U.S. COMMISSION ON CIVIL RIGHTS

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TELEPHONIC COMMISSION MEETING

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SATURDAY, SEPTEMBER 6, 2008

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The meeting convened telephonically in Apartment 1703, 401 South 12th Street, Arlington, Virginia 22202, at 11:00 a.m., Gerald A. Reynolds, Chairman, presiding.

PRESENT:

GERALD A. REYNOLDS, Chairman
ABIGAIL THERNSTROM, Vice Chairman
TODD F. GAZIANO, COMMISSIONER
GAIL L. HERIOT, COMMISSIONER
PETER N. KIRSANOW, COMMISSIONER
ARLAN D. MELENDEZ, COMMISSIONER
MICHAEL YAKI, COMMISSIONER

MARTIN DANNENFELSER, Staff Director

STAFF PRESENT:

DAVID BLACKWOOD, General Counsel
TINALOUSE MARTIN, Director, Office of Management
EMMA MONROIG, Solicitor and Parliamentarian
DEBRA CARR, Associate Deputy Staff Director, OSD
PAMELA A. DUNSTON, Chief, ASCD
KARA SILVERSTEIN, Attorney-Advisor (OSD)
(11:07 a.m.)

CHAIRMAN REYNOLDS: Good morning. This is Chairman Reynolds. It is approximately -- well, it's 11:07 Eastern Standard Time on September 6, 2008.

We're having a telephonic meeting with the Commissioners participating from different locations. I will call the name of each Commissioner in order to determine if there is a quorum to hold the meeting.

First up, Vice Chair Thernstrom?

(No response.)

Commissioner Gaziano?

COMMISSIONER GAZIANO: Here.

CHAIRMAN REYNOLDS: Commissioner Heriot?

(No response.)

Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Here.

CHAIRMAN REYNOLDS: Commissioner Melendez?

COMMISSIONER MELENDEZ: Here.

CHAIRMAN REYNOLDS: Commissioner Taylor?

(No response.)

Commissioner Yaki?

(No response.)

Commissioner Yaki?
COMMISSIONER YAKI: Oh, yes, I'm here. I'm sorry. There's a time lag, because I'm three hours behind.

(Laughter.)

COMMISSIONER GAZIANO: And let the record reflect that no one voted "present."

CHAIRMAN REYNOLDS: Is the Staff Director present?

STAFF DIRECTOR DANNENFELSER: Present.

CHAIRMAN REYNOLDS: Is the Court Reporter on the line?

THE COURT REPORTER: Yes.

CHAIRMAN REYNOLDS: Okay. The meeting will come to order. If a Commissioner wants to make a statement, please identify yourself first. Whenever it's necessary to take a vote, the following procedure will be followed. I will call out the name of each Commissioner. The Commissioner should then answer yes, no, or abstain. After the voting is concluded, I will read out how each of you has voted, in order to ensure that the tally is correct.

First item up, I move to approve the agenda. Is there a second?

COMMISSIONER YAKI: Second.
COMMISSIONER GAZIANO: Second.

CHAIRMAN REYNOLDS: And who was --

COMMISSIONER GAZIANO: Gaziano seconds.

COMMISSIONER YAKI: No, wait. Yaki seconded that.

COMMISSIONER GAZIANO: Oh, you beat me to it, then.

CHAIRMAN REYNOLDS: Discussion? No, I'm sorry. All those in favor -- bear with me. Commissioner Gaziano, how do you -- how do you vote?

COMMISSIONER GAZIANO: Aye.

VICE CHAIR THERNSTROM: Hi.

CHAIRMAN REYNOLDS: I'm sorry. Is that Abigail Thernstrom?

VICE CHAIR THERNSTROM: I'm finally here. I've been waiting forever on this line.

CHAIRMAN REYNOLDS: Okay. The Court Reporter, please note that Vice Chair Thernstrom has joined the call.

So, Vice Chair Thernstrom, you vote how?

VICE CHAIR THERNSTROM: On what?

CHAIRMAN REYNOLDS: Okay. We are voting to accept the agenda.

VICE CHAIR THERNSTROM: Yes.
CHAIRMAN REYNOLDS: Okay. And --

VICE CHAIR THERNSTROM: And, by the way, I should say our electricity has been out. It is back on, but it has -- if I go blank on this call, it will be because the electricity is out again.

CHAIRMAN REYNOLDS: Okay. Well, call in on your cell phone if that happens.

VICE CHAIR THERNSTROM: I will.

CHAIRMAN REYNOLDS: Okay. Commissioner Gaziano, that was aye, is that correct?

COMMISSIONER GAZIANO: Correct.

CHAIRMAN REYNOLDS: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Aye.

CHAIRMAN REYNOLDS: Commissioner Melendez?

COMMISSIONER MELENDEZ: Yes.

CHAIRMAN REYNOLDS: Commissioner Yaki?

COMMISSIONER YAKI: Yes.

CHAIRMAN REYNOLDS: And the Chairman votes aye.

Okay. Discussion? I'm sorry.

VICE CHAIR THERNSTROM: Yes, what are we discussing?

COMMISSIONER YAKI: We just voted to approve it.
CHAIRMAN REYNOLDS: Yes. I'm discombobulated.

COMMISSIONER YAKI: I know it's early for you. I know it's early for you, Mr. Chair.

CHAIRMAN REYNOLDS: Okay. All right. So Vice Chair Thernstrom voted -- well, it was a unanimous vote.

VICE CHAIR THERNSTROM: It was a unanimous vote.

CHAIRMAN REYNOLDS: Okay. Next up, last week you were provided with a summary of the Commission's fiscal year 2010 budget estimate. As you can see, the Commission is asking for approximately $12.4 million, which is about $770,000 more than the estimated budget that we submitted to OMB for 2009.

This increase reflects funding for 16 new hires, including four additional Commissioner Assistants, so that all Commissioners will have an assistant. It also includes incurring significant cost to comply with the strategic goals set out in the Commission's strategic plan.

These goals include shaping a national conversation on the current and future civil rights issues that identify civil rights priorities for
policymakers, expanding the capacity of federal agencies to raise the awareness of civil rights, and efficiently and effectively executing their civil rights enforcement responsibilities by engaging in strategic partnerships.

To achieve these long-term goals, the Commission is seeking funding for several new initiatives, including completing and distributing a high quality report on the results of a national civil rights conference, supporting more chartered advisory committees than in prior years. Our goal is going to be to -- is to charter 95 percent of our SACs as opposed to the 33 percent which happened in fiscal year 2007. Also, partnering with other federal agencies to conduct public outreach campaigns.

May I have a second?

VICE CHAIR THERNSTROM: Second.

CHAIRMAN REYNOLDS: Discussion?

VICE CHAIR THERNSTROM: Mr. Chairman, what are -- what are our priorities in that package of possible additional spending, were we to be able to afford any of it, any of the proposals?

CHAIRMAN REYNOLDS: I'm sorry. Are you -- if we get the money --
VICE CHAIR THERNSTROM: If we --

CHAIRMAN REYNOLDS: -- then --

VICE CHAIR THERNSTROM: If we have some money to spend, what are our priorities?

CHAIRMAN REYNOLDS: Well, the bulk of it -- and the Staff Director can jump in, but the bulk of it is going toward hiring. We are adding 16 -- 16 FTEs over what we have now, so we would go from 45 FTEs to 61.

VICE CHAIR THERNSTROM: And what percentage of the -- right. And that includes the special assistants.

CHAIRMAN REYNOLDS: That's correct.

VICE CHAIR THERNSTROM: The new special assistants. Okay. But as I recall, it also includes some other hiring. Is that not correct?

COMMISSIONER HERIOT: Hello?

CHAIRMAN REYNOLDS: Yes.

COMMISSIONER HERIOT: Hi, guys. Can I be heard now?

CHAIRMAN REYNOLDS: Commissioner Heriot.

COMMISSIONER HERIOT: I was there on time. I just couldn't talk. Nobody could hear me.

VICE CHAIR THERNSTROM: Yes. Well, I had
some trouble getting on, too.

THE COURT REPORTER: Please identify yourself.

COMMISSIONER HERIOT: Yes. So I voted on the motion to approve the minutes. And I voted aye, but no one could hear me.

CHAIRMAN REYNOLDS: Okay.

THE COURT REPORTER: Excuse me. Can you please identify yourself?

COMMISSIONER HERIOT: Gail Heriot.

THE COURT REPORTER: Thank you.

CHAIRMAN REYNOLDS: Okay. Well --

VICE CHAIR THERNSTROM: I should have the budget in front of me, Gerry. But it's -- but the hiring and I -- as I -- do I --

CHAIRMAN REYNOLDS: Yes, I will read -- I will go down the list. It is four new commission assistants.

VICE CHAIR THERNSTROM: Yes.

CHAIRMAN REYNOLDS: A deputy staff director.

VICE CHAIR THERNSTROM: Exactly.

CHAIRMAN REYNOLDS: A social scientist for OCRE.
VICE CHAIR THERNSTROM: Yes. So this is my question -- that's what I remembered. This is my question. If we have to pick and choose, have we set some priorities? Are we going to set some priorities? Is it a good idea to do so, or a bad idea to do so?

CHAIRMAN REYNOLDS: Well, I think that at this point we are essentially asking for what we need, and we will see what we get back on the passback. And I suspect, while I'm fairly confident that we're not going to get all that we request -- and that point I think it will be appropriate for us to start making some priorities.

VICE CHAIR THERNSTROM: Okay.

CHAIRMAN REYNOLDS: If we get everything, then there is very little work to do.

VICE CHAIR THERNSTROM: Right. No. I mean, the assumption is we're not going to get everything. That was my question about priorities.

CHAIRMAN REYNOLDS: Well, then, it will depend on what we get.

VICE CHAIR THERNSTROM: Okay.

CHAIRMAN REYNOLDS: I mean, if we get 90 percent of what we request, that's -- that's -- that will shape the discussion in a particular way. If we
-- if we get last year's budget or less, then that's a completely different --

VICE CHAIR THERNSTROM: Right.

CHAIRMAN REYNOLDS: -- conversation.

VICE CHAIR THERNSTROM: Right.

COMMISSIONER HERIOT: Well, if we don't set priorities now, is there a possibility that somebody else is going to set them for us?

CHAIRMAN REYNOLDS: No. We will decide how money is spent.

VICE CHAIR THERNSTROM: Okay. So we don't need to have that discussion at this point.

CHAIRMAN REYNOLDS: Other questions?

COMMISSIONER MELENDEZ: Commissioner Melendez. Are we going to then, depending on how much money we get, hold another meeting to prioritize at a later date? Is that what you're saying?

CHAIRMAN REYNOLDS: Exactly.

COMMISSIONER GAZIANO: We first have to do that for 2009 -- this is Commissioner Gaziano -- assuming there is a passback. Won't we have to address 2009 first?

STAFF DIRECTOR DANNENFELSER: This is the Staff Director. The congressional committees have
approved $8.8 million for 2009. There is a question whether or not Congress is going to be operating on a continuing resolution, in which case we could be at the $8,460,000 that we are currently running at for 2009. So we are going to have to deal with that.

The full Congress -- you know, both -- it hasn't even gone to the floor. The appropriations have not gone to the floor of the House or Senate at this point. And it's -- I think it's quite likely that we're going to be dealing with a continuing resolution.

COMMISSIONER GAZIANO: Well, I am still confident Commissioner Yaki can get that increased. But apart from that, I think we will have to deal with that first.

CHAIRMAN REYNOLDS: Hold on now. He hasn't come through on our budget increase yet, despite his close relationships. Commissioner Yaki, that was an insult, and I would like you to respond to it. All right.

COMMISSIONER YAKI: This is Commissioner Yaki, and all I can say in response to that is, you know, when I feel like you deserve it, maybe I'll make that call.
COMMISSIONER GAZIANO: Okay.

VICE CHAIR THERNSTROM: I will refrain from asking what it is we have to do to deserve it.

COMMISSIONER GAZIANO: We shouldn't have opened the can of worms. Let's move on.

CHAIRMAN REYNOLDS: I suspect it would involve a razor, so --

COMMISSIONER YAKI: And because you have to ask, as -- if you have to ask, then that's part of the problem.

VICE CHAIR THERNSTROM: I do know that.

It was a facetious remark.

THE COURT REPORTER: Excuse me. I can only have one person speaking on the line at once for the record.

CHAIRMAN REYNOLDS: I'm sorry?

THE COURT REPORTER: This is the Court Reporter.

CHAIRMAN REYNOLDS: Repeat yourself.

THE COURT REPORTER: This is the Court Reporter.

COMMISSIONER YAKI: Our Court Reporter -- this is Commissioner Yaki -- has said that our light, bantered colloquy has completely discombobulated his
ability to transcribe all of the insults we just hurled at each other.

CHAIRMAN REYNOLDS: Well, that's good. We can protect the guilty, and that came from the Chairman.

All right, folks. Back to business. Comments, questions?

COMMISSIONER MELENDEZ: Yes. Commissioner Melendez. Besides hiring staff, going to the second page about all of these other expenditures, are we going to talk about that?

CHAIRMAN REYNOLDS: We will talk about anything you want to talk about. Which document are you referring to?

COMMISSIONER MELENDEZ: Well, this -- the overview of the 2010 budget formulation. I'm looking at all of the -- the four new Commissioners, and then on the second page we're talking about 30-second public service announcements for 80,000 estimate, 55,000 completing and distributing a high-quality report on results of a national civil rights conference. Is that part of this, or is that something separate?

CHAIRMAN REYNOLDS: It's part of it.
COMMISSIONER MELENDEZ: Okay. But we don't see that line item yet in this budget, or where is that at on the first page? That's just staff, I see, but the breakdown of the other parts of the budget, including those things, are something we can talk about also?

CHAIRMAN REYNOLDS: Yes. Do you have a particular question you -- I mean, is there a particular bullet point you want to discuss?

COMMISSIONER MELENDEZ: I was retaining and going down to that last bullet, next-to-the-last bullet point that says "retaining an organizational efficiency consultant to assess and make recommendations for improving our organizational structure and overall efficiency, 120,000 estimate."

Haven't we done something like that already, or are you saying that we're going to do something similar? Because I know we've had consultants coming in looking at organizational processes. I was just wondering what that one was about.

CHAIRMAN REYNOLDS: We did -- we had a consultant to come in. You will recall Booz Allen came in and provided us some guidance with respect to
our -- the rechartering of the SACs, increasing the efficiencies and putting some procedures in place. And this is -- this is broader. It's not focused just on the rechartering of SACs. That has been done.

COMMISSIONER YAKI: Commissioner Melendez -- Commissioner Yaki -- I believe that that line item was to send me away during Commission meetings to faraway places.

CHAIRMAN REYNOLDS: Yes. You are not too far from Alcatraz.

This is Chairman Reynolds. A question for the Staff Director. The two PSAs that's -- the estimate is $80,000. That seems -- that seems low. Is that for -- is that just for production costs? Could you provide some discussion as to what is covered by the $80,000?

STAFF DIRECTOR DANNENFELSER: Well, it's a combination of the production and distribution of the two PSAs. As it notes, there is one in English and one in Spanish.

COMMISSIONER GAZIANO: Yes. I assume networks run these for free, if they find them appealing. Isn't that correct?

STAFF DIRECTOR DANNENFELSER: Oftentimes
they do. They will do that, but there's also, you know, costs in getting them -- getting them distributed. The air time is free if they agree to do that.

COMMISSIONER GAZIANO: Naturally, there are those costs, but that was my assumption. Thanks for confirming it.

CHAIRMAN REYNOLDS: Okay. And that exchange was between Commissioner --

COMMISSIONER GAZIANO: Gaziano.

CHAIRMAN REYNOLDS: -- Gaziano and the Staff Director.

COMMISSIONER YAKI: Mr. Chairman?

CHAIRMAN REYNOLDS: Yes. Commissioner Yaki?

COMMISSIONER YAKI: Are those PSAs for radio or for TV?

CHAIRMAN REYNOLDS: Mr. Staff Director?

VICE CHAIR THERNSTROM: They're for radio, right?

COMMISSIONER YAKI: They've got to be for radio, because the cost is just way too --

VICE CHAIR THERNSTROM: Yes. No, it's for radio.
STAFF DIRECTOR DANNENFELSER: It is for radio -- radio announcements, yes.

COMMISSIONER YAKI: Okay. Because it is a lot easier to get air time for that.

VICE CHAIR THERNSTROM: I don't think we have ever done TV.

CHAIRMAN REYNOLDS: Other questions?

(No response.)

If there are no additional questions or comments, it is time to vote. Vice Chair Thernstrom, how do you vote?

VICE CHAIR THERNSTROM: Aye.

CHAIRMAN REYNOLDS: Commissioner Gaziano?

COMMISSIONER GAZIANO: Yes.

CHAIRMAN REYNOLDS: Commissioner Heriot?

COMMISSIONER HERIOT: Yes.

CHAIRMAN REYNOLDS: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Aye.

CHAIRMAN REYNOLDS: Commissioner Melendez?

COMMISSIONER MELENDEZ: I'll abstain.

CHAIRMAN REYNOLDS: Commissioner Yaki?

COMMISSIONER YAKI: Yes.

CHAIRMAN REYNOLDS: And the Chairman votes in the affirmative. Just to recap the vote,

Folks, unless you want to discuss some other items, we are done for the day.

COMMISSIONER MELENDEZ: Question.

CHAIRMAN REYNOLDS: Yes.

COMMISSIONER MELENDEZ: For the Friday meeting next week, I was trying to determine how long that was going to go. And were we holding a business meeting after the briefing, and what time would that actually start?

CHAIRMAN REYNOLDS: Okay. As for the first question, when it ends really depends on us. I mean, the speakers have 10 minutes, and depending on how many questions are asked and the length of the exchanges -- in other words, I can't answer you. I can't answer that question.

COMMISSIONER HERIOT: We do have to be prepared to sustain through the afternoon, don't we?

COMMISSIONER GAZIANO: Right. So I just -- I scheduled to fly back Saturday morning, just because I wasn't real sure.

VICE CHAIR THERNSTROM: Yes. No, I think
that's a good idea, and that --

COMMISSIONER HERIOT: I scheduled Saturday, too.

CHAIRMAN REYNOLDS: Okay.

VICE CHAIR THERNSTROM: It would also allow us to take a break for lunch.

STAFF DIRECTOR DENNENFELSER: That would be good.

VICE CHAIR THERNSTROM: Which I think would be great.

CHAIRMAN REYNOLDS: Are there any other questions?

COMMISSIONER YAKI: Yes. This is Commissioner Yaki. Why are we thinking it's going to go late on Saturday afternoon?

CHAIRMAN REYNOLDS: Oh, no, we don't.

VICE CHAIR THERNSTROM: Friday.

COMMISSIONER HERIOT: On Friday.

COMMISSIONER YAKI: Friday?

COMMISSIONER HERIOT: We have both a briefing and a meeting.

COMMISSIONER YAKI: Oh. Well, I'm leaving Friday.

VICE CHAIR THERNSTROM: What time are you
leaving?

COMMISSIONER YAKI: The usual time.

COMMISSIONER GAZIANO: Yes. Let's adjust
the agenda to reflect that.

CHAIRMAN REYNOLDS: Folks, identify
yourselves, so that these witty comments can be
attributed to the authors.

Any other questions?

COMMISSIONER YAKI: No.

CHAIRMAN REYNOLDS: All right, folks.

We're done. Thank you very much.

(Whereupon, at 11:27 a.m., the proceedings in the
foregoing matter were concluded.)