

U.S. COMMISSION ON CIVIL RIGHTS

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TELEPHONIC MEETING

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FRIDAY, JULY 30, 2010

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The Commission convened via teleconference at 11:30 a.m., GERALD A. REYNOLDS, Chairmaon, presiding.

PRESENT:

GERALD A. REYNOLDS, Chairman
TODD GAZIANO, Commissioner
GAIL L. HERIOT, Commissioner
PETER N. KIRSANOW, Commissioner
ASHLEY L. TAYLOR, JR., Commissioner
MICHAEL YAKI, Commissioner

MARTIN DANNENFELSER, Staff Director

STAFF PRESENT:

DAVID BLACKWOOD, General Counsel, OGC
CHRISTOPHER BYRNES, Chief, Programs Coordination
Unit
PETER MINARIK, Chief, RPCU
LENORE OSTROWSKY
EILEEN RUDERT
AUDREY WRIGHT

COMMISSIONER ASSISTANTS PRESENT:

NICHOLAS COLTEN
ALEC DEULL
TIM FAY
JOHN MARTIN
ALISON SCHMAUCH

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

(11:35 a.m.)

1
2
3 THE OPERATOR: Good morning, everyone. My
4 name is Andrea. And I will be your conference
5 operator today at this time. I would like to welcome
6 everyone to the U.S. Commission on Civil Rights
7 teleconference today, on July 30th, 2010. All lines
8 have been placed on mute to prevent any background
9 noise. If you should need assistance during the call,
10 please press *, then 0. And an operator will come
11 back on line to assist you. Thank you.

12 I would now like to turn the call over to
13 our host, Mr. Gerald Reynolds, Chairperson. Please go
14 ahead, sir.

15 CHAIRMAN REYNOLDS: Good morning. The
16 meeting will come to order. This is a telephonic
17 meeting of the U.S. Commission on Civil Rights. It is
18 11:35 a.m. Eastern Standard Time on July 30th, 2010
19 with commissioners participating from different
20 locations.

21 I will call the name of each commissioner
22 in order to determine if there is a quorum to hold the
23 meeting. Vice Chair Thernstrom?

24 (No response.)

25 CHAIRMAN REYNOLDS: Commissioner Gaziano?

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1 COMMISSIONER GAZIANO: Here.

2 CHAIRMAN REYNOLDS: Commissioner Kirsanow?

3 COMMISSIONER KIRSANOW: Here.

4 CHAIRMAN REYNOLDS: Commissioner Heriot?

5 COMMISSIONER HERIOT: Here.

6 CHAIRMAN REYNOLDS: Commissioner Melendez?

7 (No response.)

8 CHAIRMAN REYNOLDS: Commissioner Yaki?

9 COMMISSIONER YAKI: Aye.

10 CHAIRMAN REYNOLDS: Commissioner Taylor?

11 COMMISSIONER TAYLOR: Here.

12 CHAIRMAN REYNOLDS: Okay. We have a
13 quorum. Is the Staff Director present?

14 STAFF DIRECTOR DANNENFELSER: Present.

15 CHAIRMAN REYNOLDS: Is the Court Reporter
16 on the line?

17 THE REPORTER: I'm here.

18 CHAIRMAN REYNOLDS: Okay. And do we have
19 a General Counsel?

20 MR. BLACKWOOD: Yes.

21 CHAIRMAN REYNOLDS: Okay. Good. Folks,
22 usual rules. If you want to make a statement, please
23 identify yourself by name. When it is necessary to
24 take a vote, I will call out each one's name. Respond
25 by saying, "Yes," "No," or "Abstain." After the

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1 voting has concluded, I will read out a tally of the
2 votes just to confirm that the tally is correct.

3 I. APPROVAL OF AGENDA

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

6 COMMISSIONER GAZIANO: Second. Gaziano.

7 CHAIRMAN REYNOLDS: Discussion?

8 (No response.)

9 II. NEW BLACK PANTHER PARTY ENFORCEMENT PROJECT

10 CHAIRMAN REYNOLDS: Okay. First up is the
11 New Black Panther Party Enforcement Project. We would
12 like to get an update from the General Counsel. I'm
13 sorry? I'm sorry? David, are you on speakerphone?
14 I'm having difficulty hearing you.

15 MR. BLACKWOOD: No. Can you hear me now?

16 CHAIRMAN REYNOLDS: Yes, I can.

17 MR. BLACKWOOD: I was just informed that
18 there were no votes on the agenda.

19 CHAIRMAN REYNOLDS: What do you mean by
20 "vote"?

21 COMMISSIONER HERIOT: We didn't vote.

22 CHAIRMAN REYNOLDS: Oh, oh, oh, oh. Okay.
23 I'm getting ahead of myself. All those in favor,
24 please say aye.

25 (Whereupon, there was a chorus of "Ayes.")

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1 CHAIRMAN REYNOLDS: Objections?

2 (No response.)

3 CHAIRMAN REYNOLDS: Abstentions?

4 (No response.)

5 CHAIRMAN REYNOLDS: The vote was
6 unanimous. Mr. Blackwell?

7 MR. BLACKWOOD: This is David Blackwood.
8 With regard to the Black Panther matter, we are --

9 COMMISSIONER YAKI: Did you just call him
10 Mr. Blackwell, Mr. Chair?

11 CHAIRMAN REYNOLDS: Yes.

12 COMMISSIONER YAKI: Are you working on the
13 best and worst dressed list of commissioners or
14 something that we don't know about?

15 CHAIRMAN REYNOLDS: No. This is in honor
16 of a former colleague whose last name is Blackwell,
17 whom I confused just now with Mr. Blackwood.

18 MR. BLACKWOOD: Still here. We are in the
19 process of drafting the report to provide you guidance
20 about where and how we are proceeding. The draft
21 report is more in the nature of a just the facts
22 report. Because of the nature of the evidence and
23 what has and has not been provided, the report is --

24 THE REPORTER: This is the Court Reporter.
25 I am having a hard time hearing him.

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1 COMMISSIONER YAKI: I can only hear every
2 other word that he's saying as well.

3 CHAIRMAN REYNOLDS: Okay. David, if
4 you're using a speakerphone, can you pick up the
5 phone?

6 MR. BLACKWOOD: I'm not using a -- I'll
7 just hold the -- is that better?

8 CHAIRMAN REYNOLDS: Yes.

9 MR. BLACKWOOD: All right. It's the
10 microphone. I'll just hold it closer.

11 So, again, just the guidance with regard
12 to how we are going to draft the report, the report
13 itself is going to be along the lines of what I would
14 call a just the facts report. It's more in the nature
15 of what evidence we have collected, what evidence
16 remains, what questions remain.

17 I want to emphasize to everyone that
18 everyone, commissioners and specialist assistants,
19 have all the same information that the Office of
20 General Counsel has. If anybody feels that there is
21 anything that they don't have or --

22 COMMISSIONER YAKI: David? David? David?
23 When you start going a little faster, your words just
24 start clicking out. That is Commissioner Yaki saying

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1 this. I don't know if anyone else is having the same
2 problem.

3 COMMISSIONER HERIOT: I'm having the same
4 problem.

5 MR. BLACKWOOD: I've switched microphones.
6 Is this better?

7 CHAIRMAN REYNOLDS: Okay. David?

8 COMMISSIONER GAZIANO: Speak slowly and
9 enunciate.

10 MR. BLACKWOOD: I will do my best. I'll
11 back up a little bit to where I was, which was that I
12 want to emphasize that we have tried to provide, and I
13 believe we have, all of the information that the
14 Office of General Counsel, all the special systems has
15 --

16 COMMISSIONER YAKI: In the case of Mr.
17 Court Reporter -- I mean, all of the sudden, he's fine
18 for like the first ten seconds. And then it just
19 keeps getting static-y.

20 CHAIRMAN REYNOLDS: Okay, folks. To the
21 extent you have cell phones near the phone, please
22 remove all of your electronics. And just move them
23 away from the phone. Maybe that's the cause of the
24 interference.

25 MR. BLACKWOOD: Okay.

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1 CHAIRMAN REYNOLDS: Okay, David. Let's
2 plow through. Let's --

3 COMMISSIONER YAKI: Mr. Chair, for the
4 purposes of this report, can't he pick up a land line?

5 COMMISSIONER GAZIANO: He'd have to dial
6 in, but that might be better.

7 MR. BLACKWOOD: Can you hear me now? Is
8 this clearer?

9 CHAIRMAN REYNOLDS: David, you start off
10 clear, but it doesn't last.

11 MR. BLACKWOOD: I'm about as close to the
12 telephone and the microphone as I can get.

13 CHAIRMAN REYNOLDS: Okay. You may have to
14 just speak directly into the phone, but let's proceed
15 and see how it goes.

16 MR. BLACKWOOD: Okay. I am using the
17 direct phone.

18 CHAIRMAN REYNOLDS: Excellent. Let's
19 roll.

20 MR. BLACKWOOD: All right. Very quickly,
21 to reiterate, we're trying to do this report as a just
22 the facts report. Here are the allegations. Here are
23 the comments. This is the information we have
24 collected.

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1 I wanted to emphasize that we have tried
2 and I believe successfully providing all of the
3 information that the Office of General Counsel has
4 collected, that each of the commissioners and their
5 special assistants has this same information. To the
6 extent anybody has any question or doubts about
7 whether they have received a particular piece of
8 information, please just let us know. But our records
9 show that we have sent out everything as we have
10 collected it to each of the commissioners and each of
11 the special assistants.

12 This year, given the nature of the report
13 and the fact that it is running overlong, it is our
14 intention to publish this report by posting. That is
15 definitely the trend of other agencies. And it is
16 something I have resisted in the past. But, frankly,
17 it is the way that things are developing.

18 So what we intend to do is publish the
19 report online, then run off a couple of thousand
20 copies to make it available in writing if anybody
21 wants it that way. But people will be able to access
22 it by our website.

23 We're also doing something slightly
24 different than we have in the past, which is to
25 include as many links as we can in the report. So the

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1 report will not have to be voluminous in itself with
2 lots of attachments and exhibits. One can merely link
3 on the document.

4 The report itself will be approximately 20
5 to 30 pages at most because it is merely a summary of
6 the evidence that we have collected.

7 At this stage also I would indicate that I
8 do not anticipate staff drafting any findings or
9 recommendations given the nature of the evidence and
10 the status of the evidence that we have. If anybody
11 feels differently about that, please let me know, but
12 at this stage, I don't anticipate including any
13 findings and recommendations.

14 As far as the nature of the evidence,
15 everyone has seen the most recent letter, again
16 requesting that Mr. Coates testify before the
17 Commission. In the event that we receive an answer, I
18 will let everyone know.

19 CHAIRMAN REYNOLDS: Okay. Mr. General
20 Counsel, I proposal that we have the following time
21 line for the completion of the report. You would
22 provide the commissioners with the first draft by
23 August 13th.

24 Commissioners would have comments back to
25 you by the 5th of September. There would be a vote on

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1 September 24th. And that would entail having
2 in-person meeting on that date and changing the
3 current in-person meeting that we have scheduled for
4 September 10th, making that a teleconference.

5 And then the two other items are our
6 statements would be due on October 23rd and rebuttals
7 on November 23rd.

8 My question to you is, is that time line
9 -- well, do you have any concerns with that time line?

10 MR. BLACKWOOD: No. I think we can meet
11 that time line, especially with the fact that we're
12 posting online. It should be noted, though, that that
13 will put us over our traditional deadline of trying to
14 complete the report by the end of the fiscal year.

15 CHAIRMAN REYNOLDS: Yes.

16 MR. BLACKWOOD: But realistically and to
17 keep the comment time for the commissioners in full,
18 this is what we would have to do.

19 CHAIRMAN REYNOLDS: Okay. Also, as I
20 said, this would entail changing the current meeting
21 schedule that we have. So at this time -- well, I'll
22 open up the floor at this point for other
23 commissioners to, you know, ask questions or provide
24 comments.

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1 COMMISSIONER GAZIANO: This is
2 Commissioner Gaziano. If I could speak first to that?
3 I have a couple of questions for the General Counsel,
4 but there's one other date that I'm going to just
5 throw out that maybe should be added. And that is the
6 date in which the General Counsel will incorporate all
7 of the comments from commissioners and send out a
8 second version in time for us to study.

9 Mr. General Counsel, can you rightly do
10 that in five to seven days and get something back out
11 to us September 10 or September 12?

12 MR. BLACKWOOD: I believe so.

13 COMMISSIONER GAZIANO: Okay. Let's build
14 into the schedule, then, either September 10 to 12 a
15 return date. That would give us approximately 12 days
16 to review it and note any typos or any other things.

17 The question I had, I suppose, to the
18 General Counsel is links sound very good. I like them
19 for the internet. But links, particularly if they're
20 not our links, may die. Even some of our links might
21 not.

22 And so I would just like some further
23 consideration of whether for the printed version we
24 ought not to provide at least key documents and maybe

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1 several of them, but I'm sure that there may be many
2 links that aren't that important.

3 What is your thought on that?

4 MR. BLACKWOOD: We're aware of that issue
5 as far as items that are not on our website. We have
6 many items that are hard copy. And to the extent that
7 copyright is not an issue, we will post those. Other
8 items there is a risk that some will expire,
9 especially with regard to the Black Panthers. That's
10 why we have tried to capture them on disk to the
11 extent that we can.

12 With regard to, for example, the National
13 Geographic items, we had an explicit waiver for a
14 one-time use. And I will have to try to see if I can
15 get that extended. That may not be possible, but we
16 will certainly be able to have the disk available for
17 the public. As in our past reports, you know, if
18 somebody comes to the library and wants to see the
19 hard copies, all of that would be available.

20 COMMISSIONER GAZIANO: I am certainly no
21 expert in copyright. So I would like to kind of look
22 into that further in another issue, but I would
23 imagine evidence we have subpoenaed and if we need to
24 subpoena, let's subpoena it for an official federal
25 government inquiry. I wonder if there isn't some

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1 exception to copyright. But I hope that if it's not
2 an issue, that we don't make it an issue.

3 CHAIRMAN REYNOLDS: Okay. Other
4 questions?

5 (No response.)

6 CHAIRMAN REYNOLDS: Okay. Hearing none, I
7 would like to move to change the scheduled September
8 24th teleconference to an in-person meeting as well as
9 change the September 10th in-person meeting to a
10 teleconference. Is there a second?

11 And that's needed to maintain the schedule
12 in that right now we're scheduled to vote on the
13 report on the 24th. And we need to have a meeting to
14 do that. And it's preferable to do it in person.

15 Is there a second?

16 COMMISSIONER KIRSANOW: Kirsanow second.

17 CHAIRMAN REYNOLDS: Discussion?

18 (No response.)

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

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 Yaki?
2 Commissioner Yaki?

3 COMMISSIONER YAKI: Abstain.

4 CHAIRMAN REYNOLDS: I'm sorry? Okay.

5 COMMISSIONER YAKI: Abstain.

6 CHAIRMAN REYNOLDS: Commissioner Taylor?

7 COMMISSIONER TAYLOR: Yes.

8 CHAIRMAN REYNOLDS: And I also vote for
9 the measure. Commissioner Yaki abstains. The
10 remaining commissioners vote in favor of the motion.
11 The motion passes.

12 III. DISCOVERY PLAN AND PROJECT OUTLINE,
13 REPORT ON SEX DISCRIMINATION IN
14 LIBERAL ARTS COLLEGE ADMISSIONS

15 CHAIRMAN REYNOLDS: Next up we have
16 consideration of a discovery plan and project outline
17 for the report on Sex Discrimination in Liberal Arts
18 College Admissions.

19 Mr. Staff Director, please provide us with
20 an update on the status of the project.

21 STAFF DIRECTOR DANNENFELSER: Thank you,
22 Mr. Chairman. At this time I would like to ask the
23 Acting Chief of the Office for Civil Rights
24 Evaluation, Chris Byrnes, to provide us with an
25 update.

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1 MR. BYRNES: This is Chris Byrnes. The
2 Office of General Counsel has contacted the four
3 hold-out schools. We are trying to schedule a meeting
4 with them next week.

5 OCRE staff has completed sufficient
6 recoding of the data to begin preliminary analysis of
7 the 15 schools. And this preliminary analysis is
8 underway.

9 So far we have looked at gender
10 composition of applicants, admission rates by gender,
11 gender composition of those admitted and those
12 enrolled, and male/female admittee differences in SAT,
13 ACT, and high school GPA.

14 It's a little bit too soon to have
15 confidence in what the data reveals because these
16 preliminary analyses have been most useful in sort of
17 showing us where the invalid or missing data is in the
18 submissions we have received. So we are continuing to
19 work with the schools to resolve these concerns.

20 So we have been delayed a little bit
21 recently in continuing the analyses due to a
22 software-upgraded installation for the particular
23 statistical software that we use. These have been
24 resolved. And I think we will be able to move forward
25 in the coming weeks.

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1 CHAIRMAN REYNOLDS: Okay. On June 18th
2 and July 22nd, staff distributed a draft discovery
3 plan and project outline for the Commission's report
4 on Sex Discrimination in Liberal Arts College
5 Admissions.

6 To further inform staff's development of
7 the project, it would be useful for commissioners to
8 discuss the proposal and provide staff with some
9 guidance regarding whether they're headed in the right
10 direction.

11 Commissioner Heriot, you're the primary
12 sponsor of the project. Would you care to start us
13 off with comment?

14 COMMISSIONER HERIOT: Well, I looked very
15 briefly at the preliminary report outline. And I have
16 one general concern and a specific concern. One
17 general concern is that I think we need to avoid
18 making this into a battleship project; for instance,
19 you know, discussions of the statutory and regulatory
20 framework, in which all of this takes place.

21 I don't think we're talking about
22 something that should be more than a few paragraphs.
23 The statutory and regulatory framework for this is
24 really not the focus of the report and really
25 shouldn't take up a lot of staff time. It will be

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1 perfectly fine not to discuss it at all. We can put
2 it in a few sentences, if necessary.

3 One of the things that concerns me a great
4 deal is in chapter 3. The proposal is to aggregate
5 the data within category. My fear is if we aggregate
6 the data within a category, we are, in fact, going to
7 obscure whatever discrimination is going on.

8 If you look at the schools individually,
9 if there is discrimination, it will show up a lot more
10 clearly. The problem is, you know, each one of these
11 selective schools is not equally selective. And so
12 when you put them together, it is going to just be
13 fuzziness that shows.

14 So I am very concerned about the notion of
15 aggregating within category and very skeptical of that
16 as a way of dealing with these data.

17 Beyond that, I would just say that less is
18 more here. We don't want to get bogged down in this
19 report. We're looking to see whether there, in fact,
20 is discrimination -- and, you know, that's job one --
21 and not do an opus on gender discrimination in
22 colleges.

23 That said, I think getting the data from
24 Johns Hopkins and Georgetown is crucial and that that
25 has got to be done. One way or another, that has to

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1 happen for this report to be useful. And so I hope
2 that that is pursued strongly.

3 It's chapter 3 that should be the focus of
4 this report, not chapters 1 and 2. And, in fact, I am
5 not convinced we need chapter 1 at all.

6 So those are my thoughts so far.

7 CHAIRMAN REYNOLDS: Okay. Mr. Byrnes, do
8 you have any concerns about the comments just made?

9 MR. BYRNES: I mean, I am in favor of a
10 streamlined report addressing those concerns. I would
11 ask if Peter Minarik is on the line, if he has any
12 concerns about omitting the aggregation of the data.

13 MR. MINARIK: I'm on the line, Chris. The
14 only reason I was slightly in favor of the aggregation
15 is because I thought it was going to be difficult
16 given that we never established exactly what the
17 admission criteria are to point to a school and say
18 that they are engaging a policy individually.

19 So I thought an aggregation might be of
20 value because it would give us a picture of what is
21 going on at specific groups of colleges. That's why I
22 was slightly in favor of that approach.

23 COMMISSIONER HERIOT: Yes. They will have
24 different admissions policies. So it will be harder
25 to see it.

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1 One thing I have no clear position on is
2 whether or not schools should be individually
3 identified. I have no objection just to calling these
4 schools A, school B, school C. You know, the purpose
5 of this report is not to dump on a particular school
6 for what it is doing but, rather, to find out the big
7 picture what is happening.

8 MR. MINARIK: Well, that comment changes
9 my perspective measurably.

10 CHAIRMAN REYNOLDS: How so?

11 COMMISSIONER HERIOT: Although if we're
12 talking about state schools, I am happy to report to
13 other branches of government that there has been a
14 violation of the law. That is a different matter.
15 But I don't see the report needing to identify
16 particular schools at all.

17 CHAIRMAN REYNOLDS: Okay. Mr. Minarik, so
18 we have a good understanding of the direction that we
19 are headed. Do you have any questions or do you need
20 additional clarification?

21 MR. MINARIK: I don't at the present time.
22 Do you, Chris?

23 MR. BYRNES: No. I have no further
24 questions except one. If we don't identify the
25 schools individually, would we at least give a brief

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1 description of, you know, they're a moderately
2 selective institution or --

3 COMMISSIONER HERIOT: Yes. I think that
4 is a good thing, yes.

5 MR. BYRNES: Okay.

6 COMMISSIONER HERIOT: Yes. Again, we've
7 got to get on it to get Johns Hopkins and Georgetown
8 on board as quickly as possible.

9 CHAIRMAN REYNOLDS: Okay. Any other
10 questions or comments?

11 (No response.)

12 IV. TIME LINE FOR COMMISSIONER STATEMENTS AND
13 REBUTTALS TO HBCU AND STEM REPORTS

14 CHAIRMAN REYNOLDS: Next up is a time line
15 for commissioner statements and rebuttals to the HBCU
16 and STEM reports. I move that the Commission submit
17 statements for the HBCU and STEM reports by August
18 16th and that they submit rebuttals for these by
19 September 13th. Is there a second?

20 COMMISSIONER HERIOT: Second.

21 CHAIRMAN REYNOLDS: Discussion?

22 COMMISSIONER GAZIANO: I'm sorry? What
23 were those dates again? August?

24 CHAIRMAN REYNOLDS: Sixteenth and
25 September 13th.

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1 COMMISSIONER GAZIANO: The first one is
2 just a little over two weeks. If there's unanimous
3 consent for that, then I don't mind, but --

4 CHAIRMAN REYNOLDS: Even if there's not
5 unanimous consent, we have to be mindful of the fact
6 that we have to start putting some of these reports to
7 bed. It's going to be a burden on all of us. We have
8 a lot of things that are in progress, several of which
9 need to be finalized and voted on. So I would ask
10 everyone to just grin and bear it with the
11 understanding that we're all under the same burden.

12 COMMISSIONER HERIOT: No. I have a
13 somewhat different perspective on this. And that is I
14 would object to this but for the fact that we did, in
15 fact, pass the report, I believe something like the
16 16th of July, somewhere in there. So this, in fact,
17 is the 30 days.

18 I've always assumed we were working on a
19 30-30 schedule. And I think that is our default rule
20 anyway.

21 COMMISSIONER GAZIANO: That is.

22 COMMISSIONER HERIOT: Yes. So I don't
23 think this is a necessary vote. I think we are just
24 making work for ourselves here. It's 30-30 because we
25 didn't say anything else at the meeting.

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1 COMMISSIONER GAZIANO: That makes sense.
2 I just don't want to depart from our 30-30 without
3 either all commissioners, but this is pretty much --

4 COMMISSIONER HERIOT: Yes. I agree with
5 that. I agree with that. We should not depart from a
6 30-30 unless we have had unanimous consent. But what
7 we're asking for here is essentially 30-30.

8 CHAIRMAN REYNOLDS: Folks, we don't have a
9 rule that requires unanimity for amending the 30-30.

10 COMMISSIONER GAZIANO: That is correct,
11 but we ought not to do it out of respect to each
12 other. But it seems like we probably won't --

13 CHAIRMAN REYNOLDS: Folks, let's save this
14 discussion. We don't have to have this discussion. I
15 don't think we have a problem with the particular
16 issue that is in front of us now.

17 Commissioner Gaziano, how do you vote?

18 COMMISSIONER GAZIANO: Yes.

19 CHAIRMAN REYNOLDS: Commissioner Kirsanow?

20 COMMISSIONER KIRSANOW: Yes.

21 CHAIRMAN REYNOLDS: Commissioner Heriot?

22 COMMISSIONER HERIOT: Yes.

23 CHAIRMAN REYNOLDS: Commissioner Yaki?

24 COMMISSIONER YAKI: Abstain.

25 CHAIRMAN REYNOLDS: Commissioner Taylor?

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1 COMMISSIONER TAYLOR: Yes.

2 CHAIRMAN REYNOLDS: And I vote for it
3 also. Commissioner Yaki abstains. The remaining
4 commissioners voted for it. It passes.

5 V. ELECTION ASSISTANCE COMMISSION BOARD OF

6 ADVISERS VACANCIES

7 CHAIRMAN REYNOLDS: Next up is the
8 consideration of the vacancies on the Election
9 Assistance Commission's Board of Advisers. The terms
10 of Commissioners Thernstrom and Melendez on the EAC
11 Board of Advisers have expired. We're in charge of
12 providing the names of two individuals to fill these
13 vacancies.

14 Since the positions have been vacant since
15 June, I move that the Commission authorize me to
16 select a replacement to fill these seats as soon as
17 practicable following our customary practice and the
18 EAC preference of ensuring that the picks are
19 politically diverse.

20 If a commissioner has any recommendations,
21 please forward your recommendations to me for
22 consideration.

23 Is there a second?

24 COMMISSIONER GAZIANO: Gaziano second.

25 CHAIRMAN REYNOLDS: Discussion?

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1 COMMISSIONER HERIOT: Am I right you can
2 pick somebody from outside the Commission if you so
3 choose?

4 CHAIRMAN REYNOLDS: Yes, that is correct.
5 Okay. Mr. Gaziano, how do you vote?

6 COMMISSIONER GAZIANO: Yes.

7 CHAIRMAN REYNOLDS: Commissioner Kirsanow?

8 COMMISSIONER KIRSANOW: Yes.

9 CHAIRMAN REYNOLDS: Commissioner Heriot?

10 COMMISSIONER HERIOT: Yes.

11 CHAIRMAN REYNOLDS: Commissioner Yaki?

12 COMMISSIONER YAKI: Yes. And I want to
13 replace Commissioner Melendez.

14 CHAIRMAN REYNOLDS: Okay. Commissioner
15 Taylor?

16 COMMISSIONER TAYLOR: Yes.

17 CHAIRMAN REYNOLDS: And I vote for it
18 also. We have a unanimous vote.

19 VI. 2012 BUDGET ESTIMATE

20 CHAIRMAN REYNOLDS: Next up is a
21 discussion of the 2012 budget estimate. Mr. Staff
22 Director?

23 STAFF DIRECTOR DANNENFELSER: Thank you,
24 Mr. Chairman.

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1 The Office of Management and Budget has
2 given government-wide guidance that agencies reduce
3 their budgets by 5 percent from their 2011 budget
4 levels. And that was the guidance that we were
5 operating under when we prepared this budget.

6 For the most part, we achieved those
7 reductions through attrition in terms of staff
8 positions. And there were some other small tweaks that
9 were identified in the budget materials relating to
10 travel and printing and things of that nature, but for
11 the most part, it was through not filling positions
12 that have been authorized, that either have not been
13 filled, such as the Deputy Staff Director position and
14 others where people have left, such as the Solicitor.
15 And we had a staff member in OCRE. So this is of that
16 nature, the main area where we were able to reduce the
17 budget and to get within this funding level.

18 CHAIRMAN REYNOLDS: Questions for the
19 Staff Director?

20 COMMISSIONER KIRSANOW: Mr. Chair,
21 Kirsanow here. I recommend we dispense entirely with
22 the budget.

23 CHAIRMAN REYNOLDS: Please explain.

24 COMMISSIONER KIRSANOW: It's not good
25 enough for Congress. It's not good enough for us.

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1 COMMISSIONER GAZIANO: Explain that.

2 CHAIRMAN REYNOLDS: Okay. Just so that
3 we're clear, I would assume that Mr. Kirsanow is --
4 well, this is Commissioner Kirsanow being a smart
5 Alec. Commissioner Kirsanow, may I have confirmation
6 that you are a smart Alec?

7 COMMISSIONER KIRSANOW: I exist, don't I?

8 CHAIRMAN REYNOLDS: Yes, you do. Other
9 questions, comments?

10 COMMISSIONER GAZIANO: Just for the
11 record, I will repeat my view that we shouldn't be
12 (inaudible) back as an independent agency from Office
13 of Management and Budget dictates, especially with the
14 ballooning pieces that they have sought for other
15 agencies. So I probably will be voting against it on
16 that ground alone.

17 CHAIRMAN REYNOLDS: Okay. Commissioner
18 Gaziano, how do you vote?

19 COMMISSIONER GAZIANO: No.

20 CHAIRMAN REYNOLDS: Commissioner Kirsanow?

21 COMMISSIONER KIRSANOW: Abstain.

22 CHAIRMAN REYNOLDS: Commissioner Heriot?

23 COMMISSIONER HERIOT: What are we voting
24 on?

25 CHAIRMAN REYNOLDS: On the budget.

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1 COMMISSIONER HERIOT: Was there a motion
2 made?

3 CHAIRMAN REYNOLDS: I move that we accept
4 the recommendations provided by the Staff Director.
5 Is there a second? Pretty please?

6 COMMISSIONER TAYLOR: Taylor. Second.

7 CHAIRMAN REYNOLDS: Thank you. Mr.
8 Gaziano, may I have your no once again?

9 COMMISSIONER GAZIANO: No.

10 CHAIRMAN REYNOLDS: Commissioner Kirsanow?

11 COMMISSIONER KIRSANOW: Abstain.

12 CHAIRMAN REYNOLDS: Commissioner Heriot?

13 COMMISSIONER HERIOT: I guess I am going
14 to go with Pete and abstain.

15 CHAIRMAN REYNOLDS: You're killing me.
16 Commissioner Yaki?

17 COMMISSIONER YAKI: Abstain.

18 CHAIRMAN REYNOLDS: Commissioner Taylor?

19 COMMISSIONER TAYLOR: Yes.

20 CHAIRMAN REYNOLDS: And I vote for it.
21 Commissioner Gaziano voted against it. We have three
22 abstentions: Commissioners Kirsanow, Heriot, and
23 Yaki. The two yes votes are from Commissioner Taylor
24 and myself. The vote carries.

25 VII. APPROVAL OF MINUTES FROM MARCH 12, APRIL 16,

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1 MAY 14, MAY 28, JUNE 11, JUNE 25,

2 AND JULY 16 MEETINGS

3 CHAIRMAN REYNOLDS: Next up is the
4 approval of the minutes from the March 12th, April
5 16th, May 14th, May 28th, June 11th, and July 16th
6 meetings.

7 I would ask on the front end before a
8 motion is made, does anyone have any concerns with it?
9 Because my preference is to just vote on the set of
10 minutes as a block. And I can do that if on the front
11 end I know that no one had any concerns.

12 COMMISSIONER GAZIANO: I have none.

13 CHAIRMAN REYNOLDS: Commissioner Kirsanow?

14 COMMISSIONER KIRSANOW: I have no problem
15 with that.

16 CHAIRMAN REYNOLDS: Commissioner Heriot?

17 COMMISSIONER HERIOT: I've got no problem.

18 CHAIRMAN REYNOLDS: Commissioner Yaki?

19 COMMISSIONER YAKI: I'm sorry? What's the
20 question? I was kind of like not paying attention.

21 CHAIRMAN REYNOLDS: Okay. I'm trying to
22 find out if you have any concerns with the minutes. I
23 would prefer to vote on the minutes as a block to save
24 time. If you don't have any concerns, then we can go

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1 down that path. If you do, then we'll have to do it
2 our customary way.

3 COMMISSIONER YAKI: That's what I thought
4 you said. I wasn't too sure exactly how you were
5 framing it. But yes, that's fine with me.

6 CHAIRMAN REYNOLDS: Commissioner Taylor?

7 COMMISSIONER TAYLOR: Yes

8 CHAIRMAN REYNOLDS: Okay, I move that we
9 approve the following sets of minutes: the March
10 12th, April 16th, May 14th, May 28th, June 11th, and
11 July 16th meeting minutes. Is there a second?

12 COMMISSIONER HERIOT: Second. You missed
13 June 25th.

14 CHAIRMAN REYNOLDS: And thank you. And
15 the June 25th.

16 COMMISSIONER HERIOT: I second that part,
17 too.

18 CHAIRMAN REYNOLDS: Thank you.

19 Commissioner Gaziano, how do you vote?

20 COMMISSIONER GAZIANO: Yes.

21 CHAIRMAN REYNOLDS: Commissioner Kirsanow?

22 COMMISSIONER KIRSANOW: Yes.

23 CHAIRMAN REYNOLDS: Commissioner Heriot?

24 COMMISSIONER HERIOT: Yes.

25 CHAIRMAN REYNOLDS: Commissioner Yaki?

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1 COMMISSIONER YAKI: Sure. Yes.

2 CHAIRMAN REYNOLDS: Commissioner Taylor?

3 COMMISSIONER TAYLOR: Sure. Yes.

4 CHAIRMAN REYNOLDS: Okay. And I vote for
5 it myself. So, folks, today we have two unanimous
6 votes including this one.

7 COMMISSIONER TAYLOR: Let's end the call
8 right now.

9 CHAIRMAN REYNOLDS: Yes. Thank you,
10 folks, very efficient meeting. The meeting --

11 COMMISSIONER HERIOT: Wait, wait, wait,
12 wait, Jerry. We still haven't set the meetings for
13 next year, have we?

14 COMMISSIONER GAZIANO: Yes, we did last
15 meeting, I believe.

16 COMMISSIONER HERIOT: Did we? I didn't
17 write it down. Oh, dear. Okay.

18 CHAIRMAN REYNOLDS: Okay.

19 COMMISSIONER HERIOT: Thanks.

20 CHAIRMAN REYNOLDS: Well, we'll get with
21 you to give you the dates.

22 COMMISSIONER HERIOT: Okay.

23 CHAIRMAN REYNOLDS: Okay, folks. The
24 meeting is adjourned.

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(Whereupon, the foregoing matter was
concluded at 12:08 p.m.)

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