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U.S. COMMISSION ON CIVIL RIGHTS

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BUSINESS MEETING

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FRIDAY, JUNE 16, 2023

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The Commission convened in Suite  
1150 at 1331 Pennsylvania Avenue, Northwest,  
Washington, D.C., at 10:00 a.m., Mauro Morales,  
Staff Director, presiding.

PRESENT:

J. CHRISTIAN ADAMS, Commissioner

ROCHELLE GARZA, Commissioner

STEPHEN GILCHRIST, Commissioner

GAIL HERIOT, Commissioner

MONDAIRE JONES, Commissioner

PETER N. KIRSANOW, Commissioner

GLENN MAGPANTAY, Commissioner

VICTORIA NOURSE, Commissioner

MAURO MORALES, Staff Director

DAVID GANZ, General Counsel

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STAFF PRESENT:

PAMELA DUNSTON, Chief, ACSD

JULIAN NELSON, ASCD

ESSENCE PERRY, ASCD

MICHELE YORKMAN-RAMEY, ASCD

COMMISSIONER ASSISTANTS PRESENT:

JOHN K. MASHBURN

CARISSA MULDER

THOMAS SIMUEL

IRENA VIDULOVIC

ALEXIS FRAGOSA

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## A G E N D A

I. BUSINESS MEETING ..... 6

A. Discussion and Vote on Presidential Designation of Commissioner Rochelle Mercedes Garza as Chairperson and Victoria Frances Nourse as Vice Chair of the U.S. Commission on Civil Rights

II. Adjourn Meeting ..... 40

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(10:00 a.m.)

MR. MORALES: Thank you. I wanted to make to make a short public announcement here that the commencement of the meeting will be delayed for an indeterminate period of time. And we'll get back to the public here, hopefully shortly. So, thank you.

(Whereupon, the above-entitled matter went off the record at 10:01 a.m. and resumed at 1:35 p.m.)

MR. MORALES: Welcome to the business meeting of the U.S. Commission on Civil Rights. This meeting comes to order at 1:35 p.m. Eastern Time, on Friday, June 16th, 2023. I am Staff Director Mauro Morales. I am not substantively participating in this meeting, but because of the current absence of a chair and a vice chair, I am administering pursuant to my administrative functions set out in 42 U.S.C. 1975(b).

I would like to confirm the Commissioners present and we'll take a roll call. Please say present when I say your name.

Commissioner Adams.

COMMISSIONER ADAMS: Present.

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1 MR. MORALES: Commissioner Garza.  
2 COMMISSIONER GARZA: Present.  
3 MR. MORALES: Commissioner Gilchrist.  
4 COMMISSIONER GILCHRIST: I'm present.  
5 MR. MORALES: Commissioner Heriot.  
6 COMMISSIONER HERIOT: I'm here.  
7 MR. MORALES: Commissioner Jones.  
8 COMMISSIONER JONES: Present.  
9 MR. MORALES: Commissioner Kirsanow.  
10 COMMISSIONER KIRSANOW: Here.  
11 MR. MORALES: Commissioner Magpantay.  
12 COMMISSIONER MAGPANTAY: Here.  
13 MR. MORALES: Commissioner Nourse.  
14 COMMISSIONER NOURSE: Here.  
15 MR. MORALES: Based on the response, a  
16 quorum of Commissioners is present. The meeting  
17 will now come to order.  
18 I. BUSINESS MEETING  
19 A. DISCUSSION AND VOTE ON PRESIDENTIAL  
20 DESIGNATION OF COMMISSIONER ROCHELLE MERCEDES  
21 GARZA AS CHAIRPERSON AND VICTORIA FRANCES NOURSE  
22 AS VICE CHAIR OF THE U.S. COMMISSION ON CIVIL  
23 RIGHTS  
24 MR. MORALIES: During the last  
25 business meeting, Commissioners requested time to

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1 negotiate an agreement on several items,  
2 including the victims of crime timeline and  
3 discovery plan, among other things.  
4 Commissioners were informed that if they could  
5 not mutually agree on an agenda that the only  
6 item for the agenda for today would be the  
7 President's request to designate a chair and a  
8 vice chair for the Commission. I was informed a  
9 few days ago and last week that an agreement  
10 could not be reached.

11 As a consequence, the only item on the  
12 agenda at this time is a discussion and vote on  
13 the chair and the vice chair. Commissioners with  
14 their authority may add or remove items to the  
15 agenda by a majority vote. Do any Commissioners  
16 have amendments to the agenda?

17 Hearing none, our first order of  
18 business, as noted in the agenda posted in the  
19 Federal Register, will be a discussion and a vote  
20 on the designation of Rochelle Mercedes Garza to  
21 serve as Chair and Victoria Frances Nourse to  
22 serve as Vice Chair for the U.S. Commission on  
23 Civil Rights pursuant to the request of President  
24 Joseph Biden.

25 Is there a second?

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1 COMMISSIONER GARZA: I'll second that.

2 MR. MORALES: We'll proceed to open  
3 the floor for discussion.

4 Is there discussion? I'll recognize  
5 any Commissioners who wish to be recognized.

6 COMMISSIONER GARZA: I would just like  
7 to say a few things.

8 MR. MORALES: Commissioner Garza.

9 COMMISSIONER GARZA: Thank you. Thank  
10 you, Staff Director Morales.

11 We have been negotiating over the last  
12 several months with our Republican colleagues. I  
13 would like for us to move forward with the work  
14 of the Commission, the important work of this  
15 Commission. The fight for civil rights is  
16 something that's very personal to me. It's  
17 something I've done throughout my entire career  
18 and I hope that we can honor this Commission and  
19 honor the American people with doing the good  
20 work and making sure that we move forward.

21 And we have negotiated on several  
22 occasions, including this morning. And  
23 unfortunately, it just doesn't seem like we can  
24 come to an agreement. But I am still hopeful. I  
25 am still hopeful that we will move forward and

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1 continue the good work of the Commission.

2 MR. MORALES: Thank you, Commissioner  
3 Garza.

4 Any other Commissioners? Commissioner  
5 Heriot, please.

6 COMMISSIONER HERIOT: Yes, I share  
7 Commissioner Garza's optimism that we will still  
8 get through this. I do want to point out that  
9 the work of the Commission is ongoing. We are  
10 recruiting for SACs. We are working with OCRE to  
11 prepare for future -- we did for anti-Asian hate  
12 crimes report. We are doing research on concept  
13 papers. We are reviewing discovery requests and  
14 responses. We are reviewing draft reports.

15 So a lot of work is going on on the  
16 Commission and I think we could do much, much  
17 better. For example, I think it should be easy  
18 for the Commission, for a majority of the  
19 Commission, to agree on bringing back State  
20 Advisory Committee reports before the Commission.  
21 There's no reason that that can't be done even if  
22 we haven't yet received, haven't gotten to an  
23 agreement as to chair and vice chair. There's no  
24 reason that we cannot have State Advisory  
25 Committee slates present to us. We should be

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1 doing that on a regular basis.

2 All four of the conservative  
3 Commissioners are eager to work on SAC slates and  
4 I'm hoping that we will be able to have SAC  
5 slates presented to us in the near future so that  
6 we can work them out and get that done.

7 I also believe that we are going to be  
8 able to get to a consensus on the chair and vice  
9 chair issues. It's taken some time, but I think  
10 we can get there, but there's no reason that  
11 these other issues should be put aside while we  
12 are working on that. The Commission can keep  
13 going. We don't need a chair or vice chair to  
14 receive reports from State Advisory Committees.  
15 We don't need a chair or vice chair to be working  
16 on slates for State Advisory Committees.

17 And of course, we're already working  
18 on the anti-Asian report. I have been spending  
19 the last several weeks doing pretty much nothing  
20 but working on the anti-Asian report. So the work  
21 of the Commission is ongoing.

22 MR. MORALES: Thank you, Commissioner  
23 Heriot.

24 Anyone else? Any other Commissioners?

25 Hearing none, I will call the question

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1 and take a roll call vote. This is on the vote  
2 and designation of Michelle Mercedes Garza to  
3 serve as chair and Victoria Frances Nourse to  
4 serve as vice chair of the U.S. Commission on  
5 Civil Rights pursuant to the request of President  
6 Joseph Biden.

7 MR. MORALES: Commissioner Adams, how  
8 do you vote?

9 COMMISSIONER ADAMS: Pursuant to  
10 powers of 42 U.S.C. 1975(d), I vote no.

11 MR. MORALES: Commissioner Adams votes  
12 no.

13 Commissioner Garza?

14 COMMISSIONER GARZA: I vote yes for  
15 the third time.

16 MR. MORALES: Commissioner Gilchrist,  
17 how do you vote?

18 COMMISSIONER GILCHRIST: I vote no.

19 MR. MORALES: Commissioner Heriot, how  
20 do you vote?

21 COMMISSIONER HERIOT: I vote no,  
22 although I was optimistic there for a little bit  
23 that we might be able to get through this today,  
24 but I'm going to have to vote no again.

25 MR. MORALES: Commissioner Jones?

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1 COMMISSIONER JONES: I vote yes.

2 MR. MORALES: Commissioner Kirsanow?

3 COMMISSIONER KIRSANOW: No.

4 MR. MORALES: Commissioner Magpantay?

5 COMMISSIONER MAGPANTAY: Yes.

6 MR. MORALES: Commissioner Nourse?

7 COMMISSIONER NOURSE: Yes.

8 MR. MORALES: The vote is four to  
9 four. The vote fails.

10 COMMISSIONER GILCHRIST: Staff  
11 Director?

12 MR. MORALES: Yes, Commissioner  
13 Gilchrist, I recognize you.

14 COMMISSIONER GILCHRIST: Yes, thank  
15 you. I would like to make a motion if I may.  
16 Pursuant to your earlier comments regarding the  
17 staff director having to serve as our acting  
18 chair at this time. I would like to propose and  
19 make a motion that the Commission appoint  
20 Commissioner Peter Kirsanow, who is a senior  
21 member of the conservative caucus, and their  
22 Commissioner Jones or Commissioner Magpantay to  
23 serve as co-chairs of the Commission until such  
24 time as a chair has been designated.

25 Part of that reasoning is obviously we

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1 want the business of the Commission to continue  
2 to move forward and as a consequence of that,  
3 Commissioner Garza and Commissioner Nourse, the  
4 nominations are active and so it would not be  
5 appropriate for them to serve in a temporary  
6 capacity at this time. Our hope is that we  
7 certainly can come to some conclusion about this  
8 rule soon, but I certainly would like to make  
9 that as a motion for our Commission.

10 COMMISSIONER ADAMS: Second.

11 MR. MORALES: There's a second to the  
12 motion. It's open for discussion. I would like  
13 to comment when I have an opportunity.

14 COMMISSIONER ADAMS: Yes, sir.

15 MR. MORALES: This issue has come up.  
16 It was litigated in Federal District Court and as  
17 was pointed out by a Commissioner several weeks  
18 ago, and I opined and responded to all  
19 Commissioners that an acting chair, an acting  
20 staff director, are not allowed under the  
21 litigation that occurred, probably what, 15 years  
22 ago, 20 years ago, I believe it was.

23 COMMISSIONER HERIOT: Say that again.

24 MR. MORALES: It was Ishimaru, I  
25 forget the first part of the case. It was an

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1 email I sent and so that -- this motion would be  
2 inappropriate because the court has already ruled  
3 and litigated this that no acting can be -- and  
4 it would undermine and thwart the statute which  
5 the President has a right to seek concurrence of  
6 Commissioners. And Commissioners have that right  
7 to make the determination. Unfortunately, right  
8 now, it's four-four and a tie fails. So I don't  
9 believe this motion is in order.

10 COMMISSIONER HERIOT: Mr. Staff  
11 Director?

12 MR. MORALES: Yes.

13 COMMISSIONER HERIOT: I believe that  
14 case is about the President appointing the same  
15 person who has been rejected as staff director,  
16 appointing them and so it does not apply here.  
17 Our regulations actually speak in terms of acting  
18 chair. I don't think that case applies if I'm  
19 remembering that correctly.

20 MR. MORALES: I would disagree and we  
21 can provide -- I'll have General Counsel provide  
22 Commissioners with an opinion to discuss whether  
23 or not that's correct. But I believe the ruling,  
24 as I recall reading it, was pretty expansive, so  
25 I don't know if a Commissioner can be an acting

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1 -- can appoint themselves when the President has  
2 the authority under the statute. So I think it  
3 would undermine and circumvent all that.

4 But again, that's my opinion, but we  
5 can have general counsel opine and I can give  
6 Commissioner's opinion in the next -- within the  
7 next week on whether or not that would be  
8 appropriate, but right now I would say it's not.

9 COMMISSIONER HERIOT: I'll call the  
10 question.

11 MR. MORALES: Hold on one moment. As  
12 you said, Commissioner Gilchrist has made a  
13 motion, so there's a vote on that outstanding  
14 motion. I believe you also mentioned that,  
15 Commissioner Heriot.

16 So is there any more discussion before  
17 we move to the vote?

18 COMMISSIONER NOURSE: I would just  
19 like to say that I have not seen that opinion and  
20 I cannot make a determination without seeing the  
21 opinion at this point.

22 MR. MORALES: Any other discussion?  
23 Okay, call the question on motion made by  
24 Commissioner Gilchrist.

25 Commissioner Adams, how do you vote?

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1 COMMISSIONER ADAMS: Yes.

2 MR. MORALES: Commissioner Garza, how  
3 do you vote?

4 COMMISSIONER GARZA: No.

5 MR. MORALES: Commissioner Gilchrist,  
6 how do you vote?

7 COMMISSIONER GILCHRIST: Yes.

8 MR. MORALES: Commissioner Heriot, how  
9 do you vote?

10 COMMISSIONER HERIOT: I vote yes.

11 MR. MORALES: Commissioner Jones, how  
12 do you vote?

13 COMMISSIONER JONES: As flattered as I  
14 am by the proposal, I must vote no. Thank you.

15 MR. MORALES: Commissioner Kirsanow,  
16 how do you vote?

17 COMMISSIONER KIRSANOW: Yes.

18 MR. MORALES: Commissioner Magpantay,  
19 how do you vote?

20 COMMISSIONER MAGPANTAY: I, too, am  
21 flattered --

22 (Laughter.)

23 COMMISSIONER MAGPANTAY: -- personal  
24 capacity to do this. I apologize. I have to vote  
25 no.

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1 MR. MORALES: Commissioner Nourse, how  
2 do you vote?

3 COMMISSIONER NOURSE: No.

4 MR. MORALES: Thank you. It being a  
5 four-four vote, the vote fails.

6 COMMISSIONER HERIOT: Mr. Staff  
7 Director?

8 MR. MORALES: Commissioner Heriot.

9 COMMISSIONER HERIOT: I have a motion  
10 here. I move that the staff director invite the  
11 chairs of the Connecticut, South Carolina, and  
12 Texas State Advisory Committees to present on  
13 their committees' most recent reports at the July  
14 Commission business meeting or as soon thereafter  
15 as they may be available. And if they are not  
16 available for the July meeting, that the staff  
17 director use his discretion to invite Alternate  
18 State Advisory Committee chairs to present their  
19 committees' most recent reports for that July  
20 2023 business meeting.

21 COMMISSIONER ADAMS: Second.

22 MR. MORALES: There's a second. Any  
23 discussion?

24 COMMISSIONER NOURSE: Was this on the  
25 agenda? The Democratic Commissioners have had no

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1 notice of these motions.

2 COMMISSIONER HERIOT: Well, you had  
3 notice that this was an issue and you're the one  
4 that keeps saying the Commission business --

5 COMMISSIONER GARZA: Can we call the  
6 question?

7 MR. MORALES: Any other discussion?  
8 Commissioner Jones.

9 COMMISSIONER JONES: Commissioner  
10 Heriot, well, I know I can't address this to any  
11 particular person, but I would love to know the  
12 titles of those three reports.

13 COMMISSIONER HERIOT: I think that was  
14 in the email message a little while ago. Hold  
15 on.

16 Okay, it was Algorithmic  
17 Discrimination. That was the Connecticut report.  
18 Civil Asset Forfeiture, that was the South  
19 Carolina report. And Juvenile Justice, is that  
20 right, for the Texas report. I think these were  
21 ones where we're trying to make sure there's  
22 something for everybody here.

23 And I think I agree with all the  
24 people who have said that we need to move the  
25 Commission business along and this is one way to

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1 do that. This is a small way. There are many  
2 other ways that we're already moving Commission  
3 business along, but I see no reason for us to  
4 stop holding State Advisory Committee reports.  
5 That's part of what we do and I think we should  
6 continue to do it on schedule.

7 MR. MORALES: Any other discussion?  
8 Commissioner Garza?

9 COMMISSIONER GARZA: Thank you for  
10 recognizing me. I find it really concerning that  
11 you will not vote on chair and vice chair that  
12 the President has designated under the statute,  
13 and yet, you want to introduce all of these other  
14 issues.

15 I think that it's really disingenuous  
16 because we know that we need to have a chair and  
17 a vice chair in order to move agenda items  
18 forward. And I find it really concerning,  
19 frankly, that you do not want to move on what the  
20 President has the sole power to designate and to  
21 circumvent the authority that the President has.

22 So I just want to make that point. I think it  
23 is really concerning and I do think that we  
24 should move on.

25 MR. MORALES: Any other discussion?

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1 COMMISSIONER KIRSANOW: Mr. Staff  
2 Director?

3 MR. MORALES: Commissioner Kirsanow.

4 COMMISSIONER KIRSANOW: Thank you.  
5 Commissioner Garza, we're not circumventing the  
6 authority of the President. He has the authority  
7 to make appointments. We have the authority  
8 under the statute to vote up or down those  
9 appointments and that's what we've done.

10 MR. MORALES: Any other comments?

11 COMMISSIONER ADAMS: Mr. Staff  
12 Director?

13 MR. MORALES: Commissioner Adams.

14 COMMISSIONER ADAMS: The only reason  
15 we haven't gone to a chair vote affirmatively is  
16 because of the lack of fairness of the process to  
17 us. It isn't anything other than that. And once  
18 there's fairness, there will be an affirmative  
19 vote.

20 The State Advisory Committees have  
21 done work. Our job is to hear the reports and a  
22 chair or in the absence of a chair has utterly no  
23 impact on that process. And so we need to hear  
24 about the work that the Commission is doing and  
25 not put it on ice. It's really easy to hear

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1 those reports. I'm not sure if the chair  
2 designee has been there for these reports, but it  
3 is not a heavy lift to listen.

4 COMMISSIONER GARZA: I would like to  
5 have a point of order.

6 MR. MORALES: Please proceed.

7 COMMISSIONER GARZA: I'd like to make  
8 a motion to amend this motion to add the vote on  
9 the chair and vice chair as designated by  
10 President Biden.

11 COMMISSIONER ADAMS: Divided question.

12 MR. MORALES: General Counsel, will  
13 you rule on the divided question?

14 MR. GANZ: Give me one moment. What  
15 exactly is the question?

16 COMMISSIONER ADAMS: There hasn't been  
17 a second to the motion.

18 MR. MORALES: Is there a second?

19 COMMISSIONER MAGPANTAY: Second.

20 MR. MORALES: Divide the question. Is  
21 that still valid, Commissioner Adams?

22 COMMISSIONER ADAMS: Well, it's  
23 probably appropriate if the amendment -- the  
24 motion to amend carries, then the question can be  
25 divided.

1 MR. MORALES: General Counsel?

2 MR. GANZ: It's not clear to me -- the  
3 primary motion is to have a vote on whether the  
4 staffs will present at the next meeting?

5 COMMISSIONER HERIOT: That's the  
6 primary and then there's a motion to amend that  
7 would add a vote on chair and vice chair and that  
8 has been seconded. That needs to be voted on and  
9 then there's the question of whether or not to  
10 divide it again.

11 MR. GANZ: I believe the motion to  
12 divide requires a vote.

13 COMMISSIONER HERIOT: The motion to  
14 amend requires a vote.

15 COMMISSIONER ADAMS: We haven't voted  
16 to amend. I withdraw my motion to divide.

17 MR. GANZ: I was just going to suggest  
18 that.

19 MR. MORALES: Is there still an  
20 outstanding question for me?

21 MR. GANZ: No.

22 MR. MORALES: Very well.

23 COMMISSIONER MAGPANTAY: Discussion.

24 MR. MORALES: I'm sorry, where are we  
25 at?

1                   COMMISSIONER MAGPANTAY:   Discussion.  
2           I think this is great proposal because as a  
3           member of a SAC, well, former member of a State  
4           Advisory Committee, I think the work that the  
5           State Advisory Committees are doing, I think it's  
6           great that we're bringing this to the  
7           Commission's attention. I think it's great that  
8           we're coupling this with the appointment of a --  
9           the election of a chair and vice chair. We can  
10          move forward on all these issues. We can get  
11          these reports done. We can have the leadership.  
12          We can have a great next meeting. So I am very  
13          much hoping to vote in favor of this proposal.  
14          Thank you for raising it.

15                   COMMISSIONER ADAMS:    Parliamentary  
16          inquiry, Mr. Staff Director.

17                   MR. MORALES: I believe I have another  
18          inquiry of Commissioner Jones and then we'll move  
19          to you.

20                   COMMISSIONER JONES: I just want to  
21          echo my colleague's point and just express my  
22          strong desire to hear these reports. I think  
23          it's an excellent idea that Commissioner Heriot  
24          has brought forward and I hope that we can reach  
25          some resolution of this.

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1 MR. MORALES: I believe, Commissioner  
2 Adams, are you --

3 COMMISSIONER ADAMS: Thank you.  
4 Parliamentary inquiry. I believe that a motion  
5 to amend that is based on a motion that has  
6 already failed is out of order. Now that's a  
7 tough one for the general counsel, but I believe  
8 under the rules that a motion that has already  
9 failed in a business meeting is out of order if  
10 it was attached as an amendment to a subsequent  
11 motion.

12 COMMISSIONER HERIOT: Yes, that's got  
13 to be right.

14 MR. MORALES: Commissioner Nourse?  
15 You had a question?

16 (Pause.)

17 COMMISSIONER MAGPANTAY: May I speak?  
18 Well, I'm going to say it anyway. It didn't  
19 fail.

20 COMMISSIONER ADAMS: It didn't pass.

21 COMMISSIONER MAGPANTAY: That's  
22 correct.

23 COMMISSIONER HERIOT: That's fail.

24 COMMISSIONER ADAMS: Yes, the motion  
25 failed.

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1 MR. MORALES: Can I make a comment?  
2 I'm going to say these reports once the State  
3 Advisory Committees get placed on our website,  
4 they're there at all times for Commissioners and  
5 the public to see.

6 In my experience as a Staff Director  
7 for eight years, every single chair has brought  
8 forward almost every single month -- there have  
9 been a few months because of briefings or during  
10 the pandemic when the State Advisory Committee  
11 has not been asked or has not been available to  
12 present. We have had it every single -- and it's  
13 been a priority for every single chair that I've  
14 worked with over the last eight years. I don't  
15 imagine it would not be a priority for a new  
16 chair because the work of the State Advisory  
17 Committees is so critical to the work that the  
18 Commission does.

19 Creating your own agenda to circumvent  
20 a chair's ability to create agenda, I think is  
21 problematic because then we can start adding all  
22 kinds of things to the agenda that don't require  
23 a chair and it circumvents the statute,  
24 circumvents our AI, and so I would say this is  
25 not a route Commissioners should take, because

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1 the information is available and we do have State  
2 Advisory Committees and we do have a number -- I  
3 couldn't agree with you more, Commissioner  
4 Heriot, that we have 11 State Advisory Committees  
5 whose authorization has expired that we need to  
6 reauthorize.

7 And so the work that all of you are  
8 doing is critical, but we do need a chair in  
9 order to create an agenda because it puts me in  
10 an intolerable situation where I can't create an  
11 agenda and then I have to wait for all of the  
12 Commissioners to reach a mutual agreement on an  
13 agenda. So then that's unfair to the staff.  
14 That's unfair to the SACs. And we should do it  
15 the proper way. We shouldn't try to circumvent  
16 this and create a new process that's never  
17 existed.

18 You're opening up a process that I  
19 think undermines not only the future chair, but  
20 other future chairs down the road. And I think  
21 that's unfortunate. So that would be my  
22 comments, but Commissioners, we can see how you  
23 wish to go, to proceed.

24 COMMISSIONER HERIOT: Mr. Staff  
25 Director, there's nothing unusual about a

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1 majority deciding what they want the next meeting  
2 to be like. You were calling for getting  
3 majority consensus on these things. That's what  
4 we're trying to get here.

5 MR. MORALES: Thank you. I think we  
6 need to proceed because my understanding is that  
7 it's 2 p.m. and our contractors, the contract has  
8 been exceeded and so we're going to need to move  
9 forward here. I'm sorry, but Commissioner Garza  
10 --

11 COMMISSIONER ADAMS: Point of personal  
12 -- when you said the contract has expired, Mr.  
13 Staff Director, I'm not sure I understand.

14 MR. MORALES: The gentlemen who do the  
15 work and the women and men that do the work  
16 creating this livestream, their time is up.  
17 They've been here for one, two, three, four hours  
18 now.

19 COMMISSIONER ADAMS: So we have to  
20 adjourn because the contract is up, is that --  
21 just to be clear.

22 MR. MORALES: We need to proceed  
23 towards adjournment. We don't need to adjourn  
24 immediately, but I do want to make sure that you  
25 were cognizant or aware of the fact that we've

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1 run out of time.

2 COMMISSIONER HERIOT: Do you want to  
3 withdraw the motion to amend?

4 COMMISSIONER GARZA: No.

5 COMMISSIONER HERIOT: Then let's vote  
6 on it. Let's just vote on it.

7 MR. MORALES: Okay, we're voting on  
8 the motion to divide?

9 COMMISSIONER ADAMS: No, the motion to  
10 divide was withdrawn because --

11 MR. MORALES: Okay. So now we're  
12 voting on the motion for adding the two or three  
13 SAC, depending on the availability of the SAC --

14 COMMISSIONER HERIOT: No, I thought we  
15 were voting on --

16 COMMISSIONER ADAMS: No, we're not  
17 voting on that. Parliamentary inquiry. We're  
18 voting on Commissioner Garza's motion to amend  
19 Commissioner Heriot's motion to add a vote on the  
20 chair for the second time and general counsel is  
21 understandably not able to find the answer  
22 because it's a tricky one, that it's out of  
23 order. But we can just vote it down and then  
24 move on.

25 MR. MORALES: Okay, thank you for the

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1 clarification. And we're voting on Commissioner  
2 Garza's motion.

3 COMMISSIONER HERIOT: Right.

4 MR. MORALES: To add the chair and  
5 vice chair to the vote next month.

6 COMMISSIONER HERIOT: Right, to vote  
7 on the SACs right now. Okay, thank you.

8 COMMISSIONER HERIOT: Motion to amend.

9 MR. MORALES: Any discussion?

10 COMMISSIONER GARZA: We're discussing  
11 the motion to amend -- I made a motion to amend  
12 the proposal to have back hearings to add a chair  
13 and vice chair to this vote, okay. And then the  
14 next vote will be on -- depending on what  
15 happens, the next vote will be on the other  
16 issue.

17 I do have to say I just -- I am truly  
18 appalled by the desire to circumvent voting on a  
19 chair and vice chair. This is the third time.  
20 We've been in negotiations for three months. And  
21 we have been negotiating in good faith for months  
22 and trying to come towards an agreement. We  
23 offered what we believed was a really good  
24 agreement that was amenable to all sides and I  
25 was very hopeful for that.

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1           So I am concerned about seeing what  
2 this is devolving to and I hope that we will vote  
3 yes on my amendment so we can move forward.

4           MR. MORALES:       We're voting on  
5 Commissioner Garza's motion.

6           Commissioner Adams, how do you vote?

7           COMMISSIONER ADAMS: I'm voting no on  
8 an out of order amendment to Commissioner  
9 Heriot's motion. No.

10          MR. MORALES: No. Commissioner Garza?

11          COMMISSIONER GARZA: Yes.

12          MR. MORALES: Commissioner Gilchrist?

13          COMMISSIONER GILCHRIST: No.

14          MR. MORALES: Commissioner Heriot?

15          COMMISSIONER HERIOT: No.

16          MR. MORALES: Commissioner Jones?

17          COMMISSIONER JONES: I vote yes.

18          MR. MORALES: Commissioner Kirsanow?

19          COMMISSIONER KIRSANOW: No.

20          MR. MORALES: Commissioner Magpantay?

21          COMMISSIONER MAGPANTAY: Yes.

22          MR. MORALES: Commissioner Nourse?

23          COMMISSIONER NOURSE: Yes.

24          MR. MORALES: It was four to four.

25          The vote fails.

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1 COMMISSIONER ADAMS: Call the  
2 question.

3 MR. MORALES: We now move to the  
4 motion to add State Advisory Committees to the  
5 July business meeting.

6 Commissioner Adams, how do you vote?

7 COMMISSIONER ADAMS: Yes.

8 MR. MORALES: Commissioner Garza, how  
9 do you vote?

10 COMMISSIONER GARZA: No.

11 MR. MORALES: Commissioner Gilchrist,  
12 how do you vote?

13 COMMISSIONER GILCHRIST: Yes.

14 MR. MORALES: Commissioner Heriot, how  
15 do you vote?

16 COMMISSIONER HERIOT: I vote yes.

17 MR. MORALES: Commissioner Jones, how  
18 do you vote?

19 COMMISSIONER JONES: I vote yes.

20 MR. MORALES: Commissioner Kirsanow,  
21 how do you vote?

22 COMMISSIONER KIRSANOW: Yes.

23 MR. MORALES: Commissioner Magpantay,  
24 how do you vote?

25 COMMISSIONER MAGPANTAY: I vote yes.

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1 MR. MORALES: Commissioner Nourse, how  
2 do you vote?

3 COMMISSIONER NOURSE: I vote no  
4 because this was just noticed 30 seconds ago. It  
5 was not on the agenda.

6 COMMISSIONER ADAMS: We're in regular  
7 order. We can make any motion.

8 Staff Director Morales?

9 MR. MORALES: I'm counting votes here.  
10 Six to two. Sorry.

11 COMMISSIONER GARZA: Go ahead.

12 MR. MORALES: The vote I count is six  
13 to two in favor of having State Advisory  
14 Committees present at the next business meeting  
15 in July.

16 COMMISSIONER GARZA: I move to  
17 adjourn.

18 MR. MORALES: All business has been  
19 finished so --

20 COMMISSIONER HERIOT: I think we have  
21 some other motions here.

22 COMMISSIONER ADAMS: Motion to adjourn  
23 requires a vote.

24 MR. MORALES: Well, we're running out  
25 of time.

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1 COMMISSIONER HERIOT: Let's let  
2 Christian's motion go through.

3 COMMISSIONER ADAMS: I move the Staff  
4 Director direct the RPCU Chief to present three  
5 SAC packages to the Commissioners for review to  
6 their special assistants no later than June 30th,  
7 2033.

8 COMMISSIONER HERIOT: Second.

9 COMMISSIONER GARZA: We already have a  
10 motion on the floor to adjourn.

11 COMMISSIONER ADAMS: It will vote down  
12 if you want to waste time.

13 MR. MORALES: We don't have any more  
14 time. I just told all of you ten minutes ago,  
15 five minutes, seven minutes ago, that our  
16 contractors can no longer -- we sat for four  
17 hours waiting for Commissioners to meet and come  
18 to a compromise. They failed to do that and now  
19 they're trying to force --

20 COMMISSIONER ADAMS: -- the Commission  
21 to do its work is what we're trying to do, sir.

22 MR. MORALES: So are the contractors.  
23 They don't have unlimited ability to stay here  
24 when the contract has expired.

25 COMMISSIONER HERIOT: So let's just

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1 vote on this.

2 COMMISSIONER ADAMS: Call the  
3 question.

4 MR. MORALES: Vote on what?

5 COMMISSIONER ADAMS: Vote. It will  
6 take seconds if we do a voice vote.

7 MR. MORALES: I don't know what you're  
8 voting on.

9 COMMISSIONER ADAMS: I'll read it  
10 again. I move --

11 MR. MORALES: Please, read it again.

12 COMMISSIONER ADAMS: I move the Staff  
13 Director direct the RPCU Chief to present three  
14 SAC packages --

15 COMMISSIONER NOURSE: Who is the RPCU  
16 Chief?

17 COMMISSIONER ADAMS: It is David  
18 Mussatt.

19 COMMISSIONER NOURSE: Who is that?

20 COMMISSIONER ADAMS: Well, it's one of  
21 the reasons we wanted to have them all introduce  
22 themselves, didn't we, at this meeting, so you  
23 wouldn't have to ask that question. But I move  
24 that the Staff Director direct Mr. Mussatt to  
25 present three SAC packages to the Commissioners'

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1 special assistants for review no later than June  
2 30th, 2033. That's the motion.

3 COMMISSIONER GARZA: Point of order.

4 COMMISSIONER HERIOT: I second it,  
5 that motion.

6 COMMISSIONER GARZA: Point of order.  
7 I've already put a motion to adjourn and I  
8 believe we have to vote on that.

9 MR. MORALES: We do have to vote on  
10 the motion to adjourn.

11 MR. GANZ: That is a privileged  
12 motion, so it should be voted on prior to other  
13 motions -- a privileged motion is -- includes one  
14 that's to adjourn or recess so that motion should  
15 be voted upon first.

16 COMMISSIONER HERIOT: Then let's do it  
17 fast here.

18 MR. MORALES: Commissioner Adams, how  
19 do you vote to the motion to adjourn?

20 COMMISSIONER ADAMS: No.

21 MR. MORALES: Commissioner Garza, how  
22 do you vote?

23 COMMISSIONER GARZA: Yes.

24 MR. MORALES: Commissioner Gilchrist,  
25 how do you vote?

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1 COMMISSIONER GILCHRIST: No.

2 MR. MORALES: Commissioner Heriot, how  
3 do you vote?

4 COMMISSIONER HERIOT: No.

5 MR. MORALES: Commissioner Jones, how  
6 do you vote?

7 COMMISSIONER JONES: Yes.

8 MR. MORALES: Commissioner Kirsanow,  
9 how do you vote?

10 COMMISSIONER KIRSANOW: No.

11 MR. MORALES: Commissioner Magpantay,  
12 how do you vote?

13 COMMISSIONER MAGPANTAY: Yes.

14 MR. MORALES: Commissioner Nourse, how  
15 do you vote?

16 COMMISSIONER NOURSE: Yes.

17 MR. MORALES: Four-four, the vote  
18 fails.

19 COMMISSIONER ADAMS: Mr. Staff  
20 Director, I move the staff director direct the  
21 RPCU Chief to present three SAC packages to the  
22 Commissioners' special assistants for review no  
23 later than June 30th, 2023.

24 COMMISSIONER HERIOT: Second.

25 MR. MORALES: Any discussion?

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1 COMMISSIONER GARZA: Point of order.  
2 Point of order. Don't we have to amend the  
3 agenda to add these items?

4 COMMISSIONER ADAMS: Yes, that's  
5 correct.

6 COMMISSIONER HERIOT: That's what new  
7 business is.

8 COMMISSIONER ADAMS: This is new  
9 business. It's regular order.

10 COMMISSIONER HERIOT: It's regular  
11 order.

12 COMMISSIONER GARZA: This was not on  
13 the agenda.

14 COMMISSIONER ADAMS: We put it on new  
15 business. It's regular business.

16 COMMISSIONER HERIOT: It's regular  
17 business, yes.

18 MR. MORALES: General Counsel, will  
19 you opine?

20 MR. GANZ: Yes, I believe that they're  
21 introducing primary motions which is appropriate.  
22 It doesn't need to be on the agenda.

23 COMMISSIONER ADAMS: It's been  
24 seconded.

25 MR. MORALES: Any discussion? Let me

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1 tell you that what you're asking David Mussatt to  
2 do is -- requires an extensive amount of work. I  
3 don't know what the status is of those State  
4 Advisory Committees. We had a process where your  
5 special assistants were involved in selecting  
6 those, and so I don't know if that's going to be  
7 possible in July or even in August, but we will  
8 make an attempt if you do pass this.

9 We have a regular process that we do  
10 and so I would encourage Commissioners to stop  
11 circumventing a regular process that the staff  
12 and Commissioners have had during my tenure in  
13 over eight years. So, with that, any other  
14 discussion before we call the question because we  
15 have to move forward.

16 COMMISSIONER ADAMS: Mr. Staff  
17 Director, I'm informed that he initiates the  
18 process by circulating slates. It's much simpler  
19 and it certainly won't take two weeks.

20 MR. MORALES: That's not correct.  
21 That is absolutely incorrect. He has to find the  
22 applicants. We have to look through and get the  
23 applicants and then your special assistants get  
24 to go through and determine which ones that they  
25 want to allow on or which ones they want off and

1 that generally takes anywhere from 6 to 12 weeks.

2 So it's not true that it takes two weeks.

3 COMMISSIONER HERIOT: They've been  
4 working on this --

5 COMMISSIONER ADAMS: Let me collect  
6 that.

7 MR. MORALES: That's not true. You  
8 can't just --

9 (Simultaneous speaking.)

10 MR. MORALES: -- they're going to do  
11 this. At least 12 weeks.

12 COMMISSIONER HERIOT: What's he been  
13 doing for the last five months?

14 MR. MORALES: Oh, my goodness, I'm not  
15 even going to --

16 COMMISSIONER ADAMS: Call the  
17 question.

18 MR. MORALES: That's an unfortunate  
19 comment.

20 Commissioner Adams, how do you vote?

21 COMMISSIONER ADAMS: Yes.

22 MR. MORALES: Commissioner Garza, how  
23 do you vote?

24 COMMISSIONER GARZA: No.

25 MR. MORALES: Commissioner Gilchrist,

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1 how do you vote?

2 COMMISSIONER GILCHRIST: Yes.

3 MR. MORALES: Commissioner Heriot, how  
4 do you vote?

5 COMMISSIONER HERIOT: Yes.

6 MR. MORALES: Commissioner Jones, how  
7 do you vote?

8 COMMISSIONER JONES: I'm going to vote  
9 no, only because I do want to give reasonable  
10 time for these reports to be prepared.

11 MR. MORALES: Commissioner Kirsanow,  
12 how do you vote?

13 COMMISSIONER KIRSANOW: Yes.

14 MR. MORALES: Commissioner Magpantay,  
15 how do you vote?

16 COMMISSIONER MAGPANTAY: No, for the  
17 same reason as my colleague. In spirit, I  
18 appreciate the effort and I think it makes sense,  
19 but I'd like this to be an appropriate process  
20 where we have a chair, it's orderly, there's  
21 time, there's preparation. This is too  
22 expedited.

23 MR. MORALES: Mr. Magpantay votes no.  
24 Commissioner Nourse?

25 COMMISSIONER NOURSE: No.

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MR. MORALES: It's four-four. Motion fails.

COMMISSIONER GARZA: I'm going to make another motion to adjourn.

MR. MORALES: We don't need to make a motion. All work is completed and we have no more time for our contractors, so until next month, thank you. The Commission meeting is adjourned.

(Whereupon, the above-entitled matter went off the record at 2:11 p.m.)