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 Medical Uses of Isotopes

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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ADVISORY COMMITTEE ON THE MEDICAL USES
OF ISOTOPES

+ + + + +

TELECONFERENCE

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WEDNESDAY, AUGUST 20, 2014

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The meeting convened telephonically at
1:30 p.m., Bruce Thomadsen, Ph.D., ACMUI Chairman,
presiding.

MEMBERS PRESENT:

- BRUCE R. THOMADSEN, Ph.D., Medical
Physicist, Radiation Therapy, Chairman
- MILTON J. GUIBERTEAU, M.D., Diagnostic
Radiologist, Vice Chairman
- PHILIP O. ALDERSON, M.D., Health Care
Administrator
- FRANCIS M. COSTELLO, Agreement State
Representative
- VASKEN DILSIZIAN, M.D., Nuclear Cardiologist
- STEVEN R. MATTMULLER, Nuclear Pharmacist

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1 CHRISTOPHER J. PALESTRO, M.D., Nuclear Medicine
2 Physician

3 JOHN J. SUH, M.D., Radiation Oncologist

4 ORHAN H. SULEIMAN, Ph.D., FDA Representative

5 LAURA M. WEIL, Patients' Rights Advocate

6 JAMES S. WELSH, M.D., Radiation Oncologist

7 PAT B. ZANZONICO, Ph.D., Medical Physicist,
8 Nuclear Medicine

9 MEMBERS NOT PRESENT:

10 SUSAN M. LANGHORST, Ph.D., Radiation Safety
11 Officer

12

13 NRC STAFF PRESENT:

14 MICHAEL FULLER, Designated Federal Officer

15 SOPHIE HOLIDAY, Alternate Designated Federal
16 Officer, ACMUI Coordinator

17 JENNIFER BISHOP, R-III/DNMS/MLB

18 DOUGLAS BOLLOCK, FSME/MSSA/RMSB

19 SUSAN CHIDAKEL, OGC/GCLR/RMR

20 JACQUELINE COOK, RIV/DNMS/NMSB-B

21 GINA DAVIS, NMSS/DSFST/SMMB

22 SANDRA GABRIEL, FSME/DMSSA/RMSB

23 DONNA-BETH HOWE, FSME/DMSSA/RMSB

24 VARUGHESE KURIAN, FSME/DWMEP/DURLD/MD

25 NAOMI LISSE, FSME/DMSSA/RMSB

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GRETCHEN RIVERA-CAPELLA, FSME/DMSSA/RMSB

MEMBERS OF THE PUBLIC PRESENT:

CAITLIN KUBLER, Society of Nuclear Medicine
and Molecular Imaging

KAREN LANGLEY, University of Utah

MICHAEL PETERS, American College of Radiology

CINDY TOMLINSON, American Society for
Radiation Oncology

P-R-O-C-E-E-D-I-N-G-S

1:31 p.m.

1
2
3 MR. FULLER: Okay, good afternoon
4 everyone, this is Mike Fuller with the Nuclear
5 Regulatory Commission. We're going to go ahead
6 and get started on time. So I'll start with the
7 official opening comments.

8 As the Designated Federal Officer for
9 this meeting, I am pleased to welcome you to this
10 Public Meeting of the Advisory Committee on the
11 Medical Uses of Isotopes. My name is Mike Fuller,
12 I am the Team Leader of the Medical Radiation Safety
13 Team in the Radioactive Materials Safety Branch and
14 I have been designated as the Federal Officer for
15 this Advisory Committee in accordance with 10 CFR
16 Part 7, Section 11.

17 Present today as the Alternate
18 Designated Federal Officer is Sophie Holiday, the
19 ACMUI Coordinator. This is an announced meeting
20 of the Committee. It is being held in accordance
21 with the rules and regulations of the Federal
22 Advisory Committee Act and the Nuclear Regulatory
23 Commission.

24 This meeting is being transcribed by
25 the NRC and it may also be transcribed or recorded

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1 by others. The meeting was announced in the July
2 2, 2014 edition of the Federal Register in Volume
3 79, page 37782.

4 The function of the Committee is to
5 advise the staff on issues and questions that arise
6 on the medical uses of byproduct material. The
7 Committee provides counsel to the staff and does
8 not determine or direct the actual decisions of the
9 staff or the Commission. The NRC solicits the
10 views of the Committee and values their opinions.

11 I request that whenever possible, we
12 try to reach a consensus on the procedural issue
13 that we will discuss today. But I also recognize
14 that there may be minority or dissenting opinions.
15 If you have such opinions, please allow them to be
16 read into the record.

17 At this point I would like to perform
18 a roll call of the ACMUI members participating
19 today. Dr. Bruce Thomadsen?

20 CHAIR THOMADSEN: Here.

21 MR. FULLER: Dr. Mickey Guiberteau?

22 VICE CHAIR GUIBERTEAU: Here.

23 MR. FULLER: Dr. Philip Alderson?

24 MEMBER ALDERSON: Here.

25 MR. FULLER: Mr. Frank Costello?

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1 MEMBER COSTELLO: Here.

2 MR. FULLER: Dr. Vasken Dilsizian?

3 MEMBER DILSIZIAN: Here.

4 MR. FULLER: Dr. Sue Langhorst?

5 (No response)

6 MR. FULLER: Mr. Steve Mattmuller?

7 MEMBER MATTMULLER: Here.

8 MR. FULLER: Dr. Christopher Palestro?

9 MEMBER PALESTRO: Here.

10 MR. FULLER: Dr. John Suh?

11 (No response)

12 MR. FULLER: Dr. Orhan Suleiman?

13 MEMBER SULEIMAN: Here.

14 MR. FULLER: Dr. William Van Decker?

15 Oh, I'm sorry, that -- I have something. Ms. Laura

16 Weil?

17 MEMBER WEIL: Here.

18 MR. FULLER: Dr. James Welsh?

19 MEMBER WELSH: Here.

20 MR. FULLER: And Dr. Pat Zanzonico?

21 MEMBER ZANZONICO: Here.

22 MR. FULLER: Okay. Did Dr. Suh join us

23 by any chance?

24 (No response)

25 MR. FULLER: Okay. So I have -- with

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1 the fact that we have at least seven members, I can
2 confirm that we have a quorum of today's meeting.
3 I now ask NRC members who are present to identify
4 themselves. I'll start first and identify those
5 who are actually here in the room with me today.

6 Let me just go around and name them for
7 the record. Again, my name is Mike Fuller. We
8 have Mr. Doug Bollock, our Acting Branch Chief. We
9 have Varughese Kurian; we have Gretchen
10 Rivera-Capella, Ms. Sophie Holiday, Susan
11 Chidakel, Gina Davis and Naomi Lisse.

12 Okay, now we'll go to NRC Headquarters
13 employees who are on the phone. Do we have NRC
14 Headquarters -- those of you from NRC Headquarters
15 who are on the phone, please identify yourself.

16 DR. GABRIEL: Sandra Gabriel.

17 MR. FULLER: Okay. Next we'll go to
18 our NRC Regional Offices. Do we have someone on
19 the call from Region One?

20 (No response)

21 MR. FULLER: Hearing none, how about
22 Region III? Do we have anyone on the call from
23 Region III?

24 MS. BISHOP: Hi, this is Jennifer
25 Bishop.

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1 MR. FULLER: Okay. Thank you. Do we
2 have anyone on the call from Region IV?

3 MS. COOK: Jackie Cook.

4 MR. FULLER: Next we will identify
5 members of the public who identified to us that they
6 would be participating in the teleconference.
7 When Ms. Holiday calls your name, please answer.

8 MS. HOLIDAY: Dr. Ilim Al Muhammad?

9 (No response)

10 MS. HOLIDAY: Lynne Fairbent?

11 (No response)

12 MS. HOLIDAY: Karen Langley?

13 MS. LANGLEY: Yes.

14 MS. HOLIDAY: Caitlin Kubler?

15 MS. KUBLER: Here.

16 MS. HOLIDAY: Michael Peters?

17 MR. PETERS: Here. I'm here.

18 MS. HOLIDAY: Cindy Tomlinson?

19 MS. TOMLINSON: Here.

20 MR. FULLER: Okay. Also I will note
21 that Dr. Donna-Beth Howe just joined us as well.
22 Is there anyone else on the call that we did not
23 recognize or have not heard from?

24 (No response)

25 MR. FULLER: Okay, thank you. We have

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1 a bridge line available and that phone number is
2 (888) 864-0940. The passcode to access the bridge
3 line is 52094 star. This meeting is also using the
4 GoToMeeting application to view presentation
5 handouts in real time. You can access this by
6 going to www.gotomeeting.com and you can search on
7 the Meeting ID, that number is 963-527-000.

8 Individuals who would like to ask a
9 question or make a comment regarding a specific
10 issue the Committee has discussed should request
11 permission to be recognized by the ACMUI
12 Chairperson, Dr. Bruce Thomadsen. Dr. Thomadsen
13 at his option may entertain comments or questions
14 from members of the public who are participating
15 with us today.

16 Comments and questions are usually
17 addressed by the Committee near the end of the
18 meeting after the Committee has fully discussed the
19 topic. I would also ask -- also like to add that
20 the handouts and agenda for this meeting are
21 available at the NRC's public website.

22 I ask at this time that everyone on the
23 call who is not speaking to please place their
24 phones on mute. If you do not have the capability
25 to mute your phone, please press star 6 to utilize

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1 the conference line mute and un-mute function.

2 I would also ask everyone to exercise
3 extreme care to ensure that the background noise
4 is kept at a minimum as any stray background sounds
5 can be very disruptive on a conference call as large
6 as this.

7 Okay. At this point I would like to
8 turn it over to Mr. Doug Bollock our Acting Branch
9 Chief for our NRC opening comments.

10 MR. BOLLOCK: All right, good
11 afternoon. As Mike said, I'm Doug Bollock, the
12 Acting Branch Chief for Radioactive Materials
13 Safety Branch. And I'd like to thank you all for
14 taking the time out of your busy schedules and
15 joining us on this teleconference this afternoon
16 and also for all of your work ahead of time in
17 preparation for this.

18 Our Division Director, Laura Dudes
19 regrets that she and our Office Director, Brian
20 Holian will not be able to join us today. But
21 they're looking forward to seeing you all again in
22 September. And I just wanted to welcome you all
23 and that's all I have. Go ahead Mike.

24 MR. FULLER: Thank you Doug. Okay.
25 At this point I would like to turn the meeting over

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1 to Dr. Thomadsen to go ahead and get to the business
2 at hand. Dr. Thomadsen.

3 CHAIR THOMADSEN: Thank you very much
4 Michael. The first thing I would like to do is to
5 remind people not to put us on hold, particularly
6 if your facility plays music when you're on hold.
7 Secondly, I see that several of the ACMUI members
8 are not on the GoToMeeting site. If you do have
9 the capability of using your computer right now and
10 going to that site, it might be useful as we go
11 through this document.

12 And with that, I'm going to turn the
13 meeting over to Dr. Zanzonico, the Chair of the
14 Subcommittee looking at the ACMUI bylaws for
15 discussion. Dr. Zanzonico please?

16 MEMBER ZANZONICO: Thank you Dr.
17 Thomadsen and hello everyone. So as many of you
18 know, there's a lot of preparatory work done on the
19 draft bylaws and in preparation for this
20 teleconference. And several issues emerged
21 during that preparation, most of which I think have
22 been resolved. Several of which though have not.

23 And what I would like to do is step
24 through the more significant issues which have been
25 considered beforehand and present either the

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1 consensus among the Subcommittee members as well
2 as the Committee members. And also ask those
3 individuals who have a differing opinion, if
4 they're on the line to express those as well.

5 Once then we've come to some resolution
6 or consensus of these issues, per Dr. Thomadsen's
7 suggestion ahead of time, I will then step through
8 the draft bylaws paragraph by paragraph. And
9 we'll solicit comments only if there is a comment.
10 That is only if there's some suggested revision or
11 question or whatever on a particular paragraph but
12 not to actually recite each paragraph, paragraph
13 by paragraph.

14 So having said that, let me begin. The
15 first issue I'd like to address is the use of the
16 word should versus shall, and this is in particular
17 with respect to Sections 1.1.4 through 1.1.6. And
18 these items have to do with the conduct of ACMUI's
19 meetings. 1.1.4 indicates that meetings of the
20 ACMUI should be open to the public via broadcast
21 or otherwise electronically discriminated. So
22 there's a question of whether to use should or shall
23 in that Section.

24 The next Section 1.1.5 as well as 1.1.6
25 deal with meeting handouts. 1.1.5 stipulates

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1 currently that all available meeting handouts
2 should be electronically transmitted to ACMUI
3 members no later than two weeks prior to the
4 meeting. And 1.1.6 currently stipulates that
5 these handouts should be posted on the ACMUI public
6 website no later than three business days prior to
7 the meeting.

8 The consensus among the ACMUI members
9 who expressed an opinion, was that to ensure
10 flexibility and not jeopardize scheduled meetings
11 should these items not be doable for whatever
12 reason, that we should use the word should rather
13 than shall or will. With the latter terms implying
14 that if these requirements were not met, the
15 meetings could not go forward.

16 I believe Ms. Weil had a dissenting
17 opinion. And so my perception is that was the lone
18 dissenting opinion. So Laura would you like to
19 just for our benefit summarize your reasons for
20 that?

21 MEMBER WEIL: Well my feeling is that
22 the word will is more important than the word should
23 in the instance of dissemination of the agenda for
24 the meeting and the meeting materials. I believe
25 that it's important for Committee members to have

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1 time to diligently review the items that are on the
2 agenda as well as the background materials for
3 those items.

4 And if possible to do any independent
5 research that might be useful to bring to the
6 discussion of those particular agenda items. I
7 have no question that the current staff that the
8 NRC uses to support the ACMUI to provide us with
9 meeting materials with promptness and with equity.

10 My question was that that has been --
11 the NRC has not always resourced the ACMUI to the
12 ACMUI's satisfaction and the bylaws should provide
13 a minimum bottom line expectation of what the
14 members of the Committee can count on in terms of
15 having materials in order to do their job well.
16 And that's my only concern is that the bylaws with
17 this change would not provide that baseline of
18 expectation for the information that we need to do
19 our work.

20 MEMBER ZANZONICO: Understood. Thank
21 you Laura.

22 CHAIR THOMADSEN: Dr. Zanzonico?

23 MEMBER ZANZONICO: Hum?

24 CHAIR THOMADSEN: This is Bruce
25 Thomadsen. Sort of with respect to that, if we can

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1 go to 1.1.4, where it says portions of the ACMUI
2 meetings that are open to the public should be
3 broadcast et cetera, wherever possible, that one's
4 -- I think that should could be shall because if
5 the only thing -- the only reason it wouldn't be
6 done would be if it wasn't possible.

7 Would it also satisfy Ms. Weil's
8 concerns if 1.1.5 and 1.1.6 were to go from the
9 should to the shall, but also disclaim whenever
10 possible?

11 MEMBER WEIL: This is Laura. Are you
12 asking me if that would be an adequate guarantee?

13 CHAIR THOMADSEN: Well obviously it's
14 not a guarantee.

15 MEMBER WEIL: No.

16 CHAIR THOMADSEN: But would it be an
17 appropriate compromise? Would it address the
18 concerns, yet allow some flexibility in case
19 there's some disaster and things weren't out in
20 time?

21 MEMBER WEIL: It does provide that
22 flexibility. My concern is that we as members of
23 this Advisory Committee bring our individual
24 expertise and represent our individual
25 constituencies.

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1 The position of meeting materials and
2 information and an awareness of agenda items is --
3 if that is not guaranteed, then the NRC staff are
4 able to present us, or not present us with
5 information that could represent an intentional or
6 unintentional bias for lack of that information in
7 time to steer ACMUI discretion in a particular
8 direction.

9 I think it is consistent with our
10 autonomy and independence that we need to guarantee
11 that information in time for us to do the work that
12 we are contracted to do. And I understand that the
13 other members of the Committee don't agree with my
14 opinion. But they think flexibility is more
15 important.

16 I would concede the point of course
17 given that majority opinion. But I would like my
18 opinion to be on record that it's important we have
19 the autonomy and the information in order to do our
20 jobs right.

21 MEMBER ZANZONICO: Thank you Laura,
22 this is Pat Zanzonico again. Does anyone else on
23 the Committee have a comment, question or further
24 input?

25 MEMBER PALESTRO: Pat, Chris Palestro,

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1 if I may say a couple of words. Number one I agree
2 with Laura about the importance, it can't be
3 understated or underestimated that ACMUI members
4 should have the material and information in a
5 timely fashion.

6 On the other hand you know, there are
7 all sorts of unforeseen circumstances that
8 potentially can arise and you can't delineate them,
9 which could potentially prevent the material being
10 discriminated in a timely fashion or needing being
11 electronically discriminated. I mean that's just
12 -- that's the nature of life.

13 And I think that to make it an absolute
14 requirement just doesn't work very well. So I
15 certainly favor "should be" as far as "shall"
16 whenever possible, that really is "should be".

17 And I can tell you that there is -- this
18 is very much analogous to what's used by the ACGME,
19 the Accreditation Council for Graduate Medical
20 Education in terms of residency program
21 requirements. There are musts, which is what they
22 use the equivalent of shall. But there are
23 requirements that are classified as should, which
24 means that they must be met, but the committee
25 recognizes there are extenuating circumstances

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1 that may prevent them from being met.

2 So all that's to say I'm in favor of the
3 term "should" or "should be".

4 MEMBER ZANZONICO: Okay, thank you Dr.
5 Palestro. Any other Committee members wish to
6 make a comment, express an opinion or so forth?

7 MEMBER ALDERSON: This is Alderson. I
8 would just say that I very strongly support what
9 Chris had to say. And this also gives me the
10 opportunity to say that within about the next five
11 minutes, I have to be off the call. I won't
12 interrupt the call at that time, I will just hang
13 up.

14 But I do very much agree with what Chris
15 had to say.

16 MEMBER SUH: This is John Suh, thank
17 you. I also agree with Phil and Chris as well in
18 terms of -- in terms of using the word should.
19 Because I think that there are going to be
20 extenuating circumstances where all the materials
21 are not always available.

22 MEMBER ZANZONICO: Thank you.

23 MEMBER WELSH: James Welsh, if I might?

24 MEMBER ZANZONICO: Please.

25 MEMBER WELSH: I concur with the

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1 previous three speakers not because I have any
2 disagreement with Ms. Weil's sentiment. Of course
3 in the ideal world, "it shall" or "will" is better
4 than "should".

5 However, my concern is as I think you
6 enunciated, that if for whatever reason the
7 deadline is not met and the material is not
8 distributed and the word says "will", is there a
9 danger that the whole thing will be cancelled. And
10 I believe that that is the situation.

11 If the deadline is not met because for
12 whatever reason, and the wording says "it shall be"
13 or "will be" met by this deadline, and if we don't
14 meet that deadline, the whole thing would be off
15 the docket. And that's a disaster that would be
16 worse than not having the material in a timely
17 fashion.

18 So for that reason, I think that the
19 word should be "should" rather than "shall" or
20 "will".

21 MEMBER ZANZONICO: Okay, thank you Dr.
22 Welsh. Any further comments?

23 MEMBER COSTELLO: Yes, this is Frank
24 Costello. And I also favor "should". And my
25 thought there is this is the bylaws of the ACMUI.

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1 And I'm not sure that we can be placing requirements
2 on the NRC staff in our own bylaws. That's all.

3 MEMBER ZANZONICO: Understood, thank
4 you. Further comments?

5 (No response)

6 MEMBER ZANZONICO: In that case, I
7 think the opinions pro and con meaning "should"
8 versus "shall" have been fully expressed. And I
9 guess my question at this point is how do we
10 proceed? Do we have a motion and then a vote on
11 this particular language? So I'm looking for some
12 guidance as to how this should be handled.

13 CHAIR THOMADSEN: Dr. Zanzonico, it's
14 Bruce Thomadsen again. Just ask Ms. Weil if she
15 would like to have a vote so that she can be on
16 record with her opinion.

17 MEMBER WEIL: Well I feel I'm on record
18 with the discussion.

19 CHAIR THOMADSEN: And you don't feel
20 you need a vote? Yes, and I think that's
21 definitely the case. Being the person that reads
22 the transcripts and assures they're accurate, I
23 know that the records are there.

24 In that case, Dr. Zanzonico I think you
25 can just assume that the consensus has been reached

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1 and move forward.

2 MEMBER ZANZONICO: Okay, thank you
3 sir. We'll consider that matter disposed of.
4 Taking the next issue in order, Mr. Mattmuller had
5 suggested two revisions to the draft bylaws. One
6 in the preamble and the second in Section 3.1.

7 So in the preamble, I will just read the
8 addition Mr. Mattmuller suggested. And that is,
9 "FSME will respond to such development of standard
10 and criteria when appropriate in accordance with
11 the FSME policy and procedures, 2-5 revision 0,
12 FSME procedure for interacting with Advisory
13 Committee on the medical uses of isotopes during
14 development of major medical issues."

15 My feeling, and I disseminated this in
16 an email to the ACMUI, was that since the document
17 we're dealing with are ACMUI bylaws, in other
18 words, bylaws dealing with the conduct of ACMUI
19 business that was inappropriate perhaps to
20 dictate, and dictate is too strong a word, but I'll
21 use it nonetheless, to dictate other than to the
22 ACMUI how to conduct business.

23 And this suggested revision by Mr.
24 Mattmuller struck me as dictating to a group other
25 than the ACMUI, in other words FSME, their conduct

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1 of business. So on that basis, I had not
2 incorporated it into the latest version --
3 consensus version of the draft bylaws that the
4 ACMUI Subcommittee had prepared.

5 So again, I have not included that
6 comment, that suggested revision for the reasons
7 I just stated. And so I'd like to invite any
8 further comments. Mr. Mattmuller would you like
9 to say anything further on this suggested revision
10 of yours?

11 MEMBER MATTMULLER: No Pat, I think
12 you've done well. I mean maybe perhaps the
13 preamble isn't the proper place for that reference.
14 I don't know if we could put it into a footnote.
15 But I do agree with your comments, so we can leave
16 it out of the preamble.

17 MEMBER ZANZONICO: Okay. Is there any
18 further comments on this item?

19 (No response)

20 MEMBER ZANZONICO: I think with Mr.
21 Mattmuller's comment just now, that particular
22 matter was disposed of as well. So I also would
23 like to address Mr. Mattmuller's second suggested
24 revision and this was in Section 3.1.

25 And this had to do with the tenure of

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1 ACMUI members. And the pertinent passage says,
2 the term of an appointment to the ACMUI is for four
3 years and the Commission has determined that no
4 member may serve more than two consecutive terms
5 in consecutive years.

6 And the suggested revision or addition
7 is the following: "Unless an extension is granted
8 as recommended by the ACMUI Chair and/or NRC staff
9 and approved by the Director, FSME and the
10 Commission."

11 And again, this was another comment
12 which I did not incorporate into the draft bylaws
13 on the basis of the fact that the Commission
14 ultimately determines the way the ACMUI does
15 business to a large extent, including ACMUI
16 membership. And presumably that's done in
17 consultation, implicitly if not explicitly, with
18 the NRC staff as well as with the ACMUI itself.

19 So it seemed like an unnecessary
20 addition for lack of a better term. And so I had
21 just left this passage as is in the draft bylaws.
22 And again, it does say, even if Mr. Mattmuller
23 suggested, that the ACMUI's Chair and NRC staff
24 would recommend perhaps an extension of a term.
25 But that it would ultimately be approved by the

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1 Director, FSME and the Commission. I presume it
2 will ultimately be the Commission.

3 So in any case I did not incorporate it
4 into the draft bylaws and so this item is open for
5 discussion if anyone has any comments.

6 MEMBER WELSH: This is Jim Welsh, I
7 might start. Dr. Zanzonico, I would disagree with
8 you that this is an unnecessary addition.

9 Rather the phraseology is appropriate
10 is another matter. But I feel very strongly in
11 agreement with Steve Mattmuller that this
12 additional comment is appropriate and perhaps
13 necessary to ensure that the ACMUI contingency does
14 have adequate representation in certain areas.

15 And part of the reason I feel so
16 strongly about this is that in my personal tenure
17 on the ACMUI, there was an interval between Dr.
18 Subir Nag and Dr. John Suh, which I was the only
19 radiation oncology representative. And it was an
20 extremely active period in radiation oncology with
21 a lot of debate going on regarding the definition
22 of medical event and the VA situation being in the
23 headlines.

24 And it would have been truly
25 appreciated if there was an additional ACMUI

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1 radiation oncology member available. There was
2 not. And so for that reason I would not want to
3 see that situation ever repeated whether it's for
4 radiation oncology or any other discipline where
5 a vacancy is there and could be avoided.

6 So for that reason I'm in agreement with
7 Mr. Mattmuller's comments. Perhaps we could
8 rephrase it, but I'm in agreement with the
9 sentiment.

10 MEMBER ZANZONICO: Okay. Thank you
11 Dr. Welsh. Additional comments from anyone?

12 MEMBER MATTMULLER: This is Steve
13 Mattmuller. In the original submission we did --
14 I did try to leave the Commission off. Not that
15 I don't trust them, it's just to expedite the
16 process. Because I can only imagine the time it
17 would take for a consideration of this type to work
18 its way through the various levels of the NRC to
19 get to the Commission and then for it to come back
20 to us.

21 So to make the process more appropriate
22 in speed is why I had left the Commission off. And
23 I guess I would still suggest and would prefer that
24 the phrase be returned to this draft and to leave
25 the Commission off.

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1 I mean I would think to me this would
2 easily be a decision that it's not like they're
3 trying to vet a new Committee member. This is an
4 existing member and the need for them to continue
5 on I think would be more than adequately considered
6 by the Director of FSME.

7 MEMBER ZANZONICO: Understood. Thank
8 you Mr. Mattmuller. I have to say before taking
9 other comments, I actually agree with the sentiment
10 of Steve's suggestion. And I think the reason I
11 punted on this was having to do with the wording.

12 But I appreciate and actually agree
13 with the sentiment. Having said that, are there
14 any other comments by members of the Committee?

15 MEMBER SUH: So Pat, this is John Suh.
16 I'll also agree with what Steve and Jim are saying
17 as well. I think that if we do have a void in one
18 of the representative areas, it does put us at a
19 greater risk.

20 And I was not there when we were going
21 through all the details with you know, prostate
22 brachytherapy issues. And I think it would have
23 been helpful to actually have another radiation
24 oncologist here to actually share ideas and discuss
25 some of the areas. I know that was a very involved

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1 process.

2 So I think if we can put in some type
3 of wording that would give that flexibility, I
4 think that would be important.

5 MEMBER ZANZONICO: Understood. Thank
6 you Dr. Suh. Other comments?

7 VICE CHAIR GUIBERTEAU: Pat, this is
8 Mickey. Could you remind us why this was changed
9 at all, one. And two, what is wrong since the
10 Commission and FSME make really all of the
11 decisions including size and the members of ACMUI,
12 what -- why not leave it the way it was?

13 MEMBER ZANZONICO: Well, my
14 recollection why this issue originally arose was
15 that at least some members of the ACMUI felt that
16 the ACMUI should have some, as necessary, some
17 input into extending the terms of an ACMUI member
18 if any extenuating circumstances dictated that
19 that should be the case.

20 And I think from the folks you just
21 heard from, that there was a sentiment among some
22 of the ACMUI members that that should be the case.
23 That the ACMUI should have some input into whether
24 or not a particular ACMUI member's term is extended
25 beyond the standard eight years.

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1 VICE CHAIR GUIBERTEAU: But to the
2 point that the ACMUI members are appointed by the
3 Director of FSME after consultation with the
4 Commission. So I mean why -- it seems that it's
5 sort of working from the bottom up to change you
6 know, an extension.

7 Because if, I presume, that if there is
8 consultation with the Commission, that you would
9 prefer that the consultation with ACMUI, that that
10 should be put at the very beginning. And then you
11 don't have to worry about different conditions in
12 which people are either first appointed or
13 extended.

14 But you know, for my mind, to take away
15 you know, the discretion of the Commission to
16 extend someone by tacking this on at the end, it
17 doesn't make sense to me. I mean why would we not
18 want the Commission, you know perhaps at the urging
19 of the ACMUI, to extend someone's term?

20 MEMBER ZANZONICO: Thank you, that
21 point is very well taken. So if I could boil that
22 down to a revision, to me it sounds like the first
23 sentence of Section 3.1 could be changed to simply
24 ACMUI members are appointed by the Director of FSME
25 after consultation with the Commission and with the

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1 ACMUI.

2 And then --

3 VICE CHAIR GUIBERTEAU: If that's
4 what's intended, you know by these changes, then
5 it seems to me that would be all that would be
6 necessary to satisfy -- I mean and leave the rest
7 of it as it was in terms of extension, if that's
8 the intent of this Committee.

9 MEMBER ZANZONICO: Understood. I
10 think the language I just suggested is perhaps a
11 little broader, but I think in a positive way. But
12 I do agree that if we made that suggested revision,
13 that the suggested addition related specifically
14 to the extension of terms could be eliminated.

15 Anyone have any comments on that
16 particular point?

17 MEMBER SULEIMAN: This is Orhan
18 Suleiman, can you hear me?

19 MEMBER ZANZONICO: Yes.

20 MEMBER SULEIMAN: I think there's
21 flexibility in the way it is right now. I think
22 if there's an exceptional situation where there's
23 an exceptional subject where one of the members may
24 need to hang on for an additional period of time,
25 I think there are ways to do that.

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1 I think there's sufficient latitude by
2 the Chair. There's sufficient latitude by the
3 staff who may communicate to the Commission and/or
4 to the Committee Chair that you know, this is a
5 critical topic we're discussing, we'd like to --
6 we really don't want to lose this individual.

7 So I think that flexibility already
8 exists. Now let me say this. I think it's
9 inherently healthy for advisory committees to have
10 periodic rotation. And I had the unfortunate
11 experience where a committee can get very stagnant
12 by having the same people on it for -- and you get
13 actually what turns out to be sometimes a very
14 cliquishness.

15 So I don't -- it's terrible that you
16 lose somebody who's contributed. But for
17 everybody who rotates off, you've got somebody else
18 who's not been given the opportunity. So I think
19 the critical thing is to ensure. And you can't
20 predict which topics are going to be of current
21 interest at any given time because the Committee
22 addresses so many different topics and different
23 members may be more critical for different
24 subjects.

25 But during that transition period, I

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1 think it -- if the Committee feels so strongly that
2 somebody is rotating off next term and this topic
3 that they're valuable for, you know that they
4 should be involved with, I think those
5 opportunities should be addressed. The Committee
6 could pass you know, could pass a motion suggesting
7 their intent.

8 So I don't know whether -- I think
9 there's enough flexibility within the existing
10 system to communicate effectively.

11 MEMBER ZANZONICO: Thank you Dr.
12 Suleiman. Other comments?

13 MEMBER MATTMULLER: Yes. This is
14 Steve Mattmuller again. I agree what we're trying
15 to add is basically already covered in the current
16 bylaws. But I would say for the exact example that
17 Dr. Welsh mentioned, no one thought that oh, well
18 maybe we ought to extend Dr. Nag for a bit and ask
19 the Commission to extend it because myself and
20 others I'm sure have looked at this and said no,
21 his two terms are over, he's done. He can't help
22 us anymore.

23 So even though it technically, the
24 flexibility exists with the current language, I
25 think we need additional language added to remind

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1 people that yes indeed this can happen.

2 Now with that said, maybe then instead
3 of saying they continue on as a member because of
4 this relevant, difficult topic that's still being
5 considered by ACMUI, what if they continue on as
6 a consultant to the Committee until the Committee
7 is at the full strength as an alternative?

8 MEMBER ZANZONICO: Okay, that's a
9 suggestion on the table.

10 MR. FULLER: Dr. Zanzonico?

11 MEMBER ZANZONICO: Please.

12 MR. FULLER: This is Mike Fuller with
13 the NRC. And we've been listening to a very, very
14 interesting conversation. There are some things
15 that I think we need to clarify though as far as
16 what can and cannot be done.

17 First of all, absolutely we want to know
18 anyway if there was a unique need or a unique set
19 of circumstances where -- and the example that Dr.
20 Welsh brought up with regarding Dr. Nag previously,
21 would be one.

22 But the problem we have is that there
23 is a time frame that is involved when we're talking
24 about extending a member beyond the eight years
25 based upon the very formal way in which we consult

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1 with the Commission. So if you wanted to do
2 something timely, you probably could do it better
3 by a motion and a recommendation by the ACMUI to
4 actually see if we couldn't get someone extended
5 or have someone left on as a consultant.

6 All those things would be things that
7 we could consider. But if you put it in the bylaws,
8 I think the opposite of what you're hoping for would
9 probably happen. Which means we would just slow
10 things down because we're talking about at that
11 point in time, very formal communications between
12 the staff and the Commission would absolutely
13 become necessary.

14 So -- and I know Sophie also has some
15 -- she's looked at this and she's looked into this
16 in preparation for this meeting, so I'm going to
17 turn it over to Sophie also to provide some
18 clarification on this point.

19 MS. HOLIDAY: Okay, so I'm Sophie
20 Holiday for the record. So I know I've spoken to
21 Dr. Zanzonico about this very topic for quite a bit
22 of time. And I know the intent of what you're
23 trying to say. And I do understand Dr. Welsh's
24 sentiment about where there was a gap in
25 representation for the radiation oncologist.

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1 But I do want to mention that for that
2 very first instance where it was a suggestion that
3 ACMUI members are appointed by the Director after
4 consultation with the Commission and the
5 Committee, that is not our process for appointing
6 members. We cannot consult with the Committee on
7 appointing new members.

8 That is done by a selection panel with
9 an Outside Federal expert. We have a very detailed
10 process on how the appointment process goes
11 forward.

12 MR. FULLER: And that's all dictated by
13 certain HR rules and regulations, so.

14 MS. HOLIDAY: Absolutely. And then
15 for the big gorilla in the room, as far as the two
16 consecutive terms go, yes we all know that Dr.
17 Malmud served three terms. His extension or third
18 term was a very rare occasion, in which case, which
19 was approved by the Commission.

20 So by us having this last part of the
21 sentence that says otherwise directed -- or
22 otherwise directed otherwise by the Commission,
23 the Commission has the ultimate authority to
24 dictate how long members can serve, how many years
25 per term and how many terms they can serve total.

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1 So unless the Commission comes back and
2 makes a determination that you can have another
3 term -- all members have it open that all members
4 can serve more than two terms, staff and the ACMUI
5 operate under the assumption that ACMUI members
6 serve a single four-year term with the option to
7 be reappointed for a second term. Keep in mind
8 that second terms are not automatically
9 guaranteed. They have to be approved by the
10 Director in consultation with the Commission.

11 So that means the Director and the
12 Commission have to approve that second term.
13 Likewise, if they were to do a third term or an
14 extension of that second term, that would again
15 have to be in consultation and approved by the
16 Commission.

17 So by keeping this paragraph as it
18 currently is written and leaving it as "unless
19 directed otherwise by the Commission", that kind
20 of captures that whole process without having to
21 spell it out completely. If that makes sense.

22 MEMBER ZANZONICO: Okay, thank you Mr.
23 Fuller and Ms. Holiday. Sophie so are you
24 suggesting then -- this is Pat Zanzonico again by
25 the way. Are you suggesting to just append to the

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1 paragraph with this Section, unless otherwise
2 directed by the Commission?

3 MS. HOLIDAY: Yes.

4 MEMBER ZANZONICO: Okay. Thank you
5 again. My feeling, and again this is just my
6 personal feeling based on everything that was said,
7 in particular what Mr. Fuller just pointed out, is
8 that placing the ACMUI itself in the appointment
9 process, may in fact slow things down because of
10 the formality of the process.

11 And I would suggest then that as Mr.
12 Fuller just said, we still always have the option
13 of a motion, of a formal motion. And having it read
14 into the record that the ACMUI is making a
15 recommendation on a certain member's membership or
16 extension of a term or any such thing as that.

17 And you know, having that capability at
18 any point without introducing the additional
19 formality of injecting the ACMUI into the
20 appointment process, it might be a satisfactory
21 compromise. Any comments and particularly from
22 the Committee members who felt more strongly about
23 Mr. Mattmuller's suggested revision?

24 MEMBER PALESTRO: Pat, this is Chris
25 Palestro. I'm in favor of leaving it as it is.

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1 And I have been right along because as I read it,
2 there's nothing in this Section, this 3.1 that
3 precludes the ACMUI from voicing its opinion or
4 making a recommendation.

5 MEMBER ZANZONICO: Okay, thank you Dr.
6 Palestro. Yes, well said. Other comments?

7 MEMBER WELSH: Pat, this is Jim Welsh
8 again. Just as a follow up, we're not talking
9 about, or are we talking about, a full additional
10 term? Or what I had in mind was an extension for
11 say nuclear medicine physician if there's a vacancy
12 and a new person hasn't been selected and you don't
13 want to have nobody representing nuclear medicine
14 for example.

15 Could the incumbent stay for not an
16 additional full term of four years, but an
17 additional six months, an additional one year,
18 until the new representative is elected and
19 approved by the Commission and Staff? That was
20 more of what I had felt this was all about rather
21 than another third term.

22 MEMBER ZANZONICO: Well, thank you Dr.
23 Welsh. My feeling is that given that suggestion,
24 or given that comment, that it might be even more
25 rational so to speak, to leave this Section as is.

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1 And then any recommendation to address any
2 contingency on membership could be formulated as
3 a motion.

4 Whereas trying to capture all of these
5 possible contingencies in the bylaws sort of
6 becomes impractical and incomplete. But if you
7 leave it as is and if we recognize as I said, that
8 we always have the -- that we the Committee, always
9 have the option of drafting a motion to address any
10 such contingency. That would seem to give us the
11 maximum flexibility we would want and need.

12 MEMBER COSTELLO: This is Frank, I have
13 a comment.

14 MEMBER ZANZONICO: Please.

15 MEMBER COSTELLO: I would imagine that
16 -- and I've only been here a little while, but such
17 a vacancy I would think should be relatively rare.
18 The end of the terms are very predictable to the
19 staff I mean.

20 And there is lots of lead time provided
21 for the staff to go ahead and make another
22 selection. So there is no -- so there are not these
23 gaps. I don't, to be honest, I don't know why these
24 gaps are actually just in the past, I don't know
25 why we can't anticipate them in the future.

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1 MEMBER ZANZONICO: Okay, thank you. I
2 think that's a reasonable point as well.

3 MR. FULLER: This is -- excuse me Dr.
4 Zanzonico.

5 MEMBER ZANZONICO: Please.

6 MR. FULLER: Just to provide some more
7 historical perspective here. First of all, we
8 have not always had in our own internal procedures,
9 direction you know, to our staff, to our staff
10 members to post the new positions and to solicit
11 for positions, at least six to 12 months in advance
12 of a vacancy.

13 And so we do now. We have that now and
14 as most of you have probably witnessed over the last
15 few years, we get Federal Register Notices, we
16 reach out to the professional societies and so
17 forth well in advance of a vacancy. And so that's
18 a little bit more recent.

19 The other thing I just found out,
20 because this was before my time, is that when it
21 comes to the radiation oncologist position that Dr.
22 Welsh was talking about and what we've all been
23 talking about, that was a bit of a rare set of
24 circumstances in which we solicited for certain
25 expertise and certain skill sets and we didn't get

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1 it. And we didn't get the applicants.

2 And again at that point in time, we were
3 not making an effort to reach out to professional
4 societies and others and really promoting, other
5 than just in a Federal Register Notice that this
6 position was coming vacant. So we had to go back
7 and re-advertise and re-post and so forth. And
8 that was a real good lesson for us.

9 And so we actually have done things to
10 strengthen our internal process as a result of
11 that. So if that helps also with any understanding
12 of other things that -- you know, that's sort of
13 an example of other things that we can and will do
14 to address some of these things that come up.

15 So again, that was a set of
16 circumstances that I think was unforeseen. We
17 were looking for a specific skill set. We
18 advertised it in the Federal Register. We didn't
19 get what we needed and we started over and said oh,
20 you know what, we need to really reach out and
21 promote this and ask for nominations and so forth.

22 And so -- and ever since then we have
23 been doing that. And then to a great, what we
24 believe to be to great success. So I hope that also
25 helps sort of put some perspective on this.

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1 MEMBER ZANZONICO: Understood. Thank
2 you very much. Well unless there are any comments,
3 any further comments at the point, we can put this
4 matter for closure. What I would propose then is
5 again to leave the Section 3.1 as is, recognizing
6 as was pointed out earlier, that we the Committee
7 always have the option of making a formal
8 recommendation, a motion, regarding Committee
9 membership, in particular if there appears to be
10 a compelling need for any particular member's term
11 to be extended.

12 So again, I'm recommending we leave it
13 as is. Simply that, that we leave Section 3.1 as
14 is. Is there -- based on everything that's been
15 said and what we've been told just now by staff,
16 is there anyone who feels very uncomfortable with
17 that course of action?

18 (No response)

19 MEMBER ZANZONICO: Okay.

20 MEMBER MATTMULLER: I'm sorry, I'm
21 pondering my response. This is Steve Mattmuller.

22 MEMBER ZANZONICO: Yes Steve.

23 MEMBER MATTMULLER: I'm happy to leave
24 3.1 as is. My only concern is, is that in six years
25 when everyone on this teleconference is gone, no

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1 one is going to know that yes, the Committee can
2 make a motion or can make a recommendation.

3 And just -- well anyways, so would it
4 be possible to add 3.4 that ACMUI has the option
5 for making recommendations on staffing for
6 extending, and I don't have the verbiage down, this
7 is not to make it a full three year term, this is
8 to fill a gap. And/or in the case if there's a
9 particular area that someone has been very, very
10 involved with, and Dr. Nag sort of fills this
11 example too in two ways, one as an actual vacancy
12 in the Committee and two it was a very detailed,
13 extensive subject covered widely by the NRC.

14 And he had a huge knowledge base of
15 everything that had been discussed and how it moved
16 to that point in time. And I think it would have
17 been very valuable to have him on as a consultant,
18 if that could be an option to the Committee. That
19 one, being an extra radiation oncologist was
20 helpful, but two, the knowledge base that he had
21 would also have been very, very beneficial for the
22 Committee to rather just boom, lose that at the end
23 of his eighth year.

24 So I guess I would make a recommendation
25 for that flexibility to be added as 3.4. Thank

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1 you.

2 MEMBER ZANZONICO: Well thank you
3 Steve. My response would be the following.
4 Obviously there's an overlapping membership to the
5 Committee as we know. And I think any current
6 member at any point in time, or any future member
7 at any point in time would be aware of the ability
8 of the Committee to make recommendations regarding
9 membership and term limits and so forth and so on.

10 I'm just reluctant to make overly
11 prescriptive additions to the bylaws because I
12 think it would -- it couldn't address -- any such
13 addition couldn't address all possible
14 contingencies. And we would rely sort of on the
15 collective Committee memory to make motions and so
16 forth if these extraordinary circumstances
17 regarding Committee membership could recur --
18 might recur.

19 So my feeling again is, leave
20 everything as is, and leave the possible role of
21 the Committee in making recommendations regarding
22 membership and extensions of terms, et cetera, et
23 cetera, leave that in motion space rather than as
24 a component of the bylaws.

25 MEMBER WELSH: Pat, this is Jim Welsh.

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1 MEMBER ZANZONICO: Yes.

2 MEMBER WELSH: Unfortunately I don't
3 have any definite suggestions, but I do understand
4 Steve's sentiment and I appreciate it because
5 there's the phenomena of out of sight, out of mind.
6 And there is a heck of a lot more going on in
7 radiation oncology then just prostate
8 brachytherapy. But that was the onus.

9 And I do remember putting in
10 extraordinary amounts of time that particular
11 year. And radiation oncology is an example that
12 I'm familiar with.

13 But nobody, it didn't occur to me and
14 I don't think it occurred to the Committee that we
15 could have proposed a motion that could have
16 extended Dr. Nag's time until the next
17 representative comes along. That was never --
18 that never entered anybody's mind. It didn't
19 enter mine and I guess I was too junior at the time.

20 And without it being written down
21 someplace as Steve is suggesting, out of sight, out
22 of mind and it never came to fruition and therefore
23 there was essentially a full year between Dr. Nag's
24 departure and Dr. Suh's arrival. And you have to
25 keep in mind that the new individual often has to

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1 have a ramp up period to get fully up to speed.

2 So for those reasons, I'm still
3 thinking that Steve is on the right track. But I
4 don't have specific verbiage to express what his
5 ideas are. But my point is, if it's out of sight,
6 it's out of mind and didn't happen a couple of years
7 ago when it could have really been a benefit.

8 My point here is that I didn't want to
9 see it ever happen again in radiation oncology,
10 nuclear medicine, healthcare administration or
11 whatever situation where a vacancy is present but
12 doesn't have to be present because we just forgot
13 that we could make this motion.

14 MEMBER ZANZONICO: Understood. Thank
15 you Dr. Welsh. Mr. Fuller, my question, could we
16 introduce a -- either a sentence or a new paragraph,
17 a new section or subsection in Section 3, stating
18 in effect that the ACMUI has the latitude to offer
19 suggestions or make recommendations regarding
20 ACMUI membership in the form of a formal motion to
21 address Dr. Welsh's concern? Hello, did I get
22 disconnected?

23 MR. FULLER: No, you're fine. Could
24 you please repeat your question?

25 MEMBER ZANZONICO: Right. My

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1 question is, to address Dr. Welsh's concern, and
2 I think it's a legitimate one. Could we add either
3 a statement to 3.1 or an additional subsection to
4 Section 3, a --

5 MR. FULLER: I got the gist of it Dr.
6 Zanzonico.

7 MEMBER ZANZONICO: Okay, thank you.

8 MR. FULLER: And I can just give you my
9 perspective on this. These are bylaws. These are
10 things that actually are formal rules, internal
11 rules and regulations of the ACMUI on how it will
12 conduct business. This is not a place to put
13 things like suggestions or placeholders, or
14 reminders.

15 There may very well be other ways to do
16 that. There you know, maybe we're talking about
17 a handbook that we need to develop for all new
18 members or something like that. But I think this
19 -- I can tell you this, I do not believe that this
20 is the forum to be brainstorming -- that we should
21 be brainstorming new language and trying to work
22 it through.

23 If we did that I think we may be here
24 for many, many hours. So that's just my
25 perspective on it. Again, a placeholder or some

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1 sort of things to remember, is not -- the bylaws
2 I don't believe is the place for that frankly.

3 MEMBER ZANZONICO: Understood.

4 CHAIR THOMADSEN: This is Bruce
5 Thomadsen.

6 MEMBER ZANZONICO: Yes?

7 CHAIR THOMADSEN: I would tend to agree
8 with that. We may be able to have somewhere else
9 to put these guidelines. But this -- we can always
10 make a motion -- make motions and recommendations
11 so we don't have to put that in here.

12 MEMBER ZANZONICO: Understood. So I
13 guess the -- we're moving to a position, and correct
14 me if I'm wrong anyone on the Committee, that we
15 will leave Section 3.1 as is, understanding, but
16 not putting into language the fact that there may
17 be circumstances where the ACMUI needs to express
18 its input on membership and term limits. But
19 having said that, we'll leave Section 3.1 as is.

20 (No response)

21 MEMBER ZANZONICO: So I guess it sounds
22 like everyone has had their say and can at least
23 live with the current 3.1 language as is. So given
24 that, I'll move to the next item on the agenda which
25 is in Section 1.3.3 and related Section 1.3.5. And

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1 this has to do with a quorum.

2 1.3.3 states "a majority of the current
3 membership of the ACMUI will be required to
4 constitute a quorum for the conduct of business at
5 ACMUI meetings". The related Section, 1.3.5
6 states that "decisions shall be by a majority vote
7 of those members present and voting".

8 And I think the concern is that a
9 meeting quorum can be comprised of a majority of
10 the Committee membership plus one. But a motion
11 can be carried or a decision can be made therefore
12 by less than a majority of the Committee, but simply
13 a majority of the quorum, even a minimal quorum.

14 So given that concern, does anyone have
15 any comments or suggestions on alternative
16 language? Or does the Committee feel comfortable
17 with this language given the possibility however
18 remote, that decisions could be rendered by what
19 would amount to a minority of the Committee?
20 Comments please?

21 CHAIR THOMADSEN: Hi, I was the one
22 that raised that issue. This is Bruce Thomadsen.

23 MEMBER ZANZONICO: Yes.

24 CHAIR THOMADSEN: And it did seem to me
25 that if we have just over a quarter of the ACMUI

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1 possibly making the decisions, that that's
2 probably not a good idea. Not that we usually
3 would have that situation, but I think it's a
4 situation we might not want to be in.

5 We certainly want to have a reasonable
6 quorum and I think that our quorum statement's just
7 fine. And we were just a little bit over that
8 quorum for this call right now.

9 But the question is if we had a 50
10 percent plus one of the quorum voting, that does
11 not represent necessarily the sense of the
12 Committee. On 3. -- 1.3.5, we could put some
13 minimum fraction other than 50 percent of those
14 present and voting in here that would reflect a
15 fraction of the whole ACMUI, something on the order
16 of two-thirds of the ACMUI membership. And then
17 if we had a quorum and everybody agreed, it would
18 be just fine.

19 But I don't know if anybody else is
20 concerned about that possibility?

21 MEMBER ZANZONICO: Bruce, this is Pat
22 Zanzonico. What if it was just made very
23 straightforward that 1.3.5 would state, decisions
24 shall be made by a majority vote of the Committee?

25 Which provides the possibility of a

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1 member even if they did not attend a meeting, of
2 submitting a vote. They would have access to the
3 meeting materials; they would have access
4 ultimately to the transcripts of the meeting. And
5 so they could make a -- provide intelligent input
6 and make a, you know, an informed vote on the
7 matter.

8 That's something that would seem to be
9 the least ambiguous route.

10 VICE CHAIR GUIBERTEAU: Pat, this is
11 Mickey Guiberteau.

12 MEMBER ZANZONICO: Yes.

13 VICE CHAIR GUIBERTEAU: Are you
14 suggesting that they could cast a vote outside the
15 meeting?

16 MEMBER ZANZONICO: Yes.

17 VICE CHAIR GUIBERTEAU: Well you know,
18 in -- I've been through this a number of times.
19 Boards and Committees only exist when they're
20 meeting officially. I mean those are the laws in
21 most States.

22 So I don't think that works. I think
23 that decisions have to be made within the confines
24 of an official meeting. You know, you can take
25 votes by email on top -- on certain topics or

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1 decisions. But they're really only advisory to
2 the Committee and the Committee is advisory to the
3 NRC.

4 So you know, my understanding, having
5 talked to numerous lawyers and other folks about
6 this is that that isn't a sound legal decision.

7 CHAIR THOMADSEN: It also would mean
8 that we could make a decision at a meeting and then
9 it could change as somebody read the transcripts
10 and decided they wanted to vote on things later.
11 I think that's not a good idea.

12 MEMBER ZANZONICO: Well, point well
13 taken. I withdraw that suggestion. The issue
14 remains though, do we feel comfortable with the
15 possibility that a decision can be made, a motion
16 carried by a vote of a minority of the Committee
17 in the unlikely event that the quorum was a minimum
18 quorum. I think that's the essence of the issue
19 at hand.

20 VICE CHAIR GUIBERTEAU: If under the
21 current circumstances of 13 members, if we required
22 a quorum to be two-thirds, that's nine people.
23 Then we would have the opportunity for six, seven
24 of those people to vote and then you would have a
25 majority of the members of the Committee in favor.

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1 And that has a lot of face validity rather than
2 having a minority that could exist under the
3 current proposal. Just a suggestion.

4 MEMBER SULEIMAN: This is Orhan
5 Suleiman. I -- the rules are spelled out. The
6 meeting agenda is publicized ahead of time. So
7 we're not getting any new topics into the meeting
8 that were not anticipated.

9 And I think it's the responsibility of
10 each of the members, that they're aware that this
11 is a meeting that they need to participate in.
12 We're conferencing calling right now. So we
13 didn't all have to be physically present.

14 I think with the ability to communicate
15 like this, you know, you have your quorum and then
16 what are you going to do? Handicap the poor people
17 who showed up because you're basically changing the
18 voting requirements, which I think would require
19 a bigger change.

20 I think the rules are fine, the
21 flexibility is fine and I think we're
22 over-analyzing this.

23 VICE CHAIR GUIBERTEAU: This is Mickey
24 again. Orhan I understand that and I think you're
25 correct in the sense that it's unlikely to happen.

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1 But you know, contracts and bylaws are meant to be
2 preemptive for the exceptions.

3 And I can tell you, my experience a
4 couple of winters ago when a meeting was scheduled,
5 not for this, but for another organization, we had
6 lots of people coming. But because of a snowstorm,
7 only a bare you know, bare quorum showed up. And
8 decisions were made with that quorum that were a
9 minority of the board.

10 And you know, I mean and so that's what
11 -- that's what -- we may be over thinking it, but
12 the question is do we want to be preemptive or do
13 we just want to fly by the seat of our pants? And
14 if that's what we want to do, then certainly this
15 will work.

16 MEMBER WELSH: So wouldn't it in a real
17 -- if a real bad situation occurred, couldn't the
18 board give it up for -- reconsider it at the next
19 meeting if they felt a small group manipulated the
20 situation?

21 CHAIR THOMADSEN: Only if it wasn't
22 something urgent. And you --

23 VICE CHAIR GUIBERTEAU: Well when the
24 meeting is you know, six months away, then there's
25 an issue.

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1 MEMBER ZANZONICO: On this, let me just
2 ask Mr. Fuller, is there any prohibition against
3 defining a quorum other than a simple majority?
4 Suggestions have been made of for example, a
5 two-thirds of the Committee membership
6 constituting a quorum. Is there anything we're
7 not aware of in terms of the SOPs of the NRC on that
8 point?

9 MR. FULLER: None that any of us in the
10 room are aware of. But don't take that as an
11 absolute fact. If you'd like for us to, we can take
12 it away and find out for you if in fact there is
13 any other criteria or any other definitions.

14 MEMBER ZANZONICO: Understood.

15 MR. FULLER: And I, like a lot of you,
16 have been on all sorts of other kinds of Boards over
17 the years personally, and it's always been a
18 majority. But again, I don't know, none of us seem
19 to have a definite answer for you, but we could
20 research it and get back to you if you need for us
21 to.

22 MEMBER ZANZONICO: Okay. We'll take
23 that under advisement. This is Pat Zanzonico
24 again by the way. Again, trying to bring this
25 issue to some sort of closure, Dr. Thomadsen again,

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1 you were the Committee member who raised this
2 issue, what is your feeling at this point?

3 CHAIR THOMADSEN: Well, right now we
4 have 61 percent of the ACMUI on the line and as I
5 say, I would be uncomfortable if we allowed 32
6 percent of the ACMUI to make a decision such as on
7 the bylaws. I think that possibly leaving the
8 quorum as it is, but in 1.3.5 saying decisions will
9 be made by a majority and just say of the ACMUI,
10 that would be seven.

11 And then in a condition like this where
12 we have eight people, we certainly could make
13 motions and pass them without concern that it's a
14 minority of the group. I'm not sure if that would
15 paralyze us in too many occasions.

16 MEMBER SULEIMAN: The only way to ever
17 get 51 percent of the Committee is to have a hundred
18 percent quorum.

19 CHAIR THOMADSEN: Yes, as long -- no,
20 right. In this case, we're running at just above
21 quorum. And as long as we would have the
22 equivalent of quorum voting for something, then it
23 would pass. And if we had dissension, maybe it
24 should be something that should be put off until
25 we have a larger body.

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1 So that would be my recommendation at
2 this point.

3 MEMBER ZANZONICO: Can you formulate
4 that a bit more formally?

5 CHAIR THOMADSEN: I thought it was
6 stated very clearly. I would propose 1.3.5, a
7 decision shall be made by the majority of the ACMUI.
8 Hello?

9 MEMBER ZANZONICO: Yes, understood.
10 So --

11 CHAIR THOMADSEN: Pat?

12 MEMBER ZANZONICO: Yes.

13 CHAIR THOMADSEN: Is it --

14 MEMBER ZANZONICO: So that would mean
15 that if we're at a quorum but did not have a majority
16 of the ACMUI membership voting one way or the other,
17 the whole membership voting one way or another,
18 then an issue would have to be tabled.

19 CHAIR THOMADSEN: That is correct.

20 MEMBER ZANZONICO: Understood. Dr.
21 Guiberteau, would that address your concern, which
22 I think was very legitimate, about members voting
23 in absentia?

24 VICE CHAIR GUIBERTEAU: What exactly
25 would that -- what exactly would that solution be?

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1 MEMBER ZANZONICO: Okay, what Dr.
2 Thomadsen is proposing is that any vote would be
3 carried by a majority of the Committee membership.
4 Not just of the quorum present.

5 So if that criteria could not be met at
6 a particular meeting, it would be tabled until a
7 future meeting when a majority vote could be
8 obtained. But that we wouldn't, implicit in that,
9 we wouldn't solicit any votes or accept any votes
10 in absentia.

11 VICE CHAIR GUIBERTEAU: Yes. I would
12 agree with that. I mean I think as long as you have
13 a majority of the current ACMUI membership, then
14 it wouldn't matter. It just means that in meetings
15 where you have a bare quorum, you would have to have
16 near unanimous -- you know, you'd have to have
17 unanimous votes.

18 MEMBER ZANZONICO: Exactly. And I
19 think in our collective experience we've seen that
20 that's usually the case on those issues. All
21 right.

22 MEMBER SULEIMAN: So if the current
23 Board is 13, then that means you're always going
24 to need seven votes regardless. You need a quorum
25 to have a meeting, but you're always going to need

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1 seven votes regardless to pass anything. I see
2 what you're saying.

3 MEMBER ZANZONICO: But many of our
4 votes, for fact of the matter, many of our votes
5 are unanimous.

6 MEMBER SULEIMAN: No, no, that's
7 beside the point. The point is we're changing the
8 rules. We're saying it's not a majority that has
9 to be -- it's not a majority of those present
10 voting, it's seven votes to pass anything.

11 MEMBER ZANZONICO: Yes it's changing
12 that rule, yes it is.

13 VICE CHAIR GUIBERTEAU: And Pat, let me
14 just add to this that I think in most bylaws where
15 it says the decision shall be made by such and such,
16 we need to add that unless otherwise specified in
17 these bylaws, because these bylaws have to be
18 approved by two-thirds of the current membership.
19 So that we're not in conflict or confusion, that
20 phrase is usually put in you know, to follow.

21 MEMBER ZANZONICO: Understood. I
22 think that's reasonable. So based on what was
23 said, and I see Sophie is that you typing in?

24 MS. HOLIDAY: Yes.

25 MR. FULLER: Yes, Sophie's hard at

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1 work.

2 MEMBER ZANZONICO: Yes, I see that.
3 So we can all, at least all of those on the
4 GoToMeeting can read the amended version of 1.3.5.
5 And I'll read it for those who may not be on
6 GoToMeeting.

7 Decision shall be made by a majority
8 vote of the current ACMUI membership unless
9 otherwise specified in these bylaws. Is everyone
10 comfortable with that version of 1.3.5?

11 MEMBER SULEIMAN: I'm just confused by
12 first we say that it's the majority of the existing
13 membership, and then we say unless specified
14 elsewhere in the bylaws. Well how can the bylaws
15 -- what special exception would counter what's
16 already spelled out in the bylaws?

17 CHAIR THOMADSEN: In amendments to the
18 bylaws, which usually have to be approved by
19 greater than just a normal motion.

20 MEMBER SULEIMAN: Okay. Okay, so if
21 it's a two-thirds approval.

22 CHAIR THOMADSEN: Yes.

23 MEMBER ZANZONICO: Right, I believe
24 it's just with respect to the casted vote.

25 MR. FULLER: Yes, this is Mike. The

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1 other consideration is when someone has to recuse
2 themselves from the vote. That's another
3 situation that would be as otherwise specified in
4 the bylaws.

5 MEMBER ZANZONICO: Okay, is everyone
6 on the Committee then comfortable with this version
7 of 1.3.5?

8 MEMBER SULEIMAN: What happens if
9 somebody has to recuse themselves, do they count
10 as part of the membership for voting purposes?

11 MR. FULLER: My understanding is no, it
12 would drop to 12. Okay, well now --

13 MEMBER ZANZONICO: How about if we say
14 the current ACMUI voting membership? Or say the
15 current -- I'm sorry?

16 CHAIR THOMADSEN: Somebody had a
17 suggestion about eligibility. Who was that?

18 MEMBER DILSIZIAN: So Vasken here. So
19 those who are eligible to vote, right?

20 MEMBER ZANZONICO: Yes. I mean as a
21 practical matter, it would be everyone other than
22 members who are recused themselves.

23 CHAIR THOMADSEN: So you could, right
24 where you're writing that now, say decisions shall
25 be made by a majority vote of the current ACMUI

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1 membership eligible to vote unless otherwise
2 specified elsewhere.

3 MEMBER SULEIMAN: I agree with that
4 intent if the wording is correct. It sounds
5 correct to me.

6 MEMBER ZANZONICO: Sounds correct to
7 me as well.

8 CHAIR THOMADSEN: The lawyers will get
9 a hold of this after awhile, they'll take care of
10 that. We won't recognize it.

11 MEMBER ZANZONICO: So I think the
12 intent is clear.

13 CHAIR THOMADSEN: Yes.

14 MEMBER PALESTRO: Pat, Chris Palestro.

15 MEMBER ZANZONICO: Yes?

16 MEMBER PALESTRO: I'm a little bit
17 confused by the wording to be honest with you. It
18 says the current ACMUI membership eligible to vote.
19 Suppose there are only seven members at the
20 meeting. Does that mean that all -- that that has
21 to be a unanimous vote?

22 MEMBER ZANZONICO: No.

23 CHAIR THOMADSEN: Yes.

24 MEMBER ZANZONICO: My interpretation
25 is that the entire membership is always eligible

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1 to vote whether they're present at a particular
2 meeting or not. But there may be instances where
3 one or more members recuse themselves and therefore
4 are ineligible on a particular decision.

5 MEMBER PALESTRO: How can you vote if
6 you're not at the meeting?

7 MEMBER ZANZONICO: Well you can't and
8 therefore the Committee cannot make a decision.
9 It would have to table that issue.

10 MEMBER SULEIMAN: Two situations, if
11 you've got -- I think we're diverging. If you've
12 got a Committee of 13 and three people recuse
13 themselves, you're now down to ten. So that means
14 the majority of ten is six. So you need six votes.

15 The other question is, let's say
16 nobody's recusing themselves, so we've got a
17 Committee of 13, you're going to need seven votes.
18 And if you've only got seven people at the meeting,
19 you're going to have to have all seven of them vote
20 for because you need seven.

21 MEMBER PALESTRO: Right, so that
22 becomes unanimous.

23 MEMBER SULEIMAN: Yes, it's not
24 already -- it's unanimous for those who made the
25 meeting, but the ones who aren't there are

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1 counting, their votes have to be considered, but
2 they can't vote unless they participate in the
3 meeting.

4 MEMBER ZANZONICO: But --

5 MEMBER SULEIMAN: The answer to your
6 question I think is correct. In other words if
7 you've only got seven members present and you've
8 got a full -- nobody's recused themselves on it,
9 then you're going to need seven votes at the
10 meeting.

11 MEMBER PALESTRO: Right, okay, that's
12 the way I read it.

13 MEMBER ZANZONICO: Correct. And so
14 implicit in this -- all of this, is that if a
15 majority decision cannot be reached, then it has
16 to be tabled until a future meeting.

17 MEMBER PALESTRO: So that would mean
18 that granted it might be unusual circumstance, but
19 if there are only seven members present at a meeting
20 for whatever reason, for any motion to be carried,
21 it must be unanimous.

22 MEMBER ZANZONICO: Correct.

23 MEMBER PALESTRO: All right.

24 MEMBER ZANZONICO: Other comments on
25 this new proposed language?

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1 MR. FULLER: Dr. Zanzonico, please?

2 MEMBER ZANZONICO: Yes?

3 MR. FULLER: It's Mike again. We want
4 to make sure that we're all understanding what's
5 written is also what is intended. We all under --
6 those of us that are here, all are of the consensus
7 opinion that if you know, back to the earlier
8 discussion about whether or not you had a quorum
9 and the majority of the quorum, you want to make
10 sure that the intent is that only members who are
11 present may vote.

12 And that in a situation where you have
13 a minimal quorum, seven people, that for a motion
14 to carry, it would require a unanimous vote. I
15 think that's what everybody understands and that's
16 the intent.

17 We're not certain that the words as
18 they're currently written actually say that,
19 because of the addition of the phrase, "the current
20 ACMUI membership eligible to vote".

21 So what if you're not present? Are you
22 eligible to vote? In other words you've not
23 recused yourself, but you're not there. So are you
24 eligible to vote?

25 MEMBER ZANZONICO: No.

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1 CHAIR THOMADSEN: Well that's actually
2 true unless somebody that is able to recuse
3 themselves, unless you know ahead that they are
4 going to. Might I suggest just to get past this,
5 since we won't be able to vote on the bylaws
6 themselves at this telephone call simply because
7 we don't have two-thirds of the ACMUI, but why don't
8 we --

9 MR. FULLER: Wait a minute, I think --
10 excuse me Dr. Thomadsen, I think we've only lost
11 two people of the 13, correct?

12 CHAIR THOMADSEN: Let's see, I count
13 one, two, three, four, five, six, seven, eight. I
14 count eight. We need nine.

15 MEMBER ZANZONICO: Are you counting
16 Orhan? Because he's not on the --

17 CHAIR THOMADSEN: I'm counting him and
18 Jim Welsh on the telephone call.

19 MEMBER ZANZONICO: Okay.

20 CHAIR THOMADSEN: We've lost Frank.

21 MR. FULLER: We do not have Dr.
22 Langhorst and we do not have Dr. Alderson now. Is
23 there someone else we do not have? So we have 10
24 of 13.

25 CHAIR THOMADSEN: We have me, we have

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1 Dr. Palestro, we have Dr. Suh, we have Dr.
2 Guiberteau, we have Dr. Zanzonico, we have Mr.
3 Mattmuller, we have Dr. Welsh and we have Dr.
4 Suleiman.

5 MS. HOLIDAY: And Dr. Dilsizian.

6 MEMBER DILSIZIAN: And I'm here too.

7 MEMBER WEIL: And I'm here too, this is
8 Laura.

9 CHAIR THOMADSEN: You're on the call
10 and not on that, okay, never mind.

11 MR. FULLER: And you also have Dr.
12 Zanzonico.

13 CHAIR THOMADSEN: Yes, I counted him.

14 MR. FULLER: Oh.

15 MEMBER WELSH: And Dr. Weil.

16 MS. HOLIDAY: And Laura Weil.

17 MR. FULLER: Oh, that's right, Laura
18 Weil.

19 CHAIR THOMADSEN: Okay, there's
20 another one. Okay, we're fine then. But if we're
21 going to vote on the bylaws as a whole right now,
22 we have to work out this wording.

23 Maybe what would be clearer is if we cut
24 the eligible to vote out of where it is now, and
25 made a second sentence in that paragraph just

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1 saying the number of possible -- or the voting
2 membership of the ACMUI on a given issue may be
3 reduced by those who are recused from the
4 discussion. Would that be clearer?

5 MEMBER ZANZONICO: I think so. The
6 only change I would make Bruce, is in the proceeding
7 sentence where it says voting, which is current
8 rather, you take the word current with voting.

9 CHAIR THOMADSEN: Oh, there you go.

10 MEMBER WELSH: Well you know, voting is
11 the present progressive tense, which means those
12 who are presently voting. So it doesn't take into
13 account those who are not there.

14 CHAIR THOMADSEN: Right. Maybe you
15 can't do that.

16 MEMBER ZANZONICO: Okay.

17 CHAIR THOMADSEN: You can make it
18 potentially voting. Potentially votable. Why
19 don't we leave that as whatever it was.

20 MEMBER ZANZONICO: Okay, current?

21 CHAIR THOMADSEN: Yes.

22 MEMBER MATTMULLER: Pat, this is Steve
23 Mattmuller. While you've been chatting, I've been
24 looking at the bylaws of the ACRS.

25 CHAIR THOMADSEN: Yes.

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1 MEMBER MATTMULLER: And I -- in your,
2 what's it called the chat section?

3 CHAIR THOMADSEN: Yes.

4 MEMBER MATTMULLER: At the very end,
5 I've had a few comments in regards to consultants
6 that you can ignore for now. But at the bottom,
7 what they state is for conduct of meetings, a quorum
8 for a meeting of the full committee consist of a
9 minimum of half the current membership. Decisions
10 shall be made by a majority of the members present
11 at the meeting.

12 Now the only problem they have that I
13 see is then they go on to say except that major
14 decisions shall only be made by a majority of the
15 current membership. And I don't know what they
16 consider a major decision.

17 CHAIR THOMADSEN: Yes. I think that
18 becomes a bit ambiguous.

19 MEMBER MATTMULLER: Right. But I
20 think if we just end it where they -- if we put a
21 period where they have their comma, I think that
22 covers what we're trying to say I believe.

23 CHAIR THOMADSEN: No, it doesn't. But
24 what they say is that they can -- their motions can
25 be carried by a minority of the panel.

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1 MEMBER MATTMULLER: That's possible.

2 CHAIR THOMADSEN: Of the majority of
3 those present who may be of just a bear majority
4 of those present, which we've decided we didn't
5 want to do. I think we decided that.

6 MEMBER MATTMULLER: Yes, that's
7 correct.

8 MEMBER ZANZONICO: Just to get back to
9 the issue at hand more specifically. We have on
10 the screen, the proposed language. Does that
11 language capture the intent -- capture our intent
12 and express it adequately?

13 MEMBER WELSH: What does that last
14 sentence mean? And read it for me because I don't
15 have access to GoToMeeting.

16 MEMBER ZANZONICO: The last sentence
17 that was just added is, "the voting membership of
18 the ACMUI may be reduced by those that are recused
19 from the discussion."

20 MEMBER WELSH: I don't understand the
21 purpose of that.

22 CHAIR THOMADSEN: It's to reduce the
23 number of votes that you need in order to pass
24 something so that rather than say 13 being the
25 number of members on the Committee that you would

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1 have to have a majority of, if two people recuse
2 themselves, then you're down to 11 you'd need to
3 have a majority of to pass something.

4 MEMBER WELSH: But you know, in fact,
5 someone who's recused, who would then be exempted
6 from the denominator, actually has a vote because
7 it decreases the number needed. And so I mean
8 anytime you do that, you are not recusing yourself
9 because we still are participating in the process
10 by making it easier to pass, something easier to
11 pass.

12 So I don't think that works for me, but.

13 CHAIR THOMADSEN: Well either you do
14 that where there is a default yes -- a default half
15 yes, or a default whole no.

16 MEMBER PALESTRO: Well I thought the
17 idea here was to give face validity to the decisions
18 of ACMUI on important, if not all, issues. And so
19 it seems to me that if you have anything, you know
20 I mean, for the public -- you know face validity
21 for this, if people think that a majority of our
22 Committee is making policy that will affect them,
23 I'm not sure that you know, that's wise. But
24 again, I'll do whatever people think.

25 MR. FULLER: Dr. Zanzonico, this is

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1 Mike again.

2 MEMBER ZANZONICO: Yes Mike?

3 MR. FULLER: Just to sort of clarify
4 and make sure that we are aware of what the problem
5 is. I think what we're trying to avoid, and please
6 correct me if I'm wrong, but what we're trying to
7 avoid is a situation where only seven members of
8 the ACMUI attend a meeting. A motion is made and
9 only four of those seven vote for something to
10 carry, or vote to defeat a motion, which results
11 in perhaps up to six people -- members of the ACMUI,
12 that had they been there, they would have voted
13 differently.

14 MEMBER ZANZONICO: Correct.

15 MR. FULLER: In which case, correct me
16 if I'm wrong, you have a situation where if those
17 six people in addition to the other three then
18 decided that this was really important and they
19 want to revisit the issue, they can call us and say
20 we need a meeting, a teleconference, and we'd
21 respond. Or if it's not urgent and important,
22 maybe it can be brought up again in the next
23 meeting.

24 So I just want to make sure I understand
25 what is -- because you know we can do this for days.

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1 So I want to just caution that I don't know that
2 we will ever -- like you said, if you look at the
3 ACRS bylaws on this issue, I think we would all
4 agree that those are lacking as well.

5 So I don't know that we're ever going
6 to get this perfect. And I want us to just think
7 about what problem are we trying to solve and how
8 often is it likely to present itself? And wouldn't
9 we have a possible solution to that rare occurrence
10 if it ever happened?

11 MEMBER SULEIMAN: Well, this is Orhan
12 Suleiman. I agree completely. I think if the
13 minority was -- well you could argue that they
14 manipulated or that the people who weren't able to
15 show up, or whatever. But regardless, you have a
16 scenario where the major -- everybody else thinks
17 that it was wrong. You can -- why can't you bring
18 it up at the very next meeting and rescind that
19 vote.

20 So I think there -- it's not a one way
21 street. So I think there's the opportunity to
22 correct it without -- otherwise you're going to
23 have to have votes put off because you can't -- you
24 don't have a simple majority of those present. And
25 you'd have a majority of everybody else was there.

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1 So you're going to wind up not being
2 able to pass a vote with only seven people there
3 even though if the other six were in, they would
4 probably agree with it.

5 CHAIR THOMADSEN: It's not clear that
6 they would agree or that they wouldn't agree. And
7 if they're in a debate about the issues, you don't
8 know what's going to happen. It's not clear that
9 the people who were on the losing side would be able
10 to garner support, although they might be able to
11 at a meeting.

12 It's not clear that if you had another
13 call that you could arrange to get a call with the
14 full board between then and the next meeting. If
15 all this is very hypothetical in all cases anyways,
16 but this is even more so trying to say that we have
17 a solution for it. We don't have a solution for
18 it. We have a possible scenario for what could
19 happen in some case.

20 MEMBER ZANZONICO: So, this is Pat
21 Zanzonico. Do we have a proposal on the table?

22 CHAIR THOMADSEN: Well I would say if,
23 and I think that Dr. Guiberteau has a good point,
24 if maybe what to do with the people who recuse
25 themselves, both in a small meeting and in the full

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1 meeting. We haven't thought about that, but this
2 is a good time to try to think about that. Maybe
3 we should drop that sentence altogether, the second
4 sentence that we've just added. Leave the first
5 sentence as it is and let's decide if that's what
6 we want.

7 MEMBER ZANZONICO: That's my feeling.
8 I think it's impossible in bylaws to be overly
9 prescriptive and to account for every possible
10 scenario however remote they may be. I think our
11 sense is we want decisions made by a majority of
12 the ACMUI membership. And I think that's the key
13 sentiment to capture in the bylaws.

14 So if we simply eliminate that second
15 sentence that was just added, I think we've
16 captured that sentiment and sort of leave it to the
17 normal procedures -- working procedures of the
18 ACMUI to address other unusual circumstances.

19 So not hearing any further comments at
20 that point, and now seeing what the current version
21 of 1.3.5 is, I think we've addressed all of the
22 significant issues in the draft bylaws.

23 MEMBER WEIL: Well, Mr. Fuller can you
24 -- those of you who don't have access to GoToMeeting
25 on screen, can you read it for us.

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1 MEMBER ZANZONICO: Oh, I'm sorry.
2 Yes, the current version of 1.3.5 is, "Decisions
3 shall be made by a majority vote of the current
4 ACMUI membership unless otherwise specified in
5 these bylaws." So we've eliminated the second
6 sentence referring to "voting members".

7 And the essence of this sentence is
8 decisions are made by a majority vote of the entire
9 membership.

10 MEMBER MATTMULLER: Pat, this is Steve
11 Mattmuller.

12 MEMBER ZANZONICO: Yes.

13 MEMBER MATTMULLER: I just -- I think
14 what we're missing when we aim for that goal is that
15 what we're really doing is redefining what a quorum
16 is for the meetings. So if in 1.3.3 if we say we
17 only need seven members to have a meeting, but 1.3.5
18 says well, we've got to have a majority of the total
19 membership to vote on it to pass it. Then in
20 essence the quorum really isn't a quorum.

21 You're putting the Committee in a
22 situation where you may only have seven members.
23 They might be able to make a decision, or they may
24 not even be able to vote on it properly.

25 CHAIR THOMADSEN: Well they can

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1 obviously vote on it, they may not be able to pass
2 it. If you have a quorum, they can vote. And if
3 they all agree, you've passed it.

4 MEMBER ZANZONICO: Yes, I think we need
5 to recognize, every meeting addresses multiple
6 issues. And in reality, in almost every instance
7 the votes are unanimous.

8 So to apply that a quorum for a meeting
9 is effectively impudent, I don't think is
10 realistic. There may be issues where there's not
11 a unanimous vote and those would have to be
12 addressed in a subsequent teleconference or a
13 subsequent face-to-face meeting. But I think
14 there's value still in defining a quorum as a
15 majority of the Committee membership and still
16 defining -- still specifying that a decision has
17 to be made by a majority.

18 MEMBER SULEIMAN: Will we vote on this
19 separately or as part of the whole package?

20 MEMBER ZANZONICO: I think we vote on
21 -- my suggestion is we vote on the entire bylaws.

22 CHAIR THOMADSEN: Well I don't know if
23 we've established that this is what people want
24 yet. Why don't we at least -- why don't we just
25 ask if this is or isn't what people want for the

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1 1.3.5 because we don't want people to vote down the
2 whole bylaws because they don't like this.

3 MEMBER SULEIMAN: And that's my
4 concern, because I don't think I can support that.
5 I think you're radically redefining -- this isn't
6 done this way in so many other Committees and
7 Boards.

8 But right now you -- I understand the
9 intent and I understand the concern. I don't think
10 it's going to create an ugly situation because it
11 could always be remediated. But I would probably
12 not vote for it.

13 MEMBER ZANZONICO: Well but --

14 MEMBER SULEIMAN: I can only be one
15 person, but that's how I feel.

16 MEMBER ZANZONICO: Understood. Well
17 I mean the points been made that issues can be
18 revisited so that if a decision was made by a
19 minority vote, even if it was a majority of a
20 meeting quorum, it could be revisited.

21 MEMBER SULEIMAN: I think that my main
22 concern, if you want to know the truth, is the
23 efficiency. I think this is going to create more
24 confusion about when to vote on issues that
25 probably would have passed with a majority of votes

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1 present, it would have passed through the majority
2 of everybody present. But you're going to wind up
3 either deferring the votes or if you make the vote
4 so that it doesn't count, then so we vote again.

5 So you're going to basically strap the
6 working ability of the Committee. That's my take
7 on it. And I know that --

8 CHAIR THOMADSEN: I don't see how that
9 latter would ever happen. I don't think it could
10 pass in the meeting with just a quorum and then not
11 be -- and then say well we've got to pass it again.
12 I mean it's passed at that point. You have a
13 majority of the ACMUI passing it. So why would you
14 have to come back and do anything?

15 MEMBER SULEIMAN: Well no, if you had
16 the minority, if you had a majority of a smaller
17 group, you know four out of seven passing it, when
18 in fact the other six were unanimously opposed to
19 it, then I think the other six, it would be their
20 responsibility to bring it up. Where we'd have
21 conveyed that before the meeting where the Chair
22 would have said you know, we don't, this is a
23 controversial issue maybe we ought to table it
24 until we have a full Committee present.

25 So then again, the rules are going to

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1 work effectively only if you've got an effective
2 Chair who understands it and will manage it
3 appropriately. There wouldn't be any point in
4 allowing the vote of seven people when it's clear
5 that the four that were going to vote for it would
6 be going against the will of the six that aren't
7 there.

8 MEMBER ZANZONICO: This is Pat
9 Zanzonico. I think we've heard the arguments and
10 counter-arguments for the version of 1.3.5
11 currently on the screen and that I just currently
12 stated. Most of the members of the Committee on
13 the teleconference have been silent on the issue
14 and I wonder if we could have a vote on this
15 language.

16 I don't know what the most proper way
17 of handling it is, a vote on this language or a vote
18 on the entire bylaws including this language? And
19 if there are, if there are Committee members who
20 object and vote their conscience and would disagree
21 based on this statement, then let the chips fall
22 where they may.

23 CHAIR THOMADSEN: Well, I think most
24 efficiently to try and get the bylaws passed, we
25 should probably see if this is supported before we

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1 go on. Just because I don't want to have the bylaws
2 voted down by somebody voting their conscience
3 against this, but not be able to tell us why it is
4 they voted against it and have to delay and redo
5 this.

6 Why don't we take a vote on this clause
7 to see which way it goes and then we can go forward.

8 MEMBER ZANZONICO: Perfectly fine with
9 me. So let me try then to verbalize the motion that
10 we'll be voting on. That is to support the current
11 language of Section 1.3.5 that is, "Decisions shall
12 be made by a majority of the current ACMUI
13 membership unless otherwise specified in these
14 bylaws."

15 So the motion is to support or not that
16 language.

17 MEMBER COSTELLO: And just for
18 clarification, supporting it means you're going to
19 require seven votes to pass a motion?

20 MEMBER ZANZONICO: Right, correct.

21 MEMBER COSTELLO: Okay.

22 MEMBER ZANZONICO: Well, I made the
23 motion would someone like to second the Motion?

24 MEMBER COSTELLO: I will second it.

25 MEMBER ZANZONICO: Okay. And Dr.

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1 Thomadsen do you need to take the roll call on it?

2 CHAIR THOMADSEN: Probably. Let's
3 see, looking at names on the GoToMeeting list.
4 First we have Dr. Palestro?

5 MEMBER PALESTRO: Yes.

6 CHAIR THOMADSEN: Dr. Suh?

7 MEMBER SUH: Yes.

8 CHAIR THOMADSEN: Dr. Guiberteau?

9 VICE CHAIR GUIBERTEAU: Yes.

10 CHAIR THOMADSEN: Mr. Mattmuller?

11 MEMBER MATTMULLER: I'm going to have
12 to say no.

13 CHAIR THOMADSEN: Then on the
14 telephone but not here, and I'm sorry, they'll be
15 out of alphabetical order. Dr. Suleiman?

16 MEMBER SULEIMAN: No.

17 CHAIR THOMADSEN: Ms. Weil?

18 MEMBER WEIL: No.

19 CHAIR THOMADSEN: Dr. Welsh? Is Dr.
20 Welsh on the line?

21 MEMBER WELSH: Yes, I vote no. I had
22 the mute on sorry.

23 CHAIR THOMADSEN: Okay. And let's see
24 we had somebody else on the line?

25 MEMBER DILSIZIAN: Yes, Vasken here.

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1 CHAIR THOMADSEN: Oh yes. And your
2 vote?

3 MEMBER DILSIZIAN: Yes.

4 CHAIR THOMADSEN: And my vote is yes.
5 So we have one, two, three, four, five --

6 MEMBER ZANZONICO: And my vote, this is
7 Pat Zanzonico, is yes.

8 CHAIR THOMADSEN: Oh, how did I miss
9 you? Sorry. So we have six yes's and one, two,
10 three, four -- four are no. So it stands.

11 MEMBER SULEIMAN: So this passes but in
12 the old system it wouldn't -- in the --

13 MEMBER DILSIZIAN: In this system you
14 need seven to pass.

15 CHAIR THOMADSEN: In the new system it
16 would not have passed.

17 MEMBER SULEIMAN: That's correct.

18 CHAIR THOMADSEN: For those of you who
19 voted no, you would be happy with the new system.

20 VICE CHAIR GUIBERTEAU: Well actually
21 you need nine for it to pass.

22 CHAIR THOMADSEN: What aspect?

23 VICE CHAIR GUIBERTEAU: You need nine
24 for it to pass. You need two-thirds of the current
25 membership.

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1 MEMBER ZANZONICO: Oh, that's right.

2 CHAIR THOMADSEN: That's to pass the
3 bylaws, not a motion.

4 VICE CHAIR GUIBERTEAU: Well I know,
5 but you would be -- it says to amend the bylaws.
6 And I presume that we were voting on that amendment,
7 so. But in any case, it didn't make either, so it
8 doesn't matter.

9 MEMBER DILSIZIAN: So it doesn't
10 matter what again, it's not going to make it?

11 CHAIR THOMADSEN: Right now just in the
12 Committee, to change the wording, you need a
13 majority vote. At the end when we're going to pass
14 the bylaws, we'll need two-thirds vote.

15 MEMBER DILSIZIAN: It won't make it.

16 CHAIR THOMADSEN: So we'll have to see
17 what people do then.

18 MR. FULLER: This is Mike. And I think
19 everybody recognizes the irony here. Because
20 something just passed to be included in the bylaws
21 that would not -- that now that this has passed,
22 they would not have passed.

23 Then now we're getting ready to go vote
24 on these bylaws that require two-thirds. So if the
25 people vote consistent with the vote on this, then

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1 the bylaws are not going to pass, which means we're
2 going to have to go back and start over from scratch
3 and have another public teleconference.

4 I hope everybody recognizes that irony.

5 CHAIR THOMADSEN: Yes, I think they do.

6 MEMBER ZANZONICO: Yes.

7 MEMBER MATTMULLER: The NRC has
8 trained us well.

9 CHAIR THOMADSEN: Okay, I will turn
10 this back to Pat.

11 MEMBER ZANZONICO: Oh, thank you. So
12 the motion passed. The current version of 1.3.5
13 is, "Decisions shall be made by a majority vote of
14 the current ACMUI membership unless otherwise
15 specified in these bylaws."

16 We therefore addressed all of the
17 issues regarding the bylaws. I really don't think
18 there's any needs to step through it paragraph by
19 paragraph then. The only other issues would be
20 grammatical and spelling corrections, which will
21 be handled at some such when editing step I presume.

22 So I actually think we're at a point
23 where we can vote on the bylaws.

24 MR. FULLER: Again, sorry for the
25 interruption, this is Mike. I just want to let

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1 everybody know in case it isn't obvious or just
2 anticipated. As you all know, we're getting ready
3 to merge back with NMSS and FSME is going to go away.
4 And there's going to be some name changes to the
5 name of our division and so forth.

6 So just rest assured that we're all on
7 top of this. We're aware of this. So where it
8 says Federal and State Materials and Environmental
9 Management Programs or FSME, it will be replaced
10 with Nuclear Material Safety and Safeguards. The
11 new name of the division will be appropriately
12 replaced and so forth.

13 So all this has become effective
14 October 5 and we'll talk some more about that at
15 the meeting at the end of September.

16 MEMBER DILSIZIAN: Hi, this is Vasken.
17 Since we know that the bylaws are not going to pass
18 by a majority, would you agree to take the last
19 sentence out and discuss it another time so that
20 we don't have to delay the current approval without
21 that sentence?

22 MEMBER ZANZONICO: Well, I guess my
23 only concern is a procedural one. Can we do that?
24 The current bylaws stipulate that amendments
25 require a two-thirds majority. I don't know, I'm

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1 kind of at a loss as to whether we can vote on the
2 balance of the bylaws exclusive of that statement.

3 CHAIR THOMADSEN: Let me make a
4 proposal here. Actually and Dr. Dilsizian we
5 don't know that the people voting who voted yes
6 would vote for the bylaws if that sentence went back
7 to what it was.

8 So why don't we vote on the bylaws. If
9 it fails we can go back and reconsider the sentence.
10 If it passes we can also go back and reconsider the
11 sentence as an amendment.

12 VICE CHAIR GUIBERTEAU: I second that.

13 CHAIR THOMADSEN: Either way --

14 MR. FULLER: Excuse me, this is Mike
15 again. There's one thing that was not discussed
16 that we wanted to make sure that folks were aware
17 of. And that is in the very first paragraph of the
18 preamble, our legal counsel suggested some change
19 to the language. It's up on the screen now and I
20 will read it to you.

21 The very last sentence in the very first
22 paragraph of the preamble it says, "certain issues
23 that may become -- certain issues that come before
24 the ACMUI may involve legal issues and may" -- and
25 may -- I'm sorry, yes, let me start over. I'm

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1 sorry, I'm trying to read a red-lined, strike-out
2 version on a screen.

3 I'll tell you what, Susan Chidakel is
4 --

5 MS. CHIDAKEL: What I had suggested is
6 instead of what was there, it's just a minor change,
7 but I think it's more accurate. "Issues that come
8 before the ACMUI may involve legal issues and may
9 from legal counsel for their ultimate resolution."
10 Some of that changed and I strike the thing about
11 the NRC staff because I think for the other reasons
12 it's a legal issue, it has to go to legal counsel
13 for resolution. ACMUI may again apply a legal
14 issue.

15 I don't know whether you're considering
16 me as the staff. I know in the rest of this
17 document staff includes legal counsel. So I may
18 identify a legal issue that I think has to go to
19 legal counsel for ultimate resolution. So those
20 are the reasons for my resolution.

21 MEMBER ZANZONICO: This is Pat
22 Zanzonico. I think that sentence as revised
23 captures the point that we wanted to make. Mainly
24 that there would be some issues that by a legal
25 counsel. And that's stated very explicitly.

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1 So I find it -- the sentence completely
2 inoffensive and perfectly appropriate. Any other
3 comments?

4 MEMBER SULEIMAN: I agree.

5 MEMBER ZANZONICO: Hearing none, I
6 will assume there is a consensus on this -- on
7 accepting this statement.

8 MR. FULLER: Okay, thank you Dr.
9 Zanzonico. And we're going to go back on mute and
10 you guys please continue. I'm sorry for the
11 interruption.

12 MEMBER ZANZONICO: So, were we at a
13 point then where we were going to vote on the bylaws
14 including the current version of Section -- if we
15 can pull down to that?

16 MEMBER WEIL: Dr. Zanzonico, this is
17 Laura Weil.

18 MEMBER ZANZONICO: Yes?

19 MEMBER WEIL: Can I make a suggestion?

20 MEMBER ZANZONICO: Please.

21 MEMBER WEIL: In the spirit of the
22 discussion that we've been having about the
23 necessity for all the voting members of the
24 Committee to vote on a contentious issue, perhaps
25 we want to table, I hate to say this, but table the

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1 vote on the bylaws until we are all together next
2 month when we will have had some opportunity to
3 reflect on that problematic paragraph. And we may
4 come up with a better resolution to the problem.

5 MEMBER ZANZONICO: Personally I think
6 that's a very good idea. Does anyone object to
7 that? Maybe between now and then we can all
8 communicate among ourselves by email. Maybe come
9 up with more acceptable language to everyone. And
10 then dispose of this really quickly at the upcoming
11 meeting?

12 MR. FULLER: Okay, Dr. Zanzonico, this
13 is Mike. I would be remiss if I didn't point out
14 that the full Committee may not deliberate in
15 private. It has to be in the public view according
16 to FACA regulations.

17 If the Subcommittee wants to work on
18 this some more, that's fine. But the Subcommittee
19 will have to make their recommendation and the
20 presentation to the full Committee in a public
21 forum.

22 MEMBER ZANZONICO: Understood.
23 Understood.

24 MEMBER SULEIMAN: Yes, this is Orhan.
25 I'll tell you my feeling is go for the vote. You

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1 know I don't mind being on the losing end. And it
2 resolves it one way or the other. And then the
3 Committee can decide later on to reconsider if the
4 Committee decides to.

5 I'd also be interested to hear what the
6 legal staff have to say in terms of some of the
7 voting rules. I'm not aware -- I'm uncomfortable
8 with the fact whether we can change the rules in
9 terms of voting or not. But I just -- I know we
10 can change the bylaws to some degree, but we can't
11 make dramatic changes. And I wonder whether this
12 would be considered a major change or not?

13 VICE CHAIR GUIBERTEAU: This is
14 Mickey. I think that because the bylaws give us
15 the right to amend them, we can do just about
16 anything we want as long as it pertains to our own
17 operation. I mean you know, whether you think this
18 is revolutionary or not, I mean there's a little
19 bit of a difference of opinion, but I mean I don't
20 think there is anything that prevents us from you
21 know, our First Amendment rights and our rights to
22 you know, change the bylaws.

23 But you know, if people think this is
24 wise, then they should vote for it. I agree with
25 Laura that you know, we need more reflection as to

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1 how this might work. Because it is a change that
2 you know, roughly many of us are happy with and some
3 of us are uncomfortable with. And it makes me
4 uncomfortable if we don't get this right, to move
5 forward.

6 So I would support you know, having some
7 time to think about this.

8 CHAIR THOMADSEN: And this is Bruce
9 Thomadsen. I also, I think -- I don't think it's
10 good for us to be uncomfortable doing anything. I
11 just as soon that we do think about this and address
12 it. It's not that long until we have the meeting.

13 MEMBER DILSIZIAN: I agree, this is
14 Vasken. I vote for delaying it.

15 MEMBER ZANZONICO: Yes, this is Pat.
16 I think that I agree as well.

17 MR. FULLER: Okay, well it looks like
18 we're winding down. And I know Dr. Thomadsen will
19 be adjourning the meeting when he deems
20 appropriate.

21 So before we get to that point, I just
22 wanted to take a minute and just say I want to thank
23 you all again from at the -- at least from the NRC
24 staff's perspective for all the time and effort
25 that went in preparing for this meeting, and all

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1 of the deliberation that we had for this meeting.
2 And we do look forward to seeing everyone September
3 29 and 30 here at Headquarters. So thank you all.

4 CHAIR THOMADSEN: Yes. And thank you
5 Pat for running the meeting. And thank you all to
6 the ACMUI members for your participation and we'll
7 see you in a month.

8 MEMBER ZANZONICO: Okay, thank you.

9 (Whereupon, the above entitled matter
10 went off the record at 3:36 p.m.)

11

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