

THE STATE OF ARIZONA
CITIZENS CLEAN ELECTIONS COMMISSION

REPORTER'S TRANSCRIPT OF PUBLIC MEETING

Phoenix, Arizona

June 12, 2017

2:02 p.m.

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<p style="text-align: right;">Page 2</p> <p>1 PUBLIC MEETING BEFORE THE CITIZENS CLEAN 2 ELECTIONS COMMISSION convened at 2:02 p.m. on June 12, 3 2017, at the State of Arizona, Clean Elections 4 Commission, 1616 West Adams, Conference Room, Phoenix, 5 Arizona, in the presence of the following Board members: 6 Mr. Steve M. Titla, Chairperson (Telephonic) 7 Mr. Mark S. Kimble (Telephonic) 8 Mr. Damien Meyer, Acting Chairperson 9 Mr. Galen D. Paton (Telephonic)</p> <p>6 OTHERS PRESENT:</p> <p>7 Thomas M. Collins, Executive Director 8 Paula Thomas, Executive Officer 9 Sara Larsen, Financial Affairs Officer 10 Gina Roberts, Voter Education Manager 11 Mike Becker, Policy Director 12 Alec Shaffer, Web Content Manager 13 Amy Jicha, Legal Admin and VE Intern 14 Paula Bickett, Attorney General's Office 15 Mary O'Grady, Osborn Maledon 16 Chris Klemminich, GRRC Staff Attorney</p>	<p style="text-align: right;">Page 4</p> <p>02:03:18-02:04:12</p> <p>1 CHAIRPERSON TITLA: Yeah, Steve Titla here. 2 COMMISSIONER KIMBLE: Mark Kimble. 3 COMMISSIONER PATON: Galen Paton. 4 ACTING CHAIRPERSON MEYER: And then Damien 5 Meyer is here as well. So we have four out of five 6 commissioners. 7 Item Number II on the agenda is discussion 8 and possible action on the executive director's report. 9 Mr. Collins? 10 MR. COLLINS: Yes. Commissioners, I used 11 that in case there was something that happened in the 12 last 24 hours to tell you -- and I can't remember. I 13 think there might have been one thing, but I've 14 forgotten it. 15 I will take this opportunity to ask you all 16 for purposes of our court reporter to make sure you 17 identify yourselves before you begin speaking so that 18 we can have the most efficient -- 19 ACTING CHAIRPERSON MEYER: Transcript. 20 MR. COLLINS: -- transcript. Yes. 21 So with that, that concludes the executive 22 director's report. 23 Thank you. 24 ACTING CHAIRPERSON MEYER: Any questions 25 from the commissioners on the executive director's</p>
<p>02:02:13-02:03:14</p> <p style="text-align: right;">Page 3</p> <p>1 PROCEEDING 2 3 MR. COLLINS: Okay. Commissioner -- 4 Commissioner Titla or Chairman Titla? 5 CHAIRPERSON TITLA: Yeah. 6 MR. COLLINS: Hi. This is Tom. So we have 7 Commissioner Meyer in the room. With your -- if you 8 think it might -- it might be easier if we -- if we ran 9 the meeting through Commissioner Meyer just for the 10 sake of convenience because he's in the room and can 11 see who is here and whom might like to speak. 12 Does that work for you? 13 CHAIRPERSON TITLA: Yeah. Yeah. That's 14 good. 15 MR. COLLINS: Okay. So, Commissioner 16 Meyer, all we'd ask you to do is go ahead and call the 17 meeting to order and -- and then we'll go from -- we'll 18 go from there. 19 ACTING CHAIRPERSON MEYER: All right. Good 20 afternoon. I'm Commissioner Damien Meyer. We're going 21 to call to order the meeting duly scheduled for 22 June 12, 2017, at 2:00 o'clock p.m., the meeting of the 23 Citizens Clean Elections Commission. 24 Let's call to order. 25 Who's on the line?</p>	<p>02:04:16-02:05:29</p> <p style="text-align: right;">Page 5</p> <p>1 report? 2 (No response.) 3 ACTING CHAIRPERSON MEYER: Okay. Hearing 4 none, we'll move to Item III, discussion and possible 5 action on the 5-Year Review Report submitted to the 6 Governor's Regulatory Review Council and related 7 matters. Item A is the purported notice of rule 8 expiration issued by GRRC chairwoman. 9 MR. COLLINS: So, Mr. Chairman, 10 commissioners, for purposes of sort of a description, 11 I'd like to kind of give an overview of III A through D 12 sort of describing why we're here, with your 13 indulgence. And then at some point, we'll need to -- 14 we'll look for a motion to go into executive session. 15 I'd also note that we have in attendance -- 16 the Governor's Regulatory Review Council's staff 17 attorney is here as is the Attorney General's Office. 18 In the event that they want to make public comment on 19 this agenda item, we'll have to make a decision. It 20 might be best -- it may or may not be best for them to 21 do that, if they want to do it, before we go into 22 executive session or after. It's really up to them, 23 but -- but just those -- so that's sort of the lay -- 24 lay of the land. 25 So what I wanted to do real quickly</p>

<p>02:05:30-02:07:09 Page 6</p> <p>1 summarizing for those who are here and those who are 2 watching on the camera, we're here for -- as the agenda 3 identifies, we're here for a couple of different 4 reasons. 5 So the state of play right now is that last 6 week the Governor's Regulatory Review Council filed a 7 purported notice of expiration which I believe you-all 8 have a copy of that. I filed an objection to that 9 notice as well as a copy of the Commission's own notice 10 regarding the validity of its rules which the 11 Commission voted for unanimously in December of 2016 12 for this eventuality. That notice has been on our 13 website since that time or since before that time and 14 then it was reaffirmed at that time, and so it seemed 15 like an appropriate time to publish that. 16 As of Friday, the Secretary of State had 17 told the press that they plan to run both notices in 18 the Administrative Register. Should that happen, we 19 will know by no later than June 30th whether those have 20 run. The -- so that's the headline. 21 The -- moving down the list here, the 22 meeting itself -- a couple of different things I wanted 23 to specifically note. First, the GRRC voted to return 24 the report that the Commission submitted on May 19th. 25 You know, we were hopeful that that report which had,</p>	<p>02:08:46-02:10:18 Page 8</p> <p>1 record were not substantive. In other words, not one 2 of them addressed R2-20-109, 110 and 111, which are the 3 three rules that were subject to the report that was 4 submitted on May 19th. 5 Additionally, the council let stand its 6 purported expiration. As you know, the council took an 7 action whereby it was of the belief it had expired or 8 set for expiration certain rules and it let that 9 decision stand. Why does that matter -- and that then 10 led to the notice I mentioned earlier. Why does that 11 matter? 12 Well, for two particular reasons that we 13 ultimately -- some of which we'll need to explore in 14 executive session, but just to lay the factual 15 predicate here, GRRC in executive session -- they went 16 into executive session and they went into the executive 17 session with the Attorney General's Office on the Clean 18 Elections Commission item which was Item F of their 19 agenda. The Attorney General's Office had previously 20 declared a conflict on that agenda item which was, in 21 fact, noted at the outset of the GRRC meeting. 22 Additionally, the purported notice of 23 expiration extends whatever action GRRC believes it 24 took on two -- in 2 of 2016 to current R2-20-109 and 25 R2-20-111, and we don't know when they took action to</p>
<p>02:07:13-02:08:42 Page 7</p> <p>1 we thought, some more conciliatory language in it would 2 pass muster. It did not with council. What I want to 3 specifically call out is that the reasoning for the 4 report -- the council doesn't believe it's obligated to 5 do this, but in any event, particular councilors 6 identified issues. 7 The council, as I said, does not believe 8 that the council itself has to identify issues, but 9 there are two issues that specific councilors 10 identified were, one, they disagreed with the 11 Commission's factual recitation of the GRRC's actions 12 in February of 2016. There were up to two councilors 13 who expressed some agreement with that and then a third 14 counselor believed that information that was included 15 in the cover letter ought to have been better included 16 in the report. 17 That particular objection, so to speak, 18 whatever you want to call it, was a little ironic 19 because we've been previously asked to take out -- or 20 we had the impression we were asked to take out 21 information from the report and put it in the cover 22 letter. So that it's been reversed. 23 The more important point, however, is that 24 none -- none of those two reasons which the only 25 reasons that I am aware of or that were given on the</p>	<p>02:10:22-02:11:51 Page 9</p> <p>1 evaluate those rules in their new light. As I noted, 2 the return of report didn't even mention those rules 3 substantively and we don't know when the decision to 4 articulate that that would not only be applied to a 5 revised R2-20-109 and 111, but to their entirety, 6 including rules that simply didn't exist or sub rules, 7 I guess, subparts of rules that didn't exist in 2016. 8 So that is kind of the lay of the land. I 9 felt in calling this meeting in conjunction with 10 Chairman Titla that our next Commission meeting is the 11 23rd, but that is an awful long time to go in something 12 that's moving fairly quickly to get you up to speed on 13 where we are legally and get advice of counsel as 14 necessary. 15 So that sort of sums up where I am. If you 16 have questions related to those facts, I am open to 17 them and then I guess I would suggest to Commissioner 18 Meyer that we ask if there's anyone who wants to make 19 public comment on those facts as I've articulated them 20 after the Commission has had a chance to ask any 21 questions. 22 ACTING CHAIRPERSON MEYER: Thank you, Tom. 23 I do not have any questions. 24 Do any of the commissioners on the phone 25 have any questions? And if you do, please state your</p>

<p>02:11:54-02:13:30 Page 10</p> <p>1 name before you ask. 2 COMMISSIONER KIMBLE: Mr. Acting Chairman, 3 this is Commissioner Kimble. I have a question. 4 ACTING CHAIRPERSON MEYER: Sure. Go ahead. 5 COMMISSIONER KIMBLE: Tom, I would like to 6 do what we can in open session. Tell me if you can 7 answer this in open session. We have three distinctive 8 entities that we're dealing with here. It's the 9 Attorney General's Office and GRRC. 10 Can you talk a little bit about -- you 11 talked about where we stand with GRRC. 12 Can you talk about, in open session, where 13 we stand with the other two now? 14 MR. COLLINS: Mr. Chairman, Commissioner 15 Kimble, I mean, I'm assuming you mean the Attorney 16 General's Office and the Secretary's Office? 17 COMMISSIONER KIMBLE: That's correct. 18 MR. COLLINS: Yes, I think I can. With 19 respect to the Attorney General's Office, I want to be 20 a little careful because that relationship itself is an 21 attorney-client relationship. I can say that -- that 22 we are working on those issues to the extent that they 23 have any -- well, we're working on those issues, I 24 think, in a way that is respectful on both sides. And 25 I'll be able to get into a little more detail on that</p>	<p>02:15:29-02:16:43 Page 12</p> <p>1 Again, I would say that over the course of 2 the last three months, we have done a great deal on 3 both our side and the Secretary of State's side with 4 Secretary Regan and Deputy Secretary Miller to develop, 5 I think, a closer working relationship. And so that -- 6 you know, it's hard to predict that, but I think that 7 we're in -- you know, I don't know how much to predict 8 from that, but I don't want to -- but to the best -- I 9 haven't had further -- I haven't had communication with 10 them that would throw any of that work yet into any 11 kind of -- any kind of jeopardy. 12 Does that answer your question? 13 COMMISSIONER KIMBLE: Okay. Thank you. I 14 have some more detailed questions about that, but I 15 have a feeling that we should wait until executive 16 session. 17 MR. COLLINS: Okay. 18 ACTING CHAIRPERSON MEYER: Any other 19 commissioners have any questions for Tom on the factual 20 background? 21 (No response.) 22 ACTING CHAIRPERSON MEYER: Hearing none, is 23 there a motion to move into executive session? 24 MR. COLLINS: I think -- 25 ACTING CHAIRPERSON MEYER: I'm sorry.</p>
<p>02:13:34-02:15:26 Page 11</p> <p>1 in executive session, but nevertheless, I think that we 2 have a -- have a -- not necessarily an understanding 3 but at least a -- are coming at things from a mutually 4 respectful angle at this point. And I appreciate the 5 Attorney General's Office and the Solicitor General and 6 the members of the Solicitor General's Office efforts 7 in that respect. 8 In an ideal world -- well, I guess I'll 9 leave it there. Going forward we'll see where that 10 works at, but we are -- we are in a place where I think 11 we're having -- we're poised to have a conversation 12 subsequent to your all being read in and talking -- 13 discussing this with our counsel to have a productive 14 conversation, I would say. 15 With respect to the Secretary of State's 16 office, we have not sought out additional communication 17 with the Secretary's office yet. Reading the press 18 accounts in the -- Mr. Duda's coverage in the -- in the 19 Yellow Sheet Report of the Arizona News Service left 20 things at -- you know, at sort of a -- this is from 21 them -- their perspective, at least as Matt Roberts 22 articulated it, an odd set of circumstances. When and 23 if they require -- it's necessary for us to engage with 24 them on this specific set of facts, you know, we hope 25 we can do that in a -- in a productive way.</p>	<p>02:16:44-02:18:10 Page 13</p> <p>1 Before that, can we have any public comment on these 2 issues? 3 MR. COLLINS: Chris, did you want to 4 comment? 5 If you could introduce yourself for the 6 record just like you guys do. 7 MR. KLEMINICH: Acting Chairman Meyer, 8 members, my name is Chris Klemminich. I'm one of the 9 staff attorneys with the Governor's Regulatory Review 10 Council. My presence here today is simply to answer 11 any questions that you might have. I did want to, I 12 guess, shed some light on one detail that Director 13 Collins shared in his recitation of the facts. 14 Pertaining to the order -- the expiration order of 15 Rule 109 and 111, the question was when did that 16 happen? 17 GRRC's position is that that happened from 18 the beginning, from February 2nd, 2016, when the order 19 was initially made that has been extended or was 20 extended three times, but the order -- there's some 21 language involved and when we talk about requiring the 22 repeal of particular sections of Rule 109 and what was 23 at the time (F) 2 through 12 and (G), what we are 24 talking about as a legal matter is an amendment of 25 Rule 109, according to the Secretary of State's keeper</p>

<p>02:18:13-02:19:55 Page 14</p> <p>1 of the Administrative Code, and A.R.S. 41-1056(E). 2 Technically what the council was doing 3 there is requiring the amendment of Rule 109 because it 4 found that the rule was materially flawed. So the 5 order -- the statute requires when the council makes 6 such a finding and requires a rule -- or portions of 7 the rule to be amended, if that is not followed, as was 8 the case here, the entire rule expires. So -- and I 9 wanted to be clear about that. 10 With regard to Rule 111, the council has 11 determined that the rule was simply renumbered. It was 12 not -- those provisions which were in Rule 109(G) were 13 simply moved to Rule 111, and the council feels that 14 there's no effect given to its order if compliance is 15 simply based upon renumbering rather than the removal 16 of the provision which it identified as materially 17 flawed. So I just wanted to be clear about that, and 18 I'm happy to answer questions about that or anything 19 else that the council has done. 20 ACTING CHAIRPERSON MEYER: Any 21 commissioners on the phone have any questions? 22 (No response.) 23 ACTING CHAIRPERSON MEYER: Okay. Hearing 24 none, it's Mr. Klemnich? 25 MR. KLEMINICH: Yes.</p>	<p>02:21:14-02:22:51 Page 16</p> <p>1 repealed was the determination made by the council that 2 the rules are materially flawed. 3 MR. COLLINS: Mr. Chairman, commissioners, 4 for what it's worth, I think that's -- I think that 5 largely captures our disagreement. We -- you know, in 6 terms of the Commission staff's observations, the 7 minute's of the February meeting itself, there's simply 8 no way, in our view, to glean even that inference is 9 our -- is our view, but yeah. So that's -- but that 10 would -- in general terms, that's the -- one of the 11 issues we've raised in the past and have -- well, and 12 GRRC has responded as Chris has responded. 13 ACTING CHAIRPERSON MEYER: I don't have any 14 further questions. 15 Do any of the commissioners on the phone 16 have a follow-up question? 17 (No response.) 18 ACTING CHAIRPERSON MEYER: Okay. Thank 19 you, Mr. Klemnich. 20 MR. KLEMINICH: Thank you. 21 ACTING CHAIRPERSON MEYER: Any other public 22 comment at this time? 23 MS. BICKETT: Commissioner Meyer, Chair, 24 members of the Commission, I'm Paula Bickett on behalf 25 of the Attorney General's Office. I just want to</p>
<p>02:19:57-02:21:10 Page 15</p> <p>1 MR. COLLINS: Klemnich. 2 ACTING CHAIRPERSON MEYER: Sorry? 3 MR. COLLINS: No, sorry. 4 ACTING CHAIRPERSON MEYER: Mr. Klemnich, I 5 think you said, you know, when the council makes such a 6 finding. 7 When was that finding made? And then what 8 record is there of that finding that the rule is 9 materially flawed is the question I have. 10 MR. KLEMINICH: The finding was made at 11 the -- at the February 2nd meeting, February 2nd, 2016. 12 There's a difference of opinion between council staff 13 and Commission staff regarding -- and correct me if I'm 14 wrong, Director Collins, but I believe the Commission 15 has taken the position that the finding that a rule is 16 material flawed had to be included in a motion that was 17 made in that meeting. That's not the council's 18 position. The statute only requires that after 19 determining that a rule is materially flawed, then the 20 council can vote to require amendment or repeal of a 21 rule. 22 So there's no express requirement in 23 statute that there be an expressed determination that a 24 rule is materially flawed. Implicit in the council's 25 order to require the offending provisions to be</p>	<p>02:22:54-02:23:48 Page 17</p> <p>1 confirm and agree with the characterization of Director 2 Collins' comments, and I don't have any further 3 comments. Any questions, though, I'm available here to 4 answer. 5 ACTING CHAIRPERSON MEYER: Thank you, 6 Ms. Bickett. 7 Commissioners, any questions for 8 Ms. Bickett from the AG's office? 9 (No response.) 10 ACTING CHAIRPERSON MEYER: Hearing none, 11 thank you. 12 Any other public comment? 13 (No response.) 14 ACTING CHAIRPERSON MEYER: Okay. Should we 15 now move into the executive session? 16 Commissioners, does anyone want to make a 17 motion that we move to executive session? 18 COMMISSIONER KIMBLE: This is Mark Kimble. 19 I move we move into executive session. 20 ACTING CHAIRPERSON MEYER: Is there a 21 second? 22 COMMISSIONER PATON: Second. Galen Paton. 23 ACTING CHAIRPERSON MEYER: All right. We 24 have a motion to move into executive session. There's 25 been a first and a second.</p>

<p>02:23:49-03:20:04 Page 18</p> <p>1 All in favor of moving into executive 2 session say aye. 3 (Chorus of ayes.) 4 ACTING CHAIRPERSON MEYER: All opposed, 5 nay? Anyone? 6 (No response.) 7 ACTING CHAIRPERSON MEYER: No. So 8 four-zero, unanimous, that we move into executive 9 session. 10 (The following section of the meeting is in 11 executive session and bound under separate cover.) 12 * * * * * 13 (End of executive session. Public meeting 14 resumes at 3:19 p.m.) 15 ACTING CHAIRPERSON MEYER: All right. 16 We're going to reconvene the Citizens Clean Elections 17 Commission meeting. We were just in executive session. 18 That's now closed. The public has been allowed back 19 into the meeting. 20 Tom, we've allowed for public comment. We 21 don't need to do that again now, correct? 22 MR. COLLINS: For the sake of formality, we 23 should just see if anyone else wants to make further 24 public comment. Well, first -- well, no, we don't need 25 more further comment on this agenda item. We do have a</p>	<p>03:21:05-03:21:52 Page 20</p> <p>1 Is there a second? 2 CHAIRPERSON TITLA: Steve Titla. 3 ACTING CHAIRPERSON MEYER: Okay. 4 Commissioner -- Chairman Titla has seconded. The 5 motion has been moved and seconded. 6 All in favor say aye. 7 (Chorus of ayes.) 8 ACTING CHAIRPERSON MEYER: Any opposition? 9 (No response.) 10 ACTING CHAIRPERSON MEYER: Okay. Motion 11 carries four to zero. 12 The third motion, I move we approve counsel 13 and the executive director to keep the Arizona 14 Secretary of State's Office advised as necessary. 15 Is there a second to that motion? 16 COMMISSIONER PATON: Gale Paton. Second. 17 ACTING CHAIRPERSON MEYER: Okay. It's been 18 moved and seconded. 19 All in favor say aye. 20 (Chorus of ayes.) 21 ACTING CHAIRPERSON MEYER: Any opposition? 22 (No response.) 23 ACTING CHAIRPERSON MEYER: Okay. The 24 motion carries four to zero. 25 Our next agenda item -- I moved my papers</p>
<p>03:20:07-03:21:04 Page 19</p> <p>1 public comment item down the way, but I apologize. 2 ACTING CHAIRPERSON MEYER: All right. So 3 we have some -- coming out of executive session we have 4 some motions. 5 I'd like to start -- I'd like to make a 6 motion. I move that we approve the executive director 7 and counsel to communicate with GRRC regarding meeting 8 issues and the notice as well as refile the return 9 report. 10 Anyone in favor of the motion? That's my 11 motion. Is there a second? 12 COMMISSIONER KIMBLE: This is Mark Kimble. 13 I second that motion. 14 ACTING CHAIRPERSON MEYER: Okay. There's 15 been a motion made and seconded. 16 All in favor say aye. 17 (Chorus of ayes.) 18 ACTING CHAIRPERSON MEYER: Any opposition? 19 (No response.) 20 ACTING CHAIRPERSON MEYER: Okay. Motion 21 carries four to zero. 22 The next motion, I move that we approve our 23 legal counsel and the executive director, Mr. Collins, 24 to communicate with the Attorney General's Office on 25 these related matters of the motion.</p>	<p>03:21:56-03:22:30 Page 21</p> <p>1 around so much I don't even know where my agenda is. 2 MR. COLLINS: We're on public comment. 3 ACTING CHAIRPERSON MEYER: The next -- the 4 next agenda item is Item IV, public comment. We 5 allowed comment earlier, but we're going to allow 6 additional comment. 7 (No response.) 8 ACTING CHAIRPERSON MEYER: Hearing none. 9 MR. COLLINS: Motion to adjourn. 10 ACTING CHAIRPERSON MEYER: Can I have a 11 motion to adjourn the meeting -- oh, Commissioner 12 Titla. 13 CHAIRPERSON TITLA: Motion to adjourn. 14 ACTING CHAIRPERSON MEYER: Is there a 15 second? I'll second that. 16 COMMISSIONER KIMBLE: Second. 17 MR. COLLINS: All right. All in favor say 18 aye. 19 (Chorus of ayes.) 20 ACTING CHAIRPERSON MEYER: Any opposition? 21 (No response.) 22 ACTING CHAIRPERSON MEYER: Motion carries 23 four to zero, and we are adjourned. 24 Thank you, Commissioners. 25 (Whereupon, the proceedings concluded at</p>

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1 STATE OF ARIZONA)
2 COUNTY OF MARICOPA)
3 BE IT KNOWN the foregoing proceedings were
4 taken by me; that I was then and there a Certified
5 Reporter of the State of Arizona, and by virtue thereof
6 authorized to administer an oath; that the proceedings
7 were taken down by me in shorthand and thereafter
8 transcribed into typewriting under my direction; that
9 the foregoing pages are a full, true, and accurate
10 transcript of all proceedings and testimony had and
11 adduced upon the taking of said proceedings, all done to
12 the best of my skill and ability.
13 I FURTHER CERTIFY that I am in no way
14 related to nor employed by any of the parties thereto
15 nor am I in any way interested in the outcome hereof.
16 DATED at Phoenix, Arizona, this 13th day of
17 June, 2016.
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19 
20 LILIA MONARREZ, RPR, CR #50699
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/	8:17,19;10:9,15,19; 11:5;16:25;19:24	17:1 Chorus (5) 18:3;19:17; 20:7,20;21:19	19:7,23;20:12 counselor (1) 7:14 couple (2) 6:3,22	executive (25) 4:8,21, 25;5:14,22;8:14,15,16, 16;11:1;12:15,23; 17:15,17,19,24;18:1,8, 11,13,17;19:3,6,23; 20:13
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