

## U.S. COMMISSION ON CIVIL RIGHTS

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## MEETING

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FRIDAY, JUNE 6, 2008

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The meeting convened in Room 540 at 624  
Ninth Street, N.W., Washington, D.C. at 2:00 p.m.,  
Abigail Thernstrom, Vice Chairman, presiding.

## PRESENT:

ABIGAIL THERNSTROM, Vice Chairman  
TODD GAZIANO, Commissioner  
GAIL L. HERIOT, Commissioner  
ARLEN D. MELENDEZ, Commissioner  
MICHAEL YAKI, Commissioner

MARTIN DANNENFELSER, Staff Director

## STAFF PRESENT:

DAVID BLACKWOOD, General Counsel  
CHRISTOPHER BYRNES, Chief, Programs Coordination Unit  
DEBRA CARR, Esq., Associate Deputy Staff Director, OSD  
DEMITRIA DEAS  
PAMELA A. DUNSTON, Chief, Admin. Services and  
Clearinghouse Division  
SAMUEL ENNIS (Intern)  
DANIELLE GALLEN (Intern)  
ROBERT LERNER, Assistant Staff Director for OCRE  
TINALOUISE MARTIN, Director of Management  
EMMA MONROIG, Solicitor/Parliamentarian  
CANDYCE PHOENA (Intern)  
ANDREW SCHWARTZ (Intern)  
KIMBERLY TOLHURST  
VANESSA WILLIAMSON  
AUDREY WRIGHT  
MICHELE YORKMAN

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## COMMISSIONER ASSISTANTS PRESENT:

TIM FAY  
DOMINIQUE LUDVIGSON  
RICHARD SCHMECHEL  
KIMBERLY SCHULD

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

2:21 p.m.

1  
2  
3 VICE CHAIR THERNSTROM: The meeting will  
4 come to order. Good morning. This is a meeting of  
5 the U.S. Commission on Civil Rights on June 6<sup>th</sup>, 2008.  
6 The meeting is being held at 624 9<sup>th</sup> Street, Room 540,  
7 Washington, DC. Commissioners Heriot, Gaziano, Yaki,  
8 Melendez and Thernstrom, Vice Chair are here.  
9 Commissioner Kirsanow I don't think is participating  
10 by phone. Is he -- no, we have no participation by  
11 phone at this point.

12 I. APPROVAL OF THE AGENDA

13 The first item on the agenda is the  
14 approval of the agenda. Is there a motion to approve  
15 the agenda?

16 COMMISSIONER YAKI: So moved.

17 COMMISSIONER GAZIANO: I move to amend the  
18 agenda, Madam Chair.

19 VICE CHAIR THERNSTROM: Yeah.

20 COMMISSIONER GAZIANO: I move to amend the  
21 agenda after Item IV, Staff Director's Report to add  
22 an item, Consideration of FY 2009 Program Planning  
23 Process, including Reconsideration of the Statutory --  
24 topic of the statutory, either to confirm the Home

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1 Sweet Home Topic or to change it.

2 VICE CHAIR THERNSTROM: I'm sorry. I was  
3 looking for my agenda. Say that again.

4 COMMISSIONER GAZIANO: I just want to add  
5 an item on the agenda so that we -- after the Staff  
6 Director's Report we can discuss the procedure, what  
7 our process should be for program planning in 2009  
8 including the process for either confirming or  
9 reconsidering the statutory report topic.

10 VICE CHAIR THERNSTROM: We just lost a  
11 quorum.

12 COMMISSIONER GAZIANO: How do we know we  
13 lost a quorum?

14 VICE CHAIR THERNSTROM: He just walked  
15 out.

16 COMMISSIONER GAZIANO: You have to note  
17 four.

18 COMMISSIONER HERIOT: Right.

19 COMMISSIONER GAZIANO: I suppose you've  
20 noted it, but we could have proceeded if you didn't  
21 note the absence of a quorum. Well, maybe he's just  
22 gone to the restroom. How do you know that -- he  
23 stepped in and out, he stepped in and out.

24 VICE CHAIR THERNSTROM: It doesn't really

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1 matter, we don't have a quorum.

2 COMMISSIONER GAZIANO: We can wait. Is  
3 Mr. Yaki going to return?

4 RICHARD SCHMECHEL: I cannot speak for  
5 him.

6 VICE CHAIR THERNSTROM: Well, his coat his  
7 here, so why don't we move on from the agenda, go back  
8 to that and go to the approval of the minutes?

9 COMMISSIONER HERIOT: You can't do that.

10 VICE CHAIR THERNSTROM: Oh, you can't do  
11 anything, of course.

12 COMMISSIONER HERIOT: You can discuss it.  
13 It doesn't matter with him or not.

14 COMMISSIONER GAZIANO: I'll wait.

15 COMMISSIONER HERIOT: We can discuss it.

16 VICE CHAIR THERNSTROM: No, because we'll  
17 have to discuss it all over again when Commissioner  
18 Yaki comes. Marty, we could have you give the Staff  
19 Director's Report.

20 COMMISSIONER GAZIANO: He can repeat it.

21 VICE CHAIR THERNSTROM: No, thank you.  
22 Can somebody go into the men's room.

23 COMMISSIONER HERIOT: For future  
24 reference, it is not necessary to stop a meeting when

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1 a quorum is --

2 VICE CHAIR THERNSTROM: There he is. A  
3 quorum depends on you.

4 COMMISSIONER GAZIANO: I think he knows  
5 that, doesn't he. If you intend to deprive us of the  
6 quorum, would you let us -- if you intend to get a  
7 drink of water or whatever.

8 COMMISSIONER YAKI: As I walked out, I  
9 said, they're going to lose a quorum. I was saying  
10 that.

11 COMMISSIONER GAZIANO: Okay, I move and I  
12 think it's been seconded, that we add after the Staff  
13 Director's Report an item consideration of FY 2009  
14 program planning process and that would include either  
15 confirmation or reconsideration of the statutory  
16 report topic which as it stands is the very narrow  
17 examination of the Home Sweet Home paired matching  
18 program that might not be continued by the next  
19 Administration.

20 VICE CHAIR THERNSTROM: Well, I do not  
21 want to reconsider the statutory report, I do want to  
22 have program planning, so I can't support that.

23 COMMISSIONER GAZIANO: You can't support  
24 adding that discussion to the agenda.

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1 VICE CHAIR THERNSTROM: I won't support  
2 as one component of it, a reconsideration of the  
3 statutory report. I may be alone, however.

4 COMMISSIONER HERIOT: Well, this doesn't  
5 require us to do that. It just a discussion of the  
6 process.

7 VICE CHAIR THERNSTROM: All right, I call  
8 a vote, call the question. All in favor?

9 (Aye)

10 VICE CHAIR THERNSTROM: All opposed?

11 (No)

12 VICE CHAIR THERNSTROM: Three to two. All  
13 right, we'll move on. Oh, we have to approve the  
14 agenda.

15 COMMISSIONER GAZIANO: I move that we  
16 strike Item Number V, Management and Operations,  
17 Consideration of the FY 2009 Budget Submission.

18 COMMISSIONER HERIOT: Second.

19 VICE CHAIR THERNSTROM: I once again  
20 cannot support that. We need to get the budget out  
21 the door.

22 COMMISSIONER GAZIANO: Well, unless we  
23 have the discussion that I wanted, I think it's a kind  
24 of futile to discuss the budget.

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1 VICE CHAIR THERNSTROM: There was a  
2 second from Commissioner Heriot on that. I'm going to  
3 call the question on it. I'm opposing it. I'm  
4 opposing Commissioner Gaziano. I want to leave it on  
5 the agenda as is and to get the budget out of the  
6 door, which is really, I think, important at this  
7 point. All in favor of Commissioner Gaziano's motion.

8 (Aye)

9 VICE CHAIR THERNSTROM: Opposed?

10 (No response)

11 VICE CHAIR THERNSTROM: Well, I'm opposed.  
12 Commissioner Yaki -- Commissioners Yaki and Melendez?

13 COMMISSIONER YAKI: I'm abstaining.

14 VICE CHAIR THERNSTROM: Abstaining. They  
15 need a majority and they don't have it. It is still  
16 on the --

17 COMMISSIONER GAZIANO: We need a majority  
18 of the quorum?

19 COMMISSIONER HERIOT: It's the majority of  
20 those who are voting.

21 COMMISSIONER GAZIANO: So we have a  
22 majority.

23 COMMISSIONER HERIOT: They're not voting.  
24 They're abstaining.

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1 VICE CHAIR THERNSTROM: If you're not  
2 voting, then discussing the budget is off the agenda  
3 and the Commission will not be able to --

4 COMMISSIONER HERIOT: Well, you could move  
5 to reconsider the first motion, change your vote.

6 VICE CHAIR THERNSTROM: No, I'm not going  
7 to. So we won't have a budget submission which we  
8 very badly need. Whatever. Okay, then a motion to  
9 approve the minutes.

10 COMMISSIONER YAKI: I think we can do  
11 that.

12 COMMISSIONER HERIOT: We still have to  
13 approve the agenda.

14 VICE CHAIR THERNSTROM: Okay, so we need a  
15 motion now to approve the agenda, but it is now minus  
16 Number V, as I understand it.

17 COMMISSIONER YAKI: Second, to approve the  
18 agenda as amended.

19 VICE CHAIR THERNSTROM: Okay.

20 COMMISSIONER GAZIANO: Can we have  
21 discussion on that motion?

22 VICE CHAIR THERNSTROM: Of course we can.

23 COMMISSIONER GAZIANO: Who moved to  
24 approve the agenda?

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1 COMMISSIONER YAKI: I did.

2 COMMISSIONER GAZIANO: You did? Was there  
3 a second?

4 COMMISSIONER MELENDEZ: I'll second that.

5 COMMISSIONER GAZIANO: I don't think I can  
6 approve the agenda unless we discuss these issues. I  
7 don't think we'll ever get to a budget submission, so  
8 I don't think I can vote for the amended agenda  
9 either.

10 VICE CHAIR THERNSTROM: Well, it's an  
11 agenda you amended.

12 COMMISSIONER GAZIANO: In one respect.

13 VICE CHAIR THERNSTROM: You amended it to  
14 take out the budget.

15 COMMISSIONER GAZIANO: Yes, but I'd like  
16 to get to the budget.

17 VICE CHAIR THERNSTROM: I understand that,  
18 but that's the way you amended it and now you're  
19 saying because it's been taken out, which was your  
20 initiative, you can't approve the agenda.

21 COMMISSIONER GAZIANO: Well, I don't think  
22 we'll get to it till July unless we have a discussion  
23 of some of these issues in June. I don't think we'll  
24 get to that in July.

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1 VICE CHAIR THERNSTROM: You cannot have  
2 it both ways.

3 COMMISSIONER GAZIANO: I don't want it  
4 both ways.

5 VICE CHAIR THERNSTROM: You do.

6 COMMISSIONER GAZIANO: I'm being honest.

7 VICE CHAIR THERNSTROM: You have asked to  
8 get out of this agenda, the budget submission and now  
9 you're telling me you cannot support the agenda  
10 because the budget submission item is out of it.

11 COMMISSIONER HERIOT: I think what he  
12 means is both pieces that he wanted in there are out  
13 of it.

14 VICE CHAIR THERNSTROM: He can't -- I  
15 mean, it does seem to me if we have a vote on  
16 something and you lose it, that --

17 COMMISSIONER GAZIANO: I'll be outvoted  
18 then. I'll be outvoted. If it's so ridiculous, I'll  
19 be outvoted.

20 COMMISSIONER YAKI: If this is a  
21 discussion we're going to be having --

22 VICE CHAIR THERNSTROM: Goodbye.

23 COMMISSIONER YAKI: No, I'm just getting  
24 myself ready. When this goes up, then --

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1 COMMISSIONER GAZIANO: Okay, I move to  
2 amend the agenda to strike everything but the approval  
3 of the State Advisory Committees.

4 VICE CHAIR THERNSTROM: Well, we're not  
5 going to approve the minutes. We are not going to  
6 have enough, since we're not going to have a Staff  
7 Director's Report, we're not going to -- I mean, I'm  
8 happy to have a discussion of program planning. I was  
9 not happy to have in that discussion the question of  
10 the statutory report. So, you know, you can make a  
11 motion to --

12 COMMISSIONER GAZIANO: I think I've been  
13 outvoted to approve the agenda as it's been amended.  
14 So let's vote on the approval of the agenda as  
15 amended.

16 COMMISSIONER YAKI: Restate how it's been  
17 amended, please.

18 COMMISSIONER GAZIANO: Strike Item Number  
19 V.

20 VICE CHAIR THERNSTROM: Okay, we can vote  
21 on that. Why not --

22 COMMISSIONER GAZIANO: For the record, I  
23 just am concerned we're not going to get to where we  
24 need to be in July either if we don't discuss these

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1 things, but fine.

2 VICE CHAIR THERNSTROM: We can have our  
3 discussion of program planning. I do not want to  
4 include the statutory reports. That's all.

5 COMMISSIONER YAKI: Point of information.

6 VICE CHAIR THERNSTROM: What?

7 COMMISSIONER YAKI: What the hell are we  
8 talking about now?

9 COMMISSIONER GAZIANO: I move the agenda  
10 as amended.

11 VICE CHAIR THERNSTROM: As amended.

12 COMMISSIONER YAKI: I knew that like 20  
13 minutes ago and then it was seconded by Commissioner  
14 Melendez.

15 COMMISSIONER GAZIANO: I wanted to speak  
16 on it. I've spoken. Now I retract what I --

17 COMMISSIONER YAKI: Okay.

18 VICE CHAIR THERNSTROM: The question, all  
19 in favor of following the agenda with the -- we've now  
20 taken out --

21 COMMISSIONER YAKI: Item V.

22 VICE CHAIR THERNSTROM: -- Item V so that  
23 this Commission will once again, not have a budget  
24 submission even though it is possible to have a budget

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1 submission which allows us to make --

2 COMMISSIONER YAKI: This is talking about  
3 a topic we've already debated?

4 VICE CHAIR THERNSTROM: All right, calling  
5 the question. All in favor?

6 (Aye)

7 COMMISSIONER GAZIANO: Abstain.

8 VICE CHAIR THERNSTROM: Aye.

9 COMMISSIONER YAKI: Okay. So that's one  
10 abstention for us. I think we go on now to approval  
11 of the minutes, let's see if we can have a confusing  
12 argument over that.

13 II. APPROVAL OF MINUTES

14 COMMISSIONER YAKI: I move to approve with  
15 one amendment.

16 VICE CHAIR THERNSTROM: Yes.

17 COMMISSIONER YAKI: Page 2 of the minutes  
18 states that the vote was 6-1-1 but it also says that  
19 the Chairman wasn't on the phone at the time, so it  
20 probably should be 5-1-1.

21 VICE CHAIR THERNSTROM: Okay.

22 COMMISSIONER YAKI: Because that's seven.

23 VICE CHAIR THERNSTROM: Okay, that's a  
24 good amendment.

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1 COMMISSIONER GAZIANO: Which paragraph  
2 is that?

3 COMMISSIONER YAKI: Page 2 of the minutes,  
4 at the top, it states that the vote on the concept was  
5 6-1-1, but it also states that the Chairman wasn't on  
6 the phone.

7 VICE CHAIR THERNSTROM: Right, you're  
8 right about that.

9 COMMISSIONER HERIOT: That's voter fraud.

10 COMMISSIONER YAKI: Other than voter  
11 fraud, I'm calling the press.

12 VICE CHAIR THERNSTROM: All right, with  
13 that amendment, all in favor of approving the minutes  
14 say "Aye".

15 (Aye)

16 VICE CHAIR THERNSTROM: Anybody opposed?  
17 Anybody abstaining? Unanimous vote to approve the  
18 minutes. Okay, on to the Staff Director's Report,  
19 presumably there will be nothing contentious about the  
20 staff director.

21 III. STAFF DIRECTOR'S REPORT

22 COMMISSIONER YAKI: Yeah, there will be.

23 VICE CHAIR THERNSTROM: There will be?

24 COMMISSIONER YAKI: There will be.

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1 VICE CHAIR THERNSTROM: Just hearing  
2 from him?

3 COMMISSIONER YAKI: No, but the discussion  
4 of the Staff Director's Report.

5 VICE CHAIR THERNSTROM: Oh, that's fine.  
6 I just meant whether we wanted --

7 STAFF DIRECTOR DANNENFELSER: I'd like to  
8 update you on a few of the projects staff has been  
9 working on since --

10 COMMISSIONER YAKI: Wait, wait, wait,  
11 wait, first, I'd like to make a motion to say welcome  
12 and because the first time we said welcome, you  
13 weren't really official yet. Now, you are officially  
14 welcome.

15 STAFF DIRECTOR DANNENFELSER: That's  
16 right, thank you.

17 VICE CHAIR THERNSTROM: Did you just say  
18 that was a motion?

19 COMMISSIONER YAKI: A point of personal  
20 privilege.

21 VICE CHAIR THERNSTROM: Okay.

22 STAFF DIRECTOR DANNENFELSER: Okay, thank  
23 you, Commissioner Yaki. I would like to update you  
24 all on some projects we've been working on at the

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1 Staff.

2 In the area of employment law, Staff  
3 continued to respond to an EEO appeal and drafted an  
4 Agency response to Appellant's EEO complaint. In the  
5 area of Procurement Specialist, Staff announced the  
6 award of the Procurement Specialist contract to the  
7 winning bidder. However, a protest to GAO was  
8 received, so no work has begun on the contract.

9 COMMISSIONER YAKI: What was the amount of  
10 the bid? What was -- how much was the bid for?

11 STAFF DIRECTOR DANNENFELSER: I believe it  
12 was about 90,000.

13 MR. BLACKWOOD: 75,000.

14 COMMISSIONER YAKI: And who was the  
15 potential awardee? Microphone.

16 STAFF DIRECTOR DANNENFELSER: Okay, the  
17 award was \$74,253 to a company called Right Solutions.

18 COMMISSIONER YAKI: And who was the  
19 protest by? I want to say it in case any of us get  
20 called on to bid by somebody we would know what -- who  
21 that person may be and therefore, not take the phone  
22 call. Trust me, in procurement disputes, it happens  
23 all the time.

24 MR. BLACKWOOD: His name is Jeff Cornell,

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1 Cornell and Associates.

2 COMMISSIONER YAKI: Cornell and  
3 Associates, okay, thank you.

4 STAFF DIRECTOR DANNENFELSER: Okay, in the  
5 area of complaints processing between April 21<sup>st</sup> and  
6 May 16<sup>th</sup>, the Office of Civil Rights Evaluation  
7 received and processed 258 complaints. Regarding the  
8 Statutory Report, Staff has received responses to four  
9 of the five U.S. Department of Justice interrogatories  
10 and expects to receive the final one from the Bureau  
11 of Prisons today. We also expect the Department of  
12 Justice to provide us with responses from nine federal  
13 prisons today.

14 Seven of nine state prisons have responded  
15 to the interrogatories. Staff also received responses  
16 from all the advocacy groups, faith-based  
17 organizations and county jails that were contacted.  
18 Pending conclusion of the various reviews that are  
19 required, a discussion and vote on the report is  
20 tentatively planned for the July 11<sup>th</sup> meeting.

21 Staff is coordinating a kickoff meeting in  
22 late June with the auditors for the FY 2008 annual  
23 financial audit and the library staff has received 131  
24 telephone inquiries. In addition, staff received 201

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1 written requests and 170 e-mail requests for  
2 Commission publications, resulting in a distribution  
3 of 730 -- 763 publications.

4 Finally, I wanted to introduce the  
5 Agency's summer interns. The Office of General  
6 Counsel had three interns begin work this week, Samuel  
7 Ennis, who has just completed his first year at UCLA  
8 School of Law, Candyce Phoenix completed her first  
9 year at Harvard Law School, Danielle Gallen will be  
10 entering his third year at University of California,  
11 Hastings College of Law and also --

12 VICE CHAIR THERNSTROM: Can you stand up?

13 COMMISSIONER YAKI: So who is at where?

14 MS. PHOENIX: I'm Candyce. I just  
15 finished my first year at Harvard.

16 COMMISSIONER YAKI: Oh, too bad, okay.

17 MS. GALLEN: I'm --

18 COMMISSIONER YAKI: You're from Hastings?

19 MS. GALLEN: Yes.

20 COMMISSIONER YAKI: Just down the street  
21 from me, that's good. I'm sorry, I'm just jerking  
22 your chain.

23 STAFF DIRECTOR DANNENFELSER: And sitting  
24 right next to them also is Andrew Schwartz who can

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1 stand. He's beginning an internship in the Office  
2 of the Staff Director. He began this week and he's  
3 just finished his first year at Vermont Law School.

4 And next week the Office of Civil Rights  
5 Evaluation will welcome two more interns and they are  
6 Christina Catapang, a junior at Georgetown University  
7 and Jamal Sotobaeva, a senior at American University.

8 COMMISSIONER YAKI: So we'll see them next  
9 month?

10 STAFF DIRECTOR DANNENFELSER: Hopefully,  
11 we will, yes. So we're very pleased to have the  
12 interns on board and appreciate the valuable help  
13 they're going to be providing us this summer. And  
14 that concludes my report.

15 COMMISSIONER MELENDEZ: When do we expect  
16 a final draft to be distributed to the Commissioners  
17 on the Statutory Report?

18 STAFF DIRECTOR DANNENFELSER: In about  
19 probably a week and a half, that's our hope.

20 VICE CHAIR THERNSTROM: Yes, Commissioner  
21 Melendez -- Yaki, I'm sorry.

22 STAFF DIRECTOR DANNENFELSER: Well, let me  
23 just -- that will be the second draft. That would not  
24 necessarily be the final.

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1                   COMMISSIONER YAKI: I just want a quick  
2 status report on the 2008 fiscal situation. As you  
3 know, before you came on board and actually before  
4 Robert came on -- interim on board, there was a  
5 recession on our budget and I keep on wanting more  
6 help, so how are we doing?

7                   STAFF DIRECTOR DANNENFELSER: Well, we are  
8 looking at a possible surplus at the moment. We had  
9 five hires that we didn't make when the budget was  
10 cut, you know, from our original 8.8 to 8.46. So we  
11 did not hire five people that were in our proposal  
12 that we had originally submitted, and that benefits --  
13 salary and benefits for those five people added up  
14 actually to about \$506,000.00.

15                   We had a savings of about \$66,000.00 with  
16 the four-month period in which the Staff Director was  
17 not onboard. And we've had a number of other things  
18 in the area of travel and a few other areas that have  
19 been lower than anticipated. So we're -- right now, I  
20 think we're looking at in the neighborhood of three to  
21 400,000.

22                   COMMISSIONER YAKI: For the purposes of --  
23 and I won't speak for him. I'll just reference him  
24 because I can never speak for him but for the purposes

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1 of an issue raised by myself and I believe  
2 separately by Commissioner Gaziano, which has to do  
3 with the availability of special assistance, given the  
4 fact that we have this availability of money toward  
5 the end of the year, I'm just wondering if at some  
6 point we can -- we should discuss whether it's  
7 appropriate at that time to use some of the funds to  
8 look at additional special assistance for those on the  
9 Commission who have requested one. Just -- I just --  
10 nothing to vote on, just as a discussion item for  
11 perhaps, the next meeting.

12 VICE CHAIR THERNSTROM: In your answer to  
13 that, maybe you could tell us what the five slots were  
14 that were not filled and so that we have some sense of  
15 priorities here.

16 STAFF DIRECTOR DANNENFELSER: The five  
17 slots that were not filled were a Social Scientist in  
18 OCRE, a Staff Assistant in the Office of General  
19 Counsel, the Regional Director for the Western  
20 Regional Office, a Congressional Affairs and Public  
21 Affairs Specialist that would handle both of those  
22 functions and a Human Resources Director. Those are  
23 the five positions that were not filled and again, the  
24 Office of Management reports that the combined full

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1 year salary and benefits for those five would have  
2 come out to a little over \$506,000.00.

3 COMMISSIONER YAKI: Okay.

4 STAFF DIRECTOR DANNENFELSER: We also had  
5 some savings. We switched to Westlaw and we realized  
6 some savings by switching to Westlaw as well this  
7 year. The problem we have going forward is we have  
8 some new expenses in -- with ID systems that we have  
9 to put in place and some other COOP and FISMA related  
10 expenses that we're going to absorb. We have --

11 VICE CHAIR THERNSTROM: Some what?

12 STAFF DIRECTOR DANNENFELSER: COOP,  
13 Continuity of Operations Procedures.

14 VICE CHAIR THERNSTROM: And what's the  
15 other one?

16 COMMISSIONER YAKI: We have to do that,  
17 crap?

18 STAFF DIRECTOR DANNENFELSER: We have to  
19 do it all, yes. It's mandated. So anyhow, we're  
20 looking at new things that we are obligated to doing.  
21 We'd incur more than \$500,000.00 in new expenses going  
22 into next year. We are cutting back on some areas  
23 such as travel that were higher in the FY 2008 budget.  
24 We are projecting lower amounts in 2009.

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1           But one of our concerns, of course,  
2           we're budgeting right now based on 8.8 million but we  
3           may very well be looking at another continuation of a  
4           continuing resolution that's going to leave us more in  
5           the neighborhood of \$8.4 million. So at least until  
6           we get to the point of a resolution by Congress of  
7           whether we're going to have the continuing resolution  
8           or even an 8.8 budget, we're probably going to have to  
9           hold off on hiring when we get one person in the  
10          budget for OCRE, another civil rights evaluation  
11          person. But even that, we may have to hold off on  
12          pending resolutions.

13                   VICE CHAIR THERNSTROM: In term -- I mean,  
14           it would seem to me, but please correct me if it's not  
15           true, that not having a congressional affairs person  
16           combined with obviously, public affairs congressional  
17           liaison, an HR Director, a -- I don't know what Dr.  
18           Lerner would have to say on the need for another  
19           social scientist at OCRE but, I mean, I'm concerned  
20           about doing without people in those positions.

21                   STAFF DIRECTOR DANNENFELSER: Well, those  
22           were the positions that the commission prioritized.  
23           We actually had -- we did have in our original  
24           projected budget that was sent to OMB, which was a

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1 more ambitious budget in the \$11 million range,  
2 there was allowance made for four new special  
3 assistants in that budget and then when we had a cut  
4 from that budget down to 8.8, we prioritized the five  
5 positions. And even then, when we got cut from 8.8 to  
6 8.46, decided to hold off on hiring those five  
7 positions.

8 VICE CHAIR THERNSTROM: I mean, if there  
9 are special assistants going to be added, then  
10 everybody who doesn't have a special assistant needs  
11 to have one, and that includes me.

12 COMMISSIONER GAZIANO: Before I forget,  
13 someone pass onto the interns my own thanks for their  
14 effort. As I understand these are not paid  
15 internships.

16 COMMISSIONER MELENDEZ: That's correct.

17 COMMISSIONER GAZIANO: Well, thank them  
18 for me and I'll try to do so as well for their  
19 voluntary service. But on the point that Commissioner  
20 Yaki raises, I certainly just want to second the idea  
21 that if there is this money that seems to be left  
22 over, thank you for finding it. But I think we should  
23 vote on how to spend it and I am very interested in  
24 your last comment on whatever the priorities were

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1 made. If manna came down from heaven, certainly we  
2 could revisit that and I certainly understand your  
3 point that maybe you don't want to hire people that  
4 can't be continued but maybe you'd rather have  
5 temporary people who understand that than permanent  
6 people but I hope all that is fair game in July when  
7 you go -- how firm is that as far as the budget or do  
8 you need to continue to track down some --

9 STAFF DIRECTOR DANNENFELSER: I think it's  
10 pretty firm. We've been really going over the numbers  
11 pretty carefully over the last couple of weeks, and I  
12 think we've gotten a pretty good handle on what's  
13 there. I mean, again, the big question is there is  
14 certainly money now but we're only less than four  
15 months until the end of the fiscal year and -- if we  
16 were to bring people on, unless we brought people on  
17 in a temporary capacity, we would not probably have  
18 the capacity to keep them on starting October 1<sup>st</sup>.

19 COMMISSIONER GAZIANO: I'm not sure which  
20 way that cuts, though, as to how we should spend that  
21 money. It might suggest special assistants make more  
22 sense. It might suggest a congressional affairs  
23 person might make more sense. Actually we could get  
24 questions from this wonderful members that appointed

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1 the four of us.

2 VICE CHAIR THERNSTROM: And especially  
3 when the partisan balance in Congress is likely to  
4 change and dramatically.

5 COMMISSIONER GAZIANO: I'm just  
6 suggesting, I think that Commissioner Yaki has  
7 suggested that again I try to familiarize myself with  
8 what priorities were set by the Commission before I  
9 was here but I want to encourage for a future agenda  
10 item a discussion of that.

11 STAFF DIRECTOR DANNENFELSER: Well, we  
12 are currently encouraging the staff heads of the  
13 different divisions to submit proposals in terms of  
14 high priority projects that they would like to see  
15 funded between now and the end of the year. I  
16 certainly would encourage any of the Commissioners to  
17 submit ideas as well. There are, you know, things  
18 like software that we might consider that might, in  
19 the absence of some of the staff that we're able to  
20 hire at least on the administrative side, if we can  
21 come up with some software that helps us be more  
22 efficient, and perhaps help us save some money that  
23 way, that would be the type of thing but it's an open-  
24 ended area for people to make suggestions on how we

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1 should proceed.

2 COMMISSIONER GAZIANO: Am I unreasonable  
3 to suggest, though, that if there's that amount of  
4 money, that maybe we shouldn't be committed before we  
5 have a discussion. I mean, maybe it is unreasonable.  
6 Tell me if it is. And you don't have to necessarily  
7 tell me today but if we have to really tighten our  
8 belt to make the decision, and we find extra money, it  
9 may be valuable money, or should be valuable money.

10 STAFF DIRECTOR DANNENFELSER: Yeah, we  
11 would have to make a decision soon enough so that we  
12 could do something about it before the end of the  
13 fiscal year if we wanted to.

14 COMMISSIONER YAKI: What was the number of  
15 the House budget that passed yesterday, do you know?

16 STAFF DIRECTOR DANNENFELSER: For the  
17 Commission, I didn't see that number.

18 VICE CHAIR THERNSTROM: I would like to  
19 hear actually from Dr. Lerner as to you know, in terms  
20 of us getting reports out the door, we're horribly  
21 behind, obviously, and I do not in any way blame him  
22 for this but in terms of getting reports out the door  
23 expeditiously, how much would it help to have  
24 somebody, another social scientist?

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1 COMMISSIONER YAKI: I would like to have  
2 this discussion next month which is when I said we  
3 would do it.

4 VICE CHAIR THERNSTROM: Okay, that's fine.

5 STAFF DIRECTOR DANNENFELSER: Well, then  
6 just briefly on that question you just raised, that  
7 was a consideration in proposing to add another person  
8 in OCRE to help us with that very area.

9 VICE CHAIR THERNSTROM: Right, right.

10 STAFF DIRECTOR DANNENFELSER: Because we  
11 have --

12 COMMISSIONER YAKI: The Commissioners have  
13 concerns, too.

14 VICE CHAIR THERNSTROM: Anything else?  
15 Yes, Commissioner Melendez.

16 COMMISSIONER MELENDEZ: Yes, as you know,  
17 you know, I had a real concern and the reason I voted  
18 against -- I would have voted against even discussing  
19 it but since the fact that I got the information that  
20 I was seeking for months just Wednesday, which didn't  
21 give me a lot of time to really go through it  
22 adequately, but again, if we're talking about a small  
23 amount of money, then I don't think the Commission is  
24 that concerned, but it's either shortfalls and the

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1 appropriation like what I had said cutting down from  
2 8.8 to 8.4 then that was a substantial amount that we  
3 really needed to talk about that and to really know  
4 where the money would have been allocated.

5 You know, in the light of knowing that  
6 there was going to be a shortfall, then all of a  
7 sudden we hear we've got surplus, you know, so we're  
8 kind of going, well, what was the reason for that?  
9 Was it because we didn't hire positions and was the  
10 reason we didn't hire positions because we were trying  
11 to anticipate that we would have the 400 short fall.  
12 So I'm not sure what the reason was for not really  
13 receiving that information.

14 So and then again, we're at the middle of  
15 the year again where we may have dropped the ball in  
16 2007. We're facing the same thing again right now of  
17 whether or not there's a surplus and how much are we  
18 actually talking about and how should we allocate it  
19 out. I mean, it's a bigger picture when you really  
20 look because I know that the former Staff Director had  
21 detailed Derek Horne to a southern area, region and  
22 I'd asked the question, well, what was that about,  
23 because in light of the whole issue, what I want to  
24 see is that all of the regions, whether it's the one

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1 out in western that doesn't even have, you know,  
2 anybody in the office. And I was trying to get a fair  
3 -- if everybody is going to operate on outside of the  
4 Western Region, will they expect all of the regions  
5 throughout the United States to be basically given the  
6 same allocation of either using an analyst as opposed  
7 to what the top person that we used in that report.  
8 So I'm not sure what that detail was before and what  
9 the person was actually doing there and how does that  
10 weigh in for this whole issue on the budget because  
11 that's a person that's out in southern that's being  
12 paid for the same as -- and here we are short of an  
13 HR Director here.

14 Here we have to contract -- instead of a  
15 procurement person, we're actually contracting them  
16 out now. So the only point I'm making is all of those  
17 positions should be brought into the discussion so we  
18 can either validate the reasons why they're out there  
19 and why they're paying for those positions out of this  
20 office and being fair to all the other regions where I  
21 have a real concern of Western Region, operating with  
22 a secretary as the head of the Western Region. So  
23 that's my concern and hopefully at the next budget we  
24 can get down to fairness and how his allocation of

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1 funding is distributed even to the SACs and even to  
2 the regions. So I think it's important we have that  
3 frank discussion.

4 VICE CHAIR THERNSTROM: Yeah, Commissioner  
5 Yaki.

6 COMMISSIONER YAKI: Thank you, Madam  
7 Chair. And also for the discussion next month about  
8 this, just to emphasize something that Commissioner  
9 Gaziano said, it may be that in terms of looking at  
10 this, there may be some positions we can fill with an  
11 understanding that they may just be short term, in  
12 terms with their total length, but in terms of their  
13 incremental help to us, you know, it could be a lot  
14 more. And as a footnote to that, I just want to say  
15 that it has not gone unnoticed by the appropriators  
16 and the authorizers that the previous two years, this  
17 is again before you, we returned our budget with half  
18 million and some odd surpluses before. And I think it  
19 would not be a wise move having been cut, to return a  
20 budget with a surplus. I just don't think -- I just  
21 don't think that the impression would be one that we'd  
22 want to convey, but thank you very much for allowing  
23 that discussion on the Staff Director's report, Madam  
24 Chair.

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1 VICE CHAIR THERNSTROM: The next topic  
2 for the agenda is Program Planning for FY 2010.

3 COMMISSIONER MELENDEZ: Just one more  
4 question.

5 VICE CHAIR THERNSTROM: Yeah.

6 COMMISSIONER MELENDEZ: Is there a list of  
7 SACs in the future that we'll be considering after the  
8 ones that were on the agenda. Is there another batch  
9 that's coming up?

10 STAFF DIRECTOR DANNENFELSER: There are a  
11 few that are working their way through, SACs coming up  
12 in the future. Can you project any SACs to be ready  
13 for next meeting? Two.

14 COMMISSIONER MELENDEZ: Do you know what  
15 states?

16 MR. BYRNES: At this point, it might be  
17 Arkansas and Wisconsin.

18 COMMISSIONER MELENDEZ: Okay, thank you.

19 STAFF DIRECTOR DANNENFELSER: You're  
20 welcome.

21 IV. PROGRAM PLANNING - 2010 PROGRAM PLANNING

22 VICE CHAIR THERNSTROM: So at this point,  
23 according to Administrative Instructions 1.6. As it  
24 now stands, that process is key to the annual budget.

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1 Annually in October the Staff Director collects  
2 budget recommendations, concepts from Commissioners,  
3 Staff, Regional Offices, SAC members, external groups  
4 for the following fiscal year. The Commission has  
5 typically ranked the preferred topics as the field of  
6 the topics from which they will ultimately choose  
7 between January and March. The Commission typically  
8 holds a program planning meeting to approve topics for  
9 the briefing clearing house reports and the statutory  
10 report. These choices become the basis for the  
11 Commission's budget which is typically voted on by the  
12 Commissioners in July, sent to OMB in September and  
13 submitted to Congress once the Commissioners vote on  
14 how to reconcile it with the Administration's budget  
15 request.

16 So we are approving project concepts, in  
17 particular briefing topics anywhere from a year and 10  
18 months to almost three years in advance of the time  
19 the actual briefing is held. A number of  
20 Commissioners have previously expressed the concern  
21 that deciding on briefing topics so far in advance  
22 inhibits the topicality and counteressence (phonetic) of  
23 the Commission's work to be more relevant to policy  
24 makers both in the White House and Congress and to be

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1 able to better respond to emerging civil rights  
2 issues, some Commissioners have argued that we must  
3 have more flexibility.

4 Commissioners have also questioned whether  
5 or not the budget process and OMB requires  
6 Commissioners to actually select briefing topics  
7 rather than simply specify the number of briefings it  
8 wishes to conduct in a given fiscal year. The Chair  
9 posed this inquiry to the Deputy Associate Staff  
10 Director in advance of this meeting and she informed  
11 him that OMB will allow the Commission to forego  
12 approving specific report topics for FY 2010 budget  
13 purposes as long as we include language that conveys  
14 that specific topics will be determined following  
15 consultation with the new Administration and the new  
16 Congress.

17 OMB understands that this consultation is  
18 not binding on the Commission. That is the Commission  
19 is not agreeing to adopt any of the suggestions made  
20 by Congress or the White House. These consultations  
21 would be informational only and would actually help us  
22 toward the goal of engaging more with policymakers.  
23 In such communications we would obviously, have to be  
24 very mindful of not over-reaching or promising --

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1 COMMISSIONER YAKI: I'm just wondering,  
2 what are you reading from?

3 VICE CHAIR THERNSTROM: The script handed  
4 to me.

5 COMMISSIONER YAKI: So you have a copy?  
6 Okay.

7 COMMISSIONER GAZIANO: I'm listening  
8 intently.

9 VICE CHAIR THERNSTROM: You're supposed to  
10 listen intently, Commissioner Yaki. Or promising that  
11 we'll hold briefings on the recommended topics.  
12 Suggestions will, of course, have to be voted on by  
13 the full Commission. One way to respond to these  
14 concerns would be for the Commission to decide the  
15 total number of briefings it will have in a given  
16 fiscal year as it does currently, revise it's policies  
17 to allow Commissioners to select briefing topics on a  
18 quarterly basis.

19 So, for example, toward the end of the  
20 third quarter of FY `09 the Staff Director would  
21 solicit input for project recommendations for  
22 briefings to be held in the first quarter of FY 2010.

23 COMMISSIONER YAKI: Keep on reading, I'll  
24 be back.

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1                   VICE      CHAIR      THERNSTROM:           From  
2           policymakers on Capitol Hill and in the White House as  
3           well as Commission staffed regional office, SACs and  
4           others who are currently consulted.      The Staff  
5           Director would circulate those recommendations for  
6           Commissioners to rank as he currently does.

7                   The Commission would then hold a planning  
8           meeting at the beginning of the fourth quarter of FY  
9           `09 to select its briefing for the first quarter of FY  
10          2010.      The process would repeat itself quarterly  
11          according to that model.      Staff would have anywhere  
12          from three to five months to plan the briefing and  
13          Commissioner's concerns as to relevance and timeliness  
14          would be alleviated.

15                  This more flexible system would also  
16          increase the likelihood of becoming more of an asset  
17          to policymakers.      The FY 2010 cycle actually provides  
18          us with a good opportunity to test out a new system  
19          along these lines.      Because the next President will be  
20          responsible for submitting the FY 2010 budget to  
21          Congress, OMB issued guidance M-08-17 in April 2008  
22          notifying all federal agencies and departments that FY  
23          2010 formal agency budget request that were due in  
24          September are not required due to the change in

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1 Administration.

2 The Commission is still required to submit  
3 FY 2010 performance plan per the Government  
4 Performance and Results Act which should include  
5 performance measures with targets, time frames and  
6 costs that lead to our specific goals and objectives.  
7 This simply means that we have to explain what we  
8 propose to do in FY 2010, the relationship between  
9 those proposals and our strategic plan, what we expect  
10 to achieve, how we will measure our success and what  
11 it will cost.

12 We need not specify the exact topics we'll  
13 be taking up but might instead cite an illustrative  
14 list. So can I have a motion to approve the quarterly  
15 briefing topic selection process for FY 2010 and any  
16 revisions to AI 1-6. (Inaudible)

17 If anybody finds a stray cell phone, I  
18 seem to have lost mine since I arrived here this  
19 morning.

20 COMMISSIONER YAKI: Just dial it and see  
21 if it's in the room somewhere.

22 VICE CHAIR THERNSTROM: It's on the damn  
23 not in mode, so it won't ring.

24 COMMISSIONER GAZIANO: I submit it with an

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1 amendment.

2 VICE CHAIR THERNSTROM: What is your  
3 amendment?

4 COMMISSIONER GAZIANO: My amendment is  
5 that sounds like a really peachy process but we should  
6 apply it to 2009 and let me just use as an example of  
7 why we should apply it to 2009, this most  
8 uninteresting -- not uninteresting but mellow topic  
9 that is slated for the statutory report for 2009, it  
10 seems that no current Commissioner is really  
11 enthusiastic about it as far as I've heard. It seems  
12 like that topic will be changed.

13 It seems like we ought to be -- but we  
14 made some commitment to that years ago and now we've  
15 got to change it and we ought to -- that is a reason  
16 to adopt this process for all future statutory reports  
17 and -- well, the statutory reports would have to be  
18 redone slightly but then --

19 VICE CHAIR THERNSTROM: I was going to say  
20 the statutory reports --

21 COMMISSIONER GAZIANO: With a slightly  
22 different time frame. The other advantage, of course,  
23 of this program is we won't connect the Commission to  
24 you know, deciding things always three years out that

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1 aren't really relevant. So I would like to apply  
2 that to all future briefing reports beginning today.

3 COMMISSIONER HERIOT: Make sure I --  
4 you're saying you want to move that we adopt a  
5 quarterly approach to all future briefings beginning -  
6 - is that right?

7 COMMISSIONER GAZIANO: At -- for briefing  
8 reports that we adopt the proposal that was read for  
9 all briefing reports and that for statutory reports,  
10 we do not commit ourselves to topics more than I don't  
11 know, six months in advance.

12 COMMISSIONER HERIOT: I'm not sure what  
13 that means for statutory reports. Six months in  
14 advance of what?

15 COMMISSIONER GAZIANO: Of the fiscal year.

16 COMMISSIONER HERIOT: Okay, second.

17 STAFF DIRECTOR DANNENFELSER: Six months  
18 in advance of the beginning of the fiscal year?

19 COMMISSIONER GAZIANO: Yes.

20 STAFF DIRECTOR DANNENFELSER: That would  
21 be due at the end of the fiscal year, that way you  
22 would be allowing, in effect, a year and a half lead  
23 time on the statutory report.

24 COMMISSIONER GAZIANO: Correct.

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1 VICE CHAIR THERNSTROM: I'm terribly  
2 sorry about being preoccupied with the fact that if I  
3 lose my cell phone, it's like losing my head. So  
4 you're suggesting -- I mean, we've got a bunch of  
5 briefing reports -- this doesn't apply to this  
6 statutory report.

7 COMMISSIONER GAZIANO: My amendment -- my  
8 motion is to adopt the proposal as described starting  
9 today for any future -- for any future briefing. I  
10 thought in part that was the intent of our vote in  
11 March, to suspend all of the topics. Maybe I wasn't  
12 clear enough in the motion I made back in March, but I  
13 thought that was our stand for the future, so I'm  
14 happy that we would formalize it.

15 But I also want to add as an amendment to  
16 the proposal, not only that it begin now, but that we  
17 don't commit to a statutory report more than six  
18 months prior to the beginning of the fiscal year in  
19 which the statutory report is begun.

20 COMMISSIONER HERIOT: Point of  
21 clarification; this would not affect the September  
22 briefing; is that correct, your motion?

23 COMMISSIONER GAZIANO: Correct because  
24 that's already in this quarter.

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1 STAFF DIRECTOR DANNENFELSER: It would  
2 effect the beginning of the --

3 COMMISSIONER GAZIANO: So it would begin  
4 with the first quarter of --

5 STAFF DIRECTOR DANNENFELSER: Well, the  
6 new quarter would begin in July.

7 COMMISSIONER GAZIANO: Okay, beginning  
8 with fiscal year 2009 for any briefings in 2009.

9 VICE CHAIR THERNSTROM: What does that do  
10 to the -- I mean, we had voted on briefings already.  
11 I can't think past September. What have we done?

12 COMMISSIONER GAZIANO: I don't think we  
13 have any scheduled. I don't --

14 COMMISSIONER MELENDEZ: Madam Chair.

15 VICE CHAIR THERNSTROM: Yeah.

16 COMMISSIONER MELENDEZ: I think, you know,  
17 part of the issue on trying to vote on this now, is I  
18 would have a hard time even if you sent that to me,  
19 whatever you just read and I had time to study it,  
20 because I think it's a vast departure from the way  
21 we've been operating thus far and we don't even have  
22 the rest of the Commissioners here. And then we've  
23 already scheduled a bunch of these for 2008 and 2009.  
24 So if we're going back to the drawing board, I think

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1 the --

2 VICE CHAIR THERNSTROM: Yeah, well, I  
3 would like to know, that's what I was just asking,  
4 what have we already scheduled?

5 COMMISSIONER MELENDEZ: See, and I think  
6 it's a bigger discussion to make a hasty -- I haven't  
7 even had time to even think this out and I don't even  
8 have your paper and then --

9 COMMISSIONER GAZIANO: Well, perhaps we  
10 could have a discussion before we --

11 VICE CHAIR THERNSTROM: Yeah.

12 COMMISSIONER GAZIANO: Why -- what is your  
13 thought on this process?

14 COMMISSIONER MELENDEZ: I'd rather see us  
15 put it on the next business meeting which is next --  
16 when we come back in July because we've got the budget  
17 at that time also. And this could be tied to the  
18 budget, because we're talking about how many --

19 COMMISSIONER HERIOT: We'll have a report,  
20 too, don't we?

21 COMMISSIONER MELENDEZ: And because even  
22 the issue on the conference and everything has a cost  
23 associated with it. So I think that you know, the  
24 bigger picture is a full discussion of this and, you

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1 know, it has to do with how many times we're going  
2 to be coming out here and I think it's just --

3 VICE CHAIR THERNSTROM: How many times  
4 we're going to be coming out --

5 COMMISSIONER MELENDEZ: I mean, if we're  
6 going to be changing the whole schedule that we've  
7 already set in place, you know, otherwise how would  
8 you apply it to 2008 or 2009? We've already set those  
9 -- I thought we already had four topics already.

10 VICE CHAIR THERNSTROM: Well, that's what  
11 I was just asking. I can't quite remember what we --

12 COMMISSIONER MELENDEZ: So I'm just saying  
13 it's --

14 VICE CHAIR THERNSTROM: Does somebody have  
15 --

16 COMMISSIONER MELENDEZ: What are they?  
17 It's school choice as a civil rights, racial  
18 disparities and healthcare access and outcomes, misuse  
19 of disparate impact theory, disparate treatment of  
20 Native American victims in criminal investigations and  
21 prosecution, application of state and local marriage  
22 and family law to gay and lesbian America.

23 VICE CHAIR THERNSTROM: Wait a minute, are  
24 these topic --

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1 COMMISSIONER MELENDEZ: These were  
2 topics to be considered.

3 VICE CHAIR THERNSTROM: Yeah, those are  
4 simply topics to be considered. Those aren't topics  
5 we voted on for specific briefing slides. Gail, did  
6 you have something to say?

7 COMMISSIONER HERIOT: No, I agree with you  
8 that those are not things that we've scheduled.

9 VICE CHAIR THERNSTROM: Yeah, we have not  
10 scheduled those. Is there any reason why we cannot  
11 agree to what Commissioner Melendez has suggested and  
12 simply -- you know, this is --

13 COMMISSIONER GAZIANO: The reason would  
14 be, the only reason as I see it is July would be a  
15 good time to start setting our first quarter 2009  
16 briefing schedule. I think we're also going to have  
17 to revote on the statutory report at that point.  
18 We're either going to confirm this Home Sweet Home  
19 topic or we're going to pick something else. So it  
20 would be nice to know that the process -- the  
21 beginning of the process would be that we have to  
22 draft an AI, it seems and that will take some time,  
23 too.

24 VICE CHAIR THERNSTROM: I have a feeling

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1 we are losing a Commissioner.

2 COMMISSIONER YAKI: No.

3 VICE CHAIR THERNSTROM: Oh, okay.

4 COMMISSIONER MELENDEZ: So we set a  
5 statutory report now, we're going to change to another  
6 topic, is that what we're saying here?

7 COMMISSIONER GAZIANO: Well, it seems to  
8 me, my guess is, my surmise is, we're not going to do  
9 the Home Sweet Home investigation. We might if that's  
10 what -- but that seems --

11 COMMISSIONER MELENDEZ: I mean, haven't we  
12 started work on that already?

13 VICE CHAIR THERNSTROM: Yes, we have and  
14 the SACs have already done a great deal of work on it  
15 as well.

16 COMMISSIONER GAZIANO: As I understand it,  
17 they've done other fair housing issues. They haven't  
18 particularly narrowed in on the Home Sweet Home.

19 VICE CHAIR THERNSTROM: Well, they have  
20 been told to work on fair housing. The question is  
21 whether it's relevant to our report.

22 COMMISSIONER YAKI: Can I call the  
23 question?

24 VICE CHAIR THERNSTROM: Yeah, call the

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1 question. Wait a minute, what's the motion, I'm  
2 sorry. What is the motion on the floor?

3 COMMISSIONER GAZIANO: To adopt this  
4 policy for 2009 briefings and those we would rewrite  
5 the AI so that we would not set a statutory report --  
6 pick a statutory report topic more than six months  
7 before the fiscal year --

8 VICE CHAIR THERNSTROM: I don't think  
9 people are ready to vote on this for the 2009 and I  
10 think out of courtesy to Commissioner Melendez, who  
11 would like to stare at, you know, exactly what we're  
12 doing and have time to digest it, I would -- I mean, I  
13 would ask you to withdraw your motion and simply move  
14 that we discuss this in the next meeting.

15 COMMISSIONER GAZIANO: I'd like to discuss  
16 withdrawing it then. When would we -- we're not going  
17 to have an August business meeting, I take it.

18 COMMISSIONER MELENDEZ: Is it July, July  
19 11<sup>th</sup>.

20 COMMISSIONER GAZIANO: We're not going to  
21 have an August one.

22 COMMISSIONER MELENDEZ: Right.

23 COMMISSIONER GAZIANO: So when would we  
24 have the opportunity to set -- I'm trying to be

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1 respectful of staff. They should have at least  
2 three months to pick topics for a hearing we might  
3 want to do in October and if we're not going to meet  
4 in August, then voting on what our topics will be in  
5 September --

6 VICE CHAIR THERNSTROM: Well, wait a  
7 minute, we do have a September briefing topic.

8 COMMISSIONER GAZIANO: Yes, but waiting  
9 till September, it's a hearing. I don't know that you  
10 want to have another long business meeting after that  
11 but even if you have another long business meeting  
12 after that in September, that wouldn't give you enough  
13 time if you wanted to have a briefing in October or  
14 even November, so July seems to be the time to set our  
15 first quarter schedule. Delaying it until July  
16 prejudices the substance of the motion.

17 VICE CHAIR THERNSTROM: Are people ready  
18 to vote on this? I'll simply call the question.  
19 There's a motion on the table that was made by  
20 Commissioner Gaziano. It involves both `09 and 2010 -  
21 - FY `09 and FY 2010, the schedule for both those  
22 fiscal years and the question is whether to adopt this  
23 kind of incremental, as it were, planning for both of  
24 those fiscal years. Am I misstating in any way?

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1 COMMISSIONER GAZIANO: It's to adopt the  
2 proposal you read but apply it to fiscal year 2009 so  
3 that in July we can begin to consider the topics for -  
4 - we probably before July should even circulate  
5 amongst ourselves what some topics are.

6 VICE CHAIR THERNSTROM: And did we have a  
7 second on that motion?

8 COMMISSIONER HERIOT: Yeah.

9 VICE CHAIR THERNSTROM: Yeah. Okay, all  
10 in favor?

11 (Aye)

12 VICE CHAIR THERNSTROM: All opposed.

13 COMMISSIONER YAKI: No.

14 VICE CHAIR THERNSTROM: Well, I'm going to  
15 oppose it as well.

16 COMMISSIONER YAKI: Can we move the  
17 original motion?

18 VICE CHAIR THERNSTROM: So can we go back  
19 to the original motion? Yes, or would you like,  
20 Commissioner Melendez, to have that original motion  
21 postponed also? We're talking about 2010.

22 COMMISSIONER MELENDEZ: I would propose  
23 that. We're talking about basically the same thing.

24 VICE CHAIR THERNSTROM: Right.

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1 COMMISSIONER GAZIANO: I don't see a  
2 need to vote for 2010 process right now. If we're not  
3 going to apply it to 2009, we might as well wait till  
4 July or September or January.

5 COMMISSIONER YAKI: I'll withdraw that  
6 motion.

7 VICE CHAIR THERNSTROM: You're withdrawing  
8 the motion.

9 COMMISSIONER YAKI: Yes.

10 VICE CHAIR THERNSTROM: Okay.

11 COMMISSIONER YAKI: Move to table it for  
12 the next meeting.

13 VICE CHAIR THERNSTROM: Move to table it  
14 to the next meeting.

15 COMMISSIONER GAZIANO: Second.

16 VICE CHAIR THERNSTROM: Second it, all in  
17 favor?

18 (Aye)

19 VICE CHAIR THERNSTROM: Okay, it is on the  
20 agenda for the next meeting. State Advisory Committee  
21 Issues.

22 V. STATE ADVISORY COMMITTEE ISSUES

23 FLORIDA SAC

24 VICE CHAIR THERNSTROM: Motion to approve

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1 the resetting of the Florida State Advisory  
2 Committee and I have a motion that the Commission  
3 recharter the Florida State Advisory Committee. Under  
4 this motion, this Commission appoints the following  
5 individuals to that committee based on the  
6 recommendation of the Staff Director and I apologize  
7 beforehand but I'm about to mispronounce some names.  
8 Judith Albertelli, Juanita Alvarez-Mainster, please  
9 correct me if I'm pronouncing these wrong, Frances  
10 Bohnsack, Bohnsack, Clint Cline, Gilbert Colon, Elena  
11 Flom, Charles Hearn, Walter Hill, J. Robert McClure,  
12 Elizabeth Rodriguez, Frank Shaw, III, Alan Williams,  
13 and Sofian Zakkout.

14 COMMISSIONER HERIOT: I think you need to  
15 state for the record that Elian Flom would be chair.

16 VICE CHAIR THERNSTROM: I'm about to.

17 COMMISSIONER HERIOT: Okay.

18 VICE CHAIR THERNSTROM: I also move that  
19 the Commission reappoint Elena Flom as Chair of this  
20 rechartered Florida State Advisory Committee. These  
21 members will serve as uncompensated government  
22 employees and the Commissioners appreciate the hard  
23 work they will do. They will no doubt contribute to  
24 this State Advisory Committee. Under this motion, the

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1 Commission authorizes the Staff Director to execute  
2 the appropriate paperwork for the appointment.

3 We've got a motion.

4 COMMISSIONER HERIOT: So moved.

5 COMMISSIONER GAZIANO: Second.

6 VICE CHAIR THERNSTROM: Okay, any changes,  
7 discussion, questions?

8 COMMISSIONER MELENDEZ: Just a discussion,  
9 I just wanted to have an update as to activities of  
10 the Florida SAC over the last two years by the Staff  
11 Director.

12 STAFF DIRECTOR DANNENFELSER: I'm told  
13 that they've issued a report on desegregation and  
14 there was not a report for voting rights for ex-  
15 felons.

16 COMMISSIONER MELENDEZ: Okay, and just a  
17 comment. I know that I've always brought up that the  
18 ratio of men to women my understanding is this is 62  
19 percent men to 38 percent women, so I'm only saying  
20 that we should strive to balance that out because that  
21 was one of the disparities that we had a few years ago  
22 and I know we're improving on that, but it still seems  
23 like we're still lacking women. Maybe we can't find  
24 any. I'm not sure what the issue is sometimes. So

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1 just a comment, other than that, that's all.

2 COMMISSIONER YAKI: I second that comment  
3 for all three of the SACs we're approving today.

4 VICE CHAIR THERNSTROM: Are we ready to  
5 vote? I'll call the question. All in favor of  
6 approving the rechartering of the Florida SAC.

7 (Aye)

8 VICE CHAIR THERNSTROM: Any nays, any  
9 abstentions?

10 COMMISSIONER YAKI: Abstain.

11 VICE CHAIR THERNSTROM: Let the record  
12 show that Commissioner Yaki has abstained.

13 KENTUCKY SAC

14 VICE CHAIR THERNSTROM: Okay, motion to  
15 approve the rechartering of the Kentucky State  
16 Advisory Committee. Can I have a motion to that  
17 effect?

18 COMMISSIONER HERIOT: You're not going to  
19 read the roll --

20 VICE CHAIR THERNSTROM: Can I have a  
21 motion that the Commission -- oh, yes, I have to read  
22 it --

23 COMMISSIONER YAKI: Can I make a motion to  
24 waive the reading of the names?

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1 VICE CHAIR THERNSTROM: I would love  
2 that, thank you. Do we actually need to vote on that  
3 and are we allowed to do it?

4 COMMISSIONER HERIOT: I think you have to  
5 read them, to make sure you're appointing them.

6 COMMISSIONER YAKI: But they're in the  
7 agenda, so they're --

8 VICE CHAIR THERNSTROM: They're in the  
9 agenda.

10 COMMISSIONER MELENDEZ: The names aren't  
11 in the agenda.

12 COMMISSIONER YAKI: They're not what? Oh,  
13 they're not in the published agenda. I'm sorry.

14 COMMISSIONER HERIOT: Why don't you just  
15 make that an exhibit to the --

16 COMMISSIONER YAKI: No, you get to  
17 mispronounce names yet again.

18 VICE CHAIR THERNSTROM: Okay, the I make a  
19 motion the Commission recharter the Kentucky State  
20 Advisory Committee. Under this motion, the Commission  
21 appoints the following individuals to that committee  
22 based on recommendations of the Staff Director;  
23 Richard Clay, I got that pronunciation right, Regina  
24 Gomez, Betty Griffin, James T. Harman, J. Blaine

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1 Hudson, Vicki Maley, Linda McCray, the next one is,  
2 Osi Onyekwuluje, William Summers, V, Phil Tom, Jim  
3 Waters. I also move that the Commission reappoint J.  
4 Blaine Hudson as Chair of the rechartered Connecticut  
5 (sic) State Advisory Committee. These members will  
6 serve as uncompensated government employees and the  
7 Commission appreciates the hard work they will no  
8 doubt contribute to this SAC.

9 Under the motion, the Commission  
10 authorizes the Staff Director to execute the  
11 appropriate paperwork for the appointment. So moved,  
12 anybody?

13 COMMISSIONER HERIOT: So moved.

14 VICE CHAIR THERNSTROM: Second?

15 COMMISSIONER GAZIANO: Second.

16 VICE CHAIR THERNSTROM: Any discussion,  
17 changes, questions? If none, all in favor, please say  
18 aye.

19 (Aye)

20 VICE CHAIR THERNSTROM: Any opposed, any  
21 abstentions?

22 COMMISSIONER YAKI: Abstain.

23 VICE CHAIR THERNSTROM: Two abstentions.

24 Let the record show Commissioners Melendez and Yaki

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1 abstained.

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WYOMING SAC

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VICE CHAIR THERNSTROM: Okay, the last one, I hope, the rechartering of the Wyoming State Advisory Committee, could I have a motion that the Commission recharter the Wyoming State Advisory Committee? Under this motion, the Commission appoints the following individuals to that Committee based on the recommendations of the Staff Director; Thomas L. Sansonetti, Vicki Law Burger, Jacquelyn L. Bridgeman, Kathleen B. Dixon, Robert C. Byrd, Sleeter C. Dover, Shelby G. Carlson, Melvin R. Hamilton, Kerry D. Moon, Richard S. Machalek, Magdaleno J. Orlenias, Anetra D.E. Parks, Gail J. Ridgey, Francisco A. Rio, George Santini.

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I also move that the Commission appoint Thomas Sansonetti as Chair of the rechartered Wyoming State Advisory Committee. These members will serve as uncompensated government employees and the Commission appreciates the hard work they will no doubt contribute to the State Advisory Committee. Under this motion, the Commission authorizes the Staff Director to execute the appropriate paperwork for the appointment.

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1 COMMISSIONER GAZIANO: So moved with the  
2 notation that Robert C. Byrd is not a U.S. Senator but  
3 he is a retired dentist and forensic dentist who grew  
4 up as a Black American in Wyoming during the Civil  
5 Rights Struggle.

6 VICE CHAIR THERNSTROM: I appreciate that  
7 clarification. I was a little worried.

8 COMMISSIONER GAZIANO: Robert C. Byrd,  
9 with the other interesting history of -- West  
10 Virginia.

11 VICE CHAIR THERNSTROM: Have we got a  
12 second?

13 COMMISSIONER YAKI: I'd like to move to  
14 sever Thomas Sansonetti for a separate vote.

15 VICE CHAIR THERNSTROM: I don't have any  
16 problem with a separate vote on that since  
17 Commissioner based on one of the Commissioner's wants  
18 that -- is anybody going to second amending this  
19 motion? Commissioner Yaki, we need a second to amend  
20 this motion. Now, you made the motion to amend this.

21 COMMISSIONER GAZIANO: Second.

22 VICE CHAIR THERNSTROM: Okay.

23 COMMISSIONER YAKI: The motion to sever  
24 doesn't need a second.

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1 COMMISSIONER GAZIANO: But we seconded  
2 it first, now you mentioned a sever. We're -- if we  
3 agree to the motion to sever by unanimous consent --

4 VICE CHAIR THERNSTROM: All right, so is  
5 there -- calling the question. All in favor of  
6 appointing those individuals with the exception of  
7 George Santini -- oh, I'm sorry, it is the end of a  
8 long day, Thomas Sansonetti, please say aye.

9 (Aye)

10 VICE CHAIR THERNSTROM: All opposed?

11 COMMISSIONER HERIOT: Aye, we're voting  
12 for everybody except Sansonetti? Aye.

13 VICE CHAIR THERNSTROM: Okay, that is a  
14 unanimous vote as I understand it. Yes. Okay, now we  
15 turn to Thomas Sansonetti. We need a motion and then  
16 we --

17 COMMISSIONER GAZIANO: I move to approve  
18 Thomas Sansonetti and make him as chairman of --

19 VICE CHAIR THERNSTROM: And we need a  
20 second on that.

21 COMMISSIONER HERIOT: Second.

22 VICE CHAIR THERNSTROM: And let's have a  
23 discussion on that.

24 COMMISSIONER MELENDEZ: What is his

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1 history on civil rights work? Does anybody know?  
2 That's one of the questions we always ask.

3 VICE CHAIR THERNSTROM: I'm sorry to say I  
4 did not look up his history.

5 MR. BYRNES: I think he served as  
6 Assistant Attorney General for the Environment and  
7 Natural Resource Division in the first term of the  
8 Bush Administration.

9 VICE CHAIR THERNSTROM: So he sought to  
10 improve the plight of Indian tribes. He has  
11 represented us on land and trust and economic welfare  
12 issues.

13 COMMISSIONER MELENDEZ: If he worked for  
14 the Interior Department, he's probably an employee.  
15 Then that's what they're charged with doing.

16 MR. BYRNES: He wasn't in Interior.

17 COMMISSIONER MELENDEZ: He wasn't?

18 MR. BYRNES: He was at Holland and Hart.  
19 He represented Indian tribes in private practice at  
20 Holland and Hart as well.

21 COMMISSIONER YAKI: Did he work at  
22 Abramoff? I want to know, did he work at Abramoff?

23 VICE CHAIR THERNSTROM: He says -- his own  
24 statement says, "My interest" -- can I read this? "My

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1 interest in serving" -- this is his own statement.

2 "My interest in serving on the Commission stems from  
3 my long-standing efforts on behalf of Indian Tribes as  
4 both solicitor at the U.S. Department of the Interior,  
5 1990 to 1993, and as Assistant Attorney General at the  
6 U.S. Department of Justice's Environmental and Natural  
7 Resources Division, 2001 to 2005.

8 I have worked hard to improve the plight  
9 of tribal members. In my government post, I've  
10 represented a myriad of tribal members on housing,  
11 water, environmental justice and sovereignty  
12 protection issues. In my private practice, I have  
13 represented tribes in New York, California and Oregon  
14 on land into trust and economic welfare issues. I  
15 could continue that work as part of the Wyoming  
16 Advisory Commission."

17 Any further discussion on this or I'm  
18 going to just call the question? All in favor?

19 (Aye)

20 COMMISSIONER YAKI: Opposed.

21 COMMISSIONER MELENDEZ: Opposed.

22 VICE CHAIR THERNSTROM: Two opposed.

23 Commissioners Yaki and Melendez are opposed and  
24 otherwise, and three in support. Okay, I think we

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1 are done.

2 STAFF DIRECTOR DANNENFELSER: Madam Chair?

3 VICE CHAIR THERNSTROM: Yeah.

4 STAFF DIRECTOR DANNENFELSER: A few days  
5 ago I saw in the e-mail there was some interest in  
6 submitting comments on the voter fraud and voter  
7 intimidation report and I was just wondering, I think  
8 Commissioner Gaziano had mentioned a date and I know  
9 Mr. Yaki, I believe, was working on some comments on  
10 that. I was just wondering if we can get a consensus  
11 on when members feel they can submit their comments on  
12 that report.

13 COMMISSIONER GAZIANO: I would ask a  
14 personal favor. I'm taking a family vacation in which  
15 I may actually be able to work on this and so --

16 COMMISSIONER YAKI: Excuse me, you're  
17 taking a family vacation on which you'll be working on  
18 this?

19 COMMISSIONER GAZIANO: Yeah, I can't do it  
20 during my day job.

21 COMMISSIONER YAKI: I'm saying, why would  
22 you do it during your family vacation?

23 COMMISSIONER GAZIANO: Because I don't  
24 know when else to get it done.

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1 VICE CHAIR THERNSTROM: Because he's  
2 crazy.

3 COMMISSIONER GAZIANO: Anyway --

4 COMMISSIONER YAKI: Have our record sent  
5 to his family by courier tomorrow. What date are we  
6 looking at?

7 COMMISSIONER GAZIANO: June 25.

8 COMMISSIONER HERIOT: Oh, one more issue.

9 VICE CHAIR THERNSTROM: I don't care,  
10 that's fine with me.

11 COMMISSIONER HERIOT: On the September  
12 briefing, do we have a date?

13 COMMISSIONER YAKI: I'm going to try.

14 VICE CHAIR THERNSTROM: What was the  
15 issue?

16 COMMISSIONER YAKI: You're supposed to  
17 give us a date.

18 VICE CHAIR THERNSTROM: I'm sorry, I'm  
19 lost. What's the issue?

20 COMMISSIONER MELENDEZ: Or to confirm the  
21 one we already had.

22 COMMISSIONER YAKI: What was the one we  
23 had?

24 STAFF DIRECTOR DANNENFELSER: Friday, the

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1 12<sup>th</sup> which I'm --

2 COMMISSIONER MELENDEZ: How about the 5<sup>th</sup>?

3 STAFF DIRECTOR DANNENFELSER: No, that's  
4 part of the -- that's like -- the week after is fine.

5 VICE CHAIR THERNSTROM: I can't do it the  
6 week after. I'm out of town.

7 STAFF DIRECTOR DANNENFELSER: The 12<sup>th</sup>?

8 VICE CHAIR THERNSTROM: I'm leaving town  
9 for a week on the 15<sup>th</sup>.

10 STAFF DIRECTOR DANNENFELSER: So the 12<sup>th</sup>  
11 still works.

12 VICE CHAIR THERNSTROM: September 15<sup>th</sup>,  
13 yes.

14 COMMISSIONER YAKI: Just go without me.

15 VICE CHAIR THERNSTROM: The 12<sup>th</sup> will work  
16 for me.

17 STAFF DIRECTOR DANNENFELSER: Does  
18 September 12<sup>th</sup> work for everybody or not?

19 COMMISSIONER HERIOT: It does for me.

20 COMMISSIONER YAKI: Well, that's our  
21 original date is the 12<sup>th</sup>.

22 VICE CHAIR THERNSTROM: Yeah, and you  
23 can't make it.

24 COMMISSIONER YAKI: I think I'm going to

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1 be in trial but I mean, it's just me, so work around  
2 it.

3 COMMISSIONER GAZIANO: Is there another  
4 day here then that would be good for you?

5 COMMISSIONER YAKI: No, because the week  
6 after she can't make it and then we're just coming  
7 right under that one.

8 VICE CHAIR THERNSTROM: Yeah, I'm out of  
9 town the next week. Well, I'll give you a proxy vote.

10 COMMISSIONER YAKI: So she can make sure  
11 she got that for the record. No.

12 VICE CHAIR THERNSTROM: Move to adjourn,  
13 please.

14 COMMISSIONER YAKI: Move to adjourn

15 COMMISSION GAZIANO: Second. Without  
16 objection, so ordered.

17 (Whereupon, at 3:32 p.m. the above-  
18 entitled matter concluded.)

19

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