

THE STATE OF ARIZONA
INDEPENDENT REDISTRICTING COMMISSION

REPORTER'S TRANSCRIPT OF VIDEOCONFERENCE PUBLIC MEETING

Via GoogleMeets

May 18, 2021

8:01 a.m.

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1 PUBLIC MEETING, BEFORE THE INDEPENDENT
2 REDISTRICTING COMMISSION, convened at 8:01 a.m. on
3 May 18, 2021, via GoogleMeets, Arizona, in the
4 presence of the following Commissioners:

5 Ms. Erika Neuberg, Chairperson
6 Mr. David Mehle
7 Ms. Shereen Lerner
8 Mr. Douglas York

9 OTHERS PRESENT:

10 Mr. Brian Schmitt, Executive Director
11 Ms. Valerie Neumann, Executive Assistant
12 Mr. Roy Herrera, Ballard Spahr
13 Ms. Jillian Andrews, Ballard Spahr
14 Mr. Eric Spencer, Snell & Wilmer
15 Mr. Brett Johnson, Snell & Wilmer
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P R O C E E D I N G

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3 CHAIRPERSON NEUBERG: Okay. I think we are live.
4 I'd like to welcome our entire team; Commissioners, legal
5 counsel, the public. As we move forward, you may notice
6 that there is one tile that's absent today, our fellow
7 commissioner, Vice Chair Watchman is not with us. He had a
8 last-minute obligation that emerged.

9 And so with our business we have a quorum and, with
10 that, I will get the meeting started.

11 Agenda Item No. I, call to order and roll call. It
12 is 8:01 a.m., on Tuesday, May 18th, 2021. I call this
13 meeting of the Independent Redistricting Commission to
14 order.

15 For the record, executive assistant Valerie Neumann
16 will be taking roll. When your name is called, please
17 indicate you are present; if you're unable to respond
18 verbally, we ask that you please type your name.

19 Val.

20 MS. NEUMANN: Commissioner Lerner.

21 Commissioner Lerner.

22 COMMISSIONER LERNER: Here -- present.

23 MS. NEUMANN: Commissioner Mehl.

24 COMMISSIONER MEHL: Present.

25 MS. NEUMANN: Commissioner York.

1 COMMISSIONER YORK: Present.

2 MS. NEUMANN: Chairperson Neuberg.

3 CHAIRPERSON NEUBERG: Present.

4 MS. NEUMANN: And for the record, we also have from
5 Snell & Wilmer Brett Johnson, Eric Spencer; from Ballard
6 Spahr we have Roy Herrera and Jillian Andrews; we have our
7 Executive Director and our transcriptionist, Angela Miller.

8 CHAIRPERSON NEUBERG: Okay. Thank you. And please
9 note for the minutes that a quorum is present.

10 With that, we'll move to Agenda Item I(B), call for
11 notice.

12 Val, was the notice and agenda for the Commission
13 meeting properly posted 48 hours in advance of today's
14 meeting?

15 MS. NEUMANN: Yes, it was.

16 CHAIRPERSON NEUBERG: Okay. Thank you very much.

17 Agenda Item No. II, approval of minutes from
18 May 11, 2021. We have (A), the general session; and (B),
19 two different executive sessions.

20 I'd like to thank my fellow Commissioners for doing
21 your due diligence and -- and submitting edits in advance so
22 that we can just do, you know, that, you know, dotting the
23 I's, crossing the T's.

24 So, with that, I don't personally have any
25 additional edits, but I'll open it up for discussion before

1 I'll entertain a motion.

2 Okay. If there's no discussion, can I have a
3 motion to approve the general session and executive session
4 minutes from May 11th of last week?

5 COMMISSIONER MEHL: This is Commissioner Mehl. I
6 -- I move that we approve the minutes from the May 11th
7 meeting.

8 COMMISSIONER LERNER: This is Commissioner Lerner.
9 I second.

10 CHAIRPERSON NEUBERG: Any further discussion?

11 Okay. Commissioner Mehl.

12 COMMISSIONER MEHL: Aye.

13 CHAIRPERSON NEUBERG: Commissioner Lerner.

14 COMMISSIONER LERNER: Aye.

15 CHAIRPERSON NEUBERG: Commissioner York.

16 COMMISSIONER YORK: Aye.

17 CHAIRPERSON NEUBERG: Commissioner Neuberg is an
18 aye.

19 And, with that, a 4-0 vote to approve the general
20 session and executive session minutes of last week.

21 We'll now move into Agenda Item No. III,
22 opportunity for public comments.

23 COMMISSIONER MEHL: Chairwoman Neuberg, there's an
24 echo going on; and, Valerie, you have two different tiles
25 open, if you mute the other one maybe that will get rid of

1 the echo.

2 CHAIRPERSON NEUBERG: Thank you. It's -- it's
3 annoying.

4 Let -- okay.

5 MS. NEUMANN: Is that.

6 CHAIRPERSON NEUBERG: It's still echoing.

7 COMMISSIONER YORK: Maybe mute yours.

8 COMMISSIONER MEHL: Yeah, that should do it.

9 CHAIRPERSON NEUBERG: Okay.

10 COMMISSIONER YORK: The bottom left side of your
11 screen should be a volume; if you mute that, Val, that
12 should help.

13 MS. NEUMANN: Any better?

14 COMMISSIONER YORK: Yes. Yes.

15 CHAIRPERSON NEUBERG: Okay.

16 COMMISSIONER MEHL: Yes.

17 CHAIRPERSON NEUBERG: Okay. We'll give it a try.
18 Agenda Item No. III, opportunity for public
19 comment.

20 Public comment will open for a minimum of
21 30 minutes and remain open until the adjournment of the
22 meeting. Comments will only be accepted electronically in
23 writing on the link provided in the notice and agenda for
24 this public meeting and will be limited to 3,000 characters.

25 Please note members of the Commission may not

1 discuss items that are not specifically identified on the
2 agenda. Therefore, pursuant to A.R.S. 38-431.01(H), action
3 taken as a result of public comment will be limited to
4 directing staff to study the matter, responding to any
5 criticism, or scheduling the matter for further
6 consideration and decision at a later date.

7 Agenda Item No. IV, discussion on public comments
8 received prior to today's meeting.

9 I open it up to my fellow Commissioners.

10 COMMISSIONER LERNER: This is
11 Commissioner Lerner -- is there an echo on mine?

12 CHAIRPERSON NEUBERG: A little bit.

13 COMMISSIONER LERNER: Sorry. I'm not sure...

14 CHAIRPERSON NEUBERG: Give it a try. It's okay.

15 COMMISSIONER LERNER: Okay. I just briefly, I want
16 to say again thank you for your comments. We understand the
17 frustration about executive sessions, but it's something
18 that's necessary that we need to be doing right now, and
19 hopefully that will happen less and less as we move forward.
20 But it's just -- it's something we need to do as we're still
21 in organizing and getting things done that we need to get
22 done to get ourself moving forward.

23 But I just wanted to acknowledge that we hear you
24 as part of that and thank you.

25 CHAIRPERSON NEUBERG: Yeah, and I -- you know, if

1 our legal counsel will allow, I'm going to throw both of
2 them under the bus, and it's okay because I think there's
3 been a fair amount of balance between the two firms. I
4 think we're being very wisely guided from a legal
5 perspective to do our due diligence and learn, you know, in
6 the executive session that the legal law allows us; and for
7 us to not do it would actually in my opinion, would be
8 deficient in our responsibilities to the State to provide
9 maps that can withstand legal scrutiny.

10 So when you understand the very essence of what our
11 job is, I think collectively we're making the smart
12 decision. And I know it's very frustrating and today is
13 going to be another one of those just legal heavy and --
14 and, you know, it's helping us, you know, create that
15 foundation that we can have more confidence in; and -- and
16 I'm glad that we're unified in what we feel is right for us.

17 I have one other thing that I just want to share in
18 terms of the public comments. You know, I'm looking forward
19 now as we're beginning to finish and, you know, fully staff
20 our team, to -- to hearing from the public the substance of
21 what we're about to embark on, which is understanding our
22 state, understanding our communities of interest, that was a
23 term that was emphasized throughout all of our interviewing
24 processes and what are communities of interest.

25 Well, public, this is your opportunity to chime in

1 and let us know who you are, you know what our needs are. I
2 mean, that -- that's what we're about to move into a phase
3 where we're going to be doing a lot of learning. So give us
4 constructive information that you feel, you know, fit into
5 the constitutional criteria that we ought be considering;
6 and I'm really excited to enter that phase.

7 Any other comments on public comments?

8 Okay. Agenda Item No. V, and I would say probably
9 VI as well.

10 I am going to turn over to our director, Brian
11 Schmitt, for Executive Director's report and discussion
12 thereof.

13 We'll start with Agenda Item No. V.

14 DIRECTOR SCHMITT: Thank you, Chairwoman.

15 And I just got a text; we might be having audio
16 issues. Can you double-check that the public can hear,
17 Valerie?

18 CHAIRPERSON NEUBERG: Yes, I just received a text
19 as well that people aren't hearing; that's -- that's really
20 unfortunate.

21 And what's most important to be honest is -- well,
22 the minutes are one thing, but in terms of the live feed
23 whether or not the audio is working such that there's a
24 transcription of what's being said.

25 Public comments don't help if it's just to us.

1 DIRECTOR SCHMITT: One second.

2 MS. NEUMANN: I'm not having any luck.

3 CHAIRPERSON NEUBERG: You know, do we know, Brian,
4 when the audio stopped, because I wonder if when Val had to
5 turn something off to stop the echo, if that broke the --
6 the reception some- -- somehow.

7 DIRECTOR SCHMITT: Yeah, that may be it. We're
8 trying to problem solve it right now.

9 CHAIRPERSON NEUBERG: Okay. Thank you.

10 MS. NEUMANN: I'm testing.

11 Testing again.

12 I thought for sure -- everything but the volume.

13 Okay.

14 CHAIRPERSON NEUBERG: Okay. So our we -- are we
15 now live with the public?

16 MS. NEUMANN: Yes, we're now live audio. My
17 apologies, everyone.

18 CHAIRPERSON NEUBERG: Okay. No problem.

19 Where -- we may need some legal counsel here.

20 Do -- do we know when the audio broke up and do we need to
21 move back and redo some of the items that were not
22 accessible to the public?

23 MR. HERRERA: Yeah, Madame Chairwoman, it's our
24 view that whatever -- since we don't know exactly when the
25 audio went out, my advice would be to just go back to the

1 beginning and do it all over again as unfortunate as that
2 is, but in an abundance of the caution.

3 CHAIRPERSON NEUBERG: Right. And -- and so do we
4 know, was it not working from the very beginning or was
5 there a point that it -- it broke up?

6 MS. NEUMANN: I have it feeling it was not working
7 from the beginning.

8 CHAIRPERSON NEUBERG: Okay.

9 MS. NEUMANN: So if we could begin again just to be
10 safe, I'm so sorry.

11 CHAIRPERSON NEUBERG: No problem; but we're live
12 now.

13 So welcome, everybody, it's nice to see everybody,
14 we're going to get right started. We apologize for the
15 technology problems, but out of an abundance of caution we
16 are going to start our meeting over again.

17 Agenda Item No. I call to order and roll call.

18 1(A), it is 8:16 a.m. on Tuesday, May 18, 2021. I
19 call this meeting of the Independent Redistricting
20 Commission to order.

21 For the record, the executive assistant, Valerie
22 Neumann will be taking roll. When your name is called,
23 please indicate you are present; if you're unable to respond
24 verbally, we ask that you please type your name.

25 MS. NEUMANN: Commissioner Lerner.

1 COMMISSIONER LERNER: Present.

2 MS. NEUMANN: Commissioner Mehl.

3 (No audible response.)

4 COMMISSIONER YORK: Muted, David.

5 MS. NEUMANN: You're muted.

6 COMMISSIONER MEHL: Present.

7 MS. NEUMANN: Commissioner York.

8 COMMISSIONER YORK: Present.

9 MS. NEUMANN: Chairperson Neuberg.

10 CHAIRPERSON NEUBERG: Present.

11 MS. NEUMANN: And for the record from Snell &
12 Wilmer, we've got Brett Johnson and Eric Spencer; from
13 Ballard Spahr we have Roy Herrera and Jillian Andrews; we
14 also have our Executive Director, Brian Schmitt, and our
15 transcriptionist, Angela Miller.

16 CHAIRPERSON NEUBERG: Thank you, Val.

17 Please note for the minutes that a quorum is
18 present.

19 Agenda Item I(B), call for notice.

20 Val, was the notice and agenda for the Commission
21 meeting properly posted 48 hours in advance of today's
22 meeting?

23 MS. NEUMANN: It was.

24 MR. HERRERA: Madame Chair, if you could just note
25 for the record that Vice Chair Watchman is not present.

1 CHAIRPERSON NEUBERG: Oh, that's right. Okay.
2 Please note for the record -- I mentioned this the first
3 time around but the public didn't have access to this, thank
4 you, Counsel -- Vice Chair Watchman unfortunately had a
5 responsibility to attend to at the last minute, and so he
6 unfortunately is not going to be with us today. We do have
7 a quorum, and so we'll be able to move forward with our
8 business and Vice Chair Watchman will have the ability to
9 catch up on the substance of -- of our agenda today.

10 Okay. Thank you. And so did we move through (B)?
11 Did we say the notice and agenda for the Commission was
12 properly posted 48 hours, correct?

13 MS. NEUMANN: Yes.

14 CHAIRPERSON NEUBERG: Okay. With that, we'll move
15 to Agenda Item No. II, approval of minutes from May 11,
16 2021. We have (A) a general session and (B), two executive
17 session minutes.

18 I'd like to just thank my fellow Commissioners for
19 their attentiveness in providing the edits, reading them
20 carefully in advance; and with that after we've all had the
21 opportunity to submit edits and see a final copy, I'll
22 entertain a motion to approve the general session and
23 executive session minutes from May 11th.

24 COMMISSIONER MEHL: This is Commissioner Mehl. I
25 move to approve the minutes.

1 COMMISSIONER LERNER: Commissioner Lerner seconds.

2 CHAIRPERSON NEUBERG: Any further discussion?

3 Okay. A vote.

4 Commissioner Mehl.

5 COMMISSIONER MEHL: Aye.

6 CHAIRPERSON NEUBERG: Commissioner Lerner.

7 COMMISSIONER LERNER: Aye.

8 CHAIRPERSON NEUBERG: Commissioner York.

9 COMMISSIONER YORK: Aye.

10 CHAIRPERSON NEUBERG: Commissioner Neuberg is an
11 aye.

12 And, with that, the minutes are approved 4-0.

13 I'm getting déjà vu.

14 Agenda Item No. III, opportunity for public
15 comments.

16 Public comments will open for a minimum of
17 30 minutes and remain open until the adjournment of the
18 meeting. Comments will only be accepted electronically in
19 writing on the link provided in the notice and agenda for
20 this public meeting and will be limited to 3,000 characters.

21 Please note members of the Commission may not
22 discuss items that are not specifically identified on the
23 agenda. Therefore, pursuant to A.R.S. 38-431.01(H), action
24 taken as a result of public comment will be limited to
25 directing staff to study the matter, responding to any

1 criticism, or scheduling the matter for further
2 consideration or decision at a later date.

3 With that, we'll move to Item IV, discussion on
4 public comments received prior to today's, May 18th,
5 meeting.

6 With that, I'll open it up to my colleagues for
7 their thoughts.

8 COMMISSIONER LERNER: So this is Commissioner
9 Lerner. I just wanted to thank everybody again for their
10 comments and let you know that we do understand your
11 frustration about executive sessions. We hope these will
12 occur less as we move forward, but for right now these are
13 something that we need to do as we're still organizing and
14 getting familiar with things; but hopefully over time, we'll
15 see fewer of those.

16 But just want you to know we understand your
17 frustration. Thank you.

18 CHAIRPERSON NEUBERG: And I'd like to reiterate
19 Commissioner Lerner's perspective and just share that, you
20 know, I -- I earlier, just as to repeat myself, you know, I
21 threw our legal counsel under the bus, but the good news
22 it's unanimous, not only amongst the different firms, but
23 amongst our Commissioners that we're doing our due
24 diligence; and if we didn't follow legal advice to do this
25 kind of -- of, you know, legal work, we would be failing to

1 meet our obligations to the State, protect ourselves as much
2 as we can against litigation, we would like to be able to
3 cross the finish line and -- and produce, you know, the --
4 the legitimate fair maps, and so I think we're following
5 very, very sound advice.

6 The other thing I'd just like to emphasize how
7 excited I personally am to move now into this next phase
8 of -- of learning about our state; learning -- you know, so
9 many of us focused on communities of interest in our
10 interview process, and -- and it's something that I think we
11 all really want to understand and learn about, and so I look
12 forward to tapping into public comments that -- that are
13 helping us understand who you are, where you live, how it
14 fits in the constitutional criteria, and I think it's just a
15 very excited stage for our community.

16 Unless there's any other spontaneous thoughts,
17 we'll move to Agenda Item No. V, which is the executive
18 director's report and discussion thereof.

19 Director Schmitt, take V away and I'm -- you're
20 going to be on tap for No. VI shortly after.

21 DIRECTOR SCHMITT: All right. Thank you,
22 Chairwoman.

23 So last week Valerie and I had some initial
24 training for the website. We've been working on some
25 updates and chipping away where we can. We moved the

1 "Contact Us" page to the main menu so it's easier to find
2 for the public; we're adding a newsletter link so if people
3 would like to sign up for a newsletter in the future,
4 they'll be able to do that.

5 Again, if there's other elements that they'd like
6 to see on the website, you can go to the "Contact Us" page
7 or comment in the public comment section.

8 We also added a newsroom feature. So there it has
9 the link to the RFP award and also the differential data
10 presentation that we had a couple of weeks ago.

11 In regards to the mapping consultant, the award was
12 posted on Friday on ADOA's procurement portal, so we're able
13 to start meeting with the mapping consultant and having an
14 initial meeting; and then hopefully they can do a
15 presentation for the public next week or at least do an
16 introduction.

17 In regards to hiring, we're still -- we still don't
18 have approval for the additional hires yet, but as soon as
19 we do, I'll post the three positions that were already
20 approved.

21 One area where I do think I need approval from the
22 Commission is in regards to the IT system. I know that we
23 discussed it before, but before ordering anything or moving
24 forward, I wanted to make sure that you all were comfortable
25 in the direction that we were going.

1 COMMISSIONER LERNER: Brian, can you elaborate on
2 that, the IT, please?

3 DIRECTOR SCHMITT: Sure. So consulting with
4 Counsel and IT folks at ADOA, we're looking into purchasing
5 new computers and moving over to Office off of Google.

6 So I have a couple of quotes for the hardware;
7 we're still waiting on the software. That's kind of the
8 final piece, but I should have that -- we have a meeting
9 Thursday, so hopefully we can get that all figured out by
10 then.

11 COMMISSIONER MEHL: And, Brian, what kind of a
12 budget will you need for that?

13 DIRECTOR SCHMITT: The hardware is for a set of --
14 they set up for ten users. I don't know if you all are
15 comfortable with the current laptops or you would like newer
16 ones for the hardware; it's about 25,000 for ten users.

17 COMMISSIONER MEHL: And for the software?

18 DIRECTOR SCHMITT: So they're still working that
19 out. I think it's going to be ballpark \$200 a user per
20 year.

21 COMMISSIONER LERNER: I guess, Brian, from my
22 perspective, once you get this kind of formalized, if you
23 could just --

24 DIRECTOR SCHMITT: Sure.

25 COMMISSIONER LERNER: -- come back with exactly

1 what you need, that will be helpful for us to be able to
2 give approval.

3 DIRECTOR SCHMITT: Absolutely.

4 CHAIRPERSON NEUBERG: But I think conceptually if
5 there's any feedback that you would like to offer now, I
6 think that would be helpful.

7 COMMISSIONER LERNER: Personally, my feeling is
8 whatever we need to do to make everything work is the way we
9 should go. So I'm comfortable with whatever changes you --
10 you feel we need, I just would like to see sort of a
11 specific proposal of "This is exactly what I need," so.

12 But I'm comfortable with making that transition if
13 that's what you feel is going to be necessary.

14 CHAIRPERSON NEUBERG: I -- I -- you know, our IT
15 needs are -- are, you know, paramount, so I -- thank you for
16 looking into this, and anything we can do to secure our --
17 our methods of communication and all of it is very
18 important.

19 Anything else, Brian, on Agenda Item No. V?

20 DIRECTOR SCHMITT: That is all I have on my end.

21 CHAIRPERSON NEUBERG: Okay. Commissioners? If
22 there's no other questions, we'll move into Agenda Item No.
23 VI, discussion and possible action on community outreach
24 coordinator and other potential hires and duties of all IRC
25 staff positions.

1 Director Schmitt, you're up again.

2 DIRECTOR SCHMITT: Thank you, Chairwoman.

3 So on this item, again, we're still in a holding
4 pattern trying to get the approval for the increase in FTE
5 authority, soon as I have that I will post three positions
6 that you all have already approved.

7 CHAIRPERSON NEUBERG: Okay.

8 COMMISSIONER MEHL: And, Brian, is that -- is that
9 approval imminent? Is there anything you need help from us
10 on?

11 DIRECTOR SCHMITT: I believe it's imminent. I
12 don't know if it's going to be wrapped into the budget, but
13 I do believe we should have it soon.

14 COMMISSIONER LERNER: If you --

15 CHAIRPERSON NEUBERG: Yeah -- go ahead.

16 COMMISSIONER LERNER: I'm sorry. If you can just
17 let us know once you do post those, that will be great.

18 DIRECTOR SCHMITT: Sure.

19 COMMISSIONER LERNER: Because it may happen in
20 between meetings.

21 Thank you.

22 DIRECTOR SCHMITT: Yeah, absolutely.

23 CHAIRPERSON NEUBERG: I appreciate the questions
24 because it actually dawned on me this morning, you know,
25 it's May 18th, you know, and just because there's census

1 delays, we have a lot of work to do and -- and particularly
2 the essence of what the public comments are, which -- which
3 is wanting us to understand who everybody is, you know, it
4 requires a fully staffed team to get on the road; and -- and
5 so, personally, I'm actually feeling a sense of urgency
6 right now. So I appreciate these questions and whatever we
7 can do to expedite the process, I think would, you know,
8 serve all of our interests.

9 Okay. If no other discussion, we'll move to Agenda
10 Item No. VII, discussion and possible action on legal
11 counsel briefing.

12 (A) public records compliance, there's initial
13 guidance.

14 I do want to ask a question of our legal counsel
15 because the next two agenda items, Agenda Item No. VIII,
16 which is discussion and possible action on census data and
17 delay and ways to mitigate its disruption, there's going to
18 be an element of executive session in both and, you know,
19 the rationale is similar, and I can explain it to the
20 public; but would it make sense to take those two agenda
21 items together, give a synopsis to the public of what we're
22 doing, then go into executive session and then come back?

23 Alternatively, if it's cleaner and neater to just
24 take them separately, well -- well, I will follow your
25 advice.

1 MR. HERRERA: Madame Chair, given that at least in
2 our view our Agenda Item No. VIII, it's unlikely we would go
3 into executive session unless the Commissioners had specific
4 questions.

5 CHAIRPERSON NEUBERG: Okay.

6 MR. HERRERA: I think the information we provide
7 under VIII would be appropriate for public meeting.

8 CHAIRPERSON NEUBERG: Okay.

9 MR. HERRERA: So I would suggest we go into
10 executive session for Agenda Item No. VII.

11 CHAIRPERSON NEUBERG: Okay. You got it. So Agenda
12 Item No. VII, discussion and possible action on legal
13 counsel briefing.

14 Is there anything, Counsel, that you'd like to
15 share before I entertain a motion to go into executive
16 session in order to receive this briefing?

17 MR. HERRERA: No, Madame Chair.

18 CHAIRPERSON NEUBERG: Okay. With that, I'll
19 entertain a motion to go into executive session for the
20 purpose of obtaining legal advice to further implement
21 and/or advance these legal issues pursuant to A.R.S.
22 38-431.03(A)(3).

23 COMMISSIONER MEHL: This is Commissioner Mehl. I
24 move we go into executive session.

25 CHAIRPERSON NEUBERG: Do I have a second?

1 COMMISSIONER YORK: This is Commissioner York.

2 Seconds.

3 CHAIRPERSON NEUBERG: Any further discussion?

4 Commissioner Mehl.

5 COMMISSIONER MEHL: Aye.

6 CHAIRPERSON NEUBERG: Commissioner Lerner.

7 COMMISSIONER LERNER: Aye.

8 CHAIRPERSON NEUBERG: Commissioner York.

9 COMMISSIONER YORK: Aye.

10 CHAIRPERSON NEUBERG: Commissioner Neuberg is an
11 aye.

12 With that 4-0 vote we'll move into executive
13 session.

14 Joining the Commissioners will be Val, our
15 Executive Director, Angela, the Ballard Spahr and Snell &
16 Wilmer team, and I believe that is it.

17 With that, I will see you all in executive session.
18 Please exit out of this current link.

19 (Whereupon the proceeding is in executive session
20 from 8:33 a.m. until 9:36 a.m.)

21

22

* * * * *

23

24 (Whereupon the proceeding resumes in general
25 session.)

1 CHAIRPERSON NEUBERG: Okay. Welcome back,
2 everybody. We're going to reconvene to the public session.
3 I think we have our Commissioners as well as our legal
4 counsel, our Executive Director, and Angela, our
5 transcriptionist.

6 So, with that, thank you for your patience with the
7 public for Agenda Item No. VII. We had a very thorough
8 presentation from our legal counsel -- thank you so much --
9 on public records.

10 I know it's frustrating when we do some of this
11 training in executive session, but I think it's just
12 important to highlight that one of the greatest values of
13 doing this in executive session, is that, with the complex
14 issues of public records, the Commissioners have an
15 opportunity to ask personal questions to make sure that
16 we're abiding by the letter of the law in a way that is
17 comfortable to really ensure, again, the integrity of the
18 process.

19 So I know it's frustrating for the public, but I
20 think it is something that is essential for us.

21 And, with that, the majority of what we discussed,
22 meaning the presentation from our counsel will eventually be
23 made public; we'll either post it on our website or provide
24 it in some manner such that everybody is aware of the
25 training we received on the importance of preserving public

1 record and being prepared to share those public records with
2 the public if necessary.

3 And unless there's any other conversation, we'll
4 now move to Agenda Item No. VIII, discussion and possible
5 action on census data and delay and ways to mitigate its
6 disruption.

7 Agenda Item (A) potential invitation to Census
8 Bureau and State Demographer to provide presentation.

9 With that, I will turn it over to our legal counsel
10 to share what is on your mind.

11 MR. HERRERA: Thank you, Madam Chairwoman.

12 I think, you know, on this agenda item we would
13 just report that we have made a request and -- and given an
14 invitation to both the Census Bureau and State Demographer,
15 to give a presentation before the Commission in public
16 session.

17 Specifically at the Census Bureau, we've asked that
18 their chief of redistricting as well as their senior advisor
19 for data acts and privacy come and present to the
20 Commission. That is something that they have done by
21 other -- or for other Redistricting Commissions already, so
22 we anticipate we'll be able to schedule that hopefully
23 sometime in the next few weeks.

24 And, Brett, I don't know if you want to touch on
25 the State Demographer.

1 MR. JOHNSON: Yes. Brian and I have both been in
2 touch with the Arizona Commerce Authority that where -- who
3 houses the State Demographer; we've answered some questions,
4 initial questions as to kind of expectations of the
5 presentation, looking back ten years and the looking forward
6 for 10 years, and some other information that would help
7 with the communities of interest as referenced by the
8 Chairwoman.

9 So that -- that request is in -- in the works, and
10 there's some good dialogue with the Commerce Authority.
11 Hopefully we'll have a better response and even a timeline
12 to a presentation next week.

13 COMMISSIONER LERNER: This is Commissioner Lerner.
14 When -- when they present, would it be possible for them to
15 do a little bit of a compare/contrast on their data?

16 What are some of the differences that exist between
17 the types of data that the Census has and the Demographer
18 has, just as part of their overall presentation, I think it
19 would be helpful for us to understand that so we're clear
20 when looking at data.

21 MR. JOHNSON: Yeah, and -- and,
22 Commissioner Lerner, you read -- you read my mind.

23 So the Census Bureau -- and I'll defer to Roy, the
24 Census Bureau is going to be stuck with Census Bureau data,
25 that's just -- they have their -- their, you know, box and

1 they stay -- usually stay within it. Although they'll
2 probably obviously bring the academic aspect to it as to how
3 that data is analyzed.

4 In regard to the State Demographer, actually the
5 first part of the presentation is exactly what we asked for
6 is what data does the Demographer utilize, why do they use
7 that type of data, and then how it can also be used going
8 forward.

9 Off the top of my head I know it's used for
10 purposes of building freeways, right? You don't build the
11 freeway out in the middle of nowhere -- maybe in Alaska you
12 build a freeway out in the middle of nowhere -- but you --
13 you ensure, you know, people are going to be growing toward
14 that.

15 But you read our mind and hopefully they give you
16 that kind of background in the front -- front end.

17 MR. HERRERA: It's likely the Census Bureau
18 presentation is going to be a bit more standardized since
19 they are dealing with sort of the national perspective and
20 they've already been given, as I mention, presentations to
21 others and I -- so their -- their presentation they've been
22 giving is actually available online; I think it's pretty
23 standard; but, nevertheless, I think the Commission will be
24 free to ask questions to the extent that are Arizona
25 specific, and to the extent the Census Bureau representative

1 know hopefully they can answer that.

2 CHAIRPERSON NEUBERG: Yeah, I -- personally I find
3 that exactly what is exciting for me is the opportunity to
4 ask questions. Because, you know, everybody in our
5 community who is following this process has genuine
6 questions about the data that's coming out; and it's not
7 partisan, it's just truly, you know, an academic, you know,
8 desire to understand, you know, what data is going to be
9 provided to us.

10 So I'm really excited to hear what they have to
11 share and for us to be able to ask our Arizona-specific
12 questions about how their data is going to, you know, help
13 us figure out our communities here. So I'm excited by this.

14 COMMISSIONER MEHL: I have a question. This is
15 Commissioner Mehl.

16 There were some actions brought by some other
17 states against the Census Bureau. Is there any update on
18 any of that?

19 MR. HERRERA: Turn that over to Eric.

20 MR. SPENCER: Yeah, Commissioner Mehl, there's been
21 no decision reached in the Alabama case yet, but there was a
22 Sixth Circuit oral argument on the Ohio case.

23 Just by way of background, the Ohio case merely
24 involved the delay in the census data, it did not relate to
25 the use of differential privacy data. I listened to that

1 oral argument last week, and I think Ohio is going to get
2 crushed; they just don't have a good idea about what they
3 want from the Census Bureau, and what they want is
4 impossible to grant them. The Census Bureau is not going to
5 speed up and give information faster than August 16th.

6 So my -- my prediction is the Sixth Circuit will --
7 will wonder why they're there.

8 But the Alabama case is more important, and that
9 decision is yet to be record.

10 MR. JOHNSON: And to our friends at Ohio who are
11 watching, that's Eric's personal opinion as to what the
12 Court may or may not do.

13 I'll also side with that opinion.

14 MR. SPENCER: And let me say it -- let me add a bit
15 why I think that.

16 The -- the Ohio -- Ohio filed that lawsuit prior to
17 the Census Bureau moving up and compromising from its
18 original official September 30th data delivery date and --
19 and then it subsequently agreed to give the legacy data by
20 August 16th. So most of the questions from the judges on
21 the Sixth Circuit were, you know, "Hey, Ohio, now that the
22 Census Bureau moved up by six weeks, doesn't that allay your
23 concerns?" And the Ohio lawyers said, "Yes, it does." And
24 the Circuit Court said, "Okay. Why are we here?" And the
25 Ohio attorney basically said, "Well, we want you to enter a

1 court order that forces the Census Bureau to deliver the
2 legacy data on August 16th in the way that they promise."

3 So I -- I sense some skepticism from the judges
4 about why it was necessary to enter a court order to
5 formalize something the Census Bureau has already agreed to
6 do by August 16th. So that's -- that's the reason for my
7 skepticism about how that case is going to turn out.

8 But at the end, the attorney conceded so much that
9 there's -- there's only really a sliver left of that case
10 that is relevant.

11 Again, Eric's personal opinion.

12 CHAIRPERSON NEUBERG: Informative.

13 And anything else from either our counsel or
14 Commissioners on the census data delay?

15 I -- I look forward to the academic presentation
16 and conversation. It's complicated and, you know, we'll --
17 we'll do our best to do right for the State.

18 With that, we'll move to Agenda Item No. IX, which
19 is discussion of future agenda item requests.

20 I heard Director Schmitt talk about the likelihood
21 next week -- which I'm sure our community would love --
22 which is some kind of presentation from our new mapping
23 consulting team.

24 In addition to that, is there anything else that
25 our -- you know, my fellow Commissioners would like to

1 recommend that we bring up next week?

2 Okay. With that, we'll move to Agenda Item No. X,
3 discussion and possible action on the scheduling of future
4 meetings.

5 We are slated as usual every Tuesday. The 25th,
6 next week, I -- Vice Chair Watchman is not here; we can
7 check in with him on his schedule, but I'm not aware of any
8 hard stops by any fellow Commissioners over the next, I'd
9 say, several weeks -- three weeks, if we would go that far.

10 COMMISSIONER LERNER: Chair Neuberg, I was
11 wondering if we wanted to consider having our meetings begin
12 at 8 o'clock in the future.

13 I have no hard stops or anything, but just whether
14 that would be something others would -- would like? And it
15 depends on staff and, I know, there's many considerations, I
16 understand that, but I wanted to throw it out there as a
17 possibility of an option is that we would begin at 8:00
18 instead of at 9:00 in the future.

19 CHAIRPERSON NEUBERG: I -- I open it up for
20 conversation.

21 And, you know, I think you're right. We -- we have
22 a large team, and the question is, you know, how does
23 everybody feel, you know, being prepared and ready to go on
24 a regular basis at that hour?

25 For me, it's not a problem at all.

1 COMMISSIONER MEHL: Is it a hardship on staff to do
2 8 o'clock versus even an 8:30 start?

3 I have no idea.

4 DIRECTOR SCHMITT: Not on my end.

5 I don't know if Counsel...

6 COMMISSIONER YORK: Look at Roy smiling.

7 MR. JOHNSON: Eric was making his usual derogatory
8 comment about the U.S. Navy, but we will be ready to go at
9 8 o'clock.

10 COMMISSIONER YORK: Roy, I find Arizonans tend to
11 get up with the sun anyways, so I get up earlier.

12 I know it helps Commissioner Watchman because he's
13 Navajo time, which is actually Mountain Standard. So our
14 9 o'clock is his 10 o'clock, so our 8 o'clock would be his
15 9 o'clock, so will probably help him.

16 CHAIRPERSON NEUBERG: All right. Well, it sounds
17 like based on consensus, just get ready for the public and
18 our team that you're on early, you know, duty. So I'm --
19 I'm comfortable with 8 o'clock.

20 So next week 8:00 a.m. and in terms of, you know,
21 finite time, that's to be determined.

22 COMMISSIONER YORK: Fantastic.

23 CHAIRPERSON NEUBERG: Okay. So, with that, Agenda
24 Item No. XI, which is the next meeting date.

25 It is May 25th and with a start time at 8:00 a.m.

1 With that, we'll move to Agenda Item No. XII,
2 closing of public comments.

3 Please note members of the Commission may not
4 discuss items that are not specifically identified on the
5 agenda. Therefore, pursuant to A.R.S. 38-431.01(H), action
6 taken as a result of public comments will be limited to
7 directing staff to study the matter, responding to any
8 criticism, or scheduling the matter for further
9 consideration and decision at a later date.

10 With that, we are into Agenda Item No. XIII,
11 adjournment.

12 I will entertain a motion to adjourn.

13 COMMISSIONER MEHL: This is Commissioner Mehl. I
14 move we adjourn.

15 CHAIRPERSON NEUBERG: Do I have a second?

16 COMMISSIONER YORK: This is Commissioner York
17 seconds.

18 CHAIRPERSON NEUBERG: Any discussion?

19 Okay. Commissioner Mehl.

20 COMMISSIONER MEHL: Aye.

21 CHAIRPERSON NEUBERG: Commissioner Lerner.

22 COMMISSIONER LERNER: Aye.

23 CHAIRPERSON NEUBERG: Commissioner York.

24 COMMISSIONER YORK: Aye.

25 CHAIRPERSON NEUBERG: Commissioner Neuberg is an

1 aye.

2 And, with that, we say we missed you,
3 Vice Chair Watchman. We will adjourn, and I look forward to
4 seeing everybody next Tuesday the 25th at 8:00 a.m.

5 Have a great day, everybody.

6 (Whereupon the proceeding concludes at 9:51 a.m.).

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C E R T I F I C A T E

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

BE IT KNOWN that the foregoing proceedings were taken before me, Angela Furniss Miller, Certified Reporter No. 50127, all done to the best of my skill and ability; that the proceedings were taken down by me in shorthand and thereafter reduced to print under my direction.

I CERTIFY that I am in no way related to any of the parties hereto nor am I in any way interested in the outcome thereof.

I FURTHER CERTIFY that I have complied with the requirements set forth in ACJA 7-206. Dated at Litchfield Park, Arizona, this 1st of June, 2021.



Angela Furniss Miller, RPR, CR
CERTIFIED REPORTER (AZ50127)

* * *

I CERTIFY that Miller Certified Reporting, LLC, has complied with the requirements set forth in ACJA 7-201 and 7-206. Dated at LITCHFIELD PARK, Arizona, this 1st of June, 2021.



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