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U.S. COMMISSION ON CIVIL RIGHTS

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BUSINESS MEETING **UNEDITED**

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FRIDAY, FEBRUARY 5, 2016

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The Commission convened in Suite 1150 at 1331 Pennsylvania Avenue, Northwest, Washington, D.C. at 4:49 p.m., Martin R. Castro, Chairman, presiding.

PRESENT:

MARTIN R. CASTRO, Chairman

PATRICIA TIMMONS-GOODSON, Vice Chair *

ROBERTA ACHTENBERG, Commissioner

PETER N. KIRSANOW, Commissioner *

DAVID KLADNEY, Commissioner

KAREN K. NARASAKI, Commissioner

MICHAEL YAKI, Commissioner *

MAURO MORALES, Staff Director

MAUREEN RUDOLPH, General Counsel

* *Present via telephone*

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STAFF PRESENT:

JENNIFER CRON HEPLER, Parliamentarian

PAMELA DUNSTON, Chief, ASCD

DARREN FERNANDEZ

ANGELA FRENCH-BELL, Director, OCRE

GERSON GOMEZ

ALFREDA GREENE

LENORE OSTROWSKY, PAU

JUWANDA SMITH

MICHELE YORKMAN, Director, IT

COMMISSIONER ASSISTANTS PRESENT:

SHERYL COZART

ALEC DUELL

AMY GRANT

JASON LAGRIA

CARISSA MULDER

ALISON SOMIN

IRENA VIDULOVIC

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P R O C E E D I N G S

(4:49 p.m.)

I. OPEN MEETING

CHAIRMAN CASTRO: We are coming back into session, and we're continuing now for the business meeting. It is 4:49 p.m. eastern time. On the phone we have Vice Chair Timmons. Are you still there, Madam Vice Chair?

VICE CHAIR TIMMONS-GOODSON: I am, Mr. Chair.

CHAIRMAN CASTRO: And then we have in person Commissioners Narasaki, myself, Kladney, and Achtenberg. That gives us a quorum. And I am assuming Commissioners Yaki and Kirsanow are not on the phone?

COMMISSIONER KIRSANOW: Kirsanow is here.

CHAIRMAN CASTRO: Okay, but you're recusing? No, you're not recused on this, right, or are you?

COMMISSIONER KIRSANOW: If we're voting on the trip to - I will recuse myself for everything dealing with environmental justice.

CHAIRMAN CASTRO: Okay, then that's - all right. So you'll be able to vote on the Quiet Crisis one then.

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1 COMMISSIONER KIRSANOW: Right.

2 CHAIRMAN CASTRO: Okay, got it, so we do
3 have a quorum then.

4 II. DISCUSSION ON ALABAMA TOWN HALL

5 CHAIRMAN CASTRO: For those of you who
6 recall, we were going to try to conduct a town hall in
7 Uniontown, Alabama in late February, and because of
8 that, we decided we were going to move our Quiet Crisis
9 mini-briefing to a later time. However, because of
10 various logistical matters, we were not able to do the
11 town hall at the end of February.

12 So what I'd like to discuss is the
13 possibility of doing a town hall in Uniontown, Alabama
14 at the end of March. And as a result, if we do decide
15 to do that, then to continue to have our Quiet Crisis
16 briefing when it was originally set on February 19.
17 I'll open it up for discussion or any motions folks
18 might have. Commissioner Narasaki?

19 COMMISSIONER NARASAKI: I do think that if
20 we are moving the town hall back, that in order to save
21 money, we need to move the Quiet Crisis back to the
22 February date, because otherwise, we'll have to incur
23 additional costs to extend the writer's contract that
24 we have because originally we were moving that back in

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1 order to accommodate the town hall, but that was going
2 to cost apparently an enormous sum of money that we
3 don't have.

4 So I know it's ideal for people to have to
5 come back in two weeks and do another hearing, but -
6 and I'm sure it's not fun for staff either, but I feel
7 like from a budget standpoint, we just don't have a lot
8 of options.

9 CHAIRMAN CASTRO: Okay, Commissioner
10 Achtenberg?

11 COMMISSIONER ACHTENBERG: Mr. Chairman,
12 when you say the end of March -

13 CHAIRMAN CASTRO: I believe the date we
14 are working with is March 31.

15 COMMISSIONER ACHTENBERG: March 31.

16 CHAIRMAN CASTRO: Was I right?

17 COMMISSIONER ACHTENBERG: So it would be
18 travel on the 30th, the hearing on the 31st, and then
19 travel on the 1st?

20 CHAIRMAN CASTRO: Something like that.

21 COMMISSIONER ACHTENBERG: Something like
22 that, okay, great. Thank you very much. Oh, thank
23 you. I'm sorry, okay.

24 CHAIRMAN CASTRO: Okay, any other

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1 questions or discussion? Commissioner Narasaki?

2 COMMISSIONER NARASAKI: I just want to add
3 I know that Commissioner Heriot -

4 CHAIRMAN CASTRO: Yes.

5 COMMISSIONER NARASAKI: - had made it
6 clear that she was very interested in having the - in
7 going forward with the hearing. At least that's the
8 last exchange I saw. I'm a little more up in the air,
9 but I just wanted to represent her since she wasn't able
10 to be here today.

11 CHAIRMAN CASTRO: Yes, she did share an
12 email with me, and my special assistant circulated it
13 to all of you, and I thought I had a copy here to read
14 into the record if we wanted to, but I can't seem to
15 locate it. Do you have it? Oh, here it is. Thank
16 you.

17 "Gail is strongly in favor of holding a
18 field briefing in Uniontown. If the Commission goes
19 to Uniontown, it is also very important to her that the
20 Commission tour the Arrowhead landfill while there.
21 As she has said before at Commission meetings, it is
22 extremely important to her that the Commission conduct
23 independent research and avoid merely repeating the
24 work of others."

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1 "She is available on the two dates that
2 have been discussed as likely candidates, March 3 or
3 March 31," and March 31 is the one we're talking about,
4 "although she has to teach classes in Washington on the
5 respective Wednesdays before, and therefore cannot
6 travel until Thursday morning."

7 "It is therefore also important that the
8 Commission schedule a tour, or the tour of the Arrowhead
9 landfill facility for Friday morning rather than
10 Thursday morning so that she can attend it," okay.
11 Commissioner Achtenberg?

12 COMMISSIONER ACHTENBERG: Mr. Chairman, I
13 agree that it's important to tour the facility, but I
14 think what's equally as important is to speak with as
15 many neighbors as we possibly can. Because it's my
16 understanding that at this point, although the transfer
17 of coal ash was pretty traumatic and quite a dramatic
18 event, right now at this point, you know, I'm told they
19 have capped it off. And so, you know, I think this is
20 ongoing.

21 CHAIRMAN CASTRO: Right.

22 COMMISSIONER ACHTENBERG: This is not
23 just one point in time.

24 CHAIRMAN CASTRO: A snapshot.

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1 COMMISSIONER ACHTENBERG: Yes.

2 CHAIRMAN CASTRO: Absolutely.

3 COMMISSIONER ACHTENBERG: So I agree with
4 Commissioner Heriot, but there is something that's as
5 important, and in my view, more important, and that's
6 -

7 CHAIRMAN CASTRO: The town hall.

8 COMMISSIONER ACHTENBERG: - getting the
9 town -

10 CHAIRMAN CASTRO: Right.

11 COMMISSIONER ACHTENBERG: - hear from the
12 town about what this has meant and the collective burden
13 as so many of the witnesses identified today, assessing
14 the collective burden, I think, is extremely important
15 as well.

16 CHAIRMAN CASTRO: Thank you.
17 Commissioner Kladney?

18 COMMISSIONER KLADNEY: I agree with
19 Commissioner Achtenberg. I think even though they're
20 not accepting any more coal ash at the facility, and
21 it's been capped off and put in a better condition than
22 it was, I would think OCRE and our staff can collect
23 photographic evidence of how it was. And I think it's
24 a good idea for us to do interviews during the day as

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1 well of the neighbors who have complained, as well as
2 those who signed, I guess, the three affidavits for the
3 company.

4 CHAIRMAN CASTRO: Absolutely.

5 COMMISSIONER KLADNEY: I'd like to
6 interview them as well, and do that outside the presence
7 of the -

8 CHAIRMAN CASTRO: The company?

9 COMMISSIONER KLADNEY: - the town hall.

10 CHAIRMAN CASTRO: Oh, the town hall.

11 COMMISSIONER KLADNEY: I mean, if the
12 company wants to be there, I guess they're entitled to.
13 But I think that's all important, especially in sight
14 of the fact that the conditions have changed down there
15 with the capping of the coal ash.

16 CHAIRMAN CASTRO: Madam Vice Chair, do you
17 have anything you want to say?

18 VICE CHAIR TIMMONS-GOODSON: I just find
19 myself thinking that often it's what's below the
20 surface. I hate to keep going back to Flint, but one
21 would not know the level of damage done by this lead
22 just upon looking at it.

23 So I find myself thinking what might there
24 be more that we should be looking at that would give

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1 us a sense of the conditions and - that are below the
2 surface? I just throw that out. It may not
3 necessarily make any sense, but that's what I find
4 myself thinking.

5 And so I don't know if there's some health,
6 I don't know, not records, individual health records.
7 We certainly could not get those, but I'm just wondering
8 if there might be some health data.

9 CHAIRMAN CASTRO: Yes, what you're saying
10 makes sense, Madam Vice Chair.

11 VICE CHAIR TIMMONS-GOODSON: I'm sorry,
12 can you hear me?

13 CHAIRMAN CASTRO: Yes, I said what you
14 said makes sense.

15 VICE CHAIR TIMMONS-GOODSON: Oh, okay,
16 but that's just what I was thinking, Mr. Chair.

17 CHAIRMAN CASTRO: Okay, thank you.
18 Commissioner Achtenberg, do you have a motion?

19 COMMISSIONER ACHTENBERG: Yes, Mr.
20 Chairman, I mean, the Vice Chair makes an excellent
21 point. To the extent that there is - has been any
22 private well testing, for example, any testing of the
23 waterways, I mean, because the big -

24 VICE CHAIR TIMMONS-GOODSON: Yes.

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1 COMMISSIONER ACHTENBERG: One of the big
2 challenges is the fact that this stuff leaches into the
3 - onto the water table and fouls the water that people
4 - you know, so we need to do some data collection in
5 that regard as much as exists, and if it doesn't exist,
6 maybe that's something that we need to look into and
7 think about making recommendations with regard to it.

8 CHAIRMAN CASTRO: Yes, and you know, I
9 think particularly in the last five years that we've
10 been working together, and the last couple that we've
11 been working together, that we've really tried to make
12 an effort to resuscitate this agency as the nation's
13 conscience on civil rights.

14 And I keep thinking about the fact that
15 last year's statutory enforcement report was
16 important, but it was most powerful because we actually
17 went to those detention centers to see what we were
18 hearing about firsthand, and I think that helped not
19 only make the report more powerful, but more credible.

20 And therefore in that same view, I think
21 that while we've heard a lot today, and what we heard
22 from the EPA, and the data we've read that, you know,
23 we could write a report based on what we have, but I
24 don't think it will be as powerful as if - unless we

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1 go and look at a representative site and say, "We are
2 the Civil Rights Commission, and we have heard the
3 community, and we want to see this for ourselves." I
4 think it's important for us to do that. I know maybe
5 not everyone agrees here, but I certainly think it's
6 important for us to do that. So do we have a motion?

7 COMMISSIONER ACHTENBERG: So moved.

8 CHAIRMAN CASTRO: So the motion is to
9 conduct -

10 VICE CHAIR TIMMONS-GOODSON: Yes, Mr.
11 Chair? I move that we go there to the site in Alabama
12 as we have discussed so that the Commission can see for
13 itself what's going on there.

14 CHAIRMAN CASTRO: Okay, is there a second?

15 COMMISSIONER ACHTENBERG: Second.

16 CHAIRMAN CASTRO: Any additional
17 discussion? If not, I will do a roll call vote.
18 Commissioner Kirsanow, you are recusing yourself, and
19 Commissioner Heriot is absent. Commissioner
20 Narasaki, how do you vote?

21 COMMISSIONER NARASAKI: I abstain.

22 CHAIRMAN CASTRO: Okay, Commissioner
23 Kladney, how do you vote?

24 COMMISSIONER KLADNEY: Yes.

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1 CHAIRMAN CASTRO: Okay, Commissioner
2 Achtenberg, how do you vote?

3 COMMISSIONER ACHTENBERG: I vote, as the
4 Commissioner from the State of California, I vote a
5 proud yes.

6 CHAIRMAN CASTRO: Commissioner - I should
7 say Madam Vice Chair, how do you vote?

8 VICE CHAIR TIMMONS-GOODSON: Yes.

9 CHAIRMAN CASTRO: Commissioner Yaki, are
10 you on the phone? Okay, so he'll be listed as absent.
11 And as the Commissioner from the State of Illinois, I
12 vote yes. So Commissioner Kladney, we're coming back
13 to you.

14 COMMISSIONER KLADNEY: I've really
15 thought about this a lot.

16 CHAIRMAN CASTRO: I can tell.

17 COMMISSIONER KLADNEY: Yes, I have. I'm
18 just struggling with it because I understand what we're
19 saying, and I understand what we're doing, but I'm going
20 to -

21 CHAIRMAN CASTRO: You'll just vote yes.

22 COMMISSIONER KLADNEY: I know you want me
23 to vote yes, Mr. Chairman.

24 CHAIRMAN CASTRO: I know.

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1 COMMISSIONER KLADNEY: Well, I guess I'm
2 on the needle, huh?

3 CHAIRMAN CASTRO: You don't have to go,
4 but you can still vote yes.

5 COMMISSIONER KLADNEY: Okay, I'll vote
6 yes.

7 CHAIRMAN CASTRO: Thank you. So we have
8 four yeses and two abstentions of the motion. Wait a
9 minute. Oh, you're - what? You're changing your
10 mind?

11 COMMISSIONER NARASAKI: Yes, because I
12 feel bad for Commissioner Heriot not being here, so on
13 her behalf, I will change from an abstention to a yes,
14 even though I was trying to pull a Kirsanow.

15 CHAIRMAN CASTRO: Okay, so your vote has
16 been changed to a yes, so we have five yeses and one
17 abstention. The motion passes. Pete recused
18 himself, so, I don't know. I'm just treating it as a
19 recusal. It's a separate issue, right? Yes, yes, so,
20 two separate types of issues. So that motion passes,
21 okay.

22 III. RESCHEDULE OF THE QUIET CRISIS BRIEFING

23 CHAIRMAN CASTRO: Then we are
24 entertaining a second motion to continue to conduct the

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1 Quiet Crisis briefing on February 19. Is there a
2 motion to that effect?

3 COMMISSIONER KLADNEY: I'll move.

4 CHAIRMAN CASTRO: Is there a second?

5 COMMISSIONER NARASAKI: I second, Mr.
6 Chair.

7 CHAIRMAN CASTRO: Okay, I'm going to take
8 a roll call vote on that. Commissioner Kirsanow, how
9 do you vote?

10 COMMISSIONER KIRSANOW: Yes.

11 CHAIRMAN CASTRO: Commissioner Narasaki,
12 how do you vote?

13 COMMISSIONER NARASAKI: Yes.

14 CHAIRMAN CASTRO: Commissioner Kladney,
15 how do you vote?

16 COMMISSIONER KLADNEY: Yes.

17 CHAIRMAN CASTRO: Commissioner
18 Achtenberg, how do you vote?

19 COMMISSIONER ACHTENBERG: Yes.

20 CHAIRMAN CASTRO: Commissioner Yaki, are
21 you there? Still absent. Madam Vice Chair, how do you
22 vote?

23 VICE CHAIR TIMMONS-GOODSON: Yes.

24 CHAIRMAN CASTRO: And I vote yes, so it is

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1 unanimous, one, two, three, four, five, six yeases, so
2 we will conduct the hearing on the 19th.

3 IV. ADJOURN

4 CHAIRMAN CASTRO: That concludes our
5 business for today. This meeting is hereby adjourned,
6 and the time is now 5:03 p.m. eastern time. Thank you,
7 everybody. Safe travels home.

8 (Whereupon, the above-entitled matter
9 went off the record at 5:03 p.m.)

10

11