THE STATE OF ARIZONA
CITIZENS CLEAN ELECTIONS COMMISSION

REPORTER'S TRANSCRIPT OF PUBLIC MEETING

Phoenix, Arizona
April 25, 2019
9:31 a.m.

COASH & COASH, INC.
Court Reporting, Video & Videoconferencing
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Certificate No. 50699
Public Meeting

Transcript of Proceedings

April 25, 2019

PUBLIC MEETING BEFORE THE CITIZENS CLEAN ELECTIONS COMMISSION convened at 9:31 a.m. on April 25, 2019, at the State of Arizona, Clean Elections Commission, 1616 West Adams, Conference Room, Phoenix, Arizona, in the presence of the following Board members:

   Mr. Mark S. Kimble, Chairperson
   Ms. Amy B. Chan
   Mr. Galen D. Paton

OTHERS PRESENT:

   Thomas M. Collins, Executive Director
   Paula Thomas, Executive Officer
   Mike Becker, Policy Director
   Alec Shaffer, Web Content Manager
   Aymee Salazar, Administrative Assistant
   Avery Oliver, Voter Education Specialist
   Mary O'Grady, Osborn Maledon
   Kara Karlson, AZ Attorney General's Office
   Joseph LaRue, AZ Attorney General's Office
   Mary Williams, AZ Attorney General's Office
   Ryan Wheelock, RIESTER
   Rivko Knox, AZ League of Women Voters

CHAIRMAN KIMBLE: Good morning. I'm going to call to order the April 25th, 2019, meeting of the Citizens Clean Elections Commission.

For sake of the record, why don't we have a roll call. And, I guess, I'll -- I guess, I'll call it.

Commissioner Chan?

COMMISSIONER CHAN: Here.

CHAIRMAN KIMBLE: Commissioner Paton?

COMMISSIONER PATON: Here.

CHAIRMAN KIMBLE: Is Commissioner Meyer on the phone?

MS. THOMAS: He is not.

CHAIRMAN KIMBLE: He is not.

MS. THOMAS: He may call in, though.

CHAIRMAN KIMBLE: Okay. And I'm Mark Kimble, and I am present, too. So we do have a quorum.

Item II, discussion and possible action on Commission minutes from March 28th, 2019.

Are there any comments on the minutes?

COMMISSIONER CHAN: I would move that we approve the minutes as written.

COMMISSIONER PATON: Second.

CHAIRMAN KIMBLE: It's been moved and seconded that we approve the minutes for the meeting of March 28th, 2019.

All those in favor say aye.

(Chorus of ayes.)

CHAIRMAN KIMBLE: Anyone opposed?

(No response.)

CHAIRMAN KIMBLE: The minutes are approved.

Item III, discussion and possible action on executive director's report and legislative report.

Tom?

MR. COLLINS: Yes. Commissioners, a couple of quick things I wanted to talk about.

First, we'd like to welcome Avery Oliver to our team. He has joined us as a voter education specialist. He has background working on candidate campaigns and legislative issues. He worked at the Secretary of State's Office. He's a United States Air Force veteran and is actually a published comic book author, and we're very excited to have him. He's already been both working on focus groups, and such, that Gina will fill you in on a little bit about later and out at some of our public events that, also, Gina will fill you about later, but he's jumped right in and that's -- and that's great.

On the -- on the personnel, sort of, front, for lack of a better way of putting it, I do want to mention that Kara Karlson, our counsel or co-counsel in our -- in our matters and, also, the Secretary of State's counsel or co-counsel, was nominated by the readers of the "Cap Times" as one of the five best political lawyers in Arizona. And one of the things that makes this particularly remarkable is that the "Cap Times" readership has been -- how do we say? Seemingly unwilling to nominate women candidates for this particular honor to be voted on.

And so it's very exciting for us to have an attorney we work with in that list, and it's also a good sign for, maybe -- you know, for, maybe, the capitol waking up to the fact that there's more diversity in the -- in the bar than people realize. So it's a very exciting honor for Kara, and we're happy about that.

We have local elections coming -- coming up in May. We'll -- and you see the registration deadlines there. We have the U.S. Term Limits matter on this agenda. And then with the AZAN v. State and Legacy Foundation Action Fund, there's really not a whole heck of a lot to report, except that, you know, they're in procedural -- they're in -- not procedural
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<td>limbo, but moving slowly through the processes to get</td>
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<td>some kind of appellate court.</td>
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<td>3</td>
<td>Yes?</td>
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<td>COMMISSIONER CHAN: Mr. Chairman, could I</td>
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<td>just -- regarding the personnel issue, could I just ask</td>
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<td>Tom a quick question?</td>
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<td>CHAIRMAN KIMBLE: Of course.</td>
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<td>COMMISSIONER CHAN: Tom -- Mr. Chairman,</td>
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<td>Tom, I -- you know, this is another meeting where we</td>
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<td>have two holdover commissioners who are -- who have</td>
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<td>11</td>
<td>served for over five years with no -- you know, no</td>
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<td>problem serving but -- but, you know, I think Governor</td>
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<td>Ducey needs to appoint somebody to fill Commissioner</td>
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<td>Titla's position.  And I think Secretary Hobbs has been</td>
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<td>advised that she needs to wait to fill Commissioner</td>
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<td>Meyer's position until Doug Ducey does his work.</td>
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<td>17</td>
<td>MR. COLLINS: Yeah.</td>
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<td>COMMISSIONER CHAN: And I just wanted to</td>
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<td>put this out there.</td>
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<td>20</td>
<td>Is there anything we can do as the</td>
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<td>21</td>
<td>Commission to encourage that?  Because I, frankly,</td>
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<td>22</td>
<td>think it's a dereliction of his duty that he's letting</td>
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<td>this go on for so long.</td>
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<td>MR. COLLINS: I would say this.  I mean, I</td>
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<td>think that, to the extent that this is, you know,</td>
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<td>within the announcements.  We have had informal</td>
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<td>conversations with staff members at the governor's</td>
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<td>office.  I certainly think that their main election</td>
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<td>expert in that office is aware.  I think it's -- I</td>
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<td>think -- I think there's -- there may be a combination</td>
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<td>of different reasons why.</td>
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<td>One of them is, perhaps -- and this is -- I</td>
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<td>don't know for a fact, but I will say that when</td>
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<td>Commissioner and former Chairman Titla was appointed,</td>
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<td>because, at that time, it had to be an out-of-county</td>
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<td>Democrat, it was very difficult to find someone to fill</td>
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<td>that -- that role.  And so it took a lot of effort on</td>
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<td>behalf of -- we even got us -- we even had staff</td>
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<td>involved.  We had all kinds of people involved in</td>
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<td>trying to just come up with applicants.  So it's not an</td>
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<td>easy seat to fill.</td>
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<td>I don't know what the -- what the strategy</td>
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<td>is, you know.  I think that we won't reach a crisis</td>
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<td>point until either Commissioner Titla or Commissioner</td>
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<td>Meyer resign because I -- because, you know, our</td>
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<td>understanding of the holdover provisions of the -- of</td>
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<td>the background law are that they need to serve until</td>
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<td>they're replaced or they can quit.  And they haven't</td>
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<td>done that yet.</td>
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<td>So if they were to do that, it would put a</td>
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<td>lot of pressure on the remaining -- on the three of you</td>
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<td>to have to be here at every meeting to get a quorum.</td>
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<td>So, you know, it's a thing where we can't push the</td>
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<td>governor to do something that he doesn't care about</td>
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<td>because it does -- it's just -- it's just harder.  What</td>
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<td>we might be able to talk about is, at another time and</td>
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<td>maybe at another meeting, is what the Commission or a</td>
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<td>commissioner might do to discuss it with the governor's</td>
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<td>office, rather than staff.</td>
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<td>I mean, as staff members, we are not --</td>
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<td>we're not in a position to -- we don't want to -- we</td>
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<td>don't -- we're not -- we don't have the same stature to</td>
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<td>make a statement along the lines that you made because</td>
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<td>we're staff.</td>
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<td>15</td>
<td>COMMISSIONER CHAN: Sure.  Mr. Chairman,</td>
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<td>Tom, I totally -- and don't disagree with what you're</td>
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<td>saying.  I understand that we have two commissioners in</td>
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<td>place who are holdovers and they're willing to do that,</td>
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<td>but at the same time, I frankly don't think it's fair,</td>
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<td>when the governor has a duty to make this appointment,</td>
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<td>to continue to burden Commissioner Titla who -- and,</td>
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<td>22</td>
<td>again, I understand, you know, out of county, there's</td>
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<td>fewer people who may be able and willing to serve</td>
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<td>because it is a burden to drive in.  I mean, I'm very</td>
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<td>lucky.  I live here in Maricopa County.  It's easy for</td>
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MR. COLLINS: -- report.

CHAIRMAN KIMBLE: Oh, yes, yes.

I'd like to highlight a few points in the executive director's report, Mr. Chairman, if I could, before we move on from the little ridiculous, we wouldn't be meeting. So, yeah, this has gotten a meeting here. If one of us hadn't driven from Tucson, if two of us hadn't driven from Tucson, we wouldn't be here.

Today's meeting illustrates how tenuous our quorum is. Chan. I totally agree with everything you said. And I know Governor Ducey probably doesn't -- you know, I was Governor Brewer, even -- how long did Scaramazzo hold over? Who was governor then? Napolitano? Governor Napolitano. No one has pressed that ten-day thing.

COMMISSIONER CHAN: Sure.

MR. COLLINS: At some point --

COMMISSIONER CHAN: Ten days may be unreasonable, I mean --

MR. COLLINS: Well -- yeah.

COMMISSIONER CHAN: But I'm sure it makes sense to have something in statute, but I think, you know, a year and a half is a little excessive.

MR. COLLINS: At some point -- right. At some point -- yeah. At some point -- at some point, it becomes an issue between Secretary Hobbs and the governor, but we can certainly weigh in on that. And we can talk about that. You know, maybe you and I can talk about it.

COMMISSIONER CHAN: Sure.

MR. COLLINS: We can figure out how to do it.

CHAIRMAN KIMBLE: Yes. No, I wasn't going to move on.

MR. COLLINS: Okay. Sorry. I didn't mean that.

COMMISSIONER CHAN: Okay.

MR. COLLINS: The -- sort of some of the issues that -- the biggest issue that's developing this morning is probably, I believe, sometime around 10:00, the Senate goes to the floor. The Bill 2427, which we believe is a -- has a lot of problems in it, but the top line problem is it is a bill that, by its terms and even as they added an amendment that the Free Enterprise Club wrote to try to alleviate the VPA concerns, but it doesn't -- it expands --

CHAIRMAN KIMBLE: If I could interrupt you.

What bill are you talking about?

MR. COLLINS: 2427.

COMMISSIONER CHAN: What page is it?

MR. COLLINS: 2427.

CHAIRMAN KIMBLE: 2724.

MR. BECKER: 2724.

COMMISSIONER PATON: He's making you work.

What bill are you talking about?

MR. COLLINS: 2427.

CHAIRMAN KIMBLE: 2724.

MR. COLLINS: 2724.

CHAIRMAN KIMBLE: 2724.

MR. COLLINS: I'm sorry. It's on page 7.

CHAIRMAN KIMBLE: Okay.

MR. COLLINS: Sorry.

CHAIRMAN KIMBLE: I'm sorry. Okay. Thank you.

COMMISSIONER PATON: He's making you work.

MR. COLLINS: Yeah, I apologize. I can't -- numbers are -- bill numbers are tough.

So it's going to go -- so the bottom line is we have serious Voter Protection Act concerns. There are other concerns that this raises on due process and a variety of other issues. More importantly -- but, most importantly, it's moving in the House. It's in the Senate. It's on cal. It will likely be amended and have to go back to the House. So we will see what happens with that, but, you know, the Free Enterprise Club and Representative Biasiucci, basically, their position is that Prop 306, despite its language and the language of the question posed to voters, allows the legislature with a simple majority to move any changes to the process of taking matters to the voters, and it's a -- has a lot of problems in it, but the top line problem is it is a bill that, by its terms and even as they added an amendment that the Free Enterprise Club wrote to try to alleviate the VPA concerns, but it doesn't -- it expands --

GRAEC related to Clean Elections that it wants to. And that's not how the Voter Protection Act says go in order, and it says the order should be executed within something, like, ten days after the vacancy. Historically, nobody -- and you know, whether it was Governor Brewer, even -- how long did Scaramazzo hold over? Who was governor then? Napolitano? Governor Napolitano. No one has pressed that ten-day thing.

COMMISSIONER CHAN: And I appreciate that.

MR. COLLINS: We can figure out how to do it.

COMMISSIONER CHAN: Sure.

MR. COLLINS: Sorry.

CHAIRMAN KIMBLE: I'm sorry. Okay. Thank you.

COMMISSIONER PATON: He's making you work.

MR. COLLINS: Yeah, I apologize. I can't -- numbers are -- bill numbers are tough.

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CHAIRMAN KIMBLE: Thank you, Commissioner Chan. I totally agree with everything you said.

Today's meeting illustrates how tenuous our quorum is. If two of us hadn't driven from Tucson, we wouldn't be meeting here. If one of us hadn't driven from Tucson, we wouldn't be meeting. So, yeah, this has gotten a little ridiculous.

MR. COLLINS: Before we move on from the executive director's report, Mr. Chairman, if I could, I'd like to highlight a few points in the legislative --
1 the Free Enterprise Club, which he said made it not
2 amendatory, which I'm not sure why -- I mean, it really
3 can -- but then he admitted in the next -- in the next
4 rules meeting that it was reasonable to argue it
5 violated the VPA still.
6 So -- you know, so the vote is what the
7 vote is, will be what the vote is. And we'll see what
8 happens, but that's the most, quote/unquote, negative
9 thing we have dealing with that we know of right now.
10 And we don't know ever -- you know, going to cal
11 doesn't necessarily mean anything. As I said last
12 time, you know, a lot of these times -- a lot of times
13 these things come out at the last minute.
14 A couple other bills of interest to
15 commissioners from previous meetings. Senate Bill 1188
16 is the bill that we talked about last month that has to
17 do with removing folks from the permanent early voting
18 list. You know, my understanding is that that is still
19 awaiting cal in the House, and it hasn't -- it hasn't
20 gotten out yet.
21 Senate Bill 10 -- that was on page 6.
22 Senate Bill 1090, which talks about emergency voting
23 procedures and board action, it basically says the
24 board of supervisors can determine the use of emergency
25 voting centers or location and hours of operation, and

1 there's a -- now will be a standard for what's an
2 emergency. This is a law proposal that emerges from
3 the view of some that counties, particularly the bigger
4 counties, have been using emergency voting as
5 supplemental -- as supplemental election early voting.
6 And the governor in his -- wrote a signing
7 letter where he basically said, look, I think this is
8 the right thing to do to have a standard process in
9 every county. And he said -- and he also said, you
10 know, if you want to have a conversation by expanding
11 the early voting, let's have that conversation
12 separately.
13 And so some of the -- and then, you know,
14 some of the more -- I think those are some of the big
15 ones. You know, a couple of them got -- a couple of
16 the bigger ones we talked about earlier in the session
17 just did not make it out of the Senate, and I think
18 those are the highlights. We tried to make sure we
19 captured as many of the -- some of the other voting
20 bills that are not necessarily Clean Elections bills in
21 this -- in this list that Mike -- Mike pulled this
22 together and did the research. So we try to capture as
23 much of that as we can.
24 So -- I don't know. If there's any
25 questions about any of those bills or any of the bills

1 you might have heard about that you want to ask, I'm
2 open to those questions.
3 CHAIRMAN KIMBLE: Does any member of the
4 Commission have any questions about any bills on the
5 legislature?
6 (No response.)
7 CHAIRMAN KIMBLE: Any other questions about
8 the executive director's report?
9 (No response.)
10 CHAIRMAN KIMBLE: Let me welcome Avery to
11 the -- to the Clean Elections team. I think all of us
12 have been pressing for quite a while to get a published
13 comic book author on the staff. I'm glad that we've --
14 we finally filled that spot.
15 MR. OLIVER: Thank you.
16 CHAIRMAN KIMBLE: And, Kara,
17 congratulations to you. I think it's not a surprise to
18 any of us that -- that you will receive this award.
19 Congratulations.
20 Item IV, discussion and possible action on
21 the voter education research and ongoing projects.
22 Gina?
23 MS. ROBERTS: Mr. Chairman, Commissioners,
24 good morning. I just have a very brief update for you
25 on just some voter education efforts that have been
MR. COLLINS: I also got to stand in my raincoat and the wind as the rain began to blow in. So I really -- I really feel like I'm qualified to be a weatherman, also.

COMMISSIONER PATON: You have a raincoat.

MR. COLLINS: Yeah.

MS. ROBERTS: We do have an election upcoming in May, and we will, again, have the Phoenix election for the city council candidates in Districts 5 and 8 that did not receive 50 percent plus one of the vote. There's also elections in Phoenix -- or excuse me -- Wickenburg, Chino Valley and San Luis. We -- again, going off of that success with the interview with the Phoenix City Clerk, we are making arrangements for Tom to have another interview with the Chino Valley clerk and their team, their staff. And so we'll be taking it from there.

COMMISSIONER PATON: I have a question.

CHAIRMAN KIMBLE: Yes, Commissioner Paton.

COMMISSIONER PATON: You have a raincoat.

MR. COLLINS: Yeah.

COMMISSIONER PATON: You have a raincoat.

CHAIRMAN KIMBLE: Yes, Commissioner Paton.

COMMISSIONER PATON: So the interview is seen where?

MS. ROBERTS: Online. And so we -- think of, like, a Facebook live video. It's similar to that, except we -- actually, we don't do it live. We record it and we edit it, and then we push it out on Facebook. And with that ability, we can target the ZIP codes for Chino Valley to reach those voters specifically. So we'll have it there. We can post it on our YouTube channel, but we also share it with the town themselves. So they have the ability to -- I know they have been working with some community groups in their areas. So they can use it as a resource, as well, whether they want to embed it on their website or, again, use it in their voter education efforts. So we provide the video to the jurisdiction, but we post it mostly on Facebook. That way we can target those voters directly.

COMMISSIONER PATON: And do we -- have we tried to get more publicity, like using PBS channels in Phoenix and Tucson for those kind of things?

MS. ROBERTS: Mr. Chairman, Commissioner Paton, that's a great idea. We can look at seeing if -- we would have to make sure that the video is filmed in a way that it could be broadcast-available. And so we can start to look at that as an option and explore and see if maybe those stations would pick it up and run it so we can reach the targeted area. That's a great idea. Thank you.

Okay. So we wanted to touch base on some research that the Commission has conducted the past few weeks. We held focus groups on April 15th and 16th and 17th, and we held nine focus groups. We had them here in Phoenix. We went to Tucson, and we went out to Flagstaff. And, in addition to focus groups, we will also be doing the statewide survey, as well, but we wanted to touch base and let the Commission know some of the takeaways that staff initially saw, just to let you know, you know, what we're hearing from voters.

And research is very critical to the voter education campaign that we have because it really tells us, are we meeting the needs of voters? Are we going in the right direction? Do we need to adjust our communication strategy and our tone and our messaging? So we have often conducted research in odd number of years, and we find it very critical to making sure that our messaging is on point. A few things that we wanted to share. We saw this in 2017, but we are still seeing the Google effect where, when we asked voters where are you going to get your information, they are going to Google. And they're basically looking at the first five links that pop up, and that's -- that's their resource. That's the source that they're going to. So, you know, that helps the Commission better understand our efforts, whether it is in paid search efforts or just in general search engine optimization, and how we're structuring our website and the tags that we have, the background information there. So that gives us some good information that we can go back and look at our efforts.

One thing that really stood out was bullets. So when we heard from voters, it was expressed that they don't have a lot of time to do the necessary reading to become an informed voter. And so whether or not that's the Voter Education Guide or the Secretary's publicity pamphlet, you know, oftentimes whatever the information that they are finding out on these websites, they are looking for information that is concise, that is easily adjustable.
1. And throughout the focus groups, we often heard the terms "bullets." So that, again, tells us that we need to be mindful of how we are preparing any type of written information and the format and that it's, you know, clear, to the point, concise and, again, to try to reach that request of bulleted information to really get the point across of what the issues are. And so that stood out to staff.

2. The other thing that stood out was sources of information. And, in particular, Clean Elections. So we know that voters, they want to know who is pushing this message out to voters, you know, who is the source of this information, whether it's a mailer or a TV ad, but the same applies to Clean Elections, as well, whether it's our voter education guide or maybe a commercial or something that we're running on Facebook. Voters want to understand who is the Clean Elections Commission that is trying to give me this information. And so that tells us that we need to look at efforts to ensuring that people understand the Commission is this five-member Commission, nonpartisan. You know, and it's unbiased information. And so we have to look at our efforts in ensuring that voters understand that this is coming from a source that is trustworthy, that does not have an agenda in trying to sway your vote. It's just here -- here are the facts and here are the resources that we provide to you.

3. And a lot of the -- one thing that really stood out to me was why your information and not others. And so, that is, you know, one of the things that we have to consider and, you know, try to overcome.

4. COMMISSIONER CHAN: Mr. Chairman, Gina.

5. CHAIRMAN KIMBLE: Commissioner Chan.

6. COMMISSIONER CHAN: So it's interesting because you were talking about the fact that they don't have a lot of time, which I totally understand, and yet we need to be able to give them information. At the same time, perhaps, it almost sounds like, but this is trustworthy information. And how do you explain that in a bullet point? So does that mean separately we need to do more outreach to just make the Commission more well known, or how do you do that?

7. MS. ROBERTS: Mr. Chairman, Commissioner Chan, that is a great question, and that presents the challenge that we have. The challenge in that we know that we need to connect and reach to these voters with very simple, direct information. You know, just think about that five, ten seconds to grab their attention, but also meet the goal of establishing what I would say is the brand of the Commission, the brand in that we are Arizona's Citizens Clean Elections Commission. We -- you know, we're brought forth by the citizens, and the information that we put out, it is nonpartisan. We are trying to give you the information that you need so you can make your informed decisions and your vote. And that is something that I feel like we have done more so than we have in the past few years. We have been doing that lately to, again, try to really solidify that brand of who the Commission is to voters, but I think you hit on something there.

8. COMMISSIONER PATON: So from that strategy and how can we accomplish some of these goals, but it is -- it is a challenge.

9. COMMISSIONER PATON: I have -- I don't know if it's a statement or a question.

10. CHAIRMAN KIMBLE: Commissioner Paton.

11. COMMISSIONER PATON: From this research are we, again, working with our partners RIESTER. They will be providing an analysis of the focus groups, and that will build into their recommendations to the Commission for our media strategy and how can we accomplish some of these goals, but it is -- it is a challenge.

12. MS. ROBERTS: Mr. Chairman, Commissioner Paton, that is -- that is doable. That is definitely something that can be accomplished. We do invest in paid search. So we ensure that links to the Clean Elections information is on that top page. We can make sure that we invest in that. And then, as far as developing videos goes, one thing that staff has been discussing that we would like to work with all of you on is to ideally set aside some time with each of the commissioners to film you and talk about who you are, your background and what your goals are for the Commission and, of course, doing, you know, some messaging for the Commission as a whole, as well, but we've really heard from these voters and this focus group.

13. One takeaway that we have is that they also
want to see the face to the name. That helps make it
more relatable and trustworthy, if you will. So it's
not just this faceless, non- -- you know, nonpartisan
Commission. They want to know who each of the
commissioners are and their background and, you
know, biography, things like that. So we are looking
at, hopefully, getting some time with each of you to
see how we can, you know, follow through on that and
present that to the voters, but definitely, we will be
looking at our plans to make sure that we are
continuing to invest in search and we do look at ways
to present the Commission in that manner.

COMMISSIONER PATON: I mean, as a little
aside, I drive up from Tucson when I come up, and
there's a billboard coming out this way somewhere
around Ray Road where it really slows down, and it
changes their ad. It's an electronic one, and maybe
something like that where people are parked on the
freeway and maybe something -- because it's short.
It's sweet, and it rotates amongst, I'm sure, five,
six, seven different messages. I don't know. That's
the one -- only one I've seen, but maybe there's others
around.

MS. ROBERTS: Mr. Chairman, Commissioner
Paton, I think we do have paid bill boards in our -- in
our plan for 2020, if I remember off the top of my
head. So we do have that as one of the tactics that we
will be exploring. We did that in 2016, and we found
those to be very successful, as well. So we will be
looking at continuing to utilize those. So, yes, great
suggestions and ideas there that we can explore.

COMMISSIONER PATON: I would think that --
because a lot of people aren't going to -- I mean, a
lot of people, maybe older people, may not do the
Google thing, but they would see that ad or something
on TV or something like that. And people don't know
what the Clean Elections Commission is, people that I
just meet, and you have to always explain what it is.
I don't know if you've come up with that,
as well. I mean, and these are people -- a lot of them
are educated. They just don't know. So if they don't
know, then, you know, the average person that's not as,
maybe, educated about our system, they're not going to
know, probably. So, anyway, anything to promote, you
know, non-partisan information because a lot of the
population is just jaded one way or the other. They
don't believe anything they read anymore, and that's a
shame.

MR. COLLINS: And all of you have done, at
one time or another, you know, some kind of -- you
know, Commissioner Paton did an interview with Cronkite
News about the Commission. Chairman Kimble was -- will
be on Arizona Illustrated on Friday, I believe.

CHAIRMAN KIMBLE: I'm not sure, but yes. I
did it yesterday.

MR. COLLINS: Yeah, yeah. And then
Commissioner Chan was on a weekend -- well, we taped a
weekend public affairs show on KTAR. So we have the
basis there. You all are remarkably good at dealing
with the press and stuff, in the first place. You have
an inherent ability to, like, be on camera and be --
and explain stuff.

So we want to -- we want -- we want to take
that and run with it because you guys really have a --
I shouldn't say "you guys." The commissioners really
have a -- have a -- you all, actually, are better,
maybe -- well, you're certainly better than me at
speaking in very plain terms about what we do. So
that's what we're trying to hit, I think.

MS. ROBERTS: Mr. Chairman, Commissioners,
that's great feedback. Thank you. We'll take that
back with our team as we continue to look at what our
strategy will be when we finalize it after all of the
research is completed.

A few other notes that we wanted to
highlight is that importance does not always equal
priority. So we often hear, across the board, voting
is important. Voters understand that, absolutely. It
is extremely important, but then when you look at the
time commitment and building that into my everyday
life, it is not always made the priority.

And so we have to look at bridging that
connection and encouraging people to take the time to
read the voter guide and to look at the website and to
educate yourself about the issues and the candidates,
to become an informed voter, to invest in that time
that it takes, and to really make it a priority in
their lives. And so that is something that we'll have
to tackle, as well.

And just two more thoughts here, the
sticker, the "I voted" sticker. A great term that I
heard for this is that it really is social currency.
And so when people on election day are getting that
sticker, they wear it. It's a badge of honor, and they
love that pride. The thing to remember, though, is the
majority of our state is voting early, and they do
not -- most counties, I believe, are not sending a
sticker along with an early ballot.

So we are -- you know, we have, in the
past, created a digital "I voted" sticker. So we have
1. to look at ways of, okay, how can we continue to build
2. on that social currency to inspire people to vote if
3. they are voting early. And maybe there's ways where we
4. can do a social media campaign, you know, share your
5. sticker, you know, a selfie with it, you know, that
6. type of thing. And so we'll be exploring options with
7. that.
8. COMMISSIONER CHAN: Mr. Chairman, Gina, do
9. you know why the counties don't send stickers?
10. MS. ROBERTS: Mr. Chairman, Commissioner
11. Chan, I believe it is the cost. I believe Maricopa
12. County has --
13. COMMISSIONER CHAN: Pays more?
14. MS. ROBERTS: It is upwards in the millions
15. of dollars to do so.
16. COMMISSIONER CHAN: Because it all adds up
17. over all those millions of ballots. Okay. Thank you.
18. MS. ROBERTS: And, finally, Mr. Chairman,
19. Commissioners, we have to -- and this is something that
20. we see all the time when we have this research, but we
21. have to continue to combat the distress in the citizens
22. and the system as a whole, and that is just, you know,
23. something that is ongoing. And we have to continue to
24. show voters that your one vote, your one voice is
25. important to the electoral process and that it can make

1. a difference and have an impact and that, you know,
2. it's directly attributed to democracy.
3. So we will continue to further analyze the
4. takeaways from this research, and we'll have a full or
5. comprehensive report on that. And then we'll dive into
6. our statewide survey, as well. And so, again, once we
7. get all of that information on our research, we will
8. then take a look at what our strategy has been and
9. adjust accordingly.
10. CHAIRMAN KIMBLE: Thank you very much,
12. Are there any questions from any of my
13. colleagues?
14. MS. ROBERTS: Mr. Chairman, I do have a few
15. more slides.
16. CHAIRMAN KIMBLE: Oh, I'm sorry. I'm
17. sorry.
18. MS. ROBERTS: No, that's okay. I'll go
19. quickly, I promise.
20. CHAIRMAN KIMBLE: I apologize.
21. MS. ROBERTS: I did want to let the
22. Commissioners know that staff has undergone an audit of
23. our website. If you'll recall, we've recently launched
24. a brand-new website in 2018, and so now, since it has
25. taken us through a statewide general election, we

1. wanted to take a step back and look at it and see,
2. okay, how did it perform? Did it meet our
3. expectations? What areas can we improve?
4. I'm very happy with the results of the
5. audit. Mostly what we have seen are the things that we
6. can do to improve, they're technical. They are things
7. that we can do immediately. Again, we are, overall,
8. very pleased with the performance of the website. I
9. just wanted to throw this out there and let you know
10. that our website is really our main source of
11. communication to voters. This is what we are driving
12. voters to when we are on paid social medial and ads and
13. TV ads and radio reads. We are taking everyone to our
14. website, and so it's critical that it is performing as
15. best as it can.
16. And that's why we wanted to take a step
17. back and do the audit of it. And so we're really happy
18. to see with how people are engaging with the sites, the
19. paths, that we look at everything from how they're --
20. you know, what their pathways are across the pages and,
21. you know, some behind-the-scenes stuff with our URL,
22. structures and ADA compliance. And so I'm really happy
23. with the turnout of the audit. We do have some
24. improvements that we can make, but it's very doable.
25. So, again, really excited to see that the website is

1. performing as we intended it to.
2. We do have a voter conference that we are
3. working on for this fall. It will be held on Saturday,
4. October 26th, at the Phoenix Convention Center. And so
5. this conference is going to be open to the public, and
6. I listed just a few agenda items here that we are
7. considering. It's everything from informing voters and
8. having sessions on the presidential preference
9. election, the primary and the general, but getting
10. into, you know, what's on my ballot in the 2020 and
11. workshops for voters, what's my to-do list as a voter,
12. and informing them how your vote is secured and the
13. life of the ballot.
14. And so this is something that I will be
15. contacting the commissioners about to put on your
16. calendar and, you know, encourage your attendance,
17. perhaps even teach a few classes. You know, some of
18. these, I think, you -- each of you have experience in.
19. And so I just wanted to put that on your radar. Staff
20. is working on preparing this.
21. COMMISSIONER CHAN: Mr. Chairman, Gina, so
22. that's for just our general population of voters?
23. MS. ROBERTS: Mr. Chairman, Commissioner
24. Chan, yes. It will be open --
25. COMMISSIONER CHAN: That's awesome.
MS. ROBERTS: We like to think of it in our mind as when we talk about Comic-Con, but we don't want to say Voter-Con, but Comic-Con. It's going to be this, you know, one day, large convention for every single voter to come down to. We're going to be working, you know, with our partners to promote it so voters are aware of it.

We do realize -- and we're hoping to have all 15 county recorders and election directors there and have booths available and exhibitions, as well as these main sessions and a keynote speaker. We do realize it is going to be centralized in Phoenix, and so once that conference is done, we will look at ways on how staff can bring it on the road to other counties, potentially. So, you know, maybe we can bring it to Tucson. We can bring it to Flagstaff in a smaller capacity, but we are hoping to have one large day of conference for any voter to attend free of charge. So we want to --

COMMISSIONER CHAN: That's great.

MS. ROBERTS: -- basically, the theme here is looking forward to 2020. We want -- 2020 will be a big election year, and we want voters to come down in the fall and start to be prepared for it. You know, get those, you know, voters registered as early as possible and make sure that they're informed and know what to expect going into that election year.

MR. COLLINS: The 2020 election year is going to be -- we're going to have the presidential primary, or presidential preference election. You know, how that works out, we don't really know yet, but that will be an important thing to inform people about. There's going to be some new laws, potentially. I mean, it's a really good opportunity. And, I think, as Gina said, it builds on the conferences we've held. We started with the county recorders. We expanded out to 501(c)s and other types of organizations that work with voters, both on the right and the left and, you know, so this is sort of bringing it home to --

COMMISSIONER CHAN: I love it.

MR. COLLINS: -- direct voters. So it's really exciting stuff that Gina and Alec and Avery and Dave are working on.

MS. ROBERTS: Mr. Chairman, Commissioners, I have just two more slides, I believe.

I just wanted to let you know that we are continuing our partnerships with the county recorders and the Secretary of State's Office. So, for example, we're working with Graham County right now to help them develop a Voter Education Guide for next year.

We're working with Pinal County. They are -- they are doing quite an investment in enhancing the voter experience in their county. They are looking at everything from securing a -- if you will, a food truck, but for voting. So a mobile truck where they can drive around the county for -- to serve as a voting center, registration center at events. And we are helping them in the branding of that, the design and the communications plan to let people know about it.

We can, potentially, build a feature into our app to help people, you know, track the truck, follow the truck so they can follow it in Pinal County and help them know where the truck will be for these events. And we, also, are hoping to get down to Yuma County. We were hoping to reach them last week, but we had to reschedule; but we want to go down there and talk to the Yuma County recorder. They have made some changes in developing an Election Advisory Commission and combining their elections and recorder's office together. So we wanted to go down there and chat with the recorder and, you know, just see, you know, again, how the Commission can continue to support our partners.

And, then, finally, we recently had a meeting with the Secretary of State and her team. They are -- they are doing quite an investment in enhancing the voter experience in their county. They are looking at informing voters about election security, and so there's, potentially, ways for the Commission, again, with our communication and voter education plan, to help support and amplify that message, as well. So we are continuing to work with our election official partners across the state.

COMMISSIONER CHAN: I love the idea of the food truck, but a voter food truck. I mean, that is so great. I want us to get some of those and take them around the state. That's awesome.

COMMISSIONER PATON: Tacos on one side and then registration on the other.

COMMISSIONER CHAN: Yes.

MR. COLLINS: The other thing that we came up in the course of the conversation with Pinal and talking to people who are representing the cities in Pinal -- and I don't know if they've connected, but we tried to connect them -- was, you know, it is the census here. So all of the cities, especially, are out there trying to get their voters to -- or their people, I should say, to make sure that they fill out their census information and that kind of thing.

So there's some synergy between what Pinal County is doing and what Maricopa -- the city of Maricopa is interested in, and so there may be -- that
I'm really happy to say that now, having a published academy that I went to for Flinn Brown, which they are "having a convention, and they have asked me to talk to them, so we have some great takeaways from there just to help us in our efforts. I am wrapping up a civic leadership training and development. And staff has been attending several outreach with high schools. We've had an invitation from a high school in Yuma to come down and talk, and we'll continue to work with our partners at community colleges and such organizations.

And we are, also, preparing, again, for the presidential debates going to look like? [sic] Paton has had that we were able to work through last year and what we found successful and looking at, okay, should, perhaps, our primary debates have a different format than our general debates? What are the presidential debates going to look like?

We're doing some research now to see how we can better improve them and, also, look back at our surveys. And we're looking at enhancements that we can make to the voter guide. A lot of great information came out from the focus groups that we feel can influence some changes that we can make in the voter guide and then, overall, our communication strategy.

There is some fun and exciting. And we usually get a -- have a great time with the students out there and educating them and getting them registered. And I put a copy of something that we're working on right now that Avery has developed. It's a little pledge card. So when we are going to high schools and talking to, maybe, these students that can preregister, if they're 16 and a half, 17, we're also going to be leaving them with a pledge card for them to, you know, think about, now, why do you want to vote? Why are you pledging to vote? What is important to you? So when they do turn 18 and they are able to cast that ballot for the first time, they can look back at that card and, you know, remember what is important to them.

And staff has been attending several trainings throughout the year. So far Alec and I have attended the Government Social Media Training, and we have some great takeaways from there just to help us in our efforts. I am wrapping up a civic leadership academy that I went to for Flinn Brown, which they are having a convention, and they have asked me to talk about our award that we won for the mural and the wings. So that's exciting to share that with that large group of civic leaders in the state.

And then staff will be attending an election officials conference, election officer certification and recertification training from the Secretary of State's Office and an election law CLE refresher course. So we have that coming up for staff training and development.

And all of this is culminating to our preparation for 2020. We are looking at our debate format, looking, you know, how can we partner with some of the schools and some of the ideas that Chairman [sic] Paton has had that we were able to work through last year and what we found successful and looking at, okay, should, perhaps, our primary debates have a different format than our general debates? What are the presidential debates going to look like?

We're doing some research now to see how we can better improve them and, also, look back at our surveys. And we're looking at enhancements that we can make to the voter guide. A lot of great information came out from the focus groups that we feel can influence some changes that we can make in the voter guide and then, overall, our communication strategy.
well -- in having meetings with them to host our
Commissioner Paton -- and you were involved in that, as
When we had our debates, we did work with
districts.

specifically.  We can look at contacting their school
more on-the-ground outreach in Pima County
really have the staff to break apart on that one day to
ASU on National Voter Registration Day.  We don't
over the years in that we've focused on being solely at
we've done with ASU is just, kind of -- it's developed
their classes all day long.

wanted us to come out and talk to every single one of
Gila Ridge High School in Yuma County
during Constitution week and they want Clean Elections
come out.  Pima College, I would think.
chairman of the department or something at both U of A
and while it's great that they can look on the website
and reach out to you, I don't know that a lot of them
to look on the website and reach out to you.

idea -- or Pima Community College is a great idea
because they have historically served as a location for
our debates.  So we do have that relationship with
them, and we can reach out to them and see if there's
an opportunity for staff to come down there and address
some of the students and their classes.

Chairman Kimble: Okay.
COMMISSIONER PATON: Maybe, like, the
political science majors or the -- you know, the
chairman of the department or something at both U of A
and Pima College, I would think.

MR. COLLINS: Commissioner Kimble, can you
do.  We can come out to your students and talk.  We
can come out to your universities and talk.  And so our
goal is -- now that we have our additional team member
is to -- one of Avery's focus will be to do more
outreach on our end in contacting them.

What we've been doing in the past is -- and
it's worked out really well because folks tend to come
to us, which is great.  Last year we had a lot of
community colleges reach out to us, and maybe it's
during Constitution week and they want Clean Elections
come out.  Gila Ridge High School in Yuma County
wanted us to come out and talk to every single one of
their classes all day long.

And so we can -- and our partnership that
we've done with ASU is just, kind of -- it's developed
over the years in that we've focused on being solely at
ASU on National Voter Registration Day.  We don't
really have the staff to break apart on that one day to
handle multiple events, but we can definitely look at
more on-the-ground outreach in Pima County
specifically.  We can look at contacting their school
districts.

When we had our debates, we did work with
Commissioner Paton -- and you were involved in that, as
well -- in having meetings with them to host our
1 that we've been working through. And although -- and,
2 basically, I recommend that we go into executive
3 session to try to -- to discuss and get -- receive
4 legal advice about some of the issues that the
5 referendum, as written, raises.
6 COMMISSIONER CHAN: Mr. Chairman?
7 CHAIRMAN KIMBLE: Okay. Commissioner Chan.
8 COMMISSIONER CHAN: I would move that we go
9 into executive session for the purpose as stated by
10 Tom.
11 CHAIRMAN KIMBLE: Is there a second?
12 COMMISSIONER PATON: Second.
13 CHAIRMAN KIMBLE: All those in favor of
14 going into executive session say aye.
15 (Chorus of ayes.)
16 CHAIRMAN KIMBLE: Anyone opposed?
17 (No response.)
18 CHAIRMAN KIMBLE: Okay. We'll go into
19 executive session.
20 (Whereupon, the Commission goes into
21 executive session at 10:22 a.m.)
22 (The following section of the meeting is in
23 executive session and bound under separate cover.)
24 ///
25 ///

11:08:13-11:10:05  Page 48
1 close and had the wrong -- you know, characterized the
2 violation may have occurred stage, we think that under
3 the Arizona Case Committee for Justice in Fairness, as
4 well as under the Commission's statutory role under
5 16-958, 16-941(D), that they do, in fact, qualify as
6 express advocacy, given their timing to the campaign,
7 their dependency on the election as a -- as a basis for
8 the action and -- and the portrayal of the candidates,
9 all of which is consistent with both, we think, CJF
10 and, frankly, WRTL, but more importantly CJF, which is
11 the Arizona controlling case.
12 As you can see, Mr. La Sota, who represents
13 U.S. Term Limits, and I have agreed to let him submit
14 his legal brief on the reason to believe as his
15 supplement here because the issues overlap.
16 As far as what I think might not be
17 relevant, but might be exculpatory, you know, I did
18 note in my memo that USTL has, at least nominally,
19 continued to have a presence in Arizona at the
20 legislature. That doesn't necessarily discount -- and
21 I don't think it does discount mailers during the
22 election process, but it, at least, acknowledges that
23 this was part of -- at least looks like it was part of
24 a longer process. But when it comes to the election
25 process, you know, those mailers were too tight, too

1 page 18 and 19 of your materials.
2 those, they're at page -- they're at page 13 and
3 page 18 and 19 of your materials.
4 on the language used and the way
5 that the mailers were set up -- and if you look at
6 those, they're at page -- they're at page 13 and
7 page 18 and 19 of your materials.
8 and, well, one of the persons, again, for whom the
9 mailer was sent wasn't even in office. WRTL, when it's
10 talking about what constitutes genuine issue advocacy,
11 as opposed to electioneering, specifically uses the
12 phrase "public officials."
13 So the -- and this is the footnote at
14 page 7 of your materials. And so it's not clear to me, no,
15 although respondents argue that the fact that the
16 mailer on behalf of Mr. Ferrell was simply urging him

11:06:17-11:08:06  Page 47
1 * * * * *
2 (End of executive session. Public meeting
3 resumes at 11:06 a.m.)
4 CHAIRMAN KIMBLE: Okay. We are back,
5 finally.
6 Item VI, discussion and possible action of
7 whether there's probable cause to believe a violation
8 occurred in MUR 18-14 U.S. Term Limits, Inc.
9 Tom?
10 MR. COLLINS: Commissioners, we're here
11 today on this matter to determine whether or not there
12 is probable cause to believe that the respondent here,
13 which is U.S. Term Limits, Incorporated, a nonprofit
14 corporation based in Washington, failed to file two
15 specific reports related to legislative candidates in
16 District 24.
17 As a -- as a preface, I want to mention
18 that the courts have been working to get to the bottom
19 of this process. There are other potential mailings
20 that we are still exploring, which is why the memo
21 maintains that the investigation remains open. We
22 think that if you look at the language used and the way
23 that the mailers were set up -- and if you look at
24 those, they're at page -- they're at page 13 and
25 page 18 and 19 of your materials.

11:10:10-11:12:08  Page 49
1 close and had the wrong -- you know, characterized the
2 positions of the candidates, all the checkboxes that
3 are in 16-901.01(B)(2), which is laid out on page 5 of
4 my memo, which is page 5 of your materials, as well.
5 In fact, USTL conceded all of the elements,
6 except for is this express advocacy, in their -- in
7 their initial response. So I think, given all of that,
8 it's -- it's clear to me that there is probable cause
9 to believe that, at least with respect to those two
10 mailers, there is probable cause to believe that the --
11 that the Act was violated.
12 I think that -- a couple of other points I
13 wanted to make, sort of -- they're footnote points, but
14 they're important. One of the issues that came up and
15 it's -- we have complaints from -- and responses
16 from the complainant, who's represented by Andy Gaona
17 about, well, one of the persons, again, for whom the
18 mailer was sent wasn't even in office. WRTL, when it's
19 talking about what constitutes genuine issue advocacy,
20 as opposed to electioneering, specifically uses the
21 phrase "public officials."
1 didn't use --
2 the thing.  In other words, his logic comes back to we
3 election is so narrow because we know magic words isn't
4 thing.  In other words, his logic comes back to we
5 didn't use --
6 in this part, my logic comes back to we
7 for the fact that the definition of winning an
8 election is so narrow because we know magic words isn't
9 the thing.  In other words, his logic comes back to we
10 didn't use --
COMMISSIONER CHAN: Okay.

MR. COLLINS: On page 15, we start with Marcus Ferrell and President Obama agree. Again, we've had cases where -- we've had cases where disagreement with -- juxtaposition with President Obama itself has been one of the factors that we've considered.

In this particular case, this is a democratic-dominated district, and associating Mr. Ferrell, who's not in office, with President Obama, you know, is designed to trigger a specific thing. In other words, it's not -- and it's not about anything -- about term limits. You know, the call to action is arguably thank you for protecting our democracy, but this also says that Marcus Ferrell will support legislation for term limits on the members of Congress, which reflects on specifically what his platform is.

COMMISSIONER PATON: And?

MR. COLLINS: What?

CHAIRMAN KIMBLE: Commissioner Paton?

COMMISSIONER PATON: And then on page 19, it says Ken Clark -- and then in all caps -- voted against.

MR. COLLINS: Right.

COMMISSIONER PATON: I mean --

MR. COLLINS: So when you take that highlighting of the two candidates' records together with the lack of a legislative session and the -- you know, the issues that are at hand, they're clearly trying to -- they mailed these out in a manner that there are two sides of a pair. And both sides, if you read them together, clearly they're attempting to get people to reflect favorably on Mr. Ferrell and reflect negatively on Mr. Clark.

I think that the -- in the -- in the memo, we outline that -- that -- we wrapped that up by saying they're both expressly driven by the electoral process and holding candidates accountable to it. I think that's a safe and fair reading of the documents you have in front of you and, therefore -- and this is a test -- they're functionally urging voters to vote for or against the candidates. And that's the CJF test.

And I -- and, as I say, I think that to suggest that, you know, this, quote/unquote, wasn't -- this communication had nothing to do with, quote/unquote, winning an election boiled down to -- boils down to, unless it has magic words, it's not. I mean, there's no -- you know, there's generally no -- you know, you have to establish that there is no other meaning that is reasonable, other than as an electioneering communication.

And I think that if you take these in actual context, the thing that's not reasonable is to read these as classic issue advertisements based on their timing, the juxtaposition of the records, and the -- I mean, and just to cite, but not quote, CJF, you know, which involved an ad that said -- that criticized Tom Horne as superintendent while he was running for AG: Advertisement unambiguously about a candidate for the office run immediately before the election but criticizing prior actions did expressly advocate defeat. So certainly, with respect to Ms. Clark, that is CJF. With respect to Mr. Ferrell, well, it as sure as heck is not WRTL because he's not a public official. And I think, in context, you know, he's going to vote for term limits is -- you know, it's not criticizing prior actions, but it's promising voters further actions. And I don't see those two sides of the coin being -- being distinguishable enough to determine that it's reasonable.

So, in other words, my conclusion is that that -- the -- you know, since the question is no other reasonable meaning, the first -- that presumes that it's not electioneering, first. U.S. Term Limits comes back and says, well, this isn't electioneering.
1 know, the U.S. Term Limits has been around for 30 years. They're -- you know, the reason we don't have Term Limits in the congressional level is because U.S. Term Limits lost a case in the supreme court. That was close to 30 years ago. I mean, this is an established group.

2 So, you know, I just don't -- you know, I just don't -- I mean, I'm not sure how purposeful this was by them, but -- if they were getting advice in D.C., as opposed to Arizona. There's all kinds of ways this could have happened, but the point is we're not trying to delve into anything other than mailers and the cost of mailers and the timing of mailers. We're not interested in, you know, who funds CJ --

3 MR. COLLINS: -- Term Limits. I mean, we're just -- that's just not even on the table.

4 CHAIRMAN KIMBLE: So, Mr. Collins, can you explain to me why is it Mr. La Sota opted not to discuss this?

5 COMMISSIONER CHAN: I was just going to ask that.

6 MR. COLLINS: Well, you know, it's complicated. We have been working on a -- I think I can say this without a problem. We've been working on a conciliation, as we always do. Those conversations have not come to fruition yet, although we are getting to where we need to get. It's just taking a long time. I've expressed to Mr. La Sota -- if I can -- sorry. I need -- you know, I have lawyers, too.

7 I would say this. We're working with Ms. La Sota.

8 CHAIRMAN KIMBLE: Okay.

9 MR. COLLINS: I think Mr. La Sota is not here because he's waiting -- he's trying to get -- I can't speak for him, but given what we've been doing, I think maybe he doesn't think it's necessary. I informed him this morning that I intended to go forward with this, pending whatever else we're able to work out. He has not requested any stay from -- with respect to me or Paula or anybody. I don't think we've heard from him, other than my conversations around the efforts to resolve the matter.

10 MS. THOMAS: No, sir.

11 MR. COLLINS: So -- and I have some specific -- I have a specific request if we do -- if you were to conclude there was probable cause to believe that relates to the timing of that working that out, and I don't know if you would like to know that now or after you might have voted. I'm open to either.

12 CHAIRMAN KIMBLE: We might as well talk about it now.

13 MR. COLLINS: Okay. So -- so what I -- what I propose we do is if three of you -- and we need three people for this -- agree that there's probable cause to believe, at least on the two mailers we're looking at in this case, I would -- I would recommend two things. Number 1, you'll notice I did not make a penalty recommendation on this yet.

14 So I would recommend and I would move, for lack of a better way of putting it, for if you were to find that an immediate stay of the order. So the order is in place, but we stay the order for a month. We don't -- and we -- and then we deal at the end of -- next month we deal with any penalties or, potentially, any resolution short of that. I recommend that because this has been on the agenda now for three months running, and I would like to make progress without jeopardizing the opportunity to resolve this in a way that can satisfy, I think, all of the public's interest and still be comfortable for you.

15 And I think that's possible, I really do, but that's -- but, on the other hand, I'm not -- you know, my judgment bringing this before you today was, having put this on the agenda three times, we need to put some -- some -- something out there to say, look, we're moving forward. We'll do the -- if we stay, you know, we get a little time, but then he -- then, presumably, everyone will recognize that we have -- we're serious. We've taken that step.

17 CHAIRMAN KIMBLE: So if you negotiate with him and if something comes of this, you would come back with a specific recommended amount.

18 MR. COLLINS: Oh, yeah, absolutely.

19 CHAIRMAN KIMBLE: Okay.

20 MR. COLLINS: Absolutely.

21 CHAIRMAN KIMBLE: One other question I have is you said there were -- you are looking at other mailers.

22 MR. COLLINS: Uh-huh.

23 CHAIRMAN KIMBLE: But in your memo you say, I recommend the Commission find probable cause that the respondent violated the Act in regards to the mailers addressed in the complaint initiating this matter.

24 MR. COLLINS: Yeah.

25 CHAIRMAN KIMBLE: So what's going to happen to the other mailers?
11:29:06-11:30:13
1 that would be overlooked as part of a settlement
2 agreement to get right to it?
3 MR. COLLINS: That would be my goal.
4 Otherwise -- otherwise, I mean, without getting too
5 deeply into the procedural things and things I don't
6 want to scare anybody about but, you know, otherwise,
7 we get into -- we have not issued a subpoena to USTL,
8 for example. So far all the information we've gotten
9 has been voluntarily disclosed. And I'd like to
10 maintain that relationship as much as possible, but if
11 we get to a place where we feel like we're getting, you
12 know, real assurance, as opposed to lawyers juggling
13 their schedules and all this other stuff, you know, I
14 mean, we -- that may -- that's going to be the option,
15 but I can tell you that it is clear there were other
16 mailers.
17 U.S. -- you know, that's absolutely clear.
18 In fact, I received two of them myself not related to
19 the two candidates here. So, essentially, out of the
20 reasonable cause and compliance order, we said, you
21 know, give us everything -- give us everything. Give
22 us everything you mailed is what we said in the
23 compliance order, and we did not receive that -- we
24 didn't receive really anything as a result of the
25 compliance order, although we have continued to --

11:30:18-11:31:05
1 I'll ask our attorney -- sorry -- to do that, as well
2 as stay any final determination? Would it be --
3 MS. WILLIAMS: I'd probably do two.
4 COMMISSIONER CHAN: Two? Okay. And so the
5 first one would be about whether or not there's
6 probable cause.
7 MS. WILLIAMS: Yes.
8 COMMISSIONER CHAN: And assuming we all
9 agree that there was, which maybe we don't, then I
10 would say, perhaps, move to stay the final
11 determination until next month to give the executive
12 director --
13 MS. WILLIAMS: Correct.
14 COMMISSIONER CHAN: -- an opportunity to
15 finalize with the respondent.
16 MS. WILLIAMS: Yes. That would be my
17 advice and guidance to do that.
18 COMMISSIONER CHAN: Okay. Thank you.
19 COMMISSIONER PATON: I have a question.
20 CHAIRMAN KIMBLE: Thank you.
21 Commissioner Paton?
22 COMMISSIONER PATON: So what do we have to
23 do to compel them to give us the other fliers?
24 MR. COLLINS: You know, without getting too
25 far into what's still, sort of, on the investigative

11:31:09-11:32:55
1 because he would have to come into compliance.
2 Right? But we have continued to work with
3 Mr. La Sota on an amicable resolution, and that's part
4 of the reason we haven't broken out subpoenas and all
5 the other stuff.
6 CHAIRMAN KIMBLE: Okay. And I don't know
7 if this is proper to say. There's enough lawyers here
8 who, I think, would stop me if it isn't, but it seems
9 to me that if there is a resolution and a financial
10 penalty agreed to, that there should be some thought
11 that this penalty may only apply to these mailers, but
12 you did other stuff, too, that we know about.
13 MR. COLLINS: Yeah.
14 CHAIRMAN KIMBLE: And that there ought to
15 be some way to take that into account even if it's not
16 specifically enumerated.
17 MR. COLLINS: That's our --
18 CHAIRMAN KIMBLE: And maybe you don't need
19 to respond to that but --
20 COMMISSIONER CHAN: Mr. Chairman?
21 CHAIRMAN KIMBLE: Commissioner Chan.
22 COMMISSIONER CHAN: If I were going to make
23 a motion to -- for the Commission to find that there's
24 probable cause to believe a violation occurred in this
25 case, would I do -- could I just do a joint motion?
CHAIRMAN KIMBLE: Sure.

I'm sorry, Commissioner Kimble and Commissioners.

MS. WILLIAMS: Just for clarification --

CHAIRMAN KIMBLE: Any discussion?

COMMISSIONER PATON: Second.

CHAIRMAN KIMBLE: Is there a second?

MR. COLLINS: Yeah.

CHAIRMAN KIMBLE: -- for all the things

they did that didn't comply with our -- with our rules.

MR. COLLINS: That's definitely the goal.

Well, let me -- let me ask you this. I guess, the

other thing I have not asked for specific authorization

for -- and I'm not sure I have to, but I'd like to, I

guess, a third request or -- a third request -- we need

a taller thing for me. The third request --

CHAIRMAN KIMBLE: Or a shorter executive

director.

MR. COLLINS: Well, that's -- you know, is

it legal to put a height requirement on there? The --

I can think of some five-foot-six guys who would love

this job. Not as much as I love it, though.

I'm certainly -- look. Let me put it this

way. I would make a motion that the Commission

authorize me to issue subpoenas, if necessary, to

compel the production of documents. I mean, that's a

third motion, but I don't think there's anything in

the -- I don't think -- now, he can come back to you

and say quash this subpoena under the rules, but I

don't believe there's anything that prevents you from

authorizing me to issue subpoenas.

And sometimes we'd ask you to do that at

the reason-to-believe stage of that. So just to fully

equip me having to go in and dealing with that, I'm

perfectly happy to move and request that you, as a

third vote, authorize me to subpoena that information

about the remaining mailers.

CHAIRMAN KIMBLE: Okay. Any other comments

from commissioners? Questions? Anything?

COMMISSIONER CHAN: Mr. Chairman.

CHAIRMAN KIMBLE: Commissioner Chan.

COMMISSIONER CHAN: At this time, I'd like

to make a motion to -- that there is probable cause to

believe a violation occurred in MUR 18-14 U.S. Term

Limits, Inc.

CHAIRMAN KIMBLE: Is there a second?

COMMISSIONER PATON: Second.

CHAIRMAN KIMBLE: Any discussion?

MS. WILLIAMS: Just for clarification --

I'm sorry, Commissioner Kimble and Commissioners.

CHAIRMAN KIMBLE: Sure.
COMMISSIONER CHAN: And one more motion, Mr. Chairman, to authorize the executive director to issue subpoenas in the matter, if he deems it necessary, to finalize things with regard to this matter.

CHAIRMAN KIMBLE: Is there a second?

COMMISSIONER PATON: Second.

CHAIRMAN KIMBLE: Is that --

MS. WILLIAMS: Yes.

CHAIRMAN KIMBLE: Okay. All those in favor of that motion authorizing Mr. Collins to issue subpoenas, should he find it necessary, say aye.

(Chorus of ayes.)

CHAIRMAN KIMBLE: Anyone opposed?

(No response.)

CHAIRMAN KIMBLE: It passes three to nothing.

Thank you.

MR. COLLINS: That's all I have. Thank you.

CHAIRMAN KIMBLE: Okay. Thank you.

Item VI -- no. I'm sorry. Item VII, public comment.

Anyone have comments?

(No response.)

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CHAIRMAN KIMBLE: No? Adjournment.

COMMISSIONER CHAN: Oh, do I have to move?

MR. COLLINS: More for adjournment.

COMMISSIONER CHAN: I move that we adjourn, Mr. Chairman.

COMMISSIONER PATON: I would second that.

CHAIRMAN KIMBLE: All those in favor?

(Chorus of ayes.)

CHAIRMAN KIMBLE: We are adjourned.

(Whereupon, the proceedings concluded at 11:37 a.m.)

The State of Arizona Citizens Clean Elections Commission

Public Meeting

Min-U-Script®

The State of Arizona Citizens Clean Elections Commission

Transcript of Proceedings

April 25, 2019

Public Meeting

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Citizens Clean Elections Commission

Public Meeting
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