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Redistricting Commission

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>> Good morning, everyone. As Chair of the commission I call the meeting to order.

And we need to have one of the translator's mute themselves. To me anyway. Thank you.

1 I'd like to welcome you to this meeting, and
2 welcome all of you who are looking in on Facebook and
3 YouTube. This Zoom webinar is being live-streamed to
4 Facebook and YouTube. For anybody in the public
5 watching who would prefer to watch via a different
6 platform than they are currently using, please visit our
7 social media at Redistricting MI to find the link for
8 either viewing on YouTube or Facebook viewing.

9 Our live stream today includes closed
10 captioning. We have ALS interpretation available for
11 this meeting. If you are a member of the public
12 watching who would like easier viewing options for the
13 ALS interpreter on your screen, please e-mail us at
14 redistricting@michigan.gov and we will provide you with
15 additional viewing options.

16 Similarly, members of the public who would
17 like to access translation services during the webinar
18 can e-mail us at redistricting@michigan.gov for details
19 on how to access language translation services available
20 for this meeting.

21 Translation services are available for both
22 Spanish and Arabic. Please e-mail us and we will
23 provide you with a unique link and call-in information.
24 It is certainly the desire of this commission that
25 everybody out there in the land of Facebook, YouTube, or

1 wherever, can tune in and hear us in the language that
2 they prefer.

3 This meeting is being recorded and will be
4 available at redistricting@michigan.org for viewing at a
5 later date. The meeting is also being transcribed, and
6 those transcriptions will be made available and posted
7 on redistricting@michigan.org, along with written public
8 comments submission, and we would encourage you to make
9 submissions to that location.

10 Members of the media who may have questions
11 before, during, or after the meeting should direct those
12 questions to Tracy Wimmer, media relations director at
13 the department of state. Members of the media should
14 have her contact information.

15 For the purposes of public watching and the
16 public record, I will turn to the department of state
17 staff to take note of the commissioners present. We
18 will now have a roll call.

19 Sally, would you kindly call the roll.

20 [Roll call]

21 >> All commissioners are present.

22 >> Thank you, Sally.

23 I would like to move to the agenda now. If we
24 could have that up on the screen.

25 There we go.

1 If the Commissioners would review that.
2 Hopefully you received that last night and have had a
3 chance to take a look at it. If there are any items
4 that need to be added we could do so at this time. If
5 not, I would entertain a motion to accept the agenda as
6 presented.

7 Glenn?

8 >> I so move.

9 >> Do we have a second?

10 >> Second.

11 >> All in favor of the agenda as presented
12 signify by saying aye.

13 >> Aye.

14 >> Aye.

15 >> Aye.

16 >> Aye.

17 >> Opposed the same sign.

18 The agenda is adopted.

19 >> Steve, may I say something?

20 >> Yes.

21 >> I can't see anything. I did not get the
22 agenda because of this computer mess-up. So I guess I
23 could probably see it later on or something?

24 >> Well, I'm going to -- I'll read it through
25 for you, because it's not hugely long.

1 >> Okay.

2 >> So we had -- the first item was a roll
3 call, which we did.

4 We're going to move now to approve the minutes
5 and the agenda, which I assume you didn't get the
6 minutes either.

7 >> No.

8 >> Okay. Then we go to number three would be
9 public comment, which there isn't any today.

10 Number four is old business. And we're going
11 to have the Department of State report an update, and
12 then a report on the Open Meetings Act and FOIA, Freedom
13 of Information Act Presentation.

14 Then we're going to take a break.

15 Then we're going to discuss subcommittees.

16 We're going to discuss thank you notes.

17 Going to move to new business, which is going
18 to be a code of conduct.

19 We're going to move -- and to a communications
20 director posting.

21 And then another break, and then a discussion
22 on general counsel next steps.

23 Then any final thoughts and adjourn.

24 So while it's a short agenda on paper, it will
25 be a little longer talking about.

1 All set with that with --

2 >> Steve, if I could just -- so sorry to
3 interrupt, Chair. The general counsel next steps,
4 that's a typo. That shouldn't be there. So it should
5 just go from communications director to final thoughts
6 and next meeting agenda items.

7 >> Okay. Thank you for that, Sally.

8 All right. So we're up to taking a look at
9 the minutes from the last meeting. I'm assuming that
10 you've had an opportunity to look at those, with the
11 exception of Juanita, who didn't get them because of the
12 computer problem.

13 Are there any corrections, additions, or
14 deletions which we need to be made aware of? And since
15 I had a number last time, I'm happy to say I didn't find
16 anything this time.

17 Doug?

18 >> I don't have any comments on it. I
19 thought it was acceptable.

20 >> Okay. If there are no comments, I would
21 entertain a motion to --

22 >> Steve?

23 >> Rhonda, you're raising your hand?

24 >> Yeah. Sorry. Just one correction, and
25 that's on my name, they have my last name spelled wrong.

1 It's L-A-N-G-E.

2 >> Not Langu?

3 >> Nope, not Langu.

4 >> Okay. We'll make that correction.

5 >> Thank you.

6 >> You know, once they get Langu in there
7 you're Langu. You might as well change your name.

8 Any other corrections?

9 Okay. I would entertain a motion to approve
10 the minutes as corrected.

11 Cynthia?

12 >> So moved.

13 >> Second?

14 >> I second it.

15 >> Moved by Cynthia, seconded by Doug.

16 All in favor of the motion approving the
17 minutes as corrected, signify by saying aye.

18 >> Aye.

19 >> Aye.

20 >> Aye.

21 >> Aye.

22 >> Aye.

23 >> Aye.

24 >> Opposed the same sign?

25 The minutes are approved as corrected.

1 Okay. Next we talked about public comment,
2 there is no -- nobody has signed up for public comment.
3 But in order to make it known to everybody in Facebook
4 and YouTube land, as well as others, we always try to
5 explain what we're doing and hopefully you can avail
6 yourselves of.

7 Because this is a virtual meeting, members of
8 the public have to sign up in advance to address us, the
9 commission. Staff at the Department of State will
10 unmute each member of the public for up to 90 seconds on
11 a first/come-first served basis, so sign up early. This
12 means members of the public will be called on in the
13 order in which they signed up to address the commission.

14 To those members of the public participating
15 in public comment please note that you will have no more
16 than 90 seconds to address the commission.

17 If you would like to submit your thoughts to
18 the commission or participate in public comment in an
19 upcoming session of the commission, you can e-mail
20 redistricting@michigan.gov and the Department of State
21 will provide your written thoughts to the commission.

22 Public comment signup links are also posted on
23 Redistricting Michigan social media pages on Facebook
24 and Twitter at Redistricting MI.

25 Now, I would like to recognize Sally Marsh,

1 Michigan Department of State, Director of Special
2 Projects, who will call on members of the public to
3 address the commission.

4 There aren't any, but that would be the
5 comments that we would go through in order to have
6 public comment at this time.

7 First up on old business at this time is a
8 report from staff at the Department of State on the
9 items we referred to them to discuss.

10 Sally, updates and any questions?

11 >> One moment, Commissioners. I'm making
12 sure that our live stream links are still working. One
13 moment.

14 Hi everyone. I'm sorry about that. Just
15 wanted to make sure our live stream links were working.

16 So I wanted to provide several updates to all
17 of you about administrative items that are sort of
18 ongoing.

19 First is e-mail addresses. We are very close
20 to be able to provide you e-mail addresses and having
21 information on phones as well. We should be able to
22 distribute e-mail addresses next week, so stay tuned for
23 more information on that. But we continue to work with
24 the legislative council to make sure that that happens,
25 and so it's my hope that we will have e-mail addresses

1 for all of you set up before the next several meetings
2 in a few weeks. And I appreciate your patience on that
3 front.

4 Similarly, we are working on the specific
5 details of how your compensation will work
6 administratively, and plan to have clarity on that as
7 well two weeks from now. And that is why we did not put
8 discussion of compensation directly on the agenda for
9 today, as we hoped to really have full information in
10 several weeks.

11 And I just want to acknowledge, I know this is
12 probably a frustratingly slow progress for all of you,
13 but, you know, know that we are working on it. Since
14 all of you and this commission is new to state
15 government, it's just taking us some due diligence to
16 make sure we're setting it up correctly. So I really
17 appreciate your patience on all of that.

18 An update that we can give today on the budget
19 though and your compensation is that today is the start
20 of the fiscal year in state government, which is sort of
21 an inside state government way of talking about the
22 beginning of the year of appropriation of funds. And so
23 I know Cathleen had a slide to show you all just to kind
24 of outline the sort of key figures for your budget.

25 The total budget allocated to the commission

1 for this fiscal year is 3 thousand -- I'm sorry,
2 \$3,149,400. And the governor's salary for this fiscal
3 year is also set, which means that 25 percent of that
4 salary, which is what you all are outlined, as we've
5 talked about in the constitution, is \$39,825, that's at
6 25 percent of the governor's salary. And so the -- just
7 wanted to kind of illustrate to all of you basically
8 once that compensation is taken out of your budget for
9 this fiscal year, so, you know, 39,825 times 13,
10 subtract that from the 3 million that you are allocated,
11 a little over 3 million that you've been allocated, and
12 that brings you to \$2,631,675.

13 So I wanted to provide those numbers to all of
14 you and, like I said, we hope to have, you know, further
15 clarity on the sort of administrative side so that you
16 all can talk about compensation in an upcoming meeting.

17 Another update. We are in the process of
18 scheduling the webinars that you all requested we
19 schedule. I'm happy to say that Matt Grossman, who's
20 the director of the MSU institute for social policy and
21 public research, as well as Tom Ivacko from the -- who's
22 the director of the U of M center for local, state and
23 urban policy, you met them all in your first two-day
24 convening. They are able to help us facilitate expert
25 speakers and facilitate these webinars. So more details

1 to come on that, but I wanted to let you knows process
2 of scheduling those webinars and ensuring that you have
3 experts to hear from is underway.

4 And just a few other things really briefly,
5 and then I'll ask Mike Brady if there's anything I've
6 forgotten. I'm sure there is.

7 We have had -- once you have your e-mail
8 address, which again, I'm hoping will be next week, we
9 will be able to send long to you for your review some
10 correspondence that we've received that is directed
11 towards you all. So just be on the lookout for that. I
12 wanted to let you know beforehand. It's not formal
13 submission of public comment, but information for you to
14 see nonetheless.

15 And then job postings. The executive director
16 position is posted. It's been circulated, it's on the
17 website. I encourage all of you, of course, to
18 circulate it in any networks you have. We are doing so
19 at the department of state. I know we've had several
20 people e-mail interested already. And pending your
21 edits and approval to the communications director
22 position today, we will post and distribute that, along
23 with the general counsel position starting Monday of
24 next week, as was outlined in the schedule that you all
25 approved last week. And those postings will be open

1 through essentially the end of the month.

2 The executive director position posting at the
3 moment is set to close Monday, October 12th at 5:00 p.m.

4 So Mike, is there anything that I missed that
5 you would add?

6 >> Hi. Good morning. No. I think that
7 covers it. The one thing I was just going to speak to
8 is just to kind of reiterate what Sally said about folks
9 working hard to get you all set up. I suppose this is,
10 to put it in a certain respect, kind of the other side
11 of the, you know, independence of this commission. And
12 that's, as important as that is, truly, you know, an
13 organizing principle around the grass roots movement
14 that led to this amendment.

15 There were things, the constitution offers as
16 soon specificity about the independence of this
17 commission that, you know, frankly, make this, you know,
18 very unique within state government. And so just trying
19 to thread the needle between, you know, that part of
20 this commission that, you know, could, again, the
21 commission being located within the legislative branch
22 versus those parts of the commission that may be able to
23 be serviced by, you know, parts of the Executive Branch
24 and there's nothing else like that.

25 So in any event, you know, folks are working

1 hard, we're working closely with DTMB. That's the
2 department of technology, management and budget, as well
3 as the legislative council in the Legislature and, you
4 know, we're seeing some progress. But, again for them,
5 they've never seen anything like this before because
6 there hasn't been anything like this before.

7 So thank you again for your service and your
8 willingness to be the first. And these are some of the
9 things that I think just come, you know, growing pains
10 or otherwise that come with being the first.

11 >> That's it?

12 >> I think that's it for our updates. Unless
13 you all have any questions.

14 >> Okay. Are there any questions from any of
15 the commissioners?

16 Okay. Hearing none, Doug?

17 >> Doug raised his hand.

18 >> Doug?

19 >> Yeah. I have one question.

20 Sally, you mentioned that the executive
21 director position was posted. Last week we also
22 discussed to the general counsel position and I think we
23 gave approval for that to be posted as well. Was that
24 done?

25 >> Yes. So that is, per the schedule that

1 you all voted on last week, that will be posted along
2 with, you know, pending approval or, you know, your
3 decision to post a communications director position.
4 That will be posted on Monday October 5th and be open
5 for three weeks until essentially the end of the month.
6 Like I said, I believe it's October 20 -- >>

7 >> Okay. Thank you.

8 >> Okay. Any other questions for the staff,
9 Sally and Mike, and/or Mike?

10 All right. Hearing none -- MC?

11 >> Steve, I just wanted to appreciate that is
12 a picture of threading the needle, and I appreciate your
13 steps, the steps that you're taking to try to keep us
14 independent and proceed as independent. Thank you.

15 >> It's our pleasure.

16 >> Okay. I don't see any hands waving or
17 people talking, so we'll move on to Mike.

18 We're having a presentation from Tom -- I'm
19 not even going to try.

20 >> As I tell people, it's pronounced Tom.

21 >> Thank you, Steve.

22 >> Mike, will you introduce Tom?

23 >> I'd be happy to. Good morning again. So
24 Mike Brady, Chief Legal Director of the Michigan
25 Department of State.

1 I'm pleased to introduce Tom Quasarano, also
2 known as Tom, from the AG's office, the Attorney
3 General's Office.

4 Just brief background. Tom joined the AG's
5 office, I believe, in 1988, after having 13 years in
6 private sector experience. And he's, you know,
7 dutifully served, I think this is now his fifth attorney
8 general. So he's worked under Democrats and Republicans
9 alike, you know, certainly some of the very best of the
10 professionalized civil service that exists in state
11 government, and certainly in the Attorney General's
12 Office.

13 So, again, along those lines I thought that he
14 would be great to address this commission, given some of
15 the questions that have come up about FOIA and more to
16 the point about the Open Meetings Act. Those are both
17 areas of specialty for Tom, and he is truly an authority
18 on both of those topics.

19 Also, again, just to acknowledge, given some
20 of the questions before and certainly the bipartisan and
21 non-partisan makeup of this commission, I wanted to
22 emphasize that, you know, for Tom it's not about one
23 particular AG, he's worked under five different AGs. As
24 he described it to me he describes his, you know,
25 political policy as the extreme middle I think is what

1 he said.

2 So with that, I'm happy to turn it over to Tom
3 to do a walkthrough of Open Meetings Act and FOIA. I've
4 raised with him some of the questions that had come up
5 in our prior conversations, and he said he'd be able to
6 speak to some of that, though has limitations that he
7 can explain himself on, you know, how closely he can
8 advise you officially, you know, as a lawyer or not.

9 With that, thank you, Tom.

10 >> You're welcome, Mike. And thank you,
11 Commissioners, to have me with you this morning. It's a
12 very much an honor.

13 One of the hallmarks of the attorney general's
14 department over these different administrations as
15 always been to provide education with not just our
16 client agencies, but to the public. The attorneys
17 general have always encouraged the activities of staff
18 and training and educating even in the university and
19 college setting.

20 I've been an adjunct visiting professor at MSU
21 journalism school for many years now, where I provide
22 jurisprudence courses to future journalists in the news
23 media law and ethics area, and one of the large areas
24 that we cover is the Freedom of Information and Open
25 Meetings Acts. Because when it comes to information

1 gathering for the media, those two statutes are
2 certainly arrows in their quiver.

3 So with that, I think, Mike, we had two
4 handouts, am I correct?

5 >> That is correct.

6 >> Right. And did you want to put those on
7 or everyone has their copies there? If everyone has the
8 copy I can just reference it without putting it up on
9 the screen. Whatever is preferred.

10 >> We could certainly put it on if that would
11 be helpful for other folks watching. It is also on the
12 website, redistricting@michigan.org, and it has also
13 been sent to each Commissioner. We're putting it on the
14 website for the public ease of access and review.

15 >> If you'd like to put up the FOIA handout
16 and we can just scroll through it together, that might
17 be helpful. Can you put that up on the screen?

18 >> Yes, we can absolutely do that.

19 >> Okay. If you're willing to do that.
20 We'll start with that. We'll get some preliminary
21 comments.

22 In my class at the MSU we do kind of a review
23 of civics or high school government. We make sure that
24 students are aware of the three branches and how
25 government works and that's important for all Citizens

1 to know. I quoted in one lecture from Obama's first
2 administration, that administration put forth their
3 commitment to transparency, as other executive
4 administrations have.

5 Quoting from one of the papers presented, it's
6 a government transparency -- and I'm not reading from
7 that -- what we have on the screen right now --
8 government transparency ensures the public's trust,
9 collaboration and participation. It promotes
10 accountability, thus trust in what our government
11 officials are doing. It promotes openness, thus
12 collaboration in the work of our government. And it
13 promotes diffusion of information, thus participation in
14 our democratic process.

15 Okay. A lot of words, but words have a lot of
16 extremely important meaning.

17 So a government accountable to the people. An
18 open government is at the core of the United States
19 Constitution and of the Michigan Constitution. We
20 formed a union to promote our welfare and security our
21 liberty. The Michigan Constitution in essentially picks
22 up on that, how political power is inherent in the
23 people. Government is instituted for their equal,
24 benefit, security and protection.

25

1 In other words, open government is part of the
2 law of the land, and when we all know and understand
3 that government has an overarching purpose and that is
4 to promote our general -- our health, our safety, our
5 general welfare, then how do we participate, how do we
6 ensure that? And so we have these two transparency
7 statutes in the State of Michigan.

8 In 1966 the Congress passed a federal Freedom
9 of Information Act, and a counterpart for open meetings
10 called Government in the Sunshine Act. I've always
11 liked that title.

12 In Michigan in 1976, a decade later, the
13 Legislature realizing that there were no codified laws
14 that would promote this openness other than a string of
15 case law decisions from the Appeals Court, they went
16 forward and enacted the Michigan Freedom of Information
17 Act taking its name and much of the substance from the
18 Federal FOIA and the Michigan Open Meetings Act, the
19 counterpart, the first cousin, if you will to FOIA.
20 Whereas FOIA deals with the disclosure of tangible
21 items, writings, records, electronic and otherwise, to
22 the public. The Open Meetings Act allows the public to
23 participate fully in the decision-making of government.
24 There are over 10,000 public bodies in Michigan subject
25 to these statutes.

1

2 If a public body in Michigan -- by public
3 body, I'm talking about the Executive Branch government
4 at the state and local -- state, county and local
5 levels. If they're subject to FOIA they're not
6 necessarily subject to the Open Meetings Act. If the
7 public body is subject to the Open Meetings Act it is
8 likely subject to the FOIA. Why is that?

9 Because the Open Meetings Act deals with close
10 governmental bodies, populating all those commissions,
11 committees, authorities, boards that collectively make a
12 decision. A decision is made by a number of board or
13 commission members. Whereas other governmental bodies,
14 as we know, are single-headed bodies, the Attorney
15 General, the Secretary of State, the Director of the
16 Department of Health and Human Services, the mayor of
17 the city, the Chair of the local school board, the
18 prosecutor for this county or that. So, again, these
19 statutes are worth noting together because there is
20 interplay there.

21 All right. So looking at the Michigan FOIA.

22 And Mike, I'll have you be my timekeeper. I'm
23 also heavily involved in my church, I also preach. And
24 as a preacher I don't pay attention to time limits, so I
25 have to do that as an attorney though.

1 So with that said, the core purpose of the
2 FOIA, it's very reflective. It is the public policy
3 that we, the people, are entitled to all information
4 regarding the affairs of government, the official acts
5 of those who represent us as public officials and public
6 employees, elected, appointed, hired, consistent with
7 this Act. Why? So that we may fully participate in the
8 democratic process. And that is the connection to the
9 First Amendment of the United States Constitution at the
10 federal level, the Michigan Constitution at the state
11 level, obviously.

12 By that I mean the First Amendment. I need to
13 make sure that my class understands that the First
14 Amendment is composed of five individual rights. To
15 help them remember I give a little poem if you will.
16 Speech, press, religion, assembly, and petition. Of
17 those five, religion aside, those all deal with public
18 participation.

19 Freedom of speech, freedom to diffuse that
20 information, that brings in the press. The right to
21 peaceably assemble, we're hearing a lot about that
22 today. And the right to petition government. All of
23 that is why we have FOIA and OMA. They play a role.
24 Not the complete role, but they play a significant role
25 in the enforcement of those rights within the First

1 Amendment.

2 So fully participating in the democratic
3 process ties us to the First Amendment.

4 Mike, if you want to scroll down, we'll look
5 at some definitions.

6 I'm not going to go through all of it because
7 our time is limited. But a public body means just about
8 everything you can think of in the Executive Branch of
9 government. Includes boards and commissions, even
10 councils in the Legislative Branch. Does not include
11 the judiciary. There are other means of accessing court
12 records, they're called the Michigan Rules of Court.

13 And there are other means of accessing public
14 and private information for that matter. When you think
15 of subpoenas, request for production of documents within
16 litigation, interrogatories, depositions. There's all
17 kinds of tools available to access information of public
18 bodies. However, this is the wide open gate, this is
19 the go-to statute where it pulls in all records of
20 public bodies as the public's right to know.

21 And the public record is defined as a writing
22 prepared or used in the possession or retained by a
23 public body in the performance of an official function
24 from the time it was created. That means no matter
25 where the record originates. Once it's in the

1 possession of the public body it's the public body's
2 public record. It is not unusual to receive a citizen
3 letter in our office. We get tens of thousands of
4 hundreds of e-mails and citizen letters and we respond
5 to each and every one.

6 But some might ask that we treat their letter
7 confidentially or private or anonymity. We can't assure
8 that. We can't honor their request because it is now a
9 public record of our public body, the Attorney General's
10 office. However, we'll see that the Legislature allows
11 public bodies to raise permissive exceptions. So, for
12 example, a FOIA request for a citizen letter not
13 identified as such, but just simply saying I want all
14 citizen letters for the month of August 2020, our FOIA
15 coordinator, a term of art in FOIA, has the authority to
16 redact personal names and addresses, and invoke the
17 exemption.

18 So it's a balance of the overarching right of
19 these statutes, the right to know, against the other
20 equally compelling rights, the right to privacy, the
21 right to confidentiality, the right to be secure in the
22 homeland.

23 We see that after 911 an exemption was added
24 to balance the right to know against records that if
25 disclosed would run afoul of our security. So it's a

1 common sense approach obviously.

2 All right. Moving on, I see here, Mike, that
3 you point out that the Constitution, which created the
4 commission indicates that all of its material, all of
5 its writings prepared or used, et cetera are public
6 records. There's no question there. Article IV,
7 Section 6, Subsection 8 there tells us that.

8 So in addition to FOIA, there's nothing in the
9 law that said when complying with FOIA you can't add
10 additional transparency requirements. And certainly the
11 Constitution is the premier law of the land. You just
12 can't reduce transparency as a public body.

13 All right. So, again, everything in this FOIA
14 is going to apply to the commission against the backdrop
15 of the Constitution. If a public record is a writing
16 what is a writing? And if you look at that list, what
17 isn't a writing? It's ultimately all means of recording
18 or retaining meaningful contact. Any Post-It notes that
19 you create, any and all e-mails that you generate, either
20 on state devices or your personal devices. Personal
21 drives can be accessed for forensic examination, not to
22 sound too heavy-handed there, to determine whether any
23 and all records responsive to a FOIA that are otherwise
24 non-exempt are provided to the requester.

25 And so keep that in mind. I always do. I

1 jokingly refer to FOIA paranoia. I know that if in fact
2 I'm creating a record, as I'm creating it, as I'm typing
3 on my keyboard for a purpose of our statutory charge as
4 Attorney General's Office this is subject to FOIA. Now,
5 subject to FOIA doesn't mean disclosure. That's the
6 presumption, the inevitable presumption. Subject to
7 disclosure under FOIA we have a presumption of privacy
8 and others that we can then apply. But remember that in
9 creating the records.

10 In other words, if I'm typing some missive
11 that is very lengthy, why not just call the person, the
12 colleague, the client. Not to not document our work, we
13 have to document our work. But oftentimes I think we
14 create more records than we really need to. That goes
15 hand-in-hand with trying to be more efficient in our
16 personal and private lives, I'm sure.

17 All right. So essentially --

18 >> Tom?

19 >> Yeah.

20 >> Yeah, and that's a good point. I truly
21 hear you and understand that. One of the things that
22 the Commission that we talked about before is other
23 obligations that exist in the Constitution that
24 reference, you know, when they're allowed to have -- you
25 know, to discuss the work of -- to discuss redistricting

1 matters. This would be subsection 11. It talks about,
2 you know, the Commission, its members, the staff
3 attorney and consultants shall not discuss redistricting
4 matters with members of the public outside of an open
5 meeting.

6 But it did say with members of the public, and
7 so ultimately there'll be a question that, you know, as
8 the work goes on there may be opportunities for kind of
9 further clarification from your legal counsel.

10 We just wanted to flag here, Tom, so you're
11 mindful that of that and other folks, just a reminder
12 there, you know, what Tom's speaking about is really,
13 you know, the four corners of the FOIA, of the Freedom
14 of Information Act itself and the Open Meetings Act.
15 And, again, not in any way, you know, fully weighing in
16 on the specific language as we've discussed before and
17 undoubtedly will talk about later with respect to the
18 Constitution.

19 >> That's correct. And so what we're doing
20 here is we're reviewing two statutes as an overview, as
21 they would apply to the Commission. Unless otherwise
22 determined by the Constitution or other policies or as
23 practices that the Commission might come up with. In
24 other words, you have to comply with the statute, but
25 more importantly you have to look at what enabled you,

1 what created your existence and that would always
2 supersede the FOIA. And there's nothing in that Article
3 IV that in any way competes with FOIA or somehow or some
4 way other diminishes that. It just, I think, enhances
5 the obligation the Commission must follow because part
6 of the Commission's purpose is to be extremely
7 transparent with the constituency.

8 And so thank you, Mike, I appreciate that, and
9 we'll touch on that, too.

10 So anyway, Section 3 introduces us to the
11 first party in a two-party relationship. FOIA's about
12 relationship, the relationship between public body and a
13 FOIA requester. But who does the FOIA requester
14 represent essentially? The world at large. That is
15 once the requester receives the information there is no
16 way, no mechanism in the statute to disallow ongoing
17 dissemination, ergo the exemptions, because once it's
18 out it's out. It can be on the internet in seconds. So
19 it really is giving records to the world at large. A
20 public body cannot lawfully ask a requester about his or
21 her or its motivation, purpose or reason is, or the
22 intended use. It's essentially shifting of the
23 writings, if you will, the records, from the possession
24 of the public body making copies, and then giving them
25 to the requester. That's all it really is, right? So

1 and the public -- the public body has to allow the
2 requester to either come in and inspect the records or
3 make copies for them.

4 We can move on here. I'd like to -- I'm just
5 going to get through Section 4. Section 4 allows a
6 public body to recoup its actual costs. In other words,
7 the Legislature did not intend taxpayers to subsidize
8 FOIA requests.

9 I can say that the vast majority of our FOIA
10 requests at the AG's office are processed without fees
11 because we have so many readily available documents and
12 following the Legislature's encouragement, public bodies
13 at all levels of government subject to this Act are
14 encouraged to put many records as possible on their
15 website. And the Legislature said and you can simply
16 give a direct link to that website and you've completed
17 your response to the FOIA requester, and taking
18 advantage of our technology, getting the information out
19 as quickly as possible.

20 A public body is not required to make a
21 compilation summary report, going back to Section 3 now
22 just momentarily. In other words, you're just simply
23 getting the records in the form and manner that are held
24 and retained by the public body. If the requester
25 writes back can you please explain this document,

1 there's no duty to explain the document or to create a
2 document. It's not a deposition, it's not an
3 interrogatory. You can certainly be a good public
4 servant and respond to that question, but it's not
5 required.

6 So I'm going to ask Mike if you want to just
7 scroll through Section 4 real quick, get to Section 5.

8 I'm glad you know how to do this, Mike. I
9 haven't quite learned it yet.

10 There we go. Section 5 introduces us to the
11 second party, that is the public body. A public body
12 shall respond in writing to a FOIA request within five
13 business days after, five business days after receiving
14 the request.

15 A lot of times requesters call it days, it's
16 really business days. And business days mean that
17 within that period of time, that five business days, you
18 grant the request, deny the request, grant in part, deny
19 in part, which is often the case because of hybrid
20 documents, or take a 10 business day extension after
21 which time you do one of those three. So the idea is
22 it's a short period of time to respond. It didn't say
23 in granting the request giving the records, because you
24 can charge a fee before the records are disclosed.
25 Granting requests just means we agree with you, these

1 records are not exempt, they're subject to disclosure,
2 they're subject to your request. No fee, here are the
3 records. In the interim you need to pay a deposit, and
4 then we'll process it and provide the records upon
5 paying the balance. So there is a little bit of a
6 financial transaction involved as well.

7 If you don't respond at all it is a denial
8 without reason for which punitive measures against the
9 public body may be taken by the plaintiff in court, the
10 requester becoming the plaintiff.

11 Can we go on there, Mike?

12 So -- let's see. So Section 6 introduces us
13 to an actual position in the law, the FOIA coordinator.
14 The FOIA coordinator is the only person that can deny a
15 request and process a request. It can be designated,
16 another person can be designated to do that writing, but
17 the FOIA coordinator is an essential part of our
18 government.

19 Section 10, if you have rights you have to
20 have remedies. And if there's an allegation of a
21 violation these are the remedies the public has. You
22 may appeal to the head of the public body. So the
23 appeal --

24 Now, Mike, I'm not sure how the setup is yet
25 for the Commission in terms of who's going to coordinate

1 FOIA requests that involve the Commission or who the
2 head of the public body will be, and those are matters
3 that we will certainly take care of, the Commission
4 will, but you can now appeal to the head of the public
5 body. You don't have to, but it makes sense because it
6 gives a new set of eyes on what was denied and to make
7 sure that the denial was substantiated in the statute.

8 Or you go in a state case to the Court of
9 Claims. For county and local government it's the
10 Circuit Court. It's a trial court action, just like
11 anything else, you have all the elements of discovery,
12 depositions, or whatever.

13 And the thing that we want to avoid at the
14 state, who as counsel for the state public bodies and
15 commissions and boards, is to avoid litigation. I'm
16 proud to say that the amount of litigation we have is
17 extremely low, considering the tens of -- literally tens
18 of thousands of FOIA requests hitting all the state
19 departments. I don't want to quote statistics that I'm
20 not sure on, but I think state police told me we had
21 10,000 or 12,000 a year. That's just one department.
22 And they have to get them out in a timely manner. So at
23 any one time we might have four or five FOIA lawsuits.
24 That's not bad.

25 And I thank all the hard work of our public

1 servants that keep in mind their responsibilities and
2 are very detailed in their responses. We assist them in
3 that way, too. Training is very important. We do
4 training with all state FOIA coordinators annually
5 through the civil services training and development
6 position. They are very happy, our agencies are very
7 happy they have that opportunity.

8 All right. So there are some penalties and
9 fines, and I'd like to think that we don't have to worry
10 about those. But we can go on, Mike. I know our time
11 is limited.

12 Section 10A now introduces amended language
13 that allows a public requester to appeal a fee. If they
14 feel the fee did not comply with Section 4 or the
15 policies and procedures of the public body, which the
16 public body must have policies and procedures posted,
17 made available to explain how they charge, what is the
18 threshold above which they charge and below which they
19 do not charge. So that's all in this statute, too.

20 We can move on, Mike.

21 We do FOIA training, as I said, for FOIA
22 coordinators. That's a four-power course. So you can
23 see that's pretty detailed. We're not going to do that
24 here.

25 Let me go down to Section 13 right there in

1 that page. What we've done is taken, I think we're up
2 to 27 exemptions now, they ran out of letters of the
3 alphabet, we're now to AA. But all of those records can
4 fit under any one of these four categories. We take the
5 language actually from the privacy exemption. So any
6 records, the release of which would constitute clearly
7 an invasion of individual privacy.

8 Home addresses of a citizen, home addresses of
9 state employees for that matter, your home addresses.
10 What does that have to do with me fully participating in
11 a democratic process, because I asked to receive your
12 home address.

13 Medical records, Social Security numbers. All
14 those things that common sense tells us, and the federal
15 government and state government law specifically might
16 tell us are not subject to any amount of disclosure.

17 Now, we're talking about under FOIA, I'm not
18 talking subpoenas and all those other types of things.

19 All right. So those four categories. You'll
20 see then, if we go back up to the categories, I won't go
21 through all these details.

22 There we go. So records, the release of which
23 would impair the safety and security of a public body.
24 MDOC, the department of corrections, is not going to
25 give blueprints out immediately to FOIA requesters, for

1 example. Public policy, attorney-client privilege,
2 doctor-patient privilege, we have medical records,
3 doctor-patient records with the State of Michigan. We
4 run hospitals. So any of those things. Deliberative
5 process privilege, the privilege that the Commission
6 might find would be invoked in terms of back-and-forth
7 opinions leading to something. Again, you're under a
8 greater transparency requirement than other public
9 bodies would be. So everything I say here I caution
10 that to be against the backdrop of Article IV.

11 Records accepted by other statutes. FERPA,
12 Family Educational Rights Act -- Privacy Act. HIPAA, to
13 name some federal ones. The State Revenue Act, no
14 public body may give state records, government records,
15 used in the initiation of a tax. That's a five-year
16 felony if you give it out.

17 So we see this constant balancing between the
18 right to know, the overarching right to know, and the
19 right of all these other matters that the government
20 says we have to remember these other rights. We have to
21 balance. Okay.

22 Mike, if you want to just get to the bottom
23 there. I'm not going to go through all these. Please
24 read these as you care to. Any questions, Mike, of any
25 of the commissioners on this material, please, by all

1 means get it to us and we will gather when we can.

2 So you see there there's the balancing act,
3 all of these exemptions balanced against the right to
4 know.

5 And then I think we can keep going, Mike,
6 unless you see anything there.

7 And then Section 14, the last section, says a
8 public body is obligated to do what, the obvious,
9 separate the exempt from the non-exempt and make the
10 exempt available. The non-exempt has to be explained in
11 great detail by the public body.

12 I always tell our agencies you're explaining
13 to the FOIA requester, but you're also explaining to a
14 yet to be named trial court judge in a yet to be filed
15 trial court action.

16 Our responses, our written responses, should
17 be a stellar example of a great exhibit. In other
18 words, the judge can see what the request was, read the
19 written response, and immediately have the picture of
20 what's going on here. That helps the court to come to a
21 decision that's well-founded.

22 All right. If you want to go to the -- unless
23 there's questions on this, we can go to the OMA. I know
24 it seems like I'm rushing, but I do want to make sure
25 there's time for questions and answers.

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The Open Meetings Act, right? The Open Meetings Act is not as -- it's comprehensive, but it's not as long in pages, if you will, as the FOIA. Because the FOIA's dealing with so many records of bodies. The OMA dealings with the meetings of a public body. For example, generally speaking the Attorney General's Office is not subject to OMA. Now, if we house a commissioner, a committee or report, yes, they would be.

This is for those public bodies, I reiterate, that make decisions collectively on the order of three, four, seven, or 13 members, for example. So the almost basic intent, it's not as reflective sounding as FOIA's, but it does say to promote government accountability, openness in government to be fostered to enhance responsible decision-making. Sounds a lot like what we read from transparency in government at the beginning of this lecture, if you will.

Key definitions, public body is not as comprehensive or extensive as FOIA. It deals with commissions, committees, and subcommittees, authorities empowered by State Constitution. You can relate to that. Statute, charter, ordinance. All right?

And what does it mean? It's the convening of a public body, a quorum being present, to deliberate

1 toward or rendering a decision on public policy. Public
2 policy is a very broad definition.

3 Decision means a determination, action, vote.
4 We most likely think of it as a vote. All those things
5 that ultimately effectuate or formulate public policy.

6 So just about everything a public body subject
7 to this act does has to be done at an open meeting.
8 Your Commission shall be done in an open meeting.
9 That's very clear. And that's a question that Mike and
10 I talked about a little bit, and I'll bring up here.

11 In short, the OMA requires that all decisions
12 and deliberations, those are words in the statute, must
13 be made in a meeting open to the public.

14 Decision is defined in -- hold on.

15 Deliberation isn't. So it's a practice.
16 Those of you who are attorneys are familiar with the
17 law. You can go to dictionary definition, you know,
18 what is a deliberation? Long and careful consideration,
19 et cetera. All right. So decisions and deliberations
20 must be done in an open meeting. What does that imply?
21 We're going to see here in a moment if we scroll up
22 here, Mike, if you will.

23 Or Sally, if you're doing it. Whoever is
24 doing it, thank you. If you scroll down, I'm sorry,
25 scroll down to the next page.

1 We have to have public notice. That's right
2 in the Constitution, Article IV. You must give public
3 notice. How can it be an open meeting if the public
4 isn't informed of the meeting? All right. So that must
5 be followed.

6 Now, there is a unique thing, and some of you
7 may see, it's an Open Meetings Act, and then there's a
8 provision called Closed Session. Well, this is a
9 counterpart to FOIA. Exemptions to the premise that
10 records are subject to disclosure. So it's a balance
11 here.

12 So there are permissible purpose, very few,
13 that allow a public body subject to this act to go into
14 a closed session. You go into a closed session to
15 discuss, and you may deliberate, but you cannot decide.
16 If you decide in closed session it's a violation of the
17 law. Closed session minutes are protected by
18 disclosure. It's a misdemeanor to disclose them.

19 In fact, Mike posed a very good question.
20 It's one that has to be looked at a little bit more
21 itself. The Commission shall discuss all of its
22 business. Does this mean that the Commission is not
23 allowed to go into closed session? Well, I'm reluctant
24 to just throw out an opinion right now because anything
25 I say is not the formal opinion of the Attorney General,

1 but we do provide division level advice, division level
2 memorandum of advice to client agencies. This is a very
3 good question. And having looked at Article IV for the
4 first time last week and the early part of this week,
5 that's not clear to me. It doesn't mean it's not clear
6 to another assistant AG or to the Commission itself, but
7 it's a good question. Why would you need to go into
8 closed session and look at the permissible purposes. I
9 don't see any really that might apply to the Commission.
10 They might apply to other boards or authorities or
11 commissions.

12 So one of the examples is you go into closed
13 session to discuss an attorney-client privileged
14 memorandum of advice. So I posed this hypothetical, if
15 the memorandum of advice was requested by the Commission
16 of the Attorney General's Office you can waive the
17 privilege and discuss it at an open meeting, but if you
18 want to invoke the privilege what do we do.

19 So I'm an honest attorney, believe it or not.
20 I'm an honest attorney. I don't know the answer to that
21 for sure. I can speculate. But I don't want to do
22 that.

23 >> Tom?

24 >> Yes please.

25 >> The thought that came to my mind in

1 reading this was in the event of a human resources
2 employee action of some description, the employee has
3 the right to ask for a closed session to have their case
4 discussed.

5 Typically when you're going to fire somebody
6 they also have the right to have an open session. Would
7 not that employee's right override the Article IV
8 mandate?

9 >> Well, again, Article IV refers to all of
10 its fees, but I keep seeing the word redistricting
11 matters, matters of redistricting. Now, there might be
12 some function of the Commission when it comes to
13 administrative functions, administrative functions.
14 Again, you are correct that a public employee who's
15 going to be disciplined, et cetera, may request a closed
16 session.

17 There's debate among attorneys whether the
18 public body has to honor the request, because it's pro
19 disclosure, pro open meeting. But that aside, if the
20 Commission found itself in a situation dealing with a
21 personnel matter where that request was made and the
22 Commission wished to honor the request, that's -- again,
23 I'm not sure. Because of this all of its business.

24 But then later, as I say, and I'm repeating
25 myself, Mike, I think your thought, too, it talks about

1 its business being redistricting matters. That's the
2 reason it exists.

3 But, again, as a public body composed of human
4 beings, and for those who are working in administrative
5 roles, supportive roles, you may have a personnel issue.
6 So that might be worthy of our -- whatever division,
7 Mike, you believe would be working with you sort of as
8 house counsel might want to address, but do it now in
9 advance of the question actually coming to rightness.

10 All right. And, again, I regret I can't give
11 you something more certain, but there's not that many
12 commissions and authorities that were established by
13 Constitution. With the focus on full transparency and
14 balanced approach to its decision-making. So I'd be
15 reluctant to say, oh, I don't see why you couldn't go
16 into closed session. There's been no real research done
17 looking at the Legislative history, looking at the other
18 records that we would find in terms of the Legislature
19 amending the Constitution. There's a good lawyer answer
20 for you.

21 Mike?

22 >> Excellent lawyer answer. My guess is if
23 we looked at the Legislative history they never even
24 thought about it, so --

25 >> Steve, I have to tell you, we've come to

1 that chasm many times. It's nice to have a bridge to
2 cross it, but sometimes you're at the cliff and you go,
3 they didn't finish it, you know.

4 Anyway, Mike, did you have a question?

5 >> I do. I have a response, or at least a
6 thought on this, so --

7 >> Please.

8 >> I mean, a couple things. One, of course,
9 this isn't a question of Legislative, you know, history
10 here, because this was not enacted by the Legislature.

11 >> Right, right.

12 >> This was a popular referendum.

13 I did speak with the drafters of the -- some
14 of the folks who were involved in drafting this language
15 and who have been legal counsel and otherwise just
16 involved in that whole process of voters not
17 politicians, between last meeting and this meeting in
18 anticipation of -- really in response to the questions
19 that this Commission posed to me last week and in
20 anticipation of this discussion today.

21 You and I can speak to that. You know, they
22 certainly talked about, you know, they felt like their
23 language was very clear, and that for them, and this is
24 not a surprise to anyone who, you know, is familiar with
25 any of this, that, you know, for them it was really just

1 about they wanted everything to be in the public and be
2 open.

3 That said, you know, I think the public record
4 in terms of what that group and other folks who worked
5 on it, you know, wanted, I think that's pretty clear. I
6 think, you know, as a matter of law I guess I'd say that
7 there's still the question of what is the Constitutional
8 language actually say. And so, you know, speaking about
9 the intent of the drafters or, you know, whatever else,
10 I think, you know, a lot of the jurisprudential analysis
11 will often talk about, you know, what did the words mean
12 in a common -- what do the words actually say, what do
13 they mean in a common understanding? Because it wasn't
14 the people who drafted, stuff gets drafted all the time,
15 it's not an act under the law. What matters is what,
16 you know, each of us as voters here in Michigan, and we
17 voted, for or against, what did we think that the words
18 in the Constitution actually meant. And that's, again,
19 it's just a question that just further, you know,
20 knowledge of that question without, you know, fully
21 answering it.

22 I did want to, Tom, draw a distinction. You
23 mentioned at one point that, you know, it talks about
24 not discussing redistricting matters. But I just want
25 to contrast, there's Subsection 10 and 11. Subsection

1 10 is talking about meetings. And it says, you know,

2 Each Comm -- it begins:

3 Each Commissioner shall perform his or her
4 duties in a manner that is impartial and reinforces
5 public confidence.

6 It goes on to say:

7 The Commission, conduct all of its business at
8 open meetings.

9 So that's -- so there's that. There's nothing
10 about redistricting there. It's all of this business at
11 open meetings.

12 The second, you know, contrasting that with
13 Subsection 11, which reads:

14 The Commission, its members, staff, attorneys,
15 and consultants shall not discuss redistricting matters
16 with members of the public outside of an open meeting of
17 the Commission.

18 So I think there's a difference there that the
19 directors are seeming, you know, trying to get to
20 between the Commission conducting its business, all of
21 its business, without qualification, further
22 qualification or limitation, as the language intends,
23 versus the discussion of specifically redistricting
24 matters outside of an open meeting.

25

1 And so there's different things between, you
2 know, like do you all -- someone contacts you and wants
3 to talk about the executive director position. Someone
4 calls and says, hey, you know, so-and-so applied,
5 they're really a great candidate, you know, that's a
6 discussion, that's, you know, that's outside of a public
7 meeting, but then I don't think would be covered by
8 Section 11 because that's not discussing redistricting.
9 That is not -- arguably, also would not be covered by
10 Section 10, because you're not conducting any business,
11 you're simply getting, you know, someone's calling and
12 giving you individually some sort of feedback about
13 somebody positive or negative or maybe somebody who's
14 applied for a position.

15 So if you can just try and -- keeping in mind
16 that, Tom, you're right, the discussion of matters is
17 limited to redistricting matters, that's in 11, but the
18 conduction typ -- the conducting of business is all
19 business is what Section 10 talks about.

20 So it may be clear as mud, but I just wanted
21 to, you know, flag some of those things.

22 >> No. Mike, thank you. Thank you very
23 much. I'm sorry, finish and I just have one thing.

24 >> Well, the last thing I was going to say is
25 that, given -- I mean, some of these, like I'm not sure

1 that's an immediate question that's before this
2 Commission right now. I do think Tom's counsel is
3 sound, and it may make sense for this Commission to
4 engage in this question and get an answer before you
5 actually need to know what that answer is.

6 And, you know, he's offered, I think, that,
7 you know, this Commission could ask for a division-level
8 review by someone at the Attorney General's Office that
9 would not be, you know, for those folks who are
10 concerned about whatever else, you know, that's simply
11 one, you know, some attorney's review. It would give
12 this Commission some, you know, legal counsel and what
13 they -- the again, I can't offer to you, common
14 individuals can't offer to you. You don't get -- have
15 other legal counsel.

16 So really the question is, you can either wait
17 on this question until down the road when you have your
18 own lawyer, in which case in the interim I think you
19 really probably need to default to everything being in
20 open sessions, everything being public, which is what
21 the Constitution says.

22 The one reason that some of you, but again, I
23 didn't hear all of you by any means in prior
24 conversations, raised this question, was because of your
25 pending, you know, you're about to hire a new executive

1 director. And if you think you might to or even would
2 be allowed to go into closed session, whether it's even
3 a good idea from a policy and public perception, then
4 you might need to get this analysis sooner than later.
5 And the division-level analysis from the AG's office may
6 allow you to do that, again, as the question of can you
7 do it, not should you do it, not is it a good idea to do
8 it.

9 >> Thank you.

10 >> Doug, you had your hand up.

11 >> Yeah. So your recommendation, Mike, is
12 that everything's public at this point. So if we can
13 create a committee, as I think we're going to do later
14 today, even that committee needs to be a public session.
15 And that committee's for the executive director, I
16 believe.

17 >> Is that a question for Mike?

18 >> Yeah. The question's for Mike. So you're
19 recommending, Mike, that everything goes public at this
20 point until we get further clarification.

21 >> Perhaps essentially. I think, you know,
22 at the very least just saying if you were going to go
23 and try to -- if you wanted to go into closed session or
24 do something else along those lines, then I would just
25 advise you, and not as your lawyer, but as a lawyer,

1 that doing something like that you should be doing that
2 on the basis of legal advice. I'm just noting you have
3 not received formal legal advice along these lines. And
4 if you act other than with formal legal advice you're
5 out there potentially on a limb.

6 And, again, a lot of folks are watching this
7 Commission and, you know, would be an easy target for
8 somebody to come after -- come after you.

9 >> Mike, just to respond. Thank you for
10 clarifying the Constitution versus Legislative approach.

11 I think we were using Legislative history more
12 as an analogy, in other words, going behind the back or
13 behind something. And that's very clear. And the idea
14 of that, no individual member of the public can
15 communicate with members of the Commission in full or
16 individually I think is very important. Where the
17 language is saying is that when we speak to the public
18 it's all the public that chooses to be part of the
19 communication, two-way communication. So that's
20 somewhat unique language in there. In other words, that
21 would not -- that would be a meeting of a Commission
22 member or members, all or some, with a member of the
23 public, that would not be an appropriate way to meet.

24 Is that right, Mike? In other words, how
25 those communications have to be done at an open meeting

1 for which the public is invited. You have public body
2 members and members of the public. A posted meeting,
3 notice to meeting. And that's the only way that that
4 would occur.

5 Just as a quick side note, the advisory
6 bodies, sometimes called subcommittees of whatever,
7 presidential search committees, you've heard of those
8 sort of things that are composed in less than a quorum
9 and a public body, are not subject to OMA because they
10 cannot make a decision.

11 This is different though when we come to
12 Article IV. And I would default to all business, as
13 Mike pointed out, being done at a meeting open to the
14 public.

15 You could have a subcommittee composed of less
16 than a quorum by definition, and still agree to have the
17 meeting open to the public. The statute doesn't say
18 thou shall not have an open meeting of a subcommittee.
19 You don't even see that term in the Act. In other
20 words, if all business is conducted at meetings open to
21 the public, certainly when there's a quorum of the
22 Commission, but even if it's less than a quorum, you can
23 post it as a meeting.

24 As a matter of fact, that is a side note,
25 Governor Whitmer's executive directive encouraged that

1 we follow certainly the minimal transparency
2 requirements of these statutes, but to enhance them
3 whenever we have the opportunity to go above and beyond
4 that.

5 Okay. I'll just go on the minutes. Of course
6 the only way to be able to memorialize what's going on
7 is you have minutes, and there's requirements about
8 minutes certainly.

9 You have rights, you've got remedies. Unlike
10 the FOIA, there is a criminal provision, there's a
11 misdemeanor provision if its determined by a court that
12 a -- or prosecutor in court that there was an
13 intentional violation of the Act.

14 This is a very rare remedy that I've seldom
15 seen come to fruition. Most public bodies make
16 mistakes, they're chastised for it, they have to pay
17 actual attorney fees to the member of the public who
18 sued or whoever the plaintiff might be.

19 But what's interesting, and I really give
20 credit to the Legislature in 1976 where they included at
21 the beginning of this statute a Mulligan, a do-over.
22 And if there is an action, a lawsuit taken against a
23 public body, that public body, may without any admission
24 of liability, reenact a disputed decision in compliance
25 and that cures the deficiency, that cures the defect.

1 That actually pulls the rug out from under the
2 litigation, because they took action.

3 We have on a couple occasions encouraged
4 public bodies clients, public body clients that were
5 accused of violating the statute, not with a lawsuit
6 filed, but just by a protest letter or whatever to
7 reenact the decision.

8 It's a heavy sanction in and of itself, you
9 have to go back and do everything all over again, but
10 nonetheless the idea here is the Legislature wants the
11 people's business to move forward when it comes to
12 decision-makers, commissions, authorities, committees,
13 that sort of thing.

14 Mike, I think that's the last page, is it not?
15 If you want to go -- yeah.

16 So was there anything else with that handout,
17 Mike, that you added? I didn't see anything else.

18 >> No. I just called out a couple spots in
19 the Constitution, and in the Constitutional language.

20 >> I'm glad, really, Mike, glad that we were
21 able to bring up some questions that will need a deeper
22 review, more extensive review. If it was all easy and
23 could be get in the first 20 minutes of a meeting that
24 would be remarkable. It usually doesn't happen that
25 way.

1 Anybody have any other questions on either of
2 these statutes? If not I was going to leave you with a
3 couple folks. Any questions?

4 >> Tom, I don't have a question. But having
5 -- I've never litigated an Open Meetings Act, but I
6 litigated a few FOIA cases. And just kind of an aside
7 for everybody, you just mentioned the actual attorney
8 fees.

9 That's why people come after commissions,
10 public bodies, et cetera, for OMA violations or FOIA
11 violations, because the attorney makes thousands of
12 dollars on these cases. And that gives them an
13 incentive to come after people. Because if you lose it
14 costs you a lot of money.

15 >> Well, and really when you think about
16 that, you'd have to pay the prevailing plaintiff's
17 filing fees. And it does provide for some punitive
18 damages and other types of damages. But the attorney
19 fees can be very high because the hourly rates that are
20 charged. And the FOIA says you're entitled to your
21 reasonable attorney fees, if you prevail in full, and
22 possibly if you prevail in part, and OMA says your
23 actual fees. But as a private practitioner, 13 years
24 long before my 33-tenure here, I always thought that my
25 actual attorney fees were reasonable. So I'm not sure

1 the distinction between the two terms.

2 Steve, did with he have any litigation
3 together? Your name sounded familiar to me, but --

4 >> I didn't see you the last time I did one
5 up in front of the Supreme Court, but I always
6 negotiated a substantially higher rate in my contract
7 for these than I did back then.

8 >> Well, like I said, I promote all of the
9 profession, that's for sure.

10 But I'm going to just share a couple quotes
11 that I shared with my class, I present to my class.

12 James Madison was prolific when it came to
13 open government. And if you've ever seen a class
14 memorial, there's plaques with all of his many quotes.

15 And a couple here is:

16 "Knowledge will forever govern ignorance. And
17 a people who mean to be their own governors must arm
18 themselves with the power which knowledge gives."

19 He said:

20 "Nothing could be more irrational than to give
21 the people power and to withhold from them the
22 information without which power is abused."

23 And finally:

24 "The advancement and diffusion of knowledge is
25 the only guardian of true liberty."

1 I think every journalist probably has that on
2 his or her wall, because that really is talking about
3 freedom of the press and, of course, freedom of speech
4 and the other things we talked about at the beginning of
5 this.

6 So not to make this too academic sounding, but
7 those words are important. You have to remember that.
8 And ultimately who is my boss? Who is my boss?

9 You know, to share one last thing, I was
10 telling Mike possibly, we get a lot of citizen
11 inquiries. And sometimes we'll get calls, mostly
12 everything is in writing. But if I take a citizen call,
13 we tell them that we can't provide legal inf -- advice,
14 they appreciate that. You have to go to your own
15 attorney. Usually at the end of the conversation they
16 thank us for legal advice nonetheless. And they thank
17 me. And then a couple times I said, no, let me thank
18 you for putting food on my table. And there's this
19 three seconds of silence. And then I get the comeback,
20 I've never heard that from anybody who worked in
21 government before.

22 You know, and I made it clear that we are here
23 to serve the public. We're here to serve the populous.
24 And we keep that in mind. And I know that you share
25 that. And the work of this Commission is so critical.

1 Anything else, Mike?

2 >> Anthony, did you have a question?

3 >> Yeah. And I think Cynthia had her hand
4 up, too.

5 >> Oh, okay.

6 >> Cynthia?

7 >> Well, I just had a question. I think it
8 was brought up in an earlier meeting, but if we're using
9 our personal computers to do this public work, does that
10 cause a problem for us potentially down the road?

11 >> Well, again, the question being using
12 personal devices to do state business. That's not
13 uncommon. Some agencies provide a unique state-issued
14 device for its employees who need to communicate 24/7,
15 let's say. There is case law that indicates that no
16 matter where the public information exists it's -- it
17 should be accessible.

18 In other words, it's not location of the
19 records, it's the character of the record. So that
20 doesn't mean that any personal information on your
21 device, computer or phone, is subject to FOIA
22 disclosure.

23 Unfortunately, however, to be able to pull the
24 state records up, and a FOIA coordinator would work on
25 that not the public at large would work on that. You

1 need to put the information, the bucket of personal
2 information versus the bucket of public information,
3 public records, if you will, to become publicly
4 available. Those devices could be, as I said, I use the
5 term forensic examination, meaning that a FOIA
6 requester, now plaintiff in a trial court, says I do not
7 believe when they say that they only took from the
8 personal device, the public information, how do I know
9 that was the case?

10 Now, we have provided for our clients -- or
11 our clients have actually provided, but at our request,
12 affidavits, you know, where you say, after review, I
13 swear that this is the only information on that. Trial
14 court judges usually are impressed by that, persuaded by
15 that. They're not looking to get into the personal
16 information.

17 But it does pose a little bit of discomfort
18 sometimes to think that I've got both public and private
19 information on it. So I'm not suggesting or
20 recommending anything. But the answer to your question,
21 I'll just leave you with that expression, it's not the
22 location, it's the type or nature of the record.

23 Does that help, Cynthia?

24 >> Yes.

25 >> At least answers the question. It doesn't

1 allay any concerns.

2 I thought the MC had a question.

3 >> Yes. Thank you. It's -- I just wanted to
4 acknowledge, I appreciate the offer that may have been
5 couched. I am interested in trying to just follow up
6 and understand if there is a way for us to get a hearing
7 on Subsection 10 and 11. I said hearing, I don't know
8 if that's the right term, but get some determination
9 prior to -- I want to use our funds wisely, and I feel
10 like we potentially protect ourselves from litigation if
11 we have some sort of determination.

12 And I just wanted to offer to our Chair that I
13 am interested in that and I appreciate the offer, if
14 that was an offer.

15 >> Yes. What I was suggesting is that the
16 Attorney General's Office, as the attorney for the State
17 of Michigan public bodies, we do work with our client
18 agencies, we have a large, relatively large staff, we're
19 one of the smaller departments, but we have like 20-some
20 divisions.

21 So I'm not sure, Mike, if a certain division
22 has already been assigned or will be working with the
23 Commission, or as I use the word, house counsel.

24 I'm in the state operations division. We do a
25 variety of things that include advising FOIA/OMA. We

1 also do procurement of contracts for PTMD technology
2 area. So we have enough attorneys to cover all the
3 areas of law necessary. So I'm not sure it's going to
4 be my division or even myself. Again, I'm a generalist,
5 and that's I was so happy that Mike was here. Because
6 Mike's a specialist. He knows the articles much better
7 than I do, at least at this juncture.

8 Mike, you were going to comment?

9 >> Tom, in response to that question, there's
10 not a specific division that has already been assigned
11 here, nor do I think will there be a division assigned
12 for this. As is noted, this is, of course, the
13 Independent citizens Redirecting Commission.

14 >> Sure.

15 >> They have the ability to contract the
16 legal counsel, among other types of assistance and
17 specialization, and typically does reference their
18 ability to hire attorneys.

19 That said, it's a little bit of, you know, as
20 with everything, it seems like, at the moment, with the
21 Commission, the chicken or the egg, especially being the
22 first time. I think in 10 years when the next
23 commission's seated, there will be -- you know, folks
24 will be able to look back to this experience of this
25 first Commission and have, you know, more of a sense of

1 how to move forward. There may be some existing legal
2 memoranda or other things that will be able to be passed
3 on, you know, right out the gate. So that's, you know,
4 where they stand. I think the question would be for
5 this Commission, MC, I think, you know, what you were
6 referring to, as Tom had mentioned, not a formal AG
7 opinion, which is actually a term of art that goes
8 through a distinct process, but rather Tom thought that
9 there may very well be able to be able an informal, I
10 don't know, it's, you know, very practical
11 division-level advice that would not be necessarily the
12 formal advice of Attorney General Dana Nessel, but
13 rather of the division attorneys who are part of
14 professionalized civil service who predate the current
15 Attorney General and go after and just like Tom and
16 other folks like that. So if this Commission is
17 interested in that this Commission can, you know, you
18 make the motion and, you know, Tom happens to be here, I
19 can certainly, you know, relay this and would relay this
20 to the, you know, to the Attorney General's Office, and
21 find out like which division would be the right division
22 to engage in those questions. And then they could
23 provide some basic, you know, review on the questions
24 that are before, you know, before this Commission and,
25 you know, and then they could come back and advise this

1 Commission at a future meeting on that. And if that's
2 something that you'd be interested in doing, you can
3 make that motion with the AG's office. I think that
4 they -- I suspect that they'd be happy to assist in this
5 respect. But, again, that would be -- you know, in my
6 mind I see it as more of a -- kind of a one-off at this
7 point in your -- in the commission's creation and
8 formation, because you don't have your own legal counsel
9 yet.

10 And I definitely heard the conversation last
11 week of various commissioners making at least what was
12 clear to me, which is making clear that you all, you
13 know, intend to have your own legal counsel as the
14 Constitution allows you to. And so I think it's only,
15 in my mind, the chicken or the egg question. Do you
16 just do everything in open, in which case you don't
17 really need to get the legal analysis on that at this
18 point, or do you as an interim step ask the only
19 attorney you can right any, which is the Attorney
20 General's Office, for some kind of division level of
21 analysis, to be able to give you options right now until
22 you have your own attorney in place.

23 >> Thank you, Mike. By the way --

24 >> If you decide to do that it would be a
25 motion and a second.

1 >> Thank you, Mike, for that. Thank you for
2 pointing that out. I was not aware that there was the
3 provision for retaining counsel. That would be
4 essentially in your house counsel. That's not unique to
5 the Commission, there's some other examples of that in
6 government, so --

7 And, again, I want to caution that I don't
8 want to overstep any boundaries in terms of what I'm
9 saying here. But in the interim certainly we can, as
10 we're doing here today, this is a presentation, this is
11 not legal advice, but nonetheless we'll go through that
12 role.

13 Did you need me to stay on for any reason? I
14 hear that you're going to start going into other
15 Commission business now. Did you need me to stay on for
16 anything? Or I'll leave you to your important work.

17 >> You've answered my question. Thank you.

18 >> Okay. Thank you.

19 >> Unless there are any other questions, I
20 have not seen any, I would like to thank Tom for being
21 here and providing us with a very enlightening
22 recitation of the Open Meetings Act and the Freedom of
23 Information Act.

24 Certainly the time that was spent gives us a
25 nice overview, it doesn't delve into the weeds like I'm

1 sure Tom has done on many occasions, but as least maybe
2 we know now to recognize something we ought to think
3 about before we jump in.

4

5 So, again, thank you, Tom. We appreciate it.

6 >> Thank you, Chairman. And, again, this was
7 my pleasure to be with you all. And with your lead, I
8 will leave, by your lead.

9 >> Cynthia, you were waving. Do you have
10 something for Tom before he leaves?

11 >> No.

12 >> Certainly. I'm not trying to rush off. I
13 just don't want to take up all your time.

14 >> No. I was saying thank you, bye.

15 >> Thank you. Certainly. My pleasure.

16 >> All right. We're at the break time for a
17 five-minute break, so we'll be back at 10:27.

18 (A short recess was taken)

19 >> Welcome back, Everybody.

20 And the next agenda item is Subcommittees. We
21 had discussed subcommittees previously, specifically to
22 review executive director position and any other
23 positions, which, obviously, would be the public
24 relations communications director and legal counsel
25 committees.

1 So I'm going to open that up for discussions.

2 Doug?

3 >> Yes. I think definitely we need to create
4 subcommittees to -- or committees to pursue these
5 different positions.

6 I'm going to throw an approach out on the
7 table, not as a motion, but an approach. I would
8 suggest that we keep our committees at a minimal number
9 of people, a small number, so that it's a good working
10 group committee.

11 And I would also suggest that three people
12 would be an acceptable number one being a Republican,
13 one being a Democrat, and one being an Independent, so
14 that we don't have any disagreement or people
15 complaining about unfair representation as we move
16 forward.

17 And secondly, on the executive director
18 position committee, I will throw my name in the hat to
19 be on that committee, and I will also throw my name in
20 the hat to be the temporary chairperson until -- of the
21 committee until we get a chairperson. But I'd like to
22 talk about the approach, if people feel that's
23 reasonable.

24 >> And by approach you mean just what you
25 said, what you just --

1 >> Yes.

2 >> -- talked about.

3 >> The three-person committee, one
4 Republican, one Democrat, one Independent individual.

5 And I'd say we do this for every committee,
6 not just this one. But this would be the standard that
7 we would move forward with.

8 >> Okay. Rhonda, I see your little hand
9 waving. That's working. Good.

10 >> I'm trying to decide which one to use on
11 here.

12 My question is, what exactly would the role of
13 the subcommittee be, say for the executive director
14 position? Is it to narrow down applications? Is it to
15 review them and then bring them to you? What exactly
16 would the role be? I mean, are they going to be making
17 a decision as far as narrowing the field down and then
18 just bringing what they feel to us or what exactly would
19 the role consist of?

20 >> Yeah. That was how I envisioned it.
21 Let's say we get 100 applications, then we maybe narrow
22 it down to 10 or five, whatever we decide. And of that,
23 bring those five back to the Commission with a
24 recommendation of who we think the top candidate is.
25 That's my understanding.

1 I think the Commission's purpose is to put --
2 is to filter the information that we've got, get it down
3 to a manageable number of people, being the top -- who
4 we feel are the top people. And then having that
5 decided by the Commission itself on who the executive
6 director would be. That's just my opinion of it.

7 >> I have a question.

8 >> Rhonda?

9 >> In the last meeting we had it where the
10 Department of State was going to kind of do that. They
11 were going to narrow it down to what they felt was, you
12 know, these ones are the best that meet the most of your
13 criteria. Is that still -- Mike, I see you raising your
14 hand.

15 >> Go ahead, Mike.

16 >> Yes. Thank you.

17 So along those lines, we did mention something
18 along those lines, but slightly -- you know, it's worth
19 clarifying. So we were not going to be the Department
20 of State staff, and I think ultimately what the
21 Commission asked us to do last meeting and what we plan
22 on doing with the resumes that come in, we're not going
23 to be narrowing them down. You may recall I referenced,
24 you know, we can do an initial review and I think, you
25 know, based on the conversation last week we will be

1 doing an initial review to sort them into different, you
2 know, categories or buckets, if you will, to say, you
3 know, you received, I don't know, 100 resumes; of the
4 100, 50 of them simply don't meet the criteria of what
5 you're asking for. These other 50 do, and then within
6 the, you know, the 50 that do, these are the ones, you
7 know, pure 20, or whatever the number is -- of course
8 I'm making these numbers up -- these 20 meet your
9 preferred --

10 >> Right.

11 >> -- standards, and then these other ones
12 meet your basic requirements, but not your preferred.
13 And we present all of them to this Commission. And then
14 only you all, you know, acting fully as the Commission
15 would have the authority to act, to actually, you know,
16 remove someone or actually make a decision to narrow the
17 list from, you know, again, with the fake numbers I'm
18 using, 100 to 20.

19 And I think along those lines there's
20 additional questions that, I think, you know, Doug, if
21 you're -- I think what I understand Doug to be proposing
22 would be an actual formal public committee, a formal
23 committee of this Commission that would be charged by
24 this Commission to review, you know, maybe the 20, or
25 whatever it is, again, using the, you know, Department

1 of State staff would do the initial review, present
2 everything, this Commission could then say, you know,
3 hey, Doug and that committee, if you guys were to decide
4 to do that, please review these 20 or please review the
5 50 that meet the full requirements. And then that would
6 be a decision of this condition, and say, you know,
7 please review those and come back with your
8 recommendation on who we should move forward with.

9 And if this Commission asked its committee to
10 do that, then I think the committee could do that, I
11 believe, within a public meeting.

12 Where it gets separate, and just to kind of
13 flag, you know, if that's what Doug's talking about, I
14 think that would work within the context of the Open
15 Meetings Act.

16 If, however, you know, someone were to propose
17 having an advisory committee that is intentionally below
18 quorum that would only providing, you know, be providing
19 review and informal advice, then at that point that
20 advisory committee would not be able to, and I think Tom
21 had referenced this, but I don't know that he went into
22 full details here, if it's an advisory committee that's
23 taking on that work of reviewing, that that advisory
24 committee would not be able to make a decision and
25 narrow it from 100 or 20 down to five or whatever the

1 number you end up coming up with. Because they don't
2 have the authority as an informal advisory committee.

3 So, again, that's one of the things to be
4 mindful of. But, again, I think what Doug is talking
5 about is actually a committee. And I think ultimately,
6 Doug, to be safe, you know, if you end up -- if the
7 Commission ends up going with the committee to do this
8 work it could very well be the committee comes back and
9 says, these are our top five, but here's all 50 of them.
10 You can see all of them and, you know, we were able to
11 -- we kind of roughly -- you don't have to go through
12 each one, but in broad strokes this is what we did and
13 why we did it and how we came to these five or 10 or
14 whatever the number is that the committee would be
15 recommending to go this full Commission.

16 I hope that's helpful.

17 Does that work, Rhonda?

18 >> Cynthia?

19 >> So I was trying to look through my notes,
20 but how many did we decide is a quorum of our group?

21 >> Nine.

22 >> Nine. Per the Constitution.

23 >> So if we had nine people on this
24 committee, they could narrow it down?

25 >> If they created --

1 >> But if we had nine people on the
2 committee, they could make the ultimate decision of who
3 to hire. But I don't think that's what we want.

4

5 >> I don't either.

6 >> And I -- I have two thoughts. Can I --

7 >> Go ahead, Mike.

8 >> Oh, it's MC. Sorry, Steve. It's MC that
9 was speaking.

10 >> You disappeared. Come back.

11 >> Oh, MC was speaking, I think. Not me.

12 >> Oh. Okay. Who else? MC?

13 >> Yeah. So I want to offer -- I like what
14 Doug is saying, I think we do want to try to divide and
15 conquer, so to speak, and try not to use all of our
16 time. And I want to offer that -- and I like the
17 approach of three, and I think that we may come into
18 context where people maybe of the same party who want to
19 do it, and have like qualifications and skills and
20 interests, and so what I don't want to do is limit it to
21 three. So I want to offer the idea that if we have
22 members of our Commission here who do want to be part of
23 the Commission, I want to offer that we try to be
24 perceived as balanced, which I think was the intention
25 behind your approach. So I guess I'm just offering that

1 if there were two Independents and, you know, three
2 Republicans that wanted to do it, that we try to figure
3 out a way that we as a Commission feel comfortable sort
4 of with the optics of how that's perceived or could be
5 perceived by the public. So I just want to say I agree
6 with your approach, and I want to make sure we each get
7 a chance to do it if we want it.

8 The second thing I think -- I also believe
9 that -- I don't -- I think if we as a Commission agreed
10 on, let's say, established criteria that the
11 subcommittee would work, we might all feel real good
12 about it.

13 And what I'm imagining, for example, is that
14 we have to define how -- like I'm imagining writing
15 samples, right, to try to define the last three or four
16 or 10 people. And that's just a lot of reading. So I
17 wouldn't want all of us to have to read it. And I would
18 trust the subcommittee to sort of read it and compose
19 it. But I'm not certain that we actually have agreed on
20 a writing sample to help determine the final, you know,
21 candidates. So what I'm suggesting, perhaps -- and I'm
22 not sure this is a motion yet. I want more discussion.
23 I don't know exactly how I want to do this, but what I'm
24 suggesting is hiring criteria, we have a rough draft
25 that is, I think it's been determined, you know, using

1 the criteria that are in the -- is in the job
2 description. And we may want to refine or sort of as a
3 Commission some up with criteria, further criteria that
4 helps us feel like we can delegate the Commission --
5 excuse me, delegate a subcommittee with the task of
6 bringing back to our whole Commission what we want using
7 this criteria we all as a Commission have approved.
8 That's a thought.

9 >> Dustin?

10 >> So I like what Doug said, and I kind of
11 also like what MC said, however, I do believe that more
12 than three people on a Commission is overkill. Because
13 then you might as well just go to all of us. And one
14 Independent, one Democrat, and one Republican as far as
15 optics go, in my opinion that is pretty balanced.

16 And I could add a caveat saying like if more
17 than one person wants to be on a Commission, what I'd
18 say, if you're on one you can't be on another one unless
19 no one really wants to do it. Then at that point you
20 can take another seat on a committee. But opening it up
21 to more than three people, I think, would be overkill.
22 And then one of each party and one independent. I think
23 that would be balanced.

24 And then if we have to have multiple
25 Commission -- multiple committees for different

1 subcommittees, if you're on one you can't get on another
2 one until -- unless no one else wants to do it, then,
3 you know, it can be opened back up to you.

4 My opinion, my thoughts, so --

5

6 >> Other thoughts from -- Janice, do you have
7 anything for us?

8 >> No. I kind of agree, three people will
9 probably be plenty. We really don't have any idea right
10 now how many applicants we're going to get. As long as
11 the Secretary of State's office is kind of like putting
12 them in buckets I think that's a great idea. Because it
13 kind of, you know, cuts the workload for that three.
14 And then the three will bring it back, and I'm assuming
15 we're all going to vote on who we pick.

16 >> I think that that's probably a pretty good
17 assumption, that this Commission has to approve and
18 hire, ultimately hire the executive director. I just
19 think that's the way we have to go.

20 >> Glenn, do you have anything that you want
21 to add?

22 >> Well, have we talked about the duties and
23 responsibilities of executive director?

24 >> We have. We have a posting of a job
25 description that's been out there and it's -- it's on

1 the website. You can go look. In fact, I looked today
2 on Facebook and it's posted on Facebook. If you can't
3 find it let me know and I'll get you a copy or ask --

4 >> No. I've seen it. I was just thinking it
5 was kind of general. But maybe that's the way we want
6 it at this point.

7 >> Well, it's what we approved and it's
8 what's out there to the public.

9 >> True, true.

10 Okay. Thank you.

11 >> Sally?

12 >> Hi, everyone. I just thought I might
13 respond to what I heard as kind of a question from MC
14 about how you might talk about criteria or, you know,
15 potentially narrow these applicants, whether it's as a
16 subcommittee or not.

17 And a practice that the -- that the department
18 of state and I believe other state agencies use is
19 supplemental questions for people who are applying so
20 that you can get a sense of, you know, for example, how
21 many years have you been in a management position,
22 things like that. And so if this Commission wanted to
23 think about asking applicants for supplemental materials
24 and/or questions, right, like whether it's a writing
25 sample or, like I said, kind of questions that would

1 allow you to put them into buckets based on experience
2 or other things, even more than their resume and cover
3 letter, that's an approach you could take that's pretty
4 standard in our department.

5 >> Yeah, I don't think we're limited,
6 certainly, to just what's in the posting in the job
7 position when we're interviewing. However we end up
8 doing that or however the subcommittee ends up doing
9 that, there's nothing preventing us from asking more
10 questions that we might seek -- and, quite frankly, as
11 we look at applications or the subcommittee looks at
12 applications, there are going to be things that come up
13 that aren't going to be the same for everybody, but we
14 may look at candidate A and say, well, what about this
15 and candidate B and say what about that. So, I mean,
16 it's fluid.

17 Janice?

18 >> Do we have a deadline as to when we have
19 to make this decision?

20 >> We don't have a hard deadline, but I don't
21 -- Sally, is there a deadline on applications coming in?

22 >> Yes. So the current closing date for the
23 posting is Monday, October 12th. So if you all will
24 recall, the current kind of schedule that's laid out for
25 this Commission has three meetings that week, whether

1 it's subcommittee meetings or full meetings, so that you
2 all would have multiple opportunities to review, invite
3 candidates, top candidates for interviews, that kind of
4 thing. So that's the timeline on the meetings that are
5 set out at the moment.

6 >> And when I said there's not a hard
7 deadline for us to hire this person, but we do have the
8 deadline of they've got to get their application in.
9 And, of course, if we didn't find anybody we liked we
10 could repost.

11 >> Yes, exactly.

12 >> Cynthia, you had your hand up? No?
13 Rhonda?

14 >> I'm just full of questions today.

15 So in terms of the subcommittee, are you
16 talking a subcommittee specifically for the executive
17 director position or are you talking a subcommittee for
18 all hiring?

19 >> Well, I think Doug was talking for the
20 subcommittee for, at least initially, the ED position,
21 but he also said that it would be kind of the method we
22 would use for other hires.

23 Is that not correct, Doug?

24 >> That's correct. I mean, I would say, for
25 example, we're going to end up with a subcommittee for

1 hiring the general counsel and the outside counsel. And
2 there's certain people in this group that have that
3 skill set that understand the legal environment and they
4 should be on that commit.

5 So I think each of us have different skills
6 and different backgrounds that can help apply to the
7 different positions that we -- that we hire for. And I
8 would suggest that we have a committee for each one of
9 those as we go forward. Except maybe the legal. Maybe
10 we'll have one committee that will deal with the general
11 counsel and the outside counsel because it's the same
12 skill set.

13 So that -- that was kind of my thoughts on
14 that.

15 >> MC?

16 >> My thoughts on that, too, are I see this
17 says in some ways establishing a potential
18 administration. And I think what I mean is, I think
19 each, as Doug said, right, if we have people who are
20 interested in it who have experience and also
21 interest -- when I say people what I mean is the
22 commissioners -- in this, I want people to -- I want our
23 Commission to liaise with the staff that we eventually
24 hire in a way that -- because it's -- we're only around
25 for a year. It feels like a pretty intense time. And

1 I'm imagining questions and I'm certain these are lots
2 of things that are going to pop up. And the people who
3 read and establish connections and liaise with the
4 commissioners -- excuse me, with the potential -- with
5 our candidates in the beginning may form a relationship
6 that is very useful as we begin to administrate and
7 answer other questions.

8 So I'm imagining a subcommittee of people who
9 really care about how or staff can potentially work, so
10 it's in addition to -- and it begins at the hiring
11 process, because there's the first -- yeah, because
12 we're around for such a sort time, it feels like it's a
13 pretty intense time. And to get to know someone and
14 understand them and then to help navigate on behalf of
15 the whole Commission, but not make decisions on behalf
16 of the whole Commission. That's what I want to make
17 sure is being clear, is I think it's helping -- and I
18 don't think it's advisory, I think it's more than
19 advisory, but I don't think we should -- I'm hoping that
20 we can each use our time in a place where we as
21 commissioners want to spend more time and go deeper, and
22 I don't -- and I can trust my other commissioners to go
23 deep in their fields, if you will, or in their
24 subcommittees so that I don't have to know everything
25 about the whole Commission, but can know some specific

1 things and understand enough that I can make informed
2 decisions as a Commission.

3 I hope that's clear. It feels wordy.

4 >> Thank you.

5 Janice, did I see your hand up?

6 No?

7 Okay. Anybody else?

8 Just a minute, Doug, let me -- Juanita, you're
9 being pretty quiet down there. We can't see you. Do
10 you have any comments?

11 Okay. Doug?

12 >> Yeah, I'd like to put forward a motion
13 that we form a committee for the executive director
14 position, and that committee will consist of three
15 individuals, one Republican, one Democrat, and one
16 Independent person.

17 >> I second that.

18 >> Motion by Doug. And who seconded?

19 >> Dustin.

20 >> Dustin seconded.

21 Further discussion? Cynthia?

22 >> Point of inquiry, I guess.

23 >> Okay.

24 >> So I agree with this idea, and it does
25 seem fair to have one from each affiliation represented.

1 However, I really feel strongly that I want to be on
2 that committee, too. There could be multiple people
3 from the same party that want to take part in that
4 committee. So I don't exactly know how we --

5 >> Well, we'll take self-nominations, as well
6 as other nominations when we get to there. We're not
7 there yet.

8 Any further discussion on the setup, the broad
9 outline of how we're going to set this committee up?

10 MC?

11 >> I just want to acknowledge that Erin
12 before she left said that she did want to engage in the
13 discussion for subcommittee for ED, and just returned.
14 So I just wanted to make sure that, yeah, there's some
15 piece here that Erin gets to speak to.

16 >> Good. Thank you.

17 Erin?

18 >> Sorry. I think I'm good. I'll just take
19 a look at what I missed while we were gone. I just
20 wanted to be -- because I, too, like Cynthia, was
21 interested in being on the subcommittee for the ED
22 position.

23 >> Okay. May I suggest --

24 >> Who's --

25 >> It was MC. Sorry, Steve.

1 I was thinking about, what if we just had a
2 straw poll so we could understand what parties each
3 person who was individually interested in, like if we
4 have a, let's say, problem we have to solve before we
5 make a, you know, a formal vote on this motion, I wonder
6 if we could try to just get a straw poll or see who is
7 interested in being on this committee.

8 >> Well, we've got three, Erin, Cynthia, and
9 Doug.

10 >> I just don't know party affiliations. I'm
11 sorry.

12 >> Rhonda's raising her hand. Are you
13 raising your hand you're interested?

14 Well, we've got a lot of people. Let's figure
15 out if we're going to do it this way, and then let's get
16 nominations and do that number two.

17 >> Anthony, you're throwing your hat in the
18 ring?

19 >> Yeah. And I have some comments as well.

20 >> Okay. Go right ahead.

21 >> So I agree with having a subcommittee, not
22 only for the executive director but I think for future
23 hires as well. I think, as we've all kind of stated, it
24 makes sense, as we have different areas of expertise
25 that we can bring to the table. However, I'm not sure

1 that we should limit it to three people. I think we are
2 -- I mean, I can already see now we have more than three
3 people that want to partake in it and I don't see why
4 limiting it -- I don't see the benefits of limiting it
5 to only three people. The perceived benefit is that
6 there is less bias if you only have one person of each
7 party and one independent. But I kind of question that
8 thinking. I think there are plenty of other ways to
9 drastically reduce bias other than having, you know,
10 just people in each party. I don't think it will reduce
11 much more if you have, you know, two Independents
12 versus, you know, one Independent and two Democrats. I
13 honestly don't think that matters. There are a lot of
14 ways that you can limit bias.

15 For example, you can remove the names on the
16 applications for the initial rankings. We're not asking
17 the applicants their unique political affiliation, and I
18 don't think they are going to volunteer that information
19 to us, you know, on their initial application anyway.

20 So I -- my point is I agree with having the
21 subcommittee, I think that's a good way to go about it
22 to make us more efficient. I just don't know if we
23 should put a hard limit number on it.

24 >> Are you making an amendment to the motion?
25 Because the motion is we're going to have three.

1 >> Well, I'm wondering what others' thoughts
2 are on what I just said.

3 >> Okay. Glen?

4 >> I question the need to have one
5 Republican, one Democrat, and one Independent. Because
6 the makeup of the entire Commission has already been X
7 amount -- was it four, four Republicans, four Democrats,
8 and five Independents?

9 >> Agreed.

10 >> So that has already accomplished the task
11 of making it independent. Do we need to get down in the
12 weeds and micromanage and make everything that we do
13 divided up like that?

14 >> And I'll just -- I'll try to respond.

15 >> One of the things that I read in the
16 comments that were mailed in, if I'm not mistaken, I
17 have to go back and look at them, is that there are
18 people out there that are looking at this exact thing.
19 Are we in fact balanced, are we -- do we have a
20 Republican, a Democrat, and an Independent on things
21 that we're doing so that quite -- so that, you know, one
22 party or the other doesn't take over the committee, the
23 Commission. So it's out there.

24 >> And just as an example, I think we had
25 Cynthia, Rhonda, and Doug who had raised their hands,

1 and maybe Erin. I don't know if you got you too, Erin,
2 is that right?

3 >> (Shaking head affirmatively.)

4 >> So all four?

5 >> That's correct.

6 >> And they are four Republicans.

7 What I mean is, like, I think we -- you know,
8 what we're saying is --

9 >> Pursuant to our motion they wouldn't all
10 be on there.

11 >> Agreed. And I think that they each have
12 an interest in being on there. So I'm trying to
13 recognize what Anthony said. I want to try and see if
14 we can accommodate, right, people who have an interest
15 --

16 >> Well --

17 >> -- and see if there's a way for us to --
18 yeah.

19 >> If you do that you do it as a committee as
20 a whole.

21 >> Yeah. Fair enough. So it is a dilemma.

22 >> I mean, the idea is you're going to have a
23 smaller committee to spread out the work, because you've
24 got -- well, that's the idea. You have a smaller
25 committee to spread out the work.

1 So any other -- the motion before us is to set
2 up the committee with three members, one, one and one.

3 Is there any further discussion?
4

5 If not, we're ready to vote.

6 All in favor of -- well, I'm going to do a
7 roll call.

8 Sally?

9 >> Commissioner Chairman Lett, if you could
10 actually pause for a moment. I believe Juanita has
11 comments, but she's having a hard time calling, making
12 sure that her phone connection, she can actually be
13 heard. So Sarah is working with her right now.

14 >> We will certainly wait. That is not --

15 >> Yeah. Thank you very much. I'll be sure
16 to let you know. Or at least when she's unmuted.

17 >> Technology's great when it works, folks.

18 >> Looks like Erin has her hand up.

19 >> Yeah, Erin.

20 >> Well, since we're waiting, and as MC
21 pointed out, there's four Republicans that are
22 interested in being on the subcommittee, and I will
23 defer, I'm fine with that. But will we be drafting
24 someone from either, you know, the respective parties
25 that have not put forth an interest, so an Independent

1 and a Democrat, to be on that committee with a
2 Republican.

3 >> Well, I'm Independent, and I'm interested.
4 I'm not sure what Doug is, but he's the one that made
5 the motion in the first place.

6 >> I'm a Republican.

7 >> Dustin?

8 >> I was interested as well, and I am a
9 Democrat.

10 And then to further the discussion about
11 people who are interested in committees, that was one of
12 my suggestions, is once we get to the, you know, the
13 makeup of it, if you are part of one committee then you
14 can't be part of another committee until there's no more
15 interest. And then at that point you can put your hat
16 in -- your name into the hat again to be on another one.

17 Because that'll -- because we're going to have
18 more than one committee or subcommittee throughout the
19 whole process of what we're going to be dealing with,
20 and that would be one way to make sure everyone is
21 indeed included in something, so --

22 >> Sure. And understand, I mean, we're
23 setting this up right now primarily for the ED --

24 >> Right.

25 >> -- AG, and the public relations. That

1 doesn't mean that this is going to be the committee
2 structure forever and ever, so --

3 >> Right.

4 >> Cynthia?

5 >> Janice also had her hand up, just so you
6 remember.

7 >> I just want to say that I don't want to
8 limit someone from being on more than one committee.
9 Because we already talked about the next committee, and
10 it might be in that -- the person who's already been in
11 the committee's wheelhouse, and I don't want to say,
12 well, no, you've already been in one, even though this
13 is like their field and they would have a lot of
14 knowledge.

15 So I don't like the idea of limiting, you
16 know, being on a committee again.

17 >> Well, I don't -- I think that's a valid
18 point.

19 On the other hand, as stated, we want to
20 certainly spread it around so everybody has an
21 opportunity to input.

22 The other thing that I would hope, and I think
23 that the way that this amendment came about is that
24 whether you identify as a Republican, a Democrat, or an
25 Independent, everybody's on the same page that the

1 citizens are to make these decision so that the politics
2 is taken out of it.

3 >> Yeah. I think the reason I mentioned the
4 Republican, Democratic and Independent was perception.

5 I mean, I take a look at this group, I don't
6 see any political bias at this point in time, but it's
7 the perception. And that's what we've got to manage.

8 >> Okay. Sally, where did you go?

9 >> I think Cynthia still had a comment.
10 Sorry, Steve.

11 >> Just a minute. Sally?

12 >> Yes.

13 >> How we doing?

14 >> We're working on it.

15 >> Okay. Cynthia? There you are.

16 >> Okay. So understanding that it is good to
17 divide and conquer, so I would be willing to not be on
18 the committee, since there's more than one Republican
19 that wants to. But I want to be clear how it's going to
20 work. So if the committee whittles it down to, you
21 know, a handful for us to consider, does that mean we
22 won't be able to consider any of the others if we --

23 >> No.

24 >> We'd still be able to access their
25 information and bring that forward if we find one that

1 they missed?

2 >> No. Everything -- all the applications
3 are going to come to us, as a committee of the whole.
4 Because if we don't do it that way then the subcommittee
5 is making a decision, which is -- could be in violation
6 of the Open Meetings Act, though those committee
7 meetings should be open, should be posted and should be
8 open meetings.

9 But my understanding of the way that we're
10 doing it, and Doug may have a different idea, was
11 they're going to as a, you know, here's a bucket we
12 think look the best, but here's everybody, and the
13 committee as a whole is going to make an ultimate
14 decision.

15 Doug, your thoughts on that?

16 >> I think a lot of it depends on the volume.
17 If we have 100 people, that's 100 resumes to go through
18 for all 13 of us, you know, I don't think we want to do
19 that. I think it's really volume derived. If we only
20 get 20 responses, it's pretty easy to deal with it that
21 way.

22 >> Right. I would -- Rhonda go ahead.

23 >> I just want to make sure I understood
24 Cynthia's question right.

25 Were you asking that the subcommittee, say,

1 picks five people that they feel would be the best, but
2 you reviewed the resumes and you saw you a sixth person
3 that you think was the best, were you asking is it still
4 possible for that sixth person to be considered, even
5 though you're not on the subcommittee.

6 >> (Shaking head affirmatively.)

7 >> That is what you were asking. Okay. I
8 just wanted to make -- so was that truly answered?

9 >> That's my understanding, that --

10 >> Yeah.

11 >> -- you know, anybody that applies would
12 still be eligible, though probably not going to be
13 picked.

14 Anthony?

15 >> So we as a Commission of 13 have the file
16 say in whatever we do, even whatever the subcommittee
17 brings up, still the end decision --

18 >> Okay. Juanita, I'm going to unmute you
19 now, okay?

20 >> Okay.

21 >> We can let -- let's let Juanita speak, and
22 then I'll continue after.

23 >> Finish your thought, Anthony, please.

24 >> Well, I was just saying that, you know, us
25 as a Commission are going to have the final say, but if

1 the point of the subcommittee is going to be to narrow
2 it down to, you know, however many number of people that
3 the subcommittee then brings to our Commission, and then
4 our Commission can interview those people, be it five or
5 ten or whatever number that the subcommittee decides, I
6 just -- I think it would kind of defeat the purpose of
7 the subcommittee if, you know, if each person that
8 wasn't on a subcommittee went and tried to, you know,
9 bring forth people that the subcommittee already
10 narrowed down. Then we should think about the purpose
11 of this subcommittee in the first place.

12 >> Okay. Juanita, comments?

13 >> Yes, yes. I don't know where to jump in
14 at, but I know where I left off at when you all were
15 talking about getting the executive director and how you
16 were going to choose them, choose whoever we were going
17 to get, and I think you were going to go through several
18 applications or whatever.

19 Now, my question is, will all of us, the 13
20 Commissioners, be able to examine the application
21 and/or, because I've been kind of left out of the
22 conversation for a while, or will, as I think I'm
23 hearing, you all going to get subcommittees to do it? I
24 personally kind of think that when you have the
25 executive director that we all should hear or kind of

1 select or get an idea of what the executive director is
2 saying or how he's going to present himself. And then
3 if we're going to do subcommissions, let them go into
4 the sub commissions, if you understand what I'm saying.

5 >> Well, kind of where -- I'm trying to
6 summarize where I think we're at anyway. And that is
7 that, however many applications come in -- let's pick
8 20, I think I can work with that larger number -- and
9 the, kind of the idea is the state will kind of look at
10 these and say, here's 10 of these people, they just
11 simply don't meet the qualifications that the Commission
12 has laid down. Now, they'll still be there, but they'll
13 be segregated to say they don't meet the qualifications,
14 you know.

15 >> Right. Um-hum (affirmatively).

16 >> The next 10 will be presented. And let's
17 just say that they meet the qualifications. So the
18 subcommittee then, as I understand what we've been
19 talking about, will take a look at the most 10 -- well,
20 they'll look at all 20. But they'll take a look at the
21 10 that meet the qualifications and then --

22 >> So just the subcommittee not the whole --

23 >> The subcommittee.

24 Then we'll come back to the Commission and
25 say, okay, here's 10 that don't meet the qualifications,

1 here's 10 that do, and these five we think are the best
2 of the 10. But you, Commission, can look at all of
3 them, or we, Commission, can look at all of them. If we
4 want to.

5 >> Why can't we all take a vote? Would that
6 be too complicated? Is that what you're saying?

7 >> Vote on what?

8 >> Well, you said that the subcommittee would
9 choose --

10 >> No. I said the subcommittee --

11 >> -- in the final analysis.

12 >> My understanding is the subcommittee's
13 going to look them over and going to --

14 >> Look them over.

15 >> -- kind of rank them and say here's what
16 we think are the best possibilities. Then the
17 Commission is going to vote. And if someone is outside
18 of their recommendation, we can still look at them.

19 >> Just like a sorting kind of a thing, like
20 an initial way to sort things out.

21 >> Yeah, I understand that. I just -- yeah.
22 I just wonder why we all couldn't just see it on the
23 first get, hear it or hear them read at the first get,
24 and then still let the subcommittee, if they choose, to
25 go on and, you know, select.

1 >> Well, you can make that as an amendment.
2 The motion before us that we're about to vote on is that
3 there would be three members of the subcommittee with
4 one, one and one, and that they would have the
5 obligation to review the applicants and bring back a
6 breakdown.

7 >> Mike, you're going to enlighten us.

8 >> Thank you.

9 So it's not a legal point, but just more of a
10 practical point that crossed my mind. I appreciate the
11 conversation, the back-and-forth. I know that Doug I
12 think I heard you say in response to a different
13 question someone else had raised, that a lot of this
14 really depends on how many applicants you get. And I'd
15 just note that this application has been up for, I
16 think, three days, this may be the fourth day that it's
17 been posted. And so as a practical matter there may
18 very well be other committees that this, you know,
19 Commission wants to, you know, create, but that, you
20 know, if in fact it really is a question, as Doug said,
21 of volume of applicants, you'll know that as soon as it
22 comes in.

23 And, you know, that could also just be an
24 option that, you know, once all the responses come in,
25 you know, we've already been directed by you all to do

1 an initial, you know, sorting into -- you know, these
2 are all the ones that are actually responsive to what
3 you asked for by our read, these are all of them, but
4 here are the different categories. And then at that
5 point, you know, maybe that would address, Juanita's
6 concern, maybe it actually works for Doug, maybe it
7 doesn't. So to offer that as a practical perspective, I
8 think there's an other sourced committee that -- and
9 even if you create this committee right now, you've
10 still got time before this committee's able to do
11 anything, we literally have no resumes that are coming
12 in, and the deadline hasn't actually been met yet.

13 So I just kind of wanted to offer that as I
14 practical perspective that if you acted now with a
15 question mark on how many are actually going to respond,
16 it's just that, it's a question mark, and the committee
17 doesn't actually have anything to do yet.

18 >> Well, just to follow up on that, Mike and
19 Doug and everybody else, if it comes in that we've got,
20 you know, three, four, five, six applications, there
21 really isn't a need for a subcommittee. We're going to
22 look at all of them. In my mind.

23 Now, the Commission can certainly choose to do
24 whatever it wants to do, but --

25 >> I think there is a need for a subcommittee

1 in that instance as well. Because one of the purposes
2 of the subcommittee is to come back with
3 recommendations. And to justify the recommendation as
4 well.

5 >> Okay.

6 >> Because of those six, two of them may not
7 meet the qualifications, but we're going to -- we need
8 to look at them.

9 >> And I understand that. I just thought
10 maybe that the whole Commission can hear and see what
11 the applications read, and then the subcommittee can do
12 whatever they want to do.

13 >> I think Steve mentioned that everybody's
14 going to get a copy of every one of the resumes to be
15 able to look at, is that not true?

16 >> How are we going to get those copies?

17 >> They'll be e-mailed to you.

18 >> Okay. Because I didn't get a copy of
19 something that you guys had this morning, so I guess
20 it's my computer that's --

21 >> Yeah. So you'll have access to all the
22 data.

23 >> MC?

24 >> Oh, sorry, Chairman.

25 I just wanted to say, Juanita, we will work

1 with you to make sure that you get them. We have a
2 couple of ideas on how to make sure you get all of the
3 materials. So don't worry about that, the Department of
4 State can certainly make sure you all get a copy of all
5 of the applicants.

6 >> MC?

7 >> So would you re -- I think we're voting
8 specifically, the motion that's on the table, Steve, if
9 you could restate it, was -- is specifically for forming
10 a subcommittee with three members, as stated, from each
11 party or non-party, and specifically for the executive
12 director position, is that accurate? It's not just a
13 general committee, subcommittee structure with three
14 people?

15 >> My understanding, and Doug can correct me
16 if I'm wrong, is that this would be a proposal for the
17 subcommittee for the ED, the attorney, and the public
18 relations, is that right, Doug?

19 >> That's correct. I think we should stay
20 consistent as we move forward.

21 >> That would be the top three hires that
22 we're making shortly.

23 >> Okay.

24 >> Okay. So there's three departments?

25 >> I'm sorry, Juanita. Go ahead.

1 >> I lost -- I was off on so many things when
2 my computer went out. But are you saying also besides
3 the executive director we're going to also pick public a
4 relations committee and a -- what other committee?

5 >> Attorney, general counsel.

6 >> Okay. And each one of those will have,
7 what, three committees?

8 >> Three members.

9 >> Or three members per person?

10 >> Per committee.

11 >> Per committee. Okay. Have you chosen the
12 committees yet?

13 >> No. That's what we're voting on.

14 >> And, Juanita, to clarify, I think this --
15 the proposal right now I think is not to have three
16 separate committees for those three separate positions,
17 but to have one committee that would do --

18 >> Okay, good. For those three.

19 >> -- these three positions. I think I've
20 got that right. Is that --

21 >> I understand them to be separate
22 committees.

23 >> Three separate committees.

24 >> Oh, really?

25 >> Okay. Glad we're talking about it.

1 >> That way we can get more people involved.

2 >> The structure to be three people, one, one
3 and one.

4 >> Okay. Well, I know you all said something
5 about public relations, and that's what my skills are in
6 so I was interested in that part.

7 >> You have not missed out.

8 >> Okay. Great.

9 >> Okay.

10 >> Thank you, Steve.

11 >> Any further -- no problem.

12 Any further conversation?

13 Are we ready to vote?

14 Sally, help us take a roll call, please.

15 >> Absolutely.

16 >> The motion is that we form a subcommittee
17 -- that we form in fact three subcommittees of three
18 members each, one Republican, Independent, one Democrat,
19 for the purpose of looking at the applications for
20 executive director, for general counsel, and for public
21 relations.

22 Sally, call the roll, please.

23 All in favor will acknowledge by saying aye.

24 >> Thank you, Chair. I'll go in alphabetical
25 order by first name.

1 [Roll call]

2 >> That is a 12 commissioner aye vote.

3 >> Okay. That passes.

4 So we can form the executive director
5 committee because that's all that's out there right now,
6 unless -- and I would open the floor for
7 self-nominations or nominations by anybody that wants to
8 be on the executive director subcommittee. It requires
9 one Republican, one Democrat, and one non-disclosed
10 person.

11 >> May I move to ask a question right now,
12 Steve?

13 >> Sure, absolutely.

14 >> Okay. When we select the three different
15 subcommittees wouldn't it be pertinent if all of us
16 would come together and hear what each one of them are
17 doing and saying or whatever, I mean, to be informed on
18 everything that's going on, or is it just the
19 subcommittees will just present something after they do
20 it, or are they going to let us know what they're doing,
21 even the general counsel or the public relations,
22 wouldn't we share everything or the committee's just
23 going to do it and then bring it to the Commission?
24 What -- how are you going to do that?

25 >> I don't know that I understand where

1 you're coming from.

2 >> Okay. What I'm saying is, the three
3 committees that we're getting ready to vote on, will
4 their first -- the first thing that they do, will they
5 just examine the material themselves? Are they going to
6 bring it to the 13 of us and then the three makes -- the
7 different committees make their own, you know, choose to
8 make their own vote on it, which would be good, but
9 after we've all heard it.

10 >> Well, I --

11 >> Or seen it.

12 >> -- can put it up for discussion.

13 >> Or submit some of the applications.

14 >> Discussion on those comments? Anybody?

15 >> I think I heard Rhonda -- excuse me, not
16 Rhonda. Sorry.

17 Juanita, I think I heard your question as will
18 we all get to vote and will we all get to see the
19 materials that the subcommittee's deliberating on.

20 Did I understand your question correctly?

21 >> Not necessarily all vote. So say, for
22 instance, that you all choose an executive director
23 committee. Will the committee before they decide to
24 take the final vote on the executive director, will they
25 present it to the total body of the commissioner?

1

2 >> Okay. Let me stop you there. The
3 Commission will take the final vote on who we hire.

4 >> Okay.

5 >> The subcommittee will only look at
6 whatever comes in and then come back to us with whatever
7 they see and whatever their recommendations are. But we
8 as the Commission will make the hiring decision by vote.

9 >> And so you got -- the committee will let
10 the commissioners know what you have read, what you have
11 obtained, and your suggestions, and then we can vote, is
12 that what it is?

13 >> That's my understanding, yes.

14 >> Okay. I just wanted to get some clarity.

15 >> Okay. Nominations for the committee for
16 the ED.

17 >> I'll do it on the Democratic side. That
18 would be Dustin.

19 >> I'll nominate Rhonda.

20 >> I'll nominate myself. This is Doug,
21 Republican. And I'll also volunteer to be the acting
22 Chair until we vote on a Chair.

23 >> Rhonda is a Republican, right?

24 >> Yes, yes.

25 >> Okay. And Doug.

1 >> Correct.

2 >> And that's two Republicans.

3 >> Rhonda?

4 >> Can I also nominate Cynthia? I don't want
5 anybody to back out of a position that they were
6 interested in. I want everybody to have a fair chance,
7 so if we could put Cynthia's name on there, and, in all
8 honesty, Erin, too, because she did raise her hand at
9 the beginning. So can I nominate two? I want it to be
10 fair to everybody, and they were interested, so I want
11 them both to be considered also.

12 >> So Cynthia, you've been nominated and
13 you're a Republican?

14 >> (Shaking head affirmatively.)

15 >> Okay. And Erin was interested and she's
16 Republican, right?

17 >> I'm going to defer to the other three that
18 are on the list.

19 >> So you're declining to be nominated?

20 >> That's correct.

21 >> All right.

22 >> I -- Chair?

23 >> Cynthia?

24 >> And we'll do the same.

25 >> Decline to be nominated?

1 >> Yes.

2 >> So we're crossing you off.

3 So that leaves Rhonda and Doug. And you two
4 can arm wrestle for it.

5 >> May I ask a question?

6 >> I think it should go to a vote.

7 >> You may ask a question. Go right ahead.

8 >> Yes. The people that are selected for the
9 subcommittee for the executive director, they would need
10 knowledge in this attorney, right, they need more formal
11 knowledge, wouldn't they? Is that what kind of what
12 we're doing?

13 >> I think Doug's got a long history in
14 management. Certainly we can have a campaign speech
15 right now.

16 >> No, I mean, I'm only asking a question.

17 >> I understand.

18 >> To me it would be great if they have that
19 kind of background. So that's great.

20 >> We need a neutral. Somebody wanted to
21 volunteer.

22 Janice? Who else?

23 >> I think Anthony already said that he would
24 do it, so I'll nominate him.

25 >> Thank you, Janice. I'll accept.

1 >> Okay. Anyone else for neutral? Anyone
2 else for Democrat?

3 That leaves a runoff between Rhonda and Doug.
4 We have to have a roll call.

5 >> Sally, will you please call the roll? And
6 we'll start with Rhonda, all those who would vote to
7 have Rhonda on as the Republican member of the ED
8 committee --

9 >> Steve, before we do that, maybe each of
10 them would like to, you know, say something about why
11 they should be chosen.

12 >> Yeah.

13 >> Well, I suggested a campaign speech, but
14 go right ahead.

15 Doug.

16 >> Yeah. Sounds great.

17 >> Okay. Yeah, what I can bring to the table
18 on this committee, as well as any other committee, is my
19 almost 40 years of management experience dealing with
20 people and hiring people. And firing people as well.
21 So I feel I have a good background in trying to identify
22 people that can accomplish a job and have got the
23 experience to back that up, so --

24 >> Okay. I'm sorry, as for me, I don't have
25 40 years of experience in management, however, I have

1 held management positions where I've gone through the
2 hiring and firing process myself, interviewed
3 applicants. I feel like what I could bring, I have a
4 strong gut instinct when it comes to people, and I can
5 look beyond people and almost like, I don't know what
6 you call it, their souls or whatever, but I just have a
7 good instinct about people and who's a good match for
8 positions, and so I think I would do a good job.

9 >> All right. All of those who would favor
10 Rhonda to be on the committee, Sally call the roll,
11 please.

12 >> Chairman, could I ask that I call each
13 person's name and then they vote for either Doug or
14 Rhonda?

15 >> Certainly.

16 >> Does that -- does that work?

17 >> Sure.

18 >> Okay. Fantastic.

19 >> We'll find out if it works.

20 >> And, Sally, before you do that --

21 >> Yes, go ahead, Juanita.

22 >> I'm sorry. Before you do that, because I
23 lost so much time trying to put my thing together, but
24 the executive director that we're selecting the
25 applicant, he is one of, what, an attorney? Is that

1 what we're selecting for, people that's going to work
2 with that?

3 >> The executive director --

4 >> The applicant?

5 >> The executive director is the position
6 that you all voted on and approved last week, the first
7 one, which is posted online at redistrictingmichigan.org
8 right now. It's a sort of -- the language you all voted
9 on is a management and administrator type role.

10 >> Oh, okay.

11 >> Doesn't mean he might not be an attorney,
12 but it's not a requirement.

13 >> Oh, okay.

14 >> Okay.

15 >> Okay. So thank you, Chairman.

16 I'm going to go in reverse alphabetical order
17 by first name to call on this, which means first person
18 is Steve Lett.

19 [Roll call]

20 >> By a vote of 8 to 4, Rhonda has been
21 selected.

22 >> Okay. The committee then is Rhonda,
23 Anthony, and Dustin.

24 >> We, I believe, selecting Chair for the
25 committee now or do you guys think the subcommittee

1 should decide amongst themselves the Chair of --

2 >> We should have an acting Chair at the
3 moment, and then in your first meeting you should elect
4 the permanent Chair.

5 >> So my --

6 >> That's fine, if not.

7 >> I --

8 >> How formal is this going to be? I mean,
9 if we're just looking through things, I don't honestly
10 think a Chair is necessary, personally.

11 >> Well, you need somebody that's going to
12 set up the -- work with Sally and the staff to get the
13 meeting notices, et cetera.

14 >> Oh. Never mind.

15 >> So if you want to have an acting Chair now
16 that's not a bad idea so somebody's working with the
17 staff to figure out where you guys are going to be
18 because you're going to have to have open meetings and
19 who's going to get all the work, et cetera, et cetera.

20 So any volunteers for temporary Chair?

21 Anthony? Is that good with Rhonda and Dustin?

22 >> That's fine my by me.

23 >> I'm good with Anthony.

24 >> You're it, Anthony.

25 >> All right.

1 >> Hey, Steve.

2 >> Yes.

3 >> Let me volunteer to put together a chart
4 of some type that we can begin to track who's on which
5 committees, and then I'll forward that over for review
6 in the next meeting. Just an administrative thing. So
7 we -- it goes back to Dustin's comment, we want to make
8 sure everybody's participating in the different
9 committees. So we need to track that somehow. And I'll
10 be able -- I can put that together and we can look at it
11 next meeting.

12 >> That's reasonable. Are you going to bring
13 it to the next meeting or are you going to send it out
14 previously?

15 >> I'll send it to Sally and have it
16 distributed it as soon as I get it done.

17 >> Okay. That's good. Due to our amendment
18 charter we need to have everything out in the public, so
19 --

20 >> Correct, correct.

21 >> Okay. Now, the other two subcommittees
22 that we would be looking at, and I would suggest that we
23 may want to push those off until our next meeting, since
24 we haven't posted those yet, so unless there's some
25 burning desire to have those formed right now, I would

1 like to move to the next item on the agenda, which is
2 thank you notes.

3 Glenn, you raised your hand? No?

4 Adjusting your hat.

5 All right. Thank you notes. We had a thank
6 you note presented to us. Was that MC that did that?

7 >> Yes. With a lot of support from the
8 Secretary of State.

9 >> Okay. You're on, MC.

10 >> If we need -- we drafted the -- I used a
11 logo. I think it's excellent. Thank you, Cathleen.

12 And if you've all read it I think I'm just
13 going to move that we -- this is what we've come up
14 with. I think it's formal language. I think it's safe
15 formal language and I think it gets to the point. And
16 it has a sort of -- the most, I think -- the thing that
17 I would offer is that we have a logo that is out there
18 that we're potentially associating ourselves with that I
19 think we want to be conscious of, and I think it's
20 great.

21 So I guess what I'm suggesting is I would
22 suggest that we go with this, and I think two drafts,
23 for the reasons, one is the academic presenters, that's
24 what we're looking at currently. Is that right,
25 Cathleen? If you go to the --

1 >> Right.

2 >> And this is the commissioners, right? So
3 different language for the academic presenters than from
4 the -- to the commissioners.

5 >> Yeah. I looked at these and I had a
6 couple of comments, suggestions. I'm not against either
7 one of these. It's, in my, mind a matter of style. But
8 in the first paragraph we say, starting at the second
9 sentence, taking time to meet with us during our first
10 convening on September 17th.

11 Well, there's not going to be a second or a
12 third convening, so my suggestion would be during our
13 convening meeting on September 17th or 18th.

14 And secondly, in the third paragraph we offer
15 our thanks to you and your fellow panelists. My thought
16 there was that we're sending this letter to each one of
17 them individually, and so my suggestion that we offer
18 our thanks to you for taking the time to meet.

19 Like I say, style more than anything.

20 >> Yeah. It's more personal. I appreciate
21 that. Good thought.

22 >> And if we want to go to the next one, it's
23 kind of the same thing, on the California and Arizona,
24 it's the convening meeting.

25 Then in the second paragraph we talk about

1 information from experts like you. You know, they're
2 experts by way of on-the-job training. My suggestion
3 there was important information from those who have gone
4 before us, which would be the commissioners from
5 California and Arizona.

6 Like I say, just my own personal style.

7 >> I like it. I think it makes it more
8 personal. I wasn't sure that the tone between formal
9 and -- yeah. So I appreciate your comments and I would
10 accept them.

11 >> Anybody else? I thought -- number one, I
12 thought they were very good. Like I say, these I did
13 not have any questions. I think we should send them.
14 And we've kind of got a template as people come in that
15 we can then use. Or we can -- somebody can have a
16 brainstorm and come up with another one each time. Then
17 we don't have to use the same one every time. Any
18 comments?

19 Juanita, have you got any comments?

20 >> Yes. These thank you notes and the logos
21 and stuff that we're using, is this going to be a
22 template we're going to have made for our department
23 period, for the commissioners period? And what -- I
24 think that that probably would fall under public
25 relations.

1 Are you ready to send your thank you notes
2 already or did you -- are we designing them or are we
3 getting someone to design them? Is that what we're
4 doing?

5 >> I think we're designing them right now,
6 Juanita. And I suppose because we don't have a public
7 relations person yet and our staff person, what we're
8 doing is trying to be timely and thank the people who
9 volunteered to help us and keep us running or get us up
10 and running. And I suppose we're trying not to wait
11 until we do have staff to do it, so that we can continue
12 to call on their experience and expertise and just --
13 and I think as a courtesy I think that's what we talked
14 about last time we met and we approved to do this.

15 So we are drafting and, I think, approving,
16 trying to approve the thank you letters right now with
17 what is in front of you on the screen, that you may not
18 be able to see it personally. Sorry.

19 >> I can't see it. I can't see it at all.

20 >> Okay.

21 >> But also I think that probably a box of
22 nuts or some candy or something sent with the thank you
23 note would be appropriate.

24 >> We'll send some M&Ms.

25 Erin?

1 >> Just in looking at this, where it says I
2 hope you and yours are well and then we go into we the
3 commissioners, don't we want to change that to either we
4 hope you and yours are well or I? I would think we'd
5 have to change the wording to remain, you know, as a
6 commission and not an individual there.

7 And were we changing it to be more
8 personalized as well on the -- I think maybe you did
9 that already, Sarah, or whoever's doing that. Where we
10 had asked or said we want to thank you and your fellow
11 panelists, were we going to personalize it there as well
12 on the second letter?

13 >> Yes. That was my suggestion, that we
14 would take out and your fellow panelists, we would
15 remove that. That was my suggestion.

16 >> And one other suggestion would be to not
17 say hope you and yours are well, because that's -- this
18 is more of a -- this is not a family like thank you.
19 It's more or less to that Commission and the people that
20 work for them. So I like the second one.

21 >> This is coming from us as commissioners,
22 Juanita, so we are trying to draft one --

23 >> I know. I absolutely know that.

24 >> So what I think you said --

25 >> But I'm saying the reading on it, the

1 reading on it. I just didn't think that to send them
2 something saying I hope you and yours are well, but just
3 to be very considerate and saying we thank them for
4 their professionalism or their expertise and we greatly
5 appreciate it or something, but, you know --

6 >> I agree. I don't think we need to say we
7 hope you and yours are well.

8 >> Okay.

9 >> What do other people think?

10 >> Well, I'm just aware that Juanita might
11 benefit from actually us reading it because she hasn't
12 been able to see it ahead of time and she can't see it
13 now, and so I'm wondering if we read the whole letter --

14 >> But I can hear how it reads.

15 >> Okay. So there's like six paragraphs.

16 >> Six paragraphs? For a thank you letter?

17 >> It's a whole letter. Yes. It's a whole
18 letter.

19 >> That's almost too much for a thank you
20 letter.

21 You know, I did -- I'm sorry. I studied
22 public relations as well so, you know, this -- you know,
23 I've sent out many thank you letters to all kind of
24 people, so --

25 >> I don't see anything wrong with that.

1 Read it out loud.

2 >> Yeah, that would be good.

3 >> I can -- MC, you read it. It's your
4 letter.

5 >> Okay. It is -- so this is to the
6 California and Arizona commissioners. I'll read that
7 one first.

8 Dear Arizona Commissioners:

9 We hope you and ours are well. We the
10 commissioners of Michigan's Independent Citizens
11 Redistricting Commission would like to extend to you our
12 most sincere gratitude for taking time to meet with us
13 during our convening on September 17th. As
14 commissioners we are excited and humbled to be
15 responsible for redistricting in our state. Our success
16 depends on our ability to learn important information
17 from those who have come before us. We offer our thanks
18 to you and for taking the time to meet and engage with
19 us.

20 The presentation and material you offered to
21 us was clear, thoughtful, and exceptional in quality.
22 You have done us and the State of Michigan a great
23 service. Sharing your experience and lessons learned as
24 a former commissioner in California, or Arizona,
25 provided us with key insights on what to expect in our

1 new roles both personally and professionally. This
2 insight was exceedingly valuable to each of us, and the
3 wisdom shared will aid us tremendously as we embark upon
4 our journey as redistricting commissioners.

5 We also extend our appreciate for your
6 generous offer to continue providing information and
7 guidance to us on future occasions should we need it.

8 Thank you again for all your efforts. We look
9 forward to future meetings and conversations.

10 With gratitude,

11 The Michigan Independent Citizens
12 Redistricting Commission.

13 And that's one letter, Juanita. There's
14 another one that was a little bit different language,
15 but it's basically the same idea.

16 Does that feel like it's too long to you or
17 does that -- does it change any comments you had before?

18 >> Yes. I think it's too long because you're
19 reiterating somewhat of the same words with different
20 words, and so that's what make it too long.

21 >> Okay.

22 >> I think that we get to the point with
23 gratitude and -- it sounded good, but it just sounded
24 kind of repetitious in what your were saying over and
25 over and over.

1 >> This is also based on -- you know what,
2 there was somebody else trying to speak. I can't see my
3 whole screen.

4 >> Erin.

5 >> I just wanted to say, we might want to
6 change those who have come before us to those who have
7 gone before us.

8 >> I disagree with that.

9 Those who have come before us, because they
10 did come before us.

11 >> Correct. Except that -- okay.

12 >> That's not what I was getting at. But
13 when I was making the change I put in gone, they had
14 done this job before, the fact that they showed up in
15 front of us.

16 >> There you go.

17 >> Thank you. I think you all need to study
18 a little bit more what you're going to say.

19 >> Would you recommend, Juanita, that we --

20 >> Shorten it?

21 >> Yes. And it seems like it's important to
22 you. I'm not -- I don't think we waste too much time if
23 we table this and allow Juanita to actually look at it
24 and as a commissioner sort of incorporate her
25 suggestions, if you're willing to do that, Juanita.

1 Would you accept that and try to help us craft
2 it? It seems like there's -- I know that we've had a
3 number of back-and-forths right now. Because you're not
4 able to see it I'm wondering if it's useful for us
5 trying to, you know, wordsmith and make a decision
6 without you being able to see it and potentially --
7 yeah.

8 >> Yeah. I can't see it, so I really -- but
9 I know it's a little bit long for a thank you, but --

10 >> Right. And, therefore, you would --

11 >> The suggestion, Juanita, is that we make
12 sure that you get both of these and bring back to the
13 next meeting your revisions and see if we like them.

14 Would you do that?

15 >> Okay. That sounds great. Sure.

16 >> Okay. Is that good with everybody?

17 >> Yeah. But I did want to add an idea here
18 real fast at the bottom. And that is we add our names
19 and signatures to it.

20 >> Well, we can consider that, so --

21 >> Looks like --

22 >> Or I can move to table this until after
23 Juanita has a chance to take a look and offer her
24 suggestions as well with her professional expertise in
25 the matter.

1 >> Is there a second?

2 >> Second.

3 >> Okay. It's been moved and second that we
4 table this to allow Juanita to look at these and bring
5 back suggestions for the thank you letters to the next
6 meeting.

7 All in favor say aye.

8 >> Aye.

9 >> Aye.

10 >> Aye.

11 >> Aye.

12 >> All opposed, the same sign.

13 Passes.

14 Okay. We are at an order of the day, which is
15 a five-minute break. And it is 11:46, so we'll be back
16 at 11:51.

17 >> Aye. Just wanted to thank MC for putting
18 them together.

19 >> Oh, you're fine.

20 >> As someone who is bad at this kind of
21 stuff, I do appreciate it.

22 >> Yeah. Very good job.

23 >> You're welcome.

24 (A short recess was taken)

25 >> Okay. I think everybody is back.

1 Juanita are you back?

2 >> Yes, I'm here.

3 >> Okay. The reason I ask is you're at the
4 bottom of my screen and I can't even see whether you're
5 here or not.

6 Okay. We are at the code of conduct, which
7 you received. And just so everybody knows, it's almost
8 noon and we only have till 1:00 o'clock. Because the
9 translation folks are done at 1:00, so we're done at
10 1:00.

11 Code of conduct. Juanita did not get a copy
12 of this code of conduct I'm assuming, is that correct,
13 Juanita?

14 >> No, I didn't see it.

15 >> Okay. Makes it a little bit difficult.
16 But we can take a look at it and have some discussion,
17 but then we will defer any adoption until you have had
18 an opportunity to look at it, and then we will either
19 pass it or not pass it.

20 So having said that, it's open for discussion.
21 Any comments, additions, corrections, editing by
22 anybody?

23 >> Yes.

24 >> Rhonda? I saw your hand waving first.

25 >> They actually have it on screen

1 highlighted, the one I have questions on. I would kind
2 of want further information on it.

3 Are they saying lobbying as far as putting
4 money forth towards a specific ballot, is this
5 particular thing saying that we cannot support any
6 Legislative bills or measures whatsoever, and what is
7 their definition of support? I'm not trying to
8 over-read it, I just want to be clear on what this says.
9 And I have my reasons, that's why I want clarification
10 on it. It's letter D.

11 >> Mike, are you around?

12 >> Steve, I have a point of clarification. I
13 just want to offer to Juanita that it can be -- the
14 binder that was given to each of us, we are on page 36
15 of the orientation materials that have the same code of
16 conduct. So you potentially could look at it. It's
17 printed and was sent to us for that very first meeting
18 we had. That's all. Sorry.

19 >> Thanks, MC. I think I looked at it, read
20 it the other week, a few days ago.

21 >> Hi, everyone. I just wanted to hop in
22 here really quickly. Sorry about the technical
23 difficulties on our end, but I don't believe that what's
24 shown on the screen is what you all received. So we're
25 going to take that down and pull up the PDF that you all

1 received that's also posted on our website.

2 And, you know, I want to clarify for the
3 public watching that all commissioners receive the
4 materials that we discuss in these meetings the night
5 before, and that any of you watching can go to
6 redistrictingmichigan.org and you can see all of those
7 same documents. So I don't want it to appear that there
8 are materials or information that the Commission is
9 talking about in this meeting that you all haven't had
10 the opportunity in the public to see as well.

11 I just wanted to make those notes. And we
12 will get the correct code of conduct copy pulled up as
13 soon as we can.

14 Thanks, everybody.

15 >> Thank you.

16 >> So is Mike available?

17 >> Mike Brady?

18 >> I am. Camera's not working at the moment,
19 but I --

20 >> No wonder you look so good.

21 >> So I, actually on this particular topic,
22 would defer to Sally. I was not involved in the
23 drafting of this particular document. I think it came
24 from, maybe Sally can confirm, I believe it came from
25 other materials that had been pulled from other, you

1 know, similar kinds of commissions.

2 >> Yes. That actually, number D
3 specifically, came from the California code of conduct.
4 It's almost the exact same words, so --

5 >> Rhonda, I have a question for you.

6 >> Um-hum (affirmatively).

7 >> Where it says:

8 Commissioners shall not support or oppose
9 specific ballot measures and/or Legislative bills prior
10 to November 1st, 2021, does it seem to you that if
11 something were to come up for a vote you couldn't vote
12 for it in a general election, or did that mean to you
13 that you can't have your face show up on a billboard
14 saying that you want this enacted.

15 I think there's a different there.

16 >> Right. Let me clarify what I'm thinking
17 and how I'm reading this.

18 There's some things that are near and dear to
19 my heart. I'm a veteran. I read a story where there
20 was a bill in another state that increased benefits to
21 veterans. That would be a bill that I would truly be
22 behind. It's not something that I would put money
23 behind. So that's where I'm trying to say if somebody
24 came up to me and said, well, what is your opinion on do
25 you support this bill, am I still a citizen, even though

1 I'm a Commissioner, am I just supposed to stand mute and
2 not give my opinion, I guess, is what I'm saying. Are
3 we still allowed to support specific bills? Not
4 monetarily.

5 And also I ask this because, being a broker,
6 in order to be on our MLS we are required to be members
7 of the National Association of Realtors, national and
8 local, and they do have an RPAC which when our dues come
9 out they try and take out for the RPAC, just so you
10 know. I don't because I have my own personal belief as
11 far as things like that go. But I just want to make
12 sure that either way it's defined on what, I guess, what
13 they -- what is meant by supporting or opposing a ballot
14 or a measure or a bill or whatever. What is it saying?
15 Is it saying -- to put it in layman's terms is it
16 saying, you know, just keep your mouth shut on what you
17 do or don't support? I mean, I don't know how to word
18 it -- do you guys understand what I'm trying say here?

19 >> Well, my take -- my take on it would be
20 that, and I said a billboard, but I think that's being
21 somewhat facetious, but not much, would be that you
22 certainly, obviously, can have your own opinions as to
23 say your VA bill or whatever it is, but that we would --
24 the Commissioners would not take a public stance on
25 opposing or supporting specific ballot measures or

1 Legislative ability prior to the time that we have this
2 done.

3 Quite frankly if, you know, these bills don't
4 come up typically, they don't come up at least anymore
5 as bipartisan bills. They come up either from
6 Republicans or Democrats, and we as individuals start
7 treating them publicly then it diminishes or
8 non-partisanship, in my opinion.

9 So I don't know if that helps you. Clearly
10 you can't go out and lobby, period.

11 >> Right. But, I mean, where does the
12 line -- is there a line between, you know, you're a
13 citizen, you're a private citizen, what you believe in,
14 and then the Commission would still be non -- I mean,
15 obviously they know who's Republican, who's Independent,
16 who's Democrat on the Commission. So, I guess, is there
17 a line there? Is there a line there like if somebody --
18 not speaking as a commissioner, if somebody came up to
19 me, a friend, a neighbor, whatever, what are your
20 thoughts on this, what do you think of this and they're
21 talking to me as a private citizen, not as a
22 commissioner, as a neighbor, a friend, what have you, I
23 still have that right to say, hey, I support this or I
24 don't. I'm just trying -- I'm very by-the-book, matter
25 of fact so that's why I'm asking.

1 >> Well, I think you, certainly if you're
2 talking to your neighbor there's nothing that says in
3 the amendment or anywhere else or the requirements when
4 we made an application as to what you could or couldn't
5 do.

6 >> So you could -- I would think you would be
7 on safe ground doing that.

8 >> Again, if you're out there being
9 interviewed by, I don't know who, you know, WJR or
10 somebody, or CBS or NBC expressing an opinion I think
11 that's a step too -- you've crossed the line.

12 And when you say you don't give up your
13 personal rights, well, you do. In order to be on this
14 Commission you gave up the right to run for office and,
15 you know, you gave up a lot of stuff and you gave it up
16 for 10 years.

17 >> Correct.

18 >> I think you've got to use -- you know, you
19 don't have to go in -- you don't have to become a
20 hermit, but you certainly have to be careful of what
21 you're doing.

22 >> Glenn?

23 >> Yeah. May I wear a political pin? May I
24 have a bumper sticker on my car?

25 >> My personal opinion is I'd stay away from

1 it, but I don't think there's anything that says you
2 can't.

3 I mean, the whole idea behind this Commission
4 is to get politics out of it.

5 >> Right. And I'll offer --

6 >> Anything that we do, that this Commission
7 does that shows more politics than we already show,
8 which is we've declared who we are and what -- or what
9 party that we lean for, I guess my hope would be we
10 wouldn't do that.

11 But I don't think there's anything -- I
12 haven't read anything that says we can't.

13 >> And Steve, it's MC. Can I offer one other
14 piece?

15 >> Sure.

16 >> Yeah. I -- we can anticipate as a
17 Commission getting legal -- having legal responses to
18 challenges. And I think if we create more reason for
19 the people to think that we may be partisan because of a
20 bumper sticker or because of an action, what I think we
21 want to do is be careful with the budget that we've been
22 given and not invite more legal action that says, hey,
23 you're -- like this person's clearly partisan. So I
24 think we're trying to just recognize that if with this
25 code of conduct we might be helping ourselves stick to

1 something that where we're using government funds and
2 citizens' tax dollars wisely and not inviting more legal
3 challenge.

4 That's one of the takes I have. That's how
5 I'm kind of leading this.

6 >> Does that help you Rhonda at all?

7 >> I've got a good way to think about it.
8 When in doubt, don't do it. It's the easiest way to
9 keep yourself out of any kind of conundrum.

10 >> Well, you know, typically that's right.
11 But I understand Rhonda's conundrum.

12 >> Yeah. So do I.

13 >> She has strong beliefs and wants to
14 express those in the right circumstance. But I also
15 feel that, you know, we have as a Commission a
16 responsibility to be as fair and equitable as possible
17 in all cases.

18 I would -- I guess I go back, I would like to
19 table this until the next meeting to allow Juanita to
20 get a copy of what we put up and go from there.

21 >> I think I have some kind of way, I see the
22 letter that MC wrote. Did MC write the letter to the
23 academic presenters?

24 >> Yes. Um-hum (affirmatively).

25 >> Okay. I'm looking at that letter. And

1 then I think I can pull up. This computer had me go
2 around the bush, but I imagine I can pull up these few
3 letters and stuff and look at them after we probably
4 leave so I can continue to hear you guys.

5 >> Okay.

6 >> And concentrate on what you all are
7 saying, or Steven is saying. Excuse me?

8 >> Are there any other comments or questions
9 or edits or discussion regarding --

10 >> I had one.

11 >> Mike.

12 >> This is Mike. Again, I'm still working at
13 the moment so I can get that spec together.

14 One of the things, I appreciate the question
15 from Rhonda and some of the back-and-forth. Though I
16 didn't draft this, and I understand, you know, where it
17 came from in California. One of the thing that crosses
18 my mind is just thinking about maybe the question from
19 Glenn, you know, what about, you know, a bumper sticker
20 or something indicating how you, you know, are going to
21 vote on something.

22 Notably paragraph C doesn't talk about how
23 you're going to vote for candidates. It only talks
24 about support or opposition to specific ballot measures
25 and/or Legislative bills. And so I'm not saying that's

1 good or bad, but I just point out that some of you, I
2 think I heard, were raising perhaps even a preference
3 for something that would be more restrictive than what's
4 actually in D, and then some of you may have been
5 raising questions and concerns about whether D is in
6 fact too restrictive by itself. Because there's one
7 flag for what D actually says versus what it doesn't
8 say.

9 And one of the things that also crossed my
10 mind is just in terms of the -- again, you know, there's
11 obviously an election going on with the other, you know,
12 there may be other elections in small comm -- or smaller
13 elections in individual communities next year that maybe
14 some of you will be involved in or not for individual
15 races.

16 And so in that regard, D doesn't prohibit you
17 at all from voicing, you know, your support or
18 opposition to an individual who's running for a specific
19 office. And so whether that's something that you feel
20 strongly or not, be clear there.

21 The other thing that crossed my mind is that
22 California, I'm not sure their full structure, but this
23 says that Commissioners shall not support or oppose, you
24 know, ballot measures is one thing, but Legislative
25 bills prior to November 1st, 2021, and it specifically

1 prohibits lobbying under the IRS definition. And I'm
2 just wondering actually whether, you know, frankly, that
3 may be in conflict with the language in the Michigan
4 Constitution that allows you to go to the Legislature
5 and ask them for more money. And if the Legislature
6 were to adopt more money, that itself would actually be
7 a Legislative bill necessarily. It would be an
8 appropriation from the Legislature to this Commission if
9 you found that you needed more for attorneys or
10 otherwise.

11 Separately, I mean just kind of, you know, so
12 other thoughts along those lines and whether, you know,
13 you're allowed to sue the Legislature if they don't give
14 you what you need, and that's in the Constitution as
15 well. You know, paragraph B doesn't speak to that,
16 that's totally silent there.

17 So I almost wonder if, you know, for those of
18 you who have concerns about just the perception of
19 politics and all of that, whether D should be rewritten,
20 again, by you all if you decide, to perhaps allow you
21 to, you know, active -- you know, collectively active,
22 you know, work on Legislative issues that are at least
23 related to this Commission, but then also perhaps
24 address them with the other concerns that are not
25 actually covered by D. I think D may be both too

1 inclusive, like over and under-inclusive at the same
2 time. And I think that's probably just the difference
3 between Michigan and California's structure.

4 >> Well, the other thing, Mike, that
5 California would have is they have ballot measures. I
6 mean, they govern by ballot measures in California. So
7 it's a lot different. I mean, they've probably got 200
8 ballot measures coming up in November.

9 At any rate, that's not a bad idea.

10 Rhonda, would you be willing to take a look at
11 D and bring us back some language?

12 >> I'll do my best.

13 >> Thank you.

14 >> Um-hum (affirmatively).

15 >> One of the things that I had put down for
16 D where it says lobbying under the IRS definitions, and
17 I don't know if Michigan's different, but I added in
18 there and/or Michigan definitions. Maybe Mike knows if
19 Michigan has more restrictive definitions than the IRS
20 as to lobbyists.

21 >> There is the Michigan Lobby Registration
22 Act which does govern that. I'm not sure that I would
23 necessarily describe it as more restrictive, but there's
24 certainly a distinct set of rules there.

25 >> Okay. Well, that would be my

1 contribution.

2 Unless there are further questions, we will
3 table this and have Rhonda bring that back at the next
4 meeting.

5 Communications director position, we have a
6 proposed draft of the posting.

7 And we -- Juanita, have you -- are you able to
8 find that so you can look at it?

9 >> I found some right now. I can look at the
10 -- I've only found MC's two letters. I will find it
11 before the day is done, but I haven't found it yet.

12 >> Okay.

13 >> Can you hear me?

14 >> Who? Who said can you hear me?

15 >> I did. Juanita.

16 >> Oh, yeah. We can hear you fine. Yes.

17 >> Okay.

18 >> All right. Does anybody have any
19 comments, edits, corrections, additions? Kind of along
20 the same lines that we looked at for the ED. I mean,
21 not the same job description, but, you know, kind of the
22 same setup.

23 >> Yeah, I have a question, Steve.

24 >> Go right ahead, Doug.

25 >> Yeah. On the top line it says draft,

1 communications and outreach director job posting.

2 To me I see communications and outreach as two
3 separate things. And so it may be a function of how we
4 define this job.

5 I see outreach -- let me tell you how I see
6 outreach and how I see communications.

7 I see communications as public relations, such
8 as, you know, media, sending things out to the media,
9 communicating to the media and so forth.

10 I see outreach as an individual that would --
11 or a group that would be responsible for collecting our
12 data, both e-mail, texts, public sessions, summarizing
13 the data, presenting the data, maybe a database of
14 outreach comments, and compiling public input.

15 So I looked at those as two different things.
16 I don't know how others perceive those.

17 >> Anybody else have a comment?

18 Juanita?

19 >> Yeah. I think that that is kind of our
20 problem, is that when we're writing letters we're
21 putting two kind of different words to things and it's
22 kind of complicating. Our letters should stick with --
23 and even our postings should stick to simple right to
24 the point information of what we want. And just keep it
25 simple and intelligent, yeah. And professional.

1 >> Glenn?

2 >> I appreciate Doug's comment that
3 communications and outreach are two different things,
4 but why can't we make both of those things the
5 responsibility of this person?

6 >> I'd say skill set would be the biggest
7 reason.

8 >> I think we can try to get somebody.

9 >> Do you think it's too broad, too much for
10 one person or too broad of a responsibility?

11 >> Again, that was my -- I look at it as two
12 separate functions, job functions. And maybe we can
13 combine them, but to me the whole job posting
14 description was written from the standpoint of a
15 communications director. And I look at outreach as a
16 little different.

17 >> It is different. And we should keep it as
18 what you first intended it as.

19 >> We can go other way. I don't care. We've
20 just got to make sure that we're defining it properly.

21 >> So when you're defining it properly, we're
22 looking for what? We're looking for an executive
23 director. And then the things that we want him to have
24 in his -- his resume we should list them, and if he
25 comes very, very close to it that should be sufficient

1 or whatever. Or if he goes over it that would be
2 sufficient.

3 >> Right.

4 >> You've got to put some things in there to
5 let them know what we're looking for. So we describe
6 what we're looking for and just keep it simple. And
7 then he'll -- we can help put the description, whoever
8 it is, that's looking for a job.

9 >> How do you define outreach?

10 >> Are you talking to me?

11 >> Yes.

12 >> I -- well, we're looking for the executive
13 director? We're looking for an outreach person or a
14 what? I heard two names.

15 >> Well, I see it as two functions, public
16 relations, which is communication, and outreach, which
17 is dealing with collecting the data from all the
18 different sources.

19 >> On what occasion?

20 >> We're going to get comments there e-mail,
21 we're getting them from text, we're getting them now
22 from public comments, we're going to get them in the
23 meetings. I see that as an outreach type of function,
24 when somebody would collect that data, summarize it, and
25 present it.

1 If you go back to what the California people
2 dealt with, they had all thin put from the field, from
3 the citizens, but no way to really sort through it and
4 filter through it to use it. And I look at that as
5 outreach. I may be off base on this whole thing, but
6 that was my opinion.

7 >> Cynthia?

8 >> Since they've done it -- oh, okay. Sorry.

9 >> Cynthia?

10 >> I just wanted to clarify. Because Juanita
11 was saying the executive director. But we're talking
12 about a different position now. So we're talking about
13 the communications person and/or outreach director. I
14 just wanted to clarify which -- that we're talking about
15 this one.

16 >> That's correct, we're talking about
17 communications outreach director job posting.

18 >> Okay. I know that. But I'm just saying
19 that whatever you're looking for just define it and put
20 that in there, exactly what you want. If we want the
21 outreach person and we want a communicator,
22 communications, right? Outreach and what?

23 >> Communications.

24 >> I'm not -- and communications.

25 >> Yeah.

1 >> Okay. So then we should kind of, since
2 we're going to use both the words, kind of describe the
3 communications person and what you want and the outreach
4 of what you want, simplify it and just kind of leave it
5 like that. And so then they'll know exactly. Because
6 once you put that under there, they're going to wonder,
7 well, okay. What kind of outreach, what kind of a
8 communications, so --

9 >> I look at it as two different things. I
10 see the communications director as somebody that's going
11 to be hired in by the state. I look at an outreach
12 position as something we probably should already be and
13 bring a group in to do the data collection and so forth.

14 >> Right.

15 >> That was my view of this.

16 >> Absolutely.

17 >> That's why I look at it as two different
18 things.

19 >> Right.

20 >> It's listed as two different positions on
21 page 14 of our binder, so I understand where Doug is
22 coming from, so I kind of agree with him.

23 >> MC?

24 >> I wanted to offer that I'm imagining a
25 consistent message. So I'm not against separating the

1 two. What I am exploring is the reason we might want to
2 keep them together, and what I'm imagining is there's
3 this in, right, we're going to be getting comments in
4 from people, and I think this message, this
5 communications person, the more that we have a message
6 that allows people to know what we want, right, and get
7 specific, that feels like a message. And it feels like
8 we're also reaching out to communities that like have a
9 similar message. And then I'm imagining -- so I'm
10 imagining this person that we're hiring to direct the
11 messaging, if you will, and then, you know, hiring
12 interns or hiring, you know, sub-staff. But one person
13 to sort of help us message. And I don't think this
14 person's going to be a webmaster, but I think, right,
15 that's a huge piece of what this is. And I don't see
16 the webmaster position, you know, title here, I think
17 that can be hired out.

18 So I guess I'm not against separating them,
19 and I'm trying to understand how we might benefit from
20 having one person who helps us with our message, whether
21 that's you have -- for messages coming in or reaching
22 out.

23 >> Well, it seems to me in reading through
24 the responsibilities, et cetera, that this is primarily
25 communications, not outreach.

1 >> I would agree. And if we do have outreach
2 in here it seems like we should really consider the
3 communities of interest, right, which is such a big
4 criteria that was demonstrated -- excuse me, given to
5 us. Yeah. So that's -- the communities of interest is
6 missing from here. So I would agree that we can sort of
7 look at an outreach director as separate, and this
8 position is primarily communications, not outreach.

9 >> Any other comments?

10 Anthony?

11 >> I don't see a reason why we can't look for
12 somebody that has experience in both skill sets. I
13 mean, this job, you know, pays a pretty substantial
14 amount, so, you know, finding one person that fits the
15 criteria of both things we want might be the way to go
16 just to have less people hired monetarily.

17 And then also, like, if they start the job and
18 then we find that they need more assistance we could
19 always, you know, add on to our hiring, but I'm not
20 opposed either way.

21 >> I would think that if you kept the letter
22 with the both of them in there that you would more or
23 less say you're looking for a person that's going to do
24 communications with also this outreach, some kind of way
25 we could put it together that one of the other things

1 would be outreach, and maybe something else. We could
2 kind of make a little -- some little pointers of the
3 things that you as a communicator would actually need in
4 getting their staff together.

5 >> Anthony?

6 >> That is kind of how I read this under --
7 maybe I'm wrong, but under Responsibilities of
8 Communications Director will include the following,
9 develop and create and manage a public information
10 campaign and programs to meaningfully engage various
11 audiences in the work of the Commission, consult and
12 advise the Commission and executive director on media
13 issues, schedule media interviews, test speeches. Yeah,
14 I mean, to me all of these actual job descriptions,
15 like, count for both communication and outreach.

16 I mean, I may have a misunderstanding of what
17 the differences between the two.

18 >> Well, I think when you're thinking about
19 outreach, that's someone that's got to go out and reach
20 a whole lot of people in a certain amount of time. And
21 communicators can just more or less do it at a -- do it
22 in their own way of doing it, so it's probably almost
23 like two jobs. I mean --

24 >> So I guess the question is, does the --
25 regardless of what the title is, and the title is

1 communications and outreach, does the body of the
2 posting cover both of those or one of them, one or the
3 other? And do we need to make any changes, do we need
4 to take out outreach? What do we need to do?

5 >> In order to make it fit with outreach,
6 Steve, I would suggest that we have, under
7 Qualifications, that we would add some demonstrated
8 familiarity with communities of interest as defined by,
9 you know, Subsection 13C and Section 6 of Article IV in
10 the Constitution.

11 All right. Demonstrated familiarity with
12 communities of interest as defined by Michigan's
13 Constitution. I think it's Subsection 13C.

14 >> Isn't it also some other things that would
15 go under things that we have to look out for in
16 redistricting our job --

17 >> Yes.

18 >> -- besides community interest?

19 >> Yes. And I would agree. My thought was
20 that they are demonstrated, if we -- a little bit
21 further down after Qualifications is Desired Skills and
22 Abilities. Well, and -- yeah, so we've got experience
23 working with politically and socially controversial
24 topics and environments. Experience working with
25 contingency based media sources.

1 I guess what I'm suggesting is those spoke to
2 me as they could potentially help us demonstrate, yeah,
3 what somebody is going to be able to do in working with
4 a wide range of stakeholders.

5 So I feel like we do have some pieces here for
6 community outreach in the job description as it stands.

7 >> I can't see who's talking, but is that MC?

8 >> That's me. Yes, it's MC, Juanita.

9 >> Okay. I guess what I'm wondering is,
10 would that be overwhelming, both -- or just that one
11 staff to do, or would you want two different staffings
12 doing that?

13 >> It's possible.

14 >> Can we get two different people to do our
15 outreach and then one to do our communications? Because
16 Michigan is large.

17 >> It's true.

18 >> And so that might be overwhelming for just
19 one particular group to do all that.

20 >> It's true. And the way -- I'll say,
21 Juanita, I expect as a commissioner myself to be
22 directed by this staff person to assist in gathering
23 this information. So I don't think that the person is
24 doing it, the job themselves, they are just directing --

25 >> Right.

1 >> -- the campaign.

2 >> The staff.

3 >> And --

4 >> Yeah.

5 >> Yeah. And there's -- it's a significant

6 salary, just like the other ones that we've approved.

7 And I guess what I'm something is I think we should try

8 it. I think there are people who may be able to

9 demonstrate the skill set, and I think the secretary of

10 state staff, frankly, has suggested this, and maybe they

11 can speak to it. Because there are people who fill this

12 role maybe like, or are there people out there that they

13 know of that might actually fill this -- these

14 abilities. And I guess I'm -- that's my assumption.

15 And so if the Secretary of State can speak to that, that

16 would be helpful. And I want -- as Anthony said --

17 >> Sally?

18 >> Sorry. Anthony said earlier that we could

19 hire somebody else, too, if we need to if this is too

20 overwhelming.

21 >> Sally?

22 >> That sounds good.

23 >> Sally?

24 >> Yeah. Hi, everyone.

25 So thanks, MC. And it's, you know, it's great

1 to hear you all -- kind of the back-and-forth. Wanted
2 to offer a little bit of context. And I think that the
3 wording that, you know, we drafted in the title might
4 have been overly confusing, so I apologize for that.

5 Just to give you some context, you know, at
6 the department of state, for example, we have a
7 communications director. His formal title is
8 communications and external affairs. I think his level
9 of responsibility is probably larger and a little bit
10 more all encompassing than what you all would require.

11 That said, the way this is written is to try
12 and capture the need for whoever is responsible for your
13 sort of media and public relations to help and work
14 hand-in-hand with any additional staff you might hire to
15 do that outreach work or to do that kind of public
16 engagement work.

17 You know, just, for example, at the department
18 of state our public engagement team works really closely
19 with our communications director to make sure that the
20 messaging and the public education campaign and
21 everything is in lockstep.

22 So the way that, you know, in thinking about
23 this and in drafting it again just, you know, a starting
24 place for you all really truly is that it would -- it
25 was drafted to be flexible so that you could, you know,

1 look for top tier talent. But if it's easier to just
2 remove that "and outreach" from the title so that it's
3 clear that this person's central role is sort of the
4 communications side of things not the actual doing of
5 the, you know, organizing town halls, for example, then
6 that might be something to consider.

7 The other note I would just make, MC, on your
8 recommendation to add mention of communities of interest
9 is to perhaps put that in the Desired Skills and Ability
10 section instead of the Qualifications, just, you know,
11 to differentiate. Because many people might not even
12 know the term communities of interest even if they would
13 be a great communications director for you all.

14 So that's just some thoughts. And, again, I
15 apologize if the title used kind of created more
16 confusion than it was helpful.

17 >> Well, I can like the way you just said it
18 though. It sounds good the way you put it.

19 >> Any further comments? Do we want to move
20 forward with this? Do we have changes we want to make
21 or do we want to table it till the next meeting and
22 think about it?

23 >> I believe Mike just got his camera working
24 and had something to say on this.

25 Mike, can you hear us?

1 >> I can. Can you hear me?

2 >> Yes.

3 >> Yeah. Unfortunately, we can see you also.

4 >> So yeah, I was going to -- one thing I was
5 going to add additionally to what Sally said, and
6 certainly, you know, echoing, I think, the feedback from
7 Juanita and others, is that they are in fact different
8 roles.

9 One of the things that I know from other
10 public entities, especially some of the smaller public
11 entities, frankly, which is what this Commission is, is
12 that if they have a communications person on staff, and
13 some, you know, actually will engage an outside
14 communications firm. Because the nature of the work is,
15 you know, frankly, fits and starts.

16 So, I mean, to think about it at this point
17 think about the last two weeks of meetings, think about
18 what your public announcements look like right now.
19 It's not always going to be like this, of course, but
20 it's also not going to always be, you know, 100 percent
21 on, you know, full either.

22 And so thinking about, frankly, thinking about
23 how there, you know, may be -- you know, especially with
24 the amount of money that has been proposed, you know,
25 you can really command top talent, especially people who

1 are interested in serving and just all of the experience
2 and, frankly, exposure that they're going to get for the
3 rest of their career because they worked with you. So
4 when you combine that opportunity plus the amount of
5 money, you can command top talent. And I'll just tell
6 you, there are definitely people out there -- and
7 communications and outreach, Juanita's absolutely right,
8 they are different things, but there are people out
9 there who do both. And in a lot of cases they do both
10 as a practical necessity because their clients or their
11 employers can't afford to have more one than one. You
12 will have your own budget, you can make that decision.
13 The reason that the recommendations and department of
14 staff is what it is to try to bring these two together
15 initially out the gate for you all, and, of course, it's
16 your call, was, frankly, out of, among other things, a
17 knowledge -- or the knowledge that there were a lot of
18 folks who have experience and actually know how to do
19 both distinct skill sets, but also being very mindful of
20 the taxpayer dollars that will pay for these salaries
21 and trying to be fiscally responsible with that.

22 So practically speaking, again, I think other
23 folks have already -- Juanita said this much better than
24 I can, but in certain regard, you know, some people I've
25 heard it said think of communication as putting a

1 message out. They think of outreach as taking
2 information in. Obviously a good effective dialogue
3 involves both speaking and listening, both putting
4 information out so the public knows what you're doing,
5 but also receiving information back so the public's
6 input can inform what you're doing. And it's both of
7 those things. And so at any point if it's too much work
8 for somebody you can and perhaps should, you know, add
9 additional staff capacity. But just thinking about, you
10 know, practically speaking, if this person was on, if
11 not now, but let's say this person comes on a month from
12 now or even, you know, in December, there's going to be
13 a lot of other, you know, frankly, lull time. There's
14 not going to be huge announcements necessarily as this
15 Commission does its core work that would require
16 necessarily -- you hope. That's not when you should be
17 sued, right? Big lawsuit comes later. The other things
18 come later. So in terms of communication and outreach,
19 that's -- I'm sorry, in terms of communication and
20 putting messaging out and speaking to the media, that's
21 going to feel different than at other points in the
22 schedule.

23 And in terms of the outreach, I'm thinking
24 about somebody who, like, they're not going on your
25 behalf. The Constitution requires you all to have

1 meetings, we've talked about this before, 10 meetings at
2 a certain point and -- at least 10 meetings at a certain
3 point, and at least five meetings at a different point.
4 And so the outreach person is somebody who can, you
5 know, maybe they're going on doing advanced work,
6 they're certainly working, they're facilitating those
7 conversations on your behalf, with you in the room.

8 So they're not really kind of going on doing
9 this whole other thing, it's not a whole separate team,
10 you're the outreach actually, somebody who's supporting
11 you, but that's a distinct skill set.

12 So that's a little bit of the rationale.
13 Obviously, you know, as you know already, you do
14 whatever you need to do and, you know, we stand ready to
15 support whatever you decide.

16 >> Thank you, Mike. Appreciate that.

17 Any further comment?

18 Do we -- Juanita?

19 >> Yes. I like what Mike said. Maybe we
20 should try that way and if it becomes overwhelming we'll
21 kind of separate the two.

22 >> Okay. Very good.

23 >> And hire someone.

24 >> Erin?

25 >> If we're going to combine the two do we

1 want to put under responsibilities that, going from page
2 14 of our binder, the communications director -- no, the
3 outreach director is supposed to organize the public
4 hearings. Because I didn't see where that was clearly
5 defined in this.

6 >> Great addition.

7 >> Erin, I wonder -- I was looking at that,
8 too. And I thought under the responsibilities to
9 develop and create a public information campaign and
10 program to meaningful engage, do you want more
11 definition than that?

12 >> I just wondered if that encompassed
13 actually organizing the public hearings with what DOG
14 has done -- DOJ has done.

15 >> I'm okay with further definition.

16 >> Yeah, I think we can add that in. I don't
17 see why not. For clarity.

18 >> Does somebody have proposed -- oh, I see
19 and organize public hearings. Okay.

20 >> Steve, what about -- what about
21 responsibility of compiling the public input, and then
22 presenting, summarizing, presenting that data to the
23 Commission?

24 >> I guess my thought personally on that is
25 just having listened to what California said, I mean,

1 they had, you know, 30,000 of those.

2 >> Yeah.

3 >> And they were doing, you know, if we got
4 100 of them that are all on the same topic, you know, we
5 got one with -- times 100. I think that we would be
6 wise to, you know, take a wait-and-see attitude and see
7 how much we've got coming in, and if we need to have
8 the, you know, staff organizing those, I wouldn't think
9 we would be paying somebody \$120,000 to organize e-mails
10 coming in. We'd be paying a secretary.

11 >> Well, they may manage the organization of
12 that though.

13 >> Yeah. I don't see that as a problem.

14 >> Okay.

15 >> Anybody, are we at a point to make a
16 motion? Because we're at a point we're coming out of
17 time.

18 >> A motion to adopt this job description.

19 >> As amended?

20 >> I second that.

21 >> As amended?

22 >> Yes, as amended.

23 >> Okay. Second?

24 >> I second that.

25 >> Okay. Motion by Anthony, second by Dustin

1 to adopt the proposed communications and outreach job
2 posting as amended.

3 All in favor say aye.

4 >> Aye.

5 >> Aye.

6 >> Aye.

7 >> Aye.

8 >> Aye.

9 >> Aye.

10 >> All opposed, the same sign?

11 Okay. I would now entertain a motion that we
12 direct the staff to post the position.

13 >> I also second that.

14 >> Who made the motion?

15 >> I'll move it. MC moved it. Dustin
16 seconded.

17 >> MC moved and Dustin seconded that the
18 staff post the communications and outreach director job
19 posting.

20 All in favor a aye.

21 >> Aye.

22 >> Aye.

23 >> Aye.

24 >> Aye.

25 >> Aye.

1 >> All opposed, the same sign?

2 Okay.

3 Are there any final thoughts? I mean we're at
4 the point of adjournment. Anything that we need to
5 think about before I ask Sally questions?

6 >> I just want to say I sent out -- well,
7 Sally, I sent Sally and Sally sent them out to you guys
8 some just different proposed motions I came up with. I
9 thought we'd be talking about compensation today, so I
10 thought they'd be a good starting point.

11 I know Brittini wanted to talk about it, too,
12 and she's not here, so I think it's, you know, it's good
13 that we're going to be getting more information from the
14 Secretary of State local, but I wanted to be able to
15 read so we hopefully have a starting point to go on
16 whenever we talk about it, I would appreciate it. It's
17 formatted more so in the format of a resolution instead
18 of a motion, but I think it gets the job done.

19 >> I did get those, and I did look at them,
20 and I guess my comment would be two of them are really
21 non-starters because they don't comply with the
22 Constitutional amendment.

23 >> Being what?

24 >> Well, I thought they did comply.

25 >> You've got two of them are too high,

1 they're over 25 percent.

2 >> I thought the Constitution said the
3 minimum of 25 percent.

4 >> Correct.

5 >> Absolutely. And I guess my comment there
6 would be it's going to be awful hard to go above 25
7 percent.

8 >> Yeah. I mean, I don't support going above
9 25 percent. But I think it's justifiable under the
10 Constitution.

11 >> While it is implored, it really is
12 stealing.

13 >> If anyone --

14 >> I just made them for -- you know, we can
15 discuss that whenever we discuss it, but I think -- I'm
16 not necessarily in support or not in support of it being
17 more than 25 percent yet. And we can discuss that
18 later, but I don't think that it doesn't comply with the
19 Constitution. I'm pretty sure it does comply with it.

20 >> I have a question.

21 >> Okay. Juanita?

22 >> Does anybody remember when they applied
23 for this certain job that it says that the compensation
24 would be 54,000?

25 >> I don't recall that.

1 >> I don't recall that.

2 >> Okay. I'm the only one. Okay. Just
3 wondered.

4 >> Okay. Sally, do you have anything for us?
5 And do you have the numbers I asked you for?

6 >> I think Mike has something.

7 >> Mike?

8 >> Hi. I was, just more for the public,
9 Anthony mentioned that he had a few different proposed
10 resolutions that he had shared with Department of State
11 staff and shared with the Commissioners. Those were
12 shared. All of those will be posted online, if they
13 haven't already been, so that people understand, you
14 know, what's being proposed. I think there was three
15 different resolutions, they all dealt with -- again,
16 it's just for the public so they understand what was
17 actually being discussed just now, three different
18 proposals for compensation, one of them included the 25
19 percent that's included in the Constitution, and then
20 there's one that went above that and one that went
21 further above that.

22 And so there's not a motion today, but if
23 anyone in the public is interested in seeing those you
24 can see them at redistrictingmichigan.org. I just
25 wanted to express that.

1 >> Thank you, guys, so much for posting that.

2 >> Okay. Sally?

3 >> Hi, Commissioners.

4 So I think we are all set. I just wanted to
5 recap that old business for next week -- or sorry, not
6 next week, next meeting will include the thank you notes
7 and code of conduct, and we will be posting the
8 communications director position, along with the general
9 counsel on Monday.

10 >> And did you -- do you have the budget
11 numbers that were given out at the start of the meeting?

12 >> Yes. So the fiscal year '21 budget for
13 the Commission is \$3,149,400. So the 25 percent of the
14 governor's salary for fiscal year '21 is \$39,825, which
15 would be the compensation outlined in the Constitution.

16 And then the remainder, so basically the
17 fiscal year '21 redistricting budget minus that
18 compensation for all 13 commissioners leaves \$2,631,675.

19 >> Thank you.

20 Okay. Anything else from anybody?

21 >> Steve, one thing. On the next meeting
22 agenda can we have line items for forming the committees
23 for the two other jobs we posted, which I believe were
24 the general counsel and the communication and outreach
25 director?

1 >> For the agenda?

2 >> Yeah, for the agenda.

3 >> Yes.

4 >> Sure. Yep.

5 >> Yes.

6 >> Anybody else?

7 Don't see my hands. Juanita we can't see you,

8 but we can hear you. Have you got anything for us?

9 >> Not right now.

10 >> Okay. Would you make a motion we adjourn,

11 Juanita.

12 >> I'll make the motion, I move that we

13 adjourn.

14 >> Good. Cynthia, will you second it?

15 >> Yes.

16 >> All in favor, get up and walk away.

17 Thanks. See you next meeting. See you later.

18 >> You all have a blessed day.

19 When is the next meeting.

20 >> Next meeting.

21 >> It's on the 12th. October 12th. Excuse

22 me, October 13th. Tuesday, October 13th at 1:00

23 o'clock.

24 >> All right.

25 >> You all have a great weekend.

1 (The proceeding was concluded at 12:50 p.m.)

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CERTIFICATE OF NOTARY

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STATE OF MICHIGAN)
) SS
COUNTY OF MACOMB)

I, LAURA J. STEENBERGH, Certified Shorthand Reporter, a Notary Public in and for the above county and state, do hereby certify that the above deposition was taken before me at the time and place hereinbefore set forth; that the witness was by me first duly sworn to testify to the truth, and nothing but the truth, that the foregoing questions asked and answers made by the witness were duly recorded by me stenographically and reduced to computer transcription; that this is a true, full and correct transcript of my stenographic notes so taken; and that I am not related to, nor of counsel to either party nor interested in the event of this cause.

Laura Steenberg

LAURA J. STEENBERGH
CSR 3707 Notary Public,
Macomb County, Michigan

My Commission expires: 2/14/21

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