

In The Matter Of:

v.

April 6, 2011
Board of Apportionment meeting

Tricia Pfeifer
Precision Court Reporting Services, Inc.

Board of Apportionment meeting

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STATE OF ARKANSAS

3

BOARD OF APPORTIONMENT MEETING

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The meeting of the Board of Apportionment was held,

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Wednesday, April 6, 2011, in the Supreme Court Courtroom, State

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Capitol, beginning at 8:30 a.m.

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BOARD MEMBERS:

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GOVERNOR MIKE BEEBE

14

ATTORNEY GENERAL DUSTIN McDANIEL

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SECRETARY OF STATE MARK MARTIN

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ALSO PRESENT:

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JOE WOODSON

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Board of Apportionment meeting

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1 GOVERNOR BEEBE: The meeting will come to order or
2 Board will come to order, or whatever we are. We've got a
3 tentative agenda here which is just for guidance. Don't
4 worry about it; if y'all want anything changed, thrown out,
5 to modify it, alter, just holler. We have a transcript of
6 the previous meeting; it was your Attachment 1. The court
7 reporter did that, I think; right?

8 MR. WOODSON: Yes, sir.

9 GOVERNOR BEEBE: Is there any reason y'all want to take
10 a minute to look at it, do you want to defer it to the end
11 of the meeting for people to look at, do you want to approve
12 it; what do y'all want to do?

13 MR. McDANIEL: I reviewed it. I say we make a motion
14 to adopt it as part of the record.

15 GOVERNOR BEEBE: Motion to adopt it as part of the
16 record. Any discussions?

17 MR. MARTIN: No, that's fine.

18 GOVERNOR BEEBE: Without objection that will be the
19 ruling.

20 Next, expenditures. Motion to accept reimbursements of
21 funds.

22 You've given money back. Thank you. And some of it
23 you haven't given back, which you shouldn't give back.

24 MR. MARTIN: We've reclassified those funds that were
25 actually expended. One of the things that we wanted to make

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1 sure to do was when we come in, that money was actually put
2 into an unrestricted line item. Whenever we reviewed your
3 governor's letter, it was very specific that that was
4 restricted funds, so what we've done is reclassify those
5 funds and made all the necessary accounting adjustments.

6 GOVERNOR BEEBE: Is there anything to be done on that,
7 other than to acknowledge it and accept it and say thank
8 you?

9 MR. MARTIN: No, sir, I don't believe so.

10 MR. WOODSON: No, sir.

11 GOVERNOR BEEBE: All right. Then that will be -- so be
12 it.

13 Restricting coordinator. We had talked about hiring
14 Joe, if he was willing to take it. Apparently he's willing
15 to take it, so we need a motion to affirm Joe's acceptance
16 as restricting coordinator.

17 Anybody want to make such a motion?

18 MR. McDANIEL: I'll move.

19 GOVERNOR BEEBE: Is that okay with you?

20 MR. MARTIN: I will be voting, humbly, no.

21 GOVERNOR BEEBE: Okay. Well that's fine.

22 The motion is yes. I vote yes, you vote no. Let the
23 record reflect we've hired Joe.

24 MR. WOODSON: Thank you.

25 GOVERNOR BEEBE: You don't have to be humble about it

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1 That's okay. Where are we?

2 MR. McDANIEL: Five.

3 GOVERNOR BEEBE: Office space. Joe, you're recognized.

4 MR. WOODSON: Thank you, sir.

5 We have moved into the Victory Building suite, and we
6 did that on March 24th. We need to get some hardware after
7 today, after I get authority to purchase a computer,
8 hardware and software, but for the most part we're sitting
9 on go. I know the Attorney General's office, their folks
10 have got their machines up and running with the software. I
11 know your office has at least one license, and I know the
12 Secretary of State's office has several licenses as well.
13 So we -- the legislature appropriated a position for me,
14 before the end of the session, and -- and there's some money
15 left over from your proclamation, and there's also an
16 appropriation for fiscal '11 to '12.

17 So, in short, we're ready to get to work, probably
18 start drawing maps next week some time, as soon as we can
19 get a machine bought, software loaded, and that sort of
20 thing. So we're ready to go to work almost, assuming the
21 Board gives that authority today.

22 I think we do need to have some discussion of the final
23 budget numbers and get some guidance from the Board on that,
24 if it's the appropriate time.

25 GOVERNOR BEEBE: Sure it's the appropriate time.

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1 MR. WOODSON: Okay. As you know, last year you gave
2 200,000 to the Secretary of State. Secretary Martin
3 reimbursed 60,000. And if you look on Page 2-4 of your
4 packet, this is an e-mail that I had sent last week to the
5 Secretary's office, and that first paragraph there states
6 that there is \$179,000 available, balance. And then below
7 that, numbers 1 through 8 are simply an itemized list of the
8 things that the Secretary reimbursed. So keep that \$179,000
9 figure in mind, because I want to come back to it --

10 GOVERNOR BEEBE: Okay.

11 MR. WOODSON: -- and get the Board's guidance on a
12 couple of other numbers.

13 GOVERNOR BEEBE: Okay.

14 MR. WOODSON: Then if you would, flip forward to 2-7.
15 If the Board will recall, you had instructed me at the last
16 meeting to look into the expenditures and execute some due
17 diligence with respect to how that money was spent. I did
18 that in that e-mail that begins on 2-4. And then Page 2-7
19 is one of two letters that I received from the Secretary's
20 office.

21 The gist of this first letter, 2-7, written by Deputy
22 Stewart from Secretary Martin's office is that quite a bit
23 of work had been done by Secretary Daniels last year in
24 preparation for redistricting, and there's no doubt about
25 that, Secretary Daniels did go above and beyond with respect

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1 to trying to get us ready to redistrict.

2 One of the questions that needs answered is there on
3 that first page. I think the Secretary's office is also
4 asking for some sort of payment on that \$69,000 that was
5 previously spent.

6 GOVERNOR BEEBE: Out of the Secretary of State's
7 budget?

8 MR. WOODSON: Correct, from last year.

9 GOVERNOR BEEBE: Okay.

10 MR. WOODSON: My thought on that is that's water under
11 the bridge. Given our limited budget, going forward from
12 here, I wouldn't feel comfortable recommending that we pay
13 that out of what we have right now.

14 GOVERNOR BEEBE: All right. Mr. Secretary, do you want
15 to make any -- do you want to contradict that or say
16 anything different or make any points or have anybody say
17 anything?

18 MR. MARTIN: I primarily just kind of wanted to make it
19 known that the Secretary of State's office had actually
20 contributed significantly to the Board of Apportionment on
21 this redistricting fund. It would be nice to actually have
22 that back in the budget, but --

23 GOVERNOR BEEBE: Well, as I understand it, back in,
24 what, November or December or whatever, out of the -- out of
25 the budget that you got half of when you took office,

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1 Secretary Daniels had already spent that 60 some odd
2 thousand dollars for computer stuff or for --

3 MR. WOODSON: Software, licensing, hardware.

4 GOVERNOR BEEBE: -- software, licensing to get started.

5 MR. MARTIN: Yes, that's correct. And that's what this
6 is an accounting of here.

7 GOVERNOR BEEBE: You know, it occurs to me that the
8 fairest way to handle this, we're strapped, we don't have
9 any money until July 1st, the way everything went down,
10 except the \$200,000 -- except the 170 something thousand
11 dollars.

12 What we ought to do is reimburse your account that 60
13 some odd thousand dollars, if that -- if you think that's
14 appropriate, out of the money that starts July 1st.

15 Would that be all right?

16 MR. MARTIN: Well, and that sounds especially generous,
17 and I appreciate that.

18 GOVERNOR BEEBE: I mean have you got an objection to
19 that?

20 MR. McDANIEL: I just think I'm maybe confused. I
21 thought we were talking about the \$60,000 that's already
22 been reimbursed by the Secretary of State to the Board.

23 MR. WOODSON: No.

24 GOVERNOR BEEBE: No.

25 MR. McDANIEL: It's a different \$60,000?

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1 MR. WOODSON: Sorry.

2 GOVERNOR BEEBE: He's talking about 60 some odd
3 thousand dollars that Secretary Daniels spent when he was
4 still Secretary of State in anticipation of this work to be
5 done, buying licensing agreements and computers and
6 whatever --

7 MR. WOODSON: Correct.

8 GOVERNOR BEEBE: -- but it came out of the Secretary's
9 budget. It didn't come out of the \$200,000 emergency money;
10 it came out of the Secretary of State's regular operating
11 budget for the current fiscal year. He assumes half -- he
12 ends up stuck with half of the budget for half of the year,
13 but that 60,000 has been spent.

14 MR. McDANIEL: Well obviously --

15 GOVERNOR BEEBE: And what I suggested is that we don't
16 have the money to give it to him before July 1st because we
17 don't have any money except the 200, and we're going to need
18 that I presume, that limited amount of money. But we could
19 give it to him after July 1st, out of the appropriation that
20 the legislature passed for the Board of Apportionment
21 commencing July 1st.

22 MR. WOODSON: I think there would be enough there. The
23 legislature appropriated 583,000 for the next fiscal year,
24 and 317,000 of that can go towards operating expenses, so
25 there will probably be enough.

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1 MR. McDANIEL: So what you would need, Mr. Chairman, is
2 at least a two-third -- a majority vote to appropriate
3 60,000 out of our budget to reimburse the Secretary of State
4 after July 1st?

5 GOVERNOR BEEBE: That's correct.

6 MR. McDANIEL: So moved.

7 GOVERNOR BEEBE: I assume that's good with you? You
8 weren't expecting it, were you?

9 MR. MARTIN: Absolutely.

10 GOVERNOR BEEBE: All right. Without objection then,
11 get with DF&A and Secretary of State's office and do
12 whatever we need to do so that we can reimburse the
13 Secretary of State for what was spent last year, but do it
14 out of next year's money since we're limited with only
15 170,000 for this year.

16 MR. WOODSON: Yes, sir.

17 GOVERNOR BEEBE: All right.

18 MR. WOODSON: Couple more housekeeping items.
19 Page 2-8, there's a copier for \$236 a month, we need to pay
20 the court reporter from last Board meeting, and I recommend
21 that we do pay those out of our current budget. And also,
22 as we have said, Secretary Daniels had bought 15 licenses
23 last year, so we've got 15 licenses sitting out there. I
24 would suggest that three be given to me, that would leave
25 four for each of the three of you, and I understand that

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1 Attorney General McDaniel already has some other licenses.
2 So if we have some extras, we could also allow those to be
3 used by county folks, city folks, that kind of thing.

4 GOVERNOR BEEBE: Why do we need that many?

5 MR. WOODSON: Well, it was sort of a work in progress,
6 and that decision was made last year, and no one was real
7 sure how many we would need, how many folks would be working
8 on the process but --

9 GOVERNOR BEEBE: Do you have to have a license for
10 every computer?

11 MR. WOODSON: User.

12 GOVERNOR BEEBE: For every user?

13 MR. WOODSON: User. So if a person wants to use the
14 Auto Bound software, they have to have permission to do that
15 through the license.

16 MR. McDANIEL: And it can't be two people using one
17 license --

18 MR. WOODSON: Correct.

19 MR. McDANIEL: -- if we're abiding by the contract we
20 made with the manufacturer.

21 MR. WOODSON: Nevertheless, Secretary Martin already
22 has 15 licenses, and I'm just suggesting that we divvy those
23 up.

24 GOVERNOR BEEBE: Is that all right?

25 MR. MARTIN: Those licenses are network licenses, so

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1 we'll have to make a -- make access available to everybody
2 that uses them, but -- there could be more than 15 users as
3 long as there's not more than 15 logged on simultaneously.
4 So I guess if somebody starts using more than others, at
5 certain times we may have to divvy it like you're saying,
6 but I think up into that time, I mean if the Governor is
7 working on it late at night, he can use 13 or 14 of them
8 simultaneously, and then if somebody else is working on them
9 at different times, as long as it's all being executed off
10 the sever, I think that those can float back and forth as
11 far as -- because it is a server license agreement.

12 MR. WOODSON: Well, thank you for that, and I didn't
13 realize that it was strictly for network usage.

14 That brings up our next point, on Item 5 is the
15 autonomy. I had recommended that this Board adopt a motion
16 that the Board of Apportionment staff, which is me, work
17 autonomously from all three offices, just to insulate all
18 three offices from any sort of criticism or games playing,
19 that sort of thing, given the politically-charged atmosphere
20 that we're in. So -- there's a lot of interest, I think.
21 So that -- we need to answer that question to answer
22 Secretary Martin's question, because if we're working
23 independently on separate machines, separate phone lines,
24 separate systems, separate e-mail, everything, then I don't
25 think we would be able to use those network licenses,

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1 because those are running on the Secretary's system.

2 GOVERNOR BEEBE: Yeah, I'm -- you know, I think what
3 you're saying makes sense. The question is: Why do we have
4 to go buy new licenses? Why can't you just transfer some of
5 these licenses to you and create the autonomy you're talking
6 about?

7 MR. WOODSON: I would like to if we can. I'm not sure
8 what the answer to that question is.

9 GOVERNOR BEEBE: Can that be done?

10 MR. MARTIN: Let me review with staff what the license
11 agreement is and what kind of -- it looks like City Gate is
12 the name of the people that this was purchased from. We'll
13 review them and get -- let staff work out what the details
14 on that is and what's permissible under the license
15 agreement.

16 MR. WOODSON: Very good. And, yes, that would be much
17 preferred.

18 GOVERNOR BEEBE: And that would save a lot of money.
19 Is that all right with you?

20 MR. McDANIEL: I had to buy my own, as you know.

21 GOVERNOR BEEBE: You don't care?

22 MR. McDANIEL: I do care, because we need additional
23 licenses, but really it impacts me less than the other two
24 of them.

25 GOVERNOR BEEBE: All right. Well then, if I understand

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1 what you're suggesting is get staff together to see if the
2 contract allows it. If it doesn't allow it, then see if we
3 can amend the contract or renegotiate the contract or
4 whatever?

5 MR. MARTIN: Something along those lines. I'll have
6 staff work it out. As far as the concern that Mr. Woodson
7 actually brought up, I think the only person that that would
8 affect would be yourself, Governor, because everything I've
9 got is FOIable anyway, so --

10 GOVERNOR BEEBE: You're not going to affect me, because
11 I'm not going to use the thing anyway.

12 MR. MARTIN: So all of the licenses except to
13 (inaudible) --

14 GOVERNOR BEEBE: It might affect James Miller; he's
15 using it.

16 MR. MARTIN: -- are available for public viewing. I
17 think their -- and Attorney General was actually there, so I
18 think that the licenses that Joe will be using and the
19 Governor's staff will be using are the ones that we'll have
20 to see -- to work out your issues with.

21 GOVERNOR BEEBE: Well, you're subject to FOI too,
22 aren't you?

23 MR. WOODSON: Absolutely.

24 GOVERNOR BEEBE: Yeah. That's the guy I think ought to
25 have all this stuff. I mean you can work on stuff and you

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1 can work on stuff and certainly my staff can work on stuff,
2 but the coordination has to be with the ED of the Board I
3 think. That's the one -- I'm not so much worried about me,
4 I'm worried about what he has and the fact that he needs to
5 be working independently, because you may tell him you want
6 certain stuff, he needs to abide by what you want and what
7 the AG wants, and presumably what I want. So I think we're
8 all saying the same thing, and that is let the staff get
9 together with Joe and Joe's staff -- you don't have a staff
10 yet, do you?

11 MR. WOODSON: I think it's just going to be me,
12 Governor.

13 GOVERNOR BEEBE: Okay. You get together with Joe and
14 your staff get together with Joe and let's see what needs to
15 be done to effectuate the kind of autonomy he's talking
16 about, and preferably to split up these licenses in a way so
17 we don't have to spend anymore money. And just transfer to
18 create the autonomy he's talking about, because you don't
19 need 15 in your office, do you?

20 MR. MARTIN: No, those licenses, I think that -- and,
21 Joe, you was involved in the decision of purchasing that
22 many licenses. I think that those were actually going to be
23 drifting to -- via the -- the internet access of the web
24 licenses to their various counties to assist them in
25 actually performing their local redistricting; is that not

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1 correct?

2 MR. WOODSON: I think so. The thought was the
3 downstream folks, county folks, city folks, after we get
4 through drawing our maps, those would be available for their
5 use.

6 MR. MARTIN: So I believe that's the logic behind it.

7 So I think that you're right, Governor, that there's
8 plenty of licenses for this Board to actually do their work,
9 and those licenses will be made available for the local
10 municipalities to do their redistricting.

11 GOVERNOR BEEBE: All right. If there's no objection,
12 then your staff will get with Joe and you-all work out the
13 distribution of those and the autonomy.

14 You may want -- even though you've got your own, you
15 may want one of those licenses too; I don't know.

16 MR. McDANIEL: I mean, it's certainly -- if it can be
17 worked out between staffs outside the course of a meeting
18 and without the necessity of a motion, I think that's fine.
19 But currently those licenses are owned by one member of the
20 Board and were purchased by one member of the Board, and
21 we -- it will be among the expenses, I assume, that we're
22 reimbursing the Secretary of State for out of that 60,000,
23 and they should be the property of the commission, you know,
24 and the commission staff should be in charge of that. And
25 to the extent that the three of us have independent needs,

1 we should be able to operate independently.

2 The way I understood it back in December, when, you
3 know, we authorized Charlie to spend the money in the first
4 place, was -- or maybe it would have been earlier than that,
5 was that each commissioner would have at least three
6 licenses, and -- and then they would be ours. And that was
7 what led to the IT problems that my office experienced for
8 three months, was trying to figure out how to make those
9 licenses work. I don't want to forfeit those licenses,
10 especially to the extent that I believe that they will work
11 in our office space over at Victory, and I just want to
12 expedite the idea of what actually belongs to the commission
13 and what actually belongs to each individual commissioner's
14 constitutional office. If we can do that without any motion
15 needed from the Board, then more power to you.

16 MR. WOODSON: Well, and that raises the larger point.
17 Part of what I am recommending the Board do is give me
18 complete autonomy from each of the three offices with
19 respect to who has a key to the office, who can have a
20 machine in there, separate phone lines, separate e-mails,
21 and so the licenses are under that umbrella, but I need
22 guidance from the Board.

23 Is that the way you want me, as a staff member, to work
24 for the Board?

25 GOVERNOR BEEBE: Comments?

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1 MR. McDANIEL: I mean I believe that this is a unique
2 state agency to the extent that it only operates for a few
3 months every ten years, but nonetheless by statute we are an
4 agency. And you are the director of that agency and we are
5 the governing board of that agency, is the best way I know
6 how to describe it. And so although we have the authority
7 to create policy and hire and fire personnel, I would think
8 that if -- you couldn't do your job unless you were
9 autonomous and able to make your own decisions, and of
10 course you have to report to the Board and respond to the
11 will of the Board, but I don't think you should beholden to
12 any one of the three of us anymore than any others. That's
13 my personal thought.

14 GOVERNOR BEEBE: Mark?

15 MR. MARTIN: I think that what he's asking for for the
16 operation of the Board of Apportionment seems reasonable.

17 One of the things that we need to keep in mind is the
18 Secretary of State has duties that will carry over for the
19 next ten years with these licenses and whatnot, so I think
20 that we need to make some kind of arrangements to make sure
21 that once the duties of the Board of Apportionment have
22 completed, that those can roll back into the use of the
23 Secretary of State's office. But other than -- than
24 arrangements like that, I think that what's being asked for
25 is within reason.

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1 GOVERNOR BEEBE: Okay.

2 MR. WOODSON: I would agree.

3 Moving on, if you'll look --

4 GOVERNOR BEEBE: Whoa, whoa, whoa, whoa. Before you
5 move on --

6 MR. WOODSON: I'm sorry.

7 GOVERNOR BEEBE: -- there needs to be some limitations
8 on what that autonomy really means. So before you spend
9 something in excess of Y dollars, there ought to be at least
10 Board action on it. I mean, you know, it seems to me that
11 you ought to have some degree of freedom to be able to do
12 your job, but you don't want to go spend \$100,000 without
13 Board approval.

14 MR. WOODSON: I agree completely.

15 GOVERNOR BEEBE: So what's -- what would be a fair
16 restriction on -- before -- that would give you some degree
17 of latitude to go ahead and run the operation but still let
18 the Board make the major decisions before you go too far?

19 MR. WOODSON: Except for this next week or two, where I
20 plan to spend a few thousand dollars buying a few computers
21 -- one -- one, two, or three, something like that -- and,
22 again, your staffs may want a separate machine to put in the
23 apportionment space over there -- except for the immediate
24 capital outlay that I anticipate, I would say 15- to \$20,000
25 immediately would probably be a lot more than I'll actually

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1 need. Other than that, I don't anticipate any significant
2 capital expenditure. Through the whole process we're going
3 to have to buy ads in newspapers, we're going to have to
4 travel to public meetings, we'll have day-to-day operational
5 expenses, but I anticipate all of those to be very low and
6 just, you know, what you would expect to see --

7 GOVERNOR BEEBE: Okay.

8 MR. WOODSON: -- trying to do what we're doing.

9 GOVERNOR BEEBE: All right. Do y'all want to put --
10 authorize the 15,000 to 20,000 this week, and then after
11 that anything over 5,000 has to be approved by the Board, or
12 10,000?

13 MR. WOODSON: Let's say 20- --

14 MR. McDANIEL: Is 5- high enough or do you need 10-?

15 MR. WOODSON: You mean after the initial --

16 MR. McDANIEL: After this week?

17 MR. WOODSON: I think 5- would be more than enough
18 after the initial outlay.

19 GOVERNOR BEEBE: Do you want to authorize 20- initially
20 for the initial capital outlay, and then after that anything
21 over 5- you've got to get permission of the Board?

22 MR. WOODSON: Very good.

23 GOVERNOR BEEBE: Is that okay, Mark?

24 MR. MARTIN: Yes. The initial outlay on that, one of
25 the things I'd like to mention is is that one week to make

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1 \$20,000 worth of purchases, buying decisions, may not be
2 enough, but you don't want to extend it indefinitely.

3 You may ask for two weeks, Joe, to make sure that you
4 -- within two weeks or so --

5 MR. WOODSON: Very good.

6 MR. MARTIN: -- to make the kind of decisions you want
7 to make. I don't know if you would be able to shop around
8 enough.

9 MR. WOODSON: We have already started talking to the
10 folks at DIS, and they are working up some quotes.

11 MR. MARTIN: Oh, if you've already got that work done
12 and a week is appropriate, then I'll retract my comment.

13 MR. WOODSON: No, no, I'll gladly accept that
14 recommendation because I don't have those quotes yet. So
15 two weeks should be plenty, is all I mean to say. And
16 that's a good suggestion.

17 MR. McDANIEL: Well, how about I'll make a motion that
18 he's authorized to spend \$20,000 within the next -- you
19 know, immediate time period, without a specific time on it,
20 so if we go one day over we don't have to reconvene the
21 Board, but then after that initial \$20,000, no more than
22 5,000 without Board approval.

23 GOVERNOR BEEBE: That's a motion. Any objection?

24 All in favor of that motion say aye.

25 BOARD: Aye.

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1 GOVERNOR BEEBE: All opposed?

2 (No response.)

3 GOVERNOR BEEBE: What else?

4 MR. WOODSON: Next item 2-13 is the second letter I
5 received from Deputy Stewart in Secretary Martin's office.
6 This -- this letter discusses the expenditures that were
7 previously made by the Secretary's office. One of the
8 issues, if you'll look at the last paragraph, actually the
9 very last line of page 213, they currently have a pending
10 build-out invoice for \$52,000.

11 So the question for the Board is what, if any of that,
12 should we pay at all; and if there is some portion, when
13 should we pay it.

14 My recommendation, if you look back to the beginning of
15 that last paragraph, Ms. Stewart accurately states that the
16 Victory Building suite lease is for five years, and that
17 lease will extend well beyond the life of the Board of
18 Apportionment work. So I would suggest to the Board that --
19 that one year use by the Board -- which is probably too
20 much, we probably won't even be in there a year, but one
21 year use by the Board would be appropriate, so we should pay
22 one-fifth of that \$52,000 cost. That would be my
23 recommendation. And we could pay it, again, beginning of
24 next fiscal year.

25 GOVERNOR BEEBE: Secretary?

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1 MR. MARTIN: That's certainly appropriate. I just
2 thought that we could probably handle it on a prorated use
3 and on -- and just do it on a cycle, but if we want to make
4 the expenditure all at once, that's probably the best way to
5 do it.

6 GOVERNOR BEEBE: I'm absolutely open either way, it
7 makes no difference.

8 MR. McDANIEL: What about the rent?

9 MR. WOODSON: Rent. Yes, the --

10 MR. McDANIEL: Which is at the top.

11 MR. WOODSON: Page 2-14. The rent is \$3,265 a month,
12 and I would recommend that we pay that beginning March 24th
13 for a prorated month, and just continuing either for one
14 year or until we move out, which -- which might be less than
15 a year.

16 GOVERNOR BEEBE: It goes without saying, I mean that's
17 pretty -- yeah.

18 MR. WOODSON: Yes, sir, okay.

19 GOVERNOR BEEBE: Any problem with that, Mark?

20 MR. MARTIN: No, sir.

21 GOVERNOR BEEBE: Okay. You?

22 MR. McDANIEL: (Shakes head from side to side.)

23 GOVERNOR BEEBE: Okay.

24 MR. WOODSON: And the other item was, the last
25 paragraph of 2-14, there's \$12,885 in capital expenditures

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1 that were made by the Secretary but have not been
2 reimbursed. And again, I think it's a proration question of
3 what percentage of that should the Board pay. Again, I
4 would suggest a fifth.

5 GOVERNOR BEEBE: Well, is a fifth appropriate, or do
6 you-all just need to get together and see what's a fair --

7 MR. WOODSON: That would be fine. We'll probably be in
8 there less than a year, so it could actually be less than
9 20 percent.

10 GOVERNOR BEEBE: I don't mind doing a fifth, if it's
11 easier that way to do it.

12 MR. WOODSON: I think it's easier, but I don't have a
13 strong preference.

14 MR. MARTIN: One of the things I will say on this, that
15 was previous purchases, and it was actually classified at a
16 one-third, one-third, one-third. I assume that the Board or
17 staff had actually agreed on that beforehand, which is the
18 reason we hadn't already changed that classification, but we
19 can comply with whatever the Board decides on that.

20 GOVERNOR BEEBE: Wait a minute. Are we talking about
21 money that was expended by Charlie that was included in that
22 \$60,000? This is over and above that?

23 MR. WOODSON: No, sir. This was not reimbursed but
24 spent by the Secretary.

25 GOVERNOR BEEBE: But not part of the 60,000 that

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1 currently we're contemplating reimbursing the Secretary?

2 MR. WOODSON: Correct. This is separate.

3 GOVERNOR BEEBE: Okay. So what are you saying, Mark?
4 What's your suggestion?

5 MR. MARTIN: Well, the will of the Board is fine,
6 one-third, one-fifth on this, I just -- I think that the
7 difference -- we're talking about -- about 11- or \$12,000
8 here, and the work that we would put ourselves, our staff,
9 and DF&A over between the difference between one-third and
10 one-fifth is probably not worth the expense of the taxpayers
11 for changing it all around.

12 GOVERNOR BEEBE: I mean, I'm open; either way. If you
13 -- is this furniture that's going to be -- is that what
14 we're talking about here, furniture that's going to be
15 utilized in your office, in the Board of Apportionment
16 office?

17 MR. WOODSON: Correct.

18 GOVERNOR BEEBE: And is this Board of Apportionment
19 office going to be utilized by you after we're done for five
20 years, and you have a five-year lease on it?

21 MR. MARTIN: That's correct.

22 GOVERNOR BEEBE: And so the question is whether or not
23 the Board of Apportionment pays out of its budget two-thirds
24 or one-fifth or one-third or -- what's -- what's your issue?

25 MR. MARTIN: Okay. To make sure that we're all clear

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25

1 on this, Secretary Daniels paid out of the Board of
2 Apportionment one-third of the cost of the furniture that
3 was placed in the -- in the redistricting facilities.

4 GOVERNOR BEEBE: He paid it out of the Board of
5 Apportionment?

6 MR. McDANIEL: Yeah.

7 MR. MARTIN: Out of the Board of Apportionment
8 (inaudible) proclamation.

9 GOVERNOR BEEBE: Okay.

10 MR. MARTIN: We did not reclassify those purchases.

11 GOVERNOR BEEBE: Sure. Sure.

12 MR. MARTIN: So what we're deciding now is whether or
13 not I need to reclassify that to one-fifth or just go ahead
14 and leave the decision that was made of one-third in place.

15 GOVERNOR BEEBE: You're just asking for approval that
16 that one-third that you didn't reimburse for stay that way?

17 MR. MARTIN: Yes, sir.

18 GOVERNOR BEEBE: That's fine with me.

19 Is that all right with you?

20 MR. McDANIEL: Yeah, absolutely.

21 GOVERNOR BEEBE: Do you want it to be one-fifth?

22 MR. McDANIEL: No.

23 GOVERNOR BEEBE: Do you want to get more money from
24 them?

25 MR. McDANIEL: No, but I also don't want to pay

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1 anymore.

2 GOVERNOR BEEBE: No, we're not paying anymore. Right?

3 MR. MARTIN: I don't believe so.

4 MR. McDANIEL: Well, you were talking about paying
5 one-fifth of the overall cost.

6 MR. WOODSON: Let me say the same thing a different
7 way, and that is that of the money that has been spent,
8 12,800 has not been reclassified or reimbursed to the Board.
9 And so anywhere from one-third to 20 percent of that might
10 be our responsibility, but the other two-thirds should be
11 reclassified because it's the Secretary's responsibility
12 because they're going to have the use of all of this stuff
13 after we leave.

14 MR. McDANIEL: I mean, it would seem to me that if the
15 Secretary goes through, evaluates what's been spent so far,
16 determines that he appropriately should pay us back, you
17 know, however much the bottom line was, whatever he thinks
18 he should not have to pay us back because either it was an
19 appropriated expenditure to the Secretary of State's office
20 or they're going to receive the long-term benefit of it,
21 they're going to own this furniture when we're out in July
22 or September or October, or whatever, and they're going to
23 have this space. Not only do I think that it's okay that he
24 doesn't reimburse us, I darn sure don't think we should have
25 to pay him for it. I think leave it. We accepted the money

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1 he believes he owes us.

2 MR. WOODSON: Very good.

3 MR. McDANIEL: I'm fine with that. I don't think we
4 owe them anymore than the 60,000, which was a surprise
5 anyway.

6 MR. WOODSON: Very good.

7 MR. MARTIN: And I believe it was a misunderstanding.
8 The Secretary of State's budget previously had already paid
9 for two-thirds of that expense, if I understand things
10 correctly. So that has already been paid, so one-third.
11 Now, like I said, I think the only decision is is one-third
12 a fair, and one-fifth a fair, and what maybe does that do if
13 we go back and correct that to Charlie's 50 percent rule.
14 So I think this is probably better just left alone.

15 GOVERNOR BEEBE: All right. All right. I think I
16 understand. First of all, whatever Charlie had paid
17 originally on this that's applicable to the Board, you're
18 going to get back anyway; right?

19 MR. MARTIN: Yes, sir.

20 GOVERNOR BEEBE: Based upon our previous action?

21 MR. MARTIN: Yes, sir.

22 GOVERNOR BEEBE: And, secondly, whatever you spent that
23 you've reclassified, you've left out of the reclassification
24 what you believe to be the appropriate part that's
25 applicable to the Board of Apportionment?

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1 MR. MARTIN: Yes, sir.

2 GOVERNOR BEEBE: And you're just willing to leave it
3 alone, and if we pay too much or too little, it's not enough
4 to make a big deal about; is that --

5 MR. MARTIN: That's my understanding of it, yes, sir.

6 GOVERNOR BEEBE: That's fine with me.

7 MR. WOODSON: Very good.

8 GOVERNOR BEEBE: What's next?

9 MR. WOODSON: I think we've covered Number 6, if you
10 agree.

11 GOVERNOR BEEBE: Well, do we need a motion on that?

12 MR. WOODSON: For clarity, we probably do.

13 MR. McDANIEL: How about the staff issues that are on
14 -- in that letter? Where do we stand with that?

15 MR. WOODSON: I'm sorry, Mr. Attorney General, how do
16 you mean?

17 MR. McDANIEL: Well, let's see, on 2-14 you talk about
18 Mr. Hutchinson and Mr. Gallagher. I just want to make sure
19 that -- where are we on that?

20 MR. WOODSON: Well, Ms. Stewart identified in this
21 letter and in the documents that were produced that the
22 money that was paid Mr. Hutchinson and the money that was
23 paid Mr. Gallagher has been reimbursed.

24 MR. McDANIEL: And going forward they work for not us
25 but the Secretary of State; is that correct?

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1 MR. WOODSON: That's my understanding.

2 MR. McDANIEL: Okay.

3 GOVERNOR BEEBE: Anything else?

4 All right. The -- I think we danced around it, and
5 we've kind of said this, but implicit in what was just
6 discussed about authorizing you to spend 20,000 in the
7 immediate future for the immediate startup and then get
8 permission of the Board for any expenditures over 5- is the
9 general tenor of your recommendation on you being the
10 designee and given -- given control over the administrative
11 duties as, in effect, the head of the agency, as the
12 Attorney General indicated. So I guess just to clear the
13 record, we probably need a motion to formalize that.

14 MR. McDANIEL: I thought we did it. So moved.

15 GOVERNOR BEEBE: If we have, then we've done it twice.
16 So there is a motion. Is there a second?

17 I second.

18 All in favor say aye.

19 BOARD: Aye.

20 GOVERNOR BEEBE: All opposed?

21 MR. MARTIN: No.

22 GOVERNOR BEEBE: That's what you already said no to,
23 but I didn't know whether or not we covered Item 6 in
24 conclusion.

25 MR. WOODSON: Okay. I think we're ready for the last

1 page of your packet, which is discussion of the legal
2 criteria.

3 GOVERNOR BEEBE: Okay.

4 MR. WOODSON: I have put some bullet points together
5 and would be glad to answer any questions.

6 MR. McDANIEL: And why don't you give us a quick
7 rundown while we're looking it up.

8 GOVERNOR BEEBE: The down and dirty.

9 MR. WOODSON: Well the criteria that have been approved
10 by the courts, there's some core criteria that it's widely
11 recognized. The cornerstone for all redistricting is one
12 person one vote, and that is equal population within
13 constitutional variances. Some confusion among people that
14 don't work with this as closely as we all do is that there
15 are two different standards. There's one standard for
16 congressional districts, which we all know is going on right
17 now, and that is strict equality, almost mathematical
18 precision, and that -- that is because it comes from the
19 apportionment clause of the U.S. Constitution.

20 With respect to what we're doing, the Board of
21 Apportionment, we have a different standard which comes from
22 the equal protection clause of the 14th Amendment, and that
23 is an overall range of less than 10 percent.

24 For example, if the ideal district size in Arkansas is
25 100 people, you can have a 5 percent variance one way or the

1 other. So you can have from 95 people to 105 people as long
2 as your overall range is 10 percent or less, and that's what
3 that means. A couple of other very important considerations
4 are compliance with the Voting Rights Act of 1965. And, in
5 essence, that says don't discriminate against racial or
6 language minorities.

7 At the same time, there's been a long line of U.S.
8 Supreme Court cases that have talked about you cannot
9 redistrict based solely or primarily on race, and so you
10 have to be careful there, and that comes from the equal
11 protection clause also. And there are a couple of
12 exceptions, avoiding a Section 2 violation, et cetera.

13 And then you move on to geographically contiguous
14 districts, and that simply means you can't have an island,
15 you can't have a district over here and then a separate
16 island where the land doesn't actually touch, compact
17 districts. I guess the perfect district would be a circle
18 or a square. We all know that in the real world that
19 doesn't happen. But when we draw these maps, we need to
20 have them as compact as possible.

21 The court cases continue to talk about other criteria.
22 They want to minimize splitting political subdivisions,
23 counties, cities, voting precincts, maintaining core of
24 existing districts, so if historically you've had a certain
25 town or a certain region in the district, you try to keep

1 that.

2 Maintain continuity of representation. The rationale
3 there is that if the people have elected a person before,
4 they ought to be able to elect them again and, to the extent
5 possible, they shouldn't have to run against each other.
6 And then communities of interest, and the court cases talk
7 about actual shared interests in the communities that are in
8 the district, so that's just the down and dirty.

9 GOVERNOR BEEBE: Okay. Questions? Comments?

10 MR. McDANIEL: (Shakes head from side to side.)

11 MR. WOODSON: And it goes without saying that --

12 GOVERNOR BEEBE: These are guidelines and none of them
13 are --

14 MR. WOODSON: Well, no, this is --

15 GOVERNOR BEEBE: Other than the -- I mean --

16 MR. WOODSON: Regardless of what this Board does --

17 GOVERNOR BEEBE: That's the law. I understand.

18 MR. WOODSON: -- this is the law.

19 GOVERNOR BEEBE: I understand that's the law, but
20 minimizing splitting political subdivisions means exactly
21 that, minimizing. It doesn't mean it's exclusive. Counties
22 may have to be split, cities may have to be split, depending
23 upon what the population calls for. To that extent these
24 are -- these are legal guidelines that should be followed
25 and must be defended.

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1 MR. WOODSON: Yes, sir, exactly.

2 GOVERNOR BEEBE: Questions or comments?

3 I don't know when you want to start doing this because
4 we're going to have public hearings, but does anybody have
5 anything that they're just dying to say here? I mean, it's
6 public.

7 There's somebody that is dying to say something. Do
8 you want to --

9 UNIDENTIFIED PERSON: I want to ask a question.

10 Ordinary citizens, is there going to be a website or
11 some area where an ordinary citizen can go and make comments
12 or see what's going on?

13 GOVERNOR BEEBE: Good question. Good question.

14 MR. WOODSON: Yes, there already is a website. We'll
15 accept suggestions, e-mails, calls.

16 GOVERNOR BEEBE: Tell him what the website is.

17 MR. WOODSON: Arkansas Board of Apportionment.

18 UNIDENTIFIED PERSON: Arkansas Board of Apportionment?

19 GOVERNOR BEEBE: Dot gov or --

20 UNIDENTIFIED PERSON: Is it spelled out?

21 MR. WOODSON: Yes, it's spelled out.

22 MR. McDANIEL: Are you in charge of that website?

23 MR. WOODSON: Not yet. I will be after this meeting.

24 UNIDENTIFIED PERSON: Thank you.

25 GOVERNOR BEEBE: You bet.

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1 Any other questions or comments?

2 (No response.)

3 GOVERNOR BEEBE: Anything else to come before the
4 Board?

5 MR. MCDANIEL: Addressing the time line.

6 GOVERNOR BEEBE: Oh, yeah. We had a time line that I
7 didn't like.

8 MR. WOODSON: I apologize.

9 GOVERNOR BEEBE: That's all right.

10 I mean I know that we're probably pressed, because
11 first of all the only money you've got is what we've got
12 until July 1st, but that will stretch pretty good I think.

13 MR. WOODSON: I agree.

14 GOVERNOR BEEBE: And, you know, I think we ought to
15 shoot for getting this thing done in the summer, if we can.
16 I mean, I know in the past it's been October or November for
17 a couple of times. I can remember in '81 when I was so
18 interested in it, because I was thinking about running, and
19 did run, they got it through in June or July. And while I
20 don't want to be unrealistic, I think if we shoot for a
21 shorter period of time, we're more likely to get there. We
22 may not get there, but let's shoot -- it's my hope that we
23 shoot to get through by the end of July. And if we can't,
24 we can't. I mean, you know, the Board can always extend the
25 time if we need to extend the time, but that's my thoughts.

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1 But whatever the two of y'all want to do, that's what we're
2 going to do.

3 MR. McDANIEL: You know, the legislative conferences
4 and seminars and all that kind of stuff are usually in July.
5 Our national meeting, Governors Association, Secretary of
6 State, AGs are all in July, and I know that our staffs are
7 planning on family and personal stuff to always take place
8 then. So we do have to make accommodations for just human
9 factors of folks not being in Little Rock for staggered time
10 periods. So really that means we're looking at working very
11 diligently between now and the end of June so that we're
12 trying to put finishing touches on it in July, if at all
13 possible, and then we've got a cushion. Is there a
14 drop-dead date -- you've mentioned to me a date with regard
15 to county clerks and just really the nuts and bolts of -- of
16 setting up election polling places and all that kind of
17 stuff.

18 MR. WOODSON: Not a drop-dead date per se. The sooner
19 the better, because all the downstream folks have to kick
20 into action, the clerks have to put the voters in the right
21 districts and precincts. They're going to be redrawing JP
22 lines, the City is going to be redrawing their lines, and so
23 the sooner we can get ours done the better it is for them
24 because they have more time to do their job before the
25 election cycle begins next year.

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1 MR. McDANIEL: Well, I believe if the lines could be
2 drawn in 1980, you know, by mid summer, given the
3 technological advances and increased size of our staffs, I
4 just don't think it would -- it doesn't -- I know that we
5 probably could get away with September or October, but I
6 think the people would expect us to move more quickly than
7 that if we can, so I second the Governor's --

8 GOVERNOR BEEBE: Is that okay with you, Mark?

9 MR. MARTIN: Yes, sir.

10 GOVERNOR BEEBE: So let's shoot for -- back up all of
11 your stuff, and you can present us with -- I mean you're
12 going to have to have public hearings. Presumably you're
13 going to try to schedule a number of hearings throughout the
14 state that either you or staff or AG staff, my staff, or
15 Mark's staff, or combinations thereof, go to various places
16 throughout the state, give notice and take public input.
17 You're certainly going to have the website that's going to
18 create a lot of interest in public input, so let's back up
19 our times in such a fashion and call meetings in such a
20 fashion. You just let me know, and we'll coordinate with
21 the -- with the other two offices' schedules, and we'll have
22 meetings as often as we need to have them to answer any
23 questions or to take up any motions or to do anything
24 further that we need to do, with a view toward trying to get
25 this through by the end of July. If we have to back it up

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some -- I mean we understand that that's a flexible fluid date. Everybody needs to understand that. But that should be our aiming point, based on what I hear here from the Board.

MR. WOODSON: Yes, sir.

GOVERNOR BEEBE: Anything else? Any other business to come before the Board today?

(No response.)

GOVERNOR BEEBE: If not, we're adjourned.

WHEREUPON, the meeting was adjourned at 9:12 a.m. on April 6, 2011.

1 STATE OF ARKANSAS)
)
2 COUNTY OF PULASKI)

3
4 CERTIFICATE

5 I, Patricia Pfeifer, Certified Court Reporter
6 and Notary Public within and for the County and State
7 aforesaid, that the proceeding was taken by me in machine
8 shorthand and was thereafter reduced to typewritten form by me or
under my direction and supervision; that the foregoing transcript
is a true and accurate record to the best of my ability and
understanding, together with any and all exhibits that may have
been introduced at such examination.

9
10 IT IS FURTHER CERTIFIED that I am neither counsel for,
11 related to, nor employed by any of the parties to the action in
12 which this proceeding was taken; and, further, that I am not a
13 relative or employee of any attorney or counsel employed by the
14 parties hereto, nor financially interested, or otherwise, in the
15 outcome of this action; and that I have no contract with the
16 parties, attorneys or persons with an interest in the action that
17 affects or has a substantial tendency to affect impartiality,
18 that requires me to relinquish control of an original deposition
19 transcript or copies of the transcript before it is certified and
20 delivered to the custodial attorney, or that requires me to
21 provide any service not made available to all parties of the
22 action.

23
24 IN WITNESS WHEREOF, I have hereunto set my hand and
25 seal this 7th day of April, 2011.

PATRICIA PFEIFER, CCR, RPR & NOTARY
CERTIFICATE NO. 504

	170,000 (1) 9:15	583,000 (1) 8:23	32:7	although (1) 17:6
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