



**(Unapproved and subject to change)**  
**CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION**  
**MINUTES OF HEARING, Public Session**  
**Timestamps from [Commission Meeting 7/19/18](#)**  
**Thursday, July 19, 2018**

Under Government Code section 11123(a), all meetings of a state body are open and public, and all persons are permitted to attend any meeting of a state body, except as otherwise provided in that article. The section further states that the portion of the teleconferenced meeting that is required to be open to the public must be audible to the public at the location specified in the notice of the meeting. The Commission may take action on any item listed on this agenda.

**CALL TO ORDER**

Executive Director Erin Peth called the meeting to order at 10:09 am on July 19, 2018, at the Fair Political Practices Commission, 1102 Q Street, Suite 3800, Sacramento, CA 95811. Chair Germond, Commissioners Cardenas, Hatch, and Hayward were present.

**Welcome**

Alice Germond, Chair

**Chair Germond:** I guess I can turn it on to say good morning let me introduce myself I'm Alice Germond and I am Chair of the FPPC and I would like to start by calling the meeting to order and ask the Commission assistant Sasha to call the roll

**Sasha:** Commissioner Cardenas

**Commissioner Cardenas:** Here

**Sasha:** Commissioner Hatch

**Commissioner Hatch:** Here

**Sasha:** Commissioner Hayward

**Commissioner Hayward:** Here

**Sasha:** Chair Germond

**Chair Germond:** Thank You Sasha I have very very brief opening remarks because we have a pretty large agenda today and I really don't want to take a great deal of time talking about myself certainly nor talking really about the Commission you all are here because you appreciate the

incredible work of the FPPC you are interested in what we do and your being here in itself is such an active civic involvement that I am very appreciative of you all coming I would like to of course thank Governor Brown and his office for this appointment I am truly honored to serve I think this is an exciting time in our civic history where participation is critical I think the work of the FPPC can certainly encourage people to know that their vote matters that it is respected that it is safe and it is safeguarded that the playing field is level and that the work of the FPPC helps ensure that that is the case here in California a state that is clearly on the vanguard of election protection and election safety and good government so having said that I would like to just also take this moment to thank the incredible work of the staff and their ongoing responsibilities in ensuring just that and I have a few issues that I would like to also see us promote as we move forward one is to have our meetings occur around the state so that people like you were interested in what we do have an opportunity to come and to listen and to make presentations as well secondly I would like to partner with even more of the outside community our educational institutions and our groups who care about the kinds of issues that the FPPC does so that they and we can learn from one another and work even more closely together and lastly I would like to see the continuation of our processes of streamlining etc that has worked I think to encourage people to run for office make it simple make it clear make it work is a incredibly good thing and I would like to do everything in my power to insist in that process so that we all can see people step forward run for office and give it be given the opportunity to serve this great state at every single level of government

### **Public Comment**

- 1. Public Comment for Items not on Agenda.** During this comment period, any person is invited to speak on any topic that is not listed on this agenda. Action may not be taken on any matter raised during this public comment period until the matter is specifically listed on a future agenda. Those who wish to comment on an item that has been listed on this agenda may comment when that item has been opened for consideration by the Commission and before any action is taken.

**Chair Germond:** so with that I will move to the next item on the agenda which is somewhere which is exactly what I was talking about the public comment does anyone have any public comments so before we begin the written agenda and of course the public comment as you probably know is for items not on the agenda so that we may take them up in the future or not but we're interested to hear your thoughts

**Mr. Rhodes:** good morning my name is Anthony Rhodes and I had my comments here but unfortunately my computer just restarted so how much time do we have as a public comment period at this venue

**Chair Germond:** well we would love it if you could keep your comments under three to five minutes because we do it that's the traditional time I I have been told is it's usually expected and we do have a very very long agenda

**Mr. Rhodes:** sure

**Chair Germond:** is there someone while your computer is warming up is there someone else who has comments and we could come back to you

**Mr. Rhodes:** yeah that would work

**Chari Germond:** great thank you

**5:00** **Mr. Stampolis:** hi good morning Chair Germond and Commissioners my name is Chris Stampolis and I'll speak later to item 17 when there's an item related to me that's on the agenda but I had some general comments that I thought might be appropriate shortened in just a couple minutes here during the public comment portion the first comment has to do with in terms of when potential citations or fines I think are presented to the Commission to perhaps ask staff in the future to include a line on there as to whether or not a form 470 was filed by the candidate or the office holder who's being proposed to to have the fine my understanding is that current paperwork that comes to the Commission does not clearly delineate whether or not that that candidate had filed a 470 which provides them a safe harbor and an exemption from filing for 60s during a perfect you know a certain period of time and I think in the future that might be something if the Commission Commissioners might ask staff to consider doing that also with regard to a service of process in general it appears at least in looking at the website and that there is no clearly delineated process for the public if they choose you know if a particular candidate or office holder who's you know being contacted by the FPPC is challenging service of process on any particular item where the Commission believes that process has been enacted and that the person on the other side does not know if you're for example if you're in a case with the Superior Court and you have a problem with service of process you can clearly go either to the state website or to that County's website and there's a pretty clear process if you're going to go ahead and challenge whether or not you were preserved properly you can file the paperwork you schedule a hearing in front of the judge you go forward it's rather opaque with regard to what has to happen here at the FPPC if you wish to challenge do you only submit that to staff do you ask for a special hearing in front of the FPPC how does that process go forward the other I guess comment would be that with regard to the possibility for people who are agenzized for possible action in the future to be able to participate by phone if possible so again maybe that is something that can happen already and it's just not clearly shown on the website or in the process but you know for some people who maybe are facing significant issues here it could be a burden to have to travel all the way to Sacramento depending where they live in California and if there's some way they clearly could participate by phone in the future of the FPPC members here if you're Commissioners could perhaps consider asking staff in the future to make that a possibility last comment and this is more just with regard to the particular agenda for today I'm not going to be commenting on item 16 that's not my item I did not know until actually seeing the agenda that the other item under 16 coincidentally happens to be from the same school board where I served so out of the more than 900 school boards in the state of California the only two items that are listed today for consideration by the Commission to go forward to consent calendar in the future are from the same school board ironically it's it's not somebody necessarily with whom I was personally allied on many things I did not realize Miss Hunt was facing a you know any type of concerns here today but it is interesting I think for the Commission just to note that it was both

myself and Miss Hunt who passed a motion at our school district to allocate a million dollars for additional counselors for academic performance in the school district over the fervent objections of the teachers union and over the fervent objections of administration since that time I know that Miss Hunt certainly faced some challenges down there with regard to issues you know locally within politics you know I'm going to not go ahead and comment with regard to myself on that but we all know that items do not get referred to fppc staff unless they come in from a County Registrar and often they don't come in from a County Registrar unless there's some pressure within a county for items to get moved forward there's only two items out of the entire state that are here today for consideration so it's not as if the FPPC is out looking for items they only receive those that come forward so I just wanted to go ahead and put those things here on the general record I look forward to talking with you on item 17 thank you

**Chair Germond:** Thank You Mr. Stampolis is your computer with us thank you

**10:00** **Mr. Rhodes:** alright forgive me it's my first visit here good morning Commissioners staff and additional members of the public my name is Anthony Rhodes and I'm a resident of Hesperia California Hesperia is located within San Bernardino County in Southern California here first I'd like to take the opportunity to welcome and congratulate Commissioner and Chair Alice Germond as the incoming Chair person of that FPPC I've read your letter that was posted on the website and am an adamant supporter about involving the public and whatever means necessary and I think as the gentleman spoke earlier or referenced one of the ways is through teleconferencing and we know that legislative bodies have the ability to teleconference if say for example there was a member located in Southern California that member could participate in the meeting via teleconference and then also allow the public to participate in that meeting through through public comment at that location as well so just an idea I know those were some of the as you shared some of the visions you've had I've also been to a lot of the meetings that the FPPC has hosted throughout the Southern California region informing candidates of different processes that are that are at their disposal the purpose for my visit today is to bring some issues to the attention of the Commission in May 2018 that FPPC case 16589 stipulation decision and order regarding defendant Wyn Holmes a developer exceeding contribution limits set forth in San Bernardino County and a violation of San Bernardino ordinance 12.4305 five subdivision a Wyn Holmes proposed penalty was ten thousand five hundred an aggregate total for counts one through four however there was no action taken regarding the candidates responsibility for accepting the contributions and those are Russ for supervisor 2016 as well as Hollen for supervisor 2016 a person may not a person may not make to a candidate or the candidates controlled committee and a candidate or the candidates controlled committee may not accept from a person any contribution totaling more than per election amount permitted in Government Code section 85301 a as adjusted by the Fair Political Practices Commission pursuant to California Code of regulations title two section 18544 I'm requesting that there be a status update on these other allegations and cases concerning these these candidates and committees in the name of transparency after the investigation if you would release or if there has already been an investigation and there are no findings found if you can at least release this statement saying that there will be no if you could release a public statement saying that there will be no actions or findings in these matters however I feel that if there is responsibility on one hand there's two it takes two to tango in other words if there's a violation on one then there should be a violation

on the other so let's make the playing field level and these individuals are up for election and I believe that if there aren't any actions taken whether it's even a statement to say that there were no findings of any violation that have occurred that would be a big step in providing information to the public where people in my city are very concerned about the types of behavior and things that are happening within the community thank you

**Chair Germond:** thank you very much are there any other people in the audience who would like to take advantage of these comment period okay thank you

### **Approval of Commission Minutes**

#### **2. Approval of June 2018 Commission Hearing Minutes.**

**Chair Germond:** our next item of business is the approval of the June 21, 2018 minutes I'd like to ask the Commissioners if there are any additions or corrections I was not present of that meeting and so I have none but Commissioner Cardenas

**Commissioner Cardenas:** madam Chair looking at the minutes it appears I was present and I have a I think a correction on the bottom of page 43 the next to last comment at the bottom of page 43 I believe what I said was the words that was conditioned on both the executive director and general counsel concurring so I believe the word alleged should be changed to executive I believe and so I would so move that that the minutes be adopted with with at least that one change that I'm aware of are there any other additions corrections and so forth Commissioner Hayward then I you had moved that

**Commissioner Cardenas:** I moved them I move the adoption of the minutes or approval of the minutes with that one change

**Commissioner Hayward:** second

**Chair Germond:** any second second call the question all those in favor

**Commissioner Cardenas:** aye

**Chair Germond:** opposed

**Commissioner Hayward:** aye

**Chair Germond:** opposed

**Commissioner Hayward:** I know I said aye always said I leave as I was drinking

**Chair Germond:** just making sure that I wasn't confused here anymore than I already am any abstentions then the minutes are approved as corrected and we will now move to the next item on the agenda

15:00

### **Enforcement Consent Calendar 3-15**

Items on the consent calendar will be taken up and voted on as a group. A Commissioner may request that an item be removed from consent, in which case it will be discussed separately in the meeting.

**Chair Germond:** which is item 3 for those of you who are following along these items are the items on the enforcement consent calendar and I happily see Galena West joining us at the front table who is our absolutely incredible director of that department these are generally taken up as a group to be voted upon however if any Commissioner has any questions about any of these items or would like to see an item removed from the calendar let's take those up for discussion now seeing none is there anyone in the public sector here who has any comment or question

**Ms. West:** just to clarify we're on three through fifteen right

**Chair Germond:** that's correct

**Ms. West:** ok thank you

**Chair Germond:** seeing none do I hear a motion to move these

**Commissioner Hayward:** I move approval

**Commissioner Hatch:** second

**Chair Germond:** any discussion hearing none all those in favor

**Mr. Lau:** we generally just do a roll call vote as opposed to a group vote

**Chair Germond:** ok so how about a roll call of the four of us that sounds fine let's do let's do that

**Ms. Peth:** Sasha can call the roll

**Chair Germond:** Sasha would you please call the roll

**Sasha:** Commissioner Cardenas

**Commissioner Cardenas:** yes

**Sasha:** Commissioner Hatch

**Commissioner Hatch:** aye

**Sasha:** Commissioner Hayward

**Commissioner Hayward:** aye

**Sasha:** Chair Germond

**Chair Germond:** aye

**Sasha:** the motion passes

### **Revolving Door - One-Year Ban**

- 3. In the Matter of Christopher Lewis; FPPC No. 16/074.** Staff: Senior Commission Counsel Neal Bucknell and Special Investigator Jeffrey Kamigaki. This case arose from an audit performed by the California State Auditor. Christopher Lewis separated from employment with the Department of Health Care Services, Substance Use Disorder Compliance Division in 2014 after serving as the Chief of the Licensing and Certification Section for almost four years. Michelle J. Berner of Kroesche Schindler LLP represented Lewis in this matter. In the year that followed, Lewis began representing members of the regulated community with respect to his former employer's licensing and certification process. During this time, he frequently contacted DHCS for the purpose of attempting to influence or expedite decisions on behalf of his paying clients, in violation of Government Code Section 87406, subdivision (d)(1) (3 counts). **Total Proposed Penalty: \$12,000.**

### **Mass Mailings**

- 4. In the Matter of Al Bairos and Committee to Re-elect Al D. Bairos OID Director District #4 2015; FPPC No. 15/1876.** Staff: Assistant Chief Dave Bainbridge, Special Investigator Garrett Micheels, and Associate Governmental Program Analyst Dominika Wojenska. Al Bairos was an unsuccessful candidate for re-election to the Oakdale Irrigation District in the November 3, 2015 General Election. Re-elect Al D. Bairos OID Director District #4 2015 was his candidate-controlled committee. The Committee and Bairos failed to disclose contributions and expenditures, in violation of Government Code Section 84211 (1 count); failed to file one semiannual campaign statement, in violation of Government Code Section 84200 (1 count); and failed to include a proper disclaimer on a mass mailing, in violation of Government Code Section 84305, subdivision (a) and Regulation 18435, subdivision (d) (1 count). **Total Proposed Penalty: \$4,000.**

### **Campaign Non-Filer**

- 5. In the Matter of Williams for AC Transit Board 2014 and Mark Williams; FPPC No. 16/205. (Streamline Settlement)** Staff: Commission Counsel Ruth Yang, Associate Governmental Program Analyst Dominika Wojenska, and Special Investigator Garrett Micheels. Mark Williams was a successful candidate in the November 4, 2014 General Election for the Alameda-Contra Costa Transit District Board of Directors. Williams for AC Transit Board 2014 is his candidate-controlled committee. The Committee and

Williams failed to timely file five semiannual campaign statements for the reporting periods of July 1, 2013 through June 30, 2014 and October 19, 2014 through December 31, 2015, in violation of Government Code Section 84200 (5 counts), and two pre-election campaign statements for the reporting periods of July 1, 2014 through October 18, 2014, in violation of Government Code Section 84200.5 (2 counts). **Total Proposed Penalty: \$7,135.**

6. **In the Matter of Ray Marquez for Assembly 2016, Ray Marquez, and Glenn Duncan; FPPC No. 17/729 (Streamline Settlement).** Staff: Chief of Enforcement Galena West and Associate Governmental Program Analyst Dominika Wojenska. Ray Marquez was an unsuccessful candidate for California State Assembly in the June 7, 2016 Primary Election. Ray Marquez for Assembly 2016 was his candidate-controlled committee. Glenn Duncan was the Committee's treasurer. The Committee, Marquez, and Duncan failed to timely file four 24-Hour Reports, in violation of Government Code Section 84203 (4 counts). **Total Proposed Penalty: \$857.**
7. **In the Matter of Austin for Judge 2018 and Brian Austin; FPPC No. 18/00417 (Streamline Settlement).** Staff: Chief of Enforcement Galena West and Political Reform Consultant Chris Holm. Brian Austin was a successful candidate for Superior Court Judge of Madera County in the June 5, 2018 Primary Election. Austin for Judge 2018 is his candidate-controlled committee. The Committee and Austin failed to timely file one pre-election campaign statement for the reporting period of April 22, 2018 through May 19, 2018, in violation of Government Code Section 84200.5 (1 count). **Total Proposed Penalty: \$217.**
8. **In the Matter of Alan Rodier for Supervisor 5th District in Mendocino County; FPPC No. 18/387 (Streamline Settlement).** Staff: Chief of Enforcement Galena West and Political Reform Consultant Chris Holm. Alan Rodier was an unsuccessful candidate for Supervisor 5<sup>th</sup> District of Mendocino County in the June 5, 2018 Primary Election. Alan Rodier for Supervisor 5<sup>th</sup> District in Mendocino County is his candidate-controlled committee. The Committee and Rodier failed to timely file one pre-election campaign statement for the reporting period of April 22, 2018 through May 19, 2018, in violation of Government Code Section 84200.5 (1 count). **Total Proposed Penalty: \$205.**
9. **In the Matter of Elect Bryan Barrett Mendocino County Superintendent of Schools 2018; FPPC No. 18/423 (Streamline Settlement).** Staff: Chief of Enforcement Galena West and Political Reform Consultant Chris Holm. Bryan Barrett was an unsuccessful candidate for Superintendent of Schools of Mendocino County in the June 5, 2018 Primary Election. Elect Bryan Barrett Mendocino County Superintendent of Schools 2018 is his candidate-controlled committee. The Committee and Barrett failed to timely file one pre-election campaign statement for the reporting period of January 1, 2018 through April 21, 2018, in violation of Government Code Section 84200.5 (1 count). **Total Proposed Penalty: \$246.**



10. **In the Matter of Committee to Re-Elect Todd Finnell for Superintendent of Schools 2018; FPPC No. 18/426 (Streamline Settlement).** Staff: Chief of Enforcement Galena West and Political Reform Consultant Chris Holm. Todd Finnell was an unsuccessful candidate for Superintendent of Schools of Imperial County in the June 5, 2018 Primary Election. Committee to Re-Elect Todd Finnell for Superintendent of Schools 2018 is his candidate-controlled committee. Finnell and the Committee failed to timely file one pre-election campaign statement for the reporting period of January 1, 2018 through April 21, 2018, in violation of Government Code Section 84200.5 (1 count). **Total Proposed Penalty: \$224.**
11. **In the Matter of Committee to Elect Larry T. Burrus City Council 2018; Larry Burrus; FPPC No. 18/364 (Streamline Settlement).** Staff: Chief of Enforcement Galena West and Intake Manager Tara Stock. Larry Burrus was an unsuccessful candidate for Fresno City Council in the June 5, 2018 Primary Election. Committee to Elect Larry T. Burrus City Council 2018 was his candidate-controlled committee. The Committee and Burrus failed to timely file one pre-election campaign statement covering the reporting period of January 1, 2018 through April 21, 2018, in violation of Government Code Section 84200.5 (1 count). **Total Proposed Penalty: \$281.**

#### **Statement of Economic Interests Non-Filer**

12. **In the Matter of John Anagnos, FPPC No. 17/847.** Staff: Commission Counsel Theresa Gilbertson. John Anagnos, an Alternate Commissioner for the Lodi Winegrape Commission, failed to timely file a 2016 Annual Statement of Economic Interests, in violation of Government Code Section 87300 (1 count). **Total Proposed Penalty: \$2,000.**
13. **In the Matter of Louis Gonda; FPPC No. 18/456 (Streamline Settlement).** Staff: Chief of Enforcement Galena West and Political Reform Consultant Chloe Hackert. Louis Gonda, a Director of the Hidden Valley Municipal Water District, failed to timely file a 2017 Annual Statement of Economic Interests with the County of Ventura, in violation of Government Code Section 87300 (1 count). **Total Proposed Penalty: \$200.**
14. **In the Matter of Matthew Peterson; FPPC No. 18/324 (Streamline Settlement).** Staff: Chief of Enforcement Galena West and Political Reform Consultant Chloe Hackert. Matthew Peterson, a Commissioner of the Belmont Shore Parking & Business Improvement Area Advisory Commission, failed to timely file a 2017 Annual Statement of Economic Interests with the City of Long Beach, in violation of Government Code Section 87300 (1 count). **Total Proposed Penalty: \$200.**
15. **In the Matter of Michael Kozlowski; FPPC No. 18/432 (Streamline Settlement).** Staff: Chief of Enforcement Galena West and Intake Manager Tara Stock. Michael Kozlowski, a Utility Commission Member of the City of Folsom, failed to timely file a 2017 Annual Statement of Economic Interests, in violation of Government Code Section 87300 (1 count). **Total Proposed Penalty: \$200.**

## Default Proceedings

### Notice of Intent to Present Default Decision and Order at Next Commission Meeting

**Chair Germond:** thank you so we are now moving forward to item 15 16 the next two items in fact are numbers 16 and 17 as you can probably see from your agendas are the default proceedings and these will be presented for discussion and for the possibility of being included in the August Commission meeting or the like likely and inconclusion of the August meeting do any of the Commissioners wish to comment

**Commissioner Hatch:** just a question that for an update from Galena as to is any progress has been made in terms of the efforts on those respondents to come to

**Ms. West:** well no progress until about 10 minutes ago and so we'll have a discussion of 17 and see where we are

**Chair Germond:** any other Commissioners have any questions about either of these items anyone in the public people group out here any questions comments thank you okay seeing none I think we can move on to the Chris I'm sorry Mr. Stampolis

**Mr. Stampolis:** Thank You I wasn't sure staff was giving their report first or comments first so I guess for the record Chris Stampolis Santa Clara California and the item I'm here to speak on his items 17 so um first I just want to say that I definitely do empathize with the four of you that when you're on the other side of the the dias sitting in front of a you know staff and in front of the public I think anybody in that role whether elected or appointed wants to show respect to staff and I'm gonna try to be as respectful as I can as a member of the public although speaking on my own behalf about staff as well but in this case I do think that there are some some differences of perspective and some factual issues that have not been considered by staff and it was not clear of how I could go ahead and try to resolve that without coming here to an actual Commission meeting in the in the accusation report that I believe it would be Ms. Yang but perhaps it's other staff helped put together there's a claim in item 34 that I was served with a probable cause report via personal service on January 28 2018 that's on page six of the accusation it's the third paragraph I'm sorry the yeah the third paragraph that's there if anybody needs to look Ms . Yang I believe is aware that I claimed that I was not served by personal service she said that the their records show that a registered process server had submitted paperwork saying that I was served I'm here to tell you under penalty of perjury I was not served I was not seeking to avoid service I was not aware of being served and I was never contacted or served by personal service with any type of report or documents with regard to a finding of probable cause I told Ms. Yang that I would be glad to cooperate in terms of receiving the document by email sending some kind of comment back you know some type of certification saying that I then had been served or if there was another way that perhaps she could get me the document so that we could go ahead and try to proceed my understanding was that she said no that was not going to be an option that they were going to rely on their service of process confirmation I then asked well what would the process be for me to go ahead and object to that service of process and she said will you'll need to get your own attorney or figure that out on

20:00

your own because she could not advise me how to go ahead and go forward with that I respect that she could not advise me to do that but I do think that it's important for the Commissioners to realize that in the rest of the public sector normally there are staff members with whom one tries to resolve issues of conflict before things get to an elected body if you have an issue at a local elementary school with your own child you obviously start with the teacher and move to the principal and move to the district office and goes a long way before you actually get to the elected school board here in this case there appeared to be nothing in between being contacted by staff and then having to talk directly to the the four of you here today so I appreciate your taking time to listen to what I have to share and just see you know that I was not trying to be disrespectful by jumping over pieces of the process I would have been glad to go ahead and say let's go ahead and get the documents let me see how I can do it how can I file an objection none of that was very obvious to be able to do so that would be my first my first thing that I wish to kind of present secondly and I think is very important and I understand that you know Ms. Yang perhaps would say well there's nothing in writing how could I show how can she doesn't have anything in writing from me potentially with regard to that I filed a form 470 when I ran for office in fall of 2016 so I'd served in office for for 12 years before that 8 years on a Community College Board four years on the school board chose not to run for reelection to the school board chose to run to try to get back on to the College Board in our new district format was not successful against the then incumbent that's fine but I did not raise any money and I filed a 470 declaring to the entire public in the world anybody who wished to see that I had no intent to raise money above what the requirements would be over 470 the 470 also under the section 206 of same section there within the within the government code I believe it's 84 206 provides an exemption from filing 460s for the remainder of a calendar year when you have filed a form 470 so I believe that the entire accusation here is fruit of a poisonous tree I was exempt I did not file so I did not file mid campaign paperwork because I hadn't raised any money and I wasn't required to file I'd already filed a form 470 Ms. Yang in one of our conversations said well we have to pursue this because the public had a right to know during your campaign if you were raising money well my response is I told them I wasn't raising money I didn't raise money I was honest I swore under penalty of perjury when I submitted the form 470 and form and 84 206 explicitly provides for an exemption from having to file mid campaign or even at the end of the calendar year so I know it must be you know this is probably the first time that that sort of I think Ms. Yang supervisor maybe Ms. Yang yourself is really hearing this because we have not had the opportunity to have any type of staff discussions about the content or the merits of the issue here because I claimed I hadn't been served properly on the the probable cause I understand she's the attorney for your agency she's not a staff member so we're you know naturally oppositional and in many cases perhaps somebody would not be pro se or improper but would hire an attorney or get an attorney and then the attorneys would talk and be able to share so it's kind of a unique situation at this point but I am asking that does not go on to the default calendar for next month that I be provided at minimum an opportunity to be properly served I'll cooperate you know as I told Ms. Yang before in terms of getting this report in support of a finding a probable cause but quite frankly more so I would request a dismissal because I have a form 470 and form 470 is you know it's obvious even the registrar's office in Santa Clara County itself never requested mid campaign filings where they made a mistake was coming in after the end of the calendar year and on February 2nd which was the Monday after the Friday when they normally would have been due on January 31st February 2nd you know I understand they were being they're going

through their paperwork okay it looks like Chris didn't file let's go ahead and throw something down I don't think they realized I had a 470 it's the first time I'd ever done it in 20 years so I didn't need to file it then went ahead and kind of moved its way all the way up here so those I guess would be my request would be first for dismissal in the and the alternative to dismissal the opportunity to at least receive this report a probable cause and then say what I've said today and right thank you

**Chair Germond:** thank you Mr. Stampolis do any of the Commissioners have any questions

**25:00 Commissioner Hatch:** I do have a question thank you is it your position that that you'd received no communication from the Commission staff prior to this service attempt

**Mr. Stampolis:** no we had communication

**Commissioner Hatch:** oh you did

**Mr. Stampolis:** yes and the communicate sorry go ahead

**Commissioner Hatch:** so you knew before any attempt to serve you that there was a problem for you to to work out right

**Mr. Stampolis:** well ill say yes and no Commissioner Hatch I was not asking

**Commissioner Hatch:** I was not asking you to admit to anything

**Mr. Stampolis:** oh no its ok I mean I'm not playing game sir because it's yes and no the I was not aware that I was being that there was an order of probable cause that was being attempted to be served on me that it was on the way that it was being sent so that I did not know so I wasn't trying to avoid being served im presuming the process server must have made a mistake it's a big apartment complex and I'll just you know I have no idea what happened the but in terms of knowing that there was an issue yes I knew there was an issue Ms. Yang approached me with a number of settlement offers which I was in which I was not interested because I'd filed a form 470 the there is no allegation here at all that I raised a single penny in fact even staff in its own accusation puts in writing they acknowledge I raised nothing I spent nothing and so why would I accept the offers of settlement that were coming from the office because those were the only options that I had in terms of communication there was no opportunity to discuss the merits of the case it was only here's your offer if you don't accept this offer the next offer is gonna cost you more then the second offer comes in here's your second offers we told you it was going to cost you more if you don't take this one the next one's gonna cost you even more so it's like no no no can we talk about it no we just only do this by offers so there wasn't any opportunity in between and I think that's what I was sharing is that it's a unique situation here where there's no opportunity to speak to somebody who's not the official prosecuting attorney to try to work something out without actually having to be in that type of a I guess oppositional type of environment it's it's something I don't think we face elsewhere in California

**Commissioner Hatch:** well you do know this is a civil process not a criminal process

**Mr. Stampolis:** I do

**Commissioner Hatch:** okay thank you

**Chair Germond:** do any of the other Commissioners have any questions or comments I'd like I would like to ask staff to explain this process and perhaps clarify some of the questions that Mr. Stampolis raises so that admittedly since I'm quite new like two weeks old that it would help me a great deal to understand this better if you might clarify some of this

**Ms. West:** certainly Galena West chief of enforcement with me is Ruth Yang Commission counsel and enforcement division – to answer any specific factual questions but overall the process is on the website as you all know that if you have a contention about the allegations against you you request a probable cause conference you can have a hearing before an administrative law judge and in fact if that's where we need to go with this we're happy to extend the notice of defense filing deadline for Mr. Stampolis to file within the correct amount of time because he has been served with an accusation as well personally and and so if there's a problem with what our process server says is good service versus what he says is good service obviously then the adjudicator can come to a conclusion on that and this case just boils down to a mis-understanding of the law if you have open committees you can't file 470s it's just part of the law it's not something that's an option to you you have to file 460s because recipient committees as you know are under more scrutiny because they can receive money from other people so Mr. Stampolis has two open committees and so he was referred to us not from his local filing officer but from the Secretary of State's office for not paying annual fees for those committees so I think this all is a mis-misunderstanding of what the log is as it exists and since he's not eligible to file 470s that's what the case is about obviously you know based on the streamline memo what the resolution to this case would be proposed to be and so Enforcement Division is has not handled this case and then a weird or unusual way it's it's a pretty standard and so if he would like to have administrative rights and go to administrative hearing we are happy to do that to resolve any other issues that can't be discussed out

**30:00 Chair Germond:** let me understand more clearly what is on the table now I believe I heard that you would be it might be an option to go now to instead of the default to go to an administrative hearing is that correct

**Ms. West:** certainly at that point that we're at and in the process we can because it's a 15-day notice of defense filing period and obviously that has elapsed has we're at the default stage so we are willing to reopen that period and let him file a notice of defense stating that he would like a hearing and we can get that set up

**Chair Germond:** Mr. Stampolis in the for the sake of moving this along perhaps it would be helpful if you commented

**Mr. Stampolis:** thank you very much I appreciate the Chiefs first offer with regard to being able to file the notice of defense which is in the accusation but I believe I could be wrong that the first opportunity to reply is actually when yours when you have this I think it's called notice of probable cause I read in the accusation they referred to it as a pc I guess so that's the document that I had not yet been served on I did receive the accusation but I felt I was stuck in this weird place if I reply to the accusation but I haven't received the probable cause notice then have I waived my opportunity to respond in an earlier part in the process so I would still like to be able to respond to this notice of probable cause which precedes the whole concept of a notice of defense that comes up during an accusation so I don't know if I'm understanding the process properly

**Ms. West:** I could clarify in the notice of defense that was sent to you because we're required to send copies to you of the notice defense you can file which is just checkboxes one of them is not giving up any of your defenses by filing the notice of defense and not waiving any of your arguments or rights

**Mr. Stampolis:** but it does still accelerate the timeline correct as opposed to replying to a notice of probable cause

**Ms. West:** accelerate the timeline

**Mr. Stampolis:** my understanding is that subsequent to you're sending out and notice of probable cause that there was a there was some type of hearing or somebody made then a review of the case and then moved it along correct

**Ms. West:** correct

**Mr. Stampolis:** right so I'm saying that I never got that proper service to happen prior to that occurring and if we could roll it back to there at minimum that would be a compromise

**Ms. West:** that would be a huge compromise yeah right that's true what I'm giving you is an option to contest that at an ALJ hearing and you because that is a dispute where we have a process server that we've used who says that you were served and told and actually spoke to him and told him what to do so for us it's a question of fact that would be decided by an administrative law judge

**Mr. Stampolis:** sure is there a easy forum again I know it's tough cuz you're on the other side is there a forum or something online because I think this is where the challenge was I was glad

**Chair Germond:** I'm sorry Mr. Stampolis we're getting into that weeds here what forms to file and I think that's probably not appropriate for the full meeting

**Ms. West:** we can send him another copy of the notice of defense we're happy to do that

**Chair Germond:** and move forward the administrative

**Ms. West:** yes

**Chair Germond:** option hopefully and see if that resolves this issue any Commissioners have a comment on that

**Commissioner Hatch:** if you wouldn't mind I'm a little troubled it seems that the gentleman is we're focused on trying to drag this out a little more rather than trying to get it resolved I think our chief has made a bona fide offer that I don't see happen very often where she's like wave you're missing the deadline to notify an intent to defend your position I think that's it's more than generous especially considering you know how big this fine could be I think it's you should really think about that before you leave

**Chair Germond:** do any other Commissioners have a comment so we will leave it in the capable hands of our enforcement director and office to see if we can move forward within the next month before our next meeting when if this is not resolved it would come to the default calendar if I correctly understand these proceedings thank you very much there was one other item on the default proceedings that no one has spoken to are we all ready to move on from here great

**16. In the Matter of Sallings for Santa Clara School Board 2014 and Noelani Sallings; FPPC No. 16/009.** Staff: Commission Counsel Ruth Yang, Associate Governmental Program Analyst Dominika Wojenska, and Law Clerk Savannah Weil-Dye. Noelani Sallings, aka Noelani Hunt, was a successful candidate for the Santa Clara Unified School District Board of Trustees in the November 4, 2014 General Election. Sallings for Santa Clara School Board 2014 is her candidate-controlled committee. Sallings currently serves as a Governing Board Member and has previously served as a member for the Santa Clara Unified School District's Measure J Oversight Committee from 2009 through 2014. The Committee and Sallings failed to timely file four semiannual campaign statements for the reporting period of July 1, 2015 through June 30, 2017, in violation of Government Code Section 84200 (4 counts) and four Annual Statements of Economic Interests for the years of 2012 through 2015, in violation of Government Code Section 87300 (4 counts). **Total Proposed Penalty: \$22,000.**

**17. In the Matter of Friends of Chris Stampolis, Friends of Chris Stampolis for Santa Clara School Board 2012, and Chris Stampolis; FPPC No. 15/1045.** Staff: Commission Counsel Ruth Yang and Associate Governmental Program Analyst Dominika Wojenska. Chris Stampolis was a successful candidate in the November 6, 2012 General Election and an unsuccessful candidate in the November 8, 2016 General Election for the Santa Clara Unified School District Board of Trustees. Friends of Chris Stampolis ("Friends Committee") and Friends of Chris Stampolis for Santa Clara School Board 2012 ("2012 Committee") are his candidate-controlled committees. The Friends Committee and Stampolis failed to timely file two pre-election campaign statements for the reporting period of July 1, 2016 through October 22, 2016, in violation of Government Code Sections 84200.5 (2 counts) and one semiannual campaign statement for the reporting period of October 23, 2016 through December 31, 2016, in violation of

Government Code Section 84200 (1 count). The 2012 Committee and Stampolis failed to timely file two pre-election campaign statements for the reporting period of July 1, 2016 through October 22, 2016, in violation of Government Code Sections 84200.5 (2 counts) and one semiannual campaign statement for the reporting period of October 23, 2016 through December 31, 2016, in violation of Government Code Section 84200 (1 count).  
**Total Proposed Penalty: \$21,000.**

### **General Items 18-30**

**18. The Bagley-Keene Open Meeting Act, Proposed Questions for Attorney General Opinion.** Staff: John Feser, Senior Counsel, Legal Division. At the October 2017 Commission meeting, Deputies Attorney General Ted Prim and Julia Zuffelato presented an overview of the Bagley-Keene Open Meeting Act. At the January 2018 meeting, the Commission discussed the feasibility of soliciting an Attorney General's opinion to clarify some of the advice provided at the presentation. In accordance with the Commission's instructions at the January 2018 meeting, staff worked with interested Commissioners to prepare proposed questions for discussion at the February 2018 meeting. The Commission agreed on eighteen proposed questions and directed the Legal Division to prepare a legal analysis in accordance with requirements for requesting an AG Opinion. At the June 2018 meeting, the Commission agreed on three questions and directed staff to modify its legal analysis accordingly. The Commission will further discuss appropriate questions for an AG Opinion in light of the Legal Division's legal analysis and determine whether to submit them in a formal request for an AG Opinion pursuant to Government Code section 12519.

#### **Staff Memo**

**35:00 Chair Germond:** okay our next group of items are above more general nature as you know and we will dispose of them or talk through them one at a time item 18 regards the Bagley Keene open meeting act and some questions that have come before the Commission or us personally as we try to do our work at the same time by by the ethics and the standards that the Bagley Keene act so importantly calls upon us to do so I'd like to call on our acting legal counsel Brian Lau to walk us through the issues that we are concerned about and our questions for the Attorney General

**Mr. Lau:** thank you just a kind of general background I know Terra was not here in the past few meetings so she may not be aware of the total history of this but I said say in light of Bagley-Keene advice from both staff and attorney general training session that occurred in October 2017 in January the Commission directed staff to prepare questions in consultation with Commissioner Hayward and former Commissioner Audero addressing certain bagley-keene issues and possibly considering and submitting those to the Attorney General's office for a possible opinion in June of this year last month we presented 18 questions that were work that were worked out for consideration but did recommend scaling back that proposal to eliminate any those questions that appear to be clear matters of law and to 52 different questions if the idea was to cut it back to somewhere around 3 which was we have tried to do the three questions we are proposing to



move forward with or can a Commission vote on an item labeled discussion only a discussion if the agenda at the top of the agenda it states that the Commission can take action on any item on the agenda the second question is whether or not the Commission can discuss a subject matter that's not within the direct jurisdiction of the Commission's I be it political reform act or section 1090 so an item such as bagley-keene outside of it open public meeting and the third question would be can a Commission respond to a member of the public who has group email at all Commissioners so those are the three questions that we boiled it down to the present we have prepared the memo for our possible response and submission to the attorney general's office if that's the way we choose to move forward

**Chair Germond:** thank you Brian do any Commissioners have any questions on this item

**Commissioner Hatch:** yes I do

**Chair Germond:** Allison

**Commissioner Hawyard:** Commissioner Hatch can go first and ill I just wanted to say some general things at the end

**Chair Germond:** excellent Commissioner Hatch

**Commissioner Hatch:** well thank you madam Chair I read this over I initially was sort of the view that probably was just a waste of time to continue with this but I took another look and saw that there was some value and the three questions that you boiled it down to I did was a little troubled by some of the a couple of items in terms of the analysis the one was with reference to question two and where it was used and term likely you know that it was likely that we may be within a jurisdiction of this bagley-keene and I recall during that training session that we had I specifically raised the question would it be of any value for us to ask our counsel to answer some of these questions for our use and could we rely on they so no that we're not empowered to construe or enforce the bagley-keene act that's but we are subject to it is a plethora of other NZ so I I thought that that was sort of going in the opposite direction of the cases that were cited and I would choose something more either not likely or may possibly be or something that indicates that there's some doubt I'm certainly in agreement with that thrust but I thought that that was a little over the top you know welcome to

**Mr. Lau:** if I may I would I would contend that we used the term likely as a concession already I think our recommendation is that discussing bagley-keene is a matter under the bagley-keene act outside of a meeting I think during the training session that the attorney general's office made it very clear that is their position the discussing Bagley Keene would be subject to the bagley-keene open meeting act I think that use of the term likely was too suggest some sort of leveled of doubt because there is not a good case law in the matter there's not sufficient guidance outside of what the Attorney General told us at the training session I would say I think from at least my perspective likely was the concession in suggesting some sort of level of need for consideration

40:00

**Commissioner Hatch:** well obviously if we're not somewhat in doubt there's no reason to even ask the question correct

**Mr. Lau:** correct

**Commissioner Hatch:** well I guess we disagree on the second I just didn't indicate that that this is you know this Bagley Keene Act is not something that we administer or enforce we don't have the power to do that we are just simply subject we're required to follow it but it's it's not within our power to make decisions about what applies or what doesn't apply so that's why I thought that word was strong the question three there were two concepts combined there is about a standard my comment was a standard that that holds that a Commissioner to account where he believes that a member of the public is quote is communicating whereas every member of the public is capable of communicating how how it can apply a standard that it says is capable every single person is capable of communicating with us and so that would simply say no and under no circumstances and it it's sort of an absurd result

**Mr. Lau:** I think if we look at the training session with the attorney general's office they actually suggested and I and I agree with you there's somewhat of a stretch that even receiving that we should take steps to prevent even receiving an email as a group from the public as a email directed to all five Commissioners our analysis is that if an email comes in to all five Commissioner there's not a bagley-keene violation despite the best practices suggested by the Attorney General at the training session and this for this particular question I think it comes down to more factual circumstances to some extent to the extent that you're just receiving an email we find and this was stated in the memo last month that that is not a violation of bagely-keene but then the question becomes at what point is the Commission trying to solicit some sort of serial meeting I'll give you two examples if the Commission receive an email and responds to the person who sent the email and states here's our response please do not share this with the other Commissioners I think it's very probably it's probably very likely that there's no bagely-keene violation if the Commissioner receives an email the Commission of the whole receives an email response one Commission responds to the sender that email that email that sender then emails the Commission as a whole again and the Commission continues to respond to the sender knowing that that person is sharing each additional email with the full Commission I think is very likely a bagely-keene violation this somewhat falls right in the middle of that it which is why we were going to which I think it's a good question to bring to the attorney general's office and we stated maybe yes that might be a little strong but I don't know how else to qualify that

**Commissioner Hatch:** my point was if it's reasonable for me to anticipate that that they are sharing then yeah I should restrain myself but on the other hand for me to to be held to a standard that might possibly is it that's a I just don't think that that helps get the issue before the Attorney General and I thought that should be excised it's just my view

**Commissioner Hayward:** can I ask a follow-up question Commissioner Hatch are you proposing excising the or capable of communicating

**Commissioner Hatch:** yes

**Commissioner Hayward:** I think that makes a lot of sense as an edit personally

**Chair Germond:** Brian do you have a comment on that

**Commissioner Lau:** can you can you direct me to what the language you were referring to

**Commissioner Hayward:** sure page 9 that fragment of a paragraph at the very top the sentence starting communicating with members I think what Commissioner Hatch is is just taking out or capable of communicating because as he points out that could be anyone capable of communicating with anyone is capable of communicating with us and I think that's not quite what we meant I think we meant that there was some some feeling or knowledge that a member of the public was communicating with the other community so I think I think that's a good catch and go ahead and look at it thank you

**Commissioner Hatch:** thank you i appreciate it

**Chair Germond:** are there any other comments Allison um Commissioner Hayward

**45:00 Commissioner Hayward:** thank you thank you madam Chair yeah since I'm I've been pretty interested in seeing this move forward for I wanna get on the record for a variety of reasons I think the bagley-keene advice that in general is being offered to members of state boards and Commissions is conservative its conservative here it's conservative other places and that's because I think we're following some sort of you know administrative precautionary principle and I get that but I also appreciate the the observations of the little Hoover Commission which found that that actually impedes the administrative work that we do and I also wanted to see how the Attorney General would respond to some of what I think are important countervailing interests so what we need openness and openness is an interest in transparency as an interest and accurate agendas that properly give people notice or interests they're also interests involved in the speech rights of Commissioners and theirs interests involved in when you've got a vague law that has potentially criminal ramifications to it that tends to be a violation of due process it seems to me that bagley-keene is one of those things that because the stakes are kind of low nobody's really poked too hard about at the stuff but it bothers me because to the extent we're getting conservative advice that it impedes my ability to do my job I'm bothered and I think there are a lot of other Commissioners on a lot of other Commissions that haven't felt the urge to get down into the weeds on this but I'm happy that we are and I hope the Attorney General takes us seriously and starts looking at the broad best practices advice and starts thinking about the countervailing interests in this area and maybe trims back on some of that mission creep that I think we've been seeing through the years and the interpretation of Bagley Keene and but we'll see I mean just one other aspect of the interpretation of Bagley Keene that has nothing to do with the Constitution or or either due process clause to the First Amendment is that within the interpretation of Bagley Keene I would like to alert the attorney general's office and other people out there the phrase items of business is used on several occasions and it is interpreted differently so when we are describing an item of business for purposes of agendizing that the business is understood to be pretty specific you need to give people notice of what the item is so they'll know whether or not they want to come to the meeting now when we talk about I'm a business in

the context of what we can talk about outside of a public meeting that's interpreted very broadly to me all sorts of things that might conceivably come under our jurisdiction or even the interpretation of Bagley Keene itself which we have no power to do independently of anybody else how three of us discussing Bagley Keene can be construed to be an item of business before this Commission is I think a little weird and so I would like some progress made on at least acknowledging that there's this internal contradiction in the way the attorney general's office apparently interprets Bagley Keene and they should really fix that and that's all I have to say

**Chair Germond:** Thank You Commissioner Hayward do any other Commissioners have any further comments to make on this draft letter

**Commissioner Hatch:** just a matter of entertainment it was kind of ironic that right after reading your analysis of this item I should get an email at almost 10:30 last night so I remember the Commission of course and I'm not sure who else but it was very tempting to one I like reply back and kind of tell him I thought this was maybe a little offensive under of the circumstances but having just read your analysis that's a dumb idea I'm not going to say anything so I didn't reply back

**Chair Germond:** Thank You Commissioner are there any members in the audience who would like to and this may or may not be a good segue to comment on Oh I'm sorry forgive me Commissioner Cardenas

**Commissioner Cardenas:** the Mr. Lau on my page six question two the the question is posed in the context of five Commissioners and and whether the Bagley Keene Act is violated of five  
50:00 Commissioners meet outside of a public meeting to talk about how the B-K Act applies to the applies to the Commission is not the answer the same if it's three or more

**Mr. Lau:** I think that's a good point we can change that to majority

**Commissioner Cardenas:** does that need to be clarified on it

**Mr. Lau:** we will I will clarify that and change that to majority

**Commissioner Hayward:** another good catch thank you

**Chair Germond:** good catch thank you and thank you Brian are there any other comments from Commissioners anyone in the audience would like to make a comment okay then I think if we are comfortable with the slight changes in language that seem to clarify even further the questions that we have ongoing had evidently and I certainly have been perplexed at certain things than this and the exact as well in attempting to get up to speed and learn how we function and do it properly but get things done at the same time it does seem to be a bit more complicated than I had anticipated I will readily admit I would also be curious perhaps down the road depending on what kinds of resolutions to these questions we get how other Commissions and boards do their business and function with some alacrity and sense of purpose so that we're not spending an inordinate amount of time of our time the people's time and the funding that goes

along with creating these kinds of Commissions and boards who are here to serve and to do our jobs that we might look into whether or not this whether or not there are other questions or needs that we need to understand or best practices that other Commissions and boards use that could serve as a potential model for us as well so I will be eagerly awaiting both the resolution of this letter and how we go forth from there any further discussion so we'll move forward with it with this letter

**Commissioner Cardenas:** I'm sure I'm sure I'm gonna be entirely displeased with myself for asking this but since I don't have enough things to read Commissioner Hayward you referenced a little Hoover Commission report I believe in it has something to say about the application of Bagley Keene

**Commissioner Hayward:** yes yes I did on the first footnote with a link

**Commissioner Cardenas:** great

**Mr. Lau:** I can resend that to everybody there was we it was an attachment to the adoption of the government principal statements at some point I can resend that Hoover report to everybody

**Chair Germond:** that would be very helpful thank you Brian okay

**Commissioner Hatch:** does this require motion excuse me does this require a motion to

**Mr. Lau:** yes this be a motion

**Commissioner Hatch:** I would move that we adopt the recommendations of our legal counsel subject to the edits that were expressed here today

**Chair Germond:** there's been a motion to adopt the letter subject to the amended motions all those is there a second

**Commissioner Hayward:** second all those in favor

**Sasha:** I'll call

**Chair Germond:** roll call

**Sasha:** Commissioner Cardenas

**Commissioner Cardenas:** yes

**Sasha:** Commissioner Hatch

**Commissioner Hatch:** aye

**Sasha:** Commissioner Hayward

**Commissioner Hayward:** aye

**Sasha:** Chair Germond

**Chair Germond:** aye

**Sasha:** motion passes

**19. Review of Andrews Advice Letter, No. A-18-035, Disclose Act Requirements for Contributions from a 501(c)(3) Nonprofit Organization.** Staff: Brian Lau, Acting General Counsel, and Sukhi Brar, Senior Commission Counsel. The Commission will review the Andrews Advice Letter, No. A-18-035, and may act to withdraw the advice provided and direct staff to take future action.

#### **Staff Memo**

**Chair Germond:** we're now going to move to item 19 which is the review of an advice letter regarding disclosure Brian or are you

**Ms. Brar:** Sukhi

**Chair Germond:** yes Sukhi will discuss that for us

**Ms. Brar:** sure yes good morning Chair Germond and Commissioners Sukhi Brar senior counsel legal division I'm here to present item 19 which is a review of the Andrews advice letter this is this letter discusses exclusion of top donors on campaign ads and specifically exclusion of top dollars that have restricted their funds for certain uses staff on this item recommends withdrawal of this advise letter and moving forward with a regulation on the same topic so with that we'll open it up to discussion thank you

**Chair Germond:** I would be if I may interested in the reasons why you feel is that it's the best procedure

**Ms. Brar:** so the reason so that our options here are to keep the advice letter issue a new advise letter doing a Commission opinion or regulation on this issue I think regulation is the best option because that is the best way to avoid doing an underground regulation which could occur if we write an advice letter an opinion only applies to the parties that are discussed in the opinion and gives them immunity or as a regulation will be a role that everyone can look to and apply so I think that is the best route to follow

**Commissioner Hatch:** madam Chair I quite agree this is the reason that Allison raised this point  
**55:00** at the last meeting and I would concur with your proposed solution

**Chair Germond:** any other their Commissioners have any comment

**Commissioner Hayward:** I thought this was a very sorry I'm sorry madam Chair I thought this was a very helpful and educational memo and I think it's because it is going to be a general rule that a lot of different kinds of organizations are gonna have to look toward then I like I like the impetus of getting law out of the advice letter realm and into the Reg realm because I think it's just better notice better administrative practice so great thank you

**Commissioner Cardenas:** where does this particular political action committee go now what's what's what's the result or recourse for them

**Ms. Brar:** so right now if we were to do you mean if the advice letter is in place or not

**Commissioner Cardenas:** your suggest you're recommending withdrawing

**Ms. Brar:** right so for it were to be withdrawn is that what you're asking

**Commissioner Cardenas:** yes what happens

**Ms. Brar:** so what would happen there is the advice that we had given before the letter was issued was the most conservative which was they could not exclude anyone so it would be that until the regulation is put in place unless the Commission decides to do something else

**Chair Germond:** are there any other questions from any of the Commissioners

**Commissioner Hatch:** just one that's procedure because we have an election coming up can we do an emergency regulation on this subject or would we have to just do the standard

**Ms. Brar:** I'll defer to Brian on that

**Mr. Lau:** I do not think this would qualify as an emergency it really requires some other kind of harm to the public is that

**Commissioner Hatch:** all right

**Mr. Lau:** generally a new law doesn't justify an emergency regulation

**Commissioner Hatch:** all right thank you is there anyone here in the audience who has had comment or question okay

**Ms. Andrews:** good morning Emily Andrews Olson Hagel and Fishburne the requester has to advise letter and I think you know generally it sounds like the Commission is planning to move in the direction that I think we support which is to withdraw the advice letter and consider these issues through regulation in sort of line with that I wanted to just raise a couple additional issues that I think support moving in that direction kind of I think better explain how this impacts political committees generally and when they have to disclose funders and disclaimers and so requiring a political committee to include an organization as a major funder in a disclaimer on an

advertisement raises serious First Amendment concerns the definition of the word advertisement in the political reform Act is very broad so this implicates a lot of different types of communications and particularly to the extent that you have a committee that engages primarily in something like ballot measure advocacy so you may have a committee and their primary activity is that they raise funds and spend money on ballot measures and then they decide to engage in a candidate communication all of a sudden you have groups who primarily have been giving to an organization that supports ballot measures appearing in a major funding disclaimer on a candidate advertisement and this raises particular concerns for organizations that raise money from certain types of groups that cannot engage in candidate advocacy 501 C 3 organizations in particular have strict restrictions that prohibit them from engaging in candidate advocacy and they take serious measures to avoid being associated with any kind of candidate advocacy to interpret 84 503 to require disclosure of a source that can't actually fund the ad falsely associates the donor with that ad and it distorts the information that's provided the public so you may have again an organization that is legally restricted from funding of a certain type of communication having their name appear on that ad even though that political committee when it looks at its sources of funding could not actually use that funding to fund the particular type of communication they would have to find other sources of funding there's a similar provision in California government code section 84222 which governs multi-purpose organizations and essentially understanding that multi-purpose organizations are different right because those are organizations that engage in multiple types of activities versus political committees you know I get that there's difference but I think this provision is actually very enlightening in that it says that when you are a multi-purpose organization and you have to disclose your donors that provision allows you to look at your donor list and say if there are donors who have restricted their funds for a particular purpose that is not the political activity that you are engaging in or they have specifically said that they cannot engage in political activity you don't identify that donor as a source of funding I think something similar here would be very helpful because it provides information in those disclaimers that only discloses sources of funding that can actually be used for those types of advertisements so I think the end result in considering this and perhaps putting together a regulation that considers those issues is that there will be better information provided to the public thank you very much

1:00:00

**Commissioner Hatch:** madam Chair one of the other anomalous situations that happens in the advice letter who weren't allowed to be standing would be that someone who was giving money with the intent to affect that election would not end up being disclosed on the on the ad because of this quirk where you put somebody on whose money can't even be used for the ad that's a catch 22

**Ms. Andrews:** that's right yeah I think that can happen and you know not I think in the circumstance where you have someone who earmarked their funds for a particular communication because there are separate provisions that would govern whether that those earmarked funds have to appear in the disclaimer but generally yes if you have an organization that is going out and they're doing some fundraising because they want to do some work in a particular race or races you may have somebody that gave for an entirely different purpose appearing in the disclaimer which just provides very incorrect information to the public



**Commissioner Cardenas:** if I may madam Chair Ms. Andrews is it is it the same whether it's a 501 C 3 versus a 501 C 4

**Ms. Andrews:** the restriction on candidate advocacy is not the same I think the so there's not a legal restriction I think on candidate advocacy for a 501 C 4 but I think the concern here extends beyond C 3 organizations because there are other donors who give with some kind of restriction on their their funding so they may really support the ballot measure work that a particular committee does or appreciate that they do you know if you're giving to a political committee there's a broad range of activities that that committee can use the funds for so long as they're given they're expending those funds for a political legislative or governmental purpose so there may be some other purpose but they are restricting those funds for even if it is not a 501 just a 501c3 organization might be a C4 or it might be an individual there are other types of donors that are impacted

**Commissioner Cardenas:** if you don't mind help me work work through this and as we as as I attempt to elaborate this I mean we may determine that it's nonsensical but the I'm open to that possibility a C4 let's let's say I'm a I'm a C4 a brand new C 4 and I only care about really you know if anyone were to know what was inside my my imagination this one particular campaign that's my raison d'etat okay so so a kind benefactor wants to support the campaign that that I want to support they want to do it through me I have administrative expenses but then I have all the money that I want to spend in support of you know winning this thing that I gotta win so if someone if this benefactor gives to me and and I only use it for up for my administrative and my ability to to use it for administrative thereby frees up money so that I can attack what I need to attack I'm asking I'm stuff anybody what then how does how does how do the regs play out now and do you understand what I'm saying

**Ms. Andrews:** I think this is similar what you were asking last time about whether money can be used for overhead expenses so we answered that

**Commissioner Cardenas:** until I understand the answer I'm publicly good

**Ms. Andrews:** we answer that in the memo when it comes to when it comes to 5 501 C 3s and they have to really keep track to make sure that their money is not being used for candidate purposes so when it comes to overhead they would divide the expenses if you know they would look at the percentage that are certain employees working on something and divide the costs accordingly when it comes to just somebody giving money to a campaign and saying I don't want it to be used to an or general purpose committee and say I don't want it to be used for this particular candidate and whatnot I think it's possible that money could still could be used for general overhead expenses

**Commissioner Cardenas:** and if it's only is for general overhead does it does it still have to be reported if they're a top contributor

**Ms. Andrews:** right now yes

**Commissioner Cardenas:** even if even if it's if it's only spent on administrative and it's not spent on ads or consult

**Ms. Andrews:** yeah right now all anybody that qualifies as a top contributor would be on the ad

**Commissioner Cardenas:** C 4 C 3

**Ms. Andrews:** correct

**1:05:00 Commissioner Cardenas:** I'm getting closer to understanding

**Ms. Andrews:** okay any Commissioners have any further questions Commissioner Hayward

**Commissioner Hayward:** madam Chair since I'm the one who pulled this out of the advice letters I feel like I'm sort of compelled to to to weigh in and say you know again I think that the memo is really helpful I think that reminding us about the the litigation involved in the similar top Thunder top Thunder statute was was very helpful I credit Commissioner Cardenas's concerned about money being fungible because it is I guess my my thing I'm stumbling over is that we're talking to a disclaimer on a particular piece of speech that somebody said they could not fund so then when it comes to other kinds of disclosure about who top funders are I think we might have a slightly different a slightly different anyway thank you very much I'm looking forward to moving forward on this thank you

**Chair Germond:** and how would the Commission like to move forward on this

**Commissioner Hatch:** I'd like to make a motion if I could

**Chair Germond:** excellent

**Commissioner Hatch:** I'd like to move that we adopt the recommendations of staff on this and withdraw the advice letter and proceed as expeditiously as possible towards a regulation

**Chair Germond:** do I hear a second

**Commissioner Hayward:** second any further discussion I will now ask for the roll call

**Sasha:** Commissioner Cardenas

**Commissioner Cardenas:** yes

**Sasha:** Commissioner Hatch

**Commissioner Hatch:** aye

**Sasha:** Commissioner Hayward

**Commissioner Hayward:** aye

**Sasha:** Chair Germond

**Chair Germond:** aye

**Sasha:** the motion passes

**20. Review of Alvarez Advice Letter, No. I-18-080, Combined Disclosure Statement.**

Staff: Brian Lau, Acting General Counsel, and Zak Norton, Senior Commission Counsel.

The Commission will review the Alvarez Advice Letter, No. I-18-080, and may act to withdraw the advice provided and direct staff to take future action.

**Staff Memo**

**Chair Germond:** thank you and our next item is where are we another advice letter

**Commissioner Hatch:** yes

**Chair Germond:** item 20 I believe we're on and this is a another advice letter and I think we should start with staff recommendations and see where

**Commissioner Hatch:** if we could shortcut this a little bit I was the one who asked this advice letter to be scheduled in light of the additional information provided by staff in its current level I'm satisfied and I'd be happy to withdrawal the request to have this meant

**Chair Germond:** cuts are always welcome for our several hour meetings unless there are other questions that other Commissioners have that they would like to have addressed today

**Commissioner Hatch:** okay thank you

**Commissioner Hayward:** I'm good

**Chair Germond:** so I believe this advise letter is being withdrawn and that we know

**Commissioner Hatch:** my objections are being withdrawn so my intent was to put this in front of us to make a case that it should be withdrawn I now recant on that based on new information

**Chair Germond:** and as courtesy is there anyone in the audience who would like to comment on this seeing no and I think we can just move forward with the next item on the agenda thank you very much you didn't get to take your seat very long but thank you

**Commissioner Hatch:** sorry about that

**21. FPPC Budget.** The Commission will discuss and consider whether to approve the proposed process on how staff will continue to keep the Commission apprised of developments related to the Commission's budget and staff's proposed budget allocations for Fiscal Year 2018-2019.

### **Staff Memo**

**Chair Germond:** our next item is item 21 which regards our budget process something that I know we all study and care about passionately so we have our an incredible chief of administration Loressa Hon with us today to walk us through the budget process and how we will move forward for the 2018 2019 fiscal year and I would like to request that we pay particular attention to the timeline that's going to facilitate that process so that we're all comfortable with it and that it makes sense that it's productive and that it will be the most efficient way for us to be assured of the funds we need to do our jobs

1:10:00

**Ms. Peth:** yes this Erin Peth the executive director and so on the on item 21 we combined a couple things that have sort of been transpiring seeing trans trans the happening at the same time sorry it's been a long week so what we're asking for is we've put forward on page four of the memo a proposal of our timeline as the Chair mentioned about keeping the Commission apprised of the various budget processes that will be concurring and then additionally we're bringing forward on page three and four that chart a proposed allocation of the current budget year so the state's fiscal year just started on July 1st and the governor signed a budget so those numbers reflect real time our budget allocation for fiscal year 18-19 and just to just for the record we also had a law and policy so excuse me budget and personnel committee meeting I believe about a week and a half ago two weeks ago when Commissioner Hayward was in attendance and so gave us some additional edits to the memo and just kind of clarified a couple things so if this has gone through that committee

**Chair Germond:** Thank You Erin did you what wish to add anything Loressa or we read the actual process here or should we move to Commissioners questions

**Ms. Hon:** well unless the Commissioners question and we're willing to answer

**Chair Germond:** thank you okay

**Commissioner Hatch:** I had some questions about some of the terms and then the contracts internal I take it our other state agencies that required a contract with for various services I'm interested in knowing the metrics that they apply is it based on our headcount or is it based on our budgeted funds how do they decide how much to charge us for these things and the reason why I'd like to know is because as we change in size and shape how is that going to affect what they charge us

**Ms. Hon** so the so the actual your initial thought is correct they will they actually go by our position numbers that we have within the agency as well as a budget amount so then they divvy it up between all State Department to give us the percentage that were charged

**Commissioner Hatch:** is that true of each of those agencies that provide services to us or is it just each one different in terms of how they measure the what they should charge is

**Ms. Hon:** most of those are each agency that provide service to us based on like HR services State Controller services that issue warned and GGS Department general service to provide service so those are divvy up among all the state department

**Commissioner Hatch:** so they use the same metric to determine how much to charge us they're not like four different metrics one for each agency

**Ms. Hon:** yeah they go by the percentage of your personnel allocation as well as your budget allocation so they're also sometimes

**Commissioner Hatch:** So we have to staff up for something that's going to change how much they charges

**Ms. Hon:** possibly because that's built in in your budget change proposal and that's part of the state operation cost

**Commissioner Hatch:** so so if we add five more people it's going to increase how much they charge us

**Ms. Hon:** five five five more headcount yes

**Commissioner Hatch:** okay and also for the external is that like private entities that we're talking about

**Ms. Hon:** or such as vendor that we contract with that does some of our work for instance like when we do any technology work we have a vender that we use that help us to like the database and stuff like that that we contract with but since like enforcement database we control ourselves force so those are the entities we contract with and we are required to have contract with them to allocate fundings for that

**Commissioner Hatch:** and we get guidance from general services on acquiring those kinds of

**Ms. Hon:** there is set rules on contracting with vendors outside of the state service

**Commissioner Hatch:** okay thank you

**Chair Germond:** Commissioner Hayward

**Commissioner Hayward:** thank you madam Chair I guess the only thing I would add and I believe we talked about this in the our committee meeting but we might not have and this might have been a follow up email and in which case if you missed it that's totally fine so when I look at the general budget timeline for state agency so you've got on page two and then I look at our

1:15:00 timeline I feel like there should be a specific thing around maybe the first of November where we're starting to talk internally about flowing I love that flowing updated BCPs and that sounds like pollution in a river or something that's flowing updated BCPs are here just so that there's some Commission you know feedback input some thing that I mean will probably have to do it confidentially that's I think fine and but something a lot more specific so that that sort of beginning step is looked at because I think you know as we start talking about a Commission that might want to holding meetings across the state maybe we need to have budget adjustments there if we look at a Commission that has more of an external face then we might want to make sure that we're not depriving other line items of funding because we're doing new wonderful things and that kind of you know if Commissioners are in the conversation early I think that's nice and if we don't care then we just won't give you a hard time

**Ms. Peth:** I did and I apologize I can't remember if I added this after you sent the email but if you look on page four what under the timeline I did add where it says fall staff updates budget and personal Committee on status of BCPs so again I'm sorry can't remember the timeline of when I added that in but I did acknowledge that we need a little bit earlier obviously involvement and

**Commissioner Hatch:** thank you I was concerned about that issue as well that when you go through that process for the Department of Finance there reaches a point where some of your proposed BCPs may get a little stuck in the mud and may or may not ultimately get approved and that's the point where we'd need to have a communication certainly with our oversight committee to see whether there's any remedies that can be

**Ms. Peth:** right no absolutely and I think we added the date that BCPs are due this year as well September 4th so once the legislative process is concluding and we know whether or not the governor is well whether bills get through and over the governor signing then we'll be back to talk to the budget and Personnel Committee about

**Commissioner Hatch:** specifics

**Ms. Peth:** yes exactly

**Commissioner Hatch:** thank you I also had a question about I couldn't read my notes quick enough but reimbursements in there was numbers as to how much we receive it in reimbursement or how much we projected receive as the case may be which document you're looking at but there's nothing about how well covered we were on those reimbursements I mean what did we expand on on behalf of the program of our funds to further that contracted service are we covering all the direct and indirect costs of doing that and I'm thinking about the local government enforcement contracts not enforcement administration of their local ordinances and I think that either in a separate you know memo or a footnote to this one there should be some discussion about how well we're covering those costs I think it's the kind of thing that DOF wants to know it's also something you know the ledge analysts would certainly care about and when the budget committees are trying to figure out they can find a way to help us on things they need to have more clarity and so this would be one clarity that we provide because that was one

of the comments I think from La oh is that it couldn't figure out where you stood with reference to your contracts

**Ms. Peth:** right and that's also the same concern our issue that Commissioner Hayward raised as well especially as looking at a potentially additional economy

**Commissioner Hatch:** I didn't know that thank you

**Ms. Peth:** and we just I don't have obviously that information right now but we're happy to pull it and it is possible to pull at least because we do bill our time on those contracts so we have actual data on how much at least personnel time has been spent and so anyway we can start to aggregate that a little bit and get some additional information

**Commissioner Hatch:** okay thank you madam Chair

**Chair Germond:** are there other Commissioners who have any questions or concerns

**Commissioner Hayward:** I had just one more madam Chair when we are looking at the budget summary outline on the second page of the July 9 memo that's the last part of this agenda item I guess what I'm struggling with and I don't know I don't know quite how to answer this and maybe that maybe the answer is just once the the actual column is filled out the answer will be there I'm struggling to find some way to flag unexpected or unusual expenditures or places in the budget where we expected to spend a certain amount and aren't you know so so divergence from what what we think the number oughtta be that are beyond some order of magnitude or I don't know what I want I mean I want you you understand the concept I want you know some mechanism to be alerted to a potential problem

**Ms. Peth:** I think that

**Commissioner Hayward:** you probably know about internally because you're doing this everyday but I'm part-time and I feel like I need to exercise oversight and so I need some tool like that

**1:20:00 Ms. Peth:** I think that might be something worth talking about in the committee in terms of maybe there's some criteria or I don't what you want to call it to sort of maybe be examples of those types of things so that maybe it's just a regular agenda item on the committee agenda and if there's nothing to bring up and there's nothing to bring up but we could add it to this sort of the standard agenda for that committee maybe

**Chair Germond:** yes along the same lines I too am concerned that there's the ability to have some degree of flexibility so that both the Commission and the staff should some unforeseen or new opportunities arise that we have the ability to move forward appropriately and in a way that is legal and transparent but also makes sense so that a future Commissioner or a Commission or the will of this group can in fact be made real rather than just talking amongst ourselves wouldn't it be nice if but we don't have the funds to do the f

**Ms. Peth:** mm-hmm

**Chair Germond:** are there any other comments from anyone any comments from the public how would you like to move forward we'd like to approve the staff recommendation and with these caveats for want of a better word

**Commissioner Hatch:** what's our committee Chairs recommendation

**Commissioner Hayward:** yes I'd like to move forward with this I think I think this is we've got made a lot of progress here and I think you know when we get this laid down it'll be a great tool for people for years to come

**Commissioner Hatch:** so you move

**Commissioner Cardenas:** is there a motion

**Commissioner Hayward:** I'll move a move approval of the timeline the forum for transmitting budget in a summarized form and that's but that's pretty much the material

**Ms. Peth:** I think and just stuff proposed allocations of the expenditures

**Commissioner Hatch:** a second

**Sasha: Commission Cardenas**

**Commissioner Cardenas:** yes

**Sasha:** Commissioner Hatch

**Commissioner Hatch:** aye

**Sasha:** Commissioner Hayward

**Commissioner Hayward:** aye

**Sasha:** Chair Germond

**Chair Germond:** aye

**Sasha:** the motion passes

**22. Consideration of Delegation in Commissioner Compensation and Reimbursement Policy and Approval of Compensation and Travel Forms.** Staff: Erin Peth, Executive Director and Loressa Hon, Chief of Administration. In June, the Commission updated the previously-adopted Compensation and Reimbursement Policy for members of the



Commission and approved staff's interpretation of the policy. The Commission will discuss and consider whether to delegate authorization of "additional activities" (such as a speech, public appearance or similar activity) to the Chair and/or the Executive Director. The Commission will also discuss and consider whether to approve the proposed compensation and travel forms for the Commissioners.

**Staff Memo**  
**Compensation Form**  
**Travel Form**

**Chair Germond:** thank you and the next item is item 22 which is the Commission compensation reimbursement policy and the appropriate forms to facilitate that any comments that any of the Commissioners may have on this

**Commissioner Hatch:** just had a comment or question about the form excited to see that it's a form that I can fill online and email it back to you that's great I was hoping that maybe a little bit of expandability capability of your form so that you know I'm a bus rider so I get a lot more it's a lot more stuff to put on my form and I'm usually writing it all over the place on the old forms so where you have a category of you know like travel you get a finite number of entries that can be put they have the ability to click on something that creates like another entry another entry in another entry I don't know that you talk to your tech people and take that into consideration as you

**Ms. Hon:** I will take that to IT and see if they have capability of adding more columns into the form itself the

**Commissioner Hatch:** rows in this case

**Ms. Hon:** the rows sorry yeah

**Commissioner Hatch:** I always have trouble with that rows or columns

**Chair Germond:** any other comments from Commissioner Hayward

**Commissioner Hayward:** the only the only other thing I wanted to make sure people didn't overlook is that I've asked that we bring the policy back so that we can consider whether to delegate authorization of additional activities to the Chair and or the executive director right now the policy reads that any additional activity has been authorized in advance by the Commission which means if you were going to make a speech and you didn't have the ten days before the Commission meeting notice to put it on the agenda then you can see we might not get reimbursed I guess I guess you could do after the fact approvals but I also think that there's little enough of this that I think the Chairman and/or executive director could you know be a good check on whether people are abusing it and we don't need the full Commission to consider each

one and and so that that will be an item for a future agenda right or can we do that I don't think we can do that today

**Ms. Peth:** we I I think we can because we

**Commissioner Hayward:** can we do that today

**Ms. Peth:** yeah

**Commissioner Hayward:** okay awesome

**1:25:00 Ms. Peth:** we were trying to get everything but so you can act on as many things as possible

**Commissioner Hayward:** excellent

**Chair Germond:** yeah I just it

**Commissioner Hayward:** consistent with bagley-keene

**Ms. Peth:** when we did want to you know get since the governance regulations you know we want to we in the committee we talked about having these delegations as clear as possible and put it in the policy so to try to keep consistency and for future people as well

**Commissioner Hayward:** right

**Chair Germond:** yeah that would I think fall under the category of an amendment to the for more clarification or

**Commissioner Hayward:** yeah I think we just oftentimes when were when we were amending our regs would get reg language in the packet too and I didn't see that and I wasn't sure if that was an essential thing or merely a convenient thing

**Ms. Peth:** well the policy was adopted it was not adopted as a regulation so we put the policy back here

**Commissioner Hayward:** oh that's right okay so this is sorry yeah getting governance principal policy reimbursement though I think it probably should be a reg at some point that was another conversation that former Chair Remke and I had had but that's we can leave that for another day okay

**Chair Germond:** so for today for today for today it is still today that's a good thing for today still this morning which is very impressive for today this morning it would the Commission like to move forward the adoptions of

**Commissioner Hayward:** yes let's let's amend the the policy so that additional activities can be approved by the Chair and or the executive director doesn't don't need to come before the full Commission in order to be compensated compensatable

**Ms. Peth:** so just a clarify

**Commissioner Hatch:** if I could Commissioner Hayward I think our general charge is that this would come under the executive director so perhaps we should follow that the other words would be the Commission or has delegated to the we need a delegation to the executive director make those between meetings

**Ms. Peth:** all right I'm fine we could add another sentence that our Commissioner Hatch so it says as authorized in advance for the Commission period the Commission hereby delegates that authority to the executive director or something that we're still retaining still retaining your you know authority but then explicitly delegating it so if you're okay with that we're happy to add that

**Commissioner Hatch:** yeah if you work with Brian on it that'd be great thank you

**Chair Germond:** is everyone comfortable with that language

**Commissioner Hayward:** I am do we need a vote what

**Chair Germond:** we ultimately when we finalize this we can vote on this separately first if we like or we can accept it as a friendly amendment for want of a more impressive bit of language and if we do accept it it's a friendly amendment from what I recall of Robert's Rules of Order we can then vote for the item as a whole okay if there's discussion or concern about this particular addition or change then we will discuss it and perhaps vote on that separately

**Commissioner Hayward:** got it yeah i think i think it's friendly amendment okay so we're fine

**Commissioner Hatch:** I second

**Chair Germond:** so i is there any further discussion on the main body of material here then i think we're ready to vote on the into on the the forms etc themselves Sasha

**Sasha:** Commissioner Csrdenas

**Commissioner Cardenas:** yes

**Sasha:** Commissioner hatch

**Commissioner Hatch:** aye

**Sasha:** Commissioner Hayward

**Commissioner Hayward:** aye

**Sasha:** Chair Germond

**Chair Germond:** aye

**Sasha:** the motion passes

**Chair Germond:** thank you

**23. Approval of Commissioner Compensation Request.** Staff: Loressa Hon, Chief of Administration. Consideration of Commissioner's requests for compensation exceeding 40 hours in a calendar month as required by the Commission's Compensation and Reimbursement Policy.

**Staff Memo**

**Chair Germond:** we're now ready for item number 23 which is compensation for Commissioner Hatch I do believe

**Commissioner Hatch:** right the retard

**Chair Germond:** is there any would you like to discuss this in any way shape or form oh

**Commissioner Hatch:** I think it speaks for itself

**Chair Germond:** I think so too are they but are there any questions from other Commissioners I move to approve this Commission this submission

**Commissioner Hayward:** second

**Sasha:** Commission

**Chair Germond:** further discussion we can call the roll

**Sasha:** Commissioner Cardenas

**Commissioner Cardenas:** yes

**Sasha:** Commissioner Hatch

**Commissioner Hatch:** aye

**Sasha:** Commissioner Hayward

**Commissioner Hayward:** aye

**Sasha:** Chair Germond

**Chair Germond:** aye

**Sasha:** the motion passes

**Chair Germond:** thank you

## 24. Committee Updates

### Law and Policy Committee Update Budget and Personnel Committee Update

1:30:00

**Chair Germond:** there our next item is item 24 which are the committee updates we have now had the first meetings of our new committees in our new structure which we all hope will help us all be more involved and helpful in generating ideas and a better way even better ways for us to function as an FPPC and be a more inclusive group and I think we would all enjoy hearing the results of the first meeting so let me call upon the budget and Personnel Committee first if I may and Commissioner Hayward I believe you were prepared to share with us the results of that first meeting

**Commissioner Hayward:** yeah I think um the the committee report speaks for itself but I just would want thank the thank staff in particular the Tech staff who did such a nice job on the forms and I think the drop-down menus are going to be very helpful and are going to generate data that's actually better for staff use too and so I'm I just wanna say thank you

**Chair Germond:** like I thank you for Commission report the committee report that's absolutely so

**Commissioner Hayward:** it was a lovely friendly productive meeting

**Chair Germond:** of course it was that's great Thank You Commissioner Hayward is there any questions regarding the committee report

**Commissioner Hatch:** just a compliment I was real pleased the forums I think that's a real step forward

**Chair Germond:** any questions from anyone else in the audience or amongst us okay our other committee of course is law on policy

**Commissioner Hatch:** if you would madam Chair I've been kind of watching the clock and a little concerned about getting to the items that I would I would defer on on mind I'm a kind of

feeling that could be struggle on for some time so if you just step over me and continue with other items we can come back to me

**Chair Germond:** okay thank you Commissioner (inaudible) sorry about the mic we did in addition to these two committees meeting we had a taskforce meeting which was the first meeting of that group of individuals who have interests and work with the FPPC and are a welcome addition to us and our outreach and I don't know if anyone else and you might want to have any comments about that meeting

**Commissioner Hayward:** thank you madam Chair yeah I was just want to announce for who may have missed this exciting news that the task force appointed a Chair that would be Steven Kaufman who is a political attorney of some experience and Norman copying he will be the vice Chair the attendance was great the attendees were engaging and what the Chair of the task force has asked is that attendees and members of the task force if even if you didn't attend the first meeting if you could get your top three sort of concerns or recommendations to Adam Silver on our staff here and Steven Kaufman sooner rather than later they can start building a agenda of things to do and then there will also be a meeting of the minds about scheduling meetings through 2018 that will be happening via email if you are part of the task force watching us today and you were not at that meeting we're sorry we missed you but please connect with Steven Kaufman or Adam Silver here on our staff to get up to speed on what's going on thank you

**Chair Germond:** Thank You Allison our next item is the segway I guess you would call it that Commissioner Hatch wanted us to move forward with under items of legislation

**Commissioner Hatch:** yeah I had asked the Chair to also skip over item 25 and would come back to us after we deal with the Commissioner Hayward's items you're not off the hook it is just temporary

**Commissioner Hayward:** Commissioner Hatch I actually think we're doing pretty good on time so if we want to just go ordinaly through the agenda I think that's easier for people later when they're looking at the okay

**Chair Germond:** let's see how well we do maybe we can move forward quickly and then keep our comments to absolutely the most germane possible and we will be able to facilitate a

**1:35:00** Commissioner Hayward's need to leave at one o'clock so here we go

**Commissioner Hatch:** okay we'll try it item 24 then

**Chair Germond:** yes I think that was just the right of my 24

**Commissioner Hatch:** well the second half of item 24 is law and policy committee

**Chair Germond:** right

**Commissioner Hatch:** and we had a meeting on legislation on Friday last and considered one bill which is and recently amended ab84 Mullin and Phil would you like to give the summary and then

**Mr. Ung:** absolutely we considered two bills during that committee just want to make that one correction that you there was a recommendation from the committee on

**Chair Germond:** excuse me folks to hard to hear you maybe spoke

**Mr. Ung:** sorry I mumble also my apologies but I just wanted to a correct the report out that there were two bills ab84 and ab2689 that the law and policy committee recommended a support position

**Commissioner Hatch:** 2689

**Mr. Ung:** yes mr. Gray's well that deals with the

**Commissioner Hatch:** yes that's right I apologize I forgot

**Mr. Ung:** it's okay I just want to make sure the record was straightened

**Commissioner Hatch:** good okay so if you would one at a time give me a summary first on ab 84

**Mr. Ung:** absolutely so Commissioners uh most of my summary is in my report but to verbally give you an update bill 84 prior to July 5th was not related to political reform matters related to something in the elections code on July 5th it was amended and imprint on July 6 with new language amending the political reform Act the bill proposes a number of changes to the Act including requiring monthly filing during an election year for any political party committee that receives or contribute \$50,000 or more in the non elected prior non-election year in addition to that it changes the definition of political party committee within the Act to include legislative caucus committees and then the bill goes on to describe what kind of activities a legislative caucus committee conduct which is broadly defined as anything that events the interest of a legislative caucus and it also goes on to describe some of the governing of these legislative caucuses including that they would be that they're not controlled committees as it relates to kind of definition of control within the Act but they are directed by the Speaker of the assembly the Minority Leader in the assembly the Senate Pro Tem of the Senate and the minority leader in the Senate or the caucus leaders or and or their designee or designees-- and then and the bill also includes an urgency clause with a 14-day delay for the operative date I think is some really

**Commissioner Hatch:** appreciate that so this is something that I've I would I consider considerable lifetime experience viewing the various iterations of how to deal with this issue and I think thought that this is one of those when I read it I went why didn't I think of this because it's a perfectly appropriate there's been a lot of problems with this concept where caucuses have to somehow operate on the basis that one of them is going to have to give up his control committee

in favor of raising money on behalf the caucus activities this I think is strikes a balance and even I think some of the white hats had to concede that that some of the practices that had involved with activities in the various small County Central Committees is a far more opaque than this process and I think this would provide much more public information on the basis to make decisions and I have recommended that this bill be positively disposed of as with a support recommendation from the committee to the Commission for consideration today and to that I think

**Chair Germond:** first we would like to hear from the other Commissioners on this item I think and then public comment and then we will decide her and stand from staff and then we can determine whether or not we want to take a position continue with the current recommendation which is no position or how we want to move forward if that's an agreeable process with everyone so first I think we've heard from Commissioner Hatch of his desire for us to take a positive position on this particular bill which is ab84 are there other Commissioners who have comment

**Commissioner Hayward:** madam Chair yes I when I saw this I thought and then after reading it I mean I guess I guess I come to this from the perspective of somebody who spend most of their life doing federal campaign finance law and of course the senatorial and congressional partisan bodies at the federal level have party committees that are charged with helping the partisans in that particular body defending their guys supporting challengers educating their membership you know in in in political terms some of the open having public campaign schools and stuff like that and so it hadn't really occurred to me that we don't do that in California and that in fact these were like controlled Committees of members which is an odd situation when you're not controlling a committee for your own benefit with the benefit of other people yet you control it so in some way it's like your money not everyone's even though you've raised it for everybody it's just it just doesn't seem like a really good a really good form for doing things and then I also come to this as somebody who likes political party committees I think they're good I think sometimes we over regulate in in this area they are a mediating institutions with the political scientist call them and they are one of the places where you'll see support for challengers in the campaign finance system that is otherwise largely dominated by interests that want to make incumbents happy and interests that are very sort of parochial or or partisan on some issue but parties like to help their party challengers and just because there are partisans and I think that there's there's a space for that and certainly there's a space in the legislature for that so I understand that there's there's some I'm not going to call it a quibble because I'm not really sure that that's fair but that the \$50,000 threshold for the extra reporting might be too big I'm not sure what the what the what the crux of the objection is and I think that is one of those things where I think you know be useful since this is a fairly new idea to defer to the the legislative author and then if it looks like that's a problem when way or the other it can be fixed later so so I guess I'm I'm in support of this as well Thank You

**Chair Germond:** Commissioner Cardenas did you have a comment



**Commissioner Cardenas:** I'm sure I will I'd like to hear madam Chair if that's alright from whoever might have something to say about this particularly if there are any signatories to what what most but not all of us received directly last night in connection with this so this item

**Chair Germond:** then if it's with the agreement of the of my fellow Commissioners here why don't we hear from the public and then if we have further questions or discussion amongst us or from our staff we will move to that part of the deliberation any public comment

1:45:00

**Ms. Rose:** good morning Chair welcome and good morning Commissioners my name is Dora Rose does this work yes I am the deputy director with the League of Women Voters of California but today I'm actually here on behalf of all of the entities that signed the letter to which you refer California common cause California clean money campaign California Public Interest Research Group and California voices for progress and I apologize that the letter was sent so late but we are scrambling to get our heads around this bill AB84 and we're here today to urge you not to take a position yet on it to delay taking a position because of the speed at which this is moving and the suddenness that it's been introduced AB84 was amended with entirely new language on July 5th it's now on the floor of the second house without any committee hearings having been held right our organizations and probably other stakeholders simply have not had the opportunity to analyze it carefully because it's a complicated bill or to formulate official positions but I'm not here to talk about the taking a substantive position on the bill we have not yet done that it's a significant bill I could say that creating four new legislative caucus committees each directed by the respective caucus leaders these committees under the new bill would be allowed to accept contributions at the level of political party committees at significant amounts that are more than eight times what's currently permitted in the context of normal campaign committees which is how its structured at this point that's that those those limit so what they are restricted to it this at this point in time it allows them to also accept unlimited contributions to direct for independent expenditures either on behalf of a candidate or against candidates well there are some new reporting requirements as we're referenced for political party committees that are added to this we're concerned that the potential negative consequences of this bill outweigh those enhanced transparency aspects of it which not bad thing in and of themselves as noted in your staffs analysis actually the proposed changes are going to impact the political reform acts overall contribution limit system right furthermore there are open questions as to whether the changes would promote the purposes reform act or actually violate those purposes it say there are tentacles that to which this bill leads that really need to be examined AB84 could have a major impact on the way that contributions are raised by legislative leaders and by political parties so we're asking you to delay taking a position until your August hearing furthermore we'd like to request the Commission ask for a staff analysis both for the public's benefit and for the Commission's consideration a delay in making a decision will allow stakeholders like us to analyze the bill thoroughly and to weigh in with really thoughtful comments once we have an opportunity to examine the ramifications of this bill so thank you for your time and for considering postponing taking a position on ab84

**Chair Germond:** thank you Miss Rose yeah I was going to say with the permission of my fellow Commissioners here may we address the questions directly to you

**Ms. Rose:** sure

**Chair Germond:** thank you

**Commissioner Hatch:** is it your position that none of these organizations on the letterhead have taken a position yet is it

**Ms. Rose:** none of them have taken a formal position including the clean money campaign which I know followed up with a more substantive memo that was included in the email to you but nobody none of us have had the ability to do that yet

**Commissioner Hatch:** with all sort of due respect I was fully aware of the the items that you highlighted yeah before I you know held my committee meeting we held you know public meeting and I would indicate to you that all of those things that sounded really scary that you itemized were all things that the smallest of state central County Central Committee's can currently do

**Ms. Rose:** mm-hmm

**Commissioner Hatch:** but with far more opaqueness in terms of where the money came from and where it went and this would for once put all this in center stage that all you folks would like to watch and make sure we're not doing anything that they shouldn't be doing can do with a much clearer view and in addition as you mentioned the additional reports that are not currently required you start off by saying we need time to decide what we're doing but then you pretty make a pretty hard case that you sort of already made up your mind and I kind of get that also from the clean money campaigns material that they want more time so they can analyze it but they also attached a two page analysis that of what they think that bill does so

**Ms. Rose:** yeah

**1:50:00 Commissioner Hatch:** you know I lobbied for nearly 40 years this tactic is age you know aged nicely over the years and as if you're not sure if you can stop it if you can just slow it down a bit maybe you can stop it I for me to to accept your premise and recommend that we wait a month which mean to say then the our opinion would not matter at all because by the time we have another meeting this will all be done

**Ms. Rose:** that's exactly the reason that I am here today so

**Commissioner Hatch:** so my point is yeah I think this is a good piece of legislation I think it provides tools for the folks on your team

**Ms. Rose:** yeah

**Commissioner Hatch:** that they don't have now and it will put everything out in the open and I don't think there's an inexhaustible supply of money as somebody who lobby for an organization

for many years that had limited resources just because they raised limit doesn't mean we get to raise how much money we spend it's got to come from someplace and I think there's sort of a pollyannish view that somehow just by allowing these four committees to operate this way that suddenly there's gonna be some new influx of money this is going to fill that yeah but that were true the 58th County Central Committee's times two would be flooded with money but that's not what's happening there is a limited amount so to the extent that legislators have been stumping to provide money to go to this central committee or that State Central Committee it's it's gonna adjust but not necessarily create new money and I feel very strongly about this I appreciate your comments but I don't think it's reason to take us completely out of this

**Chair Germond:** Ms. Rose would you like to

**Ms. Rose:** I would like to thank you we have a process that we absolutely have to go to through before we can take any official position what I reflected to you and and so do all of our organizations has to go through a legislative committee has to be examined by experts in the finance area our internal process but I reflected to you are our initial concerns from a initial reading of the legislation we really have not had time to analyze the ramifications we believe that there are issues related to the political reform act the that as I said that that are much more expansive and will deeply impact the entire campaign financing structure but we don't know and we need to look at it more carefully and what you are saying about County committees and and the the system related to funding them is exactly the kind of thing that we need more time to look at this has come up very very suddenly it is in it is now on the floor of the second house none of the committees have had an opportunity to consider it the language was only drafted in July 5th lots of people are away on vacation we have not had time to thoroughly and substantively consider the ramifications of this and in fact your own staff indicated that there are all sorts of ancillary areas that are going to be impacted this is a big deal this is a significant piece of legislation it requires an open airing of and just you know concerns and an exploration not only by the organizations that are signatories to the letter that you received last night but by the public at large so in the interest of transparency and the interests of ensuring that everyone is aware of what is happening here at the at the 11th hour we consider extraordinarily important that we take a beat and really look at this carefully

**Commissioner Hatch:** you know

**Chair Germond:** let's see if another Commissioner may have some questions as well

**Commissioner Hatch:** I would like to directly respond to that if you wouldn't mind you've had a week longer than I did I did all my due diligence and I came to a reasoned decision to make a recommendation just because you guys aren't moving as fast as I had to do and you've had twice the amount of time to do this analysis that I did our Commission staff had to scramble you know to try and make sure that they didn't miss anything it's not a basis to tell us that we should not do our job if

**Ms. Rose:** I'm not doing that I am asking to delay

**Commissioner Hatch:** if I was recommending and oppose your rhetoric may be completely different consider that thank you

**Chair Germond:** does any other Commissioner I have a question

1:55:00

**Commissioner Cardenas:** I do there's a seems to me there's a there's another age-old maneuver or mechanism and the legislative process and and that is and that is to quickly and as quietly as possible to get something done which would otherwise face the the scrutiny of the people if it were done more carefully when people are actually paying attention and when there is at least one legislative committee analysis of it this is in the second house this is in the Senate and it started in the assembly and no committee has heard it

**Ms. Rose:** that that is the only hearing has been on the previous version of the bill which had absolutely nothing to do with what the language is now

**Commissioner Cardenas:** all due respect I don't believe that the this Commission works for the legislature the legislature wants to wants to further empower certain aspects of it the the four committee Chairs they are quite apparently well on their way to doing that it's not at all clear to me why the Fair Political Practices Commission needs to provide them political cover for something that that I just I just don't see why we need to do this yeah today or maybe ever I mean that if the legislature in its wisdom wants to read the political reform act or Mis read the political reform act of 74 in this particular way then you know they have the power to do that but it's it's not at all clear to me why we need to why we need to interpose ourselves say that yes this is not only in keeping with but somehow and furtherance of the of 74 act I just don't see it now you know if I if I had more time to to consider this and and I I appreciate that that some of us have apparently got all the time that that's necessary but I don't feel that I'm doing my job on this on this Commission unless I unless I am comfortable that that those in this state who have taken it upon themselves on behalf of the rest of us to pay the closest attention to these matters and to these machination 's unless and until it is clear to me that that they are either not interested are okay with it or are taking just way too long to figure out where in the hell they stand on this then I don't feel that that that I for myself need to need to stand up and say you know the legislature in its wisdom is choosing not in not to have open hearings so that the people can can attend and listen to and and later scrutinize that that we need to support that I I think frankly when I see that I am particularly cautious and there's there's no way I can support this today I'm not sure I ever can I just don't see why we need to stand up and say hey this is a good thing to do we are responsible with it worth protecting and advancing the Democratic interest enshrined in the political reform act of 74 and if the legislature again if they if they want to add a new interpretation to what the people really intended in 1974 and what makes sense for us now lord knows they have the power and and I can criticize them for a distance perhaps for for doing that and it might well warrant considerable criticism to do this in the night of day with such speed and alacrity but they're not gonna do it with our help not with my vote

**Commissioner Hatch:** I take a little bit of umbrage there I'm not just simply trying to probably provide political cover to the legislature I drew on my experience in my research to come to a

reasoned recommendation you can either accept it or reject it that's for you to do but don't imply that I'm somehow a surrogate for the legislature

**2:00:00 Chair Germond:** I have a few questions for staff because I'm again trying to wrap my hands around both process and how we come to a decision on this particular bill if we do my first question is have we historically taken positions on the creations of different packs or as I gather we are being asked to support the concept of the legislative packs and I'm just curious has that been something that the FPPC has historically done

**Mr. Lau:** I mean generally with legislation we are asked and we do take positions on legislation I don't recall anything similar to this though we particularly supported or opposed I mean this is a packer idea this is a new proposal I can't think of anything similar to this

**Chair Germond:** thank you, Brian.

**Mr. Ung:** and Chair Germond I think it's been quite a long time since the legislature or the voters have created new entities within little Reform Act and so I've only been with the Commission for a few years and working in this field for several more but I can't remember the last time new entities of this type were created

**Chair Germond:** thank you and perhaps you could flesh out a little bit more the staffs position which is to not take a position on this I believe am I correct about that analysis

**Mr. Ung:** staff doesn't have a recommendation on this bill

**Chair Germond:** so you have no recommendation as to whether we should or should not or you have no there am I correct

**Mr. Ung:** we have no recommendation as to where you should go on this

**Chair Germond:** okay got it I wasn't sure whether there's no support men not supporting it or whether it meant you would have no position as to whether we should or should not

**Commissioner Hatch:** in the context of our committee hearing staff provided their thorough analysis and their information and but they made no recommendation to the committee as to which

**Chair Germond:** thank you thank you I'm still on my learning curve than two weeks fourth of July was in the middle of it so I'm getting there would our body the FPPC sometime in the future potentially have enforcement would we be enforcing if there are issues or questions around monies that come into this pack and how they're spent would that be something that would fall under our responsibilities down the road potentially

**Mr. Ung:** these these committees are being created within the act and so we would have full jurisdiction as to any other committee on providing advice education updating our manuals enforcement if there's any violations

**Chair Germond:** okay thank you that's potentially helpful or maybe scary I don't know but you'd see if it and other Commissioners have other questions while I pause a moment

**Commissioner Cardenas:** madam Chair if I might perhaps of what this might be difficult in the absence of even a single hearing by any component of the legislature what is your best guess perhaps their sense of the rationale behind elevating these these four particular committees within the legislature to the status of political party committees which which otherwise are governed by by a variety of party partisans right I mean that there is with respect to both both of the main political parties and in this state as I understand it these political party committees have boards or trustees or delegates right and and so they make decisions as a group what we're talking about here is thirty six thousand five hundred whatever it is to to a pre-existing incumbent committee Chair person two within each house is that right

**Mr. Ung:** that's correct within each house within each party so each party within each house would be able to create one of these that is the intent

**Commissioner Cardenas:** is the clear that political party committee as as used and interpreted in connection with the political reform act was ever intended to include any body of the legislature legislature

**2:05:00 Mr. Lau:** I don't think there's any clarity there I mean I think the historical practices are they not that as is what is what you've said they were kind of controlled by a body because when they're taken over and controlled by the candidate that becomes a big question about what what contribution the mission apply and whether or not they're subject to a single contribution limit as a candidate committee so I think historically I think the the the the the historical pattern or trainer or set up is that they are controlled by some sort of board or controlled in a way that no single candidate can authorize additional expenditures on their campaign or other candidates campaigns

**Commissioner Cardenas:** so let me understand this so when I had to go through the assembly first so it went through committee with votes but no hearing no discussion

**Mr. Ung:** this bill went through the assembly and had committee hearings and a floor vote in the assembly as a different bill it was a bill that amended the elections code

**Commissioner Hatch:** the content was

**Mr. Ung:** the content was totally different and then on July 5th the author of this bill replaced the language that moved through the Assembly with new language now that we're looking at that amends the political reform act

**Commissioner Cardenas:** once it had been referred over to the Senate

**Mr. Ung:** that's right

**Commissioner Cardenas:** after it had been referred over to the Senate after declared the assembly without any that's right

**Ms. Peth:** can you clarify the process that will happen I mean it has to go back to the other house right

**Mr. Ung:** that's correct because it was amended it will have to go back to the assembly for concurrence on Senate amendments and my understanding is that the Senate at least what they've informed me is that they do plan on taking this up in a committee hearing in August when they return from their recess

**Commissioner Hatch:** their own route the Senate rules require them to refer it back out for a committee hearing but that is anticipated yes

**Commissioner Cardenas:** but why is that why isn't that it is a superior way for us to make our decision with with with the benefit of the elucidation of the the legislators themselves as as to why this this this realignment of a political money power if you will in this state should happen in a way that that that advantages them I mean after they have spoken on the record to their own constituents as to why the political reform act that we are we are charged with with upholding and advancing after they have spoken to their constituents on the record as to why the political reform Act needs to be reformed in a way so as to to further strengthen their already considerable power devolved onto for individuals why it does that why is that not a a superior basis upon which to determine whether or not we we need to inject ourselves into this into this legislative deliberation

**Commissioner Hatch:** we all have our separate duties the interest groups have their own separate duties and responsibilities and how they would carry it out the legislature has their own separate duties and and processes that they follow we have on the other hand our own processes and we don't we're not required by our own processes to wait and see what somebody else does to wait and see what this guy does with that guy doesn't then maybe even do some polling we can simply make our best judgment and either act on it or not I mean our I brought you a recommendation you can either concur with that recommendation reject that recommendation or take no action whatever all within our our bailiwick if you will my recommendation based on my 40 years experience is this is good legislation it will improve transparency it will focus attention on what's really happening in ways that we cannot that these groups cannot do now they're not sure yet they've got a process to go through apparently they've bound themselves up with the processes that doesn't allow them to move quite as quickly as others might that's their problem it's not my problem my problem is I see a good piece of legislation something that I think the public needs to know what my opinion is and that if it's shared by the rest of you there will be our opinion and whether that sways anybody or not so be it that's part of our job

**2:10:00 Commissioner Cardenas:** then let me ask on behalf of the committee how does ab 84 as its recently being been entirely changed how does it protect and advance the the law and the spirit of the political reform act

**Commissioner Hatch:** well because besides providing additional reporting by all party existing as well as the new party committees it provides assurance that money raised for party purposes doesn't get subverted to other purposes as is the case often under the current system where we in effect we somehow got in this place where we don't really recognize a caucus committee in the sense that it actually does anything what we do is we say one of you guys in the caucus is going to have to give up your personal control committee that you would raise for yourself and make it the the vessel to receive money for caucus purposes but at all times it's still that one members controlled committee that he alone or she alone can decide what to do with regardless of the will of the caucus even if every other member of the caucus said we want to do a that controlled committee is ultimately controlled by that one member and we've seen fortunately on the front pages some of the newspapers how that spirit of that got you know trainwreck and this provides clarity there are strict reporting requirements not just on them increased reporting requirements over what a controlled committee would have to report much more clarity as to what's going on where is the money where's the money coming from where is the money going who's it helping who's it hurting that's the kind of tools that public interest groups should cherish now they're afraid that they got haven't got enough time that's not my problem I dug in I did my research and I think that this is an appropriate bill to take a position by the Commission I stand by that at the appropriate time I would take a motion

**Chair Germond:** Miss Rose did you want to comment further

**Ms. Rose:** just a few few comments I think ultimately our concern is that it opens the floodgates to more money in campaigns we need to again look at it very carefully because it has a lot of ramifications and I would to point out that the staffs memo lists a whole host of questions that need to be examined and needs to be asked in a really careful and thoughtful analysis of this of this bill respectfully I understand that there may be elements of it that are important and good from a practical perspective we don't know yet how those balance out with some of the other elements that could indeed open floodgates to a whole lot of money in campaigns the elements of the staff recommended looking at is the urgency clause in the 14-day delay how it affects this November's election because this is

**Commissioner Hatch:** was discussed in committee

**Ms. Rose:** yeah I think that this the recommendation here is that this be discussed and hashed out before the entire Commission whether ab84 as Commissioner Copping mentioned furthers the purposes of the political reform act or actually potentially violates the purposes of the

**Commissioner Hatch:** I heard the issue raised it's not an issue that this Commission can settle we're not

**Ms. Rose:** okay



**Commissioner Hatch:** we're not a court of law

**Chair Germond:** I'm sorry Commission I asked in the middle of public comments

**Commissioner Hatch:** reading from a confidential document how she got it I don't know but I

**Ms. Rose:** this was on your website

**Commissioner Hatch:** its not on our website is it Phil

**Ms. Rose:** yes part of the agenda

**Mr. Ung:** the questions that she's reading is part of the updated staff legislative report at the bottom of AB 84 she has added some words to our questions so I want to make sure that I'm not all of them are verbatim but I'm

**Commissioner Hatch:** reading from of a different document I apologize if you're not

**Ms. Rose:** in any case I think the argument has been made we're concerned about the ramifications of this we do not believe that either our organizations or stakeholders in general have had an understand the bill and understand its ramifications all we're asking for is a delay in the determination as to whether the Commission is going to support the bill to give more files

**Chair Germond:** or oppose

**Ms. Rose:** or oppose the bill and to give us a time to look at it more carefully this is a really  
**2:15:00** significant change in the law and we need time

**Chair Germond:** may I ask what would be the potential damage if any if we postponed until the next meeting a decision on this bill when we have a little more time for analysis and I can be smarter

**Commissioner Hatch:** the next time we meet they'll all be going home it'll all be over but sweeping up the mess I believe that this is good legislation

**Chair Germond:** I heard that part

**Commissioner Hatch:** and for that matter to anybody but myself this Commission would take a position when it's still relevant in the forum that will happen some would love is to wait until it doesn't matter anymore I would urge that we do

**Chair Germond:** Phil yes please

**Mr. Ung:** I do want to add just process clarification that the the legislature is planning to adjourn August 31st I believe we have a planned meeting is it August 19th the 16th I think the potential

issue that may arise is that if the Commission is suggesting any amendments to the bill that because the political reform Act has a 12 day waiting rule for any bills to be in print that the last day for the author or legislature to amend that bill would be the day that we meet in August

**Commissioner Hatch:** that's a perfect timing

**Mr. Ung:** right and so that that's the only thing process wise that I just want to make sure I explained that to the Commission to clarify

**Commissioner Hatch:** thank you Phil

**Chair Germond:** that's very helpful and it gives us some understanding that should we during our study of this bill either now or in the interim have amendments or suggestions or further issues with it that we probably would not be able to do that if we waited until the next meeting but if we did that at this meeting we could do proceed and it would have some effect is that what I'm hearing it's because of when our meeting is next month and the calendar

**Mr. Ung:** right and again this is all Erin's gonna kill me for saying this but this is all assuming that you keep your regular meeting scheduled that you don't call any meetings in between that's all yeah but but yeah that and and if we were suggesting amendments today then staff could communicate those to the author's office and would be up to them to to adopt them

**Commissioner Hatch:** and they would have time to react

**Mr. Ung:** and they would have

**Commissioner Hatch:** wait till next time and the ship has sailed

**Mr. Ung:** that's correct

**Commissioner Cardenas:** the proposed section 4 of the if I'm reading what what I believe was purporting to be the the current version has amended a couple of weeks ago the legislative caucus committee this how may it use its its received funds it states here and what would be section eighty eighty five two zero five of the government code under what would be brand new section 2d I believe funds received by each legislative committee shall be held in trust to advance the interests of the legislative caucus end quote what's your sense Phil of what that might mean how would they be able to use their money let me ask you how do they use it now and is it contemplated that they would be able to use it for the same purposes I'm just trying to understand what is the legislative caucus committee and how does it spend its money and and that will better help me tie together I think I'm reading what I heard from from Commissioner hatch

**Mr. Ung:** yeah this provision caught the staffs attention and we were able to ask the author's office and some of the speaker staff during the law and policy committee call what it actually means to advance the interests of the legislative caucus they conceded that it was it was broad

and and it's anything essentially that the caucus deems is in their interest under the political reform Act those interests would need to be within political legislative or governmental purposes

**Commissioner Hatch:** to provide additional clarity Phil it provides them no more authority or less authority than any existing political party committee

**2:20:00 Chair Germond:** can I understand better the difference between a political party committee and a legislative leadership caucus my understanding may or may not be correct as to what makes up a legislative leadership caucuses it simply is that the two leaders him and her or hopefully her and her some combination thereof or what is a leadership caucus well is it the entire group of Republicans or who can who is who is the authority how does it work

**Mr. Ung:** yeah well within each house this is my understanding within each house and each party within each house there is a respective caucus so the Assembly Republican caucus generally is made up of all of the Assembly members who who are Republican and and that would be their caucus and then under this bill they they would have a committee that were they yes that that they could control or direct I'm sorry and so each house in each party in that way it would would would make it up in that in that way the the leader of each caucus is is generally the leader of that party so the assembly Republican just to continue the the metaphor would be the assembly Republican leader in that house the speaker on the other side but then there are also lieutenants that are elected caucus leaders and and other caucus leaders like you know the caucus whip assistant whip

**Chair Germond:** yeah I'm sorta familiar with the federal can that and

**Mr. Ung:** and under this bill I know that Commissioner Cardenas had mentioned that you know four individuals but this bill doesn't limit the direction of these caucus committees to just four individuals it could be essentially anybody that the caucus or the leader does

**Chair Germond:** so there could be a committee of all of them or a committee of two of them or whatever who would actually help

**Mr. Ung:** this bill this bill doesn't dictate how the caucus was to structure their leadership and direction or these funds I think that's really up to the caucus himself

**Commissioner Hatch:** there was a clear delineation of power that if the if the will of the majority the caucus decides so they would change who's the director of the caucus I would also mention that kinds of activities you had asked about political party committees can and often do spend some of the money that they have for voter registration drives voter education programs member communications to their their members only and these are the kinds of things that are existing law that political caucuses committees could also do perhaps in their own belief a better job maybe not in the end you never know for sure but each has its own so like if you think about it we have a statewide party but they also have these regional bodies County Central Committee's they're all different sizes located all over the place and then we have a sort of a third concept which is sort of a specialty group of elected officials all of whom are party loyalists who would

like to focus the attention more directly because they believe that they can better figure out strategically how to get somebody elected to an office then perhaps the more diffuse mechanism and that's the philosophical internal discussion but I don't see any harm and I see more sunshine come in under a bill like this

**Chair Germond:** just to even further either complicated or help me understand it better would it then be appropriate or possible for other entities or groups to create similar packs or procedures to do this let's say the Board of Equalization leadership PAC or the governor's leadership PAC or maybe we have some of those kinds of things already in California and I'm not familiar with them but I'm just curious about the unintended consequences as well as the wisdom may be good maybe not both of those creating some of these

**Commissioner Hatch:** if someone wanted to create some of those and call them party committees they would have to have subsequent legislation to include them in the definition of what a party committee is this bill simply adds these additional entities as party committees and so then they get treated just like all the body of law that we have in the PRA that affects political parties that would also affect these committees

**Chair Germond:** so these two committees would be treated just like party committees this would impact how party committees are currently functioning and it would create two new party committees that are legislative party committees for want of a right

2:25:00

**Commissioner Hatch:** say so say within a democratic party you have statewide you've got the various County committees and then you'd have the Senate and Assembly committees all treated the same in terms of the bodies of law restrictions limitations what they can spend on what they can't spend on the kinds of activities they can do all of that would be the same governance and the same oversight on our part currently it's very opaque because we have one individual who's been leaned on to give up his his control committee for his own re-election purposes you know instead make it the receptacle for money that is raised by the group but then in the end it's still that person's control not the groups and I've seen people walk away with the money that was raised in good intentions on all parties that was going to go for the specific purposes and then end up going for something completely different good

**Mr. Ung:** Chair Germond

**Chair Germond:** yes

**Mr. Ung:** as as envisioned by the author of this bill they don't foresee more than four legislative caucus committees being created as you see in our analysis we do raise a topic that the Commission way may wish to discuss which was whether or not multiple caucus committees could exist legal has a potential reading of the way that it's phrased in that bill and which it says each caucus of each pool and this is under Section 4 the bell b that each caucus of each political party of each house of the legislature may establish no more than one legislative caucus committee legal believes that there's nothing in here to limit a legislative or a political party from having more than one caucus

**Commissioner Hatch:** you just said limited to one didn't you just read it

**Mr. Ung:** Brian you wanna jump in the party

**Mr. Lau:** it says each caucus is limited to one committee it does not say that the party is limited to one caucus

**Commissioner Hatch:** well there's only one party caucus within a party now if a few green party members got elected there would be an opportunity for there to be a green party

**Mr. Lau:** it is unclear to us whether or not this would permit a political party to establish multiple caucuses within the house I mean it says each caucus of each party gets one committee so

**Commissioner Hatch:** clearly that was not their intent to create multiple caucuses for the same party within the same notes

**Chair Germond:** Commission Hayward

**Commissioner Hayward:** I think there's definitions of caucus in other places they make them partisan and like one dem one Rep

**Mr. Lau:** well i mean there is existing right now uh multiple minority caucuses and other types of caucuses within which in within each house and the question would be could a the Democratic Party or the Republican Party create a an official sub caucus and and the reading of the bill right now it's a quick I mean if I to recommend just a quick edit it right now it says each caucus if it says any caucus of the ledges that of the political party can create one committee that clears up whether or not they can create multiple caucuses or not

**Commissioner Hayward:** I see your point so there's like the potato growers caucus a Democrat potato growers caucus okay I was thinking of caucus in the more formalized ways as the party partisans who caucus together about all kinds of things but yeah that the term is used loosely in other contexts and so maybe that's a amendment that the author will

**Chair Germond:** and it just on a practical level and I just for reasons of information wearing my former hat there were any number of caucuses of people with like interests the Women's Caucus would be an easy and perhaps pleasant example but there are many other caucuses of different demographics different regions different philosophies etc etc that do meet to meet regularly in different entities in many places and may or may not and I have again some questions about this whole we this bill though I think that there are aspects of it that are potentially really good but I'm just not I I often worry about unintended consequences because I think we come in with the idea of sunshine and doing the right thing and I think I think the inclination here it's certainly to do the right thing that may not cast any negative aspersions on the concept behind this but I am Not sure for the FPPC if this is opening a Pandora's box of sorts so I'm just not sure yet so I'm learning

**2:30:00 Commissioner Hayward:** madam Chair point of personal privilege I have 20 minutes

**Chair Germond:** yeah we need to certainly move on with this and then move on with the rest of the agenda what is the will of the group

**Commissioner Cardenas:** oh one more question

**Chair Germond:** great

**Commissioner Cardenas:** it's it's been suggested that that time is of some essence I note here that that what appears to be the current form of this bill it suggests that it is in an urgency bill right and and the rationale for that is in order to ensure transparency in elections it is necessary that this have to take effect immediately and then it goes on to state this act shall be come operative 14 days after the effective date of this act so this is this is a quite apparently on track to be in place and effective law in advance of the upcoming November elections

**Mr. Ung:** that's correct

**Commissioner Cardenas:** a rhetorical question but how long did it take to pass a watered-down Disclosure Act which itself was in furtherance of transparency

**Mr. Ung:** took took the disclose act at least seven years to actually cross the finish line turtle always wins the race I guess

**Commissioner Hatch:** it's appropriate to make a motion at this point

**Chair Germond:** I think it would be appropriate to make a motion absolutely

**Commissioner Hatch:** I move the committee recommendation be adopted by the Commission

**Commissioner Hayward:** second

**Chair Germond:** any further discussion call for the vote

**Sasha:** Commissioner Cardenas

**Commissioner Cardenas:** No

**Sasha:** Commissioner Hatch

**Commissioner Hatch:** Aye

**Sasha:** Commissioner Hayward

**Commissioner Hayward:** Aye

**Sasha:** Chair Germond

**Chair Germond:** no

**Sasha:** the motion is tied

**Chair Germond:** time thank you that was thank you for your comments most appreciated and I think this will certainly be coming back to us in one form or another and in the future or it has the potential to and we appreciate I certainly appreciate the thoughtful discussion on this I learned a lot I still as I said think that there aspects of this bill that a good intent and potentially good effect I just a personal level are still learning about it and have some concerns and concerns about the need to so immediately take a position for the FPPC

**Ms. Rose:** thank you for hearing me out much appreciated

**Chair Germond:** our next item is

**Mr. Ung:** Chair I'm sorry we had one more bill that had a recommendation

**Chair Germond:** I'm sorry

**Commissioner Hatch:** if you would Phil I would ask that we take that 18 more minutes and see what has left

**Chair Germond:** good idea

**Commissioner Hatch:** would like to draw our attention to

**Chair Germond:** thank you we have 18 more minutes before Commissioner Hayward has to move forward the transportation issues what is the will of the body as to which items and I ask particularly Commissioner Hayward you would like to be President to participate in

**Commissioner Hayward:** I would like to say a few words about future agenda items and then say a few words about some of the advice letters I can take those in whatever order you would prefer

**Commissioner Hatch:** I would follow her lead whatever we think that she

**Chair Germond:** why don't we just proceed okay your concerns or comments I know just will incorporate them into our thinking as we move to those items

**Commissioner Hayward:** okay so I'm gonna do future agenda items since they're not really debated and that at least gets them in the record and on the on the people's radar first is something that came up in the taskforce meeting which was the issue of Secretary of State duplicative fines could we get a memo describing the issue and proposing some solutions sooner

rather than later I would like that I hope that bitcoin is still on the Miss Peth is nodding you need to nod louder

**Ms. Peth:** yes it's still on the radar I think Brian were we thinking August or later I don't know if we got it but anyway we do have a staff assigned in they're working on a issu

**Commissioner Hayward:** awesome that's all I can ask and then finally a matter that I brought up with Mr. Lau offline but I'll share with all of you it seems to me that we should be looking at a more general way about how public agencies are spending money especially on ballot measure and initiative advocacy it seems like you know not a set of clips go by that we don't see something about you know something that's happening in Long Beach something that's happening other places we had a member of the public talked to us in public comment last month  
**2:35:00** about his concerns about a matter like that and so I think if we could look at it not in terms of it looking at a particular matter because we don't want to do that because that would be you know you have due process issues if we could look at the the issue more generally and see if we have you know appropriate triggers for enforcement appropriate standards for what constitutes the advocacy that we're looking at and that kind of stuff I think that would be really helpful

**Mr. Lau:** I look forward to that I would suggest at this point maybe the two of us can have some discussions and I can kind of fill you in where we what we've done historically and what were the existing law the status of the existing law and then we could see its decide where to go from there

**Commissioner Hayward:** awesome so now getting to advice letters and questions I had about advice letters so the first one I had questions about was the was I 18051 the Maltby letter and I guess my question was you know that with this with this vendor situation that they have let me see where the letter goes what are we thinking that the ultimate disclaimer looks like since there's both a campaign and a donor disclaimer that seem to be at play here and is that compatible with ads that appear on Facebook which i think is their model right now

**Mr. Lau:** I what's envisioned by this letter is that the first committee is putting the the video out is producing it and putting a video online and then in this coordinated effort with the people that come to this website the the second person is paying for the broadcasting of the advertiser so we essentially have two potential parties that are paying for the same advertisement the ad ends up on Facebook but in this case the initial video the disclose Act requires the video disclaim or any video over the disseminated over the Internet provides kind of a telephone the the the normal television scrolling across the bottom disclosure so the so this letter did our advice under this letter is that it because that first committee put the video on the internet it needed to have that disclosure on there and then when the second part person if that second person is also a committee and pays to broadcast it that they would also have to include that Facebook disclaimer that's required so in this case because we do have two parties that are and in the case of the two parties that our committees paying for the same advertisement it would require in an advertisement on the video and and a Facebook advertisement well within the post or on the home page under the other provision of the disclose Act that that specifies the disclosures for electronic media advertisements now this there is some uncertainty there where you have a



advertisement by a single person that is a video on Facebook I'm not sure that that question is not before us at the moment but I'm not sure which one of those two provisions of the disclose Act would ultimately apply if you had a single person putting a post on Facebook that's a video that's kind of outside the question of this that at this point but this was kind of the unique situation where you have two potential committees both paying for the same advertisement

**Commissioner Hayward:** and and in on a platform that seems to be a bit limited I'm just wondering how feasible is it to a feature this disclaimer and B also feature the content of your ad and C if the disclaimer gets so long that it doesn't really mean anything anymore because there's just too much stuff

**Mr. Lau:** but I think it's it's fairly feasible and that the video would have the disclosure from the committee that actually produced it and the Facebook post would actually have the link to the page that that discusses who paid for the actual facebook

**Commissioner Hayward:** on the same physical ad

**Mr. Lau:** pardon me

**Commissioner Hayward:** they're not both on the same physical ad

**Mr. Lau:** well I suppose it's gonna be a Facebook ad with the kind of an attached video so they're kind of in some sense to separate advertisement

**Commissioner Hayward:** that's I wasn't making that stuff I was envisioning this poor little Facebook ad with all of the stuff and wondering if you know I know there's other places in the act where disclaimers can be modified if they're impractical and I didn't know if this was a case like that oh I'll leave I won't ask to pull this one I'll do this be for right now is just those were my thoughts and I'm glad we had a chance to talk about that I might wanna talk about it even more later but we'll see okay the second one I wanted to talk about was Jim Hill a 18092 and this is only because I happen to know that Rory o grande is pretty small because it's not far from where I live and so we have a the mayor who's a city council member being having to recuse from decisions related to the Brisco Road interchange which is also been a hot topic locally because he is within 2600 feet and and and the analysis goes through why he would be influenced I don't question any of that I just think that most of our Royo Grande is in the same position he's in somehow and I didn't know why the public generally exemption didn't apply

2:40:00

**Mr. Lau:** the thought of this letter and I don't know that it comes out totally in the in the you know description is the actual map of the residence and where it's located in relationship to one of the options which is putting a off-ramp directly on to essentially the only direct route to his house with and improvements to the intersection that's near that's all to me the only the the one intersection between him and that in that off-ramp so to that extent we saw we did consider the public because it was a small jurisdiction internally but we did see some sort of like a unique effect in the in the fact that this person was on the road where one of the options will be putting a on ramp directly onto the road going who is leading to his residence

**Commissioner Hayward:** and he can't segregate that question from the other two questions and maybe weigh in on those but not that one

**Mr. Lau:** that's potential I mean we don't have those facts before is that ultimately depends on whether or not those other options could move forward without determining that option so it's a possibility but there's actually suggestion that they couldn't do that in this case because these were like we're either going to close this

**Commissioner Hayward:** okay that answers my question thank you and then my final one is a 18099 requested by Gary Winnick this is the consultant who was subject to full disclosure under the agents conflict of interest code worked from the agency from 2012 to 2017 he says he was told he was subject to the the conflict of interest code in the reporting in 2016 and I'm kind of trying to get it get through okay if he was supposed to be filing all along has he violated the Act is there an enforcement matter if you probably can't tell me I'm just wondering this confusing me because there's all this past bad behavior apparently

**Mr. Lau:** I don't know if there's a pending enforcement action I do believe it's my understanding that calpers referred it to enforcement at some point I don't know the result of that

**Commissioner Hayward:** and then and then more broadly do we have any way on our own of figuring out when there are non reporting consultants out there because we don't really have you know a list of job titles that have to file form 700s that also includes every single reporting consultant out there so do we depend on the agencies to tell us if people aren't reporting or

**Mr. Lau:** we have to there's just and we don't have the capabilities of keeping track of the or making those determinations

**Commissioner Hayward:** okay that was it for me for letters and with my copious amount of six minutes left i just wanted to say in the Enforcement Division report I really like the the tendency by type the chart here anyway I think that's I think that's helpful understanding that there's there's more information maybe later but I think that that help me anyway get it corded my arms around sort of what the quantity is and a little less sort of pendency but still it's that was really helpful thank you and then and then that's all I have

**Chair Germond:** thank you and thank you for coming today and the midst of challenging travel etc most appreciated but I think we should perhaps do now is complete item 25 if there were other legislative issues because we've taken up just one of them that's a 24 I'm sorry well yeah I guess it's 24 25 this Amalgamated 24 25 legislative both the committee and from staff so that we complete that part and then we can determine our next agenda item so

**2:45:00 Commissioner Hatch:** the one we had left which I excuse me number five ab-2689 gray which was gifted contribution prohibition of governor's appointees while they're being waiting confirmation of the house that's required to confirm them this is one that I think is another good government bill I think there was some confusion the last time I discussed this but it was before

there was a committee on this so I would ask that Phil if you wouldn't mind just give the summary and then discuss a recommendation

**Mr. Ung:** I'm not sure how much more I can add to what Commissioner Hatch has already described the bill it would prohibit gubernatorial appointees during the confirmation period from giving contributions or gifts to members of that respective house yeah nailed it

**Commissioner Hatch:** thank you

**Commissioner Hayward:** Second

**Sasha:** Commissioner Cardenas

**Commissioner Cardenas:** yes

**Sasha:** Commissioner Hatch

**Commissioner Hatch:** aye

**Sasha:** Commissioner Hayward

**Commissioner Hayward:** aye

**Sasha:** Chair Germond

**Chair Germond:** aye

**Sasha:** the motion passes

**Commissioner Hatch:** thank you that completes my report on legislation Phil has his own agenda 25

**Chair Germond:** you don't have to get up and get down too many times

**25. Legislative Update.** Legislative and External Affairs. Phillip Ung, Director.

### **Staff Memo**

**Mr. Ung:** that's all right

**Chair Germond:** so I do you want to walk through whatever actions you would like to talk about today

**Mr. Ung:** there are no other recommendations from staff just general report as submitted happy to answer any questions the Commission may have about where we are currently with the legislation or or the legislature

**Commissioner Hatch:** okay

**Chair Germond:** and thanks to our new committee structure where we have a committee that takes a look at these items and then helps us sort through which ones might be a particular interest one way or another I think that that's potentially expedited this considerably are there any Commissioners who have any questions or concerns beyond Alison's comments earlier about any particular bills that are in this agenda item

**Commissioner Cardenas:** general question Phil once again when does the legislature break and when are they back

**Mr. Ung:** they're currently on break okay and they come back August 6 the first week of first full week of August and then they end session August 31st

**Commissioner Cardenas:** thank you

**Chair Germond:** okay our next item is item 27

**26. Advice Letter Report and Commission Review.** Staff: Brian Lau, Acting General Counsel. The Commission may review and discuss advice letters that have been issued since the June Executive Staff Report. The Commission may act to withdraw the advice provided.

#### **Advice Letter Report**

**Commissioner Hatch:** 26 actually I do

**Chair Germond:** well we just did 26 right

**Commissioner Hatch:** what we did Allison's

**Chair Germond:** Oh

**Commissioner Hatch:** 26 I actually had one she didn't cover it

**Chair Germond:** oh I'm sorry Commissioner Hatch

**Commissioner Hatch:** thank you I had some questions her comments on item I 18101 which was brought to us by counsel Winnick we're really here on staff at one time before my time it's relating to the League of California cities and they'd asked for advice about their disclosure requirements relative to their direct contributions as a 501C4 one of these combined entities

where they do multiple things and what I'm troubled by here and this is maybe not the right moment but it's I'm seizing on it I'm not challenging that the advice was incorrect but I'm bringing a point on the question here that essentially what the league gave us was through their counsel was that that the money that they spend on campaigns is not public money it's what is coined non donor funds without providing any sort of hint as to where that is now Liga cities like other government leagues and organizations are funded by dues paid by governmental entities not individuals so the city of Modesto say for instance pays so many dollars you know a month to belong to the League of Cities and it's important that public funds are not being used for campaign purposes and matter of fact it's against the law and so we I can't tell and I looked at their disclosures at the Secretary of State's office you cannot tell whether or not these are appropriately non donor funds and there were a special legislation that was adopted by the legislature to try and hone in on this particular issue trying to sure that the law is complied with and I discussed this a bit with Brian our general counsel and I think it may be we may have to do some regulations in this area so we can prescribe a there a process to audit or provide further clarification from the committee's

**Chair Germond:** I'd be particularly interested in further clarification before we move to the next level so that people understand what they can do appropriately

**Mr. Lau:** so ultimately the you know this is more of this might be more appropriate on the little future agenda item discussion because these are outside of this actual advice letter but also but at the same time that I looked a little more into the existing law and what's required and there's a definition and non donor funds essentially any income from good service or facilities and there's also a requirement that the committee reporting those non donor funds briefly describe the source when reporting them I haven't had an opportunity to look at legal cities

**Commissioner Hatch:** they're not doing this critically put known just donor funds

**Mr. Lau:** ultimately then I mean this is more of a matter of more of an enforcement matter or something that would or something that could use further definitions to use further different defining as far as what is or is not a non donor fund

**Commissioner Hatch:** you think the statute language stays on it own or do you think we need for the regulatory clarification or for enforcement to be able to figure out how to to address this issue

**Mr. Lau:** I mean I think there's some uncertainty there I mean it says non donor fund is income for any services but if part of those services are somehow so if they're selling their services because they're ultimately really good at influencing campaigns you have to wonder whether or not some of those some of that income is campaign related as opposed to really non donor funds so so I could use some further defining I just my preview of it but

**Commissioner Hatch:** in the current disclosures don't give you any indication at all what the source is they just simply say quote non donor funds unquote and as you point out the statute gives some direction there that what those are supposed to be composed of but we're not getting

any sense from the disclosure documents what it is and so I don't know short of coming in and saying show me your books I don't know how you could ever determine whether they're compliant with the law unless there's some further clarification we can make or that we do a test case

**Chair Germond:** Commissioner Hatch would you like to make a recommendation regarding this

**Commissioner Hatch:** well I'd be happy to work with the general counsel see what we can't figure out a something to bring this to a focus and figure out how we can appropriately deal with this not just one organization but there are multiple organizations they're funded by public money to for a variety of purposes but now are getting into the elections arena and if public money has end up being filtered through to use for campaign purposes that's a bad result

**Chair Germond:** we all agree on that

**Mr. Lau:** I can contact him we can look to see which direction to go

**Chair Germond:** that would be very helpful are there any other further comments on these advice letters

**Commissioner Hatch:** it was all it

**Chair Germond:** so I think we can move on to the next item which is actually our staff reports and I think in the interest of time unless there are particular items that we need to highlight in some unique way we can receive them and we've all I hope had a chance to read them and move forward with the next item unless there is a particular question about a particular item in any of the reports seeing none receive them as submitted and thank the staff for their incredible hard work and all the good information that is coming out of the FPPC every day in every possible way and from every single division that's really really appreciated and I personally and I know my fellow Commissioners join me and thank you over and over and over again and these reports are very helpful in us being able to attest to how much we do and how much we have to do so thank you for that it is now time for us to go into our executive session is that correct

**Commissioner Cardenas:** What about 28

**27. Executive Staff Reports.**

Enforcement Division. Galena West, Enforcement Chief  
Legal Division. Brian Lau, Acting General Counsel  
External Affairs and Education. Deborah Hanephin, Manager  
Executive Director Update. Erin Peth, Executive Director

## 28. Commissioner Comments and Proposed Future Agenda Items.

Note: While a Commissioner may identify a topic of interest, the Commission may not substantially discuss or take action on any matter raised during the meeting that is not included on this agenda, except to decide to place the matter on the agenda of a future meeting. (Government Code Sections 11125 & 11125.7(a).)

2:55:00

**Chair Germond:** yes I'm sorry we should do that now I guess all right the next item is future topics of interest Commissioner Hayward and shared a few of her ideas and thoughts as issues we might take up and it's now an opportunity for fellow Commissioners to share some of their thoughts under this topic

**Commissioner Cardenas:** I'm sorry what was the answer to when cryptocurrency might come back to us

**Mr. Lau:** it's not currently scheduled so it's just a matter of setting the priority I have four here so I mean if that's the priority we can make that one the priority

**Commissioner Cardenas:** I don't even know how to begin to assess how to prioritize this type of thing

**Mr. Lau:** I look for the Commission's direction

**Commissioner Cardenas:** I was afraid you were gonna say that so do I if someone can drop a zillion dollars the day before the election and it is literally untraceable yeah and and what then I just I mean you know it's it's you know a classic risk management right it's like well what are the odds that it could happen and and what could the damage possibly be and this is one of those things where we don't know what the odds are it hasn't happened yet you know but you know we owe California yeah right California being California will be the first I I know that that probably doesn't advance anything but it's just

**Commissioner Hatch:** to some degree this could be fitting in was sort of the national speculation over how certain facebook ads were funded by perhaps foreign interests these these Bitcoin contributions may have a track record already and we just not been made aware of or stumbled over them

**Chair Germond:** yeah madame Chair I just don't know enough about work allocation within our within our existing staff to it you know to to begin to determine how we might provide direction or what direction I would suggest that the Commission consider suggesting to our executive director in terms of what kind of a priority of this this is

**Mr. Lau:** if I can add what I may at this point I can say August would be really tight to try to get some sort of discussion before you we could give it a shot and it's just those really tight period to do August I would offer up September but a September is a remote location and so we would have limited staff available for that meeting so that's a possibility it's a possibility that it's just something that warrants further discussion so August would be tight September is doable but at

the same time we have where we have the issues with remote locations so but at the October same time I mean it can be done sooner

**Chair Germond:** and I would further note of course obviously that we are in the middle of an election by October November I don't consider Los Angeles a remote location let me just state that for the record it's a pretty big city probably bigger than 25 more States just tossing that out but nonetheless I I certainly hear you that the workload and the the questions around Bitcoin are so complicated and an unknown that for us to assume that staff or practically any group of people could come together and help formulate an appropriate way to move forward on that issue within the next six weeks or even two months is probably beyond our current scope in the midst of an election so I would agree with Commissioner Hayward that we should certainly take this up at some point soon but I would I would be quite comfortable if the board the Commission agreed that we might take this up after the November election

3:00:00

**Ms. Peth:** we could also provide sorry we have staff already working on it and I share Brian's concern about saying the exact date but I think it's a probably a multi-step multi meeting discussion so one option is to provide potentially just kind of a background briefing memo at whatever point that can be prepared as I think last time when it came up there's just kind of general questions about some of the technology and just what you know sort of the background of it and then Mr. Norton who's just came up and said I believe the state of Oregon is considering rules at the end of July so he could at least provide an update as to what they did or did not do or if it's completed you know just kind of a status update so that's an option potentially for September is just kind of a that's a background

**Chair Germond:** That's a great option

**Ms. Peth:** and then that way everyone can kind of start thinking about it

**Chair Germond:** might we as a group agree that in September we will have a brief report then on the information that has been gathered or is not terribly staffed consuming to gather so that we can begin to think about how the parameters of this discussion so that we can move forward in an incremental a until we can grapple with it thoroughly after the November elections is that agreeable

**Commissioner Hatch:** Sure

**Commissioner Cardenas:** yes uh in this connection but broader application is there such a thing as a National Association of FPPCs some some kind of a national word information is exchanged in best practices and

**Ms. Peth:** there is an organization called COGEL which sounds stands for Council of governmental ethics laws and so it is a they also cover elections administration things which are not under our purview but that's the most similar types of organization so you know they have an annual conference and people obviously make connections through that and they're not



necessarily as far as I know it's there's not sort of like a brief bank of things but we have connections with other you know states and municipalities that we can try to access to

**Chair Germond:** it's interesting you brought that up because as the new newest member of this Commission I had asked if there is if there are other states that have Commission's with similar responsibilities and if there are best practices that we can learn from them and that we happily because we've been so innovative in initiating this whole concept from historically that we share with them as well but no reason to ever reinvent the wheel if it's working and if it's working someplace else and we can tailor it to the specific needs of California which sometimes are a little unique because of our size and scope it might make sense certainly to be aware of them and and take advantage of other people's good work Oregon's Bitcoin concept may immediately come to mind is that sort of concept so I guess perhaps what we're thinking about or what you're thinking about is that we should continue to have the kind of interaction that I gather we've had with COGEL historically perhaps is there something further you would like to entertain

**Commissioner Cardenas:** yes

**Chair Germond:** within the parameters but what we can't do favorite bagely keen people

**Commissioner Cardenas:** I did I did have another question madam Chair if I might and so at the September meeting where might this glorious location be

**Ms. Peth:** we have an exciting update for you I know how passionately you look desired to have the meeting of Public Works boardroom and we have secured that location

**Commissioner Cardenas:** that's a gorgeous room

**Chair Germond:** in a remote location I may add

**Mr. Lau:** I apologize for that account on the bet I didn't know it was a

**Commissioner Cardenas:** I don't know if anyone ever suggested it to you but it is a gorgeous

**Ms. Peth:** I heard it once or twice last week last month

**Commissioner Cardenas:** well that according to our minutes I you know it is

**Ms. Peth:** the credit goes to Miss Hon who has secured that for you

**Commissioner Cardenas:** Here here appreciate it

**Chair Germond:** are there any other items that bring us back home here not on this item okay thank you and now we move to the executive session I believe which so we will the Commissioners will move to a different location for what will probably be a fairly brief

executive session we will then return to this room for any comments if needed and for a formal adjournment

**Commissioner Hatch:** question madame Chair we have two executive sessions that we're going to do them at the same time and then

**Chair Germond:** Yes we will do the executive day in seria

**Public Meeting adjourned at 1:13 pm.**

**Closed Session.**

**29. Closed Session. Pending Litigation (Gov. Code § 11126(e)(1)).** Request for Authority to File a Civil Complaint: *In the Matter of Alfonso Sanchez and Alfonso Sanchez for School Board 2016*; FPPC No. 16/20105.

(Executive Director Memo released pursuant to Government Code Section 11125.1. However, under Government Code Section 11126(e)(1), request will be considered in closed session in consultation with the Commission's counsel.)

**Executive Director Memo**

**30. Closed Session. Pending Litigation (Gov. Code § 11126(e)(1)).** *Burgess v. Fair Political Practices Commission*, Riverside Superior Court Case No: RIC-1510656; discussion of pending litigation regarding attorney's fees.

**Public Meeting reconvened at 1:39pm.**

**Chair Germond:** okay good we're back I think we're at the conclusion of today's meeting we're ready to go home for those who have a home still but before we do that I guess there's is there any last business Brian that we need to conclude from but

**Mr. Lau:** it's optional whether or not you want to report out what we voted on in the closed session or not this is dedication so it's not required but it we can announce the vote

**Chair Germond:** okay the body took up two issues in the closed session we thoughtfully discussed them and we voted unanimously on both of them to go forward with the recommendations that they move forward in the process and without getting into any detail beyond that because it was a closed session we did our job and that this point I would like to ask if there's any last public questions or anything further that we need to always be open to seeing none I again would like to thank the staff I would like to thank my fellow Commissioners for getting me through my first meeting without embarrassing me or the Commission too terribly much I hope looking forward to meeting and seeing everyone next month and I move that we adjourn

**Commissioner Hatch:** second

**Chair Germond:** do we need to call the roll for that all those in favor

**All:** aye

**Chair Germond:** thank you meeting is adjourned

Meeting Adjourned at 1:41 p.m.

Respectfully Submitted,  
Sasha Linker  
Commission Assistant  
July 9, 2018