Transcript of Proceedings - March 22, 2018
Public Session

THE STATE OF ARIZONA
CITIZENS CLEAN ELECTIONS COMMISSION

REPORTER'S TRANSCRIPT OF PUBLIC MEETING

Phoenix, Arizona
March 22, 2018
9:32 a.m.

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P R O C E E D I N G

CHAIRMAN MEYER: Good morning. We're going to call -- good morning. We're going to call to order the meeting of the Citizens Clean Elections Commission for March 22nd, 2018. We're going to start with Item Number II: Discussion and possible action on Commission minutes for February 15 of 2018.

Any questions or comments on the minutes, or a motion to approve the minutes?

COMMISSIONER CHAN: Motion to approve the minutes as written.

CHAIRMAN MEYER: I have a motion to approve the minutes.

Is there a second?

COMMISSIONER KIMBLE: Second.

CHAIRMAN MEYER: All right. A motion has been moved and seconded. In favor -- all in favor of approving the meeting minutes for the February 15th, 2018, meeting say aye.

(Chorus of ayes.)

CHAIRMAN MEYER: All opposed?

(No response.)

CHAIRMAN MEYER: Abstentions?

(No response.)

CHAIRMAN MEYER: Motion carries.

Item III: Discussion and possible action on Executive Director's Report and notice of administrative closure of MURS 18-01, -02 and -03.

Tom?

MR. COLLINS: Yes. Mr. Chairman, Commissioners, just to really quickly talk about the second half of the notice, about, I think, two years ago, the Commission authorized the executive director to close complaints administratively under certain circumstances that are outlined in the rule, and we've done that with three complaints.

I would note that one of those complaints, the closure -- we had a request to reconsider that decision. And I declined to reconsider that, but in the event that -- having read any of those administrative closures, that a commissioner wanted to direct staff to reinstate a complaint, we can do that. And we think that's the -- the rule that you passed.

So --

COMMISSIONER CHAN: Mr. Chairman?

MR. COLLINS: So we haven't had that happen -- we haven't -- we haven't had that come up before. So I just wanted to note that one specifically in the record. So I appreciate it.

Real quickly, just highlights of what's happened since we last met, which seems like a long time ago -- and I'll move through this quickly -- in campaign finance news, the city of Tempe passed a disclosure measure by a vote of 91 percent in their March election, and the city of Phoenix city council voted 6 to 3 to authorize staff to begin researching potential campaign finance reform measures for the 2018 Phoenix ballot.

Gina testified at the U.S. Commission on Voting Rights in Arizona on her research and the research she's overseen on what motivates voters and what interferes with voters, you know, actually voting and the Commission's voter education plan.
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1 The Commission does have a new website
2 that's up. I would take a look at it if you get a chance. We really are proud of it. Alec and Stephanie and Gina have all worked very, very hard to get it prepared. Alec has been -- as far as I understand, he hasn't left the office in a month at all, and he's here, you know.
3 So it's been a real labor for them, but I think that the results are going to benefit voters
4 because I think the website is better organized and the content is easier to access. And it's more oriented towards getting voters what they need quickly than our -- than our prior version. And I've got to say that I really liked our previous website, but once you saw the new website, the old website didn't look like -- well, the old website, it really looked like it had aged.
5 So we're really proud of that. I'm really proud of them, and I -- and I think that that's really -- that's great.
6 We're working on the debate schedule. We do -- we have been working with a number of districts -- school districts on a pilot program to host debates which is -- you know, Commissioner Paton has raised for us, and I think that's been going well.
7 And, you know, I think that, you know -- and I think the benefit will be even if the turnout at the debates is not -- in terms of live folks is not necessarily -- doesn't -- even if it worked -- even if it increases but doesn't increase dramatically, I think that being in the community in this way will be a measure of success if word of mouth gets folks watching it on YouTube and those kinds of things, which I think -- I think is important. And Commissioner Kimble has been working with Gina on Legislative -- 2? -- Legislative District 2.
8 There's an election on April 24th.
9 The last thing I wanted to mention -- and I don't mean to go on so long -- is there's a -- there's a memo or an email, rather, that I wrote to an attorney who requested one regarding how Section 16-911 of the new campaign finance measure that passed a couple of years ago interacted with the clean candidate spending limits, and there's some language in a guidebook which the Secretary produced that says that party expenditures would be reported by the candidate if they're for the candidate. And it doesn't have a citation to it or anything, but there's -- that would not affect the

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1 spending limits that apply to clean candidates because the expenditure is not by the candidate. It is -- a party expenditure is -- by definition under Senate Bill 1516 is not a contribution and it's not an expenditure by the candidate. It's also one of the provisions that the Arizona Advocacy Network and the Democratic Caucus and the rest of the plaintiffs are suing over, that particular provision, but nevertheless, that's there to make sure that everybody knows what the Commission has already put into the rule and what's in law.
2 And that's all. I apologize for going on so long, but that is -- that completes my report.
3 COMMISSIONER CHAN: Mr. Chairman?
4 CHAIRMAN MEYER: Yes, Commissioner Chan.
5 COMMISSIONER CHAN: Mr. Chairman, I just wanted to recognize the city of Tempe and the city of Phoenix because I feel like I'm really, really pleased to see cities picking up the slack where the State has left off with regard to dark money and trying to shine a light on who's spending money on elections. I always say this. So I may sound like a broken record, but as a voter, to me, I want to know who's speaking in our elections, who's making the claims and statements that we see on our ads and our mailers.
6 And so dark money has been something that I really oppose and have opposed since Citizens United legitimized it. And I'm just very, very pleased to see that where the State has kind of dropped the ball, in my opinion, that we have some localities here in the Valley picking up the slack. So kudos to Tempe and their voters and kudos to the city of Phoenix for looking into that.
7 CHAIRMAN MEYER: Thank you, Commissioner Chan.
8 Any other comments on the executive director report?
9 (No response.)
10 CHAIRMAN MEYER: Okay. Let's move on to Agenda Item Number IV: Recognition and appreciation to Sara Larsen, financial affairs and compliance officer, for her service to the Commission and the state of Arizona.
11 Sara, congratulations. We're very sad --
12 sad that you're leaving us, but very happy for you that you're moving on to something that you're very excited about, I understand, from Tom.
13 Tom, I'll give you the floor to -- to make any comments.
14 MR. COLLINS: Yeah, but I -- thank you,
inspiring future leaders at the Flinn Foundation.

positive congeniality will undoubtedly be helpful in
great benefit in her new role. That combined with the
wrote me to say that he was so appreciative to have the
deploy chief of staff at -- for Governor Ducey, and he
know -- Daniel Ruiz was our deputy director. He is now
I wanted to read, as you all know -- maybe some of you
and she continues
to grow professionally. I wish her the very best in
all she does.

And then the second one -- the other thing
I wanted to read, as you all know -- maybe some of you
know -- Daniel Ruiz was our deputy director. He is now
deputy chief of staff at -- for Governor Ducey, and he
wrote me to say that he was so appreciative to have the
opportunity to work with Sara Larsen. Her passion for
public policy is admirable and I know that it will be a
great benefit in her new role. That combined with the
positive congeniality will undoubtedly be helpful in
inspiring future leaders at the Flinn Foundation.
Mr. LaRue: Thank you, Tom.

CHAIRMAN MEYER: Okay.

Joe, Mr. Chairman, with your permission, if that's all right, I'll turn this over to Joe to walk you through his and on my behalf's recommendations and then, to the best of my knowledge, we entered that was appealed to the administrative law judge.

Mr. LaRue: What I think we'd like to do -- I don't know whether that's okay.

CHAIRMAN MEYER: Mr. Chairman, Commissioners, thank you very much for all your kind words.

And thank you so much for your kind words.

And thank you for reaching out to some of the previous commissioners.

And Todd and Daniel, those are so nice for everything.

I have really enjoyed my time here at the Commission, and have learned a lot. I have grown a lot. I have definitely been challenged while I've been here, and I've just -- I've enjoyed every minute of being here. I've enjoyed my coworkers immensely, and this has been a fabulous place to come to work and to do something good, something that I believe in. And, you know, this is a fantastic agency, and we rarely have turnover here. And I think that's a testament to the environment in which we work and the people in.

Which we work with.

And I just want to say, you know, I leave -- it's very bitter sweet that I leave. I've spent a lot of my professional life here and I'm working with the Commission, and I believe in everything that we do here. And I know that everyone here is committed to it, and I'm just -- I'm so grateful for the opportunity that I've had to have been here and worked with all of you and for all of you.

And thank you so much for your kind words.

Thank you.

CHAIRMAN MEYER: Thank you.

COMMISSIONER PATON: Thank you.

Thank you so much for all your kind words and, Tom, thank you.

Thanks.

CHAIRMAN MEYER: And, yes, I echo what my fellow commissioners have said, and I just -- you know, it's a -- it's a steep learning curve that we have when we join the Commission. And I don't think I've ever asked a question that you didn't immediately know the answer to, and I've always appreciated that. And equally -- I've been equally appreciative of just your professionalism. The way you go about doing your job is very admirable and something that we're missing a lot during these times.

Now Item Number V: Discussion and possible conclusions of law -- which I guess I should say after having made those findings of fact to with regard to how the law works and what should be done for us.

Mr. Chairman, Commissioners, the administrative law judge issued what is known as a recommended order, she provided what lawyers and courts call findings of fact and conclusions of law. And in layman's terms, non-lawyer terms, that means that she made findings of fact and conclusions of law. And, in compelling, and she made certain conclusions of law as to with regard to how the law works and what should happen. After having made those findings of fact and conclusions of law -- which I guess I should say.
the findings of fact are based on the evidence that was presented to her in the hearing where Tom and Sara both testified and Mr. Rubalcava also testified. After making those findings of fact and conclusions of law, she issued what we call a recommended order, and this is a little different than the way things work in state court.

In state court the judge issues an order and that is the order. In the administrative law courts, the administrative law judge in this type of situation issues a recommended order, and that order then comes back to the Commission for the Commission to act upon.

You are represented by counsel from the Attorney General's Office separate from me, and so she can address what I'm about to say when I'm done and answer any questions that you may have about the process, but just by brief overview, the Arizona Revised Statutes say that within 30 days, the Commission must either accept, modify or reject the administrative law judge's recommended order. And so we are within that 30-day mark, and the -- the intention, I guess, is that the Commission will take one of those actions today.

My recommendation as the attorney that litigated this, but not as your attorney -- again, your attorney is on the dais with you, by my recommendation as the attorney who litigated this is that you accept the repayment order issued to Mr. Rubalcava. And that always negotiate a lower amount, but this will be the intention, I guess, is that the Commission will take one of those actions today.

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CHAIRMAN MEYER: Okay. I have reviewed it. I have reviewed the opinion. Have the other commissioners also reviewed it?

COMMISSIONER PATON: Yes.

COMMISSIONER CHAN: Yes.

COMMISSIONER KIMBLE: Yes.

CHAIRMAN MEYER: Okay. We've all reviewed it.

MS. FROEDGE: And then, also, I would request that you vote separately on the findings of fact and the conclusions of law in the order.

CHAIRMAN MEYER: Three separate votes?

MS. FROEDGE: Yes.

CHAIRMAN MEYER: Okay. Okay. So, I guess, first, is there a motion that we approve the findings of fact and granting the motion say aye.

All in favor say aye.

(Chorus of ayes.)

CHAIRMAN MEYER: Any opposition?

(No response.)

CHAIRMAN MEYER: Any abstentions?

(No response.)

CHAIRMAN MEYER: Okay. Motion carries to approve the findings of fact 4 to 0.

Is there a similar motion to approve the conclusions of law?

CHAIRMAN MEYER: Okay. Mr. Chairman, I would move that we adopt the administrative law judge's recommended order in this matter.

MS. FROEDGE: Mr. Chairman, we need a roll call vote on the order, please.

CHAIRMAN MEYER: Okay. So each person needs to go through individually?

MS. FROEDGE: Yes.

CHAIRMAN MEYER: Okay. All right. So it's been moved and seconded that we adopt the administrative law judge's recommended order, and we're going to do a roll call vote on this motion.

Commissioner Chan?

COMMISSIONER CHAN: I vote aye.

Commissioner Kimble?

COMMISSIONER KIMBLE: Aye.

Commissioner Paton?

COMMISSIONER PATON: Aye.

And, finally, we need a motion, if there is one, to adopt the administrative law judge's recommended order in this matter.

Is there a motion?

CHAIRMAN MEYER: Thank you, Commissioner Chan.

Is there a second?

COMMISSIONER KIMBLE: Second.

MR. COLLINS: Mr. Chairman, Commissioners, we have -- you'll have Mike's report on the status of legislation that we're tracking. That's available. There's one -- one piece of legislation I want to note and then a piece of legislation I'd like to talk about a little more in depth. The one I want to note is related to Commissioner Chan's discussion of the city of Tempe and the city of Phoenix activities. There is a measure that's being heard today in Senate
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1. Against inflation. So the Senate research staff fact
2. sheet, what's being presented to the public in the
3. summary of this bill, is flat out untrue. It's not
4. inflation and it's actually deflationary.
5. It has the odd effect in the short-term of
6. increasing the amount of money that clean candidates
7. can take from individuals by almost a third because
8. those levels are low, but over time, it is not
9. Inflation. And it is a -- it is not a conforming
10. change. It is a radical change to the way this program
11. operates, and it's not being discussed in a
12. straightforward way.

13. Likewise, the exemption language that they
14. have not does not -- it's intended, I think it's
15. safe to say, to get the Commission under the
16. jurisdiction, in some manner, of the Governor's
17. Regulatory Review Council, which has been a matter of
18. continuing dispute, but it does -- it does not at all
19. make clear what the law is going to be because the
20. Clean Elections Act has numerous provisions that
21. provide for procedures that are not consistent or are
22. potentially in conflict with the Arizona Administrative
23. Procedures Act rule-making provision.
24. So it is -- it is going to create issues,
25. not resolve them, and the -- and the legislature is not

1. discussing that squarely. The reason why the
2. legislature is not discussing those two issues squarely
3. is because the legislature has been talking about this
4. in terms of the issue of party expenditures that were
5. made in 2016. We've rehashed this now for two years,
6. three years. We passed a rule that tried to address
7. it. That rule didn't pass unanimously.
8. So, you know, there is a -- obviously,
9. reasonable minds can differ about what the appropriate
10. way to go about this is, but it's my view and, I think,
11. the view of -- and Mike's view at that point, you
12. know, we should take that off the table. There is
13. no -- nothing to be gained at this point by -- we have
14. opposed the bill in its totality based on the fact that
15. we have a rule in place on the party expenditure issue.
16. Notwithstanding that rule, I think, for
17. purposes of this legislative session and in order to
18. get the public, the press, the legislators themselves
19. to understand what is really being proposed to do to
20. Clean Elections, that we essentially say that --
21. essentially, go to a neutral position on Section 1 of
22. the bill.
23. I'm briefing you on this because -- and
24. wanted to raise this with you-all because we have a
25. rule in place on this, but, you know, I'll tell you
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1. after that rule passed, you know, we did have a --
2. there was -- and not all of you may know this. I had
3. the impression many of you did but, you know, the
4. speaker of the House put out a press release that said,
5. you know, he was upset about the rule choice that was
6. made.
7. I will tell you that I personally committed
8. to the speaker that in the event something came up that
9. was -- that warranted it, we could revisit that rule on
10. an emergency basis. Others, obviously, don't think
11. that's sufficient, but -- and I'm not proposing we
12. change the rule for this election cycle, but I do
13. propose and intend to make clear that as to Section 1,
14. we just -- we don't have an interest in arguing about
15. that because Sections 2 and 3 are not being discussed
16. properly, not being discussed honestly and do
17. tremendous damage to both the independence of the
18. Commission and the operation of the program in general.
19. So that's where I come down on that. If
20. you have -- I don't need a vote on that, per se, but I
21. do if you -- if the commissioners have strong
22. objections to modifying the way we approach this, I
23. would like to hear that because I would -- I obviously
24. don't want to get out in front of you, but that is my
25. proposal going forward.

10:10:21-10:11:34

1. COMMISSIONER CHAN: Mr. Chairman?
2. CHAIRMAN MEYER: Any comments?
3. Commissioner Chan.
4. COMMISSIONER CHAN: Mr. Chairman and Tom,
5. I'm having a little heartburn over going neutral on
6. Section 1 of the bill only because I understand what
7. you're saying, but -- and perhaps the reason you're
8. saying this -- and you can correct me if I'm wrong --
9. is because you want to focus on the other two parts
10. that are so -- such travesties, but can't we focus on
11. those without going neutral on Section 1 if we
12. inherently disagree with Section 1? I feel like we're
13. sacrificing our policy position a little bit if we go
14. neutral on that even though we still will have our
15. rule.
16. MR. COLLINS: I think that's also been --
17. Mr. Chairman, Commissioner Chan, I think that's -- I
18. think that's exactly the question before you, and my
19. recommendation is a balance that the -- that whatever
20. sacrifice there is with respect to the policy is not
21. sufficiently grave enough here because it doesn't
22. require us to change the rules. It doesn't require us
23. to do anything in the immediate term. What it simply
24. says is, look, I mean, that bill -- that rule did not
25. pass unanimously in the first place.

10:11:36-10:13:04

1. Commissioner Paton made his views on this
2. known. So it is clear that reasonable minds can differ
3. and reasonable minds do differ on the Commission about
4. that particular policy. And so I don't think it gives
5. anything away, to be honest with you, in terms of the
6. Commission's actions to take that off the table now and
7. simply say, look, that's a party issue.
8. At the end of the day, if the Democratic
9. party or the Republican party wants to make these --
10. take expenditures from candidates or 501 people want to
11. take expenditures from candidates, that's their issue.
12. You know, Sections 2 and 3 are really Commission
13. issues. And so that's -- and that's my -- I think you
14. are correct in observing the tension there, but
15. nevertheless, I just don't think that there's any other
16. way to get -- I'll just give you an example.
17. The Arizonans -- Americans for Prosperity's
18. Arizona Chapter has been touting this bill as no money
19. for political parties, and then omits from its, you
20. know, updates that it sends to its members and other
21. interested parties any mention of Sections 2 or 3. The
22. same can be said for -- and, as I said, even the
23. research staffs of the legislature are not accurately
24. and truthfully describing the impact of Sections 2 and
25. 3.
1 prohibited that. And I just fear -- and maybe I'm
2 being a little too rigid, but I fear that if we go to
3 neutral we're just giving up some of our integrity -- I
4 mean, not integrity. I don't want to put it in that
5 kind of a good/bad terminology, but some of our
6 position on what we really think about this as a
7 Commission who has voted on it.
8 CHAIRMAN MEYER: Tom, in response to
9 that -- and maybe you can help clear up an
10 understanding -- a misunderstanding that I may have is
11 even under this statute, would participating candidates
12 still be allowed to purchase voter files from the
13 parties?
14 MR. COLLINS: Mr. Chairman, yes. I should
15 have -- I should have gone over that. Yes. The one
16 exception is for the voter file. What they couldn't do
17 is some of the -- you know, the hiring of field workers
18 and some of the other consulting services that were
19 purchased in the 2016 cycle.
20 Mr. Chairman, if I may just to -- just to
21 talk through this point with Commissioner Chan, you
22 know, I think that the other thing to bear in mind is
23 that this measure should have passed at the -- at
24 the -- passed onto the voters and be -- you know, as an
25 enactment of the legislature. And the legislature

1 tells itself that they're not really voting for
2 something when it's sent to the voters. If you read
3 the constitution, it says that referendums are
4 enactments, just in case anyone wants to read the
5 constitution out there, but the thing is that the
6 voters will still have to decide that and folks will
7 still have to -- have to make -- have to make a
8 decision about that.
9 This is not the final call on it. This is
10 a specific question of how do we -- how do -- and won't
11 be involved in that once it goes to the ballot. That
12 won't be our discussion, and it's going to be up to the
13 various parties, the various folks who try to influence
14 elections to do that in the event that it goes forward.
15 And so for those -- for that reason, I
16 think, again, there's a mitigation on the impact of
17 this. Again, if it wasn't for the fact that we do have
18 a rule and a policy that has been voted on, I would not
19 be -- you know, I wouldn't -- I would not be raising
20 it.
21 So I think all of your concerns are well
22 thought through and well articulated and then the
23 things that, you know, Mike and I have talked about,
24 too, as we -- as we go forward, but at the end of the
25 day, you know, if we -- if we can't -- I have tried now

1 for -- since January, since this bill dropped, to get
2 an acknowledgment anywhere.
3 If the Senate research staff and the House
4 research staff will not acknowledge the actual impact
5 of this bill and the public and the press and most
6 folks rely on those fact sheets, not the bills, to make
7 their decisions, there's no other way for us to change
8 the dynamic that I can -- or, I should say -- I keep
9 saying no other way -- this is the best way to change
10 the dynamic of this conversation that I've been able to
11 come up with.
12 Ultimately, it's your call. That's why we
13 have brought it back to you, but I think that we can be
14 clear that we have a rule. We're giving a chance to
15 see if that rule works. If that rule doesn't work, we
16 obviously would like -- we would review it again and
17 see if we need to do something different, but in the
18 meantime, you know, the honest to God truth is that
19 folks are being misled by the very, quote/unquote,
20 nonpartisan folks who are supposed to be telling them
21 what's in the legislation that they're voting on.
22 COMMISSIONER CHAN: Mr. Chairman, if I just
23 may follow up with --
25 COMMISSIONER CHAN: And then -- and then
1 And so if anybody is listening over at the legislature, I would encourage you to revisit what you're -- what you're really talking about with this bill and really make sure that you're fully understanding the ramifications of what you're sending to the -- to the voters, potentially, because all of your legislation has -- even a referenda to the voters, they all have impacts and affect people deeply.

9 And, of course, I personally think that this Commission has so much integrity and does important work for the people of Arizona and, of course, that's why I am very disappointed and disturbed to hear what you're telling us about today, Tom. So thank you for keeping us informed that way.

15 And with that, Mr. Chairman, I'll give the floor back to you and the other members.

17 CHAIRMAN MEYER: Thank you for your comments, Commissioner Chan.

19 And, Commissioner Kimble and Commissioner Paton, I do want to hear from you if you have comments on this.

22 Before that, though, Tom, I just had a -- maybe you can clarify how exactly do we sort of change the messaging on this or, by going neutral on the first issue, how do -- how do we then, I guess, bring clarity to what this bill is really about? Maybe I'm -- I'm not a lobbyist.

4 MR. COLLINS: Sure.

5 CHAIRMAN MEYER: I'm just an old commercial litigator, but maybe you could explain a little bit about the process.

7 MR. COLLINS: Mr. Chairman, that's a good question, and I am, unfortunately, a lobbyist.

9 There's a couple of ways we can do this. Number 1, look, it's going to pass out of the -- out of the Senate jud committee. There's just no doubt. It's a party -- these things have paused on party lines. So it is what it is. That is what it is. I think that -- I will tell you from a media perspective, I am scheduled, unless I hear otherwise, to be on Horizon tonight, which is Arizona -- Phoenix PBS's television program tonight.

18 And if I am on -- I don't know who I'm going to be on with. I know that Representative Douglas -- Doug Coleman, who is the sponsor of this bill, has refused to go on and has refused every -- every request we've had to meet with him. I guess we requested -- six times we made a request to meet with him, just to give you an example how the lobbying on this has gone. Once he scheduled a meeting and then he cancelled it.

19 And I think that if we do that, we can -- understand that if they really, really want to focus on party stuff, that's really what this bill is about -- I think that's window dressing, to be honest with you. I think that that's the cover to do Sections 17 or 3. And if they really want to do party stuff, let's do party stuff. You don't need to do Sections 2 or 3 to accomplish what AFP, the Free Enterprise Club and Representative Coleman have represented is their principal problem.

21 CHAIRMAN MEYER: Okay. Thank you.

23 COMMISSIONER KIMBLE: Mr. Chairman?

24 CHAIRMAN MEYER: Commissioner Kimble.

25 COMMISSIONER KIMBLE: Yeah, I would just briefly say that I support what Tom is saying. I think that it's not a question so much of totally backing away from Section 1. It's more of a strategy that our best bet at this point is to focus on 2 and 3, and I agree with that from a strategic point.

6 CHAIRMAN MEYER: Commissioner Paton, anything to add?

8 COMMISSIONER PATON: Well, I mean, I kind of predicted all of this, Tom.

10 MR. COLLINS: That's true. That's true. That's true.

12 COMMISSIONER PATON: I mean, I think we just aggravated a bunch of people, and I don't consider myself really super partisan or anything like that, but it aggravated me. And so if it aggravates me, people that live it and all that, you know what that's done to me.

18 I think that if we do that, we can -- damage to the overall program and are being presented dishonestly. And if I am on -- I don't know who I'm going to be on with. You know, I coached. You make a decision. You stick to it generally is how I generally did things, but if we can keep some of this -- tamp down some of this to where then we'd be focused on these other two items, then I think that would probably be a good thing. And you're going to take a lot of the ammunition away from the
MR. COLLINS: Mr. Chairman, I think she was on the phone earlier?

CHAIRMAN MEYER: Tom, I believe we have Mary on the phone or related matter under review. The Commission may go into executive session, but the high-level overview on this, as you know, we were successful at the Arizona Supreme Court. And now Mary and I are seeking authorization to take whatever legal actions are necessary to collect the fine and obtain the report that the Legacy Foundation Action Fund owes the Commission.

MR. COLLINS: Okay. Thank you, Tom.

MS. O'GRADY: I am here. Mary, are you there?

MR. COLLINS: Okay.

MR. COLLINS: Okay. We have a motion authorizing counsel to move into executive session? Does anyone have any questions that they would like to ask counsel which would require us to move into executive session, or do you feel informed?

COMMISSIONER KIMBLE: I second.

CHAIRMAN MEYER: Okay. Is there a second?

CHAIRMAN MEYER: Okay. We have a motion directing counsel to take whatever legal actions are necessary to collect the fine and obtain the report from Legacy Foundation. Does anyone have any questions that they would like to ask counsel which would require us to move into executive session, or do you feel informed?

MR. COLLINS: Yeah. Mr. Chairman, yeah, a motion directing counsel to take whatever legal actions are necessary to collect the fine and obtain the report from Legacy Foundation Action Fund would be -- would be welcomed.

MR. COLLINS: Okay. Are there a second?

COMMISSIONER KIMBLE: Second.

CHAIRMAN MEYER: Okay. We have a motion that's been moved and seconded to direct counsel to move forward to obtain the fine in this matter. Does anyone have any questions that they would like to ask counsel which would require us to move into executive session, or do you feel informed?

CHAIRMAN MEYER: Okay. Thank you, Tom. I guess, Commissioners, we do have some items here that are confidential attorney-client in our packet.

CHAIRMAN MEYER: Okay. Thank you, Tom.

CHAIRMAN MEYER: Okay. Is there a second?

(No response.)

MR. COLLINS: Okay. Thank you, Tom. So I think we're good on that.

CHAIRMAN MEYER: Thank you, Tom. So I think we're good on that.

MR. COLLINS: Yes. Mr. Chairman, yeah, a motion directing counsel to take whatever legal actions are necessary to collect the fine and obtain the report from Legacy Foundation Action Fund would be -- would be welcomed.

COMMISSIONER CHAN: Mr. Chairman, I would authorize counsel to move forward?

MR. COLLINS: Yeah. Mr. Chairman, yeah, a motion directing counsel to take whatever legal actions are necessary to obtain the -- to obtain the fine and report from Legacy Foundation Action Fund would be -- would be welcomed.

COMMISSIONER CHAN: Mr. Chairman, I would authorize counsel to move forward?

MR. COLLINS: Okay. Is there a second?

COMMISSIONER KIMBLE: Second.

CHAIRMAN MEYER: Okay. We have a motion that's been moved and seconded to direct counsel to move forward to obtain the fine in this matter. Does anyone have any questions that they would like to ask counsel which would require us to move into executive session, or do you feel informed?

CHAIRMAN MEYER: Okay. Thank you, Tom. I guess, Commissioners, we do have some items here that are confidential attorney-client in our packet.
| MR. COLLINS: Yeah. | protection issues with respect to how 501(c)(4)s that are similarly situated where disparately treated under the act, and we looked at the failure to comply with Article 7, Section 16, which it requires that there be -- under the Arizona Constitution, that there be -- that political committees disclose their contributions and expenditures and there be general publicity for that. |
| CHAIRMAN MEYER: Okay. Is there -- I'm sorry. All in favor say aye. | (Chorus of ayes.) |
| CHAIRMAN MEYER: All opposed? | (No response.) |
| CHAIRMAN MEYER: Abstentions? | (No response.) |
| CHAIRMAN MEYER: All right. Motion carries 4 to 0. | |
| All right. Item Number VIII -- thank you, Mary. | |
| Item Number VIII: Discussion and possible action on Arizona Advocacy Network, et al., versus State of Arizona, et al. Again, we may go into executive session here if we need to. Tom, you want to give us your thoughts on this? And Mary is going to -- is helping with this one as well. | |
| MR. COLLINS: That's right. And -- Mr. Chairman, that's correct. This is just a brief update. There was the Rule 16 conference. I think that the scheduling report was filed. I'm not sure. Mary, is that right? | |
| MS. O'GRADY: Yes, it should have been filed. | |
| MR. COLLINS: And so under the -- the only thing I would think that you-all should know is so there's a briefing schedule that takes summary judgment briefing will be going on. I think the final replies on summary judgment there under the schedule -- proposed schedule is the beginning of July. And then the other issue to be aware of is that the Secretary of State and the, quote/unquote, state and the Governor's Regulatory Review Council have taken the position that the briefing should only be about the Voter Protection Act and only after the Voter Protection Act is resolved should there be briefing on the equal protection challenges and the Article 7, Section 16 challenge. The plaintiffs take the position that it's our case and we should be able to do whatever we want. We have taken the position that is consistent with the plaintiff's position in this case for one reason, which I think is the only valid reason first -- the only -- what a state agency should take a position on which is guidance. When we did our rules, which are part of this lawsuit, we based our decisions on not exclusively the Voter Protection Act. We looked at equal protection issues with respect to how 501(c)(4)s that are similarly situated where disparately treated under the act, and we looked at the failure to comply with Article 7, Section 16, which it requires that there be -- under the Arizona Constitution, that there be -- that political committees disclose their contributions and expenditures and there be general publicity for that. Those are things we need guidance on whether we -- whether we -- you know, whether we change or not or any of those things. Regardless of what the rules are, as an agency those are things we need guidance on. So we think it's appropriate to get them all briefed so that we can get a judicial decision on all of the issues because that gives us -- gives us the guidance we need. I will also say that we're going to -- one of the other odd issues is that the -- just for the record, so everybody knows, the Attorney General's Office is not representing the Secretary of State and the, quote/unquote, State in this case. So Mr. LaRue and Ms. Karlson are not involved in this matter, but in their initial disclosures, the Secretary of State takes the position that Article 7, Section 16, which says that at its first session the legislature shall pass a law that basically requires disclosure of expenditures and contributions and publicity of them is essentially a dead letter. The legislature can pass whatever it wants and call it a political committee, and there is no meaning in that provision other than a general direction. If you -- there's no reported judicial opinion on this -- on that yet. That has not been the position that we've taken in our rule-making process and -- and those rules all passed, you know, unanimously, I think. I may be wrong about that, but I'm pretty sure they did. In any event, we don't think that Article 7, Section 16 is a dead letter. We think it's a substantive constitutional provision that if the folks who put together the Arizona Constitution did require there to be disclosure, then the question is whether or not having so restricted the definition of political committee as SB1516 did, if that falls below the threshold that the framers of the Arizona constitution required. And, you know, from an originalist perspective, if you look at the language and then you look at the fact -- at what the legislature passed at its very first session of the 1912 Act on disclosure...
<table>
<thead>
<tr>
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<td>16 That's, in part, because, you know, we actually -- we like our attorneys and we truly -- we'd like to know if whoever is coming on, we'd like to also like them. My understanding is that another difference between SGO and agency counsel is agency counsel actually as part of their interview process in the unlikely and hopefully not happening event that one of our attorneys were to leave, that they actually take the interviewees to the clients and have them meet which is, again, I think a better way of doing things. And interesting, but I do still want that in the -- in the written agreement.</td>
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**Notes:**
- The conversation focuses on the approval of an Interagency Service Agreement (ISA) with the Arizona Attorney General’s Office.
- The discussion includes the benefits of having the Attorney General’s Office handle certain tasks in a beneficial way.
- The commissioners discuss the consideration of legal changes and the need for a clear understanding of the new division.
- The conversation highlights the importance of maintaining notice for relevant AG opinions and the potential for an improved interview process.

**Questions and Responses:**
- **CHAIRMAN MEYER:** Any questions from any commissioners?
- **MS. O’GRADY:** No, nothing to add. I’m just waiting for the schedule to be set in the case.
- **CHAIRMAN MEYER:** Okay, thank you, Mary. Thank you, Tom.
- **MR. COLLINS:** Yes. Mr. Chairman, so as you know, the elections subsection, I guess, you might call it, of the Attorney General’s Office changed divisions -- I don’t know -- six months ago or something like that. And we did an Interagency Service Agreement.

**Agenda Items:**
- Item Number IX: Discussion and possible action on Interagency Service Agreement with the Arizona Attorney General’s Office.
- Action on Interagency Service Agreement with the Arizona Attorney General’s Office.
- Approval to enter into an ISA at the amount of $172,000 as detailed in the memo and the exhibit which is the budget -- which comes from the AG accounting department. I think that, as I articulated in the memo, this benefits the Commission in a number of ways. It helps with retention. It ensures that there’s resources for the election attorneys that we have, Joe and Kara, and their support staff to be able to do their jobs. And I think it’s something we’ve done for, I think, the entire time the Commission has been in existence, and I think we should continue to do it. I have a couple of notes and I’ll just --
commit to the expenditure and then -- and then we'll
hash out the details going forward.
So in the event that this all works out, I
wouldn't bring the ISA back for further approval. I
would go forward and sign it myself, just so you
understand that. So as I said in the memo, I am
requesting approval to enter into the ISA for $172,000
for the calendar year.
CHAIRMAN MEYER: Commissioners, do we have
a motion?
COMMISSIONER KIMBLE: Mr. Chairman?
CHAIRMAN MEYER: Commission Kimble.
COMMISSIONER KIMBLE: I move that we
authorize Tom to enter into the ISA with the Attorney
General's Office with the additional stipulations that
the director has enumerated today.
COMMISSIONER CHAN: I would second that
motion.
CHAIRMAN MEYER: And just to clarify, that
motion is for $172,000?
COMMISSIONER KIMBLE: Yes, Mr. Chairman.
CHAIRMAN MEYER: Okay. We've had a motion
and a second to authorize Mr. Collins to enter into an
ISA for $172,000 with the Attorney General's Office.
All in favor say aye.

(Chorus of ayes.)
CHAIRMAN MEYER: Any opposition?
(No response.)
CHAIRMAN MEYER: Motion carries 4-0.
COMMISSIONER KIMBLE: Yes, Mr. Chairman.
CHAIRMAN MEYER: Okay. We've had a motion
and a second to authorize Mr. Collins to enter into an
ISA for $172,000 with the Attorney General's Office.
All in favor say aye.

STATE OF ARIZONA     )
COUNTY OF MARICOPA   )
BE IT KNOWN the foregoing proceedings were
taken by me; that I was then and there a Certified
Reporter of the State of Arizona, and by virtue thereof
authorized to administer an oath; that the proceedings
were taken down by me in shorthand and thereafter
transcribed into typewriting under my direction; that
the foregoing pages are a full, true, and accurate
transcript of all proceedings and testimony had and
adduced upon the taking of said proceedings, all done to
the best of my skill and ability.
DATED at Phoenix, Arizona, this 23rd day of
March, 2018.

LILIA MONARREZ, RPR, CR #50699
The State of Arizona
Citizens Clean Elections Commission

Public Session

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