

U.S. COMMISSION ON CIVIL RIGHTS

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COMMISSION MEETING

+ + + + +

VIA TELECONFERENCE

+ + + + +

MONDAY,
OCTOBER 31, 2005

+ + + + +

WASHINGTON, D.C.

+ + + + +

The Meeting convened via teleconference at
2:00 p.m., Chairperson Gerald A. Reynolds, presiding.

PRESENT:

GERALD A. REYNOLDS, CHAIRMAN
JENNIFER C. BRACERAS, COMMISSIONER
PETER N. KIRSANOW, COMMISSIONER
ARLAN D. MELENDEZ, COMMISSIONER
ASHLEY L. TAYLOR, JR., COMMISSIONER
MICHAEL YAKI, COMMISSIONER

KENNETH L. MARCUS, STAFF DIRECTOR

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STAFF PRESENT:

CHRISTOPHER BYRNES

DEBRA CARR, ESQ, Associate Deputy Staff Director

PAMELA A. DUNSTON, Chief, Administrative Services and
Clearinghouse Division

SETH JEFFE

TINALOUISE MARTIN, Director, Human Resources Division

EMMA MONROIG, Solicitor/Parliamentarian

AUDREY WRIGHT

COMMISSIONER ASSISTANT PRESENT:

CHRISTOPHER JENNINGS

LISA NEUDER

KIMBERLY SCHULD

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Adjourn

P R O C E E D I N G S

(2:07:26 p.m.)

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CHAIRPERSON REYNOLDS: Okay. This is Chairman Gerald Reynolds. This is a teleconference with all the Commissioners participating in this electronic meeting from different locations. It is being held pursuant to a motion adopted at the October 7th, 2005 meeting to discuss issues concerning the State Advisory Committees that were scheduled to be discussed at that meeting. I will call the name of each Commissioner in order to determine if there is a quorum to hold a meeting. First up, Vice Chair Thernstrom.

MR. MARCUS: The Vice Chair regrets she won't be able to participate.

CHAIRPERSON REYNOLDS: Commissioner Taylor.

COMMISSIONER TAYLOR: Here.

CHAIRPERSON REYNOLDS: Commissioner Braceras.

COMMISSIONER BRACERAS: Here.

CHAIRPERSON REYNOLDS: Commissioner Yaki.

COMMISSIONER YAKI: Here.

CHAIRPERSON REYNOLDS: Commissioner Kirsanow.

1 COMMISSIONER KIRSANOW: Here.
2 CHAIRPERSON REYNOLDS: Commissioner
3 Melendez.

4 COMMISSIONER MELENDEZ: Here.

5 CHAIRPERSON REYNOLDS: Okay. The meeting
6 will come to order. I request that whenever you
7 address the Commission you first identify yourself by
8 name so that it's clear to the person preparing the
9 transcript who's speaking. Whenever it's necessary to
10 take a vote the following procedure will be followed.
11 I will call out the name of each Commissioner. The
12 Commissioner should then answer yes, no, or abstain.
13 After the vote is concluded, I will read out how each
14 one of you voted in order to ensure that the tally is
15 correct.

16 **I. Approval of Agenda**

17 The first item on the agenda is the
18 approval of the agenda. May I have a motion to
19 approve the agenda?

20 COMMISSIONER KIRSANOW: So moved.
21 Kirsanow here.

22 CHAIRPERSON REYNOLDS: Okay. Well,
23 actually, I am going to move that we amend the agenda
24 so that we can add the announcement section to discuss
25 the passing of Rosa Parks. May I have a second?

1 COMMISSIONER YAKI: Second by Yaki.
2 CHAIRPERSON REYNOLDS: Okay. I'd like to
3 move that the agenda be so amended, that a section on
4 announcements be added after the section dealing with
5 the approval of the minutes. At this point we will
6 vote. Commissioner Taylor.
7 COMMISSIONER TAYLOR: I agree with the
8 motion.
9 CHAIRPERSON REYNOLDS: Okay. Commissioner
10 Braceras.
11 COMMISSIONER BRACERAS: Yes.
12 CHAIRPERSON REYNOLDS: Commissioner Yaki.
13 COMMISSIONER YAKI: Aye.
14 CHAIRPERSON REYNOLDS: Commissioner
15 Kirsanow.
16 COMMISSIONER KIRSANOW: Yes.
17 CHAIRPERSON REYNOLDS: Commissioner
18 Melendez.
19 COMMISSIONER MELENDEZ: What was the
20 motion again?
21 CHAIRPERSON REYNOLDS: To amend the agenda
22 so that we would add an announcement section to
23 discuss the ?- just to discuss the passing of Rosa
24 Parks.
25 COMMISSIONER MELENDEZ: Okay. Melendez,

1 yes.

2 CHAIRPERSON REYNOLDS: And I vote in favor
3 also. Okay. The tally is as follows - all of the
4 Commissioners present voted in the affirmative. There
5 were, naturally, no abstentions and none in
6 opposition. The motion carries.

7 **II. Approval of October 7, 2005 Minutes**

8 The second item is the approval of the
9 minutes of the October 7th, 2005 meeting. May I have a
10 motion?

11 COMMISSIONER TAYLOR: This is Commissioner
12 Taylor. So moved.

13 CHAIRPERSON REYNOLDS: Thank you.

14 COMMISSIONER YAKI: Yaki, second.

15 CHAIRPERSON REYNOLDS: Thank you. Any
16 discussion? Okay. Please vote when your name is
17 called. Commissioner Taylor.

18 COMMISSIONER TAYLOR: Aye.

19 CHAIRPERSON REYNOLDS: Commissioner
20 Braceras.

21 COMMISSIONER BRACERAS: Aye.

22 CHAIRPERSON REYNOLDS: Commissioner Yaki.

23 COMMISSIONER YAKI: Aye.

24 CHAIRPERSON REYNOLDS: Commissioner
25 Kirsanow.

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COMMISSIONER KIRSANOW: Yes.

CHAIRPERSON REYNOLDS: Commissioner Melendez.

COMMISSIONER MELENDEZ: Aye.

CHAIRPERSON REYNOLDS: And I also vote in favor. Each of the Commissioners participating in this meeting voted in favor of the motion. The motion carries.

III. Announcements

All right. Right now we are about to begin the announcement section. I am sad to announce the recent passing of Rosa Parks, whose refusal in 1955 to give her seat to a white passenger on a bus in Alabama set in motion events that inaugurated a new phase in the Civil Rights movement. The arrests that followed Ms. Parks' civil disobedience unified Black Americans to stage and prevail in a 381 boycott of the Montgomery bus system. Similar actions in other districts have been successful, but the Parks' incident gained attention owing, in part, to a young minister, Dr. Martin Luther King, Jr., who led the boycott and soon rose to national renown. A U.S. Supreme Court decision followed which ordered the bus system desegregated. Rosa Parks was an inspiration to us all. Her courage helped to bring about the Civil

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1 Rights legislation that transformed the lives of
2 millions of men and women in this country. The loss
3 of Ms. Rosa Parks will be felt for a very long time to
4 come.

5 Okay. Next up, I guess we begin the
6 discussion about the State Advisory Committee.

7 **IV. State Advisory Committees**

8 COMMISSIONER YAKI: Mr. Commissioner.

9 CHAIRPERSON REYNOLDS: Yes.

10 COMMISSIONER YAKI: It's Commissioner
11 Yaki.

12 CHAIRPERSON REYNOLDS: Yes.

13 COMMISSIONER YAKI: I just wanted to state
14 that with regard to the death of Ms. Rosa Parks; that,
15 one, I am very glad and heartened that she is lying in
16 state at the Capitol, the first woman to do so, to
17 honor her memory. And two, that as we think about
18 what she did, we remember that when she did it, and
19 the very act that she did was one without a proverbial
20 safety net. So many times today actions that would be
21 characterized as one by Rosa Parks are done with
22 coordinated help, lawyers at the ready, video cams on
23 hand. She did it by herself in a single act of
24 defiance without that kind of support and expectation
25 of safety. And I think that made what she did all the

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1 more important, all the more brave, all the more
2 singularly courageous, and why she is deserving of the
3 many tributes and honors she has been receiving for
4 the past week.

5 COMMISSIONER BRACERAS: Here, here.

6 CHAIRPERSON REYNOLDS: Okay. Thank you
7 for your kind and insightful comments. Would any
8 other Commissioner like to take a few moments to
9 comment on Ms. Parks' passing?

10 Okay. Next is a motion to amend the
11 Commission's regulations concerning membership
12 criteria of the State Advisory Committees. This is a
13 unique opportunity to start anew and cast a wide net
14 to include new SAC members that bring diverse
15 backgrounds and a wealth of skills to the Advisory
16 Committee process. Commissioner Taylor, as a
17 presiding Commissioner on the task force on SACs,
18 would you like to make this motion?

19 COMMISSIONER TAYLOR: I would, sir. I
20 move that the Commission approve the following changes
21 to the regulatory language revising the existing
22 provision regarding SAC membership requirements. I
23 also move that the Commission approve the following
24 regulatory language to be published in the "Federal
25 Register" for notice and public comment, and that all

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1 necessary background information be inserted in the
2 notice as required by the "Federal Register."

3 Proposed regulation replacing 45 CFR
4 703.5. Mr. Chair, should I read the balance of the
5 motion?

6 CHAIRPERSON REYNOLDS: Yes, please read it
7 into the record.

8 COMMISSIONER TAYLOR: I will do so.
9 Subpart A of 703.5, membership subject to exceptions
10 made from time to time by the Commission to fit
11 special circumstances. Each Advisory Committee shall
12 consist of at least 11 members appointed by the
13 Commission. Members of the Advisory Committees shall
14 serve for a fixed term to be set by the Commission
15 upon the appointment of a member subject to the
16 duration of Advisory Committees as prescribed by the
17 charter, providing that members of the Advisory
18 Committee may at any time be removed by the
19 Commission.

20 Subpart B, no person is to be denied an
21 opportunity to serve on a State Advisory Committee
22 because of race, age, sex, religion, national origin
23 or disability. The Commission shall encourage
24 membership on the State Advisory Committee to be
25 broadly diverse.

1 that the Staff Director may make any conforming
2 amendments necessary to any existing guidance. That
3 concludes the motion.

4 CHAIRPERSON REYNOLDS: Is there a second?

5 COMMISSIONER BRACERAS: I second it.
6 Jennifer Braceras.

7 CHAIRPERSON REYNOLDS: Okay. Discussion.

8 COMMISSIONER MELENDEZ: Arlan Melendez,
9 Commissioner. I'd like to just comment, since I was
10 the one who basically asked for more time to comment
11 on this. And as I mentioned in our last meeting I
12 believe on October 7, it was a good thing that I did
13 ask for more time, because I talked to our State Chair
14 on this issue, and basically it's a divisive issue. I
15 didn't think there was consensus on it.

16 The motion to amend the membership
17 criteria would set fixed terms. There are currently
18 none, I believe, and present a set of elite criteria
19 for membership. Individuals and community-based
20 organizations would be overlooked. The amendment on
21 term limits would likely remove many of the current
22 SAC members and their chairs, including the one in the
23 State of Nevada. Because SAC work moves slowly and
24 individuals who are dedicated to Civil Rights agendas
25 remain for years, their removal would have a

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1 devastating effect on SAC work.

2 The motion to recharter SAC packages for
3 only six months I believe is unacceptable to at least
4 the Committee in the State of Nevada. SACs need to be
5 given full charter room to begin their official work
6 immediately is the position I think, what I'm getting
7 from the people I work with. The council pendingly
8 chartering packages seems to be an attempt to force
9 the new criteria on the SAC, so just for the record,
10 that's my comments on this whole issue.

11 CHAIRPERSON REYNOLDS: Okay. You're
12 jumping a little ahead of us, because we're going to
13 discuss some of the issues that you mentioned,
14 including term limits, a little later. But in any
15 event, are there any additional comments or responses
16 to Commissioner Melendez' comments?

17 COMMISSIONER YAKI: Yes. Commissioner
18 Yaki.

19 CHAIRPERSON REYNOLDS: Yes.

20 COMMISSIONER YAKI: It should come as very
21 little surprise that I am unalterably opposed to the
22 change in the SAC membership. I do not mind, and I
23 suggested earlier, but apparently it was not printed
24 or distributed, although I sent it to all members,
25 that I would not mind supplementing current criteria.

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1 But I believe that what we are doing today begs the
2 question, what are we doing, and why are we doing it?

3 To me, at least, there's been little to no
4 controversy surrounding membership and the work of our
5 SAC, certainly not from the communities to whom we are
6 beholding, and that is the people for whom the Civil
7 Rights Commission was founded. I agree with
8 Commissioner Melendez that the criteria as noted is
9 rather elitist, as I would say that there is a
10 possibility that people who are community activists
11 from community-based organizations would have less of
12 an opportunity to become members of the SAC. I think
13 that what we want in SAC members are people who are
14 committed in spirit and in heart to the cause of
15 advancing and protecting Civil Rights, not people for
16 whom is a casual endeavor, or for whom their life's
17 mission is to, indeed, undermine, which some of the
18 categories would seem to want to include.

19 I think that I have yet to hear any
20 compelling rationale for changing the membership of
21 the SAC. I think that in so doing, we have put the
22 SAC on hold for almost a year, and I would say that I
23 cannot in good conscience vote for this measure. And
24 I will dissent very strongly from what I believe is a
25 wasted opportunity to, perhaps, supplement rather than

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1 wholesale change the nature and composition of our
2 State Advisory Committees.

3 CHAIRPERSON REYNOLDS: Any additional
4 comments?

5 COMMISSIONER KIRSANOW: Kirsanow here.
6 Just a brief note with respect to the proposed
7 changes. Unless I'm reading it wrong with respect to
8 Commissioner Yaki's note, and Commissioner Melendez'
9 concern that this might promote a sense of elitism.
10 My read of this is that these are not mandatory
11 criteria in terms of the individuals coming from
12 particular occupations or vocations. These are
13 advisory or preferences, which wouldn't necessarily
14 preclude individuals coming from other groups.

15 Second, with respect to the nature of the
16 SACs themselves ?-

17 COURT REPORTER: Excuse me. This is the
18 court reporter. I'm sorry. Somehow I got
19 disconnected just a couple of minutes ago.

20 COMMISSIONER KIRSANOW: We can't repeat
21 exactly what we said. Commissioner Yaki was just
22 extolling my interpretation of the proposed amendment.

23 CHAIRPERSON REYNOLDS: That's a joke.
24 Okay. Where did you drop off?

25 COURT REPORTER: It was - Commissioner

1 Kirsanow was saying, "Second, with respect to the
2 nature of the SACs themselves."

3 COMMISSIONER KIRSANOW: I'll make this
4 very truncated. My read of the amendments is that
5 it's not exclusionary, that it is broadly inclusive
6 and wouldn't bar individuals from a variety of
7 occupations, and wouldn't necessarily be elitist. I
8 also made some reference to the fact that I think with
9 all due respect to those who served on the SAC's
10 service, we all, I think, are grateful for.

11 There is a very important purpose, and
12 salutary purpose of having limits. I think there's
13 merit in having turnover.

14 COMMISSIONER YAKI: Then Commissioner Yaki
15 retorted with a smile that my reading of the language
16 was much more mandatory in terms of the first three
17 categories; social science research, legal research
18 and analysis, and statistical analysis. I read
19 "including but not limited to" to mean these guys are
20 there, there are others who might be there, but these
21 are the ones we definitely want on there. And I was
22 making that point to second the notion of the point
23 made by Commissioner Melendez, that this was, in fact,
24 elitist criteria, and to respond to Commissioner
25 Kirsanow's statement that he thought it was very

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1 inclusive. I don't think so, and I think that it
 2 would be interesting to see the composition of the
 3 SACs under this criteria, to see whether or not either
 4 of our predictions come true or not. And then
 5 Commissioner Melendez stepped in again.

6 CHAIRPERSON REYNOLDS: Well, actually ?-

7 COMMISSIONER YAKI: No, no. Commissioner
 8 Reynolds then rebutted me, and the Commissioner
 9 Melendez came in.

10 CHAIRPERSON REYNOLDS: Okay. Well, I'm
 11 not going to repeat my comments. I think that
 12 Commissioner Kirsanow's statements cover what I said,
 13 but I think it would be an interesting exercise to
 14 take a look at the composition of our current SAC
 15 members. I suspect that today we could be accused of
 16 being elitist. But in any event, Commissioner
 17 Melendez, I believe you were about to say something?

18 COMMISSIONER MELENDEZ: Yes. My main
 19 concern was really the outcome of anything that we do
 20 in any type of changes, what it does to the
 21 advancement of where the SACs are now, especially in
 22 my area. I'd hate to have it completely start all
 23 over because of something that we put in place, that
 24 the Chairman is gone, and a lot of people are ?- they
 25 go back to zero as to where they started. That's one

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1 of my concerns.

2 The other concern is that I believe that
 3 the whole Civil Rights movement starting from the
 4 beginning has to do with issues of the common person.
 5 And what I mean by that is everything doesn't evolve
 6 around decision makers because they're lawyers, or
 7 they're think-tankers, or anything like that. There's
 8 a lot of people in this country that can offer
 9 expertise because they've lived through Civil Rights
 10 issues, and they've experienced life. So the point
 11 I'm making is that I think that we shouldn't be
 12 positioned where we, to a certain extent, exclude
 13 participation and all we're going after is
 14 professionals, because the Civil Rights movement
 15 wasn't about professionals, it was about the common
 16 person in this country. So just for the record, I
 17 just wanted to make that clear.

18 CHAIRPERSON REYNOLDS: Okay. This is
 19 Chairman Reynolds, and for the record, I agree with
 20 everything that Commissioner Melendez just said. Are
 21 we ready to vote or do the Commissioners have
 22 additional questions or comments?

23 COMMISSIONER TAYLOR: This is Commissioner
 24 Taylor. Do we have a second on the motion?

25 COMMISSIONER BRACERAS: I seconded it.

1 COMMISSIONER TAYLOR: Okay.
2 CHAIRPERSON REYNOLDS: Okay. We can vote
3 now. Commissioner Taylor.
4 COMMISSIONER TAYLOR: Aye.
5 CHAIRPERSON REYNOLDS: Commissioner
6 Braceras.
7 COMMISSIONER BRACERAS: Aye.
8 CHAIRPERSON REYNOLDS: Commissioner Yaki.
9 COMMISSIONER YAKI: No.
10 CHAIRPERSON REYNOLDS: Commissioner
11 Kirsanow.
12 COMMISSIONER KIRSANOW: Yes.
13 CHAIRPERSON REYNOLDS: Commissioner
14 Melendez.
15 COMMISSIONER MELENDEZ: No.
16 CHAIRPERSON REYNOLDS: And I vote in the
17 affirmative. Okay. The following Commissioners voted
18 in the affirmative; Commissioners Taylor, Braceras,
19 Kirsanow, and Reynolds. The following Commissioners
20 voted in opposition; Commissioners Yaki and Melendez.
21 Okay. The motion carries.
22 Next up we'll deal with the imposition of
23 term limits on the State Advisory Committee members.
24 Is there a motion on term limits on the State Advisory
25 Committee members?

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COMMISSIONER TAYLOR: Mr. Chairman, I have one. This is Commissioner Taylor.

CHAIRPERSON REYNOLDS: Okay.

COMMISSIONER TAYLOR: I move that the members' terms on the State Advisory Committees may be limited at the discretion of the Regional Directors for a total duration of not more than 10 years. There's a paren (or not more than five two-year terms). If a sufficient basis exists for reappointment, the Staff Director shall submit such recommendation to the Commission prior to the vote by the Commission on rechartering of the State Advisory Committee.

CHAIRPERSON REYNOLDS: Is there a second?

COMMISSIONER KIRSANOW: Second. Kirsanow here.

CHAIRPERSON REYNOLDS: Discussion?

COMMISSIONER MELENDEZ: Who made the motion?

CHAIRPERSON REYNOLDS: I'm sorry?

COMMISSIONER MELENDEZ: Who made the motion?

CHAIRPERSON REYNOLDS: Commissioner Taylor.

COMMISSIONER MELENDEZ: He made the

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1 motion, and who seconded?

2 COMMISSIONER KIRSANOW: Kirsanow seconded.

3 CHAIRPERSON REYNOLDS: Discussion? Okay.

4 This is Chairman Reynolds. I would like to make a
5 friendly amendment so that the portion of the motion
6 that says "at the discretion of the Regional
7 Directors", I'd like for that language to be deleted.
8 I think that that type of decision should be made by a
9 vote of the Commission, as opposed to being made on a
10 discretionary basis by the Regional Directors.

11 COMMISSIONER BRACERAS: It requires the
12 vote of the Commission, doesn't it?

13 CHAIRPERSON REYNOLDS: Well, if does ?- it
14 wasn't clear to me upon my reading.

15 COMMISSIONER BRACERAS: Commissioner
16 Taylor.

17 COMMISSIONER TAYLOR: I'm reading it
18 again. Actually, I don't think it requires a vote.
19 The way we have it set up, I believe that we would be
20 placing under this current language the ability at the
21 discretion of the Regional Director.

22 CHAIRPERSON REYNOLDS: And this would be
23 to ?- I mean, as written, it's my understanding that
24 the Regional Directors would have the power to decide
25 when to extend the term beyond the 10-year period.

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COMMISSIONER TAYLOR: Right. It's

CHAIRPERSON REYNOLDS:

COMMISSIONER BRACERAS: I thought ?- I'm
sorry. I thought we had had a conference call about
this several weeks ago, where we decided to insert
language that would require a vote of the Commission.

CHAIRPERSON REYNOLDS: Okay. Well ?-

COMMISSIONER BRACERAS: Do you all
remember what I'm talking about?

CHAIRPERSON REYNOLDS: I don't, but that
?-

COMMISSIONER BRACERAS: The SAC Working
Group met via teleconference and discussed this very
issue.

CHAIRPERSON REYNOLDS: Okay. Well, I ?-
does anyone have an objection to that friendly
amendment?

COMMISSIONER YAKI: Yes. It's
Commissioner Yaki saying yes.

CHAIRPERSON REYNOLDS: Okay. Do you want
to talk about it, or you want to leave it at that?

COMMISSIONER YAKI: I believe the Regional
Directors, the people who know best about what's going
on with the membership of the Committee and the SACs,
and have some experience in terms of having that

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1 discretion, I simply wanted them to give a
2 justification for that in submitting the names going
3 forward, but I never intended that there be individual
4 votes on each of these people by the Commission. I
5 think that's beyond what we need to be doing.

6 CHAIRPERSON REYNOLDS: Okay. This is
7 Chairman Reynolds. It seems to me if the purpose is
8 to have a limit on the number of years that can
9 served, that clause could swallow the rule. There
10 would be nothing to prevent a Regional Director from
11 as a matter of course permitting State Advisory
12 Committee members to stay on beyond the 10-year period
13 without good cause.

14 COMMISSIONER TAYLOR: This is Commissioner
15 Taylor. Perhaps, let me take a step back. I thought
16 the goal was to ensure that at some point a decision
17 was made relative to someone's position on the SAC,
18 rather than it being an automatic rollover into
19 perpetuity, and this goes back to Commissioner Yaki's
20 statement, and Commissioner Braceras' recollection.

21 I know we discussed the possibility of the
22 Regional Director having some input; that is, coming
23 forward with something more than just a
24 recommendation, but a basis for the recommendation as
25 to why someone's term should be extended beyond the

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25
1 "normal term". But what we've done in this first
2 sentence is sort of shifted the burden so that it
3 says, "May be limited at the discretion", so the
4 Regional Director is actually limiting the term,
5 rather than seeking an additional term beyond the
6 "normal term".

7 CHAIRPERSON REYNOLDS: Okay. Any
8 additional comments? Well, I would ?- looking at the
9 term "may", in addition to deleting that clause that
10 reads "at the discretion of the Regional Directors", I
11 would also move that the term "may" be replaced with
12 "shall". And at the end of the sentence we would have
13 a comma, and it would read, "Unless there is a
14 sufficient basis for extending the appointment beyond
15 10 years." And what it does is just it sets up a rule
16 and an exception to the rule. The rule is that you
17 serve for 10 years. If there is a sufficient basis,
18 the Commission, as opposed to the Regional Directors,
19 would have the option of permitting someone to serve
20 beyond the 10-year period.

21 COMMISSIONER BRACERAS: Mr. Chairman, this
22 is Jennifer Braceras. I agree with your intentions
23 here. I'm just totally mystified as to why we don't
24 have the correct language here since this is the
25 discussion we've had many times. And I thought that

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1 the motion was being revised to reflect that.
2 Clearly, it doesn't, and I just want to make sure that
3 the language you're proposing actually achieves what
4 the majority of us in the group had intended to
5 achieve; which is, that there would be a term limit
6 that could be extended at the suggestion of the
7 Regional Director in consultation with the Staff
8 Director upon a vote of the Commission.

9 CHAIRPERSON REYNOLDS: Yes. That's what
10 I'm trying to accomplish.

11 COMMISSIONER BRACERAS: Yes, because
12 that's what the majority of the working group had
13 agreed to.

14 CHAIRPERSON REYNOLDS: Yes.

15 COMMISSIONER BRACERAS: And I'm mystified
16 as to why that language was never solidified.

17 CHAIRPERSON REYNOLDS: Okay. With that
18 understanding, are we ready to vote? I'll take that
19 as a yes.

20 COMMISSIONER TAYLOR: This is Commissioner
21 Taylor. This does not require, as currently drafted,
22 at least, does not require the Regional Director to
23 initiate the recommendation. Correct?

24 CHAIRPERSON REYNOLDS: I'm sorry. Please
25 repeat your statement.

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COMMISSIONER TAYLOR: I want to make sure that this motion as amended does not require the Regional Director to initiate the request for an extension or reappointment beyond 10 years.

CHAIRPERSON REYNOLDS: No, it doesn't require that.

COMMISSIONER TAYLOR: Okay.

COMMISSIONER BRACERAS: Can you read the entire language, as amended?

CHAIRPERSON REYNOLDS: Yes.

COMMISSIONER BRACERAS: Straight through, please.

CHAIRPERSON REYNOLDS: "State Advisory Committees shall be limited for a total duration of not more than 10 years (or not more than five two-year terms), unless there is a sufficient basis for extending the appointment beyond 10 years."

COMMISSIONER BRACERAS: As well?-

CHAIRPERSON REYNOLDS: Oh, I'm sorry. There's another piece. "If a sufficient basis exists for reappointment, the Staff Director shall submit such recommendation to the Commission prior to the vote by the Commission on the rechartering of the State Advisory Committee."

COMMISSIONER BRACERAS: What is the

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1 Regional Director's role now in that, nothing?

2 CHAIRPERSON REYNOLDS: Well ?-

3 MR. MARCUS: Mr. Chairman, this is the
4 Staff Director. If additional language is added to
5 clarify the role, that could be helpful. On the other
6 hand, if no additional language were added, we would
7 simply apply this to the usual situation in which the
8 Staff Director customarily asks the Regional Director
9 for recommendations with respect to all appointments
10 and reappointments for the State Advisory Committee.
11 So if no further language were added, that's how it
12 would be interpreted.

13 COMMISSIONER BRACERAS: Okay.

14 COMMISSIONER TAYLOR: This is Commissioner
15 Taylor. What happens if there's a disagreement
16 between the Regional Director and the Staff Director
17 on a recommendation currently?

18 MR. MARCUS: Commissioner Taylor,
19 currently the Commissions are made by the Staff
20 Director. They're based on the recommendations of the
21 Regional Director, but they all go through the Staff
22 Director.

23 COMMISSIONER TAYLOR: This is Commissioner
24 Taylor. I don't want to bog us down here, but I just
25 want to make sure everybody is reading this the same

29
1 way. "If a sufficient basis exists for
2 reappointment", implicit in that statement - I'm
3 assuming everybody else is reading it the same way -
4 that the Staff Director makes the determination as to
5 whether or not a sufficient basis exists?

6 COMMISSIONER BRACERAS: Well, I read it
7 that way, but I'm not sure that that's clear. I'm not
8 sure that the language clearly states that, so that's
9 part of my concern here.

10 COMMISSIONER TAYLOR: Yes, if ?- I mean,
11 if that's the way ?- Mr. Staff Director, if that's how
12 you all operate now, then perhaps we could put it in
13 just that way, that after consultation with the
14 Regional Director.

15 MR. MARCUS: Yes.

16 COMMISSIONER TAYLOR: Would that
17 accurately capture what you do now?

18 MR. MARCUS: I think it would accurately
19 describe it. Right now the package will begin with
20 the Regional Director, who then makes a
21 recommendation, which the Staff Director reviews, and
22 submits to the Commission, if the Staff Director
23 agrees with its appropriateness. This is making it a
24 little bit different in that in unusual cases where a
25 Regional Director thinks that there's a reason to

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1 extend beyond a term limit, an additional decision
 2 would be made. I think it is probably going to be
 3 helpful if the Commission believes that the
 4 determination of sufficient basis should be made by
 5 the Staff Director, that should be spelled out. On
 6 the other hand, if the Commission wants that
 7 determination to be made either by the Commission or
 8 the Regional Director, that should be spelled out,
 9 too. If it were not made explicit, then we would fall
 10 back to customary practice, and the determination
 11 would be made by the Staff Director.

12 COMMISSIONER TAYLOR: This is Commissioner
 13 Taylor. I think - and, again, in order to hold true
 14 to what we discussed at the working group level - we
 15 had the Staff Director making the determination as to
 16 whether a sufficient basis exists for doing so in
 17 close consultation with the Regional Directors. Folks
 18 in the working group, does that ring true to you all?

19 COMMISSIONER BRACERAS: Yes.

20 CHAIRPERSON REYNOLDS: Well, that approach
 21 is acceptable to me, and this is Chairman Reynolds.

22 COMMISSIONER TAYLOR: All right.

23 CHAIRPERSON REYNOLDS: Okay. Any other
 24 questions or concerns?

25 COMMISSIONER BRACERAS: Well, I'm

1 concerned that the language doesn't state that, as
2 Commissioner Taylor just said.

3 COMMISSIONER TAYLOR: Mr. Chairman, can I
4 have 30 seconds?

5 CHAIRPERSON REYNOLDS: Sure.

6 COMMISSIONER TAYLOR: I'm trying to draft
7 here ?- Mr. Chairman.

8 CHAIRPERSON REYNOLDS: Yes.

9 COMMISSIONER TAYLOR: This is Commissioner
10 Taylor. Perhaps we can have language to this effect.
11 "The Staff Director shall, after consultation with the
12 Regional Director, and upon determining that a
13 sufficient basis exists for reappointment, submit
14 such", and then the balance of that sentence to end
15 the paragraph.

16 CHAIRPERSON REYNOLDS: Okay. All right.
17 Jennifer, does that provide the ?-

18 COMMISSIONER BRACERAS: Yes, I believe so.

19 CHAIRPERSON REYNOLDS: Okay. All right.
20 Unless there are other questions or comments, it's
21 time to vote. As amended, Commissioner Taylor, how do
22 you vote?

23 COMMISSIONER TAYLOR: Aye.

24 CHAIRPERSON REYNOLDS: Commissioner
25 Braceras.

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1 COMMISSIONER BRACERAS: Aye.
2 CHAIRPERSON REYNOLDS: Commissioner Yaki.
3 COMMISSIONER YAKI: No.
4 CHAIRPERSON REYNOLDS: Commissioner
5 Kirsanow.
6 COMMISSIONER KIRSANOW: Yes.
7 CHAIRPERSON REYNOLDS: Commissioner
8 Melendez.
9 COMMISSIONER MELENDEZ: No.
10 CHAIRPERSON REYNOLDS: And I vote in the
11 affirmative. So those Commissioners voting in favor
12 of the motion are Commissioners Taylor, Braceras,
13 Kirsanow, and Reynolds. And those Commissioners
14 voting in opposition are Commissioners Yaki and
15 Melendez.
16 Okay. Next up relates to the rechartering
17 packages, the SAC rechartering packages. Okay. I'll
18 just read the motion that was introduced at the July
19 meeting, and then there is a ?- I would characterize
20 it as a substitute motion, and I will also read those
21 into the record.
22 It reads, "I move that old SAC
23 rechartering package pending Commission approval
24 consistent with the prior selection policy be deemed
25 cancelled, and that the Staff Director direct Regional

1 Directors to replace them with the new rechartering
2 packages consistent with the new selection criteria
3 when the revised membership regulations become final.
4 I believe that this process provides the Commission
5 with an exceptional opportunity to start afresh,
6 casting a wide net to bring a wide range of new talent
7 and new perspectives to our State Advisory Committees
8 consistent with the new policy." Is there a second?
9 Hello.

10 COMMISSIONER TAYLOR: Mr. Chairman, this
11 is Commissioner Taylor. Are you asking for a second
12 on the alternative?

13 CHAIRPERSON REYNOLDS: Oh, I'm asking a
14 second for the July ?- the motion that was originally
15 circulated for the July meeting.

16 COMMISSIONER TAYLOR: I will second that.

17 CHAIRPERSON REYNOLDS: Okay. Before
18 starting discussion, I would also like to read what I
19 would characterize as a substitute motion, and it
20 reads, "I move that those State Advisory Committees
21 whose charters have expired to-date be rechartered for
22 a period of six months with the potential for
23 extensions." Is there a second?

24 COMMISSIONER YAKI: That's my motion.
25 Right?

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CHAIRPERSON REYNOLDS: Yes.

COMMISSIONER MELENDEZ: I'd second that.

CHAIRPERSON REYNOLDS: Okay. Rather than take them one at a time, unless there's an objection, I'd just like to discuss these two approaches simultaneously, since they're so closely linked. Discussion?

COMMISSIONER YAKI: Yes. This is Commissioner Yaki. The reason I made my motion is because starting over from scratch is going to take some time. I thought why should we have no operating SAC with the time period that's going on, and at least have the ones that are ready to be rechartered, give them a six-month or longer mandate depending on how long it takes the Regional Director to wade through the criteria, get through the application process, get it up to the Commission for ratification.

I had earlier circulated a motion stating that we should simply approve those that are ready to be done, and then to the extent that any of the criteria that we just passed is supplementary to the current membership without having to knock out every single one, that we do that, as well, but that may be too complicated to explain or to figure out. But the idea is that to not go without SACs any longer I think

1 is, quite frankly, ridiculous, and for those people
 2 who have been chosen and are ready to serve, to give
 3 them an opportunity to move forward while the Regional
 4 Directors are tasked with the very heavy burden of
 5 rechartering 50 SACs at a time when we are unsure how
 6 many Regional Directors we may have in six months, and
 7 the fact that we have less regional offices than
 8 certainly we had five or ten years ago.

9 CHAIRPERSON REYNOLDS: Okay. I am
 10 sympathetic to a portion of Commissioner Yaki's
 11 argument. While it is true that the Commission when
 12 it was reconstituted last December, had a number of
 13 recharter packages pending. What we're doing today
 14 will add to the delay, but I think that it is ?- any
 15 time the rules are changed, it will entail a delay. I
 16 don't think that the delay will be significant. We've
 17 been talking about these issues for quite some time
 18 now. I believe that the Staff Director's office,
 19 assuming that the July motion carries, I believe that
 20 the Staff Director's office would be able in short
 21 order to get the process rolling so that we can first
 22 jump through the necessary hoops to get our new
 23 selection criteria published in the "Federal
 24 Register." And then after that's done, to start the
 25 work of processing the recharter packages. So at this

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1 point, additional comments, questions? Okay. Well,
2 we have two motions pending. The first one up for
3 vote would be the motion that was submitted in July.

4 COMMISSIONER BRACERAS: The Taylor motion?
5 Can we call it the Taylor motion to avoid confusion.

6 CHAIRPERSON REYNOLDS: Yes, indeed. Okay.
7 The Taylor motion will be up first, unless further
8 discussion is required. Okay. Commissioner Taylor.

9 COMMISSIONER TAYLOR: I vote in favor of
10 the Taylor motion.

11 CHAIRPERSON REYNOLDS: I'm not surprised.
12 Commissioner Braceras.

13 COMMISSIONER BRACERAS: Aye.

14 CHAIRPERSON REYNOLDS: Commissioner Yaki.

15 COMMISSIONER YAKI: No.

16 CHAIRPERSON REYNOLDS: Commissioner
17 Kirsanow.

18 COMMISSIONER KIRSANOW: Yes.

19 CHAIRPERSON REYNOLDS: Commissioner
20 Melendez.

21 COMMISSIONER MELENDEZ: No.

22 CHAIRPERSON REYNOLDS: And the Chairman
23 votes in favor. Okay. All those voting in the
24 affirmative, those Commissioners include Commissioners
25 Taylor, Braceras, Kirsanow, and Reynolds. The

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1 Commissioners voting in opposition are Commissioners
2 Yaki and Melendez. The motion carries.

3 Okay. At this point, are there any agenda
4 items that anyone would like to include in the
5 November meeting? If that's the case, I'd like to
6 move to adjourn the meeting. May I have a second?

7 COMMISSIONER KIRSANOW: Second.

8 CHAIRPERSON REYNOLDS: I thought that we
9 were just chomping at the bit to stay on the phone.
10 Okay. All in favor.

11 COMMISSIONER KIRSANOW: Non-debatable.

12 CHAIRPERSON REYNOLDS: Okay. Well, then
13 let' wrap this up. Folks, thank you very much, and
14 I'll see you in November.

15 COMMISSIONER BRACERAS: Thank you.

16 (Whereupon, the proceedings went off the
17 record at 2:56 p.m.)

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