

**GNSO
Operations Steering Committee (OSC) GNSO Council Operations Work Team
26 August 2009 at 15:00 UTC**

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Participants on the Call:

Ray Fasset
Wolf Ulrich Knobon
Avri Doria
Ken Stubbs

Staff:

Julie Hedlund
Glen de Saint Gery
Gisella Gruber-White

Apologies:

Ron Andruff

Coordinator: This conference is now being recorded. Please go ahead.

Gisella Gruber-White: Thank you. Ray, would you like a quick roll call?

Ray Fassett: Yes please.

Gisella Gruber White: Good morning, good afternoon to everyone. On today's call we have Ray Fassett, Wolf-Ulrich Knobon, Avri Doria. From staff we have Julie Hedlund, Glen DeSaintgery and myself, Gisella Gruber-White. And apologies we have Ron Andruff. Thank you.

Ray Fassett: Okay. Thank you very much. This is Ray Fassett. We're moving along at our agenda here as it pertains to the GNSO Council rules of procedure document. That requires updating as sort of a near term or more urgent item

in order to seat the Council, the new GNSO Council as part of the October meeting coming up.

So we're under a bit...

Ray Fassett: Welcome Ken.

Ken Stubbs: Thank you Ray.

Ray Fassett: Thanks for joining.

Ken Stubbs: I'm sorry about last week. But as you know, it was unavoidable.

Ray Fassett: Yes. Right. Very much so. Okay. So we just started and we're just giving an overview that we're focusing in on the rules of procedure document. We're a little bit under the gun because this document needs to be in reasonable shape in order to seat the Council as part of the October Seoul meeting.

So we've been moving along with it fairly well. There's been some discussion on email, some minor edits I think. Has everybody had a chance to review the latest revisions put forth by Wolf and myself?

I assume so or Wolf do you have any comments on the ones I added to yours yesterday?

Wolf-Ulrich Knoben: Yes. If I could start. Thank you.

Ray Fassett: Yes.

Wolf-Ulrich Knoben: First Ray I was a little bit worried about the last document you have been - which you have sent to us. Because I don't know the status of that document because, you know, we have many comments still on it which

show some comment from the past and maybe something which was amended in addition. So it is a little bit - seems to be a little bit complicated.

Could you just verify which document we have in front of us and we have - we are talking about? I took the attachment off the last I think it was two days email.

Julie Hedlund: Right. Wolf-Ulrich, this is Julie. Ray, if I might answer that.

Ray Fassett: Yes. Please.

Julie Hedlund: Right. So what I did was I took the last version of the document that I had and added to it the additions that Wolf-Ulrich that you had suggested and that Ray had suggested yesterday and then dated that document 25-08-09.

I have been accumulating all changes that I'm aware of and I might be missing some changes and please let me know if I am. I've been accumulating all changes in one document. And I do apologize. I know it is confusing because it does have all of the comments that we have made all together in one document.

The reason I'm doing that is so that we have these comments in one place for historically speaking so that we can go back and, you know, see what we've done sort of successively. Perhaps that's not the right approach.

You know, I mean if at some point you say let's accept all the changes we've made thus far and then just start from that, you know, from the point of say last week's meeting or this week's meeting then I can do that and then what you'll see is only those changes that we decide to make say today.

But in absence of that, I've simply gone along and added everything to the same document. Now I will say that I, you know, I apologize. I missed last week's meeting. I know that Rob was on the meeting. The only comments

and changes that I have seen are those that Wolf-Ulrich you had sent and Ray you had sent yesterday.

If I've missed additional changes that have occurred, please let me know and I'll be sure to reflect them.

Wolf-Ulrich Knoben: Okay. So just to make here Julie, so I am - I would only be sure that we have all the same document in front of us so we can talk about anything in that document by being sure we have the same document. And then I just ran across the document and I have some comments. So I could start with that if it's...

Ken Stubbs: Before we start, can I ask a question here Julie?

Julie Hedlund: Absolutely Ken.

Ken Stubbs: All right. No different than anyone else. I want to make sure I'm starting in the right place. What I have on my screen right now is GNSO Council Operating Procedures draft 25-08-09. And it basically is the body is in red and there are a whole series of references to insert and deleted format in the right hand side. Is that the correct document that we're working on?

Julie Hedlund: That is the correct document and that's the one I sent around to everybody yesterday.

Ken Stubbs: Yes. Well you'll have to pardon my - I guess my age is showing but should I assume at this point in time that the body of the document includes all of the revisions and that the various colors to a great extent represent contributions or modifications and so forth. Am I correct there? There's nothing in the body that should be that represents a delete at this point in time.

Julie Hedlund: This is Julie. Ken, yes, that's what I've attempted to do is to collect...

Ken Stubbs: Okay. That's fine. I don't have a problem as long as I got one - at this point in time the - I won't say authoritative is the right word but it represents the most up to date document including any, how would I put it, contributions at this point in time from us - for us to work from. That's all. Then I'm good to go. Thank you.

Ray Fassett: Yes. Not to complicate things further. This is Ray. I do see it as a living document. And I think it's the correct approach. Now when we present to the OSC for its review, I think that where we may actually be sending three documents. One will be the clean version. All changes accepted. This is where it is approach.

A second document would be the original.

Ken Stubbs: The sausage.

Ray Fassett: Yes. Well will be the original rules of procedure before we did anything. And then red line out what has been changed - you know, what's been replaced. So they can see a red line version and the final version all in one document.

And then this document that we're looking at now that shows the history of how it all came about. Does that make sense?

Ken Stubbs: Yes it does actually.

Ray Fassett: Okay. So we're working with this living document and this will probably if I were to write the three docs - it would be a third document that they would look at. If somebody wanted to delve into the history of why I did this, if they're - I would look at the red line version if I was on the OSC. I would look at that one first.

((Crosstalk))

Ken Stubbs: The one thing I would ask Julie to do and I don't think it would be that hard to do, I'm not used to using these word processing at the level that you are at this point in time...

Ray Fassett: You and me both.

Ken Stubbs: I would very much like to see the living document stripped of all of these other little dilly dally things on the side after we finish this even if it's just the living document stripped as it was prior to our telephone call. It would really help me out.

The references are distractive when you're working more than anything. I don't really care. You know, I'm trying to live with the document, not who made the corrections. That's all.

Julie Hedlund: Right. And this is Julie. Ken, I don't know what word processing system that you're working with but...

Ken Stubbs: Well I've got Microsoft Word and I've got Open Office, both of them. But I just...

Julie Hedlund: Yes. If you - if you - I don't know which version you have of Word but there's a way to view without seeing all those comments.

Ken Stubbs: Yes.

Julie Hedlund: Turn the comments off or you can view it as a draft. If you view as a draft you'll - all the comments will go away.

Ken Stubbs: I'll give it a try and see what happens.

Julie Hedlund: Yes. They're very distracting. You're absolutely right.

Ken Stubbs: Well it's just I keep getting drawn to the right of the page and that's really in the - at the point where we're at, it's not relevant. We're working with the living document and, you know, somebody wants the prominence then they can always pull up this thing.

Julie Hedlund: Right.

Ray Fassett: Okay. And how's this for an idea? Do we need the colors anymore? The yellow and - in the body I'm talking now. Do we...

Julie Hedlund: Yes. We can take the color yellow off. I mean you know the colors of the text will reflect who's made changes and when they've happened. So that...

Ray Fassett: That might help.

Julie Hedlund: Yes.

Ray Fassett: And clarify that this...

((Crosstalk))

Ray Fassett: For example, 3...

Julie Hedlund: ...the yellow...

Ray Fassett: Yes.

Julie Hedlund: ...you know, more often because we know where we're focusing at this point.

Ray Fassett: Yes. So for example 3.5 Quorum it's all in yellow but we know that that's sort of a - that's - as far as we know today it's a completed area.

Julie Hedlund: Right.

Ray Fassett: So we'll just - you know, it is what it is.

Ken Stubbs: Glen's on the call. Maybe she can convert this thing to a draft form that - send me an email with the draft form attached because I can't even find the link at the top of my word processing document to make a change. So I'd appreciate it.

Julie Hedlund: Yes Ken. This is Julie. I'll do that right now.

Ken Stubbs: Thank you very much.

Julie Hedlund: You're welcome.

Ray Fassett: Okay.

Wolf-Ulrich Knoben: Okay. So I would agree also to all of what you have said. So let me start - just start with my first comment, which starts in Chapter 5.5. So I agree to all of that what is before 5.5. I couldn't find anything, which I should comment to at the time being.

The 5.5 deals with the minutes, which you were talking about last time Ray. And I think only it's something right now in the text, which is duplicated. The first thing is I think it's the first paragraph. We are still in the 5.5 and the 5.5A.

Ray Fassett: Yes. Julie probably didn't pick up on my meaning there. My intention was to axe everything under 5.5 minutes. That paragraph that you're talking about.

Wolf-Ulrich Knoben: Yes.

Ray Fassett: Just axe that.

Wolf-Ulrich Knoben: Yes.

Ray Fassett: It would change the heading of 5.5 to procedures of minutes.

Wolf-Ulrich Knoben: Yes.

Ray Fassett: So you don't need a 5.5 and 5.5A. And then take what's - what I show in blue that starts with within days of a GNSO Council meeting and just put that underneath 5.5...

Wolf-Ulrich Knoben: Yes.

Ray Fassett: ...procedure of minutes.

Wolf-Ulrich Knoben: Yes. But if we do not need any distinction between 5.5 and 5.5A...

((Crosstalk))

Ray Fassett: No, 5.5A...

Ken Stubbs: It's all a part of the process of dealing with the minutes of the meeting.

Ray Fassett: Actually what I'm - what I was thinking in my head, now open of course, you know, discussion is just collapse 5.5 and 5.5A into one, rename that - call that 5.5.

Wolf-Ulrich Knoben: Yes.

Ray Fassett: And name it minutes of procedure or I'm sorry, procedure of minutes.

Wolf-Ulrich Knoben: Yes. And so in the first paragraph starts with (the meeting dates) of GNSO Council meeting.

Ray Fassett: Okay. Go ahead.

Wolf-Ulrich Knoben: The question is the number of dates. It's - well it seems to be - it seems to be seven days but now it's open, isn't it?

Ken Stubbs: This is Ken Stubbs. I don't know whether - Glen are you on the call? Well let's put it this way. I don't know who has the responsibility of doing the minutes of the Council meetings. It used to be Glen. Let's take an example Wolf. And let's assume we have a Council meeting at the other end of the earth, which we probably will have again.

It may take a significant period of time for someone to get back to their office and to get back mentally to the point where they'd be able to do it. I think that it's not unreasonable because actually we have a 10-day note down below there where they're approving the draft.

So I don't think we need to specify the number of days. I think you can say in a timely period following the Council meeting the secretary will forward the draft summary and that leave the time open. And then normally at that point in time with in ten days of the meeting the draft will have been received, you know.

Ray Fassett: Yes. That's actually a good suggestion I think to me Ken. It's just kind of reversed the sentence there. Begins with...

Ken Stubbs: Yes. I think sometimes we might put, you know, most of the staff nowadays at a long distance meeting let's say in Seoul, the staff will come out - come in about - generally the Wednesday or Thursday before the meeting and they're luck if they're done before the Saturday and have worked nine, ten days in a row.

They need time for travel and time - and a practical time to, you know...

Ray Fassett: Right.

Ken Stubbs: ...to get themselves...

Ray Fassett: Yes. And to speak to around (Andres) point a little bit as he said a few times on these calls is some things we can I think lead to the OSC to look at and say, you know, we need to sharpen that rather than us necessarily having to sharpen it...

Ken Stubbs: Right.

Ray Fassett: ...every pencil. They might flag that and say well, you know, they didn't say how many days. We should say how many days because of our experience X, Y or Z.

Ken Stubbs: Right.

Ray Fassett: So yes. So in this case I think we're okay with not necessarily picking a number of days that out of thin air.

Wolf-Ulrich Knoben: But okay, may I just comment.

Ray Fassett: Sure. Sure.

Wolf-Ulrich Knoben: Plus, you know, if you look at the (unintelligible) the paragraph before the last paragraph in this article 5.5 it says that we have an entire period - a whole period of 21 days from the meeting until the - until the publication of the - of the minutes.

So that means if that applies, the 21 days, really then all the other periods have to be...

Ray Fassett: Within those 21 days. Right? Is that your point?

Ken Stubbs: Twenty-one days implies the document that finally gets published includes the minutes and...

((Crosstalk))

Ken Stubbs: ...any comments that are attached to the minutes.

Wolf-Ulrich Knoben: But that is the whole point. Starting with the minutes, within 21 days of the relevant meeting. That means, okay, there was a meeting and after 21 minutes that says this article with this phrase, so it has to be published.

Ray Fassett: Right.

Wolf-Ulrich Knoben: Have to be published.

Ray Fassett: Right.

Ken Stubbs: And the draft has to have been approved within ten days of the meeting. So that gives people the opportunity to comment...

Wolf-Ulrich Knoben: Yes.

Ken Stubbs: ...an additional ten days.

Wolf-Ulrich Knoben: Yes. Yes. Yes. Yes. So that's what - at the time being if in this number 5.5. So we have to talk about is that reasonable or not.

Ray Fassett: Yes. You're right. I mean these days that are in there now are carryover. So should - you know, are these - are these where we do specifically sharpen a pencil and say 10 days of the meeting or 21 days of the meeting, does that work in practice?

Ken Stubbs: Well from a practical standpoint we're pretty well in practice in the past. If you wanted to, you could allow for an additional ten days for comments on the minutes to be received and attached to the minutes, you know. So - but I think the minutes need to be posted within a time - on a timely basis and additional comments could be - you could have an additional comment period.

Remember the comments have to come from Council members. So, you know, I think that's a reasonable approach to take to it, you know.

Wolf-Ulrich Knoben: Yes. Why shouldn't we ask Avri because, you know, a chance - you know, what is - what seems to be practical or what is, you know, in the history right now. So what is - what are the problems with that time period of 20 days, 21 days for example?

Ken Stubbs: Yes.

Wolf-Ulrich Knoben: Big problems or is that a time which is reasonable for the overall process? And then we can talk about the different part of that - of that process really.

Ken Stubbs: Well I can lend some experience because I was on a Council for seven years and 21 days also was Chair for part of that time. Twenty-one days has always been a reasonable time period. The biggest issue that you have is the issued identified early on and that is the initial provision of the minutes primarily due to the fact that the person whose had that responsibility needs to have a little time to recover from the long ICANN meetings.

And frankly I don't see delegating that responsibility out to other people. I think that that's - that needs to be done by somebody who was actually at the meeting and not somebody necessarily trying to transcribe from some sort of a...

Wolf-Ulrich Knoben: Okay.

Ken Stubbs: ...recording. That's just my opinion.

Wolf-Ulrich Knoblen: So can - I understand you that you would say the 21 days would be a reasonable...

Ken Stubbs: Right.

Wolf-Ulrich Knoblen: ...period.

Ken Stubbs: If they don't like it - they think it's impractical then that's one of those things Ray discussed earlier that maybe they'll come back and say we want an additional ten days. But I think we - it isn't worth our time to hold this process up to get to Avri on something as...

Wolf-Ulrich Knoblen: Yes. Well what I - what I would like to find out is - we can come up with any suggestion I think if we think as a small group we think 21 days is - might be okay. The Council - it's up to the Council if we decide or...

Ray Fassett: Sure.

Wolf-Ulrich Knoblen: But so it must look reasonable. So if we, for example, if we look at the 21 days period then the question for me is only what are the - what kind of time period we shall give for the subordinated different part of the procedure that means the provision of the - of the minutes from the (unintelligible) to the Chair and the Vice Chair and then the sending of that minutes to the Council members for comments and then the comment period and these things.

So this is - I don't have a really right feeling of that. It's - I think if it fits to the 21 period then it's okay.

Ray Fassett: I haven't been given a reason to at this point to see why it doesn't - isn't working or isn't practical. I don't - I don't have a reason other than, you know,

not knowing. But my indication is that it works now in practice. So I don't see a need to change that.

Wolf-Ulrich Knoen: Okay.

Ken Stubbs: There's a high probability that someone may be monitoring the call who could answer that question right in real time if Avri's still available and is willing to speak up.

Avri Doria: Yes.

((Crosstalk))

Ken Stubbs: She might let us know right now whether she feels comfortable with the 21 day period or not, you know.

Avri Doria: I'm still here. This is Avri. Am I on mute?

Ray Fassett: No.

Avri Doria: Okay. I couldn't remember what state I was in. Sorry. I have - first of all I mean obviously by the time these things are passed I won't be Chair so I'm merely giving my experience as Ken is giving his because it will be in retrospect by the time these are approved.

By and large I think except for when there's extenuating circumstance, 21 days, and Glen will correct me, is a good guideline. Sometimes, you know, Glen may have some situational reason that makes it take a little longer for her to get the first version out. But then Chuck and I review. And in this case there will be two Vice Chairs and a Chair to review, you know.

And then sometimes I admit I've been a little slow to react. So the 21 days I think is certainly a reasonable guideline to ask the Chairs and Vice Chairs,

you know, to work to. I'm sure nobody is going to, you know, cut off their hands because they missed this.

But I do believe - now another thing that matters is, you know, the periodicity of meetings. If meetings are held monthly then 21 days is perfect because that means they're ready for approval at the next. Because of all the stuff that's being - and that use to be monthly meetings was the tradition.

Lately because there's been so much to do and it couldn't be fit into a two-hour meeting, we've been meeting every three weeks. So the 21 days has been less critical because we had already missed that meeting because that would have required 14 days and, you know, therefore there was - there was a leeway because in order to be approvable at the second meeting, you know, they had to be done in five weeks.

So there was a certain amount of latitude in terms of getting them done in time for people to approve and sign, you know, and approve it in a meeting.

Ray Fassett: Well that's a good - that's a - to me that's a good point Avri. The, you know, the - how often the meetings are held. Let me - let me - and this is an unfair question but I'll ask it anyway. But under the new structure and the goal and aim of the GNSO Council being the manager of policy process, do you - do you - what's your opinion on that in terms of being able to go back to monthly meetings?

Avri Doria: I think that it should be possible. I think that there may be periods when, you know, the Chair group will decide who we need to do it more often. I think it'd be quite reasonable to get back to that period once the group is no longer trying to both do policy and do improvement (plus) restructuring.

It was really the - this last year where there's been sort of a double load on the Council. And so I think A, bringing that back to just working on one thing and then too as you say, doing a managerial task where, you know, proper

status report sent in a week before so that everyone reads them and a few motions ahead. It should be possible to do that. That certainly is a reasonable goal.

Again though, there's a certain cruelty in my saying this because I'm not the one that's going to have to live with it.

Ray Fassett: Yes. Sure. Sure. Right. Understood. But that's very helpful input. Thank you.

Wolf-Ulrich Knoblen: Okay. Way for me is still open because the number of days in the first sentence within days of (unintelligible) in which period after how many days is (unintelligible) forward to our summary. So that's - I think we should have a date here.

Ray Fassett: My opinion is the opposite. I don't think we need to sharpen that pencil. I obviously defer to others but I don't think it's necessary. And why? Because we have other hard coded dates in there. Ten day - there's a 10-day - things that have to be done within ten days, 21 days. You know, the GNSO Council Chair and Vice Chairs are going to work closely with the Secretariat.

The deadlines are known in terms of the public responsibility that this entails. Nailing down a - personally I don't feel it's crucial to nail down a - nail that down.

Ken Stubbs: Right.

Wolf-Ulrich Knoblen: No it's not the reason to nail somebody down, you know.

Ray Fassett: No. No. No. I mean nail down a date. I don't mean nail a person. I mean nail down a number, a number. I don't think it's...

Wolf-Ulrich Knoblen: I understand. But, you know, couldn't that be the case as, you know, if you look to the other numbers, you know, that - because they are - they will

be touched by that how many days it takes, you know, to then be the minutes out, you know. And then the question is, you know, the Council members themselves they may feel pressed, you know, in terms of their time they have.

((Crosstalk))

Ray Fassett: Okay. Let me ask you this Wolf. What number would you pick?

Wolf-Ulrich Knoblen: Why not seven days?

Ken Stubbs: Ray.

Ray Fassett: Yes Ken.

Ken Stubbs: Yes. I hope you neither - no one on the call will be offended by what I'm just saying but we're a half an hour into this call we've barely gotten by this one little issue.

((Crosstalk))

Ken Stubbs: I'll take any number of days just to keep moving with the call because from a practical standpoint if it's - if the number we put in there is not practical it's going to get (unintelligible) anyway. But we got a lot to cover and I only have an hour today. And I'd just - please don't be offended. I'm just trying to move forward.

Ray Fassett: No. No. Fair enough Ken. It's a good call to order. Right now I'm going to just leave it open and let's - if we want to pick up the discussion on this point, let's do that by email.

Wolf-Ulrich Knoblen: Okay.

Ray Fassett: Okay. So but Wolf I think you had some other ones. So why don't we keep moving on those?

Wolf-Ulrich Knoben: The last sentence in that part of should be omitted I think so. The Council Secretariat shall complete minutes of meetings. It's still at the - in the last sentence.

Ray Fassett: Yes. I moved that down. I didn't - I chose not to delete it. Leave that for discussion. So you flagged it. Okay. So the last sentence is GNSO Council Secretariat shall transmit minutes of its meetings to the ICANN Secretary.

Wolf-Ulrich Knoben: Yes.

Ray Fassett: Why just out of - why do you feel that that's a step that's not needed? In other words John Jeffrey right now is the ICANN Secretary. So why would you feel it's not necessary for the Secretary...

Wolf-Ulrich Knoben: It's already in - it's already in there. I think it's duplicated.

Ray Fassett: It's a dupe - just duplicate work?

Wolf-Ulrich Knoben: Yes.

Ray Fassett: Okay. I don't disagree with that. Ken, do you have any comments on that? Ken may have dropped off. Avri, since you're on the call I'm going to put you on the hot seat again. Is there - is there anything in the current practices or the GNSO that makes it important for the ICANN Secretary, John Jeffrey, for example to receive a copy of the minutes. I can't think of any.

Avri Doria: I don't think so. I know that whenever there is a - something that needs to be passed to the board, that needs to be written up and that actually usually takes more than a minute. Then there's a specific email that's written up

saying, you know, this was done. This is the result. Documents can be found here, et cetera.

Ray Fassett: Yes.

Avri Doria: So certainly for any action that the Board has to act on there is a - there's no reason not to but...

((Crosstalk))

Ray Fassett: Yes, there's no - right.

Avri Doria: ...I don't see any reason to - particular reason to do it.

Ray Fassett: Right. And the reason I can think not to is because it's - they're easily found. So if you need to find them anybody whether you're the ICANN Secretary or my next door neighbor, you could find them pretty quickly. So it seems to me redundant work. That's...

Avri Doria: This is Avri again. If I can add one other thing.

Ray Fassett: Yes. Please.

Avri Doria: The Secretary wouldn't necessarily know what to do with them. One of the things that I've had is when you send a message to the Secretary of the Board, not if you send the question to him himself...

Ray Fassett: Right.

Avri Doria: ...but when you send the second email to the Secretary, you need to be telling them what it is they're supposed to do with it.

Ray Fassett: Yes. Yes. Right. Otherwise it's just an administrative task of no purpose. I'm in favor of axing that sentence. Does anybody disagree? Okay. Julie, can - that's one update.

Julie Hedlund: So noted and done. Thanks.

Ray Fassett: Okay. Wolf, anything else?

Wolf-Ulrich Knoben: Yes. Part of 5.8.7 is (unintelligible). It's also now a duplication because it was more moved to 5.5. This whole paragraph, 5.8.7 right now in that document.

Ray Fassett: So 5.5.7 okay.

Wolf-Ulrich Knoben: Could be only because it's already in 5.5.

Ray Fassett: Yes. I see that. Julie, have any comment on that one?

Julie Hedlund: Yes. He's absolutely right; it's Julie, in 5.5. I can go ahead and delete it and renumber.

Ray Fassett: Okay.

Wolf-Ulrich Knoben: Okay.

Ray Fassett: Good. Anything next Wolf?

Wolf-Ulrich Knoben: The next one is so we want to talk about 16 isn't it? The change of Council absentee and email vote.

Ray Fassett: Correct. That's on our agenda today, 16.

Wolf-Ulrich Knoben: And there is one sub paragraph 16.8 which I don't understand. Under exceptional circumstances, which must be described by the Chair and agreed to by the Council by 2/3 vote it may be decided to ignore the email vote in order (unintelligible). So - okay. I don't know any case but maybe it was in (our times). I don't know what it means.

Ray Fassett: Well...

Wolf-Ulrich Knoben: Did you have any case, any certain case in the past, you know, which justifies that paragraph?

Ray Fassett: I don't see a purpose for that. I would delete that.

Wolf-Ulrich Knoben: What kind of case could it be that the Chair has to describe and the Council by a 2/3 vote, that means both houses shall agree.

Ray Fassett: Well I think - I'm wondering if there's a larger subject here that has to do with email voting first. I think we have to be careful on using that term email voting for even in the heading, you know, 16. GNSO Council absentee and email vote - email votes.

So I mean, should it just be GNSO Council absentee voting?

Wolf-Ulrich Knoben: Because, you know, we (unintelligible) to fields text and then put something new in but the old text was only the email vote. But okay. So it's - so we are talking about absentee voting.

Ray Fassett: Right.

Wolf-Ulrich Knoben: Yes.

Ray Fassett: And I think we don't want to mix and match those terms, email voting and absentee voting.

Wolf-Ulrich Knoben: But absentee voting is only in 16.1, you know. The other thing is - oh not, it's not. It's email voting, 16.3, 16.3.

Julie Hedlund: Right. This is Julie. We could simply break up those sections. We could have 16, which could be GNSO Council absentee vote and then we could have 17, a new 17 that becomes GNSO Council email votes because we really do have two topics here. I mean we have absentee voting and how that occurs and we have email votes and how those occur.

Wolf-Ulrich Knoben: Well I have to understand really. In a way I think your question wasn't the same to actually. What's the difference between email voting and absentee voting? Can anybody explain that? Avri maybe or...

Avri Doria: This is Avri. And it's not in any official way that I can explain how I would understand that. Absentee voting is a general practice that would have certain rules. Email voting would be one implementation of absentee voting. There - and in fact I could easily imagine a different system being developed in the future that, you know, relied on Web services for the absentee.

So absentee is a process - I mean is a policy is the wrong word. But it's a procedure. And email is an instantiation of that procedure and has different facets to it but because it is a practical thing not a policy thing.

Ray Fassett: I think there's one mechanism now that the Council uses email - software...

Avri Doria: Yes. We use email.

Ray Fassett: Yes. Isn't there one particular - on particular instances where the Council uses a software program?

Avri Doria: Right. For the voting for the - for the Chairs of the Council and the voting for the board seats...

Ray Fassett: Yes.

Avri Doria: ...there's a very formal thing where you get back a numbered receipt and it's all - I don't know what software is being used but it's all very formal. And then what we've been using for the absentee ballots on a, for example a PDP vote has been a email from Glen specifically to, well from the Secretary but from Glen, specifically to each of the absent people informing them of the vote and informing them of, you know, yes or no.

And they have generally sent it back both to Glen and the full list if the vote had been done in public. So it's really a different email process or secret ballot versus open ballot.

Ken Stubbs: Yes. The secret...

Ray Fassett: I think that was Ken. Okay.

Ken Stubbs: Evidently - hello.

Ray Fassett: There you are.

Ken Stubbs: Okay. Fine. I had my mute button disoriented. Yes. The secret ballot system requires a ratification, as well I believe. The open email ballot system does not require ratification. But because of the fact, at least historically those votes have been public votes. The processes the votes were cast under were public processes.

There were - they actually reached a list. So, you know, from a practical standpoint now and you're right, email votes are only one form of absentee ballots. My corporation has a process that allows the Director who is not at an in person meeting to cast an absentee ballot via a telephone. So, you know, it

is - it is - it's best described as a one of methods for dealing with absentee ballots, you know.

Julie Hedlund: And this is Julie. Ray, if I recall correctly and Wolf-Ulrich you can correct me if I'm wrong. I think this section 6.1 that we've added here, absentee voting, had previously appeared in the bylaws. Under the current bylaw recommended changes it was recommended that this should be taken out of the bylaws and put into the operating procedures, which is - which is what we've done here.

That has changed to a certain extent the character of the section. Previously this section only dealt with email votes. Now we've added a section having to do with absentee voting. And you'll note in that section it says absentee ballots which could include voting by telephone, email or Web based interface and the subsequently go on to explain how an email vote could happen. So I just wanted to point that out.

Ray Fassett: Okay. That's good. That's helpful to get me back at where this - how this came about. Do we really need to get into the email - I'm asking a question. Do we need to get into the email procedures?

Wolf-Ulrich Knoben: No.

Ray Fassett: I don't...

Wolf-Ulrich Knoben: I don't see that.

Ray Fassett: I don't see it either.

Wolf-Ulrich Knoben: No. I see - really what we see okay the absentee vote in here and that's it.

Julie Hedlund: Excuse me. This is Julie. So you're saying that the operating procedures don't need to describe how an email vote would occur.

Ray Fassett: Right.

Julie Hedlund: But shouldn't it be - there's some instructions somewhere on how that should occur? I'm sorry. That may be a silly question.

Avri Doria: Hi. This is Avri. Can I comment?

Ray Fassett: Yes, please Avri.

Avri Doria: I actually think it would be useful, perhaps not under the same heading as that but if there still is that kind of absentee ballot, and I'm just catching up because I was reading. I noticed the proxy voting is back in so I don't know whether the old form of absentee ballot on PDPs is still something you intend to have continue.

But assuming it is, I think it is good to have the process defined so that it doesn't have to be refigured out all the time and yes it could be changed. But I guess I tend to agree with Julie here that having it documented that, you know, when doing an absentee ballot on some item this is the policy - this is the process that is a guideline is probably a good idea.

Ray Fassett: Is that - is that because Avri in the case of proxy voting?

Avri Doria: Well as I say I'm not sure. I've just, you know, just doing this meeting started reading the draft that you guys are working on.

Ray Fassett: Right.

Avri Doria: So I didn't come in informed.

Ray Fassett: Right.

Avri Doria: But if you've got proxy voting, I just don't know whether you also intended to continue the practice because at one point it had been either proxy voting or absentee. And I have no personal objection against having both. I just don't know whether you intend that.

Ray Fassett: Well the guidance I've gotten from the OSC Chuck on this one, apparently there's a history here of quite a bit of back and forth and discussion on proxy voting.

Avri Doria: Oh yes.

Ray Fassett: Okay. I'm not familiar with it of course but it was - that what was mentioned to me. And because that is apparently such a can of worms, it's not considered - the opinion brought back to me is for our near term work, proxy voting is not something we need to really delve into in order to seat the Council.

Avri Doria: Oh, I was confused because I was reading the document.

((Crosstalk))

Ray Fassett: Exactly. It's in there now. Yes. I've left it in there now or we've left it in there now just because we haven't made the decision yet.

Avri Doria: Ah, sorry.

Ray Fassett: That's okay. You're doing it right. So I'm just now actually communicating for the first time the communication I got back is, you know, that is a can of worms with a lot of history to it that I'm not really familiar with. And - but in order to seat the Council which is our near term on these rules and procedures, we, you know, it's obviously something we will double back to later, proxy voting but not something that is of urgency for the needs that we have coming up for Seoul.

Avri Doria: Okay. In which case I would truly recommend that there be something there like there is now in the bylaws that describes the process by which to do the PDP and other absentee ballots. We've used it successfully. It does seem to work. And, you know, it has done things like give the, you know, set a normal period of two days but given the Chair a discretion to either do it in one day or give it a week depending upon, you know, some pre-announced set of reasons.

And I think it's useful that it's there. Any time something like that isn't written somewhere then there's always a chance that the Council is going to get into, you know, a certain period of naval gazing where we try to figure out how to do something.

Ray Fassett: Right. Now when you read 16.1 that does not get you comfortable in that light?

Avri Doria: Oh, I thought somebody was saying it should be taken out.

Ray Fassett: No. No. Sixteen point one would - I think would stay. Am I - am I saying that right?

Wolf-Ulrich Knochen: Yes.

Ken Stubbs: Yes.

Avri Doria: Oh okay. Yes. Yes, no that's the one from the bylaws. And yes, that should...

Ray Fassett: Yes. Yes. So, you know, what I'm suggesting is 16.1 is as deep as we need to be.

Avri Doria: I see. Yes. Okay. I understand now. I was confused.

Julie Hedlund: Ray, this is Julie. So let me confirm again since I'm the keeper of the document. You're saying retain 16.1 but delete 16 - the rest of 16...

Ray Fassett: Well no.

Julie Hedlund: ...(entails) email voting.

Ray Fassett: Yes. Well let's look at that question.

Julie Hedlund: Because that gives the - that gives the details on how to conduct an email vote which I thought Avri was saying was useful to include somewhere.

Wolf-Ulrich Knoben: Yes. So if - just for clarification. So isn't it - so I understand right now, so we are talking about absentee voting by means of email, Web based things and telephone communication. So is that the case or that's the email is the means for the absentee voting? And there is no specific - no specific email voting. To understand that's correct and then we could clarify that in the - in the heading as well.

Julie Hedlund: This one is actually confusing.

Wolf-Ulrich Knoben: In Council absentee voting by means of email, telephone and Web based.

Julie Hedlund: Right. This is Julie and Avri it is confusing because previously in the original procedures that we were working with, this section was simply titled GNSO Council email vote. And there was no section - 16.1 simply started the GNSO Secretariat will typically act as a returning officer for an email vote, et cetera.

But in the latest recommendations on the bylaws, the section absentee voting which previously had appeared in the bylaws, the recommendation was that that come out of the bylaws and go into the operating procedures.

And the question is and I think Wolf-Ulrich is getting got this as well is then is this absentee voting section appropriate to include as part of a section that deals with absentee votes and then one of that - one aspect of absentee votes is email voting. Or do we really have two sections? One that is absentee votes and another section that is GNSO Council email votes.

Avri Doria: Yes. Well this - can I ask - this is Avri again? Can I ask some questions?

Ray Fassett: Yes.

Avri Doria: So the section in yellow here are a set of conditions and I would worry about those conditions but are a set of conditions that would apply to any and all absentee ballots as well as to elections by mail - I mean - yes. Because it seems here by adding those conditions that one has cancelled the advantage of doing the absentee ballot.

If people who are absent can vote but you still have to wait until the following meeting to confirm that vote then you've really lost the advantage of doing an absentee ballot of getting something finished but allowing everyone to record their opinion especially since it's done open and on email whereas an election ballot is done with verification.

So the two being compounded by that really makes it a very difficult thing to understand. And these extra sets of rules here would really make the absentee ballot almost not worth doing. Might as well wait until we have people, you know, at just - I don't know. And it's very confusing to read it.

Wolf-Ulrich Knoben: But absentee we're only voting shall be restricted only for some special cases. It's not, you know, those cases aren't here before, the policy recommendation and so on, initiate the PDP. That's two or three cases which...

Avri Doria: Right.

Wolf-Ulrich Knoben: ...the absentee voting is restricted on. So I couldn't see a case, you know, Avri that in any other case, you know, there will be confusion. Because it is concerns only the absentee voting for three specific cases here.

Julie Hedlund: Right. And this is Julie, Avri. These - the addition of the absentee voting section and then the continuation of the existing text on email voting having them juxtaposed does as you note make it appear that the email voting then becomes the way that absentee voting would be conducted which as you say would obviate the need for doing an absentee vote.

I think properly they, and this is for discussion here, could have been set apart as two separate sections meaning that one is a section absentee voting just what that 6.1 says and a new section, say 17, that is GNSO Council email voting.

Wolf-Ulrich Knoben: Okay.

Avri Doria: But the rules under the yellow, the stuff that's in yellow that would apply only to for example elections or what would that apply to?

Julie Hedlund: This is Julie. In the original - in the original operating procedures it didn't say to what it applied. It simply said GNSO Council email votes and then proceeded to say these are how email votes are conducted. It didn't say email votes would be used in X circumstances. So that is a fair question for us to consider.

Ken Stubbs: Well we could always do it on an exclusionary basis. By that I mean you could say except for votes for Board members and officers of the newly constituted body, blah, blah, blah. That way you don't need to outline every possible reason that you might use the system.

Avri Doria: I see. Okay. I get it. So - okay. This is Avri again. Sorry. I understand now. Thank you. So really there are three conditions. There's the elections that we have now which is one type of email voting. There's the PDP voting that we have now, which is 16.1, which is a second kind of voting.

And then there's a third kind of voting that have actually never used which is even from without a meeting one could call for a vote in some cases. And if that were to happen, these are the rules under which such a thing would happen. And that vote would need to be confirmed that the next then shouldn't be used, et cetera.

So is that what we're talking about, three different cases one of which I must admit in the five years in the Council we've never used?

Ray Fassett: I don't know if that third one could be used because in order to call for a vote you need to have a quorum, right.

Avri Doria: Okay. So this would be in a meeting. We call for a vote but there isn't enough people here to do it. So therefore we say we'll do it by email over the following next four weeks and - or three weeks. And we will confirm that vote with what requires another vote at our next meeting.

Ray Fassett: I don't think so. I think - I think that even for the motion to pass for a vote there needs to be a quorum defined as at least one representative of each stakeholder group as...

Avri Doria: Right. I understand. But there's not enough people there to do a full vote...

Ray Fassett: Right.

Avri Doria: ...at the moment. There's a quorum to start a vote but there's not enough to do a proper vote where everybody gets to express their opinion. And therefore we're asking for an intermediate vote and at the next meeting -

does it take just a quorum for us to approve it or does it take a full vote to approve the intermediate vote? Pardon my confusion. I tend to look at things in terms of...

((Crosstalk))

Ray Fassett: No, that...

Avri Doria: ...possible examples of how I would do it if I had to do it.

Ray Fassett: Yes. No, that's why this whole email voting is complicated.

Ken Stubbs: Well I guess whether or not you're - at the second meeting you're referring to Avri, it's really a ratification, isn't it?

Avri Doria: Yes but what does ratification take?

Ken Stubbs: Yes. Well that's a good question. And my feeling is that a ratification - I'm not an expert on Robert's rules. So my guess is the rules that govern any voting process in any Council meeting would govern the ratification. So I mean whatever the voting process - every time we take a vote in the meeting, you now, that's what it was.

There are exceptions to voting processes like the PDP and the directors but the normal voting process it can be something as, you know - it's hard to explain. I can't think of one off the moment. But...

Avri Doria: At the moment I'm looking on my bookshelf for my trusty old copy of Robert's...

Ken Stubbs: Well years ago I remember we got into a huge rigmarole around rotating calendars for meeting.

Avri Doria: Oh and we're in it again.

Ken Stubbs: Oh and good luck to you. This one was, you know, trying to get more deference to people like Adrian and people in that Pacific Rim. And I think we finally ended up taking a formal Council vote on it. And that's - as far as I'm concerned, that's as good of a reason - as good of an example as anything

You know, any time you ask the Council to vote on something that is not a part of a formal ICANN process like a PDP or an election of directors, you know, those rules would govern. And my guess is that unless the Council specifies that this vote shall include all members whether or not they're physically present then, you know, you may have a separate case, you know.

Avri Doria: This is Avri again. As long as it's clearly defined that this is a third possible - I mean a third condition for absentee ballot then it does make sense. I think the way it's written now. You know, maybe it was just my quick first reading during this meeting. But it's confusing.

But if it's clear that, you know, there are three reasons why an absentee ballot could be taken. So this is explanation of absentee ballots and there are three reasons. And different rules pertain to each of those, then it makes sense to have each of the three policies documented.

Ken Stubbs: I remember years ago there was an attempt by one of the constituencies to stop a PDP process entirely and a formal motion was made before the Council - to Council to cancel the process, you know, which is - was one of those cases for how do you deal with it. You know, and I think really stepped in and helped us get through it.

But, you know, I think we have to have - acknowledge the fact that there could be votes that would be taken that are not necessarily covered by an existing process that we have defined in the past, i.e., votes on policy, votes

on - for officers and directors of ICANN. And if so, then we have to deal with them in a specific way, you know.

Avri Doria: Yes. And I think your example - and I'm sorry I'm speaking too much. I really meant to just listen.

Ken Stubbs: No. I understand and I called you in by asking your thoughts and I think it's important sometimes. That was a critical juncture, you know, and we got one of two choices. We can either have something to try to deal with the odd by lumping the odd in with any old example or you stop the whole train and get John Jeffrey into the room and ask him what the hell do you do. You know.

Avri Doria: Yes.

Ken Stubbs: It sounds somewhat embarrassing but I'd much rather do that than to be made to look foolish because in the long run our actions are governed by a set of guidelines that have been promulgated by the corporation and ratified by directors. So, you know, I mean...

Avri Doria: Oh yes. I've gone to legal counsel several times for advice on what to do. And now that you mention it, I mean especially in the case you mentioned of how do we schedule our meetings which seems a trivial topic but can be such a sort point to make a decision at any meeting where the people who are unhappy with the scheduling are not present and can't by their view be present because it's scheduled at an inhuman time to have such a possible voting method that sort of says of course you can't be here. We understand. Therefore do this is - I can see it being useful.

Wolf-Ulrich Knohen: Wolf speaking. So you're talking still about the absentee voting and the cases, which may be applicable for absentee voting. Yes. So well I don't care about the number of cases. It could be two or three or four cases. For me it's - I understand that this paragraph is only available for specific and important cases I would say that.

That means initiation of a PDP, then forwarding a policy recommendation or fill a position for election, which have been cases or have been seen as cases, as important cases where absentee voting should be (unintelligible). That's what I understand.

And we should think about, you know, how these - in the light of the - of the past experiences encountered, are these cases complete or do we have other cases which would be included right now but only important cases. So that's how I understand that paragraph.

And that was the reason why I (tossed) - I suggested we ought to also to include this case and case if Article 6 of the bylaws is going to be - is concerned in terms of amendment or modifications that the Council has to take a vote about that. Article 6, Article 10 that means the existing bylaws. Article 10 concerns the Council structure.

That's because I was of the opinion that that is really important in which touches the Council itself and therefore it should be permitted for absentee voting.

Ken Stubbs: Ray, this is Ken Stubbs. I apologize but I have another conference call I have to move on to. So I'll join you guys next week at the same time unless I hear something different.

Ray Fassett: Next week we'll be at the 1600 UTC time. One hour.

Ken Stubbs: Okay. So I'm assuming then I'll get an email.

Ray Fassett: Yes. Yes.

Ken Stubbs: All rightie. Fine. Thanks.

Ray Fassett: Thanks Ken.

Ken Stubbs: All right. Bye bye.

Ray Fassett: With that said I have an opportunity to stay on and continue this discussion.
How are others doing?

Wolf-Ulrich Knoblen: I could stay here for another half an hour.

Julie Hedlund: Yes, this is Julie I can stay on.

Ray Fassett: Avri?

Avri Doria: Yes I'm fine. I have another, I have a PPSD meeting in an hour but so half hour, 45 minutes should be fine.

Ray Fassett: Great. Thank you. I think this is productive. This is one; we identified this section as one of the trickier sections for us to work through, so if we can spend a little more time on it that would be great. Am I, I'm trying to though formulate all of the discussion now in my head. Are we wrapping our hands around the idea that Section 16 is absent - is absentee voting and then we create a Section 17 that discusses e-mail procedure?

Wolf-Ulrich Knoblen: Yes. Okay.

Ray Fassett: Okay. Now if so then does, do we feel that the 16.1 right now as it's written, are we comfortable with that?

Wolf-Ulrich Knoblen: 16.1 you mean?

Ray Fassett: Yes. And then we move into a Section 17 that discuss (unintelligible).

Wolf-Ulrich Knoblen: Just one...

Ray Fassett: Okay.

Wolf-Ulrich Knoben: ...one point for me. So that is you know, if that is accepted you know, the amendment of the, to include this case of amendment of Article 10 of the bylaw then I agree. I was only though, I wanted to understand you know from the Council point of view if we really talk about really important cases or what was the reasoning for example in order to put this existing case, you know, to initiate the PPDP and forward policy recommendation to the board just on, to this list. Now it's more understanding, correct, that it would be only exceptional important cases? Yes?

Avri Doria: (If I must), this is Avri again, those were the ones that the board and the legal staff approved. I think at the time the GNSO Council was looking for any vote to be, to have the possibility of absentee, however when legal staff looked at it in terms of the bylaws the only ones that were bylaws definable were things like elections and PDPs, so those were certainly the only ones that were important enough to be included in a bylaw section on absentee ballot.

Wolf-Ulrich Knoben: I see.

Avri Doria: Other ones - however the other ones that were mentioned and certainly things that when looked at externally can be seen as unimportant for example, things that are rules of order type of things of when we have our meetings. From an external perspective they do look sort of silly but from an internal perspective of someone who finds that their meetings are always scheduled at 3:00 in the morning it becomes a real and serious issue of you know, the possibility of real representation.

So having that third category as an acceptable reason for doing something, and even having a different set of processes that applies to it doesn't seem unreasonable to me because those things actually, you know, very often it's the littlest things that make the biggest problems because they're the things

that really affect us personally and help a group become functional and dysfunctional.

So I think it's reasonable to have a process for if something is really important enough to the group at the time do an external ballot here's how you do it and to leave it open and but, yes.

Ray Fassett: Yes. I agree I see that point. I'm still thinking that when we, when we're you know, discussing absentee vote we're tying three specific instances and calling that reason for absentee voting. So let's just assume for a minute that we say that's okay and now we go into this new section 17 that discusses e-mail procedure.

We can begin that with something like at the discretion of the chair a call for votes including by e-mail is allowed, I don't know, something like that. Now we're not, but we're not, we're not bleeding it into absentee voting. In other words there could be a reason that's really not about absentee voting but it's about a time zone, an inhuman time zone for example that at the chair's discretion could invoke - may allow an e-mail voting procedure, does that, does that make sense at all?

But break it away from absentee voting.

Wolf-Ulrich Knoben: Right.

Avri Doria: That's, this is Avri again, that's one way to do it certainly. The other one is think about basically under absentee voting list the you know, the two possibilities, you know, but...

Ray Fassett: I think we have three now don't we?

Avri Doria: Well the other one is not really because elections yes, I guess it could be called absentee but really the election process.

Ray Fassett: That's the Web-based interface.

Avri Doria: That's the Web-based interface at the moment.

Ray Fassett: Yes, so we're calling a Web-based interface absentee voting.

Avri Doria: Right. And that's sort of a weird (word) for it. For example one, I'm planning and this is just, and it's not formal yet but let me because I haven't been accepted by the Council though it's being discussed with them once -- in terms of the Wednesday meeting in full what my hope was is to have the first item on the agenda, the vote on the procedures and to have a second vote, the second thing in the agenda to start the elections for the chair because that'll be the first time that that Council will be seated in a voting capacity.

Ray Fassett: Yes I'm thinking that the, even though it's a Web-based approach, software approach they call, it's called absentee voting because at the time of the vote you can't hear the other people...

Avri Doria: Exactly.

Ray Fassett: ...you can't see the other people. So therefore because you're doing it through a Web-based interface maybe in a closet somewhere, you know, it's therefore absentee voting, but that's just, but to me that's like a different issue than at the chair's discretion may want to use an e-mail process.

Avri Doria: Well, that may be the way that you market the three differences.

Ray Fassett: Yes.

Avri Doria: One of them is the, the election which may be done in situ or absentee. Second is a PDP or making a recommendation which must allow an absentee ballot and then third there's the discretionary absentee ballot, so

that may actually be a way of categorizing the three types of absentee, election of board seats, and chairs, not necessarily chairs but certainly election of board sea

Ray Fassett: Right.

Avri Doria: Basically it's secret election essentially.

Ray Fassett: Right.

Avri Doria: PDPs and recommendations.

Ray Fassett: Right.

Avri Doria: And discretionary absentee ballots and each of those three could have a different set of conditions that applied to how they were done. I don't know.

Ray Fassett: Yes. That's -- okay.

Avri Doria: Because what the PDP and the resolution there is no discretion on my part whether we hold that vote or not.

Ray Fassett: Right.

Avri Doria: My only discretion is whether it's two days, one day or a week.

Ray Fassett: Okay. That approach makes sense, makes sense to me right now as I'm thinking it through. So we would have to reword 16.1 to capture that third prong, right?

Wolf-Ulrich Knoben: Yes.

Ray Fassett: Am I understanding that correctly?

Wolf-Ulrich Knoben: Yes.

Ray Fassett: And then we would have a Section 17 that discusses procedure, is that right?
E-mail procedure or no?

Wolf-Ulrich Knoben: Yes.

Avri Doria: That seems useful as long as it's clear what it applies to and such. When
using an e-mail procedure the following conditions would apply kind of thing.

Ray Fassett: Yes, the only part that's missing is at the chair's discretion on that third prong.
We have to be clear on that. I'm not, I'm sure we can be I'm just not, the
language isn't coming to me.

Avri Doria: Well you could basically for all other votes at the chair's discretion, you know,
votes that are not elections and not PDP related, all other votes at the chair's
discretion is one way to put it, I mean you can also do it another way, and you
know, an absentee ballot can be held and then you know, have a set of rules
for discretionary ballots called at chairs discretion the following rules would
apply.

Ray Fassett: Okay. I like that approach. Wolf what do you think?

Wolf-Ulrich Knoben: I agree, I could live with that, yes. Okay.

Ray Fassett: Julie can you capture that into language?

Julie Hedlund: Yes. I'll draft that up and send it around following the meeting and you know,
we can all have a chance to see that.

Ray Fassett: Okay. So when we then look, move on to 16.3 and 16.4 and 5 are, those are
more procedural related to the e-mail voting right?

Wolf-Ulrich Knoben: Yes.

Julie Hedlund: Really that's how I understand it.

Ray Fassett: So when I look at 16.4 it says that GNSO Council could choose to treat the e-mail votes as final written ballot only when voting for two board members. Actually that just goes away, right? Because voting for board members is through the software platform so we should ax 16.4 right? It just has no purpose...

Avri Doria: Right...

Ray Fassett: ...in today's world.

Avri Doria: ...because of the paragraph above you will have said on condition one we use, you know...

Ray Fassett: Yes.

Avri Doria: ...appropriate secret Web interface, etc.

Ray Fassett: You could, you could. That's not a bad idea, that's crisp.

Avri Doria: Except for the blah blah part.

Ray Fassett: Yes, except for that part. But no we're just saying go ahead and put in the rules and procedure the rules and procedures the procedure of how to do the Web-based as well and what conditions those apply.

Avri Doria: It would certainly be clearer and it's what we're doing.

Ray Fassett: And it's what we're doing. All right so Julie I'm back at you. Can you capture that too?

Julie Hedlund: Yes, I'll have to work with Glen because as far as I can see we don't have that written down anywhere.

Ray Fassett: Right.

Julie Hedlund: How that Web-based interface works that is (unintelligible).

Avri Doria: Right. I don't know how much detail we have to go into other than you know, it's secret and (have a confirmed) thing but Glen's definitely the right address, Glen or I guess (Kent) who runs it but yes.

Julie Hedlund: Yes. And this is Julie I'll work with Glen.

Ray Fassett: All right how about 16.5, can we look at that one? Are we agreed that 16.4 can go away right?

Julie Hedlund: I took that out.

Ray Fassett: Okay. So let's look at 16.5. What is the purpose of that?

Avri Doria: There's an interesting on what concerns me and so let me give you one practice that I followed is for example when we talk about confirming selections of chairs for groups or confirming members for various tasks confirmation has gone something like okay, we've decided that so and so, you know, so and so has volunteered to chair this group.

I haven't heard any objections, you know, any problem with going ahead with this. No one speaks, it's called concerned. It isn't something where a formal vote has been called. It's basically in the meaning it was confirmed essentially by consensus you know, in terms of the question was asked.

Part of the process that I tend to follow is I'll ask the question is there consensus on this. If there isn't consensus then we need to take a vote then I ask, and this is probably more information than you wanted at the moment, then I ask okay, is it okay if we take a voice vote or do we need a roll call. If anyone objects to a voice vote then we go to a roll call.

And so now of course there's certain things like PDPs that demand a roll call from the beginning and there's no question but on anything where there isn't a firm rule on what it means to confirm it's first consensus, no one objects then we're done. It's second voice vote if you know, or if somebody wants everybody's you know, John Hancock on the line about whether they agreed or not then it's a roll call. And I've always left that pretty much up to anyone can call for a vote and anyone can call for that vote to be a roll call.

Ray Fassett: But it requires either, you know, the ability to hear everybody or see everybody, right? I mean that...

Avri Doria: Right. So what the confirmation what you're saying is at one meeting you said okay, we're going to do an absentee ballot on this because the people that really care about it weren't able to come in because they're in the hospital with a broken leg and so therefore we want to give them a chance to vote on it. You know any reason that we want to think of for why you want to say those of us that are here while a quorum aren't enough for this to be a fair vote.

You know whereas if I would look at the group and the only people that were missing were people who had never voiced an opinion, you know, then you know I might not supply to do an absentee because enough people are here, we have a quorum, we're only missing one person.

Ray Fassett: Right.

Avri Doria: Nobody suggested it. So.

Ray Fassett: All right so I think, yes actually I'm understanding the 16.5 better now. I think it's going to be replaced by the language that is at the chair's discretion.

Avri Doria: Well at the chair's discretion initiates it but what this one is saying is that when a valid absentee ballot for a chair's discretion reason has been undergone it's important at the next meeting just to confirm that, you know, it's acceptable. I don't know that it's necessary because these votes will be done publicly on the list and people will have (seen them) but (I can see) other people arguing that a confirmation (was necessary). I hear a dial tone.

Ray Fassett: Yes me too.

Avri Doria: Okay.

Julie Hedlund: Operator on the line?

Coordinator: I'm just investigating, just one moment.

Wolf-Ulrich Knoben: Okay.

Avri Doria: I mean I guess I've just done a lot of things in practice and they've evolved over the two and a half years that I've been doing this chairing thing.

Ray Fassett: Okay. There's a lot to think about here. I don't have any definitive answers. I think I'm going to have to probably see the next rendition that we talked about doing splitting these two out in order to get my hands around 16.5, 16.7 and 16.7.

Julie Hedlund: This is Julie. I know we had spoken about this previously but I don't recall if we had a definitive decision and that is 16.8 was the one that said under exceptional circumstances which must be described by the chair and agreed

to by the Council by two-thirds vote may be decided to ignore the e-mail vote and hold a fresh vote, etc., I think Wolf-Ulrich had suggested removing this and I think Ray that you had approved. Shall we remove this or (unintelligible) for consideration?

Ray Fassett: Yes. I think so. I think 16.8 just go away.

Wolf-Ulrich Knoblen: Yes.

Julie Hedlund: All right I'll reflect that. Thank you.

Avri Doria: Yes. I would almost recommend eliminating six, seven and eight.

Ray Fassett: I'm, that's where I'm at Avri as well.

Avri Doria: And hopefully somewhere else the notion of confirming something at a meeting is to be discussed but you know.

Ray Fassett: Right. That's where I was at as well is also deleting 16.7 and 16.6 but I, I was just...

Wolf-Ulrich Knoblen: (Unintelligible).

Ray Fassett: Yes. Okay, well if we can get there I guess I was just not wanting to be that presumptive until we were able to see sort of the new rendition as we were talking about but yes, I'm in favor of deleting 16.7 for sure.

Wolf-Ulrich Knoblen: Okay.

Julie Hedlund: I deleted 16.7 and 16.8.

Ray Fassett: All right. So I'm also in favor deleting 16.6.

Avri Doria: You know, if we don't eliminate 6 I would allow for just, you know, consensus and not require a vote. If there isn't consensus then a vote will be taken.

You know so that, and getting consensus is really the easiest thing because does anybody disapprove, no, okay we've got consensus. You know and that when there is consensus, consensus is easy.

Wolf-Ulrich Knoben: But Avri just understand what does it mean consensus then?

Avri Doria: It means no one raises, no one in the meeting objects.

Wolf-Ulrich Knoben: Okay.

Avri Doria: Right. If there are no objections, in other words and maybe we don't want to use a loaded word like consensus that within ICANN has so many different meetings.

Ray Fassett: Yes.

Avri Doria: So you know, it needs to be confirmed if there are no objections, you know, if there are objections then you need a simple vote.

Wolf-Ulrich Knoben: Okay. So that would mean you would replace that sentence, validated by a call for consensus let me say to show they will, instead of provided by a simple vote of approval.

Avri Doria: Be validated -- only if we've defined this complicated word consensus.

Ray Fassett: Yes. I think going the other way we better if no objection.

Wolf-Ulrich Knoben: Okay. All right.

Avri Doria: Yes, the chair will ask whether there are other objections to you know, to the e-mail vote. If anyone objects then a simple vote of approval, I'm sure somebody can wordsmith it better than that but.

Wolf-Ulrich Knoben: Okay.

Ray Fassett: I think that side is a wrap in my view.

Julie Hedlund: This is Julie, I'll go ahead and reflect that change as well for everybody to (read).

Ray Fassett: Thank you. All right so we fairly well made our way through 16 for now, we may pick this up with our next week's call but for not I think we've made some pretty good progress.

Avri Doria: And by the way, let me know if you want me to keep kibitzing in these calls.

Ray Fassett: Yes.

Avri Doria: I won't, I was just stopping in to visit because I wanted to also let people know that I did plan to put a vote for this on the Wednesday meeting if at all I can because I'd like to leave the new Council and its new chair as ready to run as possible.

Ray Fassett: Yes. That's, yes we got the same goal in mind. You're talking about the Wednesday in Seoul right?

Avri Doria: Right. The Wednesday in Seoul one of the first things because that's our first voting meeting of the newly stacked, newly seated Council and so it makes sense that for their two first actions to be one would be voting on the, their you know, rules and procedures and the next one is the election. Now since the election can't be completed without some form of absentee ballot we'll see what's defined in here.

What I was hoping was to have that completed by Thursday so that I could share chairing the Thursday meeting with the new chair and then when I blink out of existence on Friday that chair is up and running and all things being equal somebody got 60% of both houses and we're ready to go, or we know that the vice chairs are doing the chairing jobs for the foreseeable future. In any case when I blink out of existence we've taken care of that piece of transition.

Ray Fassett: Okay. Hopefully you're feeling a little more comfortable that we're going to get you in that spot.

Avri Doria: Oh I'm real comfortable.

Ray Fassett: Good.

Wolf-Ulrich Knoben: Okay. What do we have to do for the next meeting, which...

Avri Doria: Can I ask a question about another clause that's in here?

Ray Fassett: Yes please.

Avri Doria: In my reading?

Ray Fassett: Yes.

Avri Doria: The 4.2.

Ray Fassett: 4.2.

Avri Doria: A retiring chair will not be eligible for reelection for a period of one year. Are, is there an implication in this that a chair only serves one year or what does it mean to be a retiring chair? I mean I'm retiring because I'm leaving the

Council and I have to be out of the Council for two years because of, not that I plan to come back, but because of term limits, but what does it mean to be a retiring chair and do you really mean to say that a chair only serves one year?

Ray Fassett: Yes. That's a good question. You know your first part of that question was something I thought about too. What does retiring chair mean, but then your second question is even better, it does infer that the, that the new chair is only one year or any chair is one year.

Avri Doria: Which I wouldn't recommend simply because it takes half a year to learn how to do the job.

Ray Fassett: Right. It almost would be better an ex-chair, right, that would be better versus a retiring chair. I'm not sure what the terminology is but I'm not sure retiring chair, if we understand retiring chair to mean the former chair, you know, if we all, if the average person understands it to mean that then I think we're okay.

Wolf-Ulrich Knoben: Right.

Ray Fassett: That's probably why I didn't raise it is because I thought well I thought well that's probably what the average person would interpret that to mean. But the second part, and that's a good point, so what is the purpose of this? The purpose of this is to say that you know, an existing chair can't the chair forever, right? That they have to retire at some point and then it becomes when can they be eligible again.

Wolf-Ulrich Knoben: Yes.

Avri Doria: Right. But I don't see a clause in there that says a chair will serve no more than X number of terms.

Ray Fassett: Right.

Avri Doria: I mean I know a lot of the stakeholders groups or constituencies have a two term rule, you know, a two term with a partial other term rule and perhaps you want that there and that would be a reasonable thing. But it doesn't say.

Ray Fassett: Yes we don't have anything here in the rules procedure that speaks to term limits do we?

Avri Doria: I don't see it but I only read quickly.

Julie Hedlund: Yes, this is Julie, it's not here and I'd need to pull up the latest recommended changes to the bylaws but I thought there were term limits in the bylaws. If so, at the least if there are but Avri you could correct me there I'm sure.

Avri Doria: Yes, I have the bylaws up on my screen I'll quickly check. I don't remember seeing.

Julie Hedlund: Yes, and I don't remember either and it may just be that something fall...

Avri Doria: There are term limits for Council members certainly and there are rules in the bylaws about Council member term limits that a Council member that has reached her term limit may not serve in the Council for one full term. So in other words I've reached my, I will have reached my term limit as of the October meeting having served a partial term and two full terms, thus I am out for at least you know, the next two years if not the rest of my life, but at least the next two years I'm not qualified to be on the GNSO.

Now we could also do a only two terms for a chair, which would be two single years plus, you know, a partial because people always allow the partials in those count. And that would not be unreasonable but I don't think it's in the bylaws and I don't see it here and I'll do a quick check of the bylaws since I do have it open in another screen.

Ray Fassett: But in theory I guess if each Council member is tied to a term limit then inherently the chair will be.

Avri Doria: Right. But the chair could serve five years theoretically at that point or even almost six years if somebody is elected to a partial term in the Council and then serve two full terms in the Council that can give you five and a half plus.

Ray Fassett: I don't think that's a bad thing, I don't see anything negative about that.

Avri Doria: And I'm not minding it I'm just...

Ray Fassett: Yes. So I'm just questioning in my head do we need to delve into term limits at the chair level. Nothing's flagging me to say you know, we should do that. But to the other point of inferring that you know, the term is one year I think that's a real good catch to me, but I could've read that a million times and not picked that up.

Avri Doria: The term one year I think is in the bylaws.

Ray Fassett: For the chair?

Avri Doria: Yes. I believe the term of a chair is one year maybe, but I've been reading so many charters and steering group charters and everything else that I want to make sure.

Ray Fassett: It doesn't, that doesn't make sense to me to limit a chair to one year, but now that's a bylaws level obviously out of our scope. So if there is something in the bylaw then we would want to be consistent in this sentence, so if it's one year now in the bylaws then we would then what we're saying here is correct.

Julie Hedlund: Ray this is Julie. See the way I read this is that the retiring chair will not be eligible for reelection for a period of one year just to me that what we're trying

to say is that a chair cannot serve subsequent terms, meaning that that same chair, the retiring chair can't be elected, you know, immediately following the end of their one year term, but they might be reelected at you know, the year thereafter.

Avri Doria: Right. So that is a one-year term limit, I mean a one-term term limit.

Julie Hedlund: Precisely.

Ray Fassett: Yes I see that Julie now, what you're saying.

Julie Hedlund: Yes but my question is it goes back to Avri's question is, is this clear though, is that really what it seems like we're saying here and is this open for...

Avri Doria: Yes, okay. And just to go back the GNSO Council shall elect the GNSO chair for a term the GNSO Council specifies but not longer than one year.

Wolf-Ulrich Knochen: Yes.

Avri Doria: And then it says how that election will happen but it does not give a term limit, so it's just each term is a year but it doesn't specify how many.

Ray Fassett: Oh, okay.

Avri Doria: And then it says the procedures for selecting the chair and any other officers are contained in the operating principles.

Wolf-Ulrich Knochen: Yes.

Ray Fassett: Okay. Does that make our 4.2 consistent then? I think it does doesn't it?

Avri Doria: It's consistent it just has the term limit of one term at a time. And as you get to serve a year and then you're out for at least a year and then you can serve

again, which is possible as long as that's what you really want. I'm not sure I recommend it but (it is possible).

Ray Fassett: Well no, the bylaws is saying that the election needs to be annual.

Avri Doria: Yes.

Ray Fassett: It doesn't mean that the chair is limited to only one year.

Avri Doria: Exactly.

Julie Hedlund: Right.

Ray Fassett: It's just saying that if a chair, an existing chair is for whatever reason let's just say voted out that chair can't go up for election again until another year.

Avri Doria: Certainly if you impeach a chair that chair (should) be out for a year. I don't know if you...

((Crosstalk))

Ray Fassett: No I don't mean impeach I just mean a new election comes the following year and another person wins the former chair can't be eligible for a year.

Wolf-Ulrich Knoben: Yes.

Ray Fassett: For it to be on the ballot.

Wolf-Ulrich Knoben: Yes.

Julie Hedlund: And this is Julie, this was near as I can tell because it has no other you know, it doesn't show any indication of being added or you know, at a later time, I believe I'd have to check but this was in the original.

Ray Fassett: Yes, this was original language, right.

Julie Hedlund: Right. And so yes it's fair enough question whether or not we like the way it reads.

Avri Doria: We certainly have never followed the one term rule.

Ray Fassett: Right it, yes I'm not, I definitely don't want this language to be construed as limiting, you know, to a one term rule, that's not what, I don't think that's consistent to our goal. I'm trying to understand if that's what it does.

Julie Hedlund: And for this team to consider whether or not there, you want some, the opportunity for continuity if for instance there are some particularly difficult issues and it might be useful to have the chair be able to be elected immediately following the end of that, you know, chair's first year term. I mean this would preclude that from happening.

Ray Fassett: Okay let me, I guess I'm not understanding, how could it read differently, maybe how could it read differently? I think we're all seeing the same thing, we want the same goal in mind that we don't want to be limiting.

Avri Doria: I think if you're saying a chair who has left office is not eligible for reelection for a year and perhaps you know, you can add a phrase this does not pertain to a currently sitting chair standing for reelection if that's, and be specific about it. So that if for whatever reason if for example I got pissed off at the Council and instead of wanting to throw things against the wall during the meeting I said I quit.

Ray Fassett: Yes.

Avri Doria: I've had it with you people and I quit.

Ray Fassett: Right.

Avri Doria: At that point I wouldn't be eligible for another year. I'm sorry, I always put things into scenarios.

Ray Fassett: Right.

Avri Doria: Whereas you know, if I were, if this was last year and I was still chair and it was time for an election and my term wasn't due to end until two weeks after the new chair was ended, of course I could re-stand for election. You know so therefore a chair who leaves office either through, you know, and you don't have to get into this, through illness, through temper, through being voted out, through you know, through being inaccessible for six months and therefore the Council said hey, we need a new chair because no one's heard from our old chair.

Ray Fassett: Right.

Avri Doria: And all of a sudden that old chair shows up again. So I can see lots of reasons why you would say if you've left office in the middle of your term, you know let's say you were governor of Alaska and you've left office in the middle of your term you've got to sit out at least a term before you can run again.

Wolf-Ulrich Knoben: So, well Wolf speaking. So do we in any case we don't need this paragraph? Is this paragraph a retiring chair or a leaving chair will not be elected or for re-elections. So I understand and I'm really of the opinion so that used to be applicable for the, for the old time yes I understand because the chair had a term longer than one year.

And so it does not apply for the new, for the new time then because although if you look for the, to the selection process it means you know, the how we just have to decide by two-third vote I understand or at least a majority vote

each house upon, about a new chair and that's a limit which every person has to take, you know.

And so there is not any other restriction to be taken I understand, no. It's only the what the bylaws say they say okay, the Council has to take a vote every year about a chair. Maybe a new person or the same person, that's what the bylaws say and that's it. So from my point of view we don't need in any case this paragraph 4.2.

Ray Fassett: Maybe you're right. I'm, you're convincing me Wolf that maybe 4.2 is just not needed anymore.

Wolf-Ulrich Knoblen: Yes.

Avri Doria: As I say, the old, by the way one point, the old, I mean the old bylaws also said the term of a chair was one year, it wasn't longer.

Wolf-Ulrich Knoblen: So I'm sorry I have to leave now but that's my comment to that and...

Ray Fassett: Okay.

Wolf-Ulrich Knoblen: ...I have to leave so at the next meeting (unintelligible) and so that's it, so (I have to go). Sorry about that.

Ray Fassett: Thank you Wolf. Thank you Wolf very much and we'll talk next week okay?

Wolf-Ulrich Knoblen: Next week yes. Okay. Bye-bye.

Ray Fassett: Okay.

Avri Doria: The last point I would make on it is, and then I'm going to leave too, is that if you want to have some rule that says a chair who leaves the chair for a mid-term for any reason is not eligible for that, if you want to put that kind of rule

that makes sense and it's clear. But otherwise I agree, you may want to drop it.

Ray Fassett: Yes. The only reason I might not even want to go there is because you know, somebody could have a legitimate reason to have to leave a family issue that could be a great chair or surgery, right, could be a great chair and you want to give that person the benefit of the doubt and allow them back in. So I'm meanwhile the other example would be somebody quits...

Avri Doria: And you're not going to reelect them.

Ray Fassett: ...they're not going, right, the chance right, the chance of that for someone to be reelected are slim if it happened but it's unlikely.

Julie Hedlund: Yes that would be my point Ray is that you really have an election coming up and if someone was you know, they left and became unpopular because of that they're probably not going to get elected.

Ray Fassett: That would be my...

((Crosstalk))

Avri Doria: It prevents, it prevents a certain kind of European politics that one might say where someone quits to make a point...

Ray Fassett: Yes.

Avri Doria: ...does some political maneuvering in the background, you know, because somebody has been, you know, and reruns again. But we have not seen that kind of behavior but that's what it would prevent is kind of using a quitting and reelection to make a political point.

Ray Fassett: Let's think about it, let's think about it before we formally ax it let's think about it.

Julie Hedlund: Why don't I, I'll bracket it and note it and you know, so people can consider it for the next meeting.

Ray Fassett: Great.

Avri Doria: It was a real pleasure kibitzing in your meeting and if you do want me to try and come again I will.

Ray Fassett: Please. Please come again next Wednesday we'd very much like, two fronts, one Avri obviously you're offering a wealth of experience to our cause here and secondly we, we're working as hard as we can in order for you to be comfortable on the, on where we're heading in this rules and procedure in particular. So it helps us on two fronts if you can join us.

Avri Doria: Thank you.

Ray Fassett: Okay.

Julie Hedlund: Thank you very much Avri it's very helpful.

Avri Doria: Okay.

Ray Fassett: Okay with that let's no other business. Now I did want to, there's nobody else on the call so I'm not going to get into it but I will mention just for the record there, the structural document that was sent around there was a call for final opinion expressed for last Friday so everything is in, it has been circulated to the list the results of that.

We did not get a chance today to get into that call and with Ron Andruff not on the call it was probably appropriate anyway. But for the record that is the status of that document and maybe next we can pick up on that.

With that I'd like to go ahead and adjourn, stop the recording and adjourn the call.

Gisella Gruber-White: Sorry Ray, we'll meet again next week at 16:00 UTC?

Ray Fassett: That's correct.

Gisella Gruber-White: Lovely. Thank you very much.

Ray Fassett: Thank you everybody.

Julie Hedlund: Thanks Ray. Appreciate it.

Ray Fassett: Okay. Sure. Thank you. Bye.

Gisella Gruber-White: Bye.

Coordinator: Thank you for participating in today's conference call. You may now disconnect.

Gisella Gruber-White: Thank you (Louisa). Enjoy the rest of your day.

END