

THE STATE OF ARIZONA
INDEPENDENT REDISTRICTING COMMISSION

REPORTER'S TRANSCRIPT OF VIDEOCONFERENCE PUBLIC MEETING

Via GoogleMeets

August 8, 2022

10:01 a.m.

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1 PUBLIC MEETING, BEFORE THE INDEPENDENT
2 REDISTRICTING COMMISSION, convened at 10:01 a.m. on
3 August 8, 2022, via GoogleMeets, Arizona, in the presence of
4 the following Commissioners:

5 Ms. Erika Neuberg, Chairperson
6 Mr. Derrick Watchman, Vice Chairman
7 Mr. David Mehl
8 Ms. Shereen Lerner
9 Mr. Douglas York

10 OTHERS PRESENT:

11 Mr. Brian Schmitt, Executive Director
12 Ms. Valerie Neumann, Executive Assistant
13 Mr. Roy Herrera, Herrera Arellano
14 Mr. Daniel Arellano, Herrera Arellano
15 Mr. Eric Spencer, Snell & Wilmer
16 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: Good morning, everybody. We
4 will dive right in with Agenda Item No. I, call for order
5 and roll call.

6 I(A), call for quorum. It is 10:01 a.m. on Monday,
7 August 8th, 2022. I call this meeting of the Independent
8 Redistricting Commission to order.

9 For the record, the Executive Assistant Valerie
10 Neumann will be taking roll. When your name is called,
11 please indicate that you are present. If you're unable to
12 respond verbally, we ask that you please type your name.

13 Val.

14 MS. NEUMANN: Thank you.

15 Chairwoman Neuberg.

16 CHAIRPERSON NEUBERG: Present.

17 MS. NEUMANN: Vice Chair Watchman.

18 VICE CHAIR WATCHMAN: Present.

19 MS. NEUMANN: Commissioner Mehl.

20 COMMISSIONER MEHL: Present.

21 MS. NEUMANN: Commissioner Lerner.

22 COMMISSIONER LERNER: Present.

23 MS. NEUMANN: And Commissioner York.

24 COMMISSIONER YORK: Present.

25 MS. NEUMANN: For the record, also in attendance is

1 Executive Director Brian Schmitt; from Snell & Wilmer, Brett
2 Johnson and Eric Spencer; and from Herrera Arellano we've
3 got Roy Herrera and Daniel Arellano; and Angela Miller is
4 our transcriptionist today.

5 And that is everyone.

6 CHAIRPERSON NEUBERG: Okay. Thank you, Val.

7 Please note for the minutes that a quorum is
8 present.

9 Agenda Item I(B) call for notice. Val, was the
10 notice and agenda for the Commission meeting properly posted
11 48 hours in advance of today's meeting?

12 MS. NEUMANN: Yes, it was, Madam Chair.

13 CHAIRPERSON NEUBERG: Thank you very much.

14 Agenda Item No. II, approval of minutes from
15 January 21, 2022, when we last met and we issued our final
16 report. We have II(A), minutes from general session; there
17 was no executive session.

18 Is there any discussion on minutes from
19 January 21st?

20 And if there is no discussion, I'll entertain a
21 motion to approve the general session minutes from
22 January 21st.

23 VICE CHAIR WATCHMAN: Madam Chair,
24 Vice Chair Watchman motions to approve the minutes of the
25 January meeting.

1 COMMISSIONER MEHL: Commissioner Mehl seconds.

2 CHAIRPERSON NEUBERG: Any further discussion?

3 With that, we'll take a vote.

4 Vice Chair Watchman.

5 VICE CHAIR WATCHMAN: Aye.

6 CHAIRPERSON NEUBERG: Commissioner Mehl.

7 COMMISSIONER MEHL: Aye.

8 CHAIRPERSON NEUBERG: Commissioner Lerner.

9 COMMISSIONER LERNER: Aye.

10 CHAIRPERSON NEUBERG: Commissioner York.

11 COMMISSIONER YORK: Aye.

12 CHAIRPERSON NEUBERG: Chairwoman Neuberg is an aye.

13 And with that, the minutes are approved.

14 We will move to Agenda Item No. III, opportunity
15 for public comments.

16 Public comment will now 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 not specifically identified on the agenda.
23 Therefore, pursuant to A.R.S. 38-431.01(H), action taken as
24 a result of public comment will be limited to directing
25 staff to study the matter, responding to any criticism, or

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

3 With that, we move to Agenda Item No. IV,
4 discussion on public comments received prior to today's
5 meeting.

6 I will turn it over to my colleagues to see if they
7 have anything to share.

8 Okay. It sounds like my colleagues have nothing on
9 their minds. I actually do want to just very briefly make
10 some remarks.

11 I've been asked this past week by some in the
12 public and some of my friends in the media for my reaction
13 to the election results and whether I feel a sense of
14 responsibility. Well, if any of those who are asking and
15 wanting a statement, here it is.

16 On a personal level I'm deeply disappointed by some
17 of the choices my fellow Arizonans made and concerned, but
18 this is an entirely different question than my assessment of
19 how we did as a Commission and how I did as Chair. As
20 imperfect as it was -- and all Commissions are imperfect --
21 I stand by our work and our leadership both in process and
22 outcome. I took an oath to follow the constitution, that
23 was my guide.

24 When Commissioners are asked to use our personal
25 judgment, I believe it's in how to interpret and apply the

1 constitutional criteria, not how to create districts that
2 will produce the type of candidates that we feel are best
3 for our state. Redistricting can only do so much to address
4 our political problems; our State's maps are already amongst
5 the most competitive in the nation and all citizens of
6 Arizona deserve representation, including those with whom we
7 disagree. We all share this fundamental American right.

8 The voters of Arizona have spoken and elected their
9 preferred party representatives. Personally as a
10 pro-Democracy Independent, I will continue to work through
11 bipartisan meetings to forge common ground when possible and
12 defeat extremism at the ballot box when necessary. But as
13 Chair for this IRC for whatever responsibilities lay ahead,
14 I will stay in my lane and follow the law. The strength of
15 our democratic institution depends on respecting these
16 constitutional boundaries.

17 And if there's no further comments, we can move --
18 I'm actually going to take the liberty to jump to Agenda
19 Item No. VI out of respect for the public's time, which is
20 the Executive Director's report. With the bulk of the
21 agenda being legal issues, we do anticipate a significant
22 amount of time in executive session.

23 So with that, I will move it to Director Schmitt.

24 DIRECTOR SCHMITT: Thank you, Madam Chair.

25 First up an update on staffing. Our staff now

1 consists mostly of Val and I -- again.

2 Lori is still helping out with public records and a
3 couple other projects she's trying to figure -- or finish
4 out.

5 The office -- we don't need as much space as we
6 used to, so the conference room was needed by another state
7 agency, so we handed that over to them for cost savings and
8 it's just not needed anymore.

9 Next up is the budget and expenditures from the
10 last fiscal year. It -- with personnel services and
11 employee-related expenses, it totaled approximately 614,000;
12 with professional and outside services, which is legal and
13 mapping, that totalled about \$4.3 million; travel consists
14 about \$21,000; other operating expenses, which is meeting
15 rooms and -- and everything else that goes along with that,
16 was about 847,000; noncapital equipment, our laptops
17 basically, 23,000.

18 So the subtotal expenditures were about
19 \$5.8 million, and that leaves us with about \$2 million in
20 our allotment.

21 With the website, we've been working with ADOA and
22 Timmons on a plan to integrate the website as much as
23 possible. We're hoping to set it up so it can be fully
24 integrated with the State system. So when we sunset, ADOA
25 will continue to keep the site as current as possible for

1 the next Commission. Last time I believe it went to
2 legislature and wasn't updated at all, so we started with a
3 blank slate.

4 And then next is, just looking forward over the
5 next month or so we'll be putting together a plan regarding
6 archiving and potential sunseting in case the Commission
7 does sunset sometime in the near future.

8 With that, if anyone has any questions, I'll open
9 it up.

10 CHAIRPERSON NEUBERG: Commissioner Lerner, please.

11 COMMISSIONER LERNER: Brian, can you send us the
12 budget that you just read?

13 DIRECTOR SCHMITT: Yes. Yes, they just got it to
14 us on Friday. So I'll clean it up and send you a copy.

15 COMMISSIONER LERNER: Thank you.

16 CHAIRPERSON NEUBERG: And Brian, just for the sake
17 of public if anybody is actually listening, I don't know if
18 they are, can you explain to people what "sunset" means
19 because I think that's a new term and -- and, you know, what
20 it means and what it doesn't mean.

21 DIRECTOR SCHMITT: Sure. So it's the Commission as
22 part of the constitution stays open until legal challenges
23 are closed out; but once that's all resolved, we have to
24 figure how we just logistically get rid of the office space,
25 equipment; everything we started up, we have to figure out

1 how to shut down, and we just want to make sure it goes as
2 smoothly as possible.

3 COMMISSIONER YORK: How active or robust is the
4 archiving piece, 'cause I think it's super important that
5 the next commission doesn't start with a blank slate, that
6 they have an idea with regard to how to proceed. I mean,
7 the first thing I think the four of us had to do was hire
8 Erika and then after that it was really, it was sort of
9 winging it.

10 So it would be nice if we had a pretty good
11 archive, sequence of events.

12 DIRECTOR SCHMITT: Yes. And that's -- that's
13 something that for me, too, jumping in was going back and
14 trying to have to wade through everything. So we do want to
15 set something up so the next Commission kind of has a
16 handbook or afteraction report. So that's something we'll
17 make sure is available and ready to go for them.

18 CHAIRPERSON NEUBERG: Okay. If there's no further
19 questions or comments, we'll move to Agenda Item No. V,
20 legal presentation and potential action on pending cases.

21 We have three subitems: (A), Pinal County
22 Attorney's Office request for comments related to Arizona
23 Democrat party's correspondence to Arizona Attorney General
24 from April of 2022. As a reminder, the Pinal County
25 Democratic party filed a complaint with the State Attorney

1 General's Office in April requesting that it look into
2 whether incumbency was taken into consideration amongst some
3 other issues; the AG claimed a conflict of interest and gave
4 it back to the Pinal County Attorney's Office. So that is
5 one issue that needs to be discussed.

6 Agenda Item V(B) *Conway v. Arizona Independent*
7 *Redistricting Commission*, which is in the Maricopa County
8 Superior Court. This is an outstanding civil suit by Daniel
9 Conway claiming we erred in drawing grid maps and applying
10 other constitutional criteria. Our counsel filed a motion
11 to dismiss this suit in -- June 9th of this year, so we are
12 able to hear an update on that.

13 And Agenda Item No. V(C) *Moore v. Harper*, a case
14 that will be argued before the United States Supreme Court
15 in October. This is concerning who is empowered to regulate
16 federal elections. This has significant relevance to
17 Redistricting Commissions and the authority that we have.

18 As we have already -- as we have traditionally
19 done, I'm going to suggest that the Commission vote to go
20 into executive session, which will not be open to the public
21 for the purpose of obtaining legal advice to further
22 implement and/or advance these legal issues pursuant to
23 A.R.S. 38-431.03(A)(3).

24 With that, Counsel, is there anything we want to
25 share with the public before we take a vote to go into

1 executive session?

2 MR. HERRERA: Madam Chair, just one correction for
3 the record. I think you mentioned on the complaint that was
4 filed by the Arizona Democratic Party. I think you said it
5 was the Pinal County Democratic Party; it was the Arizona
6 Democratic Party that filed the complaint --

7 CHAIRPERSON NEUBERG: Okay.

8 MR. HERRERA: -- which is now before the Pinal
9 County Attorney.

10 CHAIRPERSON NEUBERG: Okay.

11 MR. HERRERA: With that, I think we should -- I
12 would recommend we go into executive session for us to
13 provide legal advice as to all three of those issues.

14 CHAIRPERSON NEUBERG: Thank you for that
15 clarification.

16 We'll take a vote.

17 Vice Chair Watchman. This is a vote to go into --

18 COMMISSIONER YORK: I propose a motion that we go
19 into executive session.

20 CHAIRPERSON NEUBERG: Thank you.

21 COMMISSIONER YORK: Need a second.

22 CHAIRPERSON NEUBERG: Okay. Who -- who --
23 Commissioner York made the motion. Who -- who seconded it?

24 COMMISSIONER LERNER: I'll second it. Lerner
25 seconds.

1 CHAIRPERSON NEUBERG: Commissioner Lerner seconds.
2 Vice Chair Watchman.

3 VICE CHAIR WATCHMAN: Aye.

4 CHAIRPERSON NEUBERG: 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: Chair Neuberg is an aye.

11 And with that, we will move to executive session
12 and give a full report to the republic as -- to the public
13 as much as is appropriate when we are finished.

14 We'll "X" out of this and go into executive
15 session.

16 (Whereupon the proceeding is in executive session
17 from 10:15 a.m. until 11:03 a.m.)

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21 (Whereupon all members of the public are present
22 and the proceeding resumes in general session.)

23 CHAIRPERSON NEUBERG: Okay. Counsel, are you ready
24 for us -- and, Brian, are you ready for us to resume?

25 Okay.

1 DIRECTOR SCHMITT: Yes, Madam Chair.

2 CHAIRPERSON NEUBERG: We are on Agenda Item
3 Number V, legal presentation and potential action on pending
4 cases. We just returned from executive session.

5 In terms of V(A), the need to respond or our
6 decision whether we want to respond to Pinal County
7 Attorney's Office regarding the Arizona Democratic Party's
8 correspondence regarding incumbency and other issues they're
9 questioning about Commissioners' behavior. Any comments or
10 directions from the Commissioners?

11 It's my sense that I'd like to recommend that we
12 have our counsel prepare a response and come back to us for
13 us to be able to take a look at it and then collectively
14 determine as a Commission how we'd like to move forward.

15 Any other comments on V(A)?

16 COMMISSIONER YORK: No. I propose a motion that we
17 advise Counsel --

18 CHAIRPERSON NEUBERG: We -- we don't need a motion.
19 If it's just a general request for counsel to come back with
20 information, that's not something that we need to vote on.
21 But, thank you.

22 Okay, if there's no other comments.

23 COMMISSIONER YORK: Counsel.

24 MR. B. JOHNSON: Chairwoman?

25 CHAIRPERSON NEUBERG: Yes?

1 MR. B. JOHNSON: I apologize for intervening but
2 just kind of point of order.

3 CHAIRPERSON NEUBERG: Please.

4 MR. B. JOHNSON: Because the agenda item did have
5 an action item, if a Commission wishes to make a motion in
6 regard to one of those points, that is well within their --
7 their discretion. Just FYI.

8 CHAIRPERSON NEUBERG: Okay. So they -- they are
9 permitted to but not required to in order to give you the
10 authority to move forward to do more research and -- and
11 come back with us with -- with proposals?

12 MR. B. JOHNSON: That's right. If it's just to
13 give direction to legal counsel to continue on researching
14 this matter, that's just direction. If there's actual
15 action that counsel, you want us to actually respond to the
16 letter, then that would be a motion.

17 COMMISSIONER LERNER: But it's if it -- I -- the
18 idea that you come back to us doesn't need a motion?

19 MR. B. JOHNSON: That's correct.

20 COMMISSIONER LERNER: Okay. Perfect.

21 CHAIRPERSON NEUBERG: Correct. I believe that
22 there's consensus for Counsel to come back to us with
23 research and ideas for how we can move forward.

24 Okay. With that, *V(b), Conway v. Arizona*
25 *Independent Redistricting Commission*. Again with that, we

1 have heard we can expect an opinion or feedback within
2 60 days.

3 I do not believe there need to be any action item
4 on that unless any Commissioners have anything they would
5 like to add on that front. Or Counsel.

6 With that, we'll move to V(c), *Moore v. Harper*,
7 which is the Supreme Court case in which there is a
8 significant debate about who ultimately has authority over
9 elections and ultimately our Independent Redistricting
10 Commission.

11 My recommendation is that we ask Counsel to
12 investigate and do additional research on this matter given
13 the enormous implications that it has not only on our
14 current Commission but future commissions in Arizona.

15 And with that, we do not need a vote given that
16 we're just requesting additional research, but I will open
17 it up if there's any additional feedback or requests from my
18 colleagues. Or -- or comments from Counsel.

19 COMMISSIONER LERNER: Just for clarification, it's
20 not only additional research but should they be -- if
21 they -- whatever they draft up as part of it, we would be
22 reviewing as well prior to anything being submitted; is that
23 correct?

24 MR. B. JOHNSON: That's my understanding,
25 Commissioner Lerner.

1 COMMISSIONER LERNER: Okay.

2 CHAIRPERSON NEUBERG: I view any drafts that any
3 Counsel creates as research and -- and that there would be
4 no action taken until we reconvene and give explicit
5 direction.

6 And in the interim, the five of us can -- can
7 certainly do our due diligence with, you know, researching
8 law and -- and trying to learn as much as we can about state
9 elections and federal elections and who has authority.

10 COMMISSIONER LERNER: So again, just as
11 clarification, we have two items that our legal team may be
12 coming back to us with information and potentially documents
13 for us to review?

14 CHAIRPERSON NEUBERG: Correct, (a) and (c). And
15 it's possible depending on -- you know, we don't expect it,
16 but we do have that outstanding civil suit by Conway.

17 And if there are no further comments, questions, we
18 will move to Agenda Item Number VII, announcements.

19 We I believe need to schedule an additional meeting
20 in order for us to be able to follow up with the legal
21 guidance.

22 I believe Brian has sent out some possible dates.
23 We can discuss it now while we're all in public or, you
24 know, if everybody would, you know, very promptly respond to
25 Brian. There's some very timely issues here with

1 significant implications, so I think it's important that we
2 reconvene ideally before the end of the month.

3 COMMISSIONER LERNER: Chairwoman, I suggest that if
4 we -- if we can do it easily, we try to do something now
5 while we're all together.

6 CHAIRPERSON NEUBERG: Okay. We were looking at
7 dates on the 25th, the 26th, and the 29th.

8 VICE CHAIR WATCHMAN: Madam Chair, I'm only
9 available on the 29th. The first two dates are -- I'm
10 booked.

11 COMMISSIONER YORK: 29th works for me as well.

12 COMMISSIONER MEHL: I can do the 29th.

13 COMMISSIONER LERNER: Same here.

14 CHAIRPERSON NEUBERG: Terrific. I have a conflict
15 from 8:00 to 9:00, would 9 o'clock work for the five
16 Commissioners as well as Counsel, Brian, Val -- the team?

17 Okay. So we are planning to schedule our next
18 public meeting for August 29th at 9 o'clock a.m.

19 Thank you for everybody's flexibility and
20 accommodation.

21 Any other announcements? Brian?

22 DIRECTOR SCHMITT: I don't have any
23 announcements -- other announcements at this time.

24 CHAIRPERSON NEUBERG: Okay. With that, we'll move
25 to Agenda Item No. VIII, closing of public comments.

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

8 With that, we move to Agenda Item No. IX,
9 adjournment.

10 I will entertain a motion to adjourn.

11 VICE CHAIR WATCHMAN: So moved.

12 Vice Chair Watchman moves to adjourn.

13 CHAIRPERSON NEUBERG: Second.

14 COMMISSIONER MEHL: Second by Commissioner Mehl.

15 CHAIRPERSON NEUBERG: Vice Chair Watchman.

16 VICE CHAIR WATCHMAN: Aye.

17 CHAIRPERSON NEUBERG: Commissioner Mehl.

18 COMMISSIONER MEHL: Aye.

19 CHAIRPERSON NEUBERG: Commissioner Lerner.

20 COMMISSIONER LERNER: Aye.

21 CHAIRPERSON NEUBERG: Commissioner York.

22 COMMISSIONER YORK: Aye.

23 CHAIRPERSON NEUBERG: Chair Neuberg is an aye.

24 With that, we will adjourn. I look forward to
25 seeing everybody on September 29th.

1 Thank you for everybody's participation. Bye-bye.

2 COMMISSIONER LERNER: August.

3 COMMISSIONER YORK: August.

4 CHAIRPERSON NEUBERG: I mean August. I'm sorry.

5 Did I say September?

6 COMMISSIONER LERNER: August.

7 CHAIRPERSON NEUBERG: I'm sorry. August.

8 August 29th.

9 Bye-bye.

10 (Whereupon the proceeding concludes at 11:11 a.m.)

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23 "This transcript represents an unofficial record.

24 Please consult the accompanying video for the official

25 record of IRC proceedings."

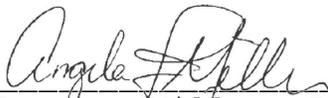
C E R T I F I C A T E

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 26th of August, 2022.



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 26th of August, 2022.



Miller Certified Reporting, LLC
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