Phoenix, Arizona
September 26, 2019
9:30 a.m.

Prepared by:
LILIA MONARREZ, CSR, RPR
Certificate No. 50699
PUBLIC MEETING BEFORE THE CITIZENS CLEAN ELECTIONS COMMISSION convened at 9:30 a.m. on September 26, 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, Chairman
Mr. Damien Meyer (Telephonic)
Mr. Galen D. Paton
Ms. Amy B. Chan

OTHERS PRESENT:
Thomas M. Collins, Executive Director
Paula Thomas, Executive Officer
Gina Roberts, Voter Education Director
Mike Becker, Policy Director
Julian Arndt, Executive Support Specialist
Avery Oliver, Voter Education Specialist
Kara Karlson, Assistant Attorney General
Adrienne Carmack, AZAN
Rivko Knox, AZ LWM
Avery Oliver, Voter Education Specialist
Kara Karlson, Assistant Attorney General

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P R O C E E D I N G

CHAIRMAN KIMBLE: Good morning. I'm going to call to order the meeting of the Citizens Clean Elections Commission for Thursday, September 26, 2019. We're going to do a roll call because we have one of our members on the phone.

CHAIRMAN KIMBLE: Damien Meyer here.

COMMISSIONER MEYER: Good morning, Chairman Kimble. Damien Meyer here.

CHAIRMAN KIMBLE: Okay. Thank you.

COMMISSIONER MEYER: Good morning, Chairman Kimble.

CHAIRMAN KIMBLE: And Commissioner Kimble is also here.

COMMISSIONER MEYER: Commissioner Kimble, I would move that we approve or adopt the minutes as written.

CHAIRMAN KIMBLE: There's been a motion to approve the minutes as written for the July 29th meeting.

Mr. Mark S. Kimble, Chairman
Mr. Damien Meyer (Telephonic)
Mr. Galen D. Paton
Ms. Amy B. Chan

Item II: Discussion and possible action on Commission minutes for the July 29th, 2019 meeting. Any additions or corrections to the minutes?

COMMISSIONER CHAN: Second.

COMMISSIONER PATON: Second.

CHAIRMAN KIMBLE: It's been moved and seconded.

All those in favor -- no. Let's do a roll call vote.

Commissioner Meyer?

COMMISSIONER MEYER: Aye.

COMMISSIONER CHAN: Aye.

COMMISSIONER PATON: Aye.

CHAIRMAN KIMBLE: The minutes are approved.

Item III: Discussion and possible action on executive director's report and legislative report. Tom?

MR. COLLINS: Yes, Mr. Chairman, Commissioners, just a couple of things to update. You know, we've -- we've all gotten our recertification for -- as election officers. And, then, I want to introduce Julian Arndt, who started with the Commission on August 26.

And so, welcome, Julian.

Mr. Arndt, who started with the Commission on August 26.

He's graduated from ASU with a B.S. in public policy and public service, and he'll be helping us out with administration, campaign finance and enforcement during this election cycle. So, we're happy to have him.

And so, welcome, Julian.

MR. ARNDT: Thank you.

MR. COLLINS: He already -- we did a video on some ballot issues, and Julian had written up the materials. And so, when I was, like, what is this? He rattled it off. And I was, like, wow, this is great.

So, it was really -- it's always -- that's great.

There are local elections on November 5th, and so that means that within the next few weeks, the early voter registration deadline for the November 5th elections will be -- will be up.

And the production we worked on with --

with Julian and Gina was to talk with Christine Thompson, who works at Expect More Arizona about bonds and override elections because we think that that's something where people are often -- I mean, there are people who are informed, but there are other people who really don't know the difference and how it works.

The Chairman was at the League of Women Voters in Tucson this week, and as you can see through the outreach events, we've had really a really aggressive effort to reach out to different groups.
The State of Arizona Citizens Clean Elections Commission

Public Meeting

Transcript of Proceedings

September 26, 2019

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1 Commissioners. This is just a brief update about our
2 upcoming conference that we have for voters, which is
3 scheduled for Saturday, October 26th. It will be a
4 full-day conference, and we're holding it at the
5 Phoenix Convention Center in the north building.
6 And, if you'll recall, the purpose for this
7 conference is to help educate voters in preparation of
8 the 2020 election cycle. And so, we just wanted to
9 give you a very quick update of what we have on our website
10 landing page where we are, basically, giving an
11 introduction into the purpose of the conference and
12 where people can sign up by clicking the "register now"
13 button.
14 And I can briefly go over with you who we
15 have for our lineup of speakers. We still have a few
16 more to add here that you won't see on the list. We're
17 just waiting for some of their information to come
18 through, their photos and biographies, and we are
19 finalizing the program this week. So, once we finalize
20 all this information, we will gear up and really start
21 to put the word out to let people know so that they can
22 get registered.
23 So, we do have a keynote speaker. This is
24 Mi-Ai Parrish, and we're excited for her to come talk
25 to us about, basically, the perspective of media and

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1 the role that they play when it comes to covering
2 elections. It's such a significant role, as they are a
3 direct connection to voters in relaying election
4 information. So, we're excited that she agreed to be
5 our keynote speaker.
6 And the conference is organized where we
7 have main session events that repeat in the morning and
8 the afternoon, and then we have breakout sessions that
9 vary throughout the day. This format was selected to
10 allow voters who, perhaps, they didn't want to spend
11 their whole Saturday, but you know, there were key
12 interests that they wanted to come and learn about, to
13 get really the main information that we're talking
14 about.
15 So, for our main session events, we're
16 covering the three major elections that we have next
17 year, which is our presidential preference election,
18 our primary election and the general election, which
19 is, of course, the presidential election, as well.
20 And you'll see we have Commissioner Chan,
21 who is going to be speaking on the PPE. And we've got
22 our Maricopa County Recorder Adrian Fontes, who will be
23 discussing the primary election, and we have our state
24 election director Bo Dul, who will be covering the
25 presidential election.

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1 Just a few highlights that I wanted to call
2 out. We are, also, very excited that we were able to
3 get the chairs of these state political parties to
4 agree to participate and sit on a panel discussion.
5 So, we will have the Libertarian party chair. That's
6 Howard Blitz. And, then, we have the Arizona
7 Democratic party chair, Felicia Rotellini. And we have
8 the state Arizona Republican party chair, Dr. Kelli
9 Ward, who will be sitting on a panel to inform and
10 educate voters about the roles of political parties in
11 our elections and what their perspectives will be for
12 2020. And we're grateful that Lauren Gilger, who is
13 from KGZZ, will be moderating that panel for us.
14 And, then, we have a number of breakout
15 sessions where we'll be discussing everything from the
16 voter-to-do list to prepare, such as, you know, making
17 sure you're registered or, you know, if you have to
18 update your registration. We will be doing just
19 general civics. We will be talking about independent
20 voters specifically. We will have election security.
21 Commissioner Paton has agreed to talk about
22 our youth voters and get out the vote efforts for them,
23 and we also have Garrett Archer, who is with ABC 15.
24 He'll be discussing election projections for next year.
25 We have information, such as voting down the ballot.
1 Since it is a presidential election, we want to make sure that voters are aware of all of the other local and equally important elections that are through your ballot. We have a commissioner from the Judicial Performance Review -- and I am not sure what happened there. There we go. Sorry about that.
7 So, we have quite the lineup here from, basically, these folks are election officials and election experts across the state. We have county recorders, county election directors who are participating. We have Dr. Paul Carrese, who is with the school -- the ASU School of Civic and Economic Thought and Leadership. He'll be doing an exercise, one that I've actually been through personally about working across perspectives, and that will help promote and foster civil discourse.
17 We will be hearing, you know, about voters with disabilities, and we'll be talking about money and politics and elections and talking about Clean Elections, of course. So, we feel that we have a very robust agenda to cover a lot of topics, as this conference is really geared towards the entire state of Arizona, even though it will be held in Phoenix. We are communicating with voters across the state to let them know if you're going to be in town, you know, this is a conference that you can come and attend and learn about everything you need to know for 2020.

18 to are you really somebody who is in the know and you stay on top of things and, you know, you vote every year and you still want to come out and learn about what to expect for 2020, all the way down to maybe I've never -- this is my first election. Maybe I will be 18 and can vote next year and it's my first time. And so, I think it deserves another award, another national award because, I think, you know, I corresponded with you about a friend who had posted and asked -- because I shared this on my Facebook page, and a friend who teaches at ASU had asked, oh, is this for everyone? Is this just for people who really know nothing about elections? And I had checked with you because I wasn't certain, and you said it's for everyone. And so, I shared that with her, and I think this really has potential if we can encourage people to really participate. And I know with the first year, you know, maybe we'll have to ramp up, but I think it's something that is very worthwhile and valuable, especially with the number of voters out there who aren't sure of their rights or how elections work.

So, thank you for this work that you guys are doing, and I think we probably all feel the same way, very proud to be part of this with you. MS. ROBERTS: Mr. Chairman, Commissioners, and to your point, Commission Chan, one of the breakout sessions that we have is really about Voting 101. It gets down to the bare bones basics. So, if you have never voted in this state before and maybe you find it a little intimidating or, perhaps, it's just been a while and you need a refresher, we'll get down to the bare basics about what the voting experience is going to be like. And we'll do it in, you know, a story-telling way. And so, we have the Maricopa County elections director who will be doing that for us.

And so, each of the breakouts are designed to be like. And we'll do it in, you know, a little intimidating or, perhaps, it's just been a while and you need a refresher, we'll get down to the bare basics about what the voting experience is going to be like. And we'll do it in, you know, a story-telling way. And so, we have the Maricopa County elections director who will be doing that for us.

Chairman Kimble: Any questions from commissioners? COMMISSIONER CHAN: Just a comment. Was last year the first year we did this? MS. ROBERTS: Chairman, Commissioner Chan, this is actually the first year that we have done a conference that has been open to the public like this. COMMISSIONER CHAN: Okay. MS. ROBERTS: In the past, our conferences have been geared towards election officials and community stakeholders in terms of how can we make the election process better. This is now taking the role of being more informed and educate voters in this one-day workshop where any member of the public can come and attend. So, it's really our first time doing something of this aspect.

COMMISSIONER CHAN: I am so impressed. I think this is absolutely fantastic. I don't know if any other state does anything like this or if you developed this just as an original idea, I mean, but regardless, it is absolutely fantastic. And I think it shared that with her, and I think this really has potential if we can encourage people to really participate. And I know with the first year, you know, maybe we'll have to ramp up, but I think it's something that is very worthwhile and valuable, especially with the number of voters out there who aren't sure of their rights or how elections work.

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1 voter and their circumstance.
2 COMMISSIONER PATON: I have a question.
3 CHAIRMAN KIMBLE: Commissioner Paton.
4 COMMISSIONER PATON: Is there a cost to it?
5 MS. ROBERTS: Mr. Chairman, Commissioner
6 Paton, thank you. There is no cost to voters. It is a
7 free conference. We do make note to sure that and when
8 we are putting out the information to the public to
9 sign up that it is a free voter conference. There's no
10 charge to voters. The Phoenix Convention Center --
11 there would be some parking charges, parking fees,
12 perhaps, for parking around the area, but the entire
13 conference, it is free. And we encourage as many
14 people to attend.
15 And since this is our first time doing
16 something to this aspect, again, we recognize that it
17 is being held in Phoenix but, you know, obviously, we
18 want to reach all of the voters across the state. We
19 are looking at ways there, perhaps, maybe for those
20 main sessions that we could Livestream them for people
21 that can't attend in person. And once we get through
22 this conference, we'll see and learn from it and see if
23 there's ways that we could do, sort of, a on-the-road
24 version of it and hit some of the other regions of our
25 state with it.

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1 CHAIRMAN KIMBLE: I just want to echo my
2 colleagues in congratulating you for putting this on.
3 I wish I could be there, but I can't. And thank both
4 of my colleagues here for participating in it, as well
5 as the Commission staff members who are participating.
6 I think this is a great innovative idea. And when I
7 talked to the League of Women Voters members in Tucson
8 earlier this week, they were unaware of it. They were
9 very excited about it. They were asking me how they
10 could register. They asked what Commissioner Paton
11 asked is what -- is there a cost for this.
12 So, if people show up and they haven't
13 registered, can they still attend? Are you going to
14 throw them out?
15 MS. ROBERTS: Mr. Chairman, Commissioners,
16 absolutely. If somebody shows up, we will have our
17 materials available to register them on the spot.
18 CHAIRMAN KIMBLE: Okay.
19 MS. ROBERTS: Everyone that attends --
20 there are security issues with the Phoenix Convention
21 Center where everyone has to have credentials. They
22 have to have a badge. So, we will have a registration
23 booth set up so anyone that comes in, whether or not we
24 have them on our list as being registered, we'll take
25 care of that right then and there and issue them a

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1 badge. So, anybody can come. You know, if they don't
2 get around to registering, that's okay. We want to
3 encourage attendance, and so we are -- anybody is
4 welcome to be there.
5 CHAIRMAN KIMBLE: Okay.
6 COMMISSIONER PATON: I have another
7 question.
8 CHAIRMAN KIMBLE: Commissioner Paton?
9 COMMISSIONER PATON: If it's free, how are
10 we funding this?
11 MS. ROBERTS: Mr. Chairman, Commissioner
12 Paton, that was part of our budget for this year. So,
13 we have, in the past four or five -- four or five years
14 now, we've done an annual conference to the extent of
15 whether or not it was inviting just election officials
16 or community stakeholders. And so, this year it was
17 geared towards voters across the state.
18 So, the funding is coming out of the public
19 and voter education budget to pay for the conference,
20 and we are working with our vendor who we work with to
21 facilitate our debates. So, we know that he's very
22 familiar with the Commission's business, and we work
23 with the Phoenix Convention Center.
24 Oh, and I, also --
25 COMMISSIONER PATON: I have another
1 but there will be on-site refreshments available for
2 voters, too, to access.
3 COMMISSIONER PATON: Okay.
4 MS. ROBERTS: And I should also, mention
5 to you -- and we didn't see it up here yet, as we're
6 still working on it, but we did get word this week,
7 too, that Mayor Gallego from the City of Phoenix will
8 be able to attend and provide opening remarks to
9 welcome folks to the Phoenix Convention Center. So,
10 she is one of our guest speakers, as well.
11 COMMISSIONER PATON: Thank you.
12 CHAIRMAN KIMBLE: Thank you.
13 Any other questions from any members of the
14 Commission?
15 (No response.)
16 CHAIRMAN KIMBLE: Thank you very much,
17 Gina.
18 MS. ROBERTS: Thank you.
19 CHAIRMAN KIMBLE: A really exciting event.
20 Item V: Discussion and possible action on
21 adoption of amendment to A.A.C. R2-20-104 relating to
22 loans to participating candidates.
23 Tom?
24 MR. COLLINS: Yes. Mr. Chairman,
25 Commissioners, I'll, kind of, introduce the thing. I
26 know we have -- Secretary Bennett is here, and he had
27 public comment on this item. So, I'll just be as brief
28 as I can.
29 We originally circulated this amendment
30 in -- earlier this year in an effort to unpack what had
31 happened with respect to R2-20-104(E), which the way it
32 was put together, it, at the very least, was ambiguous,
33 if not outright, said that -- that, essentially, a --
34 you could add the different -- different contribution
35 limits together and then fund those through a single
36 loan to a campaign and then -- and then repay that out
37 of the Clean Elections Fund.
38 Our first attempt at that, we got some
39 public comment that, I think, was helpful that was
40 indicated that we weren't accomplishing that. So, we
41 went back through and rethought about it and realized
42 that really what we -- the problem with the rule is it
43 is trying to compact things that are already set forth
44 in statute into a single rule, and we think that the
45 statutes actually speak for themselves on this issue.
46 And they speak for themselves because the
47 definition of "contribution" includes a loan and the
48 contribution limits that apply to Clean Elections
49 candidates are set forth in the Act. And so, if you
50 take those together, then there's no need for a rule
Mr. Collins, I think -- I think that's absolutely correct. It happens to, also, be that -- that as we thought -- as we've thought about this, there's an additional part of the rule that creates an additional problem. So -- so, in other words, to your point, the Act is very clear about the grassroots nature of it. And that is the reason why we had been doing that initially; however, the fact that the rule triggers this repayment from the Fund is an additional reason.

So, you're not -- you're not wrong at all. It's just that we've, sort of --

Commissioner Chan: Okay. Thank you.

Mr. Collins: We just have a couple of reasons.

Commissioner Chan: Any other questions from commissioners?

No response.

Chairman Kimble: Secretary Bennett, did you want to address this matter?

Secretary Bennett: Yes. Thank you, Mr. Chairman, Commissioners.

Chairman Kimble: And could you state your name and address for the record, please?

Secretary Bennett: Yes. My name is Ken Bennett. I reside in Prescott, and I would...

Commisioner Chan: Can I just make a comment?

Chairman Kimble: Okay. I just want to be clear that what we -- the proposed -- the discussion here is whether to eliminate from Section R2-20-04(E) Section E.

Mr. Collins: That's correct. Yes.

Chairman Kimble: Okay.

Mr. Collins: That's exactly right.

Chairman Kimble: Okay. Any other questions from the Commission?
1. 12-20-204 -- or 2-20-104 -- excuse me -- simply
2. codified, as has been now used since the inceptions of
3. Clean Elections, that there is a loan process similar
4. to the fact that there's loans allowed in the
5. non-participating candidate contribution system.
6. And so, first of all, I think it would be
7. very unwise for the Commission overseeing Clean
8. Elections to take away from potential Clean Election
9. candidates a tool that is used in the other
10. non-participating system extensively. I mean, we have
11. existing sitting elected officials in this state who
12. have loaned their campaigns millions of dollars. I
13. wholeheartedly support and applaud your efforts to
14. clean up paragraph E because, as Tom mentioned, it is
15. very -- it was worded very confusing.
16. I think the proposed rule that was going to
17. change it was not that more clear, and I think Former
18. Elections Director Spencer pointed that out in his
19. communication to the Commission when you were
20. considering the previous rule change.
21. Based on his, I think, pretty accurate
22. input that the new proposed rule wasn't much clearer
23. than the old one, I'm saddened to see that the
24. response, then, is, well, we'll just get rid of Section
25. E altogether and no loans at all, unless it could be

1. argued that you go back now into the statutes and
2. somewhere buried in the statutes loans are, kind of,
3. part of contributions.
4. And so, rather than do that, I would
5. suggest that you simply redo paragraph E to clearly
6. state that for a participating candidate in the Clean
7. Elections system, you allow a loan to their committee
8. up to whatever amount you think is reasonable. Maybe
9. it's the personal monies limit that they can put in.
10. There may be candidates wanting to run under the Clean
11. Elections system who want to put in the personal monies
12. that are allowed under your rules and the statutes, but
13. that may be a pretty good chunk of money to them.
14. I mean, $1,000 to a candidate, or whatever
15. the numbers are, that may be a pretty good chunk to
16. some candidate. They may want to put that in as a loan
17. and, then, if they are able to raise the early
18. contribution -- or the early contributions, if they are
19. able to show the grassroots support that, I think,
20. Commissioner Chan appropriately, kind of, ties this
21. whole concept to in the first place, if they put some
22. personal monies in, but they put it in as a loan, then
23. if they are able to demonstrate the grassroots support
24. by early contributions, the 140s -- or whatever they
25. are now -- and the $5, if they can then get that small

1. Elections candidates have told you that collecting $5
2. is not easy. There are many legislative candidates
3. that struggle to get a couple hundred out of their own
4. district. When you go to a statewide-elected
5. situation, I think the minimum for, like, Corporation
6. Commissioners, or whatever, is, like, 1,500 or 1,700,
7. or somewhere there. That is monumental. When you go
8. to Secretary of State and it's 2,500, it's
9. astronomical. When you're at 4,000, it's huge.
10. So, even though someone has told you going
11. in the door that they want to become a Clean Elections
12. candidate, they are setting themselves up for quite a
13. task to collect all those $5 contributions. While
14. that's happening and while they're also trying to
15. attract some early contributions from the small 140s --
16. or whatever they are now -- there's got to be a way for
17. them to fund their campaign.
18. And if you say there's no loans at all or
19. if you set the limit so low that it's unreasonable for
20. them to have the kind of funds to set up a system or
21. send out emails to try to get early contributions sent
22. in or whatever, I just think that you are -- to adopt
23. this rule is going to make it much harder for people to
24. be Clean Elections candidates. And I think you should
25. be about exactly the opposite.
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<td>COMMISSIONER PATON: Can I make a statement?</td>
<td>whatever limit you may end up deciding is the correct limit. Maybe you want to make it clear that you don't want loans at a point where the only way they can be repaid is from the Clean Elections funds, although I would say, if a candidate has loaned their campaign committee to make allowable campaign expenses -- expenditures, if they end up qualifying for the Clean Elections funding by getting the $5 contributions, then why -- why would you prohibit Clean Elections funding from going to pay for legitimate campaign expenditures in the first place?</td>
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<td>CHAIRMAN KIMBLE: Go ahead, Commissioner.</td>
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<td>But my response to Commissioner Paton is that I couldn't agree more. I think you need to take a step here and slow down.</td>
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<td>COMMISSIONER PATON: I'm sorry. I don't mean to butt in.</td>
<td>13</td>
<td>As a technicality, I think you're a day early from being able to adopt this rule, anyway. On your website, when you proposed this rule, you opened the 60-day public comment period which expires tomorrow. And even though it's one day, on your website it says that you're open for public comment on this proposed rule until September 27th, and today is September 26th. So, I don't actually think you should be adopting this rule today, anyway, but I applaud your observations that maybe you can slow down a little bit and review why we're doing this. I agree completely.</td>
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<td>SECRETARY BENNETT: No, no, please.</td>
<td>14</td>
<td>I want to make a point.</td>
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<td>COMMISSIONER PATON: I think it's great that you're here telling us this because you lived it and we're in theory. I mean, Tom has a lot more experience with all the different things. I appreciate your -- your input because you actually lived it. And I would suggest that we contemplate what he says and maybe table this and maybe we could have Tom, kind of, research Mr. Bennett's comments and maybe we could rethink this because I haven't thought of this.</td>
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<td>COMMISSIONER PATON: And -- and I appreciate the fact that you've gone and tried to do all this. And if you think that this is a problem to get all these $5 things for the state -- the big state elections, I can appreciate that. And I certainly felt bad for you when all this didn't work out and, you know -- and we want people to do this. We want people to run. That's the whole idea of our Commission is to show up here to talk to us about rule changes. I'm --</td>
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<td>have people get grassroots efforts and not be funded by, you know, big corporations, and so on.</td>
<td>that the old rule was confusing.</td>
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<td>So, I think that Mr. Bennett has a very good input here for us.</td>
<td>2</td>
<td>COMMISSIONER PATON: Right. I mean, confusion -- I'm not a lawyer.</td>
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<td>CHAIRMAN KIMBLE: Thank you, Commissioner.</td>
<td>4</td>
<td>SECRETARY BENNETT: Neither am I.</td>
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<td>Before we discuss whether to table or not, I want to find out if any of the other commissioners have any questions, and then I want to ask Tom to weigh in, too.</td>
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<td>COMMISSIONER PATON: I'm one of the few things that's not a lawyer, but you know, sometimes we do get things up on the other end. And so, anyway, that's my feeling on this.</td>
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<td>COMMISSIONER CHAN: I had some comments, as well. I don't know if Secretary Bennett had a response to what Commissioner Paton mentioned.</td>
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<td>CHAIRMAN KIMBLE: Okay. Commissioner Chan, you were going to make a point.</td>
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<td>SECRETARY BENNETT: Well, I would like to respond to that because I think it's an excellent point. I was delayed because of weather. It's raining like cats and dogs in Yavapai County, and so I don't have with me the enabling statutes of the Clean Elections system which identifies the findings that the voters of Arizona agreed with to set up the entire Clean Elections system to begin with, but I think there are about ten findings. And of those findings, you will make it more difficult for about six of those findings if you take the tool away from potential Clean Elections candidates to loan a campaign $1,000 or $10,000 or</td>
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I'm reminded very much today by when candidates came to speak to us about the political party rule and paying political parties for consulting fees. And I know that's water under the bridge with the proposition that prohibited it, but I remember at the time thinking that if we did not enact a rule to clarify that, clean candidates would have one hand tied behind their back, while traditional candidates would not. And there was no special interest money, you know, kind of, aspect. As you heard me mention and you addressed it, this special -- or the, you know, encouraging citizen participating --

SECRETARY BENNETT: Grassroots.

COMMISSIONER CHAN: Absolutely. And you're -- you're absolutely right to point out the $5 quals. I mean, that in itself ensures broad citizen participation. When I was thinking about it, my thought was that if a candidate was in the privileged position to loan themselves so much money that they were able to completely fund their seed money, it's not that that's necessarily bad or wrong. It's just not in the spirit of the Act, per se. And so, I appreciate your willingness, it sounds like, to consider some, perhaps, limits on it --

SECRETARY BENNETT: Sure, sure.

COMMISSIONER CHAN: -- consistent with the Act. And I, again, as I stated, agree with Commissioner Paton that, perhaps, we shouldn't throw the baby out with the bath water. I'm not as concerned as you that leaving it to the statute would completely prohibit the loans, but from my years working at the legislature, working in elections, I understand your concern that taking it completely away -- I mean, at least if we can come up with some new language, perhaps that.  And, look -- and that -- and Mr. Bennett is absolutely right. That rule has been there since 2001. With respect to the -- with respect to the rule, you know, look, I'm also perfectly happy to, you know, continue to work with Kara, and we can include Mr. Bennett and we can talk to other folks about -- about what would work. The current construction we have of the rule is that -- to Mr. Bennett's point, is that a person -- a candidate can, in fact, stack those up, those -- not the $5, but the seed money and the --

SECRETARY BENNETT: Right, the seed and the early contributions.

MR. COLLINS: Right, and the early contributions. That's the construction we currently have on the rule, and -- so just so we're clear about that. And, look -- and that -- and Mr. Bennett is absolutely right. That rule has been there since 2001. So, I have no -- so, I have no issue with either of those things, honestly. The only thing I would ask is that I need some authorization -- some flexibility with respect to GRRC -- not GRRC -- with respect to the Secretary of State's publication stuff as to whether or not we have to terminate this and start a new one or we do a supplemental. That's something we'll have to work through as a procedural matter, but I have no problem with not moving forward today at all.

COMMISSIONER CHAN: Okay.

CHAIRMAN KIMBLE: Commissioner Meyer, did you want to say anything?

COMMISSIONER MEYER: Chairman Kimble, I just agree with what Commissioner Kimble [sic] and Commissioner Chan said. I sincerely appreciate Secretary Bennett coming today and offering his input.

CHAIRMAN KIMBLE: Thank you.

So, to summarize, I think our sense is that we have on the rule, and -- so just so we're clear about that. And, look -- and that -- and Mr. Bennett is absolutely right. That rule has been there since 2001. So, I have no -- so, I have no issue with either of those things, honestly. The only thing I would ask is that I need some authorization -- some flexibility with respect to GRRC -- not GRRC -- with respect to the Secretary of State's publication stuff as to whether or not we have to terminate this and start a new one or we do a supplemental. That's something we'll have to work through as a procedural matter, but I have no problem with not moving forward today at all.

COMMISSIONER CHAN: Okay.

CHAIRMAN KIMBLE: Commissioner Meyer, did you want to say anything?
COMMISSIONER PATON: Is what you're saying.
And you've tried to do it and you've tried to figure
out how -- because it's all about getting your name out
and that you're doing this.
SECRETARY BENNETT: Oh, I succeeded in one
of my three tries for statewide office. I ran -- in
fact, I think I'm the last Republican official to run
successfully for statewide office under Clean Elections
when I succeed in the Secretary of State's race in
2010, but that's almost ten years ago.
COMMISSIONER PATON: And so, by -- by
going rid of this, that would effectively not made it
so you could have done it or, at the very least,
discouraged you from attempting to do it.
SECRETARY BENNETT: Correct.
COMMISSIONER PATON: Which is directly
opposite of what we want to do.
COMMISSIONER CHAN: Right.
CHAIRMAN KIMBLE: All right.
COMMISSIONER CHAN: Mr. Chairman?
CHAIRMAN KIMBLE: Right.
SECRETARY BENNETT: Opposite.
COMMISSIONER CHAN: Just one thing. I
mean, if the concern is, also, about the Clean
Elections Fund becoming a guarantor of, you know, a
personal loan, it seems to me there could be something
in the rule that, perhaps, they can't use the
monies to pay themselves back until they've shown
they've obtained enough seed money.
You know, it seems like there should be
some way to make a tradeoff that way rather than making
the public monies the guarantor, if that makes sense.
And I don't know if there's any other considerations
there legally, but I mean, if that's a concern, perhaps
there's some way to put that in the rule, as well.
MR. COLLINS: Sure. I mean, I --
SECRETARY BENNETT: Well, to that point,
Mr. Chairman and Commissioner Chan, on the surface,
that feels right. And I don't disagree with that, but
the only reason you put money in, whether it's a
personal contribution and it's not a loan and you can't
get it back or whether you loan your campaign committee
or whether a friend gives you $170 as an early
contribution, the reason you put money into a campaign
wishes to make a loan to get that head start and
make -- you know, get those email lists, get, you know,
maybe, leaflets or some sort of help to support their
seed money.
So, let's just change the loan paragraph so
that it more clearly says what the limits are and not
get rid of it completely.
COMMISSIONER PATON: Can I -- can I say
something?
CHAIRMAN KIMBLE: Okay. Thank you.
Commissioner Paton.
COMMISSIONER PATON: So, really, if you're
running for state office, if you're running for
secretary of state or governor and -- you're
effectively not going to have a chance, basically.
SECRETARY BENNETT: Exactly.
1 allowed by Arizona laws and Clean Elections rules to get a mailing list or to pay somebody to send out, you know, an email blast or something, you know, help my campaign.
2 So, no matter how the money has come into the campaign, whether it's a loan from the candidate or personal monies or seed contributions or whatever, the only thing it can spend it on is authorized expenditures under Arizona state law. And if they end up qualifying for Clean Elections funding by getting the number of $5 contributions that are required for their various offices, then the money is going for authorized expenditures in the first place.

MR. COLLINS: Right.

SECRETARY BENNETT: True.

SECRETARY BENNETT: So, we can talk about that going forward as to whether we need to have a limit there, but to me, your current interpretation of the rule limits it to the sum of the candidate's authorized personal contribution limit and the seed money contribution coming from their private supporters. Neither one of those is tapping in early in or committing to or being backed up by the Clean Elections Fund. They only get money if they demonstrate the grassroots support that was fundamental to Clean Elections that they get the $5 contributions.

And, once they get that, those monies can only be used on authorized expenditures in the first place.

SECRETARY BENNETT: Okay. Great point.

SECRETARY BENNETT: Yeah. You know, I feel like my -- I was -- you know, when we were talking about this previously, I just -- maybe it was an overreaction to what happened with your situation where I didn't want to be in that situation again of somebody trying to do that and then didn't get enough contribution, you know, enough $5 things. And I think that was the -- I didn't want that to happen to anybody again. And so -- I mean, I guess I've said what I've said.

SECRETARY BENNETT: Well, I have a whole other -- Mr. Chairman, Commissioner Paton, I have a whole other speech about what happened to me, but it wasn't the fault of Clean Elections. It was the fault of Arizona statutes being completely silent and the county recorders offices having not adopted procedures at that time as to how you verify signatures on $5 contribution forms.

In every other aspect of our election system in Arizona, when you submit signatures either to get your name on the ballot through the nominating process or challenge -- or if you're challenging signatures, in every other aspect of the election system in Arizona where voter signatures are involved, there's a clearly laid-out process that says how you challenge those signatures. And if your signatures are challenged, then you can come in with affidavits from voters who signed whatever they signed and prove that it was them that signed it.

SECRETARY BENNETT: Right.

SECRETARY BENNETT: That's what I was, I feel, disadvantaged in my situation because I collected 4,100 $5 contributions in a matter of about 60 days. That was a monumental effort, but that didn't get me to the 10 percent threshold. I needed 4,000.

The way the rules are, if you don't come in with more than 10 percent more than that, then they all have to be sent out to the recorders and every one is checked.

And when -- when 4,100 were checked by the recorders, they came up with about 200 bad, they claimed. And so, now I was at 3,900, and I needed 4,000. When I contacted the county recorders and said I know some of the ones that you have disqualified are from legitimate voters; can I come in and bring an affidavit, bring the voter themselves, something, they said, well, there's no process in the law.

They actually recommended I file a lawsuit, which I did because they said you can bring these affidavits in to the judge and then the judge can hear from the voter or see the affidavit from the voter and say, yeah, 100 of the 200 we rejected were, in fact, from legitimate voters. Then I would have been back to the 4,000. I would have got the Clean Elections funding. I would have been able to do what I needed, but they recommended that I file the lawsuit, go to court and bring these affidavits in court.

Then, when I filed the lawsuit, those very same county recorders opposed me in the lawsuit saying that there's no process for validating signatures under the Clean Elections system and, unfortunately, the judge agreed.

MR. COLLINS: And to that point, Mr. Chairman, Commissioners, I mean, that's actually something that is a change of -- of, I guess, what would have been, I guess, an informal policy. For 20 years previously, the Maricopa County -- the former Maricopa County Recorder and election director did, in fact, accept those kinds of corrections and on a routine basis and people did qualify. So that -- that is a change in position that I had not fully grasped.
So, where do we proceed? Does any

SECRETARY BENNETT: Thank you.

don't have and I think is a valuable one.

perspective, as both my colleagues have said, that we

CHAIRMAN KIMBLE: And you've been bringing

SECRETARY BENNETT: It was all right.

conditions.

Steve or an affidavit from Steve saying, yes, I signed

recorder, and I was not allowed to come in and bring

But it was rejected by the -- the Yavapai County

record, and I was not allowed to come in and bring

Steve or an affidavit from Steve saying, yes, I signed

He's now 64. And his signature is

different, but I know Steve Blair signed that $5 form.

And, as you point out, the previous Maricopa County

Recorder used to allow you to come in and show

affidavits from voters that, yes, I did sign. I mean,

one of the signatures they rejected in Yavapai County

was from a 20-year seeded city councilman in the city

of Prescott, who I've known for 50 years, who probably

signed his voter registration form when he was 18 years

old.

Mr. Chairman, I'm

questions in executive session.

MS. KARLSON: I would be happy to answer

rule.

she recommends an executive session for advice on this

read both rules to put that construction together, in

appropriate. I would only say that the main -- the

main objective of it is we have two -- currently two

rules that we have to read together to articulate how

the enforcement process works, and it does in a way

that assures that a respondent has, you know, all of

the process they could imagine.

This would simply mean you wouldn't have to

read both rules to put that construction together, in

my view. Anything other than that, I would simply

defer to Kara if she would be interested in -- and if

she recommends an executive session for advice on this

rule.

MS. KARLSON: I would be happy to answer

questions in executive session.

Mr. Collins: Okay. So, Mr. Chairman, I'm

going to interpret that as a recommendation that we, at

least, consider going into executive session.

CHAIRMAN KIMBLE: Is there a motion to go

into executive session?

COMMISSIONER CHAN: Mr. Chairman, I move

that we go into executive session to discuss the

proposed amended language of the rule.

developed, I think I can say in conjunction with the

Attorney General's Office, and I think that Kara can

speak to it in whatever context she thinks is

appropriate. I would only say that the main -- the
CHAIRMAN KIMBLE: Is there a second?

COMMISSIONER PATON: Second.

CHAIRMAN KIMBLE: Roll call.

Commissioner Chan?

COMMISSIONER CHAN: Aye.

CHAIRMAN KIMBLE: Commissioner Paton?

COMMISSIONER PATON: Aye.

CHAIRMAN KIMBLE: Commissioner Meyer?

COMMISSIONER MEYER: Aye.

CHAIRMAN KIMBLE: The Chair votes aye.

We're going to go into an executive session on Item VI.

(The following section of the meeting is in executive session and bound under separate cover.)

(End of executive session. Public meeting resumes at 10:40 a.m.)

CHAIRMAN KIMBLE: Okay. The Commission is back in public session.

Is there a motion on Item VI?

COMMISSIONER CHAN: Mr. Chairman.

CHAIRMAN KIMBLE: Commissioner Chan.

COMMISSIONER CHAN: I would move that we approve the amended language for the 60-day public comment period.

CHAIRMAN KIMBLE: Is there a second?

COMMISSIONER PATON: Second.

CHAIRMAN KIMBLE: Roll call.

Commissioner Meyer?

(No response.)

CHAIRMAN KIMBLE: Commissioner Meyer, are you there?

(No response.)

CHAIRMAN KIMBLE: Okay. We'll come back to you in just a second and see if you're there.

Commissioner Chan?

COMMISSIONER CHAN: Aye.

CHAIRMAN KIMBLE: Commissioner Paton?

COMMISSIONER PATON: Aye.

CHAIRMAN KIMBLE: The Chair votes aye.

Commissioner Meyer, are you there?

(No response.)

CHAIRMAN KIMBLE: Okay. It is approved 3 to nothing to open the 60-day public comment period.

Do we know if Commissioner Meyer is --

MS. THOMAS: I'm going to send him a quick message. I'm still live.

CHAIRMAN KIMBLE: Okay, okay.

COMMISSIONER PATON: Maybe he got cut off during the --

CHAIRMAN KIMBLE: Yeah.
The reason why this is of concern to -- and apply to government lawyers.
Under -- is undergirded by the ethical rules that do govern lawyers with regard to ethics, it also reflects -- notwithstanding the flexibility with the Allen Act. The Office is not a policymaking office, and it also reflects that the Attorney General's Office can't substitute his or her own mind what the State's interests are, regardless of the public perception of the agency.

The reason that I agendized this item is because, first of all, if we were to end up in a situation where the Attorney General could decide in his or her own mind what the State's interests are, that puts -- I think that puts our agency at a different risk than other agencies on account of, regardless of the public perception of the agency.

I'm also concerned because, you know, we have had situations arise within the past few years where despite opting out of -- despite -- you know, for example, we have an ongoing conflict with the Secretary of State on issues -- on certain issues. When those conflicts have occurred, we've had at least one instance where the Attorney General's Office then dispatched someone to the Commission to tell the Commission in open session, not withstanding the conflict, that what the Commission was doing was illegal and that -- essentially, impugning the Commission.

I know, I mean, one can have one's personal opinion about that.
The reason that I agendized this item is that in so -- in seeking to proceed with the suit against the Board of Regents, thus far, the trial court and the Court of Appeals have rejected the -- the Attorney General's efforts; however, at the Court of Appeals, there would -- the entire panel joined in concurrence that said that the construction of the statute under 16 -- or not. I'm sorry -- under 41 193(b), that the court -- Supreme Court had articulated 1960 was in error. And that statute, basically, means that the -- that the Attorney General can't substitute his own view of the States' interest and file suit against the governor, when you read it together. That whole -- that ruling expressly said the Attorney General's Office is not a policymaking office, and it also reflects -- not withstanding the flexibility with the government lawyers with regard to ethics, it also under -- is undergirded by the ethical rules that do apply to government lawyers.
The reason why this is of concern to -- and the reason I wanted to make you fully aware of this

1 anything, direction to continue to be able to discuss
2 this matter in public on behalf of the Commission, but
3 I don't recommend at this point any legal filings. I
do not believe we -- in fact, we don't have outside
counsel for this case. We don't have a lawyer for this
case -- for this because I've not -- I feel -- I feel
that for me to request outside counsel would be an act
of aggression beyond which we are at a place to do.
9 I still -- that's still my recommendation
10 is that we monitor, rather than engage, but allow me to
11 continue to observe the potential pitfalls of this.
12 That's my recommendation, and then we'll have another
13 opportunity to review this if the Supreme Court
14 declines to take the case, which we won't know for
15 several months. I suspect that this will go to the
16 legislature, and we can reconsider then, if we care
17 about it at the legislative level.
18 My view as a process point is that because
19 of stare decisis and because the statute, I think, was
correctly construed in the first place, the proper
venue for the Attorney General's Office to seek remedy
22 here is at the legislature. And I've said that. I
23 mean, I've not -- you know, there's not -- it's not as
24 if there's no way to fix this problem, if it is a
25 problem.


1 litigation about disqualification.
2 And -- and I think that that's something
3 that, given our history with the Attorney General's
Office, we're more likely to be -- you know, we're
just -- there's just some things -- I've tried to put
it this way. I don't know if it makes sense. When
7 state -- when all other agencies catch this -- catch a
8 cold, we get pneumonia, you know. It's a -- it's a --
9 it's just -- it's just -- and my goal in speaking
10 publicly about this has been to create a decision making
11 space for the Commission so that the efforts by the
12 executive office and that have been joined by former AG
Terry Goddard were not -- did not overrule the other
14 side of this argument. There is another side of the
15 argument.
16 The governor, for what it's worth, has said
17 at a gaggle last week that he did not appear to agree
18 with the position the AG is taking, for what it's
19 worth. And -- and, obviously, we enclosed the two,
sort of, public discussions on this one by Bob Robb and
21 one by Mr. Goddard.
22 So -- so, that's what I've done so far.
23 Today I'm here to simply say -- answer any other
24 questions you may have about that.
25 As far as direction goes, I'm seeking, if

1 And the majority of attorney generals in
2 the country do, in fact, have powers like these. I
3 just don't think that -- I think a lawsuit is a bad
4 mechanism because of all of the ethical and policy
5 permutations that flow from that decision. It needs --
6 it ought to go through the legislature where it will be
7 vetted by our lawmakers and the governor.
8 CHAIRMAN KIMBLE: Any questions from
9 members of the Commission?
10 COMMISSIONER CHAN: Just a comment,
11 Mr. Chairman.
12 CHAIRMAN KIMBLE: Commissioner Chan.
13 COMMISSIONER CHAN: I always have a comment
14 about these fascinating issues. I think this is
15 particularly interesting because this case, you know,
16 regarding Arizona constitutions provision for a nearly
17 free as possible an education at our state
18 universities, I think it's something that's worthy of
19 bringing up a lawsuit, but I think Tom was smart to
20 bring this to our attention because I believe that if
21 the Attorney General is -- as a policy matter, is
22 allowed to go unchecked, bringing lawsuits against
23 state agencies like this, in spite of my support of
24 what he's trying to accomplish with this, I don't think
25 I can support the way he's going about it for the very
MR. COLLINS: Right, right.

COMMISSIONER PATON: When it has something to do with that policy and if it does say that in the Constitution, then -- and he's not able to prosecute it, who can?

MR. COLLINS: Mr. Chairman --

COMMISSIONER PATON: I mean, I understand your comment. I understand the way you're thinking, but if it says that there, then, if he can't do it, who can make it happen?

MR. COLLINS: I have an answer for that,

Mr. Chairman.

COMMISSIONER PATON: Good.

MR. COLLINS: Commissioner Paton. It's ironic, actually. There's a case from 2007 where a public interest attorney, on behalf of several students, brought a case to the Supreme -- that ultimately ended up in the Supreme Court. The way that they framed their case was in such a way that the Supreme Court said it was a political question, so it wasn't something the Court would deal with.

The Attorney General is currently trying to distinguish that case on the basis of there's a line in that case that was written by a former justice, current Ninth Circuit Judge Andy Hurwitz, also former president of the regents, that said if you were challenging the formula, maybe it would be different. So that's where they're trying to go.

The point is, though, that the whole reason we're here is because a public interest law firm brought this suit on behalf of students. And so, there's simply no -- ordinarily, when a state agency is sued, the AG is the defender of that. So --

COMMISSIONER PATON: Right.

MR. COLLINS: So, I agree. I agree it would be a problem if it were true that no one else can bring it. The fact is that absolutely tons of people have standing because there's, what, 100,000 students in here, and there's -- and there's numerous public interest law firms that care about all kinds of university policies, as you know. So -- as you know.

So, that's how I see it.

COMMISSIONER PATON: When you and I were in school, it was fairly close to three.

MR. COLLINS: Right, right.

COMMISSIONER PATON: Graduation was 275 a semester --

MR. COLLINS: Right, right.

COMMISSIONER PATON: -- in the State of Arizona.
10:58:45-11:00:18

1 Is there anyone who wishes to speak?
2 (No response.)
3 MR. COLLINS: Rivko?
4 CHAIRMAN KIMBLE: Rivko?
5 COMMISSIONER CHAN: It’s a rare day.
6 CHAIRMAN KIMBLE: This is your item on the
7 agenda.
8 Item X: Adjournment.
9 Is there a motion to adjourn?
10 COMMISSIONER CHAN: Mr. Chairman, I would
11 move that we adjourn the meeting.
12 CHAIRMAN KIMBLE: Is there a second?
13 COMMISSIONER PATON: Second.
14 CHAIRMAN KIMBLE: Commissioner Meyer?
15 COMMISSIONER MEYER: I will either offer a
16 third or vote aye in favor of the motion.
17 CHAIRMAN KIMBLE: Okay. Aye.
18 Commissioner Chan?
19 COMMISSIONER CHAN: Aye.
20 CHAIRMAN KIMBLE: Commissioner Paton?
21 COMMISSIONER PATON: Aye.
22 CHAIRMAN KIMBLE: The Chair votes aye.
23 We are adjourned.
24 (Whereupon, the proceedings concluded at
25 11:00 a.m.)

STATE OF ARIZONA     )
COUNTY OF MARICOPA   )
BE IT KNOWN the foregoing proceedings were
taken by me; that I was then and there a Certified
Reporter of the State of Arizona; that the proceedings
were taken down by me in shorthand and thereafter
transcribed into typewriting under my direction; that
the foregoing pages are a full, true, and accurate
transcript of all proceedings and testimony had and
adduced upon the taking of said proceedings, all done to
the best of my skill and ability.
I FURTHER CERTIFY that I am in no way
related to nor employed by any of the parties thereto
nor am I in any way interested in the outcome hereof.
DATED at Phoenix, Arizona, this 28th day of
September, 2019.

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

Public Meeting

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September 26, 2019

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