

BEFORE THE
CALIFORNIA CITIZENS REDISTRICTING COMMISSION

In the matter of

Meeting of the
Legal Advisory Committee

State Capitol Building

Room 127

Sacramento, California

Wednesday, February 23, 2011

3:04 P.M.

Reported by:
Peter Petty

APPEARANCES

Members Present

Angelo Ancheta

Maria Blanco

Stanley Forbes

Members Absent

Jodie Filkins Webber

Staff Present

Kirk Miller, Legal Counsel

Carol Umfleet, State Contracts Specialist

Dan Claypool, Executive Director

Also Present

Public Comment

Deborah Howard, CA Chamber of Commerce

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P R O C E E D I N G S

COMMITTEE MEMBER BLANCO: So, this is -- it's three o'clock, we're meeting, the Legal Advisory Committee of the Redistricting Commission is meeting.

And because our general agenda was posted online, but we have -- we don't have written copies of that, I will verbally list the agenda items.

The first agenda item is training for Commission and that involves training and update on where we're at with our training on Bagley-Keene and Public Records Act. You know, where and when, and those issues.

The second item, carried over from the last meeting, is the criterion selection of a Voting Rights attorney.

And the third item is hearing back from Mr. Miller on the issue of Section 8253, which states that Commissioners are not permitted to discuss redistricting matters. And we had asked Mr. Miller to look into what -- a definition of how broad that redistricting matters phrase is, and what is encompassed within it.

And then, fourth item, we had an item on just our disclosure policy, also for Mr. Miller to present.

We had some -- these are all items that were -- that the full Commission, at our last meeting, requested we handle at this advisory committee and come back to them

1 at a full meeting tomorrow.

2 We had a request that we talk about Robert Rules
3 of Order and that speaks for itself, we can talk about
4 what we want to do in terms of that for the full
5 Commission.

6 Third item is whether the advisory committee
7 should have a public comment period, the same way we do in
8 full Commission meetings. After we finish our agenda we
9 usually, in our full Commission meetings, our last item,
10 standing item is public comment. And we really -- we
11 instituted the advisory committees, ourselves, they're of
12 our own creation, and so we're trying to work out what the
13 good protocol for these meetings should be in terms of
14 public comment and other issues.

15 The fourth item that the Commission kicked over to
16 us to consider today is how to -- how should we and who
17 should prepare some guidelines for public meetings in
18 terms of making sure that all of the public participates,
19 how should we make sure that there's adequate -- you know,
20 that there's adequate time allocation, and that everybody
21 gets a chance to speak, that people don't extend their
22 time, and maybe rules -- proposed rules of order for those
23 public hearings.

24 Our first one's going to be Saturday. So, this is
25 probably an item we need to discuss and take back to the

1 Commission for a decision tomorrow, because we'll be
2 having our first statewide public hearing on Saturday.

3 Then we have, I think, a fairly complicated issue,
4 maybe not complicated, but interesting issue, raised by
5 Commissioner Ontai, which is regarding votes on the maps.
6 So, if a full Commission, all 14 members has not been
7 present during a formal hearing, where we present a trial
8 map, can the Commissioners who are not in attendance at
9 that meeting, where we get feedback on our trial map, vote
10 on that map?

11 We can discuss -- I mean, I don't expect for us to
12 resolve that, but that's an issue they want us, again, to
13 consider.

14 And then last, conflicts of interest and
15 application of such for consultants. That's an item that
16 we've had kind of pending for a while, now, and that we
17 really need to discuss and make some recommendations to
18 the full body.

19 That's clearly true for staff. We haven't made a
20 decision about consultants.

21 COMMITTEE MEMBER ANCHETA: Are we live now?

22 COMMITTEE MEMBER BLANCO: Yes.

23 COMMITTEE MEMBER ANCHETA: So, I know on the
24 public -- publicly noticed agenda there's an item, and it
25 may even be placed on the agenda by the chair. But I know

1 Ms. Umfleet is here to discuss contracting procedures and
2 I wasn't sure where that fell within what you had just
3 mentioned or if Ms. Umfleet has certain time constraints
4 at this point, in terms of when we should put her in the
5 agenda. But it is on the public agenda.

6 COMMITTEE MEMBER BLANCO: Oh, okay. Sorry about
7 that.

8 COMMITTEE MEMBER ANCHETA: But do you have a rough
9 sense of how much time? Is it more of an open discussion
10 or is it, you know, a presentation that you're --

11 MS. UMFLEET: (Speaks off microphone)

12 LEGAL COUNSEL MILLER: Well, it will, because we
13 don't have the same rigorous procedures for the selection
14 of legal counsel that we do for --

15 MS. UMFLEET: Oh, I'm sorry, we're talking about
16 working --

17 LEGAL COUNSEL MILLER: Yes, the -- oh, that's what
18 it is. Okay, I'm sorry. Okay, okay, no problem. But
19 that's for the --

20 MS. UMFLEET: You just asked for a request for
21 information.

22 LEGAL COUNSEL MILLER: Yes, this issue -- this is
23 just with the Voting Rights Act issue which --

24 COMMITTEE MEMBER ANCHETA: Okay. I wasn't clear
25 on that. Okay, that's fine. That helps.

1 COMMITTEE MEMBER BLANCO: So what we'll do, if
2 it's okay with my fellow Commissioners and with you, Mr.
3 Miller, when we have the item on the Voting Rights
4 attorney hire perhaps you can introduce this issue of what
5 we need to do, and the presentation, and then we can go
6 into our conversation. Does that make sense?

7 LEGAL COUNSEL MILLER: Yeah. Can I make a couple
8 of comments on the agenda?

9 COMMITTEE MEMBER BLANCO: Sure.

10 LEGAL COUNSEL MILLER: We will be able to address
11 each of the items and, hopefully, some of them we can do
12 expeditiously. And the reason I hope that is it is our
13 goal to get your comments on and be in a position to issue
14 what we're calling the request for information for Voting
15 Rights Act counsel either after this meeting or after the
16 full Commission meeting, if you want to bring it back to
17 them.

18 So, this one's almost ready to see the light of
19 day, but I want to make sure we have enough time to
20 conclude our discussion so we can issue it.

21 COMMITTEE MEMBER BLANCO: That's great. And so
22 we'll really -- that will be our priority item and
23 perhaps, I would say, the two priority items need to be
24 that and this item that's been trailing now for a while
25 about the conflict of interest.

1 LEGAL COUNSEL MILLER: All right. And so, if
2 you'd like, we can talk about that one first.

3 This item, actually, also appeared this morning in
4 the -- I have to refer, still, to the agenda, the
5 Technical Advisory Committee.

6 It came up in connection with the fact that we are
7 retaining consultants there.

8 So, in anticipation of that meeting we prepared a
9 draft policy, which Commissioner Ancheta commented on
10 earlier.

11 COMMITTEE MEMBER ANCHETA: Yeah, and I think we
12 made minor, we proposed some minor amendments to one of
13 the sentences.

14 LEGAL COUNSEL MILLER: Let me get copies to the
15 other Commissioners.

16 COMMITTEE MEMBER ANCHETA: I think we proposed
17 some minor punctuation changes on the last sentence.

18 LEGAL COUNSEL MILLER: These do not reflect those,
19 yeah.

20 COMMITTEE MEMBER ANCHETA: But I'll highlight them
21 as we go through it.

22 LEGAL COUNSEL MILLER: Would it be most
23 expeditious if you summarized the discussion of the
24 committee this morning, Commissioner Ancheta, and see if
25 this will work for us here, as well?

1 COMMITTEE MEMBER ANCHETA: Oh, yeah. I think
2 overall it's simply making sure that the staff and
3 consultants are bound by the same -- basically, the same
4 policy that was put in place for the Executive Director
5 which is, again, consistent with what is done in terms of
6 the --

7 LEGAL COUNSEL MILLER: Actually, the policy gives
8 the Commission more discretion on behalf of the Executive
9 Director.

10 COMMITTEE MEMBER ANCHETA: I'm sorry, forgive me.
11 More discretion pursuant to the Voters First Act and the
12 regulations in terms of requiring, you know, disclosure of
13 prior employment, prior consulting work, et cetera, in
14 order to make sure that we're keeping up with the spirit
15 of the Act and that we, you know, are clear about our
16 consultants and staff being impartial, and not having
17 conflicts of interest.

18 So, I think it's -- what Mr. Miller is proposing
19 is simply the clarifying language to make sure that we are
20 following the Act and have the power to do so.

21 COMMITTEE MEMBER FORBES: In simple language
22 doesn't it simply say we're going to apply the same
23 standards but in order to get approval we're going to
24 consider that we might potentially waive those standards.

25 LEGAL COUNSEL MILLER: It gives you the discretion

1 to waive.

2 COMMITTEE MEMBER FORBES: Right.

3 LEGAL COUNSEL MILLER: You require the same level
4 of disclosure. But you might feel, for example, that even
5 though a consultant did work for a party that someone
6 could complain about, you feel they're still the best
7 person and that in the context of the Commission being the
8 client here that prior work should be -- should not
9 preclude the individual from working for the Commission.

10 So, you would learn everything about them, but you
11 will have the discretion to make a determination about
12 whether it ought to disqualify them or not.

13 COMMITTEE MEMBER BLANCO: So, it's disclosure of
14 all the same information that was required of
15 Commissioners and Executive Director, but with the ability
16 to waive it if we think that it's -- we still have a
17 candidate that can be fair and unbiased --

18 LEGAL COUNSEL MILLER: That's correct.

19 COMMITTEE MEMBER BLANCO: -- and impartial.

20 COMMITTEE MEMBER ANCHETA: Right. And, again, we
21 suggested -- I'm not sure if this is -- I think this
22 probably requires formal adoption by the full Commission,
23 but we made some --

24 COMMITTEE MEMBER BLANCO: It does, yeah.

25 COMMITTEE MEMBER ANCHETA: -- just some minor

1 punctuation changes. I think there's a little bit of lack
2 of clarity on the last sentence which, if you read it, has
3 two points to it.

4 One is that the Act and the regulations authorize
5 this discretion and that the Commission will apply its
6 provisions with that discretion.

7 COMMITTEE MEMBER BLANCO: Uh-hum.

8 COMMITTEE MEMBER ANCHETA: And I think what we
9 suggested in that, just in the Technical Committee, was
10 simply adding another comma after -- yeah, so it's sort of
11 authorized, comma, and the Commission will apply its
12 conflict provision with discretion, comma, while also
13 assuring the impartiality of staff and consultants.
14 Delete one of the periods at the end of the sentence.

15 LEGAL COUNSEL MILLER: Uh-hum.

16 COMMITTEE MEMBER BLANCO: And I'm just curious
17 what the discussion, in order to sort of jump start our
18 discussion, what were sort of the -- what was the thinking
19 of that advisory committee that this -- is it the sense
20 that if we didn't have the discretion that we would really
21 be limiting our pool, that this becomes very --

22 COMMITTEE MEMBER ANCHETA: I think it was to give
23 us the option, if we needed to exercise it. I think,
24 again, ideally we have a pool that -- where we wouldn't
25 have to necessarily waive these things. But if we needed

1 to because we felt, you know, the best candidate was
2 available and this was an issue that we could, in fact,
3 waive it.

4 COMMITTEE MEMBER BLANCO: I mean, the reason I ask
5 is it's one thing to say -- and this may be really
6 splitting hairs. It's one thing to say it's disclosure,
7 that it's basically a disclosure requirement with the
8 ability to waive. And it's another thing to say there's a
9 presumption that the conflict means that we can't hire
10 them, and then we can waive.

11 It's a little bit different. If it were really
12 like the Commission and the Executive Director, it would
13 really be stronger than just disclosure.

14 LEGAL COUNSEL MILLER: Yes. But went back and
15 talked to the people who prepared the regulations that
16 implemented the statutory provisions and they advised me,
17 in their memos that were prepared along the way, this was
18 the Department of Audits, reflect that their intention in
19 drawing the very strict regulations was with respect to
20 Commissioners.

21 And the statute, itself, gives the Commission some
22 level of discretion.

23 So, we're simply trying to clarify for the
24 Commission what we believe the state of the law actually
25 is here, which is that the very high level of presumption,

1 if you will, applies to the Commission. It doesn't apply
2 to the staff in the same way. But we think that you ought
3 to have a lot of information about anybody that's working
4 for the Commission. That that information might very well
5 cause you not to hire somebody. But not to box you in on
6 a technical piece of work or appointment that somebody had
7 along the way.

8 COMMITTEE MEMBER BLANCO: So, would this eliminate
9 the issue, I think we've come across a couple of times,
10 I'm not sure how many, where we ask people to do a
11 conflict waiver?

12 LEGAL COUNSEL MILLER: Well, you could decide what
13 you want as it relates to the work we're looking for right
14 now, for Voting Right Acts lawyers, just tell us what you
15 want them to say.

16 You know, we could, for example, attach the
17 same -- we would provide them with the conflicts
18 provisions Commissioners have and say, you know, this
19 doesn't necessarily conflict you out but tell us, have you
20 done any of the work that is described in this conflict?

21 And then you'd have it in front of you and you
22 could make the determination.

23 COMMITTEE MEMBER BLANCO: I think I understand.
24 Any --

25 COMMITTEE MEMBER FORBES: No, I understand.

1 COMMITTEE MEMBER BLANCO: -- other comments?

2 COMMITTEE MEMBER FORBES: No.

3 COMMITTEE MEMBER ANCHETA: No, and there was very
4 minimal discussion at the Technical Committee.

5 COMMITTEE MEMBER BLANCO: Okay. What I'm going to
6 do very quickly then, sort of is go to the Voting Rights
7 attorney discussion. And then seeing as that's going to
8 be fairly long and there may be some public comment about
9 this first item, after the discussion and whatever
10 recommendations we arrive upon, then we can have public
11 comment after that, after these first two items.

12 LEGAL COUNSEL MILLER: Sure. Let me just
13 introduce the VRA discussion, if I can. And while Carol's
14 here, and she may not have to spend quite as much time
15 with us.

16 The California Contracting Law does provide a
17 simpler method for us to contract with lawyers, than with
18 other providers. So we're, if you will, the beneficiaries
19 of that exemption, which makes our contracting process
20 simpler.

21 What I've tried to do in the document that you
22 have -- and do you have this in front of you? I e-mailed
23 it to you, but if you need a copy, I have additional
24 copies.

25 Was to set out a relatively straight forward

1 solicitation to get complete information about the work
2 the firm has done, and how they would go about this work,
3 and discussion of how they would bill for the work.

4 I think that's an area we need to return to and
5 discuss further, even as it's stated in this proposal.

6 So, in a perfect world this will go out, let's
7 say, well, whenever we're finished here, and if you want
8 the full Commission to approve it, we'll be ready to
9 launch this one.

10 It contemplates that we would have, and this is
11 all subject to discussion here, of course, the statements
12 of qualifications back by March 14th, and that we would be
13 in a position to make a determination about Voting Rights
14 counsel at our next Committee meeting.

15 Now, exactly the form of how that would work is a
16 subject for this Committee to discuss. You know, there's
17 a range of possibilities. You could see --

18 COMMITTEE MEMBER BLANCO: Just one thing.

19 LEGAL COUNSEL MILLER: Yeah.

20 COMMITTEE MEMBER BLANCO: Do you want us to go
21 through the whole thing and then go back on like the
22 timelines, and all of that, or just whatever you --

23 LEGAL COUNSEL MILLER: I thought I'd just take a
24 second to sketch it out.

25 COMMITTEE MEMBER BLANCO: Yep. No, that's great.

1 LEGAL COUNSEL MILLER: You know, start with the
2 big picture in this case and then come back and resolve
3 these things.

4 COMMITTEE MEMBER BLANCO: Okay.

5 LEGAL COUNSEL MILLER: So, the goal is to finish
6 and have somebody in place by our next meeting, that's our
7 goal.

8 You need to determine how you want to be involved
9 in that process. It could range from our staff sorting
10 them out, depending on how many responses we get and
11 bringing you a subset of those. Depending on how many we
12 get, you might want to review all of them.

13 We may make a provision for lawyers to come in and
14 present. Again, that could be all or a subset.

15 So, I'm not sure where you want to come out at the
16 end game, but between now and the next meeting those are
17 kind of the range of possibilities.

18 But with that in mind, then, I think it makes
19 sense to return to the document and get your specific
20 comments on it.

21 COMMITTEE MEMBER BLANCO: And when you say we, you
22 mean this Committee or the full that --

23 LEGAL COUNSEL MILLER: Well, for the moment I'm
24 referring to this Committee.

25 COMMITTEE MEMBER BLANCO: Okay.

1 LEGAL COUNSEL MILLER: I'm guessing but, you know,
2 it's up to you, that you'll want to take to the full
3 Commission the selection of the VRA, and exactly how you
4 wish to do that is something for us to decide today.

5 COMMITTEE MEMBER BLANCO: Okay. I know there's
6 discussion and tomorrow we'll have a better idea of our
7 schedule. There's a -- I think there's our Director is
8 recommending that we not meet when we were scheduled to
9 meet.

10 LEGAL COUNSEL MILLER: Yeah, we are putting the
11 next meeting off another week. I believe it will be in
12 the -- the March meeting, and this is key to that date --

13 COMMITTEE MEMBER BLANCO: Yeah.

14 LEGAL COUNSEL MILLER: -- would be the 17th, 18th
15 and 19th.

16 COMMITTEE MEMBER BLANCO: So, those are the dates
17 we're looking at for this Committee to potentially have a
18 recommendation, to do it at that meeting.

19 LEGAL COUNSEL MILLER: That's correct.

20 COMMITTEE MEMBER BLANCO: All right. Okay. Okay,
21 thank you.

22 So, I guess my question, just on the timeline, is
23 whether that's realistic or very -- I mean, we know we
24 need this yesterday, but given that people will send in
25 their statement of qualifications by the 15th of March,

1 which is --

2 COMMITTEE MEMBER FORBES: Is that a Monday? What
3 is that?

4 LEGAL COUNSEL MILLER: That's a Tuesday.

5 COMMITTEE MEMBER FORBES: A Tuesday.

6 COMMITTEE MEMBER BLANCO: Tuesday. Which is what
7 from today, like a little less than three weeks from
8 today?

9 LEGAL COUNSEL MILLER: Yes, uh-hum.

10 COMMITTEE MEMBER BLANCO: So we have three -- we
11 go tomorrow, let's say we get approval on this, they would
12 have a little under three weeks -- we would have three
13 weeks to basically make sure we had very good outreach and
14 that we had good notice, good posting, and we had good
15 candidates in three weeks. And that we'd done whatever we
16 might want to do in terms of, as you described, the range
17 of input that people might want to have into that process,
18 it would all have to be done in the next three weeks.
19 Correct?

20 LEGAL COUNSEL MILLER: That is correct.

21 COMMITTEE MEMBER BLANCO: So what's your sense of
22 that?

23 LEGAL COUNSEL MILLER: Well, it will be our top
24 priority. It will be -- I think it's doable. I'm
25 anticipating that a law firm can look at this and, in

1 roughly a week's time, make a determination we're
2 interested. They know -- they know the work that they've
3 done. You know, it's going to be some hours of work for
4 them, certainly, to put this together, but I think we're
5 giving them just -- I guess I'd say we're giving them just
6 enough time to put together a proposal.

7 It does not give us very much time to review them
8 but, you know, it's not like going through accounting
9 records. I think --

10 COMMITTEE MEMBER FORBES: And that was more my
11 concern is that not so much that they didn't have enough
12 time, but that we didn't have enough time. I would be
13 more comfortable if they came in on a Friday.

14 LEGAL COUNSEL MILLER: And we can make that
15 change. And then question, too, becomes how much time the
16 Committee wants to spend as a committee, going through the
17 materials.

18 It's contemplated and I think it probably has to
19 be a public meeting, so it's not as easy to do it in that
20 setting. But it, certainly, again, can be done. You'd be
21 provided with the same packages I receive, of course, and
22 it would be a good discussion.

23 COMMITTEE MEMBER FORBES: Would it make any sense
24 and would it be allowed that -- and, again, I have no idea
25 how many of these we'd get. But whether it would make

1 sense for us, the four of us, and Jodie not being here, to
2 vet the ones that we get and submit some number of
3 qualified ones to the full Commission, so that they don't
4 have to look at all of them?

5 LEGAL COUNSEL MILLER: Actually, I was
6 anticipating that that's how it would work.

7 COMMITTEE MEMBER FORBES: Okay.

8 LEGAL COUNSEL MILLER: That the Committee, itself,
9 would take that responsibility of working through the
10 responses and make a recommendation to the full Committee,
11 so that the work would be done at this level.

12 COMMITTEE MEMBER FORBES: Okay.

13 COMMITTEE MEMBER ANCHETA: Now, is there -- I
14 wasn't clear from the language or if I -- would staff be
15 doing some initial screening here or will the Legal
16 Advisory Committee sort of be involved in the first cut?

17 LEGAL COUNSEL MILLER: This wasn't really intended
18 to say one way or another. I wanted to come back to get
19 your guidance about how you wanted to proceed.

20 COMMITTEE MEMBER BLANCO: Uh-hum. I guess I'm a
21 little concerned about the timeline. And I mean one of
22 your points sort of was one of my questions, which is the
23 solicitation, for lack of a better phrase, the
24 solicitation of law firms for this position.

25 LEGAL COUNSEL MILLER: Right.

1 COMMITTEE MEMBER BLANCO: And so, we hadn't
2 really -- I mean, it's come up sort of tangentially, but
3 we haven't really said we're -- we had always talked about
4 an attorney, I don't think we'd ever said, oh, we're going
5 to solicit a law firm to do this work, potentially, for
6 us.

7 And, in fact, I think there were concerns
8 expressed at some point about --

9 COMMITTEE MEMBER FORBES: Yeah, we want to try to
10 avoid --

11 COMMITTEE MEMBER BLANCO: Avoid law firms.

12 COMMITTEE MEMBER FORBES: -- contract, you know,
13 per-hour basis, because we'd lose control of the costs.

14 LEGAL COUNSEL MILLER: Well, I did try to set this
15 up so that we were aiming it toward both lawyers, as
16 individuals, and law firms.

17 I'm assuming, let's just take the case of someone
18 who's with a large firm, who's the specialty person at
19 that firm, you tend to get the firm with the lawyer, as
20 opposed to the lawyer on his or her own.

21 But I was trying to write it in a way that would
22 permit an individual practitioner, an academic, or someone
23 else, as we'd discussed, to response, to be able to
24 respond and in no way be disqualified or disadvantaged
25 because they're not with a firm.

1 COMMITTEE MEMBER BLANCO: Correct. And so my
2 concern is more with the firm. And so here are a couple
3 of thoughts. These are sort of different thoughts but --
4 so, if we say firm and then we get -- you know, there are
5 just -- you're not going to find a lot of firms. Some
6 firms may have a side practice in this, that's possible,
7 or there may be one or two that do this as this is the
8 bulk of their business.

9 And the reality is that most of those are on the
10 defense side. So, if we were to say firm would we also
11 say organization, because there are organizations that
12 have a Voting Rights practice, and those tend to be on the
13 plaintiff's side.

14 So, I'm trying to really be -- you know, I'm
15 trying to make this as impartial from the very beginning
16 as possible in the way that we even word who the potential
17 applicants are.

18 LEGAL COUNSEL MILLER: I think that if you're more
19 comfortable, we could drop the term "law firm" and just
20 refer to lawyers. I don't think it will ultimately make a
21 difference in the response.

22 Let me just throw out a hypothetical. Let's say
23 Warren Christopher wanted to do this work -- I think
24 that's highly unlikely, so I'm using his name.

25 COMMITTEE MEMBER FORBES: Right.

1 LEGAL COUNSEL MILLER: If he were to want to do
2 that and we said you're the right guy, you'd get O'Melveny
3 with it, undoubtedly. It's just that's why I throw in the
4 law firm.

5 But if the Committee's more comfortable just
6 talking about lawyers, I think that works just as well for
7 this purpose.

8 COMMITTEE MEMBER BLANCO: I just raise it because
9 I think there will be a perception that law firms versus
10 there may be nonprofits who do this work, and are we
11 favoring one sector from --

12 COMMITTEE MEMBER FORBES: Yeah, using the term
13 "law firm" does cut out people who participate in this
14 practice.

15 COMMITTEE MEMBER BLANCO: Right.

16 LEGAL COUNSEL MILLER: Would you like to just use
17 the generic term "attorney" instead --

18 COMMITTEE MEMBER FORBES: Yeah.

19 LEGAL COUNSEL MILLER: -- and we'll delete the law
20 firm reference?

21 COMMITTEE MEMBER ANCHETA: Yeah, and you can just
22 do attorney with sort of parentheses (s) to include the
23 plural.

24 I don't feel as uncomfortable because I think it
25 covers a lot of ground.

1 But I think the point is well taken that there are
2 entities or organizations that aren't necessarily within
3 the phrase "attorney" or "firm" that we'd maybe want to
4 get some applications from that sector, too.

5 So, I think the broadest language possible would
6 be fine with me.

7 COMMITTEE MEMBER BLANCO: I would feel better.
8 Like, I'm just thinking there's this -- the Brennan
9 Center, that has a big part of their -- they're a
10 nonprofit. And, in fact, one of their former staff
11 persons did a training for us, you know, and what if they
12 decided to do something? So, they wouldn't be a law firm,
13 necessarily. So, I would be more comfortable.

14 LEGAL COUNSEL MILLER: What if we did this, under
15 section two, that first sentence says that "seeking
16 statements of qualifications from attorneys and law
17 firms."

18 What if we said "attorneys' and kind of defined
19 that, paren, "including law firms, not-for-profit
20 entities, or other entities providing legal services,"
21 something like that.

22 COMMITTEE MEMBER FORBES: That's fine.

23 COMMITTEE MEMBER BLANCO: That would be great.

24 Yeah, that's great.

25 And the reason I had raised it to begin with is I

1 think a law firm can marshal this kind of SOQ very quickly
2 and an individual attorney may have a harder time putting
3 this together in a short -- and which is one of the
4 thoughts I had is does this favor people who can put a
5 package like this together very fast, this timeline?

6 LEGAL COUNSEL MILLER: Remember, the timeline we
7 are proposing here just reflects the urgency that we felt
8 from the Commission, but it's a subject of your discretion
9 in this meeting.

10 COMMITTEE MEMBER FORBES: Again, I'm concerned
11 that we're not going to have enough time to review them.
12 I'd personally move it up to ten, I'd --

13 LEGAL COUNSEL MILLER: You'd leave the final day
14 the same, but move the solicitation up?

15 COMMITTEE MEMBER FORBES: Exactly, give us more
16 time to go over it. I mean, I recognize it, but if they
17 want the job -- and I think people -- we've talked about
18 it, people in the industry, so to speak, know about this
19 and this won't be something, oh, gee, it just appeared.

20 COMMITTEE MEMBER BLANCO: You know, we're talking
21 nationally, we wanted to have a national reach. And, I
22 mean, for example, some of the calls you made, already,
23 you see how hard people are -- the higher you sort of go
24 up, you know, in terms of the food chain on these matters,
25 the people we're looking for maybe are very busy.

1 I just -- I'm a little nervous that --

2 COMMITTEE MEMBER FORBES: Let's make it, let's
3 give them the weekend. If they want to work the weekend,
4 that's their business.

5 COMMITTEE MEMBER BLANCO: Yeah.

6 COMMITTEE MEMBER FORBES: So, let's make it the
7 13th.

8 LEGAL COUNSEL MILLER: Okay.

9 COMMITTEE MEMBER BLANCO: Angelo -- I mean,
10 Commissioner Ancheta, how do you feel about just moving it
11 up a day or should we just --

12 COMMITTEE MEMBER ANCHETA: Well, the 13th is a
13 Sunday, so I would just -- I'm okay with the 14th.

14 COMMITTEE MEMBER FORBES: I thought you said it
15 would be a Monday. I thought you said Tuesday was the
16 14th.

17 COMMITTEE MEMBER BLANCO: I don't have my
18 calendar.

19 COMMITTEE MEMBER ANCHETA: I have the 13th -- I
20 have March 13th as a Sunday.

21 LEGAL COUNSEL MILLER: I've got it as a Monday on
22 --

23 COMMITTEE MEMBER BLANCO: Wow.

24 LEGAL COUNSEL MILLER: This is one, however, that
25 can be conclusively decided.

1 COMMITTEE MEMBER ANCHETA: I'm looking at the
2 official calendar of the Commission, so assuming Google
3 docs is accurate --

4 LEGAL COUNSEL MILLER: Okay.

5 COMMITTEE MEMBER BLANCO: The 14th is a Monday.

6 COMMITTEE MEMBER FORBES: Yeah.

7 LEGAL COUNSEL MILLER: Well, then the 14th stands
8 then.

9 COMMITTEE MEMBER BLANCO: Okay.

10 COMMITTEE MEMBER ANCHETA: I'm sorry, yes, the
11 14th was -- it already was the Monday.

12 COMMITTEE MEMBER BLANCO: Okay. So, we'll leave
13 it on Monday, okay.

14 COMMITTEE MEMBER FORBES: Monday, yeah.

15 COMMITTEE MEMBER BLANCO: Okay. And then what
16 about the turnaround time for us to -- the consideration
17 by this -- both this Committee and then the full
18 Commission, with a public hearing, because we're also
19 talking about --

20 COMMITTEE MEMBER FORBES: Right.

21 COMMITTEE MEMBER ANCHETA: So, what is the
22 calendaring, the proposed calendaring of the meeting,
23 would it be the Advisory Committee's meeting on Wednesday,
24 the 16th, or Thursday, the 17th?

25 LEGAL COUNSEL MILLER: I believe that the Advisory

1 Committee meeting has been moved to the 17th.

2 COMMITTEE MEMBER ANCHETA: The 17th. And the full
3 Commission on the 18th and 19th.

4 LEGAL COUNSEL MILLER: That's correct.

5 COMMITTEE MEMBER ANCHETA: So, we would want to
6 look at it prior to the Advisory Committee meeting and
7 then sort of --

8 COMMITTEE MEMBER FORBES: They need to get the
9 stuff and then we need to get the stuff over those two
10 days.

11 COMMITTEE MEMBER ANCHETA: Right.

12 COMMITTEE MEMBER FORBES: That's a
13 Tuesday/Wednesday.

14 COMMITTEE MEMBER ANCHETA: Now, would we -- in
15 other words would we at that point be discussing -- let's
16 say we have a ranking system and then we will say here
17 are -- during our Advisory Committee meeting discuss the
18 top three candidates or --

19 COMMITTEE MEMBER FORBES: Or determine who they
20 are.

21 COMMITTEE MEMBER ANCHETA: Right. At the meeting.
22 At that meeting.

23 COMMITTEE MEMBER FORBES: At the Advisory
24 Committee meeting.

25 COMMITTEE MEMBER ANCHETA: And then have closure

1 and decision.

2 COMMITTEE MEMBER FORBES: And then we can
3 recommend.

4 COMMITTEE MEMBER ANCHETA: With recommendations to
5 the full Commission.

6 COMMITTEE MEMBER FORBES: To the full Commission.
7 and maybe we'll recommend two or three, but we'll -- but
8 we'll --

9 LEGAL COUNSEL MILLER: I just want to add, to
10 follow on one more step, one thing you might do -- let's
11 just say we get ten responses --

12 COMMITTEE MEMBER BLANCO: Uh-hum.

13 LEGAL COUNSEL MILLER: -- you might reduce that to
14 four, invite those four lawyers to come speak to you, tell
15 everybody they're on call. Because, you know, we could
16 get a very fine presentation from someone who's not known
17 to us.

18 COMMITTEE MEMBER BLANCO: Uh-hum.

19 LEGAL COUNSEL MILLER: And, you know, you've had
20 the experience of an excellent resume does not match the
21 personality of the provider, and we don't want to be in
22 that situation where we end up with a difficult person,
23 who's great on paper.

24 So, I think there ought to be some kind of face-
25 to-face encounter.

1 COMMITTEE MEMBER BLANCO: I completely agree,
2 yeah.

3 COMMITTEE MEMBER ANCHETA: And as I joined the
4 Commission later, with other staff hires was the full
5 Commission involved in the interviewing process?

6 COMMITTEE MEMBER FORBES: Yes.

7 COMMITTEE MEMBER ANCHETA: Okay.

8 COMMITTEE MEMBER FORBES: Yes. What we did, for
9 like the Executive Director, we had a list and we culled
10 the pool down to like four, did we go down to four, and
11 then we interviewed the four.

12 And we did that, we did the same for our legal
13 counsel. I think we had eight and we culled it to four.

14 COMMITTEE MEMBER ANCHETA: So, I guess it's
15 feasible to have a closed -- this is done in closed
16 session, right?

17 LEGAL COUNSEL MILLER: So, I don't believe it can
18 be done in closed session.

19 COMMITTEE MEMBER ANCHETA: It's the interviewing,
20 or the presentations or --

21 LEGAL COUNSEL MILLER: I don't think so.

22 COMMITTEE MEMBER ANCHETA: This is a bid, this is
23 more of a contract question.

24 LEGAL COUNSEL MILLER: Well, it's just that --

25 COMMITTEE MEMBER BLANCO: It's not personnel.

1 LEGAL COUNSEL MILLER: That's right. It's just
2 that Bagley-Keene has not presented an exception, I've
3 found, to permit us to do it in closed session.

4 COMMITTEE MEMBER ANCHETA: Well, and that's fine.
5 That's fine.

6 COMMITTEE MEMBER BLANCO: Uh-hum. So then
7 we're -- we get everything on the 14th and then we -- our
8 Advisory Committee's the 17th?

9 COMMITTEE MEMBER ANCHETA: Correct.

10 COMMITTEE MEMBER FORBES: Right.

11 COMMITTEE MEMBER BLANCO: So we have the 14th, and
12 the 15th and the 16th. We have the 15th and 16th to sort of
13 do a cut.

14 COMMITTEE MEMBER ANCHETA: Right.

15 COMMITTEE MEMBER BLANCO: But that means, includes
16 an interview.

17 LEGAL COUNSEL MILLER: Really, you've got the 17th
18 to do the cut, in a sense, because it's a public meeting.

19 COMMITTEE MEMBER BLANCO: That's right, that's
20 right. So we have the 15th and 16th -- now, the interviews
21 also have to be public.

22 LEGAL COUNSEL MILLER: Yes.

23 COMMITTEE MEMBER ANCHETA: Right. So one question
24 is are we, as a Committee, doing presentations and
25 interviews, making a cut and then whatever -- whoever's

1 left, does that go in front of the full Commission?

2 COMMITTEE MEMBER FORBES: I think we should make a
3 cut and then they only -- I mean, you can't ask people to
4 make presentations twice, I don't think, not on
5 consecutive days. I think we should make a cut and then
6 ask the ones who make it to make a presentation. Again,
7 that's what we did when we hired the various positions.

8 COMMITTEE MEMBER ANCHETA: Okay.

9 COMMITTEE MEMBER FORBES: We just made a paper cut
10 and then we took the -- and then we ranked them and took
11 the top four, typically, that the interview -- actually
12 make a presentation.

13 COMMITTEE MEMBER ANCHETA: By the full Commission.

14 COMMITTEE MEMBER FORBES: Right.

15 COMMITTEE MEMBER ANCHETA: Okay. So, if we were
16 to do that, we would -- would we allocate some time on
17 Friday, the 18th, to have the top three -- the top
18 candidates --

19 COMMITTEE MEMBER BLANCO: We'd have to.

20 COMMITTEE MEMBER ANCHETA: -- come in, make a
21 presentation, and then the Commission would make the -- I
22 do want to make a decision at that point.

23 COMMITTEE MEMBER FORBES: Right, because we have
24 to make it by the 19th.

25 COMMITTEE MEMBER BLANCO: Yeah.

1 LEGAL COUNSEL MILLER: Just one more factor, and
2 I'm afraid it's an unknown, we were hopeful that at the
3 next meeting we'd also be able to choose the line-drawing
4 consultant.

5 If that's the case, that might be on the Friday.
6 I'm hopeful that we can still meet that schedule but as
7 you know, Commissioner Ancheta, that we have challenges in
8 getting that done in this time as well.

9 COMMITTEE MEMBER ANCHETA: Sure.

10 COMMITTEE MEMBER BLANCO: Uh-hum. Now, I know
11 that for the personnel hires we were able to -- our
12 director did make a first cut and then presented. Would
13 you be able to do, under the Bagley-Keene, do a first cut?

14 LEGAL COUNSEL MILLER: I can. That's the kind of
15 guidance that I'm seeking from you.

16 COMMITTEE MEMBER BLANCO: Okay. Okay. So, I
17 would say that's -- I mean, you know, especially if we
18 gave you some guidance as to what the first cut consisted
19 of, the criteria, that we don't necessarily have to see
20 them all. Or, I mean, I'm open to this.

21 What do folks think, do we want to see them all or
22 do we want to have our counsel make a --

23 COMMITTEE MEMBER ANCHETA: Yeah, I'm agnostic,
24 actually, on the specifics. But this did come up in the
25 Technical Committee regarding the line-drawing consultant.

1 And I think there was generally, and I don't think it was
2 fully resolved, either, but there's going to be some
3 research done in terms of what the process is and what the
4 State Contracting Manual requires and doesn't require.

5 But I think there's been a push, both among public
6 commentators and at least the Technical Committee members
7 to have it as open as possible, sort of a push.

8 COMMITTEE MEMBER BLANCO: Uh-hum.

9 COMMITTEE MEMBER ANCHETA: I, personally, don't
10 have a problem with staff screening, but I understand that
11 there's a sense that as much of this should be as open as
12 possible.

13 There may not be as much concern around the VRA
14 attorney, I'm not sure. But certainly around the
15 technical consultant there's quite a bit of concern that,
16 as much as possible, it be open to the public.

17 COMMITTEE MEMBER BLANCO: I see.

18 COMMITTEE MEMBER FORBES: Well, I think the
19 potential for, what, controversy or interest in the VRA
20 attorney would be something that -- this is not like
21 hiring a public information officer. I mean, there's more
22 stuff --

23 LEGAL COUNSEL MILLER: One other thing to that.
24 It's difficult to compare one good lawyer, who makes a
25 good presentation, and an entity that does the same thing,

1 in terms of the judgment about who is the Commission going
2 to want to have.

3 So, I think there is -- there are good reasons for
4 the full committee to be involved in this.

5 COMMITTEE MEMBER FORBES: Yeah, I would want to
6 see that.

7 COMMITTEE MEMBER BLANCO: I agree. I agree. So,
8 then the way it would look is that we would -- we would,
9 in subcommittee, or we're not calling them subcommittees,
10 in advisory committee we would make a recommendation?

11 LEGAL COUNSEL MILLER: I think so. I think that's
12 the only way we get this done. I think that --

13 COMMITTEE MEMBER BLANCO: So, we look at all of
14 them, we make a recommendation. But then -- and that's
15 public.

16 COMMITTEE MEMBER ANCHETA: Okay.

17 LEGAL COUNSEL MILLER: Yes.

18 COMMITTEE MEMBER BLANCO: Because these are public
19 meetings. So the public portion of this gets handled
20 through the advisory committee meeting, in a sense, where
21 people see all the -- where people see all the candidates.

22 And then, when we go to the full Commission -- and
23 we make that very clear.

24 COMMITTEE MEMBER ANCHETA: Yeah, and we can limit
25 under -- under Bagley-Keene, we can limit the public

1 comments just to the committee and so then it's basically
2 taken care of -- the public end of it is taken care of at
3 committee.

4 COMMITTEE MEMBER FORBES: At the committee.

5 COMMITTEE MEMBER BLANCO: Right. Then we go
6 forward to the full Commission with our whatever, one,
7 two, I don't know.

8 LEGAL COUNSEL MILLER: Yeah, I would just say the
9 best result would be if the Committee were either to say
10 we want one lawyer and this is our first choice, and
11 present that choice to the committee -- or to the
12 Commission. Or, you know, we've decided that we'd like to
13 have two and these are the two.

14 COMMITTEE MEMBER ANCHETA: Okay.

15 COMMITTEE MEMBER BLANCO: Uh-hum.

16 LEGAL COUNSEL MILLER: Now, and, you know, I think
17 the thing to do is we've got a long time to report out
18 tomorrow morning to the full Commission, so we can have
19 that discussion with them. But it just might be easier if
20 you were comfortable with a recommendation to lead with
21 that recommendation tomorrow to the Commission.

22 COMMITTEE MEMBER ANCHETA: Uh-hum. Uh-hum.

23 COMMITTEE MEMBER BLANCO: I am. I think that we
24 have a very involved and opinionated Commission and if
25 they don't like our recommendation that's -- you know,

1 they will let us know.

2 But I think, given the time frame and the fact
3 that we will have to be interviewing, and then having the
4 person in place, I think it makes sense, actually, to go
5 forward with a -- if not, you're really going forward and
6 saying, now, reopen -- then you're reopening the whole
7 conversation again and to --

8 COMMITTEE MEMBER FORBES: Right, and they haven't
9 been privy to the previous conversations.

10 COMMITTEE MEMBER BLANCO: So, yeah.

11 LEGAL COUNSEL MILLER: Having just forcefully
12 advanced that position, it does occur to me the one thing
13 that we miss, though, is that opportunity for --

14 COMMITTEE MEMBER BLANCO: To interview.

15 LEGAL COUNSEL MILLER: To interview.

16 COMMITTEE MEMBER FORBES: To hear their
17 presentations.

18 COMMITTEE MEMBER BLANCO: Yeah, if we present one,
19 would we let -- not let, but would the Commission, then,
20 also just interview one person and that's sort of a
21 false --

22 COMMITTEE MEMBER ANCHETA: No, you're going to be
23 hearing -- you're going to be hearing from that person for
24 the first time.

25 COMMITTEE MEMBER FORBES: I wonder whether we

1 should, again, go back to paper screening, so that the
2 subcommittee gets the presentation and the recommended
3 candidate, if there's one, makes it again to the whole
4 Commission, so they get to see, you know, the person that
5 the subcommittee is recommending. So at least we hear
6 from several candidates.

7 COMMITTEE MEMBER ANCHETA: Right.

8 COMMITTEE MEMBER BLANCO: Right. And our meetings
9 are open so, I mean, Commissioners, other Commissioners
10 can come, and then I'm sure there will be a lot of
11 interest and they can come and, you know, participate.

12 So let me see if I've got this right, so for
13 tomorrow. So, this Committee will actually do the first
14 cut and we will recommend one candidate or, if we decide
15 to go with two attorneys, rather than one, we recommend
16 the two, the combination of the two to the full
17 Commission.

18 And the Advisory Committee meeting is where we
19 will have a full discussion. And where -- the only thing
20 I'm missing here is where do we interview and have the
21 presentations by the candidates, at the Advisory
22 Committee?

23 COMMITTEE MEMBER FORBES: Right. And, in fact, I
24 think one step is left out. Let's say there's ten
25 applicants, I think we would -- we will read the material.

1 COMMITTEE MEMBER BLANCO: Yeah.

2 COMMITTEE MEMBER ANCHETA: Right.

3 COMMITTEE MEMBER FORBES: But we'll ask staff to
4 recommend four for the subcommittee, to come and stand in
5 front of the subcommittee and make their pitch.

6 Then we will select, recommend from among those
7 who have made the pitch.

8 Now, we can influence, you know, who gets to make
9 the pitch, you know, because we will have had the paper
10 stuff. If we find -- if we just think this person should
11 not have been missed.

12 Because we can't have ten people make
13 presentations.

14 COMMITTEE MEMBER ANCHETA: Right.

15 COMMITTEE MEMBER FORBES: And we don't want to
16 have four made to the Commission.

17 COMMITTEE MEMBER ANCHETA: So for purposes of
18 complying with Bagley-Keene, how do we do that if we
19 were -- also, if we delegate to staff, that's not a
20 problem. But if we're making some -- if the Advisory
21 Committee is making some decisions --

22 COMMITTEE MEMBER BLANCO: Uh-hum, right.

23 COMMITTEE MEMBER ANCHETA: -- can we do that in
24 compliance with Bagley-Keene absent a meeting?

25 COMMITTEE MEMBER BLANCO: Uh-hum.

1 LEGAL COUNSEL MILLER: No.

2 COMMITTEE MEMBER BLANCO: No.

3 COMMITTEE MEMBER FORBES: We're not absent a
4 meeting. How are we absent a meeting?

5 COMMITTEE MEMBER ANCHETA: Well, we need to do
6 it -- to get the top four, let's say. Unless we're
7 delegating to staff which, again, there's no problem with
8 Bagley-Keene at that point.

9 But if we are -- the members of the Committee are
10 also involved in the screening and we're going to come to
11 some agreement that there's a top four, in order to reach
12 that agreement we have to talk to each other.

13 COMMITTEE MEMBER BLANCO: That's a decision.

14 COMMITTEE MEMBER ANCHETA: That's a decision. So
15 that, in and of itself, is a meeting.

16 COMMITTEE MEMBER FORBES: I see what you're
17 saying.

18 COMMITTEE MEMBER ANCHETA: Now, I have no problem
19 if you want to calendar a meeting, you know.

20 LEGAL COUNSEL MILLER: Yeah, I was just thinking
21 we have time, if you wanted to do it, we could meet, say,
22 the afternoon of the 16th. Perhaps -- well, let's see, I
23 guess you'd do the paper review then and then invite some
24 number back on the 17th, just tell people they're on call.

25 COMMITTEE MEMBER FORBES: And it may be if these

1 are national candidates, that's not going to happen.

2 LEGAL COUNSEL MILLER: That won't work, either.

3 COMMITTEE MEMBER FORBES: We need to meet Monday,
4 so they at least have a couple of days to get here, if
5 they're inclined to get here, it seems to me.

6 COMMITTEE MEMBER ANCHETA: I see that Jodie has
7 marked -- Commissioner Filkins Webber have marked off
8 several of those days as unavailable, I don't know if it's
9 still --

10 COMMITTEE MEMBER FORBES: Is she available the
11 14th or the 15th?

12 COMMITTEE MEMBER ANCHETA: It says unavailable.

13 COMMITTEE MEMBER FORBES: What about the 15th?

14 COMMITTEE MEMBER ANCHETA: The 14th, 15th, 16th,
15 18th she's listed as unavailable but --

16 COMMITTEE MEMBER BLANCO: That whole week.

17 LEGAL COUNSEL MILLER: Yeah. In fact, I did speak
18 with her about the 17th and she can get here by about three
19 o'clock, so we'd -- we're thinking of an afternoon meeting
20 even at that.

21 COMMITTEE MEMBER BLANCO: What does her schedule
22 look like the next week, I can't get online here.

23 COMMITTEE MEMBER ANCHETA: She's got three days
24 out, so it's the 21st, 22nd, 23rd.

25 COMMITTEE MEMBER BLANCO: She's available.

1 COMMITTEE MEMBER ANCHETA: Unavailable.

2 COMMITTEE MEMBER BLANCO: Unavailable.

3 COMMITTEE MEMBER ANCHETA: She opens up again on
4 the 24th and 25th.

5 COMMITTEE MEMBER BLANCO: Can she -- can we
6 forward her information and she can --

7 COMMITTEE MEMBER ANCHETA: She can review, I
8 guess.

9 COMMITTEE MEMBER BLANCO: -- review and make --

10 COMMITTEE MEMBER ANCHETA: Again, well, it's a
11 question of the meeting. I don't know how unavailable she
12 is. There's always the off-site, public meeting option,
13 which is to have it available to the public as well.

14 COMMITTEE MEMBER BLANCO: Uh-hum.

15 COMMITTEE MEMBER ANCHETA: I don't know what
16 degree she's truly unavailable.

17 LEGAL COUNSEL MILLER: You're correct about that.
18 I don't -- from a legal perspective, I think it will work.
19 My sense is it won't work for her calendar.

20 COMMITTEE MEMBER ANCHETA: Yeah, because if she's
21 out, she's out, that's it.

22 COMMITTEE MEMBER BLANCO: Yeah. So, will it work
23 for her, can -- I don't see a problem, but I don't know
24 this well, sending her everything we get, all the
25 materials we're going to get? Let's say we get ten

1 candidates, and we send them to her and she can
2 communicate with you about her opinions, her concerns, her
3 questions, her, you know, reactions.

4 LEGAL COUNSEL MILLER: Yes.

5 COMMITTEE MEMBER BLANCO: She could even help
6 formulate some questions for the presentations. I mean,
7 is that -- is that -- I mean, I'd love --

8 COMMITTEE MEMBER FORBES: I just go back to being
9 concerned about if we're going to do, like the DOJ folks,
10 out of Washington D.C. --

11 THE REPORTER: Can you speak more closely to the
12 mike?

13 COMMITTEE MEMBER FORBES: I'm sorry.

14 THE REPORTER: Thanks.

15 COMMITTEE MEMBER FORBES: I was too comfortable.

16 COMMITTEE MEMBER BLANCO: Yeah.

17 COMMITTEE MEMBER FORBES: If we have people, like
18 the DOJ folks coming out of Washington, how can they get
19 here? They can't. I mean, they have to have a couple
20 days notice, it seems to me, they just can't --

21 COMMITTEE MEMBER BLANCO: Right, I was just trying
22 to clear up first the issue of can we get maximum
23 participation by Commissioner Wilkins -- Filkins Webber
24 short of her presence. And I think we could try and
25 maximize it. Because the only other alternative is to try

1 and work around that schedule.

2 COMMITTEE MEMBER FORBES: I mean, she would have
3 to look at the stuff Monday night, it seems to me. So, on
4 Tuesday morning --

5 COMMITTEE MEMBER BLANCO: We get people out here.

6 COMMITTEE MEMBER FORBES: Right, we can alert them
7 that you need to be here Thursday, if you're really
8 interested.

9 LEGAL COUNSEL MILLER: The thing is I can't -- I
10 can't communicate with you --

11 COMMITTEE MEMBER FORBES: Right.

12 COMMITTEE MEMBER BLANCO: That's right.

13 LEGAL COUNSEL MILLER: -- what she communicates to
14 me, except in the open meeting.

15 COMMITTEE MEMBER FORBES: Right.

16 COMMITTEE MEMBER BLANCO: That's fine. That will
17 be fine. That's fine.

18 COMMITTEE MEMBER ANCHETA: As long as we're
19 complying with Bagley-Keene, if that information comes out
20 in the public meeting and she agrees to that then --

21 COMMITTEE MEMBER BLANCO: That's fine. And she
22 agrees to -- I mean, she would be doing it publicly,
23 anyway.

24 LEGAL COUNSEL MILLER: I don't think that really
25 addresses Commissioner Forbes' concern about giving people

1 enough time.

2 COMMITTEE MEMBER ANCHETA: Right, that's a
3 different issue.

4 COMMITTEE MEMBER BLANCO: Right.

5 COMMITTEE MEMBER FORBES: I think what we're going
6 to have to do is we're going to have to delegate to staff
7 to make an initial cut. I don't see how we can all get
8 together and talk about it in time to give them a chance
9 to get here, if they're coming from out of staff. I just
10 don't see --

11 COMMITTEE MEMBER ANCHETA: So, that's a paper cut.

12 COMMITTEE MEMBER FORBES: A paper cut.

13 COMMITTEE MEMBER ANCHETA: And no interviewing at
14 all.

15 COMMITTEE MEMBER FORBES: No. No, no, a paper cut
16 for the first reduction.

17 COMMITTEE MEMBER ANCHETA: Okay.

18 COMMITTEE MEMBER FORBES: And then staff is going
19 to recommend that we hear these four presentations on
20 Thursday. And staff, on Tuesday morning, can call the
21 four and say if you want to come, let me know, and staff
22 could rank orders. Because if one of them says I don't
23 want to come, I can't come, then you can go to number
24 five, so we have four people in front of us on Thursday.

25 COMMITTEE MEMBER BLANCO: Okay. I guess one thing

1 that would make me feel more comfortable is if we had the
2 option to draw somebody out of the pool that you might
3 have cut. So we get them all, and you make the cut, and
4 if it's that person that we were very interested in is not
5 in the cut, we let you know.

6 LEGAL COUNSEL MILLER: The thing is --

7 COMMITTEE MEMBER BLANCO: I mean, you know, I know
8 I've done that in other searches and hires.

9 LEGAL COUNSEL MILLER: I'm not offended by the
10 process at all. But what concerns me is that you wouldn't
11 be -- except on an individual Commissioner basis, which
12 might be fine, we wouldn't be able to have that discussion
13 except on the 17th, as a Committee.

14 COMMITTEE MEMBER ANCHETA: Right.

15 COMMITTEE MEMBER FORBES: We would have to decide
16 that if there's someone on this list that didn't make a
17 cut of four, and you wanted him anyway, you call Kirk and
18 he says, okay, this person's in. There's no discussion,
19 just in, we just have the ability to include anybody we
20 want to out of the pool. Which is okay, but I mean that
21 would be how it would have to work, I think.

22 COMMITTEE MEMBER BLANCO: And we would just have
23 to have a degree of trust that we're going to use that
24 option very cautiously.

25 COMMITTEE MEMBER ANCHETA: Yeah, right.

1 COMMITTEE MEMBER BLANCO: That we're not just
2 going to be undercutting, you know, the authority of --

3 COMMITTEE MEMBER FORBES: Yeah, I don't want to
4 have ten people show up.

5 COMMITTEE MEMBER BLANCO: Yeah, show up because
6 all of us decided we wanted to see this person and that
7 person, I don't know.

8 COMMITTEE MEMBER FORBES: Yeah, I agree.

9 COMMITTEE MEMBER BLANCO: I have to say I'm torn
10 because this is such an important decision. And as we
11 have all said, I think for the public it's a very
12 important decision. And for people to feel that if there
13 were -- they come to a meeting and they hear that there
14 were 12 candidates and that they're only going to be able
15 to see and hear from four it's like, well, what happened
16 here? It's just that kind of -- I think this is, like you
17 said, as with whoever we hire for consulting on the lines,
18 this is sort of like on that magnitude, this decision.

19 COMMITTEE MEMBER FORBES: Uh-hum. Yeah, this
20 sends a signal to those who are watching.

21 COMMITTEE MEMBER BLANCO: Uh-hum. Okay, go ahead.

22 COMMITTEE MEMBER ANCHETA: Yeah, my feeling is
23 that I think we want to be as transparent as possible and
24 allow as much public comment as possible, but I don't have
25 a problem with somebody, I think it's still the

1 Commission -- the Advisory Committee Commissioners, but
2 making a cut that the public will see, okay, well
3 somebody -- they had to make a cut because there's a lot
4 of candidates. You know, there could be 20 candidates, 30
5 candidates.

6 I don't think, necessarily -- I don't think the
7 public thinks they want to see all of those candidates, I
8 don't think. But it can still be publicly available -- we
9 can make these publicly available on the website. There
10 can be comment.

11 COMMITTEE MEMBER BLANCO: I was going to ask, can
12 the statement of qualifications be posted -- you know,
13 people's SOQs be posted? Is there a privacy issue with
14 that?

15 LEGAL COUNSEL MILLER: I've said in this
16 solicitation that this is not a confidential document and
17 that it will be available to the public.

18 COMMITTEE MEMBER FORBES: Yeah, I think that's
19 useful. But I'm thinking, again, I'm going back to that
20 doesn't help us cut the list.

21 I wonder whether -- I mean, there's two cuts here
22 that are going to go on, there's going to be the initial
23 cut and there's going to be the final recommendation.

24 COMMITTEE MEMBER ANCHETA: Right.

25 COMMITTEE MEMBER FORBES: We may not be able to

1 accommodate Jodie for the initial cut.

2 COMMITTEE MEMBER ANCHETA: Right.

3 COMMITTEE MEMBER FORBES: We just may not make
4 that work. So, it may be up to the three of us. I mean,
5 she can make communication with Kirk as much as she wants,
6 but it's up to us to cut the interview list down to three
7 or four, however many we want.

8 COMMITTEE MEMBER ANCHETA: Right. Right.

9 COMMITTEE MEMBER FORBES: She will be here to make
10 the actual recommendation, because she'll be here
11 Thursday. We'll have the meeting here, we'll get the four
12 presentations, or however many there are, and she will be
13 here for that.

14 COMMITTEE MEMBER BLANCO: Oh, that's interesting.

15 COMMITTEE MEMBER FORBES: And so --

16 LEGAL COUNSEL MILLER: Although, I'd just caution,
17 it looks like three o'clock is as early as she can get
18 here, if everything goes well.

19 COMMITTEE MEMBER FORBES: Then we're here from
20 3:00 to 9:00, then, or 3:00 to 10:00. I mean, that's not
21 a problem.

22 LEGAL COUNSEL MILLER: That's not a problem.

23 COMMITTEE MEMBER FORBES: But that would be a way
24 so that she's at least involved in the final
25 recommendation.

1 COMMITTEE MEMBER BLANCO: Uh-hum. Uh-hum. And
2 then we ask, as we're moving along, we'll have enough time
3 to let folks know when they have to be here.

4 LEGAL COUNSEL MILLER: How do we do that?

5 COMMITTEE MEMBER BLANCO: Okay, that's what I'm
6 trying to count now. So, the deadline's the 14th. Under
7 this system we have a first cut by you.

8 COMMITTEE MEMBER FORBES: No.

9 COMMITTEE MEMBER BLANCO: No?

10 COMMITTEE MEMBER FORBES: No.

11 COMMITTEE MEMBER BLANCO: No, we have a --

12 COMMITTEE MEMBER FORBES: The first cut is by us
13 on Tuesday.

14 COMMITTEE MEMBER BLANCO: On Tuesday.

15 COMMITTEE MEMBER ANCHETA: Ah, okay, so we'll
16 schedule another meeting.

17 COMMITTEE MEMBER BLANCO: We schedule a meeting.
18 Okay, so -- okay. Okay, we make our first cut on the 15th.

19 COMMITTEE MEMBER FORBES: Uh-hum, preferably the
20 morning.

21 COMMITTEE MEMBER BLANCO: With -- the candidates
22 are here.

23 COMMITTEE MEMBER FORBES: No.

24 COMMITTEE MEMBER BLANCO: When do we see the
25 candidates?

1 COMMITTEE MEMBER FORBES: Okay.

2 LEGAL COUNSEL MILLER: On the 17th.

3 COMMITTEE MEMBER FORBES: On the 17th.

4 COMMITTEE MEMBER BLANCO: Okay. So, our first
5 cut's a paper cut. A paper cut.

6 COMMITTEE MEMBER FORBES: And on Tuesday we cut
7 out six.

8 COMMITTEE MEMBER BLANCO: Okay.

9 COMMITTEE MEMBER ANCHETA: And we can publicize,
10 in this initial document, the 17th is the date anyone
11 selected for screening --

12 COMMITTEE MEMBER FORBES: Yes, right, please
13 available to get her for an interview.

14 COMMITTEE MEMBER BLANCO: Right. Okay.

15 COMMITTEE MEMBER ANCHETA: And that gives them
16 some notice of what's going to happen.

17 COMMITTEE MEMBER BLANCO: So then we -- and then,
18 so the next step is that -- and that's very public, so
19 everybody sees our first cut.

20 COMMITTEE MEMBER ANCHETA: Uh-hum, right.

21 COMMITTEE MEMBER BLANCO: So we have to notice
22 that meeting. And then we interview --

23 COMMITTEE MEMBER FORBES: The four of us, now,
24 Jodie is now here.

25 COMMITTEE MEMBER BLANCO: Full Advisory

1 Committee --

2 COMMITTEE MEMBER FORBES: Uh-hum.

3 COMMITTEE MEMBER BLANCO: -- interviews on the
4 18th.

5 COMMITTEE MEMBER FORBES: The 17th.

6 COMMITTEE MEMBER BLANCO: On March 17th, from 3:00
7 to 10:00, whatever.

8 COMMITTEE MEMBER FORBES: Right, whatever.

9 COMMITTEE MEMBER ANCHETA: Whatever.

10 COMMITTEE MEMBER BLANCO: The 17th, 3:00 to 10:00.

11 COMMITTEE MEMBER FORBES: And we make a
12 recommendation -- out of that meeting comes a
13 recommendation of one or two, depending on what we choose
14 to do, to the whole Commission.

15 COMMITTEE MEMBER BLANCO: And then we're meeting
16 the 18th, so we are able to do that.

17 COMMITTEE MEMBER ANCHETA: Yeah.

18 COMMITTEE MEMBER FORBES: And we can ask, because
19 the person has been here, to make a presentation on the
20 evening or the late afternoon of Thursday -- of the 17th.

21 COMMITTEE MEMBER ANCHETA: The 17th, right. To
22 stay over.

23 COMMITTEE MEMBER FORBES: To be available to stay
24 overnight, yeah, so they can make the same presentation or
25 a similar presentation to the whole Commission and they

1 can see what we saw.

2 COMMITTEE MEMBER BLANCO: Uh-hum. All right, do
3 you want to go through that?

4 LEGAL COUNSEL MILLER: Yes, but what I would
5 propose to do then is to add language to this solicitation
6 that advises the candidates that those deemed most
7 qualified by the Commission will be invited to present the
8 afternoon of the 17th, and that we anticipate a
9 determination will be made and that one or more candidates
10 may be requested to present to the full Commission on the
11 18th.

12 COMMITTEE MEMBER BLANCO: Do we pay their way?

13 LEGAL COUNSEL MILLER: No. Well, I'm sorry.

14 COMMITTEE MEMBER ANCHETA: I don't know, what's --

15 COMMITTEE MEMBER BLANCO: I mean, this is one of
16 those things were you sort of get into equities if there
17 are people who are -- I don't know. I mean, you think if
18 people are interested they'll come and that's that?

19 COMMITTEE MEMBER FORBES: Well, I mean, I'm not
20 going to pay their air fare. I mean, that's way too much
21 money. I mean, on short notice.

22 COMMITTEE MEMBER BLANCO: On short notice.

23 LEGAL COUNSEL MILLER: You know, having been a
24 private practitioner for a long time, we did not have that
25 experience where there was a fee associated or a

1 compensation in making a presentation to do work.

2 COMMITTEE MEMBER BLANCO: Having been in the
3 nonprofit sector --

4 [Laughter]

5 LEGAL COUNSEL MILLER: Well, you have a
6 different --

7 COMMITTEE MEMBER BLANCO: For 30 years.

8 COMMITTEE MEMBER ANCHETA: No, I'm inclined simply
9 what is customary for the State of California to follow,
10 that's fine with me.

11 COMMITTEE MEMBER BLANCO: Yeah.

12 COMMITTEE MEMBER ANCHETA: But I understand in
13 different sectors there's quite different customs.

14 COMMITTEE MEMBER BLANCO: Yeah, so we should go
15 with whatever the State does.

16 LEGAL COUNSEL MILLER: Sure. It's a fair
17 question. You know, with our rules, I'd be glad to
18 investigate whether we can, in fact, reimburse people for
19 doing that.

20 COMMITTEE MEMBER BLANCO: Right, for doing that.
21 And we'd let people know and then we amend, also, to say
22 that under State rules blah, blah, blah, so that they know
23 that's why.

24 COMMITTEE MEMBER FORBES: They know why and we're
25 not being arbitrary.

1 COMMITTEE MEMBER BLANCO: Right. Okay. So, I had
2 a couple of substantive, as if these weren't, on the
3 qualifications, themselves --

4 LEGAL COUNSEL MILLER: Yes.

5 COMMITTEE MEMBER BLANCO: -- on the document.

6 LEGAL COUNSEL MILLER: Would this be in section --

7 COMMITTEE MEMBER BLANCO: So this is -- let me --
8 it's where we talk about what we expect them to be
9 familiar with. What section is that, experience?

10 COMMITTEE MEMBER FORBES: Statement of work and
11 experience?

12 COMMITTEE MEMBER BLANCO: Let's see --

13 COMMITTEE MEMBER FORBES: Section five?

14 COMMITTEE MEMBER BLANCO: Okay, section five,
15 number three?

16 COMMITTEE MEMBER FORBES: Advise section.

17 COMMITTEE MEMBER BLANCO: Advise.

18 COMMITTEE MEMBER FORBES: Okay.

19 COMMITTEE MEMBER BLANCO: And with respect to,
20 "racial gerrymandering" I don't know if I would use that
21 phrase.

22 COMMITTEE MEMBER FORBES: Yeah, I would like to --
23 that is a term of art. Is there substance behind that
24 phrase or is that just a phrase?

25 COMMITTEE MEMBER ANCHETA: Well, it refers to

1 the -- it refers to the sort of line of cases involving
2 equal protection claims where race is -- either very odd
3 looking districts or race is the predominant factor.

4 COMMITTEE MEMBER FORBES: My only concern, and
5 maybe this is where you were coming from, but the term
6 "gerrymander" is a very negative term.

7 COMMITTEE MEMBER BLANCO: That is what I'm saying.
8 I mean, I think that may be the language in some of those
9 cases, which had -- which were five to four cases, that
10 does have -- it's a little loaded. I mean, I think, I
11 don't have a problem with -- in fact, I think we should
12 really have people discuss their experience with doing,
13 analyzing racially -- either in part racial districts or,
14 you know, but I don't know that that was -- the phrase,
15 sort of I thought, hum, I don't know.

16 But if you think it's a term of art that's just --
17 I would prefer to say the line of cases, the Shaw versus,
18 you know, blah, blah, blah.

19 COMMITTEE MEMBER ANCHETA: Yeah, you could say the
20 Shaw -- if you want to get that specific. I was actually
21 going to suggest maybe just --

22 COMMITTEE MEMBER BLANCO: Or sort of more general.

23 COMMITTEE MEMBER ANCHETA: Yeah, you can just say
24 federal constitutional claims as a general term. But you
25 could also say the Shaw versus Miller -- I'm sorry, the

1 Shaw versus Reno and Miller versus Johnson --

2 COMMITTEE MEMBER BLANCO: Right.

3 COMMITTEE MEMBER FORBES: Line of cases.

4 COMMITTEE MEMBER ANCHETA: -- line of cases, if
5 you want to get more specific.

6 COMMITTEE MEMBER FORBES: Is that what this is?

7 COMMITTEE MEMBER ANCHETA: I mean, anybody

8 applying for this job better know those cases, anyway.

9 COMMITTEE MEMBER BLANCO: Yeah, if they don't know
10 what that means then --

11 COMMITTEE MEMBER ANCHETA: They're not going to
12 make the cut.

13 COMMITTEE MEMBER FORBES: It's probably useful for
14 us to know what they are.

15 COMMITTEE MEMBER BLANCO: Yeah.

16 COMMITTEE MEMBER ANCHETA: Well, that's why we're
17 trying to get a training, as well, for us, too.

18 COMMITTEE MEMBER FORBES: Right.

19 COMMITTEE MEMBER BLANCO: So that was one.

20 LEGAL COUNSEL MILLER: Okay. So, we'd delete
21 "racial gerrymandering" and just plug in those case names
22 in lieu of that?

23 COMMITTEE MEMBER ANCHETA: The lines Shaw -- I
24 guess it's just Shaw versus Reno and Miller v. Johnson
25 line of cases.

1 LEGAL COUNSEL MILLER: Uh-hum. Okay.

2 COMMITTEE MEMBER ANCHETA: And they'll know what
3 we're talking about.

4 COMMITTEE MEMBER BLANCO: They'll know.

5 LEGAL COUNSEL MILLER: Sure.

6 COMMITTEE MEMBER BLANCO: And then on conflict, we
7 have here "disclose financial" --

8 LEGAL COUNSEL MILLER: That's section six?

9 COMMITTEE MEMBER BLANCO: Yes. I'm sorry, the
10 second to the last -- the two last paragraphs, "Please
11 disclose any financial, business, professional or other
12 relationship with the firm."

13 LEGAL COUNSEL MILLER: Right.

14 COMMITTEE MEMBER BLANCO: And I think we should
15 say -- we're not going to use firm, so we have to change
16 firm throughout the document, obviously.

17 "You may have had," since it's not a firm.

18 Now, one thing we had in the conflicts, the regs,
19 was lobbying.

20 LEGAL COUNSEL MILLER: Well, we've picked that up
21 in a kind of a shorthand way.

22 COMMITTEE MEMBER BLANCO: But it was actually very
23 explicit, you know --

24 LEGAL COUNSEL MILLER: Yeah, but the regs are more
25 detailed by --

1 COMMITTEE MEMBER BLANCO: Registered lobbyist
2 within a certain -- and I think if we're going to say that
3 we're tracking -- that we get to waive it, but we're
4 tracking, then we should track.

5 LEGAL COUNSEL MILLER: Why don't I make -- I'll
6 add a reference to the appropriate regulation, in addition
7 to the Government Code.

8 COMMITTEE MEMBER FORBES: Also, I mean, I have
9 trouble with the sentence, itself. I mean, with the
10 firm -- "has any person or entity that is adverse, i.e.
11 opposed." So, I read the word "adverse" to the CRC or to
12 the State of California. I mean, is this someone who
13 doesn't like the State? I mean, that's what it sounds
14 like. That could be pretty broad.

15 LEGAL COUNSEL MILLER: The adverse generally means
16 adverse in a case, where they're litigating a case in
17 the --

18 COMMITTEE MEMBER FORBES: I understand. I
19 understand what you're saying. But I don't --

20 LEGAL COUNSEL MILLER: I forget, you have this
21 rich background.

22 COMMITTEE MEMBER FORBES: I mean, I just don't
23 know that adverse is a --

24 LEGAL COUNSEL MILLER: Okay.

25 COMMITTEE MEMBER FORBES: I mean, adverse, you

1 know, those are the guys who voted against Prop 11?

2 LEGAL COUNSEL MILLER: How about this -- how about
3 this, adverse in a proceeding.

4 COMMITTEE MEMBER FORBES: Okay.

5 COMMITTEE MEMBER BLANCO: Yeah. And then add the
6 lobbying language.

7 And I -- is that -- okay. All right.

8 Any other comments on the qualifications,
9 themselves, or on the fee arrangement? You want to
10 talk -- yeah, we need to talk about the fee arrangement.

11 LEGAL COUNSEL MILLER: Yeah, I do have -- I do
12 have some concerns about what I've said in this section.

13 COMMITTEE MEMBER BLANCO: Yeah, we need to talk
14 about this. Yeah, we need to talk about the fee
15 arrangement.

16 LEGAL COUNSEL MILLER: You know, in our last
17 meeting the Committee expressed its desire to see a
18 proposal for a fixed fee. But my concern is that we don't
19 really have enough specifics to tell the firm to permit
20 them to do that, particularly around the issue of
21 attending line drawing meetings.

22 COMMITTEE MEMBER ANCHETA: Uh-hum.

23 LEGAL COUNSEL MILLER: I'm not sure that we've
24 fixed either the number of meetings that will be held or
25 the number where we'll want them present. And that could

1 be a substantial amount of work that's -- just doesn't
2 permit someone to offer a package deal against in its
3 present form.

4 COMMITTEE MEMBER BLANCO: Yeah. And even the --
5 yeah, the flat fee, it's like what do they -- do they --
6 should we give them more information about what's
7 expected? I mean, it's in here, what they will be doing.
8 Is it unfair to ask for a package, for a price, given what
9 we've listed that they have to do?

10 COMMITTEE MEMBER FORBES: Well, can we -- I mean,
11 it does tend to make them want to low ball a number. But
12 to say, based upon the description and discussions about
13 what we are saying that at this time we think we want, and
14 given the hourly rate you'd like to propose, what's your
15 estimate of what this is going to cost us?

16 COMMITTEE MEMBER ANCHETA: Uh-hum.

17 COMMITTEE MEMBER FORBES: Because if it comes in
18 at some crazy number, then we have to redefine the work
19 product.

20 COMMITTEE MEMBER BLANCO: Yeah, and if everybody's
21 comes in like that --

22 COMMITTEE MEMBER FORBES: High, yeah, exactly.

23 LEGAL COUNSEL MILLER: If I could turn to Carol
24 for a question on this.

25 I think that the custom in legal contracts is

1 to -- well, one approach that the State accepts is a not-
2 to-exceed number. Do you -- my recollection is that's the
3 typical way these are prepared. Do you know?

4 MS. UMFLEET: I agree.

5 COMMITTEE MEMBER FORBES: But even now we'd
6 have -- I mean, how do we make a rationale judgment as to
7 what that not-to-exceed number can possibly be?

8 LEGAL COUNSEL MILLER: Yes, I think you're right.
9 On the one hand I think we've gone as far as we can, and
10 maybe you can help me more, in describing the work, but
11 it's still pretty tough to budget against based on this
12 description.

13 COMMITTEE MEMBER BLANCO: Yeah, I think so.

14 COMMITTEE MEMBER FORBES: Do you think that you
15 can discuss with Dan -- I mean, we have this pot of money,
16 and maybe it's three and a half million dollars. We'll
17 say we'll get the million augmentation. And you've got
18 other items that are being sliced out to pay for things.
19 We have this much money left. We can come to a not-to-
20 exceed number of some proportion of that, just because
21 that's all we have.

22 I mean, if that's something that makes any sense?

23 LEGAL COUNSEL MILLER: Well, we've put in a number
24 in that budget of, I think, a hundred fifty thousand. You
25 know, I'm not a number I'm comfortable with.

1 COMMITTEE MEMBER FORBES: It makes me nervous,
2 that number.

3 COMMITTEE MEMBER BLANCO: Oh, I think that's --

4 COMMITTEE MEMBER FORBES: I think that's too low.

5 LEGAL COUNSEL MILLER: Now, it doesn't include
6 litigation, of course, that's just the advice number. But
7 you still feel that's too low?

8 COMMITTEE MEMBER FORBES: Strictly at a gut level,
9 without having any basis for having that, it just makes
10 me -- it doesn't sound like a very high number.

11 COMMITTEE MEMBER BLANCO: It's -- let's see, this
12 is -- they'll start April.

13 COMMITTEE MEMBER FORBES: April, May, June, July.

14 COMMITTEE MEMBER BLANCO: It's six month's work,
15 right?

16 COMMITTEE MEMBER FORBES: I'm thinking -- no,
17 April, it's five.

18 COMMITTEE MEMBER BLANCO: Five months long.

19 COMMITTEE MEMBER FORBES: The 15th of March to the
20 15th of August is five.

21 LEGAL COUNSEL MILLER: Money, it goes very
22 quickly.

23 COMMITTEE MEMBER FORBES: It does, right. I mean,
24 \$150,000 buys you -- I'm going to say \$500 an hour and
25 maybe that's --

1 COMMITTEE MEMBER ANCHETA: Unless you're hiring a
2 staff attorney.

3 COMMITTEE MEMBER BLANCO: Right. And they
4 don't -- and they don't get the per diems and all that. I
5 mean, the expense -- they'll get the expenses?

6 LEGAL COUNSEL MILLER: What we would say is they
7 could bill at the stated per diem rate for travel.

8 COMMITTEE MEMBER BLANCO: And for meals and
9 travel.

10 LEGAL COUNSEL MILLER: That's right.

11 COMMITTEE MEMBER BLANCO: So the package would be
12 a salary, potentially, not to exceed whatever, plus all
13 the State travel budget.

14 LEGAL COUNSEL MILLER: Yes.

15 COMMITTEE MEMBER ANCHETA: Are we -- okay, are we
16 prohibited -- does this lock out the option of hiring a
17 staff attorney?

18 LEGAL COUNSEL MILLER: No.

19 COMMITTEE MEMBER ANCHETA: Okay.

20 COMMITTEE MEMBER FORBES: I mean, I think a staff
21 attorney was contemplated, potentially, but I don't
22 think -- we just didn't want to lock out --

23 COMMITTEE MEMBER ANCHETA: Right, and that's fine.

24 COMMITTEE MEMBER FORBES: Yeah.

25 COMMITTEE MEMBER ANCHETA: As long as we're not

1 locking out the staff attorney option.

2 COMMITTEE MEMBER FORBES: Right. No, I mean, if
3 there's no question, if you could find the right person
4 who --

5 COMMITTEE MEMBER ANCHETA: That's probably the
6 cheapest way to do it.

7 COMMITTEE MEMBER FORBES: I mean at the meeting,
8 our last meeting, I made the suggestion that one reason to
9 go to the DOJ is to find some person who would like to
10 leave DOJ, land here for the experience and the resume
11 item and then after he's done here, or she's done here, go
12 off and, you know, into private practice.

13 COMMITTEE MEMBER ANCHETA: Right. So can we --
14 again, we may want to weigh these as options. But can we
15 put that option sort of into the fee arrangement so that
16 one -- one option is for the person to be hired as a full
17 time staff attorney?

18 COMMITTEE MEMBER BLANCO: For six -- let's say six
19 months, because there will be the post whatever.

20 COMMITTEE MEMBER ANCHETA: If that's an option,
21 I'd like to put it in there.

22 COMMITTEE MEMBER FORBES: Yeah, I agree.

23 COMMITTEE MEMBER BLANCO: And then you're looking
24 at, well, what would be a salary and then do six months.

25 COMMITTEE MEMBER ANCHETA: Yeah, and we've got

1 something comparable for -- we've got comparable numbers
2 for Kirk's position, and there's a half-time position,
3 also, that we're contemplating.

4 COMMITTEE MEMBER FORBES: That way we'd fix our
5 cost.

6 COMMITTEE MEMBER BLANCO: Right, we'd fix our
7 costs. Then we have to do benefits which, I mean --

8 COMMITTEE MEMBER ANCHETA: Yeah, but it's fixed,
9 we'll have a number at least.

10 COMMITTEE MEMBER BLANCO: It's fixed, yes.

11 COMMITTEE MEMBER FORBES: Yes, it is. Yeah, I
12 mean, this open-ended, hourly rates is very scary when you
13 have a limited amount of money. You could build half the
14 bridge and you can't finish the bridge.

15 COMMITTEE MEMBER ANCHETA: Right.

16 COMMITTEE MEMBER BLANCO: I mean, yeah. I'm glad
17 you mentioned that. I mean, even somebody who's in the
18 private sector and well compensated, if they come to do
19 this, they're coming to do it knowing they're losing a lot
20 of paying business and that this is -- they're doing it
21 for another reason. Nobody's really going to do this job
22 because it's going to be highly compensated.

23 Now, you can't make it so unattractive that they
24 won't do it. But I think we know that people will do it
25 because it's exciting, it's interesting, it's resume

1 building. You know, it's probably their passion to do
2 this. But we just can't low-ball them too much.

3 LEGAL COUNSEL MILLER: I do think you want a
4 senior lawyer.

5 COMMITTEE MEMBER BLANCO: I do, too.

6 COMMITTEE MEMBER FORBES: Right.

7 LEGAL COUNSEL MILLER: Who has had the experience
8 of standing up to line-drawers, public comments, large
9 commission, potentially the media.

10 COMMITTEE MEMBER BLANCO: I agree and --

11 LEGAL COUNSEL MILLER: There's a lot to -- a lot
12 at issue.

13 COMMITTEE MEMBER BLANCO: Yeah. But this is where
14 you're going to get a very small pool of all of that. But
15 if we did, we'd have somebody very good that we should
16 compensate well, you're right.

17 LEGAL COUNSEL MILLER: The other thing is, you
18 know, these dollars, and I'm certainly sensitive to go up
19 very quickly. At the same time, we're looking at the
20 biggest redistricting project in the history of the
21 world --

22 COMMITTEE MEMBER BLANCO: Absolutely.

23 LEGAL COUNSEL MILLER: -- in the eighth largest
24 economy, in a fabulously public forum that warrants
25 getting the right people that really can step up to a very

1 difficult task.

2 COMMITTEE MEMBER BLANCO: And I would argue,
3 potentially, we say we're going to get sued and I think
4 that's probably true, but if we have very, very good legal
5 representation during the line drawing process, we could
6 have lower -- the State could have lower legal costs.

7 Because while you'll have some unhappy people
8 that, hopefully, the lawsuit will be not a very strong,
9 long, protracted lawsuit.

10 So, we're really -- it really is a tradeoff in
11 this kind of thing.

12 I mean, I think we should have a higher figure
13 here. I would like to have a higher discretion than the
14 one fifty, frankly. If we were to sort of do a no more
15 than, and that doesn't mean we go there, that high. But,
16 you know, it would be interesting for us to -- and I think
17 it could be an internal figure, and then we hear proposals
18 from people.

19 LEGAL COUNSEL MILLER: Well, our -- we don't have
20 to tell them what it is --

21 COMMITTEE MEMBER BLANCO: That's what I mean.

22 LEGAL COUNSEL MILLER: -- but they'll be able to
23 find that these are all --

24 COMMITTEE MEMBER BLANCO: Yeah, yeah. But I mean,
25 you know, we don't have to say in the document --

1 LEGAL COUNSEL MILLER: Not in this document,
2 that's correct.

3 COMMITTEE MEMBER BLANCO: Yeah. Right.

4 LEGAL COUNSEL MILLER: And they probably won't
5 know what it is.

6 COMMITTEE MEMBER BLANCO: Right. You know.

7 COMMITTEE MEMBER ANCHETA: So, the way it's
8 budgeted right now I think is -- I wasn't paying -- I'm
9 not on the Budget Committee, but I was sort of listening
10 in, but it looks like there's two -- there's one position
11 that's a contingency position, but the total budget here
12 is -- over the two fiscal years is 300,000, which is a
13 healthy number. But I'm not sure if that means two
14 people, then it's another thing.

15 LEGAL COUNSEL MILLER: Yeah, I would want to check
16 with Dan about how he's constructed that number, because
17 we may want to report out tomorrow that you'd like to see
18 an increase for simply fees. And I'll double check with
19 him tonight and let you know how that's in there.

20 COMMITTEE MEMBER ANCHETA: Okay.

21 COMMITTEE MEMBER BLANCO: Yeah, I think we should
22 ask them for an estimate. I mean, you know, we've laid
23 out what the tasks are, it's really like a bid, you know.

24 LEGAL COUNSEL MILLER: Uh-hum, sure.

25 COMMITTEE MEMBER BLANCO: Here are the tasks,

1 here's the time commitment. There's a general counsel,
2 there are Commissioners, you know, but I mean -- you know,
3 but have them put together a proposal given what's laid
4 out, and maybe we need to be a little more precise in
5 our -- in the -- but I think it's pretty, you know --

6 COMMITTEE MEMBER ANCHETA: I mean, we can always
7 come back and say, well, we can only -- this is what we
8 have.

9 COMMITTEE MEMBER BLANCO: Yeah.

10 COMMITTEE MEMBER ANCHETA: How are you at this
11 figure?

12 LEGAL COUNSEL MILLER: Well, I think -- I'm sorry,
13 I didn't mean to interrupt.

14 COMMITTEE MEMBER ANCHETA: No, that's basically
15 it, yeah.

16 LEGAL COUNSEL MILLER: Certainly, we can ask them.
17 I think I did, but I can make it clearer for a range of
18 fees.

19 COMMITTEE MEMBER BLANCO: Yeah, to provide an
20 estimated --

21 LEGAL COUNSEL MILLER: You know, for example, what
22 will you charge to attend a line-drawing meeting? Now, if
23 we have 10, or eight, or 15 of those, that's a flexible
24 number.

25 COMMITTEE MEMBER BLANCO: Uh-hum. That's right.

1 That's right, we have a certain number of those meetings.

2 I mean, we have a high end, it may be lower.

3 LEGAL COUNSEL MILLER: I think we probably do need
4 to end up with a not-to-exceed number, but it's the
5 components underneath that that are --

6 COMMITTEE MEMBER BLANCO: That they can use to
7 make up a budget to present to us.

8 And we do have those. You know, we have
9 Commission meetings, Outreach meetings, input meetings.

10 LEGAL COUNSEL MILLER: What we'll do, when this is
11 done, then, we'll turn this into an actual fee agreement.
12 So, when we have our top person or firm we can have a more
13 specific discussion about fees and work those things out.
14 But, you know, it's all really -- this is the pipe to get
15 there and it needs to be pretty -- pretty close.

16 COMMITTEE MEMBER BLANCO: And then so the only
17 question for us, other than that, is do we feel we want to
18 go back to the Commission and ask for an increase over the
19 one fifty, which my instinct is yes.

20 COMMITTEE MEMBER ANCHETA: Yeah, or if it's 300
21 I -- there again --

22 COMMITTEE MEMBER BLANCO: Where are we looking?

23 COMMITTEE MEMBER ANCHETA: Well, I'm looking at
24 under page two, under contracts, about eight lines down,
25 or six, seven lines down. There's Voter Rights attorney-

1 line drawing, and then second VRA attorney contingency.

2 I'm not sure what that --

3 COMMITTEE MEMBER FORBES: That's a hundred and
4 twelve more.

5 COMMITTEE MEMBER BLANCO: Can you -- so, can you
6 check that so that we can --

7 LEGAL COUNSEL MILLER: I asked Carol if she could
8 ask if Dan could come across the hall.

9 COMMITTEE MEMBER BLANCO: Oh, that would be great.
10 Because maybe we can just figure that out and we can go
11 back with a --

12 COMMITTEE MEMBER FORBES: Because we might just
13 combine them and you get a much bigger number.

14 COMMITTEE MEMBER ANCHETA: Yeah.

15 COMMITTEE MEMBER BLANCO: Okay. While Carol's
16 doing that, is it -- let's see, I'm trying to figure out
17 if there's something we can knock out real quick.
18 Probably not.

19 COMMITTEE MEMBER FORBES: What about the Robert's
20 Rules, we can that quickly.

21 LEGAL COUNSEL MILLER: Yeah, I have a proposal.

22 COMMITTEE MEMBER BLANCO: Okay, good.

23 LEGAL COUNSEL MILLER: I spoke to Connie about how
24 we might make this an easier meeting than the last one,
25 and I don't -- just as an observer of this process, I

1 don't think it's really a Robert's Rules question. I
2 think there are a couple of fixes that will -- could
3 really make a difference.

4 So, the first one is this, when a motion is made
5 we will ask Janeece immediately to repeat the motion to
6 the Commission. She seems to have a talent for that. I
7 think she's really very good at capturing it. And if
8 there's confusion, we can fix it right then, before the
9 discussion starts.

10 COMMITTEE MEMBER BLANCO: Okay.

11 LEGAL COUNSEL MILLER: So, at that point everyone
12 will be talking to the same thing. And, hopefully, if
13 there are amendments, it will similarly make it easier for
14 those amendments to be documented and read back to the
15 Commission.

16 COMMITTEE MEMBER BLANCO: Uh-hum.

17 LEGAL COUNSEL MILLER: And I think it was that
18 process of lack of clarity about motions, more than any
19 other thing, that made the last meeting difficult.

20 So, she's going to implement that procedure at
21 tomorrow's meeting.

22 COMMITTEE MEMBER FORBES: Is it possible, now, for
23 tomorrow's meeting, that as we do this that there is a
24 screen that she can type and the text will appear on a
25 screen, rather than reading it back to us, so we have to

1 only -- and, also, for those people who are visual. I
2 don't know.

3 COMMITTEE MEMBER BLANCO: I don't know. I mean --

4 MR. CLAYPOOL: I mean, certainly, there are a lot
5 of things that are possible, but I don't think that
6 expense-wise, or for capability it's probably --

7 COMMITTEE MEMBER FORBES: It had to be something
8 we sort of had, you know, already.

9 COMMITTEE MEMBER BLANCO: And the other thing, and
10 I know I talked to Connie, Commissioner Galambos Malloy
11 about this, I think there should be also, and maybe people
12 don't agree with this, a clarification that even if
13 somebody didn't follow the Robert's Rules of Order to the
14 letter that doesn't mean what happens is invalid.

15 MR. CLAYPOOL: No.

16 COMMITTEE MEMBER BLANCO: I think there's a -- I
17 think there's some kind of sense of that and, I mean,
18 sometimes we vote on something, and everybody knows we
19 voted on it, and what the vote was, and then we'd go back
20 and go, oh, but that wasn't according to the -- and I'm
21 not advocating for people to not -- for people to be
22 sloppy, but I think we also need to not go overboard.

23 COMMITTEE MEMBER FORBES: Not be martinets.

24 COMMITTEE MEMBER BLANCO: You know, on that kind
25 of stuff. But that's just more of my own clip. If you

1 could -- when you report back tomorrow, if you could
2 include that in your comments?

3 LEGAL COUNSEL MILLER: Oh, that there's not --

4 COMMITTEE MEMBER BLANCO: That it's not -- it
5 doesn't make -- invalidate your vote if there's some
6 glitch with the Robert's Rules of order.

7 LEGAL COUNSEL MILLER: No.

8 COMMITTEE MEMBER ANCHETA: And I was looking --
9 actually, I was looking at the Act and -- I was looking at
10 the Act, and then maybe this is an omission, too, because
11 maybe the Bureau of Audits was going to defer to the
12 Commission to write their own rules, but the Act is
13 actually, now, currently silent as applied to the full
14 Commission.

15 What happened to these Robert's Rules, the
16 Applicant Review Panel and the first eight were supposed
17 to follow it. It's now silent. So, unless there's some
18 other State law that says you have to follow Robert's
19 Rules, we're not bound by Robert's Rules.

20 But, of course, honestly, we want to have orderly
21 meetings, so I'm not saying we shouldn't follow them,
22 generally.

23 COMMITTEE MEMBER FORBES: I also think that it
24 might be useful to come up with a funny little card for
25 the chair that sets out if you have a motion, you don't

1 discuss it until you have a second. I mean, you can't
2 talk about it. And only then do you re-read it back,
3 because without a second it doesn't exist.

4 COMMITTEE MEMBER ANCHETA: Sure.

5 COMMITTEE MEMBER FORBES: But I think we break
6 down there. And then if you have an amendment, if you
7 have an amendment you have to have a second to the
8 amendment, and then you vote on the amendment. So that
9 it's a little clearer for the chair. Because, frankly, at
10 the end of the day you're tired, and everybody's talking,
11 and you begin to lose control of what's going on. And so
12 to have that I think would be -- would be helpful. And
13 then where do you have public comment?

14 COMMITTEE MEMBER BLANCO: So, I think this is
15 great and as part of your report tomorrow maybe you can
16 include this suggestion.

17 LEGAL COUNSEL MILLER: Yes. She'll actually kick
18 things off, I think, by --

19 COMMITTEE MEMBER BLANCO: Doing it.

20 LEGAL COUNSEL MILLER: -- doing it this way.

21 COMMITTEE MEMBER BLANCO: Wonderful.

22 LEGAL COUNSEL MILLER: There's one more point, but
23 maybe we can deal with Dan.

24 COMMITTEE MEMBER BLANCO: Yeah, we can go -- so,
25 our question was we're getting to the fee arrangement

1 portion of the request for information for legal services
2 that we're going to post.

3 MR. CLAYPOOL: Right.

4 COMMITTEE MEMBER BLANCO: And we are trying to
5 figure out what is in the budget, currently, that there
6 was some confusion about the two items there, you know,
7 line drawing and then contingency. And so what have we
8 really budgeted for this position?

9 MR. CLAYPOOL: Okay. So, for VRA we're looking at
10 two \$150,000 budgets. So, you've got the 75 and 75, and
11 that's where I said they really should probably be pushed
12 into the next fiscal year, because that's how they'll be
13 paid out.

14 So, we have 300,000 done, arranged for that. And
15 then the other contingencies, did you want me to --

16 COMMITTEE MEMBER BLANCO: Well, so --

17 COMMITTEE MEMBER ANCHETA: Well, in talking about
18 the contingency because, again, it's possible we might
19 have two attorneys, but we might just want to go with one
20 and then we're done. Does your budget, does that second
21 line item contemplate some backup, or was it in case we
22 wanted to positions, there's the dollars to pay for it?

23 MR. CLAYPOOL: You know, I put it into this budget
24 to be description and it was to strike the thought that if
25 we wanted two, this is where we would put the money. It

1 doesn't necessarily have to say second VRA attorney, it
2 can be just a -- just kind of a counsel contingency, or
3 whatever, or a legal contingency.

4 I think that we need to build into the budget some
5 ability to react, if we need to, to additional staff, if
6 it's necessary, or an additional opinion.

7 But, so, we can't be caught up on this. This was
8 just to strike a conversation, we can call it whatever we
9 wish.

10 LEGAL COUNSEL MILLER: Just to ask the question
11 differently, if we ended up with one firm, but the total
12 bill was \$225,000, this would accommodate that?

13 MR. CLAYPOOL: No, we would -- it would be better
14 if we rewrote it not to say a second attorney. Like I
15 said, it was just to bring the conversation about. So, it
16 would be better if we had it as -- if we called it
17 something else, if we just called it --

18 COMMITTEE MEMBER BLANCO: Voting Rights legal
19 services or legal contract -- Voting Rights legal
20 contract, and that could be two people, or one person, or
21 whatever we --

22 MR. CLAYPOOL: Sure, and combine the two.

23 COMMITTEE MEMBER BLANCO: And combine the two.

24 COMMITTEE MEMBER ANCHETA: And just make it -- and
25 make it 300,000.

1 COMMITTEE MEMBER BLANCO: And have a, whatever
2 that adds up to, \$300,000 line item budget.

3 MR. CLAYPOOL: Yes. So, is that what we want to
4 do?

5 COMMITTEE MEMBER BLANCO: Yes.

6 COMMITTEE MEMBER FORBES: Yeah.

7 MR. CLAYPOOL: Okay. By the way --

8 COMMITTEE MEMBER BLANCO: Well, we recommend.
9 We're going to recommend to the Commission that we do
10 that.

11 COMMITTEE MEMBER ANCHETA: Yeah, and we may
12 finalize, we'll try to work out the number, too, I think
13 we're going to try to do that.

14 MR. CLAYPOOL: On the Robert's Rules of Order, by
15 the way, it was a -- I sat in the meeting when you were
16 saddled with Robert's Rules of Order and it was just the
17 thought that there needed to be some structure provided
18 and it seemed to be at the Bureau the logical thing to
19 place in there.

20 COMMITTEE MEMBER BLANCO: Right. Okay. Great.

21 MR. CLAYPOOL: And I have one more question, did
22 you -- or is this the proper venue for commenting on the
23 extra consultant services?

24 COMMITTEE MEMBER BLANCO: Not yet, we're trying to
25 wrap up on the Voting Rights attorney item.

1 MR. CLAYPOOL: Okay. We're done?

2 COMMITTEE MEMBER BLANCO: Great.

3 All right. So, we'll recommend to rewrite that to
4 be less specific about an attorney or two, and legal
5 contract.

6 LEGAL COUNSEL MILLER: I liked your legal
7 services.

8 COMMITTEE MEMBER BLANCO: Legal services, yeah,
9 and then we have an approximate 300 K, okay.

10 LEGAL COUNSEL MILLER: I think that's a good
11 change.

12 COMMITTEE MEMBER BLANCO: All right. Okay, so do
13 we -- are we comfortable with -- or do you have more on
14 this item? That's fine if you do.

15 LEGAL COUNSEL MILLER: On the procedures item,
16 yes.

17 COMMITTEE MEMBER BLANCO: Yes.

18 LEGAL COUNSEL MILLER: The other thing I would
19 recommend is we be a little bit more orderly on our public
20 comment. And I think there are a couple of things we can
21 do. First is announce clearly that it's a five-minute
22 maximum, which is pretty generous. The Commission may, at
23 some point, want to think about a three-minute maximum.

24 COMMITTEE MEMBER BLANCO: Uh-hum.

25 LEGAL COUNSEL MILLER: Then there's the manner in

1 which comment is taken, which is a little trickier. The
2 Bagley-Keene must say you need to receive comment before
3 taking action on an agenda item, which is not quite as
4 neat as just taking it at the beginning of a meeting or
5 the end.

6 Now, theoretically, I guess you could scoop it all
7 up at the beginning, but our agendas are not yet at the
8 precise enough to really make a good case for that.

9 But if we know that we're going to accept comment
10 before we vote on a motion, we would at least have clarity
11 about that.

12 COMMITTEE MEMBER BLANCO: Clarity, yeah.

13 COMMITTEE MEMBER FORBES: Right.

14 LEGAL COUNSEL MILLER: The other thing is
15 Commissioner Ancheta mentioned in passing, a moment ago,
16 which I think is very important, is that if comment is
17 taken at the committee level and the same item then comes
18 to the full Commission, in substantially the same form as
19 it was discussed at the committee, you don't have to give
20 a second opportunity for public comment.

21 And I think that will probably embrace a number of
22 people who will have had an opportunity to comment at the
23 committee level. You don't get two bites at the apple.

24 COMMITTEE MEMBER BLANCO: Right. Great, so you'll
25 report back tomorrow on that?

1 LEGAL COUNSEL MILLER: I will, although as I've
2 said, I've gone over this with tomorrow's chair and,
3 hopefully, she'll clarify this at the outset of the
4 meeting.

5 COMMITTEE MEMBER BLANCO: Okay.

6 LEGAL COUNSEL MILLER: If you'd like it as part of
7 our report, I can do it then as well.

8 COMMITTEE MEMBER ANCHETA: Can I ask a question?
9 This is just a clarification, based on some observations.
10 I've noticed that when we have public commentary there's
11 essentially a silence from the Commission, and I don't
12 know if that's been agreed to previously, or if that's a
13 requirement that we can't ask a question, even just for
14 some clarification? I can understand not wanting to,
15 say, confront a commentator, but if there's a question
16 about, well, could you -- I'm not sure where that line is
17 that you're suggesting, or what does that figure mean?

18 Again, maybe people just don't have any questions,
19 but I've noticed that there hasn't been any sort of
20 interaction. And is that because there's a rule or
21 something?

22 COMMITTEE MEMBER BLANCO: Before we go there, I
23 did promise the public on the first two items --

24 COMMITTEE MEMBER ANCHETA: Oh, sure.

25 COMMITTEE MEMBER BLANCO: -- that we would take

1 public comment. And I think I'd like to --

2 COMMITTEE MEMBER ANCHETA: Okay. So, can we ask
3 them questions? Is there a rule -- is there a rule
4 that --

5 COMMITTEE MEMBER BLANCO: I will really do this, I
6 promise. There is -- there has been an understanding, and
7 it predates my term on the Commission, you know, that we
8 could not engage in a back and forth with the person who
9 makes the public comment.

10 COMMITTEE MEMBER ANCHETA: Okay.

11 COMMITTEE MEMBER BLANCO: I don't -- my
12 understanding is that doesn't preclude a Commissioner from
13 asking a question. So, if somebody says something and you
14 say -- you can ask for clarification on a point, or to
15 further explain it, or to give you a statistic. But I
16 think what we're trying to avoid is somebody says you
17 haven't really done this and you say, yes, we have. And,
18 you know, that -- an exchange.

19 COMMITTEE MEMBER ANCHETA: Okay.

20 COMMITTEE MEMBER BLANCO: But I think we can try
21 and get more information from the -- I think the gray
22 line, if people will agree, my sense of the gray line is
23 when somebody says something and there's a -- some of us
24 may want to say, well, I really disagree with that because
25 at the two meetings ago we did blah, blah, or I really

1 agree with that, we're going to try and do better.

2 COMMITTEE MEMBER ANCHETA: Yeah, and again I
3 apologize, because I was more recently named to the
4 Commission, I didn't know if that had been discussed
5 previously, or not.

6 COMMITTEE MEMBER FORBES: No, the one thing I
7 think would be helpful, or what we could do it, and it may
8 save a lot of grief overall, we had occasion at Claremont
9 where a person simply misspoke at the microphone. What
10 they said was not the case.

11 Rather than just to let that sit there, to have
12 the chair, and it would be the chair to do this, to either
13 respond -- I mean, the particular case was that the
14 Legislature has the final say. That was an untrue
15 statement. The chair could have corrected it at that
16 time, or directed a question to the counsel and said, the
17 speaker made this assertion that the Legislature has the
18 final say, would you please clarify that? And, you know,
19 do it that way.

20 Get that off the table because it's like the
21 retraction is never read, it's the statement that's read.
22 And so, just try to -- things of that situation where you
23 know things are incorrect.

24 COMMITTEE MEMBER BLANCO: This is something that
25 the Commission had asked us to put on our agenda for

1 clarification.

2 COMMITTEE MEMBER ANCHETA: Okay.

3 COMMITTEE MEMBER BLANCO: Because there is --
4 there's, I think, a range of things that people understand
5 is permissible.

6 COMMITTEE MEMBER ANCHETA: Right.

7 COMMITTEE MEMBER BLANCO: And I don't know if this
8 is something that you know off the bat, or whether it's
9 something that we should -- you should look into. I don't
10 know where --

11 COMMITTEE MEMBER ANCHETA: I'm just curious where
12 it came from, that's all.

13 COMMITTEE MEMBER BLANCO: There was a training,
14 apparently, that did go into this.

15 LEGAL COUNSEL MILLER: I don't believe there's
16 anything in Bagley-Keene that precludes you from
17 responding. I think it's more of a best practice.

18 COMMITTEE MEMBER ANCHETA: Sure, that's fine.

19 LEGAL COUNSEL MILLER: And, particularly, you
20 know, the form of asking a question for clarification, I
21 don't have a problem with doing that as opposed to getting
22 into the back and forth about an issue.

23 COMMITTEE MEMBER ANCHETA: Okay.

24 COMMITTEE MEMBER BLANCO: But there was a
25 training, apparently. Like I say, it predates me, from

1 when the first eight Commissioners were seated, they had
2 some training.

3 LEGAL COUNSEL MILLER: And this will, I promise,
4 just take a second.

5 COMMITTEE MEMBER BLANCO: Yeah, yeah.

6 LEGAL COUNSEL MILLER: We are going to offer or
7 provide additional training on Friday. So, and maybe I
8 can just get a quick list from you. I'll tell you what --
9 this is what occurs to me are the key things that we need
10 to talk about, rather than the global view of Bagley-
11 Keene, which would be the challenge of serial meetings,
12 procedures around any closed sessions, and proper ways
13 about noticing and creating agendas for meetings.

14 So, those were the topics that seemed most
15 pressing to me. Are there other questions that you'd like
16 addressed?

17 COMMITTEE MEMBER BLANCO: Let me look at my notes
18 because there were some issues on this that --

19 COMMITTEE MEMBER ANCHETA: Well, actually,
20 something that comes to mind, which is when I was trying
21 to look at how we were putting items on the agenda,
22 particularly for advisory committee agendas, because I
23 don't think we have designated -- we don't really have a
24 chair, per se. Or do we have a chair, or a rotating
25 chair?

1 COMMITTEE MEMBER BLANCO: For these?

2 COMMITTEE MEMBER ANCHETA: For this?

3 COMMITTEE MEMBER BLANCO: Yes.

4 COMMITTEE MEMBER ANCHETA: We do, okay, so --

5 COMMITTEE MEMBER BLANCO: Well, we -- we haven't
6 necessarily named them, but the idea is there.

7 COMMITTEE MEMBER ANCHETA: Right.

8 [Laughter]

9 COMMITTEE MEMBER ANCHETA: Well, okay, that's
10 good. That's good to k now.

11 LEGAL COUNSEL MILLER: There's no inchoate chair.

12 COMMITTEE MEMBER ANCHETA: That's good to know.
13 So, I raised the question and I think Mr. Claypool didn't
14 back to me immediately, so I was asking this one
15 Commissioner about that. And then I simply went to the
16 chair for the whole Commission for this set of meetings,
17 and just had her do it, which I thought probably was the
18 best way to go, anyway.

19 But I guess one question that sort of came up is
20 when you're working with the committee, and this goes to
21 serial communications, and those kinds of things, what can
22 you actually talk to the committee members about? Because
23 I think there are probably some times when we were talking
24 about the VRA counsel where we're probably going -- and I
25 think I said we better stop this e-mail because I think

1 we're actually --

2 COMMITTEE MEMBER BLANCO: Yes, you did.

3 COMMITTEE MEMBER ANCHETA: I think we're actually
4 communicating among three of us, now, rather than just two
5 of us.

6 LEGAL COUNSEL MILLER: The issue plays out the
7 same way at the committee level, as at the full
8 Commission, because of the definition of what is a State
9 entity for the Bagley-Keene. But we can address it in
10 both contexts because it feels different.

11 COMMITTEE MEMBER ANCHETA: Right.

12 COMMITTEE MEMBER BLANCO: Uh-hum.

13 COMMITTEE MEMBER ANCHETA: Yeah, because I think,
14 again, what we're trying to get -- also, we're trying to
15 get work done within the committee, but we still have to
16 comply with Bagley-Keene generally, so, yeah.

17 COMMITTEE MEMBER BLANCO: Yeah, I think that would
18 be great to include that, right.

19 Okay. So, we'll take some public comment and then
20 we'll take a brief break.

21 COMMITTEE MEMBER ANCHETA: Sure.

22 COMMITTEE MEMBER BLANCO: And if people want it.
23 No, no break?

24 COMMITTEE MEMBER FORBES: That's your public
25 comment. Okay, after public comment.

1 We're now taking public comment. There's a mike
2 there.

3 COMMITTEE MEMBER FORBES: As long as the mike is
4 active.

5 COMMITTEE MEMBER BLANCO: Let's make sure it's --

6 MS. HOWARD: Hi, I'm Deborah Howard and I am a --
7 I staff the California Chamber of Commerce and other
8 statewide business organizations tracking the Commission
9 and its work.

10 I, actually, watched every one of the interviews
11 and every one of the trainings that was offered to the
12 Commissioners.

13 And I will say that there was a Bagley-Keene
14 training, where they basically said you are not allowed to
15 talk to people when they're making public comment because
16 it's not agendized.

17 And I think that it's been -- I'll just speak from
18 the heart here, it's actually been kind of frustrating
19 because when people make comment that really is to an
20 issue that is on the table, it's like there's no -- it's
21 like we're talking to a blank wall. There's no
22 recognition of that, yes, I heard your comment and thank
23 you for that perspective. There's nothing about that
24 changes anything that we've known until this time.

25 So, I actually think that the public that is

1 engaged in this would be very encouraged to have just a
2 sense of feedback, was that helpful? Did that add
3 something that you didn't know before, even if it was
4 something from a perspective that you had not been given?

5 And I guess that's really the core, Mr. --
6 Commissioner Forbes was in the earlier meeting and I
7 talked about the issue of transparency. It's been pretty
8 frustrating, I know from your perspective, that you don't
9 have the tools you need to be as open and structured as
10 you would like to be.

11 There's no office. You went from having the State
12 Auditor basically say, you know, basically promulgating
13 the regulations and saying this is how it's going to work,
14 and making it work that way, to going to the Secretary of
15 State's Office who said I don't want to staff you and, you
16 know, we're just going to put up with this until you get
17 your staff, and if you could do that right now, that would
18 be great.

19 So, I kind of understand where you are, from
20 somebody who did watch the entire process, it's really
21 hard to be a part of this discussion and report back to
22 people who are passionately interested in making this
23 work, when we don't have the documents you're discussing,
24 such as the RFI in front of you.

25 That was an issue this morning, in the Technical

1 Advisory Committee, when they were looking at hiring the
2 consultant to draw the lines. This is the other key piece
3 of it.

4 And I know that you all are aware of the chatter
5 between Bruce Cain and Tony Quinn on the redistricting,
6 and all of that kind of stuff.

7 It would help to make -- so, it's not just having
8 that document, but as your discussion talked earlier about
9 making sure that what can be public about that process is
10 made public.

11 And I offer to you the model that the State
12 Auditor made in all of those promulgations. There were
13 30,000 people who submitted their names to be part of this
14 Commission. How they shared that information publicly at
15 different levels through the process was really pretty
16 remarkable.

17 And I think from that model this Commission, you
18 all are equally smart, and approaching the problem in a
19 similar fashion you could come up with equally creative
20 and appropriate responses to that.

21 Because the key hiring, we love Mr. Miller, we
22 love Mr. Claypool, we think they're going to be fabulous.
23 But the people who will make this work will be the person
24 that you hire to draw the lines and your Voting Rights
25 attorney. And if those two hires don't instill the

1 confidence of everybody who's watching this, we're going
2 to have some serious trauma, and we don't want that to
3 happen.

4 So, again, allow for that comment, you know, take
5 those perspectives into account and give the universe
6 that's watching, which is a relatively small universe, as
7 much input as possible. Thank you.

8 COMMITTEE MEMBER BLANCO: Thank you. Any more
9 public comment?

10 All right. Well, if folks don't really want a
11 break, I'm just going to keep taking us through. Okay.

12 COMMITTEE MEMBER FORBES: Yeah, because I mean I
13 have to leave at five o'clock --

14 COMMITTEE MEMBER BLANCO: What time?

15 COMMITTEE MEMBER FORBES: -- so I want to go on.

16 COMMITTEE MEMBER BLANCO: All right. So, then,
17 definitely.

18 So, did we want to have Carol present now or --

19 MS. UMFLEET: Actually, I don't --

20 COMMITTEE MEMBER BLANCO: No, there's no need?

21 MS. UMFLEET: I think I was here just to provide
22 clarification, as necessary.

23 COMMITTEE MEMBER BLANCO: Okay. Right, okay.

24 MS. UMFLEET: But I wanted to -- do you need
25 further --

1 LEGAL COUNSEL MILLER: I don't believe so.

2 MS. UMFLEET: Okay. And I'll call you later, and
3 I don't think we have any problems at all.

4 LEGAL COUNSEL MILLER: Okay, great. thank you.

5 COMMITTEE MEMBER ANCHETA: Can I just ask one
6 question?

7 LEGAL COUNSEL MILLER: Yes, please?

8 COMMITTEE MEMBER ANCHETA: I notice in the line-
9 drawing consultant there's a very elaborate scoring system
10 and we're looking at something that's a little fuzzier
11 here. But in terms of criteria, and how we're evaluating
12 and --

13 COMMITTEE MEMBER BLANCO: Yes.

14 COMMITTEE MEMBER ANCHETA: So, and this is also to
15 Mr. Miller. But just in terms of how -- given how we're
16 evaluating and, you know, ranking our top candidates, is
17 this pretty much at the level of specificity we need to
18 get it through or do we need to get more specific here?

19 MS. UMFLEET: May I see one of these? I,
20 actually, don't have a final copy of this.

21 COMMITTEE MEMBER ANCHETA: Okay. Because, again,
22 unlike the line-drawing consultant, which has a pretty
23 detailed scoring system, this doesn't. And I don't feel
24 we have to have, you know, a zero to 100 scale, but we
25 should have some agreement among the Committee members, at

1 least, that this is the -- this is what we're going to
2 emphasize. And also, to build into what we're asking the
3 candidates to produce for us, but we're not sort of, you
4 know, either weighting one area more than another or --
5 and I'm happy to leave it as is. I'm just wondering if we
6 have to have any more specifics in it?

7 MS. UMFLEET: So, were you asking -- were you
8 saying the request -- so, we're talking about this
9 statement about fee arrangements?

10 COMMITTEE MEMBER ANCHETA: Not specifically.
11 Again, it's more of a question of is this ready to go
12 without our putting either any kind of numbers in there in
13 terms of, you know, scoring, a scoring system?

14 MS. UMFLEET: This is --

15 COMMITTEE MEMBER ANCHETA: We'll have to have some
16 discussion, obviously, in terms of what we're going to
17 consider. But do we need to elaborate that in this
18 document so that both the public, who wants to comment on
19 it, as well as the potential bidders know what we're going
20 to emphasize?

21 MS. UMFLEET: If you've included all of the
22 requirements that is what you want this attorney to do,
23 have you clarified that? These are the things you want,
24 these are the services that will be provided, that's --
25 that's what you need to do and that's what you need to be

1 thorough on.

2 COMMITTEE MEMBER ANCHETA: Okay. Well, I'm --

3 MS. UMFLEET: Because they're going to come back
4 with a fee arrangement and it's going to address what
5 you've said you need. So, if you haven't included
6 everything you need --

7 COMMITTEE MEMBER ANCHETA: Right.

8 MS. UMFLEET: -- you're in jeopardy of not getting
9 a price for what you need, and then you're going to have a
10 resulting contract and that contract needs to include
11 everything you need.

12 Now, right now, as you've written it, you're just
13 staying tell me what your structure is. You're not in a
14 competitive bid environment, this is not a bid. This is
15 literally you going out and saying I want this information
16 so I can assess it.

17 COMMITTEE MEMBER ANCHETA: Okay.

18 MS. UMFLEET: So, you have a lot of liberty to
19 make an award based on -- well, frankly, you can base --
20 even the contract doesn't have to include just what you
21 have here, you can add more after you've talked to this
22 applicant.

23 COMMITTEE MEMBER BLANCO: Uh-hum.

24 COMMITTEE MEMBER ANCHETA: Okay.

25 MS. UMFLEET: So, it's really, it's not a bid,

1 you're not limited to just what's here.

2 COMMITTEE MEMBER ANCHETA: Okay, that's great.

3 MS. UMFLEET: This should get you all the
4 information you need to make a decision.

5 COMMITTEE MEMBER ANCHETA: Okay. Sounds good to
6 me.

7 MS. UMFLEET: Are we okay?

8 COMMITTEE MEMBER ANCHETA: Great, thank you.

9 COMMITTEE MEMBER BLANCO: Yeah, thank you.

10 MS. UMFLEET: Okay.

11 COMMITTEE MEMBER BLANCO: I have -- before we go
12 to this item, there was another item that's been also
13 trailing for a while, which is the issue of how we define
14 redistricting matters.

15 LEGAL COUNSEL MILLER: Okay.

16 COMMITTEE MEMBER BLANCO: And I know this is
17 really -- people are antsy to have this clarified because
18 we're all continually invited to speak, comment, et
19 cetera, at different venues and we want to know what we
20 can say, what we can't say.

21 LEGAL COUNSEL MILLER: I've been working with Rob
22 Wilcox on this and he, in turn, has been doing one-on-one
23 coaching with Commissioners on the subject.

24 Here's how I look at it and how we've been
25 approaching it with the Commission, we'll see how this

1 hypothetical works with a group of lawyers. I look at the
2 language in the Act, it says, "Commission members and
3 staff may not communicate with or receive communications
4 about redistricting matters from anyone outside of a
5 public hearing."

6 I look at that kind of like a jury instruction and
7 you're the jury. So, within, you know, that context
8 there's a couple of things. You can say you're on jury
9 duty, right. So, I think that gives the Commission
10 latitude to say you're Commissioners and to describe what
11 the Commission is, that kind of background information.

12 I think it precludes the Commissioners from
13 commenting on outcomes of meetings, or people that
14 appeared before them, it precludes them from talking about
15 a map. You know, essentially evidence before the court.
16 It precludes them from talking about what might happen in
17 any particular district.

18 And in the larger sense, I'd add the other
19 instruction that you get, don't form any opinion until all
20 the evidence is in, and maybe that's the most important
21 piece.

22 I think that language precludes a Commissioner
23 from offering opinions about anything. So, that focuses
24 any comments on the objective process that's described in
25 the statute, itself. You know, it tells us how to go

1 about our work as a Commission, and I think people can say
2 that and say that that's what they're limited to is
3 background. And then the process is, as in the statute,
4 as opposed to trying to interpolate that or explain that
5 further.

6 So, on the one hand it's limiting, but I think we
7 do have to give deference to this very strong language,
8 while giving people a path where it feels like a safe
9 harbor and they can comment.

10 COMMITTEE MEMBER BLANCO: So, let me give you a
11 gray area.

12 LEGAL COUNSEL MILLER: Sure, that's where we live,
13 right.

14 COMMITTEE MEMBER BLANCO: So, you're interviewed
15 by a newspaper, TV and, oh, Commissioner Blanco, yes, this
16 is wonderful, we have a great team. Yes, it's very
17 exciting work. It's, you know, groundbreaking, very
18 exciting.

19 What issues do you think the Commission's going to
20 be facing in the next -- as it engages in this first-of-
21 its-kind Citizens Redistricting Commission?

22 Well, we hope that we can address what the voters
23 wanted us to do which is, you know, draw fair and
24 impartial lines. Gray area. You know, we know that there
25 are areas that are going to experience big population

1 growth and we'll have to take that into account when we
2 look at where --

3 LEGAL COUNSEL MILLER: I wouldn't go that far.

4 COMMITTEE MEMBER FORBES: I wouldn't go there.

5 COMMITTEE MEMBER BLANCO: Okay. Right, no.

6 COMMITTEE MEMBER FORBES: Nope, that's not gray.

7 COMMITTEE MEMBER BLANCO: I agree. I agree,
8 that's not gray. So, really, we're talking about --

9 LEGAL COUNSEL MILLER: I think, you know, one of
10 the things you might do is say, look, you know, the Act
11 gives us a real roadmap to follow. We're going to be
12 conducting public meetings, we're going to offer
13 education, we're going to receive a good deal of input,
14 we're going to take all that into account and we're going
15 to do our best job to apply the process as described in
16 statute.

17 COMMITTEE MEMBER FORBES: Yeah, I mean, I've been
18 asked that question, I was asked that question today.

19 COMMITTEE MEMBER BLANCO: Yeah.

20 COMMITTEE MEMBER FORBES: And it was basically
21 it's a challenge we're going to face to be sure the public
22 feels that the districts are fair, that the public feels
23 like they've had an opportunity to participate.

24 COMMITTEE MEMBER BLANCO: Uh-huh.

25 COMMITTEE MEMBER FORBES: That we are able to get

1 the public to participate. I mean, those are the kinds of
2 issues that, you know -- and we have a short period of
3 time and limited resources with which to accomplish this
4 task. That's our challenges.

5 COMMITTEE MEMBER BLANCO: I agree. And I think
6 that, actually, the information about we're looking at
7 trying to go to as many regions as possible and, you know,
8 we're looking at potentially -- because this is all
9 public, it's not a comment.

10 It's, you know, we've been looking at how many
11 regions, how many can we really travel to given our size,
12 but we're trying to maximize our outreach because we know
13 it's a large State. And I think the more you can describe
14 the process --

15 COMMITTEE MEMBER FORBES: Right, that's what you
16 do.

17 COMMITTEE MEMBER BLANCO: That's what you do.

18 COMMITTEE MEMBER FORBES: We have a website, we
19 have a Twitter account, we have a Facebook account, you
20 know, it's an opportunity to serve those up.

21 COMMITTEE MEMBER BLANCO: I mean, I agree, I
22 just -- yeah.

23 LEGAL COUNSEL MILLER: Now, it is a challenge to
24 have all 14 Commissioners agree and hear that in the same
25 way, but I think that's what the drafters must have

1 intended is no fact-based statements about drawing lines.

2 COMMITTEE MEMBER BLANCO: Okay.

3 LEGAL COUNSEL MILLER: Or opinions.

4 COMMITTEE MEMBER ANCHETA: Has there been -- I
5 guess -- I think I was looking at transcripts from prior
6 meetings and this is what I think on the other end of it,
7 which is the receipt of information. I had a disagreement
8 with what was being decided or was -- at least at that
9 point it was an interpretation, which was you couldn't
10 even go to a training, for example.

11 I understand that if you go to a conference,
12 depending on which conference it is, there may be certain
13 leanings or certain types of districts that people might
14 be wanting to push for. And I think that's appropriate to
15 maybe just abstain from those kinds of things.

16 I think we've had a couple of Commissioners give,
17 you know, welcoming addresses and then off they go, and I
18 think that's fine.

19 You know, not sending somebody to a National
20 Conference on State Legislature's Training Conference I
21 think is -- was not a good thing to do, if we could have
22 sent somebody there because that's a training conference.
23 And I think to the extent we get information, whether via
24 staff, or via representatives of the Commission, that it's
25 important -- and, again, we have to review what the

1 content is. I'm not saying we shouldn't do that.

2 But it seems to me that it's a very cramped
3 interpretation if you're saying you can't get trained on
4 key issues that will ultimately be in front of the
5 Commission, as opposed to things that actually would be
6 redistricting matters that will, of course, have some
7 influence on your decision making.

8 Because I'm concerned that we're not turning into
9 a black box, either, in terms of what we might be hearing.

10 COMMITTEE MEMBER FORBES: And along these lines, I
11 mean, just out of curiosity, I'd like to read some of
12 those Supreme Court cases you've made reference to.

13 COMMITTEE MEMBER ANCHETA: Right. And I don't
14 think that's precluded, though.

15 COMMITTEE MEMBER FORBES: Can I do that? I mean,
16 I'm getting information on --

17 COMMITTEE MEMBER ANCHETA: Communications from
18 anyone.

19 COMMITTEE MEMBER FORBES: It's not in a public
20 hearing. I mean, that, you know --

21 COMMITTEE MEMBER ANCHETA: If you take a very --
22 again, the interpretation I've heard via the transcripts
23 and some of the videotapes, it was that sort of
24 interpretation, the answer would be no.

25 COMMITTEE MEMBER FORBES: Yeah.

1 COMMITTEE MEMBER ANCHETA: I don't interpret it
2 that way. I think we should be clearer about that. But I
3 would open it up a bit more in terms of what you can be
4 exposed to as a Commissioner.

5 COMMITTEE MEMBER BLANCO: I would like to get some
6 clarification about this issue. I mean, I'm sorry, I'm
7 not going to not read legal opinions about redistricting,
8 when we're doing redistricting and we're going to be
9 trying to -- and it says our second criteria is the Voting
10 Rights Act. Well, at least, I hope I will have read the
11 Act and, hopefully, some decisions interpreting the Act,
12 if that's my mandate.

13 LEGAL COUNSEL MILLER: I suppose you could take
14 the position you can't read the proposition.

15 COMMITTEE MEMBER FORBES: Right.

16 COMMITTEE MEMBER BLANCO: But I think there is,
17 obviously, a spectrum. But there is, I agree with you, a
18 lack of clarity about the receipt of information.
19 Somebody sent us information about a webinar on the census
20 and people said, oh, we shouldn't participate on this
21 webinar. You know, participate in terms of not -- not
22 being a presenter, but just, you know, listening to a
23 webinar.

24 So, I don't know, is this -- I know we've talked
25 about this and I think you were supposed to be kind of

1 looking -- I know on the redistricting matters you've
2 given us your thoughts. Had you looked at the receipt of
3 information component?

4 LEGAL COUNSEL MILLER: Well, I'm not sure how to
5 pursue it other than to literally try to find the
6 drafters, which may be a possible thing to do here.

7 To me, a common sense reading would be that they
8 intended to preclude any discussion with, let's say, the
9 lobbyists from Santa Clara County, or a supervisor from
10 Yolo County about that district, that kind of specific
11 information from someone who may have something at stake,
12 as opposed to a national seminar on the subject of
13 redistricting.

14 I think -- I mean, I don't -- I don't know how
15 else to go about it except to see if we can find a drafter
16 or craft what we feel is a -- you know, a very fair
17 reading that could not prejudice any portion of the State.

18 COMMITTEE MEMBER BLANCO: I would really -- I
19 think we should really urge you -- I think people need
20 this, it would be very helpful if you could come up with a
21 recommended interpretation of this.

22 COMMITTEE MEMBER FORBES: I sort of think of it in
23 terms of -- I've struggled with this, myself. It's that
24 insofar as is this going to make me a better Commissioner,
25 as if it's something that's going to be a general piece of

1 information or approach that's applicable to all the
2 districts, that's probably something I want to know
3 because that will make me a better -- I'll do a better
4 job.

5 If it's stuff about, as you said, I mean, like I
6 got a question from a local paper about a particular
7 congressional seat, which happens to have this sort of
8 odd-ball -- I said, you know, I'm not going there. I
9 mean, I can't talk about that and I don't want to hear
10 about it except, you know, formally.

11 LEGAL COUNSEL MILLER: So, our preliminary
12 response on this has been to work up a methodology that
13 Rob Wilcox is reviewing with each Commissioner.

14 COMMITTEE MEMBER BLANCO: Okay.

15 LEGAL COUNSEL MILLER: It may be that we need a
16 deeper dive after that, particularly on chasing down the
17 receipt of information.

18 COMMITTEE MEMBER BLANCO: Right.

19 LEGAL COUNSEL MILLER: Our leading edge, if you
20 will, has been on speaking, rather than receiving.

21 COMMITTEE MEMBER BLANCO: Correct.

22 COMMITTEE MEMBER FORBES: Right.

23 COMMITTEE MEMBER BLANCO: Correct. But I think we
24 need the receipt.

25 LEGAL COUNSEL MILLER: Right.

1 COMMITTEE MEMBER BLANCO: And I think it will end
2 up being, actually my sense is, a little bit even broader
3 than the discussion. I see this as really precluding --
4 nobody should give you a map and say, look, this is how
5 I -- you know, here, Commissioner Blanco, this is what I
6 think you should do in San Joaquin Valley.

7 COMMITTEE MEMBER FORBES: I think --

8 COMMITTEE MEMBER BLANCO: But if somebody -- but,
9 you know, but if somebody recommends an article for me to
10 read, you know, we can -- I can read it and use my own
11 judgment, that's --

12 COMMITTEE MEMBER FORBES: I think -- also, I think
13 it would be helpful, perhaps the phrase might be give the
14 Commission some cover, if you were to draft a memo on
15 this, that was an official opinion on this particular
16 question, so we could then -- so for us, you know, this is
17 the legal advice that we got.

18 LEGAL COUNSEL MILLER: Okay.

19 COMMITTEE MEMBER BLANCO: Uh-hum, yeah.

20 COMMITTEE MEMBER FORBES: Rather than have this --

21 LEGAL COUNSEL MILLER: Okay.

22 COMMITTEE MEMBER FORBES: I need to go to my
23 store.

24 COMMITTEE MEMBER BLANCO: Okay. All right.

25 COMMITTEE MEMBER FORBES: See you tomorrow.

1 COMMITTEE MEMBER BLANCO: See you tomorrow. Thank
2 you.

3 The last -- the last item is the item raised by
4 Commissioner Ontai about beginning -- you know, and I
5 think he had also asked for you to look into this. I
6 think we should talk about it and I don't expect it to be
7 resolved, yet.

8 But the issue of what happens if we're at an input
9 meeting, and not the -- let me put it this way. His
10 question was we have our first draft of a map, we go out
11 to a particular region, we get comments from the residents
12 in that region about this -- the map that affects their
13 area, and not all Commissioners are present to receive
14 that feedback in person. Can -- when we go back to the
15 full Commission meeting and are making our decisions, can
16 the people that weren't present from the Commission vote
17 on that?

18 COMMITTEE MEMBER ANCHETA: And there wasn't a
19 quorum at whatever the -- what's the -- I'm sorry, what's
20 the number of Commissioners who were present at that first
21 meeting?

22 COMMITTEE MEMBER BLANCO: In his hypothetical, I
23 don't -- I don't think he specified quorum or no quorum.

24 COMMITTEE MEMBER ANCHETA: Yeah. Well, I don't
25 have a -- just my initial reaction is I don't think that

1 would preclude action by the full Commission, that I think
2 at some point we have to -- not everybody can make these
3 meetings. Again, I think we want to endeavor, as much as
4 possible, to have everybody at -- at that stage have
5 everybody attend those meetings. But that conveying
6 information either by, you know, reviewing transcripts, or
7 tapes, or having some discussion among the Commissioners
8 who did attend, so they can -- the other folks, during a
9 public hearing or meeting, getting them up to speed would
10 be sufficient. I would think. And then we wouldn't have
11 to sort of not vote on it because we didn't have either a
12 quorum or a sufficient number of some level at that first
13 meeting. That's my initial take on that.

14 COMMITTEE MEMBER BLANCO: Yeah, I don't -- I mean,
15 I think his concern is this is a formal hearing, so it's
16 like a meeting of the Commission, we've formally set it,
17 people come, they give us their input, there's a give and
18 take, you know, of asking questions, and then we go back.

19 My instinct is as yours that, you know, I can see
20 a Commissioner feeling like they might -- you know, if
21 they weren't there maybe they -- if they're torn about
22 something, they might defer.

23 COMMITTEE MEMBER ANCHETA: They can always
24 abstain, too.

25 COMMITTEE MEMBER BLANCO: They can abstain, that's

1 what I was going to say, but --

2 COMMITTEE MEMBER ANCHETA: We have a problem, of
3 course, given our majority requirements.

4 COMMITTEE MEMBER BLANCO: Right. But I don't see
5 what law or reg would preclude the vote. I'm trying to
6 think really carefully and I can't see what it would be
7 that would preclude us from voting if we weren't present.
8 We can review all the material, we have transcripts, we
9 have --

10 COMMITTEE MEMBER ANCHETA: Right.

11 COMMITTEE MEMBER BLANCO: -- we can -- you know,
12 everything. Plus, the -- you know, the comments of our
13 fellow Commissioners.

14 COMMITTEE MEMBER ANCHETA: Right.

15 COMMITTEE MEMBER BLANCO: So, I'm not -- and our
16 attorneys.

17 COMMITTEE MEMBER ANCHETA: Right, and staff.

18 COMMITTEE MEMBER BLANCO: And staff. So, I'm not
19 really sure, but I know he did raise this and ask for us
20 to consider this and report back.

21 LEGAL COUNSEL MILLER: Well, I think your analysis
22 is correct, first of all, and the number of Commissioners
23 at the meeting I don't think is an issue.

24 You know, you need three to constitute a public
25 meeting. I can't imagine any map will be approved, except

1 by the full Commission. So, even if you have a quorum at
2 a meeting, it's not really a quorum for the purpose of
3 taking action on a map.

4 COMMITTEE MEMBER BLANCO: Uh-hum.

5 LEGAL COUNSEL MILLER: I guess one question we
6 haven't discussed and we'll have to face at some point is
7 will there be voting on individual maps or is it going to
8 be like military base closing, where you vote on the
9 entire slate.

10 COMMITTEE MEMBER BLANCO: Uh-hum.

11 LEGAL COUNSEL MILLER: In which case that answers
12 the question, either every Commissioner has to be at every
13 meeting or you can't vote -- and that would be untenable,
14 of course.

15 COMMITTEE MEMBER ANCHETA: Right.

16 LEGAL COUNSEL MILLER: So, I think you've answered
17 the question correctly.

18 But the next question to me becomes how to have
19 the best discussion with the Commission if there are
20 differing points of view on this?

21 COMMITTEE MEMBER BLANCO: I think what I can do is
22 when I report back tomorrow, maybe I can just draw
23 Commissioner Ontai out a little bit about what -- to try
24 and identify a bit more clearly what his concern was. You
25 know, I can tell him what our initial reaction is, but

1 then probe to see what, specifically, was the thing, the
2 reg, or the law that he thought we might be stepping over
3 if we voted without being present, and maybe that will --

4 LEGAL COUNSEL MILLER: But -- okay, yeah.

5 COMMITTEE MEMBER BLANCO: No. Go ahead, what?

6 LEGAL COUNSEL MILLER: Well, it just -- I think
7 the fact that it all comes back home at the end, if you
8 will, is the answer that the full Commission's got to --

9 COMMITTEE MEMBER BLANCO: I see what you're
10 saying. So, maybe we can -- we can -- I think that's
11 right. I mean, even if you did vote assembly by -- you
12 know, I can't even imagine what it would be. But let's
13 say we figured out some way to do that, we submit a final
14 map. I mean, that's really what, ultimately, we decide to
15 submit at our due date is a final map, with everything in
16 it.

17 So, that would mean somebody couldn't -- somebody
18 wasn't present at every single -- both the map meetings,
19 where we take out maps and get a review and come back,
20 couldn't vote.

21 COMMITTEE MEMBER ANCHETA: I think we all -- I
22 think everybody on the Commission knows the numbers that
23 we need to finalize the maps and pass them.

24 COMMITTEE MEMBER BLANCO: Right.

25 COMMITTEE MEMBER ANCHETA: So, yeah, again, there

1 may be circumstances where we may have a smaller number of
2 Commissioners getting all of the information that you
3 might want -- ideally want to have. But I think as long
4 as we feel confident that a quorum, or at least a
5 sufficient number can air out all of the issues that other
6 people, who miss parts of the public testimony, or were
7 absent from a particular meeting, feel that they have --
8 they can make an informed judgment.

9 And again, I anticipate that we will have a few
10 people who just can't make every single meeting. I think
11 as long as people feel comfortable, that it's been talked
12 through and they have a good sense of what happened when
13 they weren't there, that we wouldn't have any people
14 abstaining from the vote.

15 Because, obviously, we do need that super majority
16 to pass the maps.

17 COMMITTEE MEMBER BLANCO: Yes, right. Okay. So,
18 and then if people -- if there's disagreement with our
19 take on it tomorrow, I'm sure our fellow Commissioners
20 will express it.

21 COMMITTEE MEMBER ANCHETA: Okay.

22 COMMITTEE MEMBER BLANCO: I am looking at
23 everything that we said we would cover --

24 LEGAL COUNSEL MILLER: You asked me to prepare a
25 policy on disclosure of --

1 COMMITTEE MEMBER BLANCO: That's right, and this
2 is the last item, the disclosure policy. So, everything
3 else -- am I missing something, before we go on to this
4 last item?

5 COMMITTEE MEMBER ANCHETA: I don't think so.

6 COMMITTEE MEMBER BLANCO: Okay, great. So, you
7 want to describe this for us and your thinking?

8 LEGAL COUNSEL MILLER: Sure. Well, this was just
9 to formalize the concept --

10 COMMITTEE MEMBER ANCHETA: I'd say this is a
11 curious spelling of redistricting but --

12 LEGAL COUNSEL MILLER: That will be corrected, I'm
13 sorry. Let's get that corrected, yes. I'm still
14 practicing that, both orally and in writing.

15 COMMITTEE MEMBER ANCHETA: Anyway --

16 LEGAL COUNSEL MILLER: It's to memorialize the
17 concept that when someone is acquainted with another and
18 they're being considered for a service and this is -- you
19 know, could well come up in the VRA context, that a
20 Commissioner would advise the Commission of whatever the
21 nature of that -- I'm calling it a relationship, for lack
22 of a better word, the fact that you know somebody from
23 whatever experience.

24 COMMITTEE MEMBER BLANCO: Yeah, relationship's a
25 little -- yeah. And then following disclosure. So, my

1 initial reaction to this is that it sounds fine and then I
2 wonder what it will be like in practice, you know, when I
3 look at it.

4 COMMITTEE MEMBER ANCHETA: Now, under this
5 wording, "The Commissioner will disclose this" and then
6 we'll probably have some discussion at a meeting.
7 Ultimately, the decision to recuse, and I think it's just
8 recusal here, falls on that Commissioner to make a call on
9 that, as opposed to the Commission by vote saying you
10 should be recused.

11 COMMITTEE MEMBER BLANCO: That's my question here.
12 It says "A Commissioner shall determine, in consultation,
13 if that requires him or herself to recuse themselves."
14 And I'm sort of -- I'm not sure what that looks like in
15 practice.

16 LEGAL COUNSEL MILLER: Well, this is why we have
17 these discussions. The concept was -- I didn't want to
18 write something that required a Commissioner --

19 COMMITTEE MEMBER BLANCO: To recuse --

20 LEGAL COUNSEL MILLER: -- to abstain.

21 COMMITTEE MEMBER BLANCO: Right.

22 LEGAL COUNSEL MILLER: And so that's the concept
23 here.

24 COMMITTEE MEMBER BLANCO: Uh-hum, right. So,
25 we're trying to not have a bright line rule.

1 LEGAL COUNSEL MILLER: Right. The mere fact of
2 being acquainted with someone, you know, these are
3 opinions, I'm offering an opinion here, to me didn't seem
4 like a reason to require that Commissioner to abstain.

5 So, this permitted a kind of a case-by-case
6 judgment, depending on the nature of the relationship.

7 COMMITTEE MEMBER ANCHETA: I guess the question I
8 would ask is, is there any scenario where we would want --
9 or we would want the Commission to make the decision?
10 Well, we really think, in this particular circumstance,
11 you should recuse yourself?

12 Because that scenario's not covered here. I put
13 it out whether we --

14 COMMITTEE MEMBER BLANCO: Right, right, right.

15 COMMITTEE MEMBER ANCHETA: I don't know if we --
16 I'm not thinking -- I'm kind of agnostic on this
17 particular matter, but there may be circumstances that do
18 come up where, again, the rest of the Commission feels,
19 well, you really shouldn't be voting.

20 COMMITTEE MEMBER BLANCO: Uh-hum.

21 COMMITTEE MEMBER ANCHETA: And the actual
22 Commissioner says, no, I think I'm okay, I should vote.
23 And, again, maybe that doesn't come up, maybe it does, I'm
24 not sure. But that's not here, clearly. So, I don't know
25 if that raises a concern for folks.

1 COMMITTEE MEMBER BLANCO: Yeah, I just don't that
2 this achieves -- I mean, it achieves partly what people
3 want, which is a policy of disclosure. And I think
4 there's no doubt that everybody wanted that, and we didn't
5 have one, and this gets us that, which we didn't have.

6 You know, we might tinker with it in terms of
7 relationship, and whether that's the right word or, you
8 know, but I think we could get there, right, in terms of
9 what rises to the level of something you have to disclose.
10 If you've been at a meeting, does that mean you disclose
11 or -- and in any event, I think people should always err
12 on the side of it, anyway.

13 So, we could figure that out, right.

14 What's trickier for me is this other, like you
15 say, because I agree that we should not -- my sense is
16 that we don't want a bright line kind of rule for -- that
17 requires recusal or abstention.

18 You know, it may actually be very helpful if
19 somebody -- you know, I mean, it's hard -- you know, we
20 always think of knowing somebody as being a negative,
21 potentially. But knowing somebody sometimes -- the reason
22 you recuse yourself is if you think that you can't -- that
23 somehow you're going to be biased and it could shift --
24 and, you know, the ultimate scenario is it's close, you're
25 biased, you know, you -- and you're the vote that could

1 have made the difference.

2 But what if, you know, you know the person and you
3 actually have really important negative information,
4 right, that -- and if you voted, you were going to vote
5 no. Right?

6 COMMITTEE MEMBER ANCHETA: Well, it's bias in the
7 other direction.

8 COMMITTEE MEMBER BLANCO: I mean, this is why --
9 but I mean, you know something that actually is really
10 important, that you feel would have been important to be
11 able to vote no because --

12 COMMITTEE MEMBER ANCHETA: And I think that's
13 helpful information for the Commission, too.

14 COMMITTEE MEMBER BLANCO: And it's helpful
15 information for the Commission, so you disclose it and
16 then you say, but I'm not going to vote because I do know
17 this thing that's actually pretty damaging to this person.
18 Well, maybe.

19 But, you know, it's kind of, you know -- and the
20 other thing that worries me is that the closer we get to
21 these things, like the attorneys and the lines, and this
22 is, I know for me, a personal issue, a
23 personal/professional issue is any -- all of us on this
24 Commission, to some extent, have been in the world of
25 voting, or elections, or redistricting we'll know at some

1 point, or even people who have done work with
2 organizations that do civic engagement, and promote civic
3 participation are -- you know, because a lot of these
4 people also work in the civic engagement, civic
5 participation side of things are going to know people.

6 So then it's a question of like -- that's why I
7 agree it shouldn't recuse you. But then I don't know if
8 then it rides on the nature of the relationship.

9 COMMITTEE MEMBER ANCHETA: Yeah.

10 COMMITTEE MEMBER BLANCO: You know? In contracts
11 what you're trying to do is avoid, you know -- you know,
12 trying to steer something the way of a friend, and maybe
13 that's what we're talking about here, right?

14 That we -- that if this -- if you have either a
15 business relationship or a personal relationship, we want
16 to avoid any sense of steering something. And that's sort
17 of what we're -- the rationale is, so --

18 LEGAL COUNSEL MILLER: Look, I just throw out an
19 alternative approach to this --

20 COMMITTEE MEMBER BLANCO: Yeah.

21 LEGAL COUNSEL MILLER: -- would be in lieu of the
22 second sentence to say something like following the
23 disclosure, the Commission shall make a determination
24 about whether the Commissioner should abstain from voting.
25 So it places, then, the burden on the Commission directly

1 to decide.

2 COMMITTEE MEMBER BLANCO: I think that's cleaner
3 than leaving it up to the Commissioner. I mean, like what
4 are you going to say? Well, I've -- like you say, I've
5 heard everybody's opinion and I disagree, and I'm going
6 to -- you know, I'm not going to recuse myself.

7 COMMITTEE MEMBER ANCHETA: Right.

8 LEGAL COUNSEL MILLER: Yeah, then it sort of
9 forces someone to say, well, I'm going to move --

10 COMMITTEE MEMBER BLANCO: Yeah, I think that is,
11 actually, a cleaner way of doing it.

12 The only thing I feel a little bit -- I feel like
13 it's left a little gray is determine if the relationship
14 or knowledge requires them to be recused. I don't know
15 what that would be.

16 So, what guidance are we giving to the
17 Commissioners, right?

18 COMMITTEE MEMBER ANCHETA: Yeah.

19 COMMITTEE MEMBER BLANCO: As to when they should
20 insist on recusal? I mean, it's a pretty big burden to
21 put on the Commissioners, that if somebody says I know
22 this person, you're going to say you have to abstain.

23 So, if we're putting that burden on the Commission
24 to do that what's our -- what should be their guidepost
25 for when it rises to the level of insisting that somebody

1 recuse themselves? That would be the only thing that I
2 feel is a little -- I mean, I can see this creating
3 problems, to have that lack of --

4 COMMITTEE MEMBER ANCHETA: I'm hoping -- I think
5 it's okay, as we just amended it. But I would think or
6 hope that there are some -- either formal guidelines or at
7 least some precedence from some sources that allow us to
8 say, well, we know what we're talking about has been sort
9 of fleshed out somewhere else. So, we're talking about if
10 there's a family relationship, you want to disclose that.
11 If it's a business relationship, if it's conflicts of
12 interest, that kind of thing. Those have been -- given
13 that this is not the first time we're encountering this
14 problem, that we can rely on some -- some past guidance
15 from some source.

16 LEGAL COUNSEL MILLER: That makes sense. Just the
17 larger picture is the Commission seems to want to know if
18 you simply know the person, which is greater than the kind
19 of legal conflict that you're suggesting.

20 COMMITTEE MEMBER BLANCO: Right.

21 COMMITTEE MEMBER ANCHETA: Right.

22 LEGAL COUNSEL MILLER: So, I want to just scoop up
23 kind of the universe of any contact, and I potentially
24 drew it that way that any contact needs to be disclosed,
25 because that seemed to be the sense of the Commission.

1 It begs -- you know, it doesn't get to the
2 question. Maybe we could go on and say, you know,
3 financial, family, business relationships but --

4 COMMITTEE MEMBER ANCHETA: Yeah. Well, I think --
5 and, again, it's written as a disclosure policy and I
6 think that is the gist of what we're concerned about here.
7 So I don't have a problem, again, leaving it pretty much
8 as it is, as long as -- again, this is sort of a general
9 understanding and I think we can -- we don't have to have
10 it all in the disclosure policy. That we -- at least, if
11 questions come up, we can say, well, I think it's sort of
12 the -- you know, you want your husband to do this? Well,
13 that might be -- we have a little concern about that one
14 and you should tell us that that's your husband, right?

15 But we can figure some of those out or they may be
16 somewhat obvious.

17 But, again, it is a disclosure policy at heart,
18 rather than sort of a recusal policy.

19 But, again, I think -- I think there may be, there
20 are probably some areas where we're going, oh, that's kind
21 of a distant relationship or, because it was such a long
22 time ago, and we'd have to work this through in the
23 meeting, I'm assuming. And say, well, that's -- you know,
24 and it's come up, obviously.

25 I know when my being named in the Commission, you

1 know, what -- how do you know this person? And we can
2 talk it out in the meeting, itself.

3 LEGAL COUNSEL MILLER: We could just stop after
4 the first sentence, which creates the disclosure, you
5 know, it creates the policy.

6 My concern then was would people then say what
7 then?

8 COMMITTEE MEMBER BLANCO: And now what?

9 COMMITTEE MEMBER ANCHETA: Right, yeah.

10 LEGAL COUNSEL MILLER: So, just tried to provide
11 some kind of avenue there.

12 COMMITTEE MEMBER ANCHETA: Yeah.

13 COMMITTEE MEMBER BLANCO: So, let me just add,
14 even on the first sentence, just in terms of having clean,
15 because these things are what, as lawyers, you know, we've
16 all seen really sloppy -- and not that this is sloppy but,
17 you know, then people go back and what did that mean, what
18 did that mean?

19 So, I think relationship is fine. I don't know
20 that I would say "shall advise the Commission of the
21 relationship or other knowledge about the individual." I
22 mean, that's -- what are we trying to get at that --

23 LEGAL COUNSEL MILLER: Yeah, relationship is the
24 key, why don't we strike the --

25 COMMITTEE MEMBER BLANCO: Yeah, the other thing is

1 sort of, you know, because I think you really want to know
2 do you have a relationship with this person or entity
3 that's seeking, you know, to perform a service for us?

4 And then I would say -- on the second sentence,
5 and I'm not sure how we should do it but, again, it should
6 be determine -- I would say determine the nature of the
7 relationship. You know, determine if the nature of the
8 relationship -- I mean, that's, it seems to me, what
9 you're really trying to figure out in these situations.

10 Because if you just say if the relationship, I
11 think that gives very little guidance. If you say nature,
12 it kind of begins to say, look, here's what we're really
13 trying to get at is you need to try and probe what the
14 nature is to see if this person really shouldn't be voting
15 on this because it's the nature of the relationship is one
16 of friendship and they can't be unbiased.

17 LEGAL COUNSEL MILLER: I think that's a good edit.

18 COMMITTEE MEMBER BLANCO: Yeah.

19 LEGAL COUNSEL MILLER: Did you want to use what
20 I'll call form two? Let me just read it and see if this
21 is what you meant.

22 "Following the disclosure, the Commission shall
23 make a determination about the nature of the relationship"
24 and that doesn't quite --

25 COMMITTEE MEMBER BLANCO: Well, it would say

1 "shall determine if the nature of the relationship
2 requires the Commissioner to be recused," is the way it
3 would read.

4 LEGAL COUNSEL MILLER: I'm sorry, could you read
5 that again, please?

6 COMMITTEE MEMBER BLANCO: "Following such
7 disclosure, the Commission shall determine if the nature
8 of the relationship requires the Commissioner to be
9 recused from voting on the retention of the person or firm
10 in question."

11 And then that's what the wording would be like and
12 we're still left with the issue of do we want to
13 actually -- is that enough guidance for the Commission?

14 I mean, the other thing is it also puts a mandate
15 that you have to make a decision, right, "shall determine
16 if there's a recusal."

17 So, once there's -- so it triggers. Once there's
18 a disclosure, it triggers a vote. And a mandatory vote,
19 that's the way this is written, because of the "shall."

20 And if that's what we want, that's what we want.
21 But we should be clear that that's what this does, it
22 requires a vote.

23 LEGAL COUNSEL MILLER: Well, you could just change
24 it to "may."

25 COMMITTEE MEMBER BLANCO: I think that makes sense

1 because you could have a situation where something is so
2 minimal, but once you put the "shall" it triggers a vote
3 for every single situation.

4 COMMITTEE MEMBER ANCHETA: Well, it could be just
5 a -- or it could just be a very pro forma vote, I don't
6 know. I don't feel strongly either way. I think --
7 again, I think I trust in operationalizing this that the
8 Commission will kind of go, okay, let's talk this out and
9 then we'll kind of make a -- reach a decision on this.
10 But, yeah --

11 COMMITTEE MEMBER BLANCO: Leave it -- I think the
12 less -- we are operating on so many strict rules here that
13 the Commissioners, all of us are juggling, that I would
14 prefer to say "may" and then that's what the Commission --
15 that is the discussion. The discussion is what do we do
16 about this, rather than it immediately goes to a vote.

17 COMMITTEE MEMBER ANCHETA: Yeah. And then if we
18 want to vote, we can.

19 COMMITTEE MEMBER BLANCO: And then if you want to
20 vote, you vote. But you don't -- it doesn't like
21 automatic vote.

22 COMMITTEE MEMBER ANCHETA: That's fine with me,
23 yeah.

24 COMMITTEE MEMBER BLANCO: Okay. So, we can -- we
25 can recommend that this be our policy and people may have

1 comments about wanting to flesh out a little bit more what
2 the -- you know, what the criteria are. But let's see if
3 this is enough.

4 LEGAL COUNSEL MILLER: Let's see if we can get it
5 through as --

6 COMMITTEE MEMBER BLANCO: Yeah, let's see if this
7 is enough.

8 LEGAL COUNSEL MILLER: -- as prepared by the
9 Commission.

10 COMMITTEE MEMBER BLANCO: Okay.

11 LEGAL COUNSEL MILLER: Or the Committee.

12 COMMITTEE MEMBER BLANCO: The Committee, okay.

13 LEGAL COUNSEL MILLER: I'll make the revisions
14 this evening and have copies available for the meeting
15 tomorrow.

16 COMMITTEE MEMBER BLANCO: Okay. And I think
17 that's -- those are all our items.

18 LEGAL COUNSEL MILLER: It is.

19 COMMITTEE MEMBER BLANCO: And for -- we will now
20 take public comment on the business we conducted after we
21 concluded the first two items, which were the discussion
22 about the Bagley-Keene Act and our Voting Rights attorney
23 selection.

24 Do we have any public comments?

25 COMMITTEE MEMBER BLANCO: Okay, we stand --

1 LEGAL COUNSEL MILLER: Why don't we, just for
2 safety's sake --

3 COMMITTEE MEMBER BLANCO: Yeah.

4 LEGAL COUNSEL MILLER: -- since it's such an
5 important matter, let's review our pathway to completing
6 the selection of the VRA.

7 COMMITTEE MEMBER BLANCO: The attorney, sure. Oh,
8 I have my notes and we can --

9 LEGAL COUNSEL MILLER: And, you know, you can take
10 a breath and just think about if there's anything further
11 you'd like to see in the -- in the request for
12 information, as well.

13 COMMITTEE MEMBER BLANCO: All right. So, let me
14 put up the -- what's it technically called, it's called
15 a --

16 LEGAL COUNSEL MILLER: We're calling it a -- the
17 State lingo is request for information.

18 COMMITTEE MEMBER BLANCO: Request for information,
19 so let me get to that. Okay. Thank you. So, this is
20 what I have that we decided on.

21 We will require the SOQs to be submitted by 5:00
22 p.m. on the 14th. The Advisory Committee will do a first
23 cut on the Advisory Committee meeting on 3/15 and then
24 make a recommendation to the full Commission when it meets
25 on the 17th.

1 COMMITTEE MEMBER ANCHETA: Well, we'll --

2 COMMITTEE MEMBER BLANCO: No.

3 COMMITTEE MEMBER ANCHETA: No, the Committee will

4 meet on the 17th --

5 COMMITTEE MEMBER BLANCO: That's right.

6 COMMITTEE MEMBER ANCHETA: -- to hear

7 presentations.

8 COMMITTEE MEMBER BLANCO: That's right.

9 COMMITTEE MEMBER ANCHETA: And based on that make

10 a recommendation to the full Commission --

11 COMMITTEE MEMBER BLANCO: On the 18th.

12 COMMITTEE MEMBER ANCHETA: -- on the 18th. And

13 the leading candidate or candidates will make a

14 presentation to the full Commission, and then the full

15 Commission, I hope, will make a decision --

16 COMMITTEE MEMBER BLANCO: On the 18th.

17 COMMITTEE MEMBER ANCHETA: -- on the 18th.

18 COMMITTEE MEMBER BLANCO: So, we will interview --

19 we will do interviews in the Advisory Committee meeting of

20 our finalists on March 17th.

21 COMMITTEE MEMBER ANCHETA: Right.

22 COMMITTEE MEMBER BLANCO: And then take those

23 recommendations, we will ask the candidates to remain.

24 COMMITTEE MEMBER ANCHETA: Now, I just had a

25 question. If, for some reason, we may have a very --

1 given it's only -- we're not meeting on Wednesday, is it
2 possible that this could get bumped to the 19th, Saturday,
3 the 19th?

4 LEGAL COUNSEL MILLER: I think there is a
5 possibility of that.

6 COMMITTEE MEMBER ANCHETA: Okay.

7 LEGAL COUNSEL MILLER: Something we need to try to
8 reconfirm.

9 COMMITTEE MEMBER BLANCO: Uh-hum.

10 COMMITTEE MEMBER ANCHETA: Right. So, just for
11 purposes of the RFI, we should just -- as we're just sort
12 of noticing when you might have to be in Sacramento to
13 present, that there's a range of dates you're going to
14 have to kind of mark off.

15 COMMITTEE MEMBER BLANCO: Right.

16 COMMITTEE MEMBER ANCHETA: And there's some
17 flexibility to it. And as long as we're -- I think it's
18 okay with our process, too.

19 COMMITTEE MEMBER BLANCO: We will definitely have
20 an Advisory Committee meeting on the 15th that has to be
21 noticed.

22 COMMITTEE MEMBER ANCHETA: Right.

23 COMMITTEE MEMBER BLANCO: And then we will have
24 another meeting on the 17th that will also be, obviously, a
25 public hearing, where we will interview.

1 COMMITTEE MEMBER ANCHETA: Yeah. And then I
2 think, as is the case with all our full business agendas,
3 the 18th and 19th are basically just sort of all together,
4 so we can just -- is that typically how we've noticed
5 them?

6 LEGAL COUNSEL MILLER: It's not the form that we
7 would like to see going --

8 COMMITTEE MEMBER ANCHETA: Oh, we want to be more
9 specific. Okay, that's fine. That's good. That's good.

10 COMMITTEE MEMBER BLANCO: So, that's the -- that's
11 the timeline.

12 LEGAL COUNSEL MILLER: One thought just occurred
13 to me. Since the first meeting, on the 15th, is a public
14 meeting, those who submit packages can come to that
15 meeting, and you have the potential there of, you know,
16 some can come and some can't, and they may want to speak
17 to their proposal. So, I'm just thinking how to handle
18 that.

19 COMMITTEE MEMBER ANCHETA: Good question.

20 LEGAL COUNSEL MILLER: We might treat it like
21 public comment and limit it to five minutes. I don't know
22 if you can -- it's awkward to preclude someone from
23 speaking.

24 COMMITTEE MEMBER BLANCO: I don't think it's
25 awkward. I mean, I'm not at all knowledgeable about --

1 but I don't think that's a public comment. If I were
2 asked my sort of gut legal reaction, if somebody's got a
3 proposal in front of you for work, for business, and
4 you're considering that, I don't think if you get up and
5 speak and you're that person, it's a public comment. I
6 think then you've crossed into another --

7 LEGAL COUNSEL MILLER: And you're not taking
8 action. Well, you are. Let us look into this one.

9 COMMITTEE MEMBER BLANCO: Yeah, please. Yeah.

10 COMMITTEE MEMBER ANCHETA: Well, I don't think we
11 can preclude anybody from -- if we just have a five-minute
12 public comment period, I don't think we can preclude
13 anybody, including a candidate, from saying something in a
14 public comment period but --

15 COMMITTEE MEMBER BLANCO: And not that we want to.

16 COMMITTEE MEMBER ANCHETA: -- we can limit public
17 comment to what we are discussing. And, of course, the
18 impression you'll make if you try to cram your
19 presentation into five minutes will not be a positive one,
20 I think, on the Commissioners at that time.

21 But I'm concerned about, again, there's this
22 problem of sort of advantaging those who happen to be here
23 that day --

24 COMMITTEE MEMBER BLANCO: That's right.

25 COMMITTEE MEMBER ANCHETA: -- versus others who

1 won't.

2 COMMITTEE MEMBER BLANCO: Which is why I think it
3 may be one of those situations where we don't consider it
4 public comment. I mean, if somebody wants to just say I
5 think you should hire somebody with litigation experience,
6 maybe that's a public comment.

7 COMMITTEE MEMBER ANCHETA: Right.

8 COMMITTEE MEMBER BLANCO: But when somebody starts
9 to speak in favor of a submission they've made to you for
10 employment, I think that's different. But like I say, I'm
11 not familiar with this. To me, that's not quite a public
12 comment.

13 COMMITTEE MEMBER ANCHETA: Yeah.

14 LEGAL COUNSEL MILLER: What I'd like to do is flag
15 it as an issue and make a recommendation for how to deal
16 with it.

17 COMMITTEE MEMBER BLANCO: Right.

18 COMMITTEE MEMBER ANCHETA: Yeah, I think that's
19 good.

20 COMMITTEE MEMBER BLANCO: The other thing is, in
21 keeping with the comments of one of our speakers today
22 about transparency, and trying to perhaps take some
23 guidance from the way the audit -- the State Bureau of
24 Audits posted all of our perspective Commissioner's
25 information on its site, I think that it would be -- if we

1 do want good public comment on folks, that we should, once
2 we get these SOQs in we should post them.

3 COMMITTEE MEMBER ANCHETA: Yeah.

4 COMMITTEE MEMBER BLANCO: And invite public
5 comment on them.

6 COMMITTEE MEMBER ANCHETA: Right, and I think
7 that's --

8 COMMITTEE MEMBER BLANCO: Not invite, but just
9 they're there for public comment.

10 COMMITTEE MEMBER ANCHETA: And I think that's been
11 an issue that's come up with the Public Information
12 Committee regarding the problems with the website, and
13 shifting over to Facebook.

14 We can certainly, as much as possible, encourage
15 staff and Commissioners, to the extent that they're
16 distributing anything, to have that available as early as
17 possible and posted prior to the meeting, although there
18 will be times we just can't do that. But I think we
19 should always try to do that. And again, hopefully, these
20 problems with posting and, you know, quick access to the
21 web will be gone soon.

22 COMMITTEE MEMBER BLANCO: And we have some
23 guidance, the way that they redacted names, and addresses,
24 and all identifying information, so that's not difficult
25 to do. We could do that and still people could know who

1 they are and what they -- what their experience and
2 previous work is.

3 COMMITTEE MEMBER ANCHETA: Yeah.

4 LEGAL COUNSEL MILLER: Yeah, I wonder if it would
5 be fair to -- we're not obligated to put them on the web.

6 COMMITTEE MEMBER BLANCO: That's right.

7 LEGAL COUNSEL MILLER: Perhaps redacting their
8 budget proposal would be a reasonable thing to do.

9 COMMITTEE MEMBER BLANCO: Although, that might be
10 what interests people the most is to know what they want
11 to charge.

12 I mean, to me, I don't see the basis for that in
13 terms of protecting people's privacy, like a home address
14 or a phone number. I think it's part of what people want
15 to know is what they charge.

16 COMMITTEE MEMBER ANCHETA: Yeah, again, I'll defer
17 to State custom on these, to those more knowledgeable in
18 terms of what is normal for this kind of RFI.

19 COMMITTEE MEMBER BLANCO: Does that -- did this
20 reading back reflect what you had in terms of the dates,
21 and everything, and the process?

22 LEGAL COUNSEL MILLER: Yes, it does. And then I
23 just wanted you to kind of think, if you will, if there's
24 anything else that occurs to you --

25 COMMITTEE MEMBER BLANCO: Absolutely.

1 LEGAL COUNSEL MILLER: -- to improve the form of
2 the document, particularly as to the specificity of
3 services. I feel -- I feel like it's -- it's what I could
4 come up with, but I feel like it's more general than I
5 would like it.

6 COMMITTEE MEMBER BLANCO: I agree. I think it
7 needs to be tweaked a little.

8 Are you going to ask for this to be adopted
9 tomorrow, by the full Commission, or how do you want to do
10 that if we do want to still work on it a little bit, since
11 given our timing?

12 LEGAL COUNSEL MILLER: It seems to me it would be
13 fair, as a report out of the Committee, to say that you've
14 approved, with comments, a request for information to
15 solicit services from law firms, lay out the schedule and
16 stop at that.

17 We can't, I don't think, do much with the document
18 this evening, prior to tomorrow's meeting, as I can with
19 the policy.

20 COMMITTEE MEMBER ANCHETA: And what is the target
21 date to have this out, publicly?

22 LEGAL COUNSEL MILLER: I'd say by Monday.

23 COMMITTEE MEMBER BLANCO: You're right.

24 LEGAL COUNSEL MILLER: The problem is that we're
25 here and we don't have people to work on it while we're

1 here.

2 COMMITTEE MEMBER ANCHETA: Right.

3 LEGAL COUNSEL MILLER: But, obviously, we want to
4 get it out rapidly.

5 COMMITTEE MEMBER ANCHETA: Okay. And I don't
6 think there's a problem with our alerting our networks
7 that, oh, there's something coming out really soon, be on
8 the lookout for it.

9 LEGAL COUNSEL MILLER: No. And, indeed, you know,
10 we will post it on the website, we'll get it into -- there
11 is a State system for disseminating these things, which
12 we'll use. And we can send it to individuals, as well.

13 COMMITTEE MEMBER ANCHETA: Actually, one thing
14 that might be useful to develop, and this can go through
15 the public information arm, as well, is if there's a sort
16 of, you know, two-paragraph ad, basically, that can say
17 here's the link to the website and more information
18 available there. That will be, I think, very helpful for
19 us to forward and to get -- to disseminate pretty widely.
20 And then they can just go to the website and actually
21 activate the system.

22 COMMITTEE MEMBER BLANCO: Remind me when we're
23 shooting to have it posted or sent out?

24 LEGAL COUNSEL MILLER: Let's say Monday.

25 COMMITTEE MEMBER ANCHETA: The 28th, February 28th.

1 COMMITTEE MEMBER BLANCO: Okay.

2 LEGAL COUNSEL MILLER: But would you be
3 comfortable with that form of report, rather than going
4 through the document, itself, with the full Commission?

5 COMMITTEE MEMBER BLANCO: Yes.

6 COMMITTEE MEMBER ANCHETA: Yeah.

7 COMMITTEE MEMBER BLANCO: Yes.

8 COMMITTEE MEMBER ANCHETA: That's fine.

9 COMMITTEE MEMBER BLANCO: Yes, yes, yes, you can
10 present it, you know, with the report is the deadlines, we
11 have the broad outlines of the SOQs, but we're going to
12 edit some more, and the main thing is letting them -- I
13 think, you know, I would hit the highlights of what's in
14 there.

15 For example, I think people will want to know,
16 because there was a lot of discussion about it, that we
17 have a statement in there about litigation experience,
18 because people wanted to make sure that we captured that.

19 So, I would hit some of the --

20 LEGAL COUNSEL MILLER: The qualifications.

21 COMMITTEE MEMBER BLANCO: -- the qualifications,
22 but I wouldn't walk through the entire thing. Hit through
23 some of the qualifications and the most important thing
24 being the timeline and how we're going to do the
25 deliberative process here, and then to the Commission.

1 LEGAL COUNSEL MILLER: Well, if you have any
2 further thoughts about trying to capture, more
3 specifically, the scope of the work, please pass those
4 along to me.

5 COMMITTEE MEMBER BLANCO: Yeah, yeah. And I
6 think -- well, I can tell you now that I think one thing,
7 especially, for them to be able to put together a package
8 that they may need to know an estimate of the dates that
9 they will be expected to attend public --

10 LEGAL COUNSEL MILLER: What's your sense of the
11 breadth of attendance that you'd like to see?

12 COMMITTEE MEMBER BLANCO: We're talking about to
13 be -- I think, the two most important -- the last two sets
14 of input -- well, the -- I think the first two meetings,
15 where you get the input about everything, neighborhoods,
16 communities of interest --

17 LEGAL COUNSEL MILLER: This is the line-drawer
18 meetings?

19 COMMITTEE MEMBER BLANCO: Yeah. I think the
20 attorney should be at that meeting, to tell you the truth,
21 because I think that hearing people describe, and I expect
22 they will, their community of interest is going to be very
23 important. I mean, they can look at the record, but I
24 think it would be important to have them at that meeting.

25 And then I think the final meeting -- the final

1 map presentation, because there probably will be questions
2 that we will want to consult. Like, as we get asked
3 questions, we'll probably want to be consulting.

4 LEGAL COUNSEL MILLER: Well, when you think of the
5 total number of input meetings that the Commission is
6 thinking of scheduling, it sounds like you're looking at a
7 small subset of those for this -- for the lawyer to be
8 present. Is that right?

9 COMMITTEE MEMBER BLANCO: Let's take a step back
10 and what is it that we want -- why do we want -- I mean,
11 line drawing -- why do we want the lawyer at the public
12 regional meetings?

13 COMMITTEE MEMBER ANCHETA: Well, if there is
14 public testimony or any submissions that has some bearing
15 on either a Section 5 county -- so, for example, in
16 Salinas, or thereabouts --

17 COMMITTEE MEMBER BLANCO: Right.

18 COMMITTEE MEMBER ANCHETA: -- I think the attorney
19 should be for that one because that's right next or in a
20 Section 5 county.

21 It's hard to predict because I think we're not
22 necessarily going to be able to know at any particular
23 hearing whether there's going to be a Section 2
24 discussion.

25 Definitely, at the statewide input hearings, where

1 we're expecting to hear from certain groups, and from the
2 parties and, you know, various Legislators, I think those
3 definitely.

4 So, I don't know, unless we're limiting or trying
5 to stay within the agenda, if we're looking at Section 2
6 questions, this is the meeting you go to. Not the general
7 ones, which we might want to consider that. And then we
8 can say, well, those are the meetings that the VRA
9 attorney really should go to because that's where we're
10 going to focus on --

11 COMMITTEE MEMBER BLANCO: But how do we know which
12 ones those are going to be?

13 COMMITTEE MEMBER ANCHETA: Well, for -- let's say
14 we're doing certain regions, we say the regional meeting
15 for Northern California is this -- say we have three.

16 COMMITTEE MEMBER BLANCO: I see what you're
17 saying.

18 COMMITTEE MEMBER ANCHETA: The one that we're --
19 we're going to take specific testimony regarding Section 2
20 or Voting Rights Act issues at this one meeting. We can
21 certainly accept it at others, but for purposes of
22 scheduling when the VRA attorney really has to be at --
23 unless we're saying all of them and that's another option.
24 But if we're going to say you're only going to do a
25 subset, we can designate those meetings as specific to

1 Voting Rights Act questions.

2 Now, again, anybody can come into the meeting, if
3 it's a more general one, and say, well, by the way,
4 there's a big Latino population here and I think you ought
5 to be looking at this because there might be a Voting
6 Rights Act violation. You know, we'll have the
7 transcript, we can convey the information.

8 But if we're trying -- are in fact trying to not
9 have the attorney at every single one of them, we can have
10 some control over which ones we can specify.

11 COMMITTEE MEMBER BLANCO: You know, I'm trying to
12 think of when I've done this in a completely different
13 context. And I'm not sure the attorneys went to all the
14 meetings, you know, when I -- it was more important for
15 them to debrief with the people who did go.

16 COMMITTEE MEMBER ANCHETA: Yeah.

17 COMMITTEE MEMBER BLANCO: Closely. Very closely
18 for what they heard and like blow by blow, than to
19 actually be there.

20 COMMITTEE MEMBER ANCHETA: Yeah.

21 COMMITTEE MEMBER BLANCO: I think you're right,
22 the State -- my sent is as you get closer to the
23 presentation of the maps and your time gets compressed,
24 there's going to be a moment in which you're going to want
25 to have a very -- almost like a synchronicity between the

1 line-drawer on the map and an attorney that's very, almost
2 real time.

3 You know, we may get into situations where we -- I
4 have no idea, where somebody says, well, what if the line
5 was like this, right, and you want to --

6 LEGAL COUNSEL MILLER: What if we said to them,
7 you know, we're interested in receiving a fixed price, but
8 exclusive of attending input meetings, give us your daily
9 rate for doing that, because we're just not sure how many
10 they should --

11 COMMITTEE MEMBER BLANCO: That's right. But I
12 would then maybe expand a little bit to say, and maybe
13 it's in here and it's just late, but sort of an
14 expectation that they will be reviewing documents on a
15 daily -- you know, that they will be reviewing documents
16 at least on a -- I don't know how you quantify it.

17 LEGAL COUNSEL MILLER: And these are input
18 documents, you're thinking of, from community members and
19 groups?

20 COMMITTEE MEMBER BLANCO: Yeah. Yeah.

21 LEGAL COUNSEL MILLER: Okay. Well, I think
22 that's -- that's --

23 COMMITTEE MEMBER BLANCO: And they're going to
24 want to look at transcripts and they're going to want to
25 be, you know -- they might even, who knows, it is possible

1 and I haven't even thought about this until now, that they
2 may be talking to county attorneys or city attorneys in
3 other -- in some jurisdictions. I mean, they may, you
4 know, may be spending time with other attorneys.

5 So, they're going to be -- so I think they have to
6 have a -- they're going to do a heavy amount of document
7 review. I think there's going to be a lot of -- a lot of
8 consultation, I think, with Commissioners, more than they
9 expect, like not just full Commission.

10 I really think it's a staff -- I really think it's
11 a staff attorney. The closer it reads, like if we -- I
12 think if you thought of it like what would I draft if I
13 was drafting a staff attorney description? A high level,
14 a very, very high level but, still, what that person would
15 be doing if they were there --

16 COMMITTEE MEMBER ANCHETA: Right.

17 COMMITTEE MEMBER BLANCO: -- five days a week,
18 that it should read as much like that as possible.

19 COMMITTEE MEMBER ANCHETA: Yeah. No, that's
20 always been my vision of what the position ideally should
21 look like. And, again, I'm open to these other options
22 simply because we need to keep those options open. But my
23 feeling is the optimal position for the Commission is to
24 have a full time staff attorney that's just there and
25 covers as much as possible.

1 COMMITTEE MEMBER BLANCO: And if they're not at a
2 meeting, somebody that is calls them on their cell phone
3 and says, look, pull up the map, look at this. And they
4 pull up the Mapquest and they go if this line were over
5 here, what is your sense of -- well, I mean --

6 COMMITTEE MEMBER ANCHETA: So, maybe we can just
7 adjourn the meeting because, actually, we're not bound by
8 Bagley-Keene anymore at this moment.

9 COMMITTEE MEMBER BLANCO: Yeah.

10 COMMITTEE MEMBER ANCHETA: And so our transcriber
11 can also go home.

12 COMMITTEE MEMBER BLANCO: Yeah, yeah.

13 COMMITTEE MEMBER ANCHETA: We can adjourn and then
14 we can -- if there's any more specific details, we can
15 just work on them.

16 COMMITTEE MEMBER BLANCO: Yeah. But I think that
17 would be my guidance is to try and --

18 LEGAL COUNSEL MILLER: Yeah, those are helpful --
19 those are helpful additions.

20 COMMITTEE MEMBER BLANCO: Yeah, structure it like
21 that as much --

22 COMMITTEE MEMBER ANCHETA: Yeah.

23 COMMITTEE MEMBER BLANCO: Okay, great, there's --
24 make that a motion and I can't disagree.

25 COMMITTEE MEMBER ANCHETA: Let's adjourn.

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COMMITTEE MEMBER BLANCO: Okay, great.

(Off the record at 5:50 p.m.)

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