The Commission was convened in Room 540 of 624 Ninth Street, N.W., Washington, D.C. at 12:00 p.m., Gerald A. Reynolds, Chairman, presiding.

PRESENT:

GERALD A. REYNOLDS Chairman

ABIGAIL THERNSTROM Vice Chairman

JENNIFER C. BRACERAS Commissioner, (via telephone)

PETER N. KIRSANOW Commissioner

ASHLEY L. TAYLOR, JR. Commissioner

MICHAEL YAKI Commissioner

KENNETH L. MARCUS Staff Director

STAFF PRESENT:

DAVID BLACKWOOD
TERESA BROOKS
TYRO BEATTY
CHRISTOPHER BYRNES
DEBRA CARR, Associate Deputy Staff Director
RANITA CARTER
IVY DAVIS, Chief, Regional Programs Coordination Unit
DEREK HORNE
PATRICIA JACKSON, Chief, Budget and Finance
MAHA JWEIED
SOCK-FOON MacDOUGALL
TINALOUISE MARTIN, Director of Management
EMMA MONROIG, Solicitor/Parliamentarian
AUDREY WRIGHT
COMMISSIONER ASSISTANTS PRESENT:

CHRISTOPHER JENNINGS
LISA NEUDER
KIMBERLY SCHULD, via telephone
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Adjourn
12:01 P.M.

CHAIRMAN REYNOLDS: Okay, folks, we're going to start up now.

APPROVAL OF AGENDA

CHAIRMAN REYNOLDS: The first item on the agenda is the approval of the agenda. May I have a motion to approve the agenda?

COMMISSIONER TAYLOR: so Moved.

COMMISSIONER YAKI: I thought we were going to change one thing. Okay, then I'm fine with it.

CHAIRMAN REYNOLDS: Okay. All in favor?

(Off the record comments.)

CHAIRMAN REYNOLDS: All in favor?

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Any objections? Any abstentions? Okay, it is passed unanimously.

I move to amend the agenda to add a subitem labeled proposed August 2006 business meeting immediately after the subitem labeled proposed regulation on outside employment under the general item labeled management and operations. Oh, it's going to get complicated.

There will be a series of amendments.
Including one that is near and dear to your heart.

COMMISSIONER YAKI: Can't you just do it all at one time?

Do it as a package.

CHAIRMAN REYNOLDS: That would be more difficult than this painful approach.

COMMISSIONER KIRSANOW: Second.

CHAIRMAN REYNOLDS: Okay, all in favor, please say aye.

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Any objections, abstentions? It passes unanimously.

Okay, I move to amend the agenda to delete the item labeled announcements and have the discussion of the item labeled program planning and its associated subitems take place right after the State Advisory Committee Issues and have the discussion of the item labeled Staff Director's Report take place after Program Planning and its associated subitems, but before discussion of Future Agenda Items and this is purposefully convoluted so no one will object.

VICE CHAIRMAN THERNSTROM: I don't even understand it.

(Laughter.)

CHAIRMAN REYNOLDS: That's good. All in
favor, say aye, please.

(Chorus of ayes.)


Approval of the July 5, 2006 meeting minutes. May I have a motion?

COMMISSIONER KIRSANOW: I want to amend the agenda.

CHAIRMAN REYNOLDS: Actually, you raised a good point.

COMMISSIONER KIRSANOW: I simply want to amend the agenda to include an item that I will rush to the Commission a document by Dr. Richard Sander related to the Commission that he and Professor Wentworth have proposed at the last meeting.

CHAIRMAN REYNOLDS: We may not have time. We have a half an hour basically.

COMMISSIONER KIRSANOW: I have a proposal and I'm going to share it all with you by email. That's all I wanted to say.

CHAIRMAN REYNOLDS: Okay, done deal. Also, I move that the recharter discussion with respect to the California SAC be tabled.

COMMISSIONER YAKI: Second.

CHAIRMAN REYNOLDS: Okay, all in favor say
aye.

(Chorus of ayes.)


**APPROVAL OF THE JULY 5, 2006 MEETING MINUTES**

CHAIRMAN REYNOLDS: May I have a motion to approve the minutes of the July 5, 2006 meeting?

VICE CHAIRMAN THERNSTROM: So moved.

COMMISSIONER KIRSANOW: Second.

CHAIRMAN REYNOLDS: All in favor?

(Chorus of ayes.)


Okay, into the meat.

**MANAGEMENT AND OPERATIONS**

CHAIRMAN REYNOLDS: Okay, the next item on the agenda is the consideration of the 2008 budget request from OMB. Pursuant to OMB guidance, the Commission is requesting a budget of $8,992,000 for Fiscal year '08. By comparison, the Commission's appropriations for 2006 is $8,932,439. The budget will incorporate our decisions from this year's planning meeting, current plans for '08 operations and projections from Agency managers.

Upon your approval, this budget will

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become the basis for the Commission's 2008 budget request to OMB. May I have a motion to approve the budget?

VICE CHAIRMAN THERNSTROM: So moved, but do we have any choice about this? I don't really get this.

COMMISSIONER YAKI: Our budget?

VICE CHAIRMAN THERNSTROM: I don't get -- I mean we're voting on something that we don't have any choice but to say yes to.

CHAIRMAN REYNOLDS: Okay, well, sometimes in life we don't have a choice. That was explained to me at the briefing earlier.

(Laughter.)

This is another example. So I have a second, all in favor?

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Any in opposition?

COMMISSIONER YAKI: I don't know. You are pretty emphatic about individual choices.

(Laughter.)

CHAIRMAN REYNOLDS: I choose to support this. How about that?

COMMISSIONER YAKI: Do you whole heartedly choose to support it?
CHAIRMAN REYNOLDS: No, not wholeheartedly but --

COMMISSIONER YAKI: I'm not too sure. Maybe I'll abstain. No, I'm just kidding.

CHAIRMAN REYNOLDS: This motion passes unanimously.

Next up we have our strategic goals and objectives. The working group on strategic planning prepared a draft of these goals for our consideration which was distributed on July 20th. These goals and objectives will provide guidance to the working group on strategic planning and Commission staff as they continue congressional outreach, prepare appropriate metrics, prepare a proposed final strategic plan and work to integrate the preliminary strategic planning documents into our '08 budget submission which is due in September.

Commissioner Kirsanow, would you care to update the Commission?

COMMISSIONER KIRSANOW: First of all, I want to thank all the members of the working group, those who are here and not here, for their work in putting together this strategic plan. I think this captures precisely what not only the working group tried to accomplished, but what was the charge of the
entire Commission as a whole after the first strategic plan had been sent back to us for revision.

You have them in front of you. I think you do, and they're self explanatory. They've been distilled. The strategic plan itself, as you know, is about 35 pages long. We've distilled down for your consideration the four goals and subcomponents to those goals that are the essence of the strategic plan. And the working group on reform recommends passage or adoption of this strategic goal.

VICE CHAIRMAN THERNSTROM: Was that unanimously --

COMMISSIONER KIRSANOW: I don't know. We didn't get a vote from Commissioner Melendez because he's not on the line. Does anyone know whether or not Commissioner Melendez is on board with this?

COMMISSIONER YAKI: He has not communicated --

COMMISSIONER KIRSANOW: Well, of those who participated there was unanimous agreement. That included Commissioner Braceras, Chairman Reynolds, myself.

VICE CHAIRMAN THERNSTROM: So do we need a motion here?

CHAIRMAN REYNOLDS: Commissioner Kirsanow,
are you finished?

COMMISSIONER KIRSANOW: Yes.

CHAIRMAN REYNOLDS: All right, I move that we approve the proposed strategic goals and objectives that were distributed to Commissioners on July 20th. Approval of this motion does not constitute approval of the strategic plan as these goals and objectives are preliminary.

Is there a second?

VICE CHAIRMAN THERNSTROM: Second.

CHAIRMAN REYNOLDS: Discussion?

COMMISSIONER YAKI: I feel I had no choice.

(Laughter.)

VICE CHAIRMAN THERNSTROM: You don't.

CHAIRMAN REYNOLDS: All right, all in favor say aye.

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Any in opposition? Any abstentions? The motion passes unanimously.

The next item is to establish a policy for Commissioner review of national office projects pursuant to the most recent set of GAO recommendations. I need a motion that with respect to national office projects the Commissioners will be
asked to review these projects from the project concept paper to draft report stages for several factors including the consistency with the project concept, proposal, outline and discovery plan, the existence of objectivity, the quality and breadth of the research, the strength of the reasoning and analysis, and the strength of the evidence supporting the findings, conclusions and recommendations.

This list of factors is not intended to be exhaustive. Commissioners have traditionally reviewed national office projects using these factors, so I've asked the Staff Director who has been doing, why do we have to waste time doing this, but he says that we should and I defer to his better judgment.

This motion shall formalize a policy what Commissioners have always done informally in practice, when reviewing national projects, is there a second?

VICE CHAIRMAN THERNSTROM: Second.

CHAIRMAN REYNOLDS: Discussion? All in favor?

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Any in opposition? Any abstentions?

The motion passes unanimously.

CHAIRMAN REYNOLDS: The Staff Director has
recommended the adoption of a policy of peer review for national office reports. The GAO in its May 2006 report recommended that the Commission strengthen the objectivity and the integrity of the Commission's written work product. This peer-review policy would be included in our implementation plan in which we will submit to GAO by July 31, 2006. Under this peer-review process, a draft national office report would be reviewed to determine whether it is objective and academically sound.

The Commission plans to use a small balanced panel of either uncompensated state advisory committee members with appropriate skills and background aided by our new selection criteria which emphasizes social science, legal and statistical training and technical writing skills and/or compensated outside professionals working on an expedited time frame of up to one week to conduct the peer review. The extent to which peer-review recommendations were resolved may be considered by the Commissioners during their vote to approve the final draft report for publication.

This process would apply to national office statutory reports and other national office reports containing findings and recommendations.
Is there a second?

COMMISSIONER KIRSANOW: Could you repeat that?

(Laughter.)

CHAIRMAN REYNOLDS: Is there a second?

COMMISSIONER KIRSANOW: Second.

CHAIRMAN REYNOLDS: Discussion?

Commissioner Yaki.

COMMISSIONER YAKI: A question about the peer review panels as they are selected. Is the goal of the peer review panel to be -- how shall I put this? Ideologically diverse for the purposes of reviewing the report or is simply going to be all the people who believe in what the report is saying to provide the report?

CHAIRMAN REYNOLDS: Well, it's clear that whatever we do someone is going to be happy, someone around this table is going to be unhappy, but to answer your question, there will be a diversity of views, but --

COMMISSIONER KIRSANOW: What's the critical mass?

CHAIRMAN REYNOLDS: This is eating up time here, folks.

VICE CHAIRMAN THERNSTROM: I have a
serious question. It's the same question as Michael Yaki's really. I am extremely concerned about the composition of these peer review panels, how they're going to be picked, how -- I mean how are we going to decide on who is really trained and scholarly?

CHAIRMAN REYNOLDS: And a lot of the issues that we deal with, it seems to me that on certain pieces it makes sense, for example, did we get our facts right? Is our methodological approach sound.

VICE CHAIRMAN THERNSTROM: We just had a panel in which nobody -- people couldn't agree on basic facts.

CHAIRMAN REYNOLDS: Well, the point that I was making is that the subject matter that we deal with is controversial and there are different first principles and I see limited value in having our reports reviewed by so-called experts, but that's why we're having this conversation.

VICE CHAIRMAN THERNSTROM: And what are we going to do with the reviews when they come in and they're, you know, shoddy pieces of work and -- or questionable to some of us, but not to others. This process it seems to me is a mine field.

CHAIRMAN REYNOLDS: Well, I'm voting no,
so you can joint me.

VICE CHAIRMAN THERNSTROM: Good, I'm voting no.

COMMISSIONER YAKI: I move to table.

CHAIRMAN REYNOLDS: Table? Don't you want to vote against it?

COMMISSIONER YAKI: Sure.

CHAIRMAN REYNOLDS: Okay, good.

(Laughter.)

STAFF DIRECTOR MARCUS: Mr. Chairman, may I speak to the issue of tabling, if that is a serious issue?

CHAIRMAN REYNOLDS: No, it's not, it's not.

COMMISSIONER YAKI: I withdraw the motion to table.

CHAIRMAN REYNOLDS: Okay, any other comments?

All in favor, please say aye.

(No response.)

All in opposition.

(Chorus of nos.)

CHAIRMAN REYNOLDS: Okay, this motion fails and we have received -- the vote --

STAFF DIRECTOR MARCUS: May I make just an
observation, just for the information of the Commissioners. The reason that the motion had been put out is that this was one of the recommendations of the GAO. Our Corrective Action Plan is due on Monday. So if we are not doing a peer review, then the ramification of this vote is that we will have to indicate that we are not implementing in full and that there is at least one recommendation that we have declined.

VICE CHAIRMAN THERNSTROM: That we have rejected.

STAFF DIRECTOR MARCUS: That's right.

VICE CHAIRMAN THERNSTROM: We have rejected one of their recommendations.

STAFF DIRECTOR MARCUS: We have the authority to do that, but that will be the statement that we will have to make to GAO.

VICE CHAIRMAN THERNSTROM: That's fine.

CHAIRMAN REYNOLDS: We have accepted many of their recommendations and we've accepted them not because they made the suggestion but because what they suggested was sound and needed to be done. And in this particular case, that's not the case. So let the record reflect that there were five votes against the motion.
Okay, the Commission, with the concurrence of the Office of Government Ethics is issuing these proposed regulations for employees of the Commission that would supplement the standards of ethical conduct for employees of the Executive Branch, issued by OGE. The first proposed regulation would require employees of the Commission to obtain prior approval before engaging in outside employment. The second proposed regulation would remove the Commission's existing conduct regulation which is inconsistent with OGE's standard and replace it with a reference to the current OGE standard.

OGE published a new Executive Branch Standards of Ethical Conduct regulation --

VICE CHAIRMAN THERNSTROM: Gerry, give us the bottom line here.

CHAIRMAN REYNOLDS: The bottom line is if you would like to -- if employees would like to get other employment while working here, they would have to get permitting from their supervisor. That is to ensure that their outside work is not having an adverse effect on their jobs here.

VICE CHAIRMAN THERNSTROM: Okay.

COMMISSIONER TAYLOR: This would mirror what everybody else in Federal Government --
VICE CHAIRMAN THERNSTROM: Just you, Michael.

CHAIRMAN REYNOLDS: Just the first piece.

And the second piece has to do with -- apparently, our standards -- we want to make sure that our standards are consistent with the new regulations that have been issued by OGE. So that's the purpose of the second --

VICE CHAIRMAN THERNSTROM: Fine.

CHAIRMAN REYNOLDS: All in favor.

(Aye.)

CHAIRMAN REYNOLDS: Would anyone like to join him?

COMMISSIONER YAKI: It doesn't apply to us.

CHAIRMAN REYNOLDS: That's correct.

COMMISSIONER YAKI: Aye.

CHAIRMAN REYNOLDS: Okay, the motion passes unanimously.

Okay, next item on the agenda is a motion to hold a Commission business meeting on August 18, 2006. May I have a motion that the Commission hold a business meeting at its headquarters in Washington --

VICE CHAIRMAN THERNSTROM: So moved.

CHAIRMAN REYNOLDS: Okay, is there a
second?

COMMISSIONER KIRSANOW: Second.

CHAIRMAN REYNOLDS: Discussion?

Commissioner Yaki?

COMMISSIONER YAKI: Due to a Court thing where actually I'm a lawyer, I will not -- probably not be able to attend in person. And it is dubious that I will be able to attend via phone.

CHAIRMAN REYNOLDS: Would you like to give me a proxy?

COMMISSIONER YAKI: Absolutely.

VICE CHAIRMAN THERNSTROM: Will we at that meeting be able to cover the ground that we can't cover today?

(Off the record comments.)

VICE CHAIRMAN THERNSTROM: That's not the notice that was sent out. It was an afternoon meeting.

STAFF DIRECTOR MARCUS: Oh, that was an afternoon -- I forgot. I thought that was the September meeting. No?

VICE CHAIRMAN THERNSTROM: The September meeting is in Omaha.

STAFF DIRECTOR MARCUS: Right, but I thought that was in the afternoon.
VICE CHAIRMAN THERNSTROM: No, it can't be.

CHAIRMAN REYNOLDS: That was one of the options and we chose the 18th of August.

STAFF DIRECTOR MARCUS: I don't recall that, for the 18th it was 1 o'clock. Of course it's being said right now, so it could be set at 1 rather than 5.

VICE CHAIRMAN THERNSTROM: I got some sort of notice that was an afternoon meeting. It can't be the Omaha one.

CHAIRMAN REYNOLDS: Okay, but the question on the table though is do you believe that what we are unable to finish here today we'll be able to squeeze in the August business meeting.

STAFF DIRECTOR MARCUS: If it's from 1 until 5, then I think we have a good chance of finishing everything that's left over from here. Now there are other things that I would hope to have ready for a vote then and whether we can get through all of that, all I can say is we'll do the best we can.

CHAIRMAN REYNOLDS: Are folks amenable to starting earlier, to starting at 9 o'clock, if that's required?

VICE CHAIRMAN THERNSTROM: We can start
earlier.

CHAIRMAN REYNOLDS: And in fact, we'll have to finish this up at a later point, but I think that we need to consider starting at 9 --

VICE CHAIRMAN THERNSTROM: Whatever. Let's wrap things up.

CHAIRMAN REYNOLDS: Okay, all right, we had our discussion. All in favor, please say aye.

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Any objections? Any abstentions? The motion passes unanimously.

STATE ADVISORY COMMITTEE ISSUES

CHAIRMAN REYNOLDS: Okay, first up we have -- okay. There's a motion to recharter the Connecticut State Advisory Committee. Under the motion the Commission appoints the following individuals to that Committee, based on the recommendations of the Staff Director: Patrick Johnson, William Alpert, Darlene Alvarado-Canales, Lewis Andrews, Leroy Bailey, Brian Brown, Brian Freeman, Gerald Gunderson, Brian Langdon, Theophilus Meekins, David Metzger, Werner Oyandel, Farouk Rhymaun, Edward Sabaria and Karen Torre.

VICE CHAIRMAN THERNSTROM: Excuse me, Mr. Chairman. Wasn't there a motion to approve the --
CHAIRMAN REYNOLDS: It's in here somewhere.

VICE CHAIRMAN THERNSTROM: Okay, that came before the budget OMB.

CHAIRMAN REYNOLDS: Hold on. Okay, I have it in a different order.

VICE CHAIRMAN THERNSTROM: That's all right. That's fine.

CHAIRMAN REYNOLDS: Okay, and finally Karen Torre. With this motion, the Commission appoints Patrick Johnson as chair of the newly rechartered Connecticut State Advisory Committee. These members will serve as uncompensated government employees and the Commission appreciates the hard work that they will no doubt contribute to the State Advisory Committee. Under this motion, the Commission authorizes the Staff Director to execute the appropriate paperwork for the appointment.

Is there a second.

VICE CHAIRMAN THERNSTROM: Second.

CHAIRMAN REYNOLDS: Discussion. All in favor, please say aye.

(Ayes.)

CHAIRMAN REYNOLDS: Any opposition? Abstentions.
Please let the record reflect that Commissioner Kirsanow abstains from the vote. And the remaining voted in favor.

In order to give an opportunity to anyone interested in providing information on the briefing we had this morning, the record should be kept open for 30 days. Is there a second?

VICE CHAIRMAN THERNSTROM: I second that, although I thought there was some discussion of more than that.

CHAIRMAN REYNOLDS: During the discussion, I expect Commissioner Yaki to --

COMMISSIONER YAKI: I want 60 days.

CHAIRMAN REYNOLDS: So there's a second.

Discussion.

Commissioner Yaki?

COMMISSIONER YAKI: I want 60 days.

CHAIRMAN REYNOLDS: Why?

COMMISSIONER YAKI: Because there's a lot of stuff.

VICE CHAIRMAN THERNSTROM: He's going to do a document.

COMMISSIONER YAKI: There's a lot of stuff. I think that this is -- I think in terms of the number of people who are out there who we could
outreach to, who might want to provide some of the
studies that were talked about, at least four or five
different studies were thrown out there. These people
tend to want to polish it, make it prettier or
whatever. That may -- reaching them, doing that,
editing or whatever, probably more than 30 days.

VICE CHAIRMAN THERNSTROM: I am going to
ask the Staff director a question. We certainly want
to have a completed document in published form, it
seems to me before the argument in November on these
two cases.

How does the 60 days affect that?

STAFF DIRECTOR MARCUS: Well, if we're
getting complicated articles and materials in late
September, trying to analyze them to get a final draft
voted on against the argument in November --

VICE CHAIRMAN THERNSTROM: Not possible.

STAFF DIRECTOR MARCUS: It would be
difficult and I'm not sure that it's possible.

VICE CHAIRMAN THERNSTROM: Is it possible
if we have a 30-day window?

STAFF DIRECTOR MARCUS: With a 30 day we
have a fighting shot at it.

VICE CHAIRMAN THERNSTROM: I mean,
Commissioner Yaki, can't we get this stuff in 30 days?
I don't want to cut off the marketplace of ideas here to close it, but 30 days is a long time.

COMMISSIONER YAKI: I want 60. Let's vote on it.

VICE CHAIRMAN THERNSTROM: Let's vote on it.

CHAIRMAN REYNOLDS: Any other comments? All in favor of the motion as read into the record, please say aye.

(Ayes.)

COMMISSIONER KIRSANOW: For 30 days?

VICE CHAIRMAN THERNSTROM: That's correct.

CHAIRMAN REYNOLDS: Objections?

COMMISSIONER YAKI: I oppose.

CHAIRMAN REYNOLDS: Abstentions. The motion passes. Please let the record reflect that Commissioner Yaki voted against the motion.

COMMISSIONER YAKI: With extreme prejudice. As always.

PROGRAM PLANNING

CHAIRMAN REYNOLDS: On July 11th an article was published in The Washington Post regarding the United States Naval Academy's use of questionnaires in which potential sponsors were asked their religious and racial preferences in connection
with the placement of cadets. We thought this was a topic appropriate for briefing.

Staff Director, please describe the newspaper article and the concept paper on this topic that was sent to the Commissioners.

STAFF DIRECTOR MARCUS: Certainly, Mr. Chairman, and the article was sent around. Very briefly, it was disclosed that the Naval Academy has a program under which people in the Annapolis area are able to sponsor midshipmen to provide them a place to stay during their recreational hours. The paper reported that it was primarily for midshipmen to watch television. Sometimes the sponsors would have other amenities like swimming pools where the midshipmen would have an opportunity to enjoy recreational time. The questionnaire that is used by the Academy apparently asks for sponsoring families to indicate various preferences that they might have with respect to midshipmen.

Among the preferences, they're asked whether they would want midshipmen who were interested in various sports or smokers or nonsmokers or members of one gender or the other and also whether they have a preference in the race of the midshipmen or of the religion of the midshipmen.
The indication of the article is that the Naval Academy takes this into account or tries to take this into account in order to place midshipmen with sponsoring families. There's not much of this that is in the literature. There is a questionnaire that has been on the internet which appears to have questions of this sort.

The Naval Academy currently has maintained that this is intended to help provide the minority midshipmen with mentors but it's not clear whether that is the purpose and one of the issues in briefing is the reason for this policy, whether it is the policy and how it impacts midshipmen of various races and religions.

CHAIRMAN REYNOLDS: I move to have the Staff conduct a briefing in Annapolis on the United States Naval Academy's use of religious and racial preferences in placement of cadets with local sponsors, as soon as feasible, in 2007. This briefing would be based on the concept paper that was distributed on July 21st. Is there a second?

VICE CHAIRMAN THERNSTROM: Second.

CHAIRMAN REYNOLDS: Discussion?

Commissioner Yaki?

COMMISSIONER YAKI: I'm just concerned
that we keep on adding briefings as we're pushing other briefings back.

CHAIRMAN REYNOLDS: That is a concern that I share. But I guess the challenge is what do we do when we have these events unfold? Do we respond?

COMMISSIONER YAKI: I would say that two of the briefings that I proposed that were voted on and are scheduled also had -- were the result of events that had unfolded and yet they keep on getting pushed further and further back.

CHAIRMAN REYNOLDS: Which ones are those?

COMMISSIONER YAKI: One was the Patriot Act one. The other one was the -- but the more important one was the domestic eavesdropping.

CHAIRMAN REYNOLDS: Well, if I recall, we could not get a hold of --

COMMISSIONER YAKI: Forgetting about the Patriot Act, when we did the revote, for the next set of briefings, like for example, the domestic eavesdropping scored 9.5. It was in the top four, top five that was done that should be there among the top five done in the next set. That also is timely. That also is very current. This comes along and it is timely and current, but it just bumps other ones back.

CHAIRMAN REYNOLDS: Well, I propose that
we have further discussion on whether this should be
put into the queue, but not at this point though.

COMMISSIONER YAKI: When you say the words
"as soon as feasible" that's what brought to mine.

CHAIRMAN REYNOLDS: But we haven't
selected a month yet. We haven't had further
discussions.

Commissioner Thernstrom?

VICE CHAIRMAN THERNSTROM: Clearly, those
further discussions have to involve, once again,
setting our priorities in terms of these briefings. I
think we can't just kind of mindlessly bump things so
that the rest of the briefings that have been
scheduled are in the order they were before.

So Commissioner Yaki, it seems to me that
question is -- will be, has to be on the table of the
relative importance and the shelf life of various
issues. You know, there are issues that don't need to
be -- we don't need to decide immediately, but I'm not
saying yours is one of them, but anyway, let us go
through the priorities here once again.

CHAIRMAN REYNOLDS: Commissioner Taylor?

COMMISSIONER TAYLOR: I don't have the
list of the briefings we've agreed upon and the
schedule, but it's my sense that this is not, in my
view, not as important as the other items we've already identified. It seems rather narrow.

I would like to get some more information from the Academies, the Coast Guard Academy included which means about similar programs, but I don't sense this is something that's worthy of the full blown briefing and bumping what we currently have on the schedule.

STAFF DIRECTOR MARCUS: If I may, Commissioner Taylor, we've informally inquired in at least one of those academies that appears to be using similar criteria and I believe it's the Coast Guard. So apparently the Coast Guard is using a similar program. As for the Merchant Marine, I don't believe that we were able to determine that they are using that.

COMMISSIONER TAYLOR: I would be in favor of sending them a request by asking them to submit in writing to us what exactly they're doing and what other policies they may have and whatever practices they employ on this issue, but again, I don't -- it's not my sense at least without having the information in front of me that this is worthy of bumping that we currently have in the agenda.

CHAIRMAN REYNOLDS: Why don't we vote on
the motion in front of us with the understanding that we will have further discussions about whether this particular project should bump anything in 2007.

VICE CHAIRMAN THERNSTROM: I don't understand voting on in it then. If we're -- if a question is open of whether we're going to have a briefing at all on this, then we should just table this motion.

I mean what you've just agreed to is to discuss the question of whether this is of sufficient importance to hold a briefing on.

COMMISSIONER TAYLOR: I have a substitute motion.

CHAIRMAN REYNOLDS: Let's hear it.

COMMISSIONER TAYLOR: Perhaps we can gather the information I discussed from all the relevant academies and then put this motion back on the table. So that would be to table this motion --

VICE CHAIRMAN THERNSTROM: Or not.

COMMISSIONER TAYLOR: Right, as we have the additional information and then discuss whether or not this motion would be appropriate.

CHAIRMAN REYNOLDS: Okay, well, since I read the motion into the record, I will accept your substitution.
All in favor?

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Any objections? The motion passes unanimously.

Next up, a report was produced by Staff reflecting Commissioner and panelists input on the briefing the Commission held on November 18, 2005 on campus anti-Semitism along with any concurring and dissenting statements submitted by any Commissioner by August 11, 2006. This report was distributed in draft form to Commissioners on July 21st, 2006. It contained a summary of the discussion and public comments received. A summary of the responses to defame and degrade letters sent out pursuant to AI's 1 through 6 and -- well, 1-6 and 7-1.

The Commission's findings and recommendations previously approved on April 3, 2006, and witness statements. May I have a motion to approve the publication of this campus anti-Semitism briefing report, together with any concurring or dissenting statements received within two weeks of today?

COMMISSIONER TAYLOR: So moved.

CHAIRMAN REYNOLDS: Is there a second?

VICE CHAIRMAN THERNSTROM: I'll second it
then.

CHAIRMAN REYNOLDS: Discussion? All in favor?

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Any objections? Let the record reflect that the Chairman abstains and the remaining Commissioners voted in favor of it.

On January 20, 2006, the Commissioners voted unanimously to have the Staff Director develop proposals to communicate with colleges about their rights and remedies when faced with anti-Semitic harassment. At that meeting, the Staff Director described some proposals for the public education campaign consistent with our funding constraints. These included an electronic document available on the Commission's website providing in-depth information on rights available to students under federal anti-discrimination laws and a poster to complement the website providing general information and directing students to the website for more detailed information.

Staff Director, will you please provide us with an update on what's happened with this campaign?

STAFF DIRECTOR MARCUS: Certainly, Mr. Chairman. As the Commissioners will see in the side of the room, we have a poster, a proposed poster which
the Government Printing Office has prepared working in conjunction with the Office of Civil Rights Evaluation and Public Affairs Unit which is a suggestion for a part of the campaign. During a prior Commission meeting we discussed a proposal to have a combination -- several pages on our website which would provide information to students, as well as a poster that would be circulated which, among other things, would direct students to the website and let them know what is available there.

In addition to that, more recently, Staff has suggested that we consider looking into the possibility of a brochure also to provide further information, particularly with respect to the availability of information on our website. For now though, what is available is this proposed poster. As you can see, the main language on it "Hate has an Ally: Silence, speak out against anti-Semitism."

Now there are a couple of changes that I would recommend making and so I think part of the motion is to approve this with some changes. One is I think we need to add a word like "campus" perhaps "campus anti-Semitism." There's also the word "crime" in the small print, asking students to speak if they're aware of crimes and I think we need to broaden
it so that it's not just about crime, but it is about college campuses.

Does anyone need me to read the small print at the bottom of the poster?

VICE CHAIRMAN THERNSTROM: No, but I have a general comment here. The poster would be clearer if it's to students and it says silence is an ally of hate. It makes the point more directly, more simply. I think there are going to be students who are going to look at this and say what?

CHAIRMAN REYNOLDS: Okay, any other --

STAFF DIRECTOR MARCUS: There is one other point I would make and I don't know if there needs to be discussion first of the Vice Chair's comment or if I should just continue with the update and then there could be discussion of the --

VICE CHAIRMAN THERNSTROM: All right, I'm sorry.

CHAIRMAN REYNOLDS: Let's take a look at the -- I can't read the --

STAFF DIRECTOR MARCUS: I'll go up to the front and read the language at the bottom.

And as I do this, I'd also like to thank Sock-Foon MacDougall and Manuel Alba for their good work in preparing this. "Hate has an Ally: Silence.
Speak out against anti-Semitism. Ready to take action? We can help. To report an anti-Semitic crime against you or someone you know, call the U.S. Commission on Civil Rights at" and it provides a phone number for our complaint line, "or visit our website at" and it will provide a URL address.

I indicated the change would be something like the following: "Ready to take action? We can help to report an anti-Semitic incident on your campus of the U.S. Commission on Civil Rights."

CHAIRMAN REYNOLDS: So the proposed changes, one would be deleting crime and replacing it with something broader.

STAFF DIRECTOR MARCUS: That's right. Instead of crime, it would say "incident" and instead of simply saying "against you or someone you know" it would say "on your campus" and make some connection with colleges because this is a campus anti-Semitism public education campaign.

CHAIRMAN REYNOLDS: And as to Vice Chair Thernstrom's comment, well first, do the other Commissioners share Vice Chair Thernstrom's views?

VICE CHAIRMAN THERNSTROM: It would be simpler to say "Hate is an ally of silence" or "Silence has an ally of hate" something a little more
direct. Maybe I'm being an idiot, but I looked at this before I completely got it. It seems a little convoluted to me.

CHAIRMAN REYNOLDS: Does anyone have strong feelings about this?

VICE CHAIRMAN THERNSTROM: Maybe I was being a little thick headed, I don’t know.

CHAIRMAN REYNOLDS: I guess one --

(Off the record comments.)

CHAIRMAN REYNOLDS: I guess my one comment is silence. It just fades into the background there and maybe this is just a function of my poor vision and maybe that was unintended. Maybe that's some type of effect, but in any event, I just make that comment. I'm not making any suggestions, I'm not suggesting any changes.

Okay, does Mr. Kirsanow realize that he is needed for a quorum?

STAFF DIRECTOR MARCUS: Is Commissioner Braceras on the line right now?

VICE CHAIRMAN THERNSTROM: And in two seconds, you're not going to have a Thernstrom to vote.

Let's get Kirsanow back.

CHAIRMAN REYNOLDS: And then we can wind
COMMISSIONER BRACERAS: Hello? I'm here.

CHAIRMAN REYNOLDS: Okay, good, we have a quorum.

(Laughter.)

COMMISSIONER BRACERAS: In about 15 minutes I have to go to a different phone.

VICE CHAIRMAN THERNSTROM: No, no, no. It will be done.

CHAIRMAN REYNOLDS: Jennifer, right now we have the proposed anti-Semitism poster. You can't see it. I don't know if you were able --

COMMISSIONER BRACERAS: I saw it when it came over the computer.

STAFF DIRECTOR MARCUS: That's the one.

CHAIRMAN REYNOLDS: We're just about to vote on it. Do you have any comments or concerns?

COMMISSIONER BRACERAS: No, I'm all set to approve it.

CHAIRMAN REYNOLDS: Okay. All in favor?

(Ayes.)

CHAIRMAN REYNOLDS: Is that an aye?

VICE CHAIRMAN THERNSTROM: I'd like to see it a little changed, but whatever. Okay.

COMMISSIONER BRACERAS: What are your
changes?

VICE CHAIRMAN THERNSTROM: Instead of "Hate has an ally: silence" I'd rather have a more direct statement "Silence is an ally of hate." And a couple of students in the audience said basically -- voted for my suggestion.

I just think it's --

COMMISSIONER YAKI: They have no choice in this matter.

(Laughter.)

VICE CHAIRMAN THERNSTROM: I just think it's --

CHAIRMAN REYNOLDS: What's involved in making a change in the poster at this point?

STAFF DIRECTOR MARCUS: I don't think there's going to be a problem. After all, there are some other changes we have to make. I think we've got one set of changes that they're contractually obligated to make with additional -- I think that we could get this done, either without any additional money or a very small amount.

CHAIRMAN REYNOLDS: Does anyone object to Vice Chair Thernstrom's suggested revision?

COMMISSIONER BRACERAS: No.

CHAIRMAN REYNOLDS: Okay --
STAFF DIRECTOR MARCUS: Just to be clear, the language would be "Silence is an ally of hate."

VICE CHAIRMAN THERNSTROM: Yes.

CHAIRMAN REYNOLDS: Okay, all in favor for the motion, as revised, including the Vice Chair's revisions, please say aye.

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Any objections? Yes?

Very good. The motion passes unanimously. Thank you, folks. We covered everything in the agenda, except the Staff Director's report.

COMMISSIONER BRACERAS: Wait, hold on. How did we cover everything on the agenda? I thought I was being brought in at the beginning of the business meeting?

VICE CHAIRMAN THERNSTROM: You didn't come in at the beginning of the business meeting.

COMMISSIONER BRACERAS: Why?

VICE CHAIRMAN THERNSTROM: I don't know.

COMMISSIONER BRACERAS: I've been sitting here at my desk all morning, waiting to be brought in.

STAFF DIRECTOR MARCUS: We thought you were in at one point.

VICE CHAIRMAN THERNSTROM: We thought you were here for the briefing and we called on you for
COMMISSIONER BRACERAS: I was not at that point.

CHAIRMAN REYNOLDS: Well, Jennifer, I apologize.

COMMISSIONER BRACERAS: This is the first time I'm coming in, I mean the first time I'm coming in to participate in the business portion of the meeting.

COMMISSIONER YAKI: You weren't on for the briefing?

COMMISSIONER BRACERAS: I was on for part of the briefing. And then I had to go to take care of some things. So I hung up.

And I contacted Kim and asked her to plug me back into the beginning of the business meeting.

CHAIRMAN REYNOLDS: I instructed Staff to call you before we began the business meeting and unfortunately, the individual that I spoke with is not present.

COMMISSIONER BRACERAS: That's fine.

STAFF DIRECTOR MARCUS: Commissioner Braceras, I am sorry. Staff had been under the impression that you were on the line, so I don't know what the snafu was and whether it was with the phone
call --

COMMISSIONER BRACERAS: Did you have a quorum? Because I wasn't there.

CHAIRMAN REYNOLDS: Yes, we did.

COMMISSIONER BRACERAS: Okay. And you were able to vote on everything you wanted to vote on. I just wanted the record to reflect that I did not vote on anything because I didn't -- in case you thought I did.

CHAIRMAN REYNOLDS: Okay, let's be clear. Let the record reflect that Commissioner Braceras did not vote on -- she didn't vote on anything --

COMMISSIONER BRACERAS: Anything other than the poster. Although I would have liked to. I was prepared to discuss and vote on all of these things on the agenda. I've been sitting here waiting.

CHAIRMAN REYNOLDS: Okay. Sorry about that, Jennifer.

COMMISSIONER BRACERAS: That's all right. Maybe somebody can call me or send me an email and let me know how the vote turned out or if there's anything I need to know.

CHAIRMAN REYNOLDS: Yes, Ken will give you a call.

COMMISSIONER BRACERAS: Okay.
STAFF DIRECTOR MARCUS: Are any of the Commissioners interested in a Staff Director's Report? We don't need a quorum for that. We have, I believe, four Commissioners to the extent that Commissioner Braceras is on.

COMMISSIONER KIRSANOW: Fine with me.

STAFF DIRECTOR'S REPORT

STAFF DIRECTOR MARCUS: Well, let me just provide you with a little bit of information. I'll make it a little bit briefer, but there may be some things that you'd be interested to know.

First of all, let me just publicly indicate as some of you know that we do now have a General Counsel who was just appointed, Mr. David Blackwood. David Blackwood joined the Agency as General Counsel on July 10. He was previously Associate Deputy Assistant Secretary for Enforcement at the U.S. Department of Housing and Urban Development. He has over 20 years of experience in EEOC, HUD and other civil rights areas.

I'd also -- I'm not sure if Tyro Beatty is still here, but I'm pleased that we have a new Director of Human Resources who has just joined us July 10. He worked as Director of Human Resources for nine years for a company called NCG, Inc. He's also
done work for the Department of the Navy and he was
recently the head of a consulting firm he founded
called Bizm, B-I-Z-M, Corporation. I'd also like to
recognize that Maha Jweied has joined the Office of
General Counsel as an Attorney Advisor on June 21.
She was previously an associate with the law firm of
Arent Fox.

Also, I would like to express our
appreciation for the Department of Housing and Urban
Development which in addition to giving us our new
General Counsel, is also providing us with a detail of
Fatima Johnson who is here in the Office of Staff
Director for the summer, working both on the strategic
planning and also on this briefing and associated
briefing report. At the Office of Fair Housing and
Equal Opportunity, she is the special assistant to the
Deputy Assistant Secretary for Operations and
Management.

I'd also like to recognize some of the
students in the back who weighed in, who have been
serving as interns for the Office of the Staff
Director and the Office of General Counsel in
providing terrific research and analysis over the
course of the summer. Eric Daleo is not here now, but
he is a law student at Rutgers who served for quite
some time. Ms. Bridget Fay has been here as a summer intern. She just finished her second year at Washington Lee University School of Law. Ryan Pardue is here. He is a summer intern now. He just finished his second year at Seton Hall Law School. Within Office of General Counsel, I believe we still have Adam Evans in the back. He's a law student at William and Mary School of Law. Mr. James Chiu, who provided input on the public education campaign, is a rising third year student at Georgetown University Law School and I think Ryan Kinder is also in the back here. He's with the Office of General Counsel this summer, second year law student at Wake Forest.

Second, I'd like to say just a word about the upcoming financial audit. As you know, we've just gotten a first full-scale audit we had from Williams and Adley. We've now been able this year to move forward and get ready for our second full-scale audit. This time we were much more advanced in terms of getting the procurement done quickly, thanks to the work of Pam Dunston. In February, the Commission contracted with Walker and Company, LLP, to perform a full-scale audit of its financial statements. Walker and Company is a full service financial and advisory firm. Some of its clients include the Federal Transit
Administration, the U.S. Department of Housing and Urban Development, the Corporation for National and Community Service and various Washington, D.C. law firms.

I'd also like to say a word about the OPM audit. I mentioned in a prior Staff Director's Report that the Office of Personnel Management conducted an audit of the Agency. This is a routine audit which it does every few years. The reason it’s doing an audit of this agency is simply that we were on the list and hadn't been here in a few years. It completed its audit. It found a number of issues for which it had either recommended or required changes. In our assessment and our understanding of theirs, the number of items was not unusual, relative to other agencies, particularly with its size.

With respect to their recommended and required action items, we have developed a plan for addressing all of them. We have recently completed a response to that audit and we are in the process of implementing it. Some of the implementation is done. Some of it is under way.

Also, with respect to this year's budget, I have mentioned in prior meetings that while we as an Agency are typically very cash constrained, this
fiscal year, as a result of some of the late hires, some of the people that I mentioned, for instance, came in late in the year, as well as senior staff departures, we are in a sound position. In fact, we're able as a result of lower than anticipated payroll expenses as a result of attrition, to make some additional purchases that haven't been on the budget. So for instance, we are prioritizing State Advisory Committee travel and travel by the regional staff for purposes of recruiting staff members. We are able to do that now over the course of the summer and early fall.

We're also looking at some technology purchases including computers and software, other equipment and furniture and we're able to provide some limited staff training that would otherwise not have been available.

I think I ought to say just a few words about a new AI-1-6 national project that we are planning to issue as part of our response to the GAO. Some of the key items were reduced to motions that we have -- that we have acted on over the course of the meeting today. I would want to focus in on a few issues though in the new AI.

First, Section 1B provides that we will
ensure objectivity in national office work products and foundational documents, such as proposals, outlines and discovery plans and define objective as reflecting in consideration of varied and opposing views, opinions and perspectives.

Second, Section 14.03 creates criteria for the Staff Director to use when directing a program office to incorporate Commissioner comments into the draft report. This responds specifically to some comments made in the GAO audit. The criteria would include the following: they should be supported by the existing research, including any supplemental research which may be reasonably conducted within the existing time constraints, viewed as strengthening the quality and objectivity of the report consistent with the approved scope and purpose of the project as reflected in the Commissioner approved concept paper proposal outlined, discovery plan and any subsequent modifications approved by the majority of the Commissioners and consistent with the structure and thrust of the report.

Third, Section 4.04 will create factors that Commissioners are asked to consider while reviewing reports and those are the factors that the Commission voted on today.
The AI would have also created a peer-review process that portion of the AI will be stripped out as a result of the vote taken today.

Those are my Staff Director's comments.
I'd be happy to respond to any questions.

COMMISSIONER BRACERAS: I need to hang up at this time, but if somebody could email me or call me later in the day to debrief me on this meeting which I was not plugged into. I would appreciate that.

STAFF DIRECTOR MARCUS: I'll be happy to call you.

COMMISSIONER BRACERAS: Okay, all right, bye.

CHAIRMAN REYNOLDS: Okay, there being no questions posed, the meeting is adjourned.

(Whereupon, at 12:56 p.m., the meeting was concluded.)