

U.S. COMMISSION ON CIVIL RIGHTS

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TELECONFERENCE MEETING

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MONDAY
MARCH 30, 2009

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The Commission convened via teleconference
at 11:30 a.m, Gerald A. Reynolds, Chairman, presiding.

PRESENT:

GERALD A. REYNOLDS, Chairman
ABIGAIL THERNSTROM, Vice Chairman
TODD F. GAZIANO, Commissioner
GAIL L. HERIOT, Commissioner
PETER N. KIRSANOW, Commissioner
ARLAN D. MELENDEZ, Commissioner
ASHLEY L. TAYLOR, JR., Commissioner
MICHAEL YAKI, Commissioner

MARTIN DANNENFELSER, Staff Director

STAFF PRESENT:

DAVID BLACKWOOD, General Counsel
CHRISTOPHER BYRNES, Chief, Programs
Coordination Unit
DEBRA CARR, Associate Director
DEMITRIA DEAS
PAMELA DUNSTON, Chief, ASCD
MAHA JWEIED
ROBERT LERNER, Assistant Staff Director,
OCRE
TINALOUISE MARTIN, Director, Office of
Management
EMMA MONROIG, Solicitor
LENORE OSTROWSKY
KIMBERLY TOLHURST
AUDREY WRIGHT

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COMMISSIONER ASSISTANTS PRESENT:

TIM FAY
DOMINIQUE LUDVIGSON
KIMBERLY SCHULD
RICHARD SCHEMECHEL

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

(11:38 a.m.)

CHAIRMAN REYNOLDS: Okay. Good morning.
This is Chairman Reynolds.

This is a telephonic meeting of the U.S.
Commission on Civil Rights. It is 11:38 a.m. Eastern
Standard Time on Monday, March 30, 2009.

Our Commissioners are participating from
different locations. I will call the name of each
Commissioner to determine if there is a quorum to hold
a meeting. Vice Chair Thernstrom?

VICE CHAIR THERNSTROM: Here.

CHAIRMAN REYNOLDS: Commissioner Gaziano?

COMMISSIONER GAZIANO: Here.

CHAIRMAN REYNOLDS: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Here.

CHAIRMAN REYNOLDS: Commissioner Heriot?

COMMISSIONER HERIOT: Here.

CHAIRMAN REYNOLDS: Commissioner Melendez?
Commissioner Melendez?

(No response.)

Commissioner Yaki? Commissioner Yaki?

COMMISSIONER YAKI: I'm here. I'm here.

CHAIRMAN REYNOLDS: Commissioner Taylor?

COMMISSIONER TAYLOR: Here.

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1 CHAIRMAN REYNOLDS: Okay. The Staff
2 Director is present.

3 Will the Court Reporter please confirm
4 that she is still on the line?

5 THE COURT REPORTER: He is.

6 CHAIRMAN REYNOLDS: Very good.

7 Okay. Well, then, the meeting will come
8 to order. If a Commissioner wishes to make a
9 statement, please identify yourself first. When it is
10 necessary to take a vote, please state your name, then
11 your vote. After the voting is concluded, I will read
12 back how each of you has voted to ensure that the
13 tally is correct.

14 I want to start off by noting the passing
15 of Dr. John Hope Franklin, who died this past
16 Wednesday at the age of 94. Most recently, Dr.
17 Franklin was the James B. Duke Professor Emeritus of
18 History at Duke University, where he taught for a
19 decade. He is best known for his pioneering
20 scholarship in the area of African-American Studies.

21 He is the author of numerous books,
22 including "From Slavery to Freedom: A History of
23 African-Americans," a seminal text on the black
24 experience in the United States that integrated black
25 voices into American history. Some 60 years after its

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1 publication, the book is still relevant, and it is now
2 in its seventh edition.

3 As a scholar, Dr. Franklin lent his
4 perspective as a historian to Thurgood Marshall and
5 his legal team at the NAACP to help persuade the
6 Supreme Court to outlaw the government's use of racial
7 classifications in public schools and the landmark
8 case of Brown v. Board of Education.

9 During his lifetime, Dr. Franklin earned
10 honors too numerous to list, including more than 130
11 honorary degrees, the NAACP's Spingarn Medal, the
12 Charles Franklin Prize, and the Presidential Medal of
13 Freedom.

14 He also served as Chairman of President
15 Clinton's Initiative on Race. It was said of Dr.
16 Franklin that he gave eloquence and meaning to our
17 ideas, hopes, and dreams of American citizens. Today
18 we honor his life, his work, and his enduring legacy
19 as we mourn his passing.

20 Next up, approval of the agenda.

21 **I. APPROVAL OF AGENDA**

22 CHAIRMAN REYNOLDS: I move that we approve
23 the agenda. Is there a second?

24 COMMISSIONER HERIOT: Second. This is
25 Heriot.

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1 CHAIRMAN REYNOLDS: Discussion?

2 VICE CHAIR THERNSTROM: I would like to
3 offer a motion to amend, Mr. Chairman. This is
4 Abigail Thernstrom, the Vice Chair.

5 CHAIRMAN REYNOLDS: Okay. Please, Abby,
6 go forward and let's hear your proposed amendment.

7 VICE CHAIR THERNSTROM: Okay. As you
8 know, we have received copies of two motions only this
9 past weekend of motions -- the motion to respond to
10 EEOC --

11 COMMISSIONER HERIOT: Wait. Don't you
12 have to just make the motion and get a second?

13 VICE CHAIR THERNSTROM: Well, I'm going to
14 make --

15 COMMISSIONER HERIOT: And then you explain
16 it.

17 CHAIRMAN REYNOLDS: I second it.
18 Continue, Abby.

19 THE COURT REPORTER: I'm sorry. Who was
20 that seconding?

21 VICE CHAIR THERNSTROM: Motion to respond
22 to EEOC's February 6, 2009 letter regarding our
23 English-in-the-Workplace document request. And motion
24 to collect and make public data on the Federal
25 Government's civil rights enforcement efforts.

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1 I, for one, would like more time to
2 consider these motions. I do believe that receiving
3 them on Saturday is -- in fact, violates our own
4 procedural rules, and I move that we strike them from
5 today's agenda, and, instead, put them on the
6 April 17th meeting.

7 I have, you know, utmost respect for my
8 colleagues who offer these motions. At first glance,
9 they seem to be within the purview of this Commission.
10 But I think it would be useful for Commissioners and
11 the senior staff to take the time to get a handle on
12 what we are going to do with this information,
13 assuming we receive any of it.

14 And I also have a concern with our backlog
15 of briefing reports. If we can get some more of these
16 reports out the door, I might feel more comfortable in
17 committing staff resources to the data collection and
18 analysis implied by these motions.

19 COMMISSIONER GAZIANO: May I speak to the
20 motion to amend, Mr. Chairman.

21 CHAIRMAN REYNOLDS: Commissioner Gaziano,
22 go ahead.

23 VICE CHAIR THERNSTROM: And I also have
24 another -- a subsequent motion, but after this.

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1 COMMISSIONER GAZIANO: Those may be
2 meritorious objections, although I am not sure the
3 timing one is. I think the timing is. But I would
4 certainly want to discuss the motions. I think we may
5 have enough information to actually vote on them
6 today, but that seems to -- Vice Chair's concerns seem
7 to go to the merits of them. And I certainly think we
8 should --

9 VICE CHAIR THERNSTROM: No, I --

10 COMMISSIONER GAZIANO: I certainly think
11 we should discuss them, have them on the agenda and
12 discuss them, if we have any hope of voting for them
13 at any particular time. So I would like at least a
14 discussion of the motions and see if we can amend
15 them, perfect them, vote on them today, or, if we find
16 merit in the request to postpone, we can at least
17 understand what the basis of -- that we need to do to
18 them, so that we might be able to vote on them next
19 time.

20 THE COURT REPORTER: This is the Court
21 Reporter. Who was that speaking?

22 COMMISSIONER GAZIANO: Gaziano.

23 THE COURT REPORTER: I'm sorry?

24 COMMISSIONER GAZIANO: Todd Gaziano.

25 THE COURT REPORTER: Thank you.

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1 COMMISSIONER KIRSANOW: This is Kirsanow.
2 I just have a question as to when it is that
3 Commissioners received copies of these proposed
4 motions.

5 VICE CHAIR THERNSTROM: Saturday morning.

6 COMMISSIONER HERIOT: But there was an
7 announcement that there would be such motions. It is
8 just Saturday morning is the time we got the exact
9 wording.

10 CHAIRMAN REYNOLDS: That's correct. This
11 is Chairman Reynolds. It is also important to note
12 that these are not lengthy documents.

13 COMMISSIONER HERIOT: And I think it is
14 worth pointing out as well that there had been a
15 request to put this on the meeting from March, and
16 that was postponed. So this would be the second
17 postponement.

18 VICE CHAIR THERNSTROM: Well, I mean, it
19 -- I have a preference in general for discussing
20 things in person, of course, than on the phone. But
21 we need to review why we are asking for them, what we
22 are going to do with them, and our priorities at the
23 Commission. In other words, our purpose, our goal,
24 and how it fits -- how they fit into the -- I mean,
25 this is -- you are asking here for quite a document

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1 dump. How this, you know, fits in with the work
2 priorities of the staff and our own priorities as
3 Commissioners.

4 COMMISSIONER HERIOT: I agree that it is
5 better to discuss things in person, and that is why I
6 wanted to discuss it at our prior meeting. But I was
7 willing to do this.

8 CHAIRMAN REYNOLDS: Gail, let's just make
9 sure the Court Reporter knows who you are.

10 COMMISSIONER HERIOT: I'm Gail.

11 (Laughter.)

12 CHAIRMAN REYNOLDS: Commissioner Heriot.
13 That was Commissioner Heriot.

14 Now, Vice Chair Thernstrom, you bring up
15 some important points, but I think that that -- we
16 should have that discussion. You --

17 VICE CHAIR THERNSTROM: I am not prepared
18 to have it without a lot more information. And I do
19 think we would be fully informed by the staff at the
20 next meeting.

21 CHAIRMAN REYNOLDS: Vice Chair Thernstrom,
22 are you expecting additional paper? Because I believe
23 that this is all that is coming.

24 VICE CHAIR THERNSTROM: No. I think that
25 my impression anyway is -- and I may be wrong -- that

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1 we might get better briefed by the staff. But also, I
2 really think that this requires a fuller discussion
3 than anybody has the patience for on the phone.

4 COMMISSIONER YAKI: This is Commissioner
5 Yaki. I would just like to second what Commissioner
6 Thernstrom is saying. I don't know about your
7 schedules, but I am not budgeting four hours or three
8 hours for this particular meeting. I have a lot of
9 other things that are on my calendar today.

10 So if this is going to be a longer
11 discussion, and as I have been watching this, and if
12 the materials themselves may not be that lengthy, the
13 history behind these materials and why and wherefore,
14 and how it fits in with our entire work schedule, as
15 the Vice Chair has pointed out, is something that
16 might and should merit a much longer discussion.

17 In any case, I second Commissioner
18 Thernstrom's motion, and --

19 COMMISSIONER HERIOT: Already been
20 seconded.

21 CHAIRMAN REYNOLDS: Okay. Well --

22 COMMISSIONER YAKI: Just for the purposes
23 of rhetorical value, Ms. Heriot, not necessarily --

24 CHAIRMAN REYNOLDS: Okay. This is
25 Chairman Reynolds. It seems to me that we are chewing

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1 up a lot of time that could be spent discussing this
2 issue on the merits. I would not assume that this is
3 going to take up an inordinate amount of time.

4 I would suggest that we just open up the
5 floor to the sponsor or sponsors of the motion and
6 hear what they have to say.

7 COMMISSIONER HERIOT: But we have to vote
8 on the motion to change the agenda.

9 CHAIRMAN REYNOLDS: Yes. But I am trying
10 to get consensus around having the discussion.

11 COMMISSIONER HERIOT: Yes. But we can't
12 discuss the substance until we -- it has been approved
13 for the agenda.

14 COMMISSIONER MELENDEZ: This is
15 Commissioner Melendez. I just joined the call. I had
16 the wrong ID and call-in number, so I just -- I'm not
17 sure where we're at.

18 CHAIRMAN REYNOLDS: Okay.

19 VICE CHAIR THERNSTROM: Commissioner
20 Melendez, we should catch you up on what the issue is.
21 Could the chair do so?

22 CHAIRMAN REYNOLDS: Commissioner Melendez,
23 we are debating whether we should move forward with an
24 item on the agenda, and that is the motion to respond

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1 to the EEOC's February 6th letter regarding English-
2 in-the-Workplace document request.

3 And Vice Chair Thernstrom has voted to
4 amend the agenda so that that issue would be tabled.
5 And the rationale offered -- one is procedural, that
6 the actual language was not distributed until this
7 past Saturday. And I guess the other is also -- the
8 other issue is also procedural, that I believe -- and
9 correct me if I'm wrong, Vice Chair Thernstrom -- that
10 you believe that this will take up an inordinate
11 amount of time.

12 VICE CHAIR THERNSTROM: Well, I think --
13 it is not only -- in the first place, it's too -- it's
14 a motion to -- it is the -- the motion is two parts.
15 One was postponing the discussion of the EEOC letter
16 and also the motion to collect and make public -- make
17 public the data on the Federal Government's -- I was
18 up until 3:00 in the morning, sorry -- on the Federal
19 Government's civil rights enforcement efforts.

20 Look, this is -- this is -- these are
21 serious moves on our part to ask a great deal of
22 federal agencies, and to collect, if they were to
23 respond, an enormous amount of data that without any
24 prior understanding from the staff of what they are

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1 going to be able to do with this data, these data -- I
2 should correct my syntax.

3 And, you know, I just need a fuller
4 discussion, really at the Commission, with answers
5 from Commission staff, as to exactly what our
6 resources are, whether we can do something better with
7 our time, what -- you know, a discussion of what our
8 priorities are. It just does seem to me --

9 CHAIRMAN REYNOLDS: Vice Chair Thernstrom,
10 listening to you, it sounds like you have some
11 definite ideas on the topic, and it doesn't seem like
12 you are struggling to frame the issue.

13 VICE CHAIR THERNSTROM: No. You are
14 completely wrong.

15 CHAIRMAN REYNOLDS: Let me finish, Vice
16 Chair Thernstrom.

17 VICE CHAIR THERNSTROM: Okay.

18 CHAIRMAN REYNOLDS: Would you be willing
19 to withdraw your motion to allow discussion? We can
20 always vote it down during the program planning
21 agenda.

22 VICE CHAIR THERNSTROM: I'm not going to
23 withdraw my motion at this point. I really want it
24 postponed until --

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1 COMMISSIONER GAZIANO: I think there are
2 some very --

3 VICE CHAIR THERNSTROM: -- more
4 documentation than I have now.

5 COMMISSIONER GAZIANO: This is
6 Commissioner Gaziano. There are I think some very
7 simple answers to those, but I hasten to give them
8 until we have it on the agenda. It still may not pass
9 today.

10 CHAIRMAN REYNOLDS: Okay. Let's --

11 COMMISSIONER GAZIANO: Call the question?

12 CHAIRMAN REYNOLDS: Yes, indeed.

13 COMMISSIONER MELENDEZ: This is
14 Commissioner Melendez. Just for my comments, I don't
15 really -- I got this late also, and I'm trying to
16 understand, also agreeing with Commissioner
17 Thernstrom, that I don't totally understand.

18 Even if there is a relationship between
19 the first motion to the EEOC, then the second one
20 having to do with collecting public data on the
21 Federal Government's civil rights enforcement efforts,
22 I think -- it sounds to me like those are kind of, you
23 know, requiring information that will be given to
24 staff and analyzed, and all those different things.

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1 I don't totally understand if those are
2 kind of related in a way, because I just got this
3 late. And, hopefully, we can put it on until the next
4 meeting, so that I can actually ask staff and any of
5 you as to what this actually means, because I don't
6 think we have had adequate time to analyze it.

7 And I know that even if I am sending
8 something to the Commission later having to do with,
9 you know, kind of assessing where the heck we are to
10 see if we are meeting our statutory mandates, and
11 whether or not we are meeting all of those goals, and
12 all of the things that we have set forth, I think we
13 are kind of maybe getting off track, and so you will
14 receive that later in the week.

15 But I think it also ties to things like
16 this, so I hope that we could have a little more time
17 by April 20th to kind of gather our questions, because
18 I know we are not going to have time today to get into
19 all of this discussion. So that is just my opinion.

20 CHAIRMAN REYNOLDS: Okay.

21 COMMISSIONER MELENDEZ: Thank you.

22 CHAIRMAN REYNOLDS: This is Chairman
23 Reynolds. Todd, I would suggest that we -- at least I
24 am inclined to have a discussion, but postpone voting

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1 so that we can have further discussion and a vote in
2 the April business meeting. Is that agreeable to you?

3 COMMISSIONER GAZIANO: Why don't we -- I
4 would prefer -- I am not the principal sponsor of
5 this, but I would still prefer to have a discussion
6 and see -- we may -- that may be the result. We may
7 decide that we can vote on it.

8 COMMISSIONER HERIOT: Yes.

9 COMMISSIONER GAZIANO: Especially the EEOC
10 letter. I think the EEOC letter is even easier. I
11 proposed a couple sentence substitution, but I would
12 like to get that EEOC letter out.

13 COMMISSIONER YAKI: Commissioner Yaki. I
14 have a question. Having never seen the first EEOC
15 letter in the first place, I am not comfortable
16 shooting in the dark without having seen the first
17 response.

18 COMMISSIONER GAZIANO: You should have.
19 You were copied on the original e-mail.

20 COMMISSIONER YAKI: Well, I don't have it.

21 CHAIRMAN REYNOLDS: Okay. Commissioner
22 Heriot, the proposal that I put on the table, any
23 response?

24 COMMISSIONER HERIOT: It seems to me that
25 this -- that doesn't go to this motion. We should

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1 simply vote this motion down, and then, if we choose
2 not to vote on the issue later, that's -- you know,
3 that's what we choose to do.

4 VICE CHAIR THERNSTROM: I am willing to
5 amend my motion so that it conforms to the suggestion
6 made by the chair. I do not want to vote today. I
7 would like to have the time to think about this, to
8 gather some more information myself.

9 I would hope that at the next meeting we
10 would be provided with more information. These are
11 not --

12 COMMISSIONER HERIOT: I don't think there
13 is such a thing as a motion not to vote. You just
14 don't vote.

15 VICE CHAIR THERNSTROM: No, I'm -- there
16 can be a motion, as the chair described it, to have a
17 discussion today, but to postpone any vote on this
18 subject until the following meeting, at which point we
19 would have further discussion.

20 COMMISSIONER YAKI: Second. Commissioner
21 Yaki. Second.

22 CHAIRMAN REYNOLDS: Okay. Vice Chair
23 Thernstrom, how do you vote?

24 VICE CHAIR THERNSTROM: We are voting on
25 what you suggested, isn't that correct?

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1 CHAIRMAN REYNOLDS: Yes. Commissioner
2 Yaki seconded the --

3 COMMISSIONER GAZIANO: Could I clarify
4 what --

5 COMMISSIONER HERIOT: Well, the first
6 motion, then -- we need to sort of do this --

7 COMMISSIONER GAZIANO: Yes. The motion
8 originally was to approve the agenda. Then, it was to
9 strike these discussion items. Are we striking even a
10 vote on the EEOC letter?

11 VICE CHAIR THERNSTROM: Yes. We are
12 postponing both until the next meeting. I feel a need
13 to do that.

14 COMMISSIONER GAZIANO: I am voting no. We
15 can always vote it down anyway. I just don't
16 understand why we can't just approve the agenda.

17 COMMISSIONER HERIOT: Well, we could do
18 the EEOC letter, which seems -- I'm surprised we even
19 have to pass this. Since they hadn't given us the
20 documents we had asked for, I would have expected
21 staff to follow up. But, you know, they weren't doing
22 that, so --

23 VICE CHAIR THERNSTROM: You know, we have
24 enough material to have a reasonable report already.

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1 CHAIRMAN REYNOLDS: Okay. Let's finish --
2 let's find out what we are voting about and vote.
3 Let's go back to Abby's original amendment.

4 VICE CHAIR THERNSTROM: I have withdrawn
5 it in favor of a new one. And Michael Yaki has
6 seconded it.

7 CHAIRMAN REYNOLDS: Okay. If that's --

8 COMMISSIONER GAZIANO: I think that's out
9 of order.

10 COMMISSIONER HERIOT: No, no, no. Gerry
11 has --

12 COMMISSIONER GAZIANO: I think it's --

13 COMMISSIONER HERIOT: -- to withdraw his
14 second, then, as well.

15 CHAIRMAN REYNOLDS: I'm sorry?

16 COMMISSIONER HERIOT: You have to withdraw
17 your second as well.

18 CHAIRMAN REYNOLDS: Okay, fine. Second
19 withdrawn.

20 VICE CHAIR THERNSTROM: Okay.

21 COMMISSIONER GAZIANO: I think it's --

22 VICE CHAIR THERNSTROM: And we've got a
23 substitute motion from me now, which allows discussion
24 but not vote today on this matter, and allows further
25 discussion and a vote on the 20th.

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1 COMMISSIONER YAKI: Second.

2 COMMISSIONER HERIOT: I don't think such a
3 motion is possible, to make a motion that no motion be
4 made.

5 VICE CHAIR THERNSTROM: What? That's --

6 COMMISSIONER YAKI: Sure you can.

7 CHAIRMAN REYNOLDS: Okay. Folks, let's
8 not get -- let's get out of the weeds. We are trying
9 to accomplish something here. I think -- does
10 everyone understand the issue that we are voting on at
11 this point? Do I need to restate it?

12 VICE CHAIR THERNSTROM: No. I'll restate
13 it, if you -- I think we all understand it. We are --

14 CHAIRMAN REYNOLDS: Well, I asked for --

15 VICE CHAIR THERNSTROM: -- proceeding with
16 a discussion. We are not proceeding with a vote. We
17 are proceeding with a discussion again at the next
18 meeting if we feel we need to. And we will vote at
19 that time.

20 CHAIRMAN REYNOLDS: Vice Chair Thernstrom,
21 how do you vote?

22 VICE CHAIR THERNSTROM: I vote yes.

23 CHAIRMAN REYNOLDS: Commissioner Gaziano?

24 COMMISSIONER GAZIANO: No.

25 CHAIRMAN REYNOLDS: Commissioner Heriot?

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1 COMMISSIONER HERIOT: No.

2 CHAIRMAN REYNOLDS: Commissioner Yaki?

3 COMMISSIONER YAKI: No.

4 CHAIRMAN REYNOLDS: Commissioner Taylor?

5 COMMISSIONER TAYLOR: No.

6 CHAIRMAN REYNOLDS: Commissioner Kirsanow?

7 COMMISSIONER KIRSANOW: No.

8 CHAIRMAN REYNOLDS: And I will --

9 COMMISSIONER MELENDEZ: Commissioner
10 Melendez here. Yes.

11 CHAIRMAN REYNOLDS: Oh, I'm sorry.
12 Commissioner Melendez?

13 COMMISSIONER MELENDEZ: I vote yes.

14 CHAIRMAN REYNOLDS: I am going to vote no.

15 Okay. So let the record reflect that
16 Commissioners Melendez, Yaki, and Thernstrom voted in
17 the affirmative. The remaining Commissioners voted
18 no.

19 So now the issue -- the original motion is
20 still in play. Do we want to vote at this point?

21 COMMISSIONER HERIOT: Call the question.

22 VICE CHAIR THERNSTROM: Wait a minute.
23 What --

24 COMMISSIONER GAZIANO: To approve the
25 agenda.

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1 COMMISSIONER HERIOT: To adopt the agenda.

2 CHAIRMAN REYNOLDS: I'm sorry?

3 COMMISSIONER HERIOT: The original motion
4 is to adopt the agenda.

5 CHAIRMAN REYNOLDS: That's correct.

6 COMMISSIONER HERIOT: I call the question.

7 VICE CHAIR THERNSTROM: Well, wait a
8 minute. I have another motion. I want to amend the
9 agenda in one other way. I want to amend the agenda
10 to include under the program planning portion a
11 discussion of the HBCU briefing report, why we have
12 not been able to approve it, and get it out the door.

13 CHAIRMAN REYNOLDS: Okay. Wouldn't that
14 be covered in the Staff Director's report, the update
15 on -- oh, I'm sorry, no. That's statutory reports.
16 Never mind. Is there a second?

17 COMMISSIONER TAYLOR: Second. Taylor.

18 CHAIRMAN REYNOLDS: Discussion?

19 COMMISSIONER MELENDEZ: Yes. Could I have
20 an explanation on the motion to collect and make
21 public data on Federal Government's civil rights
22 enforcement efforts? That is -- that is what we are
23 voting on also, including it in this agenda?

24 THE COURT REPORTER: I'm sorry. Who was
25 that speaking?

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1 COMMISSIONER MELENDEZ: Commissioner
2 Melendez.

3 THE COURT REPORTER: Thank you.

4 CHAIRMAN REYNOLDS: There is a motion to
5 amend the agenda to add a discussion about -- well,
6 basically, Vice Chair Thernstrom wants a status update
7 on the briefing report related to HBCUs.

8 COMMISSIONER HERIOT: Why that one in
9 particular? Why not all of them, then?

10 VICE CHAIR THERNSTROM: That one could get
11 out the door tomorrow. We did that briefing in May of
12 2006. July 2007 there was action on the report, but
13 the action on the report was tabled. It has been
14 repeatedly tabled.

15 CHAIRMAN REYNOLDS: Is there a second?

16 VICE CHAIR THERNSTROM: Yes. Ashley
17 already seconded it.

18 CHAIRMAN REYNOLDS: Okay. Continue, Vice
19 Chair Thernstrom.

20 VICE CHAIR THERNSTROM: Oh. Well, I mean,
21 that is my motion, to have a discussion of the HBCU
22 briefing and why we haven't been able to approve it
23 and get it out the door. I want it out the door.

24 But I was -- just to go back to
25 Commissioner Melendez, since he came in late, look --

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1 that was my concern about -- in raising those two
2 issues. The second issue was the motion to collect
3 and make public data on the government's civil rights
4 enforcement efforts. I want it postponed. But I have
5 been shot down on that.

6 COMMISSIONER MELENDEZ: Okay. All right.
7 Thank you.

8 CHAIRMAN REYNOLDS: Any other comments
9 from Commissioners?

10 VICE CHAIR THERNSTROM: I've got a motion
11 on the table to amend the agenda to --

12 CHAIRMAN REYNOLDS: Yes, we're discussing
13 your amendment right now.

14 VICE CHAIR THERNSTROM: Okay.

15 CHAIRMAN REYNOLDS: Marty, do you have any
16 information that you are able to provide at this time?

17 STAFF DIRECTOR DANNENFELSER: Well, the
18 briefing was held in May of 2006. It was placed on
19 the agenda in July of 2007. There was discussion at
20 that time about adding two studies to the report, and
21 then the further action on the report was tabled at
22 that time. There was discussion of it again in August
23 of 2007.

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1 CHAIRMAN REYNOLDS: Before you go on --
2 this is Chairman Reynolds -- were the two reports
3 added?

4 STAFF DIRECTOR DANNENFELSER: In August of
5 2007, it was reported that one report was added in the
6 appendix, and that other information relative to that
7 report was incorporated into the report itself.
8 Information relative to that study was incorporated
9 into the report itself.

10 CHAIRMAN REYNOLDS: And why wasn't the
11 second report added to the -- I mean, the second
12 study, why wasn't it added?

13 STAFF DIRECTOR DANNENFELSER: I'm not
14 clear on that. I would need to do some more research
15 to find out --

16 CHAIRMAN REYNOLDS: Okay.

17 STAFF DIRECTOR DANNENFELSER: -- what
18 happened with that second study.

19 COMMISSIONER HERIOT: I think I can be
20 helpful here.

21 STAFF DIRECTOR DANNENFELSER: Okay.

22 COMMISSIONER HERIOT: You know, I have
23 taken the position with several Commissioners that the
24 HBCU report would have exponentially greater impact if
25 it were released at the same time as the STEM report.

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1 COMMISSIONER YAKI: Why?

2 COMMISSIONER HERIOT: Why? Because HBCUs
3 do a particularly good job at educating students in
4 science, technology, engineering, and mathematics.
5 And I think that -- those two reports I think are very
6 much related to each other. I would actually prefer
7 that they be integrated into one report, but releasing
8 them at the same time I think would have a similar
9 effect.

10 COMMISSIONER YAKI: This is Commissioner
11 Yaki. I don't understand that at all. The briefings
12 were separated in time by two years.

13 COMMISSIONER HERIOT: But they're related
14 topics.

15 COMMISSIONER YAKI: I mean, they're only
16 related insofar as you have some pieces that you want
17 to approve there, Commissioner. And I think that --

18 COMMISSIONER HERIOT: And what's wrong
19 with that if that is what the Commission wants to do?

20 COMMISSIONER YAKI: And I think that when
21 it comes to, your bootstrapping down an HBCU report to
22 the STEM report, no matter how or what -- how or why
23 we think HBCUs do a good job with STEM or not, the
24 STEM report is much broader than the HBCU report. And

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1 that was not the purpose of the HBCU report back in
2 2006.

3 I really see no reason why we are holding
4 the decision on -- if it's something that you have
5 instigated, then I would like to know -- I would like
6 to know why and when and how this has gone on, what
7 correspondence you had with the Executive Director and
8 the staff regarding this, because this is completely
9 new to me.

10 And if that's the reason why it is being
11 held, I want an explanation from the chair and the
12 Staff Director as to why -- as to why that would be
13 the case.

14 CHAIRMAN REYNOLDS: Okay. Marty, please
15 finish walking us through where we are with respect to
16 the HBCU briefing report.

17 COMMISSIONER HERIOT: Aren't you treating
18 the motion as if it has passed already?

19 COMMISSIONER GAZIANO: Yes. Can we just
20 either amend the agenda to include it in due time, at
21 some point on the agenda, or not? Is that possible?

22 CHAIRMAN REYNOLDS: The motion -- Vice
23 Chair Thernstrom has asked for a status report.

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1 VICE CHAIR THERNSTROM: I have moved to
2 amend the agenda to include under the program planning
3 portion a discussion of the HBCU briefing report.

4 COMMISSIONER GAZIANO: Yes. I would
5 prefer to take it after we do the EEOC and the other
6 two motions. So can we -- is it possible we could
7 just vote on the motion to amend the agenda, see if it
8 passes? And if it passes, we'll take it up at that
9 point?

10 CHAIRMAN REYNOLDS: Okay. Let's --

11 COMMISSIONER YAKI: I don't see why the
12 Staff Director just doesn't agree to put it in the
13 Staff Director's report.

14 CHAIRMAN REYNOLDS: Hold on. Let's finish
15 up with the two motions that were in play initially.
16 Right now we are voting on the original agenda. After
17 that vote is done, we will have discussion -- further
18 discussions and a possible vote on Vice Chair
19 Thernstrom's request for an update on the HBCU
20 briefing report.

21 COMMISSIONER GAZIANO: I think she has
22 moved to amend the agenda to put this in Section 3
23 under program planning.

24 CHAIRMAN REYNOLDS: That's correct.

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1 COMMISSIONER GAZIANO: And so shouldn't we
2 vote on that amendment to the agenda?

3 CHAIRMAN REYNOLDS: It works that way
4 also. So --

5 COMMISSIONER KIRSANOW: Call the question.

6 CHAIRMAN REYNOLDS: Commissioner Kirsanow?

7 COMMISSIONER KIRSANOW: I would call the
8 question.

9 CHAIRMAN REYNOLDS: Oh, very good. Vice
10 Chair Thernstrom?

11 VICE CHAIR THERNSTROM: I am not sure what
12 we are voting on at this point.

13 COMMISSIONER KIRSANOW: To amend the
14 agenda to include a discussion of HBCUs under Item 3.

15 VICE CHAIR THERNSTROM: Okay. Then, we
16 are --

17 COMMISSIONER YAKI: Your motion.

18 VICE CHAIR THERNSTROM: Pardon me?

19 COMMISSIONER YAKI: We're voting on --
20 this is Commissioner Yaki. We are voting on your
21 motion.

22 VICE CHAIR THERNSTROM: Okay. The answer
23 is yes. I guess we -- the prior amendments I
24 suggested are off the table at this point. The answer
25 is yes.

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1 CHAIRMAN REYNOLDS: Commissioner Gaziano?

2 COMMISSIONER GAZIANO: No.

3 CHAIRMAN REYNOLDS: Commissioner Heriot?

4 COMMISSIONER HERIOT: No.

5 CHAIRMAN REYNOLDS: Commissioner Yaki?

6 COMMISSIONER YAKI: Yes.

7 CHAIRMAN REYNOLDS: Commissioner Taylor?

8 COMMISSIONER TAYLOR: Yes.

9 CHAIRMAN REYNOLDS: Commissioner Melendez?

10 COMMISSIONER MELENDEZ: Yes.

11 CHAIRMAN REYNOLDS: Commissioner Kirsanow?

12 COMMISSIONER KIRSANOW: Yes.

13 CHAIRMAN REYNOLDS: And I also vote in the
14 affirmative. Commissioners Gaziano and Heriot voted
15 against the motion. The remaining Commissioners voted
16 in the affirmative. The motion passes.

17 Okay. Any more amendments?

18 (No response.)

19 Very good.

20 Are we ready to vote on the agenda as
21 amended?

22 COMMISSIONER GAZIANO: Please.

23 COMMISSIONER MELENDEZ: This is
24 Commissioner Melendez again. I still don't understand
25 -- you talked about the EEOC, but I -- maybe I was

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1 late on the call in the agenda addition to collect and
2 make public data on Federal Government's civil rights
3 enforcement efforts. Is that -- that is another thing
4 that I -- I don't know enough about whether or not --
5 you know, how it affects staff, similar to the EEOC
6 one. So I'm not in agreement. I would rather have
7 that discussed at the April 20th meeting. So have you
8 already decided that --

9 VICE CHAIR THERNSTROM: Well, that was my
10 motion, Commissioner Melendez.

11 COMMISSIONER HERIOT: Yes. We lost that
12 motion.

13 VICE CHAIR THERNSTROM: I didn't get -- I
14 made a motion, for precisely the reasons you
15 articulate, to postpone it until April 20th. But I
16 was defeated on that.

17 COMMISSIONER MELENDEZ: Okay. All right.
18 Thank you.

19 CHAIRMAN REYNOLDS: Okay. So,
20 Commissioner Thernstrom, how do you vote?

21 VICE CHAIR THERNSTROM: Yes.

22 CHAIRMAN REYNOLDS: Commissioner Gaziano?

23 COMMISSIONER GAZIANO: Yes.

24 CHAIRMAN REYNOLDS: Commissioner Heriot?

25 COMMISSIONER HERIOT: Yes.

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1 CHAIRMAN REYNOLDS: Commissioner Yaki?

2 COMMISSIONER YAKI: Abstain.

3 CHAIRMAN REYNOLDS: Commissioner Taylor?

4 COMMISSIONER TAYLOR: Yes.

5 CHAIRMAN REYNOLDS: Commissioner Melendez?

6 COMMISSIONER MELENDEZ: I abstain also.

7 CHAIRMAN REYNOLDS: Commissioner Kirsanow?

8 COMMISSIONER KIRSANOW: Yes.

9 CHAIRMAN REYNOLDS: And I also vote in the
10 affirmative. Commissioners Yaki and Melendez
11 abstained. The remaining Commissioners voted in the
12 affirmative. The motion passes.

13 That was painful, folks.

14 VICE CHAIR THERNSTROM: Well, you know, I
15 mean, if I thought it would do any good, I would have
16 just abstained on that, but whatever. Doesn't matter.

17 CHAIRMAN REYNOLDS: Okay. Moving right
18 along, at this point we are up to the Staff Director's
19 report.

20 **II. STAFF DIRECTOR'S REPORT**

21 CHAIRMAN REYNOLDS: Mr. Staff Director?

22 UPDATE ON FY09 APPROPRIATION

23 STAFF DIRECTOR DANNENFELSER: Thank you,
24 Mr. Chairman. As I noted in a recent e-mail to
25 Commissioners, the President has signed legislation on

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1 March 11th where he signed into law the Omnibus
2 Appropriations Bill for fiscal year 2009. We had been
3 operating under a continuing resolution, but at a
4 funding level for the Commission of \$8.46 million.
5 And this Omnibus Appropriations Bill increases that
6 level to \$8.8 million.

7 There was also language in the bill that
8 the Commission was asked to provide a report to the
9 Appropriations Committees in the House and Senate
10 within 60 days, which would be May 10th -- but that's
11 a Sunday, so I notified the House Appropriations
12 Committee we would report to them by May 8th, the
13 Friday -- about certain aspects of our budget,
14 transparency, issues relating to briefing reports.

15 So we will be getting that information
16 together and sending -- probably sending a letter to
17 the chairs and the ranking members of both of those
18 committees.

19 We have also had a development where, with
20 respect to the FY2009 budget, that the President has a
21 more expansive budget, or he is doing more -- further
22 review of his budget and may be submitting an updated
23 budget by about April 21st.

24 So while we initially thought, after we
25 approved our budget here at the February 20th meeting,

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1 that we would be submitting that right away to the
2 committees, we have been asked by OMB to wait until
3 they give us the go ahead to submit the budget, which
4 will probably be about April 21st.

5 At this point, we don't expect that they
6 will be coming back to us, that the administration
7 will be coming back to us with any further requests to
8 amend our budget. The main purpose of that extended
9 period, extended review by the administration, is to
10 see how their priorities will be incorporated into the
11 budget.

12 For instance, the President has talked
13 about health care reform. He has a major initiative
14 on health care reform, so that presumably would affect
15 the budget of the Department of Health and Human
16 Services. So they want to work with the Department of
17 Health and Human Services to see how the budget might
18 be revised to reflect that Presidential priority.

19 So I am just asking that we hold off on
20 submitting our budget until that time. But as I said,
21 I believe that will be about April 21st that we will
22 be able to submit it.

23 We have had it reviewed by our OMB
24 examiner. She proposed some changes in terms of
25 moving some information from the back of the report to

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1 the front of the report, and then a few other very
2 small technical changes which we have incorporated.
3 But we are holding off on actually submitting it until
4 we get the go ahead from OMB about April 21st.

5 CHAIRMAN REYNOLDS: Questions?

6 COMMISSIONER MELENDEZ: Yes. Commissioner
7 Melendez. On the May -- is it 10th or 11th --
8 appropriation sent to Congress, is there supposed to
9 be inclusion of Commissioners' comments with that?

10 STAFF DIRECTOR DANNENFELSER: It wasn't
11 clear to that effect. It just asks that we report to
12 the committee. And I would interpret that to be a
13 letter either from myself or from the Chairman to the
14 committee explaining what we plan to do in the areas
15 that are delineated in the report language from the
16 Omnibus Appropriations Bill.

17 COMMISSIONER MELENDEZ: Okay. Also, we
18 have \$8.8 million now as -- we had anticipated \$8.4-
19 something, so we have about \$340,000 more for -- that
20 we will be working with for this year, is that
21 correct?

22 STAFF DIRECTOR DANNENFELSER: That is
23 correct, Commissioner.

24 COMMISSIONER MELENDEZ: Okay. I had asked
25 for an update, you know, for the first quarter, which

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1 was started I believe October 1st through
2 December 31st. But I haven't received -- just to find
3 out where we are. Now we're in the second quarter,
4 and I still haven't received anything as to how we are
5 managing the budget. So I requested that quite a
6 while ago. You know, am I still going to get that?

7 CHAIRMAN REYNOLDS: Commissioner Melendez,
8 are you referring to the quarterly budget update?

9 COMMISSIONER MELENDEZ: Yes. Yes, I had
10 asked for that, but I haven't received it.

11 CHAIRMAN REYNOLDS: Mr. Staff Director?

12 STAFF DIRECTOR DANNENFELSER: Yes. I am
13 assembling material. I have some information,
14 actually, up until -- through February, through the
15 end of February. And I just think that the numbers
16 there need some explanation. Where there are some
17 variances in particular areas, I have asked the
18 Director of the Office of Management to provide me
19 with a little more detail on explaining why we might
20 be over in some categories, under in some other
21 categories.

22 There are basically three major
23 categories, and so she has provided me with some of
24 that information. I spoke to her again this morning,
25 and she is working on providing some additional

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1 details. So I expect to have that within the next day
2 or two, hopefully, to be able to provide that to
3 Commissioners.

4 COMMISSIONER MELENDEZ: Okay. The other
5 question, are we still doing this conference, you
6 know, that required a certain amount of
7 appropriations? And when was it supposed to be? And
8 are we still on target? Because it seems like if it
9 is still going to happen, we are probably kind of
10 running out of time on preparation for that event, if
11 that is still on the agenda.

12 CHAIRMAN REYNOLDS: It is still on the
13 agenda. No date has been selected. And the planning
14 is just starting to get underway.

15 COMMISSIONER MELENDEZ: Are we saying we
16 are trying to have this happen before the end of the
17 fiscal year, which is September 30th?

18 CHAIRMAN REYNOLDS: That is correct.

19 COMMISSIONER MELENDEZ: Okay. Thank you.

20 CHAIRMAN REYNOLDS: Other questions?

21 (No response.)

22 Okay. At this point, during our
23 February 20th business meeting Commissioners
24 unanimously approved a motion that the moratorium on
25 the hiring of special assistants be lifted in fiscal

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1 year 2010. Funding was to be allocated for three
2 additional special assistants, and the Staff Director
3 was charged with identifying funding for a fourth
4 additional special assistant, to be assigned to
5 Commissioner Kirsanow or his successor, if
6 Commissioner Kirsanow or his successor should make
7 such a request.

8 In light of our improved funding
9 circumstances for the remainder of 2009, and the
10 Commissioners' need for their own special assistants,
11 I move to lift the moratorium on special assistant
12 hiring for all Commissioners who indicated that they
13 would be hiring special assistants in 2010, so that
14 they may be permitted to hire such personnel
15 immediately.

16 Is there a second?

17 COMMISSIONER YAKI: Second. Commissioner
18 Yaki. Second.

19 CHAIRMAN REYNOLDS: Discussion?

20 COMMISSIONER MELENDEZ: Yes. Are we going
21 to see -- I am in support of that, but I just wanted
22 to see -- because it has to do with the budget, and I
23 would like to see what line item and where that is
24 going to come out of. I am just -- I haven't seen too
25 much as far as financial budget information. So I

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1 think when you -- when we do this, I would like to see
2 some type of budget line item that it is coming out
3 of.

4 THE COURT REPORTER: I'm sorry. Who was
5 just speaking?

6 COMMISSIONER MELENDEZ: Mr. Melendez.

7 THE COURT REPORTER: Thank you.

8 STAFF DIRECTOR DANNENFELSER: This is the
9 Staff Director. As we noted, there was an additional
10 \$340,000 that is now going to be provided to the
11 Commission for our use between now and September 30th.
12 So that would more than cover the cost of bringing on
13 these additional special assistants for the remainder
14 of the fiscal year.

15 COMMISSIONER MELENDEZ: And the reason I
16 asked this, I think we really need to go over even
17 budget savings, whether or not there is anything saved
18 from not hiring, you know, certain positions. And I
19 think we need to have a better look at the current
20 financial situation as to the previous budget and
21 future budgets. That's all I'm saying.

22 CHAIRMAN REYNOLDS: Well, Commissioner
23 Melendez, I am in agreement that we need to do a
24 better job of discussing where we are in terms of our
25 monthly spend.

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1 COMMISSIONER MELENDEZ: All right. Thank
2 you.

3 CHAIRMAN REYNOLDS: Any other questions?
4 Comments?

5 COMMISSIONER MELENDEZ: One more question.
6 I have -- I think we had talked about staff time being
7 spent or money on the campaign -- the campus anti-
8 semitism campaign, and I think we asked that in
9 January as to what we were doing there. I just needed
10 -- whether or not that is part of this budget also?

11 CHAIRMAN REYNOLDS: No, it is not.
12 Commissioner Melendez, we can deal with that, but that
13 issue is unrelated to the motion that is on the table
14 now.

15 COMMISSIONER MELENDEZ: Okay.

16 CHAIRMAN REYNOLDS: Okay. At this point,
17 Vice Chair Thernstrom, how do you vote?

18 VICE CHAIR THERNSTROM: I'm sorry. What
19 is the motion on the table?

20 CHAIRMAN REYNOLDS: This is to lift the
21 moratorium on the hiring of special assistants.

22 VICE CHAIR THERNSTROM: Oh, yes, of
23 course. Yes.

24 CHAIRMAN REYNOLDS: Commissioner Gaziano?

25 COMMISSIONER GAZIANO: Yes.

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1 CHAIRMAN REYNOLDS: Commissioner Kirsanow?

2 COMMISSIONER KIRSANOW: Yes.

3 CHAIRMAN REYNOLDS: Commissioner Heriot?

4 COMMISSIONER HERIOT: Yes.

5 CHAIRMAN REYNOLDS: Commissioner Melendez?

6 COMMISSIONER MELENDEZ: Yes.

7 CHAIRMAN REYNOLDS: Commissioner Yaki?

8 COMMISSIONER YAKI: Yes.

9 CHAIRMAN REYNOLDS: Commissioner Taylor?

10 Commissioner Taylor?

11 (No response.)

12 Okay. And I vote in the affirmative. Let
13 the record reflect that Commissioner Taylor did not
14 vote on this matter. The remaining Commissioners
15 voted in the affirmative. The motion passes.

16 VICE CHAIR THERNSTROM: So what is the
17 timetable here?

18 CHAIRMAN REYNOLDS: At this point,
19 Commissioners who don't have special assistants have
20 the ability to immediately hire a special assistant.

21 STAFF DIRECTOR DANNENFELSER: Well, we
22 probably have to go through a process with the White
23 House and OPM on that, but we can certainly get that
24 process underway.

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1 CHAIRMAN REYNOLDS: Yes. But the hiring
2 process could --

3 STAFF DIRECTOR DANNENFELSER: Right.

4 CHAIRMAN REYNOLDS: -- start immediately.

5 COMMISSIONER GAZIANO: And I assume that
6 means advising us on how to do that, who haven't had
7 special assistants before. But I am certainly eager
8 to start.

9 CHAIRMAN REYNOLDS: I am sure you are.

10 Okay. Mr. Staff Director, please update
11 us on the progress made on the 2009 statutory report.

12 UPDATE ON STATUTORY REPORT STATUS

13 STAFF DIRECTOR DANNENFELSER: Thank you,
14 Mr. Chairman. The staff has been meeting very
15 regularly on the statutory report, and they have put
16 together a great deal of research. We are having good
17 success in getting response from the agencies that we
18 have asked to provide us with such information.

19 And the draft report I understand is now
20 more than 100 pages, and it is being fine-tuned. And
21 I expect to receive an even more fine-tuned version of
22 it by the end of this week. And we do plan to send
23 the draft to Commissioners by April 27th.

24 CHAIRMAN REYNOLDS: Questions? Comments?

25 (No response.)

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1 COMMISSIONER HERIOT: Oh, okay. And I
2 just move that we send a followup letter. This is,
3 actually, I think kind of routine. You know, we
4 didn't get everything we asked for, and so this
5 request that -- that what we asked for be delivered --
6 except for, you know, they had raised Privacy Act
7 objections.

8 And rather than go to the mat on that,
9 this just requests that they redact the things that
10 they think will be covered by the Privacy Act, and
11 asks them to either deliver the documents that they --
12 in one of the sections that they hadn't mentioned in
13 their letter, or tell us that they don't have any such
14 documents.

15 CHAIRMAN REYNOLDS: Okay. And just to be
16 clear, Commissioner Heriot, we basically want them to
17 wipe any personal identifiable information from the
18 records.

19 COMMISSIONER HERIOT: Yes. I don't see
20 any reason to go to the mat at this point. Just --
21 you know, this is just basic followup, trying to get
22 what we have asked for and to accommodate their
23 privacy objections, without waiving our right to do
24 something more in the future if we chose to do so.

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1 COMMISSIONER GAZIANO: Mr. Chairman, I
2 don't know if -- this is Commissioner Todd Gaziano --
3 if you saw my suggested revisions to the letter. I
4 can read them into the record if --

5 COMMISSIONER HERIOT: Which I accept as a
6 friendly amendment. So my motion includes your
7 suggestions, Todd.

8 COMMISSIONER GAZIANO: Right. I just
9 recirculated them via e-mail, and I have sent now to
10 Commissioner Yaki both the original draft letter,
11 EEOC's response, and my slight revisions to it. Does
12 anyone else want me to -- who may not have e-mail
13 access to read my slight revisions to the letter?

14 COMMISSIONER MELENDEZ: This is
15 Commissioner Melendez. If you could send me whatever
16 you sent Michael, it would be helpful.

17 COMMISSIONER GAZIANO: I sent it to
18 everyone just now.

19 COMMISSIONER MELENDEZ: Okay.

20 COMMISSIONER GAZIANO: Sometimes these
21 electrons move slow.

22 COMMISSIONER MELENDEZ: Can I ask a
23 question as to how the information that we are asking
24 for will be used by staff? Or what are we trying to
25 do here?

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1 CHAIRMAN REYNOLDS: Okay. Commissioner
2 Heriot?

3 COMMISSIONER HERIOT: I'm sorry?

4 CHAIRMAN REYNOLDS: Do you want to respond
5 to Commissioner Melendez's question?

6 COMMISSIONER HERIOT: I'm sorry. I didn't
7 hear it.

8 COMMISSIONER MELENDEZ: I was asking -- we
9 are asking for information from the EEOC, and I was
10 wondering how -- how staff will use that information.

11 COMMISSIONER HERIOT: On the English
12 language report. You know, we can't -- we don't know
13 how it is going to be used until we see it. But, you
14 know, wanting to know how many of these letters get
15 sent out, that I think is significant information.

16 VICE CHAIR THERNSTROM: You know -- this
17 is the Vice Chair -- I am back to my point before that
18 it seems to me we have -- and this brings up a larger
19 point, actually. We already have enough information
20 to issue a reasonable report.

21 Now, there has never, in all the years I
22 have been on the Commission, been the kind of backlog
23 that there is now. But that is in part because we
24 have issued very simple briefing reports. They --
25 they have the record of the briefing itself, the

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1 statements of the witnesses, and then any responses
2 that Commissioners have. Period.

3 COMMISSIONER HERIOT: Well, I understand,
4 and that --

5 VICE CHAIR THERNSTROM: It has just gotten
6 immensely complicated, and the result is we have got
7 reports just in a pipeline that sit there. This is --
8 I mean, if Congress wanted to go after us, this is
9 really a red carpet asking them to do so.

10 CHAIRMAN REYNOLDS: This is Chairman
11 Reynolds. Vice Chair Thernstrom, I mean, the backlog
12 issue -- I mean, the causes of the backlog, we are
13 looking into that. It is an empirical question. I
14 don't think that we have reached any firm conclusions.
15 So I -- I don't --

16 VICE CHAIR THERNSTROM: I understand that.
17 I just don't understand why we need more information
18 at this point from EEOC in order to get this
19 particular briefing out the door.

20 COMMISSIONER GAZIANO: This was part of
21 our original request. This was part of our original
22 request, so we deemed it appropriate back in October,
23 or whenever it was. I think it was October. And I
24 still deem it appropriate.

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1 It won't take us -- it won't take staff or
2 us very long at all to look through it and see whether
3 it seems significant, relevant, irrelevant, useless.
4 It would probably only take 20 minutes to review.

5 COMMISSIONER HERIOT: I really think
6 Abby's objection is untimely. If we have an objection
7 to collecting information like this, it should have
8 been made back in the fall. We did request this
9 information, and I think we need to make sure that the
10 EEOC understands that when we ask for something they
11 shouldn't blow it off.

12 VICE CHAIR THERNSTROM: Well, they may
13 blow it off again. My concern is, you know, yes, we
14 asked for it back in the fall. It is now the end of
15 March. So the question is whether it isn't time to
16 just get -- move forward with what we have got. And,
17 you know, I -- as I said, my understanding is that we
18 have enough to issue a briefing report on.

19 COMMISSIONER GAZIANO: This won't stop us
20 from working on other reports. But if we don't
21 maintain the integrity of our requests, I think that
22 is a much more serious issue.

23 CHAIRMAN REYNOLDS: Folks, I want to
24 remind you to identify yourself before you chat. And
25 this is Chairman Reynolds. Any other comments?

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1 VICE CHAIR THERNSTROM: Well, I don't know
2 what "maintaining the integrity of our request" means.
3 I'm sorry, I don't.

4 COMMISSIONER GAZIANO: If we don't -- if
5 the agency said no, they would really rather not give
6 us information, if we just let that go, then I don't
7 think we are maintaining the agency's integrity to
8 follow up on its request.

9 VICE CHAIR THERNSTROM: Look, if the
10 agency says in effect you are not getting the
11 information --

12 COMMISSIONER GAZIANO: They interposed a
13 particular legal objection that we don't think is
14 merited, but it -- that is normally the way these
15 things go. We are trying to accommodate their
16 concerns, and that is what the --

17 COMMISSIONER YAKI: When you say "we," who
18 do you mean by "we"?

19 COMMISSIONER GAZIANO: The Commission in
20 this letter. The letter will come from our Chairman,
21 but the -- in the language of the letter it says, "To
22 accommodate EEOC's concerns and to avoid unnecessary
23 disagreement." This is how these things are resolved.
24 The Commission is willing to review such redacted
25 documents to see if that satisfies our research needs.

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1 So this is a way of getting what we think
2 will be sufficient, but honoring their concerns.

3 VICE CHAIR THERNSTROM: On the assumption
4 that we really do have -- still have research needs.

5 COMMISSIONER GAZIANO: We don't know until
6 -- well, we have some research questions. Whether
7 they will be answered in a significant way or not we
8 don't know yet. But we have some research questions.
9 How many of these documents are there? How many
10 letters are sent out? But that's somewhat relevant.

11 COMMISSIONER HERIOT: It's not somewhat
12 relevant. It is relevant.

13 COMMISSIONER GAZIANO: Okay.

14 CHAIRMAN REYNOLDS: Okay. Any other
15 comments?

16 (No response.)

17 Okay. At this point, Vice Chair
18 Thernstrom, how do you vote?

19 VICE CHAIR THERNSTROM: No.

20 CHAIRMAN REYNOLDS: Commissioner Gaziano?

21 COMMISSIONER GAZIANO: Yes.

22 CHAIRMAN REYNOLDS: Commissioner Kirsanow?

23 COMMISSIONER KIRSANOW: Yes.

24 CHAIRMAN REYNOLDS: Commissioner Heriot?

25 COMMISSIONER HERIOT: Yes.

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1 CHAIRMAN REYNOLDS: Commissioner Melendez?

2 COMMISSIONER MELENDEZ: No.

3 CHAIRMAN REYNOLDS: Commissioner Yaki?

4 COMMISSIONER YAKI: No.

5 CHAIRMAN REYNOLDS: I'm sorry?

6 COMMISSIONER YAKI: No.

7 CHAIRMAN REYNOLDS: Commissioner Taylor?

8 COMMISSIONER TAYLOR: Yes.

9 CHAIRMAN REYNOLDS: And I vote in the
10 affirmative. So Commissioners Thernstrom, Melendez,
11 and Yaki voted against the motion. The remaining
12 Commissioners voted against it. The motion --

13 COMMISSIONER HERIOT: For it.

14 CHAIRMAN REYNOLDS: I'm sorry?

15 COMMISSIONER HERIOT: You said against it.

16 CHAIRMAN REYNOLDS: Oh, I'm sorry. Thank
17 you for the correction. The remaining Commissioners
18 voted for it. So the motion passes.

19 MOTION TO COLLECT AND MAKE PUBLIC DATA ON

20 FEDERAL GOVERNMENT'S CIVIL RIGHTS

21 ENFORCEMENT EFFORTS

22 CHAIRMAN REYNOLDS: Okay. Next issue,
23 Commissioner Kirsanow has indicated to me that he has
24 -- that he -- Commissioner Kirsanow, while we were in
25 the process of planning for this meeting, indicated

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1 that he had a motion that he intended to raise at this
2 business meeting concerning the Commission's
3 monitoring of Federal Government's civil rights
4 enforcement efforts.

5 I indicated to Commissioners in an e-mail
6 sent by my special assistant on behalf of all
7 Commissioners this fact. Commissioner Kirsanow, would
8 you like to walk through your -- describe your motion?

9 COMMISSIONER KIRSANOW: Yes. I mean, it
10 is I think in the e-mail that was sent around. The
11 motion is set forth in detail there. But to give you
12 a summary, it really is a motion designed to implement
13 our clearinghouse function. That is consistent with
14 our statutory authority to act as a clearinghouse with
15 respect to civil rights matters.

16 This motion seeks to elicit from various
17 civil rights agencies information relevant to our
18 monitoring of civil rights and civil rights
19 enforcement in various federal agencies. And it is
20 consistent with -- beyond our statutory mandate, it is
21 consistent with other strategic goals that we have set
22 for ourselves with respect to the analysis of the
23 enforcement responsibilities and to issue guidances to
24 the executive branch on enforcement efforts by federal
25 agencies.

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1 So the purpose of this is to gather in a
2 timely fashion the enforcement data pertaining to the
3 enforcement efforts of the various civil rights
4 agencies in the Federal Government, including Civil
5 Rights Division at the Department of Justice, Office
6 of Civil Rights at Education, EEOC, and the OFCCP.

7 CHAIRMAN REYNOLDS: Okay. And let me just
8 read some of the types of information that we would be
9 seeking if this motion passes. From the Civil Rights
10 Division over at the Department of Justice, one week
11 after the close of each month we would seek the
12 following information: all complaints filed in court
13 during that month, all consent decrees and settlements
14 not under seal entered into during that month, all
15 appellate briefs filed in court that month, all
16 letters of potential violations sent out during that
17 month, all letters to jurisdictions refusing to --
18 refusing requests to pre-clear changes under Section 5
19 of the Voting Rights Act during that month, and all
20 amicus briefs, whether or not they are appellate in
21 nature, filed in court during that month.

22 That is just an example of the type of
23 information that we would seek. It is my
24 understanding that this information -- and correct me
25 if I'm wrong, Pete -- would go up on our website, so

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1 that the public could go to a -- go to a single place
2 and get these types of -- well, this type of
3 statistical information regarding the enforcement
4 efforts of the Civil Rights Division, the Office for
5 Civil Rights at the Department of Education, EEOC,
6 and, finally, OFCCP.

7 VICE CHAIR THERNSTROM: Could you repeat
8 for me the question with respect to Section 5 of the
9 Voting Rights Act?

10 CHAIRMAN REYNOLDS: All letters to
11 jurisdictions refusing requests to pre-clear changes
12 under Section 5 of the Voting Rights Act during that
13 month.

14 VICE CHAIR THERNSTROM: All right. Well,
15 that doesn't give us any information at all. Most of
16 that is -- most of those Section 5 pre-clearances are
17 worked out on the phone without a letter.

18 COMMISSIONER KIRSANOW: Yes, Gerry. To
19 get to your point, yes, the idea was, at minimum, to
20 see if we can, first of all, get this either in hard
21 data or maybe in electronic form -- an electronic form
22 that could easily be simply placed on our website, so
23 that any interested parties -- universities,
24 academics, whomever -- could access it at their

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1 leisure. And we would be discharging our oversight or
2 clearinghouse responsibilities.

3 And then, to the extent the Commission at
4 some later point months or years from now decides to
5 take a look -- a close look at this data ourselves,
6 you know, we can choose to do so. But it is simply
7 gathering information.

8 CHAIRMAN REYNOLDS: So, Commissioner
9 Kirsanow, am I correct in assuming that the
10 information would be placed on our website without
11 commentary? It would just be the statistics generated
12 from our monthly request?

13 COMMISSIONER KIRSANOW: Right. That is
14 what I envisioned.

15 COMMISSIONER HERIOT: Yes. They wouldn't
16 be statistics. They would be the actual documents.
17 Am I not right on that?

18 COMMISSIONER KIRSANOW: Yes. Sure, the
19 briefs and --

20 COMMISSIONER HERIOT: Yes. So it is not
21 statistics. It is, you know, the documents they
22 produced. That is what would go up.

23 COMMISSIONER KIRSANOW: Gotcha.

24 COMMISSIONER GAZIANO: Could I speak to
25 the motion, please?

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1 CHAIRMAN REYNOLDS: Sure.

2 COMMISSIONER GAZIANO: Yes. First of all,
3 I'd support an understanding, or a motion if necessary
4 -- or a modification if necessary to allow the
5 Chairman and the -- or the Staff Director to work with
6 the affected agencies to -- I don't think we need to
7 have the final form in which they are going to deliver
8 it, and to reword any of these in a manner that
9 reflects the kind of information that we are seeking.

10 Secondly, it is my understanding that most
11 of these agencies have been providing this to Congress
12 for some number of years. I don't know if the current
13 Congress is requesting it, but this is a typical --
14 there has been a standing order I know to the Civil
15 Rights Division, I believe some of the others, so they
16 are used to producing this to agencies that are
17 reviewing their effectiveness. So I don't think it is
18 going to be a burden on them.

19 Third, I think this is -- this is our --
20 satisfies our clearinghouse function, which we haven't
21 been doing a very good job of lately. This is one of
22 our statutory purposes, and I think this is the --
23 among the most basic information that we could be
24 providing to scholars.

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1 I don't know that we necessarily have to
2 make use of them ourselves, but the final point is is
3 we may, after many, many months of collecting this,
4 we, our special assistants, our staff, OCR, General
5 Counsel's office at some point we may want to focus on
6 some point of it. If we are not collecting it, I
7 don't think anyone else will at this point.

8 And we may find something very valuable.
9 But it is not just for us. It is -- under our
10 clearinghouse function, it is for all of the scholars
11 and journalists and everyone else who wants to look at
12 it.

13 THE COURT REPORTER: I'm sorry. Who is
14 that speaking, please?

15 VICE CHAIR THERNSTROM: This is the Vice
16 Chair.

17 CHAIRMAN REYNOLDS: One at a time, one at
18 a time.

19 THE COURT REPORTER: I'm sorry. Who was
20 that speaking?

21 COMMISSIONER GAZIANO: Todd Gaziano.

22 THE COURT REPORTER: Thank you.

23 VICE CHAIR THERNSTROM: I'm sorry. I
24 thought you were finished.

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1 COMMISSIONER GAZIANO: Oh, I have. I'm
2 just identifying myself.

3 VICE CHAIR THERNSTROM: Oh. For the Vice
4 Chair -- no, for the Staff Director. This is the Vice
5 Chair. Do you envision this taking up time of staff
6 that -- who is going to do this? That is really the
7 question? What kind of time, and is there a resource
8 problem here?

9 COMMISSIONER GAZIANO: If the agencies
10 send us in electronic form, it would just be --

11 COMMISSIONER YAKI: The question was
12 directed at the Staff Director.

13 COMMISSIONER GAZIANO: And I'm helping
14 with a suggestion. With a suggestion that it --
15 wouldn't it -- it wouldn't take very much time to
16 upload electronic information to our website sent from
17 the agencies, would it?

18 CHAIRMAN REYNOLDS: Mr. Staff Director?

19 STAFF DIRECTOR DANNENFELSER: Well, I have
20 not had an opportunity to discuss that with staff, but
21 I would think that if we received it in electronic
22 form it would not be difficult. If we received
23 various hard copies, that would be a more involved
24 process. There is also the issue of cataloguing all
25 of the information, but I believe that we have staff

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1 that could do that. It would conceivably be a
2 significant amount of information, but I believe we
3 could establish a system for doing that.

4 COMMISSIONER YAKI: This is Yaki. I just
5 find it highly ironic that we are having a discussion
6 about being a clearinghouse when three years ago the
7 Commission majority voted to kill what had been a
8 yearly clearinghouse function of the Commission for
9 decades, and that was the federal funding reports,
10 which delineated expenditures on civil rights issues
11 throughout the Federal Government by agency, by
12 department, broken down into individual functions.

13 And it was seen as something that would
14 not be either useful or a drain on staff time. To me,
15 you know, if we are -- if this is something that was
16 so important, we should have been doing it in 2007.
17 And when we discontinued the federal funding
18 requirement at that time, obviously, the majority did
19 not want to get the stats at that time, for reasons I
20 can't understand.

21 But I just -- I just think that this is --
22 this may be within our clearinghouse function. I
23 wonder whether or not, seriously, if we have the staff
24 authority. I think it is more than just simply
25 uploading stats to a database.

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1 At some point, that database -- unless you
2 want our website to look like -- you know, have
3 typeface in the nanobytes, we are going to have to
4 have an electronic system of collections, recall,
5 collating, transferring to PDF, whatever, to preserve
6 our bandwidth, because this could be a very
7 significant amount of, as you pointed out, raw data
8 that may not be as simple as simply uploading
9 something onto our particular website.

10 The interesting thing about websites, it
11 is not just data in. It is also data out, and the
12 ability to -- and, conversely, it is not just data
13 out. It is also data in. And we have to make sure
14 that we have the ability to absorb that within our
15 pipes and our servers for the purposes of distribution
16 to the general public.

17 And, finally, I ask the question that
18 follows up on what Commissioner Gaziano said, which
19 is, how much of this is publicly available anyway?
20 And why haven't we done a little bit of research on
21 our own to figure out what there is? And simply then
22 limit what we are asking for to that which has not
23 already been made public.

24 COMMISSIONER GAZIANO: It is my
25 understanding that the material made available to the

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1 congressional committees may or may not continue. We
2 don't know that. But it is not available to the -- it
3 is not on the website. It is not available to,
4 necessarily, the public or to journalists to download.
5 So that is our function, or seems to suit our function
6 even more than the members of Congress who request the
7 information for their own uses.

8 As far as your funding issue, I don't
9 quite understand that issue, but I am willing to work
10 with you to see if we can add that as well, if the
11 rest of the Commission would entertain it.

12 COMMISSIONER MELENDEZ: This is
13 Commissioner Melendez. You know, this is -- this
14 issue is just one of many that I -- I was going to
15 send out this document today. And I think that, you
16 know, there are some issues having to do with whether
17 or not we are meeting our statutory mandates, whether
18 or not they are addressing them.

19 I mean, things that -- the last time we
20 talked about whether or not we actually conducted
21 investigations ourselves or whether or not we were
22 just passing those on to some other agency. I think
23 -- and then, we talked about whether or not we are
24 actually doing the public service announcements and
25 advertising campaigns.

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1 I know that, you know, we don't even have
2 a person that is devoted totally to that mandate. And
3 the point I am making is that there is also -- you
4 know, when we go back to our strategic plan and the
5 performance targets for 2009, in 2009 I think we have
6 to go back and review whether or not we are meeting
7 all of those performance targets that we had mandated
8 to the Staff Director.

9 And those include a lot of things in
10 there, you know, that help us to establish
11 congressional contacts and issue guidance to the
12 executive branch on civil rights, and it holds press
13 conferences. There is a number of them -- about 10 of
14 them or so -- that the Staff Director was mandated.

15 And it just sounds to me like all of the
16 things on the agenda are part of this bigger picture,
17 but it is kind of like we are -- we are kind of just
18 throwing things out there without going back and
19 really assessing where the heck we are, and see if we
20 are meeting those statutory mandates or even the
21 strategic plans, because if you are saying that the
22 clearinghouse was part of this, then where is it in
23 the strategic plan? And where is it in --

24 COMMISSIONER GAZIANO: Strategic Goal 2.

25 COMMISSIONER MELENDEZ: Well, in --

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1 COMMISSIONER HERIOT: Yes. Strategic
2 Goal 2 is the guidance to the executive branch.

3 COMMISSIONER MELENDEZ: In the performance
4 of our Staff Director -- and we could also -- at one
5 time we talked about having a subcommittee that would
6 work with the Staff Director and get input from the
7 Commissioners as to, are there some gaps in this
8 bigger picture, the strategic plan and performance
9 goals for the year, and --

10 CHAIRMAN REYNOLDS: Commissioner Melendez?

11 COMMISSIONER MELENDEZ: -- it ties to the
12 budget also, I would think, you know? So I just --

13 CHAIRMAN REYNOLDS: Commissioner Melendez?

14 COMMISSIONER MELENDEZ: Yes?

15 CHAIRMAN REYNOLDS: The motion -- I mean,
16 the motion that is on the table right now, it is not
17 directly related to the items that you are discussing.
18 You are raising good issues, but I think that we need
19 to finish our discussion on the motion that is on the
20 table, and then vote.

21 VICE CHAIR THERNSTROM: You know, with all
22 due respect, Mr. Chairman, I think that the questions
23 Commissioner Melendez is raising is -- are related,
24 because they all go back to the question I raised

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1 earlier. What are our priorities? What -- you know,
2 what kind of time, what kind of resources --

3 CHAIRMAN REYNOLDS: Can we agree that
4 the --

5 VICE CHAIR THERNSTROM: -- what are our
6 options here? I mean, these things require more
7 discussion than this, once again.

8 CHAIRMAN REYNOLDS: Vice Chair Thernstrom,
9 can we agree that if it's in the strategic plan that
10 that is a high priority?

11 VICE CHAIR THERNSTROM: Look, not
12 necessarily, because we are just throwing so much else
13 into -- onto our plate. You know, I would like to see
14 whether -- in this case, you know, exactly how this
15 could be done most expeditiously and with as much --
16 providing as much information as possible. Maybe we
17 can just provide some links to other -- to other
18 sources of information on these questions.

19 You know, I don't -- once again, I don't
20 know enough to vote on this, frankly.

21 CHAIRMAN REYNOLDS: Okay. At this point,
22 I call the question. Vice Chair Thernstrom, how do
23 you vote?

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1 VICE CHAIR THERNSTROM: I'm abstaining on
2 this. No, I'm going to vote no. I'm voting no. I
3 don't know enough.

4 CHAIRMAN REYNOLDS: Okay. Commissioner
5 Gaziano?

6 COMMISSIONER GAZIANO: Yes.

7 CHAIRMAN REYNOLDS: Commissioner Heriot?

8 COMMISSIONER HERIOT: Yes.

9 CHAIRMAN REYNOLDS: Commissioner Yaki?
10 Commissioner Yaki?

11 COMMISSIONER YAKI: Abstain.

12 CHAIRMAN REYNOLDS: Commissioner Taylor?

13 COMMISSIONER TAYLOR: Yes.

14 CHAIRMAN REYNOLDS: Commissioner Melendez?

15 COMMISSIONER MELENDEZ: I vote no, just
16 because I don't have enough time in to looking at this
17 as a total issue. Thank you.

18 CHAIRMAN REYNOLDS: I vote in the
19 affirmative. So --

20 COMMISSIONER HERIOT: Did you get
21 Kirsanow?

22 COMMISSIONER KIRSANOW: Kirsanow, yes.

23 CHAIRMAN REYNOLDS: Oh, okay.

24 Commissioners Thernstrom and Melendez voted no.
25 Commissioner Melendez abstained.

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1 COMMISSIONER TAYLOR: Yaki abstained.

2 CHAIRMAN REYNOLDS: Oh, I'm sorry.

3 Commissioner Yaki abstained. And the remaining

4 Commissioners voted yes. So the motion carries.

5 Next up is the --

6 VICE CHAIR THERNSTROM: I want to make it

7 clear that if I had some more information I might be

8 totally for it. I just don't like voting in the dark

9 here.

10 CHAIRMAN REYNOLDS: Okay. Next is the

11 approval of the rechartering package for the Georgia

12 Advisory Committee.

13 **IV. STATE ADVISORY COMMITTEE ISSUES**

14 GEORGIA SAC

15 CHAIRMAN REYNOLDS: Ten of the 11

16 previously-appointed members were eligible for

17 reappointment. Two of these ten declined

18 reappointment. The remaining eight previously-

19 appointed members are being recommended for

20 reappointment. Recommended Advisory Committee members

21 were selected in compliance with the State Advisory

22 Committee membership selection guidelines.

23 Following the Six Sigma process approved

24 by the Commission on January -- in January 2008,

25 Commission staff reached out to Commissioners, the

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1 current SAC members, the entire Georgia Congressional
2 Delegation, municipalities, unions, religious
3 organizations, universities, civil rights
4 organizations, newspapers, etcetera.

5 I move to recharter the Georgia State
6 Advisory Committee. Under this motion, the Commission
7 appoints the following individuals to that committee
8 based on the recommendations of the Staff Director:
9 Charles Tanksley, Tony Boatwright, Constance Curry,
10 Julius Dudley, Herbert Garrett, Shannon Goessling,
11 Edna Jackson, Ann Kasun, John Mayes, Arch Stokes,
12 Pamela White-Colbert.

13 Furthermore, the Commission appoints
14 Charles Tanksley as the chair of the rechartered
15 Georgia State Advisory Committee. These members will
16 serve as uncompensated government employees. Under
17 the motion, the Commission authorizes the Staff
18 Director to execute the appropriate paperwork for the
19 appointment.

20 Is there a second?

21 COMMISSIONER GAZIANO: Second.

22 CHAIRMAN REYNOLDS: Discussion?

23 (No response.)

24 Okay.

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1 THE COURT REPORTER: This is the Court
2 Reporter. Who did we have seconding that motion?

3 COMMISSIONER GAZIANO: Gaziano.

4 THE COURT REPORTER: Thank you.

5 CHAIRMAN REYNOLDS: Okay. At this point,
6 let's vote. Vice Chair Thernstrom?

7 VICE CHAIR THERNSTROM: I'm abstaining. I
8 haven't had a chance to look at any of these SACs --

9 CHAIRMAN REYNOLDS: Vice Chair --

10 VICE CHAIR THERNSTROM: -- any of the SAC
11 material.

12 CHAIRMAN REYNOLDS: Okay. Thank you, Vice
13 Chair Thernstrom. Commissioner Gaziano?

14 COMMISSIONER GAZIANO: Yes.

15 CHAIRMAN REYNOLDS: Commissioner Heriot?

16 COMMISSIONER HERIOT: Yes.

17 CHAIRMAN REYNOLDS: Commissioner Yaki?
18 Commissioner Yaki?

19 COMMISSIONER YAKI: Abstain.

20 CHAIRMAN REYNOLDS: Commissioner Taylor?

21 COMMISSIONER TAYLOR: Yes.

22 CHAIRMAN REYNOLDS: Commissioner Melendez?

23 COMMISSIONER MELENDEZ: Abstain.

24 CHAIRMAN REYNOLDS: Commissioner Kirsanow?

25 COMMISSIONER KIRSANOW: Yes.

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1 CHAIRMAN REYNOLDS: And I also vote in the
2 affirmative. Okay. Please let the record reflect
3 that the following Commissioners abstained --
4 Commissioners Thernstrom, Yaki, and Melendez. The
5 remaining Commissioners voted in the affirmative. The
6 motion passes.

7 The HBCU report was added to the
8 discussion -- added to the agenda. At this point,
9 Vice Chair Thernstrom, would you like to lead this
10 discussion?

11 VICE CHAIR THERNSTROM: Well, I would just
12 like some more information on what is holding it up,
13 and why we can't get this out of the door, and I am
14 not happy with simply waiting until whatever happens
15 with the STEM report. I would like to know exactly
16 what is supposed to happen with that. But in any
17 case, too much time has passed.

18 They were, as Commissioner Yaki said, two
19 different briefings, and I don't think the one is
20 dependent on the other. And it is time to get our act
21 together and get this out the door.

22 CHAIRMAN REYNOLDS: Okay. First off,
23 Commissioner Heriot has indicated her preference that
24 the two briefing reports either be combined or
25 released at the same time. I do not believe that that

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1 recommendation has been acted on. I turn to the Staff
2 Director for confirmation.

3 STAFF DIRECTOR DANNENFELSER: Mr.
4 Chairman, that is correct. There has been discussion
5 at a couple of committee meetings to that effect, but
6 there has not been a formal vote by the Commission.

7 CHAIRMAN REYNOLDS: Okay. So --

8 COMMISSIONER HERIOT: Would it be in order
9 for me to make a motion that we do so? Or would you
10 prefer that we have that at a later meeting?

11 CHAIRMAN REYNOLDS: I would prefer that we
12 have it at a later meeting.

13 COMMISSIONER HERIOT: Okay.

14 CHAIRMAN REYNOLDS: Could you continue
15 your discussion of where we are with respect to the
16 HBCU report? What needs to be done?

17 STAFF DIRECTOR DANNENFELSER: Well, the
18 HBCU report is ready. It went to the Commissioners
19 for -- and a deadline for comments was set for
20 June 30, 2008. There had been some discussion of
21 putting it on the agenda in July of 2008, but we took
22 up the Omaha briefing issue instead. And I think at
23 about that same time Commissioner Heriot raised her
24 suggestion that we hold off on issuing the report
25 until we completed the STEM report.

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1 COMMISSIONER HERIOT: I would be happy to
2 make that motion at the next meeting, if that would
3 resolve the problem here.

4 VICE CHAIR THERNSTROM: We are now talking
5 about almost a year since that last motion was made.

6 COMMISSIONER HERIOT: What last motion?

7 STAFF DIRECTOR DANNENFELSER: It wasn't a
8 motion per se.

9 VICE CHAIR THERNSTROM: Oh, it wasn't a
10 motion per se. I see. Okay.

11 CHAIRMAN REYNOLDS: In other words, there
12 is nothing -- I mean, if we wanted to vote on this at
13 the next meeting, we would be in a position to do so.

14 STAFF DIRECTOR DANNENFELSER: Yes.

15 CHAIRMAN REYNOLDS: Okay.

16 COMMISSIONER GAZIANO: Part A, is that
17 correct?

18 CHAIRMAN REYNOLDS: I'm sorry? Please
19 identify yourself.

20 COMMISSIONER GAZIANO: Todd Gaziano. It's
21 -- we would only be ready to vote on it, Part A.

22 CHAIRMAN REYNOLDS: Do we have findings of
23 fact? Do we have findings of fact and
24 recommendations?

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1 STAFF DIRECTOR DANNENFELSER: I'm not sure
2 we do. I need to clarify that point, whether we have
3 findings.

4 VICE CHAIR THERNSTROM: Well, wait a
5 minute. And if we don't, why not? It is, again, the
6 most enormous amount of time we are talking about that
7 has passed here.

8 COMMISSIONER HERIOT: We have lots of
9 things that -- lots of reports that haven't been done.
10 I'm curious why you are focusing on this one. But at
11 any rate, we can take this up in the next meeting. I
12 will make the motion that those two reports be
13 released at the same time.

14 VICE CHAIR THERNSTROM: Yes. Well, I
15 want, at the next meeting, a review of all of the
16 reports, and why they are not out the door. This is
17 really an unprecedented situation for the Commission.
18 And I believe it is -- it is something that needs to
19 be fixed.

20 **V. ADJOURN**

21 CHAIRMAN REYNOLDS: Okay. At this point,
22 I move to adjourn the meeting. Is there a second?

23 COMMISSIONER GAZIANO: Second.

24 CHAIRMAN REYNOLDS: Is anyone going to
25 object?

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1 (No response.)

2 Okay. Any abstentions?

3 (No response.)

4 Am I correct that everyone has voted in
5 the affirmative?

6 COMMISSIONER YAKI: Sure. Why not?

7 CHAIRMAN REYNOLDS: Very good.

8 COMMISSIONER YAKI: You've got to have one
9 at least.

10 CHAIRMAN REYNOLDS: Good. Good enough for
11 me. Folks, thank you very much.

12 (Whereupon, at 12:56 p.m., the proceedings in the
13 foregoing matter were adjourned.)

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