

THE STATE OF ARIZONA  
CITIZENS CLEAN ELECTIONS COMMISSION

REPORTER'S TRANSCRIPT OF PUBLIC MEETING

Phoenix, Arizona  
November 16, 2017  
9:34 a.m.

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1 PUBLIC MEETING BEFORE THE CITIZENS CLEAN  
2 ELECTIONS COMMISSION convened at 9:34 a.m. on November 16,  
3 2017, at the State of Arizona, Clean Elections Commission,  
4 1616 West Adams, Conference Room, Phoenix, Arizona, in the  
5 presence of the following members:  
6  
7 Mr. Damien Meyer, Acting Chairman  
8 Mr. Mark S. Kimble  
9 Mr. Galen D. Paton  
10  
11 OTHERS PRESENT:  
12  
13 Thomas M. Collins, Executive Director  
14 Paula Thomas, Executive Officer  
15 Sara Larsen, Financial Affairs Officer  
16 Mike Becker, Policy Director  
17 Alec Shaffer, Web Content Manager  
18 Stephanie Cooper, Executive Support Specialist  
19 Jeanne Galvin, Assistant Attorney General  
20 Joseph La Rue, Assistant Attorney General  
21 Kara Karlson, Assistant Attorney General  
22 Joseph A. Kanefield, Ballard Spahr, LLP  
23 Joel Edman, AZ Advocacy Network  
24 Morgan Dick, AZ Advocacy Network  
25 Rivko Knox, LWV/AZ

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1 PROCEEDING  
2  
3 ACTING CHAIRMAN MEYER: Good morning. We'll  
4 call to order the Citizens Clean Elections Commission  
5 meeting on Thursday, November 16th, 2017, at 9:30. I'm  
6 Commissioner Damien Meyer. I will be acting chair today  
7 due to Commissioner Titla's absence. We're down two  
8 commissioners today. Commissioner Titla and Commissioner  
9 Chan are not here, but we do have a quorum, so we will  
10 proceed.  
11 Item Number II on the agenda is "Discussion  
12 and Possible Action on Commission Minutes for the  
13 September 28, 2017, meeting."  
14 Any questions or comments on the minutes  
15 from our last meeting in September? And if not, a motion  
16 to approve.  
17 COMMISSIONER KIMBLE: Mr. Chairman, I move  
18 that we approve the minutes for the Commission meeting of  
19 September 28th, 2017.  
20 COMMISSIONER PATON: Second.  
21 ACTING CHAIRMAN MEYER: Commissioner Paton  
22 seconds that motion.  
23 All in favor say aye.  
24 (Chorus of ayes.)  
25 ACTING CHAIRMAN MEYER: All opposed?

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1 (No response.)  
2 ACTING CHAIRMAN MEYER: Motion carries  
3 unanimously.  
4 Item Number III on the agenda is "Discussion  
5 and Possible Action on Executive Director's Report."  
6 Mr. Collins?  
7 MR. COLLINS: Mr. Chairman, Commissioners,  
8 we want to go through just a few things. It's a little  
9 more extensive report than we've had from time to time.  
10 But as you may or may not know, under 16-949, the Auditor  
11 General takes a look at our spending in the Clean  
12 Elections fund every four years. And as you'll see in the  
13 letter attached to the review, they found no instances of  
14 noncompliance or significant deficiencies. And Sara and  
15 Paula worked to make sure that all their questions were  
16 answered as they came up. So we're pleased with that, and  
17 that's good news.  
18 As you can see, we have a very active voter  
19 education calendar. We do have a new "ID at the Polls"  
20 tool on our website. So if you go to  
21 [azcleelections.gov/idatpoll](http://azcleelections.gov/idatpoll), something -- well, I think.  
22 I should have gotten that URL, but I don't -- But it is  
23 also available on our website at our announcements. You  
24 don't need to know the URL.  
25 It's actually really a pretty cool tool.

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1 You click through, it asks you what documents you have,  
2 whether those documents meet the requirements. And then,  
3 of course, if you don't have the documents that are there,  
4 it urges you to give us a call so we can help you figure  
5 out what you're missing and how to get it.  
6 And Gina's out today working right now on  
7 voter education stuff.  
8 So far we have 37 legislative candidates, 17  
9 statewide candidates.  
10 I want to get to the other stuff that I  
11 think is a little more substantial. Some of this stuff  
12 you may already know about.  
13 We did get sued yesterday, although I don't  
14 think we have been served. The Arizona Advocacy Network  
15 and a number of state lawmakers and a union sort of filed  
16 a lawsuit. The upshot of the lawsuit is that when the  
17 legislature passed Senate Bill 1516 back in 2015, that  
18 portions of that don't comply with the Voter Protection  
19 Act and there may be some other claims in there as well.  
20 I haven't had a chance to read the full Complaint yet.  
21 We'll be working with counsel on that presumably in time  
22 for the next meeting or if we need to talk about it  
23 sooner.  
24 I will say there's been one news story,  
25 which I'll get to you, on this in the AP, and the Speaker

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1 of the House of Representatives said, "Well, there's no  
2 way we could have done anything to the Clean Elections  
3 Commission" -- But the headline, as you see on the thing,  
4 is the press uses the advocacy organization thinks this is  
5 a -- believes this is a step necessary to defend what we  
6 do. The Speaker of the House said in the news story,  
7 "There's no way we could have done that because we didn't  
8 get a three-quarter vote for 1516." So in some sense, I  
9 guess we're all in agreement, then, because, you know,  
10 last year in a vote of four yeses and one abstention, you  
11 know, we voted to reject language that said  
12 "notwithstanding any law or rule, you shall do this" in  
13 our rules.  
14 So I guess the Speaker needs to call the  
15 chairwoman of GRRC and we can get this all resolved  
16 without any further adieu.  
17 That was a joke.  
18 ACTING CHAIRMAN MEYER: I smiled.  
19 MR. COLLINS: You smiled. Well, you're not  
20 paying me for the jokes, but, you know -- That comes  
21 free.  
22 I want to point out that -- I think you all  
23 know this as well -- an independent investigator hired by  
24 the Attorney General to look at the Secretary of State's  
25 distribution of 2016 special election publicity pamphlet

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1 released his report. That's available for you at that  
2 link.  
3 The See the Money beta site is up,  
4 seethemoney.gov. Folks are playing around with that and  
5 we hope giving feedback to the Secretary's Office. In the  
6 right corner, there's a feedback box where you can put in  
7 your name, email, and that will actually send an email  
8 directly to the folks who are developing the site.  
9 We also had some news this month in the case  
10 of the former Attorney General Horne. There were other --  
11 there were two parallel proceedings, one at Clean  
12 Elections, one that had moved to the Attorney General's  
13 Office and then been assigned to outside counsel. That  
14 outside counsel ordered amendments onto Mr. Horne's  
15 reports and essentially ratified the fine that this  
16 Commission imposed on him in 2014. Because they  
17 ordered some amendment of the reports under the  
18 conciliation agreement that Mr. Horne reached with us, he  
19 is obligated to follow through on that or appeal, so we'll  
20 be getting back to you probably sometime early next year  
21 if there's anything further to be done there.  
22 And then I also wanted to note Joe and Kara  
23 are here. I guess effective -- effective recently, would  
24 be a fair word, they have been moved out of the Solicitor  
25 General's section into a section of the AG's office that

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1 is called Agency Counsel. My understanding is all the  
2 election work will now be in the Agency Counsel except for  
3 election-related enforcement actions, which are in another  
4 section. I'll be working with Joe and Kara to figure out  
5 what, if anything, about this changes the nature of their  
6 work. But it's -- We've been represented by the  
7 Solicitor General's office, I think, since the inception  
8 of the program, in fact. So that's new. Not  
9 necessarily -- you know, the impact of that is -- so far  
10 has not been discernible, but just FYI. We will be  
11 finding out how that changes things, if any.  
12 So it's a bit longer report than usual, but  
13 a lot of activity in the last two months since we -- since  
14 we met. So I don't know if you have any questions about  
15 any of those things.  
16 COMMISSIONER KIMBLE: Mr. Chairman?  
17 ACTING CHAIRMAN MEYER: Commissioner Kimble.  
18 COMMISSIONER KIMBLE: Mr. Collins, I just  
19 want to say that I came up to one of the training  
20 workshops for participating candidates and was very  
21 impressed with the program put on by Sara and Gina and  
22 Stephanie. I learned a lot about what it takes to be a  
23 participating candidate. But I thought they went through  
24 a very complex set of rules and regulations in a way that  
25 was clearly understandable to any candidates.

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1 ACTING CHAIRMAN MEYER: Any other comments  
2 or questions?  
3 Tom, is the number of participating  
4 candidates -- is that up or is that --  
5 MR. COLLINS: It is up. I'm not sure --  
6 this is the time of year where folks are -- it should be  
7 up around now. It may come down depending upon who  
8 actually ends up filing --  
9 ACTING CHAIRMAN MEYER: Sure.  
10 MR. COLLINS: -- at the end. But so far  
11 it's up. I don't know what percentage, but it is up a  
12 bit.  
13 It's also a statewide election year, and we  
14 have -- I will say the one thing -- we have a number of  
15 contested primaries where -- with multiple clean  
16 candidates who are planning to run clean, so that's going  
17 to be -- that's going to raise the numbers there in the  
18 statewide races specifically.  
19 ACTING CHAIRMAN MEYER: Okay. Item  
20 Number IV on the agenda is "Discussion and Possible Action  
21 on MUR 17-01 Jesus Rubalcava."  
22 Tom?  
23 MR. COLLINS: I'm going to step down here  
24 just for sake of -- you know, to address your questions  
25 more easily.

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1 As you all know, just to kind of bring you  
2 up to speed, we have not heard from Mr. Rubalcava, to the  
3 best of my knowledge.  
4 MS. THOMAS: No, sir.  
5 MR. COLLINS: I'm going to proceed. We  
6 haven't heard from him since I filed this brief, to the  
7 best of my knowledge. So just to walk you through the  
8 procedure here really quickly, and then we'll get to the  
9 substantive part of the penalties, we've gone through  
10 essentially -- this process has gone through really four  
11 phases, of which we think this is the last one. We  
12 started with a random audit that Mr. Rubalcava was  
13 selected for, gosh, more than a year ago now, I think was  
14 the primary, right? That random audit came back with  
15 enough discrepancies that we recommended a full audit of  
16 all of his campaign activity, which we completed. It took  
17 some time to complete, but that was finally completed. We  
18 then in the spring, I think May -- I want to say May of  
19 this year, we filed a reason-to-believe statement alleging  
20 that there was reason to believe violations of the Act may  
21 have occurred.  
22 In August, we asked you to issue a repayment  
23 order for the corpus of the amount of money that we  
24 believed that Mr. Rubalcava owed the fund, which you did.  
25 And now we're at what we think is the

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1 ultimate resolution of this issue, which is the potential  
2 to find probable cause to believe that the violations  
3 occurred and to impose penalties.  
4 In the meantime, as we all know,  
5 Mr. Rubalcava resigned his position in the legislature.  
6 And that's where we are.  
7 So ultimately, we did an investigation. The  
8 investigation was -- we conducted it in a way that  
9 attempted to be as efficient as possible to see if there  
10 was any way to get, frankly, any further information from  
11 Mr. Rubalcava about how he was handling his finances and  
12 how he was spending his money. And as you can see as  
13 outlined in the facts at page 3, we received very  
14 little -- 3 and 4, we received very little in the way of  
15 new information, and that new information, frankly, was  
16 itself inconsistent with other information that had been  
17 reported. So, you know, what we see, you know, in each of  
18 these counts is -- is a real inconsistency in -- in  
19 approach to reporting, to say the least. And when you get  
20 behind the reports and into the actual fund -- funds in  
21 his checking account, you find that there's just simply no  
22 way to match those up with the applicable law.  
23 So we have reached some calculations with  
24 respect to penalties. Under 16-942(A), the penalties for  
25 violation of the contribution and expenditures limits in

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1 941 are 10 times the amount of the violation, so what  
2 we've done in each count is aggregated what we think the  
3 amount of the violation is. We think those numbers are --  
4 I mean, I think that the briefs outline how we reached  
5 those numbers. When there was -- You know, as in Count  
6 One, there was a discrepancy where he either exceeded the  
7 amount by 3,900 or 3,600. We gave him the benefit of the  
8 doubt there and are only asking for a penalty based on the  
9 \$3,600 excess contribution.  
10 But, you know, we think -- I will say that,  
11 you know, as staff, we think that you have some discretion  
12 to adjust these penalties. We think you can -- you can  
13 certainly do that. But we do think that the brief  
14 itself -- given that Mr. Rubalcava has not seen fit to  
15 provide a defense, let alone a reason why the brief should  
16 have been withdrawn, I don't want to belabor it, but we  
17 think that there is probable cause to believe that the  
18 statute -- that 941(A)(1) and 941(A)(5) and -- I'm trying  
19 to find the other 940 citation here -- if we need to for  
20 the record.  
21 I'm sorry.  
22 ACTING CHAIRMAN MEYER: Mr. Collins?  
23 MR. COLLINS: Yes.  
24 ACTING CHAIRMAN MEYER: I reviewed this  
25 earlier. And I'm just kind of writing down numbers now.

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1 So there's, I think, six different recommended penalties  
2 in here or potential penalties in here?  
3 MR. COLLINS: Correct.  
4 ACTING CHAIRMAN MEYER: Are those  
5 cumulative, as in --  
6 MR. COLLINS: No. We broke those down per  
7 count, so --  
8 ACTING CHAIRMAN MEYER: Right. But what I'm  
9 saying is if I add up all these penalties, it's about  
10 \$300,000.  
11 MR. COLLINS: That's correct.  
12 ACTING CHAIRMAN MEYER: Is that -- is that  
13 the maximum amount of the fine?  
14 MR. COLLINS: Based on our calculations,  
15 based on what we've been able to put together through a  
16 combination of his bank accounts, record filing, and the  
17 audits and the effort to try to do some supplemental  
18 investigation, yes.  
19 ACTING CHAIRMAN MEYER: So remind me. How  
20 much money can he not account for, and how much money was  
21 not paid back to the Commission? My recollection was like  
22 15- to \$17,000.  
23 MR. COLLINS: Right. So, yeah, there is  
24 a -- The amount that he owes the Commission is around  
25 \$17,000. He qualified for approximately 15,5 in the

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1 primary election and then he received \$1,415 in the  
2 general election, and he hasn't repaid any of that at this  
3 point. So yes, I mean, in terms of -- Yes.  
4 ACTING CHAIRMAN MEYER: Commissioner Paton?  
5 COMMISSIONER PATON: But he did repay  
6 something from the general election?  
7 MR. COLLINS: No, he did not.  
8 COMMISSIONER PATON: I thought he repaid --  
9 you paid him and then --  
10 MR. COLLINS: Oh, well, I'm sorry, yes,  
11 that's right.  
12 ACTING CHAIRMAN MEYER: Uncontested --  
13 MR. COLLINS: He was issued an amount of  
14 money for the general election that was a mistake, and he  
15 repaid the money he was not entitled to. And he did that  
16 in a relatively timely basis.  
17 MS. LARSEN: 30 days.  
18 MR. COLLINS: 30 days. He took as much time  
19 as he had to repay it.  
20 COMMISSIONER PATON: So all these different  
21 things are quite -- It's amazing all the different things  
22 that don't add up. My concern is like on page 3 here,  
23 where you've got -- he's got these invoices that he  
24 submitted. Do these not count on how much he owes?  
25 MR. COLLINS: That's a good question. We

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1 have certainly considered the possibility that he could  
2 have, had he appealed, asked for an offset on the  
3 repayment for monies that he could have produced. He  
4 hasn't done that as of yet. And that is to say he  
5 never -- He didn't file a timely appeal. I would suggest  
6 that -- There are two ways to look at that. If you want  
7 to take that into account as a mitigating factor here in  
8 this penalty, you know, there's a provision in 16-941(D)  
9 which essentially says -- you know, reiterates that if you  
10 violated certain parts of the statute, we take possession  
11 of -- you essentially owe the entirety of the amount of  
12 money you received from the Commission as a penalty. You  
13 could mitigate that there on that penalty. You could  
14 mitigate the penalty however you want. I mean, frankly,  
15 you could -- I think that the biggest -- You know, I  
16 can't do that math in my head.  
17 COMMISSIONER PATON: I guess my concern --  
18 and I've talked to you before. My concern is that he  
19 legitimately spent money on these items, and those, to me,  
20 seem like legitimate campaign expenses. And my sense  
21 that -- I don't think we should penalize him if he proved  
22 that he spent that on these invoices. And I don't know  
23 how you do all your auditing or whatever, but, I mean,  
24 obviously, he didn't do things correctly, and we have no  
25 idea on some of the stuff what he spent money on. And, of

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1 course, that's wrong. But these other things, to me, seem  
2 like they're legitimate campaign expenses, and I would  
3 hate to penalize somebody for spending -- I mean us  
4 penalizing him after he spent this money on items that are  
5 legitimate campaign expenses.  
6 COMMISSIONER KIMBLE: Well -- Mr. Chairman?  
7 ACTING CHAIRMAN MEYER: Commissioner  
8 Kimball.  
9 COMMISSIONER KIMBLE: I would like to give  
10 him the benefit of the doubt, but I think he has been  
11 totally irresponsible in refusing to answer any questions.  
12 He was on a phone call in one meeting and said he would  
13 accept whatever we decided.  
14 And in August, we voted to order him to  
15 repay \$17,459 within 30 days of the date of this order,  
16 which was August 21st -- 22nd. No one's heard from the  
17 guy since then. I mean, I'd like to give him the benefit  
18 of the doubt, but he's not being very helpful here. And I  
19 don't know what more we can do. I think we have -- As  
20 the chairman pointed out, the potential penalties are  
21 huge. We asked -- we agreed that he should repay \$17,459  
22 and he won't even respond to that. How much further  
23 should we go in trying to work with this guy if he won't  
24 even talk to us?  
25 ACTING CHAIRMAN MEYER: Ms. Larsen?

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1 MS. LARSEN: Chairman, Commissioner Paton,  
2 to help answer your question a little bit, we actually are  
3 not able to confirm that those were campaign expenses.  
4 Those transactions did not come out of his campaign bank  
5 account. So we don't even know if there's a -- The  
6 column on the very right of that chart says "Campaign  
7 Account Transaction." There's only one that we can verify  
8 actually came out of his campaign bank account and was  
9 properly reported, and it was just a fraction of that  
10 expenditure that was properly reported. All of those  
11 transactions were not properly reported on his campaign  
12 finance reports in a timely manner, and four out of those  
13 five did not even come out of his campaign bank account.  
14 So we can't verify that those were campaign expenditures,  
15 so that's why we did not subtract those out of the  
16 penalty.  
17 ACTING CHAIRMAN MEYER: I'm going to suggest  
18 to my fellow commissioners here that we don't relitigate  
19 something we've already decided. We decided back in  
20 August by unanimous vote, I believe, that he was to repay  
21 the \$17,500.  
22 And that would include these transactions  
23 that we're looking at here. Correct, Tom?  
24 MR. COLLINS: It may or may not include  
25 them. We don't know.

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1 ACTING CHAIRMAN MEYER: So what I'm trying  
2 to do is look at this big picture. We have ordered  
3 Mr. Rubalcava to pay \$17,500, which he has not done.  
4 MR. COLLINS: Right.  
5 ACTING CHAIRMAN MEYER: We are sitting here  
6 today at this penalty stage, I guess we would call it, and  
7 what I am trying to understand is is staff recommending  
8 the issuance of the \$300,000 fine or is that just a tally  
9 of what the ultimate one is and you have a different  
10 number you're recommending?  
11 MR. COLLINS: Mr. Chairman, Commissioners,  
12 that's a good question. The way I have approached it is  
13 this. The first thing is we do need to establish that  
14 there is probable cause to believe. So you can take that,  
15 in my view -- And you have counsel of your own, if I'm  
16 wrong, who will correct. I'm sure you'll do it correctly.  
17 But in my view, you can find probable cause to believe  
18 based on the entirety of the memo or you can break it down  
19 count by count. That's just the probable cause -- these  
20 are the facts that there's probable cause to believe. So  
21 that's stage one of the penalty phase.  
22 Assuming you were to decide that, in fact,  
23 there was probable cause to believe the facts as we  
24 presented them, you know, it's incumbent on us to give  
25 notice to Mr. Rubalcava of the available penalties.

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1 You know, I think that in the past, the  
2 Commission has sua sponte reduced penalties of even  
3 violators who have -- who have shown no interest in coming  
4 into compliance. For example, the Legacy Foundation  
5 Action Fund, which is a 501(c)(4) group we're still  
6 litigating with. But we actually reduced -- the  
7 Commission sua sponte reduced their penalties even though  
8 they had shown no signs of complying. They did actually  
9 show up at the meetings and argue, but they didn't -- they  
10 were not going to file their reports, and they haven't.  
11 So my point would be I think that what you  
12 need to -- you know, so if it's not improper for me to go  
13 ahead and talk about the penalty prior to -- if there's no  
14 objection, I'm going to go ahead head and talk about the  
15 penalty.  
16 MS. GALVIN: You may.  
17 MR. COLLINS: You know, I think that the  
18 order needs to be a deterrent and the order needs to  
19 reinforce to the public that if folks are going to work  
20 with the Clean Elections funding program, which is an  
21 expressly anticorruption measure, and they're going to do  
22 stuff that is corrupt, that we're going to take that  
23 seriously as possible.  
24 The reason why the fines are set at the  
25 level they're set at is that is an initial deterrent.

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1 What that should do, if you read the statute together, is  
2 bring someone in for an administrative conciliation. Our  
3 rules provide that he can -- Mr. Rubalcava can still seek  
4 that conciliation after this stage. He has an express  
5 right under our rules to ask for that meeting with me to  
6 work on some kind of settlement.  
7 So my thought would be, you know, you  
8 don't -- I guess, in my view, you don't want to minimize  
9 this, but on the other hand if, you know, we're saying,  
10 you know, recognizing that there may be some value in  
11 showing at least some leniency, I think that -- you know,  
12 I think somewhere in the nature of 3 times the amount he  
13 owes in repayment is an appropriate general number. So it  
14 would be -- so 17,000 times 3 is approximately --  
15 ACTING CHAIRMAN MEYER: 51.  
16 MR. COLLINS: Yeah. Is that right? Yeah.  
17 That would bring his total owing to us to  
18 77,000-ish, which I think is a pretty significant number.  
19 I think it has a deterrent effect and might bring him to  
20 the table.  
21 On the other hand, frankly --  
22 I don't have my rule book in front of me.  
23 On the other hand, you're entitled to, we  
24 think, issue fines in the amount we have identified.  
25 COMMISSIONER KIMBLE: If I could say one

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1 thing, Mr. Chairman?  
2 ACTING CHAIRMAN MEYER: Of course.  
3 COMMISSIONER KIMBLE: I guess there's two  
4 concerns I have. Number one, I understand that we want  
5 some kind of a penalty to stress the importance of this.  
6 Number two, I don't want to set a penalty so  
7 high that he's going to look at this and say, "Well, I'm  
8 never going to repay this. I can't possibly afford this,  
9 so why even bother talking to them."  
10 MR. COLLINS: Look, I think that's the issue  
11 that you have. And I just wanted to note that because of  
12 our compressed -- or, our limited membership, all of you  
13 have to vote for this today in order for this to go  
14 forward. So if this were to be under R2-20-215 and  
15 R2-20-217, it requires three commissioners, and there are  
16 three commissioners. So I just wanted to make clear that  
17 y'all are going to have to be unanimous on this.  
18 Look, I mean, the other way we could do  
19 this, and I'd be willing to do this, is there's nothing in  
20 the rules that precludes making a probable cause finding  
21 today, you know, putting off the penalty phase until --  
22 until next month or the month after; reach out to, you  
23 know, Mr. Rubalcava again, make him aware of his  
24 situation. You know, so we think the total would end  
25 up -- you know, owing would be 52,000 -- would be 69,000

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1 total in penalties and repayments. 69,836.  
2 ACTING CHAIRMAN MEYER: So that would  
3 include the 17,5.  
4 MR. COLLINS: Correct.  
5 ACTING CHAIRMAN MEYER: Plus --  
6 MR. COLLINS: 52 --  
7 ACTING CHAIRMAN MEYER: -- three times that  
8 amount.  
9 MR. COLLINS: Right.  
10 You know, I think that the -- I think that's  
11 also -- Well, so we could do that. We have that option  
12 too.  
13 The other option we have is to do the  
14 probable cause to believe today, make another effort to  
15 reach out to Mr. Rubalcava and say, "Look, this is  
16 serious, you need to take this seriously," and come back  
17 with a -- with a recommendation or make even a  
18 conciliation, if that's possible. I don't know if that's  
19 possible, but it's possibly more efficient.  
20 I mean, ultimately, what happens with these  
21 cases when we've had them in the past is we issue a  
22 repayment order, that repayment order goes unpaid -- or, a  
23 penalty order. It goes unpaid, and until that person  
24 wants to do something, like run for office again or --  
25 because you have to pay up all your fines to run for

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1 office again, those kind of things. And then all of a  
2 sudden, they say, "Oh, we want to pay." And it ends up  
3 becoming something that gets worked out on the back end by  
4 the Attorney General's collections attorneys.  
5 ACTING CHAIRMAN MEYER: That was a question  
6 I had for Tom or maybe Ms. Galvin. Is this like a civil  
7 judgment that we can collect in that manner? I mean, how  
8 do you collect on these fines?  
9 MS. GALVIN: It would be referred to  
10 Attorney General's Office, who has staff to collect on the  
11 judgment.  
12 ACTING CHAIRMAN MEYER: So it is treated  
13 like a civil judgment? Like you have the remedies like  
14 garnishments and foreclosures?  
15 MS. GALVIN: That, I'm not sure what the  
16 remedies are, but I do know that they proceed to collect.  
17 ACTING CHAIRMAN MEYER: And you're saying  
18 they can't run for office until they pay up all their  
19 state fines, which would include this one?  
20 MR. COLLINS: That is correct. And in my  
21 experience -- I mean, not to overstep my bounds here, but  
22 in my experience, when I was at the Attorney General's  
23 Office working on resolving some of these older fine  
24 cases, you know, we certainly were willing to threaten a  
25 debtor's exam. Once you threatened a debtor's exam,

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1 somebody paid up kind of thing, which is not atypical, I  
2 think, in that kind of situation.  
3 COMMISSIONER KIMBLE: Mr. Chairman?  
4 So, Tom, we voted for this fine in August.  
5 How was Mr. Rubalcava notified of this? In other words,  
6 how could he say, "Well, I didn't know about this?"  
7 MR. COLLINS: I don't think there's any way  
8 he could say he didn't know about this.  
9 COMMISSIONER KIMBLE: So we know he was  
10 notified? And how do we know he was notified?  
11 ACTING CHAIRMAN MEYER: He was on the phone  
12 when we did it.  
13 MR. COLLINS: That's one way he knows. And  
14 then we issued an order to him via -- probably via email,  
15 mail. We process -- we served --  
16 MS. THOMAS: Yeah, we've done everything,  
17 email, Federal Express, and even process server.  
18 COMMISSIONER KIMBLE: And we've gotten some  
19 kind of confirmation that it was delivered by Federal  
20 Express?  
21 MS. THOMAS: Yes.  
22 ACTING CHAIRMAN MEYER: He was personally  
23 served by the process server with this order?  
24 MS. THOMAS: I think his wife was served,  
25 but we have that certification.

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1 COMMISSIONER KIMBLE: And since this August  
2 meeting, no one in Clean Elections has heard from him in  
3 any form. Is that accurate?  
4 MR. COLLINS: We did get a response to the  
5 subpoena. And the subpoena specifically -- We subpoenaed  
6 him. The subpoena basically said, "Give us everything  
7 you've got that you can come up with."  
8 COMMISSIONER KIMBLE: Recordwise.  
9 THE WITNESS: Yes.  
10 As you can see, it's noted in the memo, he  
11 provided these copies of his campaign finance reports  
12 again, and copies of these invoices were interspersed in  
13 there, in no particular order. And as Sara has pointed  
14 out, they're not tied to anything.  
15 And then he wrote in an email that came  
16 along with the subpoena, "This is all I have and  
17 essentially everything else is lost." It continues to be  
18 his -- the one thing -- Despite the inconsistencies in  
19 accounting and the inconsistencies between campaign  
20 finance reports and actual bank account records and the  
21 inconsistent usage of personal accounts and campaign  
22 accounts, the one thing that Mr. Rubalcava has been clear  
23 about is he lost everything.  
24 COMMISSIONER KIMBLE: He lost all of his  
25 documents?

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1 MR. COLLINS: Right. Right.  
2 And, unfortunately -- and in our view, just  
3 getting back to the facts as opposed to the penalty, you  
4 know, that is itself evidence you can -- we believe you  
5 can take an inference that those documents do not exist  
6 because he had an obligation, pursuant to our rules in  
7 deciding to be a candidate that participated in Clean  
8 Elections funding program, to keep track of that stuff.  
9 And so we think you can take an adverse inference at this  
10 point. His admitted dereliction with respect to keeping  
11 those records we think is evidence they don't exist.  
12 COMMISSIONER KIMBLE: So since  
13 September 14th, when he responded to the subpoena, we have  
14 not heard from him?  
15 MR. COLLINS: That's correct. Yes,  
16 Mr. Chairman -- Commissioner Kimball.  
17 ACTING CHAIRMAN MEYER: Commissioner Paton?  
18 COMMISSIONER PATON: I don't think we should  
19 go any farther with it, I mean, drag this out another  
20 month. I mean, if people are taking classes now for the  
21 upcoming election, whatever, this will be a good  
22 reinforcer that -- I mean, it's been a year since the  
23 last election, and I don't think dragging it on any longer  
24 is going to be a good thing.  
25 ACTING CHAIRMAN MEYER: Just for the fellow

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1 commissioners, my thoughts are I believe there's a reason  
2 to believe the factual predicate is there to support  
3 moving forward with this. And I am -- I like to think  
4 I'm, you know, sympathetic to these types of issues, but I  
5 am mindful -- and I very vividly remember that August  
6 meeting, which -- I was on the phone. I remember  
7 Commissioner Kimball stating and reminding us that we are,  
8 as the commissioners, stewards of these funds and we're  
9 responsible to make sure that they're properly accounted  
10 for.  
11 So it's my position that we move forward  
12 with the factual findings that Tom has suggested and that  
13 we issue the penalty of three times the amount owed, which  
14 would put us at the 69,000 figure. That's my suggestion  
15 how we move forward today. I welcome thoughts of my  
16 fellow commissioners or if anyone wants to make a motion.  
17 COMMISSIONER KIMBLE: Mr. Chairman, I would  
18 make that motion, or you certainly can if you -- I move  
19 that we -- that we impose the penalties of three times the  
20 amount of \$17,459.  
21 ACTING CHAIRMAN MEYER: If I could hit the  
22 pause button on you, Commissioner Kimball.  
23 Procedurally here, do we need to make the  
24 finding of the factual issue first to then move forward to  
25 the penalty phase?

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1 MS. GALVIN: That's what I recommend, that  
2 you make the findings, find probable cause, and then go to  
3 the penalty portion.  
4 ACTING CHAIRMAN MEYER: Okay. So I will  
5 make that motion.  
6 MS. GALVIN: Do you withdraw your --  
7 COMMISSIONER KIMBLE: I withdraw my motion.  
8 ACTING CHAIRMAN MEYER: So I move that we  
9 follow the staff recommendation that probable cause exists  
10 for a violation of the Act, as indicated in the  
11 November 3, 2014, Probable Cause Recommendation and Notice  
12 of Possible Penalties prepared by Mr. Collins.  
13 COMMISSIONER KIMBLE: I second that.  
14 ACTING CHAIRMAN MEYER: All in favor say  
15 aye.  
16 (Chorus of ayes.)  
17 ACTING CHAIRMAN MEYER: Any opposition?  
18 (No response.)  
19 ACTING CHAIRMAN MEYER: None.  
20 So that motion carries three to zero, so we  
21 have a quorum of all the commissioners -- or, the  
22 necessary votes of all the commissioners.  
23 So now we can move forward with the penalty  
24 phase.  
25 And we can have Commissioner Kimble's motion

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1 be heard?  
2 MS. GALVIN: Yes. He's sort of argued it  
3 earlier, but if he has anything additional to say.  
4 ACTING CHAIRMAN MEYER: Well, I think we've  
5 heard Tom's thoughts on this.  
6 MR. COLLINS: Yeah, we're comfortable on  
7 this.  
8 ACTING CHAIRMAN MEYER: Commissioner Kimble,  
9 do you want to reurge your motion at this time on the  
10 penalty?  
11 COMMISSIONER KIMBLE: Yes. I would move  
12 that we impose penalty of three times the amount of  
13 \$17,459 on Mr. Rubalcava in addition to the initial  
14 amount.  
15 ACTING CHAIRMAN MEYER: I will second that  
16 motion.  
17 MS. GALVIN: Is that clear? I thought the  
18 three --  
19 MR. COLLINS: From my perspective, that's  
20 clear. So 3 times 17,459, which happens to be 52,377.  
21 And then --  
22 MS. GALVIN: Plus the initial.  
23 MR. COLLINS: Plus the repayment amount.  
24 MS. GALVIN: Plus --  
25 MR. COLLINS: But I think from my



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1 perspective, we don't need to treat the repayment amount  
2 as a penalty. I think the penalty is 52,377. It's true  
3 that that is in addition, but if --  
4 MS. GALVIN: I think to phrase it --  
5 MR. COLLINS: As long as the record is clear  
6 that the 52,377 is the penalty, I think that that would be  
7 what staff recommendation would be.  
8 MS. GALVIN: And in addition, the repayment  
9 amount, I think, is --  
10 COMMISSIONER KIMBLE: Right.  
11 MS. GALVIN: Okay. Very good, then.  
12 COMMISSIONER KIMBLE: Okay. So just to be  
13 clear, my motion is that he be penalized three times the  
14 initial amount, which would be 52,377, and also be ordered  
15 to repay the initial amount of 17,459 within 30 days.  
16 MS. GALVIN: Of the effective date of the  
17 order. Very good.  
18 ACTING CHAIRMAN MEYER: Ms. Galvin, are we  
19 good with that motion?  
20 MS. GALVIN: Yes.  
21 ACTING CHAIRMAN MEYER: I will second that  
22 motion.  
23 All in favor . . .  
24 I'm going to stop that based upon what I was  
25 just observing. Do we need to amend this motion or --

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1 MR. COLLINS: I think, again, as I tried to  
2 iterate, it would be helpful for us, for the record, to  
3 have the amount of the penalty be 52,377. We don't need  
4 to reiterate the repayment amount in the motion. We want  
5 to --  
6 COMMISSIONER PATON: Because we only  
7 penalized him.  
8 MR. COLLINS: Right. We want a clean record  
9 on the two amounts. That would be our only request.  
10 ACTING CHAIRMAN MEYER: So, Commissioner  
11 Kimball, can you withdraw your prior motion?  
12 COMMISSIONER KIMBLE: I will withdraw and  
13 try to restate it again.  
14 ACTING CHAIRMAN MEYER: Third time's the  
15 charm.  
16 COMMISSIONER KIMBLE: That we impose a  
17 penalty of Mr. Rubalcava of three times the initial  
18 amount, which is \$52,377.  
19 ACTING CHAIRMAN MEYER: I will second that  
20 motion.  
21 All in favor say aye.  
22 (Chorus of ayes.)  
23 ACTING CHAIRMAN MEYER: All opposed? Nay?  
24 (No response.)  
25 ACTING CHAIRMAN MEYER: There are no

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1 opposition.  
2 The imposition of the penalty of \$52,377  
3 carries unanimously with all commissioners present.  
4 MR. COLLINS: Thank you.  
5 ACTING CHAIRMAN MEYER: Okay. Moving on to  
6 Agenda Item V, "Discussion and Possible Action on MUR  
7 17-02 and 17-03 American Federation for Children."  
8 MR. COLLINS: I hope you all --  
9 Mr. Chairman and Commissioners, you may have received from  
10 me an email late last night. We were unable to get all of  
11 the attorneys -- or, specifically AFC's attorney, who's in  
12 D.C. today, to get a couple of details nailed down. We  
13 had hoped -- As you can see in the proposed conciliation,  
14 there's a blank. We are not -- we weren't able to fill  
15 that in and we weren't able to get that done, so we are  
16 holding that until next month.  
17 ACTING CHAIRMAN MEYER: So move on to  
18 Item VI?  
19 MR. COLLINS: Please, Mr. Chairman.  
20 ACTING CHAIRMAN MEYER: Item Number VI,  
21 "Discussion and possible action on Clean Elections  
22 Surcharge and related issues with the Arizona  
23 Administrative Office of the Courts."  
24 MR. COLLINS: And, Mr. Chairman, for this, I  
25 would turn this over to Mr. Kanefield, who has -- update

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1 you and advise you on this issue.  
2 ACTING CHAIRMAN MEYER: Good morning,  
3 Mr. Kanefield.  
4 MR. KANEFIELD: Good morning, Mr. Chairman,  
5 members of the Commission.  
6 My recommendation would be the Commission go  
7 into a very short executive session for a quick update.  
8 ACTING CHAIRMAN MEYER: I move that we  
9 adjourn to executive session.  
10 COMMISSIONER KIMBLE: Second.  
11 ACTING CHAIRMAN MEYER: All in favor say  
12 aye.  
13 (Chorus of ayes.)  
14 ACTING CHAIRMAN MEYER: There's no  
15 opposition. The motion carries 3-0.  
16 (The following section of the meeting  
17 beginning at 10:19 a.m. is in executive session  
18 and bound under separate cover.)  
19 \* \* \* \* \*  
20 (End of executive session. Public meeting  
21 resumes at 10:38 a.m.)  
22 ACTING CHAIRMAN MEYER: All right. We're  
23 back in open session. Thank you.  
24 We are on to agenda Item Number VII,  
25 discussion and possible action on Executive Director's

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1 request for authorization to enter into an IGA with  
2 Maricopa County for voter and public education purposes.  
3 MR. COLLINS: Yes. Mr. Chairman,  
4 Commissioners, this is -- really, I'm just asking for your  
5 permission to go ahead and draw up an agreement with  
6 Maricopa County. What this is going to do is ensure that  
7 there's a seamlessness between Maricopa County and Clean  
8 Elections with respect to some of the -- some of the  
9 technological things that we do to provide voters with  
10 voter registration information and other information that  
11 the county's providing them. The county prefers to do  
12 this in the form of an intergovernmental agreement. The  
13 county does not at this point -- There's no cost  
14 associated with this, and so -- and then, as a matter of  
15 statute, the actual document would go through the Attorney  
16 General's Office as to form.  
17 What you see in the memo outlines  
18 essentially what we're going to put into the document in  
19 addition to whatever -- in addition to sort of the formal  
20 boilerplate of an IGA. That's pretty much it. If  
21 something comes up where I think that I need you to look  
22 at the IGA itself, I'm certainly happy to put that back on  
23 the agenda, but we decided that the most efficient way to  
24 get this done would be to simply ask for authorization to  
25 enter into an agreement that is substantially in the terms

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1 outlined in the memorandum and move forward from there.  
2 So I'd ask for a motion to authorize me to  
3 proceed to enter into an agreement on terms substantially  
4 the same as those outlined in the memo dated 11-14-17.  
5 ACTING CHAIRMAN MEYER: I'll make a motion  
6 that we authorize Mr. Collins to move forward in entering  
7 the intergovernmental agreement with the Maricopa County  
8 Recorder's Office consistent with the terms set forth in  
9 his memorandum of November 14, 2017.  
10 Is there a second?  
11 COMMISSIONER KIMBLE: Second.  
12 ACTING CHAIRMAN MEYER: Okay. All in favor  
13 say aye.  
14 (Chorus of ayes.)  
15 ACTING CHAIRMAN MEYER: Any opposition?  
16 (No response.)  
17 ACTING CHAIRMAN MEYER: Motion carries three  
18 to zero.  
19 On to Item Number VIII, "Discussion and  
20 Possible Action on the 2018 Legislative Agenda."  
21 MR. COLLINS: Yes, Mr. Chairman,  
22 Commissioners, you'll find here a memo that Mike has  
23 updated for 2018. Right now we are in a position where we  
24 continue to be concerned about efforts to supersede the  
25 Clean Elections Act specifically with respect to

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1 independent expenditures, but, you know, that could also  
2 include traditional candidates. We are looking to see how  
3 the election procedures manual gets drafted. Secretary  
4 Reagan's office has been working on the elections  
5 procedures manual for several years now, and one of  
6 the chapters in that manual is anticipated to be about  
7 campaign finance, and that may itself cause legislative  
8 action.  
9 And then we are aware that at the very least  
10 the legislature continues to be interested in campaign  
11 finance and election-related laws. We've seen in a  
12 presentation that the election director did to a  
13 recertification class a list of potential tweaks to his  
14 campaign finance bill that he did a couple years ago, so  
15 we'll need to continue to weigh in on those. The  
16 principles continue to be, you know, if it's a ballot  
17 measure that's misleading or illegal, we continue to  
18 believe that it's our role and appropriate for us to  
19 oppose those at the legislature and explain why. We  
20 think, likewise, when the legislature is at risk of  
21 violating the Voter Protection Act, it's appropriate to  
22 advise them of that.  
23 Finally, I want to note -- and this was in  
24 last year's memo as well -- that we have supported efforts  
25 to enhance voter education and participation, and I think

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1 we will continue to do that. As you know, you'll receive  
2 starting soon -- because the first bill has actually been  
3 filed in the legislature for next year already, which  
4 should strike terror in the hearts of all.  
5 In any event, we'll be -- Mike will be  
6 keeping us abreast of those on a monthly basis, and any  
7 bills we think we need your specific feedback on, we'll  
8 get that. But you'll get an ongoing report, as you have  
9 in the past, of all the election-related bills. And that  
10 really is the memo.  
11 We ask you to approve these principles  
12 because -- we ask you to approve this agenda because it's  
13 important to us as staff members to be able to say that  
14 there are principles that the Commission has endorsed that  
15 we're authorized to lobby on because I think that it's  
16 important for several reasons, but most importantly, in  
17 echoing the comments Commissioner Paton's made in the  
18 past, you know, we are staff members, but we are staff  
19 members who are responding to the Commission, and it's  
20 not -- We like to make clear to the legislature as much  
21 as possible that this is a unified process where staff  
22 takes its direction from the legislature -- or, from the  
23 Commission. And that, I think, aids our communication to  
24 the legislature and keeps us on a -- usually on legal  
25 terms, but on terms that we can feel very comfortable that

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1 we're going to -- we represent you when we're in front of  
2 legislative bodies. And so we would ask that if you agree  
3 with the legislative agenda, that you approve the 2018  
4 state legislative agenda that is Item VIII in your  
5 materials.  
6 ACTING CHAIRMAN MEYER: Any questions or  
7 comments from the commissioners on the agenda?  
8 COMMISSIONER KIMBLE: Mr. Chairman?  
9 ACTING CHAIRMAN MEYER: Yes.  
10 COMMISSIONER KIMBLE: Mr. Collins, I  
11 understand that because of the political nature of the  
12 current legislature, the makeup of it, that we're required  
13 pretty much to play a strong defense. But is there -- is  
14 there something more that we ought to be doing other than  
15 seeking stronger support of our voter education efforts?  
16 Even if we don't think we're going to get very far with  
17 it, is there -- You know, we do a lot of sitting around  
18 defending ourselves. Is there something we ought to be  
19 doing to try to make this program stronger and at least  
20 get out there and push it, instead of just saying "Don't  
21 kill us"?  
22 MR. COLLINS: Mr. Chairman, Commissioner  
23 Kimball, there are two answers to that question. The  
24 first is that, you know, we can -- we can certainly make  
25 more statements to that effect. We have worked with

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1 members, particularly in the minority party, to try to get  
2 them to -- when they're drafting their bills, to recognize  
3 that the Commission is a more appropriate enforcer for  
4 many of their proposals than the Secretary's Office or the  
5 Attorney General's Office ever would be. That's something  
6 we can continue to dialogue with them about.  
7 Getting a Republican sponsor on  
8 enforcement-related things as far as campaign finance goes  
9 is increasingly difficult because this is -- Whereas  
10 20 years ago, campaign finance was not ideologically --  
11 was a have/have not issue, not an R-D issue, it's  
12 increasingly an R-D issue, except here. This body is  
13 unique in its ability to reach conclusions on a unanimous  
14 basis -- or, generally unanimous -- often unanimous, I  
15 should say. So I think that that's a harder challenge  
16 finding a sponsor. It's easier to find sponsors and we  
17 have found Republican sponsors on the voter education  
18 front.  
19 Finally, it will be interesting to see if  
20 things play out in terms of other opportunities on the  
21 voter participation side that develop that we might weigh  
22 in on. I think that there are -- there is, you know --  
23 These will be things that are controversial, to be sure,  
24 but things we may want to weigh in on.  
25 Number one, you know, I think for years now,

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1 the counties have been asking that -- because 75 percent  
2 of the folks in the state vote by mail, that we move to  
3 all mail. That's something, if there was a bill  
4 introduced, that we might consider weighing in on.  
5 There have been discussions about -- Do you  
6 mind if I mention --  
7 I mean, there have been discussions about  
8 changing the way voter registration works to make it more  
9 user-friendly. That would promote participation and be  
10 consistent with our mandate. So those are issues that we  
11 can weigh in on if -- and we would bring those to you  
12 specifically because they might be more controversial.  
13 But if you were to look at -- evaluate the policy and  
14 conclude on a bipartisan basis that, hey, this particular  
15 program really works, that would have some meaning, I  
16 think. And I think it would -- I think that's where we  
17 have our best opportunity to showcase the importance of  
18 having a commission like this beyond just don't kill us is  
19 the fact that it is bipartisan. We do have -- I hope  
20 that -- and we'll try to continue to bring you materials  
21 that, you know, we think are things that all five of you  
22 can agree to and that would be the best place to do it.  
23 I mean, I think that the thing the  
24 Commission does -- and this is just my opinion, for what  
25 it's worth -- that doesn't fit into the legislative

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1 narrative of the world is that we're bipartisan. And in a  
2 world where, you know, where everything is partisan, I  
3 think that there should be some ways in which we can make  
4 that a strength, because it is -- in the end, that is one  
5 of the strengths of the Commission in terms of an  
6 institution.  
7 So those are sort of the way -- That's kind  
8 of how I see it. That's a long answer to your question.  
9 The short answer is if we don't -- you know,  
10 if you ask any lobbyist, if you don't have a Republican  
11 sponsor for the bill, you don't have a bill, which I think  
12 you probably know. So . . .  
13 ACTING CHAIRMAN MEYER: Any other comments  
14 or questions?  
15 COMMISSIONER PATON: No.  
16 ACTING CHAIRMAN MEYER: All right. There a  
17 motion to adopt and approve the 2018 legislative agenda?  
18 COMMISSIONER KIMBLE: So moved.  
19 ACTING CHAIRMAN MEYER: I will second that  
20 motion.  
21 All in favor say aye.  
22 (Chorus of ayes.)  
23 ACTING CHAIRMAN MEYER: All opposed?  
24 (No response.)  
25 ACTING CHAIRMAN MEYER: Motion carries three

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1 to zero.  
2 Item Number IX is "Discussion and Possible  
3 Action on the 2018 Commission meeting dates."  
4 Can I make a motion that we adopt these  
5 meeting dates? Any questions or issues with those,  
6 Commissioners?  
7 (No response.)  
8 ACTING CHAIRMAN MEYER: All right. I'll  
9 move that we adopt and approve the proposed meeting dates  
10 for January through June 2018 in our materials today.  
11 Is there a second?  
12 COMMISSIONER KIMBLE: Second.  
13 ACTING CHAIRMAN MEYER: All in favor say  
14 aye.  
15 (Chorus of ayes.)  
16 ACTING CHAIRMAN MEYER: Any opposition?  
17 (No response.)  
18 ACTING CHAIRMAN MEYER: Motion carries three  
19 to zero.  
20 Now is the time for public comment. Do we  
21 have public comment from anyone?  
22 (No response.)  
23 ACTING CHAIRMAN MEYER: Okay. No public  
24 comment? Last chance before adjournment.  
25 Gentlemen?

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1 (No response.)  
2 ACTING CHAIRMAN MEYER: Okay. Motion for  
3 adjourn?  
4 COMMISSIONER KIMBLE: I move we adjourn.  
5 COMMISSIONER PATON: Second.  
6 ACTING CHAIRMAN MEYER: All right. All in  
7 favor of adjourning the meeting?  
8 (Chorus of ayes.)  
9 ACTING CHAIRMAN MEYER: All opposed?  
10 (No response.)  
11 ACTING CHAIRMAN MEYER: Motion carries.  
12 We are adjourned.  
13 (Whereupon, the proceedings concluded at  
14 10:53 a.m.)  
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1 STATE OF ARIZONA )  
2 COUNTY OF MARICOPA )  
3 I, Meri Coash, hereby certify that the  
4 foregoing pages numbered from 1 to 44, inclusive,  
5 constitute a full, true, and accurate record of the  
6 proceedings had in the above matter, all done to the best  
7 of my skill and ability.  
8 DATED this 20th day of November, 2017.  
9  
10  
11  
12  
13 *Meri Coash*  
14 Meri Coash  
15 Certified Reporter #50327  
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