Transcript of Proceedings - November 14, 2019 Public Meeting

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4	THE STATE OF ARIZONA
5	CITIZENS CLEAN ELECTIONS COMMISSION
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10	REPORTER'S TRANSCRIPT OF PUBLIC MEETING
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14	Phoenix, Arizona
15	November 14, 2019
16	9:30 a.m.
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21	COASH & COASH, INC. Court Reporting, Video & Videoconferencing
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Ciu	zens Crean Elections Commission	
	Page 2	09:31:37-09:32:36 Page 4
1	PUBLIC MEETING BEFORE THE CITIZENS CLEAN ELECTIONS COMMISSION convened at 9:30 a.m. on	1 Commissioner Chan?
2	November 14, 2019, at the State of Arizona, Clean Elections Commission, 1616 West Adams, Conference Room,	2 COMMISSIONER CHAN: Aye.
3	Phoenix, Arizona, in the presence of the following Board members:	3 CHAIRMAN KIMBLE: Commissioner Paton?
4	Mr. Mark S. Kimble, Chairperson	4 COMMISSIONER PATON: Aye.
5	Ms. Amy B. Chan Mr. Galen D. Paton	5 CHAIRMAN KIMBLE: The Chair votes aye. The
6	OTHERS PRESENT:	6 minutes are approved 3-0.
7	Thomas M. Collins, Executive Director	7 Item III: Discussion and possible action
8	Paula Thomas, Executive Officer Mike Becker, Policy Director	8 on executive director's report and legislative report.
9	Alec Shaffer, Web Content Manager Julian Arndt, Executive Support Specialist	9 Tom?
10	Mary O'Grady, Osborn Maledon Joseph LaRue, Attorney General's Office	
11	Kara Karlson, Attorney General's Office Rivko Knox, AZ League of Women Voters	10 MR. COLLINS: Yes, Mr. Chairman,
12	KIVKO MIOK, AL LENgle OI Nomen Voterb	11 Commissioners. I'll try to get through this pretty
		12 briefly.
13		13 One of our partnerships with the Pinal
14		14 County elections department, we are we are in the
15		15 final stages of production on. This project is the
16		16 first of its kind in Arizona and it, basically,
17		17 involves allowing Pinal, which is a fairly the
18		18 population is fairly wide
19		19 MS. THOMAS: The microphone.
20		20 MR. KIMBLE: Oh. The population is
21		21 fairly widespread, although there are a number of
22		22 population centers. And so we're working on with
23		23 them on developing the design of a essentially, a
24		24 mobile voter registration truck that we think will have
25		25 both public relations, voter confidence involvement the
09:3	30:49-09:31:37 Page 3	09:32:41-09:33:45 Page 5
09:3 1	0:49-09:31:37 Page 3 P R O C E E D I N G	09:32:41-09:33:45 Page 5 1 community benefits for and participation benefits,
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Citi	zens Clean Elections Commission	November 14,	. = . = .
09:3	33:51-09:35:14 Page 6	6 09:36:54-09:38:10 Pa	ge 8
1	very seriously. He'll literally be on the road today,	1 talking to one high-propensity user, you know, that,	
	tomorrow and Saturday at various events. So he's not	2 generally speaking, you know, like the press, for	
	here, but we're really, really excited about that	3 example, doesn't really think that See the Money is a	
	ongoing work.	4 reliable way to get the information. They want	
5	We've got a couple of outstanding legal	5 they'd rather currently look at the campaign finance	
6	matters. The Legacy Foundation Action Fund case is,	6 reports, which is, sort of the whole point was to	
	sort of, in did they file a new appeal yet?	7 make that better.	
8	MS. O'GRADY: Yes, they did file a new	8 So, we're hopeful that because of the	
9	appeal.	9 investment we made under Secretary Reagan, we will	
10	MR. COLLINS: Okay. So they've filed an	10 continue to be able to participate and urge the	
11	appeal, and eventually they'll file an opening brief.	11 Secretary of State to, you know, make that project,	
12	The AZAN v. State case where we're, in	12 whatever however they want to label it, make that	
13	effect, appellees or actually appellees, our	13 project work. I think	
14	response brief will be due, I think, in a month from	14 CHAIRMAN KIMBLE: Tom, if I could just ask	
15	now, or so-ish.	15 about that.	
16	And, then and, then, I just want to make	16 So, is it the position of the current	
17	sure that everybody keeps in mind, although we aren't	17 Secretary of State that their the contract we had	
18	filing anything in the State Ex Rel Brnovich v. ABOR	18 with them expired with the end of the term of Secretary	у
	case because, as I've said previously, I think this has	19 Reagan?	
	far reaching implications for all executive branch	20 MR. COLLINS: It is. That is their	
	agencies, and it's not clear to me that well, I may	21 position. We don't think that that's consistent	
	have opinions on the case on the case that the	22 with you know, with the law, but part of this is	
	Brnovich administration wants to overturn, but that	23 just to say, look, I mean, regardless of whether or	
	case has now been a petition for review has been	24 not regardless of what their position is we still	
25	filed. And the Board of Regents' response to the	25 have money into the program for the purpose of getting	5
09::	35:18-09:36:51 Page 7	7 09:38:13-09:39:34 Pa	ge 9
			ge 9
1	petition for review has been filed. So, if anyone	1 it completed.	ge 9
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09:39:38-09:41:02 Page 10	09:42:22-09:43:40 Page 12
03.39.30-09.41.02 Fage 10	103.42.22-09.43.40 Fage 12
1 policy wise, if interagency service agreements were to	1 wanted to clarify. Okay.
2 be null and void at the end of every the specific	2 CHAIRMAN KIMBLE: Okay. Any more questions
3 elected individual, then no one would ever enter into	3 on this matter before
4 them because of the nature of term limits.	4 COMMISSIONER PATON: Yes.
5 So, I think that legally, that's not	5 CHAIRMAN KIMBLE: Commissioner Paton.
6 that's not correct, but having said that, I would hope,	6 COMMISSIONER PATON: I kind of think of the
7 you know, that if there are deliverables that we have	7 old William Proxmire and his golden whatever. I
8 not received on our end that we need, that the	8 kind of feel like we've been fleeced for \$200,000 and,
9 Secretary would be able to deliver on those. And I	9 oh, well, the old person had your contract with you and
10 will say that personally, while Secretary Reagan was	10 I'm sorry it doesn't work right. I mean, that's
11 there, I know that we continued to see problems. I	11 that's horrible, really.
12 know that while she promised us that it would be a real	12 MR. COLLINS: Well
13 time See the Money, it never was. And, you know, I'd	13 COMMISSIONER PATON: It should work.
14 be interested to know where does the press go or the	14 MR. COLLINS: Yeah. No, I
15 public go now to get real time information?	15 Mr. Chairman
16 MR. COLLINS: Well, Mr. Chairman	16 COMMISSIONER PATON: That's a Ferrari.
17 COMMISSIONER CHAN: And maybe that's going	17 That's \$200,000. Get it to work. I mean, I'm pretty
18 too deep into the weeds. I don't want to put you on19 the spot.	18 angry that we were assured by Ms. Reagan and her19 minions that came prancing through here and assured us
20 MR. COLLINS: No, no, no, not at all. I	20 multiple times that they were on it and it would work.
21 mean, I Mr. Chairman, Commissioner	21 And now not only does it not work. We spent all that
22 COMMISSIONER PATON: Your microphone.	22 Find now not only does it not work. We spent an unit22 money that we could have used many other different
23 MR. COLLINS: Mr. Chairman, Commissioner	23 ways, and it seems to me that if it doesn't work, they
24 Chan, I think that there's a couple of different things	24 should pay us the money back.
25 going on. See the Money was intended to be a	25 Sorry about my outburst.
20 going one bee are woney was mended to be a	
09:41:07-09:42:19 Page 11	09:43:42-09:45:01 Page 13
09:41:07-09:42:19 Page 11	09:43:42-09:45:01 Page 13
09:41:07-09:42:19 Page 11 1 public-facing website that extracted and allowed the,	09:43:42-09:45:01 Page 13 1 MR. COLLINS: No, no. I Mr. Chairman
09:41:07-09:42:19 Page 11 1 public-facing website that extracted and allowed the, 2 sort of, manipulation of data that's already in the	09:43:42-09:45:01Page 131MR. COLLINS: No, no. I Mr. Chairman2CHAIRMAN KIMBLE: I totally agree with
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1	if they have blown their budget anyway, then I'm sure	1	contract.
	that money is gone.	2	COMMISSIONER PATON: And so, it's been a
3	MR. COLLINS: Well, to that point		while, but so we had a contract with them, and what
4	COMMISSIONER PATON: Maybe all that money		were the contingencies if the contract wasn't
5	wasn't spent on what it was supposed to be spent on.		fulfilled? Do we get our money back, according to the
6	MR. COLLINS: To that point, Mr. Chairman,		contract or
7	Commissioner Paton, I think that I think that that	7	MR. COLLINS: There is
8	precise issue is part of what both the legislature and	8	COMMISSIONER CHAN: Do we get a Ferrari?
9	the Secretary's Office are looking at right now is	9	COMMISSIONER PATON: Yeah. Let's park it
10	where what is what fiscal situation was left by	10	right out there.
11	Secretary Reagan's office, not necessarily Secretary	11	MR. COLLINS: Only if we can wrap it
	Reagan herself. And what and, then, you know, what		with Mr. Chairman, Commissioner Paton, we do have
	happened over the course of the next six months of the		certain rights under the contract. There are, also,
	fiscal year after Secretary Reagan left office. So, I		some statutory issues that are often ignored by
	think that that's something that's going to be		agencies that enter into ISAs in terms of the counting
	discussed throughout the legislative session		for the hours spent and those kinds of things. So, we
	forthcoming.		will what I think will be best would be for us to
18	COMMISSIONER PATON: I mean, wasn't it,		come back with a more extensive analysis of this for
	like, a year ago that everything was eminent? It was		you at the next meeting, where we are and what we might
20 21	just they're ready to click the switch and MR. THOMAS: Well	20 21	be able to do. COMMISSIONER PATON: I just don't want
22	COMMISSIONER PATON: And, then, actually,		this and I don't know any of the politics of any
	people that need to use it, want to use it are		any of this, other than it sounds to me, like, well, I
	abandoning it. And so it's, basically, useless, it		had nothing to do with this, sorry. And it sounds to
	sounds like, if they can't depend on it.		me like maybe they're not even worried about it not
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00.	, i i i i i i i i i i i i i i i i i i i		C C
1	MR. COLLINS: Right.		working, and they're not worried about us spending that
2	CHAIRMAN KIMBLE: Right. And I think, in		money on it and they're, like, that has been stuff and
	summary, that deadlines have not been met. Promises		it's not anything we need to worry about now.
	have not been kept, and the system is not working. And we have given them the money, and they have not given	4	MR. COLLINS: Mr. Chairman, Council Member
	us what they said they would.		Paton, I think that may be true insofar as the conversations they've had previously have only been
7	COMMISSIONER CHAN: Well, certainly,		with myself and Mike. I think that you all have
	Mr. Chairman, this new Secretary has been left holding		more I think that both the budgetary issues that
	the bag for the old Secretary, and she is stuck with		they're going to the legislature for, coupled with
	the contract. I do believe although I certainly		bringing you know, trying to alert you know,
	understand she wouldn't want to be stuck holding the		bringing this up as in that context to revisit this
	bag, I think she is stuck holding the bag for the		from a you know, bringing this to you all, I think,
13	previous Secretary.	13	change may change the dynamic there.
14	And, you know, I've seen the news coverage	14	And I'm hopeful that it does, and I think
	and the press release about the mess, the financial		that you know, and we'll see what we can put
	mess that was left by the previous Secretary and the		together over the next month to try to address some of
	additional, you know, budget appropriations that have		the concerns that, I think, are valid. And I think
	to be requested now by the office after I don't know		many of them are. You know, when we first had this
	if it was an audit that was done by the new Secretary,		conversation, just for background purposes, there
20	but I understand that there's a bit of a mess to be	20	was we were not, I would say, in a position to
20 21	but I understand that there's a bit of a mess to be cleaned up.	20 21	was we were not, I would say, in a position to negotiate anything.
20 21 22	but I understand that there's a bit of a mess to be cleaned up. But I think this is something that it	20 21 22	was we were not, I would say, in a position to negotiate anything. And it was but I think and I'm not
20 21 22 23	but I understand that there's a bit of a mess to be cleaned up. But I think this is something that it sounds like Staff probably just needs to investigate	20 21 22 23	was we were not, I would say, in a position to negotiate anything. And it was but I think and I'm not sure that we're in a position to negotiate now. We may
20 21 22 23 24	but I understand that there's a bit of a mess to be cleaned up. But I think this is something that it	20 21 22 23 24	was we were not, I would say, in a position to negotiate anything. And it was but I think and I'm not

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

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1 6 2 t 3 4 4 2 5 (6 t 7 5 8 t 9 (10 t 11 h 12 t 13 6 14 1 15 5 16 (17 f 18 2 19 t 20 2 21 2 22 f 23 5 24 5	election year, and that principally involves three things. Candidate funding, currently, we anticipate, but don't know, that all of the Corporation Commission candidates are going to run clean. And it's unclear yet how many how many legislative candidates will. Additionally, that means debates, and it means the candidate statement pamphlet and debates and the candidate statement pamphlet are perennially even though, you know, we've worked and the voter Gina has successfully, as we've talked about in the past, managed to make savings while making the program more efficient, you know, it's still a big line item. So, those are the highlights. I hope you've had time to review them if you have any specific questions, but as the memo indicates, we are looking for approval of the of the Items 1 through 5, which are detailed in the memo. And, frankly, most of those things are, if you will, rote calculations. You'll I will also note, because it's always come up, our projection our protection access fund under the statutory formula actually shows us, if you do the math, it would show us in a deficit. If we were to spend in other words, the fund would be	 as administrative expenses in terms of EREs that we think we would bear a substantial benefit on in terms of our ability to cover, frankly, the legislative session and other things where, you know, we do that internally now, but there we feel like we have some options to ensure that we can be more present at the legislature without having to be present in in the same way that I dont' know how to put let me put this I don't know how to put this. We need to have more folks down at the legislature, but there is a certain issue with if I show up and sit in the back of the meeting, it's the wags that run around the capitol react differently than other people sitting in the back of the meeting. And that's a problem, and I can't change it. CHAIRMAN KIMBLE: So so, are we looking at having someone else who will sit in the back of meetings or handle legislative education or lobbying or whatever you want to call it? MR. COLLINS: What we think and what Mike and I think is that it would be helpful to have both. CHAIRMAN KIMBLE: Okay. MR. COLLINS: To both be able to have because I think and I think I think I mean,
25 e	exhausted if we were ever to spend to our capacity	25 having worked with agencies who have, you know,
09:57	7:39-09:59:01 Page 23	10:00:32-10:01:44 Page 25
2 t 3 t 4 t 5 6 t 7 g 8 9 0 10 H 11 s 12 13 14 0 15 16 0 17 f 18 1 19 t 20 1 21 0	MR. COLLINS: We anticipate adding at least one and maybe two more positions over the course of the next calendar year. We have found that the additions we've made specifically in voter ed have been really beneficial. Adding Avery to voter ed in a position where we have someone who's free to go out into the community, and then that freeing up Alec to focus on	 government relations teams, there is there is a need for us to be at every elections committee meeting, but there is not a need for for for everybody to be at every elections committee meeting, for example. I mean, I'll just give you an example. The Secretary of State's Office, back in the day when I used to work as an attorney for the Secretary of State's Office, you know, the election director for the Secretary of State and usually one other person were at almost every elections committee meeting all the time. We would like to be more in a position to get that kind of on-the-ground impact. And what can happen at the legislative session if there are multiple meetings and multiple issues is we just we with just Mike and I, we're spread too thin. And so we have we've looked at that, and we want to just add, you know, an additional person who would, I believe, be able to would do lobbying, also, but also also, could be more of our
	the, you know, content website of things and then Gina to coordinate has been has, I think, delivered value	22 meetings themselves. I mean, I don't I may be23 mistaken.

Public Meeting

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

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2 3 4 5 6	I think that's a good thing. MR. COLLINS: Good. Well, I'm not going to disagree with that. COMMISSIONER PATON: Okay. Okay. CHAIRMAN KIMBLE: And let me just stress I am not opposed to it. I just wanted to discuss what your plans were for the additional personnel expenses.	2 3 4 5	enforcement expenditure cap of \$2,170,463; the 2020 public education paid media expenditure cap of \$2,170,463; the projection of 2020 candidate funding disbursements, \$3,125,900; and Number 5, the projection of no excess funds in the Clean Elections funding in 2020. And is there a motion to approve those
8	Are there any other specific questions that		items, as well as the budget as projected?
	members of the Commission have about the budget?	9	
10	COMMISSIONER CHAN: No. Mr. Chairman, can	10	so move.
11	I just make another comment?	11	CHAIRMAN KIMBLE: Is there a second?
12	CHAIRMAN KIMBLE: Commissioner Chan.	12	
13	COMMISSIONER CHAN: I'm just to relieved to	13	
	hear you saw that, you know, the hiring of Avery has		seconded that we approve Items 1 through 5, as well as
	really, maybe, given you some room to breath because I,		the budget proposal.
	frankly, think it's so easy for somebody to like	16	
	you, for example, to just take on so much and think	17	•
	that you need to keep taking on more. And I think that sometimes, you know, leadership requires you to hire on	18 19	
	and delegate more, and it's hard to do that.	20	-
21	So, kudos to finally hiring on some more		It's approved 3 to nothing.
	people to help and making some great picks and	22	
	continuing to do that. So, I think, obviously, it's	23	put off the discussion and possible action on the 2020
24	been a good decision, obviously.	24	Voter Education Plan until next month until Gina is
25	MR. COLLINS: Well, as much as I appreciate	25	back.
10.0	Decc 21	10	:10:52-10:12:20 Page 33
10.0	08:02-10:09:27 Page 31	10.	10:52-10:12:20 Page 33
	the Mr. Chairman, Commissioner Chan, I mean, the	1	1
	credit goes to Paula and Gina and Alec and Avery and		the Governor's Regulatory Review Commission I think
	Mike for their work on on these personnel issues		it's actually council.
	and and developing roles and ensuring that folks	4	
5	have have work. And Gina and Alec, you know, over the	5	
7	course of the last election cycle, I think, pushed	6	
	were pushed to, you know you know, kind of, way into		about this?
	the way farther than I wish than one would want.	9	
	And so I'm the credit goes to the rest. Everybody	10	of, intermingled, and I think that there's nothing
	else on staff has really driven that process, other		wrong with going back and forth between the two of
12	than me. So I think the so the compliments go to	12	them.
13	them, not to me.	13	5 5 5
14	COMMISSIONER CHAN: Okay.		Item VII is discussion and possible action on proposing
15	CHAIRMAN KIMBLE: Okay. Tom, what,		revisions to R2-20-702 for 60-day public comment
	specifically, are you asking for in terms of motions?		period.
17	MR. COLLINS: We would simply ask the	17	,
	Commission to move to approve Items 1 through numbered 1 through 5 on page 1 of Item IV.		executive director's report, the Governor's Regulatory Review Council voted to, quote/unquote, return
20	CHAIRMAN KIMBLE: Okay. And, just for the		R2-20-702. In the parlance of GRRC, I understand that
	record, those		to mean it was rejected. The basis of that decision
22	MR. COLLINS: Oh, and the budget itself.		was that despite the fact that we took out what we
23	CHAIRMAN KIMBLE: Okay. The Items 1		believed to be all language related to parties or
	through 5, Number 1, the 20 2020 expenditure cap of		501(a) organizations that can spend on candidates,
	\$21,704,634; Number 2, the 2020 administration and		which were the two prohibited categories under
1			

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 Prop 306, Council Member John Sundt believed that there was still confusion because there are we left in place parts of the rules that authorized spending on things other than that. He believes that's confusing, I think, 	 prevailed unanimously upon the council members. Look, at the end of the day, if we strike the remainder of the rule, the result will be that our guidance to candidates will be don't violate 16-948(c) and everything else is fair game. I don't see how
6 because people might not understand that that that	6 that's less confusing, actually, but it sure gives
7 doesn't include those things that are banned. Rather	7 both it sure gives the candidates a lot more freedom
8 than, you know, have an argument about it, what we did	8 than they would have otherwise had. And it and
9 at the meeting was simply say fine. I mean, you know,	9 that's fine. I mean, and it gives the Commission a lot
10 we did the you know, we just said, you know, we'll	10 more freedom to determine what is in and out of bounds.
11 make the revisions just in the interest of of	11 I think part of this goes to a complete
12 clarity for our regulated community, if nothing else.	12 misapprehension of administrative law, which is that
 13 It's a little odd because, you know 14 COMMISSIONER CHAN: I'm sorry. 	13 administrative law, contrary to the prevailing view of14 many lawyers, is actually a control on the
14 COMMISSIONER CHAN: I'm sorry.15 Mr. Chairman, Tom, what is he confused about? What did	14 many lawyers, is actually a control on the 15 administrative state. That's what Justice Scalia
16 he think was confusing? I'm confused about what the	16 believed. That's what Justice Scalia wrote extensively
17 thinks is confusing.	17 on. Now that that's been rejected, there is an
18 MR. COLLINS: Well, if you look at the	18 assumption that all administrative rules are
19 if you look at the document, at the memo, if you look	19 bureaucrats expanding territory. I think that's false.
20 at 702 as we passed the revision, okay, it struck out,	20 I think that rules limit administrative
21 as you can see this is on page 2 of Item VII.	21 actions by so-called bureaucrats, such as myself, but I
22 COMMISSIONER CHAN: Okay.	22 don't care to have this debate I don't think a false
23 MR. COLLINS: This is the rule that the	23 amicable debate with John Sundt is particularly useful.
24 Commission enacted and made immediately enforceable.	24 CHAIRMAN KIMBLE: Okay. So that is25 R2-20-702.
25 And, Mary, this is where I might need your	25 K2-20-702.
10:13:58-10:15:43 Page 35	10:17:21-10:18:43 Page 37
1 help on that issue in terms of context.	1 MR. COLLINS: So, in effect, Mr. Chairman,
2 So, the Commission passed that rule and	2 all we're asking is that we delete the rest of 702(b).
3 made it immediately enforceable, and then we forwarded	3 CHAIRMAN KIMBLE: Right.
4 it to GRRC. We believe, I think, correctly, if you	4 COMMISSIONER CHAN: Thank you.
5 look at the language that we cut, that we cut	5 CHAIRMAN KIMBLE: And does that cover both
6 everything that related to Prop 306, which said	6 VI and VII
7 specifically no parties and no people will be exempt8 under 501(a), and it was actually more limited that our	7 MR. COLLINS: No.8 CHAIRMAN KIMBLE: on the agenda?
9 rule, but you know, so we thought that was clear.	 9 MR. COLLINS: It does, except insofar as we
10 What Mr. Sundt believes is that believed	10 didn't reach the a much more substantial legal issue
11 was that by having a language that begins Part B by	11 about the effective date. And, you know, when we draft
12 saying "a participating candidate may," he believed	12 the submission to the Secretary related to these rules,
13 that that itself was in conflict with 16-948(c). He	13 that's something I'm going to have to work with Mary on
14 says that 16-948(c) only forbids conduct and does not	14 to make sure that we have that, you know, nailed down.
15 permit the Commission to to describe what a	15 The Council's staff attorneys believe that
16 participating candidate may do.	16 somehow the Proposition 306, although it left in place
17 From my perspective, I think that that's a 18 bit of a partial analysis of 16 948(c) which the first	17 the Commission's express authority to make rules
18 bit of a partial analysis of 16-948(c), which the first19 sentence of it expressly allows for expenditures, and	18 immediately effective, they have interpolated sections19 of Title 41 into the statute that voters saw and
20 it's very hard to find other parts of the statute that	20 declared that, essentially, what voters saw in front of
21 actually expressly allow the candidates to spend money.	21 their face when they voted for Prop 306 is not true.
22 And it makes very little sense to interpret an act that	22 And that's a larger discussion. That's a
23 says you can spend money as one that the Commission	23 serious legal issue, as opposed to some philosophical
24 doesn't have the authority to create any kind of safe	24 debate. And that's we have not reached that yet
25 harbor, but that's his view. And, of course, that	25 because we have not had a rule passed. Now, we have

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10.10.30-10.20.10 Fage 30	10:34:25-10:35:16 Page 40
1 kicked around ideas on what to do about that. I'm not	1 CHAIRMAN KIMBLE: And I will second that.
2 sure those are those are those are in the context	2 Are you willing to do this, Commissioner
3 of they are really in the context of legal advice.	3 Paton?
4 I don't know how much we want to get into that now.	4 COMMISSIONER PATON: Sure.
5 You know, but so, we haven't reached what I think is	5 CHAIRMAN KIMBLE: Okay. With that
6 the real issue here, which is the clarity of the Clean	6 enthusiastic response, we will vote on Commissioner
7 Elections Act versus the creative interpolation of	7 Paton.
8 Title 41 into the Clean Elections Act that GRRC intends	8 Commission Chan?
9 to act on.	9 COMMISSIONER CHAN: Aye.
10 CHAIRMAN KIMBLE: So, today, if we vote to	10 CHAIRMAN KIMBLE: Commissioner Paton?
11 begin the 60-day public comment period for 20-702,	11 COMMISSIONER PATON: Aye.
12 then, assuming we then approve it to take effect	12 CHAIRMAN KIMBLE: The Chair votes aye.
13 immediately, then it goes back to GRRC, along with the	13 Three to nothing, Commissioner Paton will be the Chair
14 other changes that they voted in a tie on.	14 beginning in 2020.
15 So, where is this going to end? Is it	15 Congratulations.
16 are they going to vote in a tie again and we're just in	16 COMMISSIONER PATON: Well, thank you.
17 limbo?	17 COMMISSIONER CHAN: Congratulations.
18 MR. COLLINS: Well, you know, Mr. Chairman,	18 MR. COLLINS: Mr. Chairman, if we could,
19 that is the question, and I think that is the question	19 really quickly, circle back to Item VII, we do need
20 I would honestly, I really think we need to go into	20 we do need a vote to approve
 21 executive session to discuss that question. 22 CHAIRMAN KIMBLE: Okay. Is there a motion 	21 CHAIRMAN KIMBLE: Oh, I apologize. Yes.
22 CHAIRMAN KIMBLE: Okay. Is there a motion23 to go into a brief executive session on this?	 MR. COLLINS: the revised 702 language. CHAIRMAN KIMBLE: Yes.
24 COMMISSIONER CHAN: Mr. Chairman, I move	23 CHARMAN KINDLE. Tes.24 MR. COLLINS: For publication.
25 that we go into executive session.	25 CHAIRMAN KIMBLE: Yes. That was my
25 that we go into exceditive session.	25 CHIMICHINI (KIMIDEE: 105: That was my
10:20:17-10:34:22 Page 39	10:35:18-10:36:32 Page 41
1 CHAIRMAN KIMBLE: Is there a second?	1 mistake.
 CHAIRMAN KIMBLE: Is there a second? COMMISSIONER PATON: Second. 	 mistake. Let me go back to Item VII.
 CHAIRMAN KIMBLE: Is there a second? COMMISSIONER PATON: Second. CHAIRMAN KIMBLE: Okay. Let's vote on 	 mistake. Let me go back to Item VII. Regarding R2-20-702, do we have a motion to
 CHAIRMAN KIMBLE: Is there a second? COMMISSIONER PATON: Second. CHAIRMAN KIMBLE: Okay. Let's vote on going into executive session. 	 mistake. Let me go back to Item VII. Regarding R2-20-702, do we have a motion to open a 60-day public comment period on the changes in
 CHAIRMAN KIMBLE: Is there a second? COMMISSIONER PATON: Second. CHAIRMAN KIMBLE: Okay. Let's vote on going into executive session. Commissioner Chan? 	 mistake. Let me go back to Item VII. Regarding R2-20-702, do we have a motion to open a 60-day public comment period on the changes in 20-702 as contained in our material?
 CHAIRMAN KIMBLE: Is there a second? COMMISSIONER PATON: Second. CHAIRMAN KIMBLE: Okay. Let's vote on going into executive session. Commissioner Chan? COMMISSIONER CHAN: Aye. 	 mistake. Let me go back to Item VII. Regarding R2-20-702, do we have a motion to open a 60-day public comment period on the changes in
 CHAIRMAN KIMBLE: Is there a second? COMMISSIONER PATON: Second. CHAIRMAN KIMBLE: Okay. Let's vote on going into executive session. Commissioner Chan? COMMISSIONER CHAN: Aye. CHAIRMAN KIMBLE: Commissioner Paton? 	 mistake. Let me go back to Item VII. Regarding R2-20-702, do we have a motion to open a 60-day public comment period on the changes in 20-702 as contained in our material? COMMISSIONER CHAN: Mr. Chairman, I so
 CHAIRMAN KIMBLE: Is there a second? COMMISSIONER PATON: Second. CHAIRMAN KIMBLE: Okay. Let's vote on going into executive session. Commissioner Chan? COMMISSIONER CHAN: Aye. CHAIRMAN KIMBLE: Commissioner Paton? COMMISSIONER PATON: Aye. 	 mistake. Let me go back to Item VII. Regarding R2-20-702, do we have a motion to open a 60-day public comment period on the changes in 20-702 as contained in our material? COMMISSIONER CHAN: Mr. Chairman, I so move.
 CHAIRMAN KIMBLE: Is there a second? COMMISSIONER PATON: Second. CHAIRMAN KIMBLE: Okay. Let's vote on going into executive session. Commissioner Chan? COMMISSIONER CHAN: Aye. CHAIRMAN KIMBLE: Commissioner Paton? COMMISSIONER PATON: Aye. CHAIRMAN KIMBLE: The Chair votes aye. 	 mistake. Let me go back to Item VII. Regarding R2-20-702, do we have a motion to open a 60-day public comment period on the changes in 20-702 as contained in our material? COMMISSIONER CHAN: Mr. Chairman, I so move. CHAIRMAN KIMBLE: Is there a second?
 CHAIRMAN KIMBLE: Is there a second? COMMISSIONER PATON: Second. CHAIRMAN KIMBLE: Okay. Let's vote on going into executive session. Commissioner Chan? COMMISSIONER CHAN: Aye. CHAIRMAN KIMBLE: Commissioner Paton? COMMISSIONER PATON: Aye. 	 mistake. Let me go back to Item VII. Regarding R2-20-702, do we have a motion to open a 60-day public comment period on the changes in 20-702 as contained in our material? COMMISSIONER CHAN: Mr. Chairman, I so move. CHAIRMAN KIMBLE: Is there a second? COMMISSIONER PATON: Second.
 CHAIRMAN KIMBLE: Is there a second? COMMISSIONER PATON: Second. CHAIRMAN KIMBLE: Okay. Let's vote on going into executive session. Commissioner Chan? COMMISSIONER CHAN: Aye. CHAIRMAN KIMBLE: Commissioner Paton? COMMISSIONER PATON: Aye. CHAIRMAN KIMBLE: The Chair votes aye. We'll go into a brief executive session. 	 mistake. Let me go back to Item VII. Regarding R2-20-702, do we have a motion to open a 60-day public comment period on the changes in 20-702 as contained in our material? COMMISSIONER CHAN: Mr. Chairman, I so move. CHAIRMAN KIMBLE: Is there a second? COMMISSIONER PATON: Second. CHAIRMAN KIMBLE: Okay. All those in
 CHAIRMAN KIMBLE: Is there a second? COMMISSIONER PATON: Second. CHAIRMAN KIMBLE: Okay. Let's vote on going into executive session. Commissioner Chan? COMMISSIONER CHAN: Aye. CHAIRMAN KIMBLE: Commissioner Paton? COMMISSIONER PATON: Aye. CHAIRMAN KIMBLE: The Chair votes aye. We'll go into a brief executive session. (The following section of the meeting is in 	 mistake. Let me go back to Item VII. Regarding R2-20-702, do we have a motion to open a 60-day public comment period on the changes in 20-702 as contained in our material? COMMISSIONER CHAN: Mr. Chairman, I so move. CHAIRMAN KIMBLE: Is there a second? COMMISSIONER PATON: Second. CHAIRMAN KIMBLE: Okay. All those in favor or let's vote on the motion.
 CHAIRMAN KIMBLE: Is there a second? COMMISSIONER PATON: Second. CHAIRMAN KIMBLE: Okay. Let's vote on going into executive session. Commissioner Chan? COMMISSIONER CHAN: Aye. CHAIRMAN KIMBLE: Commissioner Paton? COMMISSIONER PATON: Aye. CHAIRMAN KIMBLE: The Chair votes aye. We'll go into a brief executive session. (The following section of the meeting is in executive session and bound under separate cover.) 	 mistake. Let me go back to Item VII. Regarding R2-20-702, do we have a motion to open a 60-day public comment period on the changes in 20-702 as contained in our material? COMMISSIONER CHAN: Mr. Chairman, I so move. CHAIRMAN KIMBLE: Is there a second? COMMISSIONER PATON: Second. CHAIRMAN KIMBLE: Okay. All those in favor or let's vote on the motion. Commissioner Chan?
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Ciu	zens Clean Elections Commission		November 14, 2019
10:3	36:33-10:37:51 Page 42	10:3	39:08-10:40:22 Page 44
1	MS. KNOX: My name is Rivko Knox. I'm here	1	don't know if the staff knows, but I don't know if
	on behalf of the League of Women Voters of Arizona, and		anything like that has ever really been done before in
	I just wanted to say how pleased the League was with		the U.S., I mean, for voters.
	the recent We the Voters conference and how we really	4	
	want to compliment the Commission and staff for putting	5	I will construe that comment as referring to the
	together a fabulous conference. We want to thank all		executive director's report and/or as public comment by
	of you for allowing the League to have a table. We had		you.
	a number of league members there, and many of them	8	COMMISSIONER CHAN: Yeah.
	asked to then have all the videos put on our website.	9	MR. COLLINS: But referring to the
	So they are.	10	executive director's report, which I think it's
11	And we just feel I mean, I know this was		perfectly possible and I don't care to hear
12	the first time, and clearly there will be, you know,	12	otherwise.
	I'm sure, some changes in the future, but we think it	13	MS. KNOX: Yes.
14	was a wonderful, wonderful step in the direction of	14	MR. COLLINS: We're not aware of any
15	voter education. We just wanted to thank all of you.	15	other of any other of any other similar thing
16	And, if you will, forget the fall. Oh,	16	certainly that's been done by with the public good
17	that's just how life goes.	17	in mind. In other words, you know, the League has done
18	Thank you all very much. And keeping the	18	a number of similar things and theirs are all
19	word on the wonderful voter education work. We talk		wonderful. I've attended several of them, and they've
20	about we tell everybody how we feel the Clean	20	done very well. I think that I think that having
	Elections has this, like, hidden treasure of voter		the institution of, you know, look, the Act, whether
	education, including your amazing website that too few		people like it or not, is premised on the idea that
	people know about, and we talk about it on a regular	23	elections and election information are public goods.
24	basis wherever we go. So, thank you all very much.	24	
25	CHAIRMAN KIMBLE: Well, thank you very much	25	has dispensed with the notion of public goods, it's an
10:3	Page 43	10:4	40:26-10:41:10 Page 45
			Ŭ
1	37:52-10:39:05Page 43for your comments about specifically about the events several weeks ago. And we'll make sure that	1	40:26-10:41:10 Page 45 important statement. And I think we will, hopefully, be a model we can present at other in other states
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10:4	1:12-10:41:15 P	Page 46
-	CHAIDMAN KIMDLE. Commissioner Deter	
1	CHAIRMAN KIMBLE: Commissioner Paton.	
2	COMMISSIONER PATON: Aye. CHAIRMAN KIMBLE: The Chair votes aye.	
3 4	We are adjourned. Thank you.	
- 5	(Whereupon, the proceedings concluded at	
6	10:41 a.m.)	
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		Page 47
1	STATE OF ARIZONA)	Page 47
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Public Meeting

Transcript of Proceedings November 14, 2019

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