

THE STATE OF ARIZONA  
CITIZENS CLEAN ELECTIONS COMMISSION

REPORTER'S TRANSCRIPT OF PUBLIC MEETING

Phoenix, Arizona

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<p style="text-align: right;">Page 2</p> <p>09:33:42-09:35:09</p> <p>1 PUBLIC MEETING BEFORE THE CITIZENS CLEAN 2 ELECTIONS COMMISSION convened at 9:32 a.m. on July 20, 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 members: 6 7 Mr. Damien Meyer, Acting Chairman 8 Mr. Mark S. Kimble 9 Ms. Amy B. Chan 10 Mr. Galen D. Paton 11 12 OTHERS PRESENT: 13 14 Thomas M. Collins, Executive Director 15 Paula Thomas, Executive Officer 16 Sara Larsen, Financial Affairs Officer 17 Gina Roberts, Voter Education Director 18 Mike Becker, Policy Director 19 Alec Shaffer, Web Content Manager 20 Stephanie Cooper, Executive Support Specialist 21 Mary O'Grady, Osborn Maledon, P.A. 22 Kara Karlson, Assistant Attorney General 23 Dana Walton, ADLCC 24 Joel Edman, AZ Advocacy Network 25 Rivko Knox, LWV/AZ Jim Barton, Torres Law Group Chase Bales, Ballard Spahr, LLP</p>	<p style="text-align: right;">Page 4</p> <p>09:33:42-09:35:09</p> <p>1 promulgated Administrative Order 2017-80. And by way of 2 a little bit of background, this past legislative 3 session, the Arizona Supreme Court had a task force that 4 they put together as the task force for Fair Justice for 5 All. That task force had a bit of legislation that they 6 tried to put through the legislature. And most of that 7 legislation did not end up going through, so this 8 administrative order largely mirrors some of the 9 language that was in those bills. 10 This one, in particular, this 2017-80, it is 11 geared more towards trying to give defendants in civil 12 and criminal cases, particularly traffic cases, an 13 easier way to make payments. So this order, in 14 particular, it -- the goal is to create a system where 15 individual defendants may be able to prolong their 16 payment process. I believe -- I believe you all have 17 been given a copy of this order and taken a look at it. 18 So Items 1 through 4 in this order really deal with 19 methods for payment, setting up extended payment plans, 20 giving some -- some more -- just sort of trying to 21 facilitate for individuals an easier way to make these 22 payments. 23 The only item on here that -- that we had some 24 potential concerns about is -- is Item 5, which deals 25 with the Court's ability to mitigate these fines.</p>
<p>09:32:22-09:33:39</p> <p style="text-align: right;">Page 3</p> <p>1 PROCEEDING 2 3 ACTING CHAIRMAN MEYER: All right. Good 4 morning, everyone. I am Commissioner Damien Meyer. I'm 5 going to be filling in the chairperson role today for 6 Commissioner Titla, who could not join us. 7 Before we call the meeting to order, I'd ask 8 everyone to just take a moment and share a thought or 9 prayer for Senator McCain's health and for his family. 10 So if we could do that for a moment. 11 Thank you. 12 Now we'll call to order the meeting of the 13 Citizens Clean Elections Commission. It is July 20 of 14 2017 at 9:30 a.m. 15 We are going to take things a little bit out of 16 order this morning. We are going to go first to Item VI 17 on the agenda. We have counsel here who has a -- has a 18 busy calendar. 19 So I ask you to step up to the mic, please, and 20 please state your name for our court reporter. 21 MR. BALES: Good morning, Mr. Chairman and 22 Commissioners. My name is Chase Bales. I'm here from 23 Ballard Spahr. And I'm here today just to provide, 24 first of all, a brief overview. 25 The Arizona Supreme Court, on July 5th,</p>	<p>09:35:12-09:36:35</p> <p style="text-align: right;">Page 5</p> <p>1 Now, the language in Section 5B and then 5C is 2 sort of our concern here, which is it gives courts -- 3 or, it looks like it may give courts discretion to waive 4 part of some fines and surcharges, assuming that -- that 5 these defendants perform community restitution or 6 otherwise. 7 Now, at this point we're not entirely sure if 8 this is going to affect the Commission -- the Clean 9 Elections surcharge, but we saw this when it came out, 10 and we wanted to make sure you all are aware of it. 11 We're going to try and clarify this with the Court and 12 find out what -- what's going on. And that sort of 13 dovetails into the -- into Item 6 related to the -- 14 what's going on with the surcharge and -- and the 15 communications with the Court. 16 My only update on that is -- is sort of there is 17 no update as of yet. We are working with the Court to 18 try and get on their calendars to try and get a meeting 19 set up with them where we can push things forward. But 20 it could be that our concerns with this administrative 21 order, depending on the outcome of those discussions, 22 may go away. So it could be an issue, could be a 23 nonissue, but we want to make sure that you all are 24 aware of it. And with that, be happy to answer any 25 questions.</p>

<p>09:36:36-09:37:56 Page 6</p> <p>1 And I do -- I apologize. I want to thank you 2 for agreeing to take this item first to accommodate my 3 schedule. I -- I do appreciate that very much. Thank 4 you. 5 ACTING CHAIRMAN MEYER: You're welcome. 6 Any questions from the Commission? 7 (No response.) 8 ACTING CHAIRMAN MEYER: Okay. Thank you. 9 MR. BALES: Okay. Thank you all very much. 10 ACTING CHAIRMAN MEYER: All right. So the next 11 item we're going to address is Item Number IV on the 12 agenda, which is Discussion and Possible Action on the 5 13 Year Review Report submitted to the Governor's 14 Regulatory Review Council and Related Matters, including 15 Counsel Matters of the Regulatory Review Council. 16 MR. COLLINS: Just -- Mr. Chairman, I'll -- if 17 I may, I'll introduce this -- this item. Mary O'Grady 18 is here and -- and she can address things. We may have 19 to go in executive session on this for the -- We'll 20 determine that, I think, here after a little bit of open 21 discussion. 22 To update you on where we are currently, on 23 June 6th, the GRRC sent us -- or June 8th -- June 6th or 24 June 8th, the GRRC staff attorney sent us a, quote, 25 unquote -- I don't know what you would call it --</p>	<p>09:39:58-09:41:42 Page 8</p> <p>1 published the GRRC thing as well as our notice to the 2 contrary on June 30th in the Administrative Register, so 3 both items were published. 4 I'd also just observe that the -- the so-called 5 notice -- whatever you want to call it -- is 6 substantially different from the so-called notice that 7 the council purported to do in November 2016, and it 8 is -- and it does so in a way that is completely 9 inconsistent with what GRRC has maintained is -- has -- 10 is now -- is now maintaining is its position. 11 In other words -- and this is all in our letter, 12 but just to review, in 2016 they said certain 13 subsections were subject to expiration. In the notice, 14 they said that all of Rule 109 and 111 were subject to 15 expiration. Their logic -- although there was no public 16 meeting that explained how this happened, but the logic 17 appears to be that, well, part of 111 got -- was -- 18 was -- was once in 109, but all of 110, which deals with 19 participating [unintelligible] was also in 109 and 20 somehow that is not included in -- in the notice. 21 So the notice, on its face, is patently 22 inconsistent with what the council has said its 23 rationale is publicly, and -- and there has been no, to 24 the best of our knowledge, public meeting to address how 25 it was amended to read the way it was read, at least not</p>
<p>09:37:57-09:39:55 Page 7</p> <p>1 notice, I guess you would call it, that purported to say 2 that R2-20-109 and -111 were revoked. We -- I filed 3 with -- And they also returned our five-year report 4 again. I filed a letter with GRRC with a revised 5 five-year report. I think you all saw it before we 6 filed it. And it also identified some issues with the 7 open meeting law related to that, and subsequently, we 8 have not heard from GRRC one way or the other on that 9 issue. 10 We have been also working to get some more 11 information about the process by which outside counsel 12 is assigned, and we have some documents that we've 13 requested that's -- that's a matter of public record 14 that that has happened. And we have been reviewing 15 those. The reason being is that there was -- We -- we 16 had a meeting here at the Commission about screening an 17 attorney from an entirely other firm and then it turns 18 out that a totally different firm with a lawyer named 19 Tim LaSota, who some of you may know from his prior 20 lawsuits against the Commission, had been appointed. So 21 we've been working with the Attorney General's Office to 22 get that information ascertained. 23 There are some -- some legal questions that I 24 think Mary will -- will want to get into that dovetail 25 off of that. I will say that the Secretary of State</p>	<p>09:41:46-09:43:10 Page 9</p> <p>1 one that we were privy to or noticed on or that there's 2 any evidence there was notice about. So that's that 3 situation. 4 I'd also note -- and I wrote a brief memo to you 5 on this -- that a new member Frank Thorwald has proposed 6 that GRRC vastly expand its -- sua sponte expand its 7 authority and begin doing its own stakeholdering process 8 on the merits of -- of agency rules, which is an 9 extraordinary thing to propose. 10 GRRC staff supposedly will be putting some meat 11 on the bones of this idea in subsequent meetings, but 12 just to give you a sense of why that's so extraordinary, 13 we're not subject to Governor Ducey's moratorium order, 14 but every other agency -- or, almost every other agency 15 is. That means that no agency can make a rule before a 16 policy adviser signs off on it, and then they do the 17 rule-making, and then they go to the APA process and 18 they get public comment and they pass the rule, and then 19 they go to GRRC. And now GRRC is going to say, "We're 20 going to repeat all that and potentially veto what had 21 already been approved by the Governor's Office to begin 22 with," which is a very, very strange and circular 23 process. 24 I also noted in the memo that the Pharmacy Board 25 has been in front of GRRC now for many, many meetings,</p>

<p>09:43:13-09:44:55 Page 10</p> <p>1 much like we have been on a -- and, again, arguing about 2 the substance of an underlying rule, the actual policy, 3 with the counselors who will not approve the rule so far 4 rather than focusing on those items that are in GRRC 5 purview pursuant to Title 41. 6 So the point of giving you that background is to 7 say that what is happening with the Commission at 8 GRRC -- You know, a lot of times people think, "Oh, 9 this is a Clean Elections issue and if Clean Elections 10 just didn't -- wasn't Clean Elections, none of this 11 stuff would happen." What the evidence is is that GRRC 12 is expanding its authority with no apparent statutory 13 basis and doing it in a way that is completely 14 irreconcilable, at least in my view, with what I 15 understand the policy process of administrative agencies 16 who are under the APA and -- and the Governor's Office 17 moratorium. So it's a very strange situation, but we're 18 a canary in this coal mine. We are not just -- you 19 know, we are -- it's not just one of these, oh, Clean 20 Elections is -- you know, it's a Clean Elections issue. 21 This is clearly a broader effort to overreach 22 and expand the turf of the Governor's Regulatory Review 23 Council, and -- and I wanted you to be aware that that's 24 what's on the table there. So that's my public report. 25 I think Mary has some issues she might want to</p>	<p>09:46:05-09:47:34 Page 12</p> <p>1 is correct. We have not been agendized at GRRC since 2 June. We have been -- Sara and Mike and I or Mike and 3 I, depending on who was available, have been attending 4 the GRRC meetings to make sure we're there for the staff 5 reports and to make sure we know precisely what's going 6 on. That's part of the reason we know why -- about 7 Mr. Thorwald's vast and incredible assertions. 8 The fact of the matter is that we don't know 9 what they think that they're going to do. We've -- we 10 think, based on what we've heard from staff previously, 11 that they think they've done what they need to do and 12 now maybe there's nothing else to do. 13 However -- and this is -- and this is just -- 14 and this is just brass tacks -- the attorney who's 15 appointed to represent them is an attorney who has a 16 particular view of the Clean Elections Act. He has 17 represented clients who have sought to have the act 18 declared invalid on the very basis that -- that -- that 19 John Sundt, at least, has asserted is the basis for his 20 vote, even though we don't know what the council's 21 actual decision is. And so that attorney being involved 22 may drive the process in a different direction than it 23 otherwise would be. I don't know. 24 COMMISSIONER KIMBLE: Okay. But -- but at this 25 point, we're not on any future agenda even though we've</p>
<p>09:44:57-09:46:03 Page 11</p> <p>1 discuss with you, and that may or may not require going 2 into executive session. 3 But unless you have questions for me on those 4 issues, I will -- I would conclude that -- my comments. 5 COMMISSIONER KIMBLE: Mr. Chairman? 6 ACTING CHAIRMAN MEYER: Commissioner Kimble. 7 COMMISSIONER KIMBLE: Mr. Collins, I have two 8 questions. First of all, you said that the Secretary's 9 Office has published or done something with both GRRC's 10 position and our position. 11 MR. COLLINS: Yeah. 12 COMMISSIONER KIMBLE: But they have not removed 13 our rules. 14 MR. COLLINS: The -- As of my last check, they 15 have not removed. The last check was probably last 16 week. I haven't checked it this morning. But I -- I -- 17 I don't -- I don't -- I mean, we could check right now, 18 actually, if someone's got the Administrative Code. But 19 I -- 20 Oh, you checked? Okay. They're there? 21 They're there. They're still there. 22 COMMISSIONER KIMBLE: And as far as you know, 23 GRRC has not taken any action to enforce or emphasize to 24 the Secretary that their order should be carried out? 25 MR. COLLINS: To the best of my knowledge, that</p>	<p>09:47:38-09:48:54 Page 13</p> <p>1 resubmitted, for I can't remember how many times, the 2 report. We're just in limbo. 3 MR. COLLINS: We're in limbo. 4 And the reason -- And just to clarify, we 5 resubmitted the report because -- notwithstanding the 6 fact that we think GRRC doesn't have the authority to do 7 any of the things that it's doing, we continue to submit 8 the report as a courtesy and because, frankly, if you 9 believe GRRC, when they return a report, if you don't 10 return the report back, then all the rules in the report 11 are invalidated. Now, we think that's all incorrect, 12 but nonetheless, there's certainly no harm to continue 13 to submit the report because, you know, the report is 14 what it is and the law is what it is. 15 COMMISSIONER KIMBLE: Okay. And I'm sorry. I 16 don't mean to prolong this, but -- so if I am a 17 candidate looking to do my best to abide by the rules, I 18 would go to the Secretary of State's website or to the 19 Clean Elections website and our version of the rules is 20 what I, as a candidate, would see? 21 MR. COLLINS: That is correct. 22 And -- and -- and, Mr. Chairman, Commissioner 23 Kimble, I would make one other important point on that. 24 Rule 111 is not a renumbering of Rule 109. It is a 25 substantive amendment of the -- of that rule, and it</p>

<p>09:49:00-09:50:27</p> <p>Page 14</p> <p>1 included the 20 percent reduction on the state -- 2 applicable state campaign finance limits as the act 3 calls for and as the Supreme Court has indicated is 4 appropriate, and it also allowed for -- and the 5 avoidance of a Voter Protection Act issue over the 6 deflator -- or, the inflator that Senate Bill 1516 7 passed. 8 The Secretary of State's Office continues to 9 issue -- has on its -- has on its website -- and it's on 10 our web- -- on our website too -- that the limits that 11 apply to candidates are -- who run for state office are 12 reduced by 20 percent if they're not -- if they're a 13 traditional candidate. 14 So, you know, a lot of this, as we've always 15 said, is the statutes say what they say and the rules 16 are really not the ball game. And that's part of the 17 reason we've taken the position we take is because at 18 the end of the day, the statutes say what they say. But 19 what -- what's, again, I think telling is that the rule 20 that purports to be expired is still being, in effect, 21 acted on by the Secretary's Office and us by virtue of 22 the reduction in the campaign finance limits that are 23 applicable under the Clean Elections Act. 24 COMMISSIONER CHAN: Mr. Chairman? 25 ACTING CHAIRMAN MEYER: Commissioner Chan, go</p>	<p>09:51:48-09:52:51</p> <p>Page 16</p> <p>1 professional responsibility, doesn't it? I mean -- 2 MR. COLLINS: Well, Mr. -- Mr. Chair, Ms. Chan, 3 I mean, I don't know. I mean, as a staff member who 4 works for you-all, I mean, there's -- there's -- there 5 are -- you try your best to ensure that everybody 6 understands what the underlying rules of the road are, 7 but at the end of the day . . . 8 COMMISSIONER CHAN: Okay. As a former 9 legislative staffer, I -- I understand what your point 10 is about that. 11 I just am concerned when you said that staff is 12 going to come back to the council with -- 13 MR. COLLINS: I think, I mean, Mr. Chairman, 14 Commissioner Chan, I would simply -- I would say 15 simply that the -- I think that the -- I think that 16 the -- the comments of the other council members on this 17 issue were -- were -- went this way. Council Member 18 Steve Voeller said, "This is awesome," or words to that 19 effect. I think that's pretty close, right? 20 MR. BECKER: He agreed. 21 MR. COLLINS: Yeah, he agreed with it. But I 22 think he was pretty enthusiastic. 23 MR. BECKER: He said he agreed with it. 24 MR. COLLINS: Okay. Mike doesn't think he was 25 enthusiastic as I do.</p>
<p>09:50:29-09:51:45</p> <p>Page 15</p> <p>1 ahead, please. 2 COMMISSIONER CHAN: Okay. A couple of -- couple 3 of things I wanted to ask Tom about -- or Mary, whoever 4 is appropriate. One, you know, you mentioned, Tom, that 5 the APA and in the context of this member's -- this new 6 member's proposal to begin seeking stakeholder feedback 7 on all rules and five-year reports -- and I -- my 8 thought was -- if I remember correctly and nothing's 9 changed since I was in the agency years ago, the 10 stakeholder process is held through the APA process at 11 the agency. Isn't that correct? 12 MR. COLLINS: Mr. Chairman, Commissioner Chan, 13 that is correct. 14 COMMISSIONER CHAN: Okay. So -- so instead of 15 adding to the bones of Mr. Thorwald's or Thornwald's 16 idea, shouldn't the GRRC staff be explaining that to 17 him? I mean, why would the GRRC staff even go forward 18 with something like that? And I don't know if you can 19 actually answer that. 20 MR. COLLINS: I actually can answer that, 21 Mr. Chairman, Commissioner Chan. And GRRC's 22 long-suffering staff attorney said at the meeting, "I 23 work at the pleasure of the council." 24 COMMISSIONER CHAN: But doesn't he -- 25 Mr. Chairman and Tom, I mean, that kind of abdicates his</p>	<p>09:52:54-09:54:00</p> <p>Page 17</p> <p>1 And then other members -- other members had some 2 questions about how it would be implemented. And I 3 think that -- and -- and I think that the staff, you 4 know, was going to provide some -- some -- some sense of 5 how that would be done. I would also note -- make two 6 other notations. I think at least one member -- Member 7 Ames, I think, noted he was concerned about potential 8 impact on staff time because they get -- if you look at 9 their agendas, they've got a lot -- they go every -- 10 practically every rule goes through them, you know. And 11 then -- 12 COMMISSIONER CHAN: During the moratorium? 13 There's so many rules -- 14 MR. COLLINS: Those -- That is correct. Yes. 15 And then -- and then -- where -- whereas Council 16 Member Brenda Burns suggested that perhaps the council 17 members themselves ought to be out soliciting feedback 18 from stakeholders themselves. 19 The last point I'd like to make on that, 20 Mr. Chairman, Commissioner Chan, is that Mr. Thorwald 21 was very specific about who the stakeholders he believed 22 ought to be reached out to, and those were 23 essentially -- he used the word "associations," 24 "professional associations." He -- I'm not saying that 25 he said that to the exclusion of all other groups, but</p>

<p>09:54:03-09:55:19 Page 18</p> <p>1 it is the only kind of entity that he suggested would be 2 solicited for stakeholder feedback. And as we know in 3 working in our stakeholder process, yes, we have 4 organizations that are associations that appear, but we 5 also have individuals and we have unincorporated 6 associations and we have all kinds of folks who are 7 stakeholders in our process, and that's true for any -- 8 any rule, so there's a -- there's a particular focus 9 that I'm not quite sure. That -- that may come in -- 10 become clearer once staff provides the -- the counsel 11 with more -- a more detailed version of this if it goes 12 anywhere.</p> <p>13 COMMISSIONER CHAN: Okay. And, Mr. Chairman, 14 Tom, my understanding of GRRC's role was generally -- 15 and maybe this is too general, but that they were 16 generally, you know, kind of a "your rules are kind of 17 constitutional and in proper form" type of agency rather 18 than a substantive review agency. And -- and if that 19 understanding is correct, do you have any idea if -- 20 based on what we are going through and now what 21 apparently State Pharmacy is going through and 22 potentially what other agencies are going to go through 23 if they move ahead with this stakeholder process, you 24 know, what are -- what are state agencies going to do? 25 Are they going to have any choice or work with GRRC</p>	<p>09:57:28-09:58:45 Page 20</p> <p>1 have a moratorium but rules are still being authorized, 2 you will put -- you can potentially just put rules on a 3 loop-de-loop through GRRC, which is what we've been 4 experiencing. So I don't know what their -- what 5 their -- what the -- the plans -- the plan ultimately 6 will be, but those are some of the foreseeable ways in 7 which this plays out.</p> <p>8 And, again, I don't mean to belabor this point. 9 It's simply to point out to -- to you as commissioners 10 and -- and to the public that despite the way in which 11 our issues with GRRC have been framed by others, that 12 framing is false and provably so, and I think that this 13 confirms that.</p> <p>14 So I don't know. At some point, Mary -- 15 I don't know if Mary wants to jump in on the 16 other stuff. But --</p> <p>17 ACTING CHAIRMAN MEYER: Mary? Do you have any 18 comments on this? I mean . . .</p> <p>19 MS. O'GRADY: I'd reserve any comments for 20 executive session legal advice if the counsel feels the 21 need to receive any today.</p> <p>22 ACTING CHAIRMAN MEYER: So I guess I'll put it 23 to you, Mr. Collins. Do you recommend executive session 24 here?</p> <p>25 MR. COLLINS: I would be more comfortable having</p>
<p>09:55:24-09:57:22 Page 19</p> <p>1 on -- That just doesn't seem right.</p> <p>2 MR. COLLINS: Well, Mr. Chairman, Commissioner 3 Chan, I think -- I think one of two things will happen. 4 First, most agencies are not in a position to question 5 GRRC for lots of reasons and are -- and have -- and they 6 have different statutory -- different enabling acts and 7 their enabling acts are probably not as clear about the 8 independence of the agency and not clear that they're, 9 for example, exempt from GRRC altogether.</p> <p>10 But what I think will happen is one of two 11 things. Either the agencies -- this will not turn out 12 to be much more than a superficial check, or GRRC will 13 become a super policy-making body. Then the question 14 will be how does that relate back to the Governor's 15 Office and the policy-making process, which is the, you 16 know, fountainhead of -- of -- of all of these policies 17 for those agencies that are subject to the Governor's 18 Office order. And so that seems to me that it may be 19 that when this works out that -- that -- that GRRC will 20 return to its role as a -- as a marginal check on, as 21 you said -- I mean, good analogy being sort of like a --</p> <p>22 COMMISSIONER CHAN: Rules.</p> <p>23 MR. COLLINS: -- rule-committee-type forum. 24 That -- that -- that may happen, because, otherwise, you 25 know -- or, it -- the goal may be to simply put -- if we</p>	<p>09:58:47-10:42:01 Page 21</p> <p>1 executive session because there are two issues that I 2 think warrant you receiving legal advice from Mary on.</p> <p>3 ACTING CHAIRMAN MEYER: Okay. I'll make a 4 motion that we move to executive session.</p> <p>5 COMMISSIONER CHAN: Second.</p> <p>6 ACTING CHAIRMAN MEYER: Commissioner Chan 7 seconded.</p> <p>8 All in favor say "Aye." 9 (Chorus of ayes.)</p> <p>10 ACTING CHAIRMAN MEYER: Any opposition? 11 (No response.)</p> <p>12 ACTING CHAIRMAN MEYER: Motion carries four to 13 zero. We are going to move into executive session. 14 Thank you all for -- for giving us a few moments. 15 (Public meeting recessed at 9:59 a.m. The 16 following section of the meeting is in executive session 17 and bound under separate cover.) 18 * * * * * 19 (End of executive session. Public meeting 20 resumes at 10:40 a.m.)</p> <p>21 ACTING CHAIRMAN MEYER: All right. We are back 22 in open session. We're going to go to Item II on the 23 agenda, which is Discussion and Possible Action on 24 Commission Minutes of June 22nd of 2017. 25 Any comment or motions on the minutes?</p>

<p>10:42:07-10:42:58 Page 22</p> <p>1 COMMISSIONER KIMBLE: Mr. Chairman? 2 ACTING CHAIRMAN MEYER: Commissioner Kimble. 3 COMMISSIONER KIMBLE: I move we approve the 4 minutes of the June 22nd, 2017, meeting. 5 ACTING CHAIRMAN MEYER: Is there a second? 6 COMMISSIONER CHAN: Second. 7 ACTING CHAIRMAN MEYER: All right. This motion 8 has been moved and seconded. 9 All in favor say "Aye." 10 (Chorus of ayes.) 11 ACTING CHAIRMAN MEYER: All opposed? 12 (No response.) 13 ACTING CHAIRMAN MEYER: Motion carries. The 14 minutes are approved. 15 Item Number III is Discussion and Possible 16 Action on the Executive Director's Report. 17 MR. COLLINS: Mr. Chairman, thank you. I will 18 make this as brief as I can. 19 I want to first welcome Stephanie Cooper, who 20 joined the staff on July 3rd, as our Executive Support 21 Specialist. Stephanie was formerly with the Secretary 22 of State's Office and the Apache County Elections 23 Department, and we're thrilled to have her here. And 24 she's -- well, she fit right in and had to -- had to 25 learn a lot of stuff right away, but -- because we don't</p>	<p>10:44:18-10:45:46 Page 24</p> <p>1 it's really exactly the kind of thing, as -- as many 2 of -- many of you who were there and who were not there 3 recognize what we really want to -- what we really think 4 is our -- our bread and butter in terms of what we can 5 provide the voters as a voter-centered agency. 6 There's elections coming up in August. We are 7 working to support, to the extent possible within our 8 budget capacity, information around those elections: 9 Phoenix, Tucson, Yuma, Prescott. 10 We are working on and we did -- we previewed a 11 chatbot that I can't explain it correctly, but it's 12 really cool. And basically, it would come up on our 13 website or on Facebook. 14 MS. ROBERTS: Messenger. 15 MR. COLLINS: Messenger. Oh, it comes up on 16 Facebook Messenger. And it will talk to you and walk 17 you through the information that you want to find out 18 about elections. And it's -- it's very responsive. 19 It's very intuitive. It's super cool. And I think it's 20 going to be pretty -- pretty -- I don't know. I think 21 it's awesome. It's practically artificial intelligence. 22 So maybe you could hire it as an executive director. 23 The -- But Gina has been working with Riester 24 on that for some time. And it's really -- I'm -- I -- I 25 couldn't be more excited about it, and I'm not a tech</p>
<p>10:43:02-10:44:17 Page 23</p> <p>1 really get much of a break, but it's been great and 2 we're pleased to have her. So we welcome Stephanie. 3 And please, get a chance -- if you get a chance to say 4 "Hi" to her on your way out -- out today, that would be 5 great. 6 As you know, most of you attended the roundtable 7 event on July 13th. We had approximately a hundred 8 attendees. We received positive feedback from 9 attendees, and we're going to work to consolidate that 10 into a report. 11 I'm going to -- I've gotten some personal 12 comments I still haven't had a chance to review, but -- 13 but -- but I think -- I think overall it was successful. 14 I think it did what it needed to do, and I think what it 15 did is it built on what the -- you know, Gina had 16 conceptualized the first time we did this, which was 17 focus on election officials, and now broadening it out 18 to other communities, including, you know, whether it's 19 League of Women Voters, communities that are currently 20 underserved by voter -- by voter education and -- and -- 21 and other voter access issues. 22 I think -- I think it brought a rich group of 23 people together, and I think they got -- and I think 24 they got some good information, some good energy out of 25 it. And I think it was good, and I think -- I think</p>	<p>10:45:49-10:47:31 Page 25</p> <p>1 guy, so . . . Gina's going to be presenting it to the 2 Municipal Clerks Association training in July, and Alec 3 and Stephanie will be going to that training session, 4 which, I think, will be good to get them familiar with 5 the clerks and with the other electional issue there. 6 We're coming up on -- by the time we next meet, the \$5 7 qualifying period will have begun; training workshops 8 will have begun. 9 With respect -- I don't want to -- This is 10 going a little longer than I had hoped, but with respect 11 to complaints, as I think you all know, Representative 12 Jesus Rubalcava -- -cava resigned yesterday. It's not 13 clear to me when that resignation is effective. The 14 only note I would make on that is that that does not 15 moot the investigation, and so that continues. 16 The remaining things, I think, are all kind of 17 old business. 18 I want to make a quick note. I know I wrote a 19 fairly lengthy exegesis on the recent AG opinion on 20 public records and -- and so-called private 21 communications or private cell phones and the like. 22 I -- Just to be brief about it, I think it's confusing 23 and I think it's -- and I think the parts that are 24 confusing are wrong. And I think it's easier to simply 25 maintain the practice that the Commission has</p>

<p>10:47:36-10:49:14 Page 26</p> <p>1 maintained, which is that those records that may be on a 2 private device but that are, in fact, public business or 3 on public account are public records. 4 You know, we may take some steps down the road, 5 as I mentioned, to create more publicly funded, I guess, 6 ways for you, as commissioners, to get information, 7 whether that's emails or what have you. We've had some 8 productive conversations internally with -- with our -- 9 among staff and -- and -- and others who are -- who work 10 with us as advisers about establishing this as a 11 baseline to work from rather than as a mandate to -- 12 to -- to not preserve, and I think that's an appropriate 13 way to go. 14 And we do have, in fact, a practice of 15 preserving records that are theoretically, under this 16 opinion, not public but, in my view, are very much 17 public, and we have been doing that and that's been our 18 practice. So I don't think this changes the status quo. 19 I think it's a little -- I think it's a little 20 unfortunate that this is confusing. And my hope is that 21 the Attorney General's Office does two things: one, 22 that it revises the Attorney General's opinion to remove 23 the language in Title 41 that does not support its 24 conclusions in any way and, second, that it provides a 25 guidance in the form of the Attorney General agency</p>	<p>10:50:32-10:51:49 Page 28</p> <p>1 falling outside of -- of our -- of our legal duties. 2 So -- so with that, unless you have questions 3 about that, I'll leave it at that. 4 ACTING CHAIRMAN MEYER: I don't have any 5 questions on the report. Does anyone else? 6 (No response.) 7 Okay. All right. Let's move on to Agenda Item 8 Number V, Discussion and Possible Action on Rule 9 Amendment Proposals. 10 The first item, A, is those rules approved for 11 public comment on February 23rd. Sub 1 is A.A.C. 12 R2-20-702(B). We've all -- know these Options A, B, and 13 C at this point, I believe. 14 Tom, shall we take public comment on those at 15 this time now? 16 MR. COLLINS: Here's what I would suggest, 17 Mr. Chairman, Commissioners. With your -- you know, 18 with your accession, we do have speaker slips because 19 we've had a lot of folks here in the past -- there are 20 fewer folks here -- so we don't -- and we've had some 21 trouble making sure that the court reporter gets names, 22 so we do have some -- we do have speaker slips up here. 23 So if you could -- if you want to speak, if you could 24 fill that out hand it to us after your -- either before 25 or after you speak.</p>
<p>10:49:17-10:50:28 Page 27</p> <p>1 manual that explains precisely how this is supposed to 2 work. 3 But I think, you know, just so you know, I 4 mean -- I mean, Commissioner Kimble's particularly aware 5 of this in one of the cases I cited in the -- in the 6 memo, and in the memo's a case where -- that 7 Commissioner Kimble's intimately involved in, and the 8 courts have rejected arguments like the public records 9 law is -- the liability is limited to custodians' 10 records. 11 If you have records, you're still liable, even 12 if you're not the custodian. There's a reported Court 13 of Appeals case on that, and -- you know, and I -- I'm 14 not trying to -- I don't want to put Commissioner Kimble 15 on the spot, but he's the plaintiff in that case -- or, 16 one of the plaintiffs. 17 So -- so if you look at the way the courts have 18 looked at these issues and you look at the statutory 19 language, it's very, very difficult to square this 20 opinion with the -- the law as it is. That having been 21 said, you know, at -- I don't want to be too -- too 22 overly critical -- critical because we do have able 23 counsel from the Attorney General's Office with whom we 24 can work to make sure that we are well within that and 25 any advice -- and -- and will ensure that we are not</p>	<p>10:51:51-10:53:00 Page 29</p> <p>1 Second, I do think that it would be helpful 2 to -- to limit public comment to -- to -- 3 ACTING CHAIRMAN MEYER: I say two minutes. 4 MR. COLLINS: -- two minutes if -- because we 5 think we've heard the things we need to hear -- or I 6 think we've gotten ample public comment. And I think 7 the Commissioners agree -- if the Commissioners agree 8 with that. And then -- and then I think that, you 9 know -- I don't know that I need to belabor our -- our 10 view on this. 11 I will say on just on the -- on the Option C 12 point, you know, one of the things that we -- we -- we 13 can -- we can do in addition -- which we did last time 14 and it worked out well in terms of those candidates who 15 were audited and audited on party expenditures -- you 16 know, we have agreed-upon procedures with our auditors 17 that are -- that include petty cash funds, looking for 18 legal defense funds, and we can add the party 19 expenditures into that. And the last time we did that, 20 they all checked out, and that's an additional check and 21 balance on that that I think would raise no issues. But 22 that's a decision staff can make down the road, but 23 that's just out there. 24 And I'd also note that we have out right now 25 pending a rule that will expand our -- the -- the quote,</p>



<p>10:53:11-10:54:18 Page 30</p> <p>1 unquote, random audits so that all legislative 2 candidates and all statewide candidates are going to be 3 audited, so -- so -- assuming we pass that rule when 4 that time comes. 5 So -- so there's safeguards in C. I -- but I -- 6 you know, I mean, I respect and understand folks' views 7 on Options A and B. I think that those views -- I 8 mean, Commissioner Paton especially has expressed those 9 views in a way that I think is very clear and 10 understandable. And ultimately, it's for you all to 11 make a decision about what you think is best for -- for 12 the institution, and -- and I think we're at that point. 13 So I -- I don't -- I would take public comment 14 before we move to -- to Commission discussion and any 15 motions the Commission might make on Item A1 and 16 Item A2. 17 ACTING CHAIRMAN MEYER: And yes, this -- Paula 18 here has the speaker slips if anyone needs them. I do 19 have one speaker slip here from Jim Barton, so we'll 20 allow him to go first. We're going to -- as -- as Tom 21 said, we're going to limit comment to two minutes per 22 speaker. 23 So go ahead. For the record, please state your 24 name. 25 MR. BARTON: Good morning. I'm Jim Barton with</p>	<p>10:55:21-10:56:30 Page 32</p> <p>1 (No response.) 2 ACTING CHAIRMAN MEYER: Thank you. 3 Do we have anyone else for public comment today? 4 (No response.) 5 ACTING CHAIRMAN MEYER: All right. So I guess 6 I -- I'd take comments from any of the other 7 commissioners on these rules at this time. 8 COMMISSIONER CHAN: Mr. Chairman? 9 ACTING CHAIRMAN MEYER: Commissioner Chan. 10 COMMISSIONER CHAN: I would just say that, you 11 know, I'm really grateful that we had time to reflect 12 over the past month. I know at the last meeting there 13 was a lot of input that it was a little surprising based 14 on the fact that we had discussed it the month before 15 with not much input. 16 I support Option C because I sincerely believe 17 that that is the best way to allow our candidates to run 18 without an arm tied behind their back. I believe that 19 it has, as Tom mentioned, sufficient safeguards, it's 20 got documentation requirements to prevent the kind of 21 abuse that we -- you know, may have been possible in the 22 past, although I believe even the complaint that was 23 filed showed that there was no wrongdoing. I know Tom 24 went to unprecedented lengths to ensure there had been 25 no wrongdoing in that case.</p>
<p>10:54:21-10:55:20 Page 31</p> <p>1 Torres Law Group. I'm here on behalf of the Arizona 2 Democratic Party. 3 And honestly, you know, I'm just here to speak 4 in support of Option C and in support of passing the 5 consultant rule, 703.01. I was here in case there was 6 stuff that needed to be clarified. I -- I want to make 7 sure that we kept a clean record about -- on what had 8 happened in the past and what the implications were. I 9 don't have a whole lot to say now as a result of that. 10 I mean, honestly, I think that the idea of the 11 Commission is to keep it -- make it possible for 12 candidates to select to run with Clean Election funds so 13 that we can get untoward influence out of the election 14 system. I think by leaving Clean candidates in as close 15 to an even -- oops, I didn't want to say -- even 16 opportunity -- I certainly don't want to say level 17 playing field; I know we don't do that -- to keep -- to 18 keep Clean Election candidates to have the same 19 opportunities as traditional candidates is valuable, and 20 I think Option C and approving the consultant rule does 21 that. 22 And, otherwise, I'd be happy to answer 23 questions. 24 ACTING CHAIRMAN MEYER: Any questions for 25 Mr. Barton?</p>	<p>10:56:32-10:57:47 Page 33</p> <p>1 I would just like to comment that, you know, I 2 think one party -- members of one party may have tried 3 to cast aspersions on the Democratic Party for running 4 candidates in districts where they had, quote, unquote, 5 no chance of winning. You know, when that statement was 6 made, it really caught my attention because I think that 7 was an attempt to cast aspersions, and I -- I don't 8 think those were accurate. I think that both parties 9 should try to run candidates in every district because I 10 think competition is where it's at. You know, we need 11 the free market of ideas. 12 So that's kind of an editorial statement on my 13 part, but I would say kudos to the Democratic Party for 14 running candidates in every district. And I wish -- I 15 wish all the parties did that. I think that would serve 16 the voters the best. 17 So with that, that's my comments. 18 ACTING CHAIRMAN MEYER: Any other commissioners? 19 COMMISSIONER KIMBLE: Mr. Chairman? 20 ACTING CHAIRMAN MEYER: Commissioner Kimble. 21 COMMISSIONER KIMBLE: I -- I also support Option 22 C. I think it is imperative that we do what we can to 23 attract more people to run as publicly funded Clean 24 Elections candidates. And I am very satisfied that 25 there are more than adequate safeguards built into</p>

<p>10:57:52-10:59:30 Page 34</p> <p>1 Option C to eliminate the possibility of political 2 parties using money as a -- as -- as some kind of a 3 windfall, not to directly benefit the -- the specified 4 candidate. 5 I do -- I do wish that there was some way to 6 extend this benefit to independent candidates. I -- I 7 can't -- I can't think of any way to do that since, by 8 their nature, they are not a member of a political party 9 and -- and do not have a political party to -- to turn 10 to as -- as a possible source of support. But the fact 11 that we are not able to do this for independent 12 candidates I don't think negates the benefits that I see 13 to -- to other candidates in Option C. 14 ACTING CHAIRMAN MEYER: Thank you. 15 Any other commissioners want to comment? 16 (No response.) 17 I'll add a comment -- I mean, I echo the 18 comments of Commissioners Chan and Kimble. I also have 19 heard the opinions of Commissioner Paton on this. 20 And -- and from my perception of his comments is that he 21 would support either Option B or maybe Option A. I 22 think his concerns are valid about, you know, the 23 potential there of -- of a party influence. 24 That being said, I -- I -- while I very much 25 appreciate Commissioner Paton's comments, I -- I hear</p>	<p>11:00:43-11:01:53 Page 36</p> <p>1 make sure -- We asked for public comment earlier. Is 2 there any public comment just on this rule? 3 (No response.) 4 ACTING CHAIRMAN MEYER: Okay. Hearing none, I'm 5 going to open the floor up to the commissioners. Any 6 comments on this or motions on this proposed rule? 7 COMMISSIONER KIMBLE: Mr. Chairman? 8 ACTING CHAIRMAN MEYER: Yes, Commissioner 9 Kimble. 10 COMMISSIONER KIMBLE: I support this rule. I -- 11 I think the changes that were made that removed some of 12 the concerns of consultants, such as a requirement that 13 they report their markups and report other candidates 14 they're working for, things like that, were -- were a 15 good -- were a good improvement to this. And I support 16 option -- or, I support approval of -- of this -- of 17 this rule as it's written now. 18 ACTING CHAIRMAN MEYER: Any other comments? 19 (No response.) 20 ACTING CHAIRMAN MEYER: I say I also support 21 this rule. 22 At this time I'll make a motion that the 23 Commission approve and adopt Proposed Rule A.A.C. 24 R2-20-703.01. 25 Is there a second?</p>
<p>10:59:32-11:00:40 Page 35</p> <p>1 them and I -- I respectfully disagree with them, and 2 I -- I think we can address those concerns with Option 3 C, and -- and, as Tom said, maybe we look at, you know, 4 an audit process that does maybe put more of microscope 5 on these party -- party expenses. 6 So I'm going to support Option C. 7 And at this time I'm going to make a motion that 8 the Commission adopt Option C for A.A.C. R2-20-702(B), 9 that we adopt that rule. 10 Is there a second? 11 COMMISSIONER KIMBLE: I second that. 12 ACTING CHAIRMAN MEYER: Commissioner Kimble has 13 seconded the motion. 14 All in favor say "Aye." 15 (Chorus of ayes.) 16 ACTING CHAIRMAN MEYER: All opposed? 17 COMMISSIONER PATON: No. 18 ACTING CHAIRMAN MEYER: Okay. The motion is 19 carried three to one. 20 Commissioner Titla's not here, so he did not 21 vote. But motion carries. 22 We will now move on to Agenda Item V, A, 2, 23 which is A.A.C. R2-20-703.01, Regulation of Payments to 24 Campaign Consultants by Participating candidates. 25 Is there any -- well, I guess I just want to</p>	<p>11:01:55-11:02:41 Page 37</p> <p>1 COMMISSIONER KIMBLE: I second. 2 ACTING CHAIRMAN MEYER: Commissioner Kimble has 3 seconded my motion. 4 All in favor say "Aye." 5 (Chorus of ayes.) 6 ACTING CHAIRMAN MEYER: All opposed? 7 (No response.) 8 ACTING CHAIRMAN MEYER: Okay. This motion 9 carries four to zero, again with Commissioner Titla not 10 here and not voting. 11 So that concludes Agenda Item V, Tom, unless 12 there's more to add to that. 13 MR. COLLINS: I just want to make one clarifying 14 point, which will be reflected in the record when we 15 file these rules with the Secretary. 16 A.A.C. R2-20-702(B), as amended, will be 17 effective January 1 because the vote was not unanimous. 18 A.A.C. R2-20-703.01 will be effective 19 immediately -- 20 ACTING CHAIRMAN MEYER: Okay. 21 MR. COLLINS: -- because it was adopted 22 unanimously. 23 ACTING CHAIRMAN MEYER: Thank you for that 24 information. 25 COMMISSIONER KIMBLE: Mr. Chairman?</p>

<p>11:02:43-11:03:56 Page 38</p> <p>1 So, Mr. Collins, does that cause any issues for 2 the upcoming -- 3 MR. COLLINS: Mr. -- Mr. Chairman, Commissioner 4 Kimble, it does not, because R2-20-702(B) as it stands 5 now is less strict than R2-20-702(B) as amended. 6 COMMISSIONER KIMBLE: Okay. Thank you. 7 ACTING CHAIRMAN MEYER: Okay. So next we have 8 Agenda Item VII, which is public comment. I think we've 9 already addressed that. 10 Is there any other additional public comment 11 today? 12 Please step forward. 13 And while we know you, please state your name 14 for our new court reporter today. 15 MS. KNOX: Rivko Knox with the League of Women 16 Voters of Arizona. 17 I just wanted to make very brief statement 18 saying that this was the first year that the League of 19 Women Voters was invited to attend a roundtable. I 20 gather this was the second year there was a roundtable. 21 And personally, and from the responses I've got from the 22 other people who attended, it was a very outstanding 23 event, and it was -- the -- the presentations were all 24 very good, well attended. And it was a wonderful 25 opportunity for different people to mix and hear other</p>	<p>11:05:08-11:06:07 Page 40</p> <p>1 you know, folks that help run our elections -- I was in 2 a breakout session with some representatives from the 3 Maricopa County Recorder's Office and the Pima County 4 Recorder's Office, and they both made comments of using 5 social media -- media and "We're getting ideas from each 6 other" that can improve their efficiency, their ability 7 to outreach and reach voters. And it was just a 8 wonderful opportunity for them. And I know the staff 9 worked very hard to put that together. It was 10 effective, it was positive, and I think it's really 11 going to have a positive impact on -- on voter 12 education, hopefully voter turnout. 13 And just keep up the great work. And thank you. 14 COMMISSIONER CHAN: Can I just add to that, Mr. 15 Chairman -- 16 ACTING CHAIRMAN MEYER: Sure. 17 COMMISSIONER CHAN: -- quickly? 18 I did -- I guess I hadn't thought about this, 19 but I'll just share with you guys that at my table, I 20 was sitting with -- I -- I had an opportunity to sit 21 with a variety of people from different counties. And it 22 was exciting because I had known them when I was at the 23 Secretary of State's Office, and they just had so many 24 positive things to say about our staff and this -- this 25 Commission and the things that we've done to outreach to</p>
<p>11:04:00-11:05:05 Page 39</p> <p>1 points of view. 2 And I thought that was extremely important 3 because you had a mixture of elected and appointed 4 public officials and then you did have the expansion 5 into groups like the League and there was an advocacy 6 network and a number of other nonprofits. And I thought 7 it was a very useful mixture. And I heard some very 8 interesting, different perspectives when we broke into 9 small groups. 10 So that's all I wanted to say, and thank you, 11 and we look forward to next year's. Thank you. 12 ACTING CHAIRMAN MEYER: Thank you for your 13 comments. 14 Is there any other public comment? 15 (No response.) 16 ACTING CHAIRMAN MEYER: All right. Before we 17 adjourn, I just want to, again, you know, thank staff, 18 congratulate staff for what a tremendous open forum that 19 was last week. The content of the program was 20 exceptional. The people that attended -- everyone I 21 spoke to about it thought it was a great idea. They 22 spoke positively of the Commission staff and -- and 23 their professionalism and the openness to communicate 24 with them. 25 And the -- the exchange of ideas amongst our --</p>	<p>11:06:10-11:07:25 Page 41</p> <p>1 the -- to the counties and -- and all sorts of 2 communities since Tom has been at the helm and with all 3 of the staff here and the people that he's brought on 4 board, and I just am so proud of this staff for the work 5 they put in and the effect that they are having on 6 elections in Arizona. 7 So thank you. 8 MR. COLLINS: And if I could supplement -- Mr. 9 Chairman, if I could supplement my executive director's 10 report, which I think this is all supplemental to the 11 executive director's report, for the record. 12 I just want to particularly thank Gina Roberts 13 for -- for her -- for her work on this and Alec Shaffer. 14 I think that -- 15 I appreciate you, Commissioner Chan, mention- -- 16 saying that -- saying that I have done work on this, 17 but -- but the credit for this particular event and for 18 the -- acting on the vision that the Commission and I'd 19 like to -- I'd like to think being created for voters 20 education has come from -- from Gina and her leadership, 21 and it's extraordinary, and -- and we're very proud 22 to -- to -- to have her on staff. And -- and -- and I 23 just think that -- I just wanted to make -- make -- 24 make that point. 25 ACTING CHAIRMAN MEYER: Sure.</p>

11:07:27-11:07:43

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1 All right. At this time I am receptive to  
2 motions to adjourn.  
3 COMMISSIONER CHAN: I motion that we adjourn,  
4 Mr. Chairman.  
5 ACTING CHAIRMAN MEYER: I'll second it.  
6 All in favor say "Aye."  
7 (Chorus of ayes.)  
8 ACTING CHAIRMAN MEYER: Opposed?  
9 (No response.)  
10 ACTING CHAIRMAN MEYER: All right. We are  
11 adjourned.  
12 (Whereupon, the proceedings concluded at 11:07  
13 a.m.)

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1 STATE OF ARIZONA )  
2 COUNTY OF MARICOPA )  
3 I, Meri Coash, hereby certify that the foregoing  
4 pages numbered from 1 to 42, inclusive, constitute a  
5 full, true, and accurate record of the proceedings had in  
6 the above matter, all done to the best of my skill and  
7 ability.  
8 DATED this 24th day of July, 2017.

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Meri Coash  
Certified Reporter #50327

	27:25	22:14;28:10	<b>based (3)</b> 12:10;18:20; 32:13	<b>candidate (4)</b> 13:17,20; 14:13;34:4
<b>\$</b>	<b>adviser (1)</b> 9:16	<b>approving (1)</b> 31:20	<b>baseline (1)</b> 26:11	<b>candidates (18)</b> 14:11; 29:14;30:2,2;31:12,14, 18,19;32:17;33:4,9,14, 24;34:6,12,13;35:24; 36:13
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