THE STATE OF ARIZONA
CITIZENS CLEAN ELECTIONS COMMISSION

REPORTER'S TRANSCRIPT OF PUBLIC MEETING

Phoenix, Arizona
May 30, 2019
9:30 a.m.

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The State of Arizona
Citizens Clean Elections Commission

Public Meeting
Transcript of Proceedings
May 30, 2019

P R O C E E D I N G

CHAIRMAN KIMBLE: Good morning. I call to meeting the May 30th, 2019, meeting of the Citizens Clean Elections Commission.

Item II, discussion and possible action on Commission minutes for the April 25th, 19 -- 2019 elections that are happening. We did an interview in last quarter with the City of Phoenix clerks about the City of Phoenix elections.

We are -- a couple of things. I don't know if we want to start at the top, but I do think, if you haven't had a chance to read Chairman Kimble's statement relating to the comments of some -- a couple of legislators at the end of the session, please take a look at that. You know, I think it's suffice it to say, that whatever subjective intent the members had, I think the language was -- somebody, I think, took it. I don't know if -- Chairman Kimble, if you needed to -- I think it was appropriate to make that statement.

And I don't -- I don't have anything to add to it. I don't know if -- Chairman Kimble, if you wanted to add anything more.

CHAIRMAN KIMBLE: The Chair votes aye.

COMMISSIONER PATON: Aye.

CHAIRMAN KIMBLE: Commissioner Meyer?

CHAIRMAN KIMBLE: Commissioner Paton?

CHAIRMAN KIMBLE: The Chair votes aye.

It's approved 4 to nothing.

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

Tom?

MR. COLLINS: Yes. Thank you, Mr. Chairman.

We are -- a couple of things. I don't know if we want to start at the top, but I do think, if you haven't had a chance to read Chairman Kimble's statement relating to the comments of a couple of legislators at the end of the session, please take a look at that. You know, I think it's suffice it to say, that whatever subjective intent the members had, I think the language was -- somebody, I think, took it. I don't know if -- Chairman Kimble, if you needed to -- I think it was appropriate to make that statement.

And I don't -- I don't have anything to add to it. I don't know if -- Chairman Kimble, if you wanted to add anything more.

CHAIRMAN KIMBLE: Commissioner Meyer?

COMMISSIONER MEYER: Aye.

CHAIRMAN KIMBLE: Commissioner Paton?

COMMISSIONER PATON: Aye.

CHAIRMAN KIMBLE: The Chair votes aye.

It's approved 4 to nothing.

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And I don't -- I don't have anything to add to it. I don't know if -- Chairman Kimble, if you wanted to add anything more.

CHAIRMAN KIMBLE: Commissioner Meyer?

COMMISSIONER MEYER: Second.

CHAIRMAN KIMBLE: Okay. Roll call vote.

CHAIRMAN KIMBLE: Commissioner Meyer?

COMMISSIONER MEYER: Second.

CHAIRMAN KIMBLE: Okay. Roll call vote.

COMMISSIONER CHAN: Aye.

COMMISSIONER PATON: Aye.

COMMISSIONER MEYER: Aye.

COMMISSIONER CHAN: Aye.

COMMISSIONER PATON: Aye.

CHAIRMAN KIMBLE: The Chair votes aye.

It's approved 4 to nothing.

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

Tom?

MR. COLLINS: Yes. Thank you, Mr. Chairman.

We are -- a couple of things. I don't know if we want to start at the top, but I do think, if you haven't had a chance to read Chairman Kimble's statement relating to the comments of some -- a couple of legislators at the end of the session, please take a look at that. You know, I think it's suffice it to say, that whatever subjective intent the members had, I think the language was -- somebody, I think, took it. I don't know if -- Chairman Kimble, if you needed to -- I think it was appropriate to make that statement.

And I don't -- I don't have anything to add to it. I don't know if -- Chairman Kimble, if you wanted to add anything more.

CHAIRMAN KIMBLE: Commissioner Meyer?

COMMISSIONER MEYER: Second.

CHAIRMAN KIMBLE: Okay. Roll call vote.

COMMISSIONER CHAN: Aye.

COMMISSIONER PATON: Aye.

COMMISSIONER MEYER: Aye.

COMMISSIONER CHAN: Aye.

COMMISSIONER PATON: Aye.

CHAIRMAN KIMBLE: The Chair votes aye.

It's approved 4 to nothing.
the Community Leadership Breakfast sponsored by the Phoenix Indian Center. We have -- Avery attended a meeting of the African-American Commission and -- and tomorrow Alec, Avery and Gina will be at the Native Vote Strategy Session.

MR. COLLINS: Okay. So -- and then we're working -- and we'll get into that when we get into the Graduation Campaign on -- on the internet. It's pretty cool. You can put a frame around your graduation picture and a reminder to vote, you know, if you're 18. So that was -- that was only put together relatively quickly, but we hope to expand on going in the future. We think it was a good -- a good pilot there.

And we'll be -- we're a co-sponsor of the Navajo Voters Coalition Voter Education Summit on June 8th. So we've been helping to encourage attendance, and my plan is to be -- I plan to be there on the 8th.

So -- and, then, we're doing -- later on today, we're doing a brief interview with one of the -- with one of the experts on what's been going on at the legislature just so voters know what they need to expect at the ballot coming -- coming up going forward.

We have the U.S. Term Limits matter on this agenda. I think both Mr. LaSota and Mr. Gaona got notice, right?

MS. THOMAS: Yes, sir.

MR. COLLINS: Okay. So -- and then we're working -- and we'll get into that when we get into the -- on the last day, bills could be introduced. There was a bill introduced, which we've been tracking, 2724, which had serious constitutional problems in it. We worked closely with the staffs of both houses, the majority staff and minority staff, to articulate those constitutional issues. We didn't actually -- bless you.

COMMISSIONER MEYER: Excuse me.

MR. COLLINS: You know, we did not spend a lot of time actually at -- physically at the capitol, though we did, this year, make a concerted effort to get out and meet more of the new lawmakers, as well as lawmakers who had changed chairmanships and that kind of thing. So we think overall this -- this was a quite -- this was a pretty successful legislative session, from our perspective.

COMMISSIONER PATON: I have a question.

MR. COLLINS: Sure, please.

CHAIRMAN KIMBLE: Commissioner Paton.

COMMISSIONER PATON: So, to me, the fact that we aren't able to have a lobbyist -- MR. COLLINS: Yeah.

COMMISSIONER PATON: -- may even be better because you're lobbying, right?

MR. COLLINS: Well, I would say this. With the strategy that Mike and I have developed -- and Mike is, really, the principal architect of -- is to say, look, we -- we're not in a position, really, where -- because, as you all know, the legislature is very ideologically divided on campaign finance issues. So we're not in a position to really convince anyone on a policy basis. You know, you either like what we do or you don't, but -- so we focused on talking -- on, essentially, speaking about the legal issues because those, to us, are black and white.

And so, yeah, we -- the one success -- the referendum that passed last year had a section we were able to get -- negotiate with the rules attorneys in the senate to have removed from the final piece of legislation. We're not in the position to really make anyone think that we aren't able to have a lobbyist --
1 think --
2 COMMISSIONER PATON: So you're, like,
3 effectively warning them of passing something that
4 would be dubious.
5 MR. COLLINS: That's exactly right,
6 Mr. Chairman, Commissioner Paton, and I think that
7 that's been a good strategy so far. We feel
8 comfortable with that, and it seems to -- it seems --
9 it seems to work. I mean, like, I think, both Mike and
10 I am more comfortable -- policy discussions don't
11 really get us anywhere but, you know -- you know, so we
12 really approach these things as legal issues more than
13 political issues, at this point. And I think that's
14 been helpful for the last couple of years. So I agree,
15 and so I think we're doing all right.
16 CHAIRMAN KIMBLE: Any other questions for
17 Mr. Collins on his executive director's report?
18 COMMISSIONER MEYER: I just have a quick
19 question, Mr. Chairman.
20 CHAIRMAN KIMBLE: Commissioner Meyer.
21 COMMISSIONER MEYER: On the Happy
22 Graduation Campaign, one, that's a great idea. I'm
23 always continually amazed at the creative ideas you
24 come up with to promote voter education.
25 MR. COLLINS: This was entirely 100 percent

1 Gina's idea. She literally walked into my office and
2 said, hey, why don't we do something for graduation?
3 So it was -- that was -- so all -- you know, all
4 compliments to Gina on this one.
5 COMMISSIONER MEYER: Great job. And I'm
6 just curious, is there a way to track how many --
7 COMMISSIONER PATON: I was going to ask.
8 COMMISSIONER MEYER: -- people are doing
9 that?
10 MS. ROBERTS: Mr. Chairman, Commissioner
11 Meyer, I just wanted to speak on the microphone so that
12 the reporter can hear me.
13 Yes, we track all of our campaigns. So we
14 will -- after -- the campaign is going to run for four
15 weeks total. So we have about three weeks left of it
16 to run, and once that ends, we will track the success
17 of it, the metrics, how many people -- you know,
18 impressions we got, how many people actually used it.
19 So, the frame that Tom mentioned, it says, "I
20 registered to vote."
21 We -- I think in the ED report, it
22 mentions, you know, we're targeting parents to say,
23 hey, when you're celebrating with your -- with your new
24 graduates, you know, present them with the voter
25 registration form as part of their present. So we can

1 track all of those posts that we have. It's a
2 completely digital campaign. So, yes, we would be able
3 to track the success for it.
4 COMMISSIONER MEYER: Can you -- is there,
5 like, email blast or anything you did, like, to send it
6 to school superintendents or stuff like that?
7 MS. ROBERTS: Mr. Chairman, Commissioner,
8 we -- I did send an email to the Public Information
9 Officer at the Department of Education about this. I
10 haven't received a response back yet. I just sent it a
11 few days ago. As Tom mentioned, we, kind of, did this
12 really quickly, so I'm hoping to get a response back
13 from them. We would have loved the opportunity to even
14 get Superintendent Hoffman down to the mural and get,
15 you know, her in front of the wings to help support
16 this and amplify this message because we have been
17 seeing a lot of Happy Graduation messaging coming out
18 of, you know, the teachers and the administrators.
19 So we do have that email out there, but we
20 can, also, follow up on it to see if they can, also,
21 send it out to the other administrators, as well.
22 COMMISSIONER MEYER: I think it's a great
23 idea. I mean, something you can do every year and just
24 build on it. So, well done.
1 sent -- we put out a recommended motion. Basically, what we're asking for is approval of the audits on A and B. Of course, Mike and I are willing -- or happy to take questions on those. And then, obviously, we are looking for authorization to do a more extensive audit on Candidate Speakman. So with that, I welcome any questions anyone has on the audits, and Mike and I are ready to answer any questions you might have.

2 CHAIRMAN KIMBLE: Any questions on these two audits?

3 COMMISSIONER PATON: I have a question.

4 CHAIRMAN KIMBLE: Commissioner Paton.

5 COMMISSIONER PATON: So, from what -- from reading the thing about the Candidate Speakman, did she turn anything in?

6 MR. BECKER: Mr. Chairman, Commissioner Paton, yes, the candidate did turn in some information to get the preliminary audit moving, but when the auditor went back to her asking for more information regarding bank statements, receipts, things like that, there was no response. We contacted her, several phone calls, emails. I emailed her. The auditor emailed her. The auditor called her. I called her. We sent her letters. In fact, I was even speaking with her father-in-law, who's also a candidate for the legislature, and he was trying to get her involved and still no response.

7 And so this is the next step to move forward and do a full audit and then see what information we can gather.

8 CHAIRMAN KIMBLE: Any other questions on these two audits?

9 (No response.)

10 CHAIRMAN KIMBLE: Do we have a motion on both or either audit?

11 COMMISSIONER MEYER: Mr. Chairman.

12 CHAIRMAN KIMBLE: Commissioner Meyer?

13 COMMISSIONER MEYER: Mr. Chairman, I move we approve the Hoffman and Speakman audits.

14 CHAIRMAN KIMBLE: Is there a second?

15 COMMISSIONER PATON: Aye.

16 CHAIRMAN KIMBLE: Second.

17 CHAIRMAN KIMBLE: We'll do a roll call vote.

18 Commissioner Chan?

19 COMMISSIONER CHAN: Aye.

20 COMMISSIONER CHAN: Aye.

21 CHAIRMAN KIMBLE: Commissioner Meyer?

22 COMMISSIONER MEYER: Aye.

23 CHAIRMAN KIMBLE: Commissioner Paton?

24 COMMISSIONER PATON: Aye.

25 COMMISSIONER PATON: Aye.

CHAIRMAN KIMBLE: The Chair votes aye.

It's approved 4 to nothing.

Any other motions on these audits?

It's approved 4 to nothing.

Roll call vote.

Chairman Chan?

CHAIRMAN KIMBLE: Aye.

CHAIRMAN KIMBLE: Commissioner Meyer?

COMMISSIONER MEYER: Aye.

CHAIRMAN KIMBLE: Commissioner Paton?

COMMISSIONER PATON: Aye.

It's approved 4 to nothing.

Item V, discussion and possible action on MUR 18-14, U.S. Term Limits, Inc.

Tom?
basically, once you get to 27,000, you can -- or cap out at twice the amount of the spend.  So, see, our fines are based on time, not value.  So, MR. COLLINS: Well, it's 10 percent of -- laymen such as myself, it seems awfully lenient.  To a total settlement is $5,400, roughly.  You said this is this involves spending of close to $27,000, and the 10 percent of what they could have been fined.  To a settlement.  In other words, we don't have -- we don't demand an admission of wrongdoing by USTL, and I don't think that, frankly, as a national group coming in Arizona, it would be -- I mean, it's not true of all cases, but in this case, I think that it's reasonable. The amount of the fine overall, though it's the metric for -- the metric for penalty is different from the metric of value of the expenditure. CHAIRMAN KIMBLE: Well, I semi-understand that, but you were -- you were just talking about that U.S. Term Limits is a large national organization.  And is a fine of this amount going to be sufficient to deter them from doing this again or -- it seems like pocket change to them.  MR. COLLINS: I think that what is sufficient to deter them from doing this again is the fact that, notwithstanding the -- I don't know how to put this.  Entities that come from outside of Arizona do not necessarily understand some of the differences between Arizona law and the U.S. Supreme Court's law with respect to absolute bans on -- on speech by corporations, which are all gone.  So reporting is still allowed.  Our basis for requiring reporting is set forth -- is set forth in both statute and case law.  I think the biggest concern of a group like this is they don't want any trouble with the IRS.  So I would think that, even if they -- even if they were -- you know, we believe they were communicating in electioneering, they probably don't want the mailers counted towards their advocacy, sort of, numbers as they're working with the IRS.  And that's really the big -- the big -- the IRS carries the bigger hammer in this than we do.  CHAIRMAN KIMBLE: Okay. Any other comments or questions from other members of the commission? COMMISSIONER MEYER: I have a question. CHAIRMAN KIMBLE: Commissioner Meyer? COMMISSIONER MEYER: So, Tom, help me understand this. Did the U.S. Term Limits -- do you think
09:54:22-09:55:25

1. they understood they were violating our reporting obligations?
2. MR. COLLINS: No.
3. COMMISSIONER MEYER: Okay. So -- so, one, it looks, like, under paragraph E on page 2 here --
4. MR. COLLINS: Yeah.
5. COMMISSIONER MEYER: -- that once you notified them of the issue, they did comply and provide the information that you requested.
6. MR. COLLINS: Both -- they both began to file -- they filed for the General Election -- and, also, they provided me the information that I've asked for. Yes.
7. COMMISSIONER MEYER: So once they were aware of their obligations, they began to report?
8. MR. COLLINS: That's correct. They did not go back and report the primary spending because they were, basically, you know, essentially, reserving their, you know, right to litigate that. And, as you recall, they narrowed it to the issue of expressed advocacy purely. They did not dispute the timing, targeting, any of that. It was expressly whether or not the document was expressed advocacy. Yeah, they reserved that to have this conversation, but -- I mean, to have -- to either -- to either have an administrative proceeding or else to conciliate.
9. And, obviously, we've already done administrative proceeding.
10. MR. COLLINS: Understood.
11. COMMISSIONER MEYER: -- and whatever. And so, in this case, I would go with the conciliation.
12. MR. COLLINS: Yeah.

09:55:28-09:56:54

1. administrative proceeding or else to conciliate.
2. And, obviously, we've already done probable cause, I think, at the last meeting. And so this is -- this is, in our rules, the next -- I mean, there's always an opportunity to conciliate, but there's a specific rule that allows for post probable cause conciliation at the request of the respondent. And so that's where we are with USTL.
3. You know, as I say, I mean, we can have a broader conversation -- and I'd be happy to -- about what we want to do in terms of the ratio of fine to -- potential fine. I mean, that's -- because that comes up regularly. We have tried to become a little more predictable in terms of setting some percentage -- some threshold percentages. You know, they don't always work out perfectly, but -- but, you know, we -- we don't think we're out of step with other agencies.
4. The fact that the Attorney General's Office, in its independent capacity, is considering the same agreement and at least the person at my level, you know, is going to present, as I am, the recommendation that I'm making gives me some confidence we're in the ballpark of -- you know, of reasonable. And I, also -- you know, but there's, I mean --
5. COMMISSIONER PATON: I have a question.
6. MR. COLLINS: Yes.
7. CHAIRMAN KIMBLE: Commissioner Paton.
8. COMMISSIONER PATON: It seems to me that maybe they didn't know exactly that they were violating our --
9. MR. COLLINS: Yeah.
10. COMMISSIONER PATON: -- our laws here. And then they tried to play nice after that, but it does seem like we are spending an inordinate amount of time dealing with this. I mean, it's been on the agenda many, many times.
11. MR. COLLINS: Right.
12. COMMISSIONER PATON: So if it's on our agenda, that means it's on our -- you know, your staff's agenda.
13. MR. COLLINS: Yeah, yeah.
14. COMMISSIONER PATON: And it's taken a lot of time.
15. MR. COLLINS: Sure.
16. COMMISSIONER PATON: And I think we do a lot of -- the staff seems to do a lot of work on these items, and I think like Commissioner Kimble. $5,000 seems like -- I mean, to a normal person maybe it seems like it's a lot, but to these people it's probably not. So I think maybe in the future we can look to making this more expensive penalties because we're spending so much time and effort to get to the bottom of this --
17. MR. COLLINS: Sure, sure.
18. COMMISSIONER PATON: -- and get them to act and to get them to turn stuff in to us --
19. MR. COLLINS: Right.
20. COMMISSIONER PATON: -- and whatever. And so, in this case, I would go with the conciliation because --
21. MR. COLLINS: Yeah.
22. COMMISSIONER PATON: -- their, you know, right to litigate that. And, as you recall, they narrowed it to the issue of expressed advocacy. Yeah, they reserved that to have this conversation, but -- I mean, to have -- to either -- to either have an administrative proceeding or else to conciliate.
23. And, obviously, we've already done probable cause, I think, at the last meeting. And so this is -- this is, in our rules, the next -- I mean, there's always an opportunity to conciliate, but there's a specific rule that allows for post probable cause conciliation at the request of the respondent. And so that's where we are with USTL.
24. You know, as I say, I mean, we can have a broader conversation -- and I'd be happy to -- about what we want to do in terms of the ratio of fine to -- potential fine. I mean, that's -- because that comes up regularly. We have tried to become a little more predictable in terms of setting some percentage -- some threshold percentages. You know, they don't always work out perfectly, but -- but, you know, we -- we don't think we're out of step with other agencies.
25. The fact that the Attorney General's Office, in its independent capacity, is considering the same agreement and at least the person at my level, you know, is going to present, as I am, the recommendation that I'm making gives me some confidence we're in the ballpark of -- you know, of reasonable. And I, also -- you know, but there's, I mean --
26. COMMISSIONER PATON: I have a question.
So I think that you do have to take each case individually, and it does matter to me and, I think, it would matter to the Commission and the AG's office, too, and to ourselves as commissioners if we saw the same people coming back or doing the same thing they had done in another jurisdiction and been dinged for here, if that makes sense.

So I agree, I guess, with everything everybody has said, and I would support this conciliation agreement.

Mr. Collins: Right.

CHAIRMAN KIMBLE: And if they didn't know what Arizona law was, then they should have checked before they started playing in Arizona elections. And it still seems awfully little to me.

MR. COLLINS: Mr. Chairman, if I can make one other observation. I mean, the other thing we have here is, you know, we have -- we have an expressed advocacy definition here in statute that's part of the

playing fast and loose with the rules. I'm not saying -- again, I do support this. I'm not saying I don't appreciate that we are willing to, kind of, give somebody a mulligan. And, then, I agree with what, I think, Commissioner Meyer was trying to point out that, you know, if this particular organization comes back and does the same thing, I think definitely we have to go for more harsher penalties, like I would expect us to do in any case.

You know, I always harken back to when I was election director for the Secretary of State, and if I truly believed -- I mean, I like that human aspect. When you're talking to the person who was responsible for the spending and they're saying to you, I am really sorry; I had no idea; we were doing our best to exercise our First Amendments rights in a way that we thought was legal and acceptable, I took them at their word.

Sometimes there were people I didn't believe because I knew they had experience in other arenas, maybe not with our office, but that they had done the same thing in our jurisdictions, et cetera. So those people maybe we would not be as conciliatory with.
CHAIRMAN KIMBLE: Second? It's been moved.

COMMISSIONER MEYER: I would second that agreement.

I would move that we approve the recommended conciliation agreement.

COMMISSIONER CHAN: Okay. Mr. Chairman, I am sorry. To authorize -- yeah. I guess --

CHAIRMAN KIMBLE: I am sorry.

M. COLLINS: No, it's my fault. Just, yeah, to approve the conciliation agreement.

CHAIRMAN KIMBLE: Okay. Mr. Chairman, I would move that we approve the recommended conciliation agreement.

CHAIRMAN KIMBLE: Second? It's been moved.
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1 want to go through them in order?
2 MR. COLLINS: Sure. So, 702, this is the
3 306 change. As you recall, Prop -- this is the party
4 piece. As you recall, 306 said that money may not be
5 paid directly or indirectly to a party or a 501 group
6 that can spend money on candidates. So -- and it,
7 also -- so what we've done here is we've taken out the
8 specific reference to tax-exempt status under 501(a) in
9 Section A. And then, with respect to parties, the
10 advanced payment to parties, we just took all this out
11 because it -- that's just not allowed anymore.
12 So that's it. I mean, it's that simple. I
13 mean, basically, this is taking the language of 306
14 with respect to parties, taking any authorization that
15 was in 702 to use money in a way that's now prohibited
16 expressly by 306, and that is.
17 COMMISSIONER CHAN: Mr. Chairman?
18 CHAIRMAN KIMBLE: Commissioner Chan.
19 COMMISSIONER CHAN: Tom, they can still
20 make a payment from their campaign bank account to a
21 political committee, though, or civic organization?
22 What would examples of that be? And that wasn't
23 prohibited by 306?
24 MR. COLLINS: It was absolutely not
25 prohibited by 306. 306 was express about political

10:09:20-10:10:26 Page 35

1 parties and 501(a) groups that can -- I shouldn't have
2 included the text in here. I'm sorry -- and 501(a)
3 groups that can spend on candidates. So our striking
4 here is actually even broader than what 306 requires
5 because we're not reserving the right to make
6 contributions to -- or not make contributions -- to
7 make purchases from 501 groups that don't make
8 expenditures on candidates. We're just taking the
9 whole 501 out.
10 They did not say anything about political
11 committees. The only objection they raised to civic
12 organizations was the addition of the 501(a) language.
13 So that's gone, and there's nothing in the language.
14 COMMISSIONER CHAN: Mr. Chairman, Tom, what
15 are -- what are some examples -- real world examples
16 how clean candidates would make -- like, what kind of
17 payments do our clean candidates make to political
18 committees or civic organizations? Do you -- I'm
19 putting you on the spot a little bit, but I'm just
20 curious about --
21 MR. COLLINS: Well, I think the most
22 obvious one is attendance at events. I think that, you
23 know, I mean, having a table set up might cost you 50
24 bucks at either a community -- or 25 bucks. I don't
25 know. I mean, there are all kinds of groups that are

10:10:29-10:11:27 Page 36

1 not political -- co-op political that invite folks to
2 talk about --
3 COMMISSIONER CHAN: Like the chamber or
4 something?
5 MR. COLLINS: Or the chamber or -- you
6 know, I mean, we've -- I mean, an example is we've had
7 a table at the Panhellenic Conference the last couple
8 of times before elections. We've had --
9 COMMISSIONER CHAN: Okay.
10 MR. COLLINS: We've had what -- we are out
11 at National Voter Registration Day. I mean, we're
12 doing a lot of stuff. I assume that, I mean, the
13 candidates do the same kinds of things. I mean, if
14 civic organization means anything, you know, if it
15 means that, you know, you send -- you spend 20 -- $20
16 to get your campaign ad in a -- in a program of a --
17 you know, of -- you know, your neighborhood association
18 or something like that, I mean, that's clearly not --
19 well, first of all, 306 does not affect that and,
20 second of all, that would be another example, you know,
21 here.
22 COMMISSIONER CHAN: Thank you. And,
23 Mr. Chairman, Tom, I didn't mean --
24 MR. COLLINS: No, no, no.
25 COMMISSIONER CHAN: I didn't mean that I

10:11:29-10:12:29 Page 37

1 thought that violated 306. I was just curious what
2 that actually looked like and meant.
3 MR. COLLINS: It's a fair question. I
4 didn't take it that way. I just -- I just -- 306 says
5 what it says, and it doesn't say what it doesn't say.
6 And so we've -- I mean, in analyzing this -- and, I
7 mean, this is -- this is my recommendation, as much as
8 any other, but you know, we did talk about that
9 arguable inconsistency. But it's not our job to fix
10 that.
11 COMMISSIONER CHAN: Well, and I think
12 that's why I supported the inclusion and specificity of
13 our rule which, again, the voters, obviously, approved
14 this change.
15 MR. COLLINS: Yeah.
16 COMMISSIONER CHAN: So, thank you for
17 explaining that.
18 MR. COLLINS: No. Yeah, I hope -- I hope
19 that's the explanation. I think -- I think, you know,
20 the political committee thing -- we'll see. You know,
21 we may be back in a year, you know, talking about --
22 COMMISSIONER CHAN: Civic organization?
23 MR. COLLINS: -- what's a civic
24 organization. I don't know, but I know that this both
25 addressed what's in the text of 306 and what Scott
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<td><strong>10:12:32-10:13:58</strong></td>
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<td>1. Musey, who is the leading proponent of all of the anti-Clean Elections measures in the legislature, specifically complained about in his testimony.</td>
<td>1. general. It just doesn't -- it's a -- this is -- this just makes sure that if we don't catch you with something you need to repay within a year of the election, we can still go after you under our -- under our --</td>
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<td>2. CHAIRMAN KIMBLE: Any other questions or comments about 2 -- 702?</td>
<td>2. COMMISSIONER PATON: Okay.</td>
<td></td>
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<td>3. Mr. Collins: And he's got a chance to public comment. People can -- this is only open for public comment. They can --</td>
<td>3. MR. COLLINS: 113, this is --</td>
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<td>4. CHAIRMAN KIMBLE: Right. Right, by people here.</td>
<td>4. COMMISSIONER PATON: Well, actually, I do have a question.</td>
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<td>6. MR. COLLINS: Yeah. 704 is pretty easy.</td>
<td>6. CHAIRMAN KIMBLE: Commissioner Paton?</td>
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<td>7. We came upon this rule which dates to, at least, at the best we can determine, 2001. It's problematic in two respects. One, it's a repayment-specific rule. The statute of limitations for repayment to the State does not -- there is not one. So, by imposing by rule a one-year implicit rule of limitation, we are not -- we are, sort of, waiving -- or implicitly waiving an important defense.</td>
<td>7. CHAIRMAN KIMBLE: Commissioner Paton?</td>
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<td>8. And -- and relatedly -- and this is where we bring the second piece, which is that the Clean Elections statute itself says the Commission is to monitor inflows and outflows from the account to make sure money is placed in accounts as necessary and not</td>
<td>8. COMMISSIONER PATON: Okay.</td>
<td></td>
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<td>9. Kara to --</td>
<td>9. MR. COLLINS: -- under our express authority --</td>
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<td>10. Ms. Karlson: Yeah.</td>
<td>10. COMMISSIONER PATON: It doesn't relieve them of the fact they have to pay.</td>
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<tr>
<td>11. Mr. Collins: Do you have anything you want to add? Let me put it that way. Do you have anything you want to add, or have I covered what we need to say?</td>
<td>11. MR. COLLINS: That's absolutely correct.</td>
<td></td>
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<td>12. Ms. Karlson: I think you've covered what you need to say, unless there's additional questions.</td>
<td>12. COMMISSIONER CHAN: Mr. Chairman and Commissioner Paton, thank you, because, for some reason, I was reading it, I think, the way you were, and then what Tom just said cleared it up for me. So, frankly, I don't think I need to go into executive session for this, but if we -- if other commissioners do, that's fine. I think I need more coffee.</td>
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<td>14. CHAIRMAN KIMBLE: Are there any questions from the commissioners?</td>
<td>15. MR. COLLINS: Okay. 113 is an effort to codify what has become -- I wouldn't say a formal practice because those words are crucial, but I would say an accommodation that we regularly make to candidates who request it, which is when they run</td>
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something for the primary but don't want to write a
different thing for the general, we'll run their
general thing, their general statement.
4 Oftentimes, what that means is Gina and
5 Alec and others will be calling members -- or not
6 members -- campaigns and saying, hey, what do you want
7 to do? And, oftentimes, they will say, well, can you
8 run my old one instead? So what this says is,
9 basically, if you choose not to submit a general
10 candidate -- General Election candidate statement
11 but -- you know, and are advancing, unless you --
12 unless you give us a General Election statement, we
13 will use your primary statement.
14 And we'll make that -- people aware of that
15 so that they don't have to call in and do this, sort
16 of, like, oh, can you do this? Can you do that? It
17 will make things more efficient on the production side
18 for sure. And, as I say, it's never been a --
19 "practice" is probably a word we will never use again
20 after today in this room, but it is a -- it is an
21 informal ad hoc request-driven decision that we now
22 want to codify.
23 CHAIRMAN KIMBLE: Okay. Any questions
24 about 113?
25 (No audible response.)

1 CHAIRMAN KIMBLE: Okay. And, finally, 104,
2 Tom?
3 MR. COLLINS: Yeah. 104. 104, and I would
4 ask, when we make the motion, there's a strike 2 -- you
5 see the line -- it says line 1, 2, 3, 4 -- 5, after the
6 struck "and," that 2 should have been struck, I
7 believe -- no? It's not supposed to be struck. Okay.
8 Okay. So, fine. Never mind. So, then, that is what
9 it is.
10 And what this does is deals with the --
11 this deals with the issue we found that we had a -- we
12 had a candidate last -- last election who brought
13 forward that our guidance on loans and the particular
14 language that was in the rule did not line up one to
15 one. And, as a result, that candidate -- and I -- and
16 I -- this part is -- I mean, I wrote him a letter about
17 this. So we were in a position where we were able to
18 confirm that his -- that his reading was acceptable;
19 however, you know, if there was a complaint, it would
20 come to the Commission.
21 Long story short, the person took out quite
22 a large loan, quite larger -- about -- I don't know --
23 about 100 times larger than we contemplated being able
24 to take out because of the -- because of the way that
25 the language was and, as it turns out, that person

1 managed to not only not repay himself but to -- it
2 turned out not to matter that he did this, but it did
3 point up that we would like to have our guidance and
4 our rules line up.
5 And we think this is more consistent with
6 the statute than allowing, you know, a loan amount of
7 the entire -- I mean, I don't think the entire amount
8 of your seed money, for example --
9 COMMISSIONER PATON: So I have a question.
10 MR. COLLINS: Yeah. yeah.
11 COMMISSIONER KIMBLE: Commissioner Paton?
12 COMMISSIONER PATON: To clear this up in my
13 mind.
14 MR. COLLINS: Yeah. Sure.
15 COMMISSIONER PATON: So the person borrowed
16 more money than what the top expenditure that was set
17 forth?
18 MR. COLLINS: It should be -- it should be
19 or shouldn't be? Should not be? Okay.
20 That 2 will need to be struck. I'm sorry,
21 but -- I'm sorry, Mr. Chairman, Commissioner Paton.
22 COMMISSIONER PATON: So they borrowed more
23 money than the expenditure limit?
24 MR. COLLINS: They borrowed -- no. They
25 borrowed as much money as one expenditure limit would

1 allow them to. So there are multiple expenditure
2 limits that apply. We believe that the personal
3 expenditure limit, which is like $740, is the limit on
4 loans, and we've said that in our guidance for a long
5 time. This person brought us the question of, hey,
6 this rule seems to say you add these, you add all of
7 these expenditure limits together, and I get to stack
8 them and I can take out a loan up to that total.
9 And that's not how we've ever read the
10 rule, but it was certainly not implausible. We had to,
11 you know, tell him that, and then -- and then he just
12 failed to qualify. He became a non-Clean Elections
13 candidate, and he just ended up owing to himself --
14 owing himself a bunch of money. So, I mean, the
15 backstory sounds more complicated than it is. The
16 bottom line is we want to have straightforward that you
17 can't stack caps together to take -- give loans to
18 yourself.
19 CHAIRMAN KIMBLE: Okay.
20 COMMISSIONER CHAN: Mr. Chairman?
21 CHAIRMAN KIMBLE: Commissioner Chan.
22 COMMISSIONER CHAN: I just have a comment
23 because, you know, initially reading this -- and I
24 remember this situation. So I know what we're
25 clarifying. I was thinking, you know, if somebody is
1. running clean and -- you know, we have different
interests that we're trying to promote through the
Clean Elections system, you know: improve the
integrity of state government, diminishing the
influence of special interest money, encouraging
citizen participation in the political process.

2. And, on one hand, I feel, like, personal
monies are not going to be special interest money, but
at the same time, if you're allowing people with their
own money to put their personal money into a clean
candidacy, you are diminishing their need for more
grassroots support. And so I think, for that reason, I
can support this rule. I think it's maybe a little bit
of two -- not conflicting things but -- just my
thoughts.

10:23:40-10:25:11
1. access to Clean Elections, then more power to him.
2. He -- the particular candidate in this case
sued us twice just -- just to try to get his loan back
and did not succeed. Joe defended both of those cases.
5. And I would simply say this about that. The other --
the other important part of this is the fact that the
candidate is required to repay, out of their Clean
Elections grant, this immediately. Well, that means
that -- if you make a loan to yourself of $43,000, that
means you're, essentially, making it -- you're repaying
yourself, then, with public money, which is not what --
clearly not within what I think the best reading of the
Act is.

10:25:15-10:26:27
1. to -- we want to be able to ask questions about and now
seems like the appropriate time because all of these
confluence of litigation, legislation, existing, you
know, stuff.

10:26:36-10:27:03
1. know, are clearly -- clearly relevant to what we would
be going into executive session to discuss.
3. COMMISSIONER MEYER: Mr. Chairman?
4. CHAIRMAN KIMBLE: Commissioner Meyer.
5. COMMISSIONER MEYER: I move that we go into
6. executive session to discuss the issues that Tom has
7. identified -- and Nate.

10:27:06
1. COMMISSIONER MEYER: Mr. Chairman?
2. CHAIRMAN KIMBLE: Commissioner Meyer?
3. COMMISSIONER MEYER: Does that purpose
4. include questions on these four rules we just
5. discussed?

10:27:19-10:27:35
1. MR. COLLINS: It would -- it would
2. especially concern -- well, let me put it this way. It
3. concerns all of them to the extent that GRRC is
4. involved and, obviously, 306 specifically. So what
5. we're really talking about is, okay, we're in
6. litigation with GRRC, the State of Arizona and the
7. Secretary of the State of Arizona, all of whom are
8. opposed to our position, even though we're on the same
9. side of the V. So I think that -- I think that
10. questions related to the GRRC process are -- are -- you
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11:06:40-11:07:19

1 (End of executive session. Public meeting resumes at 10:06 a.m.)
2 CHAIRMAN KIMBLE: Okay. We're now back in open session for Item VI, discussion and possible action on four different rule changes opening a 60-day public comment period.
3 COMMISSIONER CHAN: Mr. Chairman, I move that we approve --
4 CHAIRMAN KIMBLE: Commissioner Chan.
5 COMMISSIONER CHAN: I approve -- I move that we approve the proposed amended versions of R2-20-104, 113, 702 and 704 for 60 days of public comment.
6 CHAIRMAN KIMBLE: Is there a second?
7 COMMISSIONER PATON: Second.
8 CHAIRMAN KIMBLE: Commissioner Meyer?
9 COMMISSIONER MEYER: Aye.
10 CHAIRMAN KIMBLE: Commissioner Paton?
11 COMMISSIONER PATON: Aye.
12 CHAIRMAN KIMBLE: The Chair votes aye.

11:07:22-11:08:24

1 It's 4 to nothing approved.
2 Item VII, discussion and possible action on a proposed letter to Governor Ducey regarding appointment for Clean Elections commissioner.
3 Tom, do you want to talk about that?
4 MR. COLLINS: Yes. Mr. Chairman,
5 Commissioners, you know, I've had ad hoc conversations with a number of people about this, and the League of Women Voters sent a letter to Governor Ducey last week, which is in your materials. Rivko is here and is a cosigner of that letter, along with, I believe, the president of the League --- or the then president of the League.
6 Did she -- is she still the president after this weekend? No. Okay.
7 They had their convention in Yavapai County last week.
8 MS. KNOX: She was when she signed it. I'm sorry. I'm speaking out of context.
9 MR. COLLINS: Yeah. In any event, it raises a question as to how or whether we -- or you, I should say, as commissioners, want to communicate with the Governor. I think that the League is an important group in the whole world of elections and voting, and I hope that they get a response. I don't know that they have yet, but I think it, also, is the question given that the holdover is -- you know, are a little -- no one has resigned yet.
10 You know, we have -- we have an issue that, you know, is -- becomes really ripe in January 30th when Chairman Kimble's term ends because, at that point, we will be down to -- assuming that Commissioner Meyer and Commissioner Titla don't resign, we will be down to Commissioner -- Commissioner Paton and Commissioner Chan.
11 So Commissioner -- so the issue -- so we're really six months away from a potential crisis on this issue, and -- and so the question we have to ask ourselves -- and I would defer to your all political judgment because it's probably better than mine, but whether or not we want to work on a draft -- you all want to work on a draft which we can facilitate without violating the open meeting law or you want to designate a member to write, on behalf of the Commission, a letter to the governor urging the governor to make an appointment. I really don't think any of these are outside of the bounds of good taste. I know. And I think the polite -- I think a politely written letter that reminds the governor that this is important -- because he's got a lot of other stuff going on. I'm willing to -- you know, I think we're all willing to accept that. And -- okay.

11:08:27-11:09:54

1 COMMISSIONER CHAN: I'm sorry.
2 MR. COLLINS: Chair, may I interrupt?
3 CHAIRMAN KIMBLE: Commissioner Chan.
4 COMMISSIONER CHAN: No. No. I was talking too long, anyway.
5 COMMISSIONER CHAN: I don't mean to minimize what the governor has. I know he's very busy, but this is one of his duties. So, anyway, I just want to say to Rivko and the League of Women Voters, thank you so much for writing this letter. I think that was wonderful.
6 And, frankly, Tom, I mean, I feel like writing a letter is -- we can write a letter. I don't want to write a letter, but I mean, at this point, it's almost, like, what's our next option? A mandamus action? I mean, what -- do we have a standing? I feel like it's a lot to ask of commissioners who have already served five years to continue serving. And, like you said, when we're down to two, who are serving and then three in a holdover status, that is a crisis for the Commission.
7 And, frankly, the problem is we have a .
MR. COLLINS: Three weeks?

CHAIRMAN KIMBLE: I don't see a date on it.

MR. COLLINS: A month?

CHAIRMAN KIMBLE: I would ask, Ms. Knox, through with this.

COMMISSIONER PATON: -- for them to follow through with this.

CHAIRMAN KIMBLE: I would ask, Ms. Knox, have you received any reply? When -- how long ago did this go out?

CHAIRMAN KIMBLE: It's been long that you could have received a reply? Okay.

MS. KNOX: Yes. Probably -- I don't know -- ten days or two weeks, something like that.

CHAIRMAN KIMBLE: Okay.

MS. KNOX: At the most.

MR. LaRUE: Excuse me.

CHAIRMAN KIMBLE: Okay.

MR. LaRUE: Chairman, could I recommend that you have her come to the microphone?

CHAIRMAN KIMBLE: I'm sorry.

MS. KNOX: I apologize. Thank you very much.

Rivko -- for the record, Rivko Knox, with the League of Women Voters. I think the letter was sent probably about two weeks ago.

CHAIRMAN KIMBLE: Okay.

MS. KNOX: Give or take.

CHAIRMAN KIMBLE: Okay. And you've received no reply?

MS. KNOX: No, no.

CHAIRMAN KIMBLE: Okay.

MS. KNOX: And we would share any response we got with the Commission, as appropriate, which I think a meeting would be ideal at this point.

COMMISSIONER CHAN: I'll just state that I think -- thank you for bringing that up.

MS. KNOX: And we would share any response we got with the Commission, as appropriate, which I think -- thank you for bringing that up.

CHAIRMAN KIMBLE: Thank you.

Any other comments from commissioners?

CHAIRMAN KIMBLE: Commissioner Paton, do you have --

MR. COLLINS: Commissioner Paton -- I think it's just -- I mean, it sounds like the commissioners --

CHAIRMAN KIMBLE: Commissioner Paton, do you have --

MR. COLLINS: Commissioner Paton -- I think we're all on the same page.

COMMISSIONER PATON: No. I think it's just -- I mean, sounds like the commissioners --

CHAIRMAN KIMBLE: Commissioner Paton, do you have --

MR. COLLINS: Commissioner Paton -- I think we're all on the same page.

COMMISSIONER PATON: No. I think we should have -- somebody should have a meeting with the governor's staff.

CHAIRMAN KIMBLE: Okay.

MR. COLLINS: Okay.

CHAIRMAN KIMBLE: Okay.

CHAIRMAN KIMBLE: Okay. I agree with Commissioner Chan. I don't think we need a motion on this, do we?

MR. COLLINS: No, no. I think it's just -- I mean, sounds like the commissioners --

CHAIRMAN KIMBLE: Commissioner Paton, do you have --

MR. COLLINS: Commissioner Paton -- I think we're all on the same page.

COMMISSIONER PATON: No. I think we should have -- somebody should have a meeting with the governor's staff.

CHAIRMAN KIMBLE: Okay.

MR. COLLINS: Okay.

CHAIRMAN KIMBLE: Are you okay with that?

Okay. So we're not going to work on a letter right now.

Item VIII, discussion and possible action on proposed 2019 Commission meeting dates for July through December.

In our packet, we have the proposed meeting dates for July through December.

CHAIRMAN KIMBLE: Okay.
11:14:26-11:15:13

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1 dates of July 29th, August 22nd, September 26th.
2 October 17th, November 14th and December 12th.
3 Any comments or concerns about any of these
4 meeting dates from members of the Commission?
5 COMMISSIONER MEYER: Mr. Chairman.
6 CHAIRMAN KIMBLE: Yes, Commissioner Meyer.
7 COMMISSIONER MEYER: I would move that we
8 approve the meeting dates as presented in Item VIII of
9 our agenda for July through December 2019.
10 COMMISSIONER PATON: Question about --
11 CHAIRMAN KIMBLE: Wait.
12 Is there a second?
13 COMMISSIONER CHAN: Oh, I second.
14 CHAIRMAN KIMBLE: Okay. Commissioner
15 Paton?
16 COMMISSIONER PATON: And July 29th, that's
17 a Monday?
18 MS. THOMAS: Correct.
19 COMMISSIONER PATON: Okay.
20 MR. COLLINS: Yeah.
21 COMMISSIONER PATON: So the other ones are
22 Thursdays?
23 MS. THOMAS: Correct.
24 CHAIRMAN KIMBLE: And, I guess, it's worth
25 stating that we're holding a Monday meeting because the

11:16:20-11:17:01

1 to put that on your radar.
2 CHAIRMAN KIMBLE: Okay.
3 MR. COLLINS: I may be able to attend by
4 phone.
5 CHAIRMAN KIMBLE: Okay. Or you could have
6 some member of your staff be delegated to --
7 MR. COLLINS: Okay. Absolutely. Yeah,
8 we're not worried about getting the meeting done. It's
9 more of a matter if you're -- if I'm not here.
10 CHAIRMAN KIMBLE: Yeah. Okay.
12 Look, someone -- someone made a sound cloud of
13 imitations of how I talk, and I'll never share it with
14 you guys.
15 COMMISSIONER CHAN: I don't want to hear
16 it.
17 MS. KARLSON: I will find it.
18 CHAIRMAN KIMBLE: Okay, then. So it's been
19 moved and seconded that we approve the meeting -- the
20 meeting dates for July through December of 2019.
21 Commissioner Chan?
22 COMMISSIONER CHAN: Aye.
23 CHAIRMAN KIMBLE: Commissioner Meyer?
24 COMMISSIONER MEYER: Aye.
25 CHAIRMAN KIMBLE: Commissioner Paton?

11:17:04-11:17:59

1 COMMISSIONER PATON: Aye.
2 CHAIRMAN KIMBLE: The Chair votes aye.
3 It's approved 4 to nothing.
4 Item XI, public comment. Is there anyone
5 who wants to make comment to the Commission?
6 MS. Knox?
7 MS. KNOX: Yes.
8 CHAIRMAN KIMBLE: Could you state your name
9 and address for the record.
10 MS. KNOX: Yes, definitely. Rivko Knox, on
11 behalf of the League of Women Voters of Arizona.
12 I was authorized to make this statement,
13 and we -- the League, although, like Tom mentioned a
14 few minutes ago, we do have new leadership. We have
15 three new co-presidents. I'm not quite sure how
16 quickly they respond, but we may be submitting a
17 letter, more or less, to this effect. It's to nothing.
18 but I wanted to speak on this this morning. But if the
19 letter goes in, the title would be the antithesis --
20 antithesis -- I can't speak well this morning -- of
21 civil dialogue.
22 The non-partisan League of Women Voters has
23 always encouraged civic participation in our democracy
24 and has tried to ensure that the public is well
25 informed about the issues that impact on their lives.
Accurate factual information is the bedrock of a vibrant democracy. Further, civic engagement requires civil dialogue. People do not want to engage if they fear being belittled, yelled at, forced to face personal criticism and rude comments and language or especially threatened. League members live in our present society and thus are aware of the sad state of so much of what goes for information, as well as conversations about public policy issues. However, we were shocked to read about the comments of Representatives John Allen and Kevin Payne relating to the head of Clean Elections. Although the comment made by Representative Allen did include the words "virtual" in the middle of this sentence "Can we virtually shoot the head of Clean Elections?" to which Payne replied "Yes," the sentiment was very disturbing. The Clean Elections Commission and staff -- Commissioners and staff do an outstanding job of voter education, especially in less urban areas and with more diverse populations, while educating candidates who choose to run clean and providing transparency in the electoral process. League members helped write the language that became the initiative that created Clean Elections, worked for its passage and continue to monitor and attempt to protect its vital mission of ensuring integrity in government, encouraging involvement in elections and reducing the influence of money in the electoral process. Although some legislators oppose the concept of public funds (though it is not taxpayer money) being used to encourage candidates to run, a disagreement about policy should never lead to even virtual threats of violence. The League urges the leadership of the Legislature, as well as Governor Ducey, to speak out about the language used by Representatives Allen and Payne, encourage them both to apologize to the Commissioners and staff, and remind them that the words of public figures carry great weight and help establish a standard conduct for the public.
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