U.S. COMMISSION ON CIVIL RIGHTS

MEETING

FRIDAY, SEPTEMBER 9, 2011

The Commission convened in Room 540 at 624 Ninth Street, Northwest, Washington, D.C. at 9:35 a.m., MARTIN R. CASTRO, Chairman, presiding.

PRESENT:

MARTIN R. CASTRO, Chairman
ABIGAIL THERNSTROM, Vice Chairman
   (via telephone)
ROBERTA ACHTENBERG, Commissioner
TODD F. GAZIANO, Commissioner
GAIL L. HERIOT, Commissioner
PETER N. KIRSANOW, Commissioner (via telephone)
DAVID Kladney, Commissioner
MICHAEL YAKI, Commissioner (via telephone)
KIMBERLY TOLHURST, Delegated the Authority of The Staff Director
STAFF PRESENT:

TERESA BROOKS
CHRISTOPHER BYRNES, Senior
  Attorney-Adviser to the Office of the
  Staff Director
MALEE CRAFT
IVY DAVIS
BARBARA DeLAVIEZ
PAMELA DUNSTON, Chief, ASCD
LATRICE FOSHEE
ALFREDA GREENE
TinaLOUISE MARTIN, Director, OM
PETER MINARIK
TORRANCE MONTGOMERY
LENORE OSTROWSKY, Acting Chief, PAU
JOHN RATCLIFFE, Chief, Budget
FARELLA ROBINSON
VANESSA WILLIAMSON
AUDREY WRIGHT

COMMISSIONER ASSISTANTS PRESENT:

NICHOLAS COLTEN
ALEC DEULL
TIM FAY (via telephone)
DOMINIQUE LUDVIGSON
JOHN MARTIN
ALISON SOMIN
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CHAIRMAN CASTRO: Good morning. The meeting is going to come to order. This is a meeting of the U.S. Commission on Civil Rights. It is currently 9:35 on September 9th, 2011. This meeting is taking place here at the Civil Rights Commission's headquarters at 624 9th Street, Northwest in Washington, D.C. I’m Chairman Marty Castro.

The commissioners who are present at this meeting are myself, Commissioner Heriot, Commissioner Gaziano, Commissioner Kladney, Commissioner Achtenberg. Commissioners Kirsanow and Yaki are joining us by phone. The Vice Chair Thernstrom, is she on the phone?

(No response.)

CHAIRMAN CASTRO: Okay. She is not here.

A quorum of the commissioners is present. Is the person delegated the authority of Staff Director present?

DELEGATED THE AUTHORITY OF THE STAFF

DIRECTOR TOLHURST: Yes.

I. APPROVAL OF AGENDA

CHAIRMAN CASTRO: Okay. Let's begin by an approval of the agenda. The first item is, are there
any amendments to the agenda? I should say we should move to approve the agenda first and then any amendments.

COMMISSIONER ACHTENBERG: Do we have anybody on the phone?

CHAIRMAN CASTRO: Yes. We have Commissioner Yaki and Commissioner Kirsanow on the phone.

COMMISSIONER GAZIANO: Do you know if Vice Chair Thernstrom will be joining us at any point?

CHAIRMAN CASTRO: We don't know. She is ill. And I know where Tim Fay is, her Special Assistant. He indicated that he was -- he had spoken to her this morning but was not sure if she was going to be able to participate due to her illness.

COMMISSIONER GAZIANO: Could I ask for -- Commissioner Kirsanow, I understand that you have a period where you cannot be even on the phone. Did you want to make a request before we -- maybe we need to approve the agenda first.

CHAIRMAN CASTRO: Let's move to approve the agenda. Is there a motion?

COMMISSIONER KLADNEY: I make a motion. I thought we were -- okay. I make a motion to approve the agenda.
CHAIRMAN CASTRO: And then we'll make any motions for minutes.

COMMISSIONER GAZIANO: Second.

CHAIRMAN CASTRO: All those in favor?

(Whereupon, there was a chorus of "Ayes.")

CHAIRMAN CASTRO: Any amendments to the agenda?

COMMISSIONER KLASNEY: I thought we had discussed the possibility of the California SAC.

CHAIRMAN CASTRO: Yes. Commissioner Yaki, did you want to raise the issue of putting over the California SAC until next month?

COMMISSIONER YAKI: Yes. If we could do that? I need to review some of the names -- in fact, there are only 13. I just wanted to make sure that we have a right balance. So I would appreciate it if we could put it off for a month.

CHAIRMAN CASTRO: I don't know if we could do that by unanimous consent. Otherwise we'll -- is that fine? Is that all right with you?

COMMISSIONER GAZIANO: Yes.

CHAIRMAN CASTRO: Commissioner Heriot?

COMMISSIONER HERIOT: Very well.

CHAIRMAN CASTRO: Commissioner Kirsanow, is that all right with you?
COMMISSIONER KIRSANOW: Yes.

CHAIRMAN CASTRO: All right. By unanimous consent, we'll put that off.

In addition, I believe we had a resolution that we wanted to add to the agenda for review. So is there a motion on amending the agenda to allow the review?

COMMISSIONER ACHTENBERG: So moved.

CHAIRMAN CASTRO: Do we have a second?

COMMISSIONER YAKI: Second.

COMMISSIONER GAZIANO: Where would you put it in the agenda?

CHAIRMAN CASTRO: Let's see. Well, if Commissioner Kirsanow is going to be off the line at some point, I would want to make sure we deal with his report first. So let's do it after the report, after the age discrimination report.

COMMISSIONER HERIOT: What are we adding here?

COMMISSIONER GAZIANO: This.

COMMISSIONER HERIOT: Oh, this. Okay.

CHAIRMAN CASTRO: Yes. It was just handed out. It's a short resolution. It's being emailed to Commissioner Kirsanow. Commissioner Yaki already has a copy of it. So we would put it at the end, between
"Program Planning" and "Management and Operations."

COMMISSIONER GAZIANO: Okay.

CHAIRMAN CASTRO: Okay? All those in favor of the amendment, signify by saying, "Aye."

(Whereupon, there was a chorus of "Ayes.")

CHAIRMAN CASTRO: Opposed?

(No response.)

CHAIRMAN CASTRO: In the opinion of the Chair, the ayes have it.

Any other amendments to the agenda?

(No response.)

CHAIRMAN CASTRO: There being none, let's move on to the approval of the August 12th meeting minutes. Do we have a --

COMMISSIONER GAZIANO: Could I ask --

CHAIRMAN CASTRO: Yes?

COMMISSIONER GAZIANO: -- that you recognize Commissioner Kirsanow now?

CHAIRMAN CASTRO: Yes. Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Yes. Thank you, Mr. Chair.

I, unfortunately, am engaged in litigation, which means that I am going to have to get off the phone in ten minutes. I can return after
10:30. And it would be helpful if we could have -- I don't know if we would be able to sandwich in discussion of the age discrimination report in the next ten minutes.

If we could, perhaps maybe we could sandwich in a discussion of such topics as the -- there's a topic with respect to letterhead, Commission letterhead, but I would like to participate in both of those. I don't know what motion I would make because I just don't know what the timing would be on either of those.

COMMISSIONER GAZIANO: Would the Commission entertain a motion that we try to deal with all other agenda items --

CHAIRMAN CASTRO: Sure.

COMMISSIONER GAZIANO: -- by 10:30 and we try to --

CHAIRMAN CASTRO: Put those two off until after 10:30? Is that --

COMMISSIONER GAZIANO: Yes.

CHAIRMAN CASTRO: Yes. That's fine. Is that unanimous consent for folks? Well, we might be. I don't know. I mean, I want to give Commissioner Kirsanow the courtesy of that.

TIM FAY: Mr. Chair, the Vice Chair is on
the line.

CHAIRMAN CASTRO: Okay. Let the record reflect the Vice Chair is on the phone.

VICE CHAIRMAN THERNSTROM: Yes. If we could get stuff done, with all due respect to Commissioner Kirsanow, if we could get as much important stuff done now as, right now as, possible, it would be helpful to me.

CHAIRMAN CASTRO: Okay.

VICE CHAIRMAN THERNSTROM: I just have no idea whether I -- how long I'm staying, whether I can be back at 10:30.

CHAIRMAN CASTRO: Okay. Well, let's try to get the letterhead discussion done before 10:30 and then --

VICE CHAIRMAN THERNSTROM: I mean, how long would it take us to go through?

CHAIRMAN CASTRO: I don't know.

VICE CHAIRMAN THERNSTROM: An important item obviously is the findings and recs or --

CHAIRMAN CASTRO: Yes.

VICE CHAIRMAN THERNSTROM: -- age discrimination. Commissioner Kirsanow had some proposed findings and recs.

COMMISSIONER HERIOT: Can't hear you.
CHAIRMAN CASTRO: Yes. We've got it as loud as we can get it.

Well, let's move on. And we will endeavor to get to this as quickly as we can. And we'll see if we can have the letterhead discussion if it's okay with folks before --

VICE CHAIRMAN THERNSTROM: All right.

CHAIRMAN CASTRO: -- Commissioner Kirsanow comes off the line.

COMMISSIONER KIRSANOW: Yes, which is in about eight minutes.

CHAIRMAN CASTRO: Well, that may not be the case, then. Well, we'll have to try to balance as best we can.

COMMISSIONER GAZIANO: Okay. Well, let's --

COMMISSIONER KLADNEY: Let's move on.

COMMISSIONER GAZIANO: Yes. Let's move on. And since I have some amendments to the minutes, let's go straight to the letterhead issue.

CHAIRMAN CASTRO: You have amendments to the minutes?

COMMISSIONER GAZIANO: Yes.

COMMISSIONER HERIOT: Yes. Let's put that off.
COMMISSIONER GAZIANO: Let's put that off.

CHAIRMAN CASTRO: Okay.

COMMISSIONER GAZIANO: So let's go to the letterhead if you want to try to tackle that.

IV. MANAGEMENT AND OPERATIONS

- DISCUSSION OF THE USE OF COMMISSIONER LETTERHEAD

CHAIRMAN CASTRO: All right. If you go to your books under "Program Management and Operations," we have a draft AI. And this is a draft AI that is, for all intents and purposes, the existing AI 9-1 to which we're adding, we're moving to add, a provision D that says, "Commission letterhead and the Commission logo shall only be used by the Commission spokesperson specified in 9-1.3.01A above and their designees or in correspondence from commissioners where a majority has voted to approve its use."

That's a motion. Do we have a second on that motion?

COMMISSIONER YAKI: Second.

CHAIRMAN CASTRO: Discussion? Let me just say the reason we're doing this is moving forward. I'm not looking at what may have or have not happened in the past, but this is an effort to make clear what we thought was clear in the AIs, that the spokespersons for the agency are the Chair or Staff
Director or a majority of the commissioners and make clear that whenever letters do go out or the logo is used, it is very clear that it is either done by the spokespersons or by a majority.

I think it can be confusing to some. Otherwise, if some subset of the Commission is sending letters on what appears to be Commission letterhead and, although there may be disclaimers in those letters, I think the appearance of some sort of official statement of the Commission in writing is something that we want to make very clear going forward represents a majority view of the Commission and also, as we said, the spokespersons that are allowed to speak on behalf of the Commission under this existing AI.

COMMISSIONER GAZIANO: Mr. Chair, I will yield to Pete so he say --

COMMISSIONER KIRSANOW: Well, thank you, Commissioner Gaziano.

Mr. Chair, I just want to make a very brief statement before I have to get off. And I apologize to everybody for having to do so. And thank you for accommodating me.

You are correct that in the past, things were done in a different way. That is necessarily on
a go-forward basis, we need to do so.

We have in the past -- minorities of the Commission have sent out letters with disclaimers indicating that individual commissioners take a particular view of a given matter. And that legend contained in the letter is usually very clear and conspicuous and I think understandable.

In addition, when I look at Congress, for example, the minority of any particular committee will often send out letters on the letterhead of a particular committee, subcommittee, or the committee.

It is made very clear that it is coming from a ranking member, as opposed to the Chair or it is coming from another member of the committee. And it doesn't cause confusion, but it represents a viewpoint that needs to be heard, I think.

As long as it's clear, it strikes me, that the position laid out in the letter that it is coming from fewer than a majority of commissioners, it is coming from simply a few of the commissioners or a minority of the commissioners and doesn't represent the official position of the Commission, I think that use of the letterhead should continue, as it has been in the past.

CHAIRMAN CASTRO: Commissioner Gaziano,
you wanted to make a comment?

COMMISSIONER GAZIANO: Yes. First of all, I'm not sure this is the kind of thing that is appropriate for AIs that bind or purport to bind commissioners. AIs are instructions to our staff. Sometimes they are important. I think that we can after discussion work out what may be a compromise.

I at least understand the Chair and whoever has moved and seconded this motion, but to a certain extent if commissioners are members of the Commission, I don't know that even a minority vote can bind us from using the Commission's official letterhead.

Notwithstanding that, again, I'll yield now to others. I have a couple of compromise ideas in mind, but I want to at least get on the record that I don't know that this AI or any vote can require us not to use the official agency letterhead, especially where we in footnote 1 of any letter it has been our past practice identify it as only the letter of one or two or a minority of commissioners.

CHAIRMAN CASTRO: Commissioner Heriot?

COMMISSIONER HERIOT: I guess I agree with both Commissioner Kirsanow and Commissioner Gaziano. Administrative instructions are to the staff. I
support you could instruct the staff not to allow a commissioner to have any say in --

COMMISSIONER YAKI: Can't hear her.

COMMISSIONER HERIOT: But if you do that, it just means that, you know, there's going to be some other stationery that's used that's pretty much identical. I'm sure we can work out a good compromise on this where nobody is being misled, but some stationery has got to be used for letters that go out by commissioners who are in the minority. And we just have to work out how to do that and what kind of statement needs to be made to make it clear that this is the minority, that just passing this AI is not going to get you where you want to go.

CHAIRMAN CASTRO: Any other comments from commissioners?

COMMISSIONER YAKI: This is Commissioner Yaki.

CHAIRMAN CASTRO: One at a time. The Chair recognizes Commissioner Yaki, then Commissioner Achtenberg.

COMMISSIONER YAKI: Thank you.

As the person with the most experience at being in the minority and having been part of the original AI of this in 2005, where this is worked out
when I was on the subcommittee with then Commissioner Braceros, and the intent was to make it clear that this was not official agency action -- and, to that point, it is interesting because at that time no one ever told me or, in fact, I was told not to use official agency letterhead for the frequent, frequent letters I would have to write in response to letters written by the then majority that would either be approved or would be approved after the fact or never approved at all that went out under those auspices.

So to deal with that, I actually created at my own expense my own stationery with a disclaimer that it was not printed at government expense and made clear it was my personal stationery and used that for the majority of the letters, although there are some times when the letters -- since I often ran out of that stationery because I didn't think it was worth buying like ten reams of it because I was hoping that things would change, that there are times when that wouldn't work either. And my then Special Assistant, Richard, or then Nicholas would then just cobble together something that was clear, again clear, it was not Commission letterhead because I did not feel it appropriate at that time to use official agency letterhead for the purpose of saying that's the views
of the minority when it was very clear from the AIs
that Commission letterhead was agency letterhead. And
when I was speaking, I was not speaking for the
agency.

CHAIRMAN CASTRO: Thank you, Commissioner
Yaki.

Commissioner Achtenberg?

COMMISSIONER ACHTENBERG: Mr. Chairman, I
was thinking that a possible way to address the
concerns expressed by my colleagues might be to create
on Commission letterhead a series of pieces of
stationery that had the printed name of an individual
commissioner. And that would be close to the logo of
the Commission, not unlike the way members of the
House of Representatives use the House of
Representatives logo and then have their own personal
names printed. That makes it clear that they're doing
it in their capacity as members of the House of
Representatives.

And I do agree with you that we do have
individual prerogatives as individual commissioners as
long as it's not confusing in terms of whether or not
it represents the view of the Commission.

And if you wanted three commissioners to
cosign a letter, you might consider doing in that. So
that's another way of possibly looking at it. I don't know, but if that were made as an amendment to this motion, I would even vote for my own motion. But it does strike me that there are some parallels --

CHAIRMAN CASTRO: Yes. I thought we would --

COMMISSIONER ACHTENBERG: -- that we could seek elsewhere.

CHAIRMAN CASTRO: Commissioner Kladney?

COMMISSIONER KLADNEY: Clearly I think there's a good compromise here. I don't know if we all need our own stationery or whatever. That would be nice. I would love to see my name on there.

And I appreciate the attempt with the footnote. I just didn't think that was sufficient, but I always thought that we could put a boldface statement right under the heading of the stationery and just say, "The following letter is not the" -- something to the effect of "The following letter is not the opinion of the Commission" or "is only attributable to Commissioner" so and so and so and so and so and so in boldface. Maybe -- I don't know -- 12-point type would be fine, something like that, rather than everybody having their own stationery.

But I think there is a way to do it.
COMMISSIONER HERIOT: I'm sure that there's a way to do this. It's just we need to work it out.

The hesitation I had about individual names was that it's from three of us. So whose name is going to be on the stationery?

COMMISSIONER KLADNEY: Well, you can all sign it.

COMMISSIONER GAZIANO: Someone would have to search the footnotes. And it's sort of more likely to mislead if it's from the -- but I still think that -- Commissioner Yaki, you will remind me. I remember you using again a variety of letterheads. I have also looked through. My Special Assistant counsel has found various examples of individuals of current commissioners, you know, using letterhead and not being quite as clear as we attempted to be. You know, I had a little --

COMMISSIONER YAKI: I'm sorry, Commissioner Gaziano. Are you saying that I actually ever used official agency letterhead?

COMMISSIONER GAZIANO: No, no, no, no. I'm sorry. Let me just put -- I remembered your letterhead looked kind of like ours, which is fine with me. I thought it was appropriate. I am just
saying -- and what I remembered is it did have something like the "Office of Commissioner Melendez," "Office of Commissioner Yaki" or both.

Maybe there is an electronic solution to this and we use an electronic letterhead of some sort. But what I would suggest is it seems like we're close to a compromise but, rather than -- and this discussion has been helpful when we're all together, on the phone or otherwise, that maybe we could either form a subcommittee or just discuss it amongst ourselves in email and then try to circulate proposals to each other and then vote on something that --

CHAIRMAN CASTRO: I think that's a very fair way to proceed. I think, you know, this has been a good discussion. I think we all kind of know where we are coming from. I think between now and our October meeting, we can exchange some ideas and hopefully come to the October meeting with a resolution that will be supported by a majority, if not all, of us.

COMMISSIONER KIRSANOW: Mr. Chairman, thanks for accommodating. I have to leave. I make a motion. And then I hope to return by 10:30. Thank you.

CHAIRMAN CASTRO: Okay. So thank you.
Why don't we put this off until the October meeting? And we will communicate as commissioners individually to one another and come back with a proposal in October.

II. APPROVAL OF THE AUGUST 12, 2011 MEETING MINUTES

CHAIRMAN CASTRO: Okay. So now we move on to the minutes. Do we have a motion on the minutes? You said you had some amendments to the minutes?

COMMISSIONER GAZIANO: I will, based on the motion to approve. And then I'll amend.

CHAIRMAN CASTRO: Any motion to approve?

COMMISSIONER ACHTENBERG: So moved.

CHAIRMAN CASTRO: Do we have a second?

COMMISSIONER KLADNEY: Second.

CHAIRMAN CASTRO: Okay. Are there any amendments?

COMMISSIONER GAZIANO: Yes. In the minutes, it's our sensible practice, I should say, to at least summarize the substance of any commissioner's motion, whether approved or defeated. In the minutes for the last meeting where we approved our annual report, it lists the substance of certain other commissioners' motions, but it does not summarize the substance of any of my motions amending the findings and recommendations. In fact, it summarizes the
motion of one other commissioner, whose motion was withdrawn and not even voted on.

So I would just -- it was probably just because they're complicated motions. I'm not saying this is at all nefarious. I would suggest either two -- I will entertain either one of two motions. One is that I would be glad, as amended, to vote for the minutes if they just insert the actual motion, they go back to the transcript, or if they're going to characterize my motion, that we just put it off until next month and I can look at how the motion is characterized.

CHAIRMAN CASTRO: And I would think just putting in the actual motion in the transcript seems acceptable to me. It's the most accurate as well.

COMMISSIONER GAZIANO: Then I move to have the minutes amended to include the language of the motions that I offered.

COMMISSIONER KLADNEY: I second.

CHAIRMAN CASTRO: Okay. So all those in favor of the approval of the minutes and the amendment to the minutes, signify by saying, "Aye."

(Whereupon, there was a chorus of "Ayes.")

CHAIRMAN CASTRO: Do we need a voice vote on these? I don't think so.
COMMISSIONER HERIOT: Don't we have to vote twice, though?

COMMISSIONER GAZIANO: Yes.

COMMISSIONER HERIOT: Vote on the amendment and --

COMMISSIONER GAZIANO: Now as amended.

CHAIRMAN CASTRO: Yes. So the minutes as amended, all those in favor, say "Aye."

(Whereupon, there was a chorus of "Ayes.")

CHAIRMAN CASTRO: All those opposed?

(No response.)

CHAIRMAN CASTRO: Any abstentions?

(No response.)

CHAIRMAN CASTRO: Okay. The minutes pass. Actually, before we go on to the rest of the agenda, I put in front of your desks, each commissioner as well as our Staff Director, a book. I want to give this to you each as a gift -- it's under the $75 threshold -- in honor of Hispanic Heritage Month, which starts next week.

This is a book called The African Presence in Mexico. It was prepared by the National Museum of Mexican Art, whose board I chaired up until I became Chair of this organization. And this is a seminal work on the relationship between Latinos and
African-Americans, specifically folks of African
descent who went to Mexico as well as freed slaves who
went down to Mexico and the interrelationship and
intermingling of our two cultures.

So I thought that in honor of, one,
Hispanic Heritage Month; and, two, the work of the
Commission, I wanted to give this to each of you as a
small token of my appreciation for your service on the
Commission.

Those commissioners who weren't here, I
will make sure that yours gets to you via mail or
delivery, as the case may be. So I just wanted to
share this with you all.

COMMISSIONER ACHTENBERG: Thank you, Mr.
Chairman.

COMMISSIONER GAZIANO: Thank you very
much.

CHAIRMAN CASTRO: You're welcome. Okay.
So the next item on our agenda since we're going to
put off -- we're on "Program and Planning," but we're
going to put off the age discrimination briefing
report vote until 10:30.

III. PROGRAM PLANNING:
- APPROVAL OF THE 2012 ENFORCEMENT REPORT
PROJECT OUTLINE AND DISCOVERY PLAN
CHAIRMAN CASTRO: So we have a proposed enforcement report project outline and discovery plan. Will the person designated as Staff Director please walk us through that?

DELEGATED THE AUTHORITY OF THE STAFF DIRECTOR TOLHURST: Well, first, the project outline. It's formatted similarly to the ones you've had in the past except I think we've provided you much greater detail as to the actual structure of the paper.

So I don't know that you want me to really walk you through what each chapter would be, but I presume everyone has read.

CHAIRMAN CASTRO: Yes.

DELEGATED THE AUTHORITY OF THE STAFF DIRECTOR TOLHURST: And I'm happy to answer any questions.

CHAIRMAN CASTRO: Okay. So why don't we move to approve it. And then we could have a discussion. So I move that we approve the report project outline and discovery plan. Is there a second?

COMMISSIONER ACHTENBERG: Second.

CHAIRMAN CASTRO: Do we have any discussion, any questions for the Staff Director
designee on this?

COMMISSIONER HERIOT: Wait, wait, wait.

I'm looking for the discovery plan here.

CHAIRMAN CASTRO: It's the first item
under your "Program Planning" tab.

COMMISSIONER GAZIANO: I have one quick
question and then -- by the way, my apology to fellow
commissioners. I had some flooding issues the past
few days. So I'm not as prepared as I ought to be.

On this, I'm looking, turning now to the
timetable, which is on page 12. And so it's probably
in here somewhere. But when does this discovery plan
contemplate we would have a briefing? And that might
be a subject that we as commissioners want to discuss
or either lock in or not lock in or make this
contingent upon that.

DELEGATED THE AUTHORITY OF THE STAFF
DIRECTOR TOLHURST: It lists a briefing as being in
February.

COMMISSIONER GAZIANO: Okay. I'm on the
wrong page. So it's 11.

DELEGATED THE AUTHORITY OF THE STAFF
DIRECTOR TOLHURST: Page 11.

COMMISSIONER GAZIANO: Is that something
that we -- when it was a different topic, we were
going to meet -- now I'm confusing myself. Okay.

When it was a different topic, we were talking about a
field hearing.

CHAIRMAN CASTRO: Yes. This is not, yes.

COMMISSIONER GAZIANO: So I suppose --
well, maybe we want to at least consider this a field
hearing. One of the comments that I know I have heard
from one fellow commissioner is it's too DOJ-centric.
Maybe we should meet in a state that's affected by
section 5, but I'll yield on that.

CHAIRMAN CASTRO: Unfortunately, we don't
have the budget for that. That's why we kind of
withdrew the last field hearing idea.

COMMISSIONER GAZIANO: Okay.

DELEGATED THE AUTHORITY OF THE STAFF
DIRECTOR TOLHURST: The February, to allow more action
from DOJ to go down the pipeline, I would rather have
the briefing later. However, due to the various
drafts and reviews that are required, our first draft
has to be completed by March 2nd. And I picked
February just based on making sure I had time to give
you all the various full periods for the reviews that
are required.

CHAIRMAN CASTRO: Yes. Commissioner
Heriot?
COMMISSIONER HERIOT: I'm looking at the discovery plan here. Let me just lay out some background from my standpoint. When I first came to the Commission or, rather, the year after I came to the Commission, our topic was religious liberties of prisoners. And there were some deep flaws in the way the discovery plan was put together.

CHAIRMAN CASTRO: Did you say "flaws"?

I'm sorry. "Deep flaws"?

COMMISSIONER HERIOT: Deep flaws.

CHAIRMAN CASTRO: Okay.

COMMISSIONER HERIOT: In that case, what they did was looked at reported cases to get a sense of what the typical religious liberties case was like.

And, as a lawyer, you know that reported cases are not a cross-section of cases. And they're not going to give you a cross-section view of what a typical case is like.

And that was when I started insisting on more detailed discovery plans. I felt that was a big mistake that we put so much effort into a discovery plan that by the time the report was written, there was nothing that could be done.

Here we have a page and a half of discovery plan. And it basically says we're going to
go to DOJ and we're going to have a meeting with them. And we're going to ask for a couple of documents here.

That's not good enough. First of all, we should be talking not just to DOJ and not even mainly to DOJ but, rather, to the covered jurisdictions, find out what their experiences have been and not what DOJ says their experience has been. There's all sorts of information that we should be uncovering here that we're not going to get from DOJ.

Remember, we're a civil rights watchdog. Watchdogs do not go to the burglar and say, "Gosh, you know, give us your view of what is happening." We're supposed to be viewing DOJ skeptically. And that means going to the people who might disagree with what they're doing, seeing whether or not we might agree with those covered jurisdictions if they have problems.

Now, it is also important to get DOJ's side of the story. And in the end, we may conclude that DOJ has done a wonderful job, but we need to go to the covered jurisdictions. We need to be asking not just those that have made applications but also those who wanted to make changes to their laws and decided not to because they didn't want to go through
the process. We want to know how much the covered
jurisdictions are spending on legal fees.

There are all sorts of things we want to
know. And it's not here. It's not here. We need
that.

CHAIRMAN CASTRO: Commissioner Kladney?

COMMISSIONER KLADNEY: I agree. We have
to hear from others.

COMMISSIONER YAKI: Commissioner Castro?

Mr. Chair?

CHAIRMAN CASTRO: Yes? I'll just
recognize Commissioner Kladney. And then you can
speak after that.

COMMISSIONER YAKI: No. I just had a
quick question.

CHAIRMAN CASTRO: Okay.

COMMISSIONER YAKI: Are all of our votes
postponed until 7:30? I ask that because I am on a
phone, actually, with somewhat limited battery life.
And if we're not having votes until 7:30, I can log
off and log on and save my battery.

CHAIRMAN CASTRO: No. We just put off the
age discrimination briefing report until that time.
We may end up having --

COMMISSIONER YAKI: So we will be having
votes --

CHAIRMAN CASTRO: We may end up depending on when this discussion on the discovery plan and outline is concluded.

COMMISSIONER YAKI: Okay. I just wanted to make sure.

CHAIRMAN CASTRO: Okay. Commissioner Kladney?

COMMISSIONER KLANDNEY: I agree that we have to hear from others besides DOJ. I was under the impression, though, that the only part of the pre-clearance that we were looking at was the drawing of lines and districts, as opposed to what Commissioner Heriot made it sound like, an overall thing, section 5. Is that your understanding?

COMMISSIONER HERIOT: You know, I'm --

COMMISSIONER KLANDNEY: I'm just trying to get on the same page here. So I thought -- you know, I actually spoke to some people about getting some folks in about redistricting from some of these jurisdictions that have made application and the process. So I don't see any problems with having some folks come here and testify.

COMMISSIONER HERIOT: I think not just testify but, you know, have a questionnaire for them
and, you know, elicit the same information from lots of people like --

COMMISSIONER KLADNEY: As long as we can agree on the questionnaire, I wouldn't have a problem.

COMMISSIONER HERIOT: Oh, yes. Yes. But that's what I want to see. I want to see what the questionnaire is.

DELEGATED THE AUTHORITY OF THE STAFF DIRECTOR TOLHURST: Is it a questionnaire or do you want to issue interrogatories?

COMMISSIONER HERIOT: I'm using the word "questionnaire" loosely.

DELEGATED THE AUTHORITY OF THE STAFF DIRECTOR TOLHURST: Why don't you all amend this to make me add number 4, you know, "Send interrogatories, explain these issues to the covered jurisdictions," with a caveat that if this is an OGC project, there are two of us. I don't know that we can go to every -- well, it's a capacity issue.

But I agree and am happy to add if you want to move to add language to have us go to these jurisdictions.

COMMISSIONER GAZIANO: So moved with the following suggestions. Yes, one of the problems with section 5 is that it applies to mud districts and
thousands of them if you add them all up, but a 
reasonable cross-section of covered jurisdictions, 
including, at least including, the major states and 
maybe all of the states that are covered or partially 
covered and then a reasonable sample of other 
municipal county mud districts but not -- you know, 
within reason. I'm talking about a reasonably small 
number, not in --

COMMISSIONER KLASNEY: What would that be 
after you just got --

COMMISSIONER GAZIANO: I muddied it up. 
You know, if we're sending it --

COMMISSIONER HERIOT: You could take a 
random selection if that is what is necessary.

COMMISSIONER GAZIANO: Yes. If we're 
talking about -- how many states? Vice Chair 
Thernstrom, are you on the line?

(No response.)

COMMISSIONER GAZIANO: At least a handful 
of certain --

COMMISSIONER HERIOT: I think more than a 
handful.

CHAIRMAN CASTRO: I think someone had said 
earlier interrogatories explaining these issues would 
be sent to a reasonable cross-section of covered
jurisdictions.

COMMISSIONER GAZIANO: That's fine. And, to respond to Commissioner Kladney's question, it has been the practice and I assume it will be that draft interrogatories or requests for production -- and you may include requests for production in this as well -- are circulated to commissioners in time for their comment.

That gives us an opportunity to raise it at a meeting and make a motion or whatever. But usually we just provide our input to staff. And hopefully they do what's wise and --

COMMISSIONER KLADNEY: Right. Thank you very much.

CHAIRMAN CASTRO: Okay. So we will add that line, which is interrogatories exploring these issues directed to a reasonable cross-section of covered jurisdictions would be item number 4 on page 2 of the discovery plan. So, with that amendment or that addition -- do we need a vote on that amendment? Wait. I can do it all at once as a package, right?

COMMISSIONER HERIOT: You can have it by unanimous consent?

CHAIRMAN CASTRO: Yes. Can we do this by unanimous consent? Commissioners?
COMMISSIONER Kladney: Does the amendment just limit us to the restructuring, which is the subject matter of the inquiry? We're not going to be looking at anything else under pre-clearance.

Chairman Castro: I think that is clear, but we want to --

Commissioner Gaziano: Some of the items Commissioner Heriot mentioned, like attorney fees, and dealing with -- you know, would still apply to whatever it is we're --

Commissioner Kladney: As long as we're not just talking about voting booths or --

Chairman Castro: No. Redistricting is the issue. Okay.

So have moved, a motion. And do we have a second on this project discovery plan?

Commissioner Achtenberg: Second.

Chairman Castro: All those in favor?

Actually, let me take an individual vote. Vice Chair Thernstrom, how do you vote?

(No response.)

Chairman Castro: Commissioner Kirsanow?

I think he's still off the line.

(No response.)

Chairman Castro: Commissioner Heriot?
COMMISSIONER HERIOT: Are you asking for a vote?

CHAIRMAN CASTRO: Yes.

COMMISSIONER HERIOT: Well, I guess it's yes.

CHAIRMAN CASTRO: Okay. Good.

Commissioner Gaziano?

COMMISSIONER GAZIANO: Yes.

COMMISSIONER HERIOT: That's yes with the understanding that we can like raise motions at later meetings.

CHAIRMAN CASTRO: Yes. Commissioner Kladney?

COMMISSIONER Kladney: Yes.

CHAIRMAN CASTRO: Commissioner Achtenberg?

COMMISSIONER ACHTENBERG: Yes.

CHAIRMAN CASTRO: Commissioner Yaki?

COMMISSIONER YAKI: No.

CHAIRMAN CASTRO: No? Okay. I vote in favor. So the motion passes with five yeses and one no. Okay. Before we move on to "Management and Operations" --

COMMISSIONER YAKI: Someone just came back on the line.

TIM FAY: Mr. Chair, I am going to
conference the Vice Chair back in one moment.

CHAIRMAN CASTRO: Okay.

COMMISSIONER HERIOT: Mr. Chairman?

CHAIRMAN CASTRO: Yes?

COMMISSIONER HERIOT: There was something in this about scheduling that I am concerned about.

CHAIRMAN CASTRO: What was that?

TIM FAY: Thank you. The Vice Chair is back on line.

CHAIRMAN CASTRO: Thank you.

What was your concern, Commissioner Heriot?

COMMISSIONER HERIOT: Somewhere in here, it shaves the amount of time for commissioners to do their statements. And I can understand why with the bullying report we needed to come up with some way to get the report in on time, but I don't see that we have that problem this time. And I would object to shaving off even a couple of days on --

CHAIRMAN CASTRO: I will defer to the Acting Staff Director on that question. Was that the case?

DELEGATED THE AUTHORITY OF THE STAFF DIRECTOR TOLHURST: This is your first statements after the --
COMMISSIONER KLADNEY: Three days under a month?

DELEGATED THE AUTHORITY OF THE STAFF DIRECTOR TOLHURST: Yes.

COMMISSIONER HERIOT: Three days can make a lot of difference because for me, it's the weekends that matter.

DELEGATED THE AUTHORITY OF THE STAFF DIRECTOR TOLHURST: Well, all I can say is I tried to give you all as close to the 30/30 that are required with all the other reviews. At many stages, commissioners have the report longer than the people that are actually composing it. And in order to preserve as much as I could of your 30/30, I shaved considerable time off of almost every staff period of time to draft the report.

And if we ever get a permanent Staff Director, they're going to be pretty annoyed with me because I cut their time almost entirely for review. So I tried to keep commissioners whenever possible and cut my own time to achieve that. And this is the best I could do.

COMMISSIONER HERIOT: I object to that. Our initial deal here was that our time would not be cut, that this is something that is still a year away.
And I think we've got to work out some way where we get our 30 day.

COMMISSIONER GAZIANO: One other. Maybe we should have approved our meeting times first since we haven't approved July 13th and August 17th as our meeting days yet and I was going to suggest an amendment to one of those.

So I certainly join Commissioner Heriot in saying that we had an understanding that 30/30 would not be shaved. But it may depend just a teeny -- these are contingent on us approving the report on a certain day and our statements being in before -- I suppose it doesn't -- yes, being in on August.

So should we hold open the precise dates that commissioner statements will be due and approve the rest until maybe later, after we approve our meeting calendar?

CHAIRMAN CASTRO: Is there some adjustment we could make to that, Madam Acting Staff Director, to accommodate that concern somewhere in the calendar?

DELEGATED THE AUTHORITY OF THE STAFF DIRECTOR TOLHURST: I don't know about the statements. I see the vote on the final report is on the meeting day if you want to -- you can approve a timeline and say, "Contingent upon the meeting calendar."
CHAIRMAN CASTRO: But does that address the concern?

DELEGATED THE AUTHORITY OF THE STAFF DIRECTOR TOLHURST: It doesn't. If commissioners want to suggest another place on the timeline where we can shave three days and push everything up? But this is what I can do unless you want to forego some step along the way.

Under the AI that created this, the report actually was supposed to start even prior to when it has.

CHAIRMAN CASTRO: Well, we could play with the meeting dates, but if that doesn't accomplish giving them the additional time, then I --

COMMISSIONER GAZIANO: Well, it is difficult to do one without the other is what I was suggesting. Because our first statement has to be on the report and findings as adopted, you know, it may mean that we -- I don't think we want to meet on July -- maybe we do want to. What's the Friday?

COMMISSIONER KLASTNEY: July 13th is a Friday. It's not going to even --

COMMISSIONER YAKI: Excuse me? What is this discussion about again?

CHAIRMAN CASTRO: Commissioners Heriot and
Gaziano are concerned that the proposed project outline does not afford them their full 30 days to submit a --

DELEGATED THE AUTHORITY OF THE STAFF DIRECTOR TOLHURST: So what --

COMMISSIONER GAZIANO: Is a July 6th meeting day --

COMMISSIONER YAKI: I'm sorry. Is there something in the AI that gives them 30 days for rebuttal, please? I know that there was a discussion on 30 days on the prior report, but if we're going to have this discussion, I want a full discussion on this. I don't want to just blow into this whole thing because I have very strong opinions about this.

COMMISSIONER GAZIANO: We adopted a motion in February on that.

COMMISSIONER YAKI: That was for that statutory report.

COMMISSIONER GAZIANO: No. It was an exception that incorporated and codified in a way the practice amongst ourselves to have 30 and 30.

COMMISSIONER YAKI: I think this is ridiculous. It's a waste of staff time. It's a waste of resources. If you can't say what you're going to say, I would rather give additional time for
statements to be done than to have this back and forth
stuff that goes on that really adds nothing other than
time and money --

COMMISSIONER HERIOT: I understand why you
don't like rebuttals, Commissioner Yaki.

CHAIRMAN CASTRO: Okay. Let me --

COMMISSIONER YAKI: Who was that
blathering in the background?

CHAIRMAN CASTRO: Let's treat each other
with respect, please. So if we were to have our July
meeting, instead of on July 13th, which is the
proposed date right now, we had our meeting on July
6th instead --

COMMISSIONER GAZIANO: And people are
willing to travel that week, a holiday week. I am.

CHAIRMAN CASTRO: It's a question of, are
your 30 days more important than traveling on a
holiday. So I'm told that if we were to move that to
July 6th, you would have your time. So if that's
acceptable, I think we can make that change here.

Then when we come to vote on the calendar, we'll just
make sure it's July 6th, as opposed to July 13th.

Does July 6th work for everybody?

(No response.)

CHAIRMAN CASTRO: Okay. Then that's what
we will do. Okay?

COMMISSIONER ACHTENBERG: Thank you.

CHAIRMAN CASTRO: You're welcome.

Any other questions on this? If not, we will move on to discuss --

COMMISSIONER YAKI: I am restating my objection of a 30-day rebuttal period. I think when you see what it does, for instance, all of this time I don't believe it's binding on this report. And it's not in keeping with past practices of statutory reports other than the previous one. And I think it's a complete and utter waste of time.

CHAIRMAN CASTRO: Thank you, Commissioner Yaki. Actually, I let you retain the floor. We're going to move on now to the resolution on the King memorial. Would you like to --

COMMISSIONER GAZIANO: Do we need to now adopt it as amended?

CHAIRMAN CASTRO: Yes. So let's make a motion to adopt the --

COMMISSIONER GAZIANO: I move that the discovery plan be adopted as incorporating the various amendments.

CHAIRMAN CASTRO: Do we have a second?

(No response.)
CHAIRMAN CASTRO: I'll second it.

COMMISSIONER HERIOT: Do we have actual dates now to put in?

COMMISSIONER GAZIANO: We just had July 6th.

CHAIRMAN CASTRO: Yes.

COMMISSIONER GAZIANO: It will be adjusted --

CHAIRMAN CASTRO: It will be adjusted when we vote on the calendar.

COMMISSIONER HERIOT: Okay.

CHAIRMAN CASTRO: But you'll make sure you have your 30 days.

COMMISSIONER HERIOT: Okay.

CHAIRMAN CASTRO: So let's do a vote, an individual vote. Vice Chair Thernstrom, how do you vote?

(No response.)

CHAIRMAN CASTRO: She's not there. Okay. Commissioner Kirsanow, are you on the phone yet?

(No response.)

CHAIRMAN CASTRO: No. Commissioner Heriot?

COMMISSIONER HERIOT: Yes.

CHAIRMAN CASTRO: Commissioner Gaziano?
COMMISSIONER GAZIANO: Yes.

CHAIRMAN CASTRO: Commissioner Kladney?

COMMISSIONER KLADNEY: Yes.

CHAIRMAN CASTRO: Commissioner Achtenberg?

COMMISSIONER ACHTENBERG: Yes.

CHAIRMAN CASTRO: Commissioner Yaki?

COMMISSIONER YAKI: No.

CHAIRMAN CASTRO: And I vote in favor.

The motion passes with five yeses and one no.

VICE CHAIRMAN THERNSTROM: It's impossible. What are they voting on now?

CHAIRMAN CASTRO: We were voting to amend the proposed timeline to make the Commission's final report except for a vote on July 6th --

VICE CHAIRMAN THERNSTROM: I don't have the calendar in front of me. I have no idea whether I can because I don't have my computer. It's in the shop. I have no idea whether I can make a change in the meeting day.

CHAIRMAN CASTRO: Okay. So do you vote no or abstain?

VICE CHAIRMAN THERNSTROM: I can't participate in this meeting. It's impossible. I can barely hear people. You know, I can't come in.

CHAIRMAN CASTRO: We're sorry it's not the
ideal situation.

VICE CHAIRMAN THERNSTROM: No, but it's very clear that it's impossible. I mean, they rattle on and it's -- you know, I mean, it's not conducive. Aside from the fact that I wasn't heard when I tried to come in before, it's clear.

CHAIRMAN CASTRO: No. We know. And that's why we moved away from phone meetings.

VICE CHAIRMAN THERNSTROM: It's kind of complicated --

CHAIRMAN CASTRO: Because this is --

VICE CHAIRMAN THERNSTROM: I advocated --

CHAIRMAN CASTRO: I'm sorry, Madam Vice Chair.

VICE CHAIRMAN THERNSTROM: The discussion going on about these stupid -- the time given for people to sound off in rebuttals. This is not a forum in which I can participate.

CHAIRMAN CASTRO: Yes. We're sorry. Well, to the extent you can stay on, perhaps it will improve.

VICE CHAIRMAN THERNSTROM: It's on the phone. It's a different one.

CHAIRMAN CASTRO: Okay. Yes. Now we'll move on to the proposed resolution that Commissioner
Yaki would like to present. Commissioner?

VICE CHAIRMAN THERNSTROM: I can do that, but I wish you would pass a note to Marty that I have no idea -- oh, I see.

CHAIRMAN CASTRO: We can hear you, Madam Vice Chair.

VICE CHAIRMAN THERNSTROM: I tried you on the sixth floor.

CHAIRMAN CASTRO: Commissioner Yaki?

COMMISSIONER YAKI: Before I do, I just want to echo what Commissioner Thernstrom said because the only voice that comes out clear and legible, intelligible is yours, Mr. Chair. Everyone else's microphone or whatever either doesn't work very well or isn't patched in at the right level because I can barely hear anything that everyone else says.

CHAIRMAN CASTRO: Pam, is there something we could do to check into that, please? We're having staff look into that right now. Again, our apologies.

COMMISSIONER GAZIANO: We'll try to --

CHAIRMAN CASTRO: If everyone can speak up?

COMMISSIONER GAZIANO: -- pull the microphones closer to us and speak into the --

COMMISSIONER YAKI: Well, as for my point,
I didn't necessarily say that was a bad thing. But anyway --

CHAIRMAN CASTRO: Okay.

COMMISSIONER YAKI: Let me just start by saying that the Commission in the past voted to support the Martin Luther King Memorial on the Mall. And I think it's a great day that has finally come to fruition through the hard work of a national memorial foundation.

However, there has been some controversy involving the inscription on the north face of the statue where after a committee that had worked on choosing a quote had chosen a quote from a sermon that Dr. King gave in 1968. At some point, the designer or some other small subcommittee decided that it was too long and decided to truncate the quote that the earlier committee had approved.

In some ways, you might think that might not mean too much as long as we got the gist of what the quote was supposed to be. But the problem is that in some ways by altering and paraphrasing the quotes, there is serious concern that the way in which it was altered turns the intent and mean of the quote on its head.

You should now have the information before
you about how the quote now, the inscription now reads
and what the original quote was, but the point of the
sermon that Dr. King gave was to critique and endorse
humility and praise for good works, not for good
people. And the quote seems to embody more of a
self-aggrandizing type of description, which was
contrary to what Dr. King wanted to say.

A number of newspapers have weighed in in
favor of changing the inscription. Maya Angelou, who
is on the committee and who approved the original
quote but not the truncated quote, has asked for it to
be changed.

I think as a Commission that owes its
legacy to Dr. King and his good works, it would be
appropriate for us to weigh in and send a letter to
the foundation urging them to restore the quote to its
original glory that reflects the full intent and great
humidity of Dr. King, rather than the quote that
stands there today.

Ultimately this may be a tempest in the
teapot, but I do think that given this Commission's
particular debt to Dr. King, we should ask that his
original words -- and his original words, as you know,
are filled with poetry and thunder and incredible
inspiration -- should be the ones that are on the
memorial and not what some people chose to paraphrase. Thank you.

CHAIRMAN CASTRO: So that's your motion. Do we have a second on the motion for this resolution?

COMMISSIONER GAZIANO: I second.

CHAIRMAN CASTRO: Okay. Do we have any discussion on this? Commissioner Gaziano?

COMMISSIONER GAZIANO: Yes. Commissioner Yaki has noted how strange it is when he joins one of my motions or agrees with me. I not only enthusiastically support this. I commend Commissioner Yaki for bringing it to the Commission's attention.

You know, just for the record, I think that I would have chosen even a different -- even if they had the original quote, even that does not provide the power -- I might have chosen a different one because even this doesn't show the -- in context, it's an incredibly powerful statement but absolutely we should urge that it be changed.

I won't go into why I thought it was so stupid that the architect said he had prepared one side for -- it is just an unbelievable decision to me. I wish I could remember what Maya Angelou said. It was something like it makes Martin Luther King sound like an egotistical twit, but maybe "twit"
is not the right word.

(Laughter.)

COMMISSIONER ACHTENBERG: Arrogant twit.

COMMISSIONER GAZIANO: Arrogant twit.

Arrogant twit. Okay. I got the "twit" part right.

And I don't amend the motion. The motion is fine the way it is. But I would just ask the Chair if there was an opportunity to circulate the draft letter to that if we had a suggestion or two, that we could provide it to you.

CHAIRMAN CASTRO: Yes. And I think it would be great if we all signed it as well so that it shows the individual force of all the commissioners.

Commissioner Heriot?

COMMISSIONER HERIOT: I just wanted to add this is the first I had heard about this issue. This is a travesty. This is incredible. So I enthusiastically support the motion.

CHAIRMAN CASTRO: Any other discussion?

COMMISSIONER YAKI: This is Commissioner Yaki. I would just like to thank Commissioners Heriot and Gaziano for their support. And it is a good thing that I am doing this by phone because I am doing this from a prone position on the floor.

(Laughter.)
CHAIRMAN CASTRO: Okay. If there is no further discussion, we will take a vote. Vice Chair Thernstrom, how do you vote?

VICE CHAIRMAN THERNSTROM: Oh, absolutely. And I think there are other things wrong with the memorial as well. I mean, but the starting problem with that memorial is it was contracted out to a Chinese sculptor, who made Martin Luther King look like Mao. I mean, it's very similar to kind of Mao memorials in China.

I find the whole memorial disturbing. And since King is one of our founding fathers, in effect, he should have been honored with not only proper inscriptions but I think with a proper memorial designed by somebody who was committed to celebrating his legacy and not somebody completely disconnected from American society.

CHAIRMAN CASTRO: All right. Commissioner Kirsanow, are you back on?

(No response.)

CHAIRMAN CASTRO: Okay. Commissioner Heriot?

COMMISSIONER HERIOT: Yes.

CHAIRMAN CASTRO: Commissioner Gaziano?

COMMISSIONER GAZIANO: Yes.
CHAIRMAN CASTRO: Commissioner Kladney?

COMMISSIONER KLASDEY: Yes.

CHAIRMAN CASTRO: Commissioner Achtenberg?

COMMISSIONER ACHTENBERG: Yes.

CHAIRMAN CASTRO: Commissioner Yaki?

COMMISSIONER YAKI: Yes.

CHAIRMAN CASTRO: And I vote yes. So we have a unanimous vote in support of the resolution. We will circulate it for everyone's review and signature.

We now move on to our "Management and Operations." Staff Director's report?

IV. MANAGEMENT AND OPERATIONS (Continued)

- STAFF DIRECTOR'S REPORT

DELEGATED THE AUTHORITY OF THE STAFF DIRECTOR TOLHURST: The two main items I had today, one is the budget, which I circulated to commissioners yesterday and is a separate item on the agenda.

The other thing is just the very good news that we have finally signed our lease. We will be at 1331 Pennsylvania Avenue.

COMMISSIONER HERIOT: Say that again.

DELEGATED THE AUTHORITY OF THE STAFF DIRECTOR TOLHURST: One three three one Pennsylvania Avenue, which is National Place. I have a map for
CHAIRMAN CASTRO: Great.

DELEGATED THE AUTHORITY OF THE STAFF

DIRECTOR TOLHURST: You can see where it is, not to diminish the understated grammar that is this building, but I think --

(Laughter.)

DELEGATED THE AUTHORITY OF THE STAFF

DIRECTOR TOLHURST: -- people will be very pleased. Pamela was kind enough to take me on a tour of the building. And the lobby has, I believe, eight functioning elevators, which --

CHAIRMAN CASTRO: Just so you know, this is the Chair's office.

(Laughter.)

COMMISSIONER GAZIANO: According to, for those on the phone, the marble inlay lobby.

DELEGATED THE AUTHORITY OF THE STAFF

DIRECTOR TOLHURST: So now the move-in date is somewhat tentative because they need to gut the interior and rebuild to our specifications. The hope is that we would move in sometime in late summer next year.

CHAIRMAN CASTRO: Great.

DELEGATED THE AUTHORITY OF THE STAFF
DIRECTOR TOLHURST: And we did receive 14 months' free rent.

CHAIRMAN CASTRO: Someone asked what floor we're on.

DELEGATED THE AUTHORITY OF THE STAFF

DIRECTOR TOLHURST: Eleventh.

CHAIRMAN CASTRO: Moving on up.

COMMISSIONER ACHTENBERG: Good number.

CHAIRMAN CASTRO: Yes. Any questions on that?

COMMISSIONER HERIOT: Could we have gotten --

COMMISSIONER ACHTENBERG: Mr. Chairman?

COMMISSIONER HERIOT: -- for cheaper?

CHAIRMAN CASTRO: Yes, probably. Commissioner Achtenberg?

COMMISSIONER ACHTENBERG: Mr. Chairman, to the Staff Director, in terms of layout and all of that good stuff and with particular attention to the modest but important needs of the commissioners, I was wondering if there's going to be or can there be provided some kind of space, like an anteroom or something approximate to the Commission chambers that allows commissioners to step into for caucusing purposes or what have you.
I have been the member of many bodies that had that kind of space. And it invariably assists the commissioners in arriving at agreeable results when such agreement is possible, as opposed to impossible.

DELEGATED THE AUTHORITY OF THE STAFF DIRECTOR TOLHURST: Certainly. The architect is just now meeting with staff to make plans. And I can pass that request along. It makes a lot of sense.

COMMISSIONER ACHTENBERG: Thank you very much.

COMMISSIONER GAZIANO: Good. I think it makes a lot of sense. Obviously it could be some sort of multipurpose room --

COMMISSIONER ACHTENBERG: It could be a multipurpose room for sure.

CHAIRMAN CASTRO: Right.

COMMISSIONER GAZIANO: -- so that it doesn't just serve to be available for 15 minutes at a time when we meet once a month.

COMMISSIONER ACHTENBERG: Sure.

COMMISSIONER GAZIANO: But obviously that makes a lot of sense.

COMMISSIONER ACHTENBERG: Indeed.

CHAIRMAN CASTRO: Great. Okay. Did you want to talk about the 2013 budget? Any questions?
DELEGATED THE AUTHORITY OF THE STAFF

DIRECTOR TOLHURST: I passed out materials yesterday.  
If people have questions, I can answer them, but it's   
a very preliminary stage. And I will certainly if you  
don't have questions keep you posted as things move  
on.

- DISCUSSION OF THE 2012 MEETING CALENDAR

CHAIRMAN CASTRO: Okay. Now we move on to   
the important 2012 calendar, which we already began  
some discussions on.

COMMISSIONER GAZIANO: On the budget, if I    
could just ask -- I would have abstained if there was   
going to be any vote on it. I just haven't had a  
chance to study what you sent for my personal reasons.  

But we had requested about three or more    
months ago to have sort of periodic detailed  
information on the budget. And I don't know if --  
this is the first item that I think I have received  
since that time.
COMMISSIONER GAZIANO: What I meant is we had -- I thought there was a general sense of commissioners. And I would join Commissioners Yaki and Melendez when I was, arguably, not in the minority -- as an Independent, I'm always in the minority -- even then for regularly how we're spending our money.

DELEGATED THE AUTHORITY OF THE STAFF DIRECTOR TOLHURST: Do you want the monthly spreadsheet?

COMMISSIONER GAZIANO: Maybe, yes. Probably. And one of the issues that came up -- and I'll just pose this question -- for example, is we would say, "No, we can't do this because we don't have budget," "We can't do this field hearing because we don't."

And then we would have $800,000 left at the end of the year. And we would go into a spending frenzy so that we didn't lose it. I think these desks with these horrible pads that I hate are a function, the chairs.

You know, if we could better track not just what our future appropriation or budget is but help the Staff Director. Your current circumstances and staffing needs I perfectly understand a lot of our requests are difficult and we don't have half of the
officers and staff that we should.

But are we going to have a large surplus like we have had at the end of the fiscal year? Are you engaged in a spending frenzy? And if so, can we make some suggestions?

CHAIRMAN CASTRO: Yes. I think it is a helpful idea --


CHAIRMAN CASTRO: -- to have. Yes.

DELEGATED THE AUTHORITY OF THE STAFF DIRECTOR TOLHURST: If we could send the monthly spreadsheet?

CHAIRMAN CASTRO: Yes.

DELEGATED THE AUTHORITY OF THE STAFF DIRECTOR TOLHURST: I am not engaged in a spending frenzy. I think those days are sadly probably over for us. Our budget is likely to go down. But I am happy.

Why don't I for this first one send you the regular spreadsheet and see if that's what you want? And then if you want something different, we can.

COMMISSIONER GAZIANO: Okay. Thank you.

CHAIRMAN CASTRO: And, as a reminder, I
was just reminded that when this question came up a couple of meetings ago, our CFO did indicate to the extent that there were unused funds that this year we're being pushed to use --

COMMISSIONER GAZIANO: Oh, that's right.

There were some ways for the --

CHAIRMAN CASTRO: Yes.

COMMISSIONER GAZIANO: -- to prepay for the moving.

CHAIRMAN CASTRO: Right.

COMMISSIONER GAZIANO: But I hope -- I am sure that it will be done legally, but if we're just building out, it seems like someone is going to have to get those contracts signed, sealed, and it be proper, even if it's six months from now that we're going to move.

CHAIRMAN CASTRO: I'm sure the staff is doing it in all appropriate manners, but we will definitely -- I like -- the idea of having a spreadsheet on a monthly basis with our materials we can take a look at is an excellent idea. Thank you.

So now on to the 2012 meeting calendar. I circulated through the Staff Director's office some dates, trying to accommodate the dates that some folks have already indicated were not convenient for them
and also trying to keep from crossing onto any
holidays. Even one of these dates actually turns out
to be inconvenient for me: January 13th. I'd prefer
another date.

Are there any questions, concerns? I know
we have already indicated that July will be July 6th.

COMMISSIONER KLADNEY: I actually have a
question about that.

CHAIRMAN CASTRO: Yes?

COMMISSIONER KLADNEY: I wasn't actually
engaged -- so I apologize -- for July 6th. But is
that going to cause -- I was thinking because July 4th
is two days before. Is there some other accommodation
we can make because of staff and whatever?

COMMISSIONER GAZIANO: One possibility --
I hasten to say this -- if we keep --

COMMISSIONER YAKI: On this one, I really
need to be able to hear people. And I can't hear
people.

CHAIRMAN CASTRO: Commissioner Kladney
asked if there was some way to do a date other than
July 6 because of the holiday. And so Commissioner
Gaziano was about to answer that.

COMMISSIONER GAZIANO: If we keep July 13
but we move August to the following day, that is
another possible way of doing the same thing I was
going to suggest earlier. And I would slightly prefer
that. I can make these work, but --

COMMISSIONER KLADNEY: I would think that
would be better, especially for all concerned, when
you have staff that gets ready for the meeting. It is
a big meeting. It has to whatever -- the 4th is the
4th. No? And we have the travel issue on --

COMMISSIONER HERIOT: How would that work,
though, to move the --

COMMISSIONER GAZIANO: It could
accommodate 30/30 still.

COMMISSIONER HERIOT: Why?

COMMISSIONER GAZIANO: Pardon?

COMMISSIONER HERIOT: Why does all of this
hinge on when the August date is, rather than when the
July date is? It's the July date that we vote on the
report.

COMMISSIONER GAZIANO: You're right.

COMMISSIONER HERIOT: And at that point,
it's autonomous.

CHAIRMAN CASTRO: So I think July -- and
it's an inconvenient time, but I think --

COMMISSIONER KLADNEY: I just --

CHAIRMAN CASTRO: Yes. The July --
COMMISSIONER KLADNEY: There was no discussion about it. The light bulb went off.

CHAIRMAN CASTRO: To that point, if we could move the January 13th meeting to January 6th? Because I know we can't do it the 20th. Well, there was a concern about the 20th because it's too close to February's meeting and it's always the week of the King holiday.

COMMISSIONER GAZIANO: Is that better or worse? Do people want to be in town for the King holiday for some reason?

CHAIRMAN CASTRO: Yes. I don't know. I mean, I would prefer that it not be January 13th if we can make an accommodation.

COMMISSIONER GAZIANO: I'm happy to have it moved.

COMMISSIONER HERIOT: I can't. The 20th is not going to work for me.

CHAIRMAN CASTRO: Okay.

COMMISSIONER GAZIANO: But the 6th is what he proposed.

COMMISSIONER HERIOT: The 6th I can do.

CHAIRMAN CASTRO: Yes, the 6th. Would January 6 work for folks? I know it's right after the new year.
COMMISSIONER YAKI: I'm supposed to be away that week.

CHAIRMAN CASTRO: Okay.

COMMISSIONER YAKI: I mean, the question --

CHAIRMAN CASTRO: Then we'll just do it the 13th.

COMMISSIONER YAKI: Why doesn't the 20th work?

CHAIRMAN CASTRO: The 20th?

COMMISSIONER HERIOT: The 20th is bad for me.

COMMISSIONER YAKI: Well, one of the things I have always wondered is why we're stuck on -- if we have to have an alternate day, why are we stuck on Fridays?

CHAIRMAN CASTRO: Yes. I mean, that week, could we do it earlier in the week?

COMMISSIONER HERIOT: I teach on Mondays and Wednesdays.

CHAIRMAN CASTRO: All right. Well, the --

COMMISSIONER HERIOT: I could take the red eye and get here on a Thursday, but then I would want somebody to administer coffee to me immediately upon arrival.
CHAIRMAN CASTRO: Yes. Let's just keep it
the 13th because it complicated that. I'll just make
an adjustment on my schedule.

COMMISSIONER GAZIANO: I think I can make
the 15th. I have a slight preference against it. If
someone else does, I won't push it unless it's --

CHAIRMAN CASTRO: The 13th you mean?

COMMISSIONER GAZIANO: June.

CHAIRMAN CASTRO: All right. Well, we're
on January here.

COMMISSIONER GAZIANO: Oh, I'm sorry.

CHAIRMAN CASTRO: Okay.

COMMISSIONER GAZIANO: I thought we had
moved on.

CHAIRMAN CASTRO: No, no. So we'll keep
it January 13th, then.

Any other dates here that are problematic?

You said June?

COMMISSIONER GAZIANO: I have a slight,
somewhat slight, preference for any day other than the
15th, but I could make the 15th. So if someone else
has a preference, that's worth moving. Otherwise I'll
just keep it that way.

COMMISSIONER HERIOT: I can make any day
in June.
CHAIRMAN CASTRO: The 22nd I can't if we were to move it. That's my wedding anniversary. Maybe I'll bring my wife here. She would love that.

COMMISSIONER HERIOT: Have you brought her here yet?

CHAIRMAN CASTRO: She's been here but not to a Commission --

COMMISSIONER YAKI: We'll do a resolution in support of your marital bliss.

(Laughter.)

CHAIRMAN CASTRO: That would be great. I'm sure she would appreciate that.

TIM FAY: Pardon me, Mr. Chair. This is Tim Fay. Did the Vice Chair have a concern about the September 14th date next year?

VICE CHAIRMAN THERNSTROM: Well, that happens to be my birthday. And I would prefer not to have a meeting on my birthday. But, frankly, this is a discussion I find very hard to participate in because I don't have my calendar because, on top of all my other woes, my computer is in the shop. And I won't have it back until Monday. So I have no laptop for my calendar.

So the 14th of September? I would prefer not the 14th of September. I would like to do
something else on my birthday besides go to a
Commission meeting.

CHAIRMAN CASTRO: It's really fun, though,
I can assure you.

COMMISSIONER GAZIANO: I was just going to
say we sang "Happy Birthday" to the Chairman.

VICE CHAIRMAN THERNSTROM: Yes. Well, to
the Vice Chair. But these dates are absolutely set in
stone and we can't --

CHAIRMAN CASTRO: No, no. They are not
set in stone. That's what we're talking about right
now.

VICE CHAIRMAN THERNSTROM: I know. I
know. But we can discuss them further closer to the
meeting dates.

COMMISSIONER HERIOT: I have to make
plans.

COMMISSIONER GAZIANO: No. It helps for
us to adopt them. Obviously any motion is subject to
reconsideration. Madam Vice Chair, this was on the
agenda. And dates were circulated.

I sympathize with anyone whose computer
has crashed. That's why I keep a paper calendar,
recommendation --

VICE CHAIRMAN THERNSTROM: Right. That's
a good idea. Only I can't work with my paper --

CHAIRMAN CASTRO: Okay. Why don't we do this? Let's finish June. And then we'll go to September. So June 15th? If we do June 8th?

COMMISSIONER GAZIANO: It's not a big deal.

CHAIRMAN CASTRO: Okay. June 15th?

COMMISSIONER GAZIANO: If someone doesn't have a reason to change, we'll just stick with it.

CHAIRMAN CASTRO: Okay. We'll stay with June 15th. So September? Would September 21 work for folks because the week prior to that is Labor Day weekend.

COMMISSIONER ACHTENBERG: Let's double check the Jewish holidays, --

CHAIRMAN CASTRO: Yes.

COMMISSIONER ACHTENBERG: -- which, of course --

CHAIRMAN CASTRO: Let's see. I've got a calendar here, but I'm not quite sure how to -- oh, here we go. Rosh Hashanah is the 17th, and Yom Kippur is the 26th.

COMMISSIONER ACHTENBERG: Perfect.

CHAIRMAN CASTRO: Okay?

COMMISSIONER ACHTENBERG: Thank you.
CHAIRMAN CASTRO: So would the 21st work for folks, then?

COMMISSIONER ACHTENBERG: Yes.

CHAIRMAN CASTRO: Okay. And any other dates that are a problem?

(No response.)

CHAIRMAN CASTRO: Hearing none, can we have a motion, then?

COMMISSIONER GAZIANO: Actually, I would reconsider.

CHAIRMAN CASTRO: All right.

COMMISSIONER GAZIANO: If no one has an objection, could we do June -- is it -- what is seven days before? Eighth. June 8.

(Laughter.)

CHAIRMAN CASTRO: June 8th? Does that work for folks?

COMMISSIONER ACHTENBERG: Fine with me.

CHAIRMAN CASTRO: June 8th?

VICE CHAIRMAN THERNSTROM: Mr. Chairman?

CHAIRMAN CASTRO: Yes, ma'am?

VICE CHAIRMAN THERNSTROM: I'm sorry. I don't have a calendar in front of me.

CHAIRMAN CASTRO: Okay.

VICE CHAIRMAN THERNSTROM: And I think it
was Michael Yaki who said, "Well, he keeps a paper
calendar." Well, I do, too, but it's in the study. I
cannot walk from my bedroom to the study. I'm sure I
will be able to within a week or so. But, in any
case, I have no way of getting to it. I have no way
of getting to it.

CHAIRMAN CASTRO: Okay. Madam Vice Chair,
may I ask you this? Are all the dates dates that you
have not had a chance to look at or just the changes
that we have made?

VICE CHAIRMAN THERNSTROM: You know, I
haven't been able to check them against my calendar,
but I work on the general assumption since I live in
the D.C. area that dates work for me.

CHAIRMAN CASTRO: Well, why don't we do
this --

VICE CHAIRMAN THERNSTROM: I can't
double-check until I have --

CHAIRMAN CASTRO: Sure.

VICE CHAIRMAN THERNSTROM: -- my computer
back or until I can walk.

CHAIRMAN CASTRO: Why don't we do this?
Why don't we pass this calendar as we have changed it.
And if, for some reason, after you have had an
opportunity to go back and look at your calendar you
have a very big problem with any of these dates, we'll
talk about those specific dates at the next meeting
and see if we can make any --

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

COMMISSIONER HERIOT: February I need to

--

CHAIRMAN CASTRO: Okay. I think we'll do
that. February we'll stick with that just because you
need to do that. So does that work for everybody?

COMMISSIONER ACHTENBERG: Perfect.

CHAIRMAN CASTRO: All right. Subject to
that, then, do we have a motion on this calendar?

COMMISSIONER ACHTENBERG: So moved.

CHAIRMAN CASTRO: Second?

COMMISSIONER HERIOT: Second.

CHAIRMAN CASTRO: Do I need to take -- can
I just do an acclimation vote?

COMMISSIONER ACHTENBERG: Absolutely.

CHAIRMAN CASTRO: All those in favor, say

"Aye."

(Whereupon, there was a chorus of "Ayes.")

CHAIRMAN CASTRO: Any opposed?

(No response.)

CHAIRMAN CASTRO: Any abstentions?
(No response.)

CHAIRMAN CASTRO: Okay. And then we'll look again on some of the post-February dates if there is a problem for the Vice Chair.

Next on the agenda -- Commissioner Kirsanow, are you on the phone now? Commissioner Kirsanow?

(No response.)

CHAIRMAN CASTRO: Okay. Well, we will I guess wait for him for the age discrimination report. Let's go to the SAC issues.

V. STATE ADVISORY COMMITTEE ISSUES:

- RE-CHARTERING THE GEORGIA SAC

CHAIRMAN CASTRO: We have already put off by unanimous consent the vote on the California SAC. So that leaves the Georgia SAC. Let me pull that up here.

You know, we had put that off from the last meeting to this one to make some adjustments. So I will move that the Commission re-charter the Georgia State Advisory Committee.

Under this motion, the Commission appoints the following individuals to that committee based upon recommendations of our Staff Director: Constance Curry, Julius Dudley, Herbert Garrett, Gerardo
Gonzalez, Edna Branch Jackson, Joseph Kippenberg, John
Mayes, Jamal McFadden, Justin Pressley, Arch Stokes,
Charles Tanksley, Jeffrey Tapia.

Pursuant to this motion, the Commission
appoints Charles Tanksley as Chair of this
re-chartered Georgia State Advisory Committee.

These members will serve as uncompensated
government employees. Under this motion, the
Commission authorizes the Staff Director to execute
the appropriate paperwork for appointment.

Is there a second? Is there a second?
COMMISSIONER GAZIANO: Second.
CHAIRMAN CASTRO: Okay. Any discussion?
(No response.)
CHAIRMAN CASTRO: Hearing none, Vice Chair
Thernstrom, how do you vote?
(No response.)
CHAIRMAN CASTRO: Commissioner Kirsanow,
how do you vote?
(No response.)
CHAIRMAN CASTRO: Commissioner Heriot, how
do you vote?
COMMISSIONER HERIOT: I vote no.
CHAIRMAN CASTRO: Commissioner Gaziano,
how do you vote?
COMMISSIONER GAZIANO: I vote no. I was prepared to vote for California if we were going to vote. So I'm not a complete contrarian. But the sort of ideological balance is still not even remotely close to even.

CHAIRMAN CASTRO: Commissioner Yaki, how do you vote?

COMMISSIONER YAKI: Aye.

CHAIRMAN CASTRO: Commissioner Kladney, how do you vote?

COMMISSIONER KLADNEY: Aye.

CHAIRMAN CASTRO: Commissioner Achtenberg, how do you vote?

COMMISSIONER ACHTENBERG: Aye.

CHAIRMAN CASTRO: And I also vote to approve the SAC. We have four yeses, two noes. The SAC passes.

Is Commissioner Kirsanow expected back? Are there any other items pending his arrival? If not, maybe we can take a short recess pending his coming on. So let's say ten minutes. And then we'll be back at 11:00 o'clock to either move forward or determine whether we're going to maybe pass this if he is not available.

(Whereupon, the foregoing matter went off
the record at 10:49 a.m. and went back on the record
at 10:59 a.m.)

CHAIRMAN CASTRO: We're back on the
record. Commissioner Kirsanow, you have the floor.
Do you want to make a motion?

III. PROGRAM PLANNING (Continued)

- APPROVAL OF AGE DISCRIMINATION BRIEFING REPORT

COMMISSIONER KIRSANOW: I'm not sure where
we are, but --

CHAIRMAN CASTRO: We are now at your
report, the age discrimination report. I know it was
your --

COMMISSIONER GAZIANO: If you want to
speak, we have to approve part A before we have
findings.

CHAIRMAN CASTRO: So do you want to make a
motion on your report? Then we'll get a second, and
we'll start discussing it.

COMMISSIONER KIRSANOW: I would move that
the Commission adopt part A of the age discrimination
report.

CHAIRMAN CASTRO: Do we have a second? Do
we have a second? Do we have a second? Do we have a
second?

COMMISSIONER GAZIANO: I second.
COMMISSIONER HERIOT: Okay. Could we have five minutes?

CHAIRMAN CASTRO: Sure.

COMMISSIONER HERIOT: With Pete? Pete?

CHAIRMAN CASTRO: How do you want to do that? Do you want to -- I guess you can call him from another room.

COMMISSIONER GAZIANO: Pete, we'll call you.

COMMISSIONER KIRSANOW: Tell you what. Do you want to call my cell?

COMMISSIONER GAZIANO: Yes.

COMMISSIONER KIRSANOW: Thanks.

CHAIRMAN CASTRO: So we have a five-minute recess for the Republicans and Independents to caucus.

COMMISSIONER HERIOT: Sorry.

CHAIRMAN CASTRO: That's all right. We'll be here.

(Whereupon, the foregoing matter went off the record at 11:00 a.m. and went back on the record at 11:05 a.m.)

CHAIRMAN CASTRO: We're back on the record.

COMMISSIONER GAZIANO: Thank you, Mr. Chairman. I withdraw my second.
CHAIRMAN CASTRO: Okay. So we have a motion that's not seconded. Hearing no second, then I think we will not be addressing that motion, that report.

There was another item that we wanted to talk about.

COMMISSIONER GAZIANO: I move on the same. I move that we not adopt part A at any time.

CHAIRMAN CASTRO: Okay. Do we have a second?

COMMISSIONER GAZIANO: I just want to make sure that --

CHAIRMAN CASTRO: That's fine. Do we have a second on that motion?

COMMISSIONER HERIOT: No.

CHAIRMAN CASTRO: I'll second that motion.

Any discussion?

(No response.)

CHAIRMAN CASTRO: Okay. We'll take a vote. This is the motion not to approve the report as written. And did you say ever?

COMMISSIONER GAZIANO: No. I --

CHAIRMAN CASTRO: Okay.

COMMISSIONER GAZIANO: The report as written.
CHAIRMAN CASTRO: The report as written.

COMMISSIONER KLADEY: Just to be clear, Mr. Chairman, are we talking about the age discrimination report?

CHAIRMAN CASTRO: Yes, we are. Yes, we are.

Vice Chair Thernstrom, how do you vote? "Yes" would mean this report as written is not going to be approved.

VICE CHAIRMAN THERNSTROM: Yes.

CHAIRMAN CASTRO: We'll come back to you if you'd like --

VICE CHAIRMAN THERNSTROM: Yes. Come back.

CHAIRMAN CASTRO: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: I'm going to vote no.

CHAIRMAN CASTRO: Okay. Commissioner Heriot?

COMMISSIONER HERIOT: Yes.

CHAIRMAN CASTRO: Commissioner Gaziano?

COMMISSIONER GAZIANO: Yes. And, again, because I don't think we had any independent scholars other than the EEOC was my reason. Others can vote against it.
COMMISSIONER HERIOT: Right. The EEOC. We're not going to call them scholars.

COMMISSIONER GAZIANO: I said -- okay. You had no independent scholars to actually discuss the data.

CHAIRMAN CASTRO: Commissioner Yaki, how do you vote?

COMMISSIONER YAKI: Aye.

CHAIRMAN CASTRO: Commissioner Kladney, how do you vote?

COMMISSIONER Kladney: I abstain.

CHAIRMAN CASTRO: Commissioner Achtenberg, how do you vote?

COMMISSIONER ACHTENBERG: Aye.

CHAIRMAN CASTRO: And I vote yes as well. We have four yeses, one abstention, and one no. The motion not to approve the report as written passes.

COMMISSIONER ACHTENBERG: You passed the Vice Chair.

CHAIRMAN CASTRO: Oh, Vice Chair, I apologize.

VICE CHAIRMAN THERNSTROM: I'm abstaining.

CHAIRMAN CASTRO: Abstaining. Okay. So the motion carries, and the report does not get approved.
IV. MANAGEMENT AND OPERATIONS (Continued)

- DISCUSSION OF THE 2013 BUDGET

CHAIRMAN CASTRO: We had talked earlier during the break about an item that we wanted to raise during the budget discussion. And that was a conversation that, actually, the Acting Staff Director and I had a while ago and that Commissioner Kladney raised again with us is the idea of moving away from so much paper and trying to make as much of this electronic as possible.

Commissioner Kladney, did you want to go into some detail?

COMMISSIONER Kladney: I just think that making .pdfs, scanning this, and sending this to people makes a lot more sense than -- and you can print off the pages that you're interested in versus running all this paper and all the staff time and all the $14 to send the books out to the people who are not here in the Washington area. I just --

COMMISSIONER KIRSANOW: Pardon me. Commissioner Kladney, I am sorry to interrupt. The Vice Chair and I are having a difficulty hearing you.

COMMISSIONER Kladney: Okay.

COMMISSIONER GAZIANO: Is your mic on?

COMMISSIONER Kladney: I don't know.
(Laughter.)

CHAIRMAN CASTRO: What don't you move it up a little higher, Dave.

COMMISSIONER KLADENY: Sorry. Is that any better, Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Better.

CHAIRMAN CASTRO: Yes, that's better?

Okay.

COMMISSIONER KLADENY: Okay. So basically it was just my opinion that making all this paperwork was a waste of paper. It's a waste of money and sending these booklets out to the West Coast. They send $14-$20, whatever it is, every time when some of us are more than happy to accept it in electronic form. We can print off the pages we want to notate, as opposed to having -- I think in the last book, there were like 400 pages, something like that size. So that's my opinion. And I'd like some discussion on it to see how everybody feels.

CHAIRMAN CASTRO: Commissioner Heriot?

COMMISSIONER HERIOT: As another West Coast person, I sometimes get notebooks that are just too heavy for me. And so it's a waste because I can't carry that much. So I think that's --

CHAIRMAN CASTRO: Commissioner Gaziano?
COMMISSIONER GAZIANO: I approve your effort in the main. Where I think they are very helpful in particular -- and, by the way, I probably will have printed a fair amount or John will assist me. But I find before briefings, particularly our annual report briefings, the collection of scholarly articles I find very helpful in having to collate and print.

So what maybe we just have an understanding -- I don't know if we need a motion -- is that, upon request, if there is a particular binder -- and I like to have it all in a binder. The scholarly articles would be something I would request if that option were available.

CHAIRMAN CASTRO: That's fair enough.

COMMISSIONER KLADNEY: That's fine with me. I mean, I'm just trying to be as --

VICE CHAIRMAN THERNSTROM: Mr. Chairman?

COMMISSIONER KLADNEY: -- conservative as possible.

CHAIRMAN CASTRO: Yes, Madam Vice Chair?

VICE CHAIRMAN THERNSTROM: Yes. I think that option has to be available. I, for one, do not have an industrial-strength printer. So I have no way of printing out that volume of material. I would want
to be able to request of the Commission that it
printed it for me, but I think the principle is
correct that we are drowning in paper we don't need.

CHAIRMAN CASTRO: I agree. And to the
extent they are .pdfs, they can also be I understand
loaded into e-readers or obviously can be distributed
by email. If it's too large, we can always send
somebody a disk. So there are definitely ways. And
to the extent that there are some voluminous articles,
we can always request those be printed.

So I don't know that we need a vote, but I
think there is a consensus here that we would want to
move in that direction. So we would ask the Acting
Staff Director for the October meeting, if we could
begin to implement this request. Okay?

Anything else? Any other business?

(No response.)

CHAIRMAN CASTRO: Hearing none, I will
entertain a motion to adjourn.

VICE CHAIRMAN THERNSTROM: So moved.

CHAIRMAN CASTRO: Second?

(No response.)

CHAIRMAN CASTRO: No second? Everybody
wants to stay? I'll second.

(Laughter.)
COMMISSIONER HERIOT: I'll second.

CHAIRMAN CASTRO: All those in favor,
signify by saying, "Aye."

(Whereupon, there was a chorus of "Ayes.")

CHAIRMAN CASTRO: All right. Thank you all.

(Whereupon, the foregoing matter was concluded at 11:11 a.m.)
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CERTIFICATE

This is to certify that the foregoing transcript

In the matter of: Meeting

Before: US CCR

Date: 09-09-11

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

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Court Reporter