The meeting convened in Room 540 at 624 Ninth Street, N.W., Washington, D.C. at 9:00 a.m., Gerald A. Reynolds, Chairman, presiding.

PRESENT:

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

DR. ROBERT LERNER, Delegated the Authority of the Staff Director, OSD

STAFF PRESENT:

DAVID BLACKWOOD, General Counsel, OGC
TERESA BROOKS
MARGARET BUTLER, EEO Director
CHRISTOPHER BYRNES, Chief, Regional Programs Coordination Unit
DEBRA CARR, Esq., Associate Deputy Staff Director, OSD
DEMITRIA DEAS
PAMELA A. DUNSTON, Chief, ASCD
LATRICE FOSHEE
MAJA JWEIED
MONICA KIBLER
SOCK-FOON MACDOUGALL, Acting Chief, PAU
TINALOUISE MARTIN, Director of Management
EMMA MONROIG, Solicitor
LENORE OSTROWSKY
EILEEN RUDERT
KARA SILVERSTEIN, Attorney Advisor, OSD
KIMBERLY TOLHURST
COMMISSIONER ASSISTANTS PRESENT:

DOMINIQUE LUDVIGSON
RICHARD SCHMELCHEL
KIMBERLY SCHULD
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BUSSINESS MEETING
9:00 a.m.

CHAIRMAN REYNOLDS: On the record. Okay. Good morning. This is Chairman Reynolds. The meeting will come to order.

This is a meeting of U.S. Commission on Civil Rights starting at 9:00 a.m. on February 8, 2008. The meeting is held at 624 9th Street, N.W., Room 540, Washington, D.C.

It gives me great pleasure to announce that on February 6, 2008 pursuant to Section II of the Civil Rights Commission's Amendments Act of 1994 and upon the recommendation of the Minority Leader and the Speaker Pro Tem of House of Representatives, appointed Todd Gaziano of Falls Church, Virginia as a member of the Commission. Commissioner Gaziano is currently the Director of The Center for Legal and Judicial Studies of The Heritage Foundation. So let's all give him a round of applause. Welcome aboard.

(Appause.)

COMMISSIONER GAZIANO: Thank you very much.

CHAIRMAN REYNOLDS: Would you care to take a few moments just to make some remarks about your background and what you've done?
COMMISSIONER GAZIANO: If it's all right, I'll defer that for another time.

CHAIRMAN REYNOLDS: That's fine. I like that. Time management.

I. APPROVAL OF AGENDA

CHAIRMAN REYNOLDS: Okay. Let's see. All the Commissioners are present and we will now continue with the first item on the agenda. The first item on the agenda is the approval of the agenda.

I move that we approve the agenda. Is there a second?

VICE CHAIR THERNSTROM: Second.

CHAIRMAN REYNOLDS: Discussion?

COMMISSIONER YAKI: Two questions. One, may we ask the new commissioner for the pronunciation of his name so none of us butcher it for the rest of the meeting?

COMMISSIONER GAZIANO: That I would be glad to do. Gaziano.

COMMISSIONER YAKI: Gaziano. Secondly, under the Management and Operations, I believe that what we discussed was to deal only with moving forward with the recommendations from Booz Allen Hamilton as it pertained to the SAC because the changes in the reports would have required, will require, changes in
the AI and I believe most of them are debates centered on SAC implementation if not report implementation.

CHAIRMAN REYNOLDS: I'm having a little difficulty. Does that relate to the issue that's on the table now?

COMMISSIONER YAKI: Yes, it says that we are accepting this recommendation to begin the user process suggested by DAH which also includes, which included, the entire thing.

CHAIRMAN REYNOLDS: Okay.

VICE CHAIR THERNSTROM: I don't know anything about any of these documents. What are you looking at?

COMMISSIONER YAKI: I'm looking at the minutes.

VICE CHAIR THERNSTROM: We're doing the agenda now.

COMMISSIONER YAKI: Oh, you're doing the agenda. Okay. I thought we already approved the agenda.

COMMISSIONER HERIOT: And I don't have a copy of either.

VICE CHAIR THERNSTROM: Me either. We're a little handicapped here.

COMMISSIONER YAKI: We can accommodate
that. I apologize. I thought we had zoomed through the agenda and we were onto the minutes.

CHAIRMAN REYNOLDS: Okay. So we had a second.

VICE CHAIR THERNSTROM: Second.

COMMISSIONER MELENDEZ: I had a question.

CHAIRMAN REYNOLDS: Yes.

COMMISSIONER MELENDEZ: I had sent, I believe, an email asking the Commissioners about the importance of our budget and my understanding in the email I sent was that 2009 budget was actually due at, I believe --

CHAIRMAN REYNOLDS: Yes, in December.

COMMISSIONER MELENDEZ: And I didn't receive an answer. I think it's an important issue as far as where we stand on the budget based on the amount of money we had, the $8.8 million, of the post $11.7 that we originally thought we were going to get. So that means that we have to make some adjustments with our budget.

There was also a question of whether or not we would have to cut back some of the briefings that we were going to hold this year and I'm not sure where we stand on that and I think it's a topic for discussion because we need to determine (Inaudible)
we'll be coming to. So we really held one today. So that means that based on the Staff Director's suggestion the last time, if you were suggesting we were only going to hold three, that means there's only two more and the question would be which two are there.

So, I mean, there are some important issues we have to at some point address in either a business meeting or after this agenda in this meeting to get some clarification.

CHAIRMAN REYNOLDS: You're right. We must deal with these issues and they will be dealt with next month at the next business meeting.

COMMISSIONER MELENDEZ: Okay. Just one question. What about the importance of the budget that's already due by, I believe, by this past week?

CHAIRMAN REYNOLDS: We did not meet that deadline. We are in a transition period and, in addition to that, we need to have conversations amongst ourselves. The staff is working on a revision to our budget to take into account the cut that we received.

Okay.

COMMISSIONER MELENDEZ: One more thing. We had also had an email on the fiscal briefing
complaint and there was supposed to be some looking into that issue and then getting back to us. We haven't heard anything on that also.

CHAIRMAN REYNOLDS: Well, I'm expecting a motion to amend the agenda to discuss that either from you or Commissioner Yaki.

COMMISSIONER MELENDEZ: Okay.

VICE CHAIR THERNSTROM: Can I just ask something on the question of briefings for a minute? We did have a briefing of the schedule in April. I hope that that topic will be up for discussion next month as well.

CHAIRMAN REYNOLDS: Sure. Okay, folks.

VICE CHAIR THERNSTROM: And that's going fast.

CHAIRMAN REYNOLDS: Folks, we need to try to focus on the agenda. We have a lot to cover today.

So we have a motion to amend the agenda and I presume that the items that you would like to add are the letter that received on the personnel issues as well as transition issues.

COMMISSIONER YAKI: Yes.

CHAIRMAN REYNOLDS: I second it.

Discussion?

(No verbal response.)
CHAIRMAN REYNOLDS: All in favor please say aye.

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Any abstentions?

(No verbal response.)

CHAIRMAN REYNOLDS: Any in opposition?

(No verbal response.)

CHAIRMAN REYNOLDS: The motion carries unanimously.

II. APPROVAL OF MINUTES OF JANUARY 11 MEETING

Okay. Now, Commissioner Yaki, we're about to discuss the minutes. The second item is the approval of the minutes of January 11, 2008. I move that we approve the minutes. Is there a second?

COMMISSIONER TAYLOR: Second.

CHAIRMAN REYNOLDS: Discussion?

Commissioner Yaki.

COMMISSIONER YAKI: Yes, as I said before in the previous agenda item, I believe that the recommendation that we voted on pertained only to the SACs and not to the reports by the Commission, the recommendations regarding reports made by Booz Allen Hamilton. I'd like the minutes to reflect that.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER HERIOT: I don't quite
understand.

CHAIRMAN REYNOLDS: I'm not following.

COMMISSIONER YAKI: Booz Allen Hamilton had a multi-tiered packet. The one packet had to deal with State Advisory Committee special process. The other part of the packet had to do with the national report and reporting process. In the reporting process, they truncated and made some changes to that process that it would require an adjustment of our AI for compliance.

And most of our discussion though did not center on that part at all. It centered on the debate over whether or not we should be moving forward with the recommendations on the streamline SACs selection process which I objected to and which passed by a four to three margin. We kept on talking about we'll do that and we'll incorporate it and we'll see how it works and we were all clearly talking about the SACs, the SAC recommendations in the transcript.

So I would like the minutes to reflect that and not to reflect a general implementation of the entire thing. Simply because as a matter of administration law, we can't do the second part until we change our AIs.

CHAIRMAN REYNOLDS: Okay. Commissioner
Yaki, you have me at a disadvantage. I'm not -- I guess I will have to review the materials. Would you be amenable to tabling the vote on the January 11th minutes?

COMMISSIONER YAKI: Sure. Absolutely.

CHAIRMAN REYNOLDS: Okay. All in favor of --

COMMISSIONER MELENDEZ: I make a motion to table.

CHAIRMAN REYNOLDS: Okay. I second. Any discussion?

COMMISSIONER HERIOT: We're tabling simply the request that the minutes be changed.

CHAIRMAN REYNOLDS: We're tabling the vote on approving the minutes for the January 11th meeting.

COMMISSIONER HERIOT: Okay.

VICE CHAIR THERNSTROM: That's it.

CHAIRMAN REYNOLDS: We're just punting until we had a chance to take a look at it. Okay. All in favor please say aye.

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Any objections?

(No verbal response.)

CHAIRMAN REYNOLDS: Any abstentions?

(No verbal responses.)
CHAIRMAN REYNOLDS: The motion passes unanimously.

III. MANAGEMENT AND OPERATIONS - TRANSITION ISSUES

CHAIRMAN REYNOLDS: Okay. Next we'll discuss several transition issues. At the last Commission meeting, Commissioner Yaki requested that the General Counsel provide a report of a letter sent by Nathan Penley, an attorney representing two former Commission assistants.

In order to discuss the letter, the following item is a motion to close a portion of the meeting pursuant to the Commission's regulations implementing the Sunshine Act. General Counsel and the Solicitor, please certify that the meeting can be closed pursuant to Commission regulations.

DAVID BLACKWOOD: So certified.

CHAIRMAN REYNOLDS: Thank you. General Counsel and Solicitor, based on our knowledge of why the agenda requires a closed portion of the meeting -- We certify in writing that this meeting can be closed and the information pertaining to the same can be withheld pursuant to the following exemption provided for in the Commission regulations at 45 CFR Section 702.54: Exemption 2 that it relates to the internal personnel rules and practices of the Commission;

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Exemption 6 that might involve disclosing information of a personal nature where disclosure might constitute a clearly unwarranted invasion of personal privacy; Exemption 10 when the meeting might involve the Commission's participating in a civil action or proceeding.

I move that we close this meeting pursuant to Exemptions 2, 6 and 10 of the Closed Meeting Procedures for the Commission's meetings and furthermore to authorize Dr. Lerner to place in a location accessible to the public within one working day of the public vote to close the meeting an explanation of the decision to close the meeting and a list of all persons attending the meeting.

Is there a second?

VICE CHAIR THERNSTROM: Second.

CHAIRMAN REYNOLDS: Discussion?

COMMISSIONER YAKI: Point of information.

When we go to closed session, everything shuts off, including the tape or the transcript.

CHAIRMAN REYNOLDS: I don't believe so.

VICE CHAIR THERNSTROM: No.

COMMISSIONER YAKI: There's a transcript of the closed proceeding.

VICE CHAIR THERNSTROM: There is a
transcript.

COMMISSIONER YAKI: I just wanted to make sure.

VICE CHAIR THERNSTROM: Yes.

CHAIRMAN REYNOLDS: Okay. All in favor please say aye.

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Any objections?

(No verbal response.)

CHAIRMAN REYNOLDS: Any abstentions?

(No verbal response.)

CHAIRMAN REYNOLDS: The motion passes unanimously.

(Whereupon, at 9:13 a.m., the above-entitled matter recessed for closed session and reconvened at 9:48 a.m. to open session.)

CHAIRMAN REYNOLDS: On the record. Please tell the folks to come back in.

(Off the record comments.)

CHAIRMAN REYNOLDS: Okay. We're back in open session. I'm sorry.

VICE CHAIRMAN THERNSTROM: We have some more people.

CHAIRMAN REYNOLDS: All right. Okay. We're back in open session. At this point, I believe
we have a motion from Commissioner Yaki.

COMMISSIONER YAKI: Yes. Thank you very much, Mr. Chair. I would like to make a motion that the Commission vote upon the vote to approve the delegation of the authority of the staff director to Robert Lerner given the fact that it is late, getting later, in the Presidential term. With no assurance one way or another whether or not there will be forthcoming a permanent staff director, I believe it is incumbent upon this Commission to exercise its responsibility in approving the temporary appointment of, the temporary delegation of, Dr. Lerner to the authority of the staff director.

CHAIRMAN REYNOLDS: Is there a second?

COMMISSIONER MELENDEZ: Second.

COMMISSIONER GAZIANO: I move to table the motion on the ground that it can have no consequential effect and that such a motion is not in the, such a vote would just be deleterious.

CHAIRMAN REYNOLDS: Second? Is there a second?

COMMISSIONER HERIOT: Second.

CHAIRMAN REYNOLDS: Discussion?

COMMISSIONER YAKI: Yes. I'm a little -- I would like to know how you would find a vote to be
deleterious. The vote might take --

COMMISSIONER HERIOT: Is the motion to table -- a motion?

COMMISSIONER YAKI: I don't think it is.

COMMISSIONER HERIOT: Does a motion to table -- Doesn't that have to be just up or down?

COMMISSIONER YAKI: That's fine.

COMMISSIONER GAZIANO: I think a motion to table is non-debatable.

CHAIRMAN REYNOLDS: Okay. The motion is on the table. Additional discussion?

COMMISSIONER MELENDEZ: Which motion?

COMMISSIONER GAZIANO: Which motion are we voting on?

CHAIRMAN REYNOLDS: Additional discussion on the motion to table?

COMMISSIONER GAZIANO: Point of order. I don't know that there can be discussion on a motion to table which is why I made the motion.

COMMISSIONER HERIOT: The whole point of a motion to table is to just do it.

COMMISSIONER GAZIANO: That would be a substitute motion.

CHAIRMAN REYNOLDS: So just to stir up a now vote.
COMMISSIONER GAZIANO: That's right.

CHAIRMAN REYNOLDS: Okay. All in favor please say aye.

(Chorus of ayes.)

CHAIRMAN REYNOLDS: All in opposition?

COMMISSIONER YAKI: No.

COMMISSIONER MELENDEZ: Aye.

CHAIRMAN REYNOLDS: Did you say aye?

COMMISSIONER YAKI: He meant aye to the opposition.

CHAIRMAN REYNOLDS: Okay. Please let the record reflect --

COMMISSIONER YAKI: Which is a no.

CHAIRMAN REYNOLDS: Please let the record reflect that Commissioners Yaki and Melendez voted against the motion and the motion carries.

**IV. ADJOURN MEETING**

CHAIRMAN REYNOLDS: So at this point, we're going to adjourn the business meeting and I apologize for the delay of the start of the briefing.

COMMISSIONER YAKI: Commissioner Reynolds, I just want to make one brief announcement that I will be requesting the HR director to process my application for a special assistant.

CHAIRMAN REYNOLDS: Okay. We're going to
have to talk about that, too.

COMMISSIONER YAKI: No. You can --

VICE CHAIR THERNSTROM: Wait a minute. He wants to file a form.

CHAIRMAN REYNOLDS: He can file it.

COMMISSIONER YAKI: I can file it.

CHAIRMAN REYNOLDS: Yes. Okay. Run the paperwork through. Off the record.