



## **NOTICE OF PUBLIC MEETING AND POSSIBLE EXECUTIVE SESSION OF THE STATE OF ARIZONA CITIZENS CLEAN ELECTIONS COMMISSION**

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**Location:** Citizens Clean Elections Commission  
1616 West Adams, Suite 110  
Phoenix, Arizona 85007

**Date:** Thursday, December 12, 2019

**Time:** 9:30 a. m.

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the Commissioners of the Citizens Clean Elections Commission and the general public that the Citizens Clean Elections Commission will hold a regular meeting, which is open to the public on December 12, 2019. This meeting will be held at 9:30 a.m., at the Citizens Clean Elections Commission, 1616 West Adams, Suite 110, Phoenix, Arizona 85007. The meeting may be available for live streaming online at [www.livestream.com/cleanelections](http://www.livestream.com/cleanelections). Members of the Citizens Clean Elections Commission will attend either in person or by telephone, video, or internet conferencing.

The Commission may vote to go into executive session, which will not be open to the public, for the purpose of obtaining legal advice on any item listed on the agenda, pursuant to A.R.S. § 38-431.03 (A)(3). The Commission reserves the right at its discretion to address the agenda matters in an order different than outlined below.

**All matters on the agenda may be discussed, considered and are subject to action by the Commission.**

**Possible action on any Matter Under Review (MUR) identified in this agenda may include, but is not limited to, authorizing or entering into a conciliation agreement with subject of the MUR, in addition to any other actions, such as finding reason to believe a violation has occurred, finding probable cause to believe a violation has occurred, applying penalties, ordering the repayment of monies to the Clean Elections Fund, or terminating a proceeding.**

**Possible actions with regard to Rules and Rules amendments may include, but is not limited to, approval of the proposed rules or amendments, a determination whether any rules adopted unanimously should be made effective immediately, termination of a rulemaking docket, or directing staff to file a notice of supplemental rulemaking, approving a proposed Rule or Amendment for Public Comment.**

The agenda for the meeting is as follows:

- I. Call to Order.
- II. Discussion and Possible Action on Commission Minutes for November 14, 2019 meeting.

III. Discussion and Possible Action on Executive Director's Report and Legislative Report. **Possible Action may include directing staff to take positions on legislation or legal issues discussed in the report. The report is typically available online on the Clean Elections Commission website or via email request at ccec@azcleelections.gov**

IV. Discussion and Possible Action on the 2020 Voter Education Plan.

V. Discussion and Possible Action on Rules and Rule Amendments including:

A. Status of Governor's Regulatory Review Commission action on pending Rules amendments including R2-20-113, 702 and 704.

B. Discussion and Possible Action on proposed amendments to R2-20-701, 702.01, 703.01 for circulation for 60 days public comment. **After 60 days public comment, the Commission may vote to make the amendment(s) effective immediately. A.R.S. § 16-956(D).**

C. Discussion and possible action on amendment of R2-20-104 relating to participating candidate loans. **The Commission may vote to make the amendment(s) effective immediately. A.R.S. § 16-956(D).**

D. Discussion and possible action on amendment to R2-20-209 relating to investigation. **The Commission may vote to make the amendment(s) effective immediately. A.R.S. § 16-956(D).**

**The Commission may vote to go into executive session, which will not be open to the public, for the purpose of obtaining legal advice on this item, pursuant to A.R.S. § 38-431.03 (A)(3).**

VI. Discussion and Possible Action on matters relating to the Secretary of State's office, the See the Money project, the Campaign Finance Reporting System, the Commission Interagency Service Agreement with the Secretary of State's Office.

**The Commission may vote to go into executive session, which will not be open to the public, for the purpose of obtaining legal advice on this item, pursuant to A.R.S. § 38-431.03 (A)(3).**

VII. Public Comment

This is the time for consideration of comments and suggestions from the public. Action taken as a result of public comment will be limited to directing staff to study the matter or rescheduling the matter for further consideration and decision at a later date or responding to criticism

VIII. Adjournment.

This agenda is subject to change up to 24 hours prior to the meeting. A copy of the agenda background material provided to the Commission (with the exception of material relating to possible executive sessions) is available for public inspection at the Commission's office, 1616 West Adams, Suite 110, Phoenix, Arizona 85007.

Dated this 10th day of December, 2019.

Citizens Clean Elections Commission

Thomas M. Collins, Executive Director

Any person with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Commission at (602) 364-3477. Requests should be made as early as possible to allow time to arrange accommodations.

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THE STATE OF ARIZONA

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CITIZENS CLEAN ELECTIONS COMMISSION

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REPORTER'S TRANSCRIPT OF PUBLIC MEETING

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Phoenix, Arizona

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November 14, 2019

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9:30 a.m.

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COASH & COASH, INC.

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<p style="text-align: right;">Page 2</p> <p>1 PUBLIC MEETING BEFORE THE CITIZENS CLEAN 2 ELECTIONS COMMISSION convened at 9:30 a.m. on 3 November 14, 2019, at the State of Arizona, Clean 4 Elections Commission, 1616 West Adams, Conference Room, 5 Phoenix, Arizona, in the presence of the following Board 6 members: 7 Mr. Mark S. Kimble, Chairperson 8 Ms. Amy B. Chan 9 Mr. Galen D. Paton 10 11 OTHERS PRESENT: 12 Thomas M. Collins, Executive Director 13 Paula Thomas, Executive Officer 14 Mike Becker, Policy Director 15 Alec Shaffer, Web Content Manager 16 Julian Arndt, Executive Support Specialist 17 Mary O'Grady, Osborn Maledon 18 Joseph LaRue, Attorney General's Office 19 Kara Karlson, Attorney General's Office 20 Rivko Knox, AZ League of Women Voters 21 22 23 24 25</p>	<p style="text-align: right;">Page 4</p> <p>09:31:37-09:32:36</p> <p>1 Commissioner Chan? 2 COMMISSIONER CHAN: Aye. 3 CHAIRMAN KIMBLE: Commissioner Paton? 4 COMMISSIONER PATON: Aye. 5 CHAIRMAN KIMBLE: The Chair votes aye. The 6 minutes are approved 3-0. 7 Item III: Discussion and possible action 8 on executive director's report and legislative report. 9 Tom? 10 MR. COLLINS: Yes, Mr. Chairman, 11 Commissioners. I'll try to get through this pretty 12 briefly. 13 One of our partnerships with the Pinal 14 County elections department, we are -- we are in the 15 final stages of production on. This project is the 16 first of its kind in Arizona and it, basically, 17 involves allowing Pinal, which is a fairly -- the 18 population is fairly wide -- 19 MS. THOMAS: The microphone. 20 MR. KIMBLE: Oh. The population is 21 fairly widespread, although there are a number of 22 population centers. And so we're working on -- with 23 them on developing the design of a -- essentially, a 24 mobile voter registration truck that we think will have 25 both public relations, voter confidence involvement the</p>
<p>09:30:49-09:31:37</p> <p style="text-align: right;">Page 3</p> <p>1 PROCEEDING 2 3 CHAIRMAN KIMBLE: Good morning. I'm going 4 to call to order the November 14, 2019, meeting of the 5 Citizens Clean Elections Commission. We'll do a roll 6 call. 7 Commissioner Chan? 8 COMMISSIONER CHAN: Here. 9 CHAIRMAN KIMBLE: Commissioner Paton? 10 COMMISSIONER PATON: Here. 11 CHAIRMAN KIMBLE: And Chairman Kimble is 12 here, too. We have a quorum. 13 Item II: Discussion and possible action on 14 Commission minutes for the October 17, 2019 meeting. 15 Are there any additions, corrections to the 16 minutes? 17 COMMISSIONER CHAN: Mr. Chairman, I would 18 move that we approve the minutes as written. 19 CHAIRMAN KIMBLE: Is there a second? 20 COMMISSIONER PATON: Second. 21 CHAIRMAN KIMBLE: It's been moved and 22 seconded that we approve the minutes for the 23 October 17, 2019 meeting. 24 All those -- well, let's do a roll call 25 vote.</p>	<p>09:32:41-09:33:45</p> <p style="text-align: right;">Page 5</p> <p>1 community benefits for -- and participation benefits, 2 but also, will, I think -- you know, may set -- be 3 something that people -- other people copy going 4 forward. 5 And we're working on all the post 6 conference activities and analyzing how -- where we go 7 from here. We'll have more discussion, I think, about 8 that in the -- in December. I just want to make a 9 quick note that our voter education director, Gina 10 Roberts -- 11 COMMISSIONER PATON: Excuse me. Your 12 volume is -- 13 MR. COLLINS: Not high enough? 14 COMMISSIONER PATON: Yeah. 15 MR. COLLINS: I'm sorry. Our voter 16 education director, Gina Roberts -- 17 COMMISSIONER PATON: That's better. 18 MR. COLLINS: -- is out sick today, and so 19 we'll have more to say about that in December when we 20 do the voter education agenda item. 21 You know, we've been participating with 22 various counties on voter education efforts. That's 23 been headed up by Gina and Alec. And then Avery, who's 24 also out today because he's on the road, he has been 25 really taking, you know, his role as -- in outreach</p>

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<p>1 very seriously. He'll literally be on the road today,</p> <p>2 tomorrow and Saturday at various events. So he's not</p> <p>3 here, but we're really, really excited about that</p> <p>4 ongoing work.</p> <p>5 We've got a couple of outstanding legal</p> <p>6 matters. The Legacy Foundation Action Fund case is,</p> <p>7 sort of, in -- did they file a new appeal yet?</p> <p>8 MS. O'GRADY: Yes, they did file a new</p> <p>9 appeal.</p> <p>10 MR. COLLINS: Okay. So they've filed an</p> <p>11 appeal, and eventually they'll file an opening brief.</p> <p>12 The AZAN v. State case where we're, in</p> <p>13 effect, appellees -- or actually appellees, our</p> <p>14 response brief will be due, I think, in a month from</p> <p>15 now, or so-ish.</p> <p>16 And, then -- and, then, I just want to make</p> <p>17 sure that everybody keeps in mind, although we aren't</p> <p>18 filing anything in the State Ex Rel Brnovich v. ABOR</p> <p>19 case because, as I've said previously, I think this has</p> <p>20 far reaching implications for all executive branch</p> <p>21 agencies, and it's not clear to me that -- well, I may</p> <p>22 have opinions on the case -- on the case that the</p> <p>23 Brnovich administration wants to overturn, but that</p> <p>24 case has now been -- a petition for review has been</p> <p>25 filed. And the Board of Regents' response to the</p>	<p>1 talking to one high-propensity user, you know, that,</p> <p>2 generally speaking, you know, like the press, for</p> <p>3 example, doesn't really think that See the Money is a</p> <p>4 reliable way to get the information. They want --</p> <p>5 they'd rather currently look at the campaign finance</p> <p>6 reports, which is, sort of -- the whole point was to</p> <p>7 make that better.</p> <p>8 So, we're hopeful that because of the</p> <p>9 investment we made under Secretary Reagan, we will</p> <p>10 continue to be able to participate and urge the</p> <p>11 Secretary of State to, you know, make that project,</p> <p>12 whatever -- however they want to label it, make that</p> <p>13 project work. I think --</p> <p>14 CHAIRMAN KIMBLE: Tom, if I could just ask</p> <p>15 about that.</p> <p>16 So, is it the position of the current</p> <p>17 Secretary of State that their -- the contract we had</p> <p>18 with them expired with the end of the term of Secretary</p> <p>19 Reagan?</p> <p>20 MR. COLLINS: It is. That is their</p> <p>21 position. We don't think that that's consistent</p> <p>22 with -- you know, with the law, but part of this is</p> <p>23 just to say, look, I mean, regardless of whether or</p> <p>24 not -- regardless of what their position is we still</p> <p>25 have money into the program for the purpose of getting</p>		
09:35:18-09:36:51	Page 7	09:38:13-09:39:34	Page 9
<p>1 petition for review has been filed. So, if anyone</p> <p>2 wants those, we can get ahold of those for you.</p> <p>3 We're looking forward to working with, in</p> <p>4 addition to the county, with the Secretary of State's</p> <p>5 Office on Presidential Preference issues. We have --</p> <p>6 on the Arizona Voter Dashboard, we did reach out to a</p> <p>7 couple of staff members there at the SOS, and we did</p> <p>8 get a response that that will get looked at. So that's</p> <p>9 a positive development.</p> <p>10 And, then, you know, one of the other</p> <p>11 things that's been going on over the course of the</p> <p>12 summer is, you know, the Secretary's Office has been</p> <p>13 outspoken about some of their budgetary needs going</p> <p>14 into the session. We're hopeful that if that were</p> <p>15 to -- if they were successful, that it would, you know,</p> <p>16 put them in a position to, sort of, upgrade or re --</p> <p>17 sort of, finish off the See the Money website.</p> <p>18 I can say that, you know, it appears to</p> <p>19 us -- and I think this is not -- I think this is not</p> <p>20 unfair that sometime after Secretary Reagan's future</p> <p>21 was determined, that I think the -- I think that -- I</p> <p>22 think that they lost the coders they had there. And so</p> <p>23 a couple of things -- some functionality never got,</p> <p>24 sort of, finished.</p> <p>25 And I can tell you that, you know, at least</p>	<p>1 it completed.</p> <p>2 And we -- so, you know, I think, you know,</p> <p>3 we hope to -- we just want them -- we would like -- if</p> <p>4 they choose to prioritize this, we think they ought to</p> <p>5 among their various needs. And we would -- we would</p> <p>6 like them to, you know, as much as possible, include us</p> <p>7 in that process to the -- you know, and, sort of -- and</p> <p>8 just, you know, kind of -- and get it done.</p> <p>9 There's no real -- I mean, you know, it's</p> <p>10 sort of -- that's just a long-term goal is to -- you</p> <p>11 know, I mean, at the end of the day, you know, I'm not</p> <p>12 prepared to say what ought to happen with the money</p> <p>13 that we had in. I am certainly prepared to say that I</p> <p>14 disagree that the mere change of administration voids</p> <p>15 interagency service agreements. That's not -- there's</p> <p>16 nothing in the statute that says that. These are --</p> <p>17 interagency service agreements are statutory creatures</p> <p>18 that allow agencies like ours to purchase services from</p> <p>19 other agencies. They're not appropriations. They are</p> <p>20 contracts.</p> <p>21 And so --</p> <p>22 COMMISSIONER CHAN: Mr. Chairman?</p> <p>23 CHAIRMAN KIMBLE: Commissioner Chan.</p> <p>24 COMMISSIONER CHAN: Mr. Chairman, Tom, I</p> <p>25 mean, I agree with Tom. I think legally, frankly,</p>		

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<p>1 policy wise, if interagency service agreements were to</p> <p>2 be null and void at the end of every -- the specific</p> <p>3 elected individual, then no one would ever enter into</p> <p>4 them because of the nature of term limits.</p> <p>5 So, I think that legally, that's not --</p> <p>6 that's not correct, but having said that, I would hope,</p> <p>7 you know, that if there are deliverables that we have</p> <p>8 not received on our end that we need, that the</p> <p>9 Secretary would be able to deliver on those. And I</p> <p>10 will say that personally, while Secretary Reagan was</p> <p>11 there, I know that we continued to see problems. I</p> <p>12 know that while she promised us that it would be a real</p> <p>13 time See the Money, it never was. And, you know, I'd</p> <p>14 be interested to know where does the press go or the</p> <p>15 public go now to get real time information?</p> <p>16 MR. COLLINS: Well, Mr. Chairman --</p> <p>17 COMMISSIONER CHAN: And maybe that's going</p> <p>18 too deep into the weeds. I don't want to put you on</p> <p>19 the spot.</p> <p>20 MR. COLLINS: No, no, no, not at all. I</p> <p>21 mean, I -- Mr. Chairman, Commissioner --</p> <p>22 COMMISSIONER PATON: Your microphone.</p> <p>23 MR. COLLINS: Mr. Chairman, Commissioner</p> <p>24 Chan, I think that there's a couple of different things</p> <p>25 going on. See the Money was intended to be a</p>		<p>1 wanted to clarify. Okay.</p> <p>2 CHAIRMAN KIMBLE: Okay. Any more questions</p> <p>3 on this matter before --</p> <p>4 COMMISSIONER PATON: Yes.</p> <p>5 CHAIRMAN KIMBLE: Commissioner Paton.</p> <p>6 COMMISSIONER PATON: I kind of think of the</p> <p>7 old William Proxmire and his golden -- whatever. I</p> <p>8 kind of feel like we've been fleeced for \$200,000 and,</p> <p>9 oh, well, the old person had your contract with you and</p> <p>10 I'm sorry it doesn't work right. I mean, that's --</p> <p>11 that's horrible, really.</p> <p>12 MR. COLLINS: Well --</p> <p>13 COMMISSIONER PATON: It should work.</p> <p>14 MR. COLLINS: Yeah. No, I --</p> <p>15 Mr. Chairman --</p> <p>16 COMMISSIONER PATON: That's a Ferrari.</p> <p>17 That's \$200,000. Get it to work. I mean, I'm pretty</p> <p>18 angry that we were assured by Ms. Reagan and her</p> <p>19 minions that came prancing through here and assured us</p> <p>20 multiple times that they were on it and it would work.</p> <p>21 And now not only does it not work. We spent all that</p> <p>22 money that we could have used many other different</p> <p>23 ways, and it seems to me that if it doesn't work, they</p> <p>24 should pay us the money back.</p> <p>25 Sorry about my outburst.</p>	
09:41:07-09:42:19	Page 11	09:43:42-09:45:01	Page 13
<p>1 public-facing website that extracted and allowed the,</p> <p>2 sort of, manipulation of data that's already in the</p> <p>3 campaign finance reporting system database. Where</p> <p>4 people now go is to the campaign finance -- the CFRS,</p> <p>5 which is where they always went previously.</p> <p>6 So, there's no -- to the best of my</p> <p>7 knowledge, there's no loss of information. It's really</p> <p>8 a question of the goal of the original program was to</p> <p>9 make it more accessible to average people and/or</p> <p>10 anybody who wanted to, you know, look at the data in</p> <p>11 context and look at different -- you know what I mean?</p> <p>12 It had all the -- it has all these potential</p> <p>13 functionalities. In the absence of it, you know, it</p> <p>14 just means you go back to the campaign finance</p> <p>15 reporting system which -- which is accurate.</p> <p>16 Real time is --</p> <p>17 COMMISSIONER CHAN: Well, just to that</p> <p>18 point, real time according to the latest filed reports.</p> <p>19 MR. THOMAS: Right. Yes.</p> <p>20 COMMISSIONER CHAN: Not real time -- I</p> <p>21 mean, obviously, nothing is public until it's filed.</p> <p>22 MR. COLLINS: Yes.</p> <p>23 COMMISSIONER CHAN: According to the</p> <p>24 published reports.</p> <p>25 MR. COLLINS: Right. Yes. That was all I</p>		<p>1 MR. COLLINS: No, no. I -- Mr. Chairman --</p> <p>2 CHAIRMAN KIMBLE: I totally agree with</p> <p>3 that.</p> <p>4 MR. COLLINS: Yeah. Mr. Chairman,</p> <p>5 Commissioner -- Commissioner Paton, yeah. I think --</p> <p>6 look, I think that that's -- I think that -- I mean, I</p> <p>7 can't -- I can't disagree with that. I think that,</p> <p>8 notwithstanding, you know, the change in</p> <p>9 administration, you know -- you know, my hope is that</p> <p>10 we can -- is that -- is that we can get to a place</p> <p>11 where we feel like what was written down gets</p> <p>12 accomplished.</p> <p>13 Now, if it doesn't or if we really are in a</p> <p>14 position where that other -- where the money is just</p> <p>15 considered gone, you know, that's a different</p> <p>16 conversation, which we can -- we can get into later.</p> <p>17 I'm just not prepared to outline what the steps would</p> <p>18 be to get there, but I think that it's a point well</p> <p>19 taken. And certainly, you know, going forward, you</p> <p>20 know, we have no financial request from the current</p> <p>21 Secretary of State, and I think that part of the</p> <p>22 reason, you know, bringing everyone up to speed on this</p> <p>23 is in order to make sure that when that happens.</p> <p>24 COMMISSIONER PATON: So just so I'm clear,</p> <p>25 all that money has been spent. I mean, if they're --</p>	

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<p>1 if they have blown their budget anyway, then I'm sure</p> <p>2 that money is gone.</p> <p>3 MR. COLLINS: Well, to that point --</p> <p>4 COMMISSIONER PATON: Maybe all that money</p> <p>5 wasn't spent on what it was supposed to be spent on.</p> <p>6 MR. COLLINS: To that point, Mr. Chairman,</p> <p>7 Commissioner Paton, I think that -- I think that that</p> <p>8 precise issue is part of what both the legislature and</p> <p>9 the Secretary's Office are looking at right now is</p> <p>10 where -- what is -- what fiscal situation was left by</p> <p>11 Secretary Reagan's office, not necessarily Secretary</p> <p>12 Reagan herself. And what -- and, then, you know, what</p> <p>13 happened over the course of the next six months of the</p> <p>14 fiscal year after Secretary Reagan left office. So, I</p> <p>15 think that that's something that's going to be</p> <p>16 discussed throughout the legislative session</p> <p>17 forthcoming.</p> <p>18 COMMISSIONER PATON: I mean, wasn't it,</p> <p>19 like, a year ago that everything was eminent? It was</p> <p>20 just they're ready to click the switch and --</p> <p>21 MR. THOMAS: Well --</p> <p>22 COMMISSIONER PATON: And, then, actually,</p> <p>23 people that need to use it, want to use it are</p> <p>24 abandoning it. And so it's, basically, useless, it</p> <p>25 sounds like, if they can't depend on it.</p>	<p>1 contract.</p> <p>2 COMMISSIONER PATON: And -- so, it's been a</p> <p>3 while, but -- so we had a contract with them, and what</p> <p>4 were the contingencies if the contract wasn't</p> <p>5 fulfilled? Do we get our money back, according to the</p> <p>6 contract or --</p> <p>7 MR. COLLINS: There is --</p> <p>8 COMMISSIONER CHAN: Do we get a Ferrari?</p> <p>9 COMMISSIONER PATON: Yeah. Let's park it</p> <p>10 right out there.</p> <p>11 MR. COLLINS: Only if we can wrap it</p> <p>12 with -- Mr. Chairman, Commissioner Paton, we do have</p> <p>13 certain rights under the contract. There are, also,</p> <p>14 some statutory issues that are often ignored by</p> <p>15 agencies that enter into ISAs in terms of the counting</p> <p>16 for the hours spent and those kinds of things. So, we</p> <p>17 will -- what I think will be best would be for us to</p> <p>18 come back with a more extensive analysis of this for</p> <p>19 you at the next meeting, where we are and what we might</p> <p>20 be able to do.</p> <p>21 COMMISSIONER PATON: I just don't want</p> <p>22 this -- and I don't know any of the politics of any --</p> <p>23 any of this, other than it sounds to me, like, well, I</p> <p>24 had nothing to do with this, sorry. And it sounds to</p> <p>25 me like maybe they're not even worried about it not</p>		
09:46:22-09:47:23	Page 15	09:48:48-09:50:10	Page 17
<p>1 MR. COLLINS: Right.</p> <p>2 CHAIRMAN KIMBLE: Right. And I think, in</p> <p>3 summary, that deadlines have not been met. Promises</p> <p>4 have not been kept, and the system is not working. And</p> <p>5 we have given them the money, and they have not given</p> <p>6 us what they said they would.</p> <p>7 COMMISSIONER CHAN: Well, certainly,</p> <p>8 Mr. Chairman, this new Secretary has been left holding</p> <p>9 the bag for the old Secretary, and she is stuck with</p> <p>10 the contract. I do believe -- although I certainly</p> <p>11 understand she wouldn't want to be stuck holding the</p> <p>12 bag, I think she is stuck holding the bag for the</p> <p>13 previous Secretary.</p> <p>14 And, you know, I've seen the news coverage</p> <p>15 and the press release about the mess, the financial</p> <p>16 mess that was left by the previous Secretary and the</p> <p>17 additional, you know, budget appropriations that have</p> <p>18 to be requested now by the office after -- I don't know</p> <p>19 if it was an audit that was done by the new Secretary,</p> <p>20 but I understand that there's a bit of a mess to be</p> <p>21 cleaned up.</p> <p>22 But I think this is something that it</p> <p>23 sounds like Staff probably just needs to investigate</p> <p>24 and see what, if anything, could be done to, kind of,</p> <p>25 address our needs as one of the parties to this</p>	<p>1 working, and they're not worried about us spending that</p> <p>2 money on it and they're, like, that has been stuff and</p> <p>3 it's not anything we need to worry about now.</p> <p>4 MR. COLLINS: Mr. Chairman, Council Member</p> <p>5 Paton, I think that may be true insofar as the</p> <p>6 conversations they've had previously have only been</p> <p>7 with myself and Mike. I think that you all have</p> <p>8 more -- I think that both the budgetary issues that</p> <p>9 they're going to the legislature for, coupled with</p> <p>10 bringing -- you know, trying to alert -- you know,</p> <p>11 bringing this up as in that context to revisit this</p> <p>12 from a -- you know, bringing this to you all, I think,</p> <p>13 change -- may change the dynamic there.</p> <p>14 And I'm hopeful that it does, and I think</p> <p>15 that -- you know, and we'll see what we can put</p> <p>16 together over the next month to try to address some of</p> <p>17 the concerns that, I think, are valid. And I think</p> <p>18 many of them are. You know, when we first had this</p> <p>19 conversation, just for background purposes, there</p> <p>20 was -- we were not, I would say, in a position to</p> <p>21 negotiate anything.</p> <p>22 And it was -- but I think -- and I'm not</p> <p>23 sure that we're in a position to negotiate now. We may</p> <p>24 be in a position to make certain demands and/or certain</p> <p>25 requests. My point and why this is included in the --</p>		



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<p>1 in this particular executive director's report, as</p> <p>2 opposed to prior ones, is, again, to say now that their</p> <p>3 budget issues are out in the open, to make sure that</p> <p>4 folks understand, specifically you all, but then, in</p> <p>5 general, that we have a chit in that -- in that budget</p> <p>6 discussion.</p> <p>7 COMMISSIONER PATON: I think if we have a</p> <p>8 chance to demand, we should demand that we're not going</p> <p>9 to be swept under the rug in this program because we</p> <p>10 all spent a lot of time discussing this, trying to make</p> <p>11 sure that it was financially a good situation for us.</p> <p>12 And I remember we had pretty extensive debates about</p> <p>13 the whole thing, and we were assured it was going to</p> <p>14 work and it was going to be useful. And, at least, we</p> <p>15 spent some money. Then we came back and spent more</p> <p>16 money.</p> <p>17 And I just -- and I don't know the</p> <p>18 Secretary of State or anything about it, but -- but it</p> <p>19 sounds like, to me, that what's done is done. We have</p> <p>20 to take a stand saying you have a contract and you need</p> <p>21 to fulfill it. So, anyway.</p> <p>22 CHAIRMAN KIMBLE: Okay. So, you're going</p> <p>23 to come back next month --</p> <p>24 MR. COLLINS: Yeah.</p> <p>25 CHAIRMAN KIMBLE: -- with more.</p>	<p>1 Meyer served -- whose the term was up in January, he</p> <p>2 served four years because Louis Hoffman served one of</p> <p>3 his years as a holdover.</p> <p>4 CHAIRMAN KIMBLE: Okay. Okay. Thank you.</p> <p>5 Now, under rules?</p> <p>6 MR. COLLINS: Rules. We'll be talking more</p> <p>7 about R2-20-702 on this agenda later.</p> <p>8 At GRRC, we still have two rules that are</p> <p>9 not -- that did not get approved, but were not</p> <p>10 returned. So we're going back to GRRC on the 26th for</p> <p>11 their study session and then on the 3rd for their -- or</p> <p>12 the 2nd -- 3rd for their business meeting in hopes that</p> <p>13 we can get a -- we can -- we can prevail on a majority</p> <p>14 of the Commission -- of the council to return those.</p> <p>15 R2-20-113 has to do with making it easier</p> <p>16 and more efficient for candidates to get their</p> <p>17 candidate statement into the candidate statement</p> <p>18 pamphlet. And R2-20-704 has to do with eliminating a,</p> <p>19 quote/unquote, rule of limitation on money owed the</p> <p>20 State that we believe is inconsistent with state law.</p> <p>21 We did not receive any negative feedback on those</p> <p>22 rules.</p> <p>23 We simply -- the council, with no</p> <p>24 explanation, tied on a vote to approve. They did not,</p> <p>25 however, follow up with a motion to return. And so --</p>		
09:51:46-09:52:54	Page 19	09:54:23-09:56:06	Page 21
<p>1 Okay. Let's continue on with the executive</p> <p>2 director's report with appointments.</p> <p>3 Tom?</p> <p>4 MR. COLLINS: And I just wanted to hit</p> <p>5 these rules issues real quick. We have a more</p> <p>6 extensive discussion on one of them.</p> <p>7 CHAIRMAN KIMBLE: Well, before we get to</p> <p>8 that, appointments.</p> <p>9 MR. COLLINS: Yes. You know, I have --</p> <p>10 it's my understanding the Governor's office has made</p> <p>11 substantial progress toward an appointment, and I am --</p> <p>12 I am confident of that. I am confident -- you know,</p> <p>13 whether that happens in December or January, you know,</p> <p>14 to me, I mean, frankly, it's six of one and half a</p> <p>15 dozen of the other, but I'm confident that certainly</p> <p>16 before we are at risk of not having three non-holdover</p> <p>17 members, that an appointment will be made.</p> <p>18 CHAIRMAN KIMBLE: For housekeeping, let me</p> <p>19 just ask the question.</p> <p>20 So, if someone gets appointed, would this</p> <p>21 person serve a three-year term?</p> <p>22 MR. COLLINS: Mr. Chairman, yes. The</p> <p>23 holdover term counts against the five-year term.</p> <p>24 CHAIRMAN KIMBLE: Okay.</p> <p>25 MR. COLLINS: So, for example, Commissioner</p>	<p>1 and we were informed by the Governor -- GRRC's staff</p> <p>2 attorneys, who have been incredibly helpful through</p> <p>3 this process, that, you know, no action, therefore, had</p> <p>4 been taken because there's no majority for anything.</p> <p>5 And so we will return to that on the 26th.</p> <p>6 We are -- we are still looking at the</p> <p>7 December or January Commission meeting for R2-20-104,</p> <p>8 which is the loan rule we've been discussing. I have</p> <p>9 reached out to Secretary Bennett a couple of times,</p> <p>10 have not heard back. And, then, R2-20-201, which we</p> <p>11 discussed, which denied the 60-day period, won't be up</p> <p>12 until December, but that was one we set forward for</p> <p>13 public comment, I want to say, a couple meetings ago.</p> <p>14 So, that's the status of the rules.</p> <p>15 CHAIRMAN KIMBLE: Okay. Thank you.</p> <p>16 Moving on to Item IV: Discussion and</p> <p>17 possible action on the Calendar Year 2020 budget and</p> <p>18 related matters.</p> <p>19 MR. COLLINS: Yes. Mr. Chairman, Members,</p> <p>20 we have -- Mike has worked to put together our proposed</p> <p>21 2020 calendar year budget. The statutorily critical</p> <p>22 things that we want to deal with, obviously, are the</p> <p>23 caps on our -- on certain spending. With respect to</p> <p>24 our expected expenditures, I think that the top line</p> <p>25 increases in spending are associated with 2020 being an</p>		

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<p>1 election year, and that principally involves three</p> <p>2 things.</p> <p>3 Candidate funding, currently, we</p> <p>4 anticipate, but don't know, that all of the Corporation</p> <p>5 Commission candidates are going to run clean. And it's</p> <p>6 unclear yet how many -- how many legislative candidates</p> <p>7 will. Additionally, that means debates, and it means</p> <p>8 the candidate statement pamphlet and debates and the</p> <p>9 candidate statement pamphlet are perennially -- even</p> <p>10 though, you know, we've worked and the voter -- Gina</p> <p>11 has successfully, as we've talked about in the past,</p> <p>12 managed to make savings while making the program more</p> <p>13 efficient, you know, it's still a big line item.</p> <p>14 So, those are the highlights. I hope</p> <p>15 you've had time to review them if you have any specific</p> <p>16 questions, but as the memo indicates, we are looking</p> <p>17 for approval of the -- of the Items 1 through 5, which</p> <p>18 are detailed in the memo. And, frankly, most of those</p> <p>19 things are, if you will, rote calculations.</p> <p>20 You'll -- I will also note, because it's</p> <p>21 always come up, our projection -- our protection access</p> <p>22 fund under the statutory formula actually shows us, if</p> <p>23 you do the math, it would show us in a deficit. If we</p> <p>24 were to spend -- in other words, the fund would be</p> <p>25 exhausted if we were ever to spend to our capacity</p>		<p>1 as administrative expenses in terms of EREs that we</p> <p>2 think we would bear a substantial benefit on in terms</p> <p>3 of our ability to cover, frankly, the legislative</p> <p>4 session and other things where, you know, we do that</p> <p>5 internally now, but there we feel like we have some</p> <p>6 options to ensure that we can be more present at the</p> <p>7 legislature without having to be present in -- in the</p> <p>8 same way that -- I don't know how to put -- let me put</p> <p>9 this -- I don't know how to put this.</p> <p>10 We need to have more folks down at the</p> <p>11 legislature, but there is a certain issue with -- if I</p> <p>12 show up and sit in the back of the meeting, it's -- the</p> <p>13 wags that run around the capitol react differently than</p> <p>14 other people sitting in the back of the meeting. And</p> <p>15 that's a problem, and I can't change it.</p> <p>16 CHAIRMAN KIMBLE: So -- so, are we looking</p> <p>17 at having someone else who will sit in the back of</p> <p>18 meetings or handle legislative education or lobbying or</p> <p>19 whatever you want to call it?</p> <p>20 MR. COLLINS: What we think and what Mike</p> <p>21 and I think is that it would be helpful to have both.</p> <p>22 CHAIRMAN KIMBLE: Okay.</p> <p>23 MR. COLLINS: To both be able to have</p> <p>24 because I think -- and I think -- I think -- I mean,</p> <p>25 having worked with agencies who have, you know,</p>	
09:57:39-09:59:01	Page 23	10:00:32-10:01:44	Page 25
<p>1 pretty quickly. And so we always have that noted in</p> <p>2 there that we are not, in fact, in a deficit, but under</p> <p>3 the assumptions where it says money, we would be out of</p> <p>4 business.</p> <p>5 So, I always want to make clear to everyone</p> <p>6 that that's a math problem, not a -- not a -- but we've</p> <p>7 got a long way to go before we have excess money.</p> <p>8 CHAIRMAN KIMBLE: Okay. I just had a</p> <p>9 couple of questions on items that stood out to me.</p> <p>10 First of all, there's sizable increases in personnel</p> <p>11 services in both administration and in voter education.</p> <p>12 MR. COLLINS: Right.</p> <p>13 CHAIRMAN KIMBLE: Are we adding people</p> <p>14 or --</p> <p>15 MR. COLLINS: We anticipate adding at least</p> <p>16 one and maybe two more positions over the course of the</p> <p>17 next calendar year. We have found that the additions</p> <p>18 we've made specifically in voter ed have been really</p> <p>19 beneficial. Adding Avery to voter ed in a position</p> <p>20 where we have someone who's free to go out into the</p> <p>21 community, and then that freeing up Alec to focus on</p> <p>22 the, you know, content website of things and then Gina</p> <p>23 to coordinate has been -- has, I think, delivered value</p> <p>24 to the Commission.</p> <p>25 We also believe that there are what qualify</p>		<p>1 government relations teams, there is -- there is a need</p> <p>2 for us to be at every elections committee meeting, but</p> <p>3 there is not a need for -- for -- for everybody to be</p> <p>4 at every elections committee meeting, for example. I</p> <p>5 mean, I'll just give you an example.</p> <p>6 The Secretary of State's Office, back in</p> <p>7 the day when I used to work as an attorney for the</p> <p>8 Secretary of State's Office, you know, the election</p> <p>9 director for the Secretary of State and the chief of</p> <p>10 staff for the Secretary of State and usually one other</p> <p>11 person were at almost every elections committee meeting</p> <p>12 all the time. We would like to be more in a position</p> <p>13 to get that kind of on-the-ground impact.</p> <p>14 And what can happen at the legislative</p> <p>15 session if there are multiple meetings and multiple</p> <p>16 issues is we just -- we -- with just Mike and I, we're</p> <p>17 spread too thin. And so we have -- we've looked at</p> <p>18 that, and we want to just add, you know, an additional</p> <p>19 person who would, I believe, be able to -- would do</p> <p>20 lobbying, also, but also -- also, could be more of our</p> <p>21 eyes and ears on the parts of the -- you know, of the</p> <p>22 meetings themselves. I mean, I don't -- I may be</p> <p>23 mistaken.</p> <p>24 I'm looking at Commissioner Chan to --</p> <p>25 COMMISSIONER PATON: Can I make a</p>	

10:01:45-10:03:04	Page 26	10:04:22-10:05:27	Page 28
<p>1 statement?</p> <p>2 MR. COLLINS: Sure. Please.</p> <p>3 COMMISSIONER PATON: As I remember, we used</p> <p>4 to pay lobbyists over \$100,000, or something, that</p> <p>5 we're not using now.</p> <p>6 MR. COLLINS: Yeah.</p> <p>7 COMMISSIONER PATON: And I was, kind of,</p> <p>8 surprised that we didn't add more people a year or two</p> <p>9 ago because of that, and I think that, really, that's</p> <p>10 what I wanted, actually, because I think people look</p> <p>11 poorly at lobbyists, rather than a staff member. And</p> <p>12 so I would be in support of staff members doing that,</p> <p>13 and I thought we would have done that earlier.</p> <p>14 MR. COLLINS: Better late than never.</p> <p>15 COMMISSIONER CHAN: And, Mr. Chairman,</p> <p>16 since Tom said he was looking at me -- and, I guess,</p> <p>17 literally physically he was looking at me and -- I</p> <p>18 would agree. I would support something like this for</p> <p>19 sure. I mean, I think, you know, people, perhaps,</p> <p>20 sometimes scoff at government employees going down to</p> <p>21 the legislature, but the fact is it's an extremely</p> <p>22 important place to be when there are bills that affect</p> <p>23 election law, our agency.</p> <p>24 And, frankly, you just never know what's</p> <p>25 going to pop up on any given day at any given minute,</p>		<p>1 guess, when I'm looking at all this, though, you know,</p> <p>2 I'm not an accountant or anything like that. And a lot</p> <p>3 of it is, kind of, gobbledygook, but basically, I</p> <p>4 guess, my question would be, on this budget, I mean,</p> <p>5 are we spending more than we're taking in?</p> <p>6 I mean, that's really what it comes down to</p> <p>7 because all these caps and -- whatever -- doesn't make</p> <p>8 a lot of sense to me.</p> <p>9 MR. COLLINS: Right.</p> <p>10 COMMISSIONER PATON: But are we spending</p> <p>11 more money that we're taking in? And, really, are</p> <p>12 these court assessments -- are they now -- from what I</p> <p>13 understood, they're becoming greater. And how is that</p> <p>14 in the mix?</p> <p>15 MR. COLLINS: Chairman Kimble, Commissioner</p> <p>16 Paton, that's a good question.</p> <p>17 COMMISSIONER PATON: Thank you.</p> <p>18 MR. COLLINS: Well, I mean -- now I lost my</p> <p>19 train of thought.</p> <p>20 COMMISSIONER PATON: Sorry.</p> <p>21 CHAIRMAN KIMBLE: The court assessments.</p> <p>22 MR. COLLINS: Well, there's two things. I</p> <p>23 think it was a two-part question: the court</p> <p>24 assessments and are we spending more than we're taking</p> <p>25 in. So, are we spending more than we take in in an</p>	
10:03:08-10:04:14	Page 27	10:05:30-10:06:49	Page 29
<p>1 when they're going to schedule floor sessions, when</p> <p>2 they're going to file amendments, strike everything</p> <p>3 amendments, those sorts of things.</p> <p>4 And to have an extra person on the ground</p> <p>5 here that could be there when -- frankly, when we have</p> <p>6 two of the top people in our agency who have other</p> <p>7 things to take up their time than be sitting in a room</p> <p>8 at the legislature -- which is, also, very important,</p> <p>9 not to minimize that, but I know even, you know, Tom</p> <p>10 was mentioning when I was election director, it was</p> <p>11 tough to be sitting at the legislature sometimes</p> <p>12 waiting in the hearing room to testify or even just be</p> <p>13 there to hear what was being said because there were --</p> <p>14 there was work to be done.</p> <p>15 So -- and that's life, but I think having</p> <p>16 an extra person would be very, very nice. And, you</p> <p>17 know, I don't know what the qualifications are that</p> <p>18 you're looking for, but frankly, it could be an</p> <p>19 entry-level position where you could really train</p> <p>20 somebody. And I think that's a great opportunity for a</p> <p>21 new person and will be a great asset to -- to our</p> <p>22 agency.</p> <p>23 COMMISSIONER PATON: And, then, also, it</p> <p>24 could help give Tom more time to actually visit the</p> <p>25 legislators that are making whatever decisions. So, I</p>		<p>1 election year, almost undoubtedly, but the point is</p> <p>2 that we spend less in the off years. And that's where</p> <p>3 we make up the difference.</p> <p>4 With respect to the court assessments, the</p> <p>5 ballpark estimate, I would say, that they've increased,</p> <p>6 it looks like, stabilized is an increase of between half</p> <p>7 a million and a million dollars since their low av,</p> <p>8 which was around between 5- and \$6 million about --</p> <p>9 about four years ago. So --</p> <p>10 COMMISSIONER PATON: Okay. So, we're up</p> <p>11 500 to -- 500,000 to a million dollars more than a</p> <p>12 couple years ago.</p> <p>13 MR. COLLINS: Right. For example, if I</p> <p>14 may --</p> <p>15 COMMISSIONER PATON: Because it seemed like</p> <p>16 we were spending down our reserves previously.</p> <p>17 MR. COLLINS: Correct. Mr. Chairman,</p> <p>18 Commissioner Paton, we were concerned about that. I</p> <p>19 would say that as of July, the fund balance was around</p> <p>20 \$27 million. That's up from about \$20 million when --</p> <p>21 when -- when I took over as executive director.</p> <p>22 COMMISSIONER PATON: Okay. So, in my mind,</p> <p>23 that's really good. And to get a person or two to help</p> <p>24 our lobbying and allow you more time to do what you</p> <p>25 really need to do, I think there's room for that. And</p>	

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<p>1 I think that's a good thing.</p> <p>2 MR. COLLINS: Good. Well, I'm not going to</p> <p>3 disagree with that.</p> <p>4 COMMISSIONER PATON: Okay. Okay.</p> <p>5 CHAIRMAN KIMBLE: And let me just stress I</p> <p>6 am not opposed to it. I just wanted to discuss what</p> <p>7 your plans were for the additional personnel expenses.</p> <p>8 Are there any other specific questions that</p> <p>9 members of the Commission have about the budget?</p> <p>10 COMMISSIONER CHAN: No. Mr. Chairman, can</p> <p>11 I just make another comment?</p> <p>12 CHAIRMAN KIMBLE: Commissioner Chan.</p> <p>13 COMMISSIONER CHAN: I'm just to relieved to</p> <p>14 hear you saw that, you know, the hiring of Avery has</p> <p>15 really, maybe, given you some room to breath because I,</p> <p>16 frankly, think it's so easy for somebody to -- like</p> <p>17 you, for example, to just take on so much and think</p> <p>18 that you need to keep taking on more. And I think that</p> <p>19 sometimes, you know, leadership requires you to hire on</p> <p>20 and delegate more, and it's hard to do that.</p> <p>21 So, kudos to finally hiring on some more</p> <p>22 people to help and making some great picks and</p> <p>23 continuing to do that. So, I think, obviously, it's</p> <p>24 been a good decision, obviously.</p> <p>25 MR. COLLINS: Well, as much as I appreciate</p>	<p>1 enforcement expenditure cap of \$2,170,463; the 2020</p> <p>2 public education paid media expenditure cap of</p> <p>3 \$2,170,463; the projection of 2020 candidate funding</p> <p>4 disbursements, \$3,125,900; and Number 5, the projection</p> <p>5 of no excess funds in the Clean Elections funding in</p> <p>6 2020.</p> <p>7 And is there a motion to approve those</p> <p>8 items, as well as the budget as projected?</p> <p>9 COMMISSIONER CHAN: Mr. Chairman, I would</p> <p>10 so move.</p> <p>11 CHAIRMAN KIMBLE: Is there a second?</p> <p>12 COMMISSIONER PATON: Second.</p> <p>13 CHAIRMAN KIMBLE: It's been moved and</p> <p>14 seconded that we approve Items 1 through 5, as well as</p> <p>15 the budget proposal.</p> <p>16 Commissioner Chan?</p> <p>17 COMMISSIONER CHAN: Aye.</p> <p>18 CHAIRMAN KIMBLE: Commissioner Paton?</p> <p>19 COMMISSIONER PATON: Aye.</p> <p>20 CHAIRMAN KIMBLE: The Chair votes aye.</p> <p>21 It's approved 3 to nothing.</p> <p>22 Item V, without objection, we're going to</p> <p>23 put off the discussion and possible action on the 2020</p> <p>24 Voter Education Plan until next month until Gina is</p> <p>25 back.</p>		
10:08:02-10:09:27	Page 31	10:10:52-10:12:20	Page 33
<p>1 the -- Mr. Chairman, Commissioner Chan, I mean, the</p> <p>2 credit goes to Paula and Gina and Alec and Avery and</p> <p>3 Mike for their work on -- on these personnel issues</p> <p>4 and -- and developing roles and ensuring that folks</p> <p>5 have -- have work.</p> <p>6 And Gina and Alec, you know, over the</p> <p>7 course of the last election cycle, I think, pushed --</p> <p>8 were pushed to, you know -- you know, kind of, way into</p> <p>9 the -- way farther than I wish -- than one would want.</p> <p>10 And so I'm -- the credit goes to the rest. Everybody</p> <p>11 else on staff has really driven that process, other</p> <p>12 than me. So I think the -- so the compliments go to</p> <p>13 them, not to me.</p> <p>14 COMMISSIONER CHAN: Okay.</p> <p>15 CHAIRMAN KIMBLE: Okay. Tom, what,</p> <p>16 specifically, are you asking for in terms of motions?</p> <p>17 MR. COLLINS: We would simply ask the</p> <p>18 Commission to move to approve Items 1 through --</p> <p>19 numbered 1 through 5 on page 1 of Item IV.</p> <p>20 CHAIRMAN KIMBLE: Okay. And, just for the</p> <p>21 record, those --</p> <p>22 MR. COLLINS: Oh, and the budget itself.</p> <p>23 CHAIRMAN KIMBLE: Okay. The Items 1</p> <p>24 through 5, Number 1, the 20 -- 2020 expenditure cap of</p> <p>25 \$21,704,634; Number 2, the 2020 administration and</p>	<p>1 Item VI: Discussion and possible action on</p> <p>2 the Governor's Regulatory Review Commission -- I think</p> <p>3 it's actually council.</p> <p>4 MR. COLLINS: Council.</p> <p>5 CHAIRMAN KIMBLE: But -- and we may go into</p> <p>6 executive session on this matter.</p> <p>7 Tom, is there anything you want to say</p> <p>8 about this?</p> <p>9 MR. COLLINS: Well, so 6 and 7 are, kind</p> <p>10 of, intermingled, and I think that there's nothing</p> <p>11 wrong with going back and forth between the two of</p> <p>12 them.</p> <p>13 CHAIRMAN KIMBLE: Okay. Let me just say</p> <p>14 Item VII is discussion and possible action on proposing</p> <p>15 revisions to R2-20-702 for 60-day public comment</p> <p>16 period.</p> <p>17 MR. COLLINS: So -- so, as I noted in the</p> <p>18 executive director's report, the Governor's Regulatory</p> <p>19 Review Council voted to, quote/unquote, return</p> <p>20 R2-20-702. In the parlance of GRRC, I understand that</p> <p>21 to mean it was rejected. The basis of that decision</p> <p>22 was that despite the fact that we took out what we</p> <p>23 believed to be all language related to parties or</p> <p>24 501(a) organizations that can spend on candidates,</p> <p>25 which were the two prohibited categories under</p>		

10:12:24-10:13:56	Page 34	10:15:45-10:17:16	Page 36
<p>1 Prop 306, Council Member John Sundt believed that there</p> <p>2 was still confusion because there are -- we left in</p> <p>3 place parts of the rules that authorized spending on</p> <p>4 things other than that.</p> <p>5 He believes that's confusing, I think,</p> <p>6 because people might not understand that -- that that</p> <p>7 doesn't include those things that are banned. Rather</p> <p>8 than, you know, have an argument about it, what we did</p> <p>9 at the meeting was simply say fine. I mean, you know,</p> <p>10 we did the -- you know, we just said, you know, we'll</p> <p>11 make the revisions just in the interest of -- of</p> <p>12 clarity for our regulated community, if nothing else.</p> <p>13 It's a little odd because, you know --</p> <p>14 COMMISSIONER CHAN: I'm sorry.</p> <p>15 Mr. Chairman, Tom, what is he confused about? What did</p> <p>16 he think was confusing? I'm confused about what he</p> <p>17 thinks is confusing.</p> <p>18 MR. COLLINS: Well, if you look at the --</p> <p>19 if you look at the document, at the memo, if you look</p> <p>20 at 702 as we passed the revision, okay, it struck out,</p> <p>21 as you can see -- this is on page 2 of Item VII.</p> <p>22 COMMISSIONER CHAN: Okay.</p> <p>23 MR. COLLINS: This is the rule that the</p> <p>24 Commission enacted and made immediately enforceable.</p> <p>25 And, Mary, this is where I might need your</p>	<p>1 prevailed unanimously upon the council members.</p> <p>2 Look, at the end of the day, if we strike</p> <p>3 the remainder of the rule, the result will be that our</p> <p>4 guidance to candidates will be don't violate 16-948(c)</p> <p>5 and everything else is fair game. I don't see how</p> <p>6 that's less confusing, actually, but it sure gives</p> <p>7 both -- it sure gives the candidates a lot more freedom</p> <p>8 than they would have otherwise had. And it -- and</p> <p>9 that's fine. I mean, and it gives the Commission a lot</p> <p>10 more freedom to determine what is in and out of bounds.</p> <p>11 I think part of this goes to a complete</p> <p>12 misapprehension of administrative law, which is that</p> <p>13 administrative law, contrary to the prevailing view of</p> <p>14 many lawyers, is actually a control on the</p> <p>15 administrative state. That's what Justice Scalia</p> <p>16 believed. That's what Justice Scalia wrote extensively</p> <p>17 on. Now that that's been rejected, there is an</p> <p>18 assumption that all administrative rules are</p> <p>19 bureaucrats expanding territory. I think that's false.</p> <p>20 I think that rules limit administrative</p> <p>21 actions by so-called bureaucrats, such as myself, but I</p> <p>22 don't care to have this debate -- I don't think a false</p> <p>23 amicable debate with John Sundt is particularly useful.</p> <p>24 CHAIRMAN KIMBLE: Okay. So that is</p> <p>25 R2-20-702.</p>		
10:13:58-10:15:43	Page 35	10:17:21-10:18:43	Page 37
<p>1 help on that issue in terms of context.</p> <p>2 So, the Commission passed that rule and</p> <p>3 made it immediately enforceable, and then we forwarded</p> <p>4 it to GRRC. We believe, I think, correctly, if you</p> <p>5 look at the language that we cut, that we cut</p> <p>6 everything that related to Prop 306, which said</p> <p>7 specifically no parties and no people will be exempt</p> <p>8 under 501(a), and it was actually more limited that our</p> <p>9 rule, but -- you know, so we thought that was clear.</p> <p>10 What Mr. Sundt believes is that -- believed</p> <p>11 was that by having a language that begins Part B by</p> <p>12 saying "a participating candidate may," he believed</p> <p>13 that that itself was in conflict with 16-948(c). He</p> <p>14 says that 16-948(c) only forbids conduct and does not</p> <p>15 permit the Commission to -- to describe what a</p> <p>16 participating candidate may do.</p> <p>17 From my perspective, I think that that's a</p> <p>18 bit of a partial analysis of 16-948(c), which the first</p> <p>19 sentence of it expressly allows for expenditures, and</p> <p>20 it's very hard to find other parts of the statute that</p> <p>21 actually expressly allow the candidates to spend money.</p> <p>22 And it makes very little sense to interpret an act that</p> <p>23 says you can spend money as one that the Commission</p> <p>24 doesn't have the authority to create any kind of safe</p> <p>25 harbor, but that's his view. And, of course, that</p>	<p>1 MR. COLLINS: So, in effect, Mr. Chairman,</p> <p>2 all we're asking is that we delete the rest of 702(b).</p> <p>3 CHAIRMAN KIMBLE: Right.</p> <p>4 COMMISSIONER CHAN: Thank you.</p> <p>5 CHAIRMAN KIMBLE: And does that cover both</p> <p>6 VI and VII --</p> <p>7 MR. COLLINS: No.</p> <p>8 CHAIRMAN KIMBLE: -- on the agenda?</p> <p>9 MR. COLLINS: It does, except insofar as we</p> <p>10 didn't reach the -- a much more substantial legal issue</p> <p>11 about the effective date. And, you know, when we draft</p> <p>12 the submission to the Secretary related to these rules,</p> <p>13 that's something I'm going to have to work with Mary on</p> <p>14 to make sure that we have that, you know, nailed down.</p> <p>15 The Council's staff attorneys believe that</p> <p>16 somehow the Proposition 306, although it left in place</p> <p>17 the Commission's express authority to make rules</p> <p>18 immediately effective, they have interpolated sections</p> <p>19 of Title 41 into the statute that voters saw and</p> <p>20 declared that, essentially, what voters saw in front of</p> <p>21 their face when they voted for Prop 306 is not true.</p> <p>22 And that's a larger discussion. That's a</p> <p>23 serious legal issue, as opposed to some philosophical</p> <p>24 debate. And that's -- we have not reached that yet</p> <p>25 because we have not had a rule passed. Now, we have</p>		

10:18:50-10:20:16	Page 38	10:34:25-10:35:16	Page 40
<p>1 kicked around ideas on what to do about that. I'm not</p> <p>2 sure those are -- those are -- those are in the context</p> <p>3 of -- they are really in the context of legal advice.</p> <p>4 I don't know how much we want to get into that now.</p> <p>5 You know, but -- so, we haven't reached what I think is</p> <p>6 the real issue here, which is the clarity of the Clean</p> <p>7 Elections Act versus the creative interpolation of</p> <p>8 Title 41 into the Clean Elections Act that GRRC intends</p> <p>9 to act on.</p> <p>10 CHAIRMAN KIMBLE: So, today, if we vote to</p> <p>11 begin the 60-day public comment period for 20-702,</p> <p>12 then, assuming we then approve it to take effect</p> <p>13 immediately, then it goes back to GRRC, along with the</p> <p>14 other changes that they voted in a tie on.</p> <p>15 So, where is this going to end? Is it --</p> <p>16 are they going to vote in a tie again and we're just in</p> <p>17 limbo?</p> <p>18 MR. COLLINS: Well, you know, Mr. Chairman,</p> <p>19 that is the question, and I think that is the question</p> <p>20 I would -- honestly, I really think we need to go into</p> <p>21 executive session to discuss that question.</p> <p>22 CHAIRMAN KIMBLE: Okay. Is there a motion</p> <p>23 to go into a brief executive session on this?</p> <p>24 COMMISSIONER CHAN: Mr. Chairman, I move</p> <p>25 that we go into executive session.</p>		<p>1 CHAIRMAN KIMBLE: And I will second that.</p> <p>2 Are you willing to do this, Commissioner</p> <p>3 Paton?</p> <p>4 COMMISSIONER PATON: Sure.</p> <p>5 CHAIRMAN KIMBLE: Okay. With that</p> <p>6 enthusiastic response, we will vote on Commissioner</p> <p>7 Paton.</p> <p>8 Commission Chan?</p> <p>9 COMMISSIONER CHAN: Aye.</p> <p>10 CHAIRMAN KIMBLE: Commissioner Paton?</p> <p>11 COMMISSIONER PATON: Aye.</p> <p>12 CHAIRMAN KIMBLE: The Chair votes aye.</p> <p>13 Three to nothing, Commissioner Paton will be the Chair</p> <p>14 beginning in 2020.</p> <p>15 Congratulations.</p> <p>16 COMMISSIONER PATON: Well, thank you.</p> <p>17 COMMISSIONER CHAN: Congratulations.</p> <p>18 MR. COLLINS: Mr. Chairman, if we could,</p> <p>19 really quickly, circle back to Item VII, we do need --</p> <p>20 we do need a vote to approve --</p> <p>21 CHAIRMAN KIMBLE: Oh, I apologize. Yes.</p> <p>22 MR. COLLINS: -- the revised 702 language.</p> <p>23 CHAIRMAN KIMBLE: Yes.</p> <p>24 MR. COLLINS: For publication.</p> <p>25 CHAIRMAN KIMBLE: Yes. That was my</p>	
10:20:17-10:34:22	Page 39	10:35:18-10:36:32	Page 41
<p>1 CHAIRMAN KIMBLE: Is there a second?</p> <p>2 COMMISSIONER PATON: Second.</p> <p>3 CHAIRMAN KIMBLE: Okay. Let's vote on</p> <p>4 going into executive session.</p> <p>5 Commissioner Chan?</p> <p>6 COMMISSIONER CHAN: Aye.</p> <p>7 CHAIRMAN KIMBLE: Commissioner Paton?</p> <p>8 COMMISSIONER PATON: Aye.</p> <p>9 CHAIRMAN KIMBLE: The Chair votes aye.</p> <p>10 We'll go into a brief executive session.</p> <p>11 (The following section of the meeting is in</p> <p>12 executive session and bound under separate cover.)</p> <p>13 * * * * *</p> <p>14 (End of executive session. Public meeting</p> <p>15 resumes at 10:34 a.m.)</p> <p>16 CHAIRMAN KIMBLE: Okay. We are resuming</p> <p>17 our meeting with Item VIII: Discussion and possible</p> <p>18 action on selection of a chairman for the Commission</p> <p>19 for 2020.</p> <p>20 Is there a motion to who should be the</p> <p>21 chairman for 2020?</p> <p>22 COMMISSIONER CHAN: Mr. Chairman.</p> <p>23 CHAIRMAN KIMBLE: Commissioner Chan?</p> <p>24 COMMISSIONER CHAN: I would nominate</p> <p>25 Commissioner Paton to be the chairman for 2020.</p>		<p>1 mistake.</p> <p>2 Let me go back to Item VII.</p> <p>3 Regarding R2-20-702, do we have a motion to</p> <p>4 open a 60-day public comment period on the changes in</p> <p>5 20-702 as contained in our material?</p> <p>6 COMMISSIONER CHAN: Mr. Chairman, I so</p> <p>7 move.</p> <p>8 CHAIRMAN KIMBLE: Is there a second?</p> <p>9 COMMISSIONER PATON: Second.</p> <p>10 CHAIRMAN KIMBLE: Okay. All those in</p> <p>11 favor -- or let's vote on the motion.</p> <p>12 Commissioner Chan?</p> <p>13 COMMISSIONER CHAN: Aye.</p> <p>14 CHAIRMAN KIMBLE: Commissioner Paton?</p> <p>15 COMMISSIONER PATON: Aye.</p> <p>16 CHAIRMAN KIMBLE: The Chair votes aye, and</p> <p>17 it's approved 3 to nothing.</p> <p>18 Item IV: Public comment.</p> <p>19 Is there anyone who wants to speak?</p> <p>20 COMMISSIONER CHAN: Rivko. Okay.</p> <p>21 MS. KNOX: Okay. Enough of that.</p> <p>22 Chairman Kimble, Commissioners and staff,</p> <p>23 my name is --</p> <p>24 CHAIRMAN KIMBLE: We're glad to have you</p> <p>25 here.</p>	

10:36:33-10:37:51	Page 42	10:39:08-10:40:22	Page 44
<p>1 MS. KNOX: My name is Rivko Knox. I'm here</p> <p>2 on behalf of the League of Women Voters of Arizona, and</p> <p>3 I just wanted to say how pleased the League was with</p> <p>4 the recent We the Voters conference and how we really</p> <p>5 want to compliment the Commission and staff for putting</p> <p>6 together a fabulous conference. We want to thank all</p> <p>7 of you for allowing the League to have a table. We had</p> <p>8 a number of league members there, and many of them</p> <p>9 asked to then have all the videos put on our website.</p> <p>10 So they are.</p> <p>11 And we just feel -- I mean, I know this was</p> <p>12 the first time, and clearly there will be, you know,</p> <p>13 I'm sure, some changes in the future, but we think it</p> <p>14 was a wonderful, wonderful step in the direction of</p> <p>15 voter education. We just wanted to thank all of you.</p> <p>16 And, if you will, forget the fall. Oh,</p> <p>17 that's just how life goes.</p> <p>18 Thank you all very much. And keeping the</p> <p>19 word on the wonderful voter education work. We talk</p> <p>20 about -- we tell everybody how we feel the Clean</p> <p>21 Elections has this, like, hidden treasure of voter</p> <p>22 education, including your amazing website that too few</p> <p>23 people know about, and we talk about it on a regular</p> <p>24 basis wherever we go. So, thank you all very much.</p> <p>25 CHAIRMAN KIMBLE: Well, thank you very much</p>	<p>1 don't know if the staff knows, but I don't know if</p> <p>2 anything like that has ever really been done before in</p> <p>3 the U.S., I mean, for voters.</p> <p>4 MR. COLLINS: Well, if we could -- if we --</p> <p>5 I will construe that comment as referring to the</p> <p>6 executive director's report and/or as public comment by</p> <p>7 you.</p> <p>8 COMMISSIONER CHAN: Yeah.</p> <p>9 MR. COLLINS: But referring to the</p> <p>10 executive director's report, which I think it's</p> <p>11 perfectly possible -- and I don't care to hear</p> <p>12 otherwise.</p> <p>13 MS. KNOX: Yes.</p> <p>14 MR. COLLINS: We're not aware of any</p> <p>15 other -- of any other -- of any other similar thing</p> <p>16 certainly that's been done by -- with the public good</p> <p>17 in mind. In other words, you know, the League has done</p> <p>18 a number of similar things and theirs are all</p> <p>19 wonderful. I've attended several of them, and they've</p> <p>20 done very well. I think that -- I think that having</p> <p>21 the institution of, you know, look, the Act, whether</p> <p>22 people like it or not, is premised on the idea that</p> <p>23 elections and election information are public goods.</p> <p>24 And so I think that in a world that largely</p> <p>25 has dispensed with the notion of public goods, it's an</p>		
10:37:52-10:39:05	Page 43	10:40:26-10:41:10	Page 45
<p>1 for your comments about -- specifically about the</p> <p>2 events several weeks ago. And we'll make sure that</p> <p>3 Gina knows about that since she was largely</p> <p>4 responsible, but to the other staff members here who</p> <p>5 help set this up, thank you very much. And, also,</p> <p>6 thank you for your continued support, and it's great to</p> <p>7 continue to work with the League in the many things</p> <p>8 that we've cooperated on.</p> <p>9 COMMISSIONER CHAN: Mr. Chairman, can I</p> <p>10 make a comment?</p> <p>11 CHAIRMAN KIMBLE: Of course, Commissioner</p> <p>12 Chan.</p> <p>13 COMMISSIONER CHAN: You know, Rivko, thank</p> <p>14 you for bringing it up because I cannot believe it. I</p> <p>15 attended the conference, and it was so amazing. I was</p> <p>16 on a high for days afterwards because it was so</p> <p>17 special. I got to attend many of the breakout sessions</p> <p>18 myself, and I know the staff put in so many hours. And</p> <p>19 I think Gina is sick because of it, actually. She said</p> <p>20 it was more planning than her own wedding, which I</p> <p>21 fully believe, based on how amazing it was.</p> <p>22 And so I should have thought to mention it</p> <p>23 right away at this -- at this meeting because it was</p> <p>24 truly an amazing event. I mean, I just can't say</p> <p>25 enough good things about it. And I -- honestly, I</p>	<p>1 important statement. And I think we will, hopefully,</p> <p>2 be a model we can present at other -- in other states</p> <p>3 or to other states if they're interested.</p> <p>4 COMMISSIONER CHAN: So, I just -- again, I</p> <p>5 can't -- I really just can't say enough good things</p> <p>6 about it. It was absolutely fantastic, and kudos to</p> <p>7 the whole staff and team here. So, thank you.</p> <p>8 CHAIRMAN KIMBLE: And I think we can, also,</p> <p>9 make these comments next month when Gina will be</p> <p>10 back --</p> <p>11 COMMISSIONER CHAN: Yes, yes.</p> <p>12 MR. COLLINS: True.</p> <p>13 CHAIRMAN KIMBLE: -- as part of our voter</p> <p>14 education --</p> <p>15 COMMISSIONER CHAN: Definitely.</p> <p>16 CHAIRMAN KIMBLE: -- review for next year.</p> <p>17 Anyone else wants to speak?</p> <p>18 (No response.)</p> <p>19 CHAIRMAN KIMBLE: I assume not.</p> <p>20 Adjournment? Is there a motion to adjourn?</p> <p>21 COMMISSIONER CHAN: Move to adjourn.</p> <p>22 CHAIRMAN KIMBLE: Is there a second?</p> <p>23 COMMISSIONER PATON: Second.</p> <p>24 CHAIRMAN KIMBLE: Commissioner Chan?</p> <p>25 COMMISSIONER CHAN: Aye.</p>		

10:41:12-10:41:15

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1 CHAIRMAN KIMBLE: Commissioner Paton.  
2 COMMISSIONER PATON: Aye.  
3 CHAIRMAN KIMBLE: The Chair votes aye.  
4 We are adjourned. Thank you.  
5 (Whereupon, the proceedings concluded at  
6 10:41 a.m.)

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1 STATE OF ARIZONA )

2 COUNTY OF MARICOPA )

3 BE IT KNOWN the foregoing proceedings were  
4 taken by me; that I was then and there a Certified  
5 Reporter of the State of Arizona; that the proceedings  
6 were taken down by me in shorthand and thereafter  
7 transcribed into typewriting under my direction; that  
8 the foregoing pages are a full, true, and accurate  
9 transcript of all proceedings and testimony had and  
10 adduced upon the taking of said proceedings, all done to  
11 the best of my skill and ability.

12 I FURTHER CERTIFY that I am in no way  
13 related to nor employed by any of the parties thereto  
14 nor am I in any way interested in the outcome hereof.

15 DATED at Phoenix, Arizona, this 14th day of  
16 November, 2019.



LILIA MONARREZ, RPR, CR #50699

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<p><b>V</b></p>		<p><b>2 (2)</b> 31:25;34:21 <b>20 (1)</b> 31:24 <b>2019 (3)</b> 3:4,14,23 <b>2020 (13)</b> 21:17,21,25; 31:24,25;32:1,3,6,23; 39:19,21,25;40:14 <b>20-702 (2)</b> 38:11;41:5 <b>26th (2)</b> 20:10;21:5 <b>2nd (1)</b> 20:12</p>		
		<p><b>3</b></p>		
		<p><b>3 (2)</b> 32:21;41:17 <b>3-0 (1)</b> 4:6 <b>306 (4)</b> 34:1;35:6; 37:16,21 <b>3rd (2)</b> 20:11,12</p>		
		<p><b>4</b></p>		
		<p><b>41 (2)</b> 37:19;38:8</p>		
		<p><b>5</b></p>		
<p><b>valid (1)</b> 17:17 <b>value (1)</b> 23:23 <b>various (3)</b> 5:22;6:2;9:5 <b>versus (1)</b> 38:7 <b>VI (2)</b> 33:1;37:6 <b>videos (1)</b> 42:9 <b>view (2)</b> 35:25;36:13 <b>VII (5)</b> 33:14;34:21; 37:6;40:19;41:2 <b>VIII (1)</b> 39:17 <b>violate (1)</b> 36:4 <b>visit (1)</b> 27:24 <b>void (1)</b> 10:2 <b>voids (1)</b> 9:14 <b>volume (1)</b> 5:12 <b>vote (8)</b> 3:25;20:24; 38:10,16;39:3;40:6,20; 41:11 <b>voted (3)</b> 33:19;37:21; 38:14 <b>voter (16)</b> 4:24,25;5:9, 15,20,22;7:6;22:10;</p>	<p><b>word (1)</b> 42:19 <b>words (2)</b> 22:24;44:17 <b>work (16)</b> 6:4;8:13; 12:10,13,17,20,21,23; 18:14;25:7;27:14;31:3, 5;37:13;42:19;43:7 <b>worked (3)</b> 21:20; 22:10;24:25 <b>working (5)</b> 4:22;5:5; 7:3;15:4;17:1 <b>world (1)</b> 44:24 <b>worried (2)</b> 16:25;17:1 <b>worry (1)</b> 17:3 <b>wrap (1)</b> 16:11 <b>written (2)</b> 3:18;13:11 <b>wrong (1)</b> 33:11 <b>wrote (1)</b> 36:16</p>	<p><b>5 (5)</b> 22:17;31:19,24; 32:4,14 <b>5- (1)</b> 29:8 <b>500 (1)</b> 29:11 <b>500,000 (1)</b> 29:11 <b>501a (2)</b> 33:24;35:8</p>		
		<p><b>6</b></p>		
		<p><b>6 (1)</b> 33:9 <b>60-day (4)</b> 21:11; 33:15;38:11;41:4</p>		
		<p><b>7</b></p>		
		<p><b>7 (1)</b> 33:9 <b>702 (2)</b> 34:20;40:22 <b>702b (1)</b> 37:2</p>		
	<p><b>Y</b></p>			
	<p><b>year (9)</b> 14:14,19; 21:17,21;22:1;23:17; 26:8;29:1;45:16 <b>years (5)</b> 20:2,3;29:2,9, 12</p>			

**CITIZENS CLEAN ELECTIONS COMMISSION  
EXECUTIVE DIRECTOR REPORT  
December 12, 2019**

**Announcements:**

- The public can view Commission meetings live via the internet at [www.livestream.com/cleanelections](http://www.livestream.com/cleanelections). A link is available on our website.

**Voter Education:**

- Tom and Gina attended the Pinal County Recorder's dedication ceremony of the Mobile Voter Outreach Center on December 5<sup>th</sup>.
- Gina served as a facilitator for the Secretary of State's election security table top exercise for county staff on December 9<sup>th</sup>.
- Tom and Gina attended the National Governor Association's Policy Academy on Election Security with the Secretary of State's Office and County Elections Officials on December 10<sup>th</sup>.
- In partnership with Coconino County, CCEC will film three voter education videos on December 13<sup>th</sup> (how to use accessible voting equipment, how to vote early (sign your early ballot affidavit), and required voter identification).

**Community Outreach/Events**

- Avery met/collaborated with and/or provided voter registration/education services at the following events:
  - Eastlake Park Community Center
  - Mesa Community College Civic Action Team
  - YMCA Spooktacular Event
  - University Park
  - Linda Abril Academy High School Open House
  - MCC "Register for 2020" Election Day event
  - Secretary of State Voter Outreach Advisory Committee
  - Arizona Commission of African American Affairs meeting
  - 38<sup>th</sup> Annual Ft. McDowell Orme Dam Victory Dam
  - Central Arizona College
  - Urban Connections interview on Channel 3
  - NAACP Arizona State Conference

**Miscellaneous**

- **Outstanding legal matters**
  - Legacy Foundation Action Fund
  - AZAN v. State et. al.
  - State Ex Rel Brnovich v. Ariz. Board of Regents.
- **Election Proecudures Manual**
  - Pending approval by December 31.
  - Discussions pending between AG and SOS offices.
- **Appointments**
  - Progress being made by the governor's office.

- Our understanding is that after that the Secretary's Office will make an appointment.
- **Rules**
  - R2-20-702 Public Comment Period (also this agenda)
  - R2-20-113 Pending with GRRC (No Action by GRRC)
  - R2-20-704 Pending with GRRC (No Action By GRRC)
  - R2-20-104 (Loan subsection) (no return contact from Sec. Bennett) – This agenda.
  - R2-20-201 Clarifying investigative process – This agenda.

### **ITEM III**



## MEMORANDUM

To: Commissioners

From: Executive Director

Date: 12/9/2019

Re: Status of Rule Amendments to R2-20-704 and 113

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At its last business meeting (December 3, 2019) the Governor's Regulatory Review Council was, again, unable to vote to approve these rule amendments. It was also unable to the votes to "return" the rule amendments. I have requested both in person and in writing an update from GRRC regarding what they think occurs given that the Council has not acted on these rule amendments and suggested the Council consider a special meeting. As of this morning, 12/9/19 the Council staff informs me they will be getting back to me so I will update as I am able.

The amendment to Rule 704 removes language from our repayment measures that are not aligned with statutory requirements for the repayment of public funds. The amendment to Rule 113 to ease candidates' ability to ensure their statements are included in the Candidate Statement Pamphlet. The Councilmembers made no comments in the Council's meeting as to why they have failed to act.

**ITEM V(A)**

## MEMORANDUM

To: Commissioners  
From: Executive Director  
Date: 12/9/2019

Re: Public Comment to R2-20-702; additional amendments R2-20-701, 702.01, 703.01

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On November 20, 2019, the Commission received public comment on R2-20-702 from Tucson lawyer and Governor's Regulatory Review Council Member John Sundt. *See* Exhibit 1 In his comment, Mr. Sundt makes suggestions regarding at least one additional amendment another rules in Article 7 of the Commission's rules designed, in his view, to smooth the rules with regard to A.R.S. § 16-948(C).

Because the Mr. Sundt is a member of GRRC his comments are entitled to significant weight, as he, and his colleagues, have certain duties with regard to state agency rules. Additionally, the Comments suggesting additional rule changes do not appear to alter the terms of rules substantially, but, rather to reinforce the terms of 16-948 that relate to expenditures by participating candidates to political parties and to a subset of organizations granted certain tax privileges under the Internal Revenue Code. *See* A.R.S. § 16-948(C).<sup>1</sup>

### A. Section R2-20-701- Purpose and Scope

Notwithstanding any other provision of the Rules to the contrary, a participating candidate shall not make any payment to a private organization that is exempt under section 501(a) of the internal revenue code and that is eligible to engage in activities to influence the outcome of a candidate election, nor make any payment directly or indirectly to a political party; and subject to the foregoing, may spend clean elections monies only for reasonable and necessary expenses that are directly related to the campaign of that participating candidate.

### B. Section R2-20-702.01 Use of Assets

A participating candidate may use assets such as signs, pamphlets, and office equipment from a prior election cycle only after the candidate's current campaign pays for the assets in an amount equal to the fair market value of the assets, which amount shall in no event be less than one-fifth (1/5) the original purchase price of

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<sup>1</sup> Section R2-20-702(A) expressly restates that clean funding must be spent in compliance with § 16-948(C).

such assets. If the candidate was a participating candidate during the prior election cycle, the cash payment shall be made to the Fund. If the candidate was not a participating candidate during the prior election cycle, the cash payment shall be made to the prior campaign. If the prior campaign account of a nonparticipating candidate is closed, the payment shall be made to the candidate. Notwithstanding any other provision of the Rules to the contrary, a participating candidate shall not make any payment to a private organization that is exempt under section 501(a) of the internal revenue code and that is eligible to engage in activities to influence the outcome of a candidate election, nor make any payment directly or indirectly to a political party.

#### C. R2-20-703.01 Campaign Consultants

A. For purposes of this rule “Campaign Consultant” means any person paid by a participating candidate’s campaign or who provides services that are ordinarily charged to a person, except services provided for in A.R.S. § 16-911(6)(b).

B. A participating candidate may engage campaign consultants.

C. A participating candidate may only advance a campaign consultant for services such as consulting, communications, field employees, canvassers, mailers, auto-dialers, telephone town halls, electronic communications and other advertising purchases and other campaign service if an itemized invoice identifying the value of the services is provided directly to that particular candidate at the time of the advance payment.

1. Providing payment for such services as described in subsection (C) of this rule in the absence of an itemized invoice or advance payment for such services shall be deemed not to be a direct campaign expenditure.
2. A participating candidate may advance payment for postage upon the receipt of a written estimate and so long as any balance is returned to the candidate if the advance exceeds the actual cost of postage.
3. A participating candidate may advance payment for advertising that customarily requires pre-payment upon the receipt of a written estimate and so long as any balance is returned to the candidate if the advance exceeds the actual cost of the advertisement.

D. The Commission shall be included in the mail batch for all mailers and invitations. The Commission shall also be provided with documentation from the

mail house, printer or other original source, showing the number of mailers printed and the number of households to which a mailer was sent. Failure to provide this information within 7 days after the mailer has been mailed may be considered as evidence the mailer was not for direct campaign purposes.

E. Notwithstanding any other provision of the Rules to the contrary, a participating candidate shall not make any payment to a private organization that is exempt under section 501(a) of the internal revenue code and that is eligible to engage in activities to influence the outcome of a candidate election, nor make any payment directly or indirectly to a political party.

From: **John Sundt** <[jsundt@sundtlaw.com](mailto:jsundt@sundtlaw.com)>

Date: Wed, Nov 20, 2019 at 1:42 PM

Subject: CCEC Rules

To: [Thomas.Collins@azcleaselections.gov](mailto:Thomas.Collins@azcleaselections.gov) <[Thomas.Collins@azcleaselections.gov](mailto:Thomas.Collins@azcleaselections.gov)>, Simon Larscheidt <[simon.larscheidt@azdoa.gov](mailto:simon.larscheidt@azdoa.gov)>

Tom and Simon,

Things have been hectic. I will be in and out through December 2, 2019. Here is a follow up before I go.

CCEC asked if there were any thoughts about how the proposed changes to Rule (R2-20-702. Use of Campaign Funds) might be modified. CCEC also proposed, in the alternative that the rule be deleted in its entirety. That could certainly work, but would that address issues that might be left standing in R2-20-702.01 though R2-20-703.01?

Tom, you asked about clarification on the concerns raised by R2-20-702 as modified. There are two: (1) avoiding confusion; and (2) staying within statutory authority.

The statute now provides:

The following payments made directly or indirectly from a participating candidate's campaign account are unlawful contributions:

1. A payment made to a private organization that is exempt under section 501(a) of the internal revenue code and that is eligible to engage in activities to influence the outcome of a candidate election.
2. A payment made directly or indirectly to a political party.

*(Emphasis added)*

Take by way of example and not limitation, R2-20-702, language that payments may be made to a committee or civic organization and that a payment is not a contribution if the payment is reasonable in relation to the value received. That appears problematic.

If the payment is made to private organization that is exempt under section 501(a) of the internal revenue code, and that private organization is eligible to engage in activities to influence the outcome of a candidate election, the payment is unlawful; period. The statute states such payments are unlawful, however, as the rule does not contain the statute's prohibition, the rule implies that they may be lawful. That is confusing. That raises the second point.

The rule continues, that if the payment is reasonable in relation to the value received, the payment is not a contribution. That qualifying language does not appear in the statute. The statute does not provide that the payment is lawful if the payment is reasonable in relation to the value received. It provides that the payment is unlawful, period. So as written, it exceeds the statute.

That flaw ripples through the balance of R2-20-702. Payments made for "customary charges," or payments made of not more than \$200 to attend a political event, would be unlawful, if the

payments were made to a political party, or to a private organization where that organization is exempt under section 501(a) of the internal revenue code and that is eligible to engage in activities to influence the outcome of a candidate election.

Similarly, one would believe that payments made to a political party or a private organization exempt under section 501(a) of the internal revenue code, that is eligible to engage in activities to influence the outcome of a candidate election, for transportation, consulting, communications, field employees, canvassers, mailers, auto-dialers, telephone town halls, electronic communications and other advertising purchases and other campaign services would be unlawful.

Looking at R2-20-703.01, relating to Campaign Consultants, would not a payment to a Consultant employed by a private organization, exempt under section 501(a) of the internal revenue code, and eligible to engage in activities to influence the outcome of a candidate election, be an unlawful contribution? What about a payment made to them if they are employed by a political party? Would a payment to them be a direct or indirect payment to a political party constituting an unlawful contribution?

So, in a nutshell, it seems best to edit the rules to conform to the statute. Perhaps you might consider amending R2-20-701 to provide a general "though shalt not" clause.

Consider, perhaps, something like this:

**R2-20-701. Purpose and Scope**

Notwithstanding any other provision of the Rules to the contrary, a participating candidate shall not make any payment to a private organization that is exempt under section 501(a) of the internal revenue code and that is eligible to engage in activities to influence the outcome of a candidate election, nor make any payment directly or indirectly to a political party; and subject to the foregoing, may spend clean elections monies only for reasonable and necessary expenses that are directly related to the campaign of that participating candidate.

R2-20-702.B could then be deleted, and perhaps some other sentences peppered throughout need to struck, but the above might simplify the rule cleanup and let CCEC exercise the controls it otherwise wishes to.

At the end of the day, does the above work? Not sure, but that is my input.

Respectfully,

**John Sundt**  
**SundtLaw, PLLC**  
**6057 E. Grant Road,**  
**Suite 101**  
**Tucson, Az. 85712**  
(M): [520.907.9402](tel:520.907.9402)  
(F): [520.208.9762](tel:520.208.9762)

[jsundt@sundtlaw.com](mailto:jsundt@sundtlaw.com)

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**EXHIBIT 1 – Sundt - Public Comment**

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## NOTICES OF PROPOSED RULEMAKING

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Under the APA, an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule (A.R.S. §§ 41-1013 and 41-1022).

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed rules should be addressed to the agency that promulgated the rules. Refer to item #4 below to contact the person charged with the rulemaking and item #10 for the close of record and information related to public hearings and oral comments.

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 2. ADMINISTRATION

#### CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

[R19-158]

#### PREAMBLE

1. **Article, Part, or Section Affected (as applicable)**      **Rulemaking Action**  
R2-20-104      Amend
2. **Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**  
Authorizing statute: A.R.S. § 16-956(A)(7)  
Implementing statute: A.R.S. 16-941(A)-(B)
3. **Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the proposed rule:**  
Notice of Proposed Rulemaking: 25 A.A.R. 1411, June 14, 2019  
Notice of Rulemaking Docket Opening: 25 A.A.R. 1456, June 14, 2019  
Notice of Termination of Rulemaking: 25 A.A.R. 2129, August 23, 2019 (*in this issue*)  
Notice of Rulemaking Docket Opening: 25 A.A.R. 2130, August 23, 2019 (*in this issue*)
4. **The agency's contact person who can answer questions about the rulemaking:**  
Name: Thomas M. Collins  
Address: Citizens Clean Elections Commission  
1616 W. Adams, Suite 110  
Phoenix, AZ 85007  
Telephone: (602) 364-3477  
E-mail: [ccec@azcleelections.gov](mailto:ccec@azcleelections.gov)  
Website: [www.azcleelections.gov](http://www.azcleelections.gov)
5. **An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**  
R2-20-104: By elimination subsection A.A.C. R2-20-104(E), the Commission proposes to ensure that candidates and others know that the contribution and expenditure limits which apply to them, continue to apply to them regardless of the form of contribution, including loans. Prior language had lead to confusion about how those limits apply, and public comment from an expert in the election law field confirmed that conclusion. The amendment is the result of analysis of the rule during the 2018 election cycle, a 2019 proposed rule amendment that was later withdrawn, and is consistent with stakeholder practices and the Commission's understanding of the rule's intent.
6. **A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**  
Not applicable
7. **A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**  
These changes do not diminish a previous grant of authority to a political subdivision of this state.
8. **The preliminary summary of the economic, small business, and consumer impact:**  
There is no economic or consumer or small business impact other than that imposed by statute.





**9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:**

Name: Thomas M. Collins  
 Address: Citizens Clean Elections Commission  
 1616 W. Adams, Suite 110  
 Phoenix 85007  
 Telephone: (602) 364-3477  
 E-mail: ccec@azccleanelections.gov  
 Website: [www.azccleanelections.gov](http://www.azccleanelections.gov)

**10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Pursuant to A.R.S. § 16-956, a 60 day public comment period precedes an oral hearing which is the earliest the Commission may act on a proposed rule. Rule comments are accepted, in addition, through the web site, email, and regular mail, as well as at call to the public at interim meetings. Rules that are passed unanimously may be made effective immediately. All other approved rules are effective January 1. A.R.S. § 16-956(C), (D).

**11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

Not applicable

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

No

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

No

**c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitive-ness of business in this state to the impact on business in other states:**

No

**12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

Not applicable

**13. The full text of the rule follows:**

**TITLE 2. ADMINISTRATION**

**CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION**

**ARTICLE 1. GENERAL PROVISIONS**

Section

R2-20-104. Certification as a Participating Candidate

**ARTICLE 1. GENERAL PROVISIONS**

**R2-20-104. Certification as a Participating Candidate**

- A. No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change
  - 6. No change
- B. No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
- C. No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change
  - 6. No change
  - 7. No change
  - 8. No change



9. No change
10. No change
11. No change
- D.** No change
  1. No change
  2. No change
  3. No change
  4. No change
  5. No change
    - a. No change
    - b. No change
  6. No change
- ~~**E.**~~ ~~Loans. A participating candidate may accept an individual contribution as a loan or may loan his or her campaign committee personal monies during the exploratory and qualifying periods only. The total sum of the contributions received or personal funds and loans shall not exceed the expenditure limits set forth in A.R.S. § 16-941(A)(1) and 2. If the loan is to be repaid, the loans shall be repaid promptly upon receipt of clean elections funds if the participating candidate qualifies for clean elections funding. Loans from a financial institution or bank, to a candidate used for the purpose of influencing that candidate's election shall be considered personal monies and shall not exceed the personal monies expenditure limits set forth in A.R.S. § 16-941(A)(2).~~
- ~~**FE.**~~ No change
- ~~**GF.**~~ No change



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When an agency files a Notice of Proposed Rulemaking under the Administrative Procedure Act (APA), the notice is published in the *Register* within three weeks of filing. See the publication schedule in the back of each issue of the *Register* for more information.

Under the APA, an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule (A.R.S. §§ 41-1013 and 41-1022).

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed rules should be addressed to the agency that promulgated the rules. Refer to item #4 below to contact the person charged with the rulemaking and item #10 for the close of record and information related to public hearings and oral comments.

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 2. ADMINISTRATION

#### CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

[R19-214]

#### PREAMBLE

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| <p><b>1. <u>Article, Part, or Section Affected (as applicable)</u></b><br/>R2-20-209</p> <p><b>2. <u>Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):</u></b><br/>Authorizing statute: A.R.S. § 16-956(A)(7)<br/>Implementing statute: A.R.S. §§ 16-941, 16-942, 16-957</p> <p><b>3. <u>Citations to all related notices published in the <i>Register</i> as specified in R1-1-409(A) that pertain to the record of the proposed rule:</u></b><br/>Notice of Rulemaking Docket Opening: 25 A.A.R. 3079, October 18, 2019 (<i>in this issue</i>)</p> <p><b>4. <u>The agency's contact person who can answer questions about the rulemaking:</u></b><br/>Name: Thomas M. Collins<br/>Address: Citizens Clean Elections Commission<br/>1616 W. Adams, Suite 110<br/>Phoenix 85007<br/>Telephone: (602) 364-3477<br/>E-mail: ccec@azcleelections.gov<br/>Web site: www.azcleelections.gov</p> <p><b>5. <u>An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:</u></b><br/>A.A.C. R2-20-209: This amendment is designed to make the existing rule clearer and more concise. Currently, a reader must read multiple rules together to understand the Citizens Clean Elections investigation process in an enforcement matter after reason to believe a violation has occurred has been determined.</p> <p><b>6. <u>A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:</u></b><br/>Not applicable</p> <p><b>7. <u>A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:</u></b><br/>These changes do not diminish a previous grant of authority to a political subdivision of this state.</p> <p><b>8. <u>The preliminary summary of the economic, small business, and consumer impact:</u></b><br/>There is no economic or consumer or small business impact other than that imposed by statute.</p> <p><b>9. <u>The agency's contact person who can answer questions about the economic, small business and consumer impact statement:</u></b><br/>Name: Thomas M. Collins<br/>Address: Citizens Clean Elections Commission<br/>1616 W. Adams, Suite 110<br/>Phoenix 85007</p> | <p><b><u>Rulemaking Action</u></b><br/>Amend</p> |
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Telephone: (602) 364-3477  
E-mail: ccec@azcleelections.gov  
Web site: www.azcleelections.gov

**10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Pursuant to A.R.S. § 16-956, a 60-day public comment period precedes an oral hearing which is the earliest the Commission may act on a proposed rule. Rule comments are accepted, in addition, through the web site, email, and regular mail, as well as at call to the public at interim meetings. Rules that are passed unanimously may be made effective immediately. All other approved rules are effective January 1. A.R.S. § 16-956(C), (D).

**11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

Not applicable

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

No

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

No

**c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

No

**12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

Not applicable

**13. The full text of the rule follows:**

**TITLE 2. ADMINISTRATION**

**CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION**

**ARTICLE 2. COMPLIANCE AND ENFORCEMENT PROCEDURES**

Section

R2-20-209. Investigation

**ARTICLE 2. COMPLIANCE AND ENFORCEMENT PROCEDURES**

**R2-20-209. Investigation**

- A.** The ~~Commission~~ Executive Director or any other person designated by the Executive Director shall conduct an investigation in any case in which the Commission finds reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred or is about to occur.
- B.** The ~~Commission's investigation~~ Investigation may include, but is not limited to, field investigations, audits, and other methods of information gathering.

## MEMORANDUM

To: Commissioners

From: Executive Director

Date: 12/9/2019

Re: Status of Discussions with Arizona Secretary of State's Office

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I met with the Secretary of State's Office Government Relations Director before Thanksgiving. I proposed a number of possibilities to allow the SOS office and the Commission to move forward with See the Money. The following week, I sent an email updating the GR Director on the date of the Commission's next meeting. Later that week, following up on candidate issues with "Beacon" the SOS's new Campaign Finance Reporting System. (I should note, that, to the best of my knowledge, the SOS has yet to provide the Commission or its staff an opportunity to review "Beacon," as required by statute. A.R.S. sec. 16-956(A)(3) (providing for joint approval of campaign finance reporting system).

As of Monday morning, 12/9/19, I had received no responses from the Secretary of State's office.

I recommend authorizing staff to work with our counsel to assess and undertake such actions that are necessary to secure compliance with the Interagency Service Agreement regarding See the Money and the Campaign Finance Reporting System as well as other applicable laws and recover the Commission's payment for those services if possible.

**ITEM VI - SOS**