

1 CALIFORNIA PRIVACY PROTECTION AGENCY BOARD

2

3 SECOND AMENDED TRANSCRIPTION OF RECORDED PUBLIC MEETING

4

5 SEPTEMBER 23, 2022

6 HELD REMOTELY

7

8 Present: JENNIFER M. URBAN, Chairperson

9 LYDIA DE LA TORRE, Board Member

10 VINHCENT LE, Board Member

11 ANGELA SIERRA, Board Member

12 CHRIS THOMPSON, Board Member

13

14

15

16

17

18

19

20

21

22 Transcribed by: Amanda G. Stockton

23 eScribers, LLC

24 Phoenix, Arizona

25 --o0o--

Held Remotely  
September 23, 2022  
9:00 a.m.

P R O C E E D I N G S

MR. HARBURG: Hello, there. Can you  
hear me?

MS. URBAN: Yes, we can. Thank you.  
Please go ahead.

MR. HARBURG: Hi. My name is Aaron  
Harburg. I am a certified information privacy  
professional with the National Association of Privacy  
Professionals. I'm currently in the legal department  
at SuperRare Labs. I'm here in my personal capacity  
and not as a representative of SuperRare Labs.  
However, my question/comment does concern this. Is  
there any future plans to discuss the effects of block  
chain technology in particular on privacy issues? And  
that is pretty much my only comment or question.

MS. URBAN: Thank you very much, Aaron.

And I will, at this point, remind the  
folks who've been in our meetings before and for any of  
you who have not been in our meetings before. The  
Board is listening. We can't respond to comments  
directly in most cases during a meeting, but please  
don't take that as that we are not paying attention.  
We are.

1                   And thank you for the comment.

2                   Mr. Soltani or Mr. Soublet, I noticed  
3   the recording just started. Is that all right? Do we  
4   need to -- do I need to run through the announcements  
5   again?

6                   MR. SOLTANI: I would, just to be --  
7   just to be safe, and we're going to record it. And I  
8   think the press office link had an issue with their  
9   computer, and it rebooted. So --

10                  MS. URBAN: Oh.

11                  MR. SOLTANI: -- recording started at  
12   the moment you heard that announcement. So if we could  
13   just briefly redo the roll call, that would be great.

14                  MS. URBAN: Okay. All right. Thank  
15   you.

16                  And I thank, in advance, the Board and  
17   the public for their patience while we cover the -- the  
18   important announcements and set the parameters for the  
19   meeting.

20                  So once again, good morning. It is  
21   September 23rd, 2022. It is 9:11 a.m. I'm pleased to  
22   welcome you to the California Privacy Protection Agency  
23   Board's September 23rd, 2022, meeting. I'm Jennifer  
24   Urban, and I'm Chairperson of the Board of the Agency.

25                  I'd like to let everyone know that this

1 meeting is being recorded and to request that everyone  
2 be sure their microphone is muted when they're not  
3 speaking. As with all of our meetings, this meeting  
4 will be run according to the Bagley-Keene Open Meeting  
5 Act as required by law. There will be an opportunity  
6 for questions and discussion by Board Members after  
7 every agenda item. And there will also be an  
8 opportunity for just -- for comments by the public  
9 after every agenda item. And we also have a designated  
10 item on the agenda for general public comments, which  
11 is agenda item 8 today.

12                   Please be aware that each speaker will  
13 be limited to three minutes per agenda item for public  
14 comments. And if you are speaking on an agenda item,  
15 both Board Members and members of the public must  
16 contain their comments to that agenda item. The public  
17 does have that opportunity for general comment under  
18 agenda item number 8. In addition, agenda item number  
19 9 today is an item for the proposal of future agenda  
20 items for consideration for discussion in future Board  
21 meetings, and both Board Members and members of the  
22 public are welcome to suggest future Board -- excuse  
23 me, future agenda items at that time.

24                   We will take some breaks if we need  
25 them, which may include a break for lunch. I am

1 grateful to the Board Members for their service and to  
2 the public for its participation and to everyone who's  
3 working today to help make this meeting possible.

4 Mr. Soublet, I will call the meeting to  
5 order again and ask that you please conduct the roll  
6 call vote so that we can establish a quorum on the  
7 recording.

8 MR. SOUBLET: Ms. de la Torre?

9 MS. DE LA TORRE: Present.

10 MR. SOUBLET: Mr. Le?

11 MR. LE: Present.

12 MR. SOUBLET: Ms. Sierra?

13 MS. SIERRA: Present.

14 MR. SOUBLET: Mr. Thompson?

15 MR. THOMPSON: Present.

16 MR. SOUBLET: Ms. Urban?

17 MS. URBAN: Present.

18 MR. SOUBLET: Madam Chair, all are  
19 present and accounted for. You have established a  
20 quorum.

21 MS. URBAN: Thank you very much, Mr.  
22 Soublet.

23 We have established a quorum for the  
24 meeting. I would like to remind Board Members that we  
25 will take roll call votes if we do have any action

1 items today.

2                   We then move to agenda item number 2, an  
3 update on the strategic planning process. Board  
4 Members have multiple times expressed in meetings the  
5 desire for a strategic planning process, particularly  
6 as we are developing the Agency and building it. And  
7 that is something that I think every Board Member has  
8 expressed a desire for at one point or another. I  
9 appreciate the Board's attention to this and to the  
10 fact that careful strategic planning is crucial as we  
11 structure the Agency and our work.

12                   I -- after I researched strategic  
13 planning processes at state agencies, I discovered that  
14 it is the usual practice to hire an outside consultant  
15 to help with the formal strategic planning process.  
16 And I have asked our deputy director of administration  
17 to work on procuring for us a consultant with the  
18 appropriate experience. This does need to go through  
19 the state contracting process without our direct  
20 involvement. And when that process is ready, we  
21 will -- I'll bring this back to the Board meeting, and  
22 we can kick off the strategic planning process. I did  
23 ask the deputy director of administration to ensure  
24 that the request for proposals requires that the Board  
25 be involved in the early stages of the process, that is

1 defining the main questions and the objectives. And  
2 then, of course, each consultant have (sic) the process  
3 they follow to flesh all of that out.

4 I asked for questions or comments from  
5 Board Members. There weren't any at that time. But  
6 I'll pause to see if something has occurred to someone  
7 in the interim.

8 Okay. Thank you.

9 We had one public comment on this item,  
10 and I'll pause to see if we have additional public  
11 comments since we had to go back to the top once the  
12 recording started.

13 All right. Hearing no additional public  
14 comment and thanking the Board and the public for their  
15 patience as we dealt with a technical glitch, I will  
16 now ask us to move on to agenda item number 3, which is  
17 an update from our executive director, Mr. Ashkan  
18 Soltani, on organization and hiring and budget.

19 Mr. Soltani, please -- I'll turn it over  
20 to you.

21 MR. SOLTANI: Thank you, Madam Chair.

22 Good morning and thank you all for  
23 giving me the opportunity to go over the budget today.

24 Just a quick reminder. Budget change  
25 proposals for the upcoming year are confidential until

1 approved by the governor and published in the annual  
2 budget. However, in this short update, I plan to  
3 provide a high-level overview of last year's  
4 expenditures and go over current year. That's fiscal  
5 year '22/'23 BCP, which was approved in July, as well  
6 as giving some contours about our fiscal posture moving  
7 forward.

8                   As we've previously discussed, our  
9 baseline funding is allocated by statute.  
10 Specifically, the CPPRA -- sorry, the CPRA appropriated  
11 from the general fund five million in our first year  
12 and roughly ten million inflation adjusted in the  
13 following years to support the operations of the  
14 Agency.

15                   In our first year, prior to my  
16 appointment, the initial expenditures of the Agency  
17 were quite minimal, as staff weren't yet appointed and  
18 the Agency had limited operations. As such, with the  
19 help of BCSH, the Chair directed the bulk of our funds  
20 to an architectural revolving fund to support facility  
21 expenditures, at such time as we undertake the  
22 development of new offices.

23                   Last year following my appointment, the  
24 Agency's priority was staffing up and putting into  
25 place key operations to support the Agency's core



1 function, which were rulemaking and public awareness.  
2 Our primary expenditures for fiscal year '21/'22 were  
3 as follows. The largest single category of expenditure  
4 was HR, consisting of salaries, wages, and benefits for  
5 our recently hired staff. Next our individual  
6 contracts with operational agencies made up the bulk of  
7 our expenses, the largest of which were the Department  
8 of Consumer Affairs who manages our IT, the Department  
9 of General Services that handles HR, payroll,  
10 contracting, and other support functions, and the  
11 Department of Justice which as our statute contemplates  
12 have been supporting us with legal and logistical  
13 needs.

14                   Beyond the expenses outlined in the  
15 above, our general operating expenditures were quite  
16 minimal as we've maintained a primarily telework  
17 posture which then resulted in minimal outlay in terms  
18 of facilities and other operational costs. Lastly, we  
19 allocated the remainder of our fiscal year '21/'22  
20 budget into a multi-year contract to fulfill one of our  
21 primary statutory obligations, public awareness and  
22 consumer education. This proactive approach was taken  
23 as we'll have limited funds in future years, given our  
24 current staffing trajectory, thereby making it prudent  
25 to begin budgeting in advance with these efforts. The

1 awareness subcommittee will have an update on our  
2 initial public awareness efforts later this morning.

3 Looking forward, our priority will  
4 continue to be staffing in order to fulfill our core  
5 obligations. We have staffed a pretty --

6 Oh, wait. There's a call. I'm sorry.  
7 Sorry. There was a technical glitch. Sorry about  
8 that. There was a technical glitch on my end.

9 So I'll go back. Looking forward, our  
10 priority will continue to be staffing in order to  
11 fulfill our core obligations. We have staffed up  
12 pretty successfully this year and have almost doubled  
13 in size, even since the last Board meeting. Based on  
14 our current hiring plans set out in the fiscal year  
15 '22/'23 BCP, we'll be at approximately twenty-four  
16 employees by the end of this month and will be closer  
17 to the planned thirty-four positions by the end of this  
18 calendar year.

19 With the appointment of general counsel,  
20 the legal division will be nearly fully staffed. Next,  
21 our hiring focus will be on the public awareness and IT  
22 teams. And in fact, we're presently recruiting to the  
23 leads of public affairs and the information technology  
24 office. Those positions are leaded -- are listed on  
25 our career opportunities portion of our website, and

1 we'll be soliciting applications until the end of this  
2 month.

3                   Following those appointments, we'll then  
4 begin recruiting for the enforcement lead, the chief  
5 auditor, and eventually the initial compliment of the  
6 enforcement and audit teams. But note, the fiscal year  
7 '23/'20 -- '22/'23 BCP did not include staffing for  
8 enforcement and audit divisions beyond just hiring  
9 those heads, as we have yet to begin those functions  
10 until July 2023 at the earliest.

11                   Our expenditures -- sorry, our XR -- our  
12 HR expenditures will continue to rise as we continue to  
13 grow our team and bring in additional functions in  
14 house. In addition, while we plan to maintain a remote  
15 first telework posture for the near term, we may incur  
16 additional facilities cost as we expand our physical  
17 presence and pursue more of a hybrid work force. This  
18 will include additional office spaces in Sacramento and  
19 in subleases in major metropolitan areas, such as L.A.  
20 and San Francisco.

21                   The financing of '22/'23 BCP that was  
22 approved by the governor in July is available on the  
23 Department of Finance website. And detailed  
24 expenditures for financial year '21/'23 that I outlined  
25 above also are publicly available if the bird should --

1 Board should want further detail.

2 I'll pause there. I'd be happy to take  
3 any questions or go into any more detail about the  
4 points above.

5 MS. URBAN: Thank you, Ms. -- very much,  
6 Mr. Soltani. I have a couple of comments, and then I  
7 would also like to hear from the Board.

8 First of all, thank you very much for  
9 what I think is just tremendous work, staffing at the  
10 agencies thoughtfully and making us real, making us  
11 genuine in what is really a very short time line. So  
12 I'm very impressed with what you have accomplished. I  
13 also appreciate the thoughtful use of our budget  
14 allocation. And especially, I want to highlight -- it  
15 will be no surprise to anyone that I'm very excited  
16 about our public awareness function, and so I  
17 definitely want to highlight that and thank you for  
18 thinking ahead so that we have that funding ready to go  
19 and that we fulfill that function.

20 I -- I will -- I look forward to looking  
21 at last year's BCP in more detail now that it's public,  
22 and I just want to thank you for all the great work and  
23 ask if other Board Members have comments or questions.  
24 Please use raise your hand or just raise your hand, and  
25 I will recognize you.

1                   Ms. de la Torre, Mr. Le, and then Ms.  
2   Sierra.

3                   Ms. de la Torre?

4                   MS. DE LA TORRE: First, I want to echo  
5   the words of the Chairperson, Urban. We are -- you  
6   know, having started where we started, which was just  
7   the Board Members, and seeing actual very planned and  
8   dedicated and pleased and general effort, it has been a  
9   great experience. And I appreciate the work which is  
10  behind it, which is significant.

11                  I have a separate comment that if  
12  Chairman Urban, please, I would like to leave before  
13  the end to enable the other Board Members to make their  
14  comments which I think will -- will be more in line,  
15  minus (indiscernible), because it will be the  
16  (indiscernible) topic. It's in the (indiscernible).

17                  MS. URBAN: Of course, Ms. de la Torre.  
18  I will make sure to return to you.

19                  Mr. Le?

20                  MR. LE: Yeah, I also wanted to echo  
21  Chair Urban's words and appreciations. I would just  
22  say from my experience working in subcommittees, you  
23  know, the support that we've gotten, the hires that  
24  have come it have made our work a lot faster than --  
25  than we could do a year ago, even six months ago. So I

1 know -- I know the public and other stakeholders are,  
2 you know, wondering, you know, what the Agency's up to,  
3 and I think the staffing up has been really  
4 instrumental in moving us a lot faster. And yeah, just  
5 thank you.

6 MS. URBAN: Thank you, Mr. Le.

7 Ms. Sierra?

8 MS. SIERRA: Yes, thank you.

9 Well, I too want to thank the executive  
10 director. I think this is just really fabulous. I'm  
11 just so impressed. I mean, I've done a lot of hiring  
12 in my time too, and I know it can be very challenging.  
13 You know, there's a lot of behind the scenes work that  
14 has to be done with respect to state service. So with  
15 all that, I'm just so impressed. I can't believe that,  
16 you know, what you're -- you're doing, hiring so many  
17 people and in so many different areas of your office or  
18 our office, which also makes it, you know, really  
19 impressive. And I've also been really delighted to  
20 work with the new staff that we have had an opportunity  
21 to work with, and the quality has been really  
22 exceptional. So thank you very much.

23 MS. URBAN: Thank you, Ms. Sierra.

24 Mr. Thompson?

25 MR. THOMPSON: Thank you -- thank you to

1 the Chair. Also wanted to voice my appreciation for  
2 what has been accomplished so far. I think the  
3 diligence and the skill and the work ethic that the  
4 staff has demonstrated has been really exceptional,  
5 and -- and I think the public should feel very good  
6 about what -- about the value they're getting from this  
7 Agency and the staff. You know, the amount of work  
8 that this small team has cranked out is really, really  
9 impressive. And thank you to the executive director  
10 and to the rest of the staff who are doing that every  
11 day, from early in the morning till late at night.

12                   We have had -- you know, this --  
13 starting a new Agency is challenging, with the  
14 interplay of it, a lot of sometimes contradictory  
15 frameworks that we have to operate in. And one -- I  
16 wanted to ask a little bit about the budget change  
17 proposal process and how that interim plays with  
18 Bagley-Keene and how we're going to do that on a  
19 go-forward basis, sequence wise. And if I heard  
20 correctly, wanted to see what we can do to -- I'll  
21 express a concern and then see what we can do to  
22 address it. It -- what it -- my understanding is that  
23 the staff developed the budget change proposal.  
24 Obviously, we have a -- under the ballot measure that  
25 established us we have a statutory provision of funds,

1   that is I think kind of a -- the normal legislative  
2   budget process is somewhat proforma as it relates to  
3   the allocation of the money that is provided in the  
4   ballot measure. And then we as an Agency through the  
5   staff propose how to use that money through the budget  
6   change proposal process.

7                   And as you mentioned at the top, Mr.  
8   Soltani, the budget change proposals are confidential  
9   until approved by the governor. How we can get into a  
10   sequence -- so it sounds like the sequence is the staff  
11   develops the BCPs, submits them to, well, I guess the  
12   Office of Finance or the Department of Finance. And --  
13   and they're approved in the governor's office, and then  
14   they become public, which -- at which point they are  
15   available to the public and to the Board.

16                   And my question is -- well, my concern  
17   is that that sequence seems odd in that the Board  
18   should have some oversight and awareness of the budget  
19   I think prior to its submission to -- to the governor.  
20   And is there a mechanism with our Bagley-Keene  
21   requirements to consider those budget change proposals  
22   in closed session or -- or some other mechanism so that  
23   we can have an awareness of them and -- and opine on  
24   them prior to their submission approval by the  
25   governor's office and subject to their revision and



1 making them public?

2 MS. URBAN: Thank you, Mr. Thompson.

3 And before Mr. Soltani responds, I just  
4 wanted to respond a little bit to Mr. Thompson and --  
5 and add on to that and maybe embroider a little bit.

6 So it is -- it is an interesting and  
7 slightly surprising to me process, particularly because  
8 our baseline funding is allocated in our statute. But  
9 the legislature provides very important public  
10 oversight of how the Agency is proposing to spend that  
11 money, which I -- I do think is a valuable process. It  
12 was a little surprising to me that the budget change  
13 proposals are confidential until they go into the  
14 governor's budget. But I do understand that -- I  
15 believe the idea behind that is that the Department of  
16 Finance is able to vet everything. The governor's  
17 office is able to figure out what their budget  
18 proposals overall are going to be. And we're in there  
19 in a little bit of an odd way because we have this  
20 already allocated money in our statute, but we get  
21 rolled up into that.

22 And then as soon as it goes -- it's  
23 approved as the governor's budgeting goes to the  
24 legislature, then it is available for comment. And I  
25 think that that could be an appropriate time for us to

1 discuss it if we would like to. The budget has not at  
2 that point been fully approved, and it would certainly  
3 be amenable to discussion. So I think that that might  
4 be helpful way to move forward without comprising the  
5 general ability of the staff and the -- our control  
6 agencies who puts together the budget in the first  
7 place.

8 Mr. Soltani, I think you have more  
9 insight into this than anyone. Please tell me if I  
10 just got that completely wrong, or if that -- if I get  
11 the sequence correct.

12 MR. SOLTANI: Indeed, and I'll just flag  
13 that, the budget is to reflect the Board's general  
14 guidance in terms of priorities --

15 MS. URBAN: Um-hum.

16 MR. SOLTANI: -- and -- and --

17 MS. URBAN: Yeah.

18 MR. SOLTANI: -- our directions. So I  
19 think we -- when -- when I came on in November, we did  
20 have an update which is to say that my focus is on  
21 staffing and then -- and then we had later  
22 conversations about public awareness. But that was to  
23 be reflected in at least the initial BCP of how we  
24 staff and what portions of the Agency for staff, for  
25 example, that we didn't staff enforcement out this year

1     because we don't begin that function until next year.

2                     So it -- you know, the kind of general  
3     processes, the Board provides inputs in terms of not  
4     just long-term strategic priorities but kind of annual  
5     priorities in terms of focus based on my recommendation  
6     that we should -- you know, of how we might allocate.  
7     And then those are reflected in the BCP that we work  
8     out with finance.

9                     And I'll just add that the initial ten  
10    million allocation for our Agency in the statute covers  
11    our staffing as we grow or as we respond to additional  
12    obligations that are bestowed on us by the legislature.  
13    We do then have to go through the actual process to  
14    request funding for those efforts or funding for  
15    additional staffing. So just at a high level, the  
16    budget is to reflect kind of the Board's intent of the  
17    Agency's kind of staffing and goals and expenditures.  
18    Department of Finance oversees those, and then as Chair  
19    Urban said, once that is proposed, at that point the --  
20    the Board can provide input as to specific nuisances if  
21    they care to.

22                    MS. URBAN: Thank you, Mr. Soltani, and  
23    thank you also for going -- doing the step back, which  
24    is, of course, a very important step.

25                    So my thinking for this coming fiscal

1 year, for example, Mr. Thompson, would be to have on my  
2 list of agenda items for Board meetings and to be sure  
3 to agendize again a discussion of the priorities for  
4 the coming fiscal year with Mr. Soltani. And then we  
5 could also have an item, once we see the more detailed  
6 budget that comes out of the governor's office before  
7 the legislature approves it, if you would like. I  
8 don't really feel that strongly about it one way or the  
9 other, assuming that Mr. Soltani has translated our  
10 priorities appropriately, which I trust that he has.  
11 But we certainly could do that, and I think that would  
12 be -- I think there's also a good argument that that's,  
13 you know, a fair and useful sort of regularized kind of  
14 oversight that the Board could provide.

15                   Mr. Thompson, I think this is probably  
16 on the same discussion.

17                   And Ms. de la Torre, just like, you  
18 know, waive your hand if you're -- if I'm -- if I'm  
19 passing over you on this.

20                   Okay. All right. Can we ask -- can I  
21 ask Mr. Thompson to respond, and then -- and then I'll  
22 go to Ms. de la Torre. Thank you.

23                   MR. THOMPSON: Thank you for that  
24 explanation. That's helpful. I think it helps me to  
25 understand better. I don't know that it alleviates the

1 concern that I feel about this, which is that -- I feel  
2 like the five Board Members are ultimately accountable  
3 for the operation of the Agency. And the budget is the  
4 critical -- a budget is an expression of priority. And  
5 it's -- as -- as you mentioned, Chairman, it's a  
6 translation of our articulated priorities into dollars,  
7 and initiatives.

8 Under the process I was describing, so  
9 like it would come back from the governor's office. We  
10 could then have some visibility and opine.

11 MS. URBAN: Um-hum.

12 MR. THOMPSON: Should we decide to  
13 change something, what would the mechanism be?

14 MS. URBAN: This I do not know, other  
15 than the legislature can kind of do what it wants. So  
16 what I propose is that Mr. Soltani and I will work  
17 through the -- work through this question and look for  
18 the sort of points at which the Board can give input  
19 that might change the budget, in addition to the  
20 statement of priorities that we make at the outset that  
21 the staff translate into the budget.

22 I will say I agree with you very much,  
23 Mr. Thompson, that the Board is ultimately responsible  
24 for how the Agency chooses to allocate its resources  
25 and spend its money. At the same time, there is a

1 balance between the Board being responsible in that  
2 way, setting priorities and taking care to provide  
3 oversight, and being too involved in some of the real  
4 sort of detail in a way that is perhaps less efficient  
5 and less helpful. So I do want to be sure that we are  
6 providing the guidance, providing the oversight, and  
7 making sure that we retain the ability to do that  
8 without necessarily bogging things down, you know, over  
9 detail.

10 And I don't think that's what you are  
11 proposing, Mr. Thompson. I just want to be -- I just  
12 want to be clear that we will need to be attentive to  
13 that.

14 Ms. de la Torre?

15 MR. THOMPSON: I'm sorry. Just to close  
16 that out, my understanding of what we're talking about  
17 is the Agency submitting to the governor's office a  
18 proposed budget. They may have feedback --

19 MS. URBAN: That's true.

20 MR. THOMPSON: -- and say, oh, well, you  
21 should -- more here and less here. And there's a  
22 process that goes back and forth with the -- between  
23 the Agency and the department to determine what is  
24 included in the governor's budget proposal to the  
25 legislature, which is then ultimately approved and

1 perhaps motivated at the legislature and then signed  
2 into law. I'm not suggesting that we're -- we the  
3 Board are involved in the puts and takes --

4 MS. URBAN: Um-hum. Um-hum.

5 MR. LE: -- between the Department of  
6 Finance and the Agency. But what I am suggesting is  
7 that we should have visibility into what we're  
8 submitting and proposing to the governor's office so  
9 that we are aware of it prior to its submission. The  
10 back and forth, I don't think it is necessary for us to  
11 be involved in. I do have a concern that we don't have  
12 visibility into what we're proposing to the governor's  
13 office.

14 And I guess my question perhaps for Mr.  
15 Soublet or others is, is there a mechanism that is  
16 Bagley-Keene compliant for us to have visibility on the  
17 budget prior to proposing it to the governor's office?  
18 And how do other agencies that are governed by Boards  
19 do that?

20 MS. URBAN: So budget change proposals  
21 are confidential until the governor publishes the  
22 budget. And I would be happy to work with Mr. Soublet  
23 to look into that. I will say, however, I do think  
24 that the Board should trust the staff to translate our  
25 priorities into that early budget. I do support the

1 idea of us having oversight before the legislature  
2 finally approves it, if that's what the Board would  
3 like to do. But I want to see a balance here.

4 Ms. de la Torre?

5 MS. DE LA TORRE: Okay. I just wanted  
6 to quickly share on this point, and this is obviously  
7 California administrative, and I'm not very familiar  
8 with it. But I will strongly suggest that we look at  
9 the federal -- not the federal, the Fair Political  
10 Practices Commission. We are structured in a way  
11 that's similar to that commission, and they have a  
12 variable budget adoption and budget change process that  
13 is expressed in their policy. So I think it could be a  
14 good guidance in terms of finding the balance that the  
15 Chairperson Urban just mentioned. I'd be happy to  
16 share that with the Chair or other members if you don't  
17 -- you're not familiar with the document.

18 MS. URBAN: Thank you.

19 MS. DE LA TORRE: It's not necessary  
20 that we copy, but I think there is a lot of value in  
21 seeing a very similar commission, how they have  
22 structured their process.

23 MS. URBAN: Thank you.

24 MS. DE LA TORRE: I think that --

25 MS. URBAN: Yes.



1 MS. DE LA TORRE: -- it's very detailed,  
2 and I think it would be helpful.

3 MS. URBAN: Thank you very much, Ms. de  
4 la Torre. And yes, we are to some degree modeled on  
5 that commission. Is that available on their website?  
6 Could you email it to Mr. Soublet perhaps, if you'd  
7 like to --

8 MS. DE LA TORRE: Yes.

9 MS. URBAN: Okay. Thank you.

10 MS. DE LA TORRE: Yes.

11 MS. URBAN: All right. Well --

12 MS. DE LA TORRE: I could submit it  
13 then.

14 MS. URBAN: Okay. Mr. Soublet and then  
15 Ms. Sierra?

16 MR. SOUBLET: Yes, I'll work with  
17 Executive Director Soltani to come up with a  
18 recommendation for the Board and how to handle that  
19 process, and we'll make sure that we're following what  
20 would be Bagley-Keene compliant to meet with the  
21 desires of the Board and how to go through that  
22 process.

23 MS. URBAN: Thank you, Mr. Soublet.

24 Ms. Sierra?

25 MS. SIERRA: Yes, thank you.

1                   You know, from my perspective, I am of  
2   the view that us giving as a Board and each Board  
3   Member in our Board meetings being able to give the  
4   executive director and staff our general direction is  
5   the right balance. Can rely on them for then, working  
6   out the details of, then, how to accomplish that within  
7   the budget that our Agency has.

8                   And to that end I do like the idea, the  
9   Chair's proposal that on future -- as a future agenda  
10   item maybe we're just more specific that, you know, an  
11   opportunity for the Board to give input for the  
12   direction of the Agency for purposes of developing a  
13   future BCP so that it's very clear that that discussion  
14   is on that issue because you know, my understanding and  
15   from my experience on the BCPs, you know, you go very  
16   granular. You know, it's basically if we have these  
17   priorities and how many people does it take, you know,  
18   for each area to fulfill that. And a lot of analysis  
19   goes into that, looking at maybe other agencies or past  
20   experience, and I think that to me is really the  
21   appropriate work of the staff in trying to balance and  
22   analyze all of that with, you know, following the  
23   Board's more high-level general direction of  
24   priorities.

25 So again I think from my perspective if

1 we had in our agenda that, you know, we are talking  
2 about both priorities generally but you know, very much  
3 with an eye toward future budgets, I think that would  
4 be helpful.

5 MS. URBAN: Thank you, Ms. Sierra.

6 Mr. Soltani?

7 MR. SOLTANI: Great. Thank you for  
8 those comments. I just wanted to urge the Board, if  
9 they haven't already, to go and review the current BCP  
10 that's on the Department of Finance website. I think  
11 we sent that around a few months ago when it was  
12 approved. But if you haven't, I'd be happy to  
13 re-provide -- resend that link to the Board, and they  
14 can review the kind of level of granularity or you  
15 know, specificity that exist in that BCP. For us as a  
16 startup Agency, it's actually still pretty quite high  
17 level. It kind of reflects some of the background I've  
18 provided in terms of our hiring priorities, which  
19 divisions we're hiring for, which we're not hiring,  
20 which -- you know, whether we're pursuing a telework or  
21 hybrid posture. Whether -- for example, what our  
22 approximate head count and division counts will be.  
23 It's kind of at that level. So I would urge the Board  
24 to kind of review that as a foundational step as well  
25 if they haven't already.

1                   The other thing, I just wanted to  
2   quickly respond to earlier comments. Just wanted to  
3   also express my appreciation to the staff for the  
4   hiring. So I appreciate all the public -- positive  
5   comments from the Board, but we could have literally  
6   not done this without the amazing kind of HR staff. As  
7   you know one of the core hires actually in preparing  
8   this presentation, I went through and kind of mapped  
9   our monthly hires of how many people. And it was kind  
10  of exponential growth after we hired our kind of  
11  critical HR team. And then we also owe a lot of  
12  critical things to the DOJ, and Brian (ph.) himself has  
13  instrumental in helping us through that process. So  
14  really, like, the thanks should be on staff, not really  
15  me.

16                   So -- but thank you all.

17                   MS. URBAN: Thank you, Mr. Soltani.

18                   I'd like to pause for a second and do  
19  some summary so that we know where we're headed with  
20  this discussion.

21                   Thank you again, Mr. Soltani, for all  
22  the work, and absolutely yes, to the staff. As Ms.  
23  Sierra said, it is hard to hire folks. It is also a  
24  tight market, and people have a lot of options. And  
25  you and Deputy Director of Administration Chitambira

1 and the HR staff have put together a cracker jack team,  
2 and I know we really do appreciate it.

3 With regards to the budget process going  
4 forward, Mr. Thompson has voiced a desire for more  
5 opportunities for input into the process and oversight.  
6 I think there's general support for that. There is a  
7 desire for balance that I expressed, and some others  
8 between the Board's best role and the staff's best  
9 role.

10 I have on my list to regularize a  
11 meeting -- and Mr. Soltani, you and I can work on the  
12 right timing for that meeting, I assume in the spring.  
13 But given the way the state government works, maybe  
14 we're going to have to move it up. I don't know, but  
15 we'll figure that out.

16 When we have considered discussion of  
17 priorities, I'd like to highlight here that that will  
18 interact with the higher level strategic planning  
19 discussion that we will be working. But of course,  
20 then that would be an annual process -- an annual  
21 process.

22 Then Mr. Soublet has said that he will  
23 look into the budget control -- was it budget control?  
24 I always get it wrong. Okay. Thank you.

25 MR. SOUBLET: Change.

1 MS. URBAN: Change. Budget change  
2 proposal process with regards to the policy that  
3 agencies do follow, which is that it is confidential  
4 until it's in the governor's budget. And he will  
5 report to the Board on that so that we have that  
6 information. And either way, once we do have a public  
7 BCP, which at -- which is currently when it comes out  
8 of the governor's office but before the legislature  
9 makes decisions, I have on my list to tentatively now  
10 schedule again a Board discussion so that we have the  
11 opportunity to provide some oversight looking at the  
12 detail, if we would like, before the legislature makes  
13 its decision.

14 And I also have on my list for everyone,  
15 but certainly for Mr. Soublet and Mr. Soltani as they  
16 work to advise us on this, to look at the Fair  
17 Political Practices Commission's process which as with  
18 so many of their things -- Ms. de la Torre points out  
19 as well -- thought out so that we can use that as a  
20 source.

21 Have I missed anything?

22 Mr. Thompson?

23 MR. THOMPSON: I have one specific  
24 question because what I understand is the intersection  
25 of these processes in Bagley-Keene to be is that,

1 through this process, the Agency's proposed budget is  
2 unavailable to the Board until it is available to the  
3 public, which strikes me as a pretty odd outcome. And  
4 if that is correct I'd like to understand that that's  
5 correct, or what the other options are because that  
6 just -- that is just a -- is a perverse intersection of  
7 these policies in my opinion.

8 MS. URBAN: Yes. So thank you, Mr.  
9 Thompson. And that is the way Bagley-Keene generally  
10 works. If the Board knows it, the public knows it.  
11 The public always has an interest in what the Board as  
12 a group knows. I'm glad that you mentioned that, and  
13 it is noted as a view, and I know -- Mr. Soublet I know  
14 will be looking into that.

15 Ms. de la Torre?

16 MS. DE LA TORRE: I was going to move to  
17 the separate topic that I had raised at the beginning.  
18 I don't if we're ready for that.

19 MS. URBAN: You're -- you're ready?  
20 Okay. I do think we are ready to circle back, but I  
21 want to be sure Mr. Thompson is able to finish his  
22 thoughts.

23 Mr. Thompson?

24 MR. THOMPSON: I just want to make sure  
25 that -- I heard you say that the view was noted. I

1 wanted to ensure that the question was going to be  
2 answered in specific rather than in abstract.

3 MS. URBAN: Oh, of course.

4 MR. THOMPSON: Okay.

5 MS. URBAN: Okay. Yes.

6 MR. SOUBLET: And Mr. Thompson, that's  
7 part of the analysis that I'll work with Soltani on.

8 MR. THOMPSON: Great. Thank you, Mr.  
9 Soublet. Appreciate it.

10 MS. URBAN: And I apologize if that  
11 wasn't clear what I meant. I meant that that is a  
12 specific item that is on the list of things that are  
13 going into the analysis. Thank you, Mr. Thompson.

14 All right. I think now we are ready to  
15 circle back to Ms. de la Torre.

16 Please go ahead, Ms. de la Torre.

17 MS. DE LA TORRE: Thank you. I'm going  
18 to try to be brief. I'm going to talk a little bit  
19 about our per diem for a second. And the reason I'm  
20 bringing up the per diem in this context is because  
21 through the process, the budget process, the Agency can  
22 request from the governor's office a change to the per  
23 diem. A request doesn't mean that it would be granted,  
24 but if --

25 MS. URBAN: Okay. Ms. de la Torre, I



1 apologize. I -- just put -- can you hold your thought  
2 for just a second?

3 I do need to ask Mr. Soublet if this is  
4 in line. We have a pretty general discussion update of  
5 the budget. Is this something that we can talk about,  
6 or do we need to agendize this?

7 MS. DE LA TORRE: I have --

8 MR. SOUBLET: I think we probably -- I  
9 think we need to agendize this as an issue for the  
10 Board because we're talking about the current budget,  
11 and that's what the update was. I don't think the  
12 public has been noticed that we would have a discussion  
13 on a change to what is the per diem set by statute. So  
14 if we're going to have a discussion about that, I think  
15 it's consistent with Bagley-Keene that we have to have  
16 that as an agenda item that's noticed for public  
17 participation.

18 MS. URBAN: Okay.

19 MS. DE LA TORRE: So I brought this at  
20 the attention of the executive director, so I'm  
21 surprised that it's agendized in a way that enables  
22 staff conversation. But if that's the position of the,  
23 you know, council I guess, we'll just have to move it  
24 to a different date.

25 MS. URBAN: So Ms. de la Torre, please

1 be sure to bring this up for future agenda items, and I  
2 will put it on the list so that we have -- it's  
3 properly agendized and we can discuss it.

4 MS. DE LA TORRE: Right. So what -- I  
5 mean, in -- in this case, if I have a conversation with  
6 the executive director and I was told that this would  
7 be the (indiscernible) anything, maybe with  
8 miscommunicating internally about how we agendize  
9 things.

10 MS. URBAN: Yeah.

11 MS. DE LA TORRE: What would be the  
12 correct process for me to bring it up because I just --

13 MS. URBAN: So --

14 MS. DE LA TORRE: -- I need to have this  
15 conversation with the executive director just because  
16 of Bagley-Keene and this -- you know, being in a  
17 situation where we might inadvertently, you know,  
18 violate it because I'm talking to one Board Member as  
19 opposed --

20 MS. URBAN: Yeah.

21 MS. DE LA TORRE: -- to the executive  
22 director. So where do I bring these requests, if not  
23 to the executive director?

24 MS. URBAN: Okay. So we will -- we do  
25 have our agenda item number 9 today for future agenda

1 items. Please bring it up (audio interference) wrote  
2 it down on my list. You can also always send proposed  
3 agenda items to staff, or -- and I will check with Mr.  
4 Soublet. Generally, you can send them to me as well,  
5 so long as it doesn't involve any information that  
6 would be a sharing of information outside Bagley-Keene.  
7 And then -- then it gets onto the agenda that's noticed  
8 properly ten days prior to the meeting so that the  
9 public has notice of what we're going to discuss.

10                   So let's be sure to talk about this  
11 under agenda item number 9, and that's really all I  
12 think we can say about it right now. But we can  
13 agendize (sic) it for a meeting coming up soon.

14                   Thank you, Ms. de la Torre.

15                   Mr. Soltani?

16                   MR. SOLTANI: And my apologies, Ms. de  
17 la Torre. I -- I believe we had that conversation  
18 after we'd already posted the agenda for this Board  
19 meeting. And so that's why I suggested to perhaps  
20 suggest it at a future Board meeting. It was past the  
21 ten-day, if I recall correctly. But my apologies if  
22 there was a miscommunication there.

23                   MS. URBAN: Okay. So we'll talk about  
24 that in agenda item number 9, which would be a proper  
25 and appropriate, and this is just a matter of -- of

1 timing and making sure the public has notice.

2 All right. Thank you, everyone. Any  
3 further discussion on this item?

4 Okay. I appreciate very much the  
5 Board's thoughtful comments, both on the budget and the  
6 work that the executive director and staff are doing,  
7 and also on process oversight, moving -- how we move  
8 forward in terms of budget understanding, setting  
9 priorities and oversight. Thank you all to that. I  
10 think we have information that will help the staff  
11 develop some advice and a plan and for me to also sort  
12 of think through what is a good process going forward.

13 Are there any comments from the public?

14 MR. SOLTANI: Please raise your hand if  
15 you have a comment. I see no hands raised.

16 MS. URBAN: Thank you, Mr. Soltani.

17 Thank you again very much to the Board.

18 Thank you to the public for your  
19 attention and participation thus far.

20 We are now moving to agenda item number  
21 4, which is a closed session discussion of two  
22 sub-items. First, the executive director's appointment  
23 of a general council under authority of Government Code  
24 11126, Subdivision A, Subdivision 1. And also the  
25 executive director's annual review also under authority

1 of Government Code 11126, Subdivision A, Subdivision 1.

2 Before the Board departs for its closed  
3 session discussion, is there any public comment on  
4 either of these topics?

5 MR. SOLTANI: Please raise your hand if  
6 you have a comment. Use the raise hand feature in  
7 Zoom. I'll give it one minute.

8 I see no hands raised.

9 MS. URBAN: All right. Thank you very  
10 much. The Board will now go into closed session. The  
11 public session here will be -- remain open, and we will  
12 return to this public session when we are finished.

13 Thank you very much for attending today.

14 And I will ask the Board Members to  
15 please now move to the Zoom meeting established for the  
16 closed session discussion for this agenda item.

17 Thank you very much. See you soon.

18 (Board Closed Session)

19 MS. URBAN: All right, Mr. Soltani.

20 Should I invite everyone back?

21 MR. SOLTANI: Yes, I think we are ready.

22 MS. URBAN: Okay. Ms. de la Torre, are  
23 you ready to begin?

24 MS. DE LA TORRE: Yes, I'm here.

25 MS. URBAN: Thank you very much.

1                   Thanks everyone for attending today.

2   This meeting of the California Privacy Protection  
3   Agency Board is now returning from closed session. The  
4   Board did not take any votes or actions during the  
5   closed session.

6                   Thanks for the efficient discussions so  
7   far. And to continue in that vein -- I would say  
8   efficient yet substantive discussion so far. And to  
9   continue in that vein, I'm going to go ahead and take  
10  the next item out of order and move to what is listed  
11  on the agenda as number 7, the delegation of authority  
12  for administrative functions. That way we will handle  
13  our administrative items and give the subcommittee some  
14  comfortable time for their updates.

15                  So with that, let me scroll to the  
16  delegation. So I'd ask you to please direct your  
17  attention to agenda item number 7, which is discussion  
18  of a limited delegation of authority for administrative  
19  functions to the executive director. As a reminder,  
20  Section 1798.199.35 of our implementing statute states  
21  that the Agency Board may delegate authority to the  
22  Chairperson or the executive director to act in the  
23  name of the Agency between meetings of the Agency,  
24  accept with resolution to -- of enforcement actions and  
25  rule-making authority.

1                   Prior to the Board appointing Mr.  
2   Soltani as executive director, I delegated day-to-day  
3   authority -- that is the authority to do things to set  
4   up the Agency and operate it on a day-to-day basis --  
5   to the Chairperson. The transferred that authority to  
6   Mr. Soltani when he became executive director under a  
7   delegation that lasted for one year.

8                   Believe it or not, it is going to be a  
9   year on October 18th. We talked a little bit about  
10  this under the budget item, but I think we're all very  
11  impressed with what the executive director has  
12  accomplished in that year. But in any case, it is now  
13  time to consider and renew the executive director's  
14  delegation.

15                  So I'd ask you to please turn your  
16  attention to the proposed delegation of authority in  
17  the meeting materials. It's designated in its file  
18  name as per item 7 under the meeting materials for  
19  today. And I do want to just cover some background  
20  before we begin discussion, just in case there's any  
21  information that slipped from people's minds.

22                  First, this proposed delegation is the  
23  same as the delegation the executive director is  
24  currently operating under. It gives him essentially  
25  the day-to-day administrative authority that he needs

1 to continue building and running the Agency.

2                   Second, please note that the delegation  
3 does not cover the specific rule-making functions that  
4 the executive director will need to be able to execute  
5 for our current rule process. We separately delegated  
6 the authority for the Agency to take the steps  
7 necessary to initiate the rule-making process and the  
8 public comment process. I set the matter for a hearing  
9 when we met in June. And we will need to separately  
10 delegate authority to submit the final rule-making  
11 package later after we have approved it.

12                   Third, as you may recall or you may not  
13 because it has been a while, in the October 18th, 2021,  
14 Board meeting, the Board voted to delegate authority  
15 for day-to-day operations to the executive director,  
16 with the exception of hiring a chief privacy auditor as  
17 you see here. The Board also at that time agreed to  
18 place the delegation of authority on its November 15th,  
19 2021 agenda for discussion and indeed took that  
20 discussion up in its November 15th, 2021 meeting. This  
21 is because the majority Board view was that the  
22 delegation should extend to all positions other than  
23 the chief privacy auditor, which is designated in our  
24 implementing statute as a position to be appointed by  
25 the Board.



1                   In a minority view, however, some  
2   members of the Board thought there should be further  
3   Board input into some executive positions. Mr.  
4   Thompson in particular explained his view that we are a  
5   new Agency and that certain executive positions could  
6   affect how the Agency's culture develops. After a  
7   discussion in its November 15th, 2021 meeting, the  
8   Board found consensus around Mr. Thompson's idea in the  
9   form of Board input via properly noticed closed session  
10   discussions for the general council and deputy director  
11   of communications positions. The chief auditor does  
12   remain within the Board's direct responsibility and  
13   authority. Accordingly, this is how we have proceeded,  
14   as our meeting agendas show.

15                  I appreciate the Board's careful  
16   attention and balanced approach. My recommendation is  
17   that we continue with it. Accordingly, I recommend  
18   that we approve the delegation provided for today's  
19   discussion, that it again be for one year, and that we  
20   maintain the expectation regarding input on the general  
21   council and deputy director of communications  
22   positions.

23                  Procedurally, this is a vote on a  
24   delegation. There's no need to vote on the consensus  
25   expectation of input. The executive director will, as

1 he has thus far, coordinate appropriate meetings to  
2 receive Board input. We can vote on that if you really  
3 want to, but it isn't necessary.

4 Are there any questions or comments from  
5 Board Members?

6 Okay. Thank you.

7 MR. THOMPSON: Need a motion?

8 MS. URBAN: I'm sorry?

9 MR. THOMPSON: Do you need a motion?

10 MS. URBAN: Thank you, Mr. Thompson. I  
11 will need a motion. Before we get to the motion,  
12 though, I will ask if there's public comment.

13 MR. SOLTANI: Please raise your hand if  
14 you'd like to make comment using the Zoom's raise hand  
15 feature.

16 I don't see any hands raised.

17 MS. URBAN: Thank you very much, Mr.  
18 Soltani.

19 Mr. Thompson, I believe you're up. May  
20 I have a motion to approve the delegation of authority  
21 before us?

22 MR. THOMPSON: So moved.

23 MS. URBAN: Thank you, Mr. Thompson.

24 Is there a second?

25 MS. DE LA TORRE: I second.

1 MS. URBAN: Thank you, Ms. de la Torre.

2 The motion has been made by Mr. Thompson  
3 and seconded by Ms. de la Torre. The Board will now  
4 vote whether to approve the motion.

5 Mr. Soublet, could you please perform  
6 the roll call vote? You're on mute.

7 MR. SOUBLET: Ms. de la Torre?

8 MS. DE LA TORRE: Aye.

9 MR. SOUBLET: Mr. Le?

10 MR. LE: Aye.

11 MR. SOUBLET: Mr. Thompson?

12 MR. THOMPSON: Aye.

13 MR. SOUBLET: Ms. Sierra?

14 MR. THOMPSON: Aye.

15 MR. SOUBLET: Ms. Urban?

16 MS. URBAN: Aye.

17 MR. SOUBLET: With a 5-0 vote, the  
18 motion carries.

19 MS. URBAN: Thank you very much, Mr.  
20 Soublet. The motion has been approved by the vote of  
21 five to zero. I thank the Board for its very efficient  
22 disposition of this item. And the approved delegation  
23 of authority will be posted to the CPPA's website,  
24 along with the other meeting materials. Thanks again  
25 for the work on that.

1                   And now let's go and return to agenda  
2   item number 5 so that we can have discussion of the  
3   more substantive material from our subcommittees. As a  
4   brief reminder, the Bagley-Keene Open Meeting Act  
5   allows for subcommittees of two people to act in an  
6   advisory capacity for the Board. Subcommittees cannot  
7   make decisions by the Board and have defined  
8   jurisdictions in order to ensure the Bagley-Keene's  
9   transparency requirements remain in place.

10                   The public awareness and guidance  
11   subcommittee was formed to advise the Board on the  
12   Agency's duties to promote public awareness and provide  
13   guidance to consumers and businesses as set out in  
14   Civil Code Section 1798.199.40, D through F. The  
15   public awareness and guidance subcommittee is made up  
16   of Mr. Le and Mr. Thompson.

17                   Mr. Le and Mr. Thompson, I'm eager to  
18   hear your update and will turn things over to you now.

19                   MR. THOMPSON: Thank you. I'll kick it  
20   off and give a brief update and then turn it over to  
21   Mr. Le to continue. We've got a couple of items to  
22   update the Board and the public on.

23                   You may recall that we mentioned at our  
24   last meeting that we had contracted -- the Agency had  
25   contracted with an outside firm to help with our public

1 awareness and education responsibilities. The statute  
2 that created the Agency spells out that one of our key  
3 areas of responsibilities is to promote -- quote,  
4 promote public awareness and understanding, end quote,  
5 of privacy.

6                   So in August, we undertook our first  
7 public awareness campaign, which we rolled out in  
8 advance of the rule-making hearings last month.  
9 The awareness campaign was a two-week mixed terrestrial  
10 radio and streaming audio campaign, which was designed  
11 to raise awareness about the Agency's mission and to  
12 encourage participation in our first rule-making  
13 hearings, which occurred at the end of August.

14                   For background, the campaign was non-  
15 targeted, which means that we didn't specify a  
16 particular audience or use personal information to  
17 target individuals, which we believed was the best way  
18 to reach a broad audience across the state while  
19 aligning with our philosophy as an Agency. So the use  
20 of both terrestrial radio and streaming audio helped us  
21 ensure that we reached California residents in every  
22 part of the state. And the radio and banner ads were  
23 in both English and Spanish, and we're looking forward  
24 to expanding the languages that we provide material and  
25 educational material in in future efforts.

1                   All in all, this -- I think that the  
2   campaign was a big success, and the feedback from the  
3   firm was that it resulted in approximately 112 million  
4   impressions across the state on popular radio, pod  
5   casts, and NPR stations. I heard it on popular radio  
6   stations in Southern California, and I believe and hope  
7   others heard it as well. And perhaps related to that  
8   outreach effort, we did have substantial participation  
9   in the rule-making comment process, and we've received  
10   over a hundred comments to the Agency and traffic to  
11   the website that increased approximately 300 percent in  
12   this period as well.

13                   Mr. Soltani has cued up a sample of the  
14   English radio spot, which I think's probably beneficial  
15   for folks to hear if they weren't able to -- to hear  
16   the spots. So for both the Board and the public, it's  
17   a thirty-second spot that we can cue up and share with  
18   folks.

19                   Mr. Soltani, are you prepared to do  
20   that?

21                   MR. SOLTANI: Sure thing. Let me -- I  
22   might pause it to just get the volumes right, but let's  
23   try that.

24                   MR. THOMPSON: Okay.

25                   (Recording played)

1 MR. THOMPSON: Thank you.

2 So straightforward and effective. And  
3 as mentioned, you know, there was a -- a big increase  
4 in traffic to the website. Can't be positive that it's  
5 attributable to the campaign, but it -- it makes -- it  
6 makes sense that I would be related.

7 On a separate item, moving forward, the  
8 Agency and Mr. Soltani are in the process of hiring our  
9 deputy director of public affairs, which is a position  
10 that's advertised on the Agency's website and is open  
11 until the end of this month. And then once that person  
12 is on Board, we're -- we are looking at exploring  
13 additional awareness and education campaigns in support  
14 of the mandate in the statute and really to help  
15 Californians to understand the rights that they have  
16 and the risks and responsibilities related to  
17 collection use of personal information. And so we will  
18 have a further update on additional mechanisms and  
19 partnerships we can use for that purpose. I will pause  
20 there and turn it over to Mr. Le.

21 MR. LE: All right. Thanks. Yeah, and  
22 you know, in -- while we're driving people to the  
23 website with those -- you know, those ads, we also made  
24 some updates, so you know, we updated and expanded on  
25 the frequently asked questions, you know, something

1   that we've heard -- you know, we've heard a lot of  
2   questions from stakeholders, so that was part of that  
3   response. This includes basics like describing the  
4   rights provided by the CCPA, the rulemaking process and  
5   how to best engage with the Agency for rulemaking.

6                   We also attempted to answer questions we  
7   think will inform stakeholders, particularly small  
8   businesses and you've heard a lot from them by  
9   reiterating the threshold for what constitutes a  
10   business under the act. You know, just to reiterate  
11   what's on the website, you know, to qualify as a  
12   business under the law, CCPA specifies that for-profit  
13   entities must meet one of three thresholds, you know,  
14   that's a gross annual revenue of twenty-five million,  
15   by receiving or selling the personal information of  
16   more than 50,000 -- 50,000 or more California  
17   residents, households, or devices; or derive fifty  
18   percent more -- or more of their annual revenue from  
19   selling California residents' personal information.

20                   These thresholds will change beginning  
21   on January 1st, 2023. For example, starting in 2023,  
22   to meet the second threshold, businesses must annually  
23   buy, sell or share personal information of 100,000 or  
24   more consumers or households.

25                   You know and also in response to those



1 questions, we also outlined as the CCPA is currently  
2 only enforced by the California Department of Justice  
3 until July 1st, 2023, consumer complaints should  
4 currently be directed to the DOJ's -- the Department of  
5 Justice online via their consumer privacy interactive  
6 tool.

7                   After that, on July 1st, 2023, consumer  
8 complaints may be directed to the Agency, the Agency  
9 may decide not to investigate a complaint or decide to  
10 provide a business with time to cure the alleged  
11 violation by considering factors such as the lack of  
12 intent to violate this title, voluntary efforts taken  
13 by the business, service provider or contractor or  
14 person and you know, to cure the alleged violation  
15 prior to being notified by the Agency of the complaint.

16                   And you know, I know we have received  
17 many comments to allow businesses additional time to  
18 comply with regulations once they are finalized. We  
19 are somewhat limited in what we can say in this regard  
20 but perhaps the Agency can request from the  
21 legislature, the ability to provide more direct  
22 guidance to businesses and respond to those businesses  
23 that may mistakenly think that they're impacted by the  
24 CCPA without running afoul of our underground  
25 rulemaking rules.

1                   Alternatively, the Agency could consider  
2   promulgating a regulation expressly recognizing that a  
3   delay in finalizing the regulations is a factor that  
4   the Agency may consider when deciding whether to  
5   initiate an enforcement action or provide businesses  
6   with a time period to cure the alleged violation.

7                   So I hope this answers some of the  
8   questions that we've been getting from the public and  
9   other stakeholders and you know, that's pretty much the  
10  end of my comments. You know, we'd be happy to answer  
11  any outstanding questions around the website, the FAQ,  
12  and perhaps gather some feedback from you all on what  
13  to do next.

14                  MS. URBAN: Wonderful. Thank you very  
15  much Mr. Thompson and Mr. Le. I was really excited to  
16  hear that ad. I heard it in both English and Spanish  
17  and I was delighted and I do -- it does sound like it  
18  reached people in California, so that they know that  
19  the Agency is here to be a support for both consumers  
20  and businesses. Thank you very much for your work on  
21  that.

22                  Also, the FAQs, I think are very helpful  
23  and thank you for that. So I am just excited by the  
24  work that you're doing and look forward to continuing  
25  to hear how it is going.

1 I want to have -- make just one little  
2 process comment which I really also appreciate the  
3 update as to how the Public Awareness Subcommittee is  
4 thinking about providing information to the public and  
5 to consumers of businesses in line with our legal  
6 limitations and parameters. And so, I really  
7 appreciate that and I just want to remind the Board  
8 that as we discuss this, we will need to remain talking  
9 only about the Public Awareness and Guidance  
10 Subcommittee's efforts and not drift into topics that  
11 are really about rulemaking or requests to the  
12 legislature directly.

13                   So thank you both very much for the  
14   update. I think this is tremendously exciting. I hope  
15   that it's been helpful so far for the public and I am  
16   looking forward to hearing from Ms. de la Torre and  
17   then Ms. Sierra.

18 MS. DE LA TORRE: Thank you, Ms. Urban.  
19 I'm hoping that I won't drift away from the topic again  
20 but I just wanted to highlight, first of all I call the  
21 work of Ms. Urban, thank you for the work that has been  
22 done. I think this is a fantastic initiative and its  
23 main core goal of our Agency to increase awareness  
24 around privacy in the State of California.

25                    So one of the things that I wanted to go

1 back to was something that Mr. Le mentioned which is  
2 this need for guidance and when we look at how whether  
3 the (indiscernible) protection authorities or privacy  
4 authorities here in the U.S. have been able to really  
5 educate the public and there might be an expectation  
6 that we will be able to do something similar and I  
7 would love to see us through something similar,  
8 particularly with small business, you know, issue  
9 guidelines to help them in a kind of checklist way,  
10 understand what are the steps that they have to take,  
11 as opposed to having to complete all our goals.

12                   So I guess my question is absent  
13 possibly a change in the statute that will enable the  
14 Agency to be more graphic with guidelines, are there  
15 other paths and perhaps if Ms. Urban doesn't mind, were  
16 you really aware of these mutations that we have in the  
17 Agency in terms of -- and your ground rules but I'm not  
18 sure that the public-at-large is aware, so I'm not -- I  
19 think there would be value in trying to maybe ask our  
20 in-house counsel or maybe yourself to kind of explain  
21 to the public what are those communications, just for  
22 the purpose of them having a better understanding.

23                   MS. URBAN: So I will ask Mr. Soublet to  
24 interrupt us both if we are drifting too far. So far I  
25 think this is directly related to the Public Awareness

1 Subcommittee's work and what they have reported and  
2 what I would suggest is that we return to this topic  
3 after Ms. Sierra's comment or question to see if it's  
4 something that the Public Awareness Subcommittee has in  
5 its list of things that it is considering and if not,  
6 if they would be sure to be considering that as part of  
7 their overall ambit of supporting public awareness and  
8 guidance.

9 Ms. Sierra?

10 MS. SIERRA: Yes, thank you. So I was  
11 very excited also, I heard the Public Awareness  
12 campaign and the pieces. I heard them on the radio  
13 twice and just thought they were really terrific and  
14 just thought they were really terrific. I just feel  
15 like it was a great high level, it was just the right  
16 amount of information in my view, to really reach a  
17 very broad audience.

18 There are some people who are following  
19 us, many people following us, many businesses and  
20 consumers but then there are others that this is still  
21 a really -- a new Agency and a very new issue to them.  
22 So I thought it provided really great information for  
23 both in a way really inviting people to understand, we  
24 really want them involved. So thank you very much. I  
25 just thought they were terrific.

1                   And I really like the fact that again,  
2   while it might not be, you know, totally precise that,  
3   you know, you are looking at metrics generally, to see,  
4   you know, an uptick and people, you know, both  
5   businesses and consumers providing comment and looking  
6   at our website, I think that's really helpful  
7   information for all of us in the Agency.

8                   With respect to, you know, what we can  
9   do, again I think we're all for, we want to give as  
10  much guidance as we can, the statute wants us to, I  
11  really think the FAQs, working on those and modifying  
12  or adding to those, is very helpful. So thank you.

13                  And particularly, as Mr. Le mentioned,  
14  we've heard so much from small businesses that  
15  addressing that issue in terms of who is covered, I  
16  think is very important, so thank you.

17                  And finally, with respect to the  
18  proposals so that we do have the ability to provide  
19  maybe additional guidance, you know, it seems both of  
20  the proposals that are on the table that you've  
21  mentioned, kind of could go hand-in-hand.

22                  MS. URBAN: And I'm sorry, Ms. Sierra,  
23  there aren't proposals on the table.

24                  MS. SIERRA: Oh.

25                  MS. URBAN: And that would be out of

1 line but Mr. Le did mention a couple of things that --

2 MS. SIERRA: Um-hum.

3 MS. URBAN: -- have come up.

4 MS. SIERRA: Okay. Well, in terms of  
5 just the items mentioned, to me those are very  
6 interesting and I could see that they could be helpful,  
7 you know, to our mission --

8 MS. URBAN: Thank you, Ms. Sierra.

9 MS. SIERRA: -- and (audio  
10 interference).

11 MS. URBAN: So if -- so thank you, all  
12 and thank you, Ms. de la Torre and Ms. Sierra for your  
13 comments. With regards to what I think Mr. Thompson  
14 and Mr. Le are hearing is interest from the rest of the  
15 Board with regard to the forms that guidance can take  
16 and the parameters around that guidance.

17 We also have to take -- we have to take  
18 into account like how much we're piling on you. We  
19 also have to take into account, jurisdictional  
20 boundaries under Bagley -Keene, so that you are also  
21 not drifting into rulemaking or legislative work.

22 So here's what I would suggest and feel  
23 free to tell me, you know, you've got enough on your  
24 plate but what I suggest is that if you can, as you did  
25 this time, let us know when you find that you're

1 running into those limitations and we here as a group,  
2 can also all, you know, make staff aware that we're  
3 attentive to these issues and that the Public Awareness  
4 Subcommittee will be reporting on sort of examples of  
5 when it's running into the issues and then maybe staff  
6 can advise us on approaches and if we need  
7 subcommittees to work on those approaches, we can do  
8 that or if we just take advice from staff, we can do  
9 that.

10 I'm trying to balance here what we can  
11 do under the agenda, making sure that we have  
12 subcommittees with appropriately limited jurisdictions  
13 under Bagley-Keene and also not ask Mr. Thompson and  
14 Mr. Le to take on the world, at least yet.

15 MR. LE: Yeah, I'm not quite sure yet  
16 exactly how -- yeah, how to present this -- you know,  
17 these ideas, and yeah, they're not formal proposals as  
18 of yet and these are just some things that would help  
19 the public awareness and guidance subcommittee provide  
20 some more public awareness around the issues that we've  
21 been hearing.

22 So yeah, we'll talk with staff on the  
23 best way to bring that forward in a more formal manner  
24 and make that assigned to the proper subcommittee or  
25 body of the Board, so that's fine with me.



1                   And there's one other thing, not to get  
2 off the topic but some input we would like from the  
3 Board would be around what our -- what is kind of the  
4 feeling around targeted advertising, if that is  
5 something we would do to reach out to groups that may  
6 not normally be reached by, you know, our untargeted  
7 campaign, does the Board have strong feelings one way  
8 or the other about it.

9                   And beyond that, we have you know, a new  
10 hire coming in around that would take over, kind of  
11 lead a lot of the work that Mr. Thompson and I are  
12 doing, so we would really take advice from them but any  
13 high level thoughts on you know, perhaps area for the  
14 next campaign to possibly focus on such as, you know,  
15 partnering with community organizations, things like  
16 that, so that we could provide some input for you know,  
17 our -- the new hire.

18                   MS. URBAN: Thank you, Mr. Le.

19                   Mr. Thompson, did you have additional  
20 comments before --

21                   MR. THOMPSON: I don't.

22                   MS. URBAN: Okay.

23                   MR. THOMPSON: Mr. Le covered them all.

24                   MR. THOMPSON: Okay. Yeah and thank you  
25 for the question, Ms. de la Torre.

1 MS. DE LA TORRE: Thank you. I am going  
2 to draw my personal answer to the question that Mr. Le  
3 asked in terms of the targeted advertising. My  
4 personal opinion is that even though CCPA does not  
5 really apply to the public sector, we as an Agency  
6 should strive to abide by the same principles that we  
7 are enforcing. So every campaign that is put out that  
8 has to do with awareness or any other thing and even  
9 thinking about how we do with the personal data of our  
10 information, which we also regulate in the private  
11 sector, I think our aim should be to be compliant with  
12 CCPA as CCPA was imposed on us. As an Agency, even  
13 though we know we are a public Agency and that's not  
14 the case.

15 MS. URBAN: Thank you.

16 MR. LE: Yeah, I'm not saying the  
17 targeted advertising would be noncompliant with CCPA.  
18 As far as CCPA goes, now we would, you know, follow all  
19 of those rules, I would imagine but you know, within  
20 the bounds of CCPA, is there a kind of a feeling among  
21 the Board that we shouldn't do any targeted advertising  
22 at all, even if it is compliant?

23 MS. DE LA TORRE: Not on my side. On my  
24 side, my belief is that so long as we comply with the  
25 rules that we're enforcing on others, we should take

1 advantage of the tools that we have to reach the  
2 audience that we need to reach.

3 MS. URBAN: Thank you, Ms. de la Torre,  
4 I will say I have some confusion around this, with  
5 targeted advertising because I have a different  
6 reaction to advertising that is sort of generally to  
7 advertising that is sort of generally demographic in  
8 nature versus advertising that is more targeted in more  
9 detail.

10 I agree with Ms. de la Torre that the  
11 statute is absolutely a guide and it sounds like that  
12 wasn't a question in the Subcommittee's mind at all but  
13 it might be that it's a little difficult to answer the  
14 question without some specifics. I absolutely think  
15 that there are some tradeoffs between making sure that  
16 we aren't using personal information in a way that is  
17 outside what we think is appropriate, while also doing  
18 our very best to engage in outreach that will reach all  
19 California communities, not just some California  
20 communities and I know that's the goal of the  
21 Subcommittee as well.

22 Mr. Soltani?

23 MR. SOLTANI: Just a logistical issue, I  
24 saw that Ms. de la Torre dropped off.

25 MS. URBAN: Oh, she did drop off.

1 MR. SOLTANI: So --

2 MS. URBAN: Sorry, I did not actually --

3 MR. SOLTANI: Yeah, I --

4 MS. URBAN: You came on and she went  
5 off, you came on and I had the same number of boxes.

6 MR. SOLTANI: No problem.

7 MS. URBAN: Ms. Sierra, also I  
8 apologize, did I miss your hand?

9 MS. SIERRA: No, no but --

10 MS. URBAN: Okay.

11 MS. SIERRA: Yeah.

12 MS. URBAN: Okay. Ms. de la Torre,  
13 apologies. I didn't initially notice that you had  
14 dropped away. I was simply agreeing that follow --  
15 that the statute is a good guide and saying that what  
16 targeted advertising means will be important and I saw  
17 a balance between making sure that we're not using  
18 personal information in ways that we don't consider  
19 appropriate and making sure that we do reach all  
20 California communities.

21 So what I would suggest is that if Mr.  
22 Le and Mr. Thompson, you think you have enough  
23 information from the Board to keep moving forward, that  
24 we, you know, ask you to work with staff with this sort  
25 of general guidance in place and let us know if there's

1 anything that you need us to decide. Does that make  
2 sense?

3 MR. LE: That makes sense.

4 MR. THOMPSON: Yes. Let me ask one  
5 clarifying question because I think this has been a  
6 helpful discussion of this topic, what I heard as in  
7 part playing it back to make sure it's understood, is  
8 one threshold is that we should operate as though the  
9 statute and the regulations apply to us.

10 MS. URBAN: Um-hum.

11 MR. THOMPSON: Another standard would be  
12 that we should hold ourselves to a higher standard than  
13 the statute or the regulations that would need to be  
14 defined, what that higher standard would be and so I  
15 think those were kind of -- those were the increments  
16 that we were trying to get our heads around, where the  
17 Board colleagues were as far as the use of personal  
18 information or other data to target messaging or  
19 advertising.

20 So what I think I am hearing is we  
21 should certainly, at a minimum -- I don't want to  
22 misphrase (sic), but at a minimum, we should operate as  
23 though the statute and the regulations apply to us. Is  
24 that --

25 MS. URBAN: I think --

1 MR. THOMPSON: -- sufficient?

2 MS. URBAN: I think yes, I think we also  
3 -- we need to understand the legal implications and if  
4 that works, I don't mean in the sense that we are  
5 protecting privacy at the same level but that we are a  
6 government Agency, we are not selling data for example.

7 So I also -- again, I just find it a  
8 little difficult to -- without some kind of metric or  
9 some kind of example to say exactly what I think.

10 What I do think is that if you're asking  
11 the question, I think you're being attentive to it and  
12 that it would be -- that I would ask you to work with  
13 staff who have expertise and understand, I hope from  
14 this discussion, the questions that the Board has and  
15 if there is something that seems as though there is  
16 a -- that there are tradeoffs and staff are not sure  
17 that we have the opportunity to discuss that in a Board  
18 meeting.

19 Ms. de la Torre?

20 MS. DE LA TORRE: I'm just trying to get  
21 clarity on the guidance that we're giving to this  
22 Subcommittee, as well. So again, from my perspective,  
23 we obviously should act as a the CCPA applied to us but  
24 beyond that, if there's no ability -- and I don't think  
25 there is any ability to, you know, provide really

1 concrete guidelines. My inclination would be to  
2 actually leave it to the Subcommittee to make the  
3 decision by the -- so long as you're confident that  
4 we're operating within the boundaries of the statute  
5 which I am sure you will be based on the advice of our  
6 staff, then if there's a situation where you might  
7 consider, you know, if this is within the boundaries  
8 but we don't feel comfortable doing it or this is  
9 within the boundaries but we prefer not to do it but I  
10 think that the best practical way to deal with it will  
11 be to give it to the Subcommittee to decide because I  
12 don't know that as a Board having that discussion will  
13 have an impact that will then potentially lay in the  
14 campaigns, and I really trust Mr. Le and Mr. Thompson  
15 to make the right choice in that context, if that's  
16 agreeable with the rest of the Board.

17 MS. URBAN: I do have to make an  
18 addendum which is that we've delegated authority to the  
19 executive director. Subcommittees do not have decision  
20 making authority or they are no longer subcommittees  
21 but I think that the Subcommittee has heard guidance  
22 from the Board and can work with the staff with the  
23 proper delegated authority and can have the judgment to  
24 decide if there is something that staff and the  
25 Subcommittee think really requires more guidance from

1 the Board.

2 MR. THOMPSON: I think --

3 MS. URBAN: There are nodding heads.

4 MR. THOMPSON: Yeah, I think that's  
5 right. It was a philosophical question more -- and  
6 again, I appreciate your point, Chair, that it's hard  
7 to give more detailed feedback in the hypothetical  
8 rather than in an actual example but I think the  
9 philosophical guidance that was provided is what we  
10 needed. So thank you for that.

11 MS. URBAN: I would add one more  
12 suggestion which is if there is something that is on  
13 that, sort of in the gray area where Mr. Le and Mr.  
14 Thompson and you know, Mr. Soltani and the Deputy  
15 Director of Public Affairs when they arrive, thinks  
16 they're not certain, the statute also very clearly lays  
17 out purposes and values that are behind the specific  
18 legal requirements and so that also will probably  
19 provide guidance and then if you want -- if you think  
20 that the Board's guidance is necessary, I would just  
21 encourage you to come back.

22 I agree with Ms. de la Torre, you know,  
23 we don't want to like work out every single campaign  
24 here in this meeting, that's not an efficient use of  
25 anyone's time but if in your judgment, you think that



1 there's a question, then just request an agenda item  
2 and we can talk about it.

3 MS. URBAN: I would like to take public  
4 comment now.

5 MR. SOLTANI: We have -- if you would  
6 like to make a public comment, please raise your hand  
7 using the Zoom raise hand feature. We have -- We have  
8 -- if you would like to make a public comment, please  
9 raise your hand using the Zoom raise hand feature. We  
10 have --

11 MS. URBAN: And we'll -- okay, while we  
12 actually -- before we take the first public comment, I  
13 do also want to add an addendum to my gratitude to Mr.  
14 Thompson, Mr. Le, Mr. Soltani, and the staff, who I  
15 know worked on this. It's not a trivial thing to do a  
16 campaign like this and I realize that you have a  
17 consultancy that helps, so thanks to them and thanks to  
18 all the staff who have worked on this. And I look  
19 forward to public comments.

20 MR. SOLTANI: Great. We have Medina  
21 (ph.)? Medina? I'm going to invite you to unmute  
22 yourself and they actually lowered their hand, so we'll  
23 move on. Medina, if you want to make a comment, please  
24 use the raise hand feature.

25 We have William (ph.) -- Mr. Chahady

1 (ph.), I apologize for butchering your name, Mr.  
2 Chahady?

3 UNIDENTIFIED SPEAKER: Mr. Chahady,  
4 please unmute yourself. You have three minutes  
5 starting now.

6 MS. CHAHADY: Okay, thank you. This is  
7 more of a question and I know you guys might not be  
8 able to answer but when Mr. Le mentioned regulations  
9 for businesses and how it might be a problem since  
10 there is no official guidance out, I was just wondering  
11 what the like final stance on that was. I know  
12 there's -- you mentioned there was no official proposal  
13 but it just got a little confusing towards the end.

14 MR. SOLTANI: Thank you for your  
15 comment.

16 MS. URBAN: Thank you. Yeah, so  
17 generally we can respond in detail. There is a process  
18 question in there which I am happy to respond to which  
19 is that if we were to consider, for example, rules that  
20 would be something that should be considered as a  
21 separate notice discussion but I think that Mr. Le, who  
22 can correct me if I am wrong, was indicating that the  
23 Public Awareness Subcommittee is aware of questions and  
24 thank you for the comment.

25 MR. SOLTANI: If there are any

1 commenters, please raise your hand. We have one other  
2 commenter. Mr. Shapel? Mr. Shapel, you have -- please  
3 unmute yourself.

4 MR. SHAPEL: Thanks for the opportunity  
5 to share some thoughts. I have been listening intently  
6 to the discussion about the advertising campaign to  
7 promote public awareness and in my view, it sounds like  
8 that might be a very good opportunity for the CPPA to  
9 provide some insight, tell the community exactly how  
10 you advertised, what tools you used, if it included  
11 targeted advertising because there's a number of us, as  
12 you might expect, who are you know, trying to work our  
13 way through the guidance document and understand how we  
14 might engage in advertising campaigns. And so that  
15 type of insight, I think would be invaluable to the  
16 community, and I am just curious what the Board's  
17 thoughts are on that and even if you would be in a  
18 position to commit to providing that type of  
19 information to the community.

20 MS. URBAN: Thank you very much, Mr.  
21 Shapel. Did I say that correctly?

22 MR. SHAPEL: Yes, you did. Thank you.

23 MS. URBAN: Thank you, Mr. Shapel.

24 MR. SOLTANI: If there are any other  
25 comments, please raise your hand using the Zoom raise

1 hand feature. We'll just give it a minute.

2 Ms. Chahady again?

3 MS. CHAHADY: Thank you. So I see on  
4 the agenda that with the public comments, you're  
5 allowed to play -- you're allowed to decide whether to  
6 place matters on the agenda for a future meeting. So I  
7 was just wondering if the issue of regulations and  
8 guidance for businesses to be able to follow these  
9 rules before January 1st will be something that will be  
10 decided at a -- for a future agenda?

11 MS. URBAN: Thank you, Ms. Chahady.  
12 Those items are -- those items can be suggested under  
13 the appropriate agenda item, which I think is number 9  
14 today. So if you want to suggest the item under agenda  
15 item number 9, that would be very helpful. Thank you.

16 MR. SOLTANI: Great. If there are any  
17 other comments, please raise your hand using the Zoom  
18 raise hand feature. Give them a minute. I see none.

19 MS. URBAN: I'm sorry, Mr. Soltani --

20 MR. SOLTANI: Do you know --

21 MS. URBAN: -- I see none or I see one?

22 MR. SOLTANI: Sorry, I see none, I see  
23 no further comments.

24 MS. URBAN: Okay. Thank you very much,  
25 Mr. Soltani, and to everyone who commented, and to the

1 Public Awareness Subcommittee for this exciting update  
2 and for the work.

3                   We will now to -- move to agenda item  
4 number 6 which is our second advisory subcommittee  
5 report, with a proposed course of action from the  
6 Rulemaking Process Subcommittee. The Rulemaking  
7 Process Subcommittee is one of three separate subject  
8 matter based subcommittees formed to advise the Board  
9 on the Agency's rulemaking. The others are the update  
10 of CCPA Rules Subcommittee and the new CPRA, as in  
11 California Privacy Rights Act, Rules Subcommittee.

12                   The Rulemaking Process Subcommittee is  
13 Ms. de la Torre and Mr. Thompson. I will now turn  
14 things over to them and Ms. de la Torre and Mr.  
15 Thompson, I am hoping you can go through your entire  
16 proposal here and then we will discuss it the way that  
17 Mr. Thompson and Mr. Le gave their whole report but of  
18 course just let us know if that's not going to work.

19                   And I'll turn it over to you.

20                   MS. DE LA TORRE: Thank you, Ms. Urban.  
21 Would it be possible to project the slides.

22                   MS. URBAN: Mr. Soltani.

23                   MR. SOLTANI: Yes, you should be able to  
24 share a screen. If not, let me know.

25                   MS. DE LA TORRE: Could you project it

1 on your end?

2 MR. SOLTANI: Oh, you'd like me to share  
3 it? Let's (indiscernible) I'm sorry. I wasn't  
4 prepared. Give me one minute, and I will get that set  
5 up. I thought I meant if you were going to project the  
6 slides. One moment, please.

7 MS. DE LA TORRE: I appreciate it.

8 MR. SOLTANI: I just have lots of  
9 settings here. One second. Okay. I do worry that as  
10 I'm also moderating, it might be -- it might be a  
11 challenge. Let's give it a go, and I'll see if --  
12 Vinhcent, do you mind? Looks like you --

13 MR. LE: I can project it. Just give me  
14 a second to pull it up.

15 MR. SOLTANI: Yeah, I just wonder with -  
16 - let me go ahead and try. I just worry that if I have  
17 any technical glitches, I can't attend to them.

18 MR. LE: Okay. Let me share my screen.  
19 I think it should work.

20 MS. URBAN: Thank you, Mr. Le. I could  
21 also do it, but I don't have them open because I heard  
22 that they were going to be projected. But I can open  
23 them if I need to.

24 MR. LE: Yeah, let me see. It doesn't  
25 look normal. There's, like, a big -- well, oh, I just

1 got to grant access. Sorry. I can do that.

2 Okay. I would have to quit and reopen

3 Zoom.

4 MR. SOLTANI: Oh, nope.

5 MR. LE: If that's fine, I can quit and

6 rejoin. That's not an issue.

7 MS. URBAN: Let me try --

8 MR. SOLTANI: Okay.

9 MS. URBAN: -- but I need a second

10 because I have to open them (audio interference).

11 MR. THOMPSON: This feels like a race.

12 I've got them open. I can --

13 MR. SOLTANI: Go for it.

14 MR. THOMPSON: -- go ahead and project

15 them if you'd like.

16 MR. SOLTANI: Chris, if you have them,

17 do it.

18 MS. URBAN: Please do.

19 MR. LE: Please do, yeah.

20 MR. SOLTANI: Excellent

21 (indiscernible) --

22 MR. THOMPSON: Can you see that?

23 MR. SOLTANI: We have a winner. Yep.

24 MS. DE LA TORRE: Thank you.

25 MR. THOMPSON: Ms. de la Torre, if you

1 just want to tell me when you'd like the slide  
2 advanced, I'll do that.

3 MS. DE LA TORRE: Please advance to the  
4 next slide. Thank you so much.

5 So this slide, it just represents  
6 overall the process that we propose in the entire  
7 meeting where the (indiscernible) committee presented  
8 an update to the Board. It's not a new slide. We just  
9 thought it would be a good way to start this  
10 presentation to remind the Board and the public of the  
11 process that we are going to follow. Basically, the  
12 current information on our process on the website, by  
13 the way, so if you're a member of the public and you  
14 want to understand it a little better, I would  
15 definitely encourage you to look into that.

16 Our process is very similar to the  
17 process that was followed by the California attorney  
18 general, with a difference that the contributor Board,  
19 we do have to bring these different proposals for  
20 changes in the rules up through the Board for  
21 consideration and discussion. If there are no  
22 questions about this slide, maybe we can move to the  
23 next one.

24 During the formal rulemaking period, we  
25 just wanted to remind the Board of a few things, and



1   this slide particularly refers to the administrative  
2   process requirements regarding comments under  
3   California law.  Currently, the staff is reviewing all  
4   of the public comments that we have received, both  
5   written and oral, and these were submitted during the  
6   forty-five -- mandatory forty-five-day public comment  
7   period.

8                   It's important to note that even  
9   untimely comments, meaning comments that might be  
10  submitted after the forty-five-day period in this case,  
11  should be and will be included in the rulemaking file.  
12  The difference is that the Agency might not be or will  
13  not be required to provide a response to those  
14  comments.

15                   And the reason we're bringing this to  
16  the attention of the Board is because if any Board  
17  Member were to receive a comment or an email that  
18  includes a comment during this period, even though  
19  we're outside of the forty-five days, it's really  
20  important for us to send those comments to the  
21  executive director so that they can be properly  
22  classified and included in the rulemaking file, and  
23  then the Agency will make a determination as to where  
24  the base in that response should require or not.  But  
25  on our end as Board Members, we still should

1 proactively bring to the attention of the executive  
2 director any comment that we might receive outside of  
3 the public comment period.

4                   Once the Agency has reviewed these  
5 comments and changes to the rulemakings are proposed,  
6 there will be a meeting and like he was explaining the  
7 prior slide, and we will have a new public comment  
8 period that will be noticed.

9                   We can move to the next slide  
10 (indiscernible). Thank you.

11                   This last slide that I'm going to  
12 present before I turn it over to Mr. Thompson relates  
13 to the role of the subcommittees after the formal  
14 rulemaking period opens. We have mentioned in the  
15 past, we're trying to generate a process that is not  
16 only applicable to this particular rulemaking process  
17 but just the way we're going to function  
18 (indiscernible) with rulemaking. But in this  
19 particular rulemaking process that we are in, this  
20 really applies to the CCPA rules updates subcommittee  
21 as the subcommittee that generated the draft of rules  
22 that are now going through the formal process.

23                   So our understanding based on the prior  
24 conversations that we have had with the Board is that  
25 these subcommittees during the formal rulemaking period

1 will be dormant, not dissolved. So we're not  
2 dissolving the subcommittee, but it shouldn't be  
3 actively meeting on a regular basis. However, this  
4 petition is that the subcommittee will be available to  
5 the staff as needed for historical memory, so it could  
6 be -- there could be situations whether they've sent  
7 (indiscernible) a member of the staff might reach to  
8 members of the CCPA rules updates subcommittee, in this  
9 case, and ask for a meeting for a particular purpose.

10                   It's not expected that the subcommittee  
11 will review proposed revisions, meaning when the staff  
12 comes to ask with the edits to the rules that have been  
13 published, they will come to us as a Board. They will  
14 not go to the subcommittee for comments on the edits.

15                   And that's the last point, that the  
16 staff will propose those revisions to the Board. And  
17 I'm going to pause here for a second, Ms. Urban, just  
18 to give an opportunity to other Board Members to  
19 confirm that this understanding that we derived from  
20 prior meetings is correct and aligns with their  
21 understanding.

22                   Could you kindly see if there are any  
23 hands --

24                   MS. URBAN: Thank you.

25                   MS. DE LA TORRE: -- raised, any Board

1 Member that might have comments on this?

2 MS. URBAN: Thank you, Ms. de la Torre.

3 For my own part, I think I need to hear the whole  
4 process to really understand how it all fits together.  
5 I can say this is not exactly my understanding of our  
6 prior conversation. Certainly, that the subcommittees  
7 could be valuable for historical memory. I do not  
8 remember a division that would prohibit staff from  
9 talking to a subcommittee about proposed revisions, and  
10 I'm not sure I understand that division, given that  
11 historical memory could be relevant to that.

12 So if staff might say we were thinking  
13 of this, and we know there's some history to the  
14 revision, can we talk about that. So I don't really  
15 understand that, and that is not exactly my  
16 recollection of our prior discussion, during which we  
17 asked staff what they thought would be useful, and my  
18 understanding was that there wasn't a need for a formal  
19 sort of process of aware of a subcommittee but that the  
20 subcommittees should be available.

21 So that's my own understanding. I may,  
22 again, like, need to hear the whole thing, but I will  
23 also ask for Mr. Le and Ms. Sierra's input if they have  
24 any they would like to give.

25 Ms. Sierra.

1 MS. SIERRA: Yeah, so my memory about  
2 this is similar to the Chair's. What I, I guess, have  
3 was understanding and envision or recalled was that  
4 staff would be making decisions as to which portions to  
5 come to the subcommittee to talk about if they thought  
6 that what we had done in the past or discussions in the  
7 past could provide guidance or just be helpful for  
8 brainstorming and thinking through the issues that we  
9 may have analyzed in the past and so that they would  
10 have more flexibility in determining when to bring some  
11 proposed revisions to us, or even the recommendations  
12 to not revise.

13 So I had thought it had a little bit  
14 more flexibility. And maybe it is. I mean, items two  
15 and three, I have read together. Maybe that is kind of  
16 the generally how it would work. I'm just not sure.

17 MS. URBAN: Thank you, Ms. Sierra.

18 Mr. Le, you don't have to have input.  
19 If you don't have --

20 MR. LE: I don't.

21 MS. URBAN: -- if you don't  
22 (indiscernible) --

23 MR. LE: I'm not quite sure what I  
24 remember anymore, so yeah, I'll just stay quiet on this  
25 one.

1 MS. URBAN: Thank you very much, Mr. Le.

2 MS. DE LA TORRE: I --

3 MS. URBAN: I don't know if this is  
4 useful to you, Ms. de la Torre.

5 MS. DE LA TORRE: No, this is useful. I  
6 mean, I appreciate it, and I think that we might be  
7 saying the same thing, just in different ways. What  
8 Mrs. Sierra said at the end of her comments is kind of  
9 what we have in mind, that the staff will be able to  
10 reach out to the subcommittee if the staff considers  
11 that helpful or necessary.

12 The gist of this proposal or our  
13 understanding comes more from the perspective of if  
14 there is any discussion that needs to be had about  
15 proposed revisions, that discussion is better -- the  
16 best place for that discussion would be the Board with  
17 all of us as members, as opposed to a subcommittee that  
18 is only composed of two members. Obviously, those  
19 discussions will be potentially -- well, not  
20 potentially, for sure (indiscernible) to decision  
21 making by the Board.

22 So for transparency reasons and just to  
23 make sure that everybody receives the same information,  
24 the idea, and as I understood it, was that outside of  
25 consulting as needed for historical memory -- which can

1   happen at any point, to Ms. Urban's comment -- that in  
2   terms of proposes for changes, that we will follow a  
3   process that I think we're going to discuss in the next  
4   slide. So let's go to the next slide so maybe we take  
5   this item at the end, once we have more of the full  
6   picture.

7                   MS. URBAN: Thank you. Thank you.  
8   Actually, before we move to the next slide, since we  
9   are talking about it, I wonder if maybe the word that  
10  is doing the work in creating the confusion here is the  
11  word "review". So is it that the thought is that the  
12  subcommittee doesn't provide an additional sort of  
13  layer in any official way, but that staff might talk to  
14  the subcommittee to get its input in historical memory  
15  as they're working on things, including the proposed  
16  revisions. I will say that the subcommittees do have  
17  no power to make decisions and so any discussion that  
18  requires a decision will be had by the full Board.

19                   MS. DE LA TORRE: Okay. That's the  
20  (indiscernible).

21                   MS. URBAN: Yeah. Okay. All right. I  
22  think we have, like, a Rashomon view of the word  
23  "review", which I was finding slightly confusing.

24                   So if I can summarize and ask Ms. de la  
25  Torre and Mr. Thompson if it seems as though we have a

1 shared understanding now, that the subcommittees aren't  
2 providing a sort of official layer through which the  
3 proposed revisions, comments, handling of comments will  
4 go, and that does include mostly the update rule  
5 subcommittee, but of course the new rule subcommittee  
6 did do some work that is in the proposed package, so it  
7 could involve both subcommittees.

8                   They will not provide any kind of an  
9 official layer, but they are available to the staff for  
10 discussion and input as the staff is working through  
11 its processing of the comments and its work to prepare  
12 to help the Board make a decision about what changes to  
13 make or not make to the rules.

14                   MS. DE LA TORRE: I appreciate the  
15 summary. I would like to turn to our executive  
16 director because truly, he is just the one that has  
17 clarity on this, and just to ask him whether this  
18 conversation brings enough clarity for staff or --

19                   MR. SOLTANI: I do.

20                   MS. DE LA TORRE: -- maybe we're missing  
21 something.

22                   MR. SOLTANI: Thank you, and I do. I  
23 think the summarization is great, and now I have  
24 another Kurosawa film to watch because of that  
25 reference. So thank you. Yep.



1 MS. DE LA TORRE: Okay. Perfect.

2 MR. THOMPSON: Yeah, so the --

3 MS. DE LA TORRE: So then maybe we can  
4 move -- go ahead, I'm sorry.

5 MR. THOMPSON: I was going to move  
6 forward, but I think the purpose of this was we talked  
7 about it once, and in the discussion we had had with  
8 the staff, there was a lack of clarity about what the  
9 Board's view was because I think there were various  
10 expressions of views that they were having trouble  
11 reconciling, so the thought was let's put something in  
12 writing that we can discuss that they can then rely  
13 upon as they are considering and proposing revisions to  
14 the rules.

15 I'm going to go forward with the rest of  
16 the presentation because I think the Chair's point  
17 about considering this in the broader context of the  
18 process might also be helpful in illuminating as we  
19 talk about this.

20 So I'm going to go ahead and advance the  
21 slide. So as Ms. de la Torre described, we are going  
22 to need to process proposed changes to the draft  
23 regulations, and so we laid out this flowchart of what  
24 we are proposing and would like feedback on. Not  
25 knowing how many proposed changes there might be, there

1    could be a small volume or a large volume. And a  
2    process that is used in a lot of other bodies is a  
3    consent agenda, which is noncontroversial items.

4                   And so what we're envisioning, and I'll  
5    describe this in greater detail in the subsequent  
6    slides, is in the Board meeting that we would have to  
7    consider proposed revisions to the draft rules, we  
8    would start with a presentation of a consent agenda,  
9    which would be items as I mentioned that are  
10   noncontroversial. We would deliberate on that agenda  
11   of changes, that list of changes, and then vote on  
12   those noncontroversial changes, which would then  
13   dispose of a certain volume of the proposed revisions  
14   to the draft regulations.

15                   Once that was disposed of, we could then  
16   move onto the items that perhaps were controversial or  
17   complicated and required individual consideration and  
18   deliberation by the Board. So imagine, the staff would  
19   present, in section X, the draft said this; we're  
20   proposing a -- in response to a comment, we're  
21   proposing to modify section X to read this way. They  
22   would present a rationale for the change. And then we  
23   would dispose of that recommendation, either accepting  
24   it or modifying it as the deliberation warranted.

25                   I'm going to move onto the next slide.

1 I just got into this to some extent already, but the  
2 intent is the efficient disposition of noncontroversial  
3 items that are grouped together in one agenda item and  
4 then are considered and approved potentially en bloc.  
5 So there is not an intention to have a debate around  
6 it. We would all have visibility into the changes that  
7 were proposed in the consent agenda, and that consent  
8 agenda would be identified and proposed by the Agency  
9 staff.

10 We would all have visibility into it  
11 prior to the Board meeting, and at the initial  
12 presentation of this agenda item, the consent agenda,  
13 any one of us could say I'd like to pull number 17 off  
14 of the consent agenda and deliberate upon it  
15 individually. And that could be for any reason. It  
16 does not necessarily mean that that Board Member  
17 disagrees with the proposal or that they think it's  
18 controversial. It could be a belief that it needs  
19 individual visibility to the public and the rest of the  
20 Board, whatever the reason might be, but that any  
21 individual Board Member could remove an item from the  
22 consent agenda, and that would result in its individual  
23 deliberation and disposition.

24 Thinking about how this process will  
25 work, once all of the comments are logged and responded

1 to and revisions are drafted, we all need to be  
2 prepared. There are going to be multiple meetings that  
3 we will need to have and the potential for a large  
4 volume of work and multiple day meetings. During those  
5 meetings, as I mentioned, so the staff may propose a  
6 change, and we could either just deliberate upon it and  
7 accept it or reject it or ask for a modification.

8                   We may need to take breaks during the  
9 meeting for a modification to be drafted, so that could  
10 interrupt the flow, but if we're going to dispose of an  
11 item and the view of the Board is that it should be  
12 modified, for the efficiency of the process and  
13 reducing the number of required meetings, we propose  
14 that the actual text of the modification be available  
15 and voted upon during the meeting, rather than a  
16 conceptual guidance that then results in another vote  
17 at a subsequent meeting.

18                   Then moving onto the middle item there,  
19 in-person versus remote meetings, we will have the  
20 revision to the draft, and then we will need a  
21 subsequent meeting that will be after a -- there will  
22 be revisions of the draft, there will be a public  
23 comment period on the revised draft, and then a  
24 subsequent meeting.

25                   The subsequent meeting presumably, and

1 we believe, will have few, if any, additional revisions  
2 to the regulations. And so our belief is that an in-  
3 person meeting for that first meeting where there is  
4 substantial deliberation and debate should be in  
5 person, that it would be more effective -- we would  
6 deliberate as a group more effectively in person for  
7 that first meeting. The subsequent meeting, which may  
8 just be as simple as a final approval of the revised  
9 regulations, is more conducive for a remote meeting but  
10 that our review and proposal is that that first meeting  
11 that we anticipate being more substantive be in person.

12                   And then to the extent that any of us  
13 have changes we would like to propose, the staff would  
14 be available to help us draft them, and that is a  
15 recommended and preferred approach is that we rely upon  
16 staff for drafting assistance so that all of our  
17 proposed changes conform to OAL's requirements and  
18 other rules so that we have consistency in drafting.  
19 So that could be done prior to the meeting, where an  
20 individual Board Member requests drafting assistance  
21 from the staff.

22                   This might have been better to lay out  
23 prior to the consent agenda, but there are three  
24 general categories of changes. One are changes that  
25 may be made in response to comments but are viewed by

1 the staff as noncontentious, noncontroversial,  
2 noncomplex perhaps, and that those could be grouped in  
3 a consent agenda, and those would be subject to our  
4 review, and as I mentioned, any one of us could pull  
5 them off the consent agenda.

6                   There are the ones that the staff  
7 proposes and we concur should be individually discussed  
8 and deliberated upon and individually approved.

9                   And then there's non-substantive, which  
10 in my parlance is technical and conforming changes that  
11 the staff has the authority to make. If there's a  
12 typo, if there are non-substantive changes to make,  
13 they have the authority to make those.

14                   This last point was intended less for  
15 how we dispose of rules changes, but perhaps a general  
16 observation of how we operate that we should look at  
17 are there votes -- we tend to take roll-call votes for  
18 every action we take, and are rollcalls required for  
19 everything and are there actions that we can start  
20 looking at. A voice vote. And there may be a  
21 difference in how remote meetings are handled versus  
22 in-person meetings under the executive order, but if we  
23 end up with a lot of votes, we may want noncontentious,  
24 noncomplex votes to be --

25                   MS. URBAN: Okay. I can answer this

1 quickly. When we do a remote meeting, we have to do  
2 roll-call votes under Bagley-Keene. That's --

3 MR. THOMPSON: Okay.

4 MS. URBAN: -- the law.

5 MR. THOMPSON: That's the end of the  
6 presentation, so hopefully that gives some context and  
7 helps folks to -- I'm going to stop sharing the slides  
8 as well.

9 MS. URBAN: Thank you very much, Mr.  
10 Thompson, and for being our technical hero on top of  
11 everything else. Did you want to --

12 MR. THOMPSON: I'm going to request Ms.  
13 de la Torre --

14 MS. URBAN: Did you want to say anything  
15 in particular about the discussion before we start?

16 MR. THOMPSON: I was going to ask Ms. de  
17 la Torre if there was anything she wanted to add before  
18 we turn over to discussion.

19 MS. URBAN: Very good.

20 MS. DE LA TORRE: No, I think that this  
21 was a very dense presentation for the members of the  
22 Board that might not be members of the subcommittee, so  
23 I just want to make sure that we allow time for them to  
24 kind of absorb the information and share their thoughts  
25 and questions.

1 MS. URBAN: Thank you, Ms. de la Torre.

2 I do have some questions, but first I want to invite

3 Mr. Le or Ms. Sierra, if you have questions. I think

4 here's what I'd suggest. I suggest we start with

5 clarifying questions, and then we move into discussion.

6 Just me? Okay.

7 Yes, Ms. Sierra.

8 MS. SIERRA: Okay. Just one quick --

9 well, fairly quick question. I just wanted to clarify,

10 so with respect -- well, we will be receiving a

11 proposal from staff as to which regulations they

12 recommend be modified. And to the extent there may be

13 a regulation that one or more Board Members feels that,

14 well, staff has not recommended a change to that

15 particular regulation, but I'm interested in

16 potentially seeing that revised or having a discussion.

17 Is that something then -- that type of

18 thing could also be moved into the list of

19 deliberations because a staff would have communicated

20 to -- I mean, the Board Member would have communicated

21 to staff that they're interested in a change. Is that

22 how that would work?

23 MR. THOMPSON: If I'm understanding your

24 question correctly --

25 MS. SIERRA: Um-hum.



1 MS. URBAN: So there are changes --  
2 there's comments that the --

3 MS. SIERRA: Right.

4 MR. THOMPSON: -- Agency has -- right --

5 MS. SIERRA: Right.

6 MR. THOMPSON: -- and those will all be  
7 logged and a disposition will be proposed.

8 MS. SIERRA: Right.

9 MR. THOMPSON: Separately from that,  
10 during deliberation on the rules, the Board Members  
11 could propose changes that were not generated by public  
12 comment, if that's what you're asking.

13 MS. SIERRA: Not so much that. I guess  
14 what I was just -- and I'm sorry I'm not as clear --  
15 that the staff will be presenting us the regulations  
16 that they're proposing to revise, or that we revise,  
17 but there's going to be a set of regulations that  
18 they're proposing that should stay as is, despite the  
19 comments because they'll have considered the comments  
20 and feel that there are reasons not to make a  
21 modification. But there may be --

22 MS. URBAN: Or a comment may say there  
23 is no need for a modification.

24 MS. SIERRA: Yeah.

25 MS. URBAN: Right? Yeah.

1 MS. SIERRA: Right. Or yeah, they're  
2 analyzing the comments, and given the analysis, that we  
3 feel as an Agency that we're not going to make that  
4 change, but one or more Board Members might want to  
5 deliberate on that type of decision too. And so is  
6 there going to be a process for that?

7 MS. DE LA TORRE: I just wanted to  
8 highlight something that maybe we didn't stress during  
9 the presentation, which is we do expect before we ask  
10 the Board that the staff will have an opportunity to  
11 communicate individually with each Board Member in  
12 terms of giving them an update on the filing of new  
13 comments --

14 MS. SIERRA: Um-hum.

15 MS. DE LA TORRE: -- and that would be a  
16 great opportunity, I think, for Board Members that  
17 might have questions about edits that might not be  
18 proposed. To bring it, if possible, at that time to  
19 the attention of the staff just to make sure that the  
20 staff is ready to have that conversation during the  
21 Board meeting, I imagine -- and maybe this is a  
22 question that we have to bring back to our legal  
23 department for Bagley-Keene clarity, but I imagine,  
24 like Ms. Sierra is suggesting that if during the  
25 meeting, a Board Member comes with opposing idea that

1 maybe was not part of what was included in initial  
2 conversations, that that conversation should be had at  
3 the Board Member, but there is a great advantage to  
4 bring those to the attention of the staff early --

5 MS. SIERRA: Okay. Um-hum.

6 MS. DE LA TORRE: -- because the staff  
7 is really going to decide what goes into the consent  
8 calendar -- I mean, what requires individual  
9 conversations, and we anticipate that the staff -- for  
10 every item that goes into individual conversations or  
11 for a group of items that are logically related, that  
12 they will be presented by the staff with an explanation  
13 as to why these changes were made and that the  
14 (indiscernible) was a communication. So if we surprise  
15 the staff with new things, we don't put them in the  
16 best position to provide the clarity.

17 MS. URBAN: Thank you. Actually, is it  
18 all right if I would like to actually insert some of my  
19 questions here because I think they're on the same  
20 lines and it might help. They're very basic clarifying  
21 questions.

22 So as I understood you, Mr. Thompson,  
23 what you're calling the consent calendar items would be  
24 voted on prior to discussion of items that will be  
25 separately discussed by the Board? That's one

1 question.

2 MR. THOMPSON: Correct.

3 MS. URBAN: Okay. And then secondly,  
4 how will Board Members request that things be taken out  
5 from what you're calling the consent calendar? Is that  
6 something that they email to staff at any time? Is  
7 that something that needs to happen in that first  
8 discussion in the Board meeting? I had another option  
9 which I have forgotten. I was just trying to picture  
10 how that would happen.

11 MR. THOMPSON: So we have to notice or  
12 meetings, right, ten days ahead of time, and what we're  
13 envisioning is that the items on the consent calendar  
14 would be noticed prior to the meeting. So these items  
15 are proposed to be on the consent calendar. At the  
16 meeting, any one of us could say, well, I'd like item  
17 number 12 to be removed from the consent calendar and  
18 debated separately.

19 What Ms. de la Torre was flagging, and  
20 there's an interplay between these things, is we don't  
21 want to surprise the staff that they are now going to  
22 have to do a presentation on item number 12 when they  
23 didn't think they were going to have to. So as we  
24 are -- we should communicate with them individually and  
25 in a Bagley-Keene compliant way, I'm intending to pull

1 this off of the consent calendar, so that they are  
2 prepared to present on it so they're not surprised.  
3 But they would not --

4 MS. URBAN: Okay.

5 MR. THOMPSON: -- obviously going to  
6 share that information among any of the rest of us to  
7 avoid a serial deliberation. They may get the same  
8 feedback, right. You and Ms. Sierra may independently  
9 communicate a desire to pull an item off, but you would  
10 not know that the other had that intention. But the  
11 staff would be prepared, then, to present that item.

12 MS. URBAN: Okay. Yes, and in addition  
13 to the staff, we wouldn't want to surprise the public  
14 either about individual things. And it sounds like  
15 that is taken into account with a prior-to-the-meeting  
16 communication.

17 Is the idea that Board Members and --

18 MR. THOMPSON: Sorry. Can I interrupt?  
19 You're raising --

20 MS. URBAN: Yes.

21 MR. THOMPSON: -- an interesting point  
22 that was not envisioned, that the public would know  
23 that item 12 was being removed until the commencement  
24 of the meeting.

25 MS. URBAN: Okay. Under Bagley-Keene,

1 and I will get advice so that I do this correctly, but  
2 I am almost certain that any specific thing that we  
3 discuss would have to be noticed on the agenda.

4 MR. THOMPSON: I'm not entirely  
5 following.

6 MR. LE: And that was with the consent  
7 calendar?

8 MS. URBAN: So if we have a bulk set of  
9 proposed regulations that the Board will sort of  
10 discuss at once, that's one thing. Then, if we have an  
11 item that the Board is going to deliberate on  
12 individually and receive information from the staff, I  
13 believe that would have to be -- the public would need  
14 notice that we were going to do that.

15 Mr. Soublet, am I -- yeah.

16 MR. SOUBLET: That is correct. The  
17 public would need to be aware in order to be able to  
18 participate and provide comment on that.

19 MR. THOMPSON: I think we're going to  
20 need to do a little bit more work on this because this  
21 same procedure is used very frequently in a  
22 Brown Act-compliant way, which is obviously not  
23 identical to Bagley-Keene, but city councils use this  
24 procedure all the time, and so perhaps a presentation  
25 of a list with the caveat that a item could be removed

1 from that list --

2 MS. URBAN: Um-hum.

3 MR. THOMPSON: -- live in a meeting. I  
4 think we -- I think you're raising an interesting  
5 point, but I think we might need to do a little bit  
6 more research on how it could be done in a compliant  
7 way.

8 MS. URBAN: Thank you, Mr. Thompson.  
9 I'm not sure what you mean by this part of the process,  
10 but I'm going to ask Mr. Soublet.

11 MR. SOUBLET: Well, I just have a  
12 question, and Mr. Thompson mentioned the comparison to  
13 a Brown Act process. I just wonder if in that Brown  
14 Act process when the city council is doing this, are  
15 they adopting a regulation pursuant to the requirements  
16 of the California Administrative Procedures Act?  
17 Because the APA applies to state-level governing  
18 bodies, and I'm not sure -- in your scenario, you may  
19 be talking about the adoption of an ordinance, which  
20 may not be the APA process.

21 MS. DE LA TORRE: I'm going to suggest  
22 that to the extent that we don't have full clarity, we  
23 shouldn't put our general council in the position to  
24 have to answer with a lot of regularity without giving  
25 him the benefit of doing additional research, just for

1 clarity for the public, I guess, for ourselves as well.

2 MS. URBAN: So this is what I suggest:  
3 that we get clarity on what the proposal is, and of  
4 course, counsel is going to have to review that, and  
5 we'll try not to make things super difficult for them  
6 by doing something that is obviously wrong. But so I  
7 just want to back up, not that I understand the order.

8 So what's called the consent calendar,  
9 the sort of bulk stuff -- excuse me for my lack of  
10 articulateness and word choice -- that would go onto a  
11 Board agenda. The Board would vote to take the staff's  
12 recommendation for disposing of that stuff. And there  
13 may also be items that the Board will take analysis and  
14 recommendations from the staff on individually and  
15 deliberate and vote on separately.

16 And I'm still wondering how we  
17 communicate those things. So it sounds to me -- and  
18 tell me if I'm wrong -- that individual Board Members  
19 could tell the staff of items that they have.

20 And my second timing question is, can I  
21 now tell the staff I know that I am going to want for  
22 the Board to discuss proposed regulation number 7-XYZ?  
23 Is that part -- is that the idea?

24 MS. DE LA TORRE: I apologize for that.  
25 I'm not sure I understood the question, Ms. Urban.



1 MS. URBAN: Okay. I'm sure it's my  
2 fault that I wasn't clear. So I can imagine two  
3 different things. One is that a proposed consent  
4 agenda set is communicated in some way, presumably for  
5 a Board meeting. And at that point, Board Members say  
6 individually I would like this item pulled away, this  
7 item pulled away, this item pulled away.

8 And then nonexclusively, there is a pass  
9 by which Board Members, before there is a consent  
10 agenda produced, say I know that there is XYZ item that  
11 I think the Board should discuss individually so that  
12 it goes actually into the construction of the agenda  
13 for the Board meeting prior to what's being called the  
14 consent agenda being constructed.

15 MR. THOMPSON: Can I play that back and  
16 see if I'm understanding what you're asking?

17 MS. URBAN: Sure.

18 MR. THOMPSON: So the staff is going  
19 to -- say there's fifteen proposed changes.

20 MS. URBAN: Um-hum.

21 MR. THOMPSON: The staff is going to  
22 construct a consent agenda and say they are planning on  
23 a consent agenda of thirty-eight items --

24 MS. URBAN: Um-hum.

25 MR. THOMPSON: -- that would just go

1 together. We won't know prior to their publication  
2 what is on that proposed list of thirty-eight or how  
3 many there are.

4 I think what I'm hearing you ask, and I  
5 just want to clarify, is if I know that a particular  
6 thing is important to me, that I preemptively say,  
7 don't put number 12 on the consent calendar because  
8 I'll just pull it off. Is that kind of what you meant?

9 MS. URBAN: Well, other than the don't  
10 pull it off. But yeah, just, I would like this not to  
11 be on the consent calendar because I read the comments  
12 and --

13 MR. THOMPSON: Okay.

14 MS. URBAN: -- I don't think it's  
15 appropriate.

16 MR. THOMPSON: Got it.

17 MS. URBAN: So is that built in?

18 MR. THOMPSON: I will speak for myself  
19 that hadn't contemplated a kind of preemptive  
20 expression of interest. We were envisioning a process  
21 by which each Board Member would get a briefing from  
22 the staff, and it strikes me in the moment as  
23 appropriate for a individual Board Member to say at  
24 that time, this is important; I think it deserves  
25 individual deliberation. I think that is an

1 appropriate thing for a Board Member to say and that  
2 would be indicative that I can't imagine the staff  
3 would not concur with that mechanism.

4 I was going the extra step of pulling it  
5 off the consent calendar because that could be the  
6 outcome if that feedback was not followed.

7 MS. URBAN: Thank you, Mr. Thompson.

8 MS. DE LA TORRE: I just wanted to  
9 say --

10 MS. URBAN: I have a couple other  
11 questions, but I think -- but Mr. Le, please.

12 MR. LE: What I'm hearing is maybe  
13 there's a desire for two opportunities to pull things  
14 off the consent agenda, one preemptively and then one  
15 when the meeting happens. Is that what I'm hearing?  
16 So before, you can still stop -- hey, don't put this on  
17 the consent agenda. Once that consent agenda is  
18 created, the meeting starts. You can also pull it off  
19 at that point. Is that what is being proposed here?

20 MS. URBAN: I have -- oh, I've honestly  
21 been trying to understand what the picture was. So I  
22 hadn't offered an opinion necessarily yet. I was  
23 simply trying to understand the sequence of events.

24 MS. DE LA TORRE: All right. The  
25 proposed process is meant to ensure that we label

1 discussion and on points that individual members might  
2 want to discuss and at the same time, dispose of the  
3 things we're -- there is no need for a conversation in  
4 a way that's efficient. I do not believe that, as a  
5 Board Member, the decision of the staff to create a  
6 consent calendar should be as informed as possible, but  
7 I do agree with what Mr. Le mentioned, which is that if  
8 the proposed consent calendar contains a  
9 (indiscernible) and that individual member thinks  
10 should not be part of it, then there should be a second  
11 opportunity to ask for a discussion.

12 I think the question that Ms. Urban is  
13 presenting is basically whether that might need another  
14 agenda, which means potentially another meeting ten  
15 days later. And I don't have a full answer for that  
16 question. I think that that's something that perhaps  
17 we can let our legal counsel advise around. There is a  
18 way -- Mr. Thompson suggested, maybe in the initial  
19 addenda it can be mentioned, that item is going to be  
20 pulled out, I don't know if that's the perfect way of  
21 addressing it.

22 We should find out time for our legal  
23 counsel to give us the answer, and if the answer is if  
24 a member chooses to pull out an item from the agenda  
25 that is set for consent, we're just going to need to

1 meet again in ten days, then that might be the answer.

2 MS. URBAN: Okay. Other questions?

3 Comments?

4 Yes, Mr. Le.

5 MR. LE: Yeah, I want to say thanks to  
6 the subcommittee for this work. There's this very  
7 similar process at the CPUC on the consent agenda, so  
8 I'm relatively familiar with it. So yeah, I think it  
9 makes sense. We'll just have to figure out the little  
10 mechanics around that.

11 MS. URBAN: Thank you, Mr. Le.

12 So my questions were coming out of  
13 trying to understand and think through how some of  
14 these very specific components connect to the Agency's  
15 role as an administrative Agency in rulemaking, the  
16 Board's role, the staff's role as expert advisers, and  
17 the public's role as a very important participant in  
18 the process. And I really appreciate the  
19 subcommittee's careful attention to process. Process  
20 is very important, as you have conveyed in the work  
21 that you've done.

22 I have some concerns about this process,  
23 which are probably pretty minor, but they are there.  
24 This process suggests to me that we will be allocating  
25 a lot of staff time and a lot of Board time and a lot

1 of public time on potentially suggestions from the  
2 Board that the staff then need to try to implement on  
3 the fly.

4                   And I'm not suggesting that this wasn't  
5 carefully thought about, but I do think that we need to  
6 balance the overall job that we need to do for the  
7 public and the staff's ability to be flexible in how  
8 they respond to the comments and how they prepare the  
9 Board with making sure that the Board has full  
10 opportunity to discuss anything the Board would like to  
11 discuss, and the public also has opportunity to weigh  
12 in.

13                   I would say, at a minimum, that  
14 specifics like whether we have an in-person meeting or  
15 a remote meeting -- and I do understand the value of  
16 in-person meetings -- be left to the staff and that the  
17 Board also recognize that if we have a multi-day  
18 meeting, which I fully accept we may need to, that that  
19 is a real burden on staff and that, for example, if we  
20 are trying to balance our jobs as volunteers, which is  
21 how the voters have set up this particular Agency, and  
22 find that time, that we might, for example, need to  
23 have a two-day meeting that runs into a Saturday, that  
24 that has real implications for staff, and it especially  
25 has implications if it were an in-person meeting.

1                   So I would really strongly prefer, and  
2   in fact, my strong opinion is that those kinds of  
3   details be at the discretion of the staff. I really do  
4   appreciate the thought about how to manage efficiently  
5   and yet fully hold discussion on the rules themselves.

6                   I'm puzzled by the term "consent  
7   calendar" because that sounds like a legislative  
8   process to me; but if the CPUC uses it, that's good  
9   enough for me. And the concept, the name doesn't  
10   really matter for the concept. But it did -- I think I  
11   got -- one of the reasons I was asking about the timing  
12   is because I have a vision in my mind for what that is  
13   and the purpose that it serves, and it is a purpose  
14   that is often much more of a sort of jostle among the  
15   decision makers than I think an administrative Agency  
16   needs to be. But now that I am understanding sort of  
17   the idea, that seems to make sense.

18                  I would like to make a substantive  
19   suggestion, Mr. Thompson and Ms. de la Torre, and by  
20   extension, to the staff, which is that I appreciate  
21   very much the idea of disposing of whatever is on that  
22   consent calendar efficiently at the beginning. I do  
23   wonder, though, if it ultimately would be more  
24   efficient to dispose of it after the Board talks about  
25   some individual items, simply because I don't know how

1 those discussions might end up affecting things that  
2 were on the consent calendar.

3 And of course, then, things could  
4 individually be pulled off. But as I'm thinking about  
5 our ability to efficiently schedule meetings and try to  
6 have a full Board and public discussion without having  
7 to schedule a new meeting over and over, I wonder if it  
8 might be better to do the bulk actually at the end when  
9 we know that that's the bulk and that we're going to  
10 get it out of the way.

11 I'm saying a number of thoughts. I  
12 would strongly like for the staff to have discretion in  
13 a number of these areas. I'd be very interested to  
14 hear if there are particular process points that it is  
15 really important for the Board to weigh in on and that  
16 we work with those.

17 Mr. Le.

18 MR. LE: Yeah, I'll say can do better.  
19 I do think there needs to be some tweaks. And the way  
20 the PUC does it is it's on very individual decisions,  
21 right, and it'll be, like, a piece of legislation or --  
22 it's not quite, like, a regulation where there's all  
23 these different pieces moving together.

24 So I do agree there needs to be some  
25 tweaks, but I do think -- I like the idea of disposing



1 of noncontroversial items as quickly as possible so we  
2 can save time on the other end. So yeah, I do agree  
3 that there needs to be some tweaks to account for that.

4 MS. URBAN: Yeah, I agree. It's  
5 attractive. I just have worries that we might end up  
6 with more steps.

7 Mr. Soublet.

8 MR. SOUBLET: I just want to point out  
9 that the CPUC, when they adopt their regulations, they  
10 don't necessarily adopt a regulation. They adopt an  
11 order of the commission. And so they don't go through  
12 the process of having to submit something to the Office  
13 of Administrative Law. They do their hearing, and then  
14 they adopt it as an order of the commission. So it's  
15 kind of a pretty different process.

16 MS. URBAN: The last piece of my  
17 comments on this is that it does seem as though there  
18 are some specific questions regarding how the  
19 California Administrative Procedures Act and  
20 Bagley-Keene intersect, and so again, I think that a  
21 good course of action would be to give discretion to  
22 the staff, understanding that the sense of the Board is  
23 that we have a process that does these things and  
24 fulfils these values, which I think Mr. Thompson laid  
25 out quite well when he was walking through that, that

1 they have the freedom to conform it to what is required  
2 under the law.

3 Ms. Sierra.

4 MS. SIERRA: Yes. I do really  
5 appreciate the work that's been done on this. I mean,  
6 this is a very -- it's a complicated issue, and so I  
7 really appreciate the thought that's gone into this.

8 And I think that it seems to me the  
9 Chair's idea of this is kind of -- as I'm hearing it,  
10 kind of a general guidance to our staff but that if  
11 they have flexibility, that would be very helpful,  
12 because somethings things, in theory, look one way, and  
13 then when you're really in the nitty-gritty of the  
14 actual issues, then you may see, oh, here's a hiccup,  
15 or we'll need to tweak this a little bit.

16 And so I think this discussion and what  
17 you've outlined I think really does provide a lot of  
18 guidance to them, but I would second the thought of  
19 that ultimately there'll be some discretion, or should  
20 the staff have discretion, kind of how to roll this  
21 out.

22 And it seems to me, too, the point that  
23 Ms. de la Torre and Mr. Thompson brought up, that we'll  
24 be having these individual discussions with staff, and  
25 that should go a long way in their understanding

1 individual Board Members' concerns of any or areas that  
2 they really are thinking about --

3 MR. THOMPSON: Um-hum.

4 MS. SIERRA: -- needing more  
5 deliberation.

6 MS. URBAN: Thank you, Ms. Sierra.

7 And I do think that there are clearly  
8 some components that are really important, as I hear  
9 it, and please correct me if I'm wrong, Mr. Thompson  
10 and Ms. de la Torre. One is working for efficient  
11 disposition by using the consent calendar method. One  
12 is ensuring that Board Members understand that they can  
13 take things off of that -- out of that grouping for  
14 individual discussion, and that those components are  
15 really important.

16 So I certainly don't want to suggest  
17 that I think anything other than that. I do think that  
18 there should be some flexibility.

19 Mr. Soltani.

20 MR. SOLTANI: Okay. Let me lower my  
21 hand.

22 I really appreciate the discussion, and  
23 I think this is going to be incredibly important for us  
24 to get clear guidance from the Board on what this  
25 process will look like and at what level. I want to

1 flag that we have quite a large initial res package out  
2 there, and there will likely be quite a number of  
3 changes in response to comments. And many of those  
4 changes are interrelated, right. They are kind of  
5 pieces that kind of work together, and if we treat one,  
6 we also have to make subsequent tweaks elsewhere.

7                   So I think, similar to the budget  
8 question and the budget discussion that came up,  
9 there's kind of a general question at the level that  
10 the Board intends to provide guidance to staff, right.  
11 We've contemplated high-level guidance and direction,  
12 but also suggest language tweaks or deliberation of a  
13 particular agenda item or a rule change, and I think we  
14 just want to kind of be mindful of the time commitment  
15 that that will require, as well as some of the other  
16 considerations, right.

17                   Specifically, the final rulemaking  
18 package to FSOR will have outlined every change as well  
19 as every reason for change. And ultimately, the  
20 reasons for that change, the arbitrary of whether we've  
21 addressed those properly, are the Office of  
22 Administrative Law, OAL. And ultimately, there may  
23 even be changes that the Board recommends or suggests  
24 that go contrary to what our requirements are for OAL  
25 or what OAL may approve.

1                   So again, I have no particular concerns  
2 about the process the Board wants to pursue, but I just  
3 want to highlight both these external requirements in  
4 terms of rulemaking process and time requirements that  
5 this will ultimately undertake.

6                   As you know, and it's been brought up  
7 before, the interplay between Bagley-Keene and APA is  
8 quite pronounced in the sense that it adds a  
9 significant amount of time to the process. For  
10 example, if we think we're going to have multiple  
11 conversations, deliberations to go over the rules of  
12 kind of these large set of rules, and there might be  
13 different items that are on the consent calendar that  
14 get pulled off, we're likely going to need to schedule  
15 multiple back-to-back meetings, including multi-day  
16 single meetings, as well as back-to-back meetings  
17 spaced a few days apart to allow staff to address some  
18 of those changes and come back the Board and provide  
19 the Board enough time to review those changes. And  
20 those all have to be planned with this ten-day Bagley-  
21 Keene requirement to give the public notice as well.

22                   And so let me just flag that it would be  
23 great to have a strong signal from the Board in terms  
24 of, again, their level of engagement they intend. And  
25 having personally looked through the rules and seen the

1 size and complexity, I think that I would urge the  
2 Board again to go back and approach it from that angle.

3 And then, in addition, get a strong  
4 signal from the Board as to really their availability  
5 and amount of time commitment in terms of availability  
6 and timing. Like, are we talking about October?  
7 November? Like, what's our time frame for this to do  
8 these meetings because I will flag that staff is  
9 pursuing or trying to respond at a quite rapid clip to  
10 pressures from the public that we have our rules out,  
11 and we're burning the candle at both ends.

12 But I want to flag that this time --  
13 this process is going to add significant time and  
14 require a big time commitment from the Board. So I'd  
15 love to end this meeting to know, like, when should we  
16 plan our next meetings, how many, roughly, and what is  
17 the Board's availability to make those meetings. And  
18 ultimately, I realize it's hard to know, but that will  
19 be -- the level of which you all intend to interact and  
20 go through it will dictate how many meetings and how  
21 long they need to be.

22 MS. URBAN: Thank you, Mr. Soltani.

23 I think it's going to be a little hard  
24 for the Board to predict exactly the level at which it  
25 will interact with the specific rules. One thing about

1 Mr. Thompson and Ms. de la Torre's presentation was  
2 that they suggested that a sort of favorable approach  
3 would be to direct the Board -- sorry, direct the staff  
4 with regards to a policy for the staff to execute. But  
5 the Board may also have individual line changes. I  
6 think it's important that we preserve that and that  
7 there may be some limits to what we can predict.

8                   But this is what I would like to do.  
9 Let's go through the proposal and see if we can get you  
10 some clarity on some of that detail. So it seems to me  
11 that there is support for, and that it is pretty  
12 central to Mr. Thompson and Ms. de la Torre's proposal,  
13 that there be some kind of what they're calling a  
14 consent agenda, where that items that the whole public  
15 agrees on or just aren't controversial or for whatever  
16 reason, staff in its judgment thinks it's best dealt  
17 with in bulk, that that be a component; that Board  
18 Members be able to say that there are items that they  
19 do not think should be part of that bulk; and I should  
20 say I believe implicit is that there may be items that  
21 the staff thinks the Board needs to talk about  
22 specifically.

23                   Thank you, Mr. Thompson, for nodding. I  
24 realized I was, like, making an assumption, and that's  
25 always dangerous.

1                   That that structure is important. That  
2 structure is going to have to be executed in a way that  
3 is compliant with the California Administrative  
4 Procedures Act and the Bagley-Keene Open Meeting Act.  
5 But the Board would like there to be the -- this is in  
6 my formulation, which the people can then challenge if  
7 they'd like -- that there would be individual channels  
8 of communication that is both including sort of  
9 briefing from the staff and also the Board Members  
10 being able to say this should or should not be in the  
11 consent calendar.

12                   Compliant with Bagley-Keene, agendas  
13 will be set up to as efficiently as possible cover  
14 whatever is appropriate for that meeting. I would like  
15 to see this developed so that we minimize, if we can --  
16 and we may not be able to under Bagley-Keene --  
17 minimize the kinds of conversations we have that look  
18 like, okay, we have a new topic, and now we're going to  
19 have to notice another meeting for that. So to the  
20 extent that we can notice things as efficiently as  
21 possible, I would like to do that.

22                   I really do hear Mr. Thompson and Ms. de  
23 la Torre 's preference for in-person meeting to sort of  
24 kick things off. I do think that's important.  
25 However, I think that that should be within the staff's



1 discretion and take into account what Board Members  
2 realistic availabilities are so that we can devote as  
3 much of our time and attention as is necessary to doing  
4 our homework and being sure that we are familiar with  
5 everything we need to be familiar with and that we can  
6 have an efficient and informative meeting for the  
7 public.

8                   And I do think that we may end up having  
9 to twiddle with the consent calendar if we try to do it  
10 first, but you know, I'm down with trying whatever  
11 people think is going to make sense, but again, I would  
12 ask that the staff have discretion if they find out  
13 something after this meeting that would make one of  
14 those choices obviously better or worse to make that  
15 decision. And I'm happy to talk about dates, but I  
16 think we should kind of make sure we have, like, a  
17 structure that we can give guidance to the staff on.

18                   MS. DE LA TORRE: I appreciate the  
19 summarizes. I just wanted to, one thing, when we're  
20 talking about calendaring any specific meeting, as the  
21 Chair suggested, it might be that it makes more sense  
22 to be able to make consent calendar at the end. In my  
23 view, that is truly a decision of the Chair, how things  
24 are at the next meeting. They just happen to be in  
25 this, as we were presenting, you know, the constant

1 kind of now goes first, but in my view is not only the  
2 discretion of the staff, but also the discretion of the  
3 Chair in terms of how things are itemized and then  
4 dealt with it in the meeting.

5 MS. URBAN: Thank you, Ms. de la Torre.  
6 Other thoughts?

7 MR. THOMPSON: Yeah. I would add to a  
8 couple things, one is this is the kind of discussion  
9 and feedback that we were hoping would flow from the  
10 presentation. So this is helpful. And we can work out  
11 the mechanics based on some of the feedback. One -- a  
12 couple of clarifying questions to the Chair -- well,  
13 one is a clarifying point and one is a clarifying  
14 question. We were not intending to dictate the format  
15 or timing of meetings, but to have a discussion that  
16 gave the staff the guidance they needed to determine  
17 whether or not meetings should be in person or remote  
18 and how they be stacked and sequenced, in part, because  
19 the preference that we express needs to align with our  
20 availability, and there's been a disconnect to some  
21 extent in that in the past in our ability to all be  
22 available at the same time. So if we gave the  
23 impression that we were, as a subcommittee, seeking to  
24 dictate the time and form of the meetings, that was a  
25 miscommunication on our part. The presentation and the

1 discussion had been done hand in glove with the staff  
2 every step of the way. So there was not -- that was  
3 not an intention to micromanage or dictate or rather  
4 just to prompt this kind of discussion that would give  
5 the guidance that is needed, the Board guidance to the  
6 staff that is needed.

7 I forgot what my clarifying question  
8 was. It was something that you said that I didn't  
9 quite follow, but I've now forgotten what it was.

10 MS. URBAN: Okay. Thank you, Mr.  
11 Thompson. And that is loud. It better be loud because  
12 it happens to me all the time.

13 Also I was catching sight of my face on  
14 Zoom, and I look very serious. I want to be sure that  
15 everyone realizes this is my serious face is my face  
16 like when I'm thinking through different things and how  
17 they work together. So please don't misinterpret my  
18 resting, serious face. I'm listening and thinking.

19 And I appreciate that very much, Mr.  
20 Thompson. I would like to pick up on Mr. Thompson's  
21 observation about essentially logistics and how that  
22 interacts with the Board Members' availability and time  
23 as well as Mr. Soltani's question about that so that  
24 staff do have guidance. I also realize that people may  
25 not have their calendars exactly available.

1                   But I want to point out two things,  
2   which I think are important, and important for the  
3   public to understand as well, which is that as I  
4   alluded to earlier in our conversation, the voters made  
5   a decision in our implementing statute as to how this  
6   Board is constructed and sort of what its form is. And  
7   its form is as a five-member Board appointed by  
8   different appointing authorities who are volunteers  
9   with, you know, with a per diem, but who are  
10  volunteers. That is a structure that is very common  
11  across commissions and Boards in California. It is not  
12  the case for all of them, however. Some are full time,  
13  and that was a different -- that would be a different  
14  model that another legislature or another set of voters  
15  might have made.

16                   So and the public is listening to us  
17  discuss this, they're in part listening to us think  
18  through how to best implement the balance that is  
19  provided for us by the voters in the statute, and that  
20  structure dictates a certain role for staff -- thank  
21  heavens because our staff are crackerjack and expert --  
22  and a sort of a level of interaction for the Board.

23                   And here, I want to pause because I  
24  don't think I've said this enough recently, which is to  
25  thank the Board for the tremendous amount of effort and

1 time that they have continued to put in as we've built  
2 the Agency. A lot of Boards meet, you know, twice a  
3 year, maybe once a quarter, and I know that this Board  
4 has been putting in a lot, and as we go into the  
5 substantive part, the rulemaking, we are being asked  
6 and are asking a lot. So I wanted to pause and  
7 appreciate that.

8 But to get to the point of, you know,  
9 what it is the public is seeing us discuss and what it  
10 is that we are doing, I think that the Board really  
11 needs to think through what is our best contribution  
12 here? What is our most important contribution for the  
13 public? And that we be sure that we leave time for us  
14 to be very definitely substantively up to speed so that  
15 we have the best kind of conversation and the sort of  
16 fullest analysis for the public.

17 So with that, in talking about meetings,  
18 most of us have jobs, and so I do think it's a good  
19 idea to help Mr. Soltani know kind of what the basic  
20 parameters are, and I'll start with mine just to begin.  
21 I can do Fridays, usually. I could do Saturdays, and  
22 sometimes, I can do Thursday afternoon.

23 Ms. de la Torre?

24 MS. DE LA TORRE: I apologize. I'm a  
25 little confused. I thought we were -- so we're now

1 just hearing our availability on --

2 MS. URBAN: Oh, I'm sorry. If I skipped  
3 ahead, please let's go back. I thought we had kind of  
4 walked through the structure, but if there's more  
5 comment on that, let's -- by all means, let's discuss  
6 it.

7 MS. DE LA TORRE: Okay. I was just  
8 going to suggest that even the discussions that we have  
9 had, in might make sense -- or it makes sense in my  
10 mind to anticipate that we should have a meeting  
11 between now and the date that we get together to  
12 discuss the rules, just for my (indiscernible) to  
13 prepare a new presentation that is more concrete and  
14 maybe go back to the counsel and get some of the  
15 questions that they raised and answer. And I'm not  
16 sure what the date should be for that, but it just  
17 seems to me there are enough things that need to be  
18 worked out where in might make sense to have a second  
19 conversation before we find ourselves in a Board  
20 meeting where we actually implementing the process.

21 MS. URBAN: Thank you. I appreciate  
22 that. I think that we have had a very robust  
23 discussion on process about process. I could be wrong,  
24 but my proposal was that we have the components in  
25 place, we have an understanding of what the process

1   subcommittee spent a lot of, like, time and thought to  
2   put together for us, and that we should let the staff  
3   implement it in line with the law. And then if the  
4   staff runs into something where they say, oh, you know  
5   what? This is actually something that the Board needs  
6   to talk about, then that's fine, but I would like to go  
7   ahead and have them put together that process, and we  
8   start with it.

9                   MS. DE LA TORRE: All right. So just to  
10   make sure I understand, you wouldn't expect another  
11   meeting between now and whenever we need to discuss the  
12   rules, even of the Board, even if it's for stuff to re  
13   -- I just -- this body, I think for members to know  
14   what they expect from the date that we get together to  
15   discuss the rules, and I'm not sure that there's a  
16   better process for that to be communicated that a Board  
17   meeting given the limitations on the back thinking.  
18   (Indiscernible).

19                   MS. URBAN: Okay. Thank you, Ms. de la  
20   Torre. I felt like I understood what to expect, but  
21   why don't I, like, say that, and then it may be that --  
22   once, like I made up a whole castle in the air. That  
23   is entirely possible. But what I thought that we had  
24   to expect is that the Board -- or excuse me, the staff  
25   are currently working through the public comments, and

1 they are comparing them to the proposed regulation.  
2 They are going to be working up recommendations for  
3 revisions or non-revisions. Some of those things,  
4 they're going to put on the consent calendar. Some of  
5 those things, the Board may say, we want to discuss  
6 individually in a one-way, individual communication  
7 with the staff, and that that would be the agenda for  
8 our first meeting to discuss the rules.

9 MS. DE LA TORRE: If we could go around  
10 and make sure that all Board Members feels that there's  
11 no need for a second meeting and probably check with  
12 Mr. Ashkan Soltani, just to make sure that that's not  
13 necessary.

14 MS. URBAN: Absolutely, a hundred  
15 percent. And before we even do that, Ms. de la Torre,  
16 is there something that -- specific that you're  
17 concerned about because I think that like that would be  
18 really helpful to me.

19 MS. DE LA TORRE: I think there were  
20 some questions that were raised around how things  
21 should appear in the agenda; for example, that they  
22 might need a little bit more research. Maybe that's  
23 something can be done on the back end and then  
24 communicated to the Chair.

25 I believe there's a little bit of



1 feedback in terms of in person or remote, but I'm not  
2 sure if Mr. Soltani has enough feedback there to start  
3 planning, particularly if we go in person because that  
4 means, you know, finding a room and booking, et cetera.  
5 So I just wanted to make sure that everybody had  
6 received enough information from this meeting and felt  
7 comfortable that we didn't have to kind of have a  
8 second conversation before we close this agenda item.

9 MS. URBAN: Thank you, Ms. de la Torre.  
10 Comments from other members of the Board on this?

11 MR. THOMPSON: I thought there was a  
12 pretty significant open question -- let me back up. I  
13 start from the premise that we have to approve any  
14 proposed changes to the rules. So one mechanism would  
15 be we could go one by one, but that seemed  
16 extraordinarily inefficient. So hence, a proposal to  
17 group them.

18 A question has arisen, and there's  
19 complicated interplay between Bagley-Keene and the APA  
20 and the desires of the individual Board Members on the  
21 timing and sequence of that. I think it would be a  
22 challenge if each of us had to enumerate what things we  
23 didn't want on a consent calendar in order for a  
24 consent calendar to be constructed, but there's a -- I  
25 think there's a sequence problem and a Bagley-Keene

1 problem. We can't have a discussion; I don't think the  
2 Board -- I don't think the staff can say -- here's a  
3 proposed consent calendar. Are you okay with that --  
4 to each of us individually without that being publicly  
5 available. So that seems like a challenge versus  
6 publishing one and us arriving at a meeting and moving  
7 something from a consent agenda on to an individual  
8 agenda item.

9                   So I thought -- I came away with there  
10 needed to be some additional guidance, research and  
11 guidance from the staff on how that could work and how  
12 Bagley-Keene and the APA would interplay and allow us  
13 to efficiently and effectively group things together  
14 but remain compliant with the underlying rules and  
15 statutes. I -- I -- that remain fairly open -- fairly  
16 open question to me on what that would look like if --

17                   MS. URBAN: Thank you. Thank you, Mr.  
18 Thompson. First of all, let me --

19                   MR. THOMPSON: Yeah. If we understand  
20 that before, before walking into the meeting, that  
21 would be helpful.

22                   MS. URBAN: Thank you. Thank you, Mr.  
23 Thompson. Let me clarify. I was hoping to clarify  
24 whether the subcommittee's idea was that Board Members  
25 might say kind of at the outset -- because they're

1 reading the comments -- like, this doesn't look like it  
2 should go in the consent agenda, and also of course  
3 have the opportunity to say these are things that will  
4 be taken off the consent agenda and that the staff will  
5 organize that in a way that complies with Bagley-Keene.  
6 So if we need to have a meeting that has a consent  
7 agenda and maybe three items that staff, themselves,  
8 think shouldn't be on the consent agenda or they know a  
9 Board Member doesn't want it on the consent agenda, we  
10 can work on that, and at that meeting, Board Members  
11 also may have things that they want to pull from the  
12 consent agenda.

13 I was unsure about whether disposing of  
14 the consent agenda first might get us in trouble later,  
15 but Mr. Le, I think was not as concerned. I think you  
16 were not as concerned. I'm completely happy to go with  
17 the consent agenda first, and then if we run into a  
18 challenge, we'll run into a challenge, but you know,  
19 that's fine with me. So my feeling was that we have,  
20 like, the building blocks that staff need to get  
21 started.

22 Mr. Le?

23 MR. LE: Yeah. I'm okay with keeping  
24 the consent at -- putting the consent at the end  
25 considering this is an adaptation of a different

1 system. I do think hopefully, Ashkan and the  
2 subcommittee has enough to go on to develop. I think  
3 we've covered it a lot. And yeah. I'm totally okay  
4 with putting the consent calendar at the end.

5 MS. URBAN: Great. Thank you. And I  
6 agree, and I should say that whatever -- and I  
7 appreciate Ms. de la Torre saying, you know, staff,  
8 Chair, figure out how to put them on the agenda --  
9 Bagley-Keene is the music of our lives, and nothing  
10 will be done that doesn't comply with Bagley-Keene, but  
11 I do not think that we need to come back and talk about  
12 what Bagley-Keene requires separately.

13 Ms. Sierra, did you have further to say?

14 MS. SIERRA: Yes. Just I agree with  
15 that. I would be in favor of moving forward. You  
16 know, based on this discussion, I, too, think -- and  
17 the summaries, I think that staff has, you know, enough  
18 to move forward, and in our next meeting, we start  
19 more -- dealing more with the substance. You know,  
20 given, you know, how much work there is to do and  
21 timing issues. That would be my observation, and I  
22 feel --

23 MS. URBAN: Thank you, Ms. Sierra.

24 MS. SIERRA: I feel like, you know, we  
25 have -- this has been a very helpful discussion, and I

1 think that we're ready to go to the next step and see  
2 how it goes. And it may be that there will need to be  
3 more meetings than we had thought, but at least we can  
4 get started.

5 MS. URBAN: Thank you, Ms. Sierra. Yes.  
6 And the subcommittee has done a lot of heavy lifting.  
7 And are you comfortable with the caveat that we move  
8 forward, and then of course, if we run into something  
9 and Ms. de la Torre's, like, hesitancy becomes  
10 manifest --

11 MS. SIERRA: Yes.

12 MS. URBAN: -- that of course we would  
13 agendize. I would agendize something, and we would  
14 calendar --

15 MS. SIERRA: Yes.

16 MS. URBAN: -- a meeting.

17 Mr. Soltani?

18 MR. SOLTANI: Great. Thank you for  
19 that. And indeed, the discussion has been helpful.  
20 I'm going to take as kind of our marching orders to go  
21 ahead and kind of start, one, researching the process  
22 on, you know, whether it's a consent calendar or how we  
23 describe it, but on how to flag items to deliberate and  
24 flag items to just kind of discuss at the end.

25 I agree -- I actually agree with the

1 order of operations for that reason that I've said, the  
2 interplay, because we might have something on the  
3 consent calendar that we tweak -- sorry, that's not on  
4 the consent calendar that we tweak that then affects  
5 the consent calendar. So I think doing the  
6 deliberation first. Our plan was always to, you know,  
7 brief the Board of the rules, once the draft -- kind of  
8 the changes are presented, have a discussion, and then  
9 plan -- the same we plan for an agenda for a meeting,  
10 take input from the Board on what topics they want to  
11 discuss at the agenda, and those could be the, you  
12 know, the rules as a whole or specific items.

13                   Staff will bring to the Board things  
14 that we think at a high-level need deliberation around  
15 like should we go left or right on a particular issue,  
16 but that we seek the Board's input on, mindful that the  
17 recommendation will be to go not only as a policy  
18 decision, but to satisfy Bagley-Keene and open that up  
19 for discussion.

20                   Really all -- and I appreciate the  
21 flexibility about our in-person meetings. If the Board  
22 schedules accommodate it, I'm happy to do in-person  
23 meetings, but I just need the Board to be available for  
24 those days for multiple days I expect we'll meet --

25                   MS. URBAN: Also, I just -- I just want

1 to jump in and say, staff can't staff an in-person  
2 meeting on Saturdays, correct?

3 MR. SOLTANI: Right, right.

4 MS. URBAN: Yeah.

5 MR. SOLTANI: So only myself and the  
6 attorneys. We can't actually have any other staff  
7 because of the Civil kind of overtime requirements and  
8 stuff.

9 MS. URBAN: Thank you. And I also don't  
10 want to assume on Saturdays for anybody else. I've  
11 just been looking at my calendar and trying to  
12 understand what is the -- like, what is an approach  
13 that could work.

14 So Mr. Soltani, you did ask us for input  
15 on that. I want to recognize that the Board is being  
16 asked this without necessarily having their calendars  
17 in front of them, but if Board Members are able to  
18 provide some input, maybe sort of general, like I did  
19 for the executive director, would you -- could you do  
20 that, please?

21 MR. SOLTANI: That would be great.

22 MS. URBAN: Okay. Ms. Sierra, and I  
23 don't mean to put you on the spot. Just say you can't,  
24 if you can't.

25 MS. SIERRA: No. That's fine. For me,

1 actually during the week most days. I don't have any  
2 days that I cannot attend unless there's like an  
3 appointment or something like that, but my schedule is  
4 more open.

5 MS. URBAN: Thank you, Ms. Sierra.  
6 You've set a standard that's very high.

7 MR. SOLTANI: I am retired.

8 MS. URBAN: Mr. Le? I'm just -- I'm  
9 going in order of your boxes. So Mr. Le?

10 MR. LE: Yeah. My schedule is rather  
11 fluid aside from, you know, Mondays and kind of I have  
12 a lot of Greenlining Institute meetings on Friday  
13 mornings, but I'm generally rather fluid in terms of my  
14 schedule of availability.

15 MS. URBAN: Thank you, Mr. Le.

16 Ms. de la Torre?

17 MS. DE LA TORRE: I will make it a  
18 priority to make myself available on the days that  
19 those are available, and I have some level of  
20 flexibility. I have just responsibility for my family,  
21 and I cannot, you know, say that's Thursday, Friday.  
22 It depends on the weeks.

23 I'm a little concerned about when Ms.  
24 Urban shared before in terms of her availability. I  
25 would very much prefer to avoid meetings on Saturdays,



1 and so she would be our Chair. So that is fairly  
2 limited. And we were just talking about Fridays  
3 potentially, the meetings would last more than one day.  
4 So I'm not sure it is a conversation to be had around,  
5 you know, if there's a situation where opportunity  
6 Chair cannot be available, is there a meeting that  
7 could be had without the presence of the Chair in, you  
8 know, in an emergency. Maybe that's something that we  
9 have to put in an agenda. Maybe that's something that  
10 Chair can think about and suggest solutions for --

11 MS. URBAN: Let me just break in and  
12 say, I mentioned Saturday because I know boards  
13 sometimes do that, and they sometimes meet late into  
14 the night. I was not suggesting that other Board  
15 Members needed to make themselves available for  
16 Saturdays. I was simply providing, like, an expansive  
17 version of my own flexibility.

18 Mr. Thompson?

19 MR. THOMPSON: A couple things, one is -  
20 - so I feel I've given Mr. Soltani and the staff a  
21 pretty detailed list of when I can be available. I  
22 think I have a much greater --

23 MS. URBAN: Thank you for that.

24 MR. THOMPSON: -- level of flexibility.  
25 I'm not at the Sierra end of the spectrum, but -- I'm

1 not going to name the bookends, but I'm not at the  
2 Sierra end of the spectrum, but I can be flexible,  
3 other than -- you know, there's not recurring things  
4 that block out entire days on a systematic basis.

5 MS. URBAN: Thank you, Mr. Thompson.  
6 And of course, some of this for every Board Member, I'm  
7 sure, will be influenced by like how many meetings.  
8 You know, it's easy to make -- create flexibility X  
9 number of times, and then maybe that Y time is not as  
10 feasible.

11 And so Mr. Soltani, is that helpful?

12 MR. SOLTANI: Yeah. What I may propose  
13 is, you know, I have down Thursday afternoons and  
14 Friday afternoons or late morning to afternoon as  
15 availability. What I might do is send to the Board  
16 specific dates for some planned meetings in the coming  
17 months and get confirmation. And then we'll hold those  
18 as what staff can work towards for these that we'll  
19 make in hearings.

20 I'll take, you know, the input on this  
21 process. If there are any tweaks that we encounter  
22 because we're like, oh, Bagley-Keene doesn't let us,  
23 like, do something, we will flag that and perhaps even  
24 talk about that as the first agenda item of that  
25 meeting, if the Board really feels strongly that we

1    should deliberate about that point, but otherwise,  
2    we'll proceed with the guidance here, which is we'll  
3    brief individual members about the rules.  If they have  
4    any questions, plan to deliberate on issues that the  
5    staff either feel or the Board feel like they want to  
6    provide input on and then just proceed with scheduling  
7    these meetings and hitting our marks in terms of our  
8    rulemaking.  That's what I'm going to go forward with  
9    based on this session.

10                   MS. URBAN:  Thank you.

11                   MR. SOLTANI:  And I'll -- again, I'll  
12   hold the -- I'll try to get folks' availability in  
13   person but will also flag that we'll have some  
14   flexibility there.

15                   MS. URBAN:  Thank you, Mr. Soltani.  I  
16   really appreciate the robust discussion and the  
17   continued work of the process subcommittee.  I'd now  
18   like to take public comment.

19                   MR. SOLTANI:  If you'd like to make a  
20   public comment, please raise your hand using the Zoom  
21   raise-hand feature.  We have Mr. Shapel (ph.).

22                   MR. SHAPEL:  Thank you, Mr. Soltani, and  
23   thanks to everybody in the Board.  Boy, this has really  
24   opened my eyes to how complex the process here is and  
25   how much work is going in to move this forward, so but

1 my comment is with respect to an eventual enforcement  
2 date. If I missed it, I apologize, and please someone  
3 just jump in and correct me, but it doesn't seem like  
4 we have an enforcement date, and it's certainly not out  
5 of the question that the finalization of the guidance  
6 document would take place after Jan. 1, 2023.

7                   And so I would just implore the Board at  
8 the next opportune moment to clarify to the business  
9 community, you know, what the -- what the intention is  
10 with respect to enforcement of this rule set because I  
11 think we've reached the point where it's creating  
12 confusion and potentially harming the business  
13 community.

14                   I'll just note that it's not uncommon  
15 for internet-based businesses to have code freezes in  
16 Q4, but that may be a moot point because not even clear  
17 that we're going to be ready by -- in Q4. And perhaps,  
18 some of this is driven by the notion that we're only  
19 talking about an hour and a half of compliance person  
20 hours to adhere to the rule set, and if that's the  
21 case, that would be unfortunate because for many  
22 businesses, it's going to take significantly more time  
23 than that.

24                   So I don't know if this is something  
25 that I need to re-comment on later when we're talking

1 about agenda items for next time. I may be able to be  
2 here. I've got a childcare issue, but boy, I would  
3 just implore the Board to provide the marketplace some  
4 clarity on that issue because I think it's an important  
5 one. Thank you.

6 MS. URBAN: Thank you. Thank you, Mr.  
7 Shapel. I appreciate it. It is best to bring up  
8 something new like this sort of not central to the  
9 discussion we've been having on agenda item 9.

10 Mr. Soublet, can we say that we've noted  
11 it at least?

12 MR. SOUBLET: Yes, we can.

13 MS. URBAN: Okay. Wonderful. Thank you  
14 very much, Mr. Shapel.

15 Is there further public comment?

16 MR. SOLTANI: Please raise your hand --

17 MS. WEST: Yes.

18 MR. SOLTANI: -- using Zoom. I'm sorry.  
19 There is someone connected. I heard a public comment.

20 MS. WEST: Hello?

21 MS. URBAN: Yes. We can hear you.  
22 Please go ahead.

23 MS. WEST: Oh, thank you. My name is  
24 Robin West (ph.), and thank you for allowing me to  
25 speak, and I know there's been a lot of thank-yous, but

1    thank you again for all the long hours that all of you  
2    have been putting in.  So it's remarkable.  And I'm  
3    extremely excited about your committee and about all of  
4    this legislation.

5                   And I wanted to also address this to Mr.  
6    Thompson.  I understand I think he said earlier he was  
7    on the public -- hello?

8                   MR. SOLTANI:  Yes.

9                   MS. WEST:  I had --

10                  MR. SOLTANI:  Sorry about that.

11                  MS. URBAN:  Ms. West, so we heard --

12                  MS. WEST:  I'm sorry.  I'll -- I'll --

13                  MS. URBAN:  That's all right.  We heard  
14    a few -- "Mr. Thompson is on the public", so if you  
15    could start from there.

16                  MS. WEST:  Yes.  Public -- on the Public  
17    Awareness Committee.  And my background is in  
18    promotional sales, and I'm interested in either  
19    volunteering or working on that committee.  I have  
20    demonstrated abilities to be very influential in the  
21    sales arena throughout my career.  And I'm so  
22    passionate about what you're doing, and so I'd just --  
23    would like to be considered for one of those positions.  
24    And I'll go online and take a look and see what there  
25    is, but I just wanted to, sort of, put that out there.

1                   I also wanted to add that I've made two  
2   CPPA requests of Nordstrom, and they've ignored me.  
3   And I have a very, very high credit score, an A1 credit  
4   rating for thirty-five years, and they're not complying  
5   with my request. And on September 3rd, they cancelled  
6   my VISA card. I had a \$24,000 line of credit. And I  
7   had two disasters at my home ten years ago, and I used  
8   the card. I had to live in hotels. And I finally got  
9   the card paid off -- I think it was just in the last  
10   several months. So there's no more interest that  
11   they're earning off of me, but I feel that taking away  
12   such a high credit line that --

13                   MR. SOUBLET: You have thirty seconds.

14                   MS. WEST: Oh --

15                   MR. SOUBLET: Thirty seconds.

16                   MS. WEST: -- okay. Well, I wanted to  
17   add that. And I guess I need -- I wanted to also add  
18   if regulations at CPPA received my email of September  
19   1st. And I know you can't do anything yet, that I have  
20   to go to the Attorney General and -- you know, until, I  
21   guess, next July. But I just -- you know, I wanted to  
22   also add that and find out, you know, if the  
23   regulations received my email that I sent with some of  
24   those details.

25                   MR. SOUBLET: Thank you. That is your

1 time.

2 MS. URBAN: Thank you very much, Ms.

3 West.

4 Are there any further public comments?

5 MR. SOLTANI: Please raise your hand if  
6 you have a comment, using the Zoom raised hand feature.

7 I see none.

8 MS. URBAN: Thank you very much, Mr.  
9 Soltani.

10 And thank you, again, to the  
11 subcommittee for its careful thought and work, and to  
12 the Board for a careful discussion of this important  
13 issue as we move into the substance of considering the  
14 comments for the proposed rules.

15 We're going to take a short break, and  
16 then come back for our next agenda item, which is the  
17 opportunity to for general public comments.

18 So is ten minutes good? Do peop -- what  
19 do people need? Just, if you can --

20 MR. LE: I -- I have -- I have a hard  
21 stop at 1:45, so I'll have to drop off --

22 MS. URBAN: Okay.

23 MR. LE: -- then.

24 MS. URBAN: Okay. So would you rather  
25 we didn't take a break or you're just letting us know?



1                   MR. LE: If -- if everyone's okay with  
2 just, kind of, pushing through, hopefully, these last  
3 two agenda items won't take us --

4                   MS. URBAN: Sure.

5                   MR. LE: -- through that.

6                   MS. URBAN: That's actually fine with  
7 me. Is everybody else okay?

8                   MS. DE LA TORRE: That's my preference  
9 as well.

10                  MS. URBAN: Okay. Wonderful. Let's  
11 keep going then.

12                  Thanks again for all the work on all the  
13 agenda items so far.

14                  Let's move to agenda item number 8, in  
15 which we invite public comment on items not on the  
16 agenda.

17                  Before we proceed with public comment,  
18 please do note that the only action the Board can take  
19 is listen to comments and consider whether we'll  
20 discuss the topic at a future meeting. No other action  
21 can be taken on the item at this meeting.

22                  I know it can seem at times like the  
23 Board Members are not being responsive, but following  
24 these guidelines is critical to ensure that the rules  
25 of the Bagley-Keene Open Meeting Act are followed, and

1 to avoid compromising either the commenters' goals or  
2 the Board's mission. So we do not intend to seem  
3 unresponsive, and we will listen.

4 With that, I will ask if there is public  
5 comments -- general public comments.

6 Mr. Soltani?

7 MR. SOLTANI: Please raise your hand,  
8 using the Zoom raised hand feature if you'd like to  
9 make a comment.

10 I see one hand raised. Mr. Baca?

11 MR. BACA: Yes, hello. Good afternoon.  
12 I just have a quick question. I cannot decipher if  
13 this is a period right now for just listening, although  
14 it is -- it will -- what -- I don't understand the  
15 distinguishing factors between 8 and 9 on the agenda,  
16 as I would like to provide a new item, and it has to do  
17 with a potential regulatory framework outside of the  
18 period.

19 Can Jennifer, please, distinguish the  
20 two?

21 MS. URBAN: So the agenda item 9 is  
22 specifically for suggestions for agenda items for  
23 future meetings. This item is an opportunity for the  
24 public to comment on any topic whether or not it's on  
25 the agenda. So if the comment that you would like to

1 make is that this is an issue that's important to you,  
2 please go ahead, and you can bring it up again as a  
3 specific agenda item. But after Mr. Soublet's answer  
4 to my question earlier, I think that it is -- we can --  
5 we can take it -- we can sort of -- we can take note of  
6 it so that you know that we heard it.

7 I realize that the rules are a little  
8 bit baroque, and I hope that helps.

9 MR. BACA: It does. With that said,  
10 I -- I reserve the right that this comment will apply  
11 for either item number 8 or 9 on the agenda.

12 With that said, hello everybody. My  
13 name is Rafa Baca. I'm an attorney, and I'm commenting  
14 today in a personal capacity. Definitely, I want to  
15 thank the Board and the Director for all of the hard  
16 work that they've done so far. This is my first  
17 meeting. I just found it just in -- incredibly  
18 impressive what the drive is.

19 So obviously, the comment that I would  
20 like to make, as I mentioned before, is the comment is  
21 being now received outside of the period as stated  
22 earlier. This has to do with the proposed regulatory  
23 framework to consider and to expand upon, and for  
24 historical memory.

25 That being said, I would like to talk

1 about the digitaldeputyact.org. I believe this  
2 digitaldeputyact.org is a revenue-neutral way of  
3 enforcing the Agency's regulations outside of the  
4 Agency -- external to the Agency, per se. Much of  
5 digital data privacy requires some level of technical  
6 expertise. My idea, which is indeed the  
7 digitaldeputyact.org as a -- incoming personal right  
8 is --

9 MR. SOUBLET: You have thirty seconds.

10 MR. BACA: -- is to provide licensure to  
11 software professionals by enforcing the rules of the  
12 Agency at the time it's being developed in day-to-day  
13 operations. The -- I have a law review article, a  
14 national publication, and peer review by lawyers on the  
15 same. The engineer at this time -- it is revenue  
16 neutral in the sense that it's a component of potential  
17 license --

18 MR. SOUBLET: That is your time.

19 MR. BACA: I'm sorry. What did you say?

20 MR. SOUBLET: That is -- that is your  
21 time.

22 MR. BACA: Okay.

23 MR. SOUBLET: You used the three  
24 minutes.

25 MR. BACA: Thank you.

1 MR. SOUBLET: Thank you.

2 MS. URBAN: Thank you very much.

3 Is there further public comment?

4 MR. SOLTANI: Please raise your hand  
5 using the Zoom raise hand feature if you'd like to make  
6 a comment.

7 Mr. Phillip Gutierrez, you have three  
8 minutes. Please unmute yourself.

9 MR. GUTIERREZ: Good afternoon. This is  
10 Phillip Gutierrez with SchoolsFirst Federal Credit  
11 Union. I want to thank the Board for the opportunity  
12 to provide comments.

13 Since neither bill AB 2891 nor AB 2871  
14 passed legislature this year, employee and  
15 business-to-business data will be subject to the CCPA  
16 effective January 1st, 2023. I'd like to ask the  
17 Agency Board Members to delay enforcement action to a  
18 later date so businesses have sufficient time to comply  
19 with the employee and business-to-business  
20 requirements. I ask the Board to address this via  
21 public announcement. That would greatly be  
22 appreciated. Thank you.

23 MS. URBAN: Thank you, Mr. Gutierrez.

24 Is there further public comment?

25 MR. SOLTANI: Please raise your hand

1 using the Zoom raise hand feature if you'd like to make  
2 a comment.

3 I see no hands raised; zero hands  
4 raised.

5 MS. URBAN: Thank you, Mr. Soltani.

6 And thank you very much to the members  
7 of the public who took the time to both come to the  
8 meeting and give us their thoughts.

9 Let us now turn to agenda item number 9,  
10 which is a discussion of future agenda items.

11 So during this agenda item, we have the  
12 opportunity for members of the Board and/or members of  
13 the public to suggest items for future -- for future  
14 Board meetings.

15 I have a bit of an update from our last  
16 list, so one was, of course, to take up whether to put  
17 out the notice of proposed rulemaking, which the Board  
18 has done.

19 One was strategic planning, which we  
20 talked about earlier today.

21 One was a budget update, which we also  
22 talked about earlier today.

23 And one was an agenda item about  
24 processing proposed changes to the rules, which the  
25 process the Committee did all of that very helpful work

1 on, and we discussed today.

2 We also, of course, have a focus on  
3 rule-making substance coming up; input by the Board on  
4 relevant positions, as we discussed under the  
5 delegation of authority today; and occasional and  
6 continuing reports from subcommittees as necessary.

7 So -- excuse me. So now I would like to  
8 please open it up to Board Members -- oh, hang on.  
9 Sorry, one thing.

10 I believe that Ms. de la Torre would  
11 like to add an agenda item about the per diem, so I --  
12 that is actually on the list, but of course, you can  
13 bring it up in more detail if you would like.

14 Mr. Le?

15 MR. LE: Yeah, so -- yeah, quickly  
16 before I have to go, I just want to add the item that  
17 we brought up during the update -- our subcommittee  
18 update around public awareness to talk about and  
19 consider proposals so that we can provide guidance to  
20 businesses regarding potential actions that we can do  
21 and considerations around delay and enforcement, and  
22 how that -- or delay in regulations and how that can  
23 impact our enforcement.

24 MS. URBAN: Thank you, Mr. Le.

25 Ms. de la Torre?

1 MS. DE LA TORRE: Apologies. Yes. So  
2 my item is really regarding the budget process.  
3 Through the budget process there is -- one of the  
4 actions that the Agency can take is request a change in  
5 the per diem, and I would like to add that to our  
6 agenda preferably before we file our budget because  
7 it's related to the budget process.

8 MS. URBAN: Got it. Thank you very  
9 much.

10 Other --

11 MR. LE: I have to --

12 MS. URBAN: -- agenda --

13 MR. LE: I have to drop off. Sorry.

14 MS. URBAN: Thank you very much, Mr. Le.  
15 Thank you for all of your service today and for all of  
16 your work done early.

17 MR. LE: Thank you.

18 MS. URBAN: Thanks so much.

19 Further agenda items from Board Members?

20 Mr. Thompson?

21 MR. THOMPSON: If we propose an agenda  
22 item, we could change our mind; it does not have to be  
23 on the agenda. The reason I'm bringing this up is --

24 MS. URBAN: No, we will --

25 MR. THOMPSON: -- if we could hold --



1 MS. URBAN: -- not hold you to this for  
2 all time.

3 MR. THOMPSON: Forever. There was some  
4 ambiguity on whether or not we needed any further  
5 discussion of the process by which we're going to do --  
6 consider changes to the rules. So I think we should  
7 just consider put -- having that on the agenda. We  
8 don't have to do it, but if there is a need for further  
9 clarification, we might want to agendize that.

10 MS. URBAN: Yes. My understanding was  
11 that we would move forward, but of course, if that runs  
12 into something, it's obviously up for addition to an  
13 agenda -- to a future agenda. Thank you, Mr. Thompson.

14 Mr. Soublet?

15 MR. SOUBLET: I just want to point out  
16 that we currently have four Board Members, so we still  
17 have a quorum present for a meeting.

18 MS. URBAN: Oh, thank you very much, Mr.  
19 Soublet, for reminding me to establish that. We do  
20 still have a quorum, thank you.

21 Further agenda items from Board Members?

22 Okay. Thank you all very much.

23 Are there suggested agenda items from  
24 members of the public?

25 MR. SOLTANI: Please raise your hand

1 using the Zoom raised hand feature, and you'll be asked  
2 to unmute.

3 We have a few comments.

4 MS. URBAN: Very good.

5 MR. SOLTANI: Mr. -- or I'm going -- I  
6 apologize in advance -- Olume -- O-L-U-M-E-S-E, you  
7 have three minutes.

8 MR. OLUMESE: Thank you. Can you all  
9 hear me?

10 MS. SIERRA: Yes.

11 MR. OLUMESE: Okay. Yes. Thank you for  
12 allowing my comment.

13 My name is Ehijele Olumese, and I'm an  
14 attorney at Cooley, where we are advising a number of  
15 clients on CCP compliance. As you know, the California  
16 legislature did not act on proposals to further extend  
17 the CCPA so-called HRM B2B exemptions, which are set to  
18 expire on January 1st, 2023.

19 Businesses now have only little more  
20 than three months to comply with the CCPA as applied to  
21 this currently exempt data, which includes personal  
22 information about job candidates, employees, and a wide  
23 range of business -- business contacts, among other  
24 categories of individuals. Never before have US  
25 businesses been required to address these categories of

1 data under a Federal or State privacy law of general  
2 application, and none of the other comprehensive  
3 privacy laws adopted in other US states will require  
4 them to do so. Yet neither the CPPA nor the Attorney  
5 General have provided guidance on this topic.

6 Accordingly, we urge the Board to  
7 address the following question at its next public  
8 meeting.

9 Number 1, what guidance, if any, can  
10 business -- businesses expect from the CPPA prior to  
11 January 1, 2023, or how to address their obligations  
12 relating to this data, whether within the first set of  
13 CPPA regulations to take effect, or pursuant to the  
14 CPPAs authority to provide guidance to businesses  
15 beyond the four corners of the regulation?

16 And number 2, what, if any, leniency can  
17 businesses expect in the enforcement of the CCPA as  
18 applied to the HRM B2B data, whether through a formal  
19 grace period regulation providing compliance  
20 flexibility, extensions of cure periods, or otherwise?  
21 Thank you.

22 MS. URBAN: Thank you very much, Mr.  
23 Olumese.

24 Next comment, please?

25 MR. SOLTANI: Please raise your hand if

1     you have a comment. I see Mr. Baca.

2                     Mr. Baca, you have three minutes.

3                     MR. BACA: Hello.

4                     MR. SOLTANI: Please unmute yourself.

5                     MR. BACA: I'm Rafa Baca. I would like  
6     to, at least, suggest perhaps extending an opportunity  
7     for discussing further regulatory frameworks outside of  
8     the period, perhaps including the digitaldeputyact.org.  
9     With that said, I am the author of that, and there are  
10    some in -- there are some ideas that I would like to  
11    convey, and to conclude that, was previously addressed  
12    in Section 8.

13                    The idea is to provide State licensure  
14    to software professionals to assist in enforcing the  
15    rules of the Agency at the time software is being  
16    developed in the day-to-day operations. At this time,  
17    engineers, scientists, lawyers, doctors are licensed by  
18    the State and often uphold the rules of ethics and are  
19    required to be knowledgeable to so understand State  
20    laws and regulations.

21                    This revenue-neutral idea, in a sense,  
22    is a component of their licensure, and the renewal  
23    fees -- or annual renewal fees that they must interact  
24    with the regulatory Agency -- authority of this Agency  
25    and thus, professionals who pay the State for such a

1 licensure. Again, I do have a law review article. I'm  
2 more than willing to provide that at the proposed new  
3 agenda item. Thank you so much for your time.

4 MS. URBAN: Thank you very much.

5 Are there further comments?

6 MR. SOLTANI: Please raise your hand  
7 using the Zoom raised hand feature if you'd like to  
8 make a comment.

9 You can also press star 9 on your cell  
10 phone if you're dialing in to raise your hand.

11 I see no hands raised.

12 MS. URBAN: Thank you, Mr. Soltani.

13 Thank you to members of the Board and  
14 the public for comments on this agenda item.

15 And we will now turn to agenda item  
16 number 10, which is adjournment.

17 I'd like to thank everybody -- Board  
18 Members, staff, and members of the public who were  
19 wonderfully engaged today for their contributions to  
20 the meeting and to the Board's work.

21 May I have a motion to adjourn the  
22 meeting?

23 MS. DE LA TORRE: I move.

24 MS. URBAN: Thank you, Ms. de la Torre.

25 May I have a second?

1 MS. SIERRA: I'll second.

2 MS. URBAN: Thank you, Ms. Sierra.

3 We have a motion to adjourn the meeting  
4 from Ms. de la Torre and a second from Ms. Sierra, and  
5 I will remind everyone that we do still have a quorum  
6 of Board Members.

7 Mr. Soublet, could you please cover  
8 the --

9 MR. SOUBLET: Ms. de la Torre?

10 MS. DE LA TORRE: Aye.

11 MR. SOUBLET: Ms. Sierra?

12 MS. SIERRA: Aye.

13 MR. SOUBLET: Mr. Thompson?

14 MR. THOMPSON: Aye.

15 MR. SOUBLET: Ms. Urban?

16 MS. URBAN: Aye.

17 MR. SOUBLET: We have four ayes and one  
18 absent.

19 MS. URBAN: Thank you very much, Mr.  
20 Soublet.

21 The motion to adjourn has been approved  
22 by a vote of four to nothing, with one person absent,  
23 and this meeting of the California Privacy Protection  
24 Agency Board is adjourned with my thanks to you all.

25 (End of recording)

## 1 TRANSCRIBER'S CERTIFICATE

2

3 STATE OF CALIFORNIA

4

5 BE IT KNOWN that the foregoing

6 proceedings were reported by Amanda Stockton, and

7 reduced to written form under my direction; that the

8 foregoing 151 pages constitute a full, true, and

9 accurate transcript; all done to the best of my skill

10 and ability.

11 DATED this 30th day of September, 2022.

12

13

14

15

16

  
A handwritten signature in cursive script, appearing to read "Amanda Stockton", is written over a horizontal line.

17

AMANDA STOCKTON

18

CET-1323

19

20

21

22

23

24

25