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MICRC

05/20/21 5:00 pm MICRC Meeting

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CHAIR KELLOM: All right, let's try this again. Good afternoon. As Chair of the Commission, I call this meeting of the Michigan Independent Citizens Redistricting Commission to order at 5:00 p.m.

This Zoom meeting is being live streamed on YouTube. For anyone in the public watching, who would prefer to watch via a different platform than they are currently using, please visit our social media at Redistricting Michigan to find the link for viewing on YouTube.

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

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

This meeting is being recorded and will be available at www.Michigan.gov/MICRC for viewing at a later date.

This meet is also being transcribed, and those transcriptions will be made available and posted on Michigan.gov/MICRC along with written public comment submissions.

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

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

We will now have roll call for the purposes of the public watching and public record. I will turn to the Department of State to make note of the commissions present.

>> MS. SARAH REINHARDT: Please say present when I call your name. If you are attending the meeting remotely, please announce during roll call you are attending remotely. And unless your absence is due to military duty, announce your physical location by stating the county, city, Township or village and the state from which you are attending the meeting remotely.

Doug Clark?

>> COMMISSIONER CLARK: Present. And I am attending the meeting remotely from Rochester Hills, Michigan.

>> MS. SARAH REINHARDT: Hold on, Doug. We are having audio issues. Give us just a moment. Can you repeat that, Doug?

>> COMMISSIONER CLARK: Present. I'm attending the meeting remotely from Rochester Hills, Michigan.

>> MS. SARAH REINHARDT: Thank you, Doug. Juanita Curry? Anthony Eid?

>> COMMISSIONER EID: Present.

>> MS. SARAH REINHARDT: Brittini Kellom?

>> CHAIR KELLOM: Present.

>> MS. SARAH REINHARDT: Rhonda Lang?

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

>> MS. SARAH REINHARDT: Steve Lett?

>> COMMISSIONER LETT: Present.

>> MS. SARAH REINHARDT: Cynthia Orton?

>> COMMISSIONER ORTON: Present.

>> MS. SARAH REINHARDT: MC Rothhorn?

>> COMMISSIONER ROTHORN: Present.

>> MS. SARAH REINHARDT: Rebecca Szetela?

>> VICE CHAIR SZETELA: Present; attending remotely from Wayne County, Michigan.

>> MS. SARAH REINHARDT: Janice Vallette?

>> COMMISSIONER VALLETTE: Present

>> MS. SARAH REINHARDT: Erin Wagner?

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

>> MS. SARAH REINHARDT: Richard Weiss?

>> COMMISSIONER WEISS: Present.

>> MS. SARAH REINHARDT: Dustin Witjes?

>> COMMISSIONER WITJES: Present.

>> MS. SARAH REINHARDT: 12 out of 13 Commissioners are present and there is a quorum.

>> CHAIR KELLOM: Thank you so much, Sarah. As a reminder to the public watching, you can view the agenda at [Redistricting Michigan.org](http://RedistrictingMichigan.org).

We will now have the adoption of the agenda, assuming all Commissioners have taken a moment to review it. And if there are no additions or changes, I would now entertain a motion to approve the meeting agenda.

>> COMMISSIONER WITJES: So moved.

>> COMMISSIONER LANGE: Can I make a point of inquiry?

>> CHAIR KELLOM: Go ahead, Commissioner Lange.

>> COMMISSIONER LANGE: New business, Section A, Number One. It says request identification of city and state on the portal. I know I had requested that this be

added to the agenda, but I had it -- I had requested that we add entire addresses. So I just didn't know if that was a typo or not.

>> CHAIR KELLOM: I'm not sure. I can have Sue answer that if or Julianne.

>> MS. JULIANNE PASTULA: The motion was being moved, Commission Lange. You would need to amend. We will do a motion to amend that portion of the agenda to reflect that addition.

So if we can finish taking the main motion, which I believe that you had the first, Madam Chair, with Commission Witjes.

>> CHAIR KELLOM: Yes. I could not discern. Commission Witjes with the motion. And do I have a second?

>> COMMISSIONER LETT: Second.

>> CHAIR KELLOM: And Steve Lett and Commissioner Lange?

>> COMMISSIONER LANGE: I motion that we change the agenda, that particular one to state: Request full addresses be included on the portal.

>> COMMISSIONER LETT: Second.

>> CHAIR KELLOM: Okay. There has been a motion posed and second that we change under new business, under public comment portal, instead of it saying request identification of city and state on the portal, the amendment has been seconded for it to say request of full addresses on the portal.

So the vote will be to amend the agenda to express the amended motion from Commissioner Lange. Are we clear on that? Okay.

All those in favor of this change in the agenda, signify with aye.

>> Aye.

>> CHAIR KELLOM: All opposed same sign. I'm sorry, my mic keeps turning off. I don't know what's going on. I said the ayes have it.

>> JULIANNE PASTULA: Madam Chair?

>> CHAIR KELLOM: Yes.

>> JULIANNE PASTULA: You may return to the vote on the main motion, which is to adopt the agenda as amended.

>> CHAIR KELLOM: Okay, sorry. I got lost. The main motion to adopt the agenda can we all signify with an aye if we are voting to approve the agenda as amended?

>> VICE CHAIR SZETELA: Aye.

>> Aye.

>> CHAIR KELLOM: All those opposed same sign.

And the agenda is adopted as amended.

>> COMMISSIONER WITJES: I have a point of personal privilege. We can have only have, I think, four mics on at any particular point in time, which is why they keep getting cutoff.

I've noticed that. So I don't know if we want to just do aye verbally or with a raised hand or if you want to do roll call for things just to make it easier.

>> CHAIR KELLOM: I'm fine with a raised hand. I don't know, especially since we have virtual folks, if that pleases everyone, okay.

>> MS. JULIANNE PASTULA: Madam Chair, that would be appropriate just as long as they leave the hand up for either the aye or the nay vote.

>> CHAIR KELLOM: Thank you. So we will switch to a raised hand if you are voting on anything that needs to be approved.

Okay. And now moving on to the review and approval of minutes. Are there any objections or changes that need to be made to the minutes from May 6, 2021? If not, I would entertain a motion to approve the minutes from the May 6, 2021 meeting.

>> COMMISSIONER LETT: So moved.

>> COMMISSIONER WITJES: Second.

>> CHAIR KELLOM: Moved by Commissioner Steve Lett and seconded by Commissioner Witjes. All those in favor signify with a raised hand.

And all those opposed same sign.

And the minutes from May 6, 2021 are approved.

We will now review and approve the meeting minutes from May 11, 2021, the public hearing. And I would entertain a motion to approve the minutes from the May 11, 2021 public hearing. Which are also posted on the redistricting Michigan.org site.

All those in favor or I'm sorry.

>> COMMISSIONER LETT: So moved.

>> COMMISSIONER WITJES: Second.

>> CHAIR KELLOM: You are going to kill me about this mic, so I apologize. Let me just try to figure out why I keep shutting out.

All those in favor of approving the minutes from May 11, 2021, please signify with a raised hand.

And all those opposed same sign.

And the minutes from May 11, 2021 are approved.

We will now move to public comments, correspondence and remarks. Without objection, we will now begin the public comment pertaining to agenda topics portion of our meeting.

Hearing no objection, we will now proceed with public comment pertaining to agenda comments. Individuals who have signed up and indicated that they would like to provide in-person public commentary to the Commission, will now be allowed to do so. Please step to the nearest microphone, which in this case will be straight ahead.

When I call your name, you will have two minutes to address the Commission. Please conclude your remarks when you hear the timer.

We really don't try to cut anyone off, but just in, you know, respect and honoring time and everyone's presence, if your comment is going over the two-minute mark, you will hear a timer. You can finish, as I've indicated, your thought or statement but please do not continue on past the two minutes.

If you feel that you have been cutoff or you have more to say, please go to the public comment tool and share your comments in writing. Including any specific area of the map about which you are speaking. The public comment tool is at Michigan.gov/MICRC.

First in line to provide public comment is Mr. James Gallant.

>> MS. JULIANNE PASTULA: Madam Chair, I apologize for the interruption. I just wanted to draw your attention to the timer on the screen. Thank you.

>> CHAIR KELLOM: Thank you. So, for transparency purposes, you can see the timer. This is the timer that we will be going by. And I will go back to introducing Mr. James Gallant. You are now able to address the Commission. Thank you so much for coming out this evening.

>> Okay, my name is James Gallant. I represent the Marquette County Suicide Prevention Coalition. And my community of interest is the entire State of Michigan. And I'm here to address the rules of procedure, the Bylaws, and the processes in which these proceedings, and in my personal, opinion at the rules of procedure of this Commission have been gerrymandered.

I believe that the Michigan Department of State, Michigan State University, University of Michigan and the Princeton gerrymandering project have gerrymandered the rules of procedure of this Commission.

They submitted a recommendation for you for Robert's Rules of Order. What they submitted to you, a Robert's Rules of Order cheat sheet for non-profits. This is not a nonprofit corporation. That is completely inappropriate.

They give that to you to study, and that is all in your heads right now. But they didn't give you a copy of the rule book. That's all opinion.

State police are required to not give their personal opinions and represent that of the opinion of the State of Michigan. The passages in this book is the representation of the opinions of the State of Michigan. You can't just make it up now. Okay.

I believe that this Commission should address the Bylaws. And the first meeting on the agenda, they said it's not in writing, but on the agenda, there was two public comments. The Secretary of State determined that there would be the precedence of the rules of procedure that you have now.

You should have codified the precedence and then amended them to bring you to where you're at now. But the most recent past Chair, Mr. Lett, had -- the Secretary of State determined that there was going to be 90 seconds and there was going to be two public comments at every meeting.

And then at the next meeting, the Chair completely disregarded the precedence of the rules of procedure and then just went on and wrote his own. Or it's the Executive Director because the Executive Director created the agenda. Except for back then it was Miss Marsh and Mr. Brady. Guess what? They are the ones responsible for this.

And I believe that these rules have been gerrymandered. And now, when you approved those minutes just a minute ago, you did the discussion first. You did the discussion first. And then you did it. And then you voted and you motioned, then you voted. You just broke the rules again.

And there is no double comments. And this is a violation of my legal rights under the Constitution and due process and equal protection, two public comments at every meeting. And you just took that away from me and everybody else in the state.

And it appears that your civil counsel is just willing to go to Court and not talk about it. And you can expect a petition to be filed Monday including an injunction against all future meetings because you have systemic defects in the bylaws and rules of procedure here.

>> CHAIR KELLUM: Thank you so much for addressing the Commission.

>> You don't have to address it, but that just means that you can be held legally responsible for the gerrymandering that you have done here in the rules. You gerrymandered the rules and it's for your own advantage. And it's completely inappropriate. And two minutes is completely inappropriate.

>> CHAIR KELLUM: Thank you.

>> It should be three.

>> CHAIR KELLUM: Thank you for addressing the Commission.

>> It should be three.

>> CHAIR KELLUM: And by my count we don't have any virtual commentary this evening. So that will conclude our public comment portion of the agenda.

Moving on now to unfinished business. We have two items to discuss. There is first an update on Election Data Services contract. Without objection, our ED or general counsel, Julianne Pastula, will provide update on Election Data Services contract.

Hearing no objection, please proceed to the Election Data Services contract discussion. So I don't know if Julianne or --

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

>> CHAIR KELLUM: Sorry.

>> MS. JULIANNE PASTULA: No, thank you, Madam Chair, for the opportunity. So I would like to let the Commissioners and the public know that the Election Data Services contracting notice to award has been posted and the unsuccessful bidders have been notified of that posting.

The notice to award timeframe will expire on Monday -- Sunday. So as of Monday that contract would be in force. Save any protest.

>> CHAIR KELLUM: Thank you, Julianne. And the update on Federal Compliance Consulting, the LLC contract.

>> MS. SUANN HAMMERSMITH: If there are no objections, I will take that one. That contract is now in effect. So we finalized it. It's been signed fully by both parties. And

we've had an initial meeting to begin discussing process and how Federal Compliance Consulting will assist the Commission.

>> CHAIR KELLOM: Thank you, Sue. And is there any further discussion for that contract from anyone?

Okay. Moving on to new business agenda item regarding the public comment portal.

>> COMMISSIONER CLARK: Excuse me, Brittini. I had a comment. I had my hand up on the video screen.

>> CHAIR KELLOM: I'm so sorry, Doug. I was looking at my notes. I apologize, Commissioner Clark.

>> COMMISSIONER CLARK: It's hard to see in the venue. I want to go back to the comment you said, Sue, about having initial immediate meetings with Federal Compliance Consulting. How are we going to get the Commission involved in those discussions?

>> MS. JULIANNE PASTULA: Through the Chair to Commissioner Clark, what the initial discussions were to set up the time that Mr. Adelson will be presenting to the full Commission. That was what we were discussing.

>> COMMISSIONER CLARK: Okay. So you are not really discussing any process. You are discussing agenda items to have him address us.

>> MS. JULIANNE PASTULA: Correct. And through the Chair again to Commissioner Clark, any discussions on process, any of those would be held with the full Commission, and the full Commission would be deciding any process issues.

>> CHAIR KELLOM: Doug, does that answer your question?

>> COMMISSIONER CLARK: Yeah. It answers my question and brings forth some more, but that's going to get into an in-depth discussion, which I really don't think is part of this agenda. So maybe we can put it on the next agenda item to discuss that next week.

>> CHAIR KELLOM: Okay.

>> COMMISSIONER CLARK: We will have the same issue with EDS once they become our official vendor as well. So, okay, sounds good. Thank you.

>> CHAIR KELLOM: You're welcome, Commissioner Clark. All right. We are moving on to new business agenda item regarding the public comment portal. Without objection, our general counsel will now provide an update on whether the Commission can require with the new change. We are no longer just discussing the city and state on the portal. We are now discussing full addresses.

So I don't hear any objections from anyone. Please proceed, General Counsel.

>> MS. JULIANNE PASTULA: Thank you so much, Madam Chair. So this topic was raised at an earlier meeting, and it was requested to be placed back on the agenda. So I would like to go back through the support and the discussion item that we previously covered.

So the first amendment to the U.S. Constitution protects five freedoms, speech, religion, press, assembly, and to petition the Government. Collectively it protects us from the Government limitations on our freedom of expression, which is broader than just freedom of speech.

So it prevents the Government from either making you say something you don't want to say or prevent you from reading or hearing the words of others, that the Government may or may not agree with.

So returning to the issue at hand after just that brief background, so the first amendment in this context, as far as providing full address now with city and state, on our public comment, to be able to provide public comment, the first amendment provides protection to and the opportunity for free speech in public forums.

So, under the law, the MICRC meeting you are attending currently is a limited public forum. Therefore the Commission can regulate the time, place, and manner of speech but not the content.

So in the MICRC has accomplished this through its rules of procedure by setting the time limit to two minutes, by providing reasonable sign-up mechanisms, particularly for remote participants. And the Commission is therefore unable to restrict the speech of the public as far as who can participate because that would likely be ruled a censorship and unconstitutional by a Court of law.

The -- again, this is referring to the physical address to be able to provide public comment. In addition to the first amendment concerns that I just addressed, there are also privacy concerns with this public -- with this requirement, proposed requirement.

The public comment portal that we are inviting all of the members of the public to participate through in addition to live public comment or virtual public comment or remote public comment, those are all part of the public record.

So running -- requesting city and state would not run afoul of the privacy considerations of publishing that information for private citizens, but however, a physical address would.

For the privacy, there is a two-prong test for privacy considerations. It would be information of a personal nature and two public disclosure would constitute a clearly and warranted invasion of that individual's privacy.

The Court has held or Michigan courts have held that home addresses, date of birth, phone numbers are exempt under those privacy exemptions. So they held that a personal address, a date of birth and a phone number, again, are information of a personal nature. They reveal little to nothing about a Government agency's conduct. And it does not further the stated public policy of having the citizens be able to be engaged in Government, in a Government setting.

So for those reasons, Madam Chair, I would just like to provide that information to the Commission for their consideration during their deliberation on this important topic. And I'm available to answer any questions.

>> CHAIR KELLUM: Thank you so much, Julianne. I open up the floor to the discussion about requesting full addresses. Thank you, Richard, yep.

>> MS. JULIANNE PASTULA: Madam Chair, I've been requested, if there needs to be a motion on this agenda, the floor was open for the discussion. And the motion could be to either accept, you know, to forward the proposal or to make a motion for a different action.

There is no current -- there is no active action motion on the table right now, just the discussion.

>> CHAIR KELLUM: And Rhonda also has a question.

>> COMMISSIONER LANGE: Part of the discussion, yes.

>> CHAIR KELLUM: Go ahead.

>> COMMISSIONER LANGE: So my question is, and maybe this would be better addressed to the Department of State since they communicate with the people that developed our portal and they contracted them, is it possible like on other websites to include name and address without it being printed or available for sight on the website? Where you go in and you put it in, but yet it does not show up in the comments nor on the maps. Is that a possibility?

And I ask this because we've had a lot of public comment about it. People that have shared their public comment have included their addresses, most of them. We've had in-person public comment about it.

And when we look at other things, you contact the Governor of the state, you have to have name, e-mail, phone number, address, all of that.

When you fill out a petition, you have to have county or Township which you live and your complete address.

So I'm wondering, you know, based off from the survey that we had where the people that have heard about this Commission, there's a lot that don't have -- oh, wonderful Moon's here. Thank you. So I will address it to Moon, then let me cut it short and I'll just address that question to Moon because she would be the person that could answer that for me, if that is okay, Madam Chair.

>> CHAIR KELLUM: Sure. I think that's why our lovely Moon popped on. Go ahead. Totally fine.

>> DR. DUCHIN: Great. I can definitely answer that. From a technical point of view, there is no problem at all collecting information that you don't display. In particular, we collect e-mail addresses and we validate e-mail addresses, but we don't display those publicly. So there is no technical obstruction to asking for information. And then you could also decide whether to make it mandatory or optional. Either way it can be maintained in the database, but it doesn't have to be made public.

>> COMMISSIONER LANGE: So theoretically then we could require a street address. And it doesn't matter, somebody out of state could still comment put in their address and state and everything, and it could just be displayed, say, in their comment

as city and state. But yet we would still have a full address, and that's completely possible.

>> MR. DUCHIN: Completely possible. Technically, just small observation, you might have people who are unsure what address to use for themselves. So you would probably want to give a little bit of clarity to whether you're looking for a mailing address or, you know, what kind of address you seek. But for sure we can collect information that we store with no display.

>> COMMISSIONER LANGE: Thank you for that.

>> JULIANNE PASTULA: Madam Chair.

>> CHAIR KELLOM: Yes.

>> JULIANNE PASTULA: I wanted to add, since Dr. Duchin clarified the technical aspect of it, I would like to clarify the legal aspect for the public. So this would be information that the Commission would collect and not disclose to the public. So just for that clarity.

I think Commissioner Lange, her example about the petition, that information of assigning your home address and city, state, excuse me, city, Township or village is required under Michigan Election Law. So that would just be the distinction, again, that if the Commission collected the information, it would not be disclosed.

As it is not currently when people were submitting prior to the public comment portal, if they provided any of that personal information it was redacted before it was posted on the Commission's website.

So just for clarity, I thank you, Madam Chair.

>> CHAIR KELLOM: Thank you, General Counsel. Any further discussion?

>> COMMISSIONER LETT: I have a question.

>> CHAIR KELLOM: Yes.

>> COMMISSIONER LETT: Rhonda, what are we going to gain by having the full address that we don't already have by having the city and the state? What purpose do we need with the full address?

>> COMMISSIONER LANGE: Commissioner Lett, I feel, based off from public comment, that if we required a physical address be put in, even though we are not displaying it to the public, it may gain some public confidence in this process.

We've had multiple e-mails. We've had comments on our online tool and in person where they are concerned about potentially people from out of state, which this would not stop people from out of state. They could still put in their city, state, and address from out of state and their comments could still be there.

But I think it may give a little bit to the public to show them that we are trying to work for them and give them confidence in this process.

>> COMMISSIONER LETT: I guess I understand that. We are not going to show the addresses to the public, then they are going to have to take our word that we are really

doing that. And if we are doing it by showing the city and the state, I think we are accomplishing that.

So I understand your concern. I just think in my opinion anyway and my feeling is it's probably not well placed.

>> COMMISSIONER WITJES: I got something too.

>> CHAIR KELLOM: Thank you, Commissioner Lett. And go ahead, Commissioner Witjes.

>> COMMISSIONER WITJES: I was going to say even if someone from out of state were to put in the information for a city or a state and maybe a zip code and it's not true, what difference does it really make? Like, I mean, if it's something that we require but they can still lie on it, it really doesn't make sense to have something else that someone has to fill out because it would be mute in my point any way.

>> CHAIR KELLOM: Thank you. MC?

>> COMMISSIONER ROTHORN: And what I'm hearing from Rhonda, which makes sense to me, we want to be responsive and I think we want to try to instill trust. And so what I'm weighing is what I'm also hearing from Steve and Dustin, it may not actually make a difference. And if it helps the public trust us more, then I'm thinking, okay, maybe it's worth it.

And, here is my question, how much work do we create when to sort of like have this extra one, so it has to be redacted? And there is this part of me that knows that if it's really -- if it's important and it does gain us trust, that's great. But if it comes at a cost of like three extra hours for the Department of State to actually redact every, you know, line, right, that's a heavy cost.

And so I'm wondering if this is a simple technological kind of work, right? It can be blacked out sort of simply even though we are requesting it and even requiring it? Is that, yeah, and maybe even I hope that question is clear.

>> CHAIR KELLOM: I think I understand what you're saying, MC. What I'm hearing you say is the cost of man hours, right? It's one thing if we can get confidence and privacy, sure.

>> COMMISSIONER WITJES: Even woman hours.

>> CHAIR KELLOM: Woman hours, human hours, the sweat equity it takes on the tech end to have that addition, yeah. I understand that question.

>> MR. DUCHIN: Briefly, it's no additional lift on the tech side. You shouldn't think of that as an obstruction.

And, I'll add, another thing you could choose to do is to just have a check box for attestation that the person lives in Michigan. Of course, someone can always be dishonest. And if you have hackers, that won't stop hackers and trolls. But just to have a voluntary attestation being from Michigan is another thing that would be extremely easy to implement and that might meet some of the needs that you've described.

>> CHAIR KELLOM: Thank you, Moon. I'm going to jump to Rebecca and then Anthony and then Doug. I'm trying to get virtual in and in person.

>> VICE CHAIR SZETELA: Yeah, I'm just wondering to what extent we haven't or -- are we planning on filtering for people who report out of state addresses? And my thought process in this, and I know Commissioner Lett is in this very situation, as I know a lot of people who are what we call snowbirds who may have property in Florida or may have property in Arizona but they also have property here. And so they are here maybe four or five or six months out of the year. And they are in another state for part of the year as well.

And so I just want to make sure we are not excluding people who have a legitimate interest in making comments because they might put down their Florida address or put down their Arizona address just because that is just natural to them to some extent. I just want to make sure we are not filtering people out for that reason.

And then, you know, my other concern is that a chilling effect on people making comments. It does concern me even to have city and state. Honestly, if you have a unique name, like my name is unique, if you look up my name in the city, I live in you can find my address very easily. And, you know, I just worry the environment we are in that there could be some people that don't feel comfortable making comments because they are worried some person is going to start doxing them on the Internet. And, you know, and slandering them because they made a comment they don't like.

And that concerns me that we might be chilling some of the comments that we want to get by requiring this. Even with, just like I said, just the name and address.

And as a result of that I just think we are going to end up having useless data because people will put false information in so what is the point of it any way. It just seems like if we are not going to verify the data, then what is the point of collecting it especially because it's personal data?

Just from a data privacy lawyer perspective, I'm reluctant to collect data when there is no actual use or purpose for it. And it just seems like this is window dressing in my opinion.

>> CHAIR KELLOM: Thank you, Rebecca. I'm going to go to Anthony and then back to Doug.

>> COMMISSIONER EID: Thank you. I have two comments. And the first one is I guess I'm a little confused about what we are discussing. Did Commissioner Lange make a motion to change the public comment tool?

>> MS. JULIANNE PASTULA: Madam Chair?

>> CHAIR KELLOM: Go ahead, Julianne.

>> MS. JULIANNE PASTULA: I apologize.

>> CHAIR KELLOM: You are fine.

>> MS. JULIANNE PASTULA: Through the Chair and Commissioner Eid, the motion that was made earlier was to amend the agenda item to add street address to the public

comment portal. There has been no motion made on any action to do that. There is no pending motion on the table for that action.

>> COMMISSIONER EID: Commissioner Lange, would you like to make a motion to do that?

>> COMMISSIONER LANGE: I see Doug has his hand up. I don't know if we need to continue the discussion before that's made. I don't want to jump in front of anybody.

>> COMMISSIONER EID: Well, right, but what I'm saying is we can have discussion after the motion is made, correct?

>> COMMISSIONER LANGE: Then I move we put complete addresses on the portal tool.

>> COMMISSIONER WAGNER: Seconded.

>> CHAIR KELLOM: Okay. Moved by Rhonda. Seconded by Erin Wagner. And we are voting on if -- thank you, Steve. Sorry because I'm like we are already discussing. So now we will have discussion about including full addresses on the public comment portal tool.

>> COMMISSIONER EID: Madam Chair, can I make my comments now?

>> CHAIR KELLOM: Yes.

>> COMMISSIONER EID: Wonderful. Thank you. Sorry about that. I was just a little lost in my notes here.

So it seems like we have two different things to consider here. We've heard from Dr. Moon that this is technically possible to do what is contained in Commissioner Lange's motion. But we also have the other side on what is legally responsible for the Commission to do.

And we've heard from our General Counsel that if we do require an address to be placed, it might -- excuse me, we might be opening the Commission up to different legal ramifications, which is something I worry about.

If you recall, I did have the same question that I put out to the rest of the Commission at our meeting on May 6th about requiring the public to add a city and state. And I might still be in support of that, but I do think having a full street address might be going a little too far. And I don't see really what that would add.

You know, in my opinion, I think city and state would be sufficient. And that might open us up to less different legal ramifications as well. Even though it would be technically possible.

>> CHAIR KELLOM: Thank you, Commissioner Eid.

Doug, I'm going to go to you. I do have a comment and question, but I also want to yield to my fellow Commissioners.

>> COMMISSIONER CLARK: I'd like to amend the motion that Rhonda put forward and indicate that we will collect the address, city and state but the address will not be displayed.

>> COMMISSIONER LANGE: I will second that.

>> COMMISSIONER CLARK: That's all I had.

>> CHAIR KELLOM: Okay, would you all like to have further discussion? Are there any other thoughts besides my own on that amendment?

>> COMMISSIONER EID: I do have a question for our general counsel, if that is okay.

>> CHAIR KELLOM: Go ahead, Anthony.

>> COMMISSIONER EID: Thank you. My question is: Let's say this information were to become subpoenaed at any point during the redistricting process. Would that bring the potential for physical addresses associated with names of public comment submissions to be, you know, placed in public in the courts?

>> MS. JULIANNE PASTULA: It could depending on the entity submitting the subpoena and what they were seeking. And, again, distinguishing a subpoena from a FOIA request. And I think, too, Madam Chair, if I may the clarity would be on whether the requirement would be optional or required.

I mean, I think we need in some of the other technical considerations for Dr. Duchin, that might also assist the Commission in their deliberation, if that was responsive to your question.

>> COMMISSIONER EID: Same question with regards to a FOIA request, would a FOIA request present the same type of privacy difficulties that a subpoena from a lawsuit would?

>> MS. JULIANNE PASTULA: Chair to Commissioner Eid, it depends on, again, for the reports that are run were or the concern is what would the public see and what would the Commission be able to see as distinguished. My understand right now there is one comment portal and one view that the Commissioner is logging exactly as the public does by clicking the link on the MICRC www.Michigan.gov/MICRC on the website where the public comment portal is.

And so to me the technical understanding how that would need to shift to accommodate the request and that citizens' personal information is not disclosed.

In the future it may be depending on the reports that are run by the Commission. I think that might be the Commission's next agenda item how, again, will it be safeguarded and the Commission not be disclosed. If it can be done via the computer filter or if that would again in some instances might need to be done by physical redacting by staff. Which I would also like to highlight it would not be done by Dr. Duchin but internally by staff. Thank you.

>> CHAIR KELLOM: Thank you, Julianne. Dr. Duchin, are you able to answer some of the things that we are discussing about privacy and data and in addition would the MICRC have access to the addresses? That is something I added as a question.

>> Dr. Moon: Sure. We have the option easily on the portal to make certain fields that the submitter fills in. They can be required or they can be optional or they can be

absent. So those things are -- it's easy to change the status of a certain box to fill in from required to optional or just suppress it entirely.

Everything that is entered goes into a database to which the Commission has access in its entirety. So everything that people put in becomes accessible to you and is subject to whatever public records laws that your legal counsel can inform you about much more capably than I can.

From the -- in addition, at the moment, in order to submit, you need to check a few boxes. One says that you understand that your e-mail address is being stored but not displayed. And it would be perfectly easy to do the same thing with the physical address. Just inform the user when they submit that that physical address is also being stored to be accessible to the Commission but not displayed to the public. So any of these options is equally easy.

But one thing I do want to emphasize is that every piece of information submitted by a member of the public is turned over to you, the Commission, to do with what you will.

But it's quite easy for you to instruct us which pieces of information you want publicly displayed and which you do not. That's -- there is no additional technical difficulty on our side.

>> CHAIR KELLUM: Thank you, Dr. Duchin. Any further discussion or thoughts regarding full addresses on the portal?

>> COMMISSIONER ROTHORN: Yes.

>> CHAIR KELLUM: Go ahead, MC.

>> COMMISSIONER ROTHORN: It occurs to me because we have not decided that we do want, as a Commission, right, if we make this a requirement, we haven't decided, okay, are we going to throw out comments that don't have it? I think that is what I think we are setting ourselves up for is this, is, yeah, I think what Rebecca may be reporting here, this idea of a chilling effect. That we may actually -- I appreciate that there are people who really want to have Michigan residents and their comments prioritized, maybe even like only what we consider.

And it feels to me like we as the Commissioners, I feel like we have the ability to understand that. We can -- I think we are going to get that. I don't know that the address for me, when I'm looking at these comments, I don't know that that's going to be what is going to help me decide.

And I feel like again as a body we have to make sure that we are collecting data that we are actually going to use in a way that will use significantly. It may inform. Will it be actually the reason that we throw out a comment, for example?

And that's what I think we are trying to -- for me that is what I'm trying ask myself. Yes, I want to engage and do something that increases the public's trust of us. It comes at a cost potentially of chilling, public comment. People who maybe, yeah, not willing to put themselves out there and therefore not make a comment. So there is a balance

there. And I'm not sure. I'm honestly on the fence. I don't know what the right decision is.

And, again, because we haven't decided as a Commission right now it's not important, so I'm tempted to say, no, I don't want to create something that we collect and potentially not use.

>> CHAIR KELLOM: Thank you, MC. I think you expressed something that I've been quietly thinking about. I just with my experience of privacy data and how sticky that could be and then any time you're collecting information, especially our responsibility to be transparent. And we do have public record, then we are creating a situation essentially where there is a database. And that makes me a little nervous.

I think our job personally is tough enough than to worry about the responsibility of collecting addresses. And I think just on a personal level, and I'm not the staple for every human being, but anything online particularly then requests my personal address, I am less reluctant to respond to.

And I don't really think also that it does anything to bolster if folks are going to trust us. I think folks are going to trust us by experiencing us and seeing us like the folks that are here doing and continuing to engage, not necessarily if they are able to write where they live. But that's my opinion.

I would also yield to the group for any further discussion.

>> COMMISSIONER EID: I have one last comment, but she can go first.

>> CHAIR KELLOM: Okay. Rhonda, yup, go ahead. We would love to hear from you, and then I will hear from Anthony.

>> COMMISSIONER LANGE: No. Let Anthony go because I was going to ask the question.

>> CHAIR KELLOM: Okay.

>> COMMISSIONER EID: I just have a little concern about, you know, people that might want to submit a map to us that don't have a physical address and even though they may reside in Michigan.

You know, we do have quite a large population of those that are homeless, especially in the Detroit Metro Area. And requiring a physical address might disincentivize them from commenting.

>> CHAIR KELLOM: Thank you, Anthony. Any other thoughts? Or Richard, go ahead.

>> COMMISSIONER WEISS: We've had this discussion quite a while, and I believe all of it's important. But one of the questions I've had from the beginning is we want individuals only from Michigan to submit their comments, which I think is good.

I've read quite a few on the portal already and looked at the maps and all the e-mails we've received about only Michigan residents commenting on our map drawing.

Since I had a little bit of age, I've learned that always listen to everything. You might find something that may work best. Now, if it happens to come from another individual

in another state, what would be wrong with that? It might be a very good suggestion. You know, I don't know.

And I guess what I'd like to know is what other people would think about that. Just because they are out of state, what agenda could they possibly have? I mean, I guess I need some proof. Thank you.

>> CHAIR KELLOM: Thank you, Commissioner Weiss. Any other thoughts or questions?

>> VICE CHAIR SZETELA: I had one comment.

>> CHAIR KELLOM: Rebecca, go ahead.

>> VICE CHAIR SZETELA: Yeah, I would just kind of echo what Richard just said too because a lot of the comments I've been seeing are about Florida influence. And I honestly think that it would be difficult for someone who is in a foreign country to come up with any sort of authentic commentary that would not be immediately obvious if they do not live here with respect to where lines drawn are drawn.

And in the comments that we have been receiving in public meetings to date are very specific about areas. And they show the deep knowledge that people have. I mean, when we were in Marquette people were talking about mining. When we were in Kalamazoo and Jackson area, people were talking about the watershed.

And I just think that this whole concept that people from foreign areas are going to be making commentary that is not going to be relevant, I think it's going to be so immediately obvious that they don't know what they are talking about. That I just I think we are going to be able to identify it any way even without a fake I live in Ann Arbor, Michigan city on it.

So that is furthering Richard's comments. And I agree with him, if someone from out of state has a great idea, why not use it. Just because they are from out of state, I do not find that disqualifying. I'm more concerned about good ideas and not limiting them.

>> CHAIR KELLOM: Thank you, Rebecca. Commissioner Weiss?

>> COMMISSIONER WEISS: Thank you, Rebecca. I guess what I'm getting at, too, if we do this, allow anybody to comment, we eliminate all the addresses and all the other stuff that we're having an issue with.

And as you talked about having a database, we could eliminate all that. Just let them post. As Rebecca said, I think we ought to be able to figure out who has our best interests.

>> CHAIR KELLOM: Do we have -- do we want to amend?

>> MS. JULIANNE PASTULA: Madam Chair, you already have a secondary motion on the table, a motion to amend. So the pending motion to amend on the table that was made by Commissioner Clark and seconded by Commissioner Lange is that the address not be displayed. So the main motion was to request complete address on portal.

The motion to amend that is currently pending is that motion be amended so that the address is not displayed. That is the amendment on the table.

>> CHAIR KELLOM: Okay. Say the last part again, the motion that is on the table is so that the address is not displayed?

>> MS. JULIANNE PASTULA: Correct. The motion to amend that was made so that the address would not be displayed on the portal.

>> CHAIR KELLOM: So we would still be asking?

>> MS. JULIANNE PASTULA: We have not gotten there yet.

>> CHAIR KELLOM: That is where I was getting confused. Sorry. Okay, are we ready to vote on the motion that is on the table? Okay, all those --

>> COMMISSIONER WITJES: I'm going to request a roll call vote.

>> CHAIR KELLOM: Okay. Thank you. For roll call vote we are voting on if the full address is going to be displayed for the public comment portal. I wanted to make sure I got that correct. And I'll have -- do we want Department of State? Sarah, can you do a roll call so that we can vote on the current motion on the floor? Thank you.

>> MS. SARAH REINHARDT: Absolutely, Madam Chair.

>> COMMISSIONER LETT: Just as a matter of clarification, Madam Chair, the motion is if we approve the main motion, which is to have the addresses, the amendment says they will not be displayed to the public. It will be private.

>> CHAIR KELLOM: Go ahead, Julianne.

>> MS. JULIANNE PASTULA: Yes. So to work it, Steve, going forward and working backward. So for benefit of the public and the Commission, the current motion is to amend the main motion. The main motion is request complete address on the portal.

What we are voting -- excuse me, what the Commission is voting on now is whether to amend the main motion so that the address will not be displayed. This is not the vote on the main motion to request the complete address on the portal. Did that add clarity?

>> I hope.

>> CHAIR KELLOM: We said it several different ways. Do we understand? Okay. Sarah, I think we are ready for you now.

>> MS. SARAH REINHARDT: Thank you, Madam Chair. Commissioners, please indicate your vote with a yes or a no. I will call Commissioners' names in alphabetical order starting with Commissioner Szetela.

>> VICE CHAIR SZETELA: Yes.

>> MS. SARAH REINHARDT: Commissioner Vallette?

>> COMMISSIONER VALLETTE: Yes.

>> MS. SARAH REINHARDT: Commissioner Wagner?

>> COMMISSIONER WAGNER: Yes.

>> MS. SARAH REINHARDT: Commissioner Weiss?

>> COMMISSIONER WEISS: Yes.

>> MS. SARAH REINHARDT: Commissioner Witjes?

- >> COMMISSIONER WITJES: Yes.
- >> MS. SARAH REINHARDT: Commissioner Clark?
- >> COMMISSIONER CLARK: Yes.
- >> MS. SARAH REINHARDT: Commissioner Eid?
- >> COMMISSIONER EID: Yeah.
- >> MS. SARAH REINHARDT: Commissioner Kellom?
- >> CHAIR KELLOM: Yes.
- >> MS. SARAH REINHARDT: Commissioner Lange?
- >> COMMISSIONER LANGE: Yes.
- >> MS. SARAH REINHARDT: Commissioner Lett?
- >> COMMISSIONER LETT: No.
- >> MS. SARAH REINHARDT: Commissioner Orton?
- >> COMMISSIONER ORTON: Yes.
- >> MS. SARAH REINHARDT: Commissioner Rothhorn?
- >> COMMISSIONER ROTHORN: Yes.
- >> MS. SARAH REINHARDT: By vote of 11-1 the motion carries.
- >> CHAIR KELLOM: Thank you, Sarah.

Now we are voting on the original amendment, which is to require the inclusion of full address for the public comment portal tool. Are we ready to vote?

- >> COMMISSIONER WITJES: I will request a roll call on that too.
 - >> MS. JULIANNE PASTULA: Madam Chair?
 - >> CHAIR KELLOM: Yes.
 - >> MS. JULIANNE PASTULA: The motion that I have noted for the main motion is to request complete address on the portal. I don't believe the word required was used. We might want to seek clarification from the secretary.
 - >> CHAIR KELLOM: Thank you for that clarification because I know we had talk about request optional. And I don't remember which word. Is there a note from the secretary about requests versus required? The wording?
 - >> MS. SARAH REINHARDT: My understanding was the motion was to request the address, not require.
 - >> CHAIR KELLOM: Okay.
 - >> MS. SARAH REINHARDT: Apologies. The word required was not used.
 - >> MS. JULIANNE PASTULA: So if, Madam Chair, so if a Commissioner would like to move a motion to amend the main motion to require the address be requested but not -- again, it would not be displayed, that has already passed.
- So instead of request, the motion to amend would be if desired would be to replace request with require. But as it stands your main motion, right now before the body is a motion to request complete address be requested but not displayed on the portal.
- >> CHAIR KELLOM: Okay. Thank you for that clarification. Rhonda, you have a hand raised.

>> COMMISSIONER LANGE: Yes, my apologies that I did not speak properly. It was require is what I meant. So I guess I'm amending it to require an address.

>> CHAIR KELLOM: Okay. So then we need to have a motion, a second, yeah. Can we have a motion? I'm sorry.

>> COMMISSIONER EID: I will second her amendment.

>> CHAIR KELLOM: It's been seconded by Commissioner Anthony Eid. Thank you, Anthony. So, for clarification, we are now voting as if or for the full address to be required for the public comment portal tool. Voting on the amendment, excuse me, for the wording to be it's required for the full address to be on the -- for the public comment portal tool.

Okay, Sarah, can you please help with the roll call vote?

>> MS. SARAH REINHARDT: Absolutely, Madam Chair.

>> CHAIR KELLOM: Thank you.

>> MS. SARAH REINHARDT: Commissioners, please indicate your vote with a "Yes" or "No." I will call Commissioners names in alphabetical order starting this time with Commissioner Vallette? Janis?

>> COMMISSIONER VALLETTE: No.

>> MS. SARAH REINHARDT: Erin Wagner?

>> COMMISSIONER WAGNER: Yes.

>> MS. SARAH REINHARDT: Richard Weiss?

>> COMMISSIONER WEISS: No.

>> MS. SARAH REINHARDT: Dustin Witjes?

>> COMMISSIONER WITJES: No.

>> MS. SARAH REINHARDT: Douglas Clark?

>> COMMISSIONER CLARK: Yes.

>> MS. SARAH REINHARDT: Anthony Eid?

>> COMMISSIONER EID: Yes.

>> MS. SARAH REINHARDT: Brittini Kellom?

>> CHAIR KELLOM: No.

>> MS. SARAH REINHARDT: Rhonda Lange?

>> COMMISSIONER LANGE: Yes.

>> MS. SARAH REINHARDT: Steve Lett?

>> COMMISSIONER LETT: No.

>> MS. SARAH REINHARDT: Cynthia Orton?

>> COMMISSIONER ORTON: Yes.

>> MS. SARAH REINHARDT: MC Rothhorn?

>> COMMISSIONER ROTHORN: No.

>> MS. SARAH REINHARDT: Rebecca Szetela?

>> VICE CHAIR SZETELA: No.

>> MS. SARAH REINHARDT: One moment, please. By a count of five yeas and seven nays, the motion does not carry.

>> CHAIR KELLOM: Thank you, Sarah.

So now it seems we have to go back to the original main motion of a request of identification via city and state on the portal.

>> MS. JULIANNE PASTULA: Madam Chair, your full motion is to request the complete address on the portal.

>> CHAIR KELLOM: With the full address.

>> MS. JULIANNE PASTULA: But the address will not be displayed.

>> CHAIR KELLOM: Okay.

>> MS. JULIANNE PASTULA: That is the motion on the table currently.

>> CHAIR KELLOM: Pardon me. The main motion is that the full address be included on the portal, but it's not going to be displayed.

>> MS. JULIANNE PASTULA: So the wording is a motion, the motion on the table is a motion to request.

>> CHAIR KELLOM: Motion to request.

>> MS. JULIANNE PASTULA: The complete address.

>> CHAIR KELLOM: The complete address.

>> MS. JULIANNE PASTULA: On the portal.

>> CHAIR KELLOM: But not displayed.

>> MS. JULIANNE PASTULA: Correct.

>> CHAIR KELLOM: Okay, thank you. Do we have a second? Because I'm so lost right now. There are too many things. Thank you. Can we have a vote by roll call, Sarah, please?

>> MS. SARAH REINHARDT: Yes, Madam Chair. Commissioners, again please indicate your vote with a yes or a no.

>> CHAIR KELLOM: Hold on.

>> Cynthia.

>> CHAIR KELLOM: Hello. Go ahead.

>> COMMISSIONER ORTON: By request do you mean we will be asked?

>> MS. SARAH REINHARDT: I apologize for interrupting, can you turn on your microphone, please.

>> COMMISSIONER ORTON: I'm sorry. So by request we mean will be asking for it but it's not required that it be filled out?

>> CHAIR KELLOM: That is what we are saying.

Sarah, you can go ahead.

>> MS. SARAH REINHARDT: Thank you. Commissioners, please indicate your vote with a "Yes" or "No." I will call Commissioners names in alphabetical order starting with Erin Wagner?

>> COMMISSIONER WAGNER: Yes.

- >> MS. SARAH REINHARDT: Richard Weiss?
- >> COMMISSIONER WEISS: No.
- >> MS. SARAH REINHARDT: Dustin Witjes?
- >> COMMISSIONER WITJES: No.
- >> MS. SARAH REINHARDT: Doug Clark?
- >> COMMISSIONER CLARK: Yes.
- >> MS. SARAH REINHARDT: Anthony Eid?
- >> COMMISSIONER EID: No.
- >> MS. SARAH REINHARDT: Brittini Kellom?
- >> CHAIR KELLOM: No.
- >> MS. SARAH REINHARDT: Rhonda Lange?
- >> COMMISSIONER LANGE: Yes.
- >> MS. SARAH REINHARDT: Steve Lett?
- >> COMMISSIONER LETT: No.
- >> MS. SARAH REINHARDT: Cynthia Orton?
- >> COMMISSIONER ORTON: Yes.
- >> MS. SARAH REINHARDT: MC Rothhorn?
- >> COMMISSIONER ROTHORN: Yes.
- >> MS. SARAH REINHARDT: Rebecca Szetela?
- >> VICE CHAIR SZETELA: No.
- >> MS. SARAH REINHARDT: Janis Vallette?
- >> COMMISSIONER VALLETTE: No.
- >> MS. SARAH REINHARDT: By a vote of five yes and seven no's, the motion does not carry.
- >> CHAIR KELLOM: Thank you, Sarah. We will now move on to the new business.
- >> MS. JULIANNE PASTULA: Madam Chair, I apologize for the interruption, if you can call the result of the last vote.
- >> CHAIR KELLOM: My apologies. So we were not going to have the full address requested on the public comment tool per our last vote.
- >> MS. JULIANNE PASTULA: Correct. So that motion failed. And I do note that it's 6:00. If you would like to call the public hearing to order and then adjourn it to the call of the Chair.
- >> CHAIR KELLOM: Okay. So at this time, 6:03, I will adjourn. Is that what you're saying?
- >> MS. JULIANNE PASTULA: Correct. We can -- if the Commission would like to finish the regular meeting, we can -- the Commission can elect to finish the meeting and then go into the public hearing. So you would just need to call the public hearing to order and adjourn it to the call of the Chair.

>> CHAIR KELLOM: Okay. I am going to adjourn the public meeting at 6:03. And then recall the order for our hearing at 6:03. Can I do that? You are keeping me to task today. I appreciate that.

>> MS. JULIANNE PASTULA: So what we will do is we will call the public hearing to order and then recess it to the call of the Chair.

>> CHAIR KELLOM: I call the public meeting to order at 6:03. And recess to the call of the Chair.

>> MS. JULIANNE PASTULA: Correct. Then you can continue on your agenda.

>> CHAIR KELLOM: Okay, so we are going to move on now to new business still on the agenda for the meeting, for accessing printing maps and comments from the portal.

>> COMMISSIONER EID: Madam Chair.

>> CHAIR KELLOM: I totally goofed that. Sorry.

>> COMMISSIONER EID: I would like to table the rest of new business until our meeting next Thursday.

>> COMMISSIONER WITJES: Second.

>> CHAIR KELLOM: Okay. The motion has been moved by Anthony Eid and seconded by Dustin Witjes. And we will table the rest of new business for the next meeting.

>> Let's vote.

>> CHAIR KELLOM: Pardon me? I'm not operating at 100% today. You guys know this. I would like to call for a vote to all those in favor of tabling new business, please indicate with a raised hand.

And all those opposed?

So we will be tabling the remaining of our new business for the next meeting, which allows us if there are no other announcements or anything from the good of the order to adjourn the meeting at 6:05. Can I have a motion to adjourn?

>> COMMISSIONER WITJES: So moved.

>> COMMISSIONER LETT: Second.

>> COMMISSIONER EID: Got to vote.

>> CHAIR KELLOM: Can we please vote with signifying with a raised hand if we are going to adjourn the meeting?

>> MS. JULIANNE PASTULA: Madam Chair, can you please announce the motion maker and the second on that.

>> CHAIR KELLOM: I'm sorry. The motion was by MC Anthony and seconded by -- seconded by Steve.

>> COMMISSIONER LETT: I will second.

>> CHAIR KELLOM: My apologies. So can we have a vote with a raised hand if we are voting to -- if you would like to adjourn the meeting? All those opposed?

By my count the raised from the raised hands have it. And we will adjourn the meeting by majority at 6:06.

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>> VICE CHAIR SZETELA: Madam Chair.

>> CHAIR KELLOM: Yes.

>> VICE CHAIR SZETELA: Can I ask for a point of privilege that we take a five to ten-minute break before we start with the public hearing portion?

>> CHAIR KELLOM: Absolutely. So we will take a ten-minute break and we will start the public hearing portion at 6:17. Thank you everyone for being patient with us as we figure that out and being patient with me. I appreciate that.

[Recess until 6:17]