, and I concur on all the
12 remarks stated so far, that, again, and standing level of
13 experience with the VRA, but can you do the job,
14 basically. I mean, I'm assuming she has her summer off,
15 but I'm also assuming that she has some teaching to do
16 over the next month or so, but I think we should just ask
17 her that. And what her capacity is, given - and I'm not
18 clear exactly what other work she is doing, so that would
19 be something important to sort of flesh out, whether
20 there's any additional capacity problems that may arise
21 because of other clients she's dealing with.

22 COMMISSIONER DAI: So, I just wanted to also
23 comment that she was Deputy Chief under both Clinton and
24 Bush Administration, which I thought was great. She also
25 mentioned Section 2 or 3, the Minority - and also another

1 section that I wasn't even familiar with, 208, which you
2 guys may know.

3 CHAIRMAN ANCHETA: Yeah, I'll tell what that is
4 in a second.

5 COMMISSIONER DAI: Yeah, I mean, I just got a
6 sense she had incredibly deep experience in terms of
7 exactly what we need, in terms of VRA experience. In
8 terms of working with boards, and I thought maybe the
9 Commissioners, you guys, could answer this. I mean, she
10 was working with a nonprofit, so I think that by
11 definition she would have had experience working with
12 boards, so that would be my comment on that. And then,
13 as a teacher, you would expect she has some experience
14 explaining things, so...

15 CHAIRMAN ANCHETA: We hope so.

16 COMMISSIONER BLANCO: Let's see her evaluations.

17 CHAIRMAN ANCHETA: Right. Yeah, and Section 208
18 is a section of the Voting Rights Act that has to do with
19 folks who need help voting and the right they have to
20 bring in a personal assistor, and it's typically
21 involving someone who might have a disability or it's
22 also used very often for individuals who are limited or
23 non-English speaking, and they can bring someone to help
24 them read the ballot. Again, it's not directly
25 applicable to the Commission's work, but it's an

1 important part of the law.

2 Okay, any other Commissioner comments before we
3 take public comment? Okay, I'm not sure if Mr. Lee is
4 coming up after - do we have any public comment at this
5 time? There will be opportunities at the end, as well,
6 if you want to formulate some additional comments. Oh,
7 come on up.

8 MR. LEE: Commissioners, I wanted to make two
9 comments, the first is I think this applicant is similar
10 to Federal Compliance Consulting, LLC, does very well in
11 terms of engendering trust among California's population
12 given her work at the DOJ Voting Section, as well as her
13 work at the Lawyers Committee for Civil Rights, doing
14 Voting Rights work to provide equal opportunities for
15 underrepresented communities.

16 The second comment was, I wasn't sure if I got
17 this all right, but it seemed like there was some
18 question about the depth of her experience during the
19 actual redistricting process and I think that - I would
20 say, based on her cover letter, which I think that the
21 Commissioners may not have looked at quite as closely as
22 her resume and her Statement of Qualifications, but her
23 cover letter does talk about her having been involved
24 with Section 5 submissions and Section 2 investigations
25 during the 2000 redistricting. And, you know, certainly

1 it would be good to talk to her about that experience,
2 but I think that, at least on its face, her application
3 demonstrates that she does have that kind of experience
4 in case there was any question about that. Thank you.

5 CHAIRMAN ANCHETA: All right, thank you. Any
6 additional public comments at this time? Okay, let me
7 just ask Commissioners what we might want to do. We've
8 gotten three out of the five done, it's about ten to 12,
9 is there a preference either for a lunch break, or to
10 continue on at this point? Any preferences?

11 COMMISSIONER WARD: I'm a fan of pushing forward
12 with the clause of a bio break.

13 COMMISSIONER FORBES: Sure, keep going.

14 COMMISSIONER BLANCO: Yeah.

15 CHAIRMAN ANCHETA: We might be able to get
16 through all five, actually, depending on how we're doing.
17 Okay, Munger, Tolles & Olson - I'm sorry, Commissioner
18 Ward.

19 COMMISSIONER WARD: I had a clause, the bio
20 break?

21 CHAIRMAN ANCHETA: Oh, I'm sorry, you did want to
22 take a bio break. All right, let's take a 10-minute
23 break, so this is just a break until noon and we'll
24 resume at noon.

25 (Recess at 11:51 a.m.)

1 (Reconvene at 12:00 p.m.)

2 CHAIRMAN ANCHETA: Okay, we're back on. This is
3 the Legal Advisory Committee of the Citizens
4 Redistricting Commission. We are reviewing our top five
5 applicants for the Voting Rights Act Attorney position.
6 We are now on Munger, Tolles & Olson. Does everyone have
7 their files in front of them?

8 COMMISSIONER DAI: Yeah, and they weren't on my
9 short list, and the main reason, and this might just be
10 being the non-lawyer, again, but I saw a lot of
11 background on election law and public finance, I just
12 didn't see anything on Voting Rights Act experience, so
13 for that reason, they were not on my short list.

14 CHAIRMAN ANCHETA: Yeah, that was my concern. I
15 think I just added them on as a fifth, but I didn't
16 really - they didn't make my top four. I think they have
17 extensive election law experience, but generally some of
18 the cases that they cite to had Voting Rights Act claims;
19 it's not entirely clear that they worked on the voting
20 Rights Act claims, themselves, so, for that reason, I
21 thought they just ranked lower. Again, there is, I
22 think, a lot of litigation experience, they bring again -
23 they've added to - this is one of the largest firms in
24 Los Angeles, again, a lot of very strong general election
25 law experience, particularly on campaign financing and

1 other sort of related issues, Constitutional issues. But
2 I simply didn't rank them that high because of what I saw
3 as an absence of directly relevant experience under the
4 Voting Rights Act.

5 COMMISSIONER FORBES: That is my biggest concern
6 about them is their lack of Voting Rights Act experience
7 and, if we interview them, I think that is the question
8 they have to address. The rest of their stuff, they've
9 got plenty of capacity, but I'm just not sure that
10 they've got the good VRA experience that we need.

11 CHAIRMAN ANCHETA: Okay. Well, for those who
12 didn't vote in their favor, would someone care to speak
13 to - at least on the Voting Rights, and we are going
14 through the criteria here, so does anyone want to speak
15 to the Voting Rights?

16 COMMISSIONER FORBES: Well, they were on my list
17 because of their extensive election experience with
18 really heavy hitters in the election area, but I did so
19 recognizing that there was less Voting Rights.

20 CHAIRMAN ANCHETA: Okay. Commissioner Ward.

21 COMMISSIONER WARD: I can only speak for myself,
22 I know that Commissioner Filkins Webber had them highly
23 rated on her list. For myself --

24 COMMISSIONER DAI: Really?

25 COMMISSIONER WARD: -- yeah, I believe they were

1 ranked number 3, as I recall, on her list. I don't know
2 why. I mean, I don't know her rationale behind that.
3 For me, though, again, I thought their election law
4 experience speaks well to their capabilities and
5 experience, and I strikingly remember about them that,
6 being counsel for the plaintiffs in Common Cause, having
7 worked with Common Cause and kind of their broad field of
8 clientele. They certainly seem to, again, play all sides
9 of the field and expertly so, so I just thought, again,
10 their experience and their impact was striking.

11 CHAIRMAN ANCHETA: Commissioner Blanco, do you
12 have any comments?

13 COMMISSIONER BLANCO: Yeah, again, I'm going to
14 disclose that I know Mr. Phillips and I haven't worked
15 with him directly, but I've co-counseled with his firm
16 many times when they were doing pro bono work for both
17 MALDEF and the Lawyers Committee. So, you know, I don't
18 think it disqualifies me. I think it does actually give
19 me a little insight I could share with you. I had not
20 included them in my top because of the lack of Voting
21 Rights Act - direct Voting Rights Act experience and I
22 knew that we had other people in the pool who did. If we
23 had not had other highly qualified people in the pool
24 with Voting Rights experience, I would have included them
25 for the following reason. Besides these sort of election

1 law work that they've done, they've done a lot of
2 Constitutional law and I know that from this application
3 and also just knowing the firm's pro bono work, and a lot
4 of the cases that we're going to be dealing with, the
5 Bartlett case, you know, a lot of cases that everybody
6 cites here, are actually equal protection cases where a
7 district has challenged for under Equal Protection
8 Constitutional grounds that it favors - that it's a
9 unconstitutionally, racially based district under the
10 Equal Protection clause. And so, a lot of the analysis
11 actually under Voting Rights Act is Constitutional. I
12 mean, in voting litigation, it's actually Constitutional
13 litigation, and I do know - and he discusses the fact -
14 that he has Constitutional law experience. So, you know,
15 again, if we didn't have depth of Voting Rights, I would
16 say that they're high up because of their Constitutional
17 law experience, which does matter here. Where it gets
18 complicated is that, in anticipating sort of Section 2-
19 type challenges, where somebody says you should have
20 maximized voters, all that, that really is Section 2;
21 whereas, when you sue because of a [quote unquote]
22 "racial gerrymandering," then you're looking at a
23 Constitutional claim. So, that's a lot of legalese, I'm
24 sorry, but I mean, they do have that Constitutional
25 expertise. Brad Phillips is highly highly regarded as an

1 attorney in California, I mean, by everybody. And the
2 firm is a very highly regarded firm and they do excellent
3 work. When they do something pro bono, I can say that
4 they treat you as if you were a paying client, all the
5 resources, all the time. I've worked with attorneys
6 there that have gone to the California Supreme Court on
7 civil rights cases, so I think it's a very good firm and
8 with a good public-minded group of lawyers and management
9 team, if you want to put it that way. Their management
10 team, I think, has encouraged that culture in the firm.
11 And I don't see any conflicts, which is really helpful.
12 But there is this issue, you know - and I would ask that
13 we put them in the pool - it does say that there was an
14 Equal Protection and Voting Rights challenge that they
15 did to the use of pre-scored punch cards, and I don't
16 know what that challenge was under - what kind of Voting
17 Rights challenge that was, under what section of the
18 Voting Rights Act. I can see that the first one is an
19 equal protection, but I can't tell what the Voting Rights
20 is. On cost, they give their normal billable hours
21 which, you know, just always amaze me, it makes me wonder
22 why I went into nonprofit law, but it is a substantial
23 reduction, the \$250.00 an hour, and, again, we would have
24 to really do our own math and figure out how many hours
25 we would need, but anybody who knows this knows that's an

1 incredible reduction in rate for these attorneys that
2 bill very high, especially Brad - Mr. Phillips. I don't
3 - it looks like they advise clients, I don't know that
4 they - well, they did work on the L.A. School Board
5 Electoral District Lights, which is interesting. So I
6 guess the Professor was on the Commission and they worked
7 with him, so that's some Commission work and some
8 electoral district line work, if you look at page 4. So,
9 that's - I feel they're reasonable on the cost, I don't
10 see conflicts. I think they have a large firm capacity
11 and, as we discussed, and I know with my experience with
12 them, they really made you feel available even if they
13 were working at a discounted rate, and I think what we
14 should really explore is what was that line redistricting
15 experience and, also, how do they think their
16 Constitutional law - how would they get up to speed on
17 Section 2, how quickly? And how do they feel their
18 Constitutional Law experience is applicable to our work?
19 And what is the litigation experience I saw in there?

20 COMMISSIONER FORBES: With your knowledge of the
21 firm, we have this thing, the trust factor, what is your
22 sense on the trust factor as far as you have in
23 background?

24 COMMISSIONER BLANCO: My sense is that they would
25 be very high trust. The firm is mainly L.A. and San

1 Francisco, and I'm more familiar with San Francisco pro
2 bono work, but I do know that they do that also in L.A.
3 and I think there's a sense that they have always stepped
4 up to sort of the public's need, like you can see with
5 all the election stuff, and campaign finance, and I know
6 that I worked with them on Civil Rights issues. I think
7 there is a sense that they are a firm that hasn't really
8 been a firm that's worked for parties. They may be a
9 corporate firm, they have corporate clients, of course,
10 and they are a for-profit, and all that, and on and on,
11 but where they have gotten involved in the political
12 process, it hasn't been for partisan groups, but rather
13 for the public. That's my sense.

14 COMMISSIONER DAI: Commissioner Ward, I just
15 wanted to clarify Commissioner Filkins Webber's rankings
16 because I had five from her and it did not include
17 Munger, Tolles & Olson, and I just wanted to clarify. I
18 know you've read them twice already, but I had GRD
19 Consulting, Hebert, Nielson, Merksamer, White & Case, and
20 Gibson, Dunn are the ones I have for her.

21 COMMISSIONER WARD: Okay, I think - I didn't
22 follow your list, but I was right, it was her third
23 choice and it was marked as such on the tally sheet. If
24 you'd like to reiterate those, they were Nielson,
25 Merksamer & Leoni, Gibson, Dunn, Munger, Tolles, White &

1 Case, and Gilda Daniels.

2 CHAIRMAN ANCHETA: And those are the - from my
3 notes, those are the five I had.

4 COMMISSIONER DAI: Thank you.

5 COMMISSIONER WARD: I'm sure on the conflicts of
6 interest laws, if their last point is just kind of a
7 standard statement, or if that is something that the
8 panel would want to further define, to read it, it says,
9 "Other attorneys and employees at our firm, or members of
10 their immediate families, may have conflicts of interest
11 as described in Government Code 8252 or subsection (4) of
12 Section 6 of the RFI.

13 COMMISSIONER BLANCO: Where is it? I'm sorry.

14 CHAIRMAN ANCHETA: Page 5 -

15 COMMISSIONER DAI: Conflicts of Interest.

16 CHAIRMAN ANCHETA: -- Item 4, Conflicts of
17 Interest, last paragraph.

18 COMMISSIONER BLANCO: Okay.

19 CHAIRMAN ANCHETA: Well, I think that's sort of a
20 catchall, which I think is good to have, you know, there
21 may have been some other conflicts, but, as with any
22 large entity, there might be somebody in there who could
23 present a potential conflict. I'm assuming they haven't
24 done an investigation of the whole firm to see if there's
25 a conflict, and they put that in there for that reason.

1 And on the other hand, they probably would firewall
2 anybody else who was listed here, so there wouldn't be a
3 conflict -

4 COMMISSIONER WARD: It was my assumption, I just
5 didn't know if that's something we need to put on the
6 question list or not.

7 COMMISSIONER BLANCO: We should ask them. I
8 think it's partly standard and perhaps not. They're a
9 very well known firm in L.A. for - just getting involved
10 with their public life, so I think they may have people
11 in the firm that have gone in and out of government.

12 CHAIRMAN ANCHETA: Yeah, and there may be
13 litigation against the State of California that's not
14 listed here.

15 COMMISSIONER BLANCO: Yeah. So, I think it's a
16 catchall, but they are a pretty high profile firm that
17 gets involved in a lot of issues, so I wouldn't be
18 surprised if they have firm members that have been Judges
19 and elected and all those kinds of things.

20 CHAIRMAN ANCHETA: Yeah, I think if we're going
21 to advance them, that's certainly something we'd want to
22 ask because, again, and they do mention, at least with
23 regard to Mr. Phillips, some specific areas where he had
24 represented clients, and does represent clients, that are
25 basically adverse to either the State itself, or a State

1 agency.

2 CHAIRMAN BLANCO: Uh huh.

3 CHAIRMAN ANCHETA: Other thoughts? Also, I just
4 didn't rank them as high. And if we're drawing a cut, I
5 have no problem taking them off the list.

6 COMMISSIONER DAI: I would tend to agree. I
7 mean, it sounds like they're a solid law firm, but they
8 lack the direct experience that we need, and I don't want
9 to be the part of building experience on the resume
10 client at this point in time.

11 CHAIRMAN ANCHETA: Yeah, that's my biggest
12 concern. I have no doubt they can get up to speed, but I
13 don't want someone to have to get up to speed, I want
14 someone who is already at speed to advise us as quickly
15 as we need them.

16 COMMISSIONER BLANCO: Yeah, I'd be willing, I
17 mean, I respect them highly and I've done a lot of work
18 with them, but I actually had them as a no. And then
19 when we said we had to go to five candidates, I put them
20 in, but they were not in my top three because of the lack
21 of Voting Rights Act experience, so they were not in my
22 top three.

23 COMMISSIONER DAI: Me neither.

24 CHAIRMAN ANCHETA: Is there any strong sentiment
25 regarding keeping them at this point?

1 COMMISSIONER FORBES: No. I think that five,
2 although the firm pedigree is terrific.

3 CHAIRMAN ANCHETA: Absolutely.

4 COMMISSIONER FORBES: That the absence of the
5 Voting Rights - I kept looking for it. And the pedigree
6 is what made the cut, initially, and I would think the
7 absence of the Voting Rights Act is, in all honestly, I
8 don't know that I could vote in the last analysis for
9 someone who had to learn Voting Rights -

10 COMMISSIONER DAI: Right, and I think we need to
11 be conscious that, you know, if this is really going to
12 be a waste of their time, too, you know, you don't want
13 to drag them through it.

14 COMMISSIONER WARD: I think - I can't speak for
15 Commissioner Filkins Webber, but I feel comfortable in
16 saying that, being that her first two choices are
17 represented in the pool, still, she would be amicable.

18 CHAIRMAN ANCHETA: Okay. All right, any further
19 comments by the Commissioners?

20 COMMISSIONER BLANCO: Are we going to -

21 CHAIRMAN ANCHETA: No, I'm going to get some
22 public comments on this first.

23 COMMISSIONER BLANCO: Yeah, okay.

24 CHAIRMAN ANCHETA: So, there weren't any
25 additional - okay, so if there are members of the public

1 that would care to comment on this applicant, please come
2 forward. No? Okay, we have no public comment.

3 You know, in terms of decision-making, committee
4 decision-making, do we pass motions or simply make - how
5 are we acting as a body in terms of -

6 COMMISSIONER DAI: You're making recommendations,
7 so this would just be part of your recommendation.

8 CHAIRMAN ANCHETA: So no motion required?

9 COMMISSIONER DAI: Wasn't it delegated to this
10 committee that you would choose who to interview?

11 CHAIRMAN ANCHETA: I mean, we can have a final
12 motion at the end of the day saying these are the four,
13 or three, whatever.

14 MR. MILLER: Just for the neatness in that this
15 first stage is all within the committee, you are making
16 your own determination as to who you would wish to invite
17 to come on Thursday, then, certainly following that
18 meeting, you want to direct a motion with final
19 recommendations at the full Commission.

20 CHAIRMAN ANCHETA: Okay. So why don't we just
21 save that for the end, simply have a motion to recommend
22 the applicants to move forward. Okay.

23 So, we had Nielson Merksamer and no [inaudible],
24 of course, on the remaining partners - I'm just cutting
25 it short - first two.

1 COMMISSIONER DAI: So, for me, I know that we had
2 a bit of a discussion on this firm already. I personally
3 have no argument with the experience of the folks
4 involved at the firm here, however, I do think this
5 particular firm for me presented kind of the most
6 troubling conflicts questions, so I would invite my
7 fellow Commissioners who are actually on the committee to
8 discuss that further.

9 CHAIRMAN ANCHETA: Commissioner Ward.

10 COMMISSIONER WARD: Thank you. Is Commissioner
11 Blanco - were you going to take us through the -

12 COMMISSIONER BLANCO: Okay.

13 CHAIRMAN ANCHETA: I would support that.

14 COMMISSIONER BLANCO: All right. I'll just say
15 that they only got my vote, again, because we pushed for
16 five and I had only three people I was willing to push
17 forward even to the interview, and they were not among
18 them, so that's why I think at some point it would have
19 been interesting to see how many are in there, just that
20 are in there, as opposed to where they were ranked
21 because - anyway, so I think there's no question on the
22 first two parts of the chart, of the grid in terms of
23 extensive redistricting experience, Congressional, State,
24 large jurisdictions, small jurisdictions, school boards,
25 water districts, etc., and Section 2 and Section 5

1 experience, that that part of our - what are we calling
2 it? The RFI - our request. On working with public
3 boards and commissions, the same, especially more than
4 any of the other firms, this is one that works at a very
5 local level with cities and counties and water boards,
6 again, and actually advises them before they do things
7 about what to do or when they're planning to do
8 something, and it looks like they engage constantly with
9 public entities, so I think they rank highly there. I am
10 a little concerned on the capacity because - somebody
11 will have to help me with this, but I got the - so I
12 thought that they might be doing work again on
13 redistricting. Did other people see that, that they are
14 going to be -

15 CHAIRMAN ANCHETA: Well, under Exhibit 2 -

16 COMMISSIONER BLANCO: Oh, there it is, yes.

17 CHAIRMAN ANCHETA: It doesn't tell the depth of
18 experience, but this is a lot of clients.

19 COMMISSIONER BLANCO: Right. So yeah, that's
20 exactly - that's what I was looking for. I commented on
21 this earlier. So, in terms of capacity, I don't mean
22 that to mean skill or capability, but if we have a
23 proposal for basically two team members, no, three, I
24 guess we have three team members, that's a lot of
25 existing clients, particularly around redistricting.

1 These aren't clients for other matters, but you know,
2 going forward with the redistricting. I do have a
3 question about over-extension and what quality, or how
4 much time would we get from them, given their extensive
5 other commitments. So, I am concerned about other
6 commitments. And the cost proposal, just to go back to
7 it, I thought it was high, it was - let me get to that
8 section.

9 COMMISSIONER FORBES: \$65,000 to \$75 -

10 COMMISSIONER BLANCO: Where was it? What page?

11 Oh, here we go, the last page. So, it was \$30,000 per
12 month which, on its face, that is sort of - well, five
13 months, that's \$150,000, that's within the range, but I
14 was concerned with two things, the attendance and travel
15 to the location for the meetings, they priced at between
16 \$5,000 and \$7,500, whereas we had other people pricing it
17 at \$2,000.

18 CHAIRMAN ANCHETA: Although I think their
19 assumptions were different because I think some of those
20 earlier ones had three-hour meetings vs. eight hours.

21 COMMISSIONER BLANCO: There were some that were
22 still at \$2,000.

23 CHAIRMAN ANCHETA: At least they say it
24 explicitly when they're talking about eight hours.

25 COMMISSIONER BLANCO: Yeah. But I do think we

1 have other ones that are lower. But that's a good
2 question to ask of all the candidates, "How did you do
3 your travel estimate?" And then I was concerned with
4 this last item that said "this fixed fee," so it's fixed,
5 it looks like this is fixed, everything here. We'd have
6 to ask how much of it is negotiable because they do say
7 it's fixed. But it says it would not include racially
8 polarized voting analysis or legal analysis of the same,
9 and I wasn't sure why they would pull out - well, I do
10 know why, because it's very time consuming and the legal
11 analysis of polarized voting - and that would be billed
12 at the normal hourly rates in addition to expert fees. I
13 think expert fees is something we have to - we'll do our
14 own expert fees. So, I'm not worried about the expert
15 fees. But now we're back at hourly rate and, in
16 addition, for the legal analysis, I think that could run
17 really high, so I think the \$150 might be more like - I'm
18 just guessing here - but it might be more like \$250. And
19 I'm concerned why that's not included in the original
20 fees.

21 CHAIRMAN ANCHETA: Yeah, I was quite puzzled by
22 that because, actually, I think that's one of the major
23 responsibilities of the Voting Rights Act counsel, which
24 is they're not going to do any kind of statistical
25 analysis or review of the literature, but they need to

1 advise the Commission on whether the statistical analyses
2 are sufficient to, say, create a possible Section 2
3 violation, or they're not, and I saw that as core to the
4 job, so I was very curious about why that was broken out
5 that way and I think if they're going to do it this way,
6 I think the cost could be pretty significant.

7 COMMISSIONER BLANCO: Pretty high.

8 COMMISSIONER FORBES: I think another thing, I
9 mean, I think something I was troubled by was that they
10 contemplate - the \$30,000 was contemplated based on 60
11 hours a month work, that's a \$500 an hour fee, that's on
12 the previous page.

13 COMMISSIONER BLANCO: Oh, uh huh, so that's
14 \$500.00.

15 COMMISSIONER FORBES: Sixty hours a week will
16 hardly cover our meetings - I mean, our Outreach
17 Meetings, let alone anything else. Also, you know, two
18 paragraphs above that, it says the legal services
19 specified do not contemplate advice or assistance
20 considering a pre-clearance submission, which I'm
21 assuming we're going to have.

22 COMMISSIONER BLANCO: Wow.

23 CHAIRMAN ANCHETA: I think that's something we'll
24 have to discuss, too, because I know - and Mr. Miller
25 might be able to correct me on this, but I think - is it

1 the State Attorney General's Office that is going to be
2 handling it? Or maybe the Secretary of State's Office
3 has been handling other pre-clearance applications, but -
4 and I think we need to figure out who is actually going
5 to do that - but I think you're right.

6 COMMISSIONER FORBES: An awful lot of big pieces
7 got cut out what the bill is.

8 CHAIRMAN ANCHETA: You're right.

9 COMMISSIONER BLANCO: Yeah.

10 COMMISSIONER FORBES: I mean, essentially this is
11 how the lawyers sit there while you have your Outreach
12 Meetings, that's what this is about. I mean -

13 COMMISSIONER DAI: They have the most term -

14 COMMISSIONER FORBES: It's not this, it's not
15 this, it's not this, it's not this.

16 CHAIRMAN ANCHETA: Yeah, so my biggest concerns
17 were around the conflicts and the fee questions. I think
18 in terms of relevant VRA experience, obviously they're
19 doing defense side and have been advising a number of
20 jurisdictions -

21 COMMISSIONER BLANCO: I wasn't finished with my
22 chart.

23 CHAIRMAN ANCHETA: Oh, I'm sorry. I thought you
24 got all the way down the -

25 COMMISSIONER BLANCO: No, I did -

1 CHAIRMAN ANCHETA: Forgive me, forgive me. Well,
2 anyway, that's as far as I need to say, anyway, but I
3 think, like everybody else, they've got tons of
4 experience on the defense side.

5 COMMISSIONER BLANCO: So, I do want to talk about
6 the conflicts issue. I think I mentioned it before I put
7 it back in the pool, which is I am, again, concerned - I
8 know that somebody mentioned the fact that Ms. Leoni
9 could be perhaps firewalled, but I am concerned that the
10 firm itself is a lobbying firm, and a lobbying firm in
11 California, and that means you lobby the Legislature,
12 which means they have extensive relationships with
13 elected officials, and who pay them to lobby. And so
14 there's a financial relationship between members, I mean,
15 they're not paid to - the electeds don't pay, but they're
16 paid to lobby electeds, and so they have a lot of
17 relationships. And I know that one of the things we were
18 asked extensively about was, I mean, even in the
19 interviews, when we said we knew somebody, they would
20 say, "How well do you know that Legislator? How often
21 have you worked with them? What did you do with them?"
22 And when the entire firm is a lobbying firm, I worry
23 about being too enmeshed with elected officials here in
24 Sacramento. And so that's a concern for me, and then Ms.
25 Leoni's personal status as a registered lobbyist is of

1 concern, and she lobbies on school board issues, she
2 talks about it, I think - I'm trying to find where she
3 describes that, that she actually -

4 COMMISSIONER DAI: It's on page 12.

5 COMMISSIONER BLANCO: -- page 12 - oh, right.
6 So, she's been registered doing school district boundary
7 matters before the School Board of Education on very
8 occasion with the Legislature. "I was last registered to
9 lobby in 2008." That's just a big - I think there was
10 the question about if somebody no longer, but how long
11 ago, and were they registered, I want to really probe why
12 she stopped - why she didn't re-up her registration as a
13 lobbyist. And the other thing, of course, that I think
14 we all have commented about is that they've represented
15 the Republican Party in California, even though the last
16 time - and then the National Republican Party in '03.
17 Then, finally, I would in terms of the trust vs. the
18 conflict standard that some of the public has referred
19 to. The work in Texas is very troubling to a lot of
20 people across the country, the fact that the Legislature,
21 when the Legislature changed political hats, even though
22 the redistricting is supposed to occur every 10 years,
23 that once it changed, the new Legislature decided to do a
24 mid-decade redistricting effort, and this was in the news
25 a lot and it was viewed as a very partisan - the law

1 allowed it and it went to the Supreme Court, and the
2 Supreme Court said you can do this and you can do it as a
3 partisan - they actually called it a "partisan
4 gerrymander" that was allowable under the U.S.
5 Constitution. For me, that's very troubling from a
6 trust/conflicts perspective. So, that's what I have to
7 say about the conflicts portion of the grid.

8 CHAIRMAN ANCHETA: Okay, additional comments on
9 any of the criteria?

10 COMMISSIONER DAI: Just as a follow-on,
11 Commissioner Forbes suggested that, you know, perhaps one
12 solution that we might - assuming there are equal concern
13 about conflicts and the trust issue - to try to firewall
14 Ms. Leoni. The difference here is that there are a team
15 of three listed, it seems like Mr. Parrinello - is that
16 his name - would only get involved if there's litigation
17 is the sense that I got, mostly her and an associate, and
18 that seems to be the way other Voting Rights Act and
19 Redistricting cases, so I think the comment that we got
20 from the public earlier, this would be a more complicated
21 situation if we took her out.

22 COMMISSIONER BLANCO: Commissioner Ancheta, they
23 were in your pool in the early -

24 CHAIRMAN ANCHETA: Yeah, I was wanting to
25 interview them. I have a lot of concerns about the

1 conflicts.

2 COMMISSIONER BLANCO: Do you have concerns? I'm
3 just -

4 CHAIRMAN ANCHETA: Yeah, well, to me it was
5 whether - one question was whether the conflicts were
6 sufficient to disqualify outright vs. probing some more
7 and, at least on my initial, I didn't feel I knew enough
8 - there's a lot here, no doubt, but I wanted to ask a few
9 more questions regarding these conflicts because they
10 may, in fact, be disqualified. And I have some serious
11 questions about the lobbying activity and their
12 affiliation with one of the major parties. So, I do
13 however, given how highly they'll rank in other criteria,
14 that is again directly relevant experience on the Voting
15 Rights Act, again, it's from the defense and I don't
16 think they have any compunction there, and we shouldn't
17 necessarily, either, in terms of sort of screening. Some
18 feel that a defense side firm shouldn't be automatically
19 disqualified -

20 COMMISSIONER BLANCO: No, it's not that.

21 CHAIRMAN ANCHETA: -- but given that, I didn't
22 feel at this point I wanted to knock them out entirely
23 was my sense, but I have very strong reservations given
24 what I see on paper and I'd want to explore them further,
25 and basically the ones you've identified. And I just

1 would sort of quickly look at some other - some of the
2 clients they have for lobbying. I didn't see anything
3 necessarily disqualifying based on their clients -

4 COMMISSIONER BLANCO: The Counties, mainly.

5 CHAIRMAN ANCHETA: -- there may be and, again,
6 there are a couple Counties that are being represented
7 and there could be - analyze some problems there. And
8 again, I just did a glance just two minutes ago, so I
9 think we'd want to look at that more carefully and
10 explore those further if we go forward with them. But
11 again, my sense is I felt, in terms of past experience,
12 they ranked quite highly on that criterion, so I felt
13 that we should go forward at least with an interview.
14 But I would want to ask a lot of probing questions at an
15 interview.

16 COMMISSIONER FORBES: I mean, I rank them high on
17 their experience, perhaps the highest, but both the trust
18 issue, and I prefer "trust and conflict" as a phrase -
19 and the billing thing is just -

20 CHAIRMAN ANCHETA: That's true, that's another
21 thing, too.

22 COMMISSIONER FORBES: Those are real red flags
23 for me.

24 COMMISSIONER BLANCO: And, you know, I was really
25 concerned initially, and I still am, about the conflict -

1 the perception issues are really really serious for me in
2 terms of, you know, the public. We already received some
3 comments, I think about this friend from the public, but
4 in this last round when we were talking about those
5 billings, I had not caught - I had caught the issue that
6 they were going to bill separately for the legal analysis
7 around racially polarized voting, but I had not caught
8 the issue of the pre-clearance legal work. I mean, I
9 know the Secretary of State does that ultimately, but
10 that's not what they're saying there. So, I now have
11 these very - it's like you said - what are we buying,
12 especially given that there's all these other clients
13 that they're representing? The cost capacity issue has
14 become almost as big for me as the conflict issues, which
15 are the biggest ones for me.

16 CHAIRMAN WARD: I think these are great questions
17 for an interview.

18 CHAIRMAN ANCHETA: Okay, well, is there any sense
19 that - is there anybody who doesn't want to interview at
20 this point, as we air those out?

21 COMMISSIONER BLANCO: I would not - here is what
22 I feel about the interview, having - and I'll be fine and
23 we'll do the interview, but I feel like these conflicts
24 and concerns that we've voiced here, this firm is not
25 going to make it out of even, you know -

1 CHAIRMAN ANCHETA: Right.

2 COMMISSIONER BLANCO: -- and I'm really concerned
3 with, you know, I believe in airing everything in the
4 full Commission, but this has come up before with this
5 firm publicly and Commissioners have voiced the same
6 concerns -

7 COMMISSIONER DAI: The same concerns.

8 COMMISSIONER BLANCO: -- and I very much doubt
9 that we'll get a super majority for this firm, given what
10 everybody has expressed publicly and in the past already,
11 and today, which is what this decision takes, a super
12 majority. So, you know, I'm efficient about these things
13 and I just don't see why we would bring a person, do the
14 interview, and then even go forward when I think there's
15 a very slim likelihood that this firm would make it to
16 the final selection, even to the final cut, or to be
17 selected ultimately, because of these conflict and
18 perception issues.

19 COMMISSIONER DAI: Right, and one of the
20 conflicts that wasn't mentioned is the fact that they are
21 currently representing counties that we are going to have
22 to redistrict and, so, I think that's actually a much
23 more serious conflict than the fact that they've
24 represented Republicans in the past, or any of these
25 other ones. So, that's a concern of mine.

1 CHAIRMAN ANCHETA: Commissioner Ward.

2 COMMISSIONER WARD: Well, it sounds like we beat
3 it pretty good here. I'd like to just kind of try to
4 wrap it up with just, I guess, the comment that I do
5 agree, I think your last conflict is the one I'm most
6 concerned about, again, not being a lawyer, I think
7 that's something I'd like to hear more about, especially
8 in an interview. But first of all, I don't think it's
9 fair to characterize that we're going to make a pre-
10 judgment on them, to say that they don't have a chance,
11 or things like that, I just really think it's unfair.
12 This is, I don't think it's an understatement to say, a
13 premier firm in this area. Their proposal here is, in my
14 opinion, and again, I'm not a lawyer, I don't have
15 connection to these things, I've had to self-study and
16 catch up to speed, I don't have a horse in the race, but
17 when I read their proposal, it was so thorough, I thought
18 it was one of the most thorough as far as helping me
19 understand actual process to the Redistricting - to our
20 Redistricting Commission and our process -- what
21 particularly be their not just have done in the past, but
22 what they're going to do with us. When I see their costs
23 and fees, there's no - I'm concerned about that, but,
24 again, they have capabilities that they list that they're
25 going to provide from the standpoint of having *Maptitude*

1 ability, being able to take whatever input our technical
2 consultants offer in regards to Voting Rights Act
3 Districts and Counties and things, and providing a legal
4 analysis of that with options. I mean, again, as a
5 layman, that's a big deal - I want that out of this
6 expertise. That's something that the other ones don't
7 offer. So, are they on the high side? Yes, but they're
8 also performing often a premier product. And, you know,
9 clearly, because of the amount of clients they have,
10 again, this is not a shady firm, this is not people that
11 have dirty hands, this is a very well respected, very
12 experienced, very accomplished firm. I just - like I
13 said, again, just as a member of the Commission, a member
14 of the public, I think it's silly to discard them grossly
15 based on some perceived conflicts of interest. Again, we
16 all agree that, when you have extensive experience in
17 what we're looking for, absolute established expertise in
18 these areas, there is going to be a little bit of baggage
19 that comes with that and, again, it's our job to
20 determine how much and if the Commission can carry that,
21 I completely agree, I'm not advocating for their hire at
22 this point by any stretch, I wouldn't even begin to make
23 that, but I certainly believe that not only are they,
24 again, would I be excited to interview them, I think
25 that, again, we've highlighted, as they have -- very

1 effectively highlighted their conflicts of interest with
2 no paragraph saying "and there might be others." She's
3 very articulately spelled out anything that might be a
4 problem, obviously it's important to her, and it's
5 important to the firm. And I get a sense that, again,
6 they have these clients for a reason and I think they're
7 a premier agency and I not only would not rule them out
8 simply because of somebody's perceived conflicts of
9 interest, I am excited to interview them and see what
10 they can do for us.

11 CHAIRMAN ANCHETA: Okay. Commissioner Blanco.

12 COMMISSIONER BLANCO: Yeah. Given that one of
13 the things we do, why we structure both the Commission
14 and the Advisory Committees the way we do with all
15 parties represented, I take very very strongly the
16 position of the Republican Commissioner here, and I would
17 defer on that so that we really have every point of view
18 represented and we have this firm go forward for the
19 interview.

20 COMMISSIONER FORBES: I also would have them go
21 forward. I mean, their experience, to me, is good enough
22 to warrant lending them the opportunity to address - I
23 have very real concerns, I mean, I'm on the fiscal side
24 here, I mean, what are we buying here? And the issues --
25 the perception issues. But I would give them an

1 opportunity.

2 CHAIRMAN ANCHETA: Commissioner Dai, do you want
3 to add?

4 COMMISSIONER DAI: I think it's fine if the
5 Committee wants to move forward to interview them, as a
6 representative of the Finance and Administration
7 Committee, I did feel like they had the most, like I
8 said, most terms under their cost structure and a lot of
9 what they seem to exclude, or had conditions around
10 things that I think we need. So, something that - and
11 you guys could choose to do this today, it's something to
12 consider because you're not going to have that much time
13 if you're going to do four or five interviews starting at
14 3:00 on Thursday - to talk about what do we think the
15 hours are going to be and, therefore, how reasonable are
16 some of these, and what is the scope of work that we
17 think we're going to need, and what would be reasonable
18 to exclude because, as Commissioner Forbes said, we can
19 all do the math, that's not the issue, we need to get a
20 handle on what we think a reasonable time commitment will
21 be and, given that we think that this cut, they're all
22 qualified people, you know, presumably the hours are not
23 going to be wildly different.

24 COMMISSIONER BLANCO: Yeah.

25 COMMISSIONER DAI: So, what I was hoping to get

1 from today's meeting was a sense of where we'd be
2 outcome/budget-wise, and this one, I felt, was really
3 squishy around that.

4 CHAIRMAN ANCHETA: Right. Well, I think it's a
5 point well taken and I think we're not - I don't want to
6 sort of grapple with just moving forward with the
7 interview. I think I would like to have some discussion
8 around the questions and as much as possible to flesh out
9 for the full Commission what our expectations will be in
10 terms of hours so that that is an informed interview, as
11 well. I'm inclined to move them forward. I have, like
12 others, reservations and I want to flesh those out, but I
13 would like to hear what they have to say, so for all the
14 reasons stated, I think it's important to give them a
15 chance, they're clearly very experienced firms, so I want
16 to talk to them.

17 Okay, any other Commissioner comments before I
18 invite public comments? Okay, so any public comments at
19 this point on the firm of Nielson, Merksamer? I hope I'm
20 pronouncing that -- firm names, I can never pronounce
21 their names correctly. I'm getting somebody's name
22 wrong.

23 MR. LEE: Commissioner and staff, I want to make
24 just a couple comments about this applicant. And I would
25 agree with what seems to be the sentiment, that this firm

1 has a very high level of experience and knowledge about
2 redistricting and the Voting Rights Act. In looking at
3 the firm's work, I think one could think of two
4 categories of work that they focus their redistricting
5 work efforts in, one is providing counsel to
6 jurisdictions during the line drawing process and, then,
7 second is defending jurisdictions against claims either
8 under the Voting Rights Act, or the California Voting
9 Rights Act, and I think the first category doesn't, to
10 me, raise questions about public trust and, in fact, the
11 Commission is seeking its own counsel, right? The second
12 category of work, I think, does potentially raise
13 concerns about public trust and I want to be careful not
14 to disparage defense work, per se; every jurisdiction
15 needs representation, everyone has a right to counsel.
16 But I do think that, in terms of what is going to most
17 effectively create an increased trust among California's
18 diverse population, a firm that has done a significant
19 amount of defense side work probably doesn't rank as high
20 as compared to some of the other applicants you have
21 before you. And then, secondly, I would also suggest
22 looking into the work that applicants have done on
23 defense-side and see the nature of the claims and the
24 issues raised, the type of defenses employed by
25 applicants, and I think that would be important to do

1 with respect to this applicant. It sounds like
2 Commissioners are proceeding with moving forward with an
3 interview and I think that, given that, I guess I would
4 just ask the Committee to keep this question in mind, of
5 both looking at the details of the defense side work that
6 this applicant has done and also think about questions
7 about the public trust that this type of work raises. I
8 just wanted to give you those comments.

9 CHAIRMAN ANCHETA: Thank you, Mr. Lee. Okay,
10 well, are there any additional comments on this or any
11 sort of last comments on the group as a whole?

12 COMMISSIONER DAI: Have we agreed on four?

13 CHAIRMAN ANCHETA: Well, what I want, let's take
14 a motion to advance - it looks like four, it will be the
15 four, and then included in that motion to have a
16 direction to staff to contact them to join us on Thursday
17 and probably schedule some time on Friday just in case
18 there may be some follow-up. Mr. Miller? Or, are we
19 doing the motion?

20 MR. MILLER: Why don't we - yes, let's do a
21 motion because it's neat and clean. But my recollection
22 is the thought was to ask a representative of the firm
23 that is ultimately recommended to the Commission to come
24 to the Friday meeting and present to the Commission.

25 CHAIRMAN ANCHETA: The full Commission --

1 MR. MILLER: Yes.

2 CHAIRMAN ANCHETA: -- on Friday. So -

3 COMMISSIONER DAI: For all four?

4 CHAIRMAN ANCHETA: All four, we've narrowed -

5 MR. MILLER: No, no, the one that you are
6 recommending to the Commission, I'm sorry if I misspoke.

7 CHAIRMAN ANCHETA: Okay.

8 COMMISSIONER BLANCO: So, I'll make a motion that
9 we move -

10 CHAIRMAN ANCHETA: And list the names.

11 COMMISSIONER BLANCO: Yeah, I'm going to - that
12 we interview the following applicants for the Voting
13 Rights Attorney/Counsel at our next meeting, Thursday, at
14 3:00: Federal Compliance Consulting, GRD Consulting,
15 Nielson, Merksamer, and Gibson, Dunn.

16 COMMISSIONER FORBES: Second.

17 CHAIRMAN ANCHETA: Ms. Reece [sic], could you
18 read back the motion, please? Just following our custom,
19 reading back.

20 MS. SARGIS: The motion is the recommendation to
21 interview for the VRA Counsel at the meeting on Thursday
22 Federal Compliance Consultants, GRD Consultants, Nielson,
23 Merksamer, and Gibson, Dunn.

24 CHAIRMAN ANCHETA: Any discussion on the motion
25 amount the Commissioners? Okay, would any members of the

1 public care to comment on the motion that we advance
2 these four applicants to Thursday for interviews? Okay,
3 so no public comments regarding the motion. We'll just
4 do this by "Ayes."

5 All those in favor of the motion, raise your hand
6 and say "Aye."

7 (Ayes.) All opposed? Abstentions? Okay, the
8 motion carries unanimously. And I guess I would direct
9 staff they can contact these applicants as soon as
10 possible, get them lined up, as well.

11 What I would suggest is we take a lunch break
12 and, then, when we reconvene, then we can discuss, again,
13 various aspects of the interviewing process and some
14 discussion about expectations for the position that we
15 can recommend to the full Commission. So, it's about
16 12:53 or so, how much time do we want here? An hour? So
17 let's resume at 2:00.

18 MR. MILLER: I was just going to say, I think it
19 would be prudent if we could call them right now. A few
20 more minutes on the other end to catch a sandwich.

21 CHAIRMAN ANCHETA: Sure. So it's almost 1:00,
22 why don't we resume at 2:00?

23 COMMISSIONER BLANCO: Right.

24 (Recess at 12:53 p.m.)

25 (Reconvene at 2:06 p.m.)

1 CHAIRMAN ANCHETA: We're back on the record. I
2 want to apologize to Janeece Sargis, our - I don't know
3 what I said, Ms. Reece or something, I mangled your name
4 or something.

5 MS. SARGIS: I knew who you were talking to.

6 CHAIRMAN ANCHETA: Anyway, sorry about that,
7 Janeece.

8 MS. SARGIS: No problem.

9 CHAIRMAN ANCHETA: Okay, we're back on. Again,
10 just to summarize what happened in the morning session,
11 we have narrowed our - well, at least the Committee has
12 recommended, I should say, the four of the nine
13 applicants that were in the Voting Rights Act Attorney
14 pool be advanced for an interview on Thursday, and we'll
15 conduct those interviews. I don't know if Mr. Miller -
16 did you have any updates in terms of contacting them?

17 MR. MILLER: I do. I made the four phone calls
18 and no one I spoke to was unhappy to get the call. The
19 California firms will both be present on Thursday to make
20 their presentations, I was not able to speak with Gilda
21 Daniels, I left her a long message and sent an email and
22 hopefully she'll respond during our meetings this
23 afternoon. I also spoke with Bruce Adelson at Federal
24 Compliance Consulting. He has been struggling with a
25 conflict for Thursday and is not able to come to the

1 meeting. I just spoke with Kevin to see, if the
2 Commission wishes, if they would like to speak with him
3 by phone and I'm advised that that technology exists even
4 in the California Legislature, too, to receive a phone
5 call if you would like to proceed on that basis.

6 CHAIRMAN ANCHETA: And that will be fully
7 complying with Bagley-Keene?

8 MR. MILLER: Yes. We would have a challenge if a
9 Commissioner was in a different location, but he would be
10 able to call in.

11 CHAIRMAN ANCHETA: Okay.

12 COMMISSIONER DAI: I have a question. Is it
13 possible - we have Internet connection here - I was
14 thinking something like *Skype*, at least there would be
15 some video.

16 MR. MILLER: I don't know the answer to that,
17 although I will just add that I think it might be
18 difficult on his end -- and I will go out on a limb here
19 without being invited - in the event you wish to do that,
20 you might consider whether you would also want to do that
21 with Gilda Daniels as it would save a trip out here for
22 her.

23 COMMISSIONER BLANCO: Is it available, *Skype*?

24 MR. MILLER: I don't know the *Skype* situation.

25 CHAIRMAN ANCHETA: Okay, although I've been able

1 to, at least on our laptops, I've been able to get some
2 signal, I don't know if that's - I mean, the problem, of
3 course, is projection on a large enough screen and those
4 kinds of things, but -

5 COMMISSIONER DAI: Yeah, I mean, if we have a - I
6 mean, we're going to - at least one of us has a wireless
7 card, right? So, you don't have to be able - I mean,
8 somebody will have a card that we could use on Thursday
9 and all we would need is a monitor.

10 COMMISSIONER BLANCO: Are we in this space?

11 CHAIRMAN ANCHETA: No, not for the Thursday
12 meeting.

13 COMMISSIONER BLANCO: On Thursday, where are we?

14 CHAIRMAN ANCHETA: I think we're back downstairs.

15 MS. SARGIS: Right now, you're scheduled - the
16 agenda has scheduled you in 447, which is back up on the
17 fourth floor.

18 COMMISSIONER BLANCO: Oh, right.

19 MS. SARGIS: Up that extra set of stairs.

20 COMMISSIONER BLANCO: Right.

21 MS. SARGIS: But you could switch out with the
22 Outreach Advisory Committee, which is in Room 113, which
23 is on the first floor.

24 MR. MILLER: The reason for that is that the
25 second room is on the Senate side and Kevin advises that

1 they have that capacity and, I believe, to be able to
2 help us with setting up the phones.

3 CHAIRMAN ANCHETA: Okay, so, yeah, if we could
4 make those arrangements, that would be great.

5 COMMISSIONER BLANCO: Maybe the Senate Pro Tem
6 President can make his offices available.

7 CHAIRMAN ANCHETA: Well, Mr. Miller, if you could
8 get in touch with - well, before we proceed, maybe we
9 should have some discussion about what, whether we're
10 feeling that our two out-of-state applicants, if we're
11 feeling that's okay to do, which, at least minimally, a
12 telephone conversation, but have a *Skype* or at least a
13 teleconferencing option vs. a live interview. Any
14 thoughts on that?

15 COMMISSIONER DAI: This is up to the Committee,
16 but I don't personally feel like you need to enforce
17 having a conferencing for both if you do it for one
18 because I think there is a lot - most communication, as
19 you know, is not verbal, so...!

20 CHAIRMAN ANCHETA: Are there any objections doing
21 it by telephone? Would anybody want - require that an
22 applicant be here for a live interview vs. a telephone or
23 a *Skype* interview?

24 COMMISSIONER FORBES: I mean, I would prefer that
25 it be live, but I'm not going to rule somebody out

1 because he can't get here. We can ask the questions, but
2 I like to see the body language, but if that's not
3 possible, it's not possible.

4 CHAIRMAN ANCHETA: Sure. Other thoughts? Any
5 opposition to telephonic interviewing? Oh, I'm sorry,
6 Janeece, could you turn your - okay --

7 COMMISSIONER DAI: Yeah, I was just going to
8 suggest that it might be useful for this committee to be
9 able to try to see - to go ahead and try to set up a
10 *Skype*.

11 CHAIRMAN ANCHETA: Assuming -

12 COMMISSIONER FORBES: If we can.

13 COMMISSIONER BLANCO: Are we back in session?

14 CHAIRMAN ANCHETA: Uh huh - yeah.

15 COMMISSIONER BLANCO: I wasn't sure if we - don't
16 we have to do public - but you have to make a record.

17 CHAIRMAN ANCHETA: Oh, yeah, no, I was in the
18 middle of summarizing what we were doing to get a sense
19 of because - and I have a report back from the staff
20 regarding - this is still in the middle of the report
21 regarding availability of candidates, so I think we can
22 continue that discussion before continuing with the
23 public comment. I mean, I guess the preference, again,
24 is for sort of visual, as well as so we get sort of body
25 language and get to know them, the name and the face

1 together, so I would certainly support that. And I
2 assume our candidates can make arrangements because
3 that's fairly standard technology.

4 MR. MILLER: Yeah, I would hope that he would. I
5 just want to report to the Commission, though, that he
6 was between clients and would be coming off an airplane
7 at the time that we would be wanting him to speak, so I
8 just don't want to commit his capability at the other
9 end.

10 CHAIRMAN ANCHETA: Sure.

11 COMMISSIONER WARD: So, I'm sorry, did you say he
12 would be doing this interview under those conditions,
13 literally in an airport or something, or somewhere on a
14 cell phone?

15 MR. MILLER: I think that's possible. I don't
16 want to speak for what are the limits of his capability,
17 but that could be the worst case and that is possible.

18 COMMISSIONER DAI: Just for clarification, is it
19 - I know that you have to actually schedule these four
20 interviews, so with all four interview slots, that would
21 be the case?

22 MR. MILLER: Yes, the day gets better late in our
23 day for him.

24 COMMISSIONER DAI: Okay, so we could put him
25 last?

1 MR. MILLER: Yes, it would be helpful to put him
2 last.

3 COMMISSIONER BLANCO: Okay.

4 CHAIRMAN ANCHETA: And Professor Daniels, you
5 haven't had any direct contact with her yet?

6 MR. MILLER: Correct.

7 CHAIRMAN ANCHETA: Okay. Well, we could ask
8 staff to just keep us apprised of what's going - go ahead
9 with scheduling those interviews at this point and if we
10 need to make some adjustments on Thursday, or we have to
11 push something back, then we may have to do that, but go
12 forward with them.

13 COMMISSIONER WARD: At this point, we were going
14 to request a in-person, though, with Gilda, correct?

15 COMMISSIONER BLANCO: Uh huh. Yeah.

16 CHAIRMAN ANCHETA: Thanks. Okay, so, again, just
17 to summarize, the four applicants that we're advancing
18 are Federal Compliance Consulting, GRD Consulting,
19 Nielson, Merksamer, Parrinello, Gross & Leoni, and
20 Gibson, Dunn & Crutcher.

21 Let me start before public comments, if there are
22 any, we were going to be moving into a discussion of the
23 interview process on Thursday and questions we might ask,
24 concerns, as well as issues regarding scope of work and
25 cost, and again, Commissioner Dai is a liaison with the

1 Budget Committee and we're very happy to have her here
2 for that discussion. Are there any public comments at
3 this time, either on the report back regarding the four
4 applicants, or as we move forward on the agenda? Okay,
5 hearing none, let's talk about that.

6 I mean, it seems to me that we've got some - and
7 a lot of these criteria that we've been going through,
8 anyway, in terms of just sort of reinforcing things, and
9 we obviously raised a number of concerns about specific
10 applicants. I did, you know, in discussions with staff,
11 I did raise a number of points regarding rather specific
12 questions around some of the recent and major cases on
13 the Voting Rights Act, and where I think the level of
14 detail I think needs to be expanded a bit more, so in
15 terms of sort of general questions, I might ask
16 everybody, but those are the ones I was thinking about.
17 And I can certainly - I would like them to elaborate a
18 little bit more on some of the recent cases, for example,
19 if they want to highlight a few. Do other folks have any
20 sort of questions that we might ask all the applicants?

21 COMMISSIONER DAI: Yeah. I think if we follow
22 the kind of procedure that we've used in the past and
23 maybe staff could come up with a set of standard
24 questions that we ask everyone, and then can refer to
25 their specifics in their applications to ask others.

1 CHAIRMAN ANCHETA: So, just in the past, since I
2 more recently joined the Commission, have you sort of
3 written all that out ahead of time? Okay.

4 COMMISSIONER BLANCO: Yeah.

5 CHAIRMAN ANCHETA: Sounds like a good procedure.
6 Does anyone want - shall we rely on Janeece to sort of
7 help us with our note keeping on this? I'm personally
8 terrible at this kind of thing, I'm happy to defer to the
9 better note takers.

10 COMMISSIONER FORBES: I think we should ask them
11 the specific question on their capacity to respond
12 because everybody has that issue in one form or another.
13 I think that to bring up cases, more recent cases, and
14 just this first column - their experience and their VRA
15 experience, to elaborate more. And not only that, but
16 ask them an open-ended question to the effect of, you
17 know, "This is the way the law is, what do you think are
18 going to be our pitfalls and how do you think you can
19 help us avoid them?" And, again, that also helps us
20 educate us at the same time.

21 COMMISSIONER BLANCO: That's right.

22 CHAIRMAN ANCHETA: That's very important.

23 COMMISSIONER FORBES: So those are a couple of
24 standard questions I would ask.

25 CHAIRMAN ANCHETA: Other Commissioners?

1 COMMISSIONER BLANCO: So, legal questions about
2 potential problems they might see, what do they think are
3 the most important cases that we have to deal with.

4 COMMISSIONER FORBES: Right, what's the status of
5 the law kind of thing.

6 COMMISSIONER BLANCO: That are relevant for us.

7 COMMISSIONER FORBES: Yeah.

8 CHAIRMAN ANCHETA: And I'm particularly
9 concerned, and this doesn't have to be all done in the
10 interview, but there are a lot of questions regarding the
11 compliance with the Act that I'm concerned about, that I
12 think at some point we will have to - we would like to
13 have to have some clarity from the counsel - and among
14 these include, you know, the appropriate population to
15 look at for Section 2 compliance, this is a question
16 about when you look at the majority population, is it
17 just voting age population, or is it citizen voting age
18 population? It's not entirely clear -

19 COMMISSIONER FORBES: Or is it resident voting
20 age? Or resident population as opposed to -

21 CHAIRMAN ANCHETA: Total population.

22 COMMISSIONER FORBES: Total population.

23 CHAIRMAN ANCHETA: I think at least it's been
24 voting age, minimally, but there are some questions -
25 there have been some cases and there's a bit of mixed

1 case law regarding whether it should be "citizen" --
2 population.

3 COMMISSIONER FORBES: Right.

4 CHAIRMAN ANCHETA: And again, maybe that's an
5 ambiguity that - and they should know the ambiguity,
6 actually, that's actually a good question in terms of
7 their knowing the current state of the law. So, that's
8 one example where I'd like them to sort of flesh out
9 their opinions on it in that area, not that it has to be
10 dispositive. Another example -

11 COMMISSIONER BLANCO: Just on that, instead of
12 leading them exactly on what we want to know, I do kind
13 of want to keep it open-ended on some things which are -
14 you know, there is this issue that, for the first time,
15 the Census doesn't have CVAP, and it's the first time,
16 we've always had it when we've done this. And so, we're
17 now relying on - we will be relying on the community
18 survey, American Community Survey, which is actually five
19 years put together or three? I can't remember.

20 CHAIRMAN ANCHETA: It depends on the
21 jurisdiction.

22 COMMISSIONER BLANCO: Yeah, and then I can't
23 remember - it's a mean or an average, but there are a lot
24 of concerns about the accuracy of that because it goes
25 way back, I mean, because some of those are early years

1 and there's been a big shift, and because we don't know
2 what it is now because the Census didn't track it, it
3 could be a substantial difference between what we think
4 the Census would have shown and what the American
5 Community Survey shows. And I would like to actually
6 find out if they know about the issue without asking
7 them, you know, because I think if you're going to -

8 CHAIRMAN ANCHETA: Yeah, well --

9 COMMISSIONER DAI: If they're watching, they'll
10 know.

11 CHAIRMAN ANCHETA: We just telegraphed it.

12 COMMISSIONER BLANCO: Yeah, that's true.

13 CHAIRMAN ANCHETA: Perhaps we should shut up
14 about these things, right?

15 COMMISSIONER BLANCO: That's true, but anyway -

16 CHAIRMAN ANCHETA: There are some gray areas that
17 we may want to ask - that being one of them, but I have a
18 number of other ones, too.

19 COMMISSIONER DAI: Yeah, I was going to say, why
20 don't we focus on what the open ended question is and
21 then we can see what issues arise.

22 COMMISSIONER BLANCO: Yeah. So, any questions
23 around who is the relevant population?

24 CHAIRMAN ANCHETA: Yeah, that sort and, again,
25 without telegraphing too much, you know, cite recent

1 cases, what are the implications of certain cases
2 regarding these requirements that we've seen for many
3 years under federal case law. So, I think - I don't
4 know, I could get more specific now, or I can get more
5 specific later.

6 COMMISSIONER DAI: No, I think open-ended is
7 good. I would like to see a question about their
8 methodology in working with the commission to minimize
9 their expenses, but maximize the value of their advice to
10 us in the time that we have. So, I'd like to hear about
11 what their thinking is on what their work plan would be.
12 I mean, "If we argue tomorrow, what would you do?"

13 CHAIRMAN ANCHETA: So, is there a sense we should
14 - not that it has to be a requirement - but should we, in
15 fact, ask them to at least outline a basic work plan?
16 They don't have to give a written plan.

17 COMMISSIONER DAI: And I think they should
18 present -

19 COMMISSIONER BLANCO: Present in writing or just
20 verbally?

21 COMMISSIONER DAI: I mean, I think it should
22 include, for example, the split among the team, some of
23 them went into some detail on that in terms of hours, but
24 you know, what is their approach? I saw, I think, in
25 only really one of the applicants a real discussion about

1 methodology, and I'd like to understand what the approach
2 would be from other candidates.

3 CHAIRMAN ANCHETA: Yeah, I think that makes
4 sense. And I think we are looking for folks who have a
5 lot of experience on redistricting and, even though this
6 is a new procedure, or new set of procedures that we're
7 following as a Commission, that we could get some lessons
8 from - or get some idea about how they see an ideal
9 redistricting strategy unfolding and what the role of
10 that attorney should be, so I think that's a very good
11 set of questions.

12 COMMISSIONER BLANCO: How do we get at this issue
13 that I know we've talked about a little bit in the past,
14 which is, you know, whether they come from a philosophy
15 of complete risk aversion, vs. being expansive, but still
16 within the law? I mean, how do you -

17 CHAIRMAN ANCHETA: You could ask that. You could
18 ask it explicitly.

19 COMMISSIONER DAI: Yeah, "What's your philosophy
20 about balancing compliance with assuring that the
21 Commission..., " you know -

22 COMMISSIONER BLANCO: Well, that's why I'm asking
23 because, you know, it's a -

24 COMMISSIONER DAI: Kirk, you can help us with
25 this one.

1 MR. MILLER: Yeah, I think your suggestion is a
2 good one and another way to approach it would be, "How
3 would you work with a public body counseling on gray
4 areas of the law?"

5 COMMISSIONER DAI: There you go, perfect.

6 COMMISSIONER BLANCO: How would you work or -

7 MR. MILLER: Well, "advise," but in a sense I
8 think it is a collaborative process, interaction. But
9 "counsel" is probably the better term.

10 CHAIRMAN ANCHETA: Commissioner Ward.

11 COMMISSIONER WARD: Yeah, I think Commissioner
12 Blanco is kind of thinking along the same way I was
13 trying to -- again, not having the complete or expert
14 understanding of the case laws -- but just wondering how
15 asking them maybe what their perception of their most
16 contentious VRA case was, why, and how did they handle
17 that or advise on that, kind of a similar question of
18 what we've asked in the past of trying to understand how
19 they tackle contentious or to try to figure out that kind
20 of methodology, or where they fall on that risk category.

21 COMMISSIONER BLANCO: Uh huh.

22 CHAIRMAN ANCHETA: Okay. Other points? I have a
23 whole bunch of questions around how we're going to look
24 at cost, specifically, but other thoughts at this point?

25 MR. MILLERL: I'd like to suggest the Commission,

1 kind of thinking ahead, it would be appropriate to
2 inquire specifically about appellate experience,
3 recognizing that this matter goes directly to the
4 California Supreme Court in the event there is
5 litigation. And you don't have to decide now whether you
6 want to use the same counsel, but often that's a good
7 practice, particularly if you can team, a sense of
8 confidence that you have the right appellate lawyer, also
9 working on the underlying matter.

10 CHAIRMAN ANCHETA: Well, that raises a question
11 for me because I understand under the Act that the
12 California Supreme Court has exclusive jurisdiction, but
13 I thought that would only apply to state-based claims, so
14 that if there were a Federal Voting Rights Act claim,
15 that would still be able to go to Federal Court because
16 the states can limit a Federal cause of action, or a
17 Federal Constitutional claim.

18 MR. MILLER: I've had the same question and
19 perhaps that's an excellent question to ask the lawyers,
20 but it just doubles the breadth of the question, really,
21 because you would like to find capacity both at the trial
22 level in the event that's available and before the
23 Supreme Court.

24 COMMISSIONER BLANCO: And it's possible it will
25 be in multiple jurisdictions.

1 CHAIRMAN ANCHETA: Oh, yeah, and -

2 COMMISSIONER BLANCO: If there are challenges
3 that are based on state redistricting criteria and not on
4 Federal claims, we'd be in State and then, you know, we'd
5 be -

6 CHAIRMAN ANCHETA: And even if Mr. Miller and all
7 of us agree that we can't go to Federal Court, that
8 doesn't prevent somebody from actually suing the Federal
9 Court. And I think the point is well taken, I think we
10 should look at - "How do you look at Appellate Advocacy?
11 How do you look at Federal litigation if it's going to
12 come up?" That's a very good point.

13 COMMISSIONER FORBES: And I think, along the same
14 lines, I'd ask him or her the question, "How would you
15 prepare for Federal vs. State litigation?" "Is there
16 something in the process that we should be aware of from
17 Day One?"

18 CHAIRMAN ANCHETA: Right.

19 MR. MILLER: If I could, I've been thinking about
20 this, a question about how they envision working with the
21 Technical Consultant, I think, would be useful in that
22 it's a big part of this assignment.

23 COMMISSIONER BLANCO: Uh huh.

24 COMMISSIONER DAI: Uh huh, yes.

25 CHAIRMAN ANCHETA: So, related to that, Mr.

1 Miller, how did you - I mean, I know - I think this was
2 highlighted in one of the applications, but since you are
3 Chief Counsel for the Commission, how did you envision
4 this counsel's interaction both with you and any other
5 staff that you have along with you, and other staff, and
6 then also the Commission directly, in particular, the
7 legal committee? Do you see us funneling everything
8 through you? Or how do you see the working relationship
9 going?

10 MR. MILLER: Well, I don't want to be in any way
11 an impediment to access, at the same time, I do think we
12 can be effective as a conduit in a coordinating function,
13 as we're doing now, bringing on the Voting Rights Act
14 counsel as a new member of the team. And, of course,
15 there's flexibility - we should make flexibility into the
16 system, but a lot of it, I think, comes down to how we
17 agenda items and tee them up for the Commission, the
18 Commission schedule going forward, when and where it will
19 be meeting for its business meetings, thinking about when
20 VRA counsel needs to be present, and of course, probably
21 the most convenient to the Commission. So, I think it is
22 very much a team exercise and I would envision discussing
23 matters with VRA counsel on an ongoing basis and then
24 looking for the best way to respond to the Commission as
25 a whole, or individually, as appropriate, on ongoing

1 matters.

2 CHAIRMAN ANCHETA: Okay. So another thing that
3 sort of comes to mind is, and we've had some discussion
4 among staff, at least on the Technical Committee, is a
5 Voting Rights Act sort of Statistician or sort of
6 Quantitative Analyst who would be working with VRA
7 counsel and with Commission on - some of it might need to
8 be done in terms of racially polarized voting and other
9 areas where there are some evidentiary requirements, at
10 least some basic requirements, and you sort of at least
11 look at that. I think part of what we have to figure out
12 is how much data we really do need and how much is
13 essential to actually get our job done vs. what someone
14 might do if they were suing. We're not suing under
15 Section 2, so we don't have to meet that level of expert
16 testimony and evidence, but we need to at least do our
17 homework on it to make sure that we're safe in saying
18 this is something where there could be a Section 2
19 violation. So, I think one question we might ask the
20 applicants is "How do you envision working with - what's
21 your experience working with experts? And how do you
22 envision experts, experts being statisticians, social
23 scientists, maybe, historians, individuals who might come
24 in on an consulting basis, to help with that type of
25 analysis?" And, again, presumably everybody has listed

1 litigation, I'm sure the DOJ folks, former DOJ folks as
2 well, have worked with experts before, but I think that
3 would be a good set of questions to just ask them about
4 how they envision the Commission doing its work.

5 COMMISSIONER DAI: Yeah and what level - it would
6 be interesting to get their opinions on kind of what they
7 think the level of our needs will be for racially
8 polarized voting studies and things like that, too.

9 COMMISSIONER BLANCO: Yeah, in other words, not
10 just asking them what experience they have with experts,
11 but really open-ended - what experts do you think we will
12 need?

13 COMMISSIONER DAI: Correct.

14 CHAIRMAN ANCHETA: For the public, we're sort of
15 on our brainstorming, so forgive the silence out there on
16 the Internet.

17 COMMISSIONER BLANCO: I've been trying to figure
18 out, I don't know if we can do a hypothetical, but I
19 think it kind of goes back to my question about the
20 philosophy that the person or firm might use, which is,
21 what will be new to all of them is the criteria that we
22 have and the order that we have them. I mean, they've
23 all worked with different pieces of this, compactness,
24 contiguity, you know, we assume they've all encountered
25 different redistricting principles, but what will be

1 novel for everybody, and what's exciting and difficult
2 about this task, is nobody has worked with the criteria
3 we have rank ordered like we have it. So, you know,
4 there will be people that have done things where they
5 look primarily at partisanship and there will be people
6 that look primarily at, you know, compact districts,
7 where are the overriding concern, etc. So, I almost wish
8 we could come up with a hypothetical - this is the law
9 professor in me - but a hypothetical that sort of asks
10 them to apply the criteria that are in our statute, in
11 the order that they are in our statute, you know, how
12 would you - here is the scenario, how would you approach
13 this?

14 CHAIRMAN ANCHETA: Right.

15 COMMISSIONER BLANCO: And that may be a little
16 too many moving parts, but --

17 COMMISSIONER DAI: I kind of like it.

18 CHAIRMAN ANCHETA: It doesn't have to be too
19 hypothetical, either, because we do have our criteria,
20 and they are ranked. We could sort of present - we can
21 think about it some more between now and then, but I
22 could imagine some sort of hypothetical where you're
23 asked to try to decide between - we have a couple
24 districts here, but we're trying to figure out, well,
25 we've got maybe a Section 2 District here, maybe we're

1 dealing with some communities of interest here, there's a
2 county boundary we're dealing with, how much do you want
3 to reconcile, or how do you see these multiple criteria?
4 Obviously, we know the ranking, that's pretty clear, but
5 how do you see trying to solve this problem given this
6 set of - we give them the hypo that we give them.

7 COMMISSIONER BLANCO: What would you say to the
8 Technical expert? In other words, you know, "What would
9 you say to the technical expert that is drawing the
10 lines?"

11 CHAIRMAN ANCHETA: Right.

12 COMMISSIONER BLANCO: In a sentence.

13 CHAIRMAN ANCHETA: And, again, your primary role
14 is, of course, advising us on Voting Rights Act issues,
15 but how does that square with all the other things that
16 we're having to consider at the same time?

17 COMMISSIONER WARD: Did we make a determination
18 for how many open-ended questions we were looking to ask?

19 CHAIRMAN ANCHETA: I think we were - I want to go
20 through the list again and I think we're sort of more in
21 the brainstorming mode right now and we'll - I'd like to
22 go through the questions again and then just maybe change
23 the order, or adjust them, but anyway, go ahead.

24 COMMISSIONER WARD: And then we - I think I've
25 heard two broad categories of questions, so far, maybe

1 I'm wrong, one is the capacity/availability question, and
2 methodology? Is that -

3 COMMISSIONER DAI: Approach -

4 COMMISSIONER BLANCO: It's a combination, I was
5 just sort of writing it out, I think it's a combination
6 of analytical skills and methodology because it's also,
7 since everything is new, kind of what's their thought
8 process.

9 COMMISSIONER DAI: Yep.

10 COMMISSIONER WARD: Is there any other broad
11 category of question? I mean, do we want to maybe list
12 what categories we want to hit and then go back and
13 brainstorm each category? Or - would that be more...?

14 COMMISSIONER DAI: I'm also wondering, I mean,
15 how we've done this in the past is that we were presented
16 with a series of questions, and then we just chose a
17 short list of them to ask as prepared questions, and we
18 could invite Mr. Miller to help us refine these questions
19 further now that we've --

20 CHAIRMAN ANCHETA: Ah, staff.

21 COMMISSIONER DAI: -- given some direction.

22 CHAIRMAN ANCHETA: Ah, yeah, staff.

23 COMMISSIONER DAI: You know, about the kinds of
24 issues that we want to tee up and have him word the exact
25 question and indicate whether we want to set a goal,

1 which I think is a great idea, I think that's a case-
2 based kind of question is usually quite helpful to see
3 how someone thinks.

4 COMMISSIONER WARD: I think when we've done that
5 in the past, we've provided general skill areas, or areas
6 that we want them to draft questions -

7 COMMISSIONER DAI: Correct.

8 COMMISSIONER WARD: -- but I'm wondering if maybe
9 we should focus at this point at determining what those
10 areas are --

11 COMMISSIONER DAI: Categories.

12 COMMISSIONER WARD: -- categories, and then we
13 could go ahead and any ideas we have, list those, and
14 then ask staff to...

15 COMMISSIONER BLANCO: Uh huh.

16 CHAIRMAN ANCHETA: Sounds like a good approach.

17 MR. MILLER: I would just note, if I could, the
18 obvious, we haven't hit on our list yet the conflicts
19 question, which we certainly want to do.

20 COMMISSIONER BLANCO: So this is the legal
21 subject, right, it's the legal expertise questions.

22 COMMISSIONER DAI: Right.

23 MR. MILLER: Your approach is a good one, and
24 we're certainly glad to follow-up as you've suggested,
25 and if you'd want to fine tune this a little further, all

1 the better.

2 COMMISSIONER DAI: Okay, and on the conflicts
3 one, you know, I like very much the comments we've gotten
4 from the public, I think, about engendering public trust,
5 and so you know, so a question might be around how you
6 would engender that trust, you know, given any conflicts
7 that we might have.

8 COMMISSIONER BLANCO: Or perceived.

9 COMMISSIONER DAI: Perceived conflicts that you
10 may have, how would you build that trust? And, you know,
11 make the decision for the Commission?! Something to
12 that, I think, would be - I'd be very interested to see
13 what they have to say.

14 CHAIRMAN ANCHETA: Commissioner Ward. I'm sorry,
15 Mr. Miller?

16 MR. MILLER: Yeah, I had a question for the
17 Commission. A case could be made that their specific
18 experience is laid out pretty well in the brief, if you
19 will. Would you like to spend, in comparison, more time
20 in the hypothetical and the cost, the conflict issues,
21 the "how would you deal with it" and comparatively less
22 time on the "what have you done," perhaps with the
23 exception of, you know, "tell us why you'd be well
24 prepared to litigate this case in the event that should
25 occur."

1 COMMISSIONER DAI: Well, I like Commissioner
2 Blanco's suggestion about asking an open-ended question
3 that's forward-looking, you know, "given that you know
4 what our charter is as a Commission, and the tasks that
5 we have before us, you know, with your wealth of
6 knowledge and experience, you know, what do you see are
7 the challenges ahead in terms of your expertise in the
8 Voting Rights Act," something to that effect.

9 COMMISSIONER BLANCO: Uh huh.

10 COMMISSIONER DAI: That should give them plenty
11 of opportunity to elaborate on any specific experience or
12 recent case law.

13 COMMISSIONER BLANCO: Something that is captured
14 in the experience, but maybe we still might want to pull
15 out is what role they've played, or what they see the
16 role is in these public hearings because that's something
17 we kind of want to flesh out.

18 COMMISSIONER DAI: Yeah, I mean, I guess there's
19 a question and maybe this is going to be wrapped up
20 around our discussion about costs and scoping a little
21 bit, but I want to hear how they're going to help keep
22 our expenses down and still give us the expertise that we
23 need because the budget is really a very real
24 consideration.

25 COMMISSIONER FORBES: I mean, mechanically for

1 me, as we're drawing the lines and people make comments
2 and such, I mean, I'm hoping they're going to say, "Well,
3 you know, if you did that, you're going to have a problem
4 because over here...," well, that's what I want them to
5 tell me.

6 COMMISSIONER BLANCO: Yeah.

7 COMMISSIONER FORBES: Very specific kind of
8 stuff, you know, at the nitty gritty level. I mean,
9 that's how I envision their job, I don't know how they
10 envision their job.

11 COMMISSIONER DAI: But I guess a question for
12 them and for us is, do we see them needing to be at 30
13 Input Hearings? Do we see them needing to be at the
14 hearings that are in the regions that have the four
15 effective counties in Section 5? You know, as a whole,
16 that's a scoping question that I think we need to
17 consider.

18 MR. MILLER: I have a feeling this is - this is
19 Gilda Daniels.

20 CHAIRMAN ANCHETA: Why don't you go ahead and
21 take that? You don't have to do that in an open hearing,
22 you can go outside!

23 COMMISSIONER BLANCO: So, maybe along those
24 lines, now that we're sort of - I feel like we're honing
25 in a little bit, that was really helpful - maybe, I know

1 this is not a lot of time, it's Tuesday and they will be
2 here Thursday, but since this is out, you know, the
3 information about California's publicly available, and
4 maybe very specifically ask them to come prepared, having
5 looked at the data for California, to say what our
6 biggest -

7 COMMISSIONER DAI: What our biggest issues are.

8 COMMISSIONERS BLANCO: -- issues are.

9 COMMISSIONER FORBES: Our biggest areas.

10 COMMISSIONER BLANCO: Yeah, because we do - and
11 likewise, instead of being as general as how would they
12 work with us, really, come to us with a -

13 COMMISSIONER DAI: A plan.

14 COMMISSIONER BLANCO: -- a plan.

15 COMMISSIONER DAI: Yeah, I mean, we have, you
16 know, everyone knows what the four counties are, we know
17 what the population growth is, I mean, all that
18 information -

19 COMMISSIONER BLANCO: We know we have X number of
20 hearings we want to do.

21 COMMISSIONER DAI: Exactly. So there's a lot of
22 information available to them. So, I mean, if I were a
23 consultant, I would have a very clear idea, before I was
24 bidding on anything, exactly how I would be tackling this
25 project, so I would hope they would have that, too.

1 COMMISSIONER BLANCO: I mean, my only concern is
2 the timeframe is really short and that may be asking a
3 little too much.

4 COMMISSIONER DAI: You still should have a
5 framework.

6 CHAIRMAN ANCHETA: Yeah, no, a general framework,
7 and presented orally, I think, would be fine, I'm not
8 expecting a write-up at this point, but -

9 COMMISSIONER FORBES: And again, you may -- the
10 candidate who offered generalized platitudes, we'll see
11 that.

12 COMMISSIONER BLANCO: Uh huh. So, but when we
13 communicate with them ahead -- haven't we in the past
14 communicated ahead of time with them?

15 COMMISSIONER DAI: Oh, we've asked them to come
16 in an hour early.

17 COMMISSIONER BLANCO: An hour early, right, and
18 give them the questions.

19 COMMISSIONER DAI: Uh huh.

20 COMMISSIONER BLANCO: If it's that level of
21 precision, we need to give them the opportunity to
22 prepare.

23 COMMISSIONER DAI: Uh huh.

24 COMMISSIONER BLANCO: I would say.

25 CHAIRMAN ANCHETA: Beyond what we're doing right

1 now.

2 COMMISSIONER BLANCO: Yeah, right.

3 COMMISSIONER FORBES: Ideally, we'd fax them
4 questions first thing in the morning, you know, three or
5 four questions.

6 CHAIRMAN ANCHETA: Oh, yeah, okay.

7 COMMISSIONER BLANCO: Yeah, we could do that.

8 COMMISSIONER FORBES: So they've got the airplane
9 flight, if nothing else, to work on it.

10 CHAIRMAN ANCHETA: So we've done that with staff
11 hiring?

12 COMMISSIONER BLANCO: Yeah.

13 COMMISSIONER DAI: Yes, we've asked them to come
14 in an hour early, we give them the questions.

15 COMMISSIONER FORBES: Right.

16 COMMISSIONER DAI: And then they had an hour to
17 think about it.

18 COMMISSIONER FORBES: Yeah, they have time to
19 think about it so they give a little presentation and
20 we've seen presentations that have been really quite
21 thorough, and others that have not been thorough.

22 CHAIRMAN ANCHETA: Okay.

23 COMMISSIONER BLANCO: You know, I like that
24 terminology because I think there's like maybe there's
25 two parts to this, one is more presentation, and one is

1 interview. So, some part of it is presenting their work
2 plan for us, presentation about what they see these major
3 issues to be, you know, we could go through that, and
4 that's almost like presentation. And then interview
5 almost is separate, right? But where they come to us and
6 they sort of present - I don't know, I'm just struggling
7 - that was very different than saying an interview when
8 you said "presentation," and it's sort of different.

9 COMMISSIONER DAI: We had an interview question
10 that was essentially a presentation. So, and it was time
11 limited. "Please tell us in "N" minutes "X." So that
12 was the way the question was structured, that's why we
13 asked them to come in early, because we wanted them to
14 have time to think about it.

15 COMMISSIONER BLANCO: Uh huh.

16 COMMISSIONER WARD: And these were all for
17 positions of generalists, though.

18 COMMISSIONER DAI: Yeah.

19 COMMISSIONER WARD: You know, not four of
20 something so specialized, so I don't know if - if we're
21 going to limit our common questions to just a few, I
22 don't know, I mean, I wonder if we want to skip that
23 piece and go straight to more relevant specific
24 questions.

25 COMMISSIONER DAI: Yeah, I mean, we had four

1 questions and then the rest of it was -

2 COMMISSIONER BLANCO: Interview.

3 COMMISSIONER DAI: -- interview, free form,
4 anyone could ask anything, so...

5 COMMISSIONER BLANCO: So we have some legal that
6 we could work with Kirk on, right?

7 COMMISSIONER DAI: Uh huh.

8 COMMISSIONER BLANCO: Mr. Miller. And then we
9 have the conflicts questions that we've - I don't know
10 that we need more, that are sort of general. Should we
11 have some cost questions that are general, and then maybe
12 go into some questions for the specific four that we had
13 said we might? Or is that up to the individuals?

14 COMMISSIONER DAI: I was hoping that we would
15 have a discussion as a group about, you know, what we
16 think we're going to need, so it's really a scoping and
17 which will lead to the costs, right, because they're all
18 making a set of assumptions on how much time this is
19 going to take, and that's based on what they think we're
20 going to need, implicit assumptions in here, but I
21 thought it would be useful for this group to try to make
22 that a little more explicit on what we think we're going
23 to need. Now, they may think we need something different
24 and that's going to be part of the discussion in the
25 interview, but we should have an idea because we have,

1 you know, everything from half time to so many hours per
2 month, to you know, whatever.

3 COMMISSIONER FORBES: In terms of scoping, we
4 talked about, oh, more conversation to have, we've talked
5 about, when we actually get back together and start
6 drawing the lines ourselves as a body, will they need to
7 be there so, if we suggest moving this line, they'll be
8 there to tell us, "Don't do that," or, "That's okay." I
9 mean, in other words, it's like some of the various
10 proposals have them coming to our input or meetings, or
11 outreach meetings, or line drawing meetings, but there's
12 going to be -- we talked about it a fair amount of time
13 -- in between those meetings that we're going to be
14 working, do they need to be there for that? Or part of
15 that? And that's probably the scoping, to me.

16 CHAIRMAN ANCHETA: Okay. Commissioner Ward?

17 COMMISSIONER WARD: That's a good question. One
18 I had is, my understanding is we were inviting them to
19 come to public meetings, or asking that of VRA, and I was
20 just kind of wondering why; so, I was hoping we could
21 make a decision on exactly what it is we were expecting
22 out of public hearings from them, not them tell us what
23 we expect out of that. So I wasn't clear on that either.

24 COMMISSIONER BLANCO: Uh huh. So now before we
25 go to the scoping, then, should we look at questions we

1 all share that we have of individual applicants? Or
2 leave that up to all of us individually to ask in the
3 interview?

4 COMMISSIONER DAI: Yeah.

5 COMMISSIONER BLANCO: Yeah, let's do that.

6 COMMISSIONER FORBES: I'd leave that, yeah, I'd
7 leave it up to each of us.

8 COMMISSIONER BLANCO: All right.

9 COMMISSIONER WARD: I was going to ask, I'm
10 trying to have a list here, so I have a capacity
11 question, a capacity/accessibility question,
12 methodology/analytical skills question, a conflict
13 question, a cost question, and then it seemed like
14 everyone had a general agreement that we wanted a biggest
15 issues facing this Commission in regards to Voting Rights
16 Act - I don't know if we limited it to Section 2, Section
17 5 or not?

18 COMMISSIONER DAI: No.

19 COMMISSIONER WARD: No? Okay.

20 COMMISSIONER FORBES: I wouldn't.

21 COMMISSIONER WARD: Okay, biggest issues facing
22 the Commission, then, and how would you approach it?

23 COMMISSIONER BLANCO: Yeah and see what they say,
24 yeah.

25 COMMISSIONER WARD: Okay, so that's five open-

1 ended or standard questions at this point.

2 COMMISSIONER DAI: Sounds good.

3 CHAIRMAN ANCHETA: That sounds fine. I mean, and
4 we can hone in based in these answers and then individual
5 concerns that come up.

6 COMMISSIONER FORBES: Yeah, I mean, a certain
7 candidate has certain issues and that will be a whole
8 separate set of questions.

9 CHAIRMAN ANCHETA: Yeah.

10 COMMISSIONER BLANCO: And I'm willing to work
11 with Mr. Miller if he wants my held in kind of putting
12 together a more elegant list, as he would say.

13 COMMISSIONER FORBES: It's already very elegant.

14 COMMISSIONER BLANCO: Yes.

15 CHAIRMAN ANCHETA: So, let's say between now and
16 Thursday afternoon, we will have each of these three
17 back, similar notes, and then when Mr. Miller comes back,
18 we can task him to basically sort of refine some of those
19 and give us a list. Would we then - and we will
20 circulate that among the committee members? Are we going
21 public on that in terms of posting?

22 COMMISSIONER FORBES: No, we don't have to do
23 that. We haven't in the past.

24 CHAIRMAN ANCHETA: Okay, but those were in
25 Personnel.

1 COMMISSIONER DAI: Those were in Personnel, so
2 those are good questions for Mr. Miller.

3 CHAIRMAN ANCHETA: That's the reason I was asking
4 because it's something different here.

5 COMMISSIONER FORBES: I personally would be
6 inclined to post them because the public may have an
7 opportunity to comment on the questions.

8 CHAIRMAN ANCHETA: But we've sort of identified
9 sort of five or so sort of general open-ended questions,
10 there will be opportunities to follow-up, and then also
11 do more specific questions. And we are putting it on -
12 we will have Janeece read it back, but we would like you
13 to sort of refine those and get them on paper to us. And
14 then, the questions in terms of public release of those
15 questions and one question that has come up is, because
16 in the past the Commissioners have been involved in
17 personnel and hiring as opposed to contracting, whether
18 the process needs to be different because of the more
19 public and open nature of contracting.

20 MR. MILLER: I think the short answer is that the
21 questions have to be available to the public. That
22 doesn't mean that we have to post them prior to the
23 meeting, but it's a public document that people would
24 have access to. And if you'd like to post it, that's
25 fine, and we can collect public comment, it's just you're

1 not required to do so ahead of the meeting.

2 CHAIRMAN ANCHETA: Okay.

3 COMMISSIONER WARD: That would not apply to a
4 list of potential questions, correct? If we wanted to
5 come up - in other words, have a list of potential
6 questions, and then refine that, and have a final list,
7 and then, secondarily, there was talk of being able to
8 fax those early, or as quickly as possible to the
9 potential candidates and give them a chance to prepare
10 for those questions, thus the need to - or give us time
11 to post those and receive comment on them.

12 MR. MILLER: I hope this isn't putting too fine
13 an edge on it, there's a difference between posting and
14 it being a public document. Anything that goes to the
15 Commission is something that a member of the public may
16 request, they are entitled to receive it. But that
17 doesn't create an immediate posting obligation. For
18 example, they could send a Public Records Act request
19 seeking the document, which you would provide it, but
20 that doesn't require us also to post it.

21 COMMISSIONER DAI: Got it.

22 CHAIRMAN ANCHETA: Okay.

23 MR. MILLER: But I'm not sure I answered your
24 question in saying that, sorry.

25 COMMISSIONER WARD: If our approach was that we

1 wanted to go ahead and come up with a list so we'd have
2 some categories, five categories we've identified, we
3 would want to ask a standardized question and of all
4 candidates, and if we were to have a staff compile a list
5 of proposed questions under those headings, and then we
6 wanted to, as a panel, get together and fine tune that
7 and come up with the finals, and then we would want to
8 fax that - send that to the candidates at their earliest
9 opportunity. The appropriate thing would be to post that
10 final list, make that available since that's what we're
11 setting up. Is that correct?

12 MR. MILLER: I would recommend just posting the
13 final with the nuance that if somebody wanted to see a
14 copy of the draft that went to the Commission, we would
15 provide them with that, and it doesn't require us to post
16 it, but it would still be available by request.

17 CHAIRMAN ANCHETA: Right.

18 MR. MILLER: I think it would be a little
19 confusing, actually, to post a draft then a final, but
20 the draft becomes available upon request.

21 CHAIRMAN ANCHETA: Okay. So, do we have some
22 agreement on the committee that that's sort of the
23 process, and that presumably once the document is
24 finalized, that goes to the applicants, certainly,
25 directly to the applicants, but we will also post copies.

1 But I guess all of the Commissioners can get copies, as
2 well, if they want to take a look at the questions, but
3 those would be the questions we would work off of.
4 Obviously we have some flexibility in the interview to
5 actually go beyond them.

6 COMMISSIONER BLANCO: Uh huh.

7 COMMISSIONER DAI: Lots of flexibility.

8 COMMISSIONER WARD: Can I ask, have we talked
9 about a timeline at all for these interviews, or about
10 how long we anticipate taking per candidate?

11 CHAIRMAN ANCHETA: Not yet.

12 MR. MILLER: Let me just report briefly, Gilda
13 Daniels is available, but she would also like to call in.
14 Notwithstanding the fact that we made it clear in the
15 Request for Information what our schedule was, and the
16 desirability, indeed, the expectation that people would
17 be in person here, she also has a conflict and asked if
18 she could call in, and given our earlier discussion, I
19 told her that I thought it would be acceptable to the
20 Commission for her to do that.

21 CHAIRMAN ANCHETA: Okay.

22 CHAIRMAN DAI: With the proviso that we'd like to
23 see if we can try to set up a *Skype* session, if possible.

24 MR. MILLER: She said she did have that
25 capability, so then it - the question becomes whether we

1 do.

2 COMMISSIONER DAI: Well, I know that we do, I
3 don't know if we do, but we do!

4 CHAIRMAN ANCHETA: I'm more than happy to lend my
5 laptop to the Commission if you don't mind a small -

6 COMMISSIONER WARD: He is saying no, that we will
7 not have that capability?

8 COMMISSIONER DAI: Yeah, they don't, but we can.
9 We can do it.

10 MR. MILLER: Do you know, can that be set up so
11 that it would be simultaneously on several computers and
12 on a speaker-phone?

13 COMMISSIONER BLANCO: *Skype* does not -

14 COMMISSIONER DAI: It can do conference calls.

15 COMMISSIONER BLANCO: Not visual.

16 COMMISSIONER DAI: Not with visual?

17 COMMISSIONER BLANCO: No, you can do conference
18 calls, but visual is limited to two people.

19 COMMISSIONER DAI: Well, you can crowd around one.

20 COMMISSIONER BLANCO: But we could stand in front
21 of a screen, you know. I'm just saying, it's a weird
22 limitation.

23 CHAIRMAN ANCHETA: We could try to bring a big
24 monitor in.

25 COMMISSIONER WARD: Can I verify with you, Kirk,

1 is there a procedural rule that would prevent us from
2 doing that, beyond just the fact that there's no Internet
3 available in this room, is there a procedural problem
4 with that?

5 MR. MILLER: No. This is not a legal issue.
6 Being complete, there's a different rule if a
7 Commissioner were calling in from another area, and we
8 won't go into that, but for an applicant, it's not a
9 problem.

10 COMMISSIONER WARD: At the last meeting, I
11 believe one of the Sergeant in Arms made a statement that
12 there was some rule against - literally against having
13 Internet access in the - and maybe their concern is just
14 that's not allowed. You're talking about the local rule
15 as opposed to the, uh -

16 CHAIRMAN ANCHETA: Yeah, and I hope I haven't
17 been in violation of it because I was using my card to
18 access it that -

19 COMMISSIONER DAI: But that's a rule for
20 Legislators, not for us.

21 MR. MILLER: Yes, the fact that we got you those
22 cards suggests that, you know, we'll obviously double-
23 check that and -

24 CHAIRMAN ANCHETA: Yeah, if there's a building
25 rule that bans them, that's one thing, vs. the members of

1 the Senate and Assembly not doing that.

2 COMMISSIONER DAI: It's fine.

3 CHAIRMAN ANCHETA: Okay, because I would have
4 been violating it.

5 COMMISSIONER DAI: Oh, me too. Apparently we
6 violated more than one this time.

7 MR. MILLER: You just can't drink while you're
8 doing it.

9 CHAIRMAN ANCHETA: And we've been very good about
10 complying with the Senate and Assembly rules. Okay,
11 well, maybe we should talk a little bit about specifics
12 of scheduling, then. Have you had some sense of the
13 timing of when the applicants are available?

14 MR. MILLER: Yes. Both East Coast candidates
15 would like to be - I'll say in the second half of the
16 program.

17 CHAIRMAN ANCHETA: Okay.

18 MR. MILLER: I don't believe it makes a
19 difference to the California firms whether they're first
20 or second. And if it does, I'll try to work it out with
21 them.

22 COMMISSIONER DAI: Is an hour enough? Do you
23 want 90 minutes? There are four of them.

24 COMMISSIONER WARD: Are we going to follow the
25 same process as prior where we go ahead and conduct an

1 interview, and then allot time for discussion of the
2 candidate prior to moving on to the next? From previous
3 experience, we always run over, so maybe we ought to
4 budget accordingly, remembering that we have four at this
5 point.

6 CHAIRMAN ANCHETA: And just as a reminder, these
7 are all in open session compared to closed session, which
8 I think we did with the personnel hires.

9 COMMISSIONER DAI: So I don't think the
10 discussion immediately after would make sense.

11 COMMISSIONER FORBES: Yeah, I don't think that's
12 useful.

13 COMMISSIONER DAI: I don't think that's useful.

14 COMMISSIONER WARD: I agree.

15 COMMISSIONER FORBES: I think what I'd do is I'd
16 schedule four 45-minute interviews, maybe 50 minutes, and
17 then 10 minutes to move to the next one, so that gets us
18 done by 7:00, and then we have as long as we need -

19 COMMISSIONER DAI: To discuss.

20 COMMISSIONER FORBES: To discuss and decide.

21 CHAIRMAN ANCHETA: Okay, so schedule them on the
22 hour, then?

23 COMMISSIONER FORBES: Does that seem like enough
24 time? I don't think we need to belabor this.

25 COMMISSIONER BLANCO: My only concern is we've

1 been reminded several times by the public about making
2 ourselves accessible and if we have the conversation and
3 then the final decision about who we're going to
4 recommend, and all of that is happening at 8:00 at night,
5 I'm a little concerned about that from the point of view
6 of the public.

7 CHAIRMAN ANCHETA: Go ahead, Commissioner Ward.

8 COMMISSIONER WARD: What decision were you
9 referencing?

10 COMMISSIONER FORBES: We are just making a
11 suggestion to the Board, right?

12 COMMISSIONER BLANCO: Right, but if we're doing
13 that at the very end of the day, you know, it's not a
14 decision, it's not a vote, but we will be making a
15 recommendation like we always do on the Advisory
16 Committee and we've wanted to even have people comment on
17 our recommendations. If we don't come up with that
18 recommendation until late at night, I worry - although,
19 unless we move it - unless the next day's session is such
20 that people have late that night and morning to post
21 comments or to come to us, you know -

22 COMMISSIONER FORBES: But I don't think we're
23 going to be late at night. I mean, if you were talking
24 about 11:00, I would have a concern, but we're talking
25 about 8:00, and 8:00 is about as good as it's going to

1 get to the public to have a comment.

2 COMMISSIONER BLANCO: All right. Okay.

3 COMMISSIONER DAI: Yeah, and I don't see how you
4 could have that discussion until you've actually heard
5 from all four of them.

6 COMMISSIONER BLANCO: Yeah, no, I know, so I'm
7 just bringing up the question that we have had people say
8 that when we go so late it becomes hard and all of that.

9 CHAIRMAN ANCHETA: Well, and I think that concern
10 has come up because we've often, at a number of meetings
11 we've sort of postponed public comment until the end of
12 the day, and we keep stretching out the end of the day.

13 COMMISSIONER FORBES: We start at 9:00 and it's
14 now 6:30, that *is* the end of the day.

15 CHAIRMAN ANCHETA: And I think we're giving the
16 public some notice now on posting the meeting and at the
17 beginning of the meeting, we've said "this is our
18 schedule for the day," and we understand it will be
19 getting a little bit later, but you know, going 7:00 to
20 8:00 is not overly unreasonable given the timing of it
21 all.

22 COMMISSIONER DAI: Yeah, I mean, more members of
23 the public will be available then, actually.

24 COMMISSIONER BLANCO: Yeah, yeah.

25 MR. MILLER: It is a meeting that calls for a

1 large lunch!

2 CHAIRMAN ANCHETA: Within, of course, State
3 required dollar guidelines, so the public is not
4 concerned!

5 COMMISSIONER FORBES: Macaroni and cheese is
6 cheap.

7 COMMISSIONER BLANCO: A lot of Mac and Cheese.

8 CHAIRMAN ANCHETA: All right, so it sounds like,
9 again, sort of scheduling on the hour would work?

10 MR. MILLER: Yeah, and I would suggest that we -
11 this is less of an issue since we'll just have two
12 people, two firms coming in, but I thought I would ask
13 the one not presenting not to be present during the
14 other's presentation. And so on.

15 COMMISSIONER BLANCO: Yeah.

16 MR. MILLER: We'll try to house them across the
17 street.

18 COMMISSIONER BLANCO: That would be great. All
19 right. Fifty minutes?

20 CHAIRMAN ANCHETA: Yeah, 50 minutes, basically.
21 Did you want to raise something, Commissioner Ward, in
22 terms of limiting access or -

23 COMMISSIONER WARD: I was just trying to think it
24 through if we have East Coasters who are coming in late
25 and have the ability to watch the stream, but the people

1 who are here are at a disadvantage by being separated if
2 that -

3 CHAIRMAN ANCHETA: They can go watch it from an
4 Internet café or something.

5 COMMISSIONER WARD: Right.

6 CHAIRMAN ANCHETA: If you just have - the Honor
7 Code would ask you not to watch until you're on, I mean,
8 that's -

9 MR. MILLER: In talking with them, it sounds like
10 they're actually going to be tied up until the moment
11 that their turn comes, but I'll ask them to provide that
12 courtesy to the others.

13 COMMISSIONER DAI: Yeah, I mean, I just want to
14 comment that this is the same issue the Applicant Review
15 Panel deal with, with interviewing 120 of us, you know,
16 and people got to choose where they went in the sequence,
17 so -

18 CHAIRMAN ANCHETA: Yeah, okay. And, again, I
19 think it would simply be a request as a courtesy, but
20 they, too, are members of the public, right? I don't
21 think we can limit or require that they not watch it.

22 COMMISSIONER BLANCO: Yeah.

23 CHAIRMAN ANCHETA: I think, as a courtesy, we can
24 ask them to do so.

25 MR. MILLER: I would just kind of conclude the

1 question formation piece here. We'll follow-up, as you
2 suggest, and I'll e-mail these back to you. If you want
3 to e-mail comments back, I can try to incorporate them.
4 What we can't do is work really directly with all five
5 beyond receiving your comments and that, either, right,
6 I'm glad to work with one or two to finish it, that's
7 perhaps the best way.

8 COMMISSIONER FORBES: Right, I agree.

9 COMMISSIONER BLANCO: I volunteer.

10 MR. MILLER: Okay, let's do that. Then, to the
11 extent there are conflicting comments, we'll work those
12 out.

13 CHAIRMAN ANCHETA: Okay. I'd like to have public
14 comment at this time. Is there any other points we need
15 to cover in terms of the questions or the process?

16 MR. MILLER: You had mentioned earlier that you
17 wanted to talk about the scope of the work -

18 CHAIRMAN ANCHETA: Yeah, I'm sorry, right.

19 COMMISSIONER DAI: Yeah, we haven't discussed
20 that yet. That's the main thing, actually, that I hope
21 you guys will discuss.

22 CHAIRMAN ANCHETA: Yeah, no, I remembered that, I
23 wanted to maybe get some comment on stuff so far, so it's
24 not all one big hodgepodge of things. Would anyone like
25 to make comment, at least at this stage in terms of what

1 we've covered so far, in term of the general questions
2 and the interview process, itself? Okay, that's fine. I
3 thought I'd try to squeeze that in there before we go to
4 scope of work. Okay, I have a suggestion to take a short
5 break, is that okay, take a 10-minute break and then
6 we'll resume with scope of work. Okay, so let's be back
7 - I have a little bit after 3:00, so 3:15 we'll resume.
8 Okay, thank you.

9 (Recess at 3:04 p.m.)

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

11 CHAIRMAN ANCHETA: Okay, we are back on the
12 record. We've basically completed our - for the most
13 part, we sort of mapped out our scheduling of the
14 applicants and general framework for interviewing
15 questions. So, I think we want now to sort of move into
16 the scope of work and the cost questions, as well. So
17 that's a good topic to get into. So, Commissioner Dai,
18 just remind us, what do we have to work with, again? I'm
19 blanking on the numbers for some reason. Is it \$300,000?

20 COMMISSIONER DAI: Well, it's been modified and
21 lumped together now with the Technical Consultant, so -

22 CHAIRMAN ANCHETA: Oh, the Technical Consultant.

23 COMMISSIONER DAI: Yeah, so those two contracts
24 have been put into a single line item now.

25 CHAIRMAN ANCHETA: Oh, okay.

1 COMMISSIONER DAI: But I can tell you that,
2 together for the fiscal year, for both of them, it's
3 \$500,000.

4 COMMISSIONER BLANCO: Say that again.

5 CHAIRMAN ANCHETA: That's through June 30th,
6 right?

7 COMMISSIONER BLANCO: We have how much?

8 COMMISSIONER DAI: This is how much we budgeted,
9 it doesn't mean we were granted -

10 COMMISSIONER BLANCO: Right, right.

11 COMMISSIONER DAI: But it's \$513,000, and I'm
12 sure there's a reason for the -

13 COMMISSIONER BLANCO: Thirteen.

14 COMMISSIONER DAI: -- \$13, yeah. But, yeah, I
15 just checked it, the latest version I saw, and it
16 includes both the Line Drawing Consultant and the VRA
17 Attorney -

18 COMMISSIONER BLANCO: And experts.

19 COMMISSIONER DAI: Actually, Technical Experts is
20 a separate line item.

21 COMMISSIONER BLANCO: Ah, okay.

22 COMMISSIONER DAI: There's no guarantee we're
23 going to get this money and, so, regardless - I mean, I
24 think that's just as good as the ceiling, but the ceiling
25 may actually be lower, so whoever we end up working with,

1 we're going to be working very closely with Mr. Miller to
2 contain costs throughout the whole process.

3 CHAIRMAN ANCHETA: Do you have figures for Fiscal
4 Year '11-'12?

5 COMMISSIONER DAI: Yes. That's \$371,000, a
6 little bit less than that, again, I'm sure there's a
7 logic for exactly how those numbers came out. But,
8 again, it includes both the Line Drawer and the VRA
9 Attorney, and that's even less likely that we'll get, so
10 we just need to be clear, and this might be something
11 that we would have to put as a clause in whatever
12 contract we write up, because there is - there needs to
13 be some kind of contingency if the Legislature doesn't
14 approve our budget requests, and if they approve it, but
15 the budget isn't passed on time. So there might be a
16 long payment period, right, so there are some
17 considerations there, and then we need to think about -
18 this includes the line drawing piece and that's the piece
19 we're really going to need, so -

20 CHAIRMAN ANCHETA: So, best case scenario,
21 assuming, again, approval and budget, the full budget is
22 approved, we've got a little bit under \$900,000 to take
23 us basically through August 15th for the attorney and the
24 line drawer, right?

25 COMMISSIONER DAI: Again, we don't *got* anything.

1 CHAIRMAN ANCHETA: Right, this is the best case
2 scenario. I mean, it could be considerably less, but
3 that's kind of the upper limit of what we might have to
4 work with.

5 COMMISSIONER DAI: Yeah, and if you look at the
6 bids, we have several bids that should put us well under
7 that and within the range, so I think we're okay, but
8 immaterial of particular applicant's proposals, I think
9 that what the full Commission is expecting from the Legal
10 Advisory Committee is, you know, some idea of how much
11 time we're really going to need and, then, like I said,
12 you can negotiate on the hourly, or whether it's
13 structured as a fixed fee, or whatever, but we can do the
14 math in whatever ways, but we saw some proposals where
15 pieces of work were walled off and said that this bid
16 doesn't include that, and that's going to be bid on an
17 hourly rate. So, I mean, the fact, as has been pointed
18 out, it can really drive up the cost. So, I think what I
19 was hoping the Advisory Committee would discuss is to get
20 some clarity around what we think we are going to need,
21 you know, it's like, "what are we buying?" As you said.
22 What do we know we need to buy here? What does it
23 include so that that can be negotiated in any upfront
24 contract with our preferred vendor here?

25 COMMISSIONER BLANCO: Just a question. At the

1 last Commission meeting, did we decide on sort of a
2 barebones budget if we didn't get any of the
3 augmentation? Didn't we come up with a number like \$3
4 million through -

5 COMMISSIONER DAI: Yeah, this is the stripped
6 down budget, and most of this is adjustments in terms of
7 our outreach efforts, so I think that Mr. Claypool, as we
8 would hope he did, protected most of the consultant
9 money, so that we haven't stripped out of our budget, but
10 the reality is that we can't really expect more than the
11 \$3.5 million that was in the original allocation, we can
12 ask for it, but there's no guarantee that we'll get it.
13 But I think what we focus on is what we think we need
14 and, based on what I've seen of the four firms, you know,
15 I think we can get in that range, so I'm not too worried
16 about the upper end, but I think we just need to be more
17 specific about what we're going to need and how much time
18 we think that's going to take, otherwise, you know,
19 everybody, like I said, has a different set of
20 assumptions on what they're providing us, so we need to
21 be clear on what we want.

22 CHAIRMAN ANCHETA: So a question, then I'll go to
23 Commissioner Ward. Do you recall what the initial line
24 item was for the Technical Consultant, prior to
25 consolidation?

1 COMMISSONER DAI: Yeah, I think we used a number
2 of \$750,000.

3 CHAIRMAN ANCHETA: \$750,000, okay. So, I'm
4 assuming -

5 COMMISSIONER DAI: Which was just a guess, right?
6 I mean, we hadn't seen any of those bids yet, that was
7 kind of a mid-point between the highest number we heard
8 and the smallest we heard.

9 CHAIRMAN ANCHETA: I just want to get some
10 ballpark figures so we get a sense of how the \$900,000
11 ought to be split, roughly. And, you're right, \$900,000
12 is optimistic, of course, but to put some ballpark
13 figures.

14 COMMISSIONER WARD: I remember in tracking the
15 proposals that had an hourly rate and, then, those that
16 listed out their hours and it seemed like the spread was
17 \$500.00 to \$800.00 was what I had written down from the
18 proposals, but from what the vendors were suggesting --

19 CHAIRMAN ANCHETA: Technical?

20 COMMISSIONER WARD: -- no, the lawyers -
21 suggesting how many hours it would plan on needing to
22 complete the Commission's work on their end, so I don't
23 know if we - I didn't write down the spread from lowest
24 to highest as far as hourly rate from what was offered.

25 CHAIRMAN ANCHETA: Okay.

1 COMMISSIONER DAI: I wrote down some of that. I
2 think the low was, well, again, you know, they're
3 different lows of staff and the lowest was like \$75.00 an
4 hour for a paralegal, and then, for experienced
5 attorneys, I think the low was \$250.00 per hour range, to
6 I think the high in this group was \$500.00 of the four
7 firms that are still left in the running. So, like I
8 said, we can do the math, so the question is do we think
9 the hours are going to be comparable.

10 COMMISSIONER BLANCO: What was the junior
11 attorney rate?

12 COMMISSIONER DAI: The lowest, I think \$250.00
13 was the low.

14 COMMISSIONER FORBES: For a junior?

15 CHAIRMAN ANCHETA: We did have a number
16 discounted down to \$250.00.

17 MR. MILLER: Yeah, that was from Munger, Tolles.

18 CHAIRMAN ANCHETA: Did Gibson do that? No,
19 Gibson didn't do that, that's right, Gibson didn't get
20 that specific.

21 MR. MILLER: That's a follow-up question for
22 Gibson, is if there would be a lower rate for associates.

23 COMMISSIONER DAI: Yeah, I think Nielsen was \$500
24 an hour based on their assumptions.

25 COMMISSIONER FORBES: Gibson wouldn't give us a

1 number.

2 COMMISSIONER BLANCO: Right.

3 COMMISSIONER FORBES: That was their issue.

4 COMMISSIONER DAI: And then we got some ballpark
5 numbers without a specific hourly rate, so I'm sure there
6 is an implicit hourly rate in there.

7 COMMISSIONER BLANCO: Should we list them?

8 COMMISSIONER FORBES: But didn't both Nora [ph.]
9 and the other woman's name escapes me right now, didn't
10 they both say it would be about \$250,000?

11 COMMISSIONER DAI: They said it would not exceed
12 that and should be a lot less, is what they said. And it
13 would have to be less.

14 COMMISSIONER FORBES: Yeah. That's right, and
15 Gilda Daniels.

16 COMMISSIONER DAI: But I think, you know, back to
17 Commissioner Ward's question about whether they need to
18 be at Public Input hearings, I think that's a really
19 valid question because I could imagine they would need to
20 be present as we're drawing the lines and making
21 decisions, but when we're just hearing things, it's not
22 clear to me we need an attorney to jump up and respond to
23 every random comment, you know?

24 CHAIRMAN ANCHETA: You know, I think that's a
25 very good point and I think, certainly, when we're making

1 some decisions about where to draw the lines, I think
2 that we need that attorney in the room. But when we're
3 just doing straight input, and you know, as I've
4 suggested at previous meetings, I think we do have to try
5 to allocate some special meetings for groups that may be
6 presenting statewide maps, some that will be presenting
7 probably some Section 2 and Section 5-related maps, so
8 for those particular -

9 COMMISSIONER DAI: Then they have to be at
10 certain meetings.

11 CHAIRMAN ANCHETA: Right. For certain meetings,
12 I think it might be - but I think for the general public,
13 even though it may come up, the suggestion, well, here we
14 are in Monterey County and -

15 COMMISSIONER DAI: Right, maybe in the four
16 counties, you know -

17 CHAIRMAN ANCHETA: Right, for Section 5, it might
18 be specific, but I think it's a correct assumption that,
19 for the bulk of the more general public hearings, that an
20 attorney wouldn't be essential to have at the hearing to
21 sort of spot things. We can try to have both staff and
22 Commissioners sort of be on the look-out for those, and
23 then flag them. Again, we will have transcripts and
24 other devices that capture that, too. But I think that's
25 a very good point that we don't have to try to allocate

1 all of this stuff for Input Hearings, but certainly the
2 business meetings where we're making decisions, if there
3 are, again, maybe targeted sort of set of - the next
4 round of input where we're presenting draft maps and
5 there's some remarks, and if we have, again, Section 5
6 counties, or other ones where we are, in particular,
7 raising questions about Section 2, it's appropriate to
8 have the counsel there.

9 COMMISSIONER WARD: So we are talking about,
10 then, at minimum, nine public meetings, right? Four at
11 the county, one community group map input session, and
12 then I would imagine, at minimum, four line drawing
13 Commission sessions. That puts us at a minimum of nine,
14 which is quite a bit.

15 CHAIRMAN ANCHETA: Well, the question is our line
16 drawing sessions, how long those are going to be.

17 COMMISSIONER DAI: Yeah, and they may be two
18 days.

19 COMMISSIONER WARD: Well, right, so - like I
20 said, four is a small number, as a minimum, we're
21 actually talking about quite a bit of business meetings.

22 COMMISSIONER BLANCO: Yeah, I think so.

23 COMMISSIONER WARD: Which is -

24 COMMISSIONER DAI: Which is why none of them
25 committed to include that because they didn't know how

1 many dates we were talking about. But, I mean, that's a
2 question we ask about capacity and availability, too,
3 it's like, if we're going to - I mean, the last I got
4 from our Input Sessions, that we had here in the Capitol
5 on Saturday is that, you know, that we may have a very
6 intense period of five to 10 days where we're just
7 sitting there sequestered, drawing maps, and figuring it
8 all out, and acting on all the public input, which we've
9 been listening to all this time.

10 CHAIRMAN ANCHETA: Right, and I think it's
11 possible, certainly, during those marathon sessions, to
12 divide up parts of the state or say, well, not making any
13 assumptions here, but maybe the most northern counties
14 we're not going to be dealing with the same issues as
15 we're going to be dealing with in Los Angeles County, for
16 example. And counsel would have to be at some of those
17 meetings, but obviously there's plenty of areas within
18 the state where they need to be there.

19 COMMISSIONER FORBES: Well, it strikes me, what
20 we're saying is, as we do our regional meetings, we don't
21 necessarily need the VRA Attorney, but we do need them
22 when we gather for these marathon sessions. Now, given
23 the number of days we're going to be out and about, you
24 have to assume there's 30 days taken up in these - I'll
25 call it "Outreach Meetings" for lack of a better term.

1 We have four months. We have April, May, June and July.
2 So you've got 120 days, 30 of which are taken up by these
3 outreach meetings because it's 90 days more. The
4 question is how much of those 90 days that we're going to
5 be spending actually sitting down and drawing maps. My
6 guess is we're going to do it two weeks a month, actually
7 just drawing. I mean, that's just a guess, but if I have
8 to sit here and pick a number, I think we're looking at
9 six weeks of line drawing because we're not going to do
10 it in April if we're not getting input in April, but I
11 don't know that we're going to put pen to paper, so to
12 speak, until May. You know, that's just an assumption,
13 so, you know, and I'm open - anybody else have any ideas,
14 I'm just coming off the top of my head on how long we're
15 actually going to sit in these marathon sessions. But I
16 certainly am mentally allowing two weeks a month. And
17 so, I mean, that's a scope, but other people can have
18 different numbers -

19 CHAIRMAN ANCHETA: It's a good place to start.

20 COMMISSIONER FORBES: I saw everybody sort of
21 blanch when I said that.

22 CHAIRMAN ANCHETA: Kirk.

23 MR. MILLER: Well, just marginally helpful to
24 your point, we do have a calendar to present, a draft
25 calendar at this meeting, let us double-check how many

1 business meetings are planned for May, that would help a
2 little bit on your estimate, and then the number of May
3 meetings where that would be a possibility.

4 COMMISSIONER FORBES: And then, I think the
5 question we have to ask ourselves, at these actual line
6 drawing meetings where we're working more or less as a
7 committee of the whole, do we want the Voting Rights
8 Attorney to be there at our shoulder while we're doing
9 this? I mean, is there a straight one to one correlation
10 between the time we're there and the time they're there?
11 And I'm open -

12 COMMISSIONER WARD: I was going to ask, yeah.

13 COMMISSIONER FORBES: -- it's just a question.

14 COMMISSIONER WARD: Yeah, I was hoping that the
15 experienced, you know, attorneys on the panel here would
16 provide any suggestions for that, too. This model is
17 definitely different than what -- I'm just kind of
18 comprehending it without having that experience, and that
19 is that we would, as a Commission, with technical
20 assistance and technical input, make decisions on where
21 we wanted lines and then submit that for VRA legal
22 review, not have that at the ready only because, again,
23 that model kind of gives me the impression of almost
24 being steered by, you know, so as these questions come
25 up, and getting an immediate legal read, and then making

1 an immediate decision on what we want to do with the
2 line. My thought was that this Commission, we take all
3 that technical input, we take all the legal criteria,
4 apply that as a Commission to a map, and then we submit
5 that with our justifications for that to VRA for a
6 review, and then at that point they can provide options
7 if they see any problems. I didn't necessarily see the
8 VRA lawyer - and, again, excuse my lack of experience
9 with it - being at the meeting, at the ready, making game
10 time decisions on our calls, you know.

11 CHAIRMAN ANCHETA: Right.

12 COMMISSIONER FORBES: I guess my only concern, I
13 mean, and I have no more experience on this, either,
14 Commissioner Ward. I don't think I've done this before.
15 I'm concerned, again, it's a time issue, to go out with a
16 set of maps, ask them for comment, then the process comes
17 back and you wait a few days and you go back out to them,
18 that's why I don't think that's going to be the model. I
19 mean, I could easily be wrong on that, but I think it's
20 going to be much more back and forth over the map kinds
21 of discussions because we're going to say, "We want to
22 move these five Census Blocks out, and we want to bring
23 these over here." And I don't want to have to wait three
24 days to find out that I couldn't do that because the
25 voting Right Act Attorneys says, "Can't do that, bad

1 call." I mean, I think they're going to have to be
2 pretty close with us to let us move stuff around.

3 COMMISSIONER BLANCO: Can I suggest that we
4 tackle - oh, sorry.

5 COMMISSIONER WARD: Oh, no, go ahead, please.

6 COMMISSIONER BLANCO: No, I'm just potentially
7 trying to tackle this not from a calendar perspective and
8 meetings, but the things we expect the attorney to do.
9 Okay?

10 COMMISSIONER DAI: Yes, let's stick with scope.

11 COMMISSIONER WARD: Well, I think what we're
12 trying to do is determine scope by determining if, in
13 fact, we need to be considering how many public meetings,
14 if any, we want these people at.

15 COMMISSIONER BLANCO: Right, but I was just
16 thinking - let me just say what I was thinking, maybe
17 this helps, or it doesn't help. And I have a little bit
18 of a cheat sheet here, but there are going to be some
19 Section 5 counties that we have that there is going to be
20 initial work that has to happen to review the submissions
21 from 2000, and then all the sort of baseline, or whatever
22 the terminology is, I can't remember right now, I've
23 never really done a lot of Section 5. And so there will
24 be a review of documents that this attorney, only the
25 attorney, really, can do for all the Section 5 counties,

1 both looking at their past things, the pre-clearances,
2 what happened with them, and setting the standards, so
3 there is review of the materials there that is a task. I
4 think that with or without the Map Drawer or Technical
5 Assistant, which is a better term, the attorney is going
6 to have to get completely familiar with the Census Data,
7 where the population growth is, what the demographics of
8 that population growth are, and be prepared to tell us,
9 not just the technical expert, but prepared to tell us,
10 here are the areas where you have loss of population, and
11 therefore, in order to reapportion, you're going to have
12 to potentially - you have to do something potentially
13 here because of loss of population here, you know, in
14 different parts. So, they should identify for us, since
15 we don't have a Demographer on staff, the attorney is
16 going to have to identify for us those areas where we see
17 the population shifts, and then I would say that attorney
18 should look at that in combination with the demographic,
19 racial, ethnic, makeup of those shifts, to already begin
20 to make some kind of informed - give us some sort of
21 informed analysis of what the makeup of that population
22 that's shifted and the one that's left, and what that
23 means. So, those are all things that - the reason I was
24 trying to do it like that had nothing to do with the
25 public hearings, those are just tasks that they have to

1 do.

2 COMMISSIONER DAI: It's analytical beforehand.

3 COMMISSIONER BLANCO: Yeah, beforehand. And that
4 will require a lot of - this is what they have to do
5 almost immediately, the day they start, is the data is
6 all there. And I think they have to begin to look -- in
7 that analysis, they have to begin to look at the
8 application of the line of cases we've been discussing,
9 and all the Section 2 cases, you know, they have to begin
10 to work with our criteria to begin to see how it plays
11 out - and potentially give us a legal analysis of what
12 they see in store for us and for the Technical
13 Consultant. I think that's one -

14 COMMISSIONER DAI: Chunk of work. And I would
15 almost see them providing as, you know, kind of a range,
16 if you will, of where it would be safe to draw lines kind
17 of in this range, here is where you're going to run into
18 trouble, and then we would decide exactly where the line
19 should be. I would imagine that through that analysis
20 that they could provide some guidance upfront before we
21 even do anything.

22 COMMISSIONER BLANCO: Now, if that's a bucket, in
23 order to get to the point where they can apply the
24 criteria well, they're going to have to have information
25 about communities that's not in the data, which is the

1 community of interest input from our hearings, they're
2 going to have to have discussions that they hear about
3 neighborhoods because that's in Prop. 20, and probably
4 information that will come up at the hearings about why -
5 it's almost community of interest, but it's not, but why
6 people think their cities and counties should remain
7 whole, you know, that kind of information will be part of
8 what they have to use for their analysis. Now, the
9 question is, do they have to be there to - that's what
10 they are going to need to work with that information,
11 along with Census Data, but the question is do they need
12 to be there, let's say in that first round, let's just
13 talk first round, when people present that to us. So,
14 that's one how I would sort of formulate that question,
15 and maybe we can talk about that, like given that that's
16 what they'll be doing, do they need to be at that first
17 set of input meetings. What do people think?

18 COMMISSIONER FORBES: Well, in terms of cost, I
19 would say no, I would think that it would be more cost-
20 effective if they simply read the transcripts because
21 there's an awful lot of down time in a meeting that we're
22 paying X hundreds of dollars an hour for. And
23 transcripts, they'll at least get the meat out.

24 COMMISSIONER DAI: Well, and actually, as I
25 understand it, it's going to be our map drawer's

1 responsibility to gather the input from all those public
2 hearings and summarize it.

3 COMMISSIONER BLANCO: Right.

4 COMMISSIONER DAI: And use that information to
5 put into the map. So, that seems to me that that
6 interface will be important.

7 CHAIRMAN ANCHETA: Yeah, going back one step, I
8 think it's important in terms of just the Voting Rights
9 Attorney and - I forget the - the Statistical Consultant,
10 not the Line Drawing Consultant on board, that they very
11 upfront give us a lot of - this could be various memos
12 and various guidelines that we should follow --

13 COMMISSIONER DAI: Training.

14 CHAIRMAN ANCHETA: -- training, as we are doing
15 the Input Hearings, and just things to watch out for, and
16 when we catch them, we note them and, of course, sort of
17 highlight them in the transcripts, as well. And they
18 will be compiled by the Technical Consultant, but we can
19 certainly highlight some of those for the attorneys so
20 that - and they may want to do it by region, or rather
21 than dumping it all at the same time at the end, but to
22 have sort of a rolling set of data that we can provide to
23 the consultants, so they don't have to actually - the
24 attorney - so they don't have to be there, but they're
25 getting the information on a regular basis.

1 COMMISSIONER FORBES: It's also going to be, I
2 mean, we're hoping that it's going to be information
3 brought to us not to us, not to the meetings.

4 CHAIRMAN ANCHETA: Right, absolutely, yeah.

5 COMMISSIONER BLANCO: Yeah.

6 COMMISSIONER FORBES: To have the attorney focus
7 on just the meetings, not waste their time to get all the
8 universes of information.

9 CHAIRMAN ANCHETA: Yeah, and that's data, I
10 think, through all the various inputs and where it's all
11 going to be put.

12 COMMISSIONER BLANCO: That's right.

13 CHAIRMAN ANCHETA: And inputted into the
14 database, as well.

15 COMMISSIONER BLANCO: Uh huh. So, maybe we know
16 that, for that first set of meetings - different question
17 for the Technical Consultant, but for the attorney, that
18 first - how many are we talking about --

19 COMMISSIONER FORBES: Nine.

20 COMMISSIONER BLANCO: -- they don't have to be at
21 those.

22 COMMISSIONER FORBES: Not the best use of their
23 time.

24 COMMISSIONER BLANCO: Like you said, they may
25 have to help prepare us for those meetings.

1 CHAIRMAN ANCHETA: Right, exactly.

2 COMMISSIONER BLANCO: With a little bit of a
3 toolkit type thing. But they don't have to be there.

4 CHAIRMAN ANCHETA: Yeah. Okay, we're making
5 progress, this is good.

6 COMMISSIONER DAI: Well, and keep in mind that
7 Mr. Miller will also be at a good number of our meetings
8 and he's going to interface, our technical map drawer is
9 going to be an interface. I think we really need to
10 think about when we're going to need the expertise, and
11 also are they going to be prepared to do it in a real
12 time fashion, anyway? I mean, I would think, for
13 example, if we're going to get maps, several groups told
14 us they're going to be submitting regional maps, their
15 entire maps for the state, and I would think they would
16 want time to study that and review it, and not have to
17 respond in a public hearing right on the spot. I mean,
18 I wouldn't think that would be ideal.

19 COMMISSIONER FORBES: Right.

20 COMMISSIONER BLANCO: So -

21 CHAIRMAN ANCHETA: Well, as we're getting - let's
22 say we've got the inputting, we've got to go get various
23 sources of inputting, and we're getting down to the,
24 okay, it's time to go to the marathon sessions, right?
25 Now, would we want the VRA attorney to basically, "Okay,

1 before you go into your marathon sessions, here's stuff
2 you need to think about as you're actually drawing the
3 maps, vs. what may have been given us upfront in terms of
4 input - or, would we have already sort of gotten all that
5 stuff upfront? In other words, we don't have to have the
6 VRA attorney back in to say or to remind us, "Here's what
7 to look for as you're actually drawing the maps." Or do
8 we want them back in at that point to say, "Here's stuff
9 to look out for as you start drawing?"

10 COMMISSIONER BLANCO: I think before that,
11 there's another big bucket of work, which is the attorney
12 with the technical consultant.

13 COMMISSIONER DAI: Correct.

14 COMMISSIONER BLANCO: I think they are doing a
15 tremendous amount of work together because that technical
16 consultant is going to be constantly talking to the
17 attorney about this, that, blah, blah, blah.

18 CHAIRMAN ANCHETA: But that's a back and forth.

19 COMMISSIONER BLANCO: Yeah, but, no, that's what
20 I mean. So that doesn't have to be with us. So, they're
21 going to be - they're a team and they're talking -

22 CHAIRMAN ANCHETA: I agree.

23 COMMISSIONER BLANCO: -- and so, when we get
24 something that they as a team -

25 COMMISSIONER DAI: Have decided is a good thing.

1 COMMISSIONER BLANCO: -- that is worth presenting
2 to us, and then we eventually will present it also to the
3 public, we probably do want the attorney at the meeting
4 because they will have the part of the team that -

5 COMMISSIONER DAI: Presents.

6 COMMISSIONER BLANCO: -- that presented this and
7 put it together. So, I do think we need them at the
8 meetings where we're looking at something that has been
9 put together, together with the technical consultant.
10 Simultaneously, they need to be looking at the maps the
11 that the public submits.

12 COMMISSIONER DAI: Uh huh, any whole maps.

13 COMMISSIONER BLANCO: Any whole maps.

14 CHAIRMAN ANCHETA: Whole maps, okay.

15 COMMISSIONER BLANCO: Yeah, they have to be
16 looking at whole maps that may be submitted. They have
17 to be looking at them to see how they - if there are
18 problems, how they compared to - maybe they resolve an
19 issue that we've been looking at, but they do need to
20 look at what's submitted to us, with a legal eye.

21 CHAIRMAN ANCHETA: Well, let's think about that
22 for a second.

23 COMMISSIONER BLANCO: Let's think about that.

24 CHAIRMAN ANCHETA: And just sort of try to think
25 or predict how many of those sort of big statewide maps

1 we're going to get. We know -

2 COMMISSIONER DAI: A small number.

3 CHAIRMAN ANCHETA: -- well, the problem is
4 because it's not too hard to draw statewide maps,
5 actually, at least at some level; for example, it's not
6 too hard for a member of the general public to draw a
7 statewide Congressional map, I don't think, with a lot of
8 public software, the numbers are there, it's not hard.
9 So, which doesn't mean we're going to get a lot of them,
10 but it's a lot easier than it used to be to do that. So,
11 one question I would raise and, again, maybe I'm just
12 worrying about something that's not going to be an issue,
13 but we know that, you know, there are some major players,
14 certainly, the parties, the Civil Rights organizations
15 that we've been hearing from, you know, will be
16 submitting those. We know they're coming in, we know
17 that. And those need to be looked at carefully,
18 obviously. I'm just wondering if, in terms of the volume
19 of other sorts of either statewide or regional maps, do
20 we think we might have a lot? Again, I don't know.

21 COMMISSIONER DAI: I don't know. But, again, I
22 see that as the line drawing consultant's job to
23 summarize all of that because, you know -

24 CHAIRMAN ANCHETA: It's just a question whether,
25 again, if we get a lot, do we want to put them all - give

1 them all to the Voting Rights Act Attorney?

2 COMMISSIONER DAI: No, we give them to our
3 Technical Map Consultant.

4 CHAIRMAN ANCHETA: Technical Consultant, okay.

5 COMMISSIONER FORBES: Yeah.

6 CHAIRMAN ANCHETA: Okay. Because we're also
7 hearing you might want to give that to the attorney -

8 COMMISSIONER DAI: After the technical map drawer
9 has summarized them and come up with specific questions.

10 CHAIRMAN ANCHETA: That's fine. I wasn't clear
11 on that point, that's -

12 COMMISSIONER DAI: Yeah, because that would be
13 disastrous, that would just take an infinite amount of
14 time --

15 CHAIRMAN ANCHETA: Right, okay.

16 COMMISSIONER DAI: -- potentially.

17 CHAIRMAN ANCHETA : I just wanted clarity on that
18 point. That's what I'm sort of getting at, I didn't
19 think that would be right.

20 COMMISSIONER DAI: Yeah, in my understanding, I
21 mean, that's the reason the line is part of the budget,
22 it's devoted for that effort because it's not just
23 drawing the lines, it's actually categorizing the input
24 and saying how many people said the same thing and
25 capturing all that data that goes into drawing the lines,

1 and that's the job of the line drawing consultant.

2 COMMISSIONER BLANCO: That's right.

3 COMMISSIONER DAI: And that's not what - the
4 attorney should not have to look through, you know, a
5 thousand maps.

6 COMMISSIONER BLANCO: Right.

7 COMMISSIONER DAI: Just as we should not have to
8 look through a thousand maps, we need to review the
9 summary of it.

10 COMMISSIONER BLANCO: Right, so when we have the
11 other bucket of work, which is working with the technical
12 consultant to eventually present us with options, that
13 includes that the technical consultant has -

14 COMMISSIONER DAI: Already done all this.

15 COMMISSIONER BLANCO: -- gathered some
16 information and may put - the work together with that
17 input to, you know, present us with things.

18 CHAIRMAN ANCHETA: Okay. So, Commissioner Ward,
19 go ahead.

20 COMMISSIONER WARD: Thank you. So, this is a
21 little bit of a shift from what I think us initially
22 outlaying as a process for drawing the lines with the VRA
23 attorney. What I understand now is we're talking about
24 the VRA attorney collaborating with the technical
25 advisor, receiving summary inputs of maps, comments,

1 things like that, testimony received, and then preparing
2 a option list, a legal read and option list for
3 contentious districts, and then we at that point draw the
4 line based off of that input? Whereas before we were
5 talking about sitting down, doing that as a Commission,
6 taking that input, taking all that stuff, coming up with
7 our own maps, and then submitting those to the attorney
8 for review. So, in other words, it seems to me like
9 there's a difference here of what we're talking about
10 between the Commission taking data and drawing maps, and
11 us providing information to a technical advisor and
12 Voting Rights Attorney, and then having them tell us how
13 to draw the lines. And that seems like two different
14 concepts here that we're talking about.

15 COMMISSIONER BLANCO: Yeah. Can I say something
16 about that?

17 CHAIRMAN ANCHETA: Go ahead.

18 COMMISSIONER BLANCO: I know we've kind of talked
19 about this as perhaps a philosophical or whatever
20 difference on the Commission, that some people think we
21 should be drawing the maps, and some people think that
22 the technical expert and the lawyer should be drawing the
23 maps and presenting them to us. I really don't see that
24 as a neat distinction, I think it's partly a false
25 dichotomy. I think that we will get presented with

1 analysis of, like I said, with the population growth and
2 where it looks and where it has to happen, where the
3 shifts - where the lines might have to be drawn in that
4 first round. I think, when the lawyer is working with
5 the technical consultant, and then comes to us, and then
6 we talk to them, we are drawing the maps. You know, I
7 don't think it's like a - you know, they come, they draw
8 the maps, and then we look at them and go - I mean, that
9 might be what it feels like, but then we look at them and
10 we go back at them, and then they come - so, I don't
11 think it's this thing that, if we're not sitting there
12 doing the first map, then we're not the map drawers. I
13 just don't see that as such a stark difference between
14 the two roles. I actually think it's a collaborative
15 process that has a lot of - I mean, having watched this
16 in the past, it's not that clear-cut that, you know,
17 somebody just presents you with a map, or you present
18 them with a map and say to the lawyer, "Give me your
19 opinion of the map."

20 CHAIRMAN ANCHETA: Right. Well, again, I think
21 the full Commission should talk about this more fully
22 because there are some philosophical differences, I feel
23 that the Commission should play a stronger role, if
24 you're shading in one direction or the other, but I think
25 in particular with what we're concerned about with this

1 set of issues, that I would like initial guidance from
2 the attorney, particular on Section 5 counties, in terms
3 of making sure where we're not retrogressing and we're
4 complying with Section 5, and that there are, again,
5 general trends that - well, all of us will be kind of -
6 we're kind of aware of what the growth is, it's not a
7 secret or anything. But I would like some sort of
8 reinforcement from the attorney, "these are things you
9 ought to be looking at." And, again, whether - I prefer
10 in terms of what's before any maps are drawn that we say,
11 "Okay, do this," as opposed to "give us a draft and we'll
12 comment on it." That's my shade on this philosophical
13 difference. But I think, again, with this particular set
14 of issues, I certainly want a lot of guidance saying,
15 "Okay, here's what you need to watch out for, now tell us
16 what you want, if you're going to do it that way," or, if
17 you're going to say, "Well, okay, you guys draw some
18 first ones and then we'll comment, at least tell us what
19 you're going to be doing," and we'll just say whether we
20 agree with it or not and "here's changes we would
21 recommend." So, even if there is a philosophical
22 difference there is, I think, a lot of guidance that I
23 would want on these particular issues because, again,
24 they're very specific.

25 COMMISSIONER DAI: So, I'm an engineer, so this

1 is simply understanding what our constraints are. If we
2 have a problem to solve, it's just a simple math problem,
3 it's a very complex math problem, there are boundary
4 conditions, you know, we are bounded by the shape of the
5 state, there are other boundary conditions, and that
6 includes the Voting Rights Act, and what does that mean?
7 That's why I was saying maybe they would be telling us,
8 you know, "Here, you can draw lines in this range, and if
9 you go out of that range, you're going to get into
10 trouble," right? So, you know, I really see them as
11 telling us what the constraints are and how much
12 flexibility we have, and then we as a commission will
13 say, "Okay, we want to go north," or, "We would like to
14 get it to be fatter," you know, that's the kind of
15 guidance we will provide, and then they'll go away and
16 they will try to come up with a map that adheres to what
17 objectives we've given them, you know, that also comply
18 with the law. I mean, I think that's how it's going to
19 be and, so, really, they're just helping to help us
20 understand what the constraints are. And we will have
21 all that latitude within those spaces to draw the lines
22 exactly this way, or go around the Census tract and
23 include that one, and whatever, those kinds of decisions
24 we will make, but we want to make sure that they're going
25 to be legally compliant.

1 CHAIRMAN ANCHETA: Okay.

2 COMMISSIONER BLANCO: So, for purposes of this
3 discussion, I think, so we have the work with the
4 Technical Consultant, then I think that this, whether
5 it's your approach, which is much more like we say we
6 want this and people come back, or whether -

7 CHAIRMAN ANCHETA: Whoever starts the first
8 round.

9 COMMISSIONER BLANCO: -- whatever the spectrum is
10 there, that there is essentially a very intense period
11 where we work together, where there is a back and forth,
12 you know, or wherever it starts, there's an intense
13 period of back and forth between the consultants, the
14 technical consultants, the lawyers, and the attorneys
15 literally sitting there looking at stuff and "if we did
16 this because we want to keep this county, what happens...,"
17 you know all that stuff has to really happen with -

18 COMMISSIONER DAI: A real time conversation.

19 COMMISSIONER BLANCO: -- a real time
20 conversation. And so, I think there will be several
21 sessions like that because we will have -- so, if we
22 think of a time when we will have a session like that,
23 when we take out what is hopefully already a pretty
24 decent first map out to the public, we'll come out of a
25 process like that with the technical consultant and the

1 lawyer, then we'll go out, we'll get input, and then
2 we'll have to have another one of those sessions as a
3 team to see what people have said, and perhaps they are
4 said including maps that we received.

5 COMMISSIONER DAI: Right.

6 COMMISSIONER BLANCO: And then we'll have to go
7 out again and have that last sort of round of the team
8 working. So, that's how I see it, that there are three
9 sort of periods in which we have to work intensively with
10 the technical assistant and the lawyer as a team to
11 produce something, and then go out and adjust it with the
12 team, go out and get adjustment with the team, and go out
13 finally. So, I would say that if you want to try and
14 enumerate what that means in terms of days, it probably
15 means - if you were conservative, you could say two days
16 for the first round, two days for the second round, two
17 days for the third, that does not mean that they're not
18 working in between with -

19 COMMISSIONER DAI: Right, with the technical
20 consultant.

21 COMMISSIONER BLANCO: -- with the technical - and
22 doing legal research and all of that. So, at least six -
23 let's say eight meetings where we're working, you know,
24 as a team -

25 COMMISSIONER FORBES: Eight days?

1 COMMISSIONER DAI: Eight days.

2 COMMISSIONER BLANCO: Eight days, completely
3 intense, that's all the business that we're conducting.

4 COMMISSIONER DAI: Right.

5 COMMISSIONER BLANCO: So I would add that to the
6 nine -

7 COMMISSIONER DAI: Public hearings?

8 COMMISSIONER BLANCO: Public - no, we're not
9 putting them in the public hearings.

10 COMMISSIONER FORBES: No, because two sets of -
11 we're going to take the maps back out to the public?

12 COMMISSIONER BLANCO: So, no, so we have nine
13 days that we know they're not doing this other bucket of
14 work, which is doing their analysis -

15 COMMISSIONER FORBES: Right.

16 COMMISSIONER BLANCO: Nine days of meetings with
17 us, and then I think we have to decide, do we send them
18 out to other meetings and how much - are we forgetting a
19 big bucket of this work that's not in a meeting, you
20 know? The other bucket is they have to repair the report
21 that accompanies the map, they have to draft that report,
22 and that will be in consultation also with the technical
23 consultants. So, that's a big chunk of time, too, the
24 report.

25 COMMISSIONER DAI: Well, when you say the report,

1 are you talking about the -

2 COMMISSIONER BLANCO: The final report that has
3 to accompany the submission of the maps for
4 certification. And that's a big task, it's actually a
5 big chunk of time, report preparation.

6 CHAIRMAN ANCHETA: Okay, Mr. Ward?

7 COMMISSIONER WARD: Thanks. You know, we're
8 trying to wrap our heads around this. I wasn't a part of
9 putting together the bid, and one thing I'm wondering is,
10 if we approach this from a strictly hours, instead of
11 trying to figure out how many meetings, how long it's
12 going to take, and just tried to say, "This is what we
13 want to pay an hour, and this is our estimation on how
14 many hours we expect the job is going to take." The
15 thing, to me, that seems to have precluded that is, in
16 the bid we separated out public meetings into something
17 special. Is there - I'm wondering since I wasn't a part
18 of that process if there's a special reason why that had
19 to be done and if at this point we could just, like I
20 said, being that there is so much of this that we're kind
21 of having to invent as a small panel, if we could just go
22 ahead and come up with an estimation of total hours it's
23 going to take to include potential public meetings, no
24 matter what form those hours take, this is what we expect
25 in hours and here's what we're budgeting per hour for

1 each of those, and then that will allow us the
2 flexibility in being able to sort this out as we
3 determine where technical can be, and so forth.

4 COMMISSIONER BLANCO: Where that's kind of where
5 I'm headed -

6 COMMISSIONER FORBES: Right.

7 COMMISSIONER BLANCO: -- you know, if we have the
8 bucket of reviewing data in the first one, and then with
9 the consultant working with us in whatever many meanings,
10 with full commission, and then the final report, that
11 then we try to look at those four buckets of work and try
12 and attach hours to that.

13 COMMISSIONER DAI: Well, and this is where I
14 would expect my, you know, the consultants that I'm
15 hiring to be the ones who are able to estimate this out
16 the best.

17 CHAIRMAN ANCHETA: Right.

18 COMMISSIONER DAI: I just want to make sure that
19 we know what the buckets are, you know, but they should
20 be the ones to say, "Yeah, we can do that in 50 hours,"
21 you know, "in this month," and whatever, and this is the
22 multiplier we're going to use.

23 COMMISSIONER WARD: Well, and we asked for that,
24 and my curiosity is that, again, having not been a part
25 of the discussion, that's why I'm asking the question, is

1 why the panel chose to separate out business meetings as
2 a separate item from that. Again, just being a observer,
3 it seems like this could be much -

4 COMMISSIONER DAI: Was it separated out? I know
5 that it was --

6 COMMISSIONER WARD: -- easier to do if we just
7 simply came up with, again, total hours, can agree on a -

8 CHAIRMAN ANCHETA: Well, as I recall, I think the
9 reason we separated it - that there was any sort of
10 separation out is simply we wanted to get a sense from
11 the applicants if they could be at the meetings, and that
12 those are hours. Certainly, you could do a sum total of
13 hours, including those meetings, but we wanted to make -
14 because law work can be done at the office or remotely
15 over the telephone, but public meeting, you need to be at
16 the public meeting. So, I think we were trying to gauge
17 commitment to being able to attend the meetings, more
18 than just sort of the hours. And even, as you know,
19 there are some variations on how long they were
20 estimating the meetings would be, so as I recall, I think
21 that was sort of the reasoning in terms of -

22 MR. MILLER: Well, we really didn't have a feel
23 for how many meetings we'd be asking the lawyers to
24 attend. And the only way to get an estimate that way is
25 on a per diem basis, essentially and multiply that. And

1 even now we're uncertain about how many - you know, I do
2 think it's a very prudent choice to eliminate them from
3 certain of the Outreach Meetings; now, the pre-clearance
4 districts, you know, maybe you want to do it differently.
5 Maybe we can limit time by having the lawyers only at a
6 portion of our law meetings, but then it limits to some
7 extent the Commission's flexibility; on the other hand,
8 it's something of a luxury to have them available for 12
9 hours.

10 COMMISSIONER DAI: Right.

11 MR. MILLER: You know, six of which they're
12 working on their Blackberries. So, they're good, but
13 hard choices.

14 COMMISSIONER WARD: It seems to me, for the
15 purposes of this meeting, we're just trying to come up
16 with figuring out how many hours and what the budget is
17 going to be on this, right? What is -- spell out the
18 scope of what we're asking them to do. And we line
19 itemed that out at a different expense, you know what I
20 mean? And so, at this point, that's going to evolve and
21 change and we don't know right now. Can we just, like I
22 said, try to come up with a guesstimate of hours, a fair
23 per hour, and -

24 COMMISSIONER FORBES: Let me come at it this way.
25 This is - I was playing with the numbers a little bit -

1 we had two individuals give us a bid of roughly \$200,000
2 each. At \$250.00 an hour, that buys you 800 hours of
3 time.

4 COMMISSIONER BLANCO: At how much an hour?

5 COMMISSIONER FORBES: \$250.00 an hour.

6 COMMISSIONER BLANCO: Okay.

7 COMMISSIONER FORBES: If my math is correct.

8 Now, it seems to me that 800 hours in four months should
9 be adequate. I mean, that's my - maybe I'm wrong, but it
10 seems like, I mean, that's 200 hours a month, that's a
11 lot. I mean, at \$250.00 an hour, so - and I say it only
12 to give you some perspective of what they're expected to
13 be paid, and how much time, in my mind, they're prepared
14 to be committed to this, or they ought to be.

15 COMMISSIONER BLANCO: How many hours again?

16 COMMISSIONER WARD: Eight hundred at \$250.00.

17 COMMISSIONER FORBES: It's 800 at \$250.00 is
18 \$200,000.

19 COMMISSIONER BLANCO: Okay.

20 COMMISSIONER FORBES: Maybe \$250.00 is the wrong
21 number, but 800 hours is a lot of hours.

22 COMMISSIONER BLANCO: Uh huh, uh huh.

23 COMMISSIONER DAI: Well, and both of them said
24 that they expect to be significantly under that.

25 COMMISSIONER FORBES: Right.

1 COMMISSIONER DAI: And I think they would have to
2 be because there are only so many hours in the day.

3 COMMISSIONER FORBES: No, I think 200 hours, I
4 mean, they're not going to do 200 hours a month.

5 COMMISSIONER DAI: Yeah, and the other issue,
6 given that the other estimates were more like, you know,
7 50 or 60 hours a month, so that's what I was saying,
8 there's a substantial difference in the estimation of
9 hours, and in the end, we don't care because we care what
10 the product of that is. So, you know, if they want to
11 have \$500 an hour, that's fine, as long as we get it
12 under budget. So, you know, all I want this committee to
13 consider and have a clear idea before you go into the
14 interviews is do you know what you're getting for what
15 they're proposing, and is it going to meet the needs of
16 the Commission, you know, if they want to propose a
17 different hourly rate, or a different number of hours, as
18 long as the product comes out within our budget, I'm fine
19 with that.

20 COMMISSIONER BLANCO: This is - we're getting
21 there. Would you recommend that - or do you think it's
22 totally not useful for us to set an amount not to exceed
23 number? Or do you think, again, you care about the
24 product and we shouldn't -

25 COMMISSIONER DAI: Well, I think there's an

1 implicit amount not to exceed number based on the budget
2 that we submitted.

3 COMMISSIONER FORBES: I think a not to exceed
4 number is good and I think that, I mean, I look at this
5 \$200,000 and, to me, that seems a generous not to exceed
6 number, you know, to get to August 1st, or August 15th.

7 COMMISSIONER BLANCO: What was Gibson, Dunn's
8 rate? \$250.00?

9 COMMISSIONER DAI: The implied not to exceed,
10 just for those of you who - the implied not to exceed is
11 about \$150,000. Like I said, based on the proposals
12 we've seen and the hours proposed, I think we can be
13 comfortably within that.

14 COMMISSIONER FORBES: I do, too.

15 COMMISSIONER DAI: You know, like I said, I just
16 mostly want you guys to be clear about the buckets for
17 the kind of work, and then what's actually included in
18 the proposed that we got since we have certain proposals
19 that excluded large chunks of work.

20 COMMISSIONER FORBES: Let me raise that because
21 we haven't talked about that in terms of, to use the
22 phrase, "buckets." And I say this about what was not
23 included in their bill when they said that legal services
24 do not contemplate advance and assistance concerning a
25 pre-clearance submission. Are we going to need a pre-

1 clearance submission that we're going to pay for?

2 COMMISSIONER DAI: That's right.

3 MR. MILLER: I believe that typically occurs
4 after the maps are drawn and, since we ask them to
5 estimate this through August 15th, I think that's the
6 reason why it wouldn't be covered.

7 COMMISSIONER FORBES: But I just want to know
8 whose nickel is it on.

9 MR. MILLER: Well, we would be paying for it -

10 COMMISSIONER FORBES: Okay, because our budget
11 contemplates we're going to pay for that in the \$150,000,
12 I think? Is that what you're saying? So that's a bucket
13 that will have to be filled.

14 CHAIRMAN ANCHETA: Well, the Secretary of State
15 has been submitting the pre-clearance requests on Prop.
16 11 and Prop. 20, is that correct?

17 MR. MILLER: I don't know the answer. Do you
18 know the answer?

19 CHAIRMAN ANCHETA: Because we haven't submitted
20 it, right? Because they've gone forward and that is a
21 separate cost, certainly, we could have this counsel do
22 it or, if you could, again, turn to the State agency
23 that's been doing all the other items, it's not that
24 extensive in terms of what you're actually submitting to
25 the Justice Department, it's actually just a letter - it

1 has to be a carefully written letter, but it's a letter.
2 It's more important that you have, in fact, satisfied
3 yourself that you are satisfying Section 5, which is what
4 this attorney would do, but the actual pre-clearance
5 letter, I think, gives, again, we could build it in, we
6 could have whatever state agency has done it in the past
7 do it --

8 COMMISSIONER DAI: Again, I don't want to debate
9 all these little items, I just want you guys to be clear
10 on what they are.

11 CHAIRMAN ANCHETA: Well, and I'm looking at
12 Maria's notes because I see numbered items, but -

13 COMMISSIONER BLANCO: See? I'm not that
14 disorganized.

15 CHAIRMAN ANCHETA: The one thing I wanted to add,
16 it was sort of mentioned, but I think there's actually a
17 fair amount of upfront legal research that I would like
18 to see on some of the questions that I will ask on
19 Thursday, which will be around appropriate populations,
20 sub-majority/minority districts, coalitions, those kinds
21 of things, where the law is kind of gray, and I'd at
22 least like some confirmation that if we're going to move
23 into some gray areas, we're moving into gray areas, and
24 where there's clarity, there is clarity, and so I think
25 there's a fair amount of time that we'll need - because

1 those are not - frankly, those are not well-developed
2 areas of the law right now and I certainly want at least
3 an opinion that will guide the Commission in terms of
4 where we're going. So, I would add that sort of to the
5 very first set of tasks that the attorney would want to
6 work on.

7 COMMISSIONER BLANCO: Right. And, in looking at
8 all the applications, except for Gibson, Dunn, let's say
9 we know, like you say, our implicit not to exceed number
10 is \$150,000 because that's what's in our budget, but we
11 know there's give or take there. But if we have made the
12 decision, well, I was going to say if we made the
13 decision that the input meetings are not part of this
14 work, I was going to say that everybody kind of falls
15 somewhat - all falls somewhat within that range, except
16 that I am worried about the attendance at our business
17 meetings being perhaps billed separately by Leoni's firm,
18 and the legal analysis of the polarization.

19 COMMISSIONER FORBES: Right, I was going to ask
20 that, yeah.

21 COMMISSIONER BLANCO: And those could potentially
22 kick them not over our not to exceed implicit budget, but
23 take them a little bit out of line, but other - and those
24 are our big butts, right? But other than that, everybody
25 is kind of coming in at this \$200,000 range, some with

1 guarantees. So, I say all that to say that I think it's
2 true that our - once we clarify that with the Leoni,
3 really what we need to do is clarify our - what we want
4 from this attorney, and I do think it would be good to
5 ask them for an estimate of hours in the interview. In
6 other words, you know, even if it's by introducing that
7 question by saying, "Here's how we see the buckets of
8 work that we see you will have to do with us, given
9 that..., what's your estimate of hours?"

10 COMMISSIONER DAI: Well, this was the reasoning
11 behind my suggestion to ask a question about methodology
12 of work plan because, if they bid on this, they have to
13 have an idea of how they're going to approach it, and
14 they had some implicit assumptions coming up with their
15 hourly estimate, you know, for those who came up with a
16 fixed monthly fee and all that. So, they have an idea, I
17 just want to make sure that you guys have an idea, and
18 that you extract that from them in the interview so that
19 you're clear what you're getting from each one because
20 they may not be a totally apples to apples kind of
21 comparison, and you just need to be clear on what's
22 included in their assumptions and numbers so that we
23 don't get any surprise later on down the road when we're
24 actually, you know, looking at their monthly bills.

25 CHAIRMAN ANCHETA: Okay, so again looking at

1 Commissioner Blanco's notes and there's a lot of numbers
2 there, and I think the numbers correspond to buckets,
3 highlight some of those -

4 COMMISSIONER BLANCO: I'll review my bucket list
5 - not the real bucket list, I'm not doing that one! So,
6 the first area of work, the first bucket of work, I would
7 consider reviewing all the Census Data that is now
8 available, and doing an analysis of where the growth is,
9 where there is the loss, what those populations look
10 like, you know, demographically, ethnically, and
11 racially, potentially linguistically, so that's one area
12 of work; second, which I'm going to add because it came
13 up, I think there was consensus, it is preparing us with
14 our toolkit for going out to the Input Hearings, in other
15 words, really helping us prepare for what kind of input
16 we want our counties, communities of interest,
17 neighborhoods, you know, just - I don't think that's a
18 big area, but I don't want to skip it, you know, because
19 it was mentioned; third, working with the technical
20 consultant to take all the information from the public
21 Input Meetings, including maps that people may have
22 presented to us, and coming to us with a proposal for,
23 given the Demographic Census analysis is done, here's a
24 first round presentation of what it could look like to
25 adjust the population and to take into account the

1 criteria that are listed in the Voters First Act; then,
2 working with us back and forth to produce one set of maps
3 as the first one that goes out, the second one that goes
4 out, and the third one that goes out. And then, the
5 final report that needs to be submitted along with the
6 maps for certification, and probably the certification
7 materials, themselves.

8 CHAIRMAN ANCHETA: Okay, and that was roughly a
9 chronological -

10 COMMISSIONER BLANCO: Yes, yes.

11 CHAIRMAN ANCHETA: So I'm going to suggest some
12 amendments just in terms of the chronology, or where they
13 might fall in chronology. So, I did mention earlier some
14 research in gray areas, maybe definitions if we need to -
15 there are some questions about definitions within the
16 Act, itself, but that's a broader set of questions, but
17 some research on some gray areas under the Voter Rights
18 Act, and I would put that in stage 1, that early stage,
19 as well, and then I think it might have been your third
20 bucket --

21 COMMISSIONER BLANCO: The working with the
22 technical expert?

23 CHAIRMAN ANCHETA: Yeah, so we're still
24 envisioning hiring some capacity to look at the
25 quantitative areas where Voting Rights Act compliance

1 requires it, so it's racially polarized voting, and maybe
2 historical data.

3 COMMISSIONER BLANCO: Yeah.

4 CHAIRMAN ANCHETA: And, again, I think we should
5 be thinking now about how we're putting that description
6 together, but I certainly want to, once we've got someone
7 on board, work with the Voting Rights attorney on that
8 hire or that contract, but I think that has to be
9 embedded in the third bucket, which is -

10 COMMISSIONER BLANCO: Yeah, I would say
11 consultant(s).

12 CHAIRMAN ANCHETA: Right, so that includes the
13 line drawing consultants, as well as the other
14 quantitative or statistical consultants, so all of them
15 are working together in terms of some of the districts.
16 So, those would be my two - some major amendments there.

17 COMMISSIONER BLANCO: Okay.

18 CHAIRMAN ANCHETA: In terms of if you're going
19 chronologically.

20 COMMISSIONER BLANCO: Right. Okay.

21 MR. MILLER: Can I ask you a question?
22 Particularly with respect to the preliminary review of
23 the Census Data and where the growth and loss is, is that
24 something that the technical consultant could do first
25 and then work with the lawyers on, rather than having the

1 lawyers undertake that work as part of this budget?

2 COMMISSIONER DAI: I would agree. I also had a
3 question for you, Mr. Miller, I would imagine you, as our
4 Chief Counsel, might be involved in some of the general
5 legal research in order to, again, reduce the costs of
6 outside counsel, so I wonder if you had a thought on your
7 role in all of this in terms of helping us contain costs
8 and utilize you and our outside counsel as the team most
9 effectively.

10 MR. MILLER: Yes and what I would say is that
11 this stage is the most important in terms of managing
12 those costs is to finding the scope of work and the
13 budget and the expectations at the outset, and then
14 managing against that along the way. I think, as you
15 were saying, Commissioner Dai, it's perhaps problematic
16 for us to budget for the firm how it would use its time
17 in each of these buckets, and I think it's very
18 worthwhile for us to have a clear idea of the areas and
19 this is something we could give them prior to Thursday,
20 to help them refine their thinking.

21 COMMISSIONER DAI: Yeah, and in fact, they may
22 disagree with us, they may have come up with something we
23 haven't thought of.

24 COMMISSIONER BLANCO: Yeah.

25 COMMISSIONER DAI: And I like the idea of asking

1 in the context of their work plan and how they would work
2 with you and the Commission to, again, minimize our costs
3 and maximize the value they're giving to us as special
4 experts, you know, because they should have a sense of,
5 "No, you shouldn't be using her for that."

6 COMMISSIONER BLANCO: Yeah.

7 COMMISSIONER DAI: "You should use a technical
8 consultant for that," or, "the Commission needs to
9 discuss this first," you know, and submit something and,
10 "Yes, I will be on my Blackberry for six hours out of
11 that eight-hour meeting." I mean, really, I would
12 imagine this is - we want to pick a firm that's going to
13 work in partnership with us to get a good result for a
14 good value for the State of California, so we need to
15 have that conversation. I mean, when I'm asked by a
16 client, a proposal for it, you know, I tell them, "This
17 is how I would do it. This is my approach, you know, I'm
18 going to use your staff to do this part because you don't
19 need my time, and I'm going to go away and think about
20 this piece of it." Right? So, I would hope that they
21 would have that - they must have that already to have
22 even come up with the proposal, but they have, like I
23 said, implicit assumptions that they are making, we just
24 need to understand what they are and see if we agree with
25 them.

1 COMMISSIONER BLANCO: Right.

2 MR. MILLER: I think they probably need to define
3 them further than from what is represented in what we
4 received. Obviously they've done some thinking about it,
5 but I suspect they're a little bit where we are. You
6 know, I think we have enough that I would propose, if the
7 Commission agrees, to have a conversation with each of
8 them about this subject and ask them to scope out in a
9 more specific way than they have where they would be
10 deploying their time and where they feel they could add
11 the most value.

12 COMMISSIONER DAI: That would be great.

13 MR. MILLER: And I think we would expect
14 different answers and it might not line up with this
15 conversation exactly, but that's useful input.

16 COMMISSIONER DAI: Yeah, I mean, there's a reason
17 why one firm came up with, you know, \$20,000 a month, and
18 someone else came up with, you know, 88 hours a month, I
19 mean, there are assumptions they've made, and so we just
20 need to understand how they think they're going to be
21 spending their time.

22 MR. MILLER: The other thing that - I apologize
23 for the obvious, but sometimes it gets lost - is we're
24 comparing such very different animals in this exercise
25 with essentially solo practitioners in Washington, D.C.

1 and large firms here, and on a per hour basis, except for
2 Munger, they're going to be significantly more. Then,
3 again, you are buying a much different package. By way
4 of example, we had a Request for Information that
5 specified that if one of the criteria is to be available
6 Thursday to meet with us in person, and both of those are
7 phoning in. And I would be surprised if we didn't
8 encounter that phenomena again with those people and this
9 arguably is the single-most important meeting for either
10 of them in anything that might follow, so it's just - it
11 makes the comparison challenging and it's not a heads to
12 heads situation.

13 COMMISSIONER DAI: Yeah, and I think that's the
14 reason the capacity question, and availability question,
15 is going to be really key, and coming up with an hourly
16 rate, like I said, it's a bit of - it's really an
17 immaterial fact because, in a large firm you're going to
18 have an associate working on things a lot of the time and
19 in a solo practitioner situation, you know, you're
20 probably going to have an overpaid person working on
21 things a lot of the time, you know, but that might save
22 you time. So, in the end, what we care about is the
23 total number and we just want to understand what their
24 approach is and, therefore, what that total number is
25 going to look like at the end of the day.

1 MR. MILLER: It would be helpful if we could re-
2 visit one more time, perhaps, meeting attendance. Is it
3 the sense of the Commission that you would have them just
4 at the pre-clearance districts in the map drawing stage?
5 I'll call those the "on-the-road meetings."

6 CHAIRMAN ANCHETA: I envision a couple others.

7 MR. MILLER: You mentioned the statewide -

8 CHAIRMAN ANCHETA: Statewide ones, and I think
9 those are going to be very critical. I'm not sure how
10 many - we're doing at least one now, presumably, maybe
11 two.

12 COMMISSIONER FORBES: And I think that, I mean,
13 there's a couple of areas, Los Angeles being the obvious
14 one, but a couple areas of the state where there's going
15 to be difficulties because of the intermixing of the
16 ethnicity, perhaps a loss of seats, and so on and so on,
17 where I think we have the biggest opportunity for
18 contentiousness. I think it might be useful to have them
19 up here at those meetings, as well, just be around. Some
20 of the other ones may not be as important, but I think
21 places where we're going to have the real potential for
22 conflict, if even they just hear the testimony, it might
23 be the right place to have them.

24 COMMISSIONER DAI: Well, and I think - I'm kind
25 of back to the issue of giving the attorney time to study

1 whatever is submitted, especially if they get a whole
2 state map all at once, and you probably don't want a real
3 time response, you know, the way that we organize a
4 statewide input meeting might be you submit the maps five
5 days in advance, or something like that, and then we have
6 our attorney there. And you can have a discussion and,
7 you know, the groups are in the room, and it can be
8 interactive and we can make sure that we understand what
9 the concerns are, which may or may not correspond exactly
10 to where the lines are, so that we can address their
11 concern and not get caught up with specific lines.

12 CHAIRMAN DAI: So, I mean, we can structure it so
13 that it would be very valuable because I think a number
14 of the applicants that we chose to move forward talked
15 about that kind of collaborative approach.

16 COMMISSIONER WARD: It seems to me like a lot of
17 this, you know, they're the expert and, you know, we're
18 expecting them and asking them to tell us if that's
19 fruitful for them or not.

20 COMMISSIONER BLANCO: Yeah.

21 COMMISSIONER DAI: Uh huh.

22 COMMISSIONER WARD: If that's the best way for
23 them to do business on the Citizens Commission and
24 provide a legal opinion or not. So, it just keeps taking
25 me back to the same broken record, which is, to me, it

1 seems like if we can just come up with a fair hours
2 estimate for what we expect and come up with a per hour
3 cost for that, then we can have some kind of not to
4 exceed number with, you know, some kind not to exceed
5 number, and go from there.

6 COMMISSIONER DAI: Well, we have a not to exceed
7 number, I mean, and I would posit -

8 COMMISSIONER WARD: What is that?

9 COMMISSIONER DAI: It's \$150,000, as we've been
10 talking about, and I would posit, Commissioner Ward, that
11 coming up with a number of hours and an hourly rate is
12 exactly telling them what to do. I mean, if I were a
13 consultant, I would be horribly offended by that. I
14 mean, if I'm asked to put a proposal together, I will
15 tell you, this is Phase 1 of work, this is Phase 2, this
16 is Phase 3, this is how I'm going to contribute, and
17 here's what my hourly rate is, and this is what I think
18 the total is going to be. And there may be some
19 deviation along the way, but, again, if you're going to
20 ask me what my opinion is as an expert, I can tell you
21 how many hours, don't tell me how many hours it's going
22 to take me. Right? I mean, with the exception of
23 attending meetings, which will be out of their control,
24 but to a large degree, I would imagine if we're asking
25 them to do certainly legal research, they should be able

1 to estimate that on their own.

2 MR. CLAYPOOL: So, a couple of points, I ran over
3 here in the rain.

4 CHAIRMAN ANCHETA: Mr. Claypool, please.

5 MR. CLAYPOOL: First of all, our BCP isn't
6 submitted yet. Our letter to request the additional
7 million dollars that has been allocated in this year's
8 budget is in, but our Budget Change Proposal for next
9 year isn't in, so we have the flexibility to increase
10 this amount, but we need to know what that amount is very
11 quickly. You need to know that so we're not locked in.

12 COMMISSIONER BLANCO: Okay.

13 MR. CLAYPOOL: But, as I believe someone said the
14 other day, I think it was Commissioner Barraba, "We are
15 at the Eleventh Hour and 59th minute." The second thing,
16 we're working - staff is working to put your calendar
17 together and I don't want to steal the thunder from the
18 Outreach and Technical Committees, however, we are
19 looking at 20 meetings before you actually come out with
20 your draft maps, and an additional 18 meetings after
21 that, and then talking about -

22 COMMISSIONER BLANCO: Say that again?

23 MR. CLAYPOOL: Twenty meetings before, one of
24 which will be with - Commissioner Ancheta said it was a
25 big meeting, to bring in the organized groups - and then

1 an additional 18 meetings after that, and then beyond
2 that, an additional 10 meetings were we had budgeted you
3 would meet just with your line drawer when you have
4 amalgamated this information, to be able to go through
5 what you wish that person to do and what that person has
6 done for you.

7 COMMISSIONER BLANCO: Right.

8 MR. CLAYPOOL: And finally, we're looking at an
9 additional - I'm trying to remember how many - 10 to 12
10 Business Meetings that we're trying to combine because,
11 clearly, your months are disappearing.

12 CHAIRMAN ANCHETA: Right.

13 MR. CLAYPOOL: So, we're trying to combine them
14 as well as we can. What we're hoping for, and I hope CSU
15 Northridge forgives me for saying this ahead of time,
16 that CSU Northridge would host us for a big meeting and I
17 would like to bring together the organized groups, and
18 that would give you an opportunity to spend even more
19 time in Los Angeles than you're already going to spend
20 most of your meetings, or the largest percentage of your
21 meetings will be in the Los Angeles Area and the Inland
22 Empire because that's where the tremendous amount of
23 growth has occurred. So, we're trying to put together a
24 schedule that gives you some breaks in between, and then
25 has a natural travel path to it, but your path - you're

1 going to lead yourself.

2 CHAIRMAN ANCHETA: I think we should just
3 purchase an RV.

4 COMMISSIONER DAI: I was going to say, we should
5 have a tour bus! And just trek it around.

6 MR. CLAYPOOL: When I came with this, I thought
7 that you were going to give me my wish, I always wanted
8 to buy a bus! We are looking at a very large path. And
9 another thing that we'll need as a Commission to
10 understand is our 14-day noticing period and how that's
11 going to affect us in putting our maps out, so as we put
12 them out, what we thought was that you would have the
13 opportunity at the end of May to look at all the
14 information and talk with your line drawer, take a break
15 around the Memorial Day weekend, then come back the
16 following week and look at what has been done, and then
17 agree that those are your - once you've tweaked them -
18 those are your draft maps. Now, you have a 14-day period
19 where they have to be displayed to the public, and so,
20 during that 14-days, you will once again be going to
21 Input Hearings and taking input, and then, at the end of
22 that 14 days, we're looking at now having to meet with
23 your line drawer, again, to take in that vast amount of
24 information and then we have another 14 days. If we do
25 it in that order, you will have four 14-day periods in

1 which to kind of get things done and have time in
2 between. So, that's the timeline. I suspect that you
3 won't be with your line drawer to the extent that you
4 will be drawing lines as much as you will be with your
5 Line Drawer and your VRA Attorney, to give them your
6 direction and then go back onto the Input road and then
7 come back and see that your direction has been followed.

8 CHAIRMAN ANCHETA: Well, thank you. That's
9 helpful information to know. Now, just on - when is this
10 on the agenda to actually have the staff to present this
11 and the Commission to actually sort of discuss that? On
12 Friday or Saturday?

13 MR. CLAYPOOL: So, certainly, the Technical
14 Committee and the Outreach and Advisory Committees will
15 be involved with reviewing this and then I believe that
16 we had intended on talking about this on Friday, it
17 really has to be Friday because Saturday will be taken
18 up, so it will be an agenda item and we're trying to get
19 that out, clearly we want to get it out to you ahead of
20 time so that you can see the progression.

21 CHAIRMAN ANCHETA: Okay.

22 COMMISSIONER BLANCO: Wonderful.

23 CHAIRMAN ANCHETA: Good, that's very helpful. So
24 back to buckets, then, do we have our buckets lined up at
25 this point.

1 COMMISSIONER BLANCO: Yeah, and it looks like
2 we're all coming to sort of a similar thinking about how
3 this flows together, it's very similar to our discussion.

4 COMMISSIONER DAI: Yeah, the main thing is I just
5 want you guys to know what the buckets are and then make
6 sure that those buckets are addressed, you know, in the
7 interviews and so that we understand how they came up
8 with their estimates.

9 COMMISSIONER BLANCO: Yeah.

10 CHAIRMAN ANCHETA: And I think, you know,
11 obviously Commissioner Ward is raising a very strong
12 concern regarding just trying to get a handle on the
13 dollars and how many hours, but I think it is challenging
14 in the broad ranges of tasks that need to get done, to
15 get that specific. And I think I feel comfortable with
16 the not to exceed number --

17 COMMISSIONER FORBES: Yeah, I do too.

18 CHAIRMAN ANCHETA: -- put out there, and we have
19 a sense of the range of hours, and I think that's
20 probably what we should be expecting, that's kind of what
21 we're going to get per hour, but I think it's difficult
22 and we should just ask, I think, on Thursday, roughly,
23 what your estimate of hours would be, and then kind of
24 look at that and say, well, okay, that seems to make
25 sense, or it's well within or, if it exceeds the amount

1 not to exceed, then we have a problem.

2 COMMISSIONER WARD: You know, that's all I've
3 been driving for is just the not to exceed number. You
4 mentioned \$150.00, I had \$200.00 based off of Stan's
5 input, and I just was trying to understand where we were
6 getting that number from, that's why we discussed the
7 hours, there's understanding that, okay, we've pulled
8 this figure, how are we justifying that figure? And so
9 what is - is it the \$200,000? Or is it \$150,000?

10 COMMISSIONER BLANCO: \$150,000 because that's
11 what we've budgeted, so it's based on our budget.

12 COMMISSIONER WARD: Well, we have the opportunity
13 to -

14 COMMISSIONER BLANCO: We do, to increase. I
15 would suggest that we ask the part that goes out in the
16 materials that Mr. Miller is going to send out, when he
17 asks the applicants to address these five points, or
18 whatever, I've lost count, that he also asks them for
19 hours, so we don't just do it in the meeting, they
20 actually as part of what they come back to us with, it
21 sort of goes back to Commissioner Forbes' idea that, in a
22 sense, this is not just an interview, it's also a
23 presentation of sort of what you are saying you can do
24 for us, and then we have questions, also, but it's a
25 blend of both.

1 CHAIRMAN ANCHETA: Well, and I feel comfortable
2 asking - I think that's fine, I think we should give to
3 the extent we're giving them advance notice on the basic
4 categories, the buckets, as we're calling them, that we
5 can ask - I think it's fine to ask them rough estimates,
6 general estimates, on what you think the time required
7 for each of these broad areas would be. And, again,
8 within the overall guide limit, well, we said \$150,000 is
9 all we've got budgeted for right now, we may want to
10 decide if we want to go up at all, and I certainly don't
11 want to do that without the budget committee thinking
12 about this.

13 COMMISSIONER DAI: Yeah, I mean, I think that if
14 you look at all the proposals that were submitted, you
15 know, again, with the proviso that it wasn't clear if all
16 the buckets were included in some of the proposals, I
17 mean, I think you'll be comfortably within that. And, as
18 Stan pointed out, it's a lot of hours that you're talking
19 about.

20 COMMISSIONER FORBES: Even at \$500.00 an hour.

21 COMMISSIONER BLANCO: Yeah, that's a lot of time.

22 COMMISSIONER DAI: And we are supposed to hire
23 experts, so it shouldn't take them as long as someone who
24 is not an expert, right? I mean, that's the reason
25 you're willing to - I mean, I always tell my clients, you

1 know, you shouldn't worry about my hourly rate because at
2 the end you should care about how much it costs you, and
3 if you're happy that I can deliver this value for
4 \$50,000, why do you care how many hours I work on it?

5 COMMISSIONER FORBES: Yeah.

6 COMMISSIONER DAI: So I don't actually think the
7 number of hours is important, as long as we get the
8 results.

9 COMMISSIONER BLANCO: I feel the same way.

10 COMMISSIONER FORBES: Because if you define
11 hours, they will be filled.

12 COMMISSIONER DAI: Exactly. So I wouldn't focus
13 on that. Again, we're trying to look at what the budget
14 is and what is the value added that they can deliver, and
15 I think, you know, I think this is a question back again
16 to Mr. Miller in terms of your role in managing outside
17 counsel and moving forward, I mean, I would hope that you
18 would be a VRA expert at the end of this process.

19 MR. MILLER: Yeah.

20 COMMISSIONER DAI: I would think that, you know,
21 there are a lot of things that you might look at and say,
22 you know, "That doesn't make as much sense to have
23 outside counsel do this," or, "I'd like to do this piece
24 and have them review it." I mean, I would hope that
25 would be a possibility for you.

1 MR. MILLER: That's correct. I still keep coming
2 back, however, to the phantom meetings. I'm thinking,
3 for example, of a lawyer coming out from D.C., each
4 meeting is really a three-day trip.

5 COMMISSIONER BLANCO: Right.

6 MR. MILLER: I don't know how they've factored
7 those in and, of course, we'll have to come back to their
8 availability to do that, but I just don't come away with
9 a clear view of the number of - I'll call them - trips
10 that were meetings that you'd be expecting them to
11 participate in.

12 COMMISSIONER BLANCO: Well, let's start - I think
13 I agree with several folks who have mentioned that the
14 Section 5 jurisdictions probably are important ones for
15 the attorney to be at. So there are four counties.

16 CHAIRMAN ANCHETA: Although we're not going to
17 all four -

18 COMMISSIONER BLANCO: We're kind of doing -

19 CHAIRMAN ANCHETA: The Monterey one, definitely
20 Monterey -

21 COMMISSIONER BLANCO: We're doing Monterey and,
22 then, did we have one other one? Kings? Is Kings in
23 there?

24 CHAIRMAN ANCHETA: Kings is next to Monterey, so
25 I'm not sure if Kings falls in that same region.

1 COMMISSIONER BLANCO: Yeah, let's not speculate.

2 MR. CLAYPOOL: Okay, right now we have Monterey,
3 Yuba, Kings, and I believe Merced. And your first four
4 Input Meetings will be in Yuba, Monterey, Merced, so
5 you'll get all four of them to start with - and then you
6 will hit three of the four again in the second round.

7 COMMISSIONER BLANCO: Right, okay.

8 COMMISSIONER DAI: So, are they on a single trip,
9 though? I'm thinking of someone coming in from the East
10 Coast.

11 MR. CLAYPOOL: Yes, two of the first three are in
12 a single trip, yes. And, again, we can rearrange them.
13 We can rearrange them to put them on a single trip if we
14 needed to, that's - as long as you don't mind driving a
15 little further.

16 COMMISSIONER BLANCO: So, four, three, seven
17 Section 5 meetings?

18 MR. CLAYPOOL: Yes, and we can make it eight, we
19 just don't hit Yuba twice.

20 COMMISSIONER BLANCO: All right.

21 CHAIRMAN ANCHETA: And Yuba is the smallest one,
22 one meeting, and I think Yuba is covering - is that
23 covering the Sacramento Region, as well? Or is it just
24 Yuba?

25 MR. CLAYPOOL: Actually, that was just Yuba

1 County. Now, I should ask you, our meeting is actually -
2 we're planning it in Yuba City, which isn't in Yuba
3 County, it's across the river from it, but it had the
4 facility. If we want to be in Yuba County, itself, I
5 mean, they're sister cities, yeah, Marysville is Yuba
6 County, then it's either that or, I believe - Oroville or
7 Butte, and we would have to go into Yuba City and try to
8 find a facility and we were just having difficulty doing
9 that.

10 COMMISSIONER BLANCO: Let's not get - for these
11 purposes, let's just say that we'll have - the attorney
12 will be expected to attend seven Section 5 -

13 CHAIRMAN ANCHETA: No.

14 COMMISSIONER BLANCO: That's what we're saying,
15 so, you know -

16 COMMISSIONER DAI: No, we're not --

17 CHAIRMAN ANCHETA: No.

18 COMMISSIONER DAI: -- what we're talking about is
19 a trip that will hit all of them.

20 CHAIRMAN ANCHETA: Because I don't think it's
21 seven meetings. I wouldn't think they're necessary to go
22 to seven meetings.

23 COMMISSIONER DAI: Well, and I have to question
24 whether we physically need them there because they're
25 going to have transcripts, there will be video

1 recordings, I mean, do we physically need them there?

2 COMMISSIONER BLANCO: Well, let's talk about
3 that. So we have - you did say four, and then going back
4 to three.

5 MR. CLAYPOOL: Right.

6 COMMISSIONER BLANCO: That doesn't mean they're
7 all day, but there's -

8 MR. CLAYPOOL: Seven Input Meetings.

9 COMMISSIONER BLANCO: Seven Input Meetings in
10 Section - seven Section 5 Input Meetings.

11 MR. CLAYPOOL: Let me clarify that. Six.
12 Because only Hanford was in Kings and I think we were
13 going to go close, again, to another one. So, only six.

14 COMMISSIONER BLANCO: Okay.

15 MR. CLAYPOOL: All four in the first round, and
16 two in the second.

17 COMMISSIONER DAI: And keeping in mind that we're
18 going to have a technical consultant that will be
19 summarizing the input for all these meetings.

20 COMMISSIONER BLANCO: Right. So, let's discuss
21 that. So there was some feeling that those were for -
22 for those who thought that because it was Section 5,
23 there was a particular need, and Mr. Miller, I include
24 you in this, what makes them different than the other
25 ones?

1 MR. MILLER: I think the thing that makes them
2 different, that doesn't necessarily mean that the lawyer
3 has to be there -

4 COMMISSIONER BLANCO: I mean for lawyer
5 attendance.

6 MR. MILLER: Yeah, but is that they will get more
7 attention, there will be more scrutiny, they're not
8 necessarily the highest litigation risk because I don't
9 know how much the lines are moving there. But they just
10 - they get more focus because -

11 COMMISSIONER BLANCO: One of them has, I think,
12 in the stuff that we've seen, has a lot of lines moving,
13 one of them.

14 COMMISSIONER DAI: Yeah, and so this is another
15 one and that will be a great question to ask at the
16 interview is, you know, we have these six meetings, do
17 you think you need to be there in person.

18 COMMISSIONER WARD: I mean, that's where I
19 thought we've landed on this, you know, twice now, is
20 that - even your input was that "here is our not to
21 exceed, here is our scope of work, what's your proposal?"
22 And see what we get out of that, some might feel they
23 need to be there. Would like to know why. Some might
24 feel that they don't. Okay. But I just don't - I just
25 don't know how we need to make that decision for them.

1 COMMISSIONER FORBES: I mean, I agree, I think
2 you're right. I think the question to them is, these are
3 four counties that have Section 5 issues, do you think
4 it's advantageous for you to be there in order to be our
5 counsel, our VRA counsel. And they may say, given the
6 fact you can look at video, you've got transcripts, and
7 so forth and so on, is it useful for you to be there? If
8 you think it's useful for you to be there, great. But,
9 on the other hand, given this is how much money we have,
10 maybe it may be in your judgment that's not the best use
11 of the money and your time.

12 COMMISSIONER DAI: So I think what we do need to
13 provide, and Mr. Miller needs to have a clearer handle
14 on, is just this information so that we can ask these
15 questions and give them the parameters so they can figure
16 out how to provide the best value for us.

17 COMMISSIONER FORBES: And the same argument, I
18 made a comment earlier about, you know, there is like Los
19 Angeles where it has potential for real conflict - ask
20 them the same question. You know, "Here's what's been
21 happening in Los Angeles, here are some of the issues in
22 Los Angeles, should you be there at those meetings?"

23 CHAIRMAN ANCHETA: Right. Yeah, and there's no
24 question in my mind that when MALDEF and any other
25 organizations say, "These are our maps," we'll need to

1 have the VRA attorney.

2 COMMISSIONER FORBES: Yes.

3 CHAIRMAN ANCHETA: So that kind of goes without
4 saying, but I just wanted to say it.

5 COMMISSIONER BLANCO: Well, you're going to get
6 that from them on Section 5 and in L.A., as well, not
7 just in statewide.

8 CHAIRMAN ANCHETA: Oh, you mean in terms of their
9 presenting there, as well.

10 COMMISSIONER BLANCO: Yeah.

11 CHAIRMAN ANCHETA: Okay, that's interesting.
12 Well, how do you know that?

13 COMMISSIONER BLANCO: Well, I don't know that,
14 but if there's - I don't - but if you have areas where
15 there's a population shift and where there's conflicts,
16 and -

17 CHAIRMAN ANCHETA: That's a lot of ifs.

18 COMMISSIONER BLANCO: -- they are probably going
19 to have opinions about what should happen with the
20 Assembly and Senate Districts and Congressional Districts
21 in the L.A. Region, I don't see why they wouldn't.

22 COMMISSIONER DAI: Sure, but that can happen when
23 they're presenting a statewide map?

24 COMMISSIONER BLANCO: Yeah. I'm just saying,
25 they're going to have very concrete ideas in those other

1 ones, as well, and it may not be a map, but they're going
2 to have things that they propose about those areas.

3 CHAIRMAN ANCHETA: The problem I have with that
4 is that opens up a lot of meetings.

5 COMMISSIONER BLANCO: Yeah, yeah, I'm not saying
6 we need them, I'm just saying that's not the only place
7 where we'll have these sort of input -

8 CHAIRMAN ANCHETA: Right, I think the problem I
9 have, though, to follow that logic, it opens up a good
10 half of the state, actually.

11 COMMISSIONER DAI: I think it's the statewide
12 meeting is what it is.

13 CHAIRMAN ANCHETA: Yeah, well, I think it should
14 be focused on -

15 COMMISSIONER DAI: After they've submitted the
16 maps and after our attorneys have some time to study
17 them.

18 COMMISSIONER BLANCO: All right.

19 COMMISSIONER DAI: So, anyway, I think if we give
20 the candidates these kind of parameters, and just let
21 them know kind of what the schedule is shaping up to be,
22 that will give them enough information, and what we
23 anticipate to happen at these meetings. And they can
24 assess and tell us, "Yes, we think we need to be there,"
25 or, "No, we think reviewing transcripts will be fine,"

1 or, you know, "We think discussing it with the Technical
2 Line Drawing Consultant will be fine."

3 CHAIRMAN ANCHETA: Yeah, and as we've mentioned
4 before, there will be key Business Meetings where that's
5 what - yeah, that's where we're starting to get to the
6 nitty gritty, and I think they should be there.

7 COMMISSIONER BLANCO: That doesn't help you at
8 all, does it?

9 MR. MILLER: It is helpful, it's a different
10 approach back to - I think it's the right approach to
11 give them a general description and, as you say, invite
12 their expertise as to where they can best lend expertise.
13 And I think that is a superior approach than to try and
14 be overly specific as to the expectations.

15 COMMISSIONER BLANCO: Okay.

16 MR. MILLER: I think most of this will be done in
17 conversation, letting them report back to the Commission
18 on Thursday with their thoughts about how to do the work.

19 CHAIRMAN ANCHETA: Right. And I think it's okay
20 at this point because we're sort of meeting in advance of
21 the full Commission and this is clearly a set of issues
22 that we have to discuss as a full Commission to figure
23 out this calendaring and the whole intersection of the
24 various consultants, so I don't feel bad that we're not
25 as specific today because, again, and I don't want to

1 certainly act in the place of the full Commission in
2 terms of trying to map out the clearest process, so I'm
3 happy to sort of move forward with what we've got today
4 and then, just again - and we've flagged some important
5 questions that I think are very appropriate for
6 discussion on Friday.

7 COMMISSIONER BLANCO: Yeah.

8 COMMISSIONER DAI: Great.

9 MR. CLAYPOOL: I just wanted to say, amongst
10 those last 18 meetings, we're actually only scheduling 15
11 of them and holding three kind of in abeyance to give a
12 14-day notice for those areas that just become, you know,
13 crucially important. So when you see the TBD's, it's not
14 anywhere in the state.

15 CHAIRMAN ANCHETA: Okay. Well, I'm looking
16 forward to seeing that schedule. I have cleared my
17 calendar as much as possible.

18 COMMISSIONER FORBES: It's almost 58 days, isn't
19 it?

20 CHAIRMAN ANCHETA: It sure is, yeah. Well, we
21 all signed up for this, let's not forget that.

22 COMMISSIONER BLANCO: Not to make this even
23 worse, but we still have the open question about whether
24 everybody attends - all Commissioners attend all
25 meetings, correct?

1 COMMISSIONER DAI: I think we agreed that we
2 would try, but understand that it is just not going to be
3 physically possible.

4 CHAIRMAN ANCHETA: Well, and I would simply want
5 to table that for discussion.

6 COMMISSIONER BLANCO: Yeah, but we haven't come
7 to either one way or another.

8 CHAIRMAN ANCHETA: No.

9 COMMISSIONER FORBES: I thought we had.

10 COMMISSIONER BLANCO: Well, I'm just trying to
11 clarify if we have or haven't.

12 CHAIRMAN ANCHETA: Well, let's save it for the
13 full Commission. It's fun to talk about this stuff, just
14 how our lives are now changing because of the Commission
15 - again, we signed up for it.

16 COMMISSIONER BLANCO: That's right.

17 CHAIRMAN ANCHETA: I thought it might be good to
18 summarize, and again, I don't have the best notes, I
19 might ask someone else to summarize, perhaps, and then
20 open it up for public comment so that we're clear on how
21 we're proceeding. Does staff have enough of at least a
22 skeleton of what we're doing?

23 MR. MILLER: Let me try.

24 COMMISSIONER BLANCO: Okay.

25 MR. MILLER: I'm going to call the first bucket

1 fundamental research and advice to the Commission on gray
2 and ambiguous areas that must be addressed in any mapping
3 process. Two would be consult with the Line Drawing
4 Consultant regarding growth areas and loss areas, but I
5 see the lawyers here as really the receiver of the
6 information, rather than the analysts of the information.
7 Some advice, and I'm assuming this is, you know, a very
8 discrete number of hours like five or 10, around
9 preparation for Input Meetings; then, the big chunk here,
10 of course, is work with the Technical Consultant on an
11 ongoing basis to receive input from Input Meetings, to
12 consult on draft and final maps. And that's really where
13 probably the chunk of the work goes; attendance at
14 statewide map drawing session and such other Business and
15 Input Meetings as recommended by the lawyers to the
16 Commission; and then, finally, preparation of the final
17 report.

18 CHAIRMAN ANCHETA: Okay, anything else that the
19 Commissioners want to add to that?

20 COMMISSIONER BLANCO: I would still like to leave
21 us the ability in that last bullet - us to tell them that
22 there might be something we want them at, specifically,
23 so it's not just them saying where they think they're
24 necessarily - but there might be times when we want to
25 say to them, "You really need to come to this Business

1 Meeting."

2 MR. MILLER: Yeah, this wouldn't preclude that,
3 but rather their estimate would be based on their view of
4 the work with the understanding that you could request
5 them to be there.

6 COMMISSIONER BLANCO: Okay.

7 COMMISSIONER WARD: We had some conversation
8 about racial polarization studies and things like that.
9 Is that something that we want to consider with that?

10 CHAIRMAN ANCHETA: Is that mentioned in there, or
11 is it embedded in?

12 MR. MILLER: Well -

13 CHAIRMAN ANCHETA: It's certainly working with
14 the consultants.

15 MR. MILLER: Yeah, it seems to me those are the
16 issues that fall out during that work, you know, I can
17 call them out specifically, but I don't know - I really
18 don't know, are they delivering a study to the Commission
19 on that subject matter? Or is that something that is
20 baked into the product of the maps with the Line Drawers?

21 CHAIRMAN ANCHETA: I think it may be more the
22 latter, although I think some sort of report from a
23 consultant on sort of the lay of the land. And I think
24 we have to have some discussion about that on the
25 Technical Committee, as well, in terms of what we're

1 going to be asking a statistical consultant to do for us.
2 But I think as long as it's embedded into the basic
3 category that the attorney will be working with whatever
4 consultants are looking at those questions.

5 MR. MILLER: You know, I guess what I had in mind
6 was, when a map is presented that requires legal color
7 commentary, that that's the place the Commission would
8 get it, is in connection with a discussion and
9 presentation of a map where racial polarization is at
10 issue, as opposed to a separate deliverable. I'm not
11 assuming it must be that way, that was just my sense of
12 the work.

13 COMMISSIONER BLANCO: I think that's absolutely
14 right, I mean, this is why the one application struck me,
15 you know, because if we're asking them to do this
16 analysis with us after looking at the data and, you know,
17 with the population shifts, and then doing the legal
18 analysis, and work to work with the technical
19 consultants, that is going to include - I mean, part of
20 what we want to know when working with them is, "Okay,
21 you say there's been a population shift here and this
22 county used to be 30 percent Asian and now it's 56
23 percent Asian," but we need to look at - before we decide
24 we're going to draw this, we need to look at this from
25 the - do a legal analysis of the racially polarized

1 voting in that area. So I consider that to be part of
2 the analysis with the information and all that they do
3 with the Consultant. I think it's true we'll need
4 experts to do the statistical regression work, but then
5 the lawyer has to incorporate that in the legal analysis.

6 COMMISSIONER DAI: Right.

7 COMMISSIONER BLANCO: For us. So, I think that's
8 got to be part of the core competency.

9 COMMISSIONER DAI: It's a legal analysis of
10 racially polarized -

11 COMMISSIONER BLANCO: Of the legal analysis as it
12 has to be, the racial polarization analysis. I don't see
13 how it can be a one off. I mean, maybe after it's
14 explained to me, I can see it, but right now, I'm
15 considering it to be part of the analysis that should be
16 considered there for pricing and for costs and all of
17 that.

18 CHAIRMAN ANCHETA: I think that's right.

19 COMMISSIONER DAI: So, I think the way that Maria
20 - Commissioner Blanco had stated it before was, you know,
21 ongoing work with the Technical Line Drawing Consultant
22 and other Consultants, as needed because there might be
23 other experts that we have to involve in this, but that
24 would be providing input for legal analysis.

25 CHAIRMAN ANCHETA: Okay. Any additional

1 Commissioner comments before I open it up for public
2 comment?

3 COMMISSIONER WARD: I was just going to ask, Dan,
4 when did you need any changes to that letter to use? So,
5 if we wanted to increase the amount we're asking, when do
6 you need to have that by?

7 MR. CLAYPOOL: Well, I talked to Finance last
8 week about actually submitting it yesterday, but then
9 yesterday we finally got our budget officer on board and
10 she looked at my work and, so, she spent the last couple
11 days going over a couple things - very minor items - but
12 she was going through it, so we had hoped to get that out
13 by, actually, she's going to come and give the
14 presentation on Thursday, so we were hoping to try to get
15 it out by Thursday or Friday. But with the Commission in
16 town, it doesn't look like it's going to, actually,
17 because of all the demands, get out that quickly. Having
18 said that, so I would say we have time to discuss this in
19 open session and come to a conclusion because it really
20 is going to require you to say, you know, up the budget
21 so that when I go to Finance I can say, "It wasn't my
22 fault, it was their fault."

23 CHAIRMAN ANCHETA: Commissioner Dai is here,
24 Commissioner Ward is here, our Budget representatives.

25 COMMISSIONER WARD: Can I recommend that we just

1 very briefly consider making a recommendation of
2 increasing that at this point?

3 COMMISSIONER BLANCO: Can we do that?

4 COMMISSIONER DAI: Well, based on what, though?

5 I mean -

6 COMMISSIONER WARD: Well, based on the full scope
7 of what we've just determined. This is a different scope
8 than what we put out, what our bids came back, some
9 including some things, some not, meetings included,
10 meetings not, that kind of thing. Now that we have kind
11 of a tangible idea of what it is, a road map of where
12 we're going, and what we expect out of the VRA, and now
13 after receiving the bids and seeing a vast idea of what
14 they consider is going to be necessary to meet those
15 needs, it seems like upping that limit to \$200,000 as not
16 to exceed seems, in my opinion, appropriate. And it seems
17 like we might want to come to a recommendation if that is
18 something we see necessary for the open Commission
19 instead of just discussing it in a random -

20 COMMISSIONER FORBES: I think it's premature. I
21 think you're negotiating with yourself. If we say we
22 have \$150,000, and we say, "Here's the scope of work,"
23 and they can say yes, or they can say no. If they say
24 no, then, come Thursday night, we're in a position to
25 make exactly the same recommendation.

1 COMMISSIONER BLANCO: Yeah.

2 COMMISSIONER DAI: With more information.

3 COMMISSIONER FORBES: With more information.

4 But, I mean, if they say, "We can do that scope of work
5 for \$150,000, we can do that," then I -

6 COMMISSIONER DAI: They can say, "We can do it
7 for \$100,000."

8 COMMISSIONER FORBES: Exactly.

9 COMMISSIONER DAI: I don't think we should
10 negotiate it with ourselves.

11 COMMISSIONER FORBES: It may be something we want
12 to do for Friday, but I don't think we have to do it
13 today.

14 COMMISSIONER WARD: I agree, as long as it meets
15 staff's needs with our letter and considered
16 appropriately.

17 COMMISSIONER BLANCO: The only thing - what was
18 our line item - is it the Technical - where do we have
19 our expert - what is our expert line item budget?

20 COMMISSIONER DAI: \$100,000.

21 COMMISSIONER BLANCO: \$100,000. I mean, that
22 would be the place where I might, you know, increase.

23 COMMISSIONER DAI: I think it's \$100,000 in each
24 Fiscal Year.

25 MR. CLAYPOOL: It's actually - originally when we

1 had discussed it, it was \$300,000 and we lowered it to
2 \$250,000. And so it's \$100,000 in this one and \$150,000
3 in the next.

4 CHAIRMAN ANCHETA: I think we're fine and I think
5 it would be fine just simply -

6 COMMISSIONER BLANCO: Yeah.

7 CHAIRMAN ANCHETA: -- as long as it doesn't hold
8 up the staff's need to get the letter out, Thursday
9 evening, maybe we can up it, or let's just go with
10 \$150,000 and that's it.

11 COMMISSIONER DAI: Yeah, I mean, and like I said,
12 you know, at least two of the applicants indicated they
13 expect it to be well under that, so we'll see.

14 COMMISSIONER WARD: Staff has indicated that the
15 11th hour and 59th minute includes waiting until Friday to
16 make that decision, so -

17 CHAIRMAN ANCHETA: We've still got a minute there
18 in that metaphor, so as long as we've got the minute.

19 Okay, any other comments before we go to public comments?

20 Let me open it up, then, if there are any public comments

21 on - and, again, what we've attempted to do this

22 afternoon is basically sort of outlined the interview

23 process, as well as the scope of work for this Thursday's

24 interviewing process. So, if there are any comments on

25 what we've outlined at this point, if there are members

1 of the public that would like to come forward?

2 MR. LEE: Good afternoon, Commissioners and
3 staff. I have three comments that I want to make and I
4 think what you've outlined is a great scope of work for
5 the Voting Rights Act Attorney, and I wanted to offer two
6 comments on that, and then an additional comment kind of
7 on a related note. So, on the scope of work, the first
8 comment is I liked what Commissioner Ancheta and Mr.
9 Miller talked about as far as the VRA Attorney conducting
10 research in gray areas, and I would just make the
11 suggestion that that includes both legal research, but
12 also some social science research that may be needed to
13 be done at the guidance of the VRA Attorney, for example,
14 the question of how to measure CVAP for purposes of
15 Section 2 assessments, and that's something that the VRA
16 Attorney should have some role in, in guiding the
17 research.

18 The second comment on the scope of work is I
19 heard Commissioner Blanco and then Mr. Miller talk about
20 the VRA working with the Mapping Consultant to review
21 Census Data, to look at the population growth and loss,
22 and I think that's good to be generally done, and for VRA
23 to have a really good handle on that, but I would also
24 add that a particularly important angle when looking at
25 those data is to get a head start on thinking about what

1 kind of Section 2 districts are going to be required and
2 what kind of districts are going to be required under
3 Section 5 to avoid retrogression. And I think there's a
4 fine balance there between the VRA Attorney sharing those
5 thoughts prematurely with the Commission, and not perhaps
6 influencing the Commission in how they're thinking
7 heading into the Input Hearings, but I think it's
8 important for the VRA Attorney and the Mapping Consultant
9 to get a head start on thinking about those things,
10 that's going to be helpful, and kind of pinpointing what
11 areas the Commission will want to get RPV data on, or RPV
12 data around, so it's going to be helpful to think about
13 what kind of districts are required to be drawn under
14 Section 2, and then working from there, what areas do we
15 need. I think we need to look at RPV for purposes of the
16 Voting Rights Act.

17 The last comment is kind of related to this.
18 There was some talk about whether organizations would
19 submit mapping proposals or provide comments on districts
20 prior to this planned meeting at the end of May, for
21 organized efforts to present maps. I can say that, for
22 my organization, the Asian Pacific American Legal Center,
23 working with the Statewide Coalition that we're
24 partnering with, we're probably going to need every last
25 second we can get before we present a statewide proposal,

1 and so we probably won't be making any comments on
2 District configurations during the course of Input
3 Hearings. Instead, we'll be providing feedback on
4 communities of interest, and maybe what small discrete
5 areas should be kept together, but that falls short of
6 reaching an Assembly District.

7 So, that's our plan, but I do also want to say
8 that I think it's important to allow individuals or
9 groups to present District configurations during Input
10 Hearings if that's what they want. I think it's fine to
11 have - it's a good idea to have a hearing at the end of
12 the process for statewide efforts, to present mapping
13 proposals, but I think, along the way, there should also
14 be an option for individuals or groups to present
15 districts if they so desire. So, those are the comments
16 I want to provide.

17 CHAIRMAN ANCHETA: Great. Thank you, Mr. Lee.
18 Again, just for - Mr. Lee did use the letters RPV, so
19 that stands for Racially Polarized Voting, for the
20 members of the public, we tend to use a lot of these
21 acronyms and abbreviations.

22 COMMISSIONER DAI: And CVAP stands for Citizen
23 Voting Age Population.

24 CHAIRMAN ANCHETA: So, helpful to remind the
25 public and ourselves about what all these terms mean.

1 Okay, I'm trying to see if we're almost done. Are we
2 pretty much done at this point?

3 Okay, well, again, just to summarize, we have
4 selected our four applicants for follow-up interviews on
5 Thursday, I think we've outlined a basic set of interview
6 inquiries and we'll have some more specific ones in the
7 staff interview session, and we will also have a general
8 scope of work for the position, but, of course, we will
9 have more back and forth with our candidates on Thursday
10 to get a sort of narrowing and a better sense of how the
11 scope of work ought to be defined, as well, and the cost
12 as we're moving forward.

13 And, again, the process is to interview these
14 applicants on Thursday, to have some decision or a
15 recommendation that will go forward, we will make a
16 recommendation or come to some agreement on Thursday
17 evening following the interviews, and then the full
18 Commission will have an opportunity at some point on
19 Friday -- I'm not sure of the timing of that -- but it
20 will be on Friday, to ideally make an offer at that
21 point. Are there any other Commissioner comments at this
22 point? Okay, are there any -- sort of last opportunities
23 -- are there any public comments on matters that weren't
24 specifically on the agenda, at least for the Legal
25 Advisory Committee Meeting? Commissioners? Commissioner

1 Ward.

2 COMMISSIONER WARD: Sorry. We had tasked staff
3 with coming together with a list of questions. Did we
4 discuss when those were - when we were going to be able
5 to weed that out as a panel and come up with our final
6 selections? And then, also, were we going to ask that
7 those be sent out ahead of time or not?

8 CHAIRMAN ANCHETA: Right, so I think Mr. Miller
9 can just speak to that.

10 MR. MILLER: Well, the questions will be prepared
11 and given back to this Committee tomorrow. Yes,
12 tomorrow. And I'll do it. I believe where we left off
13 is that I would work with Commissioner Blanco to finalize
14 the form of those, but you could email me comments on
15 them and then I'll work with Commissioner Blanco on the
16 final four. I believe it was the sense of the Committee
17 to provide those to the lawyers ahead of time, but let's
18 confirm that.

19 COMMISSIONER BLANCO: Yes.

20 COMMISSIONER DAI: Yes.

21 COMMISSIONER WARD: Yes.

22 COMMISSIONER BLANCO: We didn't say how ahead of
23 time - we didn't.

24 COMMISSIONER FORBES: No, but my sense is give it
25 to them as early as possible. I don't think we need to

1 play gotcha with them.

2 CHAIRMAN ANCHETA: Yeah, I think as long as, once
3 those are final, they should go to us, to the attorneys,
4 and then be posted, as well.

5 COMMISSIONER FORBES: Right.

6 MR. MILLER: They should really be able to
7 respond to them pretty readily, these are not homework
8 questions. The semester is over and they're getting to
9 see the exam with a professor before they write the
10 answers, so - but it will be helpful to them and we'll
11 follow that procedure.

12 CHAIRMAN ANCHETA: Okay, any other items we need
13 to discuss at this point? Does someone want to move to
14 adjourn this meeting?

15 COMMISSIONER FORBES: Do we need to move or just
16 leave?

17 CHAIRMAN ANCHETA: Go ahead and do it.

18 COMMISSIONER FORBES: I move it, then.

19 CHAIRMAN ANCHETA: Seeing no objection, we are
20 adjourned for today. Thank you.

21 (Recess at 5:04 p.m.)

22

23

24

25