THE STATE OF ARIZONA
CITIZENS CLEAN ELECTIONS COMMISSION

REPORTER'S TRANSCRIPT OF PUBLIC MEETING

Phoenix, Arizona
October 29, 2015
9:36 a.m.

Reported By:
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Certified Reporter (AZ 50127)

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Governor’s Regulatory Review Council; and that we
years, and what their purpose is, and provide that to the
basically in statute where we identify what our rules are,
mandates.
We're continuing to work on -- on our outreach
efforts. Last month Gina and I were at Rio Salado College
providing information at a -- at their panel discussion on
cutting through the record -- rhetoric, which featured a
number of speakers from around the -- around the State on
-- on the issue of participation in public life in
elections and otherwise.
We've done -- we'll be continuing to be around
the State over the course of the next few weeks. As you
can see, it's quite a -- quite a busy agenda of -- of
being out in public talking about issues related to both
campaign finance and voter participation, which are our
mandates.
You have the participating candidate stand --
standings, the complaint issues.
Last thing I'll briefly highlight is we did
submit our five-year rule review to the Governor's
Regulatory Review Council. This is a -- a process
basically in statute where we identify what our rules are,
what changes we've made to them over the previous five
years, and what their purpose is, and provide that to the
Governor's Regulatory Review Council; and that we
completed and is available with the report. And there
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will be addition -- and then there's budget information
there, which Sara is available if -- if you have specific
questions to discuss related to the quarterly financial
information that's provided in the report. I won't
pretend to try to speak educatedly on it.
But with that, unless there are other questions,
that's [sic] really completes my report Mr. Chairman,
Commissioners.

CHAIRPERSON KOESTER: Okay. Thank you, Tom.
Commissioner Laird, do you have any
questions on the budget right now?
CHAIRPERSON LAIRD: No. Not at this time.
CHAIRPERSON KOESTER: Okay. All right. Next
item is No. IV, it's discussion and possible action on
adoption of rule amendments to A.A.C. R2-20-109, public
comment, circulation of the rule, and related to the
enforcement of the Clean Election Act and procedures.
Now, this No. IV, as you see, has an (A), (B),
(C), (D), (E), (F), (G) section and I think we're going to
go slightly out of order in discussing this next matter.
I think one reason that the R20- -- R20-109(F)(3) or (F),
we have both, it's been out there for many, many days, 120
in the presence of the following Board members:
Mr. Thomas J. Koester, Chairperson
Mr. Mitchell C. Laird
Mr. Steve Titla
Mr. Damien R. Meyer
Mr. Mark S. Kimble
OTHERS PRESENT:
Thomas M. Collins, Executive Director
Paula Thomas, Executive Officer
Sara Larsen, Financial Affairs Officer
Gina Roberts, Voter Education Manager
Alec Shaffer, Executive Support Specialist
Mike Becker, Policy Director
James P. Driscoll-MacEachron, AAG
Joseph Kanefield, Ballard Spahr
Mary O'Grady, Osborn Maledon
Patricia Koester, Citizen
Rivko Knox, League of Women Voters
Stanley Williams, AZ Advocacy Network
Louis Hoffman, Self
Jim Barton, Torres Law Group
Cory Watson, Intern
Jane Amern, Intern
Matt Roberts, Secretary of State's office
Garrick Taylor, AZ Chamber of Commerce
Brad Johnson, AZ Chamber of Commerce
Lee Miller, Secretary of State’s office
Barrett Marson, Marson Media
Evan Wyllys, AZ CIR
Howie Fischer, Associated Press
Jeremy Duda, Arizona Capitol Times
Brent Steffens, R&R Partners
*Various other members of the public are present

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back me up, that there -- version three and the Secretary of State's, we can't do both. Doing one kind of moots the other one I think is the right term. So, we could take the Secretary of State's petition to amend first, get that out of the way, and then we could proceed with the -- I'll call it the version three for the better term.

So, I can ask Mr. Collins, but as far as I know, there's been no comments or -- or anything on the Secretary of State. Am I right about that or not?

MR. COLLINS: I -- I think, unless there is something maybe buried into a comment in the -- in the -- in one of the other ones, perhaps the Chamber's letter. I don't remember off the top of my head. I -- I don't think that we received a specific comment that I'm aware of that specifically said and staff is -- oh. I guess former Commissioner Hoffman's letter said don't do it. But other than that, I'm not aware of -- and I'm looking at Mike and Alec who have also reviewed these things, and we don't have any -- any other comment at all on that.

I agree with you, Mr. Chairman, that because the Secretary's petition seeks to excise 16-913 from Rule R2-20-109, were you-all to adopt that petition, it would largely moot the remaining items under the rule agenda.

And so, it is logical to address that first.

The other -- only other question is whether or not you would prefer to have -- you know, Mr. Miller is not you would prefer to have -- you know, Mr. Miller is here from the Secretary's office. I would just say as a preparatory matter to this entire discussion, that when you look at the totality of the time that we have spent on this subject matter, it has been about a hundred and -- I think 168 days total. It has been 60 days since version three circulated with the vote of the Commission. And -- and according to the minutes of that August meeting, it was the only version of any rule related to independent expenditure reporting that was, in fact, approved for public comment.

I think the record -- with -- we have reviewed the record on that, the record is, I believe, clear.

Crystal clear.

And there has been quite a bit of discussion in the -- this period of time. I have spent several hours with the State Election Director, I have spent time with the Secretary of State, Chairman Koester and I have spent considerable time with the Secretary of State. All that by way of saying that our door has been open throughout that entire period of time to resolve some of the issues.

I have myself put forward procedural rules designed to mitigate the reasonable concerns of the Secretary, or at least reet those -- meet those halfway; and those have not been satisfactory to her or her staff.

And my understanding is that Mr. Spencer's comments at the outset of this process which, you know, were -- I guess I would call them belligerent with a kind of a -- with a smile, remain the -- an accurate representation of the Secretary of State's office position in the event that the Commission moves forward with what is delineated as Item IV(A) in this agenda item.

You know, whether or not that's a sufficient reason to not do that, or whether or not some late gambit to continue a dialogue that could have happened over the course of the previous 168 days, is something that you-all would be -- find, you know, acceptable is -- is a call for you. But -- but that's my general sense of the lay of the land.

So, with that, Mr. Chairman, I'd -- I simply -- I guess if you want to have public comment ahead of the items, especially given it is Secretary Reagan's petition and Secretary Reagan's representatives are here, I -- I don't know how you want to proceed.

CHAIRPERSON KOESTER: I -- I don't mind if -- you want to make any statement, Lee, right at this time or...

MR. MILLER: Mr. Chairman, we have -- we have no particular comment on -- on our petition. Just encourage the -- the Commission to act as it sees fit.

CHAIRPERSON KOESTER: Sure. Does any
1. should exercise restraint as a matter of good public policy.
2. I've tried to take a look at the statutory scheme and understand what I think the best outcome might be. In doing that, I've noted there are two statutes in the Clean Elections Act that require specific recording reporting. That is 16-941(D) and 16-958, which are the statutes in the Clean Elections Act that require certain reports be filed.
3. Section 16-913 is not a part of the Arizona Clean Elections Act. It's a report to be filed with the Secretary of State.
4. And, you know, I would also note that there's nothing in the Act that really gives us authority to determine who is and who is not a political committee. And it's also interesting to note that 16-913 specifically provides what statutes govern if you fail to file under 913. It specifically provides that if you fail to file under 913, you are subject to the penalties of 16-918. 16-918 is a very thoroughly-written statute with a very formal procedure and with specific penalties for failing to file under 16-913.
5. 16-918 includes a requirement that written notice be sent by certified mail within 15 days of the filing officer--not the Arizona Clean Elections Commission, by the way, a filing officer--determines there's been a violation of the requirements under 16-913. Second, it provides a $10-a-day penalty for late filing. Third, it provides an additional $25-a-day late filing penalty 15 days after the committee's been given a written notice that it's failed to file as required by 16-913.
6. It -- it even goes on to provide that it -- a candidate may not be eligible to run for office for five years. It provides that for a standing political committee, a violation, they have increased reporting requirements going forward.
7. And, lastly, it provides that any political committee may be completely suspended -- suspended from operating in the State. Penalties much more powerful than anything set forth in the Arizona Clean Elections Act.
8. So, you know, my conclusion after trying to take a look at the statutory scheme and the arguments that have been made, while I -- I don't -- I -- I -- I believe we have the authority under the Arizona Clean Elections Act to govern non-participating candidates and exercise jurisdiction, you could read the statute broadly enough.

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1. that we could exercise jurisdiction over 16-913 if we choose to do that. But I think as a matter of policy, having two different government entities with the same jurisdiction is just not a best practice. It creates duplicative and potentially inconsistent interpretation, potentially inconsistent investigations, potentially inconsistent enforcement regarding, you know, not only what are political committees, who must file, but even whether or not a filing is adequate.
2. So, the potential duplication and inconsistency, I think, is -- is inefficient government, I think is confusing government, I think is a duplication of costs and efforts; and, therefore, for those reasons, I think it's unfair to the public and I think it's unfair to the organizations that care enough about our State's political process to participate in it.
3. So, for that reason I'm a -- I'm a "yes" on the Secretary's petition.

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1. petition is a policy decision for the Commission to make. It is a binary decision. It is not about the nuances of -- of -- of what is in -- you know, what -- what is in version three, it's about a -- a binary yes/no decision. And I think Mr. Laird has identified precisely what the analysis would be to lead you to that.
2. I have, as you all know, outlined an alternative -- an alternative analysis to that. But it's not -- and -- and -- but it's not my point or purpose, and I've -- and I've -- I just want to be clear what I've said to Mr. Laird, I would say to all of you, that I believe that it is the essence of a policy decision for the Commission to make whether or not to continue in this way or not. And then the legal underpinnings of that being something that obviously reasonable people can disagree about on that point.
3. COMMISSIONER TITLA: Mr. Chair?
4. CHAIRPERSON KOESTER: Of course in the future, the legislature may decide to do something entirely different or a ballot initiative could come up to perhaps do what California has done. I -- it's hard to say. But to -- to resolve this (C), I think the way we have to do it is to -- a motion to deny or to delete or how -- what would be the best legal term to --
5. MR. COLLINS: Well -- well, I think -- first, Mr.
| 1 | Chairman, I don't know if there's any other public comment you might want to receive on that question. And once that's passed, my recommendation would be that it really is up to any of you to either move to adopt Secretary Reagan's petition, or, if I -- I guess -- I mean, I guess you could move to to deny it if someone wanted to make that motion alternatively. It -- the either either motion will yield a vote that will do -- |
| 2 | CHAIRPERSON KOESTER: I see. |
| 3 | MR. COLLINS: -- either enact it or not enact it, I guess is what I'm trying to say. |
| 4 | CHAIRPERSON KOESTER: Okay. So, you moved to approve and everybody said "aye," then it accomplishes the same thing. But you could move to deny and everybody vote "aye" -- |
| 5 | MR. COLLINS: Everybody said "aye" or not -- or whatever you're going to do. |
| 6 | CHAIRPERSON KOESTER: Okay. I -- |
| 7 | MR. COLLINS: Or maybe nobody says -- I don't know what -- I -- I don't know what the outcome will be, but I -- but I simply -- |
| 8 | CHAIRPERSON KOESTER: No, no. Neither do I. |
| 9 | MR. COLLINS: -- yeah. I think the motion can be made by whomever is comfortable, you know, making the motion for what the thing is. For my perspective for the out as part of the ongoing process. |
| 10 | COMMISSIONER TITLA: Chairman? |
| 11 | CHAIRPERSON KOESTER: Thank you, but -- |
| 12 | COMMISSIONER TITLA: Chairman? |
| 13 | CHAIRPERSON KOESTER: Yes. Go ahead. |
| 14 | COMMISSIONER TITLA: Point -- point of order. |
| 15 | CHAIRPERSON KOESTER: Yes. |
| 16 | COMMISSIONER TITLA: I think that the gentleman, my esteemed colleague, has made a motion, so I don't think we can have any comments on the Roberts Rules of Order until we either have a second or if there's no second, the motion dies, then I think we can go into some comment. |
| 17 | CHAIRPERSON KOESTER: Okay. Well, I -- I get -- |
| 18 | COMMISSIONER TITLA: I see your point. So, Commissioner Laird has made a motion. Can I have a second, then, on the proposal? We need a second in order to take a vote, I believe. |
| 19 | CHAIRPERSON KOESTER: I'll second it for purpose of taking a vote. |
| 20 | CHAIRPERSON KOESTER: Okay. And then we had the comment from the Chamber of Commerce. I -- we -- we realize what -- what -- oh. Commissioner -- |
| 21 | COMMISSIONER -- Mr. Hoffman, if you want to make a comment, too. We have a -- we have a motion and a second so we can make a discussion before we vote. |
| 22 | MR. HOFFMAN: Yes. Thank you, Mr. Chair, Commissioners. Mr. Laird, I appreciate your comments. I would like to urge the Commission to vote "no" on the Secretary of State's petition to amend. There are several, I think, good reasons why the Commission should not provide a general get-out-of-jail-free card with regard to the -- the penalties that are specified in the Clean Elections Act, and as Mr. Laird said, apply to any violation of this chapter. And I think that this is a matter that can be addressed on a case-by-case basis. Let me give you an example. In the past time I was on the Commission, there was a complaint made against the sitting -- well, the -- during the election of the Attorney General, the last Attorney General, not the current one. And that investigation and procedure with respect to -- that was brought under the -918 statute that Mr. Laird alluded to, continued past the following election, and I'm not even sure if it's still continuing to go on, I -- I've lost track of it. That's not good. There have been other situations where a -- a political official, the Attorney General or the Secretary of State, either feels that they must bend over backwards to charge someone of their own party because a feeling that they're going to be accused if they don't; or, |

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alternatively, bend over to accuse somebody preferentially of the other party. This Commission is a non-partisan body, can decide things without the political considerations that a -- the officials have to do. And this is -- voting "no" on the petition to amend simply leaves the -- the Commission in a position where it can apply -- choose to apply penalties. The penalty in the Clean Elections statute is stronger and so at least some respects than the penalty, particularly the $10-a-day part is -- is stronger. And as Mr. Laird also pointed out, the Commission -- the Clean Elections Act does have some rules that are -- that require other types of reporting. And if you're going to be investigating whether there's a violation of those kind of rules, it makes sense at the same time to investigate whether any other rule is being violated; and -- and that may depend -- that may alter the penalty or may alter your decision as to how -- when you would impose a penalty. So, there are many, many instances in government where two commissions or two bodies or two officials have concurrent jurisdiction. There's a legal term for it, "concurrent jurisdiction," because it happens a fair bit. And in many instances, concurrent jurisdiction exists and this is one of them and there's a reason for it.

So, as far as postponing the -- the vote for further time, I think Mr. Collins' point about this having been a half a year already is -- is enough, and that, you know, it's -- it's time to get to it. And I -- I urge the Commission to defeat the petition and work hard on coming together with suitable rules to make sure that we address some of the legitimate policy issues and -- and procedural concerns that the Secretary of State and -- and Mr. Koest-- Mr. Laird raised, as -- as well as others have. And we provided some suggestions in our comments as to how to do that and I urge adoption of those -- those kinds of rules. Thank you very much.

CHAIRPERSON KOESTER: Thank you. Thank you, Mr. Hoffman.

Anybody else who would like to make a comment before we vote?

Okay. So, we had a -- a motion and a second. An "aye" -- an "A" -- "aye" vote will be in favor of the Secretary of State's petition to amend. A "nay" vote will be to not.

So, all in favor to say "aye," please say so.

COMMISSIONER LAIRD: Aye.

CHAIRPERSON KOESTER: Okay. All opposed say "nay."

(Chorus of nays.)

So, I don't know if any of those people or anyone
I would want to publicly have comment, but I certainly would defer to you on the order and in terms of if you want to do that -- I mean, you -- my understanding, and Mary correct me if I'm wrong, I think they take public comment before there was a motion if they wanted to.

MS. O'GRADY: That's correct.

MR. COLLINS: And -- and so if that's -- if that's your druthers, you would.

I -- I think I've probably said -- maybe I've said enough about -- about how this works and what -- what we think is achieved by this, but the the -- as my just to reiterate, the memo that you have from October 16th by me delineates that the objectives of this exercise are to address the stated concerns of the regulated community about the absence of reliable metrics for decision-making around filing of campaign finance reports in this State; and, two, additionally provide transparency to the public so that it knows what the factors that a body like this will look at in determining as we meet in open session, whether or not if there was, in fact, a complaint filed -- which is, of course, itself a speculation, we would have that framework.

I would also reiterate that the existence of 16-913 in the Rule predates this exercise. And so -- and so in -- in -- in the absence of drilling down in this Miller Certified Reporting, LLC

would work in the event that the Commission chooses to make this decision.

CHAIRPERSON KOESTER: Thank you, Mr. Collins.

We already had a -- a -- a comment to delay, obviously, a gentleman from the Chamber of Commerce. We appreciate your comments.

Again, Mr. Collins, and I think the rest are Commissioners have been on this and discussed this and discussed it with their attorneys back and forth, and plenty of comments from the public. I personally think it's time to take a motion and a second and -- and we can discuss it after the motions; or, we can take a vote. I -- I -- but I think this has gone on long enough and I -- I don't see any -- anyone clamoring to make a comment right now anyway but -- okay. Lee, go ahead.

MR. MILLER: Mr. Chairman, members, my name is Lee Miller, I'm the Deputy Secretary of State. Pleased to be before you this morning.

I think the very first time I was in front of the Commission was 15 years ago in working with the very first Chairman of the Commission, Gene Lemon, to really take the statute which the voters had passed and trying to make it operational. And what was very critical from the very beginning of operationalizing the Act, was to make the Miller Certified Reporting, LLC

way, your decision having been to reject the Secretary's position, we are left with a choice now between -913 being there, being able to tell the regulated community and others what we will do in that event that those issues arise, or doing it on an ad hoc basis.

It's my view that all other things being equal, an administrative agency ought not do policymaking by enforcement, but rather ought have a rubric that it can provide to folks for their use in establishing and operating their entities and that the public will know how those entities are also operating.

So, I think that's the objective; that's the purpose of the -- of the rule; that's been the purpose of this exercise. And I think that the rule draft that we currently have, version three, with the changes I suggest which are minor and for the most part really cosmetic, achieves meeting that objective. Which is a discrete objective, it's not a -- it's a different objective than, you know, some of the broad -- the broader policy question you just addressed.

And so I would -- I guess I would leave it there at the risk of going on too long. And I'm open myself for any questions that you-all have at this point. And Mary as well, 'cause she's worked very hard with me to make sure that we would provide you our best sense of how this Miller Certified Reporting, LLC

entire program of the -- that the Commission was going to administer something simple, something straightforward, something that any Arizonan could participate in so that you wouldn't need to be a political insider, you wouldn't need to have high-dollar consultants and lawyers to -- to get into the Arizona political process.

The whole purpose as Commissioner Lemon originally saw it of the Act was to provide a -- a simple, straightforward mechanism for Arizonans who wanted to be involved in the -- in the political process, to do so.

Funding campaigns was a -- was probably the first priority in the beginning; but, really, the interaction between participating candidates, non-participating candidates, and these independent expenditure committees was probably the second or third topic the Commission began to deal with back in -- in 1991.

I'd also like to note that Secretary of State has no quarrel with what the Commission chooses to do to enforce its own rules and regulations. The one and only concern we have with the rule that is -- proposal that is before you now is: Who is subject to it?

If you are subject to it, whatever you-all choose to do to implement that, that is entirely up to you. However you choose to craft an enforcement procedure and investigatory methodology, by all means, please go Miller Certified Reporting, LLC
| 26 | forward. Our singular concern is: Who is subject to this rule? The Secretary of State's office, we have to worry about that. Who is subject to our statutes? Do we have the legal authority to regulate somebody who is choosing to participate in the electoral process? The Attorney General separately has to worry about that. Do -- do -- they review our decisions. We have no enforcement authority, our authority is to simply opine whether we think it's, frankly, worth the Attorney General's time to take a harder, more-focused look at somebody's particular action. So, the Attorney General's office, likewise, has to worry about whether as a threshold question: Should I care about the actions that -- that somebody has engaged in in the political process? You-all worry about that as well. In some measure the reason we are all here today -- and I will take some credit and some blame for it -- is because the -- the nature of the legislature is to look at our campaign finance laws annually and annually we revise those. And in particular, this threshold question of who shall be subject to those laws, is something that was looked at over and over and over again and it -- and it

| 27 | resulted in a -- in one sentence that ran I think it was 178 words, because folks like me, every time we had a -- a -- a bright, new idea, we just run a bill that said: Strike the period, put a comma, and let's just add the next bright idea onto the end of the definition of the term "political committee." And I won't plow through the facts of the court case that called into question that definition, but I will note that the most fundamental holding of that court case was voting. Participation in the political process is the most fundamental aspect of citizenship in the United States, and anybody and everybody that participates in it needs to know in a simple and straightforward way how to do it, how to do it correctly. I think one of the problems with the rule that's in front of you now is, frankly, evidenced by the number of lawyers that are in this room today. There's too many lawyers here. The -- what -- what this rule has become is a battle amongst lawyers trying to ar-- -- trying to capture a universe of behavior that -- that they either want to make sure is legal or want to make sure is illegal; and that's -- that's not what the Act was designed to do. It was designed to create a system to allow anybody in Arizona that wanted to be involved in the political process to have a simple, straightforward way of

| 28 | doing so. This -- we appreciate the time Chairman Koester, Mr. Collins have given the Secretary and my colleagues in the office over the past several weeks to -- to try and find some common ground here. Aside from this question, we've had -- I'm pleased to report we've had several very productive conversations about how we can work together on voter education activities, trying to develop new technologies, new communications' tools, new ways to make sure the -- the people of Arizona know what's going on in State Government, in -- in the electoral process, in the ways that they want to receive information here in 2015; and we look forward to -- to continuing that relationship and continuing to work together to -- to really enhance and improve the knowledge and the education the people of Arizona have about what their government is up to.

| 29 | piece of legislation which we can take to the folks across the street; and jointly and in common, address the question of: What is it that makes you a political committee? So, that the definition you're working under in terms of who is subject to your rules, is the exact same definition that I'm working under when our office gets complaints, and is the exact same definition that the Attorney General's office is working under when they are doing their enforcement actions. If I were up in Page trying to get active in a State legislative race, with all due respect, the first place I'd go to try and find out the rules of the game are the Arizona Revised Statutes. I'd go down to the library and I'd -- I'd ask to see the laws, the statutes that apply to the -- the business of politics. I think it is quite achievable goal for our three organizations, the Attorney General's office, the Secretary of State's office, the Commission, to work together in preparation for this upcoming legislative session in January, to craft a universal definition of "who is a political committee," so that everybody is operating under the same rules of the road.

Again, when it comes to enforcement, we have no quarrel with how you choose to craft your investigative methodology, how you choose to enforce the statutes and
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<td>the rules which you-all have adopted. I, likewise, have statutes which I enforce, as does the Attorney General. But what ought to be the same across the entire spectrum is who is subject to those rules. So, Mr. Chairman, members, what I strongly encourage you to do today is to simply table the rule proposal that is in front of you now. Tabling simply allows you to pick it up at a future meeting if you believe that conversations have become fruitless at the legislature. But to please table the rule that is in front of you now and instead direct staff to work together with the Secretary of State's office, work together with the Attorney General's office, on the topic of clarifying to the extent it is necessary: Who is a political committee? What is a political committee? Because if we solve that question, then the quarrels evaporate. It's clear what your enforcement authority is. It's clear what our enforcement authority is. It's clear what the Attorney General's authority is. What is not clear is: Who is subject to that enforcement authority? And it's the Secretary's position that the very best way, really the way that keeps the spirit of the original Clean Elections Act moving forward so that, frankly, anybody in the absence of having lawyers -- and we believe we're consistent with our point of view.</td>
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<td>and consultants and political insiders on their team, knows how to -- how to get involved, is to work together, put together a piece of legislation, legislature goes back into regular session in approximately 60 days. Again, &quot;tabling&quot; simply means we're -- we're able to pick the matter up at a later date. And with that, Mr. Chairman, members, I'm available for any questions.</td>
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<td>CHAIRPERSON KOESTER: Thank you, Mr. Hunter [sic]. We appreciate you coming and appreciate your comments.</td>
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<td>COMMISSIONER KIMBLE: Mr. Chairman, I -- I guess I would have a couple of questions. First of all, this seems like a -- like a rather dramatic departure from previous messages from the Secretary of State that: Whatever you do, if you -- if you adopt this rule, we're going to sue you. And now at the -- when we're considering adopting it, you're asking to table it and come up with some compromise that I'm not sure I know what you're even thinking; and then even if there is something that comes up, there's no guarantee the legislature will take it up and pass it, and if they do, they -- they're -- they're free to do that even if we adopt this rule. So, I'm a little bit -- I guess those are the -- the questions I have.</td>
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orders that makes clear that folks who are below a
threshold level of activity have nothing -- nothing to be
involved with.
So, there's a switching of the apple for the
orange in who is concerned with this rule. This rule does
not concern true grassroots advocacy because the -- that
at a -- at low levels, because the legislature has
itself already established that there is a floor that this
does not go below at which me and my friend who put
together some signs and stand on the corner and say this
legislation stinks or this guy ought to be thrown out,
that person, no one has any business talking to and no one
should, and that is the law of this State. And this
doesn't affect that.
And so I think it's important that we not have
our policymaking driven by a concern that's already taken
care of, which is to say: The grassroots' person, the
person who doesn't need a lawyer, doesn't need a lawyer.
And, in fact, the Secretary has wisely proposed
that perhaps even the minimal exemption form some folks
have to file in order to just do the minimal amount ought
to be done away with as well, and that would relieve even
what light burden arises for that person at that very
libbile -- little threshold level. And that's -- that
resolves that.

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| 1 | asked for. The next 30 days or 60 days won't prompt an answer. I think the more likely outcome to prompt an answer to the question we have asked and -- and have taken up, I think, correctly the obligation to answer, is by providing our answer -- or, your answer if you think it's right. |
| 2 | That's what I think is -- is a decisive action that be can -- can be taken and then as everyone has observed, many, many actors may follow from that. That does not create uncertainty. It does not create uncertainty to have a written-down rule. It, in fact, creates certainty. That's the nature of this process. |
| 3 | From the Clean Elections' perspective, it will be certain. If others are uncertain, they have a choice then of looking at the certainty of the Clean Elections' rules or of developing and revealing to the public what other item there is. |
| 4 | But the request, with all due respect to Mr. Miller, is for -- to actually continue the uncertainty into the election cycle, which I don't think is in the best interest of implementing the Act. If we've made the decision to move forward in this way in the first place. |
| 5 | CHAIRPERSON KOESTER: Thank you. Anything else or -- |
| 6 | MR. MILLER: No. Not -- not unless there are Miller Certified Reporting, LLC |
| 7 | including a 60-day public comment period. It's only after this type of clear administrative process the Commission move forward with the final vote. |
| 8 | Now, if we had our druthers, given the expansion the Commission's jurisdiction has to impact the citizens' participation in the electoral- -- electoral process, we believe the best course of action would be to pursue changes via the legislature, but we realize that may not be an option after all. But we would simply echo what we've said in our letter submitted for the record. |
| 9 | Thank you. |
| 10 | CHAIRPERSON KOESTER: Thank you. Any other comments? |
| 11 | Yes, sir. If you would state your name when you come up. |
| 12 | MR. BARTON: Good morning. Jim Barton on behalf of Torres Law Group. I guess I want to speak on behalf of somebody who advises clients on how to comply with campaign finance law. And we do need clarity and -- and, frankly, I thought version two was better, the Executive Director mentioned that my firm objected to prefer -- to version three because we like version two better, but I think version three is certainly better than nothing. I really urge the Commission to adopt that. |
| 13 | I think the -- the -- you know, the question |

| 1 | additional questions. |
| 2 | CHAIRPERSON KOESTER: Okay. All right. Well... |
| 3 | COMMISSIONER TITLA: Mr. Chairman? |
| 5 | MR. TAYLOR: Commissioners, for the record, Garrick Taylor with the Arizona Chamber of Commerce and Industry. I'll keep our comments brief here. |
| 6 | You've already heard from Mr. Miller, we would echo his desire to see this -- this item tabled. You've heard from our counsel, Mr. Johnson. Our concerns with the proposed rule changes and the Commission's process in amending the rules have already been well documented. Our comments, I believe you have this letter submitted by the Chamber and several other business associations across the State. Obviously, there's still disagreement in the community over this issue. |
| 7 | We are still unclear whether we're talking about version three or version three with additional comments provided from Director Collins. Frankly, we don't believe there are -- there is a need here to rush into amending these rules. And rather than do this in an ad hoc and unpredictable fashion, we would encourage the Commission to take the time to publish an official proposed rule that can be considered through open and public discussion, Miller Certified Reporting, LLC |
| 8 | This rule is about -- this rule is about a corporation or group of people that are sitting around saying: Hey, what's this thing where we put together a fake 501(C)(4) and we just say it's a 501(C)(4) and then we just secretly spend money in elections, why shouldn't we do that? |
| 9 | You know, if the IRS did things differently, then the IRS could enforce and say: Hey, that's the wrong regulation. By the way, that's another concurrent Miller Certified Reporting, LLC |

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I'd recommend. But until they do, I think this Commission

before the election, not during election years except in

With regard to what rule -- although I, as the

author of the version-two thing, I appreciate the

compliment. I, too, am here to support that you pass all

but the first and last paragraph. I'd like to recommend

that you reject the first paragraph and the last paragraph

of version three, but pass the remainder with revisions to

clarify, for example -- with tweaks to clarify what it

applies to; and, specifically, the changes proposed by Mr.

Collins, and in our comment we had a slight wording

revision to make it even clearer as to what it applies to.

I think that if I'm somebody in Page or any other
city in Arizona, and the first thing I do is look at the
statute, I'm going to see "primary purpose test," and I'm
going to not be a hundred percent sure what that means.

How do I determine what's the primary purpose, whether I
was -- whether I'm organized or whether I'm operating for
the primary purpose of -- and there -- there's -- so what
am I going to do at that point?

I have two choices: I can either call a lawyer
and say: What do we mean by primary purpose and does my
situation apply; or, I can go and look at the regulations
or instructions that are published by the Attorney General

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jurisdiction, is the IRS can get involved in this: You

guys should be registered as a 527, not a 501(C)(4).

Yeah, but that's not happening too much, either.

And they say: Well, if nobody's going to

regulate it, then, Jim, why do you keep telling me to

follow the law? Why do I -- why do you keep making me the

chump who's following the law when there's nobody

watching -- nobody's watching the store?

So I really think that -- like I said, I like

version two better, but I think version three is good. I

really strongly encourage you to adopt it. And I do think

this rule will give some of that certainty and give some

of that -- it will give something for me to tell my

clients why they should follow the law because somebody's

going to be watching the henhouse. Thanks.

CHAIRPERSON KOESTER: Thank you.

Mr. Hoffman?

MR. HOFFMAN: Yeah. Thank you. I'll try to be
brief because I spoke earlier. I agree with about
80 percent of what Mr. Miller says. I think it would be
very valuable if the organizations could get together and
present something to the legislature. In the meantime, I
think you ought to pass this rule before the election
cycle so that our -- our rules, the Commission rules, the
statutes require that there be rules passed in the year

[1] and published by the Citizens Clean Elections

Commission which are the two bodies that deal with
election law.

And if I look at the -- if I go to the
Attorney -- the Secretary of State's site -- did I say
Attorney General? I always do that. I'm sorry. The
S.O.S. and the -- and the Commission.

If I go to the S.O.S. site, I'm not going to get
any help. Despite the "S.O.S." The -- I'm not going to
see something in there that gives any -- any indication of
what it means to follow the primary purpose. If I go to
the Commission site right now, I'm not going to get any
help. But if this rule passes, I will. I will be able to
do that without going to a lawyer, which is precisely what
the S.O.S. says they want.

So, I don't understand the anger and the -- and
the attacks on the Commission for passing a rule to tell
people what they think this means. If the legislature
gets together and gets its act together and passes some
clarification to this rule itself or some further
clarification or modifications, like perhaps a rule that
says: If you mess -- if you're going to spend money on
Arizona elections, you're a political committee unless
it's less than $500, that would be real easy and one that
I'd recommend. But until they do, I think this Commission
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before the election, not during election years except in

extreme circumstances and there's a strong incentive to do

that.

With regard to what rule -- although I, as the

author of the version-two thing, I appreciate the

compliment. I, too, am here to support that you pass all

but the first and last paragraph. I'd like to recommend

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I'd recommend. But until they do, I think this Commission
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paragraph, I agree with you. The last paragraph reading:

"The Commission shall not release information

gathered in the course of the investigation of an
entity's political committee's status without
three business days' prior notice to the entity
to permit the entity to seek an order preventing
such release."

I think it's pretty clear that all of the
Commission's records are open. And I would question
whether this three-day delay con- -- conforms with the
Arizona public records law. And I -- I agree with you the
last paragraph should be stricken.

MR. HOFFMAN: Yeah. The -- the underlying last
paragraph in the version you proposed was -- was even
different than what you read. What you read was Mr.
Collins' proposed rewrite. I think that ought not to be
in the rule and simply ought be addressed as a public
records act, and -- and that was what Mr. Reckart and I
suggested. It -- that's something that could be addressed
as a separate matter.

There may be circumstances, let me add, in which
the -- certain material is not considered public and
certain private, you know, organizations do have the right
to request that certain information that's provided to any
public body be deemed private and not subject to the

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CHAIRPERSON KOESTER: Thank you.
MR. HOFFMAN: Are there any other com- --
questions?

Thank you.

CHAIRPERSON KOESTER: Thank you. Well, any --
any further comments from any other one -- anyone else in
the audience?

One more gentleman.

MR. WILLIAMS: Good morning, Commissioners. My
name's Stanley Williams, I'm with the Arizona Advocacy
Network. And I would also like to urge adoption of rule
three today.

We've been hearing lots of different arguments
today. I -- I think it's pretty funny to hear that there
should be more public comment. I've been coming to
meetings since May; you all have been getting a lot of
public comment. And I think it does stand in contrast to
the way that some other offices are going about their
rules and statute changes as well.

But I think it would be worth noting, the
comments that have come in thus far, we've requested
through a public -- public request several times to see,
you know, what's being said about these things, and the
vast majority of comments in favor have been from
individuals, people who want to know who are trying to

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influence their elections. The very few comments against
have come from businesses, people who represent big
business, big money.

And I think it is worth noting, the arguments at
least from my perspective that we're hearing against what
you-all are trying to do, have really boiled down to
either this nonsensical turf war that I would think voters
don't really care about, and then also not a -- I think
the words used have been "chilling of speech," but really
a lack of influence over elections that actually doesn't
exist.

This rule wouldn't do anything to stop groups
from having influence in the election. It would help
provide clarity on who is trying to have influence over
our elections.

And, so, I think you-all have been under attack
many legislative sessions in a row now, through the courts
you-all have survived all of those attacks but one. We
probably wouldn't be here in -- talking about this
specifically had that court case gone a different way.

But, really, it doesn't -- it doesn't seem to make sense
to me to delay any further unless a concrete proposal were
to come forward and an offer to stand down. You know, if
the allies in the legislature of the Chamber and the
Secretary's office would stop trying to repeal the
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<td>1 Commission, then it might be worth looking at some of these delays and let the legislative process unfold. They’ve had many opportunities to do that the last few years, especially since Citizens United, but that hasn’t happened. And so, again, I would just encourage you all to adopt rule three today. Thank you.</td>
<td>1 this morning, that it is time for the Commission to take action clarifying and making for transparency and an independent entity, which the Commission is, to enforce rules is exactly what the Clean Elect -- was intended by the people when they voted for the Clean Elections initiative way back -- what is it? -- 15, 16 years ago. Thank you very much.</td>
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<td>2 CHAIRPERSON KOESTER: Thank you. Yes, ma’am.</td>
<td>3 MR. COLLINS: This -- the result of that aspect of the motion would be that, as we have in the past, issues related to enforcement or anything else, would be handled according to the public records law and whatever rights that both private people and people who seek records have under that law.</td>
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<td>3 MS. KNOX: My name is Rivko Knox, and I’m speaking actually -- although I’ve submitted a comment as an individual, I’m speaking on behalf of the League of Women Voters of Arizona; we submitted a comment as well. The League was one of the entities who worked very hard with other organizations way back prior to the passage of the Clean Elections initiative, and we support what the Commission is doing with all of the permutations that have gone back and forth. I don’t want to go into detail, I’m not an attorney, but I think that the whole idea of making the Clean Elections -- making the process of the Clean Elections Commission supports, which is enabling more and more people to be involved in the election process in a way that is clear and easy for people to understand is something that the League definitely supports. And I think that with various modifications discussed already</td>
<td>4 MR. HOFFMAN: The conduct I believe is the --</td>
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<td>4 MR. COLLINS: And -- and just so every- -- everyone understands, that last exception is with respect to the item in -- what is on -- in the renumbering what is currently Section 3 of Exhibit 2, having to do with the release of public information.</td>
<td>5 MR. HOFFMAN: Tom, could you help with the...</td>
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<td>5 CHAIRPERSON KOESTER: Okay. It’s been moved and seconded for the version three with the exceptions -- minor exceptions noted on --</td>
<td>6 MR. COLLINS: So -- so with respect to Mr. Hoffman’s -- and Mary, please, you know, if there’s a thing here at this point, if you have anything you need us to do from a procedural perspective, please interrupt me. But Mr. Co-- Mr. Hoffman’s point as I understand it is that the &quot;political committee&quot; definition that gives rise to a lot of this discussion, it talks about three, different ways in which one takes the form of a political committee: One is to be conducted as a political committee; another is to be organized as a political committee; and, yet, a third is to be combined in some way to be a political committee. I am trying to find the exhibit. If someone had the number, it would be helpful for them to tell it to me so I could have it in front of me while I’m speaking. I’m riffing here. But the upshot of what Louis just said is that you might delineate that a entity that's organized essentially on purpose as a political committee is a political committee. Doesn’t matter really how they spend their money. If you get up and say: I am a political</td>
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<td>6 CHAIRPERSON KOESTER: Okay.</td>
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1. committee, you're a political committee.
2. So, this is comment 18, which is at pretty -- I
3. don't know what tab it's at, but...
4. MS. THOMAS: Tab 4, public comments.
5. MR. COLLINS: So, anyways, that's the upshot of
6. it. People who are organized as political committees
7. would be delineate-- would be -- it would be clarified.
8. that people who are organized as political committees are
9. political committees. People who combine themselves, I
10. don't -- I can't find at this point what the combination
11. point is. And then conduct which is the upshot of most of
12. what we're talking about would be dealt with separately.
13. I -- I -- I will be honest with you, in the event
14. that someone is, in fact, organized as a political
15. committee and makes no argument that they're organized as
16. a political committee, they are probably going to file as
17. a political committee and it will be difficult for them to
18. defend themselves under this conduct prong even if we de-
19. -- under this evaluation as not a political committee
20. because of the way that they're going to act.
21. So, I -- I -- I will be honest with you, I just
22. -- it's up to you. It's really -- I -- it -- it may be
23. helpful but, you know, I think we have a rule. I think
24. the rule has been evaluated. I think we've received
25. comments. I think -- so, I wouldn't -- unless you guys

54  |  1. unless anything I've said sounds particularly interesting
2. to you, I wouldn't -- I -- I would just at this point save
3. that. If it comes up again in a way that needs to be
4. clarified, we can do it then. That would be my --
5. MR. HOFFMAN: The specific suggestion is on page
6. -- 18. And we suggested that --
7. October 26th, which I believe was --
8. MS. THOMAS: 18.
9. MR. HOFFMAN: -- comment --
11. MR. HOFFMAN: -- 18. And we suggested that --
12. Mr. Collins had suggested inserting under Section --
13. Section 20(F) as -- under 20(F), and then: "Unless a
14. preponderance of evidence establishes that"; and we
15. suggested inserting: "As being conducted for the primary
16. purpose of indi- -- of influencing an election."
17. So, to make clear that this is only applied --
18. that the test being made is only applied to the conduct of
19. the entity rather than to the formation of the entity.
20. So, in that way a organization that is formed for
21. the purpose of influencing an election can still be
22. considered to be a political committee if they spend $500
23. or more, regardless of their -- their -- the amount of
24. money they spend or the percentages that they spend. And
25. that's what the statute seemed to say that it would --

55  |  1. be included and not included, we have not heard from the
2. entire Commission as to what the rule is that the public
3. is actually commenting on.
4. We have had people from the public proposing
5. different procedures, then we have Executive Director
6. Collins the week before making changes to those comments
7. by the public. We've never heard from the Commission
8. itself. The Commission itself needs to say: If we are
9. going to vote on a rule, this is what it's going to look
11. Here are the four corners of it and we're going to vote on
12. this rule next time. We have never had that in three
13. versions.
14. Now, all of the constant shuffling back and forth
15. of the lawyers trying to figure out exactly what exactly
16. different words are going to be meaning, is exactly why we
17. need to understand from the Commission: What is the rule
18. you-all are putting out? Not what a Langhofer it is, not
19. what Executive Director Collins is putting out. What does
20. the Commission want? And then allow public comment in
21. regard to that. We have not had that.
22. So, I would recommend is, is that the Commission
23. take this opportunity, vote "no" on adopting the petition
24. as it is right now; discuss amongst yourself as to what
25. you think the rule should look like from a Commission

56  |  1. that somebody can be formed or conducted for the primary
2. purpose. Or combined, which is another way of forming.
3. So, I -- I -- I'd recommend that you make that
4. further change to clarify to -- to what the rule applies.
5. MR. JOHNSON: Chairman?
6. CHAIRPERSON KOESTER: Do you see where this is?
7. MS. THOMAS: Mic.
8. MR. JOHNSON: Mr. Chairman, again Brad Johnson on
9. behalf of the Chamber, outside general counsel.
10. I think it is quite telling of the amount of
11. lawyers, and I agree with Mr. Miller in that sense,
12. including your own counsel, who cannot figure out exactly
13. what rule is actually being presented here today or has
14. been commented on. What I just heard from Commissioner
15. [sic] Hoffman say is basically a reversion back to version
16. one, which is if you spend $500, you should be considered
17. a political committee.
18. I don't know if that's exactly what he was
19. saying, but that's what I heard, so I apologize.
20. MR. HOFFMAN: It's not.
21. MR. JOHNSON: Okay. But that being said, what we
22. need here is, is a clear rulemaking process, whether it's
23. 30 days to meet Commissioner [sic] Hoffman's rule, but we
24. have never heard other than what Commissioner Kimble just
25. said, of going line by line of as to what paragraph should

57  |  1. be included and not included, we have not heard from the
2. entire Commission as to what the rule is that the public
3. is actually commenting on.
4. We have had people from the public proposing
5. different procedures, then we have Executive Director
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I mean, one word can completely change the meaning of the sentence.

So, if -- if we're making a bunch of changes that we only got out a week ago, and then we're making more changes today, I would rather err on the side of openness and disclosure and put out exactly what we think, you know, ought to be a thumbs-up or thumbs-down vote, and maybe give 30 more days if we don't need 60 legally.

I would like to look at the -- the amended version. I'm -- I'm confused.

Mr. Collins: Mr. Chairman, if -- may I respond --

Chairperson Koester: Sure.

Mr. Collins: -- I mean, I think Mr. Laird's comments really do --

Chairperson Koester: Yeah.

Mr. Collins: Two things really quickly. The -- the motion, Mr. -- I -- -- I do not believe and I did not recommend that you move forward with anything Mr. Hoffman just said. It is unnecessarily injecting a new discussion point that is not appropriate at this time.

The motion was made for the content that is in front of you and it is exclusively made on the content that has been in front of you, including the memo that I wrote which mentioned that you -- you could go either way if you:

Prop-- proper posture here, Mr. Titla having called for the question, the vote is now in front of you, I think -- is -- is I think what's he's -- I think the discussion at this point terminates. And you and the vote is -- is in front of you. I believe.

Commissioner Meyer: Commissioner --

Mr. Collins: But, Mary, I'm -- I'm asking Mary if there's any other procedural -- other procedural meaning to what Mr. Titla said that I'm not aware of.

Ms. O'Grady: They can also -- yeah, if there are more questions, they can -- they can get answered if there are more questions.

Mr. Collins: Okay. Okay. I just wanted -- I just wanted to make sure we were all -- understood the record.

Chairperson Koester: Okay. Commissioner Laird.

Commissioner Laird: I mean, I'm confused at this point. You know, there's -- Commissioner I think's done a great job thinking through it, apparently better than I did because I didn't follow all the inclusions and exclusions and then we've have other recommendations that apparently were sympathetic, too, that we're also going to make, which I think goes to the point that counsel for the Chamber was making. I mean, I'm confused as to what the exact rule is. And I guess as a lawyer I think every word:
But to -- to answer your question as clearly as I can, the motion simply adopts the memo, exhibits, that you have had and that have been available, with the only thing excepted as I said at the outset, is the public records piece which, again, my memo itself articulated to everyone who -- to whom it was available to -- and it was available to everyone -- was something that was a policy decision for you.

So, I just want to make sure everyone understands that what Mr. Hoffman just said and what's before the Commission have no relationship to one another because Mr. Hoffman cannot and is not in a position to make a motion. Mr. Kimble has made the motion. That's the motion that's in front of you.

COMMISSIONER LAIRD: So -- see -- let me see if I can understand. So, the -- the what is before us is the draft version that you submitted to us. But did -- did the public see this with -- with these edits? I know the public said -- saw draft one of version three --

MR. COLLINS: Right.

COMMISSIONER LAIRD: -- but then yousent out what -- what I'll call draft two of version three --

MR. COLLINS: Correct.

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MR. COLLINS: Correct.
1 applaud you for that. I -- and for that reason, I think
2 it's much better than our current rule. And so, I could
3 likely support it for that reason.
4 I -- I am a little concerned that at least the
5 Chamber thinks they haven't had a fair chance and -- and
6 the Secretary thinks that with a little more time maybe we
7 could -- now, I understand the skepticism that we've been
8 working on that and nothing happened, I -- I get that.
9 But -- but that's my only concern.
10 MR. COLLINS: Sure.
11 COMMISSIONER LAIRD: I think it's an improvement
12 over the existing rule. I -- -- I applaud you and --
13 and Mary and Langhofer, who I don't know, I guess for --
14 for the work that's been done there. I think that's a
15 workman-like effort to try and create a workable set of
16 rules on "what is a political committee," and for that I
17 applaud you.
18 MR. COLLINS: Well, thank -- I thank you. Mr.
19 Chairman, Mr. Laird, thank you very much for those
20 comments and I know Mary is appreciative of them.
21 I -- I do think that -- and I -- and as I said to
22 you, I do not believe that how the Commission decides to
23 address a particular stakeholder's views, whether or not I
24 -- I may not agree with the facts about how that unfolded,
25 but how they feel about it and that is -- and how you want
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1 COMMISSIONER KIMBLE: Yes. My motion was that
2 the Commission adopt as a final rule Exhibit 1 to the
3 Collins' October 16th, 2015 memo, except Section 12 of
4 Exhibit 1 shall be replaced with the text of Exhibit 2
5 with the edits in Exhibit 2 incorporated; Section 3 of
6 Exhibit 2 dealing with the release of information is not
7 adopted; Exhibit 2 shall be renumbered to conform with the
8 style of Exhibit 1.
9 CHAIRPERSON KOESTER: Thank you.
10 COMMISSIONER MEYER: My -- my comment on that is
11 I -- I think we have a rule here that -- that I can
12 support, but in my opinion the proper way to do this is to
13 have that rule all in one sheet of paper, one exhibit, so
14 every one of us can be looking at ex- -- exactly what's
15 going to be passed. And if that's something that can be
16 recirculated by Mr. Collins and we can meet again in a --
17 in a few days to -- to vote on a motion.
18 I -- I think the text -- I think we can all see
19 what the text is, but I -- I -- in my opinion it's a
20 confusing process to follow along with what -- what that
21 motion is. All the text is there, I think it should be
22 put into one document so we can all see what it is.
23 COMMISSIONER KIMBLE: Mr. Chairman?
24 CHAIRPERSON KOESTER: Commissioner Kimble.
25 COMMISSIONER KIMBLE: Mr. Collins, correct me if
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1 I'm wrong, but I think what we have is exactly -- is this,
2 with the exception of striking the last paragraph calling
3 for the three-day delay in release of public information.
4 It -- it's not --
5 COMMISSIONER MEYER: What -- what are you holding
6 up, sir?
7 COMMISSIONER KIMBLE: I am holding up -- it's --
8 it's Exhibit 2 in tab 4.
9 COMMISSIONER MEYER: But the -- Mr. -- Mr.
10 Chairman?
11 CHAIRPERSON KOESTER: Yes. Commissioner.
12 COMMISSIONER MEYER: The -- the motion addresses
13 Exhibit 1 and -- and striking out part of Exhibit 1 and
14 adding in Exhibit 2 and then deleting part of Exhibit 2.
15 It's just in my opinion, it's confusing, and we can
16 present a nice, clean draft of this. And if we need to
17 move -- you know, because I -- I have a concern that it's
18 transparent exactly what it is that we are voting on. And
19 if someone in the public is raising a concern that they
20 aren't sure what it is, why not alleviate that concern,
21 which we should be able to do easily.
22 COMMISSIONER TITLA: Chairman, point of order. I
23 think that a motion has been made, a second has been made,
24 but I now agree with my esteemed colleague that we need to
25 be transparent to the public and so I withdraw my second.
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And I think that we should put this out for public comment, put it on one sheet of paper, distribute it, and publish it to the public and whoever needs to see it, and then let's vote on it with -- with clear -- with clearness. Thank you.

CHAIRPERSON KOESTER: I think Ms. O'Grady has a point of order.

COMMISSIONER TITLA: I withdraw my second, Chairman.

MS. O'GRADY: Mr. Chair, I was just also going to say, I mean --

COMMISSIONER TITLA: Point of order, Chairman.

CHAIRPERSON KOESTER: Yes.

COMMISSIONER TITLA: I withdrew my second. That should be addressed first.

CHAIRPERSON KOESTER: Okay. You wish to withdraw your second.

COMMISSIONER TITLA: Yes.

CHAIRPERSON KOESTER: Do we vote on that to --

COMMISSIONER TITLA: No, it's just a withdraw I think.

CHAIRPERSON KOESTER: Okay. Point taken.

MR. COLLINS: Can he withdraw the motion?

CHAIRPERSON KOESTER: It dies of lack of second I think is what Commissioner Laird is saying.

MR. COLLINS: Withdraw the motion -- can he withdraw the motion?

CHAIRPERSON KOESTER: Yes, I know. We still have --

COMMISSIONER KIMBLE: With no second.

CHAIRPERSON KOESTER: With no second.

COMMISSIONER LAIRD: It dies for a lack of a second.

CHAIRPERSON KOESTER: It dies of lack of second I think is what Commissioner Laird is saying.

MR. COLLINS: Can he withdraw the motion?

CHAIRPERSON KOESTER: Yes.

MS. O'GRADY: What?

MR. COLLINS: Can he withdraw the motion?

CHAIRPERSON KOESTER: Yes.

MS. O'GRADY: Exhibit 2 had the changes that we were incorporating and they really are recommending for incorporation and they are rather technical changes, I can just briefly -- it was eliminating Section (A) because it's not the Commission that has a burden of proof, but making it clear under Section (B) that the preponderance of standard is what governs the Commission's decision-making. So, we just made that clarification.

We also made a clarification that when they talk about earmarking grants, they're talking about grants for reportable contributions and reportable expenditures as that term is used.

And the original language had referred to a safe harbor, and rather than -- and that didn't -- we thought it more useful just to establish, again, the burden of proof, which is preponderance of evidence. And, so that's -- that's the nature of -- of the change in -- in -
That's another change in the measure.

And then the final change was in the Section (D), I believe -- well, the public records issue, which the original had proposed some language, we had proposed some modified language which was in Exhibit 2, but the motion would have eliminated that altogether. And so, the collated version would eliminate that altogether.

So, the -- when we say "collated," what we're doing is incorporating what was in Exhibit 2, with the modifications described in the motion, and rolling them into Exhibit 1 so it shows how it fits into the context of the rule, and -- and then we'll have that single -- so, the single motion can -- 'cause there were some other changes to that rule that were part of that motion, so they'd all be part of what was distributed as Exhibit 1.

And we wanted to have some extra proofreading time to make sure the numbering is -- is -- is, you know, all correct when we roll it into Exhibit 1. And so, that's the status, we're just preparing that document.

CHAIRPERSON KOESTER: Okay.

MS. O'GRADY: And -- and -- yeah.

CHAIRPERSON KOESTER: Good. Thank you. So, all that information will be on our website today you would see, say within an hour?

MR. COLLINS: Well, I -- it will be on the Miller Certified Reporting, LLC website -- Mr. Chairman, Commissioners, it will be on the website within the amount of time it takes to do it, which -- which I hope is an hour-ish.

CHAIRPERSON KOESTER: Okay. An hour or two, all right.

So, we -- we plan on taking the vote tomorrow at 2 o'clock. Not that every Commissioner is going to come here in person, because two of us at least live in Tucson, but it will be an open meeting as usual and you can hear us on the phone make our -- or, on the speaker system, make our vote and make our motion and we'll -- we'll see what happens. But the version completed would be available this afternoon what we're going to vote on tomorrow in its entirety on --

MR. COLLINS: And -- and, Mr. Chairman, just to -- just to be clear, what will be on the website is, in fact, what is on the website now except collated --

CHAIRPERSON KOESTER: Right.

MR. COLLINS: -- in a manner that everyone -- no one will be able to say that they can't follow page to page. In effect, the -- the rule draft will be engrossed in the legislative term, so that it is all in one document; but it is all material that has been circulated publically for the appropriate time under the statute and may -- and includes the changes which Mary and I recommended on the 16th, which as she explained, are not substantive.

CHAIRPERSON KOESTER: Okay. Fine. I think we should move on. We have a few more items and I think we can do that now and then tomorrow we've already said what we're going to do.

Item (D) refers to R2-206 [sic]; (E) -208; (F) -208, and (G) -208, different versions of -208.

MR. COLLINS, why don't you give your opinion --

MR. COLLINS: Okay. Sure.

CHAIRPERSON KOESTER: -- and we'll discuss it a little bit.

MR. COLLINS: And -- and this -- and we -- we sent a brief memo sort of outlining the highlights of these rules, really the sort of headlines of them. And each one of these was an effort in -- well, yeah, part of the process of talking with Mr. Spencer at -- at some length, identifying perhaps what his views in terms of the overlapping jurisdiction would be and how you might mitigate that.

To be honest with you, there's a -- there's an argument that I think is quite persuasive that says that it's really -- it's really at the end of the day up to the Commission to use its deference, to use its -- use its judgment on when to defer to the Secretary's office and
| 78 | delineate between -- in some way between Article 1
| violations and Article 2 violations, and allow us to make complaints on Article 1 violations to the Secretary's office. |
| I'm not sure if we -- you know, that this -- now, I will in candor, we took the idea that was in the Chamber's letter and tried to make it into a rule that we thought reflected what they wanted; whether or not we did that correctly, I don't know. They haven't to the best of my knowledge commented on that rule. So, we labeled that the Chamber's rule, but just to be clear, it's the Chamber's idea that we tried to write up in a way that would reflect what we think they want. But it's --it's not clear to me. And it's also not clear to me when you think about that concept, you know, what that would mean, because the question still is: What's Article 1 and what's Article 2, to Mr. -- to Mr. Laird's point. So, in a certain sense, the -- the -- the concept that they come up with, I guess assumes a certain agreement with their view of Article 1 versus Article 2; if you don't agree with it, then the rule means something different than if you do and that makes it a little harder to -- to talk about. It makes it much more complicated than -- than -- than it would -- it looks like at first. |

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| 1 | -206 is consistent with the practice we've already established for traditional candidates. |
| 2 | So, those are my views on those matters. If you have any others -- I -- I -- if you have any questions on those, I'm happy to -- happy to answer them as best I can. |
| 3 | CHAIRPERSON KOESTER: Thank you. Does any Commissioner have a -- a comment or -- |
| 4 | MR. COLLINS: Oh. I'm sorry. And I know that Commissioner Hoffman has specific comments on -206, but I don't know -- I don't know if they're obviated by what I've said or not, so. So, I'm just telling -- I'm just -- just putting that there now. |
| 5 | COMMISSIONER LAIRD: So -- so, Tom, to be sure I understand. So, -2 -- -206 as -- as -- (D) as you've presented it here in our -- our book for today -- |
| 6 | MR. COLLINS: Yeah. |
| 7 | COMMISSIONER LAIRD: -- is consistent with current practice, that's how you're doing it now? In other words, if you -- you come to the Commission, if the -- but you don't proceed on an investigation of a potential violation of this nature without first coming to the Commission? |
| 8 | MR. COLLINS: In a traditional candidate context. |
| 9 | COMMISSIONER LAIRD: Right. |

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| 1 | glance. |
| 2 | So, all that having been said, my -- my view is that the Secretary's office, obviously, does not believe that any of these rules mitigate their issues; this is -- this is not sufficient. It's not. If it was, Mr. Spencer would have told me because we talked about these things in quite specific terms. |
| 3 | You know, it really then becomes whether or not you believe it's appropriate to cabin your own and to -- to -- by extension, my day-to-day discretion; or, if you feel like we are able with your decision-making and my, you know, day-to-day work with Sara, to manage, you know, filtering out the good complaints from the bad complaints, and -- and -- and not get us involved in complaints that we oughtn't be involved in and to defer when it's appropriate to defer. But those would be essentially judgments that you-all would exercise your discretion in a -- in a -- in a case-by-case basis. |
| 4 | So, that's -- so, the big picture is case-by-case or rule; and then the next level is what kind of rule. And sort of my -- my -- my inclination is to kind of just see how it works on case-by-case basis. I'm not married to any of these procedural rules. But if you-all think that case-by-case is not a great way to go, then I would do the -206 rather than any of the -208s, because |

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| 1 | Candor, I -- I've had traditional candidates who had complaints in front of us who wanted to get rid of them, be kind of irritated that I didn't feel like I should be asking them follow-up questions without your perm- -- without the Commission's permission, which maybe exacerbated things. I don't know the answer to that exactly. But the -206 version of those seems like it's the closest to an existing practice. The other versions of -208 essentially, to a greater or lesser degree, defer to the Secretary of State's office in a more direct manner. |
| 2 | So, one of the versions of -208, the -208 version one, I think, says that in the event that the Secretary declines to find reasonable cause, it would require some supermajority of Commissioners to -- to do that, and that -- we haven't determined what that supermajority would be, but it would be greater than three; and it could be four, it could be five -- and I guess that would be the only two options. The next one I think is a little bit modification on that. And then the third one is our effort to try to articulate what we understood the Chamber of Commerce to believe was the way we should approach this, which was to establish for traditional candidates. |
| 3 | those, I'm happy to -- happy to answer them as best I can. |
| 4 | CHAIRPERSON KOESTER: Thank you. Does any Commissioner have a -- a comment or -- |
| 5 | MR. COLLINS: Oh. I'm sorry. And I know that Commissioner Hoffman has specific comments on -206, but I don't know -- I don't know if they're obviated by what I've said or not, so. So, I'm just telling -- I'm just -- just putting that there now. |
| 6 | COMMISSIONER LAIRD: So -- so, Tom, to be sure I understand. So, -2 -- -206 as -- as -- (D) as you've presented it here in our -- our book for today -- |
| 7 | MR. COLLINS: Yeah. |
| 8 | COMMISSIONER LAIRD: -- is consistent with current practice, that's how you're doing it now? In other words, if you -- you come to the Commission, if the -- but you don't proceed on an investigation of a potential violation of this nature without first coming to the Commission? |
| 9 | MR. COLLINS: In a traditional candidate context. |
| 10 | COMMISSIONER LAIRD: Right. |

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| 1 | Miller Certified Reporting, LLC |
MR. COLLINS: Right. So, right now -- so, if it's a clean candidate, you know, we have a way of doing things. And this rule I think says if it's -- this would have to be an IE where no clean candidate was involved in the race. I think is -- I'd have to double-check that.

But --

COMMISSIONER LAIRD: Yeah.

MR. COLLINS: -- I think that's right? Right?

Yeah. So, this says as we have this sort of special additional vote for traditional candidates, if it's an IE in a traditional candidate context, the same additional vote would be required.

COMMISSIONER LAIRD: And -- and do you think that practice has worked well historically?

MR. COLLINS: Well, we've done it. We had one run with it. I think the -- the pros of it were that --

to -- well, it's interesting how you look at the problem.

The -- the pros of it were that it theoretically allows the Commission to do a check early, formally, to say: We don't want to do this; we do want to do this, right?

So, that's a -- that's a -- that's a positive. It does for that reason, inherently create more protection for that subset of spenders or candidates.

The criticism of it is -- or, at least the --

But we don't have enough experience with it yet, 'cause we really the main case in which that operated was in Horne and -- and -- and that may have been a -- a unique case for lots of reasons. So, you know -- so, but I -- but I -- at least I know how it works, you know what I mean? At least we know how it works. And -- and so it -- and it was manageable in that sense.

The -- and so I'm -- I think I've rambled on. But I hope somewhere in there should have been a responsive answer.

COMMISSIONER LAIRD: Do you think any of these other versions that are in here of -208 versus -206, which captures existing practice, are better than existing practice?

MR. COLLINS: I -- I don't. And the -- and the -- and to be honest with you, and the reason I don't, if you're choosing among them -- even though I wrote three of them, except for the one that the Chamber, which I wrote, but I was trying to use their inspiration -- is because the -- the other three really get into a different philosophical question. The other three get into a question which we're talking around, so when we're --

we're talking about, which is, you know: Does the Commission see its view as -- what does the Commission see itself as?

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we're talking about, which is, you know: Does the Commission see its view as -- what does the Commission see itself as?
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<tr>
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<tbody>
<tr>
<td>1</td>
<td>MR. COLLINS: Well -- well, I would say this</td>
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<td>about that, Mr. Chairman and members, I -- I do not</td>
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<td>believe that we -- well, we have one pending complaint</td>
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<td>right now against a -- that we have not moved forward on</td>
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<td>it yet, but we have a complaint. And, I guess, an</td>
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<td>independent expenditure from 2014 still, a late-breaking</td>
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<td>one. That is a -- but it's not a contributor-related one,</td>
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<td>8</td>
<td>it's all about the report, the 16-941(D) report that's in</td>
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<td>9</td>
<td>the Clean Elections. We haven't brought that to you, yet.</td>
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<td>10</td>
<td>I don't want to say too much about it.</td>
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<td>11</td>
<td>But, we have not gone around and tried to find</td>
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<td>12</td>
<td>enforcements on IE issues. In fact, if you go back to</td>
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<td>really the top part of the -109 rule that we have in place</td>
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<td>now, it's built around this exemption form, which</td>
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<td>theoretically allows somebody who says -- and not -- and</td>
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<td>16</td>
<td>in practice has allowed someone who says: Hey, I'm going</td>
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<td>to go file with the Secretary of State these other forms,</td>
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<td>18</td>
<td>please leave me alone and we've left them alone.</td>
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<td>19</td>
<td>So, you know, it's -- so, given that we have a</td>
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<td>framework that says: A, here's an easy way to opt out of</td>
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<td>21</td>
<td>having Clean Elections looking at your stuff, with, you</td>
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<td>22</td>
<td>know, assuming you're -- you are who you say you are,</td>
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<td>23</td>
<td>which most people seem to be able to abide by; and, B,</td>
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<td>we're not, and unless I get some very clear direction from</td>
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<td>a majority of the Commission to do so, going to change our</td>
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<table>
<thead>
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<th>Page 87</th>
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<tbody>
<tr>
<td>1</td>
<td>practice in terms of, you know, like, about -- we don't</td>
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<td>have an enforcement agenda is I guess what I'm trying to</td>
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<td>3</td>
<td>say.</td>
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<td>We don't -- if the things come in, they come in.</td>
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<td>5</td>
<td>And if things happen that we can't ignore, they happen.</td>
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<td>6</td>
<td>That's, you know, that -- that can happen. Someone</td>
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<td>doesn't file reports flagrantly and we become aware of it,</td>
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<td>that -- those are things that can happen. But it's</td>
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<td>9</td>
<td>not like -- yeah, I don't know. There's no such thing</td>
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<td>as -- we're not driving around in patrol cars, you know,</td>
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<td>looking for campaign finance violations is what I'm trying</td>
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<td>12</td>
<td>to say.</td>
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<td>13</td>
<td>So, the rules as they stand now I think are</td>
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<td>14</td>
<td>perfectly fine given the guidance that you've provided me;</td>
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<td>15</td>
<td>but, if you want additional written guidance, this is the</td>
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<td>16</td>
<td>way you could do it.</td>
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<td>17</td>
<td>CHAIRPERSON KOESTER: Okay. I -- personally, I</td>
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<td>think of things over the last four and a half years that</td>
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<td>I've been involved have -- have worked fine with the rules</td>
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<td>20</td>
<td>we have. And I -- I -- and I just don't see the -- the</td>
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<td>21</td>
<td>urgency of -- of moving forward on -- on -- although -206,</td>
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<td>I can understand, it's not a big deal. But I'll just give</td>
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<td>my preference, I think we should -- we should stay as we</td>
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<td>are now and see what -- what develops over the next six,</td>
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<td>25</td>
<td>eight months as far as the legislature and -- and</td>
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<tbody>
<tr>
<td>1</td>
<td>feedback. And these can all -- always be revisited.</td>
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<td>2</td>
<td>MR. COLLINS: Of course.</td>
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<td>CHAIRPERSON KOESTER: There's no -- there's no --</td>
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<td>in this case, case of -109(F), it was -- I think it's</td>
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<td>imperative that we do take action soon.</td>
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<td>On these, I -- I don't see the necessity of</td>
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<td>having to do anything right now, and I -- I would prefer</td>
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<td>to -- I don't know, again the word is -- table or just to</td>
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<td>say I think we're -- we're fine as we -- as we are right</td>
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<td>now. And -- and maybe if a case comes by next year that</td>
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<td>would apply, we can all -- all revisit these again and</td>
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<td>say, you know, this -- this might make more sense or --</td>
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<td>13</td>
<td>Anyway, that's my comment.</td>
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<td>14</td>
<td>COMMISSIONER LAIRD: Well, but -206 is just --</td>
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<td>15</td>
<td>you're adding (D), which just codifies existing practice,</td>
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<td>16</td>
<td>right?</td>
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<td>MR. COLLINS: Well, I -- I --</td>
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<td>18</td>
<td>COMMISSIONER LAIRD: So, we would still want to</td>
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<td>pass --</td>
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<td>20</td>
<td>MR. COLLINS: I think that -- Mr. Chairman, Mr.</td>
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<td>21</td>
<td>Laird, what -- what it -- it codifies -- it -- it -- it</td>
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<td>22</td>
<td>incorporates an additional group of people into an</td>
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<td>existing practice.</td>
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<td>24</td>
<td>So, there's an existing practice for traditional</td>
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<td>25</td>
<td>candidates, and then -206 would incorporate that practice</td>
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1 candidates. Right. That's right.
2 And -- and -- and so, you know, I will tell you
3 that as -- whether we pass the rule or not, I'm not -- and
4 we -- because we have another dual jurisdiction potential
5 case coming up down the pipe, like I say, I'm going to
6 take my guidance from you-all. I mean, whether -- whether
7 you pass the rule or not, I'm not -- I'm not interested in
8 -- in taking actions that are not consistent with the
9 direction the Commission wants to move in.
10 So, from my perspective, again, it's a policy
11 decision. If you're comfortable with where we are and you
12 feel that I can be relied upon to do what you ask without
13 having it in a rule, then as an executive-- -- as a
14 bureaucrat, it's in it's -- it's in the nature of being a
15 bureaucrat to say -- to say "okay."
16 But, you know, just to be candid.
17 COMMISSIONER LAIRD: All right. All right.
18 CHAIRPERSON KOESTER: Okay. Mr. Hoffman?
19 MR. HOFFMAN: I was hesitant to -- to comment
20 further, but I was asked -- alluded to before that we had
21 -- that I had submitted a comment with Mr. Reckart on this
22 rule and so I might provide a couple of choices or
23 suggestions.
24 We had attached as Exhibit B to our comment,
25 which is No. 18 in your tab, suggested a revision to

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1 mine originally and -- and Tim liked it -- was -206(A), it
2 makes some wording changes to try to make that part of the
3 rule a little more clear, and that's not something that's
4 been addressed at all.
5 And then it added a section -- sorry. There was
6 three, then. I've added a little section to the end
7 basically saying that this was not intended to create a
8 defense to any entity, which I think would be a prudent
9 thing to do.
10 My recommendation to you is to put this version
11 out for public comment and -- since it hasn't, you know,
12 been published for comment, and table the -- leave the
13 docket open, but table the discussion on the current -206
14 and close the docket on -208; and then by two months from
15 now when you pick it up again, you can decide which
16 version of -208 -- -206(D) would be appropriate, or
17 whether none would be -- would be better. As well as you
18 would you'd be able to consider revisions to (A) and --
19 and the final paragraph. And I think that that would, you
20 know, give maximum flexibility.
21 As far as the issue of whether you should do
22 anything, it's a little bit of a difficult issue because,
23 you know, I -- I have great faith in Tom and -- and Mr.
24 Collins is certainly capable of deciding and is going to
25 do things in a -- in a positive way, and -- and Sara is

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1 -206 -- actually, let me start at the end.
2 I agree that -- I -- I recommend to the
3 Commission that it not adopt any changes to -208. Just to
4 keep things simple.
5 With regard to -206, I -- I am inclined to
6 recommend that the Commission consider some revisions.
7 The -- -- there is a published version of the rule that you
8 published two months ago which just adds the new paragraph
9 (D), that would bind Mr. Collins in all circumstances with
10 regard to IE groups; and as he said, that would extend the
11 practice with non-participating candidate to IE groups.
12 The proposal that we had suggested does two
13 things: One, is it -- it has a substitute (D) that would
14 bind him only in more limited ways. Number one, it
15 would -- if there was an inconsistency with the Secretary
16 of State's findings, it would bind him to bring it to your
17 attention; and, number two, it would bind him to consult
18 with the Secretary of State in -- you know, in cases where
19 an ongoing investigation was around.
20 So, that's sort of a halfway measure, if you
21 will, designed to try to mitigate the potential for
22 conflict with the Secretary of State's office. It doesn't
23 go as far as the current version.
24 The second thing that the proposal in -- in --
25 that Tim and I came up with does, is -- actually, it was

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<table>
<thead>
<tr>
<th>1</th>
<th>So, there is some benefit to it, but certainly</th>
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<th>written where everybody sees it and like you, other</th>
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<tr>
<td>2</td>
<td>agree that it's not something that needs to be decided</td>
<td>2</td>
<td>Commissioners have said on one page and we say, yeah, we</td>
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<td>3</td>
<td>right now and that's why I recommend publishing for</td>
<td>3</td>
<td>have a chance to study it, then I think we could take</td>
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<td>4</td>
<td>comment the -- the alternative version that has some</td>
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<td>action and put it out for public comment.</td>
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<td>5</td>
<td>additional clean-up matters and see if -- if those are --</td>
<td>5</td>
<td>The trouble is, I think at this point I don't</td>
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<td>6</td>
<td>you know, bring -- see what comments come and then you can</td>
<td>6</td>
<td>think we can do anything right now. However, if any</td>
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<td>7</td>
<td>address the policy question of whether to continue in --</td>
<td>7</td>
<td>Commissioner has a suggestion on how we might do it, I'm</td>
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<td>in December.</td>
<td>8</td>
<td>-- that's fine. As far as I think the -- the concept</td>
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<td>9</td>
<td>Are there questions or -- or concerns or anything</td>
<td>9</td>
<td>sounds reasonable. And the -206 is the only thing that I</td>
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<td>10</td>
<td>the Commissioners would like me to address?</td>
<td>10</td>
<td>kind of originally thought that there could be some</td>
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<td>12</td>
<td>COMMISSIONER MEYER: No.</td>
<td>12</td>
<td>So, I don't know if we need a motion or if we</td>
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<td>CHAIRPERSON KOESTER: Thank you.</td>
<td>13</td>
<td>just wait 'till next month or how -- what would you</td>
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<td>MR. HOFFMAN: Thank you. Thank you, Mr. Chair.</td>
<td>14</td>
<td>suggest, Mr. Collins?</td>
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<td>CHAIRPERSON KOESTER: Thank you for your input.</td>
<td>15</td>
<td>MR. COLLINS: Well, Mr. Chairman --</td>
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<td>16</td>
<td>I have no problem with -- I think we could</td>
<td>16</td>
<td>Commissioner -- Commissioners -- excuse me -- to the</td>
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<td>as a body perhaps today as far as -208, just kind of close</td>
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<td>extent that no one has an interest in making a motion on</td>
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<td>18</td>
<td>that out or however you want to put it. I -- I do see</td>
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<td>-206 or any of the versions of -208, they simply --</td>
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<td>19</td>
<td>some merit in -206, and I -- I do kind of agree with Mr.</td>
<td>19</td>
<td>nothing happens to them. They just -- they just...</td>
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<td>20</td>
<td>Hoffman, we -- we definitely could put something out for</td>
<td>20</td>
<td>CHAIRPERSON KOESTER: Right.</td>
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<td>21</td>
<td>comment. And it's reasonable -- I haven't read this real</td>
<td>21</td>
<td>MR. COLLINS: I suspect they may be eligible to</td>
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<td>22</td>
<td>carefully, but it's reasonable to perhaps come up with</td>
<td>22</td>
<td>be brought back on a further agenda 'cause there has been</td>
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<td>23</td>
<td>something that we could agree to put out for public</td>
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<td>60-days comment, but I don't -- we've never really done</td>
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<td>24</td>
<td>comment. I don't think we can do that right this moment</td>
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<td>that. But, just for lack of a better word -- way of</td>
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<td>25</td>
<td>but, again, perhaps by tomorrow we -- if something was</td>
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<td>putting it, you need not vote them down.</td>
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<tr>
<th>1</th>
<th>With respect to Mr. Hoffman's comments, if you</th>
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<th>and underlining instead of just underlining. So, if the</th>
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<td>wanted those to be -- what I think I understand to be</td>
<td>2</td>
<td>Commission were inclined to do it.</td>
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<td>hearing, formatted in a manner that's consistent with our</td>
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<td>I wanted to add one last point, if you wait one</td>
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<td>style if they aren't already, which I can't remember off</td>
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<td>month and put it out for 60-month public comment -- 60-day</td>
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<td>the top of my head, then, you know, that might be</td>
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<td>public comment, you're into next year, which the</td>
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<td>6</td>
<td>something we could -- we could relatively easily collate</td>
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<td>Commission rules create an -- an -- an issue with, but.</td>
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<td>7</td>
<td>and -- and -- and put out there in a manner that you-all</td>
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<td>So, I mean, I -- I think if you do it today or tomorrow,</td>
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<td>might subsequently vote to circulate for public comment or</td>
<td>8</td>
<td>it doesn't make any difference; but if you wait a month,</td>
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<td>9</td>
<td>not circulate for public comment at your -- at your</td>
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<td>there is a significance to that.</td>
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<td>discretion in a -- in a -- in a noticed agenda.</td>
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<td>So, I -- I don't know if -- you know, if people</td>
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<td>And that's really something that you could</td>
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<td>liked the suggestion or not and wanted to hear what others</td>
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<td>certainly direct me to do if it's something you're</td>
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<td>had to say, then, you know, I'd urge putting it out for</td>
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<td>13</td>
<td>interested in. Or, if you're not interested in it at all,</td>
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<td>public comment. And then since the one is out for public</td>
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<td>14</td>
<td>we cannot do it or we can bring it up next month or at any</td>
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<td>comment already for 60 days, it doesn't matter if it's 120</td>
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<td>time.</td>
<td>15</td>
<td>and you consider it in two months from now.</td>
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<td>16</td>
<td>So, those are really -- those -- I think the --</td>
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<td>CHAIRPERSON KOESTER: Mary, would you like to --</td>
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<td>17</td>
<td>but so your main point is if you don't want to do anything</td>
<td>17</td>
<td>MS. O’GRADY: I was just going to say, and for</td>
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<td>18</td>
<td>on the -- these rules that are on the agenda, you just</td>
<td>18</td>
<td>kind of docketing purposes, 60 days from tomorrow which is</td>
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<td>19</td>
<td>don't do anything.</td>
<td>19</td>
<td>October 30th, I have as being December 20- -- Monday,</td>
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<td>20</td>
<td>MR. HOFFMAN: Mr. Chair?</td>
<td>20</td>
<td>December 29th, just for calendaring purposes. I don't</td>
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<td>21</td>
<td>CHAIRPERSON KOESTER: Yes.</td>
<td>21</td>
<td>know --</td>
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<td>22</td>
<td>MR. HOFFMAN: I'm not sure if you're aware that</td>
<td>22</td>
<td>MR. COLLINS: When is the -- when is our December</td>
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<td>23</td>
<td>Exhibit B has a fully-formatted proposal. This is Exhibit</td>
<td>23</td>
<td>meeting?</td>
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<td>24</td>
<td>B to my comment, has a fully-formatted proposal which I</td>
<td>24</td>
<td>MS. O’GRADY: -- how that fits with the December</td>
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<td>25</td>
<td>believe is in Commission form except I used italics and --</td>
<td>25</td>
<td>schedule.</td>
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Miller Certified Reporting, LLC
25 The whole 168 days because it's in -109. So, every time
24 circulated now literally itself without any changes for
23 the whole 168 days because it's in -109. So, every time
22 -109 goes out, this text goes out with it.
21 So, what we -- we think we can do, because that's
20 so, is adopt the provisions of -109 that are -- this would
19 Miller Certified Reporting, LLC
18 nothing would --
17 CHAIRPERSON KOESTER: Oh.
16 CHAIRPERSON KOESTER: -- change the fact that 60 days
15 from now --
14 CHAIRPERSON KOESTER: Gotcha.
13 MR. COLLINS: -- is passed the last meeting of
12 the year, unless we had another meeting --
11 CHAIRPERSON KOESTER: On the 31st.
10 MR. COLLINS: -- on the 31st. In which case, the
9 only -- the real consequence would be that we would have
8 to have a unanimous vote in January on whatever proposal
7 MR. COLLINS: -- I'm really having a hard time
6 CHAIRPERSON KOESTER: Yeah.
5 MR. COLLINS: So, we would really literally be
4 saying the motion would -- the -- the appropriate motion
3 would be to adopt from Item IV the language in -- that is
2 R2-20-109(D). That is -- that would be the motion and
1 that is at Item IV(A) and (B) in your -- in your
0 materials. And it is -- it is about as clear as day
11 MR. HOFFMAN: I would like to think so.
10 CHAIRPERSON KOESTER: I think so, it's not
9 that complicated. So, okay. We could even put it out,
8 have it ready for next meeting, which is the November 21st
7 or -- I forget the date, but it's like a week before
6 Thanksgiving, that's all I remember so, and then we could
5 put it out for public comment, and if it -- it and then if
4 it's in January or February, if we -- if we -- it gets
3 unanimous approval, it -- it would be in plenty of time
2 for anything that would come down the road as far as
1 complaints and whatnot.
0 MR. COLLINS: -- I'm really having a hard time
-37 Would a public comment as far as -206 is concerned.
-36 I almost forgot, but we did -- we should look
-35 Miller Certified Reporting, LLC
-34 So, I feel comfortable doing that. Although I
-33 might not be around in February, so somebody else...
-32 In any case, all right. That's -- that sounds
-31 reasonable. We'll just table everything with -- with --
-30 that's -206, -208 related, and perhaps by next meeting in
-29 November, we can have something to vote on to put out for
-28 public comment as far as -206 is concerned.
-27 I almost forgot, but we did -- we should look
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-25 Ms. Thomas: I don't remember. It's the second
-24 week of December.
-23 Mr. Hoffman: No, that's -- that's good point.
-22 Mr. Collins: So -- so --
-21 Mr. Hoffman: So, yeah, we may be into next year
-20 anyway, but it could still be passed but it's, you know,
-19 easier to do if it's --
-18 Mr. Collins: But it wouldn't be until Jan- --
-17 basically, effectively, unless if we had a special meeting
-16 for this thing, it wouldn't be 'til January. That's --
-15 just so everybody understands.
-14 CHAIRPERSON KOESTER: But the meeting we're
-13 having tomorrow, you don't think could incorporate --
-12 Mr. Collins: Well, it would -- nothing would --
-11 nothing would --
-10 CHAIRPERSON KOESTER: Ok.
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-1 Miller Certified Reporting, LLC
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-1 Miller Certified Reporting, LLC
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-1 Miller Certified Reporting, LLC
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-3 Miller Certified Reporting, LLC
-2 Miller Certified Reporting, LLC
-1 Miller Certified Reporting, LLC
0 Miller Certified Reporting, LLC
CHAIRPERSON KOESTER: Okay. So we're going to adopt the changes regarding R2-20-109(D). All in favor say "aye."

(Chorus of ayes.)

CHAIRPERSON KOESTER: Opposed?

It's a unanimous. That takes care of the transportation expenses.

MR. COLLINS: And Sara is very grateful.

CHAIRPERSON KOESTER: All right. It's getting -- the meeting is getting a little long.

We have discussion and possible action on Clean Elections Commission/Secretary of State Interagency Service Agreement following the money upgrades to the campaign finance reporting system.

I notice that Mr. Hunter is no longer -- or, Mr. Miller, rather, is no longer with us, but -- as you and I discussed, this was originally an item that was designed to allow us to kind of fill the Commission in on a conversation we'd had with Secretary Reagan. I think that from conversations that I've understood that she's had with Mr. Kanefield subsequently iterating, seemed to suggest that our relationship, so to speak, is an all-or-nothing proposition. Either we -- Miller Certified Reporting, LLC

either we do the rule -- or, we don't do the rule and we work together on other things; or, we do the rule and we revert to Mr. Spencer's original comments which are -- I don't know which foreign war he was alluding to, but one of them.

Best as I can say, the best estimate I have at this point, whether or not that works out in the long run once the legislative session and things kind of hit the road, I don't know. But that was the purpose of that agenda item, it's kind of been obviated by other events.

We did have a nice conversation with her, it just didn't have anything to do with the rule.

CHAIRPERSON KOESTER: That's true.

MR. COLLINS: Yeah. Sorry, Mr. Chairman.

CHAIRPERSON KOESTER: All right. So, we'll consider No. -- Item No. V done for now.

Items VI is discussion and possible action regarding procedural status, Commission interest, and related legal actions and, again, the Legacy Foundation Action Fund versus Clean Elections Commission, which we could go into executive session depending on maybe any comments that Mary wants to make at this time.

MS. O'GRADY: Mr. Chair, Commissioners, the only update is that the only action pending is the appeal and our opening -- our brief is due December 2nd and so we're just in the appellate process.

CHAIRPERSON KOESTER: Okay. Thank you, Ms. O'Grady.

Okay. We're getting down to No. VII, which is public comment. We've had considerable public comment already, but if anyone else has something to add right now, now is the time.

Item No. VIII, is adjournment. A motion to adjourn would be in order.

COMMISSIONER LAIRD: I so move.

COMMISSIONER TITLA: Second.

CHAIRPERSON KOESTER: We have a motion and a second. All in favor.

(Chorus of ayes.)

CHAIRPERSON KOESTER: Opposed?

Okay. We're Adjourned. Thank you very much.

(Whereupon the proceeding concludes at 12:19 p.m.)

CERTIFICATE

I, Angela Furniss Miller, Certified Reporter, do hereby certify that the foregoing pages numbered 1 through 104, inclusive, constitute a full and accurate printed record of my stenographic notes taken at said time and place, all done to the best of my skill and ability.

DATED, at LITCHFIELD PARK, Arizona, this 3rd day of November, 2015.

Angela Furniss Miller, RPR, CR
Certified Reporter (AZ50127)