The Meeting convened in Room 540 at 624 Ninth Street, N.W., Washington, D.C. at 9:30 a.m., Abigail Thernstrom, Vice Chairman, presiding.

PRESENT:
ABIGAIL THERNSTROM, VICE CHAIRMAN
JENNIFER C. BRACERAS, COMMISSIONER (via telephone)
GAIL L. HERIOT, COMMISSIONER
PETER N. KIRSANOW, COMMISSIONER (via telephone)
ARLAN D. MELENDEZ, COMMISSIONER
ASHLEY L. TAYLOR, JR., COMMISSIONER
KENNETH L. MARCUS, Staff Director

STAFF PRESENT:
MANUEL ALBA
DAVID BLACKWOOD, General Counsel
MARGARET BUTLER
TERESA BROOKS
CHRISTOPHER BYRNES, Attorney Advisor to the OSD and Acting Deputy General Counsel, OGC
PAMELA A. DUNSTON, Chief, ASCD
LATRICE FOSHEE
MONICA KIBLER
EMMA MONROIG, Solicitor/Parliamentarian
KARA SILVERSTEIN
AUDREY WRIGHT
MICHELE YORKMAN
COMMISSIONER ASSISTANTS PRESENT:
LISA NEUDEL
RICHARD SCHMELCHEL
KIMBERLY SCHULD
# TABLE OF CONTENTS

1. Approval of Agenda ........................................... 5

II. Approval of Minutes of August 24 Meeting .......... 7

III. Announcements .................................................. 7

IV. PROGRAM PLANNING ............................................ 9
   Change of calendar .............................................. 9
   Briefing Book on Minority Children in State Foster Care and Adoption .................................. 13
   Jena, Louisiana ....................................................... 15
VICE CHAIR THERNSTROM: We are proceeding
hope that Commissioner Yaki will be able to join us on
the phone. Evidently the technological problem is at
his end, not ours.

Good morning. I am Vice Chair Abigail
Thernstrom. Meeting will come to order.

This is a meeting of the U.S. Commission
on Civil Rights. 9:30, though it's not really 9:30.
It's a little later. On September 21, 2007. The
meeting is held at 624 9th Street, Northwest, Room
540, Washington, D.C.

The Commissioners are present with the
exception of Commissioners Braceras, Kirsanow and
Yaki, who will in theory participate on the phone.
Although at the moment we only have Commissioner
Kirsanow on the phone.

This morning we will have a briefing on
the Multi-Ethnic Placement Act of 1994, minorities who
are in foster care and adoption only.

This relates to the briefing itself, is
that still correct?

STAFF DIRECTOR MARCUS: The only business
on the agenda relates to the briefing itself. If
there were a motion to amend the agenda --

VICE CHAIR THERNSTROM: Okay.

STAFF DIRECTOR MARCUS: -- other business could be added.

VICE CHAIR THERNSTROM: All right. I thought -- thank you.

COMMISSIONER BRACERAS: Good morning. This is Jennifer Braceras.

VICE CHAIR THERNSTROM: Welcome, Jennifer. And really have just started this minute. So we're at the first item of the agenda, which is the approval of the agenda.

1. Approval of Agenda

VICE CHAIR THERNSTROM: Is there a motion to approve the agenda?

COMMISSIONER MELENDEZ: I'd like to make a motion to amend the agenda for addition of a couple of items. One of the items would be to clarify our scheduling date that we didn't get an answer on the email.

And then the other one would just be a brief announcement on a declaration by the United Nations General Assembly having to do with a declaration on rights of indigenous people.

VICE CHAIR THERNSTROM: That's not an
announcement you want to make today?

COMMISSIONER MELENDEZ: Yes, it is. Yes.

VICE CHAIR THERNSTROM: But that doesn't require --

COMMISSIONER MELENDEZ: Okay. It doesn't require an amended agenda. That's fine.

But the only amended agenda item would be the schedule so that we're clear on what we can resolve over the email.

VICE CHAIR THERNSTROM: All right. That would require -- I'm sorry. We usually have, and I do apologize. I'm looking at this cold because the information about the transcript for this meeting didn't get to me until five minutes ago instead of last night. But we do need then to add an item called Announcements. I assumed that there was such an item in the agenda.

COMMISSIONER MELENDEZ: Yes. Yes.

VICE CHAIR THERNSTROM: Because we usually have an item labeled Announcements.

So, okay. With those amendments. Okay. All in favor indicate by saying aye?

ALL: Aye.

VICE CHAIR THERNSTROM: This is the amended motion. Any opposed? Motion is approved.
II. Approval of Minutes of August 24 Meeting

VICE CHAIR THERNSTROM:

Second item, approval of the minutes of August 24th, 2007 Meeting. Is there a motion to approve those minutes?

COMMISSIONER TAYLOR: So moved.

COMMISSIONER MELENDEZ: Second.

VICE CHAIR THERNSTROM: Any changes, discussions, questions?

All in favor please indicate by saying aye.

ALL: Aye.

VICE CHAIR THERNSTROM: Opposed? motion is approved unanimously.

Okay. So we need to insert at this point maybe Announcements,

STAFF DIRECTOR MARCUS: Yes.

VICE CHAIR THERNSTROM: Announcements.

III. Announcements

COMMISSIONER MELENDEZ: Announcements?

I'm not sure, Madam Chair, if we announce that the month of September was the anniversary of the U.S. Civil Rights Commission. I believe it was September 7th. I don't know if we announced that the last time.
But in addition to that, I would like to note for the record that on Thursday, September 13th, 2007 the United Nations General Assembly overwhelming approved the first Declaration on the Rights of Indigenous Peoples. Among the many rights described in the document the Declaration affirms the rights of all indigenous peoples to self-determination and to preservation of their integrity as a distinct peoples.

I'm sad that the United States was one of just four countries to vote against the Declaration. But pleased that over 140 countries voted for the measure.

The adoption of the Declaration is a historic event that has been decades in the making. I am proud to see the world community take a stand to ensure minimum standards for the survival, dignity and well-being of all indigenous peoples.

Thank you.

VICE CHAIR THERNSTROM: I would like to note for the record that there's some debate over whether the anniversary is the date you gave or January 3rd when the first Commissioners were sworn in and the first meeting took place. And we are planning to have in January an event commemorating that anniversary.
COMMISSIONER MELENDEZ: Okay.

STAFF DIRECTOR MARCUS:

VICE CHAIR THERNSTROM: So in effect January 3rd has been chosen as the correct date. But I thank you --

COMMISSIONER HERIOT: Abby?

VICE CHAIR THERNSTROM: Yes.

COMMISSIONER HERIOT: And the Commission was represented at the Senate Judiciary Committee hearing. I testified on the anniversary of the Civil Rights Act of 1957, which establishes the Commission. But we'd like to draw out our anniversary a little bit longer, so I think that's why we're hoping for a celebration in January.

COMMISSIONER MELENDEZ: Sounds good.

VICE CHAIR THERNSTROM: And I should add that Commissioner Heriot is putting together an impressive or what should be an impressive program. And it is, indeed, something to celebrate. This has been a Commission with a long and illustrious history and has done a lot of extremely important work, obviously. And I'd like to think we continue to do extremely important work.

**IV. PROGRAM PLANNING**

There is also the question of changing the
order of the -- Mr. Melendez, you wanted to change our calendar?

COMMISSIONER MELENDEZ: Yes. I was proposing an email to change the Border Town briefing and move that to November. And basically have the business meeting on October. Just switching those two. Because I was just afraid that there was going to be business on this meeting and it would be basically put off until the Border Town briefing next month, and I didn't want that to happen. Otherwise, you know, we can kind of whatever arrangement we can make that there's no business. I suggested just November for the Border Towns.

The other thing is I think we're still formulating the speakers that. And That's coming up on us really quickly. And so maybe more time would allow us -- I'm getting some calls on some people who want to be part of that panel. And I'm trying to forward them to the Staff Director, but I think we're still in the middle of that process.

VICE CHAIR THERNSTROM: That way we would have a business meeting on October and then the next business meeting would be --

COMMISSIONER MELENDEZ: That would be the last one, is my understanding, for the year.
VICE CHAIR THERNSTROM: In December.

STAFF DIRECTOR MARCUS: So December would be a briefing?

VICE CHAIR THERNSTROM: December's a briefing? You know, we're back to the same problem needing business meetings, have briefings back-to-back. Staff Director, what do you think?

STAFF DIRECTOR MARCUS: It is true we need a business meeting. We've got a lot of business piled up. And it's also true, as Commissioner Melendez indicates, that we don't yet have the panels firmed up for the Border Town briefing. So I don't see a problem from that point of view of having a briefing next month and moving the Border Town briefing until the month after.

VICE CHAIR THERNSTROM: It's not possible, it seems to me, to do without any business in December.

STAFF DIRECTOR MARCUS: Well, it's hard to say this far in advance, but --

VICE CHAIR THERNSTROM: Well, it's unlikely that it's possible.

STAFF DIRECTOR MARCUS: It's very unlikely, yes. The greatest likelihood is that there will be more business by then. I would hope that
there will be SAC charter packages for that meeting, and other business as well.

COMMISSIONER HERIOT: Can I make a suggestion? It seems to me that SAC chartering is something that can easily be done by telephone conference and we ought to have more of those.

VICE CHAIR THERNSTROM: I don't have a problem with that. I really don't. We don't need to hold an audience to go through names and SAC one-by-one.

Anybody else got any input on that question?

Well, in the meantime, Commissioner Melendez, it seems to me that we can go ahead with what you're requesting. We haven't accepted a vote on it. Go ahead with what you're requesting and just take this kind of one month at a time, as it were, in a sense that we don't have to make a decision about what business needs to be done after the November meeting.

So, I need a motion to reverse the October and November.

COMMISSIONER MELENDEZ: I'll make that motion.

VICE CHAIR THERNSTROM: Somebody second
it.

COMMISSIONER HERIOT: Second.

VICE CHAIR THERNSTROM: All in favor?

ALL: Aye.

VICE CHAIR THERNSTROM: Okay. That is approved unanimously. And so we will go ahead with that.

Then there is one other matter of business. I need a motion that the Commission include the briefing book which has been distributed to Commissioners in the record for today's briefing on Minority Children in State Foster Care and Adoption.

It's my belief, and I think that of others, that these briefing books represent an enormous amount of work by the staff. They're invaluable and they should be part of the public record. Because they are part of the --

COMMISSIONER HERIOT: And we can't have move to have that routinely the case from now until kingdom come?

COMMISSIONER TAYLOR: Standing rule.

VICE CHAIR THERNSTROM: Standing rule. I would prefer that. Want to make a motion to that effect?

COMMISSIONER HERIOT: Can I make a motion
that we amend the standing rules to include briefing books routinely?

VICE CHAIR THERNSTROM: Is there any problem with that?

STAFF DIRECTOR MARCUS: No. That's fine. That would make things easier.

VICE CHAIR THERNSTROM: Okay. All right. I need a second on that.

COMMISSIONER TAYLOR: Second.

COMMISSIONER KIRSANOW: Vice Chair, I'll second.

VICE CHAIR THERNSTROM: All approve? Can I hear all in favor?

ALL: Aye.

VICE CHAIR THERNSTROM: Anybody opposed? That has passed unanimously.

Good. I think that that's a very important change and will enrich the record. And, in fact, I would like to see it retrospective. I mean, we've done wonderful briefing books that are not in the public record. But, whatever.

Are there any future agenda items that people would like to discuss?

COMMISSIONER KIRSANOW: Commissioner Kirsanow here. Can you hear me?
VICE CHAIR THERNSTROM: Yes, we can.

COMMISSIONER KIRSANOW: Okay. I don't know if it's appropriate at this time, but I'd like to suggest that we put as potential future agenda items depending upon any effect that may be educed matters related to what's currently transpiring in Jena, Louisiana. And while media reports are sometimes unreliable, there at least appears to be at first flush enough there that we'd be within our purview to at least monitor.

And I understand the Justice Department is currently monitoring the situation. The facts are developing and are somewhat disjointing and sparse. It is nonetheless it just strikes me as something that is clearly within our purview and I would request that Staff Director instruct appropriate staff to at least monitor the situation, apprise us of developments and maybe it will be placed on a future agenda item as events may warrant.

VICE CHAIR THERNSTROM: I don't have any problem with that. As you say, the factual record here needs a great deal of flushing out. There are in my view some very basic questions, factual questions, still unanswered. And given the amount of commentary floating around the blogs, floating around the
websites, you know, it's kind of overwhelming at this point. And the picture has yet to be absolutely clear.

I do think that it would be helpful if the staff did monitor this.

There's no way of giving us all the clips. I mean, you know, you do a Google and you hit a higher number than I can count already. But, you know, at a kind of basic level it would be nice to have information. A kind of running information from the staff. And at some point we basically have to decide what further we would like to do, if anything.

COMMISSIONER KIRSANOW: The staff probably knows how to do this based on previous requests to monitor situations. But it might be a very simple matter to maintain a liaison with Civil Rights Division in Department of Justice, which probably has feet on the ground there and could feed us the relevant objective facts without, you know, the adjoining commentary that we would see in the media so that we could make an appropriate dispassionate of the substance of the situation.

STAFF DIRECTOR MARCUS: Well, we can certainly reach out to the Department of Justice to see if they're amenable for that.

VICE CHAIR THERNSTROM: It's a good
suggestion, and if they are would be very helpful.

So, Commissioner Kirsanow, it seems to me we've put one foot in front of another here. And see what we can come up with that's useful and consists of solid information upon which we can draw some conclusions about the Commission's role. Is that square with -- and in the meantime, of course, there will be an effort to reach out to the Department of Justice. Does that square with what you have in mind?

COMMISSIONER KIRSANOW: Absolutely, Commissioner Thernstrom. Thank you.

VICE CHAIR THERNSTROM: Okay. And do we need any kind of formal anything on this?

STAFF DIRECTOR MARCUS: I don't think so. We would be happy to do it.

VICE CHAIR THERNSTROM: Yes. Okay.

STAFF DIRECTOR MARCUS: I don't think it requires this formality of a vote.

VICE CHAIR THERNSTROM: All right. But our understanding here is that in one form or another the staff is going to go forward to try to provide to the best of its ability a solid factual picture for us. When and if that emerges --

COMMISSIONER HERIOT: Well, if that doesn't, then report on the possible Commission's role
in developing that record.

VICE CHAIR THERNSTROM: Well, absolutely.

But it just may take a while.

STAFF DIRECTOR MARCUS: I want to make sure we're clear on what's being requested. I think that I've heard a request that staff reach out to the Department of Justice to see if they can provide us on a regular basis objective facts concerning the situation, and that staff review the available literature and try to disseminate that so that we can see what's out there as opposed to conducting any sort of formal investigation.

VICE CHAIR THERNSTROM: That's correct.

COMMISSIONER HERIOT: And I think with an eye towards determining whether or not the Commission may have a role in developing the record further.

STAFF DIRECTOR MARCUS: Okay. Very good.

VICE CHAIR THERNSTROM: Yes. Precisely.

And if the Justice Department, if that's not a possible avenue of information for us, then obviously we have to try to put our own factual record together.

Okay. Any other future agenda items?

Well, if not, we adjourn the business meeting at this point so that we can have a briefing.

Without objection? Okay.
(Whereupon, at 10:00 a.m. the business meeting was adjourned.)