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MICRC

08/12/21 11:00 am Meeting

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>> VICE CHAIR SZETELA:

As Vice Chair of the Commission, I'm getting an echo.

As Vice Chair of the Commission I call this meeting of the Michigan Independent Citizens Redistricting Commission to order at 11:03 a.m.

This Zoom webinar is live streamed at YouTube at www.YouTube.com/MICHOSOSoffice/videos.

For anyone in the public watching who would prefer to watch via a different platform than they are currently using, please visit our social media at Redistricting MI to find the link for viewing on YouTube.

Our live stream today includes closed captioning. Closed captioning, ASL interpretation, and Spanish and Bengali and Arabic translation services will be provided for effective participation in this meeting. E-mail us at Redistricting@Michigan.Gov for additional viewing options or details on accessing language translation services for this meeting.

People with disabilities or needing other specific accommodations should also contact Redistricting at Michigan.gov.

This meeting is also being Recorded and will be available at www.Michigan.gov/MICRC for viewing at a later date and is being transcribed and those transcriptions will be made available and posted on Michigan.gov/MICRC along with the written public comment submissions.

There is also a comment portal that may be accessed by visiting Michigan.gov/MICRC, this portal can be utilized to post maps and comments which can be viewed by both the Commission and the public.

Members of the media who may have questions before, during or after the meeting should direct those questions to Edward Woods III, our Communications and Outreach Director for the Commission. WoodsE3@Michigan.gov. 517-331-6309.

For the purpose of the public watching and the public record, I will now turn the Michigan Department state Staff to take note of the Commissioners present.

>> MS. SARAH REINHARDT: Hello, Commissioners.

Please say present when I call your name If you are attending the meeting remotely state and unless absence is due to military duty, please disclose your physical location stating the county, city, township, or village where you are attending the meeting remotely.

I'll start with Doug Clark.

>> COMMISSIONER CLARK: Present.

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- >> MS. SARAH REINHARDT: Juanita Curry.
- >> COMMISSIONER CURRY:
- >> MS. SARAH REINHARDT: Anthony Eid?
- >> COMMISSIONER EID: Present.
- >> MS. SARAH REINHARDT: Brittini Kellom?

Rhonda Lange?

- >> COMMISSIONER LANGE: Present, attending remotely from

Reed City, Michigan.

- >> MS. SARAH REINHARDT: Steve Lett?
- >> COMMISSIONER LETT: Present.
- >> MS. SARAH REINHARDT: Cynthia Orton?
- >> COMMISSIONER ORTON: Present.
- >> MS. SARAH REINHARDT: MC Rothhorn?
- >> COMMISSIONER ROTHORN: Present.
- >> MS. SARAH REINHARDT: Rebecca Szetela?
- >> VICE CHAIR SZETELA: Present.
- >> MS. SARAH REINHARDT: Janice Vallette?
- >> COMMISSIONER VALLETTE: Present.
- >> MS. SARAH REINHARDT: Erin Wagner?

Richard Weiss?

- >> COMMISSIONER WEISS: Present.
- >> MS. SARAH REINHARDT: Dustin Witjes?
- >> COMMISSIONER WITJES: Present.
- >> MS. SARAH REINHARDT: 10 Commissioners are present and

there is a quorum.

- >> CHAIR KELLOM: Thank you, Ms. Reinhardt. You can view
The agenda at www.Michigan.gov/MICRC.

I will now entertain a motion to approve the meeting agenda.

- >> COMMISSIONER WITJES: So moved.

>> VICE CHAIR SZETELA: Motion made by Commissioner Witjes and motion seconded by Commissioner Rothhorn. Is there any discussion or debate on the motion? Hearing none it is moved and seconded that we adopt the meeting agenda. All in favor please raise your hand and say aye

- >> Aye.

- >> VICE CHAIR SZETELA: All opposed please raise your hand and say nay.

The ayes prevail and the agenda is adopted.

Without objection, I will now begin the public comment pertaining to agenda topics portion of the meeting.

Hearing no objection, we will now proceed to the public comment pertaining to agenda topics. Do we have live, in-person comment today?

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>> MS. SARAH REINHARDT: We do not.

>> VICE CHAIR SZETELA: Okay, thank you.

Individuals who have signed up and indicated they would like to provide live, remote public commentary to the Commission will now be allowed to do so. I will call your name and our staff will unmute you.

If you are on a computer, you will be prompted by the Zoom app to unmute your microphone and speak. If you on the phone, a voice will say the host would like you to speak and prompt you to press star six to unmute. And I will call by name or the last four digits of your phone number. And I will actually call on you by number that you have signed up.

Also, please note that if you experience technical or audio issues and we do not hear from you for 3-5 seconds, we will move to the next person in line and return to you after they are done speaking.

If you audio still does not work, you can e-mail us at Redistricting@Michigan.gov and we will help you troubleshoot so that you can participate during the next public comment period, at a later hearing or meeting.

You will have two minutes to address the Commission. And please conclude your remarks when you hear the timer. The first person to provide public comment is number one.

>> MS. SARAH REINHARDT: Thank you, Madam Chair. Number one is Sandra Elser, please allow us a moment to unmute you.

>> Hello Commissioners.

Good morning.

My name is Sandra Elser and I'm an attorney living in Ann Arbor.

I'm joining you by phone today because there is no Internet access because of the storms.

I've been following the work with the Commission with great excitement because you're doing the important job of ending partisan gerrymandering in Michigan.

Thank you so much for that.

I'm here today because I'm concerned about the possibility that the Commission may hire the litigation firm Baker Hostetler.

You may not know this, but Baker Hostetler has experience in redistricting because of the partisan gerrymandering in Ohio, Pennsylvania, and in North Carolina.

In addition, last year this firm represented the republican national committee before the U.S. Supreme Court.

And one of the firm's top attorneys, Mark Braden, worked with republican mapping experts to create gerrymandered maps in Ohio.

You know that the Commission's job is to draw fair and nonpartisan maps and recognize community of interests rather than a party or politician.

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For the Commission to hire a law firm that has clear partisan leadings, whether it's democrat or republican, would give the Commission appearance of partisanship. And I know you want to avoid that.

I also know there are many excellent, nonpartisan law firms with redistricting experience that would be pleased to represent the Commission in litigation. There is no urgent need for the Commission to hire litigation counsel today. I hope you will reopen the request for proposal, perhaps with a shortened application form as suggested by your General Counsel at the committee meeting last week to get more applicants.

Please continue your search for a nonpartisan litigation firm by crafting a shorter RFP that attracts more proposals from the many excellent law firms across the country with experience in redistricting.

Thank you for considering my request.

>> VICE CHAIR SZETELA: Thank you for addressing the Commission.

Number two?

>> MS. SARAH REINHARDT: Our next participant is Connie Cook. Please allow us a moment to unmute you.

>> Good morning, Commission.

My name is Connie Cook and I am calling you from my home in Northern Michigan.

I am in Glen Arbor on the Leelanau Peninsula.

I have watched many of your meetings and I have applauded the work you are doing.

You have had more than 70 meetings.

You've gone all over the State and heard from thousands of citizens about where they want their District lines.

You have demonstrated how democracy is supposed to work in this country.

You've encouraged citizen participation and shown no partisan animosity or partisan division.

Your work is markedly different and better than what we see in other states and at the national level.

I think you are creating a model for the rest of the country to follow and you are a source of real pride for Michigan.

But I've asked to give a comment today because you are in danger of hurting your own wonderful work.

The Baker Hostetler firm that you are interviewing for litigation counsel has consistently defended the worst gerrymandering in the country.

They have always been on the wrong side.

What guarantees would you have that this firm would represent your Commission faithfully and well? I understand that national redistricting groups have found a number of prestigious, nonpartisan law firms that are eager to apply for litigation counsel right now.

But for them to do that, you need to extend your timeline.

Don't choose the first, worst applicant.

Since there is no hurry, this should be an easy choice for you.

So let me end by asking you to please keep up your good work.

And, again, thank you for all you're doing for the citizens of this great State of Michigan.

>> VICE CHAIR SZETELA: Thank you, Ms. Cook, for addressing the Commission.

Next to speak is number three.

>> MS. SARAH REINHARDT: Madam Chair.

>> VICE CHAIR SZETELA: Yes.

>> MS. SARAH REINHARDT: We have had an in-person public participant arrive.

So we will pause virtual public comment to allow in-person public comment participants to provide public comment.

>> VICE CHAIR SZETELA: Certainly. So let me go over the rules since that person just arrived, so they are familiar with the public comment rules.

So individuals who have signed up and indicated they would like to provide live public commentary to the Commission, will be allowed TO do so.

When I call your number, you will approach the microphone and speak. You will have two minutes to address the Commission. And please conclude your remarks when you hear the timer. And first in line is our live public comment number one. Please approach the microphone and you may speak.

>> Hello. Going off what the previous speaker said, I was disappointed to hear that the Commission was considering hiring a law firm to defend the maps of a law firm that has a history of defending GOP gerrymanders in the past.

I'd like to remind the Commission that what that law firm represents with its past history of defending gerrymandered maps goes against the values of this Commission and should not be considered in the first place.

So I would just like to encourage the Commission to continue looking for more independent law firms to be more outgoing when trying to find a law firm to defend the maps in Court.

And going on the actual maps themselves, I would also like to be an advocate for keeping Dearborn and Dearborn Heights united in a Congressional District. And perhaps parts of Dearborn and Dearborn Heights in the Senate District. I know it's hard to get a VRA District with a Dearborn and Dearborn Heights together. But parts of Dearborn and Dearborn Heights certainly do have a strong community connection to Dearborn, so I would like you to consider that.

That's all I really wanted to add.

Again, I hope you guys can find a law firm that is more independent and more consistent with the values of this Commission and who has a past that reflects those values.

Thank you very much.

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>> VICE CHAIR SZETELA: Thank you for addressing the Commission.

We will now return back to our remote, live public commentary with speaker number three.

>> MS. SARAH REINHARDT: Thank you, Madam Chair.

Our next remote public comment participate is Lois Maharg. Please allow us a moment to unmute you.

>> Hello, Commissioners.

I'm Lois Maharg from Scio Township. And I'm thrilled to participate in Michigan's new nonpartisan, citizen led redistricting process.

I followed your work along the way.

I attended an early meeting where three Commissioners were discussing who to interview for the staff position of Executive Director.

Job applicants whose resumes suggested partisan bias were passed over as being too political. And I thought, wow, these Commissioners are striving for nonpartisanship in everything, including their staff.

But I was shocked that the Commission seeking litigation counsel had received only one proposal.

Litigation counsel play an important role in defending the nonpartisan maps the Commission draws.

How could it be that the RFP was so little publicized that only one law firm applied for the job? I was also dismayed that the firm in question was Baker Hostetler.

Baker Hostetler's resume advertises the firm's bias.

They defended republican gerrymandered maps in North Carolina and Pennsylvania.

And one top lawyer actually helped republicans gerrymander maps in Ohio.

And last year Baker Hostetler represented the republican national committee before the U.S. Supreme Court.

The Commission has come too far in the process that to all appearances has been fair, impartial, and transparent to suddenly change course and consider hiring a firm with clear partisan leanings.

To hire such a firm would compromise the credibility of the Commission in the eyes of Michiganders and people looking to Michigan's Commission as a model for redistricting in other states.

Please reopen your request for proposal period, create a shorter RFP, distribute it widely throughout the state and the nation, and seek a nonpartisan law firm to serve as litigation counsel for the greater good of all.

Thank you very much.

>> VICE CHAIR SZETELA: Thank you for addressing the Commission.

Number four, please wait for our staff to unmute you.

>> MS. SARAH REINHARDT: For the purposes of the public record, the participant who signed up for the number four spot is not present remotely.

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So we will move on to number five, Susan Smith. Please allow us a moment to unmute you.

>> Good morning, Commissioners.

>> VICE CHAIR SZETELA: Good morning.

>> I'm Susan Smith, Vice President for advocacy for the League of Women Voters of Michigan, a nonpartisan organization.

Thank you for this opportunity to address the Commission.

The league has been pleased at the Commission's efforts to maintain a nonpartisan status.

As it did recently when it selected EDS as its mapping consultant.

EDS had drawn redistricting maps for republican clients, but it teamed up with other experts who had worked for democratic candidates.

Now the league is asking the Commission to follow this past practice when hiring litigation counsel.

As you know, the Commission received only one proposal for litigation counsel, Baker Hostetler, who is invited to make a presentation at today's meeting.

From reading Baker Hostetler's proposal, it's clear that they have represented only republican clients, including ten years as counsel for the Republican National Committee.

In keeping with the Commission's intent to maintain its nonpartisan status, the league strongly recommends that the Commission follow its own past practice and ask Baker Hostetler to find a partner that has worked with democratic clients.

We realize that the Commission has posted the request for proposals twice.

And there might be some concern about needing to hire litigation counsel soon.

However, according to the timeline approved by the Commission, final maps won't be approved by the Commission until December 31.

The Commission won't have to defend its maps until 2022.

Given the importance of having a bipartisan defense of the Commission's maps, it's imperative to take the time necessary to hire a litigation team that together has represented both republican and democratic clients.

Thank you.

>> VICE CHAIR SZETELA: Thank you for addressing the Commission.

We will move on to speaker number six.

>> MS. SARAH REINHARDT: Our next remote public comment participant is Mr. James Galant. Please allow us a moment to unmute you.

>> Can you hear me now?

>> VICE CHAIR SZETELA: We can hear you, Mr. Galant. Please go ahead.

>> My name is James Galant. I'm with the Marquette County Suicide Prevention Coalition and these are my opinions. And I would ask you to please consider requesting a formal, written report from Dr. Handley that she talked about last week

about the United States being the last consolidated democracy to implement independent redistricting.

My research shows that there is an O'Donnell out there in the research that his position is that is to compare the formal institutional rules, aka the Constitution and Robert's Rules of Order, the fundamental principles of parliamentary law in America, would be informal practices of the political actors like this Independent Citizen's Redistricting Commission in Michigan.

Arguing that in many countries exist a gap between the two, which is my position.

You just plain are not following the rules here. And you're making up sideline rules, hearing no objections, all of these things.

And you're not determining an immediately pending question.

That is a fundamental law in America under the Constitution.

You have the right to understand what you're talking about, what the question is you're going to be discussing.

That is what the members have and you are denying them.

Now, the consolidation is when the actors in the system are actually follow the rules. They informally institutionalize the formal rules in the democratic institution.

And now that is the difference between a constitutional democracy and a deliberative democracy like the Dutch polar model, which this looks exactly like the Dutch polar model, the consensus being all this you know, feeling good stuff.

But they did that out of necessity. And in Holland, when they did that, they wouldn't have done that if they had to because of their holders.

We don't have holders in the United States.

So I would ask you to consider that you have taken oath of office. And I'm assume we will be doing the analysis of the video audio tapes of these people actually saying the word in the oath of office when you said that you're going to uphold the Constitution of the State and the nation. And, you know, your colleague, Commissioner.

>> VICE CHAIR SZETELA: Mr. Galant, your allotted two minutes has ended. Please conclude your statement.

Thank you for addressing the Commission.

We will now move on to number seven.

>> MS. SARAH REINHARDT: Our next remote public comment participant is Quentin Turner. Please allow us a moment to unmute you.

>> Good morning, Commissioners and staff. My name is Quinten Turner. I'm the director for Common Cause Michigan, a nonpartisan Government accountability organization.

You guys will have to forgive me. I'm recovering a bit from a cold, so if I have to stop that is why.

I'd like to begin by thanking you all for your continued transparency in this monumental task you have taken on. It generated a healthy amount of trust and good will among Michigan voters engaged in the process thus far.

It is for these reasons that I must express my concern over the RFP selection for litigation counsel.

The law firm you have chosen, the law firm who you choose will play a critical role in defending your thoughtfully created maps, these maps inspired by the stories and voices of Michiganders, when they are undoubtedly challenged in Court.

It's unfortunate then that only one law firm has been considered.

The importance of this role is such that it is worth extending the RFP deadline, relaxing the RFP process, and finding more applicants.

You have time. And there are other firms that are interested and waiting. Similarly, similar to your approach to the VRA counsel, doing this will get you more responses.

From there you can proceed with confidence you have made the best pick, not just the only one. And please do not risk losing the hard earned trust of the people by not having a robust process to find a firm who will achieve nonpartisan solutions.

Thank you.

>> VICE CHAIR SZETELA: Thank you for addressing the Commission.

We will now move on to number eight.

>> MS. SARAH REINHARDT: Our next remote public comment participant is Richard Barron. Please allow us a moment to unmute you.

>> Hello, Commissioners.

I'm Richard Montley Barron. I'm a resident of Washtenaw County. I've been a member of the State Bar of Michigan for 50 years. I have about five points I want to share with the Commission that might be helpful.

Number one, in my opinion the applicant, Baker Hostetler, is a very prominent, experienced, national law firm, including in the area of election law.

The Baker Hostetler application demonstrates its recent electoral experience as pointed out by prior speakers, primarily on behalf of one political party and on behalf of allegedly partisan gerrymanders largely in southern states.

I wanted to share two tweets that I came across.

One three days ago from former attorney U.S. Attorney General Eric Holder who said: It's important that those involved in the Michigan redistricting process appear to be, and, in fact, are neutral, nonpartisan players.

There are a lot of lawyers out there who can assist in the effort who have no ties to either party.

And American election author, David Daily, also has tweeted: Michigan's new Independent Redistricting Commission is close to hiring a law firm infamous for advising and defending some of the most egregious GOP gerrymandered of the last decade.

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Therefore I suggest that the commission retain legal counsel without real or apparent partisan bias.

It seems very undesirable in general, in life to choose where there is only, as here, one choice.

And I'm sure that there are more.

Thus I would respectfully recommend to this Commission that reopen its bidding period as previously suggested so as to obtain additional, more appropriate legal applicants.

Thank you for your work on behalf of the people.

Good-bye.

>> VICE CHAIR SZETELA: Thank you for addressing the Commission.

We will now move on to number nine.

>> MS. SARAH REINHARDT: Our next remote public comment participant is Mark Payne Junior.

Please allow us a moment to unmute you.

>> Good morning.

Can everybody hear me?

>> VICE CHAIR SZETELA: Yes, we can hear you.

>> All right. Good morning, Commissioner and staff. My name is Mark Payne.

And I'm the democracy coordinator for the Michigan League of Conservation of Voters Education Fund.

I thank you all for your open and transparent work.

In the past the Commission has already hired 12 because the Commission had thoroughly discussed the applicants. My comments are about the litigation counsel RFP. After reviewing the RFP and response of applicants, Baker Hostetler had a history of defending gerrymandered lawsuits and may be partisan. Hiring a firm so specialized and defending some of the extreme partisan gerrymanders in our country entirely goes against the Redistricting Commission's mission to make sure our political lines are fair.

This Commission was created by the will of the voters.

We must stay true to the original intent to take partisan gerrymander out of the line drawing process.

With such an important job to do, there must be a thorough selection and vetting process, which is impossible if only one firm applies.

I'm asking the Commission to issue the RFP again to get more applicants to ensure more informed firms or lawyers especially locally get a chance to reply because one choice is not a choice.

Again, thank you for your service.

Have a great day.

>> VICE CHAIR SZETELA: Thank you for addressing the Commission.

We will now move on to number ten.

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>> MS. SARAH REINHARDT: For the purposes of the public record, number ten is not present, so we will move on to number 11, Dr. Jerome Reide. Please allow us a moment to unmute you.

>> Good morning. I want to thank the Commission for the opportunity to address you. And my background is I am a Ph.D. in political science for Michigan State University. I'm a member of the State Bar of Michigan. I've been a member for some 25 years.

This morning I'd like to speak in opposition to Michigan Independent Citizens Redistricting Commission retaining the firm Baker Hostetler. The firm defense of GOP gerrymanders in North Carolina, Pennsylvania, and Virginia makes it more likely than not that the firm is partisan. The distinct advantage of the maps made to republicans in those states violate the Michigan Constitution's notion of free elections, free speech and assembly and equal protection under the law.

In 2012, GOP candidates for the Michigan House received only 45.5% of all votes statewide compared with 53.3% of votes for democratic candidates.

The party ended up with a 59-51 republican majority in the chamber.

The Michigan Senate maps have more probe republican bias than 99.7% of all state legislature maps across the country in the last 45 years, according to Professor Christopher Warshaw of George Washington University, when he testified in U.S. District Court in Detroit.

He also added Michigan's legislative maps are among the largest partisan outliers in history.

Whenever one party gets more votes than the other party has, a huge majority in the legislature, it raises a presumption that the will of the voters is not fairly represented. I would implore the MICRC to resubmit the RFP to 501C3 for important engagement organizations in Michigan that are required by the IRS to be nonpartisan such as the 76 organizations that are part of Michigan voices. And please postpone this decision until Wayne County can be represented.

They are not there today because of the flood. Thank you.

>> VICE CHAIR SZETELA: Thank you for addressing the Commission. We will now move on to number 12.

>> MS. SARAH REINHARDT: Our next remote public comment participant is Braden Lucas

Crimmins. Please allow us a moment to unmute you.

>> Hello. Just a second please to get my video working.

Thank you for the opportunity to speak with you today. Like many concerned citizens, I came to speak of Baker Hostetler. And I did have some prepared comments but they repeated of what has already been said. So I will adjust them on the fly to give you what hopefully will be new information.

The first thing I would like to bring to your attention is the way Baker Hostetler has misrepresented its partisanship to the Commission.

The firm acknowledges in their application that it has, quote, tended to represent republican interest in partisan cases. But it explains away the tendency is not being due to any true ideological commitments. Instead they say it's because political parties do not tend to hire attorneys who have represented the other party. They imply after a fashion that they are ideological nonpartisans who were shoehorned in a false political association.

It would be interesting to see how they reconcile this with the fact that Mark Braden, the proposed lead for the Commission's legal team, was the RNC's chief counsel for more than a decade.

And that is only the first of Mark Braden's many disqualifications.

Another, perhaps more important one is that he shares none of the same values that grow the people of Michigan to establish this Commission in the first place.

If you want evidence of that, you don't need to look further than his bio on his firm's website. And that he brags he is the so-called father of legally unaccountable soft money in national political campaigns.

Anyone who values the true franchise of the people, would not brag about bringing unaccountable money in politics.

They misrepresented themselves to the Commission in other ways too.

Take look at the recent householder case they represent in their application where they say that they, quote, successfully obtained a reversal and vacation, end quote, of an unfavorable lower Court decision. And that they received that reversal from the Supreme Court.

In reality they lost the only parts of the case they actually tried. They lost in front of the original panel.

And before their case could be heard on appeal, they caught a lucky break in that the Supreme Court heard another case, argued by different lawyers, and decided in that that no political gerrymandering case, no matter egregious could be heard by Federal Court. Baker Hostetler didn't win that case, the other lawyer did.

In short Baker Hostetler has repeatedly misrepresented itself and is rampantly partisan and should not be the legal firm the Commission goes with.

>> VICE CHAIR SZETELA: Thank you for addressing the Commission.

Now that the opportunity for in person and remote public comment concluded, we will hear from individuals for a second two-minute public comment. Hearing no objection, we will proceed with individuals seeking to provide a second two-minute public comment.

Individuals who have signed up and indicated they would like to provide live, remote commentary to the Commission will be allowed to do so. And we will use the same

process as the first round. And first in line to provide public comment is Mr. James Galant.

>> Hello, Madam Chair.

>> VICE CHAIR SZETELA: Yes, we can hear you.

>> All right. This is James Galant, Marquette County Suicide Prevention Coalition.

These are my opinions. And I would like to notify you, Madam Chair, that someone on your technical staff, you let everyone finish your sentences, they cut me off immediately which is denying me my due process and equal protection under the law to finish my sentence which you have been allowing others on this call to do.

I would like to talk about the attorney here. And it appears that with the written comments it says there is dozens of the written comments.

They are exactly the same about the litigation attorney.

Most of them, I would say all of them except for the original one seems to be plagiarized. And it seems to be coming directly from a coordinator for the democratic party in Washington D.C. And all of a sudden you got dozens of other people plagiarizing somebody else's words, I this, I that, but it's not them. It's somebody else. So I think they should be discounted. You should be going through all of these. I've seen this before on other comments. And all of the sudden, the last one, the first one to come out was common cause.

Everybody else cut and paste their positions. And these should be discounted altogether because this seems to be, oh, we heard from a bunch of people and we are going to do what they say.

Now, during your deliberations for the Bylaws in January, it was brought to you from an ad hoc committee of Department of State staff and your staff, including Mike Brady, Sarah, it was in the transcripts, and Sarah and, you know, your attorney and your Executive Director. This ad hoc committee appears to be already still reviewing and scoring and then filtering the applications for these RFPs because it was in the transcripts.

The transcripts said that the staff is ad hoc committee, the Chair, Mr. Lett, had appointed an ad hoc committee and said you do it first and don't bring us 47 like you had last time, bring us like six.

So those meetings are open meeting through the Open Meetings Act. They don't have Commissions on them, but ad hoc committees that deny the Commission their right to vote of the 47. So now we have to get back following the rules and getting the report from our attorney, which the State of Michigan is now paying to Ms. Handley, to get are you actually following the rules of procedure under the Constitution and Roberts Rules of Order as prescribed.

>> VICE CHAIR SZETELA: Mr. Galant, your allotted two minutes has ended.

Thank you for addressing the Commission.

It appears we also have one more person who provided live, in-person commentary who would like to provide a second public comment. So at this time we will ask the speaker to come back to the podium and you can provide your second public comment. Once again, it's the same rules, two minutes.

>> Okay, so regarding the actual map, we have heard a lot of litigation about and the actual map regarding the actual map. I'd also like the Commission to possibly consider putting whatever District in for the Congressional and State Senate maps that Dearborn is in to also include Hamtramck in that seat. Arab Americans makeup a sizable minority of Michigan. And I think it would be really nice for representation of Arab Americans if there could be a Congressional and Senate District that could have as much of an Arab minority as possible.

It would be really good for campaigning because a lot of... because a lot of candidates can go to mass and speak directly to Arab voters where in some districts Arab voters can often be ignored when they are in places where they are too much of a minority to really care about frankly. And I'm an Arab American myself. I really care about this issue. And I believe more Arab outreach is needed.

So, again, if you guys could consider putting a Senate, having a Senate District of Dearborn, Hamtramck and parts of the north of Dearborn Heights with as much as an Arab population as possible while still complying with the VRA. Because generally we are counted as Caucasian. So VRA District that could have much of Arab minority as possible, I would appreciate that.

There is not really way to measure how many Arabs are in the District. But certain regions like Hamtramck, Dearborn and North Dearborn Heights. I would appreciate that. It would be really good if we are minority representation of a group that has often been overlooked.

I hope you guys consider that and thank you very much.

>> VICE CHAIR SZETELA: Thank you for addressing the Commission.

That concludes our public comment this afternoon.

Before we move on to our next agenda item, I would like to note for the public record that our Chair, Brittini Kellom, is not in attendance today. Therefore, I would like to at this time designate Commissioner Dustin Witjes to serve as acting Chair in the event I need to leave the room for any reason.

All right. Let's move on to our next agenda item. Without objection, I'd like to move forward old business and ask Executive Director Hammersmith to provide information with 5A draft meeting schedule.

Hearing no objection, please proceed Mrs. Hammersmith.

>> MS. SUANN HAMMERSMITH: Good morning, everyone.

Last week we talked a little bit about how the schedule would look going forward and wanted to create a fairly clear picture for the Commission of what the path ahead is going to look like.

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In our deliberations we had not previously included some pretty important parts of the process.

Including the time that it will take for our mapping firm, EDS, to actually develop the maps that will be presented to the public.

So and this will happen with draft maps early on.

It will happen before the public comments, those draft maps, it will happen after the public hearings and so with the final maps so we need to make sure that we allow enough time for the other parts of the process.

We also have to get with Kim and make sure that our VP analysis has enough time to do that work.

And after districts are drawn there needs to be enough time for Commissioners to do their work to deliberate and make sure that the maps are the best they can be.

So in order to make things work, we had to compress public hearings into three weeks instead of over four.

We added new dates up front so we could get to the initial deliberation for draft maps earlier.

So you will see on page two of the document starting with Senate districts we added Monday the 23rd.

And if you go through after that you will see that we've added Wednesdays every week in September.

And the goal was then to get to the September 30 data released and the reconciliation of that and for EDS to have time to develop maps and legal plans for publishing, so those published drafts then can be put forward and utilized for people to respond to in the public hearings.

There was interest in adding a couple of public hearings.

You might have noticed that last week.

Those were removed from the calendar.

The Commission had previously approved eight.

Given the timing and given the rigor and the extra time that will be involved in those public hearings, those will last longer.

And we thought this was probably a better schedule for the Commissioners.

You can do as you wish with that.

But initially you approved eight public hearings.

That's what is put forth for your consideration.

Again, it would be a listening tour.

And the goal would be to look to respond I would say to create a general consensus of things you will want to consider in drawing maps.

But with every public hearing if you draw maps it's going to be a confusing process for the public to follow and every time you draw a line you know that you have to draw a different line someplace else.

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So we are thinking it's probably better to listen on the public hearing tour as in the past. But at the following public hearing day, have a morning meeting just for reflection. So then you could capture what you heard at that public hearing and would have that for future use.

So the example I gave was when you, you know, the first one is scheduled in Marquette when we get to the second public hearing in Gaylord that morning, we would do the reflection on Marquette so we don't lose that valuable information that we've heard at that public hearing.

After the public hearings it would run from October 11th and those were booked a week earlier than previously.

To give more time again for deliberation afterwards.

So after the public hearings, then the regular meetings would resume. By Friday, November 5th, we are proposing that the maps would be voted upon. That would give time for EDS to produce the maps. And then to publish these and then the 45 days of public comment would begin. So that is the basic timeline.

You can see the dates that happen after that.

Again, this is to help the Michigan Department of State and the Bureau of Elections to be able to do their work even though it's later than normal.

We are trying to compress our schedule and give them the best work product we can give in a very compressed timeframe.

That's what necessitates so many meetings a week.

As we move forward into the process.

So I think I'll stop for now and entertain any questions.

>> VICE CHAIR SZETELA: Go ahead Commission Clark.

>> COMMISSIONER CLARK: This is Commissioner Clark.

I'd like to give some clarification on these Wednesdays that you added in September, they may have gone into October as well, it appears to me as though we are going to be traveling for some of those Wednesdays.

Is that not true? Other than Detroit and Lansing.

For example September 1 you have east central.

>> VICE CHAIR SZETELA: Aren't those the regions we are talking about not where the meeting is at.

>> MS. SUANN HAMMERSMITH: Those are the regions we will be discussing in the meetings and all caps are the meetings and some were already scheduled at universities so in all caps that the location.

The other regions that are listed are the ones we will be discussing in those meetings.

>> COMMISSIONER CLARK: That is why I needed clarification.

Thank you.

>> VICE CHAIR SZETELA: Commissioner Rothorn?

>> COMMISSIONER ROTHORN: Is so I like the idea we actually have the eight public hearings but I am concerned after I was looking at southwest and looking next week and a lot of public comment comes from the Kalamazoo Battle Creek area and I'm concerned that we have only sort of one public hearing but I do understand that you all as a team have put this together.

Is there a reason to think we can't put, is there an...I guess Edward is not here so I guess I'm asking I don't want to ask to have three, three and three.

I'm asking would it be prohibitive? Is it impossible so to speak at this point to create a public hearing in Kalamazoo because of the timeline, et cetera?

>> MS. SUANN HAMMERSMITH: If the Commission decides that it is important to have a public hearing in Kalamazoo, it could be put into the week of October 18th. It could be the 19th or the 20th and your staff and MDOS staff would support that if the Commission feels it's I'm to add one in addition to the eight that you previously approved.

>> VICE CHAIR SZETELA: I did discuss with Edward this morning. He would like to add a meeting to Kalamazoo but ultimately, it's up to us and that is exactly what exactly was discussed is fitting in that week traveling to Grand Rapids and Lansing and have it on Tuesday or Wednesday depending what we decide if we decide we want to do one more meeting.

Go ahead Commissioner Orton, Rhonda Lange had her hand up first so let's go to her first.

>> COMMISSIONER LANGE: I've got two questions or one comment and one question what are the proposed times we are looking at for the added Wednesdays would be my first question? Do you have an idea yet?

>> MS. SUANN HAMMERSMITH: We have not scheduled the time. Some would depend on the location so if we can be in the same location, the first day typically takes 11-12 for the AV to set up. If we remain in the same location then after that we can start earlier. Again, it's getting a schedule in place and then we will work to work out the times, work out the AV and MDOS will book the locations.

So a lot of moving parts here.

>> COMMISSIONER LANGE: Okay and on Doug's point, the Wednesdays, I think I see what he was referencing if you look at adding Wednesday September 8, Detroit, Metro I'm assuming is the area we will look at but then on September 9 they are in big Rapids Michigan so I think that is what he was referring to for the travel time. Is it not, Doug?

>> MS. SUANN HAMMERSMITH: You're correct in what you're saying. I mean these are -- these are the locations again are in all caps. So we would find a location on September 8th, that would be closer to big Rapids than not and the days after that.

So I mean, that's just a matter of finding the locations that are most appropriate. There may be a little bit of travel but we would certainly try to minimize the travel around the state especially on consecutive meeting days.

>> COMMISSIONER LANGE: I'm just going to give my quick opinion on adding another meeting I'm against it especially when it's more towards southern Michigan. Again, Northern Michigan two meetings, rural areas, disproportionate in my opinion. And that's the only comment I got.

Thank you.

>> VICE CHAIR SZETELA: Commissioner Orton?

>> COMMISSIONER ORTON: In looking at the map and talking to Edward I think that we do need to have to add a public hearing in Kalamazoo.

And I think that that Wednesday, October 20th would be the perfect time because we are in the western area.

So I would like to move that we add Kalamazoo public hearing, October 20th.

>> Second.

>> VICE CHAIR SZETELA: Motion made by Commissioner Orton and seconded by Commissioner Clark.

I'm wondering if it wouldn't make sense to have it on Tuesday.

Because we are in Grand Rapids on Monday.

And Kalamazoo on Tuesday rather than having that delay day, just a suggestion, if you want to amend your motion.

>> COMMISSIONER ORTON: I will amend it to whatever Edward works out as the best time, thanks.

>> VICE CHAIR SZETELA: Is that acceptable Commissioner Clark?

>> COMMISSIONER CLARK: Yes.

>> VICE CHAIR SZETELA: Any discussion on the motion? MR Rothhorn do you have any comments or discussion? I see you smiling.

We have a motion to add a meeting the week of October 18th in Kalamazoo.

The actual date to be subject to suggestion by our communications and Outreach Director.

And we have a motion and a second.

All in favor please raise your hand and say aye.

>> Aye.

>> VICE CHAIR SZETELA: All opposed please raise your hand and say they.

>> COMMISSIONER LANGE: Nay.

>> VICE CHAIR SZETELA: Vote of 9-1 the ayes have it and we will add that meeting the week of October 18 in Kalamazoo.

Department of State, Ms. Reinhardt?

>> MS. SARAH REINHARDT: For the public record Commissioner Eid can you state what your vote was on that motion?

>> COMMISSIONER EID: It was in the affirmative.

>> MS. SARAH REINHARDT: Thank you.

>> VICE CHAIR SZETELA: All right so now that we have added the Kalamazoo meeting, I would entertain a motion to adopt the revised Commission meeting schedule. We have a resolution, I believe it's 200108023 to approve the meeting schedule I would entertain a motion if someone is so willing.

>> So moved.

>> Second.

>> VICE CHAIR SZETELA: Motion made by Rothhorn and seconded by Commissioner Witjes is there any discussion or debate on the motion? All in favor please raise your hand and say aye.

>> Aye.

>> VICE CHAIR SZETELA: All opposed please raise your hand and say nay.

>> COMMISSIONER LANGE: Nay.

>> VICE CHAIR SZETELA: Okay by a vote of 9-1 the ayes prevail and the resolution 20010803 regarding the meeting schedule is adopted.

Without objection I'd like to move on to agenda item 5B, I'd like to ask the Commissioners if they had any issues or any questions about sending shape files to EDS and if so, we have Mr. Kim Brace from election data services in the meeting with us via Zoom although I don't see him right now Ms. Reinhardt is Kim Brace -- there he is fantastic -- Mr. Brace is available to address any questions or concerns that Commissioners had about sending shape files in.

>> KIM BRACE: Yes.

>> MS. SARAH REINHARDT: My apologies for the interruption Madam Chair I just wanted to indicate that communications director Woods has his hand raised. You cannot see it on the screen but I just wanted to let you know.

>> VICE CHAIR SZETELA: Oh, okay, communications Director Woods, if you are available, I'm sorry, Mr. Brace, let's see what our communications director has to say. Please proceed.

>> KIM BRACE: I was going to say his hand was raised, yes.

>> MR. EDWARD WOODS:

>> VICE CHAIR SZETELA: Edward are you there?

>> MR. EDWARD WOODS: Can you hear me?

>> VICE CHAIR SZETELA: I can hear you please proceed.

>> MR. EDWARD WOODS: Wonderful I think you guys have already addressed it so I do want to thank the Commission for the vote. But also want to be clear that if you look at our five universities and where we are going, we are very inclusive of rural areas.

We will be in Mount Pleasant and Big Rapids and Allendale so I just really want to reiterate the commitment to each geographical area in the State of Michigan, whether it's a City, whether it's a suburban or whether it's rural.

I'm in Pinconning right now, about to do a presentation of standards. So the commitment to rural areas is very clear, very open and very transparent. And just want to reiterate that and thank the Commission for the support.

As we try to do our communications and outreach efforts in each of these areas as well and also for the second round of public hearings and approving the schedule.

So if there is any questions, I heard some statements earlier, I can answer them at this time.

But I think action has already been taken so there might not be no need for me to say anything but thank you Ms. Reinhardt for alerting the Commission that my hand was up and those that saw it as well.

>> VICE CHAIR SZETELA: Any questions for Mr. Woods? All right seeing none thank you very much.

And now we will move back to Mr. Brace.

Any questions for Mr. Brace from anyone? I see Commissioner Lange has her hand up is this for Mr. Brace or Mr. Woods? Mr. Brace.

Go ahead Rhonda.

>> COMMISSIONER LANGE: Hi Kim, I was not able to send you my file. I got part way through.

I know last week I had trouble seeing your screen.

So is there a way that you could possibly just send me a written out instructions that I can follow step by step and I can get mine sent to you? I had like the first three steps I believe but then it was finding the right file and everything I got a little lost.

>> KIM BRACE: Okay, sure, I can do that.

I apologize we have been kind of hurried getting everything ready for the big day that's happening today.

But, yes, I can put together that procedures for you.

We have received a bunch of different files from different people.

And I was prepared today to kind of show you a couple of things in terms of bringing in files, which I have been doing with the things that have been submitted.

And but you will also be doing so I thought this would be an apropos time to give a little instructions on that side to everybody.

But I also wanted to kind of give you an update of today's activities and what we are doing, what we are anticipating as well as what we are seeing in terms of Fred's software and the EDS update.

So I have probably several different things to talk to you about.

>> VICE CHAIR SZETELA: Commissioner Lett?

>> COMMISSIONER LETT: Yes, Kim, I agree with Rhonda.

I sent you a file and I don't know exactly what you got but you sent me a response and obviously you got something and that was my dumb luck.

So whatever you can do to do for us to send, you know, you got to do the dummy books.

>> KIM BRACE: Okay.

>> COMMISSIONER LETT: Because you're assuming at least that I know how to do this stuff.

I have a secretary.

She really knew how to do this stuff.

>> KIM BRACE: All right that's no problem.

Yeah, I saw in the various submissions some people had no problems and other peoples did have problems.

So that's fine.

I'll certainly create kind of a guide for dummies in terms of getting that together.

I was able to see that, you know, a bunch of you were able to successfully send me some files and I was going to show you what I've seen, but more importantly what I started to do with them, on that side.

But, yes, I can send you kind of a guide for dummies on how to get the files out of the -- your system and e-mailed to us.

Now part of what I was starting to see though is some of the potential issues that we may have with the state and how the state deals with sending a file out or receiving a file.

So we do need to be cognizant of some of that.

There may need to be more discussions with the state, MDOS people on some of that. But I did see that in a couple of submissions and I don't know if it's an issue of getting out of the state system, sending it or what may be the case.

But generally I saw pretty good luck with most people that submitted a plan. Some of the first couple of ones is where I saw a little bit more problem where they weren't grabbing all the files and so I sent them an e-mail individually when I saw that. And but I asked them to submit it again and some of them have not submitted it again. So we will have to work with those that did that sort of thing.

And see where we are.

What I wanted to do is kind of show you a little bit about what happens when we get a file from you.

And it's the same procedure that you will end up doing when we start exchanging plans. So I thought that would be a good exercise of training.

And I'm going to go and share my screen with you.

At least share the image of the Autobound edge.

This is again of course our state of thumb area.

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This is what happens when you bring it up and you will probably recognize this in terms of seeing what you're seeing on my screen.

What you would end up doing is in order to bring in a plan, the system needs to look towards a placeholder or what you want to create.

So first off you need to create a plan.

When you create a plan, you can end up giving it a name.

It needs a name.

So test 24 for the lack of a better term.

And you need to describe the plan type as I told you before State Senate and change 38 to 15.

When you do that, then you're creating a plan and it of course loads the active matrix that is there.

So you will see that and that is a successful creation of a plan.

Now, what you are going to end up doing is you're going to bring in a plan.

And the way to do that is with data exchange.

This is what you did to create a plan or to export your plan.

That first button there was the one you have been doing to export a plan.

The second button is importing a plan.

And that's what I want to show you today.

When you look to import a plan, you're going to want to import a shape file.

So select the shape file button and it will highlight the select shape file, click on that and it will bring up an open screen.

Now, does that show up on your guys' screen? This open file or open box?

>> VICE CHAIR SZETELA: Yes.

>> KIM BRACE: Good, I wasn't sure.

So I brought in a couple different ones.

I was bringing in Justin's so let me bring in Janice plan.

Janice sent me an e-mail with a plan and I downloaded it and I unzipped it.

When you unzip it, it will give you of course those four plan names that we talked about, which I will give you the description of again, the various shapes or the various pieces of a shape file.

But what appears is just the SHP file.

So that's the shape portion of that file.

And that's what the system is looking for.

So select that shape name, the SHP file and open that.

When you open that, it then looks towards, all right, it's looking at the fields that are in that file that you've sent and you want to identify the District number as the District N field.

That's the one that tells us the District numbers.

When you click on that, it then populates this portion of the screen and since we've all drawn well, in this one we only draw or drew 12 districts it looks like.

You want to select the all button.

This one is no selection, this one is all and everything gets highlighted.

So that tells the system you want to bring the whole plan in to the system.

And then you hit the override plan with new plan.

Why is it saying override plan? Remember we created a plan.

This test plan 25 or whatever I called it.

Test 24.

So I'm going to override that test 24 with the plan that Janice has sent to me.

So that's why I'm doing that.

And say yes to that.

And so it's saying it has less districts than your plan and that is okay and Janice only gave me 12 and it's now bringing in the information so it's clicking on the screen and it will generate another document that basically says these are the districts and the precincts and the census blocks that it brought in.

>> VICE CHAIR SZETELA: Mr. Brace can I pause you a second while that is loading just to clarify the map that you have received the shape file is for the fictional state of thumb. It's not a MICRC District map we are working on. This is our practice we have been doing, not an actual District map.

>> KIM BRACE: You're correct.

>> VICE CHAIR SZETELA: That is my public service announcement.

>> KIM BRACE: There you go very good.

I'm sorry I forgot to do that too.

Very good observation, yes, so this is the sample of this state of thumb.

So I brought in Janice' file and now I can close it and now you can see that my plan is populated.

So I can end up seeing what she drew and, again, it just goes up to 12 districts.

So I don't know why it stopped at 12.

We will have to talk to her about that.

But that's what I'm seeing here and the 12th District is very light.

It's not enough population so it looks like it was kind of a work in progress is what I would say.

But what I can see then is it will bring in the plan and it will retally the spreadsheet across the bottom.

So this is what I'm getting as far as the numbers that I'm getting when I bring the plan in, now I could go and if you remember I asked everybody to send me also to export the spreadsheet.

Those are the numbers that you have for the plan that you're sending me.

So I could go and pull up if she included that, I could pull up that file to see what she thinks the numbers are and I can then compare it with what I'm calculating the numbers to be.

That may give me a clue that somehow something didn't, you know, come in, indeed she did have all 15, I don't know.

But that was a quick observation of what I was -- what I'm seeing.

And so this is how we're going to end up exchanging plans.

By being able to import and export plans and bring them in to the system so that they can be tallied up in your system and you can see what they are.

And at that point in time ultimately if you remember what Sue has put together is if you wanted to make changes to this plan, this is where you start creating another copy of it. And put your initials on it like what Sue had outlined we had worked out the procedures on.

But this is the way that we will end up exchanging plans.

So I just wanted to kind of go over that with all of you.

So that you could see that and I will document this process also as part of the packet that I'm putting together for all of you on that regard.

So that is in terms of exchanging plans and I have brought in a number of different plans.

And I think we will be prepared to start going over some of those with you when we have our next meeting, whether or not it's tomorrow or it's next week.

So that's the ultimately your decision.

As an update for you as you know today is census release day.

I'm watching your thing now, but in about 49 minutes I'm going to bounce over to the Census Bureau's press conference to see what they are releasing.

We will be monitoring that and about ten minutes into that press conference the Census Bureau is going to open up the spigot so that people can now start to download the data.

My staff is ready to go with that and will be downloading the data for all the states that we're involved with including the State of Michigan.

And we will be prepared to conceivably if you are going to meet tomorrow be able to give you some initial results and observations of some of the data that is there.

So that's what we are geared up depending upon what your schedules are.

I can also report to you that I talked with Fred last night on two different counts.

He has completed his update of his software.

I have not downloaded that yet on my machine because I wanted to for today's discussion show you exactly, you know, using this procedure that we have right now, but we will be downloading that and looking at the updates of that.

It is something that we will work with the state also to do to then be able to figure out the way to update your system in addition on your machines.

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After today's download from the Census Bureau we will begin building the database. And ultimately by next week we will have the full statewide database like what we are doing here for state of thumb but it will have now the PL files too.

What our plans are is actually to expand this spreadsheet to add additional tabs that will have information from the PL file itself.

We are going to keep the ACS and ESRY tabs that you have now so that we will be able to see what the ACS and ESRY said for any particular area at the same time that you will start seeing what is on the PL file.

We will be investigating how well the PL file is showing up, and if there are discrepancies in what other people have said for a given area, we will be able to see that by having all of that additional set of tabs on the system.

So we will be updating the database so that next week in all likelihood is when we will look towards creating a new system for your machines, both of the software as well as the newer database in that regard.

So that's what we are seeing in terms of what is lying ahead.

The only other piece is that we did talk with Moon Duchin's people yesterday in terms of the COIs.

She has fed us a file again.

We've worked with her and we've got a person on our staff that can end up dealing with some of the APIs that she has created.

We are seeing by bringing her COI file, her shape file in or into Autobound edge.

It shows up as one big conglomerate of a lot of different COIs laid on top of each other.

We have gone in and created not one shape file but actually 422 as of yesterday individual shape files too.

So we are working with Fred to see how that can be dealt with from Moon's file or do we need to create these separate files which is what we did out of what Moon sent to us.

So hopefully that will end up being something that will be of use to you.

It is something that in the shape file that she has sent, she has populated I think it's 12 or 13 different fields with the information from her system.

Some of those fields, one of them in particular is real large because it's got all the text that somebody typed in when they submitted that submission.

So we are looking at how best to have that appear on your screen within Autobound edge as well as us bringing it in to the my Districting system that is the web based system.

So we will be experimenting and testing with that over this next week so that all of that information will also be available to you.

So that is a big update for you on where we stand.

And as I said today will be a long day for us.

Sorry we can't join you.

I see empty spaces around your table that we used to occupy.

But rest assured that I'm here.

We are hard at work on your behalf.

>> VICE CHAIR SZETELA: Thank you very much.

Anyone have any questions? Commissioner Eid?

>> COMMISSIONER EID: Thank you for that update, Kim.

I kind of feel like it's a holiday almost with the census data finally being released so very exciting day.

>> KIM BRACE: I don't know about a holiday but a long day let me put it that way.

>> COMMISSIONER EID: Well, you know, as they say it's better late than never, right?

>> KIM BRACE: That's true.

>> COMMISSIONER EID: We will finally have something to look at.

>> KIM BRACE: Yep.

>> COMMISSIONER EID: The goal, how do you foresee these different shape files that Moon is importing is helping importing to the system being overlaid on top of the matrix that you guys already compile?

>> KIM BRACE: Yeah, what Fred's system lets you create or bring this a shape file. Just like what I just did, that I showed you.

But it can bring in a shape file that is a set of lines that overlay the thematic imaging that you have.

And so right now when we bring in Moon's shape file, the whole thing, it shows lines everywhere.

And you can't really distinguish in each of the 422 comments that she's gotten.

So that is why we have been working with them and working on our side, working with Fred and how best to show those.

And so that's kind of a work in progress.

I'm hoping to get a further report today or tomorrow on what Fred is seeing and what can be done on his side too.

But we've been working with Moon and Moon's people in terms of trying to facilitate and get that in so that they would be ultimately be a layer that you would see on top of your map.

That would say, all right, this community area is community area 632 from Moon's system and you would be able to see information on that submission.

>> VICE CHAIR SZETELA: Mr. Brace, Sarah Reinhardt needs to interrupt for one second.

>> KIM BRACE: Okay.

>> MS. SARAH REINHARDT: Thank you Madam Chair Commissioner Eid certainly appreciate the question and just want to reassure the Commission that our office, your staff, EDS and MGGG are partnering together and working together effectively to

provide you the COI data submissions directly from the portal in a way that will be usable for the Commission.

So while that work may be on going just want to reassure you all that that will be provided to you in a usable fashion.

Thank you.

>> VICE CHAIR SZETELA: Thank you very much Ms. Reinhardt.

Please continue, Mr. Brace.

>> KIM BRACE: I'm happy to answer any other questions.

Anthony, did that answer your question? It's still a work in progress.

>> VICE CHAIR SZETELA: He is giving you a thumbs up so looks like that answered the question.

Any other questions? All right, thank you, Mr. Brace.

Enjoy your day working on the census files.

I'm sure you're happy.

>> KIM BRACE: Oh, yes.

>> VICE CHAIR SZETELA: Thank you very much next we are going to move forward with new business agenda item 6A proposed questions for litigation counsel interview without objection I will ask General Counsel Julianne Pastula to cover this item.

Hearing no objection please proceed Ms. Pastula.

>> MS. JULIANNE PASTULA: Thank you so much Madam Chair.

The Executive Director has distributed the proposed, there are 12 proposed litigation counsel interview questions that were distributed.

The questions range from identifying common pitfalls of other Redistricting Commissions and boards.

Litigation risk present.

Litigation risks with the census variables, the unique occurrences that are ongoing with the census.

And challenges facing litigation counsel in redistricting matters.

On number five I matched up with subsection five of the Constitution on retaining independent, nonpartisan subject matter experts and legal counsel, providing assurances in that regard.

Question six and seven deal with working with our Voting Rights Act counsel as well as our line mapping firm.

Questions 8-11 deal with positions on the Constitutionality with independent based on not only the Supreme Court litigation in that regard but also the litigation specific to the MICRC existence.

Defending, being racially conscious as well as adhering to and up lifting our third ranked criteria of diverse population and community of interest work.

Public engagement and transparency.

And lastly how to work with your General Counsel on reducing costs and minimizing any potential redundancies.

So those would be the 12 questions.

I know in the past the Commission has divided them up, has modified them, has reordered them, and certainly I welcome the discussion on that and any questions the Commissioners may have.

Thank you.

>> VICE CHAIR SZETELA: Commissioner Clark?

>> COMMISSIONER CLARK: Yeah, I think this is a great list.

There is one I would like to entertain adding, I'd like to understand from them how are they going to organize within their firm to support us? And I mean, the things I've read that they have got and I may have miss interpreted this, they have some type of task force that deals with election law or redistricting issues.

But I'm not sure.

I know Kate is the lead on this and probably the main interface with us but I'd like to understand what the rest of the staff is and what their specialties are and how they are going to be utilized.

>> VICE CHAIR SZETELA: Before you answer that question, I just quickly would like to note for the record that it is 12:25 and Commissioner Erin Wagner has just joined the meeting.

>> COMMISSIONER CLARK: Do you feel it would be relevant to ask.

>> VICE CHAIR SZETELA: Go ahead.

>> MS. JULIANNE PASTULA: Thank you Commissioner Clark.

The bidder said in response the key personnel are part of their political law group and certainly any questions in regard to that would -- might give the Commission some information on not only how that political law group would seek to represent this Commission, but also give a summary of its work in the past in representing other clients.

>> COMMISSIONER CLARK: Yeah, I think that would be good to ask.

>> MS. JULIANNE PASTULA: And whether that is political law group has any involvement with their lobbying entities as well.

>> COMMISSIONER CLARK: Yeah, that is basically what I'm searching for, so if we could word Smith that into item number 13, I put the motion on that we add that, if we need a motion.

>> MS. JULIANNE PASTULA: If you would like me to suggest some wordsmithing or language that the Commission could modify it would be how does the firm's -- how is the firm's political law group structured, how would that group support the work of the Commission and how would that be distinct from their representations of other clients or political interests?

>> COMMISSIONER CLARK: Could you repeat that last sentence.

>> MS. JULIANNE PASTULA: How far do you have, Commissioner Clark? Because I must confess, I was not writing while I was working.

>> COMMISSIONER CLARK: How do groups work to support the Commission.

>> MS. JULIANNE PASTULA: How does that contrast with their support of past clients.

>> COMMISSIONER CLARK: Okay.

>> VICE CHAIR SZETELA: I will second Commissioner Clark's motion to add that question.

Is there any discussion or debate on the motion to add the question? And we can have General Counsel read that back if it helps everybody.

>> MS. JULIANNE PASTULA: I would respectfully ask for Commissioner Clark because I'm not writing.

>> VICE CHAIR SZETELA: Go ahead Commissioner Clark read back what you are proposing we add to the question.

>> COMMISSIONER CLARK: How does the firm's political law group, how is it structured and how would that group support the work of the Commission and how does the -- how does that contrast with the work of the past clients?

>> VICE CHAIR SZETELA: Any questions or discussions on that addition? Okay, we have a motion and a second to add the language proposed by Commissioner Clark to the list of litigation counsel interview questions. All in favor please raise your hand and say aye.

>> Aye.

>> VICE CHAIR SZETELA: Opposed raise your hands and say nay. All right the motion carries. So Commissioner's Clark's question is added to our proposed MICRC counsel interview questions. Commissioner Clark?

>> COMMISSIONER CLARK: In the past we've had people from the Commission ask these questions and generally had three or four of them divided them up. I'd recommend we just use the same process as we move forward.

I think we generally took people that were on a subcommittee that asked the questions.

>> VICE CHAIR SZETELA: Yes, for clarification Commissioner Lett, Commissioners Clark, Curry and Witjes are all on the litigation subcommittee.

Commissioner Curry is not available today so that leaves us with three subcommittee members.

So if we want to divide up, we now have 13 questions or did you do that as like a sub question General Counsel?

>> MS. JULIANNE PASTULA: Madam Chair that was added as the 13 questions.

>> VICE CHAIR SZETELA: We have 13 questions and three subcommittee members.

My suggestion would be that Commissioner Lett maybe handle 1-4.

Commissioner Clark handle 5-8.

And Commissioner Witjes handle 9-13.

Does that make sense to everybody?

>> COMMISSIONER CLARK: Yes.

>> VICE CHAIR SZETELA: Okay any other comments or discussions about these questions before we move on to the next agenda item? All right seeing none we are now going to move on to new business agenda item 6B subsection 11 review without objection I will ask our General Counsel to cover this item.

Hearing no objections please proceed Ms. Pastula.

>> MS. JULIANNE PASTULA: Thank you so much Madam Chair.

We will have -- there is a slide presentation that has just appeared.

Thank you so much to MDOS and the AV for their help.

Given that the Commission has concluded their first round of public hearings which was focused on educating the public about the redistricting process, and receiving feedback from the public on that process, the Commission was prohibited as you're aware from drawing any maps prior to the conclusion of the first round of public hearings so we find ourselves moving into the second phase of the Commission's work which is the line mapping and drawing activities.

The substantive work of the Commission that the public will be able to continue to comment on.

Earlier today Executive Director Hammersmith went through the schedule for the second round of public hearings where the public will be engaged and have the ability to weigh in.

On proposed maps.

So we felt it was an excellent time to give a subsection 11 review for the Commission, for the benefit of the Commission, individual Commissioners as well as members of the public.

So when members of the public attempt to engage Commissioners and say I feel very strongly about this area being together or that area being together if it's outside of public comment that the Commissioners are not being rude, it's due to the Constitution for those restrictions.

But I'll get started.

What does subsection 11 prohibit? It prohibits certain communications with the public with also with certain exceptions that are very helpful.

It also prohibits gifts and gratuities in excess of 20 and I'm referring to subsection 11 of the Michigan Constitution that was the proposed that was adopted modifying Article 4 Section 6 of the Constitution.

Why is subsection 11 so important? It reinforces the Commission's commitment to transparency integrity.

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It maintains the public's ability to have meaningful public participation and equal opportunity to participate in providing the Commission feedback and advocating for positions.

It also ensures the public's access to information is maintained throughout the redistricting process.

It also demonstrates the Commission's commitment not only to its code of conduct but treating all people in organizations impartially and avoiding even the perception of undue influence and conflicts of interest.

Consistent with the policies adopted by the Commission.

First, we will deal with the communications piece.

Unless the communication occurs during an open meeting of the Commission, its individual members, staff, attorneys and consultants are prohibited from discussing redistricting matters with members of the public.

So who does this cover? Subsection 11 creates a redistricting bubble.

It's been some time since I've been able to refer back to our redistricting bubble.

Around the Commission, it's staff, attorneys and consultants.

It covers communications and separates communications by people within the redistricting bubble.

Which I would also remind the Commission that if you're speaking within the redistricting bubble to always be sensitive to forum issues not only direct quorum but constructive quorum issues and it also covers communications between anyone within the bubble and any one not in the bubble.

And that's the critical distinction.

What is a redistricting matter? The Constitution does not define what a redistricting matter is.

Redistrict means to divide a new into districts or revise legislative districts.

Reapportionment means the assignment of representatives proportionately among the states in accordance with changes in population distribution, that is, of course, referring to the Congressional reapportionment.

So the Constitution by not defining it, it does not limit the time or scope of redistricting matters.

So it refers to any matter on the subject of redistricting as well as the reapportionment of Congressional District activities that the Commission will engage in.

So what is not a redistricting matter? That is also helpful to know.

Organizational or administrative topics such as how officers were selected, dates and times of future meetings, questions regarding the process to submit public comment as distinguished from trying to provide verbal public comment to Commissioners outside of an open meeting.

Actions that have already happened.

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It does not cover any future business on redistricting matters or business currently before the Commission that's being discussed.

I mention an exception.

Again, this prohibition is extremely broad.

So I want to highlight that and acknowledge that.

And that there is an exception that would allow people to give their opinions to Commissioners.

That exception is individual Commissioners not staff, attorneys or Consultants.

The Constitution does not provide that exception to your staff, attorneys or consultants.

So only individual Commissioners may communicate about redistricting matters with members of the public to gain information relative to the performance of your duties only if that communication occurs in writing.

I gave the example of letters or e-mails.

Or at a previously publicly noticed forum or found hall open to the general public.

And again the presentations that were appropriately occurring during the first round of public hearings to educate the public about the Redistricting Commission and how to get involved did not receive public comment through that vehicle.

So the only way that members of the public were able to provide public comment to the Commission was through the portal, through e-mail or providing live or remote public comment at Commission meetings or public hearings.

So again this is the exception to the communication prohibition on members of the public and the redistricting bubble.

This would be why, again, that hopefully no one was offended or there it was not taken as a rude interaction where particularly staff was unable to engage in those conversations to date.

And these restrictions will continue.

So does anyone have any questions on the communications portion of subsection 11 before I move on?

>> VICE CHAIR SZETELA: I don't believe I see anybody.

>> MS. JULIANNE PASTULA: Thank you Madam Chair.

Secondly for gifts and gratuities, this is from Article 4, Section 6, Subsection 11, the second paragraph in full.

I highlighted directly solicitor will accept any gift or loan of money or the very broad other thing of value greater than \$20, which may influence, of course, the performance of duties.

So we will parse that out.

Who does this cover, the second paragraph of subsection is 11? It covers everyone in the redistricting bubble we were just discussion. So it's the MICRC as a body, individual members, its staff, attorneys and consultants. Plus we have the addition of

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experts for gifts and gratuities. So I wanted to make sure that was uplifted and highlighted as well.

What does the second paragraph related to gifts and gratuities prohibit, direct or indirect solicitation or acceptance of thou shall not ask for or suggest someone else ask for gifts or loans, future promises, past indebted, however you, it is so broad, money, goods, services, or other thing of value.

So if you're struggling whether it is an item of money, goods or a service, it doesn't matter.

Because then we have the language or other thing of value.

So it is extraordinarily broad.

The value greater than \$20.

Now the reason I have highlighted the next clause is this is also critical.

So it can be an individual or a direct or indirect solicitation but the benefit can go to any person or organization.

So it does not have to personally benefit the Commissioner, the staff member, the attorney, the expert or the consultant.

This can benefit any person or organization.

And the second part is that which may influence.

It does not have to influence.

It may influence.

It could influence.

It might influence.

All of these great words.

It does not have to influence or shall in which the way the duties are performed.

So what should I do? What should we all do? What should our bright line? Don't communicate verbally with members of the public or representatives of entities regarding redistricting matters.

If you're a Commissioner you have the ability to adhere to that exception that we discussed.

If you're not a Commissioner you don't have the benefit of the exception that we just discussed.

Don't accept anything of value from members of the public or representatives of entities either for yourself or to benefit others.

If you feel compelled, there is that \$20 limit.

I tend to run extraordinarily conservative on gifts and gratuities so my advice is don't accept anything of value, but you certainly have that up to \$20 threshold limit.

I would encourage you to consider that \$20 to be cumulative if needed.

And I also would encourage any questions. If you have any questions or issues about the gifts and gratuities portion, anything under the conflicts of interest disclosure

requirements under our conflicts of interest policy. Those disclosure requirements are an ongoing responsibility of Commissioners, staff and others.

So that would be my advice on what you should do.

And what I should do and what my colleagues should do.

And I believe that would be my final statement on our subsection 11 review.

Again, I point the public to the subsection 11 language of the Constitution itself.

The Commission's conflicts of interest policy and the other relevant policies such as the code of conduct that the Commission has adopted in the past.

And Madam Chair I'm happy to answer any questions at this time or at any time in the future on this very, very important topic.

>> VICE CHAIR SZETELA: Are there any questions regarding Section 11? No questions, you did such a brilliant job everyone understands this perfectly.

>> MS. JULIANNE PASTULA: I know it's a review and the reviews have happened periodically through the last six months since I've been on board so I appreciate always the Commission's time and attention and commitment to that topic.

Thank you.

>> VICE CHAIR SZETELA: Thank you very much.

All right we will now move on to new business agenda item 6C mapping process, I can't say this, compendium. Without objection, I will ask Executive Director Hammersmith to share information about this.

Hearing no objection please proceed Ms. Hammersmith.

>> MS. SUANN HAMMERSMITH: Thank you Chair Szetela.

As your staff and MDOS were talking about various documents that deal with mapping, we felt it might be important just to put them all in one location, so you could put your hands on what you needed at the time you needed it during your mapping process.

So there's a table of contents at the beginning of the compendium.

We started it out with the significant line drawing decisions.

I'm going to edit number five to, I don't know, Commissioner Clark said he did not create it.

He started a draft.

It was created by the committee and had other input from people and maybe we should say utilize the flow chart as the starting point for the redistricting process and just leave it at that.

>> COMMISSIONER CLARK: If you go to responsibility and matrix, there is a name for the subcommittee on that.

I would use that, committee using it.

>> MS. SUANN HAMMERSMITH: Thank you. I did take that from the motion that had been made.

But, again, understanding that it wasn't a one person job totally.

He started off the process certainly.

We appreciate that.

And, you know the committee utilized it and made it even better so item six and the significant line drawing decision it references the ten regions so I included the ten region map in this document so that is at hand.

Secondly is the process flow chart then that or thirdly.

I don't know what I'm on but second on our list is the flow process chart that we will be utilizing for the mapping process.

And then items 3-5 are new documents for the Commission's consideration.

So we've talked significantly about communities of interest.

And the process and how will we deliberate when we receive those.

This flow chart was created by Sarah Reinhardt for the Commission.

Your staff has reviewed it and it makes sense to me.

I don't know if everybody has had a chance to read it or not.

Or if you want me to further describe it, I'm happy to.

Or we can -- I can ask or I can answer questions.

>> VICE CHAIR SZETELA: Any questions or comments.

>> COMMISSIONER ROTHORN: This is the draft COI version 8.6 that is what you're referring to.

>> MS. SUANN HAMMERSMITH: I am at that point now, yes, the COI.

How that process would work for considering communities of interest as you're mapping.

So any questions? And does this make sense?

>> VICE CHAIR SZETELA: Commissioner Lange?

>> COMMISSIONER LANGE: I have questions because I'm lost and I know I didn't receive these until this morning.

So I haven't been able to thoroughly look at them.

My question would be I'm looking at draft MICRC mapping procedures.

Is that in this packet that you just gave us?

>> MS. SUANN HAMMERSMITH: The specific.

>> COMMISSIONER LANGE: Or is this something else I printed from the materials.

>> MS. SUANN HAMMERSMITH: The specific document I'm talking about is draft COI and public comment process and considerations version 8.6.

>> COMMISSIONER LANGE: Is there a page number or something?

>> MS. SUANN HAMMERSMITH: There is not.

It's document number three, after the process flow chart which that is the process flow chart is a familiar document.

That's the one with the shapes and the various shapes process.

>> VICE CHAIR SZETELA: Rhonda if you actually open it up just double click on the attachment it will start at page 7 of 15 of that document that's attached.

>> COMMISSIONER LANGE: Got it printed in front of me.

>> VICE CHAIR SZETELA: So page 7.

They are not numbered.

>> COMMISSIONER LANGE: I think my pages got out of order looking at it.

So right now we are just looking at draft community of interest.

>> MS. SUANN HAMMERSMITH: Yes.

>> COMMISSIONER LANGE: Okay, okay I'm on track now.

>> MS. SUANN HAMMERSMITH: Wonderful.

>> VICE CHAIR SZETELA: Any additional comments? Go ahead Commissioner Clark.

>> COMMISSIONER CLARK: I can take the process and considerations and put it in an actual flow chart visual flow chart.

>> MS. SUANN HAMMERSMITH: That would be awesome.

>> COMMISSIONER ROTHORN: That is my concern and I know this is important, I know we have to sort of wrestle with this now that it's important.

And it seems like to approve something that doesn't -- I'm worried about how it lines up with the flow chart.

Maybe it's a piece of the flow chart.

Maybe it's the actual.

>> COMMISSIONER CLARK: Could but I would have to think about it.

>> COMMISSIONER ROTHORN: How this lines up with our software when we are actually mapping does the software reconcile with our flow chart, with this process.

So as we are approving these things, I'm just thinking about how yeah, we will be by default mapping with the software so to recognize that this I would want to and I guess I'm suggesting that yes it feels like we should go through this.

I like the suggestion and really welcome that, Doug to try to fit it in.

>> COMMISSIONER CLARK: I would just take what's here and not the create anything other than a flow chart because I don't want to make an independent decision on anything and then maybe we can get some further discussion.

I think it's good.

But I'll do that if you want.

>> VICE CHAIR SZETELA: Commissioner Witjes?

>> COMMISSIONER WITJES: Forgive me I'm not sure if this even requires a vote for acceptance.

I think this is informational; is that correct?

>> MS. SUANN HAMMERSMITH: I think it's for process consideration.

And if you look at the flow chart, on the first page, COI, identify for the region and discussion of COI per public comments.

What it does is take that specific Section of the flow chart and break it down further.

>> COMMISSIONER WITJES: Got it.

>> MS. SUANN HAMMERSMITH: So I think what we are looking for is just an adoption of the process.

It would be great if Doug would put this in the Visio software so instead of just writing you also see the visual.

I think that would be very helpful and much appreciated.

>> COMMISSIONER WITJES: Thank you.

>> VICE CHAIR SZETELA: Commissioner Rothhorn?

>> COMMISSIONER ROTHORN: I will say again like has been said before we haven't been able to read it very long but as I've looked at it, it feels right.

Like I will just say that it feels good and I really appreciate all the work that went into it because I know it was a late night for you all and that it's very timely and important so I just really appreciate all the work that is going into it.

>> VICE CHAIR SZETELA: Any other questions or comments? General Counsel?

>> MS. JULIANNE PASTULA: Yes, thank you Madam Chair.

To respond to Commissioner Witjes's question yes, I think it would be advisable for the Commission and if more time is needed to absorb and digest and make suggestions or ask questions about this document, certainly that's a reasonable request that can be accommodated.

But what I would say about a process document or a process on these topics specifically on how the Commission will be mapping will be imperative as you go into that process, not only on what the expectations of the Commission are but the public during the process and it will also weigh heavily on defending your process in litigation after is that this is the process that they used.

This is how they followed that process.

And that.

So again I acknowledge the comments made about processing time and the ability to digest and react and improve the process.

But I would strongly encourage the Commission to adopt a formal process by which to approach its work in this next phase of mapping.

Thank you.

>> VICE CHAIR SZETELA: Any additional comments? So it sounds like at this point we want to -- oh, Commissioner Lange?

>> COMMISSIONER LANGE: I'm just going to put my comment out there.

I'm not comfortable voting yes on anything that I haven't had time to thoroughly read and that just me personally so if it is brought to a vote, I just want it to be known why I vote no.

Thank you.

>> VICE CHAIR SZETELA: Commissioner Witjes?

>> COMMISSIONER WITJES: Can we table this item until Commissioner Clark has a chance to add the communities of interest piece into the flow chart?

>> VICE CHAIR SZETELA: General Counsel?

>> MS. JULIANNE PASTULA: Certainly the Commission can postpone any line item to any meeting that they would see fit.

And I would say under your rules of procedure even if you don't make a formal motion to postpone this any unfinished business from this agenda will automatically be placed on your next meeting agenda.

So the Commission has the discretion to choose which way it would like to proceed.

>> VICE CHAIR SZETELA: Commissioner Clark?

>> COMMISSIONER CLARK: I was going to come back with a flow chart and come back with recommendations if we can link it into the existing flow chart that we've got and then we can decide from there.

>> VICE CHAIR SZETELA: Commissioner Rothhorn?

>> COMMISSIONER ROTHORN: Can we do it tomorrow?

>> VICE CHAIR SZETELA: We don't have a meeting tomorrow.

>> COMMISSIONER ROTHORN: That is why I'm thinking it's unfinished and we cancelled the meeting and thinking about we also have on our agenda next week to start mapping and what I'm asking myself is like and again I don't want to create a crisis. What I want to do is sort of feel real deliberate when we did cancel our meeting for tomorrow so it's just a question want also looking at you Doug because I don't want to create something that is unreasonable.

Right but if we could do it tonight, tomorrow, I'm not sure that is why I'm asking you I suppose and because it would be a special meeting I guess at this point, I'm wondering if it's even unfinished business or if it needs required, anyway I'll leave it at that. I'm looking at trying to see how we can move it along so we do start with our maps next week.

>> COMMISSIONER CLARK: I don't know if I can get it done that quick.

I'm not a wizard in Visio but I've got it on my machine.

>> VICE CHAIR SZETELA: Sarah Reinhardt?

>> MS. SARAH REINHARDT: Thank you Madam Chair.

Commissioner Rothhorn to answer your question, we are the Commission to schedule a meeting tomorrow the space is still reserved.

So the space would still be available where the Commission can meet tomorrow.

Meeting notices requires 18 hours advanced notice so for a 9:00 a.m. start time tomorrow the notice would need to be posted by 3:00 p.m. today.

So certainly a possibility.

But the Commission would have to take action, thank you.

>> VICE CHAIR SZETELA: Commissioner Rothhorn?

>> COMMISSIONER ROTHORN: So I'm okay with just waiting until next week basically the first opportunity would be the first item of business sort of the unfinished business next week if that is where we have to go.

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>> VICE CHAIR SZETELA: Yeah, I think it makes sense for us to postpone consideration of this until next week at our meeting next week.

I'm not sure what our first meeting is next week.

I think it's Thursday.

Thursday.

Okay, so we will postpone this item until next week.

Do we want to move on then to the next item which is the draft mapping software guidelines regarding quorum.

They are quite a bit shorter and sort of self-explanatory Executive Director Hammersmith?

>> MS. SUANN HAMMERSMITH: And General Counsel, Julianne Pastula, did this recommended document.

So I don't know if she wants to cover it.

But, again, just making sure that there is no quorum created or constructive quorum by sharing in another sharing and another sharing.

Perfectly fine for moving everything to the next meeting if you want to or we can move forward with this now and I don't know if General Counsel would like to add to this.

>> VICE CHAIR SZETELA: General Counsel.

>> MS. JULIANNE PASTULA: Thank you Madam Chair it's at the Commission's discretion as always, but the software guidelines regarding quorum are kind of base line for conduct within the software environment.

And I know they were discussed with EDS but certainly if they had additional suggestions or language there might be benefit to that as well.

>> VICE CHAIR SZETELA: Thank you.

Any comments, questions? Are we inclined to just push this off until next week and the same thing with approve MICRC procedures for mapping meetings so people have time to review? Any thoughts on that? I see Commissioner Lange nodding.

Commissioner Witjes nodding.

Okay everybody seems to agree we are going to push these three items off until next week Commissioner Lange I see you have your hand up?

>> COMMISSIONER LANGE: Before we throw it off, just for clarification on one of the ones because I think it will save me time next week, I do have a question on the draft MICRC mapping procedure.

And I think if I got clarification on number 7 and 8 that would save a lot of time next week for me.

>> VICE CHAIR SZETELA: You have a question about MICRC draft plans will be published to the MICRC website for public comment is that the one?

>> COMMISSIONER LANGE: 7 and 8 kind of combined because the constitutional amendment states if we can't come to a quorum, I guess you would say on the final maps that each Commissioner can submit their final maps so I guess my question is: It

says to the MICRC website for public comment and then number eight it says a majority of the MICRC shall determine whether to integrate individual submissions into the MICRC's draft plans.

So I just want clarification on exactly what that is saying as far as the process goes just so I'm clear because I can read it a couple of ways.

>> VICE CHAIR SZETELA: I think that might be a question for our General Counsel to look into what the requirements there are so I think we might need clarity on that. General Counsel.

>> MS. JULIANNE PASTULA: Thank you Madam Chair. And Commissioner Lange, I'm looking at page ten, number seven, the MICRC shall direct which draft plans will be published to the MICRC website for public comment. The thought there and again this can be expanded on and detailed more, given provided more detail for your consideration next week.

But I believe number seven is speaking towards when the Commission has completed its day of work or its work for that District or area that the Commission would say this is what we want to put on the website for people to tonight after work if they log on and say what did the Commission do today in this area, the public would have the ability to view that and to then submit their comments to assist the Commission in their ongoing work.

As to number eight, the spirit of number eight Commissioner Lange is that if individual Commissioners, this is distinct from the separate maps that each Commissioner has the ability under the Constitution to submit.

Number eight speaks to if an individual Commissioner is as part of the collaborative mapping process for the Commission maps would like to suggest a District or an area or some portion of a map that that suggestion would be made and that the Commission, the Commission would, the full Commission would decide whether that would be integrated as part of the MICRC map, did that give you some clarity, I hope? I see you shaking your head.

>> COMMISSIONER LANGE: Yes, that cleared it up perfectly for me thank you.

>> MS. JULIANNE PASTULA: Madam Chair I would also recommend to ask for a motion to postpone.

>> VICE CHAIR SZETELA: I was going to do that.

>> MS. JULIANNE PASTULA: I see lots of nodding heads I love motions.

>> VICE CHAIR SZETELA: At this point I would entertain a motion to postpone new business item 6C mapping process and if someone is willing to make that motion, we will vote on it.

>> COMMISSIONER WITJES: So moved.

>> VICE CHAIR SZETELA: Motion made by Commissioner Witjes and seconded by Commissioner Rothhorn any debate or discussion on the motion? All in favor please raise your hand and say aye.

>> Aye.

>> VICE CHAIR SZETELA: All opposed please raise your hand and say nay. The ayes prevail and the motion to postpone carries so we will postpone the mapping process until next week.

All right at this point we have a recess as the next item on our agenda. We are a little ahead of schedule which is fantastic so without objection we will now recess for we had 15 minutes scheduled, I'm going to say 20 minutes. Or do we want to do 25? 20?

>> 22.

>> VICE CHAIR SZETELA: 22 and 33 seconds.

>> MS. SUANN HAMMERSMITH: We will make it even.

>> VICE CHAIR SZETELA: Let's do recess for 20 minutes.

Hearing no objections we will stand in recess until I'll say 1:25.

[Recess]

>> VICE CHAIR SZETELA: Call to order at 1:35 p.m.

For the purposes of the public watching and the public record, I will now turn the Michigan Department state Staff to take note of the Commissioners present.

>> MS. SARAH REINHARDT: Thank you. Madam Chair.

Please say present when I call your name. If you are attending the meeting remotely state and unless absence is due to military duty, please disclose your physical location stating the county, city, township, or village where you are attending the meeting remotely.

I'll start with Doug Clark.

>> COMMISSIONER CLARK: Present.

>> MS. SARAH REINHARDT: Juanita Curry.

>> MS. SARAH REINHARDT: Anthony Eid?

>> COMMISSIONER EID: Present.

>> MS. SARAH REINHARDT: Brittini Kellom?

Rhonda Lange?

>> COMMISSIONER LANGE: Present, attending remotely from Reed City, Michigan.

>> MS. SARAH REINHARDT: Steve Lett?

>> COMMISSIONER LETT: Present.

>> MS. SARAH REINHARDT: Cynthia Orton?

>> COMMISSIONER ORTON: Present.

>> MS. SARAH REINHARDT: MC Rothhorn?

>> COMMISSIONER ROTHORN: Present.

>> MS. SARAH REINHARDT: Rebecca Szetela?

>> VICE CHAIR SZETELA: Present.

>> MS. SARAH REINHARDT: Janice Vallette?

>> COMMISSIONER VALLETTE: Present.

>> MS. SARAH REINHARDT: Erin Wagner?

>> COMMISSIONER WAGNER: Present; attending remotely from Charlotte, Michigan.

>> MS. SARAH REINHARDT: Richard Weiss?

>> COMMISSIONER WEISS: Present.

>> MS. SARAH REINHARDT: Dustin Witjes?

>> COMMISSIONER WITJES: Present.

>> MS. SARAH REINHARDT: 11 Commissioners are present and there is a quorum.

>> VICE CHAIR SZETELA: Thank you very much and next is new business item 6D which was a report from our communications and Outreach Director. Unfortunately Edward Woods the third is having some -- he is here now. Are we good.

>> MS. SARAH REINHARDT: Yes, he is here now.

>> VICE CHAIR SZETELA: Fantastic we will now continue with new business 6D communications and outreach action items without objection I will ask our communications outreach director Edward Woods the third to present those items. Please proceed, Mr. Woods.

>> MR. EDWARD WOODS: Thank you so much vice person Szetela. Can you hear me? Hello, can you hear me.

>> VICE CHAIR SZETELA: We can hear you.

>> MR. EDWARD WOODS: Okay great thank you so much.

We have two things before the Commission.

One is additional billboards. And the second one is dealing with authorization to do a direct mail campaign for rural areas.

And the additional billboards, if you remember, is that we have approved and only spent repeated money and did not advertise in the rural areas. And so now we went to hearings across the state and need additional \$20,000 for that and that is what I'm seeking approval for from the Commission.

Obviously, it's more because people have more impressions or actually more people watching or viewing the billboards as relates Cities, increase awareness and engagement. And hopefully people will come to our second round of public hearings to provide feedback with regards to the maps. So that is one thing I'm requesting.

I'm seeing, I'm hearing I'm breaking up.

The second thing I'm requesting is to go into an RFP process and that is \$50,000, but it should say \$49,999.99 for direct mail campaign for the rural areas in Michigan and Down River.

And that would be to also increase awareness and to drive people to provide comment and those who have a digital divide across our state.

That's all that have I.

If there is any questions, Madam Chairperson, I can take them at this time.

And I apologize for my connection, but that is part of the digital divide, so it's kind of apropos.

>> VICE CHAIR SZETELA: Thank you, Mr. Woods.

Any questions or comments about the request from Mr. Woods? Commissioner Clark?

>> COMMISSIONER CLARK: Yeah, I had a difficult time hearing him.

Can somebody go over what the dollar requests were.

>> VICE CHAIR SZETELA: There were two resolutions that were attached to our e-mail today for the meeting. 20210807 is to approve billboard advertising from Adams Outside Advertising, Lamar, and Out Front for advertising up to \$20,000 for increasing awareness and engagement in the Redistricting process. That is the first resolution.

The second resolution is 20210808, which is approve a direct mail marketing campaign focusing on reaching Michigan residents without Internet access up to \$50,000 for the purpose of increasing awareness and engagement in the redistricting process.

And my understanding is that this was budgeted but unallocated; is that correct?

Executive Director Hammersmith? These were budgeted funds but have not been currently allocated.

We can't hear you.

>> MS. SUANN HAMMERSMITH: That is correct, that this is within the communications and outreach budget.

However, the resolution needs to be changed to approve issuing an RFP for a direct mail campaign up to the 49,999.99.

So if somebody would like to put forth that motion, it should be with those amendments. Julianne may want to clarify also.

>> VICE CHAIR SZETELA: Do we need an RFP if it's under \$50,000?

>> MS. JULIANNE PASTULA: So Madam Chair.

>> VICE CHAIR SZETELA: Yes.

>> MS. JULIANNE PASTULA: I spoke with Mr. Woods on this topic and the resolution does say that the Commission would like to pursue this.

It needs to follow the informal bid process for as all the inconsistent with the way this has been done in the past where there is actually a two-page or one or two-page summary of what the Commission is looking for and then that gets posted.

Again under the informal process in the procurement guidelines.

And that would be what would be needed for that particular request.

And I believe that is what Executive Director Hammersmith was referring to as well.

So this resolution as it's written even with the addition again this resolution just would signal an intent of the Commission to do this.

The process would still need to come before this body.

>> VICE CHAIR SZETELA: Okay, Commissioner Witjes?

>> COMMISSIONER WITJES: I think this was already addressed.

I'm not sure but the 70,000 in total, that has already been allocated to director woods, correct, we are not asking for the budget to be increased for him?

>> MS. SUANN HAMMERSMITH: That is correct, that is a part of the communications and outreach budget line item.

>> COMMISSIONER WITJES: Okay then I will put a motion forward to do the first one resolution 2021.08.07 I believe we approve that for billboard advertising.

>> VICE CHAIR SZETELA: We have a motion by Commissioner Witjes, seconded by Commissioner Clark to approve resolution 20210807 approving additional billboard advertising.

Commissioner Lange I saw that you had your hand up? Do you still have a question? No, any discussion or debate on the motion? Commissioner Clark?

>> COMMISSIONER CLARK: I just want to make a point we only have a month and a half left in this budget term so and it's allocated funds so let's move forward with it.

>> VICE CHAIR SZETELA: Commissioner Lange?

>> COMMISSIONER LANGE: I'm not sure if I want to move forward with it to be honest.

And the mail outs was my idea because my understanding is we are going to be asked for additional funding in a couple weeks.

So I'm wondering if it's the wisest decision to make if that additional goes to those actual hearings for the public input.

I'm on the fence.

And I just want to be honest.

>> VICE CHAIR SZETELA: Thank you Commissioner Lange.

Any additional comments or questions? Commissioner Clark?

>> COMMISSIONER CLARK: Yeah, I would personally like us to see us spend the money before the end of September and pay the bill before the end of September. So it goes into this budget year.

So I'd like to amend the motion that the money gets spent prior to mid-September so we can get the bill paid.

>> VICE CHAIR SZETELA: Okay, so any discussion or debate on the well we don't have a second for that yet.

Do we have a second for the amendment?

>> COMMISSIONER WITJES: I'll second that Chair.

>> VICE CHAIR SZETELA: Commissioner Witjes seconded.

So any debate or discussion on the amendment to the primary motion? All right so at this point I think we are ready to vote on the amendment to the primary motion which is the amendment was that the money be spent by the end of the current budgetary year. All in favor please raise your hand and say aye.

>> Aye.

>> VICE CHAIR SZETELA: Opposed raise your hand and say nay.

Okay, the ayes prevail and the motion is amended. So we have the primary motion, which is a motion to approve resolution 20210807, approving additional billboard advertising as amended.

All in favor please raise your hand and say aye.

>> Aye.

>> VICE CHAIR SZETELA: All opposed raise your hand and say nay.

Okay, the ayes prevail, so the resolution is adopted as amended.

We still have resolution 20210808 to consider, which is the approval for the direct mail campaign up to \$50,000.

We will entertain a motion.

>> COMMISSIONER WITJES: So moved.

>> VICE CHAIR SZETELA: Motion made by Commissioner Witjes and seconded by Commissioner Rothhorn. Is there any debate or discussion on the motion? Seeing, Erin, Commissioner Lange, I'm sorry Commissioner Wagner?

>> COMMISSIONER WAGNER: I have one question for Director Woods.

Why are we doing a direct mail at this stage in the game when we probably should have considered it like three months ago?

>> MR. EDWARD WOODS: Can you hear me Commissioner Wagner?

>> VICE CHAIR SZETELA: Yes, we can.

>> MR. EDWARD WOODS: We had a difficult time getting a list it's not a common list for broadband and I solicited help from other Commissioners and solicited help from other organizations and was just able to get a contact that could actually break or do the methodology to identify the digital divide and so as soon as I got that information, I shared it with the Commission with regards to the list because it was such a difficult time trying to find it and I brought that as quickly as I could to the Commission once that list was obtained.

And so the list that I sent out had a number of households and did have the addresses. With regards to the digital divide that was broken down by the person that did it as soon as I got it, I brought it straight to the Commission because I had a difficult time getting a list because that is not something you can commonly purchase from brokers with regards to that information.

>> VICE CHAIR SZETELA: Is that sufficient? Go ahead Commissioner Wagner? I was going to ask if you had any more questions.

>> COMMISSIONER WAGNER: Is it up to 49,999, do you have a firm dollar figure for that?

>> MR. EDWARD WOODS: When we go off the RFP and bring it back, I can bring the dollar figure back but it's up to 49,999.99, that is correct.

>> COMMISSIONER WAGNER: And these are still unallocated funds, correct?

>> MR. EDWARD WOODS: Right but that is within the communications and outreach budget.

>> COMMISSIONER WAGNER: Okay thank you.

>> VICE CHAIR SZETELA: Commissioner Rothhorn?

>> COMMISSIONER ROTHORN: I guess I'm just really excited we are actually addressing the concern we don't have and can't reach the digital divide and this is actually addressing it so I'm excited and it's in this fiscal year still. And yeah, it's not too late.

It's getting later and later but not too late and I really want to encourage that we do this and I'll make the motion.

>> VICE CHAIR SZETELA: Motion made by Commissioner Rothhorn to approve resolution 20210808.

I'm sorry.

>> COMMISSIONER ROTHORN: I withdraw that motion.

>> VICE CHAIR SZETELA: We were discussing it I'm sorry.

General Counsel or Executive Director Hammersmith or Mr. Woods, is there any need to amend this to the 49,999 or can we just do the 50,000?

>> MS. JULIANNE PASTULA: Well, again, the resolution just expresses the Commission's intent to want to be able to do this.

It's my understanding from Mr. Woods that if the informal three bid process is going to be pursued, that that text will be before the Commission, that will go on the Commission's website so that in an open and transparent bidding process we can receive the bids. And then the Commission would act upon those bids.

So, again, I don't view the resolution even amending it to say as Executive Director Hammersmith indicated to say following the RFP process.

It's just a resolution of intent.

It doesn't really authorize any activities at this point.

>> VICE CHAIR SZETELA: If there is no discussion or comments on it, I think we are prepared to vote. All in favor of adopting 20210808 please raise your hand and say aye.

>> Aye.

>> VICE CHAIR SZETELA: All opposed please raise your hand and say nay.

The ayes prevail.

And the resolution is adopted.

All right. We will now continue with new business, item 6E, which is the interview with Baker Hostetler regarding the litigation counsel proposal they submitted.

Without objection, I would like to proceed with this agenda item.

Hearing none, the process for the interview will first have a presentation from the firm, then interview questions from the Commissioner.

I would like to welcome Katherine McKnight and can you pronounce your last name for me, with Mr. Riley from Baker Hostetler and ask them for their presentation.

>> Good afternoon. We are very happy to be here with you today and thank you for the opportunity to meet with you.

Redistricting is very complicated work as you well know.

And we commend the citizens of Michigan for developing this Commission and for the members of this Commission for carrying out their will with such care and dedication.

We've been able to watch some of your meetings and hearings on YouTube already and are very impressed with what you have already been able to accomplish.

Now we plan to spend the majority of our present 20 minute presentation on our qualifications as they meet the qualifications is detailed in the RFP.

But before we begin, we thought it would be useful to make note of our role here, today and our role in past cases.

We have applied to act as litigation counsel to this Commission.

We are not map drawers.

We and our team are not map drawers.

We do not make policy decisions.

We do not offer political advice.

We have applied for this position to help the Commission plan for and deal with any litigation that may come out of the maps that this Commission prepares.

In the past seven years alone our team has gone to trial nine times on redistricting maps.

We have a tightly knit team.

These cases can be a pressure cooker.

There is a lot of mudslinging and our team is very efficient and effective at developing our client's story, understanding it, representing it to a Court and arguing all of the legal issues that come into play.

We also have worked with and deeply respect the technical experts that this Commission has already hired.

Kim Brace, Lisa Handley and John Morgan are all wonderful hires and we would hope to be able to work with them again.

Now, our counsel on these issues to this Commission and to our past clients has always been independent and nonpartisan.

We give the guidelines, the legal guidelines.

It's up to the client how to use them.

What I mean by this is we identify legal risks, legal benefits to any course of action.

It's up to the client to make the decision about which course of action suits the needs best.

Now, I understand there are a number of questions so I don't want to be labor these points too much here.

I think we can respond to questions as they arise but I wanted to make it clear from the outset how we view our role in relation to the Commission.

So again we are eager to address your questions but I think now I will go into my presentation with my colleague Richard Riley and we will focus on our qualifications but again we welcome any input or questions from the Commission as we go forward. Just to set the table these were the six qualifications listed in the RFP. We are going to walk through each of these qualifications in our presentation. Some of our presentation for one qualification will also apply to another. We will try to keep out redundancies but we will let you know where we view certain qualifications as overlapping.

Qualification number one.

This is very much focused on litigation and expertise handling pieces of litigation. I mention that over the past seven years we have gone to trial nine times. We are well aware of the types of claims that may be brought against this Commission. They fall into roughly four buckets. And my colleague will detail them further when we get to qualification number three.

But there could be claims related to one person, one vote. Claims related to the constitutional provision requiring one person, one vote.

There could be claims related to either racial gerrymandering as people call it or claims related to violations of Section Two of the Voting Rights Act. Finally there could be claims related to partisan gerrymandering.

Now there is sort of a catch all and that would involve claims with the Commission itself did it carry out its duties under the constitutional provision, Michigan's Constitution provision and there could be claims related to that as well.

Now, aside from Michigan's constitutional claim, we've handled all the other claims and that's what we have been working on, not just for the past seven years but for decades before that.

And our team has argued on both sides of the issue. We have argued on behalf of Plaintiffs that plans are purported gerrymander. We have also defended maps against claims of gerrymandering. We have been on both sides of the issue.

Now, to give you a sense and pardon me this may already be familiar with those on the Commission, but we prepared a graphic to illustrate the general trajectory of any piece of litigation.

Now, details will matter.

Based on the claims that are brought and the Court where these cases are brought is it state Court, is it Federal Court, what are the claims at issue? But I can offer you in general pieces of litigation phase through these six different stages.

You begin with initial pleadings, a complaint will be filed, alleging the plan violates one or more provisions of Federal or State law. Other parties may seek to intervene. And

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what this means is let's say a piece is filed against the board of elections but does not mention the Commission. The Commission likely would seek to intervene that and say, look, we are an interested party. Based on Michigan's Constitution. It's up to us to draw any remedial plan.

We should be a part of this litigation.

A piece of litigation would then meander through stages of any general litigation. And you can ask any general litigator about the steps. You have fact discovery.

You gather the facts at issue.

You have an opportunity to request documents, to ask written questions. You have an opportunity to depose people.

You will then have a stage of expert discovery.

This is where your technical experts who have already been before the Commission, Dr. Handley, Kim Brace, John Morgan they are well versed in this stage of litigation.

They have prepared expert reports.

It is a stage where experts are able to prepare expert reports on what happened, what the map looks like and why it complies with certain statistical measures or other measures.

The next phase would be a trial.

Right, and trials in these cases tend to run between 1-3 weeks give or take.

There would be fact witnesses about the process.

About the districts that have been drawn.

And there would be expert witnesses there to testify about their reports and their analysis of the plan.

Following the trial if and only if the Court finds a violation the case would proceed into a remedial phase.

And you see that in your constitutional provision where Section 19 of your of the provision allows that the Supreme Court of Michigan has original jurisdiction and that this Commission has the right and is vested solely on the Commission to prepare a remedial plan.

And then there is a potential for appeals.

And again we are well versed in the stages of appeals on the different claims at issue.

On the Federal level you could go to a circuit Court or you could go directly to the Supreme Court depending on the claims brought.

And of course and state courts there are different levels of appeal and the Supreme Court in Michigan has original jurisdiction.

So thank you forbearing with me through this meandering phase of litigation.

As heated as redistricting and redistricting litigation can seem and can be, at heart it's just a piece, another piece of litigation.

And it has to go through these steps and these processes.

With that we will move on to qualification number two.

I've already mentioned several points about this constitutional provision.

We are familiar with this provision and it's detailed requirements.

Of course this is an untested provision.

It's new this redistricting cycle but we are well familiar with the different criteria that are listed in Section 13 of this provision and are prepared to defend and map in court based on those qualifications and those criteria.

Richard, did you have anything to add on qualification two?

>> The novelty of the provision presents much of the litigation.

There is a lot of language in that constitutional provision.

It's a well-crafted provision but it's impossible to draft a redistricting law, really any law that is free from dispute over the meaning of the terms.

So we spent some time looking at it and looking at the types of language that could engender litigation and even though we don't have experience of litigating under this provision because nobody does, we do have experience litigating novel claims, novel issues under state constitutions.

And sometimes those principles can cross-pollinate across states. For example, in Virginia, we were in the Virginia Supreme Court twice on provisions of the Virginia Constitution, including the spectra debate clause that has never been interpreted meaningfully in that Court. And a provision regarding the compactness of districts, which had been interpreted, but we were kind of in a new circumstance.

So we see that sort of thing a lot.

And for us it's an exciting opportunity to be a part of advancing and not just defending the map that this Commission promulgates from a challenge that may occur, but also advancing the institutional interests of the Commission by setting precedent that will help clean up the law going forward and effectuating the will of the Michigan public in delegating through the authority to the Commission. And so we have given a little thought to that and obviously would be a lot more if we were hired. And I think we meet this criteria because we have that experience and we are excited about the opportunity to do this.

>> Now moving on to qualification number three, I had an introductory to this talking about qualification one.

This really gets at the heart of what times of claims could be brought against a map passed by the Commission.

And Richard will take a lead on this.

>> So the law here is deceptively simple.

When you get into it, part of the difficulty for the redistricting authority is that it all has to come together.

At the back end, the Plaintiff picks one provision that they say was not complied with but at the front end you have to comply with everything.

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And sometimes there is some push and there is some pull and you go too far trying to meet this requirement and you run into a problem on the other side.

The lead requirement that we see in this context is the reason we are here.

It's the rule of one person, one vote.

The districts need to be substantially for population for the Congressional districts this means any deviation outside of perfectly quality has to be justified by the redistricting authority.

That can happen.

It can be justified.

It's difficult.

So we would be you know we could advise about what those justifications are if you get complicated.

On the state legislative side there is more leeway there is a plus or minus five percent good faith zone where the benefit is in the redistricting authority's favor.

There is a heavy burden on the parties seeking to challenge it.

So we have a little more leeway with that.

This principle you can approach it just from the perspective of the deviations, which is normally how these cases work.

Normally redistricting authorities can comply with it.

But this provision is also a tool to limit politics and redistricting under a theory that our senior partner, Mark Braden, developed in a case called Various against Cox, which challenged a method of gerrymandering where the overall plan met the plus or minus 5% deviation but rigged in a political party. And Mark convinced a Court, and ultimately the Supreme Court, that this was a violation of the one person one vote principle.

It's our opinion that that doctrine survives the root show against common cause ruling. Which is still something to take into account.

That leads me to the racial issues which is really the more difficult issues.

And over the past ten years have proven the most difficult issues.

That confront redistricting authorities.

Because you have competing problems.

Under Section 2 of the Voting Rights Act a District can be dilutive of the voting strength of a racial or a language minority group even without a bad purpose.

Meaning the redistricting authority may have to affirmatively try to avoid vote dilution by the creation of majority-minority Districts.

Okay that is one set of principles and it's complicated.

We could spend all day talking about that.

What makes it more difficult is that on the other side you have the equal protection clause and the doctrine of racial gerrymandering which says once you start using race as a criteria to put individuals into districts, your subject to strict scrutiny and you have

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to justify it which basically means we have to prove a second two Voting Rights Act against yourself.

That is hard as well.

you are stuck with competing ends do we look at the racial data, do we not do that so there is a lot of work upfront.

There is a lot of work on the back in defending it.

That is very complicated.

And we've been in both situations.

We have represented clients where the Plaintiff said you did too little.

You diluted votes, all be it unintentionally. And we have been representing clients where the Plaintiffs were saying you did too much. You used race. You went beyond what was reasonably necessary. There were more majority-minority District needed to be, what have you.

Very difficult issues. And those were the last leading issues last cycle and will be leading issues this cycle, that is my best guess.

The final main blocks, I mean there is other things we could get into but I think it's too far in the weeds the final box is the partisan gerrymandering concept.

You all know this was mostly resolved by the U.S. Supreme Court at the Federal level. In the root show versus common cause decision but that of course doesn't resolve the state issue.

And in Michigan one of the criteria that governs this Commission is a partisan fairness provision, partisan fairness doctrine based on accepted metric.

There is a lot of ambiguity in that provision.

I think it's going to be one of the more difficult choices that will confront the Commission on the front end conceivably on the back end.

It could be a basis of litigation, something that we would need to defend and something we would be happy to defend you in.

>> Qualification number four this really relates to election administration, right? Statutory deadlines of election laws, relationship between.

>> This is the interpreter I can't hear you.

>> I'm so sorry I'll repeat myself, pardon me.

>> MS. SARAH REINHARDT: We need you to turn on your microphone sorry.

>> It's on.

I apologize.

So I'll repeat myself.

The next one is qualification four.

This really goes to election administration.

This goes to election laws, statutory deadlines, relationship between District boundaries and the conduct of elections.

And I'll say that election administration has been an issue in every one of the cases we have litigated.

We do not view it as an afterthought.

It's something to be considered at every step.

And by that, I mean it is very difficult to administer elections as you know.

And someone that who knows a lot about this is your expert Kim Brace.

And we have worked with him on other cases focused on this issue of when you draw a map and you require that a precinct let's say a voting precinct be split in order to draw a one person, one vote District, you need to consider the implications of that for election administration and the implication usually is you've got multiple ballots going out to one precinct and it just has the potential for confusion.

For not only voters but the administrators themselves.

So I will say we have knowledge of these types of election laws.

We view it as very important.

We worked with experts on these and other cases.

>> Let me just jump in.

One of the big issues that both the redistricting authority and the local election officials face in this context is that there is an injunction by a Court against a redistricting plan on a timeframe that is problematic from the point of view of election administration.

And there are legal doctrines out there that we have deep knowledge of and have argued extensively under to permit elections to proceed under a plan that has been deemed effective because of the cost benefit analysis.

It's better for election administration to just move forward with the status quo.

Than it is to have disruption and a change, a new redistricting plan at the last-minute.

And it's very complicated.

Those arguments don't always win but sometimes they do.

And it's something that we are often called upon by our clients to press.

It's just too late for us to administer this election, we need your help.

That is something we see very often and it's a common point of litigation.

>> This may not be working I can read qualification number five.

So qualification number five has to do with knowledge of Michigan law governing open meetings, open meetings public records, conflicts of interest and other laws generally applicable to the conduct of state agencies.

I'll say that we have reviewed and are familiar with the state's Freedom of Information Act as well as the state's open meeting act.

They are very similar to other provisions in other states related to open meetings and FOIA.

And I can share that we are familiar with how these work.

We tend to work very closely with the client to ensure compliance.

We want and we follow the client's lead.

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Sometimes there are clients who decide to step outside and encourage greater transparency than is required and we support that and are prepared to work with clients on those kind of issues.

Qualification number six is have knowledge and experience in the application of relevant Federal and state case law in the above areas.

This is a qualification.

>> MS. SARAH REINHARDT: I'm sorry my apologies for the interruption our AV is having difficulties with the display of the presentation.

So if you just give us one moment, we will be able to get that back up for you.

You are free to proceed I just wanted to let you know.

>> I appreciate that and we are toward the end of the presentation so we would like to get to the Commission questions so qualification six this is one that we tried to touch on in our earlier description of our familiarity with the claims and the law that is applicable to them.

At this point we had hoped to make sure that we had enough time with you for you to ask your questions of us.

Either of our presentation or questions in addition to that.

So thank you for your time.

>> VICE CHAIR SZETELA: Thank you does anyone have any questions? Right now if not I think we can move towards our questions that we have for them.

I can't tell if Commissioner Lange or Commissioner Wagner have any questions at this point because I can't see their hands up there but please raise your hand fiscally -- physically.

Okay I will turn it over to you Commissioner Lett to start our interview process.

>> COMMISSIONER LETT: Thank you, Vice Chair Szetela.

Good afternoon, Ms. McKnight and Mr. Riley. We welcome you here. We are glad to see you. And it's not a downpour right this second[but wait around, it will probably change.

We have several thousand questions for you but we cut them down to about 13. Given your experience and you've talked about in great detail, what are common mistakes that you're seeing by other redistricting boards? Of course keeping in mind that we are not common, we are an uncommon entity right now, hopefully to become more common.

What actions can MICRC take now to avoid pitfalls that you may see that this Commission might fall in to?

>> I think the challenge is what I referenced earlier which is that there is a lot of different legal demands that work in different directions.

And they all have to fit together and it's one of those areas where you think, well, I can always be too careful.

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If the ice is on the sidewalk, in front of the building, you throw some salt on and say well is that enough? I will just throw some more on.

The problem with redistricting it's not an area where you can just be too careful and avoid litigation.

You are too careful in one area, that takes you off course in another area.

And so just this is everybody faces this whether it's an Independent Commission, whether it's a legislature, that's always a problem.

And, in fact, in some ways Commissions have unique problems because of the additional state law requirements that apply to the Commission, which can run into issues with Federal law.

I think the Arizona Commission has been an example.

I think unwittingly that they had a problem with preclearance in the past particularly in the 2000 cycle.

And what that had to do with in my judgment from just I was not involved in any of that but just looking at their redistricting law, it was difficult for the Commission to meet, to present a clean preclearance case when they weren't allowed to start with the prior districts.

Preclearance goes to the prior districts and makes the judgments the prior districts. Arizona State law says you have to wipe away the State districts and can't go with the prior digits. And DOJ came in and said your plan is retrogressing the minority voting strength because you are not comparing the prior districts.

I don't think that is...it's not bad faith.

It's not you know like some kind of error other than just a technical error.

There is this tension between one set of legal requirements and another.

What can you do to avoid that up front? I think you really are on a good path.

You've got some good consultants who can give you data to support whatever it is you decide to do on the Voting Rights Act which is one challenge in front of you.

Data that helps you with your partisan fairness requirement.

That is another thing that is going to be difficult for this Commission.

Getting quality legal counsel up front is helpful.

I think sometimes spending a little bit of money up front to for example hire that Voting Rights Act expert sometimes you see redistricting authorities not do that.

We are not going to run a racial bloc voting analysis up front and we will just draw the districts and defend it on the back end.

Well sometimes that litigation on the back end could have been prevented on the front end, sometimes not.

I mean it's tough.

Okay these requirements are tough.

They are amorphous but putting a little bit of extra work in up front I think can pay dividends and from what we've seen the Commission is on the right track.

>> COMMISSIONER LETT: The census data, which is coming out as we speak, presents us with some new variables including timeline delays, questions of data quality, differential privacy policy.

If you have given that any consideration, has it brought a mind any new potential pitfalls that are out there?

>> Sure and I'll start this one.

I'll tell you in nearly every case we've been involved in, there is some sort of data fight. What data did you use? Which elections did you choose? How did you so there is usually some sort of data fight.

And we anticipate we are going to see sort of a data fight on steroids coming up, because of the census delay and the data that is coming out with differential privacy issues.

When we thought about it on our own team is best antidote number one you need to rely on experts who are familiar with the data and its limitations, right? The data that will be released today will be very good for some things.

But other things like the sophisticated racial bloc voting analyses that are required in these cases, it may not have the data at sufficient granularity for what is needed for that type of analysis.

Now you already have Dr. Handley who is at the top of her class.

And you have Kim Brace to help too who can focus on these issues and figure out how to make sure that you can -- the data that is provided from the census is they can make it usable for these analyses.

And the other point I'd like to make is that everyone is in the same boat.

Right? It's not just Michigan.

It's every state in the country will be dealing with a delayed census and slightly different data coming out.

And we have seen in past Court cases the Supreme Court and other courts have a little flex in the joints when it comes to census delays or issues with census data.

And what I mean by that is I don't think there is a great -- you know, there is not as much of a risk of you going into a courtroom and having a Court blame you, the Commission, for not having the right data.

Right? There will be some flex in the joints saying okay well this data, this decade is different in these ways, it was delayed in these ways, we have to allow some space under law to let Commissions and states draw their plans.

>> Yeah, I think there is two risks one of the ones is what Kate said you get a suit.

You don't have a map yet, why not? Okay, I think the answer we don't have the data it's pretty good defense.

And I'll leave question for a second here because I know we are about to get to that.

And I have a pretty specific answer on four but I will talk about differential privacy.

I think the risk there would be some kind of a case that said that the plan doesn't comply with one person, one vote.

Because the census data is not reliable.

There has been some shifting of information in that data.

And to my understanding what is new about differential privacy is that there is actually shifts in total population numbers at the census block level.

Again, my initial reaction although I don't off the top of my head know the details of just how much change there was at the census block level.

Usually census results are the gold standard.

And everybody is using the gold standard.

That is why Kate said it's not a risk that is unique to Michigan.

So I would think the defenses would be pretty good in that case.

But you know we are still learning this stuff as information comes out and we are getting information out today that may clarify some of this.

>> COMMISSIONER LETT: Do you see any significant problems serving as litigation counsel that you haven't already talked about?

>> The simple answer is, no.

I'm sitting here trying to think if there are any problems of the Commission, any concerns the Commission has.

And the simple answer is, no.

This is our bread and butter.

We have represented clients repeatedly and clients who have drawn maps and we work with them on a piece of litigation to develop the story, what happened? What are the facts at issue? And what is the law that applies here? And presenting that case to a Court.

.

I'll tell you, Commissioner Lett, these cases can be very heated.

They are not for the faint of heart.

They require a counsel that can come in and be with you in the face of comments and claims that you couldn't believe are being lodged against you.

And we've been in that seat.

And we are prepared to sit beside you and say here is the course.

Here are the laws that apply.

We will help you get through this piece of litigation.

So if there is any concern about us, one example is work that we have done for partisan interests.

And I'll tell you over the years we have come up against some very qualified counsel on the other side in these cases.

None of them are nonpartisan.

Or have worked for nonpartisan clients.

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All law firms who work in this area of redistricting litigation have necessarily worked for partisan interests.

Redistricting is political.

Period.

That doesn't mean that we serving as your litigation counsel would be political.

Our counsel here, to you and what our counsel would be, would be independent and nonpartisan.

It's up to you to decide how you want to take our counsel and which path you would like to take.

So I feel very strongly that I don't see a problem with the fact that we have represented partisan interests.

If anything I think you need that.

Because it establishes us as having the requisite qualifications for fulfilling this RFP, for the work that you need.

So I don't know if Richard has anything additional on that but I feel very strongly of the fact I don't have concerns.

If there are questions on issues of partisan representation in the past.

>> Yeah, I think in an ideal world, in a world you are striving to meet, you don't need litigation counsel because no one will sue you.

You will draw a map that all ten million residents of Michigan are happy with.

You don't need us.

You don't need litigation counsel.

You don't need anyone else.

That is the great scenario.

We serve as litigation counsel in these cases which ipso facto means there is a dispute.

And in those cases, the Plaintiffs say that the map is a gerrymander.

That's what they say.

Because it's, one, because they believe it.

And if it's a case that has legs to go to trial, like the cases we have been involved in, some of them, some of them have not gone to trial but so many of them have gone to trial that means there are some legs with that.

You get to trial because of a real dispute.

Many of our cases go to the United States Supreme Court and that means there is more of a dispute.

That happens not just to legislatures that are controlled by a political party it happens to Redistricting Commissions like in Arizona.

There has been lots of litigation in Arizona.

And the Plaintiffs in those cases say that the Independent Commission gerrymandered the state.

And the Commission denies it.

In those cases they want counsel who are going to back that position and they are going to get in there and handle it in a professional but firm way.

That's what we have experience doing.

I think a final point that I think speaks in our favor and I think evidences our intent here which is to be your lawyers and serve a professional legal role is that we are here, today before you have a map.

We don't know who, if anybody, will be against your map.

It could be that you enact a map that a republican interest group in Michigan believes is a gerrymander and we are here today telling you we will defend you with everything we got against that claim.

So whatever it is, whoever it is, whatever group it is we are here with you to do that.

And we are doing that before we even know what the map looks like before we know what the choices are before we know what metric of partisan fairness you have chosen, before we know what Voting Rights Act strategy you have chosen to add document.

We are here today with a blank slate, not knowing what's going to come our way, telling you that's what we are going to do.

And we are trained professionals in that and we are not just willing to do it but we are excited to do it.

>> COMMISSIONER LETT: Since you have opened the door so to speak, the 800 pound gorilla in the state is your representation of basically republican entities. You have spoke to that somewhat.

I'll give you an opportunity to speak to it some more if you want to take the opportunity.

>> KATE: I have heard concern of hiring our law firm and the concern goes something like this do not hire this law firm instead you should hire and I think the word verbatim is an independent nonpartisan law firm to represent the Commission.

>> COMMISSIONER LETT: Pretty close.

>> KATE: I believe that misunderstands the role of lawyers in these cases.

And for some of the reasons I've already described we are not giving political advice, right? We are here to give counsel on how the law works.

How the law applies the facts at issue.

And help marshal facts in preparation for a trial.

My concern with the idea that this Commission should only hire an independent, nonpartisan law firm is you start to get into this trouble of, well, if the standard for independent, nonpartisan law firm is that a law firm has done no work for a partisan interest, if that's the standard, this Commission will be left without qualified counsel. Because the only qualified counsel whose qualified under the qualifications that we've discussed earlier today is counsel who has gone into these cases and has fought for one side or the other.

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Has developed an understanding of the law at issue, knows how to run one of these cases in litigation.

And the only counsel who has done that is counsel who has represented partisan interests.

Plain and simple.

There are cases we worked on that are nonpartisan meaning it represents a nonpartisan body like a City Council or a school board.

But from our vantage point looking out at our peer law firms who have the level of expertise and qualification to meet this RFP, all of them have done work for partisan interests.

And so my concern with this idea of setting that as the standard, a law firm cannot have done work for a partisan interest is that this Commission is setting itself up to hire counsel who does not have the necessary experience.

>> COMMISSIONER LETT: I have a fourth question but you've already answered it so I'm not going to ask it so my other question.

>> RICHARD: I want to answer it because I have something else to say on it. It's about the 17th deadline.

>> COMMISSIONER LETT: Okay I wouldn't want to hold you up.

>> RICHARD: It's an important issue because authorities and we gave you sort of a general and a national standard argument that I think would be -- would apply here. Hear you do have a constitutional deadline.

But there is also a provision in your Constitution that says this body has to draw the map.

And the way I read it, is that a Court is actually not permitted to draw the map.

Which strikes me as an important feature of that type of litigation, I'm going to come in and say it's the deadline of the map.

Well, the Court it also says you can't draw the map.

Which means you got to give it time.

In fact, you could strike down a map, I guess you could strike down existing maps.

What has to happen under the state Constitution, it has to be remanded to you.

So my -- the way that I would conceive of that type of defense, would really leverage that language, which strikes me as really crucial to the will of the people of Michigan.

They didn't just create a Commission.

They said only the Commission can do this job.

That's really important.

>> COMMISSIONER LETT: That brings up one more question for me.

If you will indulge me.

We go to the Supreme Court, original jurisdiction, where do we appeal to? Assuming it's not a Federal question, assuming it's a state question.

>> RICHARD: The short answer if there is no Federal issue is that I don't think you do.

I think the Michigan Supreme Court is just like there are cases in the U.S. Supreme Court's original jurisdiction between states, latter compact cases, all kinds of cases that are in that jurisdiction decides and that's it.

And you know, there may be an avenue under Michigan law that I'm not thinking of. But my immediate thought on what that is, that is the beginning and end of the case.

>> COMMISSIONER LETT: We have three lawyers here and we haven't figured it out either.

>> RICHARD: What is a question of how do you do your factfinding. That is actually the difficult question in those cases is you know does the seven member group of justices who are appeals judges sit there and listen to testimony and I don't know what you all do here in the U.S. Supreme Court they hire special master. In Pennsylvania there is a lower Court that issues proposed, recommended ruling. I don't frankly I don't know how you do that here.

But that's actually the question that comes to my mind with that.

And I don't know the answer off the top of my head.

>> COMMISSIONER LETT: They will have to build a witness box. Thank you.

Appreciate your answers.

I yield.

>> COMMISSIONER CLARK: I'm Commissioner Clark and I have the next set of questions.

But before I'd like to welcome Kate and Richard.

It's a pleasure to have you here and we are very interested in what you have to say today.

I'd like to start off asking you the public must have a high level of confidence and trust in your firm's ability to provide objective, nonpartisan advice to the MICRC.

How can you provide that assurance particularly given your history of acknowledged partisan political representation.

And I know you have answered some of that at this point.

And the firm's defensive maps held to be unconstitutional, partisan gerrymanders prior to the common cause?

>> KATE: I don't want to beat a dead horse on some of this so I will say I stand by what I said earlier about representing partisan interests and what that means for law firms and the space of acting as redistricting litigation counsel.

I will also say that we are here as litigation counsel.

We are not here as map drawers.

You have already hired a separate Voting Rights Act counsel.

In a way I view our position as a little bit after the fact of map drawing.

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We are here to advise you on what kinds of claims you can face down the road.

But we are not here to advise you on drawing, on whether to draw maps in a certain partisan way or not.

You have people you have already hired to do that.

We will answer any questions you have around legal issues because of course you need to anticipate litigation.

But I do want to say that softens this issue and we are not here to draw your maps for you.

It is up to the Commission, this Commission, you know, that constitutional provision Michigan has is incredibly detailed, right? Michigan has been very thoughtful about how it set up this Commission, its obligations, what it must do by certain timeframes and open meetings it's incredibly impressive and one additional point to say if you are asking what should we do continue to comply and doing what you are doing and comply from the instructions of the constitutional provision and that will get you very far I believe in the view of the public eye.

>> RICHARD: And I think that framework, the framework of what the Michigan people have done is really the starting point for us because the legal advice follows the law. We can advise on what law exists and we can argue based on what law exists and we can make arguments based on ambiguities and the current state of the law.

But we don't go and give personal opinions to redistricting authorities in any event.

And in a jurisdiction, say, where there is not this type of regime, I don't think a lawyer would feel entitled to go in and start saying, well, you need to follow this or that partisan fairness metric if it is not actually a low legal standard.

Here you have a legal standard you have a Commission that was intended to resolve many of the problems that I think emerged in the Court, the experience of having courts try to come in and create a standard.

So in a case where we are defending a legislature's map, we are telling the Court a big theme we are usually pushing in those cases is the Constitution of this state has given the legislature, the responsibility to do this task, to have the Court come in and invent new standards or take the map drawing process itself contravenes that.

Well what do you have here? You actually have the same arguments.

It's a different framework but it really is the same arguments.

We would be on the side of the body that Michigan people have said needs to do this. Express, really clear terms in the Constitution not only is this the body to do it no one else can do it.

That's not in conflict with what we did before because they are different states the people of different states made different choices, they are labors of democracy and it's exciting to us to be in this new era in Michigan.

Because the people of Michigan I think said we do see the problem with judicial redistricting.

We are not going to go that path but we also see the problem with legislative redistricting because you get partisanship in the process.

What are we going to do? We are going to do this.

We are going to come in if we are so honored to be hired and advise you based on the text of what they already did, giving our best legal judgment.

There is no partisan ship in that at all.

It's what the people have done.

What our best judgment about what it means is, what the risks are, what is best to defend on if worse on the back end where we would do the most work is actually defend your choices, not to make those choices for you.

>> COMMISSIONER CLARK: Okay thank you.

And I just want to make a comment that we had some excellent work done by a group such as the voters, not politicians.

And other groups in the state to put this framework together.

And now it's our job to execute it.

And if we retain you, you are here to help us defend it.

So.

>> RICHARD: My impression reading through it is they did a really good job.

>> COMMISSIONER CLARK: The next question I've got is how would you view the litigation counsel's role when working with the Voting Rights Act counsel, which is Bruce Adelson who we retained, in avoiding potential litigation as well as defending the MICRC during litigation? Has Bruce or part of Federal Compliance Consulting has he participated as either an attorney of record or expert witness for any party in any case that your firm has been involved in?

>> KATE: Not that we know of Commissioner.

>> RICHARD: Let me qualify that.

The answer is, no, in the interest of full disclosure.

Adelson was an advisor to the Arizona Commission in 2011.

We were involved. We filed a couple of briefs in that case at the U.S. Supreme Court phase of that.

We very not involved in the trial.

By then the factfinding had been done.

We had legal arguments that we made in that briefing.

So and we would have been on, you know, the other side of that case.

I don't view that as particularly relevant to what's going on here.

I don't think there is anything you know personal between us and Mr. Adelson but we were both involved in that case at different stages.

>> COMMISSIONER CLARK: Okay thank you.

The next question.

>> RICHARD: I didn't answer the first question.

I think I have two answers.

The first is, you know, what our role is driven by the client.

So I could imagine litigation counsel where the Commission said you know you're the litigation counsel.

We will call you when the map is done.

I could also imagine a position that says you know, if you're litigation counsel you may have work on the front end to try to tell us maybe what the betel battle ground is.

We can do either.

We are happy with what you want.

I think it's pretty clear you have Mr. Adelson as your Voting Rights Act counsel which tells us you trust him.

And we're going to rely to a large extent on his work and also on the work of the data experts, which frankly we couldn't do that work ourselves if we wanted to.

We need that support.

To put together the facts.

So in a lot of cases we are brought on as co-counsel with other firms, with other attorneys and in house attorneys, with General Counsels.

We do that all the time.

We rely on good attorneys in different roles who wear different hats and we are very happy to do that here.

>> COMMISSIONER CLARK: Thank you for that.

We are very thankful to have Bruce with us on this project.

He's got the experience and what we are looking for.

The next question I have really has three parts so let's take them individually.

How would you view the litigation counsel's role when working with Election Data Services, which is our line drawing and technical redistricting services firm, retained by the MICRC? In avoiding potential litigation as well as defending the MICRC during litigation?

>> KATE: Sure that relationship is hand in hand, right.

>> COMMISSIONER CLARK: Oh, yeah.

>> KATE: And we have worked with Mr. Brace in cases before and you have a fantastic expert on your hands through Mr. Brace.

So we -- it would be hand in hand.

It would be step by step.

What are the -- what does the data look like, right? You can start estimating with ACS but after today there is a sense of where have people shifted.

What do redistricting needs look like.

And that very much starts with Mr. Brace's work, with his company that you mentioned.

Figuring out where the people are located and what maps need and it starts flushing out the maps with more detail and we would be there to consult with him.

>> RICHARD: Bears emphasizing they are totally different skill sets where you have to rely on each other.

We couldn't do Mr. Brace's job if you asked us to.

I'm not sure that I could open up the redistricting software on a computer.

I couldn't draw a map.

I couldn't really if you told me we want this or that I wouldn't be able to do it.

So I mean we have no choice but to work with people who do that work.

That's why you have them.

>> COMMISSIONER CLARK: Okay thank you.

Based on information received in EDS bid response, not yours but EDS', Kim Brace, president of EDS was retained by your firm to provide testifying expert witness analysis for litigation defending maps in the Vesilind versus Virginia state board of elections case.

>> KATE: That actually is the wrong case it's Holloway is the case header and I don't mean to mince words but I want it to be very clear.

>> RICHARD: City of Virginia Beach.

>> KATE: In this case and the other point I want to make is we did not initially hire Mr. Brace.

We were brought in after he was hired and happy to have him there.

We respect him and the work he has done.

So yes, we are working on a case with him and that case is ongoing.

It is in a remedial phase as we speak.

>> RICHARD: And on appeal.

>> COMMISSIONER CLARK: Has Kim or EDS participated in any other cases that your firm has been involved? That you're aware of?

>> RICHARD: Not in our time, whether in Mark-Braden the senior partner has been doing this a lot of years and may have in prior decades but I don't think in the past you know nine years since Kate and I have been doing this work that I can think of.

>> COMMISSIONER CLARK: Okay.

>> KATE: That's right.

>> COMMISSIONER CLARK: Next question I'm going to ask you is regarding John Morgan.

John works for a separate company but is contracted through Kim to assist us at this point.

Based on information received in the EDS bid response, John Morgan president of applied research coordinates was retained by your firm from August 2017-December 2018 to provide non-testifying consulting expertise analysis for litigation defending maps in Virginia and Ohio.

As John Morgan and/or applied research coordinates participated in any other cases your firm has been involved with that you are aware of

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>> KATE: I'm aware of cases in Virginia and Ohio.

I don't think there are any other pieces of litigation.

>> RICHARD: I can't think of any others, but I might have the same answer in the prior decade.

I think he has done it since the 2000 cycle.

And so Mr. Braden may have been involved with him in a case that cycle.

But I can't, I'm not aware of any.

>> COMMISSIONER CLARK: Okay.

>> KATE: By the way Commissioner Clark if these fact are important, we can go back.

If it's important for us to go back and unearth facts we are happy to do so if the Commission would like.

>> COMMISSIONER CLARK: At this point I don't believe it is.

>> KATE: Okay.

>> COMMISSIONER CLARK: But he has work for you, you are aware previously.

>> KATE: Yes.

>> COMMISSIONER CLARK: And my last question after the Arizona state legislature versus the Arizona Independent Redistricting Commission around 2015, the MICRC generally considers Independent Redistricting Commissions to be on safe ground Constitutional.

With the recent conserver shift in the U.S. Supreme Court do you believe that this is still the case? And, secondly, does the recent sixth circuit opinion regarding the MICRC and Daunt versus Benson have any impact on your response?

>> RICHARD: Yeah, let me start with the second because there is two different legal theories going on here.

The Arizona independent redistricting case in 2015 is an elections clause case under Article one of the Constitution that says the Congressional lines or the Congressional election laws large, time, place, manner have to be done by the legislature.

So the theory was the Commission is not a legislature.

And the Supreme Court says, no, it is.

The people of Arizona have grafted it into the legislative process giving it legislative powers, they get to do that, that is the theory.

The sixth circuit opinion is a first amendment -- if I'm thinking of the right case a first amendment case.

It has to do with the qualifications of the Commissioners.

There is limits to how many republicans there can be, how many democrats, how many independents.

And there is an argument under what is called the unconstitutional conditions doctrine that you're making state positions available on the basis of expressive association and speech.

And that impinges on the first amendment.

So as to that question, the doctrine that the sixth circuit applied in upholding it I think is on pretty stable ground.

The Supreme Court has for a long time made clear there are different hierarchies within the state of personnel.

It's one thing to say you know, we are going to make a partisan criteria for the janitor and another thing if it's a Commission.

It can be tailored and the standard is different and a policy making exception.

I couldn't guaranty you that that's solid, but that seems to me to be pretty solid.

As far as the Article one you know that is a 5-4 decision.

It's a little bit more controversial but it's also very recent.

And I think what you've seen in the Roberts Court even though I do think it's fair to say it's more conservative now than it was in 2015, we also have seen a starry decisis in honor of starry decisis for opinions that recent.

It would be you know whatever side of that issue one is on, it would be somewhat troubling to have a 2015 case that says it's okay and then a case early you know 2022 or something like that that says it's not.

But that said I can't read these people's minds.

So your guess might be as good as mine but I think right now the law is plainly on your side.

And the other thing point I would make of course as to state legislative districts that theory is off the table.

There is no question that the drawing of the state districts is compatible with Article one of the Constitution that says nothing on that subject.

>> COMMISSIONER CLARK: Thank you.

At this point I'd like to turn it over to Commissioner Witjes and he's got some questions for you as well.

>> COMMISSIONER WITJES: Good afternoon.

I also would like to thank both of you Kate and Richard for being here today.

Your answers so far have been satisfactory.

I just have a couple more and I will try to make them quick.

So here we go.

The MICRC will have to defend being racially conscious in our decision making. That is one of our criteria in the development of districts.

How would you defend the Constitutionality of majority minority influence or coalition districts that the MICRC may have to draw? Would you also specifically address coalition districts given your firm's on going participation in the Holloway versus City of Virginia Beach that is currently on appeal?

>> RICHARD: There is a lot that can be said obviously and I will start with a really interesting wrinkle is that Holloway is in Virginia it's in the fourth circuit.

Michigan is in the sixth circuit.

The sixth circuit has held that coalition districts are not recognizable under Section Two of the Voting Rights Act.

There is a certain split that the fifth says it is.

The sixth says it's not.

That issue at some point, whether it's in Holloway or in some other case, is going to be decided in the U.S. Supreme Court.

So that is I think a starting point that the Commission would obviously need to be cognizant, would need to be cognizant of the possibility that the sixth circuit law can change.

But today the Commission is governed by sixth circuit law so the Voting Rights Act rules that govern the Commission's work are actually going to be different from those governing Holloway and call it a circuit split and it's odd and that is why we have the Supreme Court.

On the other hand, there is also the question of policy.

Right? What one can draw a coalition District because one feels like it's required by Section Two of the Voting Rights Act.

And one can also draw a particular District of a certain composition, racial composition even because it's a good idea.

I think the Commission can do what it thinks is a good idea and that is up to you.

And so the question would be well what is the problem? There is not a problem withdrawing a Section Two District if it's not required by Section Two, that is the Supreme Court's holding of Voinovich versus Quilter on the other hand you have racial gerrymander and if race is the predominant factor in creating that District, then all of a sudden you have to show a compelling state interest.

And what I would imagine, the Plaintiff might argue in a case like that, you are in the sixth circuit, it's not required in Section Two of the Voting Rights Act and don't have a compelling State interest. But one defense might be race didn't predominate.

You actually didn't need to rely on race that much to draw it.

You drew nice, compact districts. They were good. All the requirements were met.

And, oh, by the way you had a nice coalition District to boot, great, there is your defense.

There may be other ways to do it.

But that would ultimately be your choice.

And we would make it work on the defense side to, to the extent we are able.

But it's a very complicated area of law.

And as I said I don't think it's going to be settled until the Supreme Court weighs this.

>> KATE: Part of this process is you would need to rely heavily on Dr. Handley and Kim Brace's analysis and advice on these issues.

And they are very close to the data.

And that is where sort of the hand in hand works with the lawyers and technical experts come into play with the issues the rock and the hard place of compliance with the Voting Rights Act but avoiding violating the 14th amendment.

And it's just a narrow passage and some Court cases have come in and made it even more narrow and that worked, that collaboration between technical experts and lawyers is very important to navigate that.

>> COMMISSIONER WITJES: Excellent thank you.

Next question has to do with communities of interest.

So the top.

>> MS. SARAH REINHARDT: Commissioner Witjes I apologize for the interruption can you speak more loudly into the microphone.

>> COMMISSIONER WITJES: I sure can.

The top ranked state criteria in the Michigan Constitution after compliance with Federal laws and contiguity is that districts shall reflect the state's diverse population and communities of interest.

Communities of interest may include, but shall not be limited to, populations that share culture or historical characteristics or economic interests.

Communities of interests do not include relationships with political parties, incumbents or political candidates. How would you defend the Constitutionality of districts that take into account the diverse communities of interest as distinct consideration that the MICRC is constitutionally mandated to consider as a third ranked criteria?

>> RICHARD: The way I read a provision like this and by the way it's a provision that speaks to the wisdom of trying to address the redistricting problem through a Commission rather than through a Court.

Is that a provision like this gives a lot of discretion to the redistricting authority.

All of those words are viewed with a tremendous amount of political value that is actually really important in redistricting but it's also subjective.

And so how does how do the people administer this? It's through you.

Think of Commissioners who go around and do all these processes, taking public input to try to come up with an informed understanding of what are the diverse interests, communities of interests that should be grouped together, that should be recognized, where should those lines be because there have to be lines somewhere.

And so in defending a map under a provision like this I would argue that there would be a very high standard of deference that a Court would need to apply.

We know the people said they want the Commission drawing the maps.

We know that the people selected a Commission precisely to make this type of choice.

And so that would seem to me to imply that the judiciary ought to be very careful in second guessing.

It might not mean that there's no judicial review whatsoever.

But there are varying standards of review such as an arbitrary and capricious standard of review in the Virginia state case where we prevailed and a provision under the Virginia Constitution and we argued based on Virginia law that the legislature which is the authority there had a lot of discretion and the standard of review is very lenient and I think that case is even stronger here for a lot of structural reasons based on what the Commission is.

Based on the value that's in these words.

It may be the most important policy-type choice that you make.

And it's a kind of choice that this body is uniquely competent to make.

And I think one could really read the entire idea of the Commission as existing to make that choice.

And so it does and by the way it does not conflict with Federal law in any way.

It does not -- there is no preemption issue.

Could not conflict with state law because of the state Constitution.

So you have a lot to do with this.

And I would feel very comfortable without knowing what choices you've made your quality of people you will make defensible choices and I'm happy to be here to defend that.

>> KATE: And to put maybe a finer point on this, the language of your constitutional provision throughout suggests that a Court should be trusting you with this process, right? The language in the constitutional provision that requires Commissioners come from different parts of the state, be from different political backgrounds, be from -- there is a real effort in ensuring that the body of the Commission itself is representative. On top of that, the number of public hearings you've had, the fact that they are all transparent, they are all saved on a website.

In addition to that, Mr. Woods, talking about his public outreach, it's a very thorough public outreach effort, I can't tell you how many times reading your Constitutional provision that's set up as the Commission, it's made clear that the citizens have vested in this body for good reason, the role of drawing maps. But before that getting an understanding of the state and the interests of the people and making sure that fits in with the map-drawing process, right? So your litigation counsel would be going to a Judge arguing just that they should trust you.

It's embedded in the language and in your process already that you are understanding what the state needs and wants.

You're understanding where the communities of interests lie.

And you have taken that into account when you are drawing your map.

>> COMMISSIONER WITJES: Okay and then as transparency has been one of the core tenants of our Commission since the inception of it, and I believe you already touched on the fact how you would approach your commitment or the commitment to transparency.

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My question then becomes how would you defend any challenge to the MICRC holding closed session under the Michigan's Open Meetings Act?

>> RICHARD: I read and certainly correct me if I misread this, I read the applicable statute to permit legal advice to be maintained in confidence.

Assuming the holder of the privilege desires that.

The holder of the privilege is the Commission.

It's not us.

The Commission can waive privilege.

If the Commission chose not to waive privilege and wanted advice of counsel in confidence, I'm assuming I'm correct that the public records law does permit that as exception and a legitimate basis to hold a closed meeting, then I think that would provide the defense.

You know, again, lawyers on the Commission and tell me if I'm wrong, if that is wrong then I'm not sure that -- my understanding for instance is that in Arizona the Commission actually has to disclose its legal advice.

And I have not worked that closely but that was my recollection and so there are different approaches to that under the law.

And there are different approaches to that that a client may have.

A client may say you know we are commits to transparency we want to go above and beyond the call and that would be the Commission's choice.

It wouldn't be our choice.

>> COMMISSIONER WITJES: All right, and then two more questions.

Can you please identify how General Counsel and your firm can work together to reduce costs and minimize redundancy?

>> KATE: That is a great question and I think I heard a question floated about sort of the composition of our team and how the staff matters.

As Richard mentioned earlier, we have worked in a number of these cases with either local counsel, in house counsel, General Counsel.

We've worked with other counsel collaboratively and in a way that candidly is sort of suits the needs, right? If there is -- we don't want to duplicate work.

We don't want to do unnecessary work.

We staff our matters pretty leanly on our side.

But we also are there to work with whatever counsel you already have to say here is what we view the priorities.

Let's say over the next few weeks.

Who can handle them? Right, who can do the work? We are always at the ready to do the work, but we want to first defer to if there is let's say there is local counsel that can issue subpoenas or can manage a document production and set up a database, I don't mean to get in mundane but to give you flavor there are a number of decisions along

the way we can stay in communication with the client look here is a way to save on costs.

You know have the other local counsel conduct this interview or this deposition. We can counsel on how to do it or what are the topics that need to be addressed. So I don't mean to be a little hedgy on this but to say whatever you like and along the way we can say this is where you can cut costs. This is where we need to do the work.

>> RICHARD: It's very common for us to rely on local attorneys on issues of state law they though really well.

The discussion we just had on them open meetings law would be a great example. We could go in and spend some time really making sure that we have our position right or we could just talk to General Counsel and I have a feeling she knows off the top of her head under what circumstances you can have a closed meeting. That saves cost.

>> COMMISSIONER WITJES: And my last question is three parts but they are pretty small.

How is the firm's political law group structured? How would that group support the work of the Commission? And how does that contrast with the work with past clients?

>> RICHARD: So it's although Kate as a partner may be better to talk about this. In my experience it's fairly informal. Most of us do a lot of different types of work. I don't just do political law.

I'm not even sure that is the majority of what I do. I have cases involving the Federal trade Commission, appeals, defamation, criminal, all kinds of stuff.

And but our group we have members who have experience in this area and a matter will come in that is within our expertise and normally it's staffed by a subset of the team members who have the availability on their schedules.

It's a big driving force. There can with negotiating with clients regarding costs of various you know standard billing rates or what not.

That happens. And then it's also just the needs of the case. For example, you can imagine a world in which no litigation happens. You don't need litigation counsel. That's great.

We don't have a lot to do. We won't have a lot of members staffed on the case.

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You can imagine a case in which we go we have this trial and the Michigan Supreme Court in front of 7 justices three weeks we go to the U.S. Supreme Court because there is Federal issues.

There will be a lot of people assigned to that case.

So it's just what the needs are.

I mean, it's not I think most law firms staff cases that way.

It's not that unusual.

>> KATE: And I think you probably heard from us today, there is a heavy litigation component and I don't mean to state the obvious you are looking for litigation counsel.

But we staff the matters, all of our attorneys have been through these pieces of litigation.

If the needs of the case require, we have other attorneys who are litigation counsel who can manage discovery, say.

The structure of the political law group is we have partners, we have associates, we have dedicated paralegal we have a dedicated paralegal and we have attorneys in different offices and what that ensures we are all up to the same you know standard there.

Everyone has been through these cases before and so it really is the needs of the case as they arise.

We try to make sure that you know whose responsible for what, right? So you have a question about discovery.

You know you need to go to this person.

You have a question about expert witnesses, you need to go to that person.

And it's a little different per case.

I heard your question how does it differ from past cases and for some of the reasons Richard described.

We don't know when a piece of litigation will arise against this plan if and you know since you don't know that timing it may depend on availability but I believe that we have identified in our RFP the key personnel who you can expect to be working on this matter.

And I know there are provisions in the RFP that are pretty clear look if we need to identify an additional team member, we know how to do it and to work through the RFP process to do so.

So you know who it is.

>> RICHARD: The final part I make is there is some on the margins I think there is some specialization with the group.

Kate is a trial attorney both in these cases and in tax cases and everything else.

I have done trials.

I do a lot more appellate work and brief writing.

So that can matter as well.

We often divvy up the work that way.

But we've all done a lot of the different parts of litigation.

>> COMMISSIONER WITJES: Richard thank you.

That concludes all of the initial questions that we have.

I'm going to yield back to Vice Chair Szetela at this point.

>> VICE CHAIR SZETELA: Thank you.

>> COMMISSIONER LETT: A couple quick follow-ups

>> VICE CHAIR SZETELA: Go ahead Commissioner Lett and Commissioner Lange has questions too.

>> COMMISSIONER LETT: Have her go first, please.

>> VICE CHAIR SZETELA: Commissioner Lange go ahead.

>> COMMISSIONER LANGE: Mine are simple because I'm not an attorney on this Commission and quite frankly the law stuff gets me all discombobulated.

You said in the beginning over the past seven years you've been to Court nine times for redistricting; is that correct?

>> KATE: We have gone through trial nine times.

>> COMMISSIONER LANGE: Can I ask how many of those nine times did you win?

>> KATE: It's a fair question.

>> RICHARD: Let's see 1, 2, and do you mean win at trial on appeal? Partial?

Sometimes they are split decisions? You win on some districts, you lose on others.

It's actually it's more complicated than you might think.

Let me just give you an example.

Virginia, we won a complete trial victory.

We went to the Supreme Court, it affirmed in part and remanded in part.

So we won partially, we went back to another trial and we did not prevail in that trial.

We went back up to the Supreme Court and they said we didn't have standing in emeritus.

In Ohio we went to trial and lost at trial and went to the Supreme Court and won unanimously.

That is a different case.

The Virginia state case we won at trial.

We won unanimously in the Virginia Supreme Court.

North Carolina, the first North Carolina case we lost at trial.

We did a remedial phase which was a novel, you know, bipartisan transparent legislative thing where they actually had a lot of machine popping out districts so it was real interesting.

That was challenged.

And we prevailed in defending remedial case.

The second North Carolina case there was a preliminary injunction, we went to a hearing, we lost the preliminary injunction and then the legislature redo the map and defended that and won so...

>> KATE: There is at least one Pennsylvania case where we won at trial.

>> RICHARD: We won in trial in Pennsylvania and lost in the Supreme Court.

>> KATE: I know it was a straightforward question.

>> COMMISSIONER LANGE: I'm not an attorney and that's why I asked.

Thank you

>> VICE CHAIR SZETELA: Commissioner Lett?

>> COMMISSIONER LETT: Well, I am an attorney and I have one more question.

Ha, ha.

You're going to do this on an hourly billing basis?

>> KATE: That's right, Commissioner.

>> COMMISSIONER LETT: Have each of you been first Chair in all of these cases you just talked about?

>> KATE: Not all.

Let me think it through.

I have been first Chair in some, but I'm hesitant to say that.

We had co-counsel on a number of these and I'd hate to be hog any credit for what was certainly a team effort.

And I want to be clear about that.

I have first chaired commercial cases, commercial pieces of commercial litigation.

I will say when I look back at these redistricting cases I guess you could say I was first Chair for our team but they were team efforts with other counsel.

>> Kate is being modest she was first Chair on at least three.

Again my specialty is at trials.

I argue appeals and I've argued as an associate at our firm six POs, 5 U.S. Court of Appeals in the Virginia Supreme Court.

>> COMMISSIONER LETT: I will ask other Commissioners do you know what first Chair is?

>> VICE CHAIR SZETELA: Obviously I do.

>> COMMISSIONER LETT: Give a little.

>> KATE: You are in the hot seat.

You are working strategy behind the scenes.

You are guiding other attorneys.

And but really what where it really impacts you is in the courtroom.

You're in the hot seat.

You are the one the Judge goes to with issues.

So not only are you focused on witnesses that you may be examining and cross-examinations that may be coming up, and you are also the sort of manager of your case in the eyes of the Court.

Court can bring up at any time and by Court, I mean the Judge could bring up at any time any kind of issue and you are expected to be the person to stand up and represent your party on the spot.

Usually without having a chance to you know consult with your side.

So it's a little bit high pressure.

>> COMMISSIONER LETT: You are still involved in one of the cases, it's on appeal.

>> KATE: That's right.

>> COMMISSIONER LETT: If you are retained by us, is it your firm's intent to take other redistricting cases now?

>> KATE: That is a great question.

I think when we submitted this RFP and we know that we can do the work in the RFP and also doing the work we currently have on our plate including the case you described the City of Virginia Beach case.

>> RICHARD: We need to correct that because we are in Pennsylvania.

So there is a redistricting case filed before the data was done so we have a case in Pennsylvania that is ongoing.

And I don't -- you know, we would, yeah, if clients needed us and presently, we have other clients and if they wanted to utilize our services assuming we have the band width to do it which is always important, we would take those cases.

>> KATE: Right and to be clear none of those cases caused me any concern about fulfilling the work under the RFP for this client for the Commission.

None of those other cases cause me concern about being able to fulfill the requirements, the work for the Commission, right? I don't see -- I understood your question to be if we are hired do we have any concern about sort of what is on our plate.

And our ability to serve the Commission.

My answer to that is no I don't have a concern about that.

>> COMMISSIONER LETT: I guess my concern looking at it from the legal point of view is there a conflict of interest if you are now hired by Ohio? Or Indiana? Or Illinois? In a Districting Court case?

>> KATE: We've looked at this issue of different matters, pardon me Commissioner.

>> COMMISSIONER LETT: That may be an opposite viewpoint of what we are talking about in Michigan.

I don't know what that would be.

>> RICHARD: You have to analyze any new case based on the conflicts rules and that includes the question of issue conflict.

You wouldn't argue this view in this case while you're defending it in that case, right?

And you have to do that based on where you're at.

Right? These are our cases, this is what we are arguing in these cases and if I take on this new case would we be arguing the opposite such that we have prejudice of a current client in those cases.

And so what we would do if we took on a new case in this subject matter area would be to ensure that it would not require us to argue a legal position that would be adverse to the Commission to the extent that we are arguing on behalf of a redistricting authority, I don't think that would normally rise.

And I know it seems a little bit counter intuitive because there is sort of a sense that Commission redistricting is opposed to legislative redistricting.

But as far as the law is concerned what really matters is where is the redistricting authority lodged.

And so in Michigan I would envision, I would imagine our litigation position would be consistent with a very differential standard to the Commission.

In under Michigan law and to the extent we are representing legislative interests in Pennsylvania, we would also be arguing for a broad standard of deference to the legislature of Pennsylvania.

So I wouldn't necessarily view that even if the policy choices are different there is nothing wrong with that.

You all can make different choices than they are making in other states.

That's good.

But if there is you know, like a Voting Rights Act issue or something where we thought we were going to have to argue a position A here and we are going to have to argue not A here that would be a case we wouldn't take.

Assuming you hired us first and we were there and we would run that.

That is part of what we look at.

>> COMMISSIONER LETT: This really is my last question.

Since we are a new entity, certainly in Michigan, and across the country there are only to others that I think we could be likened to, Arizona and California, and Arizona is a little iffy, is this a case that your firm looks at and says we want to be in on the ground floor with Michigan because they are new? And we can burnish our reputation on the other side of the fence perhaps? That's not -- and I'm not saying that you're not -- your credentials in my mind are proven.

They are beyond reproach.

But having been in the business a long time, there are cases that people want to take because it's going to help their reputation.

>> KATE: I think it's a fair question.

I will say that is not what drives me personally.

I know it's not what drives Richard.

I don't think it drives our team.

And by the way our team is sorry that others could not join us today.

And they are available to talk with you at any time.

When we got the call last week for the interview, we were sorry we couldn't bring more with us.

Candidly what is satisfying to me in this job is that we have an excellent team and we worked over and over again in very challenging situations.

I really am impressed with what Michigan is trying to do.

And for the first time in a few years we have an opportunity to supply advice and counsel to an Independent Commission and that's trying to do something new.

And to me it's not a reputation that's driving it or an interest in some future reputation.

I just really like this work.

I think drawing maps is fascinating.

I really like working with my team.

I think these issues are very thorny and challenging.

And candidly I think there is a lot of money out there being put in to litigating these cases.

I mean there are lawsuits that have already been filed.

So in my mind I'm excited about an idea of working with an Independent Commission.

I know that the partisan cases are coming down the track, but I'm really curious and interested to work for a Commission for the reasons I described.

I think it's fascinating what Michigan is trying to do.

I don't know what kind of reputation we will get out of this.

There are a lot of people who have things to say about me personally in our law firm that are you know pretty divorced from reality.

And I just kind of have to keep my head down.

Our team keeps our head down and focuses on our job and on our clients.

So I kinds of have to let go with whatever reputation happens to go out there and focus on what I'm interested in and what our team can do and this seems like a project that is perfectly suited for us.

>> RICHARD: In terms of reputation when you are a litigator you are taking on a case on behalf of somebody who is in a dispute which means your reputation will...it could be very good for the people who side with your client.

It could be pretty bad for people who don't side with your client.

And part of the professional obligation is to press forward and be loyal to your client no matter what's being said in the media or the social media or wherever.

And you do that and so you have to develop in this profession I think pretty thick skin.

So I don't think a lot of us are really like well if we took the Independent Commission maybe these guys would start saying nice things about us.

Some people say nice things about us and some people don't and you know I'm not sure that frankly I even know who they are or what all they are saying.

We have to be focused on what we are doing.

But I think there is sort of a nugget of what you are saying which is true which is that it's new and exciting and when you're in an area of law that is changing, you want to be this on that.

If I'm a patent lawyer and there is a new amendment to the patent laws, I want to be the first one to litigate the case under the new provision because that is fun.

And, yeah, it could bring me more business and that is part of it but it's just fun.

That is what we do.

And so I think that assuming you are successful in your task and we hope and pray that you are and do a great job and no litigation and you don't need us.

You're going to see more of this.

And would we like to be involved in more of it? Yeah, we would.

We would.

I don't think that is a bad thing.

And frankly I think that people who are maybe criticizing us I wish they would kind of rethink that and say hey these guys we believe in independent redistricting, so do they.

Like maybe we don't like all the clients they have had.

That is okay we can agree on this.

I think that should be a positive thing.

>> COMMISSIONER LETT: I thought of a couple more but I said that was my last one so thank you very much.

>> VICE CHAIR SZETELA: All right any additional questions? I'm seeing none thank you for taking the time to visit us today.

And provide the information.

We are going to deliberate regarding how we wish to provide and we will get back to you.

>> KATE: Thank you all very much.

>> VICE CHAIR SZETELA: We will now continue to new business item 6F host interview deliberations and without objection I will open up the floor for the discussion regarding Baker Hostetler.

>> COMMISSIONER LETT: Can we take a break?

>> VICE CHAIR SZETELA: No.

Of course we can take a brief recess.

So at this point 3:25 we will recess without objection we will recess for ten minutes.

Hearing no objection we are now in recess until 3:35.

[Recess]

>> VICE CHAIR SZETELA: Are we good, Sarah, for purposes of the public I'm sorry I call the meeting of the Michigan MICRC to order at 3:36.

For the purpose of the public watching and the public record, I will now turn the Michigan Department state Staff to take note of the Commissioners present.

>> MS. SARAH REINHARDT: Hello, Commissioners.

Please say present when I call your name if you are attending the meeting remotely state, and unless absence is due to military duty, please disclose your physical location stating the county, city, township, or village where you are attending the meeting remotely.

I'll start with Doug Clark.

>> COMMISSIONER CLARK: Present.

>> MS. SARAH REINHARDT: Juanita Curry.

>> MS. SARAH REINHARDT: Anthony Eid?

>> COMMISSIONER EID: Present.

>> MS. SARAH REINHARDT: Brittini Kellom?

Rhonda Lange?

>> COMMISSIONER LANGE: Present, attending remotely from Reed City, Michigan.

>> MS. SARAH REINHARDT: Steve Lett?

>> COMMISSIONER LETT:

>> MS. SARAH REINHARDT: Cynthia Orton?

>> COMMISSIONER ORTON: Present.

>> MS. SARAH REINHARDT: MC Rothhorn?

>> COMMISSIONER ROTHORN: Present.

>> MS. SARAH REINHARDT: Rebecca Szetela?

>> VICE CHAIR SZETELA: Present.

>> MS. SARAH REINHARDT: Janice Vallette?

>> COMMISSIONER VALLETTE: Present.

>> MS. SARAH REINHARDT: Erin Wagner?

>> COMMISSIONER WAGNER: Present; attending remotely from Charlotte, Michigan.

>> MS. SARAH REINHARDT: Richard Weiss?

>> COMMISSIONER WEISS: Present.

>> MS. SARAH REINHARDT: Dustin Witjes?

>> COMMISSIONER WITJES: Present.

>> MS. SARAH REINHARDT: 10 Commissioners are present and there is a quorum.

>> VICE CHAIR SZETELA: Thank you so now we are going to continue with 6F post interview deliberation and without objection I will open up the floor for discussion regarding Baker Hostetler.

Commissioner Clark?

>> COMMISSIONER CLARK: Yes, first of all I would like to say that I was extremely impressed.

I think the firm is well experienced.

I think they have the resources necessary to handle the job because as they mentioned these types of Court cases take many resources.

And they have got it and the resources have different skill sets which is real positive in my mind.

The presentation by Kate and Richard today I thought they demonstrated their subject extremely well.

They didn't hesitate with the answers.

They were well prepared.

And that is the expectation of what we would get from their firm as we move forward.

I also felt they were honest.

They had some criticism on certain things in the firm and a lot of positive things.

In my opinion they want to be our partner.

I mean they provided responses to the RFP.

They are the only ones that did and they provided today on the next presentation of what they can bring to the together for us.

They are very professional and I would expect that goes throughout their whole firm and I would think that is our expectation here, that when we hire somebody, we want somebody extremely professional.

They addressed the nonpartisan aspect of their business.

They brought forward that they had done a lot of work for the republican side, but they have done some for the other side as well.

And they don't treat their cases as partisan cases.

They look at them from the point of view of what the client wants.

And if we tell them we want a nonpartisan, we want this, I think they are going to deliver that way in my opinion.

I know there are some opinions out there from the interested community that we need to look at other groups.

I don't share that opinion.

I think we've got in front of us a first-class firm.

That is going to produce the results we are looking for and give us the service that we are looking for.

One of the things I think we should keep in mind is that we have processes here as a Commission.

And one of those processes is RFPs.

And this one we issued twice.

And the only reason we issued it a second time is we didn't get enough response.

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We didn't get any response the first time so we limited the criteria and sent it back out and we got one response.

And to me these are the people, because everybody had an opportunity to respond, but these are the people that want to partner with us.

And I think that is significant.

I think they showed that today.

So I think their values are consistent with what we expect from what I heard today as well.

So as we get into the discussion prior to getting in the discussion I'd like to put a motion forward that we hire this firm to represent us so that union the results of the RFP.

I think it's the right thing to do.

And I hope we get a second on that motion.

>> COMMISSIONER WEISS: I'll second it.

>> I yield.

>> VICE CHAIR SZETELA: We have a motion by Commissioner Clark, seconded by Commissioner Weiss that you, you down there, any discussion or debate on the motion? Commissioner Witjes? Commissioner Lange?

>> COMMISSIONER LANGE: I don't have it on the motion itself, just in general, my thoughts on the interview.

So I don't know if anybody wants to say anything about that

>> VICE CHAIR SZETELA: We are an informed bunch here so go ahead.

>> COMMISSIONER LANGE: Some of the points that Doug just made I have to agree with about how we have issued the RFP twice.

It was broadcasted that we were issuing a second RFP and everybody was given the same opportunities.

I totally agree with that.

As far as lawyers go, I'm not a lawyer, so I look to some of our Commission.

But I do recall when the RFP was reviewed it was said by our own General Counsel that they are qualified based off from their RFP.

They scored high enough, they're qualified.

Based on the answers today there is something that stuck out to me.

And it was the point that they made about you can't really Judge people based off from who they represent.

And I think that's kind of a good point.

Because you have lawyers that represent Defendants that have done some pretty miserable things.

But it's their job to defend them.

So I'm looking at the people and what they had to say and I liked what they had to say.

I like how they stressed teamwork.

Working hand in hand with others including our voting rights act, our General Counsel and EDS.

It sounds like they are team players and I think that that is something we are definitely going to need because we keep saying it.

We are one big team.

We need to work well together.

The fact that they have had experience working to some aspect with EDS, I think could be a plus.

I don't really know the whole interaction with them but I think that could be a plus there. And for me seven years nine times specific case for redistricting and it sounds like and again I say the win because as I was taught today there is different aspects of it but it sounds like they have a very good history of what I would consider wins in the redistricting process, in Court cases against it.

So I would be on board with hiring them also.

And I'm going to leave it at that.

Thank you.

>> VICE CHAIR SZETELA: Commissioner Witjes?

>> COMMISSIONER WITJES: So I agree with Doug and I also agree with Rhonda in this fact.

The firm is very well qualified.

I liked every single one of their answers today.

But the one thing that I keep going back to in my mind is that ever since we started, we have been asking for Executive Director or communications outreach or General Counsel, you know, we were doing our best to try and stay away from partisanship as best as we possibly can.

Now, go to Election Data Services for example, they put in a team together of everyone and put a specialized team of democrats, independents and republicans to work with us which stood out to me.

Because they wanted to actually be or present themselves as an independent body, or not.

Or sorry an independent body to us for consideration.

And that is I believe one of the reasons why we picked them, at least it was a big reason for myself.

I don't know or have the same feeling that this is going to be something that the firm is going to do as well.

I don't know if it's going to be strictly partisan people working on our cases, and it would go against everything that we have done in the past for hiring.

That all being said they were the only one to do the -- to complete the RFP timely the second time around and we have been trying to ask and get a firm to respond.

And they did so.

And they did so very well.

So I don't know yet if I'm in support of hiring or wanting to retain them or not at this particular point.

However, I am very impressed with their presentation today.

They are key responses and their interview as far as I can tell so

>> VICE CHAIR SZETELA: Commissioner Clark and then Commissioner Lett.

>> COMMISSIONER CLARK: Let me make a comment relative to EDS and relative to this firm.

EDS is a small firm.

They have seven employees.

So they have to go out and get consultants like John and who have specialized skills.

That is a different business model than this law firm is.

They have thousands of employees so they have the expertise in house so I see that as the difference, okay, there is different business models people work under and smaller firms need to really, really control their costs.

I want to bring forward two other points I should have made previously.

I had conversations with two people not on the Commission and they are from the DC area.

One of them I asked about Baker Hostetler and the comment that I got back was you can't go wrong.

Period.

We didn't talk about partisanship.

We didn't talk about anything else.

They are first class.

You can't go wrong.

The second comment I had was somebody that is in the business of redistricting. And what that individual told me is they are booked up and there is a lot of companies and legal firms that are booked up too.

So if you're not careful and you don't act relatively quickly you may have no one.

So I think we need to consider that coming from people that are in the field and see things that we don't see so I wanted to bring those two points up as well, I yield.

>> VICE CHAIR SZETELA: Commissioner Lett?

>> COMMISSIONER LETT: Thank you.

This is kind of addressing Commissioner Witjes' comments but not really.

The -- when you look at what we are asking of Baker Hostetler, we are not asking them to draw lines.

We are not asking them for advice on Voting Rights Act going on the front end.

Now if we get sued, we are certainly going to be asking for advice on how to defend our Voting Rights Act decisions.

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We are not asking them to come in and second guess EDS or Bruce Adelson or Dr. Lisa, help me with her last name.

>> VICE CHAIR SZETELA: Handley.

>> COMMISSIONER LETT: Those are the people that we have retained and expect to be nonpartisan on the front end.

I don't expect Baker Hostetler to be nonpartisan.

What I expect them to be is competent defense attorneys if we get sued.

And to do that you have to have some experience doing this type of work.

And if you're out there looking for people who are neutral, they probably haven't done any of the work.

Because there aren't any neutrals as they said here today.

If you've done this type of work, you've either done it for the republicans or you've done it for the democrats.

There was one suggestion made today in the comment, public comment.

And I can't remember exactly who said it.

It was partnered with a neutral firm.

Again, there are no neutral firms that have any experience.

Now, can you go out and find somebody with experience -- without experience that would be a good defense litigation firm? Sure, you can.

Everybody has to start somewhere.

And you can go out and find a firm that has lots of attorneys that would be able to staff it, but they are going to start from ground zero and they are going to have to research the law.

We are not in the business of training a firm to be a litigation counsel in redistricting.

It would be interesting though, I'm not advocating for it, to postpone the vote to see what the response would be next week on the public call.

And on the portal and on the public comments that I'm sure we're going to get.

We always do.

So those are the things.

We gave them the opportunity.

I asked them directly.

The 800 pound gorilla is you're going to favor I don't know how they are going to favor one side or the other in this case and there are more independent than there are attorneys and I thought they answered that question very well.

Therefore I support hiring Baker Hostetler as our litigation counsel.

>> VICE CHAIR SZETELA: Thank you, Commissioner Lett.

I just kind of want to share my thoughts before I call on Commissioner Wagner.

So my feeling on this is I agree and echo what Commissioner Lett said.

I think they are very competent.

I think they impressed us all with their experience and their sincerity.

However my concern is we have nothing to compare it to and when you look at one thing with nothing to compare it to of course it looks like the most wonderful shiny object this front of you because you have no basis for comparison.

I'm not me gathering we have done the RFP twice and got no other responses I think that is a valid point but I also think we at this point know we have other law firms waiting in the wings with similar experience that want to bid on an RFP but just missed the deadline.

And we have the luxury of time because we are just starting the map drawing process and these attorney will not be helping us with the process at all, they are helping us with litigation which I don't anticipate we will even see until after we approve maps in December.

I think in light of the fact we know there are others that are interested.

The fact we have time and the fact we have no one to compare them to I personally even though honestly if we were to reopen or submit a new RFP I very well might come back and vote for them after that process because I think they are very competent but I just would like more people to compare them to so that is sort of my thoughts on that concept.

Commissioner Wagner?

>> COMMISSIONER WAGNER: I just wanted to say I was extremely impressed with them.

I agree with Doug and Steve.

I fully support hiring them.

To speak to Commissioner Witjes' concern about where they stand politically, we have voting rights attorney who does not stand neutral at all that I can see.

So I don't see how having a litigation counsel who may or may not vote the way you do have anything to do with them defending us and our mapping so I think we would be remiss.

We already had it up, the RFP up twice.

Anybody who wants to get in on it thinking that we are going to have another RFP out there I think they missed the boat.

And I think we should go ahead and hire them.

Thank you.

>> VICE CHAIR SZETELA: Commissioner Witjes and then Commissioner Lange.

>> COMMISSIONER WITJES: Just in response to receiving only one RFP, while I agree that one submitter does not really leave a choice because there is only one. There is also the whole argument that you can make about deadlines at this particular point in time.

Why are comments coming in now saying you should hire us and reopen it from firms when they had all the time to do it in the first place? And I have to say that I also took

the same stance with that when we had the -- when I was Chair of the Commission for our map drawing vendor.

We had one person or one company I should say, I don't remember the name, submit one late.

We didn't even consider them at that particular point.

And we had three.

And we considered those companies and those vendors.

So as much as I would potentially like to say, we could have reopen the RFP and do it then it goes against the fact there are deadlines we have to make and that we set forth, for hiring people and firms and vendors that want to work with us.

So I would say that I am also in favor of hiring Baker Hostetler to be our litigation counsel not only because the fact that they were fantastic today, had a good RFP, had good answers to the questions that we had, but also and most importantly submitted things on time

>> VICE CHAIR SZETELA: Commissioner Lange and then Commissioner Rothhorn.

>> COMMISSIONER LANGE: Thank you.

I just want to make one comment.

Anybody on the Commission is concerned I think we need to look at it too from the hierarchy of things.

We have Bruce Adelson with the Voting Rights Act if we do go with this group as our legal counsel something that we all need to keep in mind is they all answer to Julianne. And I think we all have the highest amount of trust in Julianne and her decision making. So I think that is something that we should keep in mind too.

And that's all I've got

>> VICE CHAIR SZETELA: Commissioner Rothhorn?

>> COMMISSIONER ROTHORN: There is something about -- I guess I would like to so I'm in support of hiring them.

And I think I'm in support because I remember listening to public comment and I do feel like what Rhonda just said is actually the balance.

We do have a firm who will represent us as litigate Es and what they demonstrated for me is that they will together present, they will litigate, right, they show that they will be able to create an argument and they demonstrated that it's the law and the people of Michigan as the basis of that law that was rock solid and I think Steve spoke to that really well already.

So it feels like I've been able to get the concerns that I was holding I suppose because of the public comment I feel like those concerns are resolved.

That there is a balance in our legal team with coordinated by Julianne Pastula.

And with them on board and they demonstrated they would be excellent litigator answer the second piece that concerns me too is that Dustin you were talking about it and I wouldn't mind reopen if they had not performed well, I would not have minded and

saying they were so so, but they totally nailed all the pieces for me that feel like litigation.

And so to deny that or to ignore that so to speak it feels like special treatment.

What I mean to say is we had a process.

We dedicated ourselves to a process twice.

So I guess what I don't want to do is open ourselves up to say we are going to give those folks who didn't get a chance special treatment by opening up a third time.

Again I'm not saying we would be doing that but that is my concern because they did do very well and performed.

I guess what I'm saying is if there were concerns that they didn't I have no problem opening up again.

Do you see what I mean? So I guess what I mean is like I don't know that I need to compare it because I feel like the questions I was holding and the concerns that I had have been addressed.

And so again I'm willing to you know hire them

>> VICE CHAIR SZETELA: Yeah, I just want to point out in case this changes your decision making the two attorneys that presented to us today are not the attorneys that people were commenting about.

Mark Braden is the attorney people were commenting about and he was not here if you noticed and was not answering our questions and therefore, we were not able to evaluate his sincerity to the same points the two attorneys who were here were able to make.

So to me that is a deficiency in my mind because the person who the comments were about wasn't here.

And I wasn't able to evaluate what his credibility was on those issues and he is the person who is going to be lead counsel by the way.

>> COMMISSIONER ROTHORN: Thank you for that and they did offer the rest of the team didn't show up so I wonder if we want to extend, I hear that and I'm willing to entertain the idea of trying to figure out a way to feel good about that.

So I guess I would offer, yeah, I don't have any suggestions to offer but I do like the idea they did say the rest of their team stands ready to answer questions on something.

We just have to figure out what do we need and maybe it's specifically from Braden to sort of answer

>> VICE CHAIR SZETELA: Or a thought on my part do we need Braden? Do we need -- I'm just saying do we need him as part of our litigation counsel? Or are we comfortable going with I'm sorry I'm drawing a blank on their names Riley and McCarthy, Kate, Commissioner Lett go ahead.

>> COMMISSIONER LETT: I think it's clear that they sent the two people that are going to be working the case.

Braden is senior practice, senior, senior, senior

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>> VICE CHAIR SZETELA: He is actually of counsel.

>> COMMISSIONER LETT: Is he of counsel

>> VICE CHAIR SZETELA: He is of counsel.

>> COMMISSIONER LETT: He is senior status and the worker bees are here.

One thing I want to make clear that Rhonda said that crown they answered to Julianne, no, they answer to us.

I understood what was said, they answer to the Commission.

They don't -- no disrespect, Julianne, but we don't want to elevate you too high

>> VICE CHAIR SZETELA: I agree, yes.

You look confused.

>> MS. JULIANNE PASTULA: If I could just get recognized really briefly, I certainly appreciate Commissioner Lett's comments and I know during our last meeting I was clear I coordinate the legal work on behalf of the Commission and at the direction of the Commission so while I would never assume to be elevated to any level other than the level of what I am, I am the lead of your excuse me the lead of your legal team and would be coordinating all those activities on your behalf.

I also wanted to note for the record that Commissioner Clark shared some statements with us and for the benefit of the public and Commissioners I wanted to make sure that it was stated for the record that those conversations were had with people within our redistricting bubble.

Going back to our early presentation if this was the quiz, so those conversations were held with our consultants within the redistricting bubble and I just wanted to note that. And I'm happy to answer or you wouldn't have any questions for me so I'll just yield back

>> VICE CHAIR SZETELA: Commissioner Witjes? And then I think we need to kind of wrap this up guys.

>> COMMISSIONER WITJES: Sure I was going to mention the fact they sent the partner kind of speaks words to me.

It's not someone who was just hired.

She has been here for a while or there for a while I should say.

>> First Chair.

>> COMMISSIONER LETT: Yes

>> VICE CHAIR SZETELA: Commissioner Eid?

>> COMMISSIONER EID: So I have some concerns about this firm.

And the main concern lies with you know with keeping public trust within this Commission.

And I'm not sure we can do that if we only interview one firm.

They performed very well.

You know, I agree with what Commissioners Lett and Lange said.

However, I like a little competition to happen at these things and I don't think it would be bad to bring in you know to reopen the RFP, have this law firm from today as an option but hear what others have to say as well.

And there may not be any neutral parties.

I agree that when you're in this field you're going to have you know firms that represent one party or another.

But may either...may be more neutral parties, there may be.

I think this is an it would certainly be the most extreme hire we made so far as far as the people they represented in the past.

And you know this isn't criminal law either.

Law firms can decide who they represent and they make decisions on what type of cases they want to take and who their clients are all the time.

We've had I think the greatest amount of public comments.

Both in writing, through the public comment portal and in person today than I think we have been at excuse me that I think we have had compared to any of the hires we made.

And that concerns me.

It really does.

So I wouldn't be in favor of hiring them today.

But I maybe in favor of hiring them in the future.

Based on how they perform compared to other firms that may come forward

>> VICE CHAIR SZETELA: Thank you Commissioner Eid.

Commissioner Lange?

>> COMMISSIONER LANGE: One last brief comment and it kind of goes to what Commissioner Eid just said.

I've always been one that has looked at public comment.

Everybody knows that.

Every time there is public comment and it doesn't matter where it comes from, I'm always the first one to say that.

And it was said in one of our meetings before that we need to use some discernment when addressing this public comment.

So that's what I did this time.

A lot of them were form letters.

And a three minute Internet search I did find a call from a particular group giving out the number to sign up for public comment, the you know, the where to write to on our portal, do comment there.

So there was a call just like we have seen the republicans do calls on our hires, you know, even with Mr. Adelson.

It's something that we've seen over and over again.

And reading the public comment a lot of it just doesn't make sense about the partisan because like they stated they're not drawing the lines.

They are not doing the VRA.

Alls they are doing is defending us.

And that's what I feel we should be looking at.

Now, if it was a different situation where they were going to directly affect the work we're doing, then I may be on the same boat as well maybe we better step back.

But that's not the case.

What they're doing is defending the work we are doing.

Not influencing the work we are doing.

So that's it.

And I think we should probably move it along and if we are going to vote, vote

>> VICE CHAIR SZETELA: Any additional comments?

>> COMMISSIONER WITJES: I will request a roll call

>> VICE CHAIR SZETELA: Department of State can we do a roll call vote and someone refresh my memory and I believe it was Commissioner Clark who made the motion and seconded by Commissioner Weiss to approve, go ahead Commissioner Eid?

>> COMMISSIONER EID: Just if we were to decide to reopen this RFP or if not reopen but perhaps do a new RFP with you know going forward do you think there would be more than one firm that would apply to it?

>> VICE CHAIR SZETELA: Based on the information we received from General Counsel, yes, it sounds like there is going to be several.

All right let's go ahead with our vote.

>> MS. SARAH REINHARDT: Commissioners please state please indicate your vote in support of the motion with a "Yes" or "No."

I will call Commissioners names in alphabetical order starting with Rhonda Lange?

>> COMMISSIONER LANGE: Yes.

>> MS. SARAH REINHARDT: Steve Lett?

>> COMMISSIONER LETT: Yes.

>> MS. SARAH REINHARDT: R Cynthia Orton?

>> COMMISSIONER ORTON: Yes.

>> MS. SARAH REINHARDT: MC Rothhorn?

>> COMMISSIONER ROTHORN: Yes.

>> MS. SARAH REINHARDT: Rebecca Szetela?

>> VICE CHAIR SZETELA: No.

>> MS. SARAH REINHARDT: Janice Vallette?

>> COMMISSIONER VALLETTE: Yes.

>> MS. SARAH REINHARDT: Erin Wagner?

>> COMMISSIONER WAGNER: Yes.

>> MS. SARAH REINHARDT: Richard Weiss?

>> COMMISSIONER WEISS: Yes.

>> MS. SARAH REINHARDT: Dustin Witjes?

>> COMMISSIONER WITJES: Yes.

>> MS. SARAH REINHARDT: Doug Clark?

>> COMMISSIONER CLARK: Yes.

>> MS. SARAH REINHARDT: Anthony Eid?

>> COMMISSIONER EID: No.

>> MS. SARAH REINHARDT: By a vote of 9 in favor to 2 no's the motion carries

>> VICE CHAIR SZETELA: Thank you Ms. Reinhardt.

All right moving on to the next item on our agenda we will now review and approve the meeting minutes from August 5, 2021, of the MICRC Committee for the view of litigation counsel RFP submissions. I would entertain a motion to approve the minutes from the August 5th, 2021 committee meeting, which are posted at redistricting@Michigan.org. Motion made by Commissioner Witjes and seconded by Commissioner Lett. Is there any debate on the motion? Hearing none, we will now vote on the motion to adopt the minutes of the August 5, 2021 litigation counsel committee meeting. All in favor please raise your hand and say aye.

>> Aye.

>> VICE CHAIR SZETELA: Opposed raise your hand and say nay. The ayes prevail, and the motion is adopted. Thank you.

We will now review and approve the minutes from the August 5, 2021 Commission meeting which posted on redistricting.Michigan.org.

>> So moved.

>> Second.

>> VICE CHAIR SZETELA: Motion made by Commissioner Rothhorn, seconded by Commissioner Lett. Commissioner Clark, did you have a question or a comment?

>> COMMISSIONER CLARK: I had a question going back to our vote on the counsel. I'd like to put forward a motion we closed down the subcommittee

>> VICE CHAIR SZETELA: What? Let's vote.

>> COMMISSIONER CLARK: I'm sorry.

>> VICE CHAIR SZETELA: We have a motion on the floor to approve the August 5, 2021 Commission meeting minutes, it was motioned by Commissioner Rothhorn and seconded by Commissioner Lett is there any discussion or debate on the motion? Hearing none all in favor raise your hand and say aye.

>> Aye

>> VICE CHAIR SZETELA: Ayes prevail and motion adopted review and approve the meeting minutes from the August 6, 2021 Commission meeting and entertain and they are posted and redistricting.Michigan.org.

>> COMMISSIONER WITJES: So moved

>> VICE CHAIR SZETELA: Motion by Commissioner Witjes and seconded by Orton is there any discussion or debate on the motion? Hearing none we will now vote on the motion to adopt the minutes of the August 6, 2021 Commission meeting. All in favor please raise your hand and say aye.

>> Aye.

>> VICE CHAIR SZETELA: Opposed raise your hand and say nay.
The ayes prevail and the motion is adopted.

Commissioner Clark, would you like to proceed with your motion to dissolve the litigation committee, right?

>> COMMISSIONER CLARK: Correct.

>> VICE CHAIR SZETELA: Is there a second? Seconded by Commissioner Lett.
We have a

Motion to dissolve the litigation RFP committee made by Commissioner Clark and seconded by Commissioner Lett. Is there any discussion or debate on the motion?
General Counsel Pastula?

>> MS. JULIANNE PASTULA: The Commission would need to add that to the agenda if they wish to act on it today or it could be new business on your next business agenda if you like.

>> VICE CHAIR SZETELA: Go ahead Commissioner Witjes?

>> COMMISSIONER WITJES: That was not done when I put the motion forward to dissolve that.

>> MS. JULIANNE PASTULA: I'm well aware of it.

That is why I'm raising it now

>> VICE CHAIR SZETELA: Is it appropriate to dissolve at this point any way, isn't there still additional work that needs to be done like don't they need Yates the final agreement so on and so forth?

>> MS. JULIANNE PASTULA: That's correct.

It would be my recommendation would be that it's a bit premature.

We still need to activate through procurement staff and there were contract terms we need to negotiate so that could be something that I would bring back to the committee. In light of that Commissioner Clark are you willing to withdraw your motion?

>> COMMISSIONER CLARK: I would like to table the motion

>> VICE CHAIR SZETELA: Okay thank you.

All right, so without objection I would like to ask Executive Director Hammersmith to provide a report this afternoon.

Hearing none please proceed Ms. Hammersmith.

>> MS. SUANN HAMMERSMITH: Hi, I think we've covered most of the informational items and the action items that I wish to cover today.

I just wanted to let you know that I will be sending out homework.

That will come to you in writing so you don't need to verbally also.

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And then next week that we are in east Lansing at the MSU union hall for our meeting and just as a reminder we will have PBS, the national PBS station with us as well as wood TV from Grand Rapids, so I know you will all be on your best behavior and be there.

>> COMMISSIONER LETT: Go green.

>> Go white

>> VICE CHAIR SZETELA: All right thank you very much.

Without objection I would ask General Counsel to share her reports.

Hearing no objection please proceed General Counsel.

>> MS. JULIANNE PASTULA: Madam Chair I would like to defer my report today.

No report at this time

>> VICE CHAIR SZETELA: Thank you do we have Mr. Woods on the phone on the Zoom call at this point?

>> MR. EDWARD WOODS: Yes, I am here, can you hear me

>> VICE CHAIR SZETELA: Fantastic without objection I would ask communication and Outreach Director woods at this time to share a report if he has one.

>> MR. EDWARD WOODS: I do not have one

>> VICE CHAIR SZETELA: Hearing no objection please proceed Mr. Woods.

>> MR. EDWARD WOODS: Thank you I have no report at this time

>> VICE CHAIR SZETELA: Thank you very much at this time I will ask Sarah Reinhardt from the Michigan Department of State to provide a report, hearing no objection please proceed Ms. Reinhardt.

>> MS. SARAH REINHARDT: Thank you Madam Chair I have no report at this time

>> VICE CHAIR SZETELA: Thank you correspondence received in advance of our meeting today was provided along with written public comments to the Commissioners in our meeting materials have you have that.

Are there think comments or concerns about any correspondence that we received?

Seeing go ahead Commissioner Eid?

>> COMMISSIONER EID: I would like to know at the end of our public comment document the first 66 pages were of the hire we just made.

Then the last few pages after page 66 all have to do with mapping.

So I just wanted everyone to realize that and to you know maybe take a quick look at those

>> VICE CHAIR SZETELA: Thank you for bringing that to our attention Commissioner Eid.

Commissioner or Ms. Reinhardt?

>> MS. SARAH REINHARDT: Thank you.

To Commissioner Eid's point, the public comment documents that are provided and posted on our website not on the public portal for the benefit of the public watching

materials public comment submissions that are received via mail are scanned and attached at the end of those documents.

So that's why they are kind of tacked on at the end there.

Those are received and they are combined into public comment received via e-mail as well.

So that's what that is.

Thank you

>> VICE CHAIR SZETELA: Thank you Ms. Reinhardt.

Without objection I'll ask the executive director Hammersmith to share about future agenda items.

Hearing no objection please proceed director Hammersmith.

>> MS. SUANN HAMMERSMITH: Just though that we will start mapping next week.

So be ready

>> VICE CHAIR SZETELA: All right, thank you.

Are there any announcements that any Commissioner has? Commissioner Witjes?

>> COMMISSIONER WITJES: Didn't really know this is announcement or not but seems like the best place to put it last week posed a question for tomorrow, because tomorrow is Friday and we cancelled our meeting if we were going to utilize that day to work with the state as well as EDS to get our software updated and our new data set included.

Is that something that we are still going to be required to do on our own? I would say we should.

So that next week we don't have to spend the first who knows how long to get this all done and taken care of so that we can map or make it so that or I should say suggest that Commissioners if they can't do it tomorrow do it sometime early next week so that come our next meeting date, we don't have to have you know, this going on and updates being done and we can go ahead and start with the meat of our business at that point

>> VICE CHAIR SZETELA: Sue?

>> MS. SUANN HAMMERSMITH: Those updates are not ready at this time.

So, yeah, so Kim is working on those.

He will let me know when they are ready to you know when the updates are ready for us, then I will work with everybody to make arrangements to get those updates on your state computers.

>> COMMISSIONER WITJES: That would be done before the actual meeting next week, correct?

>> MS. SUANN HAMMERSMITH: In an ideal world I sure hope so.

>> COMMISSIONER WITJES: Perfect

>> VICE CHAIR SZETELA: Commissioner Lange you had your hand up then it was down then it was up and then it was down I'm not sure if you have a question.

>> COMMISSIONER LANGE: I'm doing the hokey pokey and my question was basically the same as Dustin's and it was just answered so I'm good

>> VICE CHAIR SZETELA: Any additional announcements, Commissioner Eid?

>> COMMISSIONER EID: Given we are mapping next week super exciting and really glad we are getting there but it brings into question how all 13 of us can best use our time in getting prepared for the mapping process.

Some of us really like using the Autobound Edge software versus other, you know, versus other Commissioners who aren't very tech savvy and don't really want to do it. And I think knowing that it's totally fine.

I would just recommend that we all, you know, use our strengths to our advantage and maybe if you are not as good at using the software there are other you know aspects of this work that we are going to need people to contribute.

So next week when we are drawing maps in the west and southwest regions that we named, we are prepared and that we know what we are doing.

So I just ask everyone to you know take a look at the public comments from the meetings that we had in those regions and also to make sure to look at the public comment tool and also the public comment packets that Ms. Reinhardt just mentioned that were sent to us the whole time so we can hit the ground running

>> VICE CHAIR SZETELA: Thank you Commissioner Eid.

All right seeing no additional hands raised we will move on to the next item on our agenda as the items on the agenda are completed and the Commission has no further business a motion to adjourn is in order may I have a motion to adjourn.

>> So moved.

>> Reporter: By Witjes and seconded by Rothhorn. All in favor raise your hand and say aye.

>> Aye

>> VICE CHAIR SZETELA: Opposed raise your hand and say nay.

The ayes prevail and the meeting is adjourned at 4:21 p.m. Thank you everybody.

[Meeting concludes]