

BEFORE THE
CALIFORNIA CITIZENS REDISTRICTING COMMISSION

In the Matter of
Full Commission Business Meeting

State Capitol, Senate Room 4203
Sacramento, California 95814

Saturday, August 13, 2011

10:00 A.M.

Reported by:
Kent Odell

APPEARANCES

Members Present

Vincent Barabba, Chairperson
Gabino T. Aguirre, Vice Chairperson
Angelo Ancheta
Maria Blanco
Cynthia Dai
Michelle Di Guilio
Jodie Filkins Webber
Stanley Forbes
Connie Galambos Malloy
M. Andre Parvenu
Jeanne Raya
Michael Ward
Peter Yao

Members Absent

Lilbert R. "Gil" Ontai

Staff Present

Dan Claypool, Executive Director
Deborah Davis, Budget Officer
Kirk Miller, Legal Counsel
Rob Wilcox, Communications Director
Janeece Sargis, Administrative Assistant

Public Comment

Justin Morgan, Fillmore District, Health Clinic M.D.
Mike Birnbaum, Sacramento
Allen Payton, Chairman, Contra Costa Citizens
Redistricting Task Force

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P R O C E E D I N G S

AUGUST 13, 2011 10:09 A.M.

CHAIRPERSON BARABBA: How's this? Is that better? I was told not to push too many buttons. Commissioners, members of the public in the audience that are here with us at the California State Capitol Building, and the viewing audience at home, we'd like to welcome you to this session of the California Citizens Redistricting Commission. Today is Saturday, August 13th. I am Commissioner Vincent Barabba and I will be serving as your Chair for this meeting. To my left, I have the incoming Chair, Commissioner Gabino Aguirre, who will be assisting with the proceedings today.

At this time, I would like to ask Ms. Sargis to call the roll, please.

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

A quorum is present.

1 CHAIRPERSON BARABBA: Okay, thank you very much.
2 As far as the agenda today, we have Technical Outreach
3 topics, Public Information discussion topics, the Legal
4 Discussion, and we also have Finance and Administration,
5 and we will also have time for public comment. And
6 relative to public comment, I believe we have two people
7 who have asked to make comments, we will allow two
8 minutes, so could we have the first speakers? And if the
9 second speaker would come up and stay close to the
10 microphone, so we could move on?

11 MS. SARGIS: The first speaker is Justin Morgan
12 and then Mike Birnbaum.

13 MR. MORGAN: Good morning, Commissioners, staff,
14 members of the public. My name is Justin Morgan and I
15 represent the low income and working class residents of
16 San Francisco's historic African-American Fillmore
17 District. They are my friends, my neighbors, and I am
18 their doctor at our neighborhood health clinic.

19 As Commissioner Dai noted at the July 28th
20 Commission meeting, State Assembly District 17 is the
21 eastern part of San Francisco and it keeps a lot of the
22 low income areas together with downtown. The new
23 District 17, however, leaves out a big part of our
24 neighborhood, our neighbors in the MLK Marcus Garvey
25 Coop, Robert Pitts Public Housing have more in common

1 socially, culturally, and economically with the eastern
2 half of San Francisco than they do with the western half
3 of San Francisco. The proposed new district divides our
4 communities, placing our neighbors in the more affluent
5 and less diverse western half of the city.

6 The maps I provided attempt to illustrate this
7 and also show that the population that I serve as a
8 neighborhood physician will also be divided by the final
9 draft. I encourage you to vote no on the final drafts,
10 no on dividing our neighborhoods, no on dividing our
11 community and diluting our voice at the ballot box, and
12 yes on keeping the Fillmore community together. Thank
13 you.

14 CHAIRPERSON BARABBA: Thank you.

15 COMMISSIONER PARVENU: Quick question.

16 CHAIRPERSON BARABBA: Sir -- doctor? We have a
17 question.

18 COMMISSIONER PARVENU: I could look up and see
19 where District 19 is, whether it is Congressional or
20 Assembly -

21 MR. MORGAN: These are Assembly Districts,
22 Commissioner.

23 COMMISSIONER PARVENU: All right, thank you.

24 CHAIRPERSON BARABBA: Thank you.

25 MR. MORGAN: Any other questions? Thank you.

1 MR. BIRNBAUM: Good morning, thank you. My name
2 is Mike Birnbaum and I am a local here in Sacramento. I
3 wanted to commend the California State Citizens
4 Redistricting Commission on their hard work and time that
5 they've put in, in getting to final maps for State
6 Senate, Assembly, and the Congressional Districts, as
7 well as the Board of Equalization Districts. I think you
8 serve as a model for the State of California. I wish
9 that what you have here was portrayed at the City and the
10 County of Sacramento. I've been more involved at the
11 local level because, of course, with transportation cost,
12 it's a lot easier to get to what you have at the local
13 level. I'm glad you are meeting here in Sacramento, but
14 one of the key things, and I heard this in a difference
15 from a Council member the other night, at the City of
16 Sacramento, it was only a Citizen's Advisory Committee,
17 not a Commission that has been approved by City Charter,
18 or anything else. I think that, based on what happened
19 just this past Tuesday night, the need for a Commission
20 in the City of Sacramento is much needed when that
21 process takes place 10 years from now and you definitely
22 serve as a model of what the citizens of California
23 passed in Proposition 11. So I would encourage you, if
24 you are around Sacramento a lot, to talk to some of the
25 charter officers and see what it might take to get either

1 petitions, signatures, or something to change the charter
2 at the City of Sacramento and bypass the City Council
3 altogether. Thank you.

4 CHAIRPERSON BARABBA: Any questions? Okay, thank
5 you very much.

6 MR. PAYTON: You didn't think I was going to come
7 back. I'm Allen Payton, Chairman of the Contra Costa
8 Citizens Redistricting Task Force and part of the CCAG.
9 First, let me say thank you for your work with regards to
10 the State Assembly and State Senate Districts in the East
11 Bay. You listened and followed COI testimony, saying use
12 the East Bay Hills as a natural dividing line, and also I
13 wanted to point out and thank specifically Commissioner
14 Dai with your efforts with regard to the district that
15 Antioch is in, and it was kind of an interesting
16 experience, in representative live time government, I was
17 at home watching you all and emailing you and
18 frustrating, I believe, Commissioner Parvenu, wondering,
19 "Who is this Allen Payton guy?" I'm that guy from
20 Antioch, and that was actually good because, I mean, I
21 lived there 20 years, have been involved, and so I think
22 I know Antioch better than you all do, and that was the
23 way hopefully this Commission was supposed to work, and
24 in many ways it did, to listen to local experts. And you
25 did include a man and his wife and their property in the

1 same district, so that was good, and others, too, that
2 identify more with the east county. But, sorry for
3 frustrating you that day.

4 But with all due respect, I think you spent the
5 same amount of detail and time on districts in Southern
6 California, but anyway, that's another issue. However,
7 on the Congressional Districts, you didn't follow the COI
8 testimony, so I'm here to kind of share that point. It
9 was a little frustrating because I was here on the July
10 13th meeting where, following that meeting where you kind
11 of created the districts pretty much that we have now,
12 that you've put forward, after talking at the end with
13 Commissioners Dai, Blanco, and Filkins Webber, saying,
14 "Well, give us the input by email," and so I went back to
15 Berkeley, took your maps, redrew them to show that the
16 information, unfortunately, that Commissioner Galambos
17 Malloy, the only Commissioner from the East Bay, was
18 saying you couldn't respect the COI testimony dividing
19 the East Bay Hill, or dividing the line on the East Bay
20 Hills, because of the Monterey County Section 5 District.
21 That's not true. And so I did it again, if you want to
22 take one and pass it on, and then I also put a copy in
23 for the Chair, that one, specifically showing how you
24 could divide the East Bay without even touching Santa
25 Clara County, much less Monterey County, and follow COI

1 testimony, using the 880 Corridor, the 501 Area Code
2 area, and on the west side of the East Bay Hills for
3 drawing Congressional lines, and the 925 Area Code on the
4 east side, and the 680 Corridor, and those are the
5 districts, the ones that are colored, the only ones that
6 are changed. And by the way, just a few minor changes
7 with regards to the split in Antioch, and I showed you in
8 this in a more up close for the Chair, of how to divide
9 Antioch in a more common sense way, so that people will
10 know which district they're in, along major roadways in
11 Antioch, rather than kind of the happenstance way you've
12 divided Antioch. Unfortunately, the results of your East
13 Bay Congressional Districts did this, you kept Oakland
14 whole --

15 MS. SARGIS: Time.

16 MR. PAYTON: Oh, but I wanted to end on a
17 positive note if I could.

18 CHAIRPERSON BARABBA: Go ahead.

19 MR. PAYTON: Thank you for adding two words to be
20 vocabulary this year -- iteration and retrogression. I
21 never used those before, don't think I'll use them again
22 for another 10 years, but anyways, I wanted to give that
23 input to you and share that with you. Thank you.

24 CHAIRPERSON BARABBA: Thank you very much. I
25 think if there are no other members of the public who

1 want to make comments...? Okay, then let's move on to the
2 agenda and, depending on how things go for the rest of
3 the day, we may have time for public comments at the end
4 of the meeting, as well.

5 So first on our agenda is the Technical Outreach
6 Committee, and Commissioner Di Giulio, are you prepared?

7 COMMISSIONER DI GIULIO: I think there were just
8 some items we put on here, one partly just to make sure
9 that we had the opportunity to discuss them if we needed,
10 updates on the final maps, I don't believe we've had any
11 necessary changes, I know we've been doing some things in
12 terms of updating some of our tables and graphs, but
13 there was nothing that was needed to be reported on in
14 terms of the maps, themselves. Unless anyone had any
15 questions about that?

16 Let's see, the post-map technical activities, I
17 put in there originally as kind of a discussion, I think
18 that will be covered a little more in Finance and
19 Administration in terms of some things that might be able
20 to meld into the future of the Commission. I think in
21 terms of what's going to be happening in terms of
22 mapping, obviously there won't be anything there, unless
23 what Commissioner Filkins Webber passed on, if we have to
24 start drawing 5,000 districts by any strange chance! But
25 let's hope not, not any time soon.

1 I think there was some interest by Commissioner
2 Barabba and Commissioner Aguirre in terms of maybe doing
3 some things with some of the recommendations for the
4 future Commissions and things, kind of lessons learned
5 along the way. That would be some ideas of things that
6 we've decided to do kind of as we move forward, but I
7 think some of that will be discussed probably more in
8 F&A.

9 And then, "additional technical discussion as
10 needed" was just more of a placeholder, but luckily,
11 knock on wood, nothing has come up that we needed to
12 really address in terms of technical. So I think, with
13 that, that might be the fastest technical report ever on
14 record, unless someone has anything they'd like to --

15 CHAIRPERSON BARABBA: Commissioner Filkins
16 Webber.

17 COMMISSIONER FILKINS WEBBER: We received an
18 email from Mr. Johnson, we saw it, it was passed out in
19 July 2009, it was sent again today, and I don't recall if
20 there would be a response of this Commission regarding
21 the technical information that he's questioning, or
22 whether any inquiry has been made of Q2 on these
23 technical issues that he is raising regarding the data.

24 COMMISSIONER DI GUILIO: If this is the same one,
25 I haven't read today's, it's the same one, yeah, and I'm

1 not sure if it -- I thought we had someone who had sent
2 out a letter, but basically those issues are not to be
3 addressed for Q2, it's a Statewide Database issue. I
4 believe Ms. Mac Donald has sent a response to that
5 effect. Was it Ms. Mac Donald? Sorry, I'm trying to get
6 online right now, but I can't.

7 CHAIRPERSON BARABBA: I think it was some members
8 representing the different Caucuses who are responsible
9 for the Legislative, the Statewide Database, they
10 commented about what it was.

11 COMMISSIONER DI GUILIO: Yeah. And, again, it
12 was more of an issue how the Statewide Database, it's
13 kind of the integrity of the data that is submitted by
14 everyone, not just us, so I think that was being
15 addressed by the Legislators.

16 COMMISSIONER FILKINS WEBBER: Thank you.

17 CHAIRPERSON BARABBA: Any other questions? Yes,
18 Commissioner Dai.

19 COMMISSIONER DAI: This is really just a comment.
20 You know, as everyone knows, this was a first time
21 process, we had some question about the 14-day public
22 notice period because the way that Proposition 11 was
23 written, there was an intention to have a much shorter
24 noticing period in the last month, for September; and
25 then, of course, when Prop. 20 overrode Prop. 11, and

1 moved the deadline up by a month, we were left without
2 that shorter noticing period that might have allowed us
3 to possibly incorporate changes, which, you know, is very
4 unfortunate, that's a drafting error, that's what happens
5 when there are, I think, competing laws that get passed
6 at different times. And I personally just want to
7 acknowledge all the people who have taken time to write
8 in, in the past two weeks, to comment on the Final Maps
9 and to share their input. I think it's -- I know that
10 all of us on the Commission really regret that we are
11 unable to make any of these changes at this point, based
12 on the legal requirements of the Act. And I know a lot
13 of these things seem simple, just one little change here,
14 and I know that all of us, it really pains us because we
15 tried very hard to make these maps as perfect as we
16 could, and we acknowledge that they're not perfect,
17 they're the best that we could do in the time that we
18 had.

19 In many cases, we didn't get comments on certain
20 districts until this period. We did not get them in the
21 initial comment period, we did not get them after the
22 first draft, and therefore were unable to incorporate
23 them into the live drawing. So, I think many people took
24 the time to comment and I'm sure this process will be
25 much better the second time around, so I just want to

1 acknowledge and thank the public for continuing to be
2 engaged, continuing to participate, and be active in the
3 drawing of the maps for the state.

4 CHAIRPERSON BARABBA: Yes, Commissioner Galambos
5 Malloy.

6 COMMISSIONER GALAMBOS MALLOY: My question is
7 regarding the actual website posting of the maps and the
8 interactive maps moving forward. They've been available
9 on the Statewide Database and I wondered for what period
10 of time the Statewide Database will continue to host
11 them, or will they at some point be hosted on our own
12 site? I don't know if we've had a chance to think that
13 through longer term yet.

14 COMMISSIONER DI GIULIO: That's a good question.
15 I will have to check into that, but I was assuming at
16 this point, since they've been posted for the last 10
17 years, that I was assuming that would continue, but I can
18 confirm that. They've hosted all the maps for the last
19 -- for a long time, '80s are still there, at least I know
20 it goes back that far, so I'm assuming it will be there,
21 but I'll just confirm.

22 COMMISSIONER GALAMBOS MALLOY: Right, thank you.

23 CHAIRPERSON BARABBA: Commissioner Aguirre.

24 VICE CHAIRPERSON AGUIRRE: Just a comment
25 following up on Commissioner Dai's statement, and that is

1 that certainly we appreciate all of the input that we
2 received, we considered it fully, email by email, item by
3 item. And even though there might be some folks that
4 might feel that we didn't do their community justice in a
5 particular instance, there were -- just to remind the
6 public that we had multiple iterations with four separate
7 sets of maps, so one of the questions that we kept
8 repeating to individuals who came up is, "What district?
9 What set of maps are you talking about? Assembly,
10 Senate, Congressional, or BOE?" So, if we didn't quite
11 hit the mark for a particular community in one district,
12 we're pretty sure that we hit it in another set of maps,
13 so trying to again do due diligence with following the
14 law, and trying to respond to the public in every way
15 that we could.

16 CHAIRPERSON BARABBA: Any other comments? Okay,
17 let's move on to the Public Information. Commissioner
18 Raya.

19 COMMISSIONER RAYA: Good morning. I think Mr.
20 Wilcox has a number of things to report on. I'm just
21 going to -- I'll let him go ahead, I'm just going to
22 remind the Commissioner that all requests for interviews,
23 speaking engagements, I don't know, what else -- circus
24 performances -- should be relayed to Mr. Wilcox as soon
25 as they are received so that he can continue to maintain

1 some consistency in our media strategy.

2 COMMUNICATIONS DIRECTOR WILCOX: Good morning.

3 Well, August 15th is two days away and the schedule is
4 that we will convene a press conference following the
5 morning's meeting in the Governor's Press Conference Room
6 1190, where we were last time, and that will be at 12
7 noon. Following that, all 14 Commissioners will be going
8 to the Secretary of State's Office on the 5th Floor in the
9 Elections Division to deliver the certified maps. That
10 will be open to the Press as a photo opportunity. The
11 question and answer session with the Commission will be
12 at the Press Conference, but this is an opportunity for
13 photos.

14 Following this meeting today, the Commission will
15 be receiving Q&A documents and talking points for August
16 15th and subsequent interviews. I continue to work with
17 Chief Legal Counsel, Litigation Counsel, on the
18 communications strategy and vetting interviews and other
19 events, and speaking engagements, and the message. That
20 will continue on August 15th, and then following if there
21 is any litigation, or a referendum. Litigation Counsel
22 agrees, as I think we all do, that it is still very
23 important for the Commission to be out front with a
24 consistent, strong message, talking about the success of
25 this process, the transparency, and the public

1 participation, and Litigation Counsel believes that is a
2 message that can be continuously delivered, and we will
3 continue to find those opportunities to do that, and to
4 maximize those opportunities.

5 As far as our website, post-August 15th and post-
6 litigation, the website will reflect litigation that is
7 filed and we'll keep the public updated to that
8 information. And we will continue along the way to
9 update, and tweak, and whatever we have to do, the
10 communication strategy as there are different
11 developments, but we want to remain nimble and quick in
12 our responses. Are there any questions?

13 CHAIRPERSON BARABBA: Commissioner Filkins
14 Webber.

15 COMMISSIONER FILKINS WEBBER: Over the past 14
16 days, we've received quite a number of public comments
17 and I've had an opportunity to review them in our drop
18 box and not necessarily those on the website, because
19 there is some delay in the posting. One thing I have
20 noticed consistently is that there appears to be a
21 problem with people actually being able to find their
22 districts, and what I'm suspecting that people are doing,
23 they're going to the website, they see the link at the
24 top that says "Maps," because when you put it on the
25 screen, that's the first thing you see, so they're not

1 necessarily using where it says "Click here to view the
2 Preliminary Final Maps of the Statewide Database." So
3 when they go to the tab for "Maps," if they just go to
4 "Preliminary Final," you're just getting the actual data,
5 you're not getting the maps, so I was wondering if there
6 was a possibility you could put the link to the Statewide
7 Database on our Map page, rather than the front page,
8 because, as items fill up, if people are looking solely
9 for the maps, they're just going to go straight to that
10 little tab because that's what I think is happening.

11 COMMUNICATIONS DIRECTOR WILCOX: Excellent
12 suggestion, and I know that Christina is listening right
13 now, so thank you.

14 CHAIRPERSON BARABBA: And knowing Christina,
15 they're probably working on it. Yes, Commissioner Raya.

16 COMMISSIONER RAYA: I also just note that the
17 assignments -- did you get my email?

18 COMMUNICATIONS DIRECTOR WILCOX: Yes.

19 COMMISSIONER RAYA: The assignments, the point
20 people for the Press Conference are the same as last
21 time. Does anybody not know who you are, what your job
22 is? Okay. Sorry, I'm trying to go back to that page.
23 Go ahead.

24 COMMISSIONER GALAMBOS MALLOY: Also, in thinking
25 about and reviewing the number of public comments that

1 we've had in recent days, I know there have also been
2 some inquiries that we've seen in public comment, as well
3 as in the Press, that have to do with any Commissioners
4 who have in the past, or who may in the future vote no on
5 any given set of maps, and whether that was our intention
6 or not, it seems that there is some perception in the
7 public as though Commissioners are being prohibited to
8 speak. And my understanding of what we decided on last
9 time in terms of our communications protocol, was really
10 that we were trying to streamline our messages and our
11 messengers over a period of time, but that we were in no
12 way prohibiting any Commissioner, we all have First
13 Amendment right to be able to speak, and that any
14 individual Commissioner who was approached by the Press,
15 or who felt so inclined, could certainly work with staff
16 and with our litigation firms to form statements
17 regarding their votes, or any other matters. So I just
18 wondered if you could clarify that procedure for us and
19 the intent.

20 COMMUNICATIONS DIRECTOR WILCOX: That is correct.
21 There is no prohibition, but we're all working together
22 and working with litigation counsel, and all
23 Commissioners. And that when it's appropriate, and when
24 the Commissioner feels that they would want to respond to
25 something, we work together to see how we're able to do

21

1 that, but it's through a process and that it is very
2 important to continue communication, but in this post-
3 August 15th, if there is going to be litigation, it has to
4 be done very carefully. But, certainly, not a
5 prohibition or a shutdown on the communication.

6 COMMISSIONER GALAMBOS MALLOY: Thank you for
7 clarifying.

8 COMMISSIONER RAYA: Let me just -- oh, you have
9 the list? Go ahead.

10 COMMUNICATIONS DIRECTOR WILCOX: So, for
11 questions on certain subjects at the August 15th Press
12 Conference, for the Voting Rights Act, it will be
13 Commissioner Ancheta, for Litigation, it will be
14 Commissioner Forbes, on State Senate and Deferral issues,
15 it will be Commissioner Filkins Webber, Finance issues
16 will be Commissioner Dai, and Public Information and
17 Outreach will be Commissioner Raya. Thank you.

18 CHAIRPERSON BARABBA: Comments or concerns
19 relative to the Public Information? Okay, there being
20 none, let's move on to the Legal discussion topics.
21 Commissioner Filkins Webber, do you want to get started
22 there?

23 COMMISSIONER DI GIULIO: And, Commissioner
24 Barabba, may I make one mention, I should have mentioned
25 for the technical, just an update on the Final Narrative

1 Report, that as you have all seen that there has been --
2 and I think Commissioner Dai has passed that around, who
3 has done an incredible amount of work, with some
4 assistance with Commissioner Barabba, putting that
5 together --

6 CHAIRPERSON BARABBA: I take direction quite
7 well.

8 COMMISSIONER DI GIULIO: Yes, we know that! But
9 that has been put together, I believe Commissioner Dai
10 passed around, and I think in conjunction with Gibson,
11 Dunn, and Associates, the final version last night. So
12 just a reminder to review that and that will be a
13 discussion point for Monday.

14 COMMISSIONER DAI: Yeah, I'm not sure that
15 actually got distributed because we're still verifying
16 all the parts, but there is a complicated authentication
17 procedure to make sure the electronic files are not
18 tampered with that we're going through right now, but it
19 will be ready in time for Monday.

20 CHAIRPERSON BARABBA: There is a third term that
21 has come up and it's called "hashing," that was a new
22 term that hopefully we won't have to use again, either.
23 Okay, so Commissioner Filkins Webber.

24 COMMISSIONER FILKINS WEBBER: Thank you. The
25 first item on the legal discussion agenda is the

1 Department of Justice Pre-Clearance. It is my
2 understanding that Commissioner Blanco and Counsel George
3 Brown may have had a meeting with the Attorney General,
4 so I would like to turn it over to Commissioner Blanco if
5 you have anything to report back to the Commission
6 regarding your meeting.

7 COMMISSIONER BLANCO: I'll start and then Mr.
8 Miller should more than fill in. So, the meeting
9 actually took place; present for the Commission, I was
10 present, and then our Chief Counsel, and then Mr.
11 Brosnahan from Morrison & Foerster, and George Brown of
12 Gibson, Dunn. We had requested to meet with the Attorney
13 General herself, Ms. Harris, but she did not attend. The
14 meeting was with her Governmental Affairs Deputy, and Mr.
15 George Waters, who is sort of an expert on Election Law
16 and other -- I'm not sure it's redistricting, per se, but
17 I think the best way to describe it is he's done a lot of
18 Election Law issues.

19 The meeting was basically, as the Commissioners
20 know, the Attorney General has indicated to us and stayed
21 firm after yesterday's meeting, that they would not
22 defend the Commission. So our meeting was to say, "Let
23 us at least give you a legal overview of how the
24 Commission functioned, how we drew the maps, here's what
25 is going to be in our report, here is how we applied the

1 law," etc. And Mr. Brown gave an excellent presentation,
2 sort of how we used the criteria, etc. The next item on
3 the agenda was to talk about the Section 5 submission
4 because we have also received -- the Attorney General has
5 also indicated that they will not file a submission to
6 the Department of Justice for Pre-Clearance on our four
7 Section 5 Counties. And we spent a great deal, amount of
8 time on that same, basically asking why that is the case.
9 The data is there, we haven't retrogressed, this is not
10 rocket science on the Section 5, can you please give us
11 an explanation of why this, at some level ministerial
12 task, has been handled by Attorney Generals for the last
13 four, at least, redistrictings, and probably more, why
14 the Attorney General's Office won't be handling that now.
15 We did not get an answer. I mean, they confirmed that
16 they will not be doing it, but when we pressed and asked
17 why, they literally said, "Well, we don't have an answer.
18 And we hope you won't take silence to be negative." We
19 said, "Well, it's hard for us to know if it's negative or
20 not if we don't have an explanation as to why."

21 So the attorneys at the meeting spoke, sort of
22 addressed the legal issues about how it works, why a
23 submission that you can either go through the DOJ or that
24 we can go to a three-Judge panel in D.C. for Pre-
25 Clearance, there are two ways to do it.

1 I had addressed -- I was there as a client, and
2 what I discussed fairly strongly was that I thought that
3 the Commission deserved an explanation as to why the
4 Attorney General would not handle the submission, and
5 that, you know, we might be okay with her answer, but
6 what was not okay was not to give us an answer, and I
7 felt that that was somewhat disrespectful of the
8 Commission to not give us a reason.

9 So, the other issue that we raised on the same
10 matter is, once we submit the maps for certification on
11 Monday, the legal effect of that is the maps become a
12 piece of legis -- you know, they become a bill that's
13 been passed, it becomes a piece of legislation. And then
14 we're done with what we did, which was basically creating
15 this bill and the maps are a piece of legislation that's
16 been passed, and they get submitted. And the question is,
17 who is supposed to, if the Attorney General doesn't
18 submit the maps on behalf of the State of California, who
19 does? I mean, it's a novel issue, we said we really
20 don't know, does the Commission have the authority to, on
21 its own, submit these maps as a Constitutional Commission
22 on behalf of the State of California? So we asked them
23 to consider that and get back to us on that, as well.
24 So, where we left it was that we would like to meet again
25 after the submission of the maps, both to hear further

1 explanation as to why the Attorney General did not feel
2 that it was necessary to submit the maps on our behalf,
3 and their thinking on who, if not the Attorney General,
4 who is the proper entity to submit this to the DOJ. So
5 that's sort of my report from the point of view of a
6 Commissioner at the meeting, but Mr. Miller was there as
7 our attorney and he probably has a different perspective.

8 MR. MILLER: I do not have a different
9 perspective. I just offer a very short commentary. One
10 of the purposes, as Commissioner Blanco explained, was to
11 educate the Attorney General and I think that that
12 occurred very successfully and in a way that would be
13 difficult for her lawyer's to have the same information
14 any other way, without very carefully following our
15 proceedings for the last six months, which would be a
16 pretty high expectation.

17 I also thought, while we did not get a
18 substantive response from the lawyers we met with, who
19 were very courteous, but not substantive in what they had
20 to say, I thought it was a successful meeting because the
21 platform was set to come back, and the questions were
22 posed in a way that it was very reasonable to believe
23 that a more substantive response might be possible in a
24 subsequent meeting. So, I would say we accomplished what
25 we had hoped to by getting a hearing and putting

1 something in front of them to respond to us with.

2 COMMISSIONER YAO: Could Commissioner Blanco or
3 Mr. Miller clarify for the rest of the Commission the
4 timeline or the schedule associated with this Pre-
5 Clearance submittal? When I heard the word "Pre," I get
6 nervous when we are just about ready to Final approve the
7 maps.

8 MR. MILLER: that process doesn't affect our
9 timeline with respect to approving the maps, and the
10 statute only includes one timeframe, and that is that the
11 Department of Justice has 60 days in which to evaluate
12 what we submit to them, so it doesn't give us a deadline
13 in terms of when we provide it to Justice, but that said,
14 we want to do it very promptly because we need the
15 response from the Department of Justice before elections
16 can be held in these districts, hence the urgency of our
17 meeting and our desire to move, once the Commission votes
18 on maps, to the next stage which is preparing our
19 submittal.

20 COMMISSIONER YAO: I would like an explanation as
21 to what the subsequent process is likely to be in the
22 event that they ask for, let's say, some minor changes,
23 or major changes. Does this Commission have the
24 authority to make changes at that point in time if that
25 is the request from the DOJ?

1 MR. MILLER: Well, that's something we've been
2 thinking about and I don't believe the State Constitution
3 clearly gives us that authority, so we have to kind of
4 speculate as to what the process would be. I will offer
5 this solely in the form of speculation because we don't
6 have an answer; one possibility might be that the Supreme
7 Court would instruct the Commission to do so, or that it
8 would appoint Masters to do so, but that is speculation,
9 we don't presently have a clear answer to what would
10 occur.

11 VICE CHAIRPERSON AGUIRRE: Yes, I agree with
12 Commissioner Blanco's assertion that we should expect a
13 response from the AG, you know, I think our understanding
14 of the Attorney General is he is the lawyer for the
15 people of California -- she is -- that she is a lawyer
16 for the people of California, that as a Commission we are
17 the representatives of those people of California, and as
18 Constitutional officers, then, we have done the work of
19 the Legislature to put forth to our best ability the
20 fulfillment of the requirements of Prop. 11 and Prop. 20,
21 so if, in fact, the AG continues to refuse or to deny the
22 submission of these Section 5 Pre-Clearances on our
23 behalf, then what options do we have? Is it our General
24 Counsel that takes on that responsibility? Is it our VRA
25 lawyers that take on that responsibility? You know, do

1 you have any clarification in those areas?

2 MR. MILLER: Well, assuming the Attorney General
3 does not change her position in this, then it's up to the
4 Commission to decide what it feels the best course would
5 be and we are prepared to undertake that filing together
6 with VRA Counsel in the event that's what the Commission
7 would like us to do.

8 CHAIRPERSON BARABBA: Commissioner Filkins Webber.

9 COMMISSIONER FILKINS WEBBER: As I understood
10 what Commissioner Blanco had stated previously is that,
11 aside from wanting a response, which we're not going to
12 get, or something more substantive, there was also an
13 inquiry regarding whether the Commission actually has
14 jurisdiction to do the submission, so if we do make a
15 determination that it would be prepared by the
16 Commission, are we still waiting for confirmation from
17 the AG that we will be permitted to do so? Or, are we
18 going to do so anyway, absent, you know, Constitutional
19 prohibition, and absence of a -- or, actually, in light
20 of the decline from the AG? In other words, are we going
21 to assume, or are we going to wait for some sort of
22 verification from the AG's Office as to who has
23 jurisdiction?

24 MR. MILLER: Well, I would say that, informally,
25 along the way as this has developed, and it started

1 months ago when it was first visited with the Attorney
2 General, it was our understanding at that time that they
3 would prepare the report, then it became they would sign
4 the report, and now it's they don't feel they should have
5 their name on the report, or at least that's what caused
6 our meeting. The informal reference was it would
7 certainly be their view that it was appropriate for the
8 Commission to do the work. So I'm not anticipating -- we
9 could ask them for something more formal and they might
10 provide that, but I feel comfortable saying they would
11 certainly not object to the Commission filing the
12 report.

13 COMMISSIONER FILKINS WEBBER: Oh, I guess I
14 misunderstood. I thought Commissioner Blanco had said
15 something that they were supposed to be getting back to
16 us to determine if the Commission would still be the
17 proper entity to submit that. Are we still waiting for
18 anything further from them? Or are we just going to take
19 the liberty of doing so, given their declination?

20 COMMISSIONER BLANCO: That, I think that's just
21 an aside, my point was that we made that -- in trying to
22 clarify our puzzlement, one of the things that we said
23 was, you know, "In getting back to us, can you tell us
24 who you think has the authority, if you're not going to
25 do it, who?" But I think it was something we wanted

1 included in the response, sort of in order -- as part of
2 their clarification of the position that they're taking
3 to not submit this on our behalf. I don't think that we
4 were -- I didn't mean to imply that we were waiting for
5 them to decide that as a legal matter before we would --

6 COMMISSIONER FILKINS WEBBER: I completely
7 understand, which is, of course, they won't be able to
8 cite to anything, so therefore they better have better
9 justification as to their declination.

10 COMMISSIONER BLANCO: That's right.

11 MR. MILLER: I complete -- the only thing I might
12 add to that is that I think it would be in our best
13 interest to wait until we have another opportunity to
14 speak with them before making any final determination
15 about how we would proceed.

16 COMMISSIONER FILKINS WEBBER: So Legal will put
17 it on the agenda and will maintain status on this?

18 MR. MILLER: Absolutely. This, you know, as the
19 work changes going forward, this is an example of a very
20 high priority of something new to engage in.

21 COMMISSIONER DI GIULIO: And could someone just
22 review the timeline for this, as well, too? I understand
23 that it may be pushed off if there is a referendum and
24 things like that, but maybe someone could just touch base
25 as to how much time we have, or best and worst case

1 scenario.

2 COMMISSIONER BLANCO: The question is when are we
3 shooting to submit this, given all the other things we're
4 tying up and waiting to hear back from them, as well?

5 COMMISSIONER FILKINS WEBBER: And what impact the
6 referendum might have on a delay on the submission.

7 MR. MILLER: Well, I don't think that, if the
8 fact that a referendum might be circulated should change
9 our view on doing a submission. I think, given the
10 urgency of the matter, it's reasonable for us to inquire
11 about another meeting at the end of next week, or early
12 the week thereafter. So these are, you know, we were not
13 asking questions that required a lot of research.

14 CHAIRPERSON BARABBA: Commissioner Raya.

15 COMMISSIONER RAYA: I just have a comment, apart
16 from all this, being Constitutional Officers of some
17 kind, Commissioners, just speaking as a citizen, I would
18 find it very disappointing and I would assume that there
19 are other citizens out there in the state who would feel
20 the same way, that after all that has been invested in
21 this process, that any part of it would be delayed by
22 other officers of the state who have taken the same oath
23 that we have, to do the job that is asked of us under the
24 law.

25 CHAIRPERSON BARABBA: Commissioner Aguirre.

1 VICE CHAIRPERSON AGUIRRE: Yes. And I would add
2 to that that, given the urgency and the kind of
3 nebulousness of how we should proceed, perhaps we could
4 send a letter of communication to the AG referencing this
5 meeting that will highlight the urgency that we feel for
6 some kind of response from them, reiterating the
7 expectation that, as the lawyer of the People of
8 California, that they should reconsider their position.

9 CHAIRPERSON BARABBA: Commissioner Forbes.

10 COMMISSIONER FORBES: Yes, I just have to also
11 chime in to say that the Attorney General took the same
12 oath that we did to uphold the State Constitution. Prop.
13 11 is part of the State Constitution. I don't see how
14 you can justify, having taken that oath, and not
15 defending the State Constitution.

16 CHAIRPERSON BARABBA: Commissioner Blanco.

17 COMMISSIONER BLANCO: I think it would be very
18 good to write a letter because I think, up until
19 yesterday, the communication had sort of been a very
20 attorney-to-attorney communication, and it was very -- it
21 was very clear to me, at least, that when a
22 representative from the Commission was there sort of
23 saying, "We've done all this work, we've been put in the
24 stead of the Legislature through Prop. 11 and Prop. 20,
25 and we as Commissioners have not received any

1 explanation," the meeting took somewhat of a different
2 turn when it was from the point of view of the Commission
3 expressing concern, and not just sort of a legal
4 conversation. And one of the things why I think it would
5 be good to write a letter, one of the things I expressed
6 to the Representatives from the AG's office, is that to
7 the extent that this is a new way of doing business, the
8 Commission's being in charge of redistricting, that one
9 way to interpret this refusal to sort of act on our
10 behalf for what is a routine process, could have the
11 impact of relegating us to a sort of an inferior status
12 that takes away from our stature in the public eye, and
13 that I thought that that was a bad message to send about
14 the role of the Commission and, to the extent that there
15 are critics of the Commission, that does concern me, that
16 going forward this could be seen as minimizing us, you
17 know, that we don't have the same role that the
18 Legislature did when they drew districts because, when we
19 draw them, we don't get the support of the Attorney
20 General even for a routine filing.

21 So, I think that it's beyond just these maps, my
22 sense is that, for the Commission and Commissions going
23 forward, that just as we're figuring out all the other
24 things about how a Commission works, and it's a first
25 time matter, that making this point very strongly through

1 a letter and requesting an explanation actually has an
2 impact for future Commissions and for the stature of this
3 body.

4 COMMISSIONER GALAMBOS MALLOY: A couple points.
5 I definitely agree with many of the sentiments that have
6 been expressed here. I, at the same time, recognize
7 that, as the Attorney General is accountable to the
8 citizens of California, the AG is also in a tricky
9 position of holding certain relationships with the
10 Legislature, and so, you know, I just want to acknowledge
11 that. But, to me, whether or not the AG's Office decides
12 to submit on our behalf or not, the silence could pose
13 issues for us from a legal perspective and from a public
14 perception issue, and I think that, you know, for them to
15 have a sit down meeting with us and have the AG's
16 representatives tell us, "Well, don't interpret the
17 silence negatively," that's easier said than done when
18 we're really operating here from the Court of Public
19 Opinion. And so, to me, it's not whether they submit or
20 not, it's that we have a clear opinion or statement from
21 the AG's Office as to why they make the decision that
22 they do, that allows us to proceed with that on the
23 record.

24 From a pragmatic perspective, I'm assuming that
25 the AG's Office will not submit on our behalf, from

1 everything that we've heard up to this point in time.
2 And I recognize that we are agendized to meet every day,
3 but it seems, you know, I'm just asking more, if we are
4 to assume that we're probably going to have to submit
5 this, our staff and our outside firms, are poised to
6 spring into action on this, so likely this would be
7 happening unless there is litigation that we need to meet
8 regarding, this would be happening without us having to
9 convene as a Commission and take action on the actual
10 Pre-Clearance document, itself. I'm not sure, would that
11 be Commissioner Blanco, or a question for Mr. Miller?

12 MR. MILLER: Well, I think that we should report
13 back to the full Commission on the outcome. Since -- the
14 requirement of a filing is a legal requirement, so I
15 suppose one could assert that the Commission doesn't need
16 to take action on making that happen, but because we have
17 these unusual facts and ambiguity about what we thought
18 would occur and what typically occurs, and other options,
19 my suggestion is we report back to the Commission on
20 this. Later in the agenda, we'll be discussing a method
21 for telephonic commission meetings that would permit us
22 to have that discussion with you again, and I think that
23 would be a prudent way for us to proceed, which would let
24 everyone be informed and get your guidance regardless of
25 how we wish to proceed.

1 I just wanted to say two other things. I will,
2 of course, be very happy to prepare the letter that was
3 discussed this weekend and have it available for you
4 Monday, and as a participant in the meeting, I feel the
5 -- I'll call it restrained frustration -- of the
6 Commission about these facts, and I want you to know that
7 Commissioner Blanco represented those extraordinarily
8 well and almost, as I'm just looking around, it's kind of
9 remarkable, word for word, if you sum up the totality of
10 the concerns expressed, so you can have confidence that
11 what you're thinking and saying was indeed present in the
12 room and we'll follow that with a letter, and then I
13 think probably we'll need to have a telephonic meeting to
14 advise of the nature of the response.

15 CHAIRPERSON BARABBA: By the way, that does not
16 surprise me that Commissioner Blanco would have
17 represented us that way. Commissioner Dai.

18 COMMISSIONER DAI: Yeah, my only request is that
19 we ask for a meeting this week, I mean, not next week,
20 not the week after, this is something we need to get
21 moving.

22 CHAIRPERSON BARABBA: Commissioner Filkins Webber.

23 COMMISSIONER FILKINS WEBBER: In considering the
24 report back, I have two follow-ups that we can probably
25 add to the agenda. My first concern is whether or not

1 our -- I think you said that you would be working with
2 our VRA counsel, which would be Mr. Brown. Is that
3 correct, if there is going to be a Commission prepared
4 document?

5 MR. MILLER: Yes.

6 COMMISSIONER FILKINS WEBBER: Okay, never mind,
7 then. Anything further on this issue, I've documented
8 that we'll follow-up at our next meeting.

9 Next item are the PRA requests. It's my
10 understanding following the last meeting that Mr. Leitch
11 was going to be putting together a spreadsheet, is that
12 what is coming around to us?

13 MR. MILLER: It is. I can do a quick report for
14 you on this that I think puts everything in perspective.

15 COMMISSIONER FILKINS WEBBER: Great, let's get
16 the document and then I have a few questions.

17 MR. MILLER: In looking at this chart, I'd like
18 to start with a conclusion, and then tell you what it
19 means. The conclusion is that the Commission has been
20 very responsive to those who have requested documents
21 subject to the Public Records Act. On the left-hand
22 side, we've depicted the number of PRA's we've received
23 and the number from each requested, and in column 1, all
24 of those requests have been satisfied; that just leaves
25 four PRA requests where we're still collecting documents,

1 they are on the right-hand side of the front page. And
2 if you turn it over, we've just for reference broken down
3 the general nature of what each of these four seeks. So,
4 under that first one, PRA 12, Abrams, there were seven
5 separate requests and we just tried to summarize what was
6 contained in each of those. And, of course, that
7 methodology continues for the other four, which we're
8 still fulfilling. And then the final page indicates
9 which Commissioners still need to respond to these last
10 four requests. But, unlike the Attorney General -- well,
11 like the Attorney General -- I will say there is no
12 negative inference in having a "W" next to your name at
13 this point. And indeed, I think it's remarkable that
14 there are only four outstanding where documents still
15 need to be collected, given the other work of the
16 Commission in the past six months.

17 COMMISSIONER FILKINS WEBBER: Is there actually
18 another PRA that is pending? Are we up to 20? Or do we
19 have 21?

20 MR. MILLER: Unless there is one that has come in
21 since Thursday when this was prepared, there should be
22 just 20.

23 COMMISSIONER FILKINS WEBBER: It's my
24 understanding there was one that came in earlier last
25 week, before Thursday.

1 MR. MILLER: If there is no one referenced here,
2 I will double-check that.

3 COMMISSIONER FILKINS WEBBER: Please do so.

4 COMMISSIONER BLANCO: Mr. Miller, when it says
5 the "W" for "waiting," I mean, I'm surprised, I thought I
6 had responded to some of these. If we don't have
7 anything to that effect and we've said that, what
8 happened? Because I think I said that about some of
9 these request, that I didn't have anything -- I'll go
10 through it again, but I thought some of these were
11 communications with Q2 and Barretto and, for example, on
12 15 and 13, I mean, on a lot of these, I thought I had
13 said "here's all I have." And I have done that, so does
14 the "W" mean we need a more specific response from us?

15 MR. MILLER: No, it does not. First of all, I
16 think the system is working very well, but it is possible
17 that you responded to say "I have no documents," and we
18 missed that response. But we're not saying in this chart
19 "you didn't respond well enough" or anything like that.

20 COMMISSIONER FILKINS WEBBER: At this point, Mr.
21 Miller, would you have a recommendation on a compliance
22 date for our Commissioners, so we can have a due date for
23 us to be all up to date, preferably - I would recommend
24 within a matter of a few days, at least, maybe a week at
25 this point because anything can happen after Monday, and

1 we certainly want to get these under wraps before we move
2 forward on anything that could be more complicated for
3 the Commissioners. Would you agree or ...?

4 MR. MILLER: Well, if the Commissioners can check
5 their records this week and respond, I would consider
6 that just fine.

7 COMMISSIOENR FILKNS WEBBER: Okay, so we'll put a
8 due date for the Commissioners by Friday --

9 CHAIRPERSON BARABBA: That would be the 19th.

10 COMMISSIONER FILKINS WEBBER: August 19th, thank
11 you. Commissioner Di Giulio.

12 COMMISSIONER DI GUILIO: Okay, I have two
13 questions. On is, so on a technical side, if you do not
14 have a "W" that means you're not a part of that request?

15 MR. MILLER: That's correct.

16 COMMISSIONER DI GUILIO: Okay --

17 MR. MILLER: Either that or you've responded.

18 COMMISSIONER DI GUILIO: Well, I would assume if
19 it was responded to, you would have an "X."

20 MR. MILLER: That's correct.

21 COMMISSIONER DI GUILIO: So if it's not there,
22 that means you're not a target, for lack of a better
23 word?

24 MR. MILLER: Yes.

25 COMMISSIONER DI GUILIO: And the other thing is,

1 I know that some of these requests, there's usually all
2 communications concerning these documents up until a
3 certain date, and other than the PRA 13, which has a
4 specific time, do you have the times for which, you know,
5 what is the last day for these emails? I believe, if I'm
6 not mistaken, there was up to a June certain date, or
7 August something, but anything past that we don't have to
8 continue to -- that's what it did in the past.

9 MR. MILLER: Yes, there's two rules, one is the
10 PRA itself may bookend the dates during which it is
11 seeking documents, and we'll be glad to go back and check
12 what those dates are for any particular one, if that is
13 helpful to you. The other thing I would just say is, you
14 can't as a requester ask for documents on a going forward
15 basis, so the date the request is made is always the last
16 date possible, you don't have to respond to anything
17 subsequent to that. But I think your question is
18 different; if someone said "give us the documents you
19 have from May and only May," we'll be glad to check for
20 those limitations in the requests.

21 COMMISSIONER DI GIULIO: And I think Commissioner
22 Dai mentioned that those dates are probably on the Public
23 Records Act, on our website, but I do think, yeah, there
24 was a date --

25 COMMISSIONER FILKINS WEBBER: For instance, item

1 PRA 20 was received July 21st, so to the extent that this
2 particular request seeks documentation, any Commissioner
3 that is looking at it can be assured that they would be
4 providing documentation at least up to -- actually only
5 up to July 21st, provided that the PRA doesn't have any
6 other date limitation. So that's the manner in which the
7 Commission should be instructed about how to respond to
8 these, if there is no other dates identified in the PRA?

9 MR. MILLER: That's right. If the request was
10 received on, let's say, July 21st, and you have something
11 from August 5th, you're not required to provide that
12 August 5th document.

13 COMMISSIONER DI GUILIO: And simply for
14 clarification, it's simply just to make it easier for us
15 as we go through all our documents, that we know there's
16 a start and end period, and anything past that we don't
17 have to -- just as a simplification for the public to
18 know that's what we're looking at, is that date up until.

19 MR. MILLER: That's correct. And these are
20 posted on the website, but if there are any questions
21 about specific ones, please email me or call and we'll
22 help you with them.

23 COMMISSIONER FILKINS WEBBER: The other question
24 that I had, Commissioner Di Guilio had raised it last
25 time, about some potential errors in our past responses,

1 primarily as to our attendance records, and as I
2 understood, Ms. Sargis, you were going to go back through
3 the videos and correct any attendance issues in order to
4 adequately have documentation of them on our records,
5 that our PRA request could either be corrected, or that
6 any future requests for attendance records, then,
7 obviously just for our archival purposes, because Ms. Di
8 Giulio had pointed out before that there might have been
9 some errors in that. So what is the status on that?

10 MS. SARGIS: I've been working on confirming the
11 motions and I believe there is another staff person that
12 is working on the attendance.

13 COMMISSIONER FILKINS WEBBER: Mr. Claypool.

14 EXECUTIVE DIRECTOR CLAYPOOL: Right, so to
15 expedite that process, we separated the two, so Janeece
16 is ensuring that the motions are all correctly motioned
17 and we're moving forward with the attendance with some of
18 our interns, just going through and marking it down, and
19 then comparing them against the attendance records to
20 ensure that they're correct. Where there are
21 discrepancies, then we'll come back and ask Janeece to
22 verify those at that point.

23 COMMISSIONER FILKINS WEBBER: Great, thank you.
24 Anything further on PRAs from any Commissioners? Okay,
25 so August 19th is a due date for the response to the last

1 four. Mr. Miller, you will check into the one that came
2 in last week. Then, moving on, Item 3, the Gibson, Dunn
3 conference call update, and I didn't take any notes, in
4 fact, the Commission did hold a conference call, if I'm
5 not mistaken, I think it was Thursday? Okay, and were
6 you on the call, Commissioner Dai?

7 COMMISSIONER DAI: Yes.

8 COMMISSIONER FILKINS WEBBER: Would you like to
9 provide a summary to the Commissioners?

10 COMMISSIONER DAI: Sure, briefly. We just
11 discussed the final report and all the last minute pieces
12 that need to come together and discussed the fact that we
13 will be, you know, presenting that to the Commission and
14 to the public in its final form on Monday before we go
15 through the votes and there was some discussion about
16 moving the schedule up to make sure there was enough time
17 to do that, so it's really a chance to walk through the
18 Table of Contents and the Appendices in the report, which
19 everyone on the Commission has seen, but just for the
20 benefit of the public --

21 COMMISSIONER FILKINS WEBBER: And, Mr. Miller,
22 you are anticipating that we'll continue with these
23 weekly conference calls while we're monitoring issues?

24 MR. MILLER: It's really in the discretion of the
25 Commission how you feel you can best be informed and

1 there are options for that, including these calls.

2 COMMISSIONER FILKINS WEBBER: Okay, I think right
3 now we would like to move forward with the ongoing
4 conference call for next week, primarily we can agendize
5 like the DOJ submission discussion would be good to
6 discuss with Mr. Brown, and we'll obviously circulate any
7 additional agenda topics as those issues might arise next
8 week, so at least, for now, we will continue on our
9 present --

10 MR. MILLER: Very well and just for convenience,
11 if we could -- I think Tuesday afternoon has been a
12 pretty good date for that, it sometimes changes based on
13 various needs, but I'll work with that date if that's
14 satisfactory.

15 COMMISSIONER FILKINS WEBBER: That's great, thank
16 you. Moving on to Item 4, we have our delegated
17 Commissioners Forbes and Ancheta to provide a report
18 back, if any, on the status of litigation management, if
19 there is anything to report back at this time.

20 COMMISSIONER FORBES: We have had several
21 conversations with our attorneys regarding the potential
22 for litigation and how we might approach that, and how we
23 might also address communications with the Commission as
24 a whole, and those will be ongoing. Angelo?

25 COMMISSIONER ANCHETA: Yeah, I don't have much to

47

1 add. The good news is that we have not been sued yet,
2 which is good, not yet. I don't -- Mr. Miller, are we
3 planning to go into closed session at all for this
4 meeting, or -

5 MR. MILLER: We can do that if the Commission
6 feels that there is a need to do that at this meeting.

7 COMMISSIONER ANCHETA: Yeah, I mean, there are
8 some -- it would probably not take longer than five or 10
9 minutes, I think, we just wanted some updates.

10 COMMISSIONER FORBES: Do you want to do it at the
11 end or --

12 COMMISSIONER ANCHETA: Whatever is convenient.

13 COMMISSIONER FILKINS WEBBER: Why don't we do it,
14 maybe, right before lunch?

15 COMMISSIONER ANCHETA: That's fine.

16 COMMISSIONER FILKINS WEBBER: Anything further on
17 that agenda item? Item (a), approval of Gibson, Dunn &
18 Crutcher lawyers to work on litigation. Mr. Miller, you
19 added that?

20 MR. MILLER: Yes. I believe I sent the
21 Commission these resumes by email prior to the meeting,
22 but we're also giving you a hard copy. This is a follow-
23 up from the Commission's policy that lawyers and
24 consultants who work on its matters be cleared, if you
25 will, by the Commission. It is crystal clear with

1 respect to the law firms what the conflict criteria are.
2 In the email that I sent the Commission prior to the
3 meeting, I included Mr. Brown's discussion of the process
4 that the firm itself used in vetting the lawyers that
5 would work on these matters. It is not clear, in fact,
6 that all of these will be working for the Commission, but
7 we wanted a stable, if you will, of hands that are ready
8 in the event more are needed sooner, and this is in the
9 nature of an insurance policy to have presented these to
10 the Commission with the representation that they do not
11 have any of the conflicts that are precluded by the
12 Constitution and the statute.

13 COMMISSIONER FILKINS WEBBER: I do have one
14 question. As I did go through these, one thing that I
15 found of interest to me through other consultants that
16 have presented, you know, responses to our bids and
17 whatnot, is that we always received a resume that
18 actually identified an individual's work history and, for
19 instance, quite a number of people who had requested to
20 our bids, I think some of the workers even like at the
21 Rose Institute, they had some people that were, in
22 response to a bid that we did, that they provided their
23 resumes that evidenced their work history, and the fact
24 that some of them might have had some connections with
25 the Legislature, or elected representatives, may have

1 worked on a campaign, things of that nature, and that's
2 not among any of this material, and I don't recall if Mr.
3 Brown was hesitant in actually turning over a resume,
4 which obviously they would have, for each of these
5 individuals because they hired them. So, I was wondering
6 if that's something that we could get -- now, they could
7 have responded just generically to the conflict of
8 interest, which deals with contributions and whatnot, but
9 we never know if there's a possibility that any of these
10 individuals volunteered or worked for anybody, and so
11 employment history, I think, is significant.

12 MR. MILLER: I did ask Mr. Brown specifically
13 about resumes previously, and you're correct that they
14 receive those at the time of hire. These are not
15 necessarily new lawyers to the firm, however, and the
16 resume the firm maintains is in the form that I provided
17 you here. In addition to this, however, internally the
18 firm did a certification against our conflict criteria,
19 so it's the message I provided you from Mr. Brown plus
20 these resumes, that is what the firm has provided to
21 date. If the Commission wishes more than that, I'll be
22 glad to follow-up with him, or ask him to present
23 directly.

24 CHAIRPERSON BARABBA: Commissioner Galambos
25 Malloy.

1 COMMISSIONER GALAMBOS MALLOY: I would concur
2 with the thoughts that Commissioner Filkins Webber has
3 shared and, as I think back to the time when we were
4 reviewing our applications for consultants, where we
5 found conflicts, it was not in the general answer to the
6 questions that we had posed, it was in detailed review of
7 the resumes, where we were actually able to see the names
8 of who people had worked for, the names of individual
9 Legislators, or organizations, and unless there is a way
10 that the firm could confirm that these are comprehensive
11 biographies, as opposed to how I'm reading them, which is
12 more of a selective biography, or CV, whatever we want to
13 call it, then I do think we would want to maintain the
14 same standard of due diligence that we had with our
15 previous consultants to date. So I think that we should
16 put in the request, and if Mr. Brown or others, if they
17 have a formal response that can provide more
18 clarification, that would be appreciated.

19 MR. MILLER: We will certainly do that.

20 COMMISSIONER FILKINS WEBBER: Thank you.
21 Anything further on the resumes? Commissioner Parvenu.

22 COMMISSIONER PARVENU: I have a quick, probably a
23 separate matter.

24 COMMISSIONER FILKINS WEBBER: Microphone?

25 COMMISSIONER PARVENU: On page 13, just what is

1 the distinction between an Associate having a "No" under
2 the category of conflicts as opposed to "Nothing further
3 to disclose?"

4 MR. MILLER: The difference is that both of these
5 lawyers previously responded.

6 COMMISSIONER PARVENU: Okay. Thank you.

7 COMMISSIONER FILKINS WEBBER: Anything further?
8 Commissioner Di Giulio.

9 COMMISSIONER DI GIULIO: Just as a technical
10 note, since we've asked -- we need people to approve
11 these as a Commission, correct? Before they can start
12 working? I'm not sure. Are they already working, or do
13 we anticipate them needing to work before we get the
14 other additional information to review and approve?

15 COMMISSIONER FILKINS WEBBER: Mr. Miller, do you
16 know if they are not utilizing these individuals, or at
17 least the new individuals, those that haven't been
18 approved yet?

19 MR. MILLER: I think that is correct. As you
20 know, Kahn-Skolnick has worked previously and is working
21 very heavily with Commissioner Dai on the Final Report.
22 Because we don't have litigation matters for which these
23 people have been designated, I don't believe that they
24 are working, or at least none that weren't previously
25 cleared by the Commission.

1 COMMISSIONER DI GIULIO: And I guess my concern
2 is simply that, if these are individuals that they'd like
3 to have working, in the event that there's some reason
4 they need to be working, by the time we get the resumes,
5 we're not scheduled to meet again after these next three
6 days, so do we need to have some type of --

7 MR. MILLER: One possibility is that the firm
8 could work with Commissioners Ancheta and Forbes on this
9 if that is satisfactory to the Commission.

10 COMMISSIONER DI GIULIO: And I just would note,
11 again, the hiring or staffing was needed to be done by a
12 special majority of the Commission. Is that something
13 that we could do on the phone?

14 MR. MILLER: Well, I think that with respect to
15 that provision of the Government Code, it requires a
16 special majority, I really think the intention of that is
17 the hiring of the firm itself, and I call this a kind of
18 down-stream requirement, that does not require that
19 special majority.

20 COMMISSIONER FILKINS WEBBER: Then I would
21 propose that, under the delegated authority that we have
22 provided Commissioner Forbes and Commissioner Ancheta,
23 that we make inquiry of Mr. Brown regarding the resumes
24 and that Commissioner Forbes and Commissioner Ancheta can
25 review them and, if there is any issue with regard to any

1 of them, that they can work that out with Mr. Miller, or
2 bring it back to the Commission, but if otherwise -- I'm
3 confident Commissioner Ancheta's diligence in running
4 through conflicts like we saw with some of the candidates
5 we looked over for the RPV, so I would be confident that,
6 if we can get those resumes to those two gentlemen, that
7 we could just let them sign off on it, under their
8 previously designated authority.

9 CHAIRPERSON BARABBA: Does that require a --

10 COMMISSIONER FILKINS WEBBER: I don't think --
11 it's just under their prior authority as litigation
12 subcommittee. Any other questions on this issue?

13 Okay, other legal matters. Mr. Miller, you have
14 three items there and I have one.

15 MR. MILLER: I'm going to yield the floor to Mr.
16 Claypool on Item 5(a).

17 COMMISSIONER FILKINS WEBBER: Thank you.

18 EXECUTIVE DIRECTOR CLAYPOOL: So we've been asked
19 about the legislative cleanup process and, so, I went to
20 the authorities which are generally the Legislature when
21 it comes to this, because they've done it before. The
22 legislative staff provided the following information:
23 Following previous redistricting processes, both the
24 Legislature and the Courts have allowed technical
25 corrections because of minor imperfections in either the

1 line drawing process, or the Census data. Technical
2 imperfections include any Census tract or Census Block
3 that was omitted, listed more than once, not provided
4 for, or only partially provided for. In these instances,
5 the Legislature and the Courts notify the relevant City
6 and County Election Officials of the error, and that the
7 Census geography with the error was not reflective of the
8 intent of the drawn district. In a conversation with
9 legislative staff, possible Commission remedies for any
10 such errors were to either request a bill through the
11 Legislature, or to allow the Commission to make such
12 corrections, or to petition the Court to allow a similar
13 action. However, the staffers noted that the Commission
14 would have to determine whether the provisions of either
15 Proposition 11 or 20 allowed these types of actions.

16 Finally, I received an update this morning that
17 the Legislature has posted a technical document
18 explaining exactly how the official database was
19 developed, and that this document, 37 pages of math and
20 graphs, will answer all of Mr. Johnson's questions. So,
21 to put it in a nutshell, it's just when you have a little
22 bit of error, and I'm sure Commissioner Barabba, during
23 his tenure at the Census, there were no errors --

24 CHAIRPERSON BARABBA: Never.

25 EXECUTIVE DIRECTOR CLAYPOOL: -- but since then,

1 this has developed. And so this is how they handle it.

2 Are there any questions?

3 COMMISSIONER FILKINS WEBBER: You went a little
4 fast there. So, just to make sure that I have it in my
5 head clearly, that obviously if there were corrections
6 that need to be made that are brought to our attention,
7 it's either the process for correction would have to be
8 determined by the Commission regarding whether we would
9 submit a bill to the Legislature, or Petition the Court
10 for jurisdiction to make those changes for the errors?
11 Is that what you've been advised? The Commission needs
12 to make that determination based on the provisions of
13 Prop. 11 and Prop. 20 as to which way we would go to
14 correct those errors?

15 EXECUTIVE DIRECTOR CLAYPOOL: Well, actually two
16 steps, the Commission is going to have to go through
17 Prop. 11 and Prop. 20 and make a determination as to
18 whether they even have the authority to ask for the bill
19 or to petition the Court.

20 COMMISSIONER FILKINS WEBBER: Okay, so let's just
21 assume there isn't anything.

22 EXECUTIVE DIRECTOR CLAYPOOL: Right.

23 COMMISSIONER FILKINS WEBBER: Then what's the
24 next course of action for the Commission to correct
25 errors, if any?

1 EXECUTIVE DIRECTOR CLAYPOOL: I believe your maps
2 would just simply stand as they are, and if there was an
3 omitted or correction that it would just -- or, if there
4 was an error, it would simply stand in the map. That's,
5 I think, all you have.

6 COMMISSIONER FILKINS WEBBER: Okay.

7 CHAIRPERSON BARABBA: Commissioner Dai.

8 COMMISSIONER DAI: As I recall, the way we've
9 handled this before, and I would welcome Mr. Miller's
10 comment on that, anything that is not prohibited by the
11 Constitution, we can choose to take on, isn't that fair?

12 COMMISSIONER FILKINS WEBBER: Not always.

13 MR. MILLER: That's a pretty broad statement.

14 COMMISSIONER DAI: Well, with regard to
15 redistricting matters.

16 MR. MILLER: Well, I do think there's a question
17 about the Commission's ability after maps are certified
18 to make changes.

19 COMMISSIONER FILKINS WEBBER: Okay, so I guess
20 the question then becomes, should we even -- I just --
21 Mr. Miller, maybe you know, there really isn't any
22 provision in Prop. 11 or Prop. 20 that would give us
23 jurisdiction post-August 15th to make any of these
24 suggested corrections, if they were brought to light?

25 MR. MILLER: That's my conclusion.

1 COMMISSIONER FILKINS WEBBER: Okay. So at this
2 point, we won't be doing anything. Thank you very much
3 for your report, Mr. Claypool, I appreciate it. But it
4 was an interesting topic, just to bring up because those
5 errors, you know, if they, again, ever do come to light,
6 they had been corrected before in the past, and so,
7 again, it might be something that we will note for
8 suggested changes next year if somebody wants to make a
9 note, which I will. Okay, thank you.

10 Five (b). Mr. Miller.

11 MR. MILLER: The reference to Electronic
12 Discovery Consultants is another litigation reference in
13 code form. I think it's fair to say that all the cases
14 are big document cases, it's about as certain as gravity
15 that you can rely on it, so the question then becomes,
16 how do you get your hands around all the documents that
17 are relevant in a case. And in our situation, as in
18 every, there are different challenges, and in ours it's
19 the fact that many of those, most -- well, many of them
20 reside with you in different locations all over the
21 state, as well as centrally.

22 The way discovery has developed over the last 10
23 years or so is that, as more and more of those documents
24 have migrated to electronic form, it becomes necessary to
25 use a consultant, if you will, whose job it is to get all

1 those documents in one place where they are searchable
2 and useable in the litigation, both as a defensive tool,
3 and as a way of responding to document requests from the
4 other side. So, a part and parcel of defending any
5 litigation that we may face would be to employ an
6 Electronic Discovery Consultant, whose job it is first to
7 secure the documents, to get them in one place, then,
8 working with the lawyers, we tell them how to organize
9 the documents electronically so that they are useful to
10 us.

11 We wanted to let you know that we have started
12 the process of speaking with firms that do this work and
13 that has occurred. If the Commission wishes to approve
14 that firm, we will bring them to you, but we wanted to
15 let you know this work is going on, and there will be
16 other types of consultants that are probably necessary
17 down the road, maybe quickly, depending on the nature of
18 litigation and what we're responding to. But for now,
19 what we've done is talk to people about how they would go
20 about it, what their capability is, and requested them to
21 advise us a range of fees that they would charge for
22 serving as Electronic Discovery Consultant.

23 COMMISSIONER FILKINS WEBBER: My question is, I
24 haven't used these individuals in probably about five
25 years, and so I don't know what the range is, even though

1 I know the range financially is vast. And, again, it
2 depends on what it is they're involved in. Is there
3 something -- and I'm certain, maybe most of the
4 Commissioners have never been engaged in hiring these
5 types of consultants, or what they really do, but is
6 there some way of putting together, I guess, or giving us
7 some idea of the potential cost, or where is the cost
8 these days? What would that include for the Commission,
9 before we actually consider one consultant over another,
10 so we can make a determination is this the most
11 expensive, is this least expensive, what is? Because
12 they do vary so much, in addition to cost, but what they
13 could provide to the Commission. And we all have an idea
14 of where our documents are, what the volume is, and what
15 it would really take to put that together, even organize
16 it. And that, to me, is somewhat on a lower level than
17 some of the vast class action litigation that I've done
18 before when you're talking about major corporations,
19 which is an entirely different animal on electronic
20 discovery.

21 MR. MILLER: You're correct, even with the number
22 of documents that we have, it is probably considerably
23 smaller than some cases. We did not -- no one we spoke
24 to offered a range in our preliminary conversations, so
25 I'm really kind of -- I would be guessing. I would not

1 think it less than \$50,000, and it could be more than
2 that, but they did not give us an estimate, so I can't
3 report that. Mr. Claypool?

4 EXECUTIVE DIRECTOR CLAYPOOL: We spoke with the
5 Office of -- actually, with DGS and the Office of Legal
6 Services about this particular consultant, and at that
7 time, one of the attorneys there said that they would
8 check to see if there was a contract on the CMAS, the
9 State's overall kind of global list where you can simply
10 pick and not have to go out to a competitive bid once
11 you've established that you've talked to at least three
12 people. So they're going to check there to give us, to
13 see if there's anyone on that list that can give us some
14 type of ballpark on the range. The second suggestion was
15 that we go to the Department of Justice, where they
16 typically work with groups that do this, as well, and
17 with attorneys that hire this type of service, to see if
18 we could get some type of range, so we are looking around
19 to make sure that we have something to start with before
20 we go with this. After that, they suggested we talk with
21 our own attorneys to get some past billings so that that
22 would establish some type of range for us, so we're
23 looking for a way to ballpark this.

24 COMMISSIONER FILKINS WEBBER: Okay, and then that
25 would be brought back to the Commission at a later time?

1 EXECUTIVE DIRECTOR CLAYPOOL: Yes.

2 COMMISSIONER FILKINS WEBBER: Thank you. Any
3 further questions? Any further on that, Mr. Miller?

4 MR. MILLER: No, I just wanted you to be aware of
5 the fact that we're starting the process of identifying
6 someone that we'll bring forward.

7 COMMISSIONER FILKINS WEBBER: And I'll keep that
8 as a running item on the agenda.

9 MR. MILLER: Yeah.

10 COMMISSIONER FILKINS WEBBER: Okay. Item 5c.

11 MR. MILLER: The Commission should have received
12 prior to the meeting by email a memo from me that
13 describes the process that we use for telephonic
14 meetings. I can run through that with you if you'd like,
15 or if you have any questions, I'll be glad to respond to
16 those.

17 CHAIRPERSON BARABBA: Did everyone receive it and
18 have a chance to look at it? Okay, so we don't have to
19 repeat it today. Any questions?

20 MR. MILLER: I'll just make one point, and try to
21 make these short. It would be very helpful to the
22 process if you could identify a regular place from which
23 you'd like to participate on the call and, then, please
24 give us that physical location, as we have to place that
25 in the notice when a telephonic meeting occurs.

1 COMMISSIONER FILKINS WEBBER: And my question
2 was, what would be the recommendation? What date would
3 you like this Commission to make that decision? Because
4 I think that Commissioner Yao and, I think, Commissioner
5 Blanco and Commissioner Raya, we've talked about earlier
6 in the months that maybe we would have maybe one
7 location, and I think Commissioner Yao had some ideas, so
8 if we could have an opportunity to speak and maybe work
9 that out, so when would you like us to actually - what is
10 the deadline, the due date for the Commissioners?
11 Because at this point, I think, you know, after August
12 15th, we better have these due dates written down because
13 otherwise we might not be paying attention, and so when
14 do you recommend that we get that to you?

15 MR. MILLER: The sooner you do it, the sooner
16 we're in a position to notice and hold a meeting. So, if
17 it were possible for you to decide that while you're here
18 in town that would be very helpful.

19 COMMISSIONER FILKINS WEBBER: Okay, but in no
20 event, no later than Friday, August 19th?

21 MR. MILLER: Yes.

22 COMMISSIONER FILKINS WEBBER: Okay, good. I
23 thought you would agree with that. We'll put that in as
24 our diary for everything. Okay, thank you. Anything
25 further? Any other questions on those telephonic

1 meetings? Commissioner Aguirre.

2 VICE CHAIR AGUIRRE: Yes, just one additional
3 comment on that, and that's that the Brown Act requires
4 handicap accessibility for any location that you might
5 suggest, so even though we might be thinking that perhaps
6 we could do it out of our home, actually, technically,
7 unless you're handicapped accessible, then you know, the
8 alternate suggestion would be for us to look at some
9 public facilities that are already by law handicap
10 accessible, that being libraries. To me, the most
11 convenient location is down at City Hall where some of us
12 kind of have connections with those kinds of offices
13 already, and it's not like we're asking them to reserve
14 an office for us, we're just asking for access at a
15 particular time, on a particular day.

16 MR. MILLER: If that is correct, then that would
17 be a perfect solution.

18 COMMISSIONER FILKINS WEBBER: Any questions?

19 COMMISSIONER RAYA: Yeah, regarding ADA
20 accessibility, do you have to actually be like, I don't
21 know, my building -- you all know what my building is
22 like, you can get in there in a wheelchair, but in order
23 to use, for example, the restrooms, you have to go out
24 and come back in another door to avoid a step. So, does
25 -- you know, I just don't want to notice my office and

1 then have an ADA problem.

2 MR. MILLER: I think if you are able to
3 accommodate someone with a disability in your office,
4 then for this purpose it would be ADA accessible.

5 COMMISSIONER FILKINS WEBBER: Anything further on
6 that issue? I have one - or two more follow-ups real
7 quick. Last meeting, we also had discussed -- I think it
8 was Ms. Sargis, going back through, it is my
9 understanding that we're going to be providing to
10 litigation counsel the compilation of resolutions that
11 are on the Google Docs that have been sent out. It is
12 still identified as a "Draft." So, as I understood, I
13 think, Ms. Sargis, you told me that you were going to be
14 going back through the videos and confirming because, as
15 I recall, I did see one error, for instance, for me, in
16 particular, and I haven't finished reviewing the document
17 in total, but what is your status on getting that
18 together? Because I'm assuming, after August 15th, we're
19 going to have to get that turned over to counsel. So
20 where are you at in that?

21 MS. SARGIS: I'm reviewing the compilation of
22 resolutions document against the transcripts and I'm all
23 the way up through -- up to July, so I don't have a whole
24 lot left to do, but I have found some errors and I will
25 be correcting them.

1 COMMISSIONER FILKINS WEBBER: You're using the
2 transcripts vs. the videos?

3 MS. SARGIS: Yes.

4 COMMISSIONER FILKINS WEBBER: Okay, and are those
5 adequate for you to be able to do this? Because, as I
6 understood, there were some issues with the transcripts,
7 and we even had some missing transcripts from Northridge,
8 and there were quite a few motions there.

9 MS. SARGIS: My understanding was that the
10 transcripts were the official record and if there was a
11 discrepancy between my compilation of motions and the
12 transcripts, that to double-check it back on the video.

13 COMMISSIONER FILKINS WEBBER: I don't think we
14 ever made a decision that the transcripts alone were the
15 official record, we've always said the videos were
16 because we didn't have, I guess, confirmation of the
17 accuracy of the transcripts. So I guess -- Mr. Claypool.

18 EXECUTIVE DIRECTOR CLAYPOOL: Well, I was going
19 to say, I actually had a discussion with several of the
20 Commissioners and we had talked about that, and there was
21 never a determination. To expedite it, I had asked
22 Janeece to check it against the transcripts, and if there
23 was a discrepancy, then to move on to the video, and if
24 there was no discrepancy, then we would have that one
25 done, so that we could get this done as quickly as

1 possible. So, I would also recommend that we have, as
2 you Commissioners discovered them, if you find them, if
3 we receive what you believe is a discrepancy, then
4 certainly we would go back and look at them against the
5 video and the transcript because, at that point, we would
6 have to also correct the transcript. But it was when
7 Janeece was working on it against a transcript, it was
8 because I was wanting to get it done as quickly as
9 possible.

10 COMMISSIONER FILKINS WEBBER: Okay, thank you. I
11 appreciate that. And so that's coming along. And then,
12 when that document is final, then you will remove the
13 word "Draft," and resubmit it to all of us as final, and
14 that's what the Commission can turn over to counsel?

15 MS. SARGIS: That's correct.

16 COMMISSIONER FILKINS WEBBER: Okay, great. One
17 other thought, going back up real quick to Item 1 on the
18 DOJ, on the Pre-Clearance, and the consideration of
19 moving forward and, obviously, since the DOJ isn't going
20 to do it, I was wondering if the Commission would wish to
21 consider, or maybe Commissioner Blanco would want to
22 volunteer, to oversee the preparation of any DOJ
23 submissions with Mr. Brown and Mr. Miller, because
24 obviously there would be a Commissioner that just
25 generally, just as Commissioner Dai was working on the

1 Final Report with Counsel, if Ms. Blanco would be
2 interested in doing that?

3 COMMISSIONER BLANCO: Boy, talk about no warning.
4 [Laughing] Yes.

5 COMMISSIONER FILKINS WEBBER: Sorry.

6 COMMISSIONER BLANCO: Yes.

7 COMMISSIONER FILKINS WEBBER: So we could propose
8 a motion of delegated authority to Commissioner Blanco to
9 oversee Department of Justice Pre-Clearance submission.
10 So that was my motion, I move that.

11 VICE CHAIRPERSON AGUIRRE: Second.

12 CHAIRPERSON BARABBA: Seconded by Commissioner
13 Aguirre. A raise of hands would be sufficient, I think?

14 COMMISSIONER FILKINS WEBBER: Well, it's
15 delegated authority, so I think we have to take a roll
16 call.

17 CHAIRPERSON BARABBA: Okay, would you take the
18 roll call, please?

19 COMMISSIONER FILKINS WEBBER: She's going to read
20 it over and then we can do public comment. I just want
21 to make sure Ms. Sargis got it down.

22 MS. SARGIS: The motion is to delegate authority
23 to Commissioner Blanco to oversee the DOJ Pre-Clearance
24 Submission.

25 COMMISSIONER FILKINS WEBBER: Perfect.

1 CHAIRPERSON BARABBA: Any public comment? Seeing
2 no one coming forward, let's take the vote.

3 MS. SARGIS: Commissioner Aguirre - Yes;
4 Commissioner Ancheta - Yes; Commissioner Barabba - Yes;
5 Commissioner Blanco - Yes; Commissioner Dai - Yes;
6 Commissioner Di Guilio - Yes; Commissioner Filkins Webber
7 - Yes; Commissioner Forbes - Yes; Commissioner Galambos
8 Malloy - Yes; Commissioner Parvenu - Yes; Commissioner
9 Raya - Yes; Commissioner Ward - Yes; Commissioner Yao -
10 Yes.

11 The motion passes.

12 COMMISSIONER FILKINS WEBBER: Thank you. And
13 thank you for volunteering. I meant to do it earlier and
14 then Commissioner Di Guilio had mentioned it, as well,
15 and I knew we needed to move forward on that, so
16 appreciate that.

17 Legal Advisory has nothing further on the agenda.
18 Do any other Commissioners have any requests of Legal for
19 next meeting's agenda at this point, that I could add for
20 further follow-up? Seeing none, then I conclude my
21 report.

22 CHAIRPERSON BARABBA: Thank you very much. Let
23 me ask the Commission, we could move into Finance and
24 Administration now, or we could go in for five minutes of
25 closed session, as was suggested earlier, and then,

1 rather than starting -- okay. So we will move into
2 closed session and what time should we return?

3 COMMISSIONER DAI: After lunch.

4 CHAIRPERSON BARABBA: Okay, I understood that,
5 but it was the time that was in my mind - about 12:45?
6 Or 1:00? How do you feel? One o'clock, okay, and then
7 we will return into public session at 1:00. I would ask
8 the public, then, if you could remove yourself from the
9 building so we could have a closed session -- not the
10 building, but this office.

11 (Recess at 11:43 a.m.)

12 (Reconvene at 1:20 p.m.)

13 CHAIRPERSON BARABBA: Okay, Commissioners, we're
14 ready to start. We have two members of the public who
15 would like to make comments, so we'll start with that and
16 then we'll move into the Finance and Administration
17 agenda item.

18 MR. PAYTON: All right, one last time,
19 Commissioners. Allen Payton from Contra Costa. I want
20 to be clear that the map that I gave you today, copies of
21 that, that was actually drawn from your Final map that
22 you approved a few weeks ago, but the map -- it's very
23 similar to the one I drew on July 19th after the July 13th
24 meeting, and submitted in plenty enough time for your
25 final vote that showed how the East Bay Congressional

1 Districts could be created without affecting Monterey
2 County, much less -- well, not even Santa Clara County,
3 much less Monterey County. But I want to be clear about
4 that, that what I showed you today was similar. And I
5 also -- you all got in your emails copies of those and
6 copies of the equivalency files and so did both Tamina
7 Alon and Karin Mac Donald from Q2.

8 Regarding the Commissioners speaking out, I was a
9 City Council member and had City Attorneys and advisors,
10 and what basically they told us is that we're the
11 decision makers, they're only there to give us advice,
12 and that's -- and we had every right to speak to the
13 public any time we wanted, we were elected. You're
14 appointed, but I believe every one of you have the right
15 to speak to the Press any time you want without having to
16 go through some kind of a strategy, with all due respect
17 to Mr. Wilkins [sic], or anything. You have a
18 responsibility, and I believe we have a right to know,
19 not only what you do, but why you do it. And that's what
20 the people are asking for, and people are feeling that
21 certain Commissioners are being muzzled and held back
22 from telling us why they voted the way they voted, should
23 they have voted no on certain maps. And they shouldn't
24 be having to be held back for whatever reason, legal or
25 otherwise, you have a right to speak out and need to.

1 Even the Supreme Court gives minority reports, the
2 dissenting Justices give not only how they voted, but why
3 they voted, and I think the decisions the Supreme Court
4 makes have a lot longer lasting effect than the decisions
5 this Commission is going to make, which is going to last
6 10 years, and so I think the minority report needs to be
7 allowed here without any filters.

8 Finally, there's a question that's been coming up
9 about the 14-day -- what was the point of the 14-day
10 window from the final, or the preliminary vote to the
11 final if it wasn't going to be more input and possible
12 changes?

13 MS. SARGIS: Time.

14 MR. PAYTON: Perfect time.

15 MR. BIRNBAUM: Hi, thank you. Mike Birnbaum
16 again from Sacramento. First, I wanted to go back to a
17 little bit of something you had on the agenda in the
18 morning discussion. There was something about
19 minor/major changes after the submission on August 15th,
20 and any involvement the Legislature is going to have, if
21 any. And I was kind of scratching my head, thinking,
22 didn't Prop. 11 and 20 take that completely away from any
23 Legislature making decisions and put it all in the hands
24 of the citizens, which is why this Commission exists
25 today? I need clarification on that.

1 The second thing is, when the maps are final,
2 will constituents be able to go to their local Assembly
3 members' district office, or their Congressional District
4 Office, and be able to get copies from their staffs of
5 the current maps and the up and coming maps to better
6 prepare themselves as constituents and voters? Hopefully
7 that could be transparent. I've been visiting my local
8 offices and my representatives' and they're like, "Oh, we
9 can't talk about that." "No, we can't talk about that."
10 And I'm like, "Oh, okay." So, and the other thing was,
11 in the City of Sacramento, in the County of Sacramento,
12 I've talked to staff member Scot Mende and Jill LaVine,
13 they said there is a pass, 30 days later those become the
14 City and Supervisorial Districts. Clarify for the
15 viewers at home and those in the audience today when
16 yours pass and are final, when do those statutorily
17 become law and the districts? Thank you.

18 CHAIRPERSON BARABBA: To the best of my
19 knowledge, they become official on Monday, assuming that
20 we certify them -- immediately.

21 MR. BIRNBAUM: Okay. So for clarification, if
22 I'm in Assembly District 9, and my business is in
23 Assembly District 5, and some talk has been, okay, you
24 are now in both locations District 7, so District 7,
25 then, becomes effective immediately and I get two

1 representatives?

2 CHAIRPERSON BARABBA: After the election in 2012,
3 that will be probably when you know who your Assemblyman
4 is.

5 MR. BIRNBAUM: Okay.

6 CHAIRPERSON BARABBA: All right, Commissioner
7 Dai, you are ready for the Finance and Administration
8 topics.

9 COMMISSIONER DAI: Yes, I am. So we have a
10 number of items here. I'm going to go ahead and let Mr.
11 Claypool start of us in terms of the discussion of where
12 we are on the budget and releasing funds, and all that
13 other good stuff.

14 EXECUTIVE DIRECTOR CLAYPOOL: We are still
15 discussing with the Department of Finance the release of
16 the funds for the provision of \$1.5 million that's in the
17 current budget. The trigger was litigation, although
18 we've agreed in kind of basic principle that all of the
19 efforts that we're making right now to prepare for
20 litigation should fall under that funding source, which
21 is very important because we are bringing on massive
22 bills right now and we want to be able to pay for them.
23 So we will finalize this next week because the report was
24 the major focus this week. We will work with Finance
25 this next week and the week after to solidify the

1 language for that letter, and then we will have the Chair
2 or the Vice Chair review it, and we'll send it over and
3 hopefully that will be the final version that will be
4 forwarded to the Legislature for the release of the
5 funds. Remember, the release of the funds can take up to
6 30 days, they can choose to release it instantaneously,
7 but in this particular case, because we will have funds
8 left over, they may choose to wait the 30 days to make
9 sure that we're expending the three-year money before
10 they even start releasing the one-year money. Are there
11 any questions?

12 COMMISSIONER DAI: Okay, so the next item is also
13 budgetary item, this is, believe it or not, the budget is
14 already due for the next Fiscal Year, and two weeks ago
15 we had a preliminary discussion about our post-August
16 operations in order to try to give Mr. Claypool some idea
17 of the assumptions he should use to project forward for
18 the next Fiscal Year which begins June of 2012. Mr.
19 Claypool, do you have any comments on the budget change
20 proposal at this point?

21 EXECUTIVE DIRECTOR CLAYPOOL: Yeah, I think
22 you've covered it. The budget process in this state is
23 pretty much year-round, as soon as you get the first one
24 approved, you're already moving into starting on the next
25 one. You did give us a fair number of items to work with

1 and we'll be working through Commissioner Dai to solidify
2 the budget around that for your next meeting.

3 COMMISSIONER DAI: And we will be discussing that
4 in more detail; some of the decisions we didn't make last
5 time, we will go into more detail in a bit. Yes,
6 Commissioner Yao.

7 COMMISSIONER YAO: The electronic discovery
8 consultant that we talked about briefly this morning,
9 would that go under the Fiscal Year '12-'13, or would
10 that go under the litigation pool of money?

11 COMMISSIONER DAI: It would go under the \$1.5
12 million, but if it runs over into the next year, which is
13 a possibility, then that would be something we would
14 budget for, as well.

15 EXECUTIVE DIRECTOR CLAYPOOL: And actually, it's
16 going to go partially under your current money, as well,
17 because we had to, in order to have a contract with the E
18 Discovery Consultant, we have to be able to encumber a
19 certain amount, and so, if we don't have the money
20 released in time, we will encumber some of the money that
21 is in your three-year money to start the process because
22 Commissioner Dai is absolutely right, after that, we
23 start amending and raising the amounts in there to cover
24 the amount that we need.

25 COMMISSIONER YAO: Thank you.

1 COMMISSIONER DAI: Okay, and I see Ms. Davis is
2 here and she can give us an update on our current budget.

3 MS. DAVIS: Okay. You have before you three
4 pages for our financial reports. The first one includes
5 the \$3.5 million -- I'm sorry, is that good? Okay. The
6 first page covers our two pots of money that we had, the
7 \$2.5 and the \$1 million, and I'm showing here on the top
8 line of our financial statements that I shared with you
9 at the last meeting, and then I've included projections
10 for our per diem and travel, and we've included \$109,000
11 in anticipated pre-litigation expenses to get us started,
12 that Mr. Claypool just spoke of. So, in the total
13 remaining, we're projecting about \$207,000 remaining.
14 Any questions on --

15 CHAIRPERSON BARABBA: \$125,000.00 to the
16 Secretary of State?

17 MS. DAVIS: That was their share of costs for
18 when they helped us out in the very beginning of the
19 Commission.

20 CHAIRPERSON BARABBA: Oh, okay, thank you.

21 MS. DAVIS: Okay. On the second page, I'm
22 showing the Budget Act \$4,000 that was given to us out of
23 the \$1.9 and the \$1.5 in the provisional language, and
24 we're projecting out our first month, July's actual
25 expenditures, and we've projected through October 15th.

1 So, basically, we haven't touched our PRA money yet and
2 this is just a display of those funds.

3 COMMISSIONER DAI: So, to clarify again, we were
4 granted a budget of \$400,000, and then the \$1.5 million
5 is the provisional that kicked in with litigation that
6 we're waiting for a release of, so this is the actual
7 budget we're operating with right now is \$400,000 and,
8 again, the first page is the original amount of money
9 that was granted to the Commission, which is actually
10 three-year as opposed to Fiscal Year money. Does that
11 clear mud?

12 COMMISSIONER BLANCO: Yeah, it clears mud. So,
13 on that --

14 MS. DAVIS: First page? Second page?

15 COMMISSIONER BLANCO: -- so, on the first page,
16 if this is -- so these figures are three-year figures?

17 MS. DAVIS: Yes.

18 COMMISSIONER BLANCO: So when it says that we're
19 117 percent of our budget for per diem that means over
20 the next three years?

21 MS. DAVIS: No.

22 COMMISSIONER BLANCO: That's my question.

23 MS. DAVIS: Okay, this first page represents our
24 \$2.5 million and \$1 million pots of money that we were
25 originally granted, so this is a running total of our

1 expenses from the beginning, including any per diem and
2 travel that we're projecting out through August.

3 COMMISSIONER DAI: So, for example, it includes
4 the money that Commissioner Barabba was asking about, the
5 original transfer of funds to the Secretary of State
6 before we had a staff, so this is from inception,
7 basically.

8 MS. DAVIS: Correct.

9 COMMISSIONER BLANCO: I understood that it was
10 from inception, it was how -- I guess the relevant
11 question is what budget, you know, when it says "percent
12 used," what budget are we referring to?

13 COMMISSIONER DAI: It refers to the original
14 estimates that Mr. Claypool had put together at the
15 beginning, based on what we projected, how many meetings
16 we were going to have and all that.

17 COMMISSIONER BLANCO: For what time period?

18 COMMISSIONER DAI: Through -- we have done the
19 projections through August 15th.

20 MS. DAVIS: Through August 15th, yes.

21 COMMISSIONER BLANCO: Okay.

22 COMMISSIONER FILKINS WEBBER: So, just so I'm
23 looking at this correct, the Commission was allocated
24 \$3.5 million to complete the maps, so if I'm reading this
25 correctly, as of August 15th, we will be at 94 percent of

1 that budget?

2 EXECUTIVE DIRECTOR CLAYPOOL: Originally, the
3 Commission was given \$3 million along with the Secretary
4 of State and the Bureau of State Audits. The Bureau of
5 State Audits took \$500,000 and the Secretary of State
6 took \$125,000. Then we received a \$1 million
7 augmentation last year, so that was your second pool of
8 money and both of those are three-year monies. And so,
9 this is dealing with the four million minus the \$625,000
10 that were taken by the BSA and the Secretary of State.

11 COMMISSIONER FILKINS WEBBER: My point is, we did
12 a damn good job, didn't we? That's the point I want to
13 make because, in the beginning, when the Commissioners
14 were first looking at this financially, and I remember,
15 Mr. Claypool, when you put together a budget for us, that
16 first document we were looking at, I mean, millions of
17 dollars, and we were also looking at it based on Arizona
18 and what Arizona had done, and the amount of money that
19 they spent. And every time I think, when some members of
20 the media over the last few months might have thrown out
21 a question to me as to how we might have been doing on
22 our budget, and I keep thinking -- and I'm not a big
23 numbers person, that's why I'm a lawyer, so I just want
24 to make sure that -- this is an opportunity, I mean,
25 August 15th is coming up in a couple of days, and I am

1 flabbergasted that we were able to accomplish this with
2 the number of meetings that we got, that we were able to
3 accomplish -- you know, we were a little over on our per
4 diem, but definitely under on our travel. I just think
5 we need to point this out here. I think it's really
6 fabulous that we were, as a Citizens Commission, given
7 the financial straits of this state, that we should be
8 recognizing and thanking staff and Ms. Davis and the
9 tight projections that were put together here, and that,
10 as I understand it correctly, we are coming in - and we
11 understand that might be three-year money and whatnot,
12 but we were able to accomplish this task at 94 percent of
13 this budget, and I just wanted to make sure I'm looking
14 at this correctly and that the public understands this,
15 that we actually were able to redistrict with the
16 addition of Congress, which we did not have at the time
17 that Proposition 11 had actually given us the money, and
18 we were able to do four maps, cover the entire State of
19 California, and do so within budget at \$3.5 or 4 million.

20 COMMISSIONER FORBES: And I think it's true, and
21 another thing that is worth noting is that we also
22 engaged 25,000 of our fellow citizens in this. When is
23 the last time the state did that? At any level? And
24 finally, if you figure the \$3.5 million, it cost about
25 nine cents a person is what this whole process cost for

1 the State of California. That is not a significant -- in
2 my mind, it is not a significant amount of money.

3 COMMISSIONER DAI: Commissioner Forbes is good at
4 numbers.

5 COMMISSIONER FORBES: Not much you can get for
6 nine cents these days.

7 COMMISSIONER DAI: Yeah, you're absolutely right.
8 In fact, I was asked about the Commission expenses on a
9 recent media interview and I pointed out some of you, the
10 lucky eight, members of the lucky eight will remember in
11 very early public testimony that we had someone who works
12 for the Government, State Government, actually had done
13 the extrapolation from what Arizona spent on their
14 independent Citizens Redistricting effort, and
15 extrapolated out to what California should have budgeted,
16 and based on that, based on the fact that Arizona has 17
17 percent of the population of California, she had
18 estimated that it should have been in the mid-twenty
19 millions, \$20 million of what should have been budgeted
20 for this. And so, when reporters ask me, you know, "This
21 is costing a lot more than we expected," it's like,
22 "Well, the expectation was what the Legislature spent,"
23 and how many public hearings did they do, Commissioner?
24 CHAIRPERSON BARABBA: What was accounted for in
25 the legislative budget, not how much was actually spent.

1 COMMISSIONER DAI: That's a good point. So, they
2 had consultants, too, I'm very certain they didn't do the
3 number of public hearings we did, so I said the original
4 number was flawed because it was based on an estimate of
5 what the Legislature had spent, it was not based on our
6 process, and what we -- the closest comparison really is
7 Arizona and we really have done it at a fraction of the
8 cost, and that's in large part to the diligence of our
9 staff, to the diligence of our Commissioners, and
10 carpooling, and making 14-day advance reservations,
11 that's why we're under in travel. But also, you know, to
12 keep in mind kind of where we are in terms of these sub-
13 categories, remember, this was based on our original
14 projection, so you know, we ended up doing more input
15 hearings than we originally projected, we had more
16 business meetings than we originally projected, there are
17 a lot of things that our original projection just wasn't
18 right and it wasn't what we ended up choosing to do, so
19 the fact that these are off in the sub-categories, I
20 wouldn't really pay a whole lot of attention to. The
21 point is the important number which you picked up on,
22 which is that we're under budget.

23 COMMISSIONER PARVENU: I just want to add --

24 CHAIRPERSON BARABBA: Commissioner Parvenu.

25 COMMISSIONER PARVENU: I just want to add and

1 chime in, every good Project Manager would agree that the
2 key to success is to be on time and under budget, and we
3 certainly have done that here. I think a lot of credit
4 is due to having the facility at McGeorge and having Ms.
5 Sargis here to facilitate that for us, to create a
6 tremendous cost savings to us, so I just want to give
7 credit where it is due.

8 CHAIRPERSON BARABBA: Anything else on that item?
9 Okay, next.

10 COMMISSIONER DAI: Okay, so let's keep going.

11 MS. DAVIS: The last page I have here are our
12 staff hours from January through July, and this is
13 depicting how much in regular hours overtime paid and
14 overtime not paid, that the staff did to accomplish our
15 task. Any other questions?

16 CHAIRPERSON BARABBA: That's probably not the
17 most delectable pie you ever looked at.

18 MS. DAVIS: No!

19 COMMISSIONER DAI: Any other questions on any of
20 the numbers or figures in this report?

21 CHAIRPERSON BARABBA: Okay, thank you very very
22 much.

23 MS. DAVIS: You're welcome.

24 CHAIRPERSON BARABBA: For all of your work.

25 MS. DAVIS: You're welcome.

1 COMMISSIONER DAI: Okay, so let's see, I guess we
2 might as well go in order here. We had requested that
3 Mr. Claypool and Mr. Miller investigate what state
4 policies, if any, the Commission was subject to for
5 noticing our staff in terms of layoffs as we're moving
6 into a new phase.

7 EXECUTIVE DIRECTOR CLAYPOOL: Yes, Commissioner
8 Raya had actually requested this and, so, Raul Villanueva
9 went ahead and investigated and basically the Commission
10 is not constrained by any regulation or rules at what a
11 minimum amount of layoff notice must be provided to
12 staff. In State service, probably the closest
13 comparison, RCEAs, or Career Exempt Administrators, and
14 they typically are given 20 days notice. As far as rank
15 and file civil servants, are covered by labor contracts
16 with seniority rights that can extend this period to
17 quite a distance. The only guidance that we received
18 from the Department of Personnel Administration is that
19 the Commission may determine what length of notice it
20 considers fair and reasonable and apply this notice
21 equally to all staff.

22 In our last meeting, if you remember, we
23 discussed 30 days and letting staff run out their leave
24 balances because they were contingent liabilities that
25 must be paid, but that's the sum total of the information

1 that we could gather.

2 COMMISSIONER DAI: In other words, it really
3 varies across the board. And our staff kind of are in a
4 special category, and were not represented by, you know,
5 long term labor contracts or anything, so it's really to
6 the discretion of the Commission what we would like to do
7 on that. So that's the information that we requested, so
8 we could use that to make a decision. And then, also,
9 why don't you go ahead and talk about our staff's
10 production, as well?

11 EXECUTIVE DIRECTOR CLAYPOOL: Yeah, so the last
12 time we spoke, we had talked about reducing staff by up
13 to 50 percent. We're down to one of our interns, I
14 believe just one left. So that part of the reduction has
15 been completed. We also -- I received a request from
16 Janeece to phase out at the end of this month, and then
17 to run her leave balance out through September.

18 CHAIRPERSON BARABBA: Do we get to vote on that?

19 EXECUTIVE DIRECTOR CLAYPOOL: She will be greatly
20 missed. I mean, the right person at the right moment,
21 absolutely. You've been very fortunate in all your staff
22 and Janeece is just the perfect example of that, along
23 with Lon. And so we will be down to seven staff for the
24 remainder of the time that we agreed that we would go
25 until we revisit this in October. I think, with what

1 we're approaching, that may be about where you need to be
2 in order for us to continue to provide the service, or
3 the level of service you're receiving right now.

4 COMMISSIONER DAI: Yeah, and I think we agreed as
5 a Commission to revisit the staffing structure beyond
6 October 15th, in September. So, we should have a better
7 lay of the land at that point in terms of what's
8 happening in terms of legal action. And we'll be better
9 able to assess what we want to retain in-house, whether
10 we should be outsourcing some staff functions there, a
11 number of decisions that we'll probably have to look at,
12 at that point. But right now is probably premature.

13 CHAIRPERSON BARABBA: Do you feel there is any
14 action we need to take, or we just keep as information
15 for now?

16 COMMISSIONER DAI: I think that - I'm not sure
17 whether Commissioner Aguirre has thought about when we
18 will be meeting in September, but right now I'm not
19 seeing that we need to take immediate action on this.

20 VICE CHAIR AGUIRRE: I would not want to meet in
21 September, so, no, I think I was hoping that, after the
22 discussion that we had today, that we'd be in a better
23 position to project when that might be. There are
24 certainly some things that I've been noting as agenda
25 items that just depend on how urgent they are, like, for

1 example, the Pre-Clearance with the AG submission and
2 support, items like that. So I'm not prepared to suggest
3 a schedule right now.

4 COMMISSIONER DAI: Okay. So, I would like to
5 move forward to perhaps the discussion on the post-August
6 operations plan and that might put us in a better frame
7 to figure out what the Commission is doing and how it
8 will organize, and then we can understand what kind of
9 staff support that we might need. You know, we are
10 agendized to go into closed session if necessary, but you
11 know, I think, like I said, that it may be premature to
12 make some of these staffing decisions at this point. I
13 personally would recommend that we talk about the
14 Commission structure first and then delay that decision
15 until September. Yes, Commissioner Filkins Webber.

16 COMMISSIONER FILKINS WEBBER: I just had one
17 other question because I don't understand it and it might
18 just be terminology for the State. But you had said that
19 Ms. Sargis wanted to be phased out. What does "phased
20 out" mean?

21 EXECUTIVE DIRECTOR CLAYPOOL: That's actually not
22 a State term, it's more of we're phasing our staff right
23 now, and you're going to lose staff as you're either
24 going to give them notice, in which they will phase off
25 the job, or they're going to find another job and so they

1 will attrite. So she had asked to actually phase out
2 that way and so we said that's fine. It works into what
3 we need to do, so she'll simply drop off a month earlier
4 than we might have anticipated.

5 COMMISSIONER FILKINS WEBBER: So it's just the
6 process by which the Commission has already indicated
7 that certain functions would naturally just no longer be
8 required, so she's phasing out earlier than what we have.

9 EXECUTIVE DIRECTOR CLAYPOOL: Right, uh huh.

10 COMMISSIONER FILKINS WEBBER: Okay, I just wanted
11 to understand that. Thank you.

12 COMMISSIONER DAI: Okay, yes, Commissioner
13 Galambos Malloy.

14 COMMISSIONER GALAMBOS MALLOY: I know we have
15 business to attend to moving forward, but I have to say
16 as a Commissioner and, having not been serving as F&A
17 Lead recently, it was a surprise to get the email with
18 the news that this was Ms. Sargis' last month, and I know
19 that we as individuals will have opportunity to express
20 our gratitude to you, but you have really played a
21 pivotal role in our operations and, even to imagine
22 convening without your presence is hard to visualize at
23 this point in time, and so, as we move forward talking
24 about post-August 15, I just wanted to take a pause and
25 be able to express on the record to Ms. Sargis how deeply

1 grateful and touched we are for how committed you've been
2 to the mission, how you have interfaced with
3 Commissioners, and with the public, alike, and really
4 brought the best foot forward of all of us. So, thank
5 you for all the work you have done.

6 CHAIRPERSON BARABBA: And I think a standing
7 ovation would probably be in order [applause].

8 COMMISSIONER DAI: Thank you -- Commissioner
9 Raya.

10 COMMISSIONER RAYA: Mom, don't feel bad,
11 sometimes the kids come home.

12 MS. SARGIS: I just have to say you have been
13 like my children, and when my kids went away to college,
14 I needed to be needed, so thank you for needing me.

15 COMMISSIONER DAI: And then, Commissioner
16 Parvenu, did you have something to add?

17 COMMISSIONER PARVENU: Commissioner Galambos
18 Malloy was eloquent, she said everything I was feeling
19 like I wanted to say, so in terms of how much we and all
20 of us appreciate what you've done, and I was just
21 curious, how is the reduction -- you wanted to be phased
22 out, is that right? Or are we -- I just don't know, but
23 I just didn't know if it was a random decision, or if the
24 reduction was based on salary structure, or what
25 happened. But I'm just so, likewise, surprised to know

1 that you'll be -- I just can barely deal with the thought
2 of you not being with us throughout the duration.

3 MS. SARGIS: I'm at peace with the decision.

4 COMMISSIONER PARVENU: Okay, well said. Thank
5 you.

6 COMMISSIONER DAI: Thank you very much. So with
7 that, I'm wondering, Mr. Claypool, if you were able to
8 get hard copies of the document that I had sent out
9 regarding the post-August operations plan? Were you able
10 to get hard copies for us?

11 EXECUTIVE DIRECTOR CLAYPOOL: I did not because
12 it had been distributed in the meeting before, so I --

13 COMMISSIONER DAI: Okay, this is a new document,
14 but that's all right. Everyone has it by email, and
15 we'll just make sure that it gets posted. It's called
16 "CRC Post-August Operations II." And so I'm just going
17 to pull my copy up, as well.

18 COMMISSIONER FILKINS WEBBER: Can you provide the
19 date that it was sent?

20 COMMISSIONER DAI: Sure. It was sent yesterday.

21 COMMISSIONER FILKINS WEBBER: Oh, 19 hours ago.

22 COMMISSIONER DAI: I wanted to make sure we had
23 something to look at as we were discussing this. So this
24 was -- you responded to it. So, anyway, this was
25 basically an updated version of the last document. What

1 I tried to do is include the comments from other
2 Commissioners as we had a discussion from two weeks ago,
3 so you'll see a couple of items that we talked about. So
4 I tried to fold those in. And then, the other changes
5 are that I went ahead and included the decisions we made
6 two weeks ago about litigation oversight and, as
7 promised, I provided some thoughts on a new updated per
8 diem policy as we go into this next phase. So those are
9 the changes to the document. But otherwise, it should
10 look surprisingly familiar.

11 So, again, this is just a review kind of what
12 we're looking at for Commission functions, short term,
13 mid-term, and longer term or ongoing. So, longer term
14 and ongoing, I added ongoing Public Records Act requests
15 that may happen at any point. Commissioner Ward had
16 reminded us that we had training requirements that we
17 have to do every two years, as well as Annual Form 700
18 filing requirements, so this is just a reminder, really,
19 of things that will continue on during our 10-year terms.

20 We talked last time about the possibility of, you
21 know, holding a conference, looking at tools, these are
22 all longer term items. So, if it accurately reflects the
23 discussion we had two weeks ago, then let's move to the
24 structure.

25 COMMISSIONER BLANCO: Okay, just a question. And

1 I could have brought this up, not because it's a
2 revision, it's just a question based on the original
3 document. In terms of the evaluation and assessment, and
4 it brings up the possibility of participating with the
5 Irvine Foundation Study, and it says supplementing --
6 "and others with the possibility of supplementing with
7 our own internal review." So I wanted to just talk about
8 this a little bit more, both, in other words, let's say
9 that there's minimal participation just because,
10 whatever, the Irvine Foundation takes the bulk of the
11 work on the evaluation, and we just, you know, are
12 interviewed, or whatever, for our opinions, you know, our
13 thoughts on the process; what are we envisioning, or are
14 we, for an internal review that is separate from Teeing
15 up possible fixes for the next round, in terms of things
16 we might recommend that we know require Constitutional
17 changes, but still -- what was thinking here on an
18 internal review?

19 COMMISSIONER DAI: So I think Commissioner
20 Galambos Malloy had some thoughts on that because she did
21 some investigation on exactly the scope of the Irvine
22 Foundation Study. And remember, we had originally
23 allocated a budget.

24 COMMISSIONER BLANCO: That's why I'm asking.

25 COMMISSIONER GALAMBOS MALLOY: Well, I can send

1 out some notes that talk more about the scope of the
2 Irvine Study. I think the punch line is that it is going
3 to go broad in many areas. The scope is rather large,
4 it's everything from the process that was used to create
5 the Commission, to the process that was used, the public
6 input process, to a certain extent the final maps that we
7 produced, etc., and so their hope is that they would be
8 able to interview each of the Commissioners. I had an
9 initial conversation with the gentleman from Cal State
10 Fullerton, whose name escapes me, but who is chairing the
11 project, and he is going to be in touch with our CRC
12 staff because I suggested to him that, if he had a set
13 interview protocol, then our litigation counsel, in
14 conjunction with Mr. Wilcox and Mr. Miller, could make a
15 determination of what role Commissioners could play as
16 serving as interviewees for the study.

17 That said, based on the conversation I had, I did
18 see that there was still a gap in terms of our unique
19 ability as having been on the inside of the process, and
20 having our own recommendations and sense of what worked
21 and didn't work in a way that certain aspects of that may
22 not even have been visible to the public, and might not
23 even arise in the study. I think another thing that
24 struck me was that the evaluation is going to be very
25 California focused because of the Irvine Foundation's

1 charter, and so they would not, for example, be making
2 any recommendations on how other places could interpret
3 or apply lessons learned from California on the national
4 scale. And that may be something we as a Commission
5 would be interested in doing.

6 So I do think that there are some potential gaps
7 there. Forgive me if I am jumping the gun because I do
8 not know to what extent it has been formally established,
9 but I think that Commissioner Aguirre and Commissioner Di
10 Guilio had been tapped to just begin thinking about an
11 evaluation, if there was an internal evaluation. If so,
12 I wonder if they would have any words to say at this
13 time, or if that's something that we just haven't gotten
14 a chance to really invest much time or energy in at this
15 point.

16 VICE CHAIR AGUIRRE: Yes. You know, in my
17 thinking this through, it seemed like what's captured
18 within the item that has been handed over to you is kind
19 of what I thought would be happening, the issue that, as
20 we say, there have been some issues and some activities
21 that haven't been as readily visible to the public just
22 simply because they have not been internally involved
23 with us. There are issues of evaluating the process,
24 there are certain policies that we develop and or modify
25 to suit the better function of the organization. There

1 were certain things that came up with the maps, with
2 funding, that we certainly were challenged by. As we
3 moved along, there is of course issues also with how the
4 bureaucracy in Sacramento, which has been a surprise to
5 me, how slow it works and how kind of convoluted it is,
6 and really I can see why citizen frustration with State
7 Government, you know, where that comes from. So I've
8 experienced that on a first term basis. So, the other
9 issue of dealing with a regional approach to map drawing
10 vs. a more holistic approach, I know that we got some
11 suggestions about starting in the north, going south,
12 starting at the beach, going west, going east, starting
13 at the major population centers then branching out, those
14 are things that certainly would be good to discuss,
15 whether it makes it into a recommendation that eventually
16 is made.

17 But ultimately, I think that Ms. Di Guilio might
18 have some things to add, but we're certainly, I think,
19 excited about the task.

20 COMMISSIONER DI GUILIO: And I'd only add, I
21 think Commissioner Aguirre did a very good job with that,
22 I think the only thing I'd probably add is not just the
23 -- is to kind of wrap in, as you mentioned, not only the
24 assessment, but to look into recommendations also. I
25 think we'll be doing some evaluation of what we did, but

1 I think probably a lot of it will be how to -- what
2 worked well, what we can improve on, some recommendations
3 for the next Commission, or maybe some others may be more
4 academic, or kind of larger policy issues, so I think
5 we'll be wrapping some of that up.

6 We were just talking on the way to lunch today
7 that the idea that part of it will be getting things
8 while they're still fresh in the Commissioner's minds,
9 right now, but also that, with some time, there may
10 actually be some other reflections that we have, so I
11 think it's kind of an ongoing task that we'll be doing,
12 so that's the idea right now.

13 COMMISSIONER GALAMBOS MALLOY: I have a question
14 I'd like to pose for our legal counsel because it's clear
15 that we're all in a reflective stage right now while
16 things are fresh, and I think it's a good time to capture
17 those thoughts from Commissioners, but I would like a
18 better sense from a legal perspective at what point we
19 might think about making some of those observations or
20 recommendations actually public because of the fact that
21 we could be finding ourselves in litigation, you know, if
22 we were -- and I just imagine that it might compromise
23 our legal position, you know, again not knowing
24 necessarily what would surface, but that clearly we need
25 to weigh the timing as to when we're actually facing

1 litigation or other challenges, and when we actually
2 would go public with any sort of internal analysis.

3 MR. MILLER: I think that question would become
4 easier to answer in the relatively short term. Let's
5 assume that, if litigation occurs, it is within the next
6 30 days, let's say. We'll know then what the allegations
7 are and what the theories of the cases are. And at that
8 point, I think it's easier to identify what one might
9 find more sensitive as opposed to less sensitive, to
10 speak to when we know exactly what it is we're looking
11 at. So we certainly can work with you on an ongoing
12 basis and would be happy to do that.

13 COMMISSIONER DAI: So, if you notice, there are
14 also two bullet points that are highly related underneath
15 that, which are recommendations for the next Applicant
16 Review Panel, as well as recommendations to the next
17 Commission. And there are several categories that have
18 been suggested by various Commissioners. And, you know,
19 part of this is just to kind of start this out, but I
20 think that it would be helpful to have a couple of
21 Commissioners to really come up with a framework of all
22 the different categories and items that we'd want to
23 consider, and then put a process in place that will allow
24 every Commissioner to share his or her input.

25 There's a question about, originally we had a

1 budget for an external party to do kind of an official
2 evaluation, but it's unclear whether we'll have much
3 funding for that and whether that would be necessary over
4 and above what the Irvine Foundation study is going to
5 cover, outside some of these other things that we might
6 have a kind of greater perspective and insight on, just
7 because we're Commissioners. Yes, Commissioner Filkins
8 Webber.

9 COMMISSIONER FILKINS WEBBER: Two things before
10 we get to what I'm assuming you're getting to on the
11 Commission structure, but I also had the same concern of
12 Commissioner Galambos Malloy, and so, when I had reviewed
13 this document and noticed that Commissioner Dai had put
14 up mid-term, in other words, next year, because I don't
15 feel it's in the Commission's best interest for us to
16 discuss a lot of this evaluation and assessment and
17 process issues and recommendations for amendments, or
18 anything, until we know where we're at for litigation
19 purposes. So, as this document came up for the
20 discussion, that's the point that I was going to make, as
21 well, that it probably is not in the Commission's best
22 interest until next year.

23 The other interesting thing that I just want to
24 highlight, and I highlighted it for Commissioner Dai and
25 I had sent an email because I think it's somewhat

1 fascinating, but I don't think it's something that we can
2 ignore, which is that there may very well may be an
3 initiative on the ballot in November of 2012. It's a
4 stretch, but it's actually interesting that it shares the
5 same concerns that I think a lot of us had about our
6 Senate Districts being 931,000 people. So, if you're not
7 familiar, there is an initiative that's out there, and I
8 don't need to plug it, but it is -- when I saw it, I
9 wanted to find out if it did involve us, and it does
10 because, in the potential initiative, it is suggesting
11 that the Redistricting Commission, should that initiative
12 pass, would commence work immediately, within six months
13 to redraw nearly 5,500 districts within each of the
14 Senate Districts. Now, I see that, again, I don't know
15 that they've got enough signatures, it's far far away
16 likely for even being on the ballot, but that's not to
17 say that there wouldn't be some other initiatives that
18 might very well task us with other duties and
19 responsibilities. So I think it's something you might
20 want to add in here as maybe for 2012 for us to be
21 conscientious of any potential legislation that might
22 task us with additional duties and obligations. And just
23 by chance, I don't think there was any budgetary
24 augmentation for that either, which could make it more
25 problematic. But I thought it was fascinating that it's

1 actually out there and that we might very well be tasked
2 by November of 2012 for six months to actually go back
3 and do some more redistricting. But it's something that
4 should be noted and it's something that we might need to
5 follow.

6 COMMISSIONER DAI: Can I put that for longer
7 term?

8 COMMISSIONER FILKINS WEBBER: Sure, you could put
9 it anywhere, but I think it's interesting that, as we see
10 potential news stories and if, by chance, any number of
11 people can put initiatives on the ballot, we know that's
12 how it works in California, so who knows if anybody else
13 might have some creative thoughts as to what this
14 Commission may very well be doing, so it is something
15 that we might want to keep an eye on as the years go by,
16 for at least the next 10 years, we might have to have a
17 topic on this long term structure as to what additional
18 legislation might task us with duties.

19 COMMISSIONER DAI: So response to legislation or
20 initiatives regarding Redistricting. That's a very good
21 point, I don't think we can predict what might happen in
22 the next 10 years, but if we get tasked with something
23 and get called into service again, I'm certain that
24 everyone will answer the call at the appropriate time.
25 But I can certainly add it as something that is an

1 ongoing thing. I don't think it would happen within the
2 next fiscal year, or so, but I'll go ahead and put that
3 for longer term in terms of response to any legislative
4 requirements regarding redistricting.

5 Somebody that I was speaking with said, after
6 we're done with redistricting, they were going to task us
7 with fixing the California budget. So...! So, anyway, are
8 there any other kind of comments or thoughts on functions
9 that we might be taking on in these various timeframes?
10 Otherwise, I think we can go to discussing a little bit
11 more about our structure as a Commission moving forward.

12 COMMISSIONER BLANCO: One more question, and this
13 is for Mr. Wilcox. You know, right now in this period,
14 as opposed to early on, our media work is only proactive
15 to the extent that we're letting people know about the
16 Press Conference. In the early days, you sort of
17 scheduled things for us to get to know, editorial boards,
18 and it was sort of an outreach, it was really kind of an
19 outreach media campaign. And now we're just letting
20 people know about the press conferences and now we're in
21 a responsive mode in terms of media. And I'm just
22 curious whether you're given any thought to, again, a
23 proactive role, given the first-time nature of this, the
24 importance of it sort of at a national and state level,
25 and if you have given some thought to that, to share it

1 with us.

2 COMMUNICATIONS DIRECTOR WILCOX: Right, and I
3 have and because I'm a great believer that, for the next
4 10 years, that there is a public role for Commissioners.
5 And I think right now we're in a transition period, that
6 because of the litigation and the Referendum, but I
7 believe, especially when you're talking about the
8 outreach that was done to establish relationships -- and
9 part of that is keeping those relationships going -- in
10 that you did the hard work with all those editorial
11 boards and with the reporters. I mean, so many of the
12 Commissioners have a rapport with reporters now from
13 working and that there can be a way to continue to have a
14 role. And I would love to work with the Commission in
15 talking more about that as we move from these different
16 roles, and as we move through the Referendum and possible
17 litigation period to a little bit longer term. But I
18 totally agree, I think that's something that should be
19 considered more and would be a good opportunity to
20 pursue.

21 COMMISSIONER DAI: Commissioner Yao.

22 COMMISSIONER YAO: When I glanced through the
23 remaining agenda items under the Finance and
24 Administration, I'm not sure I can detect here
25 immediately, but our role as a Commissioner is changing,

1 to say the least, the infrastructure that has supported
2 us throughout the last eight months probably needs to
3 change accordingly in the following areas, for example,
4 on the website, the transparency issue absolutely was
5 important during the map drawing process, but when it
6 comes to the litigation issues, it probably works exactly
7 to the opposite. We may want to take time out, and I
8 don't know, again, whether we have put that in today's
9 agenda, to discuss some of these issues in terms of video
10 telecast, the meetings, we probably need to talk about a
11 little bit as to whether that's --

12 COMMISSIONER DAI: Scroll down.

13 COMMISSIONER YAO: Okay. And the transcripts,
14 and public access to how often we meet with our legal
15 lawyers, and so on, those probably have never been the
16 intent of the original Prop. 11 or Prop. 20, and I think,
17 unless we discussed it and make definite changes to it,
18 it may just end up continuing the way it's going, so I
19 would like some opportunity to, I guess, discuss that
20 before we really get down to the budgeting planning issue
21 from this point on.

22 COMMISSIONER DAI: With that segue, let's talk
23 about Commissioner structure. So if you move on down and
24 you get past the functions, there's a topic "Commission
25 Structure." I just want to review the decisions we made

1 two weeks ago about litigation oversight and just make
2 sure I captured this correctly.

3 So we set up a litigation oversight team, and
4 that's composed of Commissioners Ancheta and Forbes, who
5 have delegated authority from the Commission to
6 coordinate and respond to outside counsel's need for
7 timely response or short term day-to-day kinds of
8 decisions, and they'll be monitoring that with Gibson,
9 Dunn and Morrison & Foerster. And then, at the same
10 time, we gave also delegated authority to Commissioners
11 Blanco and Filkins Webber to coordinate with our Chief
12 Counsel and ensure that our in-house legal resources are
13 being used efficiently, and I would assume that might
14 include other legal subcontractors that we bring on, for
15 example, the e-Discovery consultant, that would be
16 another kind of contract that we would probably want to
17 have some oversight over. So that is what we talked
18 about in terms of litigation oversight. We had discussed
19 last time the possibility of having regular meetings by
20 telephone, as often as weekly, for everyone on the full
21 Commission to be updated and, if there are big decisions
22 that would need to be made, that this would be brought
23 before the full Commission on these relatively frequently
24 regular calls that we would set up in advance, which is
25 the reason that Mr. Miller is asking us to get that

1 information to him, so we can set that up, so we don't
2 have to travel every week, but it would allow us to stay
3 up to date on a regular basis, these would be closed
4 sessions for the purpose of discussing litigation, and
5 that is kind of what we talked about two weeks ago in
6 terms of moving through this next phase of litigation,
7 how we're going to handle the legal aspects. Yes,
8 Commissioner Filkins Webber.

9 COMMISSIONER FILKINS WEBBER: So, based on what
10 we did this morning, one other category you might want to
11 add is Department of Justice Oversight, so we can add the
12 delegated authority for Commissioner Blanco and that's
13 already been decided, so we probably don't need to
14 discuss it and you can add it as a category.

15 COMMISSIONER DAI: Thank you for helping me keep
16 this document up to date. Okay, so we made that
17 decision. Yes, Commissioner --

18 COMMISSIONER DI GIULIO: I'm just curious,
19 Commissioner Dai, in terms of what we've been talking
20 about with these telephone meeting options, is there any
21 way, since you're the technical guru also, is there any
22 way to do like a Skype, a multi-person Skype?

23 COMMISSIONER DAI: There is, with limited
24 quality.

25 COMMISSIONER DI GIULIO: Yeah, okay. I just

1 didn't know. I mean, sometimes it's fine to just do a
2 probably 14 or 15-member conference call, but sometimes
3 it's nice to have visuals, as well. I didn't know if
4 there was Skype options for us to do that and then how
5 that fits in with our legal parameters.

6 COMMISSIONER DAI: I'm sure that we can ask staff
7 to investigate the possibility of having a webcam
8 available for their part, so I will delegate that to Mr.
9 Claypool to look into that possibility. Okay, so that
10 was the important decisions that we made two weeks ago --
11 yes, Commissioner Yao.

12 COMMISSIONER YAO: Well, okay, where we got to
13 that, for example, Skype may not be secure enough for a
14 legal type of discussion, okay, but again, I wanted to
15 readdress this issue, does Bagley-Keene apply to, for
16 example, our discussions with our legal attorneys when
17 we're addressing these type of telephone calls, and when
18 we're talking about how to defend the State of California
19 against people that are suing us. So, again, if we don't
20 discuss it, we'll continue doing the same thing that we
21 have always been doing, but the question I really have
22 is, this is a different kind of game, we're in a
23 litigation situation. Does the Bagley-Keene apply? Does
24 Prop. 11 and Prop. 20 address the litigation issue when
25 it applies to Bagley-Keene to our meetings?

1 MR. MILLER: Yes, but in a particular way. What
2 you should imagine is that we're recreating in a
3 telephone meeting exactly what we do here in a live
4 meeting, and that would be that we would open the meeting
5 from the Sacramento office, invite public comment just as
6 if we were here, if there are items that are of a public
7 nature, they could then be discussed at that time. If
8 the purpose of the call is to discuss litigation in a
9 closed session, then we would move from closed session --
10 excuse me, from open session to closed session -- on the
11 phone, just as we do here. When that portion of the
12 meeting is over, we would then telephonically reconvene
13 an open session if, for example, there were members of
14 the public that came to the CRC Offices here in
15 Sacramento, they would be invited back in at that time,
16 we would make a statement as we do here about what
17 occurred in closed session, and unless there was other
18 business, that would then conclude the meeting. It would
19 be noticed in the same way, the additional notice
20 requirement is the one we spoke about earlier where we
21 have to identify in our written notice with specificity
22 where each Commissioner is because, in principle, a
23 member of the public could join that Commissioner for the
24 public portion of the call, wherever he or she is
25 located. Yes, sir.

1 CHAIRPERSON BARABBA: A question just occurred to
2 me. If we identify a place where we're going to try to
3 be every time and at a certain time, what happens if we
4 can't be at the call, if we were out of town or
5 something? Does that phone have to be alive for somebody
6 who shows up or --

7 MR. MILLER: No. If you're not there, we
8 wouldn't notice that location for that meeting.

9 CHAIRPERSON BARABBA: Okay, thank you.

10 COMMISSIONER PARVENU: And we sort of touched
11 upon this before break, but I just want to say for the
12 benefit of the viewing audience and those here, we stated
13 that the language translation requirement would be the
14 same, correct? With the 14-day notice, that should cover
15 that we would make available at our venue of choice
16 perhaps a non-paid person to translate for us, if
17 required?

18 EXECUTIVE DIRECTOR CLAYPOOL: Right now, we have
19 -- correct me if I am wrong, Rob, I believe a five-day
20 policy for people to call in and make a request for a
21 translator, however, we have done it just on a 24-hour
22 notice, if somebody calls and they need a translator,
23 we're going to make every effort to have one there
24 regardless of when the call is, but the policy is five
25 days and we would continue to honor that policy and any

1 other request.

2 COMMISSIONER DAI: Okay, so the short answer is,
3 yes, Bagley-Keene always applies, it particularly applies
4 for noticing, and that's the reason we've noticed every
5 day in August. So, any other questions about that?

6 COMMISSIONER PARVENU: Just a quick follow-up
7 regarding compensation for the person that we may have on
8 site at our remote locations. Should we expect someone
9 to just volunteer to translate, that would do that as a
10 favor to us, individually? We're talking about, perhaps,
11 sensitive materials here that perhaps just anyone of the
12 public who happens to know Spanish, or Korean, or
13 whatever the language may be, may not necessarily be
14 privy to, or need to be an expert at, or have exposure
15 to? In my case, I'll be at City Hall in Downtown Los
16 Angeles, and I will have to find someone on the premises
17 to translate if someone walks through the door that
18 speaks a foreign language, it could be a number of
19 languages in Los Angeles.

20 EXECUTIVE DIRECTOR CLAYPOOL: We actually have a
21 contract right now with a professional service that
22 provides translators and I would assume that the
23 Commission would want to continue that relationship.

24 COMMISSIONER DAI: And just to clarify, any
25 discussion about litigation will be in closed session, so

1 there will be no special capabilities in terms of
2 translation that's required.

3 Okay, all right, so that was the litigation
4 oversight. You'll see that I have two other categories
5 here, one, well, three actually, but I thought we would
6 start at the top, which was just looking at our advisory
7 committee structure, one of the comments from our
8 discussion two weeks ago was that it was unlikely that we
9 were going to use outreach or technical, that we were
10 going to need these two committees anymore. We saw most
11 of the Commissioners who had submitted input had seen an
12 ongoing need for Legal, Finance & Administration, and
13 Public Information. We've kind of reconstructed Legal, I
14 think, appropriately so. I don't know if there seems to
15 be -- if the Legal Advisory Committee sees having all
16 four of you together again, that's fine, you know, these
17 are the kinds of decisions that we should talk about.

18 And then there have been a couple of suggestions
19 for new committees, one we had started the discussion
20 earlier to look at evaluation and outcomes, and one to
21 maybe take that home and look at actually constructing
22 either a Constitution or statutory amendments that we
23 might want to ask be made based on our experience with
24 the Act as it is currently written.

25 I also threw in there the idea that we might want

1 to go back to what we had before, where there may not be
2 a need for the full Commission to meet, but maybe it
3 would be useful for an Advisory Committee to actually
4 meet and have a working session without the need for the
5 full Commission to meet, where, because of our schedule,
6 or venue limitations, and all that, we stopped having
7 advisory committee meetings since we started having
8 everything in full session; that may not be the most
9 efficient way to move forward as we go forward, we may
10 not need all 14 people there and we want our, you know,
11 our group of four people or so to really hash things out
12 and to figure things out and present it back to the full
13 Commission.

14 So, I think it would be quite reasonable for us
15 to consider providing 14-day notice and maybe only the
16 Finance & Administration Committee needs to meet, or
17 maybe the Evaluation and Outcomes Assessment Advisory
18 Committee wants to have a meeting and start working, and
19 it would not be necessary for the rest of the Commission
20 to meet.

21 So, I want to throw these ideas out and see if
22 anyone has some thoughts here, and wants to make some
23 recommendations on how we move forward with Advisory
24 Committees. Commissioner Filkins Webber.

25 COMMISSIONER FILKINS WEBBER: I think these two

1 new Advisory Committees are good. I agree that we can
2 probably disband Outreach and Technical, and move forward
3 into these other new committees, and then it might just
4 be a consideration as to who would be interested in
5 working on those committees. And then, obviously, the
6 committee leads for Legal, F&A and Public Information can
7 probably continue to do what you had suggested and work
8 on something. I think the structure that we have right
9 now, obviously Commissioner Ancheta and Commissioner
10 Forbes, to the extent which there would be litigation,
11 will be deeply involved in their own subcommittee based
12 on delegated, and then Commissioner Blanco and I can move
13 forward on legal stuff, as necessary. And we won't
14 necessarily need to have a full meeting based on the fact
15 that it would just be the two of us, and the two of my
16 fellow Commissioners for litigation purposes. So I think
17 that's a good working group and, then, to the extent in
18 which any of the other committees get higher up in
19 number, or if anybody wants to be more involved, then we
20 can expand to that. We probably should just maybe have
21 some consideration as to who wants to move forward on
22 either of these two new committees, or if anybody has any
23 other ideas, I didn't really have any new ideas on other
24 subcommittees. But I'm fascinated about that
25 Constitutional and Statutory Amendment one. I wonder

1 why!

2 COMMISSIONER DAI: Well, and to be honest, that
3 one may not need to actually be formed until later, until
4 sometime next year, so I do think it make sense probably,
5 again, to get started on Evaluation and Outcomes, if only
6 to think about the structure of how we might organize
7 that, and put a framework together. And it may not even
8 be a full committee, it might just be we delegate
9 authority to a couple of Commissioners to start thinking
10 about that and putting a structure together, and then
11 we'll see who is interested in a full committee. So
12 that's just a thought. Commissioner Galambos Malloy.

13 COMMISSIONER GALAMBOS MALLOY: I am partial at
14 this point in time towards delegating authority to a
15 couple of Commissioners on each of these areas, to just
16 do some lead thinking. I think these are areas that we
17 could trim travel time, and costs, and really try and be
18 a lean mean machine at this point. So I think where
19 there are Commissioners who have already expressed an
20 interest over time, I think if Commissioner Di Guilio and
21 Commissioner Aguirre are interested and willing in doing
22 some of that lead thinking around Evaluation and
23 Outcomes, and others on Constitutional and statutory,
24 maybe the recommendation is they come back and say, "We
25 need a full committee," but I would like to not just

1 create a committee for a committee sake at this point.

2 COMMISSIONER DAI: Okay, I hear a proposal to
3 nominate Commissioners Aguirre and Di Guilio to maybe be
4 the vanguard in terms of at least defining the problem
5 here and coming up with a framework. Is there -- yes,
6 Commissioner Ward.

7 COMMISSIONER WARD: Yeah, as someone who has
8 brought up quite often an idea for an Evaluation and
9 Outcomes Assessment as something that I know I've thought
10 a lot about, too, and I'd like to be considered to go
11 ahead and help assist the mentioned Commissioners to go
12 ahead and brainstorm and come up with a process to come
13 back and brief the Commission on how to best accomplish
14 an Evaluation and Outcomes Assessment.

15 COMMISSIONER DAI: Okay, Commissioner Ward has
16 also expressed an interest. Any other thoughts on this?
17 I think the challenge, again, we'll have with delegated
18 authority is it has to be two, and no more than two. I
19 do think that it probably will warrant a full committee
20 at some point, but probably not immediately for all the
21 reasons we talked about in terms of how much we can
22 actually realistically get done while we have litigation
23 pending. So I think the thinking right now is really to
24 flesh out, you know, try to get it started here in terms
25 of all the input people had, in terms of the different

1 categories and --

2 COMMISSIONER FILKINS WEBBER: Well, if we don't
3 move forward with actual committees, because it's
4 premature, and we should probably just -- I think
5 Commissioner Galambos Malloy is correct -- and then we
6 can see where we're at next year. So you are suggesting
7 possibly just having Commissioner Aguirre and
8 Commissioner Di Giulio working together, almost putting
9 together like a post-2012 Work Plan for at least maybe
10 these two committees? Is that what we're kind of looking
11 at? Or --

12 COMMISSIONER DAI: Yeah, I think it actually
13 could involve both because, I mean, you would imagine
14 that, after we've done the Evaluation and Outcomes, we
15 would then want to translate those into amendments, so
16 that's an interesting idea.

17 COMMISSIONER FILKINS WEBBER: Well, that's what
18 I'm -- if we're not going to a full committee, and we
19 have to be conscientious that not more than two people
20 are working together right now, it would just be an idea
21 of putting the two of them together, or any other
22 combination of Commissioners at this point, just to flesh
23 out this little idea as to what these committees could be
24 made up of, what type of authority that they would have,
25 that type of working -- because when you can't add

1 another, a third Commissioner, or a fourth Commissioner,
2 to that because then we're in a Bagley-Keene problem, so
3 I was just trying to get an idea of what you really
4 wanted this working group, whomever it might be, would be
5 doing with this.

6 COMMISSIONER GALAMBOS MALLOY: I think, given the
7 fact that there will be an ongoing need for the three
8 committees that we identified for F&A, Legal, and for
9 Public Information, it seems to make sense that we would
10 draw on Commissioners that come from Outreach and
11 Technical, because you will be out of a committee,
12 essentially, and I can imagine that, now that we're
13 moving past some of the things that Commissioners Yao and
14 Ward may want to take a turn on F&A as leads, so, again,
15 we can only have three at this point in time, but the
16 goal is not that they would be making decisions, but just
17 doing -- no more than two -- but that they would just be
18 coming back to us with a framework on how to move
19 forward.

20 CHAIRPERSON BARABBA: I have a quick question for
21 Mr. Miller. If there was a group of two working on it,
22 could a third person send them a note about their
23 interest, or does that become a serial meeting?

24 COMMISSIONER DAI: You could send input, right?

25 MR. MILLER: You know, I think the best way to

1 look at this is that you need to be very clear that this
2 is not a decision making group, that its sole purpose is
3 to advise the Commission, for the Commission then to make
4 the decision. And perhaps to facilitate someone else
5 sending a suggestion along, we could post that.

6 COMMISSIONER DAI: Correct me if I'm wrong, Mr.
7 Miller, for example, for me to put this document
8 together, it was based on basically people sending me
9 thoughts and ideas, and then I basically compiled it and
10 tried to organize it into some logical format with ideas
11 from 14 different people. So, I'm assuming they can
12 receive input, but it shouldn't be two-way conversations
13 or discussion?

14 MR. MILLER: Well, this is an area,
15 unfortunately, where Bagley-Keene doesn't facilitate work
16 being done in a most efficient manner. I mean, it
17 actually contemplates that those exchanges would occur in
18 this public setting, which is another reason why the
19 phone meetings can be helpful to us because we can
20 announce them to the public and you can talk with any
21 number of Commissioners on that call. Let's say, for
22 example, that it's just a meeting of three people, or two
23 people, but we notice it, we make it available, that
24 would permit anyone on the Commission to, in that forum,
25 provide their input.

1 COMMISSIONER DAI: Right, which is exactly why I
2 was saying that it actually might be much more efficient,
3 for example, for Finance & Administration to actually
4 call an official meeting and, that way, we can do our
5 business and if somebody else wants to join and bring up
6 an issue at that point, they can. But it would be
7 completely focused on, for example, Finance and
8 Administration topics. But I think, in this case, you
9 know, I think Commissioner Filkins Webber, you had it
10 right, I mean, it's really about fleshing this out and
11 putting some kind of framework together, you know,
12 hopefully coming up with something that is more detailed
13 than what I have these three bullets on.

14 COMMISSIONER FILKINS WEBBER: Well, I guess maybe
15 like a timeline also, getting some information as to
16 where the Irvine Group's projection for their timeline
17 would be, when would the Commissioners be expected to be
18 involved in the Irvine Foundation as far as interviews,
19 you know, just kind of like -- I'm thinking kind of what
20 Commissioner Di Giulio had done as far as the Work Plan.
21 And maybe, based on the timeline as far as what we're
22 able to do on Constitutional, or statutory changes, when
23 would it be expected, a timeline again, as to when -- so
24 kind of like a gross overview as to what these two
25 committees could be doing, putting it together, they're

1 brainstorming among themselves, and then coming back to
2 the Commission with what their ideas might be, and then
3 whomever would be involved would like to see what they're
4 brainstormed ideas are for Work Plan, timeline for next
5 year on these two committees, at least, then
6 Commissioners would have an idea of what's going to be
7 involved, time commitment, let's say, and people could
8 then volunteer. And then those committees, once they're
9 established probably after the first of the year, or
10 whenever we do do it, could then have their own agendized
11 meetings and work on their own. So I'm kind of just
12 looking at it as far as what Commissioner Di Guilio and
13 Commissioner Ancheta did with the Work Plan idea.

14 COMMISSIONER DAI: Okay. And I think there's
15 probably some research, also, in terms of how we carry a
16 Constitutional Amendment forward and get it enacted. So
17 there's probably some research there that would be
18 helpful if a couple of people did rather than the whole
19 Commission having to figure that out. Any other thoughts
20 of kind of coming up with a scope, maybe a scope and a
21 framework, and then request for additional resources at
22 the appropriate time?

23 COMMISSIONER FILKINS WEBBER: And I think, as
24 they probably work among themselves, that there might
25 very well be some either subcommittees that they might

1 realize might be better forums to assist the Commission
2 as they go along, so kind of just brainstorming among the
3 two, bringing it back to the Commission, and then we can
4 see what subcommittees or official committees we might
5 want to create next year.

6 COMMISSIONER DAI: Commissioner Yao.

7 COMMISSIONER YAO: Is there a need to disband the
8 old committee the way that we have used them in the past?
9 We formally formed these committees and now we're either
10 changing players and all renaming -- it's delegated
11 authority, so is there any need that we need to formally
12 recognize it one way or the other?

13 COMMISSIONER DAI: I think we can just agree that
14 -- unless anyone disagrees that we don't need Outreach or
15 Technical anymore? Anyone who feels that we need to keep
16 them? Commissioner Raya.

17 COMMISSIONER RAYA: I just have a question.
18 We're not delegating authority -- I just want to be sure
19 that's clear, we're not creating anything in delegating
20 authority at this point?

21 COMMISSIONER DAI: Right. But I think
22 Commissioner Yao was asking about disbanding, so that's
23 the opposite.

24 COMMISSIONER FILKINS WEBBER: Well, I had one
25 point about that. I don't know that we necessarily need

1 to disband because let's say, for instance, I don't know,
2 seven and a half years from now they come up with some
3 incredible technical thing that somebody who is on
4 Technical, because they're interested in it, might
5 actually know about. And what if they, you know, I could
6 just see that it might be possible that maybe Technical
7 might want to reconvene in seven and a half years from
8 now because of some incredible software, and they might
9 want to have an agendized meeting. I'm just kind of
10 throwing it out there. I don't think we need to disband,
11 it's just that they won't have any agendized meetings and
12 they won't, you know, unless there's something that they
13 really want to talk about. Or, what if in our
14 consideration of recommendations for the next Commission,
15 Outreach really does want to meet because they want to
16 really brainstorm some ideas about the pros and cons of
17 Outreach, rather than the full Commission doing it. I
18 see no reason, since Outreach was so involved in the
19 beginning in putting together this, they should meet if
20 they'd like to in an agendized meeting to really hash out
21 pros and cons in Outreach. So I don't think it's
22 necessary for us to "disband," it's just recognizing that
23 they won't be agendized.

24 CHAIRPERSON BARABBA: You also just reminded me,
25 Commissioner Filkins Webber, that the Census Bureau is

1 going to be going through a whole series of studies and
2 plans for the 2010 Census, and they'll have many of the
3 changes that they plan to implement in place well before
4 [inaudible] because they're going to do field exercises
5 of those. So it might be of interest, then, to the
6 Technical Committee to say, "You know, the date is going
7 to be in a different forum, and it's what we might want
8 to consider." And so I think that's an important
9 opportunity for us to stay aligned so we know what's
10 going on.

11 COMMISSIONER DAI: Okay, Commissioner Yao.

12 COMMISSIONER YAO: Yeah, just reminding the
13 Commission the fact that we had formed the previous
14 Advisory Committee was what limited us to no more than
15 two people can discuss a particular topic at any instant
16 in time. If you do away with any kind of advisory
17 committee, then basically you can have up to half or
18 something less than half of the entire Commission of 14
19 to discuss any topic. That is -- that has been the
20 limiting factor in terms of how we have to behave. The
21 magic number of two is because of the fact that our
22 subcommittee is usually five or fewer members, two is a
23 minority number of that subcommittee, and that's how we
24 have got ourselves into this situation of no more than a
25 discussion of two, so if we keep this around forever,

1 then we basically have that same scenario. So, I said my
2 peace, I know you heard it from me more than one time.

3 COMMISSIONER DAI: Mr. Miller, would you like to
4 clarify again what the rules are regarding Bagley-Keene
5 and regarding two vs. three Commissioners?

6 MR. MILLER: When a delegation, a decision making
7 delegation is contemplated, then even any two people are
8 a committee for making decisions; where there's no
9 decision making responsibility, then we have gathered on
10 occasion Commissioners together, but have been careful in
11 constructing those larger calls, if you will, to avoid
12 having any three present from a single existing committee
13 that has decision making responsibility. So, there is
14 some ability to construct subgroups, but we have to be
15 quite mindful both of the purpose of the group and other
16 responsibilities those same people may have in other
17 groups.

18 COMMISSIONER DAI: We have been having regular
19 Legal calls with many more than two people on them, but
20 not from the same committees.

21 COMMISSIONER YAO: Yeah, I just clearly heard the
22 term "two or more people from the existing committees,"
23 okay, so thank you.

24 COMMISSIONER DAI: Okay, so unless there is a
25 motion to officially disband Outreach and Technical at

1 this point in time, we can leave them constructed, but
2 basically into --

3 COMMISSIONER DI GIULIO: In hibernation.

4 COMMISSIONER DAI: -- in hibernation, go on
5 holiday. Okay, so --

6 COMMISSIOENR BLANCO: Inactive.

7 COMMISSIONER DAI: -- they're inactive for the
8 moment, they may be called into action in seven and a
9 half years, who knows? All right, so I sense there is a
10 consensus building here to have a working group of
11 Commissioners Aguirre and Di Giulio to kind of flesh this
12 out, and then put a plan together, a scope of work, and
13 then at some point when there is a need for a full
14 committee, which may not be until next year, that there
15 may be a call for resources. Commissioner Ward.

16 COMMISSIONER WARD: Once again, I'd like to
17 express my interest in that. I know the Commission has
18 gotten into a habit of just appointing people to these
19 things, but in this case, I don't know that those
20 Commissioners were even asked if they wanted to step into
21 that role, and certainly I'm obviously expressing my
22 desire to do so, so I'd like to see if we could ask those
23 Commissioners if they even want that responsibility, and
24 if they do, maybe we can make a determination on who to
25 select from there.

1 COMMISSIONER DAI: Okay. Commissioners?

2 VICE CHAIR AGUIRRE: I personally have been
3 giving it some thought and I have some experience in
4 Evaluation and Assessment, so I want to accept.

5 COMMISSIONER DI GIULIO: And I would be happy to,
6 as well. I think with Technical and Outreach going into
7 -- it being inactive, and trying to stay involved in the
8 Commission, this would be a good way to transition to do
9 that and I would look forward to having other
10 Commissioners be a part of the larger process, which I
11 think is really where the nitty gritty will come in.

12 COMMISSIONER DAI: Okay.

13 COMMISSIONER FORBES: I would just like to make a
14 comment. I mean, to some degree we've had smaller
15 committees so we could move quickly. I think the
16 Evaluation Committee does not have that same sense of
17 urgency on a day-to-day basis, so I don't think we
18 necessarily have to constrain this committee to just two
19 people, personally.

20 COMMISSIONER DAI: So, I think we were not going
21 to form a committee at this point.

22 COMMISSIONER FORBES: Okay, well, you talked
23 about it in concept of twos again.

24 COMMISSIONER DAI: Yeah, so the idea here was
25 just to have a couple of Commissioners come up with a

1 scope and a plan, really.

2 COMMISSIONER FORBES: Well, I mean, if
3 Commissioner Ward would like to participate in that
4 scoping, I see no reason not to do that.

5 COMMISSIONER DAI: Is there a legal issue on
6 this? I just want to clarify, because we've always gone
7 with two.

8 MR. MILLER: Well, can we restate what this group
9 would be doing?

10 COMMISSIONER DAI: Basically --

11 COMMISSIONER FILKINS WEBBER: Brainstorming.

12 COMMISSIONER DAI: -- yeah, brainstorming. I
13 think Commissioner Filkins Webber said it well.

14 COMMISSIONER FILKINS WEBBER: But, as I
15 understand it, the group, whoever it is, would be
16 brainstorming on putting together a potential work plan
17 and highlighting issues and timeline for these two
18 potential committees that we're looking at for next year,
19 which is the Evaluation and Outcomes Assessment Committee
20 and the Constitutional and Statutory Amendments
21 Committee. So basically they'll be brainstorming ideas
22 as to what the expectations would be of those involved in
23 those committees, a timeline with the Irvine Group's
24 direction involving the Commissioners, similar to the
25 work plan that was done before between Commissioner Di

1 Guilio and Commissioner Ancheta, just again a
2 brainstorming idea, they won't be making any decisions,
3 it would just be to come back to the full committee
4 regarding their idea of this evaluation and assessment
5 for how these two committees could work next year.

6 MR. MILLER: Well, unfortunately I do think
7 that's different than the rotating group we've had on the
8 calls, which hasn't been a formal group at all, but is
9 comprised of the rotating Chair and Vice Chair and really
10 comes and goes and gets an update. And contrast that
11 with this work, which sounds very much like our other
12 committees. Now, certainly it's not that difficult to --
13 it sounds to me as if this is a group that is likely to
14 work largely by telephone anyway, and if we were just to
15 go ahead and schedule those meetings, we can do that, and
16 I think that their work would probably come out very
17 similarly than if we didn't make them a more formal
18 committee, and I think that would be the right way to
19 handle the work that you described.

20 COMMISSIONER FILKINS WEBBER: We won't make them
21 a formal committee --

22 MR. MILLER: No, I'm suggesting you do and we go
23 ahead and notice those meetings, but I think we've got a
24 procedure that permits that to be done expeditiously and
25 can facilitate their work.

1 COMMISSIONER DI GIULIO: So it's either two people
2 that can work without a public meeting, or three people
3 and we'll notice the meetings?

4 MR. MILLER: Yes.

5 CHAIRPERSON BARABBA: It's going to be either
6 three people where we notice the meetings, or two people
7 who work informally.

8 COMMISSIONER DAI: Yeah, in the past the reason
9 we've gone with two is to avoid having to notice and have
10 public meetings.

11 CHAIRPERSON BARABBA: Commissioner Parvenu.

12 COMMISSIONER PARVENU: Would it be possible, if
13 we were constrained to a two-person structure, and
14 obviously Commissioner Ward is expressing a repeated
15 interest in being a part of the process, to extend a
16 special privilege or an exception for Commissioner Ward
17 to be a part of the editing, or part of the editing, or
18 part of the -- if not direct discussion in defining the
19 scope, but to have some first-hand input in the process
20 before bringing it to the full body at some later point,
21 so that he is an integral part of the development of the
22 scope?

23 CHAIRPERSON BARABBA: [Inaudible] try to answer
24 that.

25 MR. MILLER: I recognize that the conduct that is

1 contemplated is absolutely benign. The trouble is that,
2 trying to fit it into this construct, that doesn't offer
3 anything but very little rigidity, and I've tried to help
4 facilitate around these difficult corners as much as we
5 can, but we're kind of stuck with this, the three-person
6 rule, and the communications among Commissioners between
7 meetings of material that is essentially public material,
8 and that is what gets in our way here. There is the
9 alternative, which is more complex, but very doable,
10 which is to simply schedule these meetings in advance,
11 and then any number of Commissioners can participate
12 fully in the development of the work.

13 CHAIRPERSON BARABBA: Commissioner Raya, then
14 Commissioner Forbes.

15 COMMISSIONER RAYA: I was trying to write down so
16 I wouldn't forget what I wanted to say. A few things, 1)
17 we just had a discussion a little bit ago about that this
18 particular topic might have some impact on ongoing
19 litigation, the assessment and so on, so now we're
20 talking about possibly noticing meetings and all the
21 attendant transparency that goes along with that, that's
22 one concern I have. Another concern I have is that I
23 think, just for efficiency sake, two people has worked
24 very well for us, and I don't see a reason to change that
25 now because we will all have an opportunity. I think

1 that many of us will want to weigh in, or all of us will
2 want to weigh in on this particular topic. The third
3 consideration is that every assignment of this nature,
4 which is going to take a lot of Commissioner time, costs
5 us \$300 for every six hours that are put in, and we
6 haven't really gotten to talking about per diem yet, but
7 that's a very big issue, it's a very big issue for me,
8 and I think it's one that we need to take into
9 consideration.

10 CHAIRPERSON BARABBA: Commissioner Forbes.

11 COMMISSIONER FORBES: Just three comments, 1) my
12 understanding was that this Committee or group would wait
13 until after the litigation was clarified before it did
14 anything, because we are aware that they are potential
15 litigation issues. So I don't think that's a concern.
16 Also, I think Commissioner Ward has clearly expressed an
17 interest and I give credence to that, I mean, I think
18 when someone has expressed a real interest in something,
19 it's to our advantage to utilize that interest. But
20 also, I'm going to be just right direct here, we're
21 pretty good at this, Commissioner Ward has had a
22 different take on some of how we've done our processes,
23 so I'm not at all sure that having that different point
24 of view might not be useful in the evaluative process.

25 CHAIRPERSON BARABBA: Commissioner Di Giulio.

1 COMMISSIONER DI GIULIO: I just would mention
2 that, I think in terms of what's being asked for this
3 particular task really isn't putting together the
4 evaluation, isn't putting together some of the thoughts,
5 it's more of the larger picture of just how we would go
6 forward to do something like that, it's really getting
7 the larger picture, the scope of work, maybe some
8 timelines, maybe some initial research into amendments
9 and when those could happen, it's really the bigger
10 picture framework from which the Commissioners, as
11 Commissioner Filkins Webber mentioned, it's the
12 Commissioners would then have a better idea of what is on
13 the table and could then plug in and really start to do
14 the work. I think both in terms of conflicts, potential
15 conflicts with our litigation that this wouldn't be a
16 part of that, and ultimately for other Commissioners'
17 involvement, that's really where the details and the
18 involvement and the contributions and participation will
19 really take place. I think, just knowing what happened
20 with the work plan, it's really important to be able to
21 maneuver into setting these things up, there's just a lot
22 of back and forth in getting things started from scratch,
23 and that's just very helpful on kind of an informal
24 basis, and then once you get through all those drafts and
25 through all those ideas on paper, then you can bring it

1 back to the Commission, who will then change it all! But
2 if you get a starting point for everyone, I think that's
3 really the benefit of having two people that are
4 maneuverable to do that.

5 CHAIRPERSON BARABBA: I have found myself
6 thinking about this, this is a subject which I have keen
7 interest, and significant experience, but I'm really
8 looking forward to what the first report looks like, and
9 then adding to that, or changing it, as best I can if
10 necessary. So, the way I sense these committees is this
11 is not the answer that we're looking to, this is the
12 beginning of a discussion and that all of the
13 Commissioners, then, have an opportunity to bring their
14 own expertise and interest to bear on this subject,
15 that's kind of how I feel about it. Anyone else?

16 COMMISSIONER DAI: Commissioner Ward.

17 COMMISSIONER WARD: Yes, thanks. Yeah, I agree
18 with Commissioner Di Giulio, my understanding was that we
19 were just trying to find two people to come up with a
20 concept and a work plan for how to best recommend to the
21 Commission to go about completing these Evaluation and
22 Outcomes Assessments, as well as coordinate with the
23 Irvine Foundation, you know, with their external process
24 that they're going to use, maybe help coordinate
25 interviews, things like that, and again come up with

1 timelines and I agree, I think that I have some unique
2 skills that bear to that, being that 1) the Chair of the
3 Poly Sci Department at Cal State Fullerton, who I happen
4 to know, Mr. Sonnenschein, is going to be heading up that
5 external evaluation, so I think that that's useful to the
6 Commission, as well as, again, as I think I've called in
7 on the record before, a hot wash used to conduct those
8 routinely, as well. So I have experience in process
9 review and things like that, so I think in terms of being
10 able to help set up a concept and a framework and a work
11 plan, I think that that's what I saw and what my interest
12 was, in being selected to help firm that up for the
13 Commission.

14 COMMISSIONER DAI: Okay, so we have three
15 Commissioners who have volunteered. I think we have a
16 very clear legal position from Mr. Miller that it's
17 either a two-person informal brainstorming group, or an
18 official three-person, you know, 14-day notice, Bagley-
19 Keene kind of open meetings kind of situation, so what is
20 the Commission's pleasure?

21 CHAIRPERSON BARABBA: Okay, I would, given the
22 context of everything else that's gone around, I would
23 think the three-person activity might be the best thing
24 for us to do, with the condition that it doesn't get
25 started until after we have a full understanding of the

1 litigation situation. How does the Commission feel about
2 that? Commissioner Ward.

3 COMMISSIONER WARD: I agree that I think it's
4 important that we have a two-person team assigned to make
5 this happen, and --

6 CHAIRPERSON BARABBA: Two-person, did you say?

7 COMMISSIONER WARD: Yeah, if the only way to make
8 that happen is for me to step down, or withdraw my name,
9 I will do that.

10 CHAIRPERSON BARABBA: Okay. All right, that
11 being the case, any other comments? All right,
12 Commissioner Aguirre and Commissioner Di Giulio will be
13 heading that up and, then, be prepared for one or two
14 comments when you're done!

15 COMMISSIONER DAI: Or three or four.

16 COMMISSIONER DI GIULIO: I would expect nothing
17 less.

18 CHAIRPERSON BARABBA: Okay.

19 COMMISSIONER DAI: And again, this will be to
20 kind of just get the framework, get the ball rolling. I
21 imagine there are more than one Commissioner who wants to
22 participate in this.

23 COMMISSIONER DI GIULIO: And I just would like to
24 say, too, I think, Commissioner Ward, it was very
25 gracious for him to do that, I think it will make the

1 development of a much smoother and I like forward to
2 having Commissioner Ward being involved in the actual
3 process, particularly with his outreach activities and
4 knowledge of the people that are involved with the Irvine
5 Assessment.

6 COMMISSIONER DAI: Okay. All right, so let's see
7 if there are other decisions we need to make here. So,
8 they're going to get things, the ball rolling on what the
9 scope of new committees might be, and I think you should
10 feel free to think about if it should be more than two,
11 if you want smaller working groups of maybe, you know,
12 there are three bullets there, one that kind of deals
13 with policy issues, one that deals with recommendations
14 to the Applicant Review Panel, and one that talks about
15 recommendations to the next Commission. And I don't know
16 if that's the right way to organize it, that's just the
17 way that the various input that I got from other
18 Commissioners that it just seemed to fall into those
19 categories, but there might be some other ways to
20 organize that, so I wouldn't feel restrained to what we
21 have here, I would think broadly, and bring lots of ideas
22 back. So we will entertain this very interesting topic
23 at a later time.

24 And I just wanted to see if there was agreement
25 that full Advisory Committees might want to go ahead and

1 have their own meetings, I think we can accommodate that
2 right now, we have full Commission meetings that are
3 noticed, with all of the committees. So, theoretically,
4 any committee could grab a day that has been noticed and,
5 you know, adjust the agenda accordingly if that is not a
6 need for the full Commission to meet, or another
7 committee to meet. Is that appropriate, Mr. Miller?

8 MR. MILLER: That is presently the case. I would
9 just note, though, that the task of noticing meetings
10 becomes more complicated -- doable -- but more
11 complicated to the extent the Commission moves to
12 telephonic meetings with people in different locations,
13 so it would be in our best interest for, I think, the
14 Commission and the public, let's say in September, to
15 really try and limit those noticed meetings to ones that
16 we think are going to occur.

17 COMMISSIONER DAI: Right. I think we'll have a
18 better lay of the land.

19 MR. MILLER: And then we can also be specific if
20 we're doing it that way about the subject matter of the
21 meetings.

22 COMMISSIONER DAI: And incidentally, I am
23 actually suggestion, when I say "advisory committee
24 meeting," I'm actually suggesting that some of those be
25 in person meetings, so I actually think it would be very

1 helpful for some of these discussions to actually have
2 three people you're looking at face to face, to have a
3 good discussion. So, I just want to throw that out
4 there. And, with that, it was suggested that we take a
5 bio break. Do we want to go ahead and take a --

6 CHAIRPERSON BARABBA: Okay, 10 minutes, so it
7 will be five minutes after three. Oh, before we take the
8 bio break, Mr. Miller, would it be appropriate to report
9 out the closed session now?

10 MR. MILLER: Yes. We can do that at any point in
11 closed session to discuss threatened litigation and the
12 manner in which it might respond.

13 CHAIRPERSON BARABBA: Thank you. Okay, five
14 minutes after.

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

16 (Reconvene at 3:08 p.m.)

17 CHAIRPERSON BARABBA: Okay, we will reconvene the
18 meeting and Commissioner Dai will continue with her
19 agenda.

20 COMMISSIONER DAI: Okay --

21 COMMISSIONER BLANCO: Do you have an agenda?

22 COMMISSIONER DAI: Do I have an agenda? No, I do
23 not have an agenda! All right, so we've talked about the
24 Advisory Committees, and now I have two other items here
25 under Commissioner structure, one is Commission

1 leadership, we kind of had a discussion about this, I
2 don't know that we reached a conclusion, I just want to
3 make sure that we're in agreement on that, so one thought
4 is that we would continue with our rotating Chair and
5 Vice Chair, and actually everybody, I think, everyone on
6 the Commission has volunteered at this point to be in the
7 leadership line-up. So, the suggestion was to kind of
8 continue with that, understanding that the full
9 Commission may not actually meet in person, you know, as
10 often, so that that person might stay in that role for a
11 little bit longer, and that would kind of only be the
12 difference and I believe the updated rotation has been
13 posted.

14 And then another suggestion that came from the
15 Commissioners was the possibility of having a formal
16 Management Committee that we've kind of had this a little
17 bit informally in the sense that we've had, for example,
18 these weekly legal calls, which have usually involved the
19 rotating Chair, the Vice Chair, and each of the committee
20 leads. So that's kind of been an informal structure to
21 just kind of keep a good cross section of the Commission
22 informed on items in between meetings and, then, what
23 kind of structure would make sense past the litigation
24 phase. Any kind of thoughts on this now? Or do we want
25 to just continue with the rotating leadership as we've

1 been doing and keep that going?

2 CHAIRPERSON BARABBA: Any comments? Continue
3 with the rotating? I think that's the preference.

4 COMMISSIONER DAI: Okay, all right. So the next
5 topic --

6 COMMISSIONER FILKINS WEBBER: Before we move on
7 from the Chair, just for further clarification for staff,
8 as well, because we know this has been a struggle in the
9 rotating Chair, but one -- just throwing it out there --
10 if, say, Legal wanted to meet in three and a half weeks,
11 whatever, is that something that you would expect the
12 Chair would decide with Legal, or would Legal just do it
13 and agendize it? What involvement would the Chair have
14 when the Chair is not on the Advisory Committee? And
15 what thoughts does the Commission have about how the
16 Chair would be involved in the Advisory Committee's
17 meeting? At least from now, before the end of the year?
18 And for staff, as well because staff might get an
19 instruction, let's say, from me to say, "Oh, Mr. Miller,
20 I'd like to have a meeting in three and a half weeks,"
21 for whatever reason, and then Mr. Claypool might say,
22 "Well, I don't know what the Chair's thoughts are on
23 that." I could just see this, you know, pointing
24 fingers, so what are some thoughts on that?

25 EXECUTIVE DIRECTOR CLAYPOOL: I'd just like to

1 say that our protocol that was established in Claremont
2 is that everything runs through the Chair and the Vice
3 Chair and to the staff, and back, and that works - that
4 makes all of this work because it makes sure that we
5 notice correctly, that we enter new contracts that we
6 need to enter into for whatever services might be
7 necessary in order to have the meeting. So, from a staff
8 perspective, I think it would be very important that the
9 Chair and the Vice Chair at least be in that part of it
10 as the loop.

11 COMMISSIONER FILKINS WEBBER: Okay, so it makes
12 sense, then, that if the lead of any advisory committee
13 wishes to have a meeting agendized, that they pick it up
14 with the Chair, the Chair will then instruct, even though
15 the Chair may not be a part of that Legal Advisory, but
16 at least they're in the chain of communication to
17 instruct staff. Okay, sounds great.

18 COMMISSIONER DAI: Okay. All right, so we're
19 clear on that. So the next item is talking a little bit
20 about our per diem policy. A number of Commissioners
21 made the note that we're going to have to review per diem
22 a lot more tightly; a lot of this is due to the fact we
23 just have less money for per diem because we're not even
24 going to be meeting as a full Commission, there's no
25 necessity to meet in the crazy way we've been meeting for

1 the last several months, we're not holding public
2 hearings anymore, you know, so in a sense there's really
3 not the necessity to have the kind of budget we've had
4 for per diem in the past phase and this incoming phase,
5 so a small percentage of the existing budget is actually
6 allocated to per diem, and certainly the provisional
7 budget that we are still waiting to get cleared, most of
8 that will be going to our law firms and not to us. So,
9 also, again, there will be kind of limited assignments
10 for Commissioners moving forward as our role is changing.

11 So I wanted to reference our existing policy,
12 which we discussed several months ago, where we tried to
13 really put down in writing what was acceptable and what
14 was not acceptable for per diem. Mr. Claypool.

15 EXECUTIVE DIRECTOR CLAYPOOL: I only want to
16 clarify that, in that the per diem requirements are going
17 to change, you are correct, the amount of funding needed
18 for per diem will be available, as long as it is intact
19 for litigation. So, the amount that you may need for
20 preparation, and that you may need for meetings and so
21 forth, will be predicated on the litigation, and we will
22 have the funding for that. So, in actuality, you may
23 find yourself with a larger per diem budget than you had
24 before, simply because you will have so much more prep
25 time for the things that you will have to read for

1 depositions, and so forth, so I think that we need to
2 keep in terms that we would like to keep the per diem
3 down and we would like to have a regular policy for it,
4 but it may not be smaller than you're used to, in fact,
5 it may grow.

6 COMMISSIONER DAI: Commissioner Di Giulio.

7 COMMISSIONER DI GIULIO: Yeah, and I think there
8 might have been -- I was understanding what Commissioner
9 Dai was saying was the per diem for things outside of
10 litigation, as we move forward as a Commission, so there
11 is per diem for Commission activities that are related to
12 litigation, but then there may or may not be per diems
13 for things outside, both in terms of having resources, as
14 well as the policies we adopt.

15 EXECUTIVE DIRECTOR CLAYPOOL: Certainly, and we
16 keep them separate, but so many of your activities, no
17 matter what they are, will tie back to litigation.

18 COMMISSIONER DAI: Commissioner Filkins Webber.

19 COMMISSIONER FILKINS WEBBER: For budgetary
20 purposes, I think there has to be a difference, so what
21 we might consider are proper codes that you would have
22 separate per diem sheets identified for litigation, and
23 that you should not necessarily be using the same form
24 for litigation per diem, which we might want to develop
25 different codes for, which would be, you know, discovery,

1 or meeting with counsel --

2 COMMISSIONER DAI: Depositions.

3 COMMISSIONER FILKINS WEBBER: -- well, that's
4 discovery. So, any number of categories, and I think
5 that that would be something we may wish to consider, to
6 separate it, because when we turn those forms in, that
7 per diem is going to be paid out of litigation, which is
8 separate and apart from the other. So, I think we might
9 want to consider us having two separate per diem forms or
10 designations.

11 COMMISSIONER GALAMBOS MALLOY: Or additional
12 codes.

13 COMMISSIONER FILKINS WEBBER: Or additional
14 codes. But I don't think it would be helpful to staff if
15 we had one per diem sheet that said, you know, September
16 1st, I put down that I'm meeting with litigation counsel
17 for a witness preparation, right, and then September 16th,
18 we're meeting in a general business meeting, and putting
19 it on the same form because that would mean that Ms.
20 Davis, or whoever is helping us at that time, or Mr.
21 Claypool, would have to go down every line item. So we
22 should have a separate form maybe designated as
23 litigation per diem, and whatever items that would be,
24 and then on your other regular per diem form, it would
25 just be "Commission Per Diem" and use those codes

1 appropriately, so that they are separate, they come out
2 of separate monetary funds, and then staff doesn't have
3 to go back through each line item that you're putting on
4 your per diem form.

5 COMMISSIONER GALAMBOS MALLOY: Maybe we can ask
6 Mr. Claypool, and if you don't have an answer now, work
7 with Ms. Davis, and just give us our marching orders
8 because I know, even over the past week, you know, I had
9 a phone call with Mr. Brosnahan, I'm sure Commissioners
10 Ancheta and Forbes are, you know, so there are already
11 costs that are coming up that are clearly associated with
12 potential --

13 EXECUTIVE DIRECTOR CLAYPOOL: I think that your
14 codes, we'll give you a set of codes for how you should
15 charge, what you should charge it for, but I don't think
16 we want to try to separate -- have you separate an hour,
17 six hours for this, or six hours in different forms. Use
18 your codes and we'll make sure we pull the money out of
19 the right pot and that we keep them separate, and Ms.
20 Davis is a whiz with codes, so we'll give you a good set
21 of instructions.

22 CHAIRPERSON BARABBA: So we're going to get a new
23 list of codes, then, that would include some codes for
24 litigation activities?

25 EXECUTIVE DIRECTOR CLAYPOOL: Yes, actually,

1 we'll amend the codes you have now with new ones for
2 these activities.

3 CHAIRPERSON BARABBA: Commissioner Forbes.

4 COMMISSIONER FORBES: In terms of the Commission
5 budget for Commission per diem vs. litigation per diem,
6 if I as a Commissioner have two days for litigation per
7 diem, is that part of the money that the State is
8 required to pay to defend this thing, as opposed to our
9 budget? What's your understanding in that regard?

10 EXECUTIVE DIRECTOR CLAYPOOL: First of all, we
11 have so -- so little money was tied up and the \$400,000
12 we received was really an augmentation to have us run
13 through the first few months until we knew that we
14 actually had litigation, and we could tap the \$1.5
15 million. Once we get the \$1.5 million, all of your
16 activities will be under that and virtually all of your
17 activities will be tied to litigation in one form or
18 another. If in the commission of your duties you do
19 other activities, but you still have the day for
20 litigation, we would pay on the litigation and those
21 other activities would simply fall under those, under a
22 code that we would tie it back into that budget. So,
23 I'll work with Ms. Davis to give you continuing
24 activities, but, yes, your \$1.5 million is predominantly
25 for litigation, and litigation support. For instance, if

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1 you do a PRA request, it's not necessarily tied to any
2 litigation, but it is still in support of what may be
3 potential litigation in the future.

4 COMMISSIONER FORBES: Thank you.

5 COMMISSIONER DAI: Okay, so Mr. Claypool will
6 work with Ms. Davis to come up with some new codes, there
7 are probably some codes that will drop off or become
8 inactive, as some other functions. Commissioner Yao.

9 COMMISSIONER YAO: Be sensitive to the fact that
10 the people that are suing us would love to know which
11 Commissioners are being prepped, and over what period of
12 time, and so on and so forth. In other words, what we
13 are attempting to do is defend the State of California,
14 let's don't get caught up in the situation where we're
15 giving out a lot of unnecessary information to the people
16 who definitely would be interested in.

17 COMMISSIONER DAI: Okay, Commissioner Blanco.

18 COMMISSIONER BLANCO: I think Commissioner Dai
19 clarified for me that, since our augmentation is tied to
20 litigation, that we really can't have separate business,
21 that really our money is tied to defending the maps,
22 which means that almost all our activities going forth
23 really have to be at some level tied to that, in order
24 for us to access our budgets. I want to make sure,
25 though, one of the things when I went back and I looked

1 at the per diems that were requested in one of the Public
2 Records Act requests, and I went through and looked at
3 them, we have a huge variety of things we're billing for,
4 well, everybody is using the Codes, but some people bill
5 almost nothing, some people bill for everything, some
6 people are in between, and I think that we just didn't
7 have a sense or are sort of figuring out as we go along.
8 I think, going forward, if this is really something we're
9 trying to monitor closely, to have it as much as possible
10 be tied to litigation, which is what the money is for, I
11 think we need to have a closer supervision of the hours.
12 I don't feel comfortable having that kind of disparity
13 when all of it is supposed to be tied to litigation. I
14 think it may reflect poorly on the Commission if we have
15 that kind of disparity among Commissioners when, let's
16 say, we're all preparing for a deposition and we have 20
17 hours as opposed to five, or something like that. I
18 don't know how we would operationalized that, but I do
19 feel at this point we need to be tighter with our money
20 and we need to have some way to have less variety on the
21 Commission because it will be, you know, once it gets
22 into litigation, it will be scrutinized more.

23 COMMISSIONER DAI: Commissioner Filkins Webber.

24 COMMISSIONER FILKINS WEBBER: I agree for the
25 point actually that Commissioner Yao had brought up, as

1 well. We have to be conscientious and I have to think
2 about this because any attorney who might have their
3 bills, especially like in some forms of litigation,
4 subject to discovery, there's a possibility that anything
5 could be written on our per diem forms that could be a
6 violation of attorney-client privilege. So, it's
7 possible that we might have to have some oversight or
8 review that would also be inclusive of the necessity for
9 redaction to the extent in which litigation aspects could
10 be inadvertently revealed by any Commissioner who is
11 trying to identify what work that they had done in
12 preparation for litigation. So, I think it's two-fold, I
13 think if we do consider review, I think it's 1)
14 consistency because we haven't seen consistency among per
15 diem billing by the Commissioners, so I think it's
16 consistency, I think it's the necessity to have a review
17 committee of some sort that would be conscientious of our
18 budgetary constraints for per diem, and also with an eye
19 towards potential release or waiver of attorney-client
20 privilege. So, I think all three of those together might
21 necessitate some type of review by a Commission advisory
22 committee of some sort, or something of that nature.

23 COMMISSIONER DAI: Okay, good thoughts. So let's
24 just run quickly through some of the initial ideas here.
25 I have referred you back to the original per diem policy

1 where we tried to really call this out. The nature of
2 our activities are going to change; at this point, not
3 suggesting that we depart from our thought of a minimal
4 six-hour increment. That means, if you have a one-hour
5 telephonic meeting, that's one hour, and it might take
6 another five days for you to have a one-hour media
7 interview and, you know, it might take you several more
8 days, but you have four hours of reading or preparation
9 for a deposition, or something like that. And at that
10 point, you would be entitled to claim one per diem.

11 So, some of the thoughts are that, if you are in
12 a particular role that you've been assigned by the
13 Commission such as Chair, Vice Chair, an advisory
14 committee lead, or if you are one of the Commissions that
15 have delegated authority with similar special strike
16 forces here, or media spokespersons, and here I say
17 "preapproved by the Director of Communications" because,
18 of course, you as an individual have First Amendment
19 rights and you could speak to anyone, but if you're going
20 to claim per diem for it, it ought to be something our
21 Director of Communications knows about and has asked you
22 to speak.

23 Also, the category here, this "Legal," I'm sure
24 we'll come up with an appropriate code, you might have
25 specific requests from our counsel, either discovery, you

1 know, also time to do PRAs and respond to that, some of
2 us have several hours ahead of us to do that, that's
3 going to be ongoing, and we have four outstanding ones,
4 but there may be more PRAs that come in over time, as
5 well. Actual Commission meetings, and many of these may
6 be telephonic, so you will not be claiming a whole day,
7 you might be claiming an hour. And if there are some in-
8 person meetings, then of course travel time for those,
9 and of course if there is any pre-reading, remember again
10 that we have a standing policy not to count anything that
11 is under half an hour, so if you're reading your email,
12 that's not something we expect to show up on your per
13 diem claim. And then, of course, we have our wonderful
14 required training every two years, that's something
15 you're required to do as a Commissioner, so I think
16 that's probably a reasonable thing to claim.

17 So, as a general rule, and we tried to really
18 provide some examples of this in our previous per diem
19 write-up and I can see from some of the claims that there
20 is still a wide variety of activities that may fall in
21 this category, so I tried to categorize this as anything
22 that does not directly benefit the State or the Citizens
23 Redistricting Commission, there are many things that you
24 might be doing as a Commissioner that it probably may not
25 be reasonable to claim a per diem for, and I threw out a

1 couple of examples here, there were a list of examples
2 that we had included in the previous policy. One of the
3 things that I think is an open question that we should
4 talk about, we've talked about how what we've
5 accomplished here in California may, in fact, be a model
6 for other states and, to the degree that there is
7 certainly some interest on the part of certain
8 Commissioners to do education or advocacy about this
9 model, to other states, so the question is, is that
10 something that the State of California should pay for --
11 that's the question, right? Something that may be a
12 little more middle ground, I know that a number of
13 Commissioners have been approached by local Commissions,
14 local Redistricting Commissions, or even citizens that
15 we've gotten a few public comments, even today, about how
16 do we get our local city or local county to have an
17 independent Citizens Redistricting Commission. And so
18 there might be an interest in having you speak, or talk
19 about the process. And, again, is that something the
20 State of California should reimburse you for? It might
21 be something you're interested in doing, you know, and I
22 think that's something that maybe we could argue because
23 that's at least within the State of California, so that's
24 something we can talk about.

25 Another example, and this was not an example we

1 had before, but again something that doesn't directly
2 benefit the state. You should be claiming the time it
3 takes you to do your TECs or your per diem forms. But,
4 again, if that's taking you more than half an hour,
5 that's really something -- there are probably other
6 issues going on there. So, again, we tried to lay this
7 out pretty clearly, we can see from the variation that
8 different Commissioners have interpreted this
9 differently. I think that, given the limited funds that
10 we have for reimbursement moving forward, that we need to
11 get a lot clearer about what is a reasonable type of
12 activity that should be reimbursed.

13 And my last thought here was suggested by
14 multiple Commissioners, was actually to do some kind of
15 review. And we've talked before about how it's not
16 reasonable to ask our staff to enforce our own policy
17 since they report to us, so in that case, it only seems
18 to make sense that Commissioners need to enforce the
19 policy. This is something we had brought up several
20 months ago, at the time there wasn't an appetite to allow
21 Finance and Administration to do that, so I think moving
22 forward, you know, that people may have had a change of
23 heart on that. So, I just wanted to throw it open and
24 get other ideas. There's already been discussion that
25 there are also legal considerations, so there may need to

1 be a review not just of the amount, but exactly the
2 wording potentially of what should go into per diems, as
3 Commissioner Yao pointed out, we don't necessarily want
4 to reveal our legal activities, necessarily, for people
5 who may be suing us. So, any thoughts? Additional
6 comments on this?

7 CHAIRPERSON BARABBA: One of the things that
8 occurred to me, it might be of some value, because this
9 legal thing really caught my attention, I hadn't thought
10 about that in the broader sense, is to have someone from
11 the legal advisory committee and perhaps yourself from
12 the Administrative, to sit down and kind of walk through
13 that a little bit, and then come back with a suggestion
14 that the Commission could look at. Would that be an
15 appropriate way to address that?

16 COMMISSIONER DAI: I was going to suggest that we
17 make a decision right now in terms of who should -- if
18 there is agreement that there should be some kind of
19 review that is over and above staff just making sure we
20 put codes in, but actual enforcement of our own policies,
21 then I would suggest we just make that decision today.

22 CHAIRPERSON BARABBA: Commissioner Filkins Webber.

23 COMMISSIONER FILKINS WEBBER: I guess I want to
24 flesh this out just a little bit more on the review. I
25 can understand what the purpose would be for legal. And

1 I guess the question is, if you give delegated authority
2 to some type of subcommittee, Management Committee, I
3 think you had called it, maybe a Management Committee or
4 maybe an F&A lead, how much authority? In other words,
5 are we at a point where, I mean, given our experience and
6 what we have seen over the last eight months, and the
7 variation and the lack of consistency among
8 Commissioners, are you suggesting the review committee
9 would have the power to consider striking somebody's
10 claim for per diem on a given day? Or, you know, if it
11 doesn't fit within the parameters of these guidelines, or
12 the guidelines of what this Commission has talked about,
13 for instance, they put on there "billing for the TEC
14 preparation" when they shouldn't be billing for it. I
15 mean, to me, are we at a point now where we need to have
16 serious budgetary constraints and provide authority,
17 delegated authority, to this type of review committee to
18 consider cutting somebody's request for per diem? Or
19 maybe whether or not, if it is, what type of back-up,
20 recourse, would that Commissioner have to the extent in
21 which they wish to appeal a decision to cut -- I mean, I
22 deal with this all the time when my clients want to cut
23 my bills, and then I've got to go in and appeal it, and
24 I'm in the whole appeal process every day. Anyway, I
25 have electronic billing that I just got jammed down my

1 throat again in the last couple weeks, so I'm very
2 familiar with clients cutting my bills, and then me going
3 back and appealing it. So I'm just trying to get an
4 idea. I can see from reviewing it, from a legal
5 perspective, to make sure no attorney-client privilege is
6 cut, but what are we really talking about as far as
7 reviewing it? And would it be to cut the bills?

8 COMMISSIONER DAI: Commissioner Raya.

9 COMMISSIONER RAYA: You know, when we first
10 addressed this issue of, I guess maybe it first came to
11 Finance's attention that there was a great disparity in
12 what Commissioners were billing, and at the time, I
13 really felt, you know, that we would all take great
14 consideration of limited resources and maybe what our
15 contribution is to the process, and I'm sure that some of
16 the people who have put in the most work, acting as
17 Chairs, or working on special projects, have probably, as
18 Commissioner Filkins Webber suggested, not billed for
19 everything that they've done, and I'm talking about
20 Commission work, not travel arrangements, not filling out
21 per diems, not talking to people in your community,
22 whatever it is, you know, that just happened to come your
23 way. And I think it's unfortunate that we're even having
24 to have this discussion, but clearly, based on the public
25 records, the disparity is such that I think the only

1 responsible thing for the Commission to do is to
2 establish some kind of oversight because leaving it to
3 Commissioners' discretion, judgment, did not work. Now,
4 I don't know whether that goes so far as to say, you
5 know, you would hope we would not put each other in the
6 position of having to say, "You can't claim this," or,
7 you know, "We agreed not to claim this," you know, so
8 that we're put in that position of having to make that
9 judgment. But I don't know what else we can do. To me,
10 you know, we're stewards of the public's money, and, you
11 know, we are where we are at the moment, and I think we
12 need to be mindful of that going forward.

13 COMMISSIONER DAI: Okay. Commissioner Ward.

14 COMMISSIONER WARD: Yeah, I'm on the F&A
15 Committee, as well, and I think I'm perplexed by
16 Commissioner Raya's idea that it didn't work, I don't
17 know what that means. I don't think we've had a
18 discussion about anything that didn't work in regards to
19 our per diem policy. It sounds like what I'm gathering
20 or inferring is that there is a disparity in the amounts
21 of per diem forms amongst Commissioners, but what I'm not
22 hearing is that there's anything that violates any policy
23 that's been set up by the Commission. So I think if
24 there are policy issues that need to be addressed, that
25 we -- you know, the F&A Committee particularly, ought to

1 address those and make some recommendations to the
2 Commission about how to tidy those up. We would expect
3 there to be variation, I would imagine, not only given
4 the different levels of responsibilities and things that
5 Commissioners have, but also in looking at the per diem
6 policies, or details of them. So if the Commission
7 feels, particularly the F&A Committee, were to make a
8 recommendation that we need to further define, it looks
9 like you've started to do, I think that would make sense,
10 but it seems to me like the idea of putting someone in
11 charge of and giving authority to boss or not boss other
12 Commissioners' per diem just seems to me to be -- I guess
13 I don't understand what the foundation would be to make a
14 decision like that at this point. That's my thoughts.

15 COMMISSIONER DAI: Commissioner Di Giulio.

16 COMMISSIONER DI GIULIO: I just think that,
17 again, as Commissioner Raya said, we're kind of -- we are
18 the stewards of the public money, and we should be
19 responsible in how we're doing things, and I think that
20 it would only be incumbent for us as a Commission to take
21 responsibility for that, as well, too, and I think there
22 could be easily an oversight from maybe F&A and the
23 Chair, whoever the Chair is at the time, something along
24 those lines, but some way to just have some internal
25 checks and balances. And I think at this point, up until

1 this point, we've operated with staff reviewing things
2 and kind of just signing off to make sure it matches up
3 with dates and times, but there hasn't been any really
4 anything other than the cursory just making sure of
5 attendance, and the activities are legitimate under that
6 code. So I just feel as if that's something that we
7 probably should be doing as a Commission, and I think
8 that whether they make a decision as to approve or deny,
9 I think there could always be -- I think at the very
10 first level filter needs to go through the Commission;
11 maybe the Commission decides that anything that is
12 questionable comes to the full Commission for final
13 approval if that meets the Commissioners' -- something
14 that they're interested in -- or the decision could lay
15 with that oversight committee, something like that. I
16 just think, to me, it's kind of like that argument with
17 red lights, right? I don't want to have a red light
18 camera because -- well, if you don't run the red light,
19 there's no problem. But that's just my take on things.
20 So it should just be that we as Commissioners should feel
21 like what we're doing is very open and transparent, so I
22 have no problem with somebody, particularly internally,
23 especially since things are going to end up on the PRA,
24 which to some degree I'd also like to have an assessment
25 of what's happened so far, we're sending out PRAs, but we

1 as a Commission, I feel it's kind of ridiculous that we
2 as a Commission haven't even looked individually, you
3 know, an assessment of all of our per diems on an
4 individual basis. We have one big grouping that says
5 "per diems," but it doesn't break it out based on
6 individual Commissioners, and I think we should have - up
7 to this point, we should have an individual
8 Commissioner's breakout of per diems. Why should the
9 Public Records Act have access to something we don't?

10 COMMISSIONER FORBES: Well, a couple of things.
11 First of all, I think, you know, this discussion may be
12 somewhat after the cow, or the horse is out of the barn.
13 We spent a very large percentage of our budget already on
14 per diem, and so I would expect that the per diem going
15 forward would be relatively small, at least relative to
16 what we've done in the past. I do think it's a mistake
17 to have the whole Commission sort of pass judgment on one
18 or two Commissioner's bills. I think you might want to
19 let the Chair do that, and let the Chair address the
20 questions, because I think that it would do damage to the
21 cohesiveness of the Commission if we sat around and
22 looked at each other and said, "You're spending too
23 much," or, "You're not spending enough." I think that
24 internally could be quite destructive for really what
25 might be a few thousand dollars -- it might be, but I'm

1 not sure that it's worth the harm to the Commission.
2 Now, I do think that the numbers that we put out there
3 should be public, I mean, I see absolutely no reason
4 that, I mean, I looked at my own and right now, what am I
5 at, \$27,000 for the year? Something like that. I mean,
6 you know and he said, "You're not the lowest, but you're
7 low." And so, and I think that's absolutely fair for us
8 to look because, without that, what should I say, "public
9 check," we don't -- it lessens the internal motivation to
10 be accurate, for lack of a better term. But I think the
11 idea to have a group of Commissioners sit as judge over
12 another Commissioner's per diem request is a mistake. I
13 think it's okay to have the Chair deal with it, and if
14 it's out of line, then the Chair could determine that and
15 the Chair can do a little one on one conversation. But I
16 think to sort of have a panel sort of pass judgment on
17 each other's per diem is a mistake.

18 CHAIRPERSON BARABBA: Mr. Claypool.

19 EXECUTIVE DIRECTOR CLAYPOOL: In some regards, I
20 think that we're disregarding another factor here, and
21 there is great disparity amongst the Commissioners, and
22 there is also sometimes great disparity in the amount of
23 work that you're doing. There's an expected disparity.
24 Commissioner Dai's amount of per diem is going way up
25 this week and it's because of the enormous amount of time

1 she's put in it. So, I think that Commissioner Ward has
2 a very very good handle on this. I think that, in order
3 for you, as a body, to be able to get a handle on this,
4 you must first get a handle on your policies, what you
5 think should be - it's not enough to simply have a six-
6 hour policy, but you have to say, "What should the six
7 hours be?" If you can put together those types of
8 policies, I think that it would be better for staff to do
9 the first cut at this review, and to come forward and
10 say, "For most of this work, for most of the things that
11 you're charging for, there's a need for it, there is an
12 authorization for it, we can see what's being done with
13 it." And then, for those very few items where there may
14 be some decision, that's when I think you need to step
15 in. It will be a full time job for anyone to look after
16 all 14 of your TECs and then to try to weigh them without
17 policy will be very difficult for you.

18 COMMISSIONER DAI: So I just want to note we do
19 have a policy and we've had it for several months, so...

20 COMMISSIONER FILKINS WEBBER: Okay, but I'm
21 looking over that policy, and so there will have to be
22 some changes to implement what you have on this other
23 document.

24 COMMISSIONER DAI: Sure, I'm suggesting changes
25 to it and enhancements to it.

1 COMMISSIONER FILKINS WEBBER: Okay, so I guess,
2 based on -- I agree with Mr. Claypool, that that would be
3 the best course of action, is to have this policy. So
4 maybe, should F&A then be charged with putting together
5 like a formal policy like we looked at before?

6 COMMISSIONER DAI: So that was what I --

7 COMMISSIONER FILKINS WEBBER: Is all you're
8 suggesting is that we just add these as part of the
9 policy?

10 COMMISSIONER DAI: Yeah, I'm suggesting that we
11 stick with the policy, but we add different kinds of
12 claims now because of the nature of what we're doing is
13 different. Like before we used "public input hearing,"
14 as an example, that's not going to be --

15 COMMISSIONER FILKINS WEBBER: Okay, so you would
16 delete the other, you have examples of billable hours and
17 a policy right now which would be CRC Meetings with Line
18 Drawers, so, no, that part of what you're suggesting is
19 that be removed and then we would put the other
20 acceptable claims -- so this, as outlined here, would be
21 the policy that you were suggesting in F&A that we adopt
22 now, potentially and --

23 COMMISSIONER DAI: Potentially, and people may
24 have additional suggestions, this was just based on what
25 we think the nature of the work is going to be, moving

1 forward.

2 COMMISSIONER BLANCO: I have -- so, I think we
3 can't police ourselves unless we have guidelines, so I
4 completely agree with Mr. Claypool. And you've listed
5 some potential guidelines that may have not been clear,
6 you know, like time to do your reimbursements, travel --
7 I don't know if you have the travel arrangements here.

8 COMMISSIONER DAI: Yeah, we had a standing rule
9 that anything that was under a half an hour was not
10 billable.

11 COMMISSIONER BLANCO: Right, but I mean, you
12 know, some people, it may take them an hour to do travel
13 arrangements, some people, it may take them a half an
14 hour, in other words, my point is that I think, in order
15 to be able to have the Chair review, which I think is a
16 good suggestion, we have to have guidelines, that maybe
17 partly what we're saying is that our guidelines have been
18 unclear, except for some very basic things, they were
19 general. So, my recommendation would be that F&A or
20 maybe even staff, I'm not sure who, I think we should go
21 through, luckily somebody made a Public Records Act
22 request, so now we have individual Commissioners'
23 records, and we should look, I mean, with F&A, about what
24 are the things that we think are in there, or not in
25 there, that should or should not be reimbursable, and

1 come back with a recommendation. I don't know, I mean,
2 if you are ready for that today, I can see time to do
3 your TEC, and advocacy in other states, that's a no-
4 brainer, but I suspect that if we went through the per
5 diem requests, we might see other things like are people
6 billing to, you know, just basically get themselves
7 organized, to prepare their material, to do their
8 calendar, or I don't know, I haven't looked at them. So,
9 I think we should actually look at them and see what are
10 all the activities that are there, and maybe come back to
11 us with a recommendation that, given this new environment
12 where we have limited funds, which are supposed to be
13 mainly designated towards litigation, given that eye
14 towards what our money is about now, give us some
15 recommendations about policies. And therefore, when we
16 want police, we have some guidelines. That would be my
17 thought about how to proceed in the fairest way moving
18 forward.

19 COMMISSIONER DAI: Okay, Commissioner Filkins
20 Webber, let's wrap this up.

21 COMMISSIONER FILKINS WEBBER: Exactly. So I
22 think what has been done here is F&A has provided us with
23 a recommendation of acceptable claims for this policy, so
24 I would propose that we add what is indicated here in the
25 document towards existing policy, in other words, it

1 would be prep time for the Chair, the Vice Chair, you
2 know, etc., everything that is written here, time to
3 respond to attorneys' requests for discovery, attendance
4 at Commission meetings, reasonable prep, and required
5 training. And that, as part of our policy, we would not
6 be billing for TEC prep, advocacy to other states, or
7 even locally, for now. And then, what we could do is ask
8 F&A to take a look at, if it hasn't been done already, is
9 the PRA responses that are on the Web, just as
10 Commissioner Blanco just said, see if there is something
11 else that could be further added to the policy. But, for
12 now, let's consider adding these as allowable, delete the
13 other references to those items in the policy that are no
14 longer relevant, and then we could evaluate the policy
15 upon our next meeting, or adopt it with any additional
16 changes, corrections, and then maybe consider the
17 necessity for a review panel on our per diem at that
18 time, once we have a policy in place.

19 COMMISSIONER DAI: Okay. Commissioner Di Giulio.

20 COMMISSIONER DI GIULIO: And I just would like to
21 ask one more thing. I'm not sure where it fits or if
22 it's something that F&A can look at, maybe you bring back
23 with a future recommendation, I think sometimes it's not
24 so much these issues that might be a discrepancy, it's
25 how much time Commissioners are maybe putting towards

1 these because I do think there's different levels, people
2 are involved at different times when you're leads, or
3 you're Chairs, you're other things, but I still think
4 there's probably some necessity for some review of the
5 consistency when there's kind of a range, and then
6 there's maybe some that are way -- I mean, we're looking
7 at the far end of the bell curve here. So I think there
8 has to be something built in to not just what the policy
9 is, but how those policies are being utilized by
10 Commissioners. That's the review, I think, because I
11 mean, any of us can have activities that fall within
12 this, but is it reasonable? There has to be some level
13 of reasonableness, and that's what I'd like to have
14 somebody do some checks and balances within the
15 Commission.

16 COMMISSIONER DAI: Okay, so I hear a couple of
17 suggestions, one is to go ahead and adopt what we have in
18 here, and kind of update the policy, and then probably do
19 a little more review of past requests, and maybe add some
20 more examples on either side, maybe some guidelines on
21 what is reasonable, and so I think that is something that
22 Finance & Administration can certainly take on. There
23 was also a request to go ahead and publish a report by
24 Commissioner for per diems to date, so I think we can ask
25 Mr. Claypool to ask Ms. Davis to have that as the report

1 moving forward. And then, Commissioner Galambos Malloy,
2 you had something?

3 COMMISSIONER GALAMBOS MALLOY: My only thought
4 was around, and we'll come back, clearly, if F&A has been
5 tasked with doing some more investigation here, come back
6 with some more robust ideas. I do think that this is an
7 area where the Chair could play a significant role. My
8 one concern about that is I think it would be helpful to
9 have the Chair -- my microphone is coming in and out, I
10 apologize -- to have the Chair paired with -- you know,
11 one of the downfalls of a rotating Chair structure is
12 that we shift, and so there's a loss of institutional
13 memory and, clearly, it would be useful to have maybe a
14 balance between someone who was constantly tracking these
15 issues, as well as a Chair who kind of would rotate in
16 and out of playing a role. And so, again, maybe it's
17 somebody, the F&A lead, maybe it's Legal, one of the
18 delegated folks who is working with our litigation firm,
19 but that's one of the issues I'd like to explore as we
20 look at this.

21 COMMISSIONER FILKINS WEBBER: In that regard,
22 then you have one working person that has consistently
23 applied the guidelines of the policies.

24 COMMISSIONER DAI: Yes.

25 COMMISSIONER FILKINS WEBBER: And then you have

1 the oversight with the Chair, who might be looking at it
2 from a fresh perspective, so I think that can give you
3 the consistency and all the Commissioners can feel
4 comfortable with the consistently applied policy and
5 guidelines, by at least one person who is stable in that
6 type of management committee.

7 COMMISSIONER GALAMBOS MALLOY: Yes.

8 COMMISSIONER DAI: Okay, so it sound like we have
9 an agreement? So Finance & Administration will
10 incorporate this, and augment, and have something that is
11 a little more robust for everyone to review for the next
12 meeting, that staff is going to go ahead and publish a
13 report that will be by Commissioner, moving forward, for
14 per diem, and that it sounds like there is agreement that
15 the F&A lead and Chair, the rotating Chair, would at
16 least for now --

17 COMMISSIONER FILKINS WEBBER: Your lead rotates,
18 though.

19 COMMISSIONER DAI: That's okay, though.

20 COMMISSIONER FILKINS WEBBER: No, but that
21 defeats the purpose of what we were talking about a
22 consistently applied - one individual who has
23 consistently looked at all of them, and consistently
24 applies the guidelines. So, the idea was the person who
25 is going to rotate on this would be the Chair, and there

1 would be one person who would stay on it, whoever that
2 person might be.

3 COMMISSIONER GALAMBOS MALLOY: So we'll think
4 about -- I mean, this is part of what we can think about
5 as F&A, when we go back to consider this. I don't know
6 that we have a full answer for you right now, but that is
7 a point well taken.

8 COMMISSIONER DAI: Okay.

9 EXECUTIVE DIRECTOR CLAYPOOL: A point of
10 clarification? The report that you want, do you want it
11 when we present it to the Commission? Or do you want it
12 weekly and then distributed to the Commission? How do
13 you want this per diem report --

14 COMMISSIONER GALAMBOS MALLOY: I would not want
15 it more than monthly, personally.

16 EXECUTIVE DIRECTOR CLAYPOOL: So when you meet,
17 we present it to you, we post up? All right.

18 COMMISSIONER DAI: That would be great.

19 COMMISSIONER GALAMBOS MALLOY: You want an answer
20 now, don't you?

21 COMMISSIONER FILKINS WEBBER: No, no, no, not at
22 all, but I don't think we can answer it now because I
23 haven't really looked into this, I know that there has
24 been talked about disparity, but I don't know if anybody
25 knows one person who they might have issues with on their

1 per diem, okay? I don't know who that might be, if there
2 is anybody. But what if it turns out, since we haven't
3 looked at it, and I haven't studied it very much, that
4 the one person that ends up getting selected by the
5 Commission is the one person that the majority of the
6 people have a problem with? I don't know. So I'm just
7 saying I guess we have to think about it, so we have to
8 take a look at getting the report first and see if that's
9 -- the Commission has to recognize somebody that is
10 responsible if it's going to be that consistent person,
11 that's all I'm saying.

12 COMMISSIONER GALAMBOS MALLOY: Yes.

13 COMMISSIONER FILKINS WEBBER: So I wanted to
14 throw it out there because we are policing ourselves, but
15 then who do we want the police to be? That's all I'm
16 saying.

17 COMMISSIONER FORBES: I have that as an issue, I
18 mean, as I hope I indicated before --

19 COMMISSIONER FILKINS WEBBER: Take Stan, he's
20 only billed 40,000 -- no!

21 COMMISSIONER FORBES: Is this something that, for
22 consistency sake, without having a vested interest in
23 anything, as to whether staff should be the one who
24 reviews it to the standard, and reports to the Chair? So
25 you do get the consistency, but that person doesn't have

1 any stake, you know, vs. the -- and then have the Chair
2 be the one to whom it is reported, and say, you know,
3 "Here's the spread, this looks like it's a problem, but
4 you're the Chair, you've got to take care of the
5 problem." But it avoids having any one Commissioner
6 being sort of as the policeman. Just a thought.

7 COMMISSIONER DAI: Yeah, I mean, that's a good
8 point and I think, with properly developed guidelines, I
9 think that's possible, so I think the onus will be on
10 Finance and Administration to make sure we actually have
11 guidelines that go with the policy.

12 COMMISSIONER GALAMBOS MALLOY: Mr. Claypool,
13 would you have any initial feedback towards that concept
14 of staff being the ones to review?

15 EXECUTIVE DIRECTOR CLAYPOOL: This would be the
16 only Commission that I know of that would have a
17 Commissioner serving in that function, the reason staff
18 typically do this for you is to be the bearer of the bad
19 news and to allow you to maintain a basic civility
20 between yourselves. That might be difficult if you're
21 the person who is, in effect, the internal affairs thing.
22 I think that I would recommend, certainly, that you
23 maintain that buffer and allow Deborah Davis to come
24 forward to the Chair, or to the designated person and
25 say, "What do you think?" And then work it out from

1 there. I just think that it's the buffer that I would
2 recommend.

3 COMMISSIONER GALAMBOS MALLOY: I appreciate that
4 and I think we were in a position previously where we had
5 not really empowered Ms. Davis to play that role, and had
6 clear guidelines that would enable her to be able to do
7 that, so I think, again, we'll go back to the drawing
8 board, work on clarifying our guidelines, and we'll look
9 forward to the reporting that will help inform the next
10 steps.

11 COMMISSIONER DAI: Okay, so the final item I had
12 was just about full Commission meetings. I think we have
13 essentially decided this, but I just want to run through
14 it really quickly. When there is a call for in-person
15 meetings, which we probably anticipate maybe once a month
16 at this point in time, we had talked about, you know,
17 having them at our headquarters in Sacramento to save
18 costs, since we have our headquarters for free right now,
19 that it would be videotaped by staff, and that we find an
20 inexpensive way to transcribe these meetings, since the
21 need to have them in real time since we are not drawing
22 lines anymore is probably less urgent. Commissioner Yao.

23 COMMISSIONER YAO: I would like to direct a
24 question to Mr. Claypool. Obviously, we're not the only
25 Commission here in Sacramento, there are many other

1 Commissioners, maybe not appointed by the same people,
2 and I suspect they probably also have the same
3 transparency requirements that we do, maybe not in so
4 many words, but I suspect that they have the similar
5 requirement. What are the rest of the Commissioners
6 doing? Can you kind of give us a -- are we going above
7 and beyond -- and I'm not talking about the period that
8 we did the map drawing because I think we had and needed
9 to go above and beyond, but we're talking about
10 performing the remaining of our duty for the next nine
11 and a half years. What type of transparency from your
12 perspective meets the voters of the State of California,
13 and I'd like to kind of have your perspective, comparing
14 what we have been doing with what the standard operating
15 practice is.

16 EXECUTIVE DIRECTOR CLAYPOOL: I've only looked at
17 a few, most videotape. Fish & Game, if you go on, they
18 have their videotapes, the Horse Racing Board videotapes,
19 PERS certainly does. It's a model that most people have
20 gone to. They don't -- I think some of them livestream,
21 the larger ones with things that are more relevant and
22 more current, so I would say that, for us moving forward,
23 if we videotaped and posted, that that would certainly
24 meet the standard that most Commissions are currently
25 going through, and I haven't seen transcripts for any of

1 them, so I'm not aware of that. I have to tell you that
2 you inherited the transcript and videotape model from the
3 Bureau of State Audits, it was never required. The
4 concept was that we had to go above and beyond moving
5 past Monday, I would think that the videotape would be
6 the transparency model most of the Commissions I've seen
7 have taken up.

8 COMMISSIONER YAO: So no transcript is basically
9 what I heard you said, and when it comes to standard
10 operating procedure.

11 EXECUTIVE DIRECTOR CLAYPOOL: I haven't seen
12 others providing transcripts. We could certainly provide
13 an inexpensive way, but I think that if we simply have a
14 method for posting a good quality video, then I think
15 that you're meeting the transparency model that most
16 Commissions are following.

17 COMMISSIONER DAI: Okay, that would certainly
18 save a lot of money. All right, and then in terms of
19 frequency, again, we've talked about telephonic, weekly
20 updates, particularly to monitor litigation, and then
21 possibly going to in-person once a month, and then at
22 some point we probably can go to every other month or
23 once a quarter, or we may only be having committees
24 meeting, you know, and then preparing for more in-depth
25 meeting at some point in the future. Yes, Commissioner

1 Yao.

2 COMMISSIONER YAO: One more thought about having
3 meetings always in Sacramento. Because of fact that
4 we're all from different part of the state, no matter
5 where we hold a meeting outside of the meeting room cost,
6 it cost about the same when it comes to traveling, the
7 folks themselves have to come up here, or we have a
8 meeting in the southland, Northern Californians have to
9 travel to the south. Would you want to entertain the
10 thought of trying to hold a meeting throughout the
11 different part of the state on these quarterly type of
12 functions where, for example, if all we need is to have a
13 video camera pointed at us for the duration, there really
14 isn't any additional cost associated with it. So, at
15 least, we'll be more in the public eyes, being in a new
16 city and holding a meeting as compared to be in a
17 Secretary's or a State office where it kind of run of the
18 mill operation.

19 COMMISSIONER DAI: I think the only issue is
20 venue costs and staff travel would be the difference. I
21 would agree with you, for the Commission, the travel
22 costs are about the same. So I think, to the degree that
23 we have a free space here, that would be just the
24 inclination, but if there is free space elsewhere with
25 the video camera, you know, I'm sure our staff probably

1 doesn't mind getting out of the office once and again.
2 So, I mean, I think we would be open to that. I think,
3 really, that's the savings we're trying to accomplish
4 there is venue costs.

5 Okay, so I don't think we need to decide this
6 right now, but I just wanted to throw this about as
7 probably moving forward.

8 COMMISSIONER BLANCO: So in this new spirit of
9 per diem, what is our situation tomorrow if we don't
10 meet, but we're here? Is it a per diem expense?

11 COMMISSIONER GALAMBOS MALLOY: My personal
12 opinion as one Commissioner would be, if I was engaged in
13 Commission business over six hours, and I at this moment
14 can't think of what it is because we should have all
15 written our narratives, I mean, maybe there would be for
16 the Commissioners who have delegated legal authority, you
17 know, you might be working with the firms, and if so,
18 that would be an expense. But, I mean, other than that
19 type of work, I cannot see that just because we are all
20 physically here in Sacramento, that we would be billing
21 per diem, at least I would not, but maybe this is an
22 example of a type of thing we need to come to agreement
23 on.

24 COMMISSIONER BLANCO: That's why I bring it up.

25 COMMISSIONER DAI: Any other thoughts on this?

1 Commissioner Ward.

2 COMMISSIONER WARD: Perhaps Mr. Miller has some
3 thoughts on this. I know that, at least for Federal
4 service, if you're in your official capacity put on
5 deployment, or temporary duty, or anything that requires
6 you to relocate, you're technically on the clock. I
7 mean, certainly it's a lot cheaper for us to be up here
8 than fly home tonight, to fly back on Monday, but perhaps
9 -- is there any legal considerations the Commission needs
10 to know about in order to determine this issue?

11 MR. MILLER: I think the framework for the answer
12 to the question is the one that you've been working with
13 all along, and there isn't an additional framework that I
14 can offer to inform the Commission. If it were to choose
15 to adopt the Federal model, I think it could do that, or
16 choose not to do that.

17 COMMISSIONER DAI: Commissioner Forbes.

18 COMMISSIONER FORBES: Well, I mean, of course, it
19 doesn't affect me because I'll just go to the farm. But
20 I think for those Commissioners who have come up,
21 particularly from Southern California, I mean, there's an
22 opportunity cost here and they came here with the
23 expectation of working and, lo and behold, it turns out
24 we got it done. I view it as penalizing them by not
25 allowing them to take per diem, so I think for those of

1 us who are local, it doesn't matter, but I think for
2 those who have, you know, I think Commissioner Ward's
3 comment is exactly right, I mean, theoretically then,
4 they could -- because the meeting got cancelled -- they
5 get an airplane tonight, charge that, come back Monday
6 morning, charge that, and that would be completely
7 legitimate, and yet it would cost us a lot more. So I
8 think when you have something scheduled and there's a
9 reasonable expectation it's going to happen, and it
10 doesn't happen, I think that those who have traveled half
11 the length of the state should be able to take it as a
12 per diem.

13 COMMISSIONER DAI: Commissioner Galambos Malloy.

14 COMMISSIONER GALAMBOS MALLOY: You know, this is
15 a really challenging area and I feel that, even though
16 I'm physically here tomorrow, those hours are my hours.
17 I can do work on my day job, I can go to the park with my
18 family, there's no sense that that time should be, in my
19 view, at this state's expense, and yes, there's an
20 opportunity cost in participating in the Commission, we
21 knew that when we swore ourselves in as Commissioners.
22 And I do think that, you know, maybe there are -- I think
23 we do need to have a clear policy around all of these
24 types of issues because they will continue to come up.
25 And where there are Commissioners who are unique and

1 special exception situations, maybe we should consider
2 them as a Commission. But I don't think that, as an
3 individual Commissioner I can't personally feel
4 comfortable with the concept that I could bill the state
5 for being here in Sacramento at the park with my family,
6 half the day, and working on my day job, and billing my
7 day job for some of those hours; it just doesn't make
8 sense. And I think what wouldn't make sense, it would be
9 very difficult for us to be accountable as those
10 questions would arise in interfacing with the public.

11 CHAIRPERSON BARABBA: I'm not one for cutting off
12 a conversation, but if we keep it going, we're going to
13 be working tomorrow. It seems to me that we should leave
14 it up to each individual, and if they think they can
15 justify their being here and being compensated for it,
16 let them write it down. You know, I don't know how you
17 could have a hard and fast rule because some people are
18 here and they can't work on their day job while they're
19 away from it. So, those are other issues that surface.

20 COMMISSIONER DAI: Okay, well, this is how we got
21 here, is we left it to each individual Commissioner, and
22 so either we come up with policies and we stick to them,
23 or we decide that it's up to every person.

24 COMMISSIONER RAYA: Well, are we saying we have
25 no policy? That's what we're saying, that we have no

1 policy to apply to the situation.

2 COMMISSIONER DAI: Well, we were trying to
3 actually, I think, come to a policy decision.

4 Commissioner Di Giulio.

5 COMMISSIONER DI GIULIO: I think this is an issue
6 where we do, to some degree, have a policy, right, if
7 you're engaged, you can charge, but it's the application
8 of that, how did people interpret that policy? And you
9 know, I feel like especially since we had this meeting on
10 the weekends, part of it was to try not to infringe on
11 work, I mean, I think there's some policy aspects maybe
12 if it was a work day and we thought we could have, you
13 know, you were taking a day off your employment, maybe
14 that's one aspect of a policy vs. weekend, but I guess
15 I'm just struggling with, yes, everyone can make their
16 own individual choices, but whatever people do does
17 reflect on us as a Commission, I mean, all of this does
18 reflect on us. And I think there's a certain level of,
19 you know, we're trying not to police each other, but if
20 we feel like there's inconsistencies being applied, then
21 I feel like as a Commission we do have some say in how
22 other Commissioners operate.

23 CHAIRPERSON BARABBA: I don't plan to charge, but
24 if somebody else does, I don't feel obligated to feel bad
25 about it. That's up to that person.

1 COMMISSIONER FILKINS WEBBER: Everyone is in a
2 unique position. I'm self-employed, and so every day is
3 a work day, whether it's a weekend or not. Also, you
4 know, I have to deal with clients and I bill clients, and
5 when I am prevented due to one client from working for
6 another client, then it is a billable event based on my
7 litigation or my billing guidelines that I have. This is
8 a unique situation where, for instance, tomorrow I am
9 pulled away from an opportunity to be back in my office
10 because, any Sunday when I was home in the last several
11 months, I was in the office. But, again, I think any
12 Commissioner has a unique situation. I think that I just
13 wanted to throw that out there because my family is not
14 here, and I can't work either, so all of us are in a
15 unique situation, but I think that our present policy is,
16 again, in business meetings, our present policy is
17 working on Commission work. So we have, I think,
18 balanced -- I think there have been occasions when we
19 have been here, we've had meetings that cut out earlier,
20 I think there was a day that we had a situation like
21 that, where meetings got cancelled and everybody was in
22 town early. I remember that happening, and I don't think
23 anybody billed that day. So the application of our
24 present policy, as much as it would be to my detriment
25 not to bill \$300.00 tomorrow, which it's not, and I have

1 no intention of billing, the idea is our present
2 guidelines would apply to the present circumstances which
3 we're not going to be at a meeting, and if anybody is
4 going to spend six hours tomorrow on Commission business,
5 then it would be a billable day for them, but otherwise,
6 if we're not meeting, then I think, again, as part of the
7 sacrifice that each of us have recognized, that we are
8 putting in and all of us have put in far more hours than
9 we ever bill for per diem, and tomorrow is not going to
10 be an exception to that.

11 COMMISSIONER DI GUILIO: And can I just say one
12 more thing, too, just for the record, when we have
13 meetings on the weekends, it's actually harder for people
14 with kids because, during the week day, I can have them
15 in school and day care and on the weekend there is none,
16 so just so we know that there's tradeoff both ways; just
17 because most people here are at work, there are tradeoffs
18 both ways, there are implications, and I feel like I'm
19 not billing for any of those things that require day
20 care, even on the weekends for me, because my husband is
21 around, but not always.

22 COMMISSIONER DAI: Okay, Commissioner Ward.

23 COMMISSIONER WARD: Just to try and close out on
24 the policy issue, again, I'd just like to throw out there
25 that this isn't unique, it's not a new process that we're

1 having to build on like so many other ones that we did
2 have to, and it just seems to me that, coming out of this
3 discussion, we've decided we need to expand and update
4 our billing policy. It seems appropriate to have
5 whatever staff members in charge of that review those
6 when they come in, and what's typically done is, anything
7 that is outside -- well outside the range of norm, so, in
8 other words, staff identifies anything that looks to be
9 well above the average, simply submit that to the F&A
10 Committee for review, they can review those, and if there
11 seems to be an ongoing issue, then that can be addressed
12 either by the F&A lead, or the Chair, with the
13 individual. I mean, it just seems like that's the normal
14 operating policy with these things, so it seems like it
15 would fit really well here, too. So I'd just like us to
16 consider that, rather than making it something much more
17 intense than it needs to be.

18 COMMISSIONER DAI: Okay, so you think that
19 Commissioner Filkins Webber did an accurate restatement
20 of our current policy, which is we will not be in a
21 meeting tomorrow and, unless you have Commission business
22 over six hours, we will expect you not to bill for that.
23 Okay. Any other comments on this? Let me just double-
24 check and make sure, I think I had a few other items,
25 this was actually just the post-August operations plan.

1 Just a couple of items very quickly under
2 Management of Personnel and Equipment Contracts, we are
3 continuing to -- Mr. Villanueva and I have continued to
4 work with Q2 on trying to get their invoices in, we've
5 been getting a very nice loan from them for a while, so
6 we're continuing to work with them on making sure that
7 they are paid fairly according to their contract. There
8 is also a separate contract that is just a personnel
9 services agreement that we put in place so that they can
10 debrief with Morrison & Foerster on the mapping process,
11 so that's just a short term contract. We do expect a
12 separate contract moving forward, probably not only with
13 Q2, but in general for expert witnesses and litigation
14 support, so that will be a totally separate contract.
15 Their existing contract runs out on August 15th. So
16 that's just a note on the Q2 contract. And also,
17 Commissioner Forbes and I, we're delegated authority to
18 close out on negotiating the litigation contracts with
19 Gibson, Dunn, and Morrison & Foerster, in conjunction
20 with Mr. Miller. And we had a very satisfactory
21 negotiation at very favorable terms to the Commission, so
22 I think we're extremely pleased with the terms, I think
23 it will save us thousands and thousands of dollars, it
24 also addresses the concerns some Commissioners had about
25 having two firms, so there is a clause in there that

1 neither firm will be billing for time they spend talking
2 to each other, so it gets rid of a lot of the redundancy
3 that I think there was some concern about. So I don't
4 know if anyone else has any other general questions, but
5 we're in the process of getting the final contracts
6 through the State contracting process. Is there anything
7 else you want to add, Mr. Miller?

8 MR. MILLER: I actually have contracts with me
9 for Commission signatures. There's -- I'll just leave it
10 at that.

11 COMMISSIONER DAI: Very exciting. So we will
12 officially have hired them soon.

13 CHAIRPERSON BARABBA: Okay, does that do it?

14 COMMISSIONER DAI: Yes.

15 CHAIRPERSON BARABBA: Okay, Commissioner Aguirre,
16 do you have a comment?

17 VICE CHAIR AGUIRRE: I just had a question that
18 came up earlier about potential scheduling of Commission
19 meetings for the future. I know that, up until now,
20 we've been kind of agendaizing every day to cover
21 ourselves just in case we need that. Certainly, the
22 uncertainty of post-August 15 weighs heavy on any kind of
23 schedule that we might devise, but I'm thinking that,
24 unless we need to meet on litigation business pretty
25 shortly, that I'm kind of thinking about calling a

1 meeting for the Commission somewhere around the middle of
2 September, maybe the week of the 12th, just as a way of
3 putting out a potential week for a meeting and, of
4 course, that's very fluid at this time. I hope to take up
5 this discussion with our staff later on and maybe on
6 Monday to try to firm it up. So, unless perhaps we could
7 add some comments to that suggestion, so, yes?

8 COMMISSIONER FILKINS WEBBER: One comment I'd like
9 to make to that suggestion, and for all the Chairs as
10 they come about, is that I've been fairly diligent in
11 using the Google calendar, so I would like to just ask
12 all Commissioners to still maintain that schedule because
13 each Chair, as they decide on the dates, should probably
14 take a look at the Google calendar and make sure you have
15 a quorum that would be available on any given date, so I
16 would ask the Chairs to do that, please.

17 VICE CHAIR AGUIRRE: Sure. Yes, sir.

18 MR. MILLER: There will be a call tomorrow with
19 the Legal Oversight Team and it is possible that, as a
20 result of that call, the suggestion would be made to have
21 a meeting with the full Commission about litigation. I
22 just wondered if it would be possible to hold, say,
23 Thursday afternoon for that purpose based on the outcome
24 of the call tomorrow.

25 CHAIRPERSON BARABBA: This coming Thursday?

1 MR. MILLER: Yes.

2 VICE CHAIR AGUIRRE: For a full Commission
3 meeting --

4 MR. MILLER: And that would be a telephonic
5 meeting.

6 VICE CHAIR AGUIRRE: Oh, telephonic, okay.

7 CHAIRPERSON BARABBA: You bet.

8 MR. MILLER: But if we had that in mind, it would
9 just make it easier to decide and the question would be,
10 is there enough new information that it warrants that
11 meeting. But if we just use that as a placeholder, then
12 it's easier to decide whether to go forward or not.

13 COMMISSIONER DI GIULIO: So if we have a
14 telephonic conference on Thursday, we'd have to have our
15 remote locations, and those would have to be noticed as
16 soon as possible?

17 MR. MILLER: That's correct.

18 COMMISSIONER DI GIULIO: Because they technically
19 haven't been noticed. They haven't been posted for two
20 weeks at those locations.

21 MR. MILLER: That's right, we would need to re-
22 notice the meeting with those locations.

23 COMMISSIONER DI GIULIO: Okay.

24 EXECUTIVE DIRECTOR CLAYPOOL: Knowing that our
25 office is always going to be noticed, so in a pinch.

1 COMMISSIONER DI GIULIO: Right.

2 EXECUTIVE DIRECTOR CLAYPOOL: May I also ask
3 that, as we are -- if we are going to continue with the
4 practice of agendizing, can we have, say, a 72-hour
5 cancellation, rather than the 24-hour? We've had a lot
6 of individuals in the public just -- it's just better if
7 we three days ahead say we're not using it, it takes a
8 lot of that out of it.

9 CHAIRPERSON BARABBA: That seems appropriate.

10 MR. MILLER: If I could just ask for the sense of
11 the Commission, do you feel strongly that you would like
12 to have a meeting about litigation update this week? We
13 don't anticipate that suits will be filed, but we can't
14 say for sure. It would just, I think, help guide the
15 committee if there was a particular sense of the
16 Commission.

17 CHAIRPERSON BARABBA: Let me ask the committee
18 members whether you think you will need Commission
19 guidance.

20 COMMISSIONER YAO: I would ask the couple
21 Commissioners with the delegated authority to give us
22 their thought on that. If they can handle it, or at
23 least keep it under control, I probably would suggest
24 having a more regular meeting than it is to call
25 emergency meetings. I guess, let's say, this kind of

1 next Thursday, in my opinion, would be considered
2 emergency meeting. Let's use those when we absolutely
3 have to do it, as compared to making that as a routine.
4 That's my thought on it. I would, again, leave it up to
5 the Commissioners with that delegated authority to make
6 that call on behalf of the Commission.

7 COMMISSIONER FORBES: Well, my sense is that, I
8 mean, we can certainly address any legal issues on it,
9 that's why we exist, the two of us. My response to the
10 meeting on Thursday, because I was asked if we should
11 have this meeting, is that the Commission has
12 consistently sought to have input, and consistently
13 sought to be kept up to speed, and so that, to me, was
14 the purpose of the meeting. Otherwise, we could, you
15 know --

16 CHAIRPERSON BARABBA: And this would be a closed
17 meeting?

18 MR. MILLER: The litigation portion would be. We
19 would notice it, as we discussed, but I think the only
20 business item would probably be the closed session.

21 COMMISSIONER FILKINS WEBBER: I wouldn't think it
22 would be necessary for us to have a meeting because we're
23 going to be advised, so the Commissioner will be advised.
24 If a lawsuit is filed on Tuesday or Thursday, I think I
25 would see an email that says, "Here's a copy of the

1 lawsuit," and maybe it's posted on the website. So, I
2 don't need to have a special meeting to be advised of
3 that, number one, and 2) I would like to conserve our
4 time to have a meeting with counsel when counsel tells us
5 that it's necessary to discuss the litigation strategy
6 over whatever it is that's been filed, that's not going
7 to come about between Monday and Thursday. So I don't
8 think that it's necessary. We have the delegated
9 authority to our two Commissioners to the extent in which
10 any prompt decisions need to be made as far as obviously
11 necessary documents that might need to be filed, and then
12 take a look at what counsel's thoughts are in meeting
13 maybe two weeks from now, when our responsive pleading
14 might be due, if any, etc. etc.

15 MR. MILLER: Commissioner, that's very helpful to
16 get that guidance. Let me just offer, there's one other
17 thing we can do to help keep you informed, and that is we
18 can provide a one-way communication between counsel and
19 the Commission that is a privileged document, and I think
20 that is a helpful thing to do. Please keep in mind that
21 that privilege around that belongs to the entire
22 Commission, so no individual should disturb that, if you
23 will. But we can utilize that to keep you informed.

24 CHAIRPERSON BARABBA: So, Commission, is that the
25 correct way to do it? Commissioner Forbes, are you more

1 comfortable, then, using that approach? Okay, thank you.
2 Yes, are you all done? Oh, good. Dai is done. All
3 right, any other subjects any Commissioners would like to
4 bring up? Are there any comments from the public?
5 Nobody seems to be moving. You have that look.

6 COMMISSIONER DI GIULIO: I was just going to say
7 a review for Monday's schedule so, just for us and the
8 public, that would be nice.

9 CHAIRPERSON BARABBA: I believe you all have a
10 copy of it. And it's been published. It's been posted,
11 right? So we will start at 9:00 and we'll be here, and
12 we'll have public comments, and then we'll go through --

13 COMMISSIONER BLANCO: Are we here or across the
14 hall?

15 CHAIRPERSON BARABBA: Across the hall -- and then
16 we'll vote on the Statewide Final Maps, and then I will
17 open it up to public comment, and with a little bit of
18 luck, we'll walk over to the Secretary of State's Office
19 and deliver the documents. Commissioner Dai.

20 COMMISSIONER DAI: Yeah, I'm not sure it got
21 updated, we're going to also be running through the --

22 COMMISSIONER FILKINS WEBBER: Yep, Final Report
23 Overview.

24 COMMISSIONER DAI: Missed that one -- Final
25 Report Overview.

1 CHAIRPERSON BARABBA: Okay.

2 COMMISSIONER FILKINS WEBBER: It's on the Web.

3 COMMISSIONER DI GIULIO: Commissioner Barabba,
4 will the Secretary of State be at the meeting for the
5 actual certification?

6 CHAIRPERSON BARABBA: It's my understanding the
7 Secretary of State will not be at the meeting.

8 COMMISSIONER BLANCO: And do we know why?

9 COMMISSIONER DI GIULIO: Well, no, I think
10 Commissioner Blanco is asking a good question. I think
11 that this is another - to me, this is another significant
12 issue, similar to some of the concerns that Commissioner
13 Blanco raised with our Attorney General. I would think
14 this is a pretty significant event that the Secretary of
15 State might want to extend our attendance to this event,
16 but had you any chance to talk to her about that?

17 COMMUNICATIONS DIRECTOR WILCOX: The offer was, I
18 think, a couple months ago in our first meeting that the
19 Commission would very much like the Secretary of State to
20 be there. They have given no indication that she would
21 be there, but they also haven't told me that she's
22 definitely not coming. But they haven't confirmed her
23 appearance, having the Chief of the Elections Division
24 there. I think their point is that they will do
25 everything that they're required to do, but the Secretary

1 of State possibly will not be there, won't be there at
2 that event.

3 COMMISSIONER DI GIULIO: And in the past has her
4 attendance been at events like this?

5 COMMUNICATIONS DIRECTOR WILCOX: I have no idea.
6 With something like this, she wasn't in Office at that
7 time.

8 CHAIRPERSON BARABBA: Mr. Claypool.

9 EXECUTIVE DIRECTOR CLAYPOOL: I did have my
10 Executive Director's Report. But it's all been
11 discussed. I do have three things I need to mention.
12 First of all, we have received wonderful PDFs from Jon
13 Kim on the Advancement Project, and at no cost to this
14 Commission whatsoever, they really have done an
15 exceptional job. Amongst all the people that have all
16 along in this process contributed to us, it's been in
17 very very good spirit, and so I wanted to be sure and
18 thank them publicly for that. We also have some
19 additional information from the Legislature and
20 legislative staff that I need to tell you. The firewall
21 that the Legislature self-imposed between them, their
22 staff, and Karin Mac Donald as both the owner of Q2 and
23 the Statewide Database will be coming down on Tuesday.
24 It was self-imposed, but now they have to begin the work
25 of building the database for 2021, and they also have to

1 be prepared to work with the Director if the veracity of
2 the dataset is questioned following the release of the
3 Commission maps. The staff that represented all four
4 caucuses wanted to ensure that you know that the
5 Legislature and its staff will still be bound by the
6 restrictions of Proposition 11 and 20, and will continue
7 to honor their required separation between themselves and
8 the Commission. I would like to note that, to date, that
9 separation has been strictly applied, so that's the first
10 thing.

11 In addition, going forward, the Legislature and
12 staff indicated that the Legislature would like to
13 coordinate with the Commission on any positive changes
14 that it would like to propose with regards to the
15 Redistricting process. To that end, the Legislature is
16 open to sponsoring a coordinated bill with the
17 Commission, and if the Commission would like to make
18 changes, the legislative staff indicated that the
19 discussion should be coordinated between the Commission's
20 Chief Legal Counsel and the Legislative Counsel -- a
21 longwinded way of saying that they cannot propose a
22 change to the process, however, your change to the
23 process must run through the Legislature, and they want
24 to cooperate to the fullest extent possible and that's
25 very gracious, and that's the information that I needed

1 to pass on to you.

2 CHAIRPERSON BARABBA: Any questions? That was
3 one of your better reports.

4 EXECUTIVE DIRECTOR CLAYPOOL: I'll turn my mic
5 off.

6 COMMISSIONER DAI: So just to clarify, this might
7 include clean-up bills that we don't appear to have the
8 authority to do?

9 EXECUTIVE DIRECTOR CLAYPOOL: I think that we can
10 discuss that with the Legislature. Again, they're
11 probably going to ask us whether or not we believe we
12 have the authority to even make that request. This was
13 more in line with what we do have the specific authority
14 to do, which is to make statutory and Constitutional
15 changes. The Constitutional changes don't have to go to
16 the ballot, they can also be proposed by the Legislature,
17 so they are simply offering to work in this coordinated
18 effort with us and to make sure that the process is
19 cleaned up for the next go-round.

20 CHAIRPERSON BARABBA: Commissioner Yao.

21 COMMISSIONER YAO: Question for Mr. Claypool.
22 After Monday, August 15, do we continue at least have to
23 post all the public comments on our website with regard
24 to the map that we drew?

25 EXECUTIVE DIRECTOR CLAYPOOL: I think that we've

1 always posted those public comments because we felt like
2 it was for the transparency process, and I'm not entirely
3 certain, I would have to defer to Kirk about whether or
4 not we ever had a responsibility to actually post them,
5 or just make them available. But I think that you need
6 to decide whether you want to continue with that level of
7 transparency.

8 COMMISSIONER YAO: Again, maybe the next time we
9 meet, maybe you can share with us what is the state's
10 best practice when it comes to that kind of thing in
11 meeting our transparency obligation. In other word, do
12 all the other Commissions have to post public comments
13 that are made to them, and how often do they have to do
14 it, and on and on. I mean, these type of thing are cost
15 issues, it's a cost benefit criteria that I think we
16 should look at. If it doesn't result in any kind of
17 changes, then there's a cost without any real benefit,
18 and I think continuing it would not be in the best
19 interest of our taxpayers, so it's on that spirit that
20 I'm asking the question, not the desire of being the
21 opposite of transparent.

22 CHAIRPERSON BARABBA: I think, Commissioner Yao,
23 that we would at least have it on for a week or so
24 because I'm sure there is going to be a lot of feedback
25 once they get out and people hear other people talking

1 about it, and part of our evaluation could be to take
2 those comments into consideration. But I do agree with
3 you, we don't have to be going forever.

4 COMMISSIONER FILKINS WEBBER: There is a benefit
5 and we can save this discussion for another time, and
6 we'll wait for Mr. Claypool's report back on this, but
7 our website has been the central hub in many respects of
8 people being able to review everybody else's comments,
9 and there may very well be a lot of discussion going on
10 about referendums, about litigation, people's opinions,
11 pros and cons about that, and I would like to read them.
12 I think plenty members of the public would like to know
13 whether or not they're in a majority, or a minority. I
14 think there's a lot of benefit and I know that there
15 might be a cost, but it's basically one staff member
16 that's been pulling them from our public comment and
17 putting them on the website. I think that that time is
18 well worth it for what we have required for public
19 transparency.

20 CHAIRPERSON BARABBA: Mr. Claypool.

21 EXECUTIVE DIRECTOR CLAYPOOL: I will be happy to
22 not only provide that study, but also to give you some
23 indication of the cost. In this particular regard, the
24 cost of posting up documents to our website is not that
25 great if you believe that it helps in the process and

1 provides transparency.

2 CHAIRPERSON BARABBA: Okay. Are there any other
3 comments? If not, I will call this meeting to a close
4 and we will see you all here on Monday, and it should be
5 a very interesting day, if not historic!

6 (Adjourned at 4:30 p.m.)

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