CHAIRPERSON JAMES:
Under old business Commissioner Wilhelm?

COMMISSIONER WILHELM: I would like to request the Commissioners to ask Mr. Terwilliger our counsel for an opinion which I hope will have the results of laying to rest an issue we've talked about off and on. This Commission was obviously designed by Congress to bring together people of diverse viewpoints to do a job. And I know that we're all trying to do that job in the best way that we can with a minimum of bureaucratic paper shuffling.

If I understood, and I may not have, if I understood Mr. Terwilliger's earlier memo it did not appear to definitively opine on whether or not this Commission is part of the legislative branch of the government. I am advised by our union's counsel that if we are part of the legislative branch the Conflict of Interests provision of Section 208 would not apply and therefore we can avoid what appears to me an unworkable waiver procedure. Because if I understand the waiver procedure you have to ask for it from the
appointing authority on each and every issue. Which is
obviously not practical.

So I am hopeful that conclusive legal
opinion on this issue would settle this for the
duration of the Commission's life. And so I would
propose that we ask Mr. Terwilliger to provide us with
such a legal opinion, I don't mean at this moment, but
perhaps over the next several weeks, or by the time of
the next meeting. And in doing so certainly, perhaps,
he would be open to consulting with any interested
Commissioners and or counsel for any of the interested
Commissioners.

And so to that end, I would move that the
Commission authorize Mr. Terwilliger or request Mr.
Terwilliger or request to the Chair, if that is
appropriate, to provide with us with a legal opinion
addressing specifically the question of whether this
Commission is part of the legislative branch and
therefore exempt from the provisions of Section 208.

CHAIRPERSON JAMES: Second?
COMMISSIONER LOESCHER: Second.

CHAIRPERSON JAMES: All in favor?

COMMISSIONERS: Aye.

CHAIRPERSON JAMES: Any opposed?

(No verbal response)

CHAIRPERSON JAMES: Thank you, well the Chair will ask our general counsel if he will review that information for us. In conjunction with that I would refer commissioners to Tab 4 of their briefing books that does have the report that Mr. Terwilliger provided for us. Are there any questions for him or any discussion of that at this particular time?

COMMISSIONER LOESCHER: Madam Chairman?

CHAIRPERSON JAMES: Mr. Loescher.

COMMISSIONER LOESCHER: As you know I share the opinion exactly with our legal counsel and that has been my position since, from day one.

CHAIRPERSON JAMES: Let the record show.

COMMISSIONER LOESCHER: But now the question is so what. What does it change in terms of
the conduct of the Commission as opposed to when we first started.

MR. TERWILLIGER: I'm not sure, because of the Commission's adoption in its rules and by resolution to adhere as closely as possible to the dictates of the Federal Advisory Committee Act, that it makes all that much difference as a practical matter.

As a legal matter I think it makes substantial difference in terms of the, the so-called designated federal official and the role of the General Services Administration, these would be the operations of the Commission. If you're not subject to the Federal Advisory Committee Act then the Commission is freed of the requirements of the Federal Advisory Committee Act and therefore to the extent that the Commission may feel that taking some action or going about something in a certain way would tend to introduce an unnecessary level of bureaucracy or be inconsistent with the Charter of the Commission as you
all see necessary to carry it out. You do not need to feel that the Advisory Committee Act would control.

CHAIRPERSON JAMES: Any other questions? I want to thank our General Counsel and thank our commissioners on that.