

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

Room E1.012  
Capitol Extension  
1400 North Congress  
Austin, Texas

11:00 a.m.

Thursday,  
September 12, 2002

TDHCA BOARD:

Michael Jones, Chairman  
C. Kent Conine, Vice Chairman  
Vidal Gonzalez  
Elizabeth Anderson  
Norberto Salinas  
Shadrick Bogany (not present)

TDHCA STAFF:

Tom Gouris, General Counsel  
Edwina Carrington  
Bill Dally  
Eddie Fariss  
David Gaines  
Brooke Boston  
Chris Wittmayer

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 551.071 and 551.103, Texas Government  
 Code, Litigation Exception), (1)  
 Century Pacific Equity Corporation v.  
 Texas Department of Housing and Community  
 Affairs et al. Cause No. GN-202219,  
 In the District Court of Travis County,  
 Texas, 53rd Judicial District;  
 (2) Sheltering Arms, Community Affairs  
 Program Recipient  
 Consultation with Attorney Pursuant to  
 Section 551.071(2), Texas Government Code  
 The Board may discuss any item listed on  
 this agenda in Executive Session

OPEN SESSION 164  
 Action in Open Session on Items Discussed  
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P R O C E E D I N G S

1  
2 MR. JONES: I call the meeting to order of the  
3 Texas Department of Housing and Community Affairs Board  
4 for September 12, 2002. The first order of business is  
5 the certification of a quorum. Okay.

6 MR. CONINE: What?

7 MR. JONES: The certification of a quorum. If  
8 you don't want to -- do you object to doing that, Mr.  
9 Conine?

10 MR. CONINE: No. I just didn't know what the  
11 word meant.

12 MR. JONES: Okay. Ms. Anderson?

13 MS. ANDERSON: Here.

14 MR. JONES: Mr. Bogany is absent. Mr. Conine  
15 is here. Are you sure?

16 MR. CONINE: I'm not sure. Let me check twice.

17 MR. JONES: Exactly. Mr. Gonzalez?

18 MR. GONZALEZ: Here.

19 MR. JONES: Mayor?

20 MR. SALINAS: Here.

21 MR. JONES: And Mr. Jones is here. I certify  
22 that we do have a quorum. We have five members present  
23 and one absent.

24 The next order of business is the solicitation  
25 of public comment. And I have several people who have

1 filled out witness affirmation forms. If you would like  
2 to speak to the board, please fill a witness affirmation  
3 form. One has been done, not very well, but I'll overlook  
4 that.

5 Mr. Garvin, would you like to testify?

6 MR. GARVIN: Can you all speak up a little bit?

7 MR. JONES: Excuse me. I think it's on.

8 So can you hear? Is that better? On take two.

9 We're in stereo now.

10 Mr. Garvin, do you want to speak on 4(a)? Are  
11 you sure? Okay.

12 Ms. Bast? Did I say that name right?

13 MS. BAST: I'll wait until the agenda item.

14 MR. JONES: Okay. Would you be Item 5? Is  
15 that true? Item 5?

16 MS. BAST: I'm sorry. The 4(a).

17 MR. JONES: 4(a). Mr. Deyoe.

18 MR. DEYOE: Deyoe.

19 MR. JONES: Deyoe. I'm sorry.

20 MR. DEYOE: I'm speaking on 4(a).

21 MR. JONES: 4(a). Mr. McCalley?

22 MR. McCALLEY: 4(c).

23 MR. JONES: Ms. Moore? Yes?

24 MS. MOORE: I'll speak on the agenda item.

25 MR. JONES: Okay. 4(b)?

1 MS. MOORE: 4(b).

2 MR. JONES: Thank you, ma'am. Mr. Moore, 4(b)?

3 MR. MOORE: I'll speak on 4(a).

4 MR. JONES: Mr. Saling?

5 MR. SALING: On the agenda item, please, 4(a).

6 MR. JONES: 4(a). And Mr. Stewart.

7 MR. STEWART: Chairman Jones, I didn't fill  
8 mine out correctly either. I need to move it from five to  
9 4(a).

10 MR. JONES: 4(a). All right. Okay.

11 MR. CONINE: Doesn't surprise me either.

12 MR. JONES: Yes, those are -- I'll tell you  
13 what. Yes. I know they're going to be very persuasive.  
14 I can tell it's starting out real well. I'll tell you  
15 what. Everybody deferred.

16 I'll say this. Why some people don't take a  
17 chance to get to us when we're fresh I'll never know. But  
18 anyway, okay. Everybody opposed to the agenda item -- did  
19 I have all the people that would like to speak to the  
20 board? Anybody else? One more.

21 Ms. Talerico.

22 MS. TALERICO: I'd like to speak at the time of  
23 the agenda item.

24 MR. JONES: Okay. 4(a)?

25 MS. TALERICO: 4(a).



1 MR. JONES: Thank you. All right. Anybody  
2 else that would like to speak to the board? Okay. We  
3 will now close the time for public comment. I will call  
4 upon the speakers when the item is reached that they would  
5 like to speak to.

6 I think everybody wants to speak to Item 4,  
7 various subparts. Is that right?

8 (No response.)

9 MR. JONES: So when we get to Item 4, we will  
10 then take up public comment. And then with regard to all  
11 other matters, we will close public comment.

12 With that, we will then turn from public  
13 comment to Item Number One on the agenda, which is the  
14 Presentation and Discussion of a Report on Community  
15 Affairs Division.

16 MS. CARRINGTON: Thank you, Mr. Jones. I will  
17 ask Eddie Fariss, who is the director of our Community  
18 Affairs Division to come and make the presentation.

19 MR. JONES: Thank you.

20 MR. FARISS: Good morning, Chairman Jones,  
21 members, Ms. Carrington. I am going to make a  
22 presentation on the Community Affairs Division. It will  
23 be similar to information that we've provided in program  
24 training a couple of weeks ago as we develop a format for  
25 doing this. I think several meetings ago you decided that

1 it would -- that you would like to hear reports on the  
2 Community Affairs Division.

3 I thought the first time we did that, we'd just  
4 go through a general overview of the division and the  
5 programs that we administer.

6 As you know, the Community Affairs Division  
7 provides assistance to low, very low, and extremely low-  
8 income persons, based on income eligibility. We  
9 administer a total of \$91 million currently. And we do  
10 that in two sections, a Community Services Section, which  
11 administers \$36 million, and the Energy Assistance  
12 Section, currently administering \$55 million.

13 I do have some of the Community Affairs staff  
14 here this morning in case there is any questions that you  
15 would like to ask them. But the Energy Assistance  
16 manager, Peggy Colvin, and two of her staff, Joe Guerrero  
17 and Marco Cruz are here.

18 Good morning. And in addition, Jesse Mitchell,  
19 the Community Services manager is here.

20 We'll start -- and oh, you have this  
21 information, slides in your board book. I chose not to  
22 take a chance on technical failure this morning, and using  
23 the -- and used the PowerPoint presentation. We'll just  
24 go through the hard copy of this information.

25 As I said, the Community Affairs division is

1 divided into two sections, Community Services and Energy  
2 Assistance. We'll talk a little bit about the Community  
3 Services programs first.

4 In that section we administer four programs,  
5 the Community Services Block Grant Program, the Community  
6 Food and Nutrition Program, the Emergency Shelter Grants  
7 Program, and the Emergency Nutrition/Temporary Emergency  
8 Relief Program.

9 Those programs are funded by HHS by the U.S.  
10 Department of Health and Human Services, the U.S.  
11 Department of Housing and Urban Development, and also the  
12 State of Texas for the ENTERP program.

13 As with all of the programs, the main programs  
14 in the Community Affairs division, assistance is provided  
15 in all 254 counties of the State of Texas. In -- for the  
16 Community Services Block Grant program, which is the  
17 largest grant in the Community Services area, there are 49  
18 eligible entities delivering services throughout the  
19 state. And they are funded at a total of \$31.1 million.

20 Community Services Block Grant program is a --  
21 is the prime example of a block grant. It allows a lot of  
22 flexibility for the provision of services, the decision of  
23 how that is done, and the types of services that are  
24 provided. Each of those eligible entities has a  
25 tripartite board that decides how they will spend those

1 monies.

2           Generally, they -- those agencies -- those  
3 nonprofit agencies administer a number of programs,  
4 including HeadStart, immunizations programs, senior  
5 citizens programs, WIC. They are involved in education  
6 programs and other programs that address the incidence of  
7 poverty in their communities.

8           The program that we administer in the Community  
9 Affairs division under the U.S. Department of Housing and  
10 Urban Development, the only HUD program that we administer  
11 currently is the Emergency Shelter Grants Program, which  
12 provides funding to organizations that assist homeless  
13 persons.

14           Those activities include the renovation of  
15 shelters, the provision of essential services, maintenance  
16 and operation costs for shelters, and also the provision  
17 of homelessness prevention, which can assist persons that  
18 are actually homeless and on the street, all persons that  
19 are at risk of losing their housing and becoming homeless.

20           Currently that grant is funded at a total of  
21 \$4.6 million, and we have 73 contracts throughout the  
22 State of Texas. We obligate those funds through a  
23 competitive application. This is the only program in the  
24 Community Affairs division that is obligated  
25 competitively. The other programs are provided through an

1 allocation basis on an annual basis.

2 But the ESG funding is provided competitively.

3 And we reserve funds in each of the eleven TDHCA planning  
4 regions based on the poverty population in each of those  
5 regions. And organizations compete only within their  
6 region for the amount of money that has been set aside for  
7 that region.

8 Another program that we administer in the  
9 Community Services area is a state-funded program, the  
10 Emergency Nutrition and Temporary Emergency Relief  
11 Program. Prior to state fiscal year 2002, the State  
12 Legislature had appropriated amounts of funding including  
13 and up to \$3 million top rate.

14 That program -- when they did obligate that  
15 money, we had contracts -- we had ninety contracts  
16 throughout the state. Every county received an allocation  
17 amount under that program. However, in 2002 and 2003, the  
18 Legislature appropriated only \$355,000 in general revenue  
19 money. And so we used that money, instead of attempting  
20 to allocate that money in all 254 counties, we used that  
21 money to address manmade and natural disasters throughout  
22 the state.

23 We ended up obligating those funds to six  
24 different organizations, and we have just about spent all  
25 of the \$355,000 that we obligated. Just for your

1 information, we are -- I'm sure this will be discussed  
2 more detail at a later date, but we are including an  
3 exceptional item to request funding for this program in  
4 the next -- for the next biennium.

5 Let me talk a little bit about the outcomes in  
6 the Community Services area before we move to Energy  
7 Assistance. And the -- for fiscal year 2001, which is the  
8 last federal fiscal year and state fiscal year that we  
9 have full performance information on, in the Community  
10 Services area, they served 364,106 persons in CSBG  
11 funding, 188,223 persons with ESG fundings. So those are  
12 persons who were either homeless, or at risk of  
13 homelessness, that 188,000.

14 We served 12,482 persons under the Emergency  
15 Nutrition Temporary Emergency Relief Program. And that  
16 was the last year that we had allocations in all 254  
17 counties. But it was a significantly reduced amount of  
18 money. So typically, if we were funded at, let's say, \$3  
19 million in that program, we would be serving approximately  
20 50,000 people instead of that 12,482.

21 A program that I didn't talk about, the  
22 Community Food and Nutrition Program, which addresses  
23 statewide nutritional programs, generated 72,000 pounds of  
24 meat and two million pounds of produce to distribute to  
25 low-income persons, in addition to the other programs that

1 are administered through other initiatives under that  
2 Community Food and Nutrition Program.

3 We also assisted 1,270 persons to transition  
4 from poverty, persons that were low, very low, and  
5 extremely low income, when they were determined eligible  
6 for programs administered by community action agencies who  
7 would -- who achieved employment and maintained that  
8 employment for 90 days at a wage above poverty.

9 And just for your information, I'm not sure if  
10 this slide is in there, but the programs in the Community  
11 Services area that I talked about are based on the U.S.  
12 Department of Health and Human Services income guidelines,  
13 which for a family of four, is \$18,100 for the year. It's  
14 the -- the individuals and families assisted in the  
15 Community Affairs division are pretty poor.

16 Now, let's talk about the Energy Assistance  
17 section. In that area, we administer two programs, two  
18 initiatives. One is the Weatherization Assistance  
19 Program, which includes funding from the Department of  
20 Energy as well as the HHS, under the Low-Income Home  
21 Energy Assistance Program, and also, funding that comes  
22 directly from utility companies under the investor-owned  
23 utility contracts.

24 In addition, the other initiative in the Energy  
25 Assistance Program is the Comprehensive Energy Assistance

1 Program, which is funded with HHS money, and provides  
2 utility assistance to low-income persons.

3 The energy assistance section administers these  
4 programs through a total of 194 contracts. They have  
5 contracts for the Comprehensive Energy Assistance Program,  
6 Weatherization and System Benefit Fund, and the IOU  
7 Program.

8 Currently under the IOU Program, the funding  
9 that comes directly from utilities, we have contracts for  
10 \$2.5 million. I think there's 21 contracts in that  
11 program.

12 The Energy Assistance Section administers the  
13 System Benefit Fund, which is a program that was recently  
14 enacted by the Texas Legislature, that provides funding  
15 from utility companies that are participating in  
16 deregulated utilities to the Comptroller. And then those  
17 funds are obligated to contractors throughout the state in  
18 the areas that -- where the utilities are participating in  
19 deregulated electric provision.

20 The Comprehensive Energy Assistance Program,  
21 which helps low-income persons with their utility bills,  
22 and helps to reduce their utility bills -- there are 51  
23 contractors throughout the state that provide that  
24 assistance, and many of those contractors that deliver  
25 CEAP services are also community action agencies that we



1 contract with through the Community Services area as well.

2 Let me talk about -- I'll quickly talk about  
3 the amount of funding under each of those programs  
4 currently. The Weatherization program, which, like I  
5 said, has money from DOE and from HHS, currently \$39.2  
6 million under contract. The System Benefit Fund -- we are  
7 just -- we have just finished the first year of  
8 implementation of that program. \$7.1 million was  
9 allocated to contractors. We will -- we are issuing  
10 contracts for ten million -- \$10.7 million for the next  
11 round of the System Benefit Fund.

12 And the Comprehensive Energy Assistance  
13 Program, \$35,391,000 in contracts that assist with utility  
14 bills. And the -- I mentioned previously I talked about  
15 the income guidelines for the -- for Community Services  
16 area. In the Energy Assistance area, they also use U.S.  
17 Department of Health and Human Services income guidelines.

18 However, the Weatherization and CEAP programs  
19 use 125 percent of poverty. And so instead of for a  
20 family of four 18,000, it's \$22,625 to be eligible for the  
21 Weatherization and Comprehensive Energy Assistance  
22 programs.

23 That's the end of what I had prepared for you.

24 So if you would -- if you have any questions about any of  
25 those programs or services that we provide, I'd be happy

1 to answer them.

2 MS. ANDERSON: I have one question, Mr.  
3 Chairman.

4 MR. FARISS: Yes, ma'am.

5 MS. ANDERSON: On the Emergency Shelter Grants  
6 Program --

7 MR. FARISS: Yes, ma'am?

8 MS. ANDERSON: I'm interested in knowing of the  
9 4.6 million that you funded competitively --

10 MR. FARISS: Uh-huh.

11 MS. ANDERSON: -- how many applications did  
12 you get, and what was the aggregate funding, that if we  
13 had been able to fund them all -- in other words, what's  
14 the demand for that?

15 MR. FARISS: I can tell you -- I don't have the  
16 exact amount, but I can tell you that we had  
17 approximately 120 applicants.

18 MS. ANDERSON: Okay.

19 MR. FARISS: We funded 73. And however, the  
20 aggregate request is probably four times what we have.

21 MS. ANDERSON: Okay.

22 MR. FARISS: You know, we go through a  
23 significantly strenuous process of trying to make those  
24 funds go as far as we can. If we funded the applicants at  
25 the amount they requested, you know, we might fund about

1 20.

2 MS. ANDERSON: Right.

3 MR. FARISS: So we do -- I think we do a real  
4 good job in spreading the funds around and making them  
5 useful. We have a \$30,000 minimum, \$100,000 maximum for  
6 those applicants. And I think the average funding is  
7 probably around 60,000 of that 73 -- of those 73  
8 contracts.

9 MS. ANDERSON: Okay. And are most of those  
10 contracts with nonprofits or with public sector local --

11 MR. FARISS: Most of those contracts are with  
12 nonprofit organizations around the state. We have a few  
13 units of general local government that we fund. Primarily  
14 when we do that, they are collaborative applicants. A  
15 city or a county will apply on behalf of several  
16 nonprofits in their area, and then they subcontract with  
17 them.

18 MS. ANDERSON: Okay. All right. Thanks.

19 MR. JONES: Any other questions?

20 MR. SALINAS: Wouldn't it be better for you to  
21 contract with the municipalities or counties to --

22 MR. FARISS: Originally in that Emergency  
23 Shelter Grant Program, the rules --

24 MR. SALINAS: For the organization or bills or  
25 whatever, wouldn't it be better to do --

1 MR. FARISS: The rules originally only allowed  
2 us to -- the only eligible applicants were units of  
3 general local government. After three years of running  
4 that program, since those governments were contracting  
5 directly with the nonprofits, HUD decided to change  
6 the eligible applicants to include private, nonprofit  
7 organizations.

8 Now, they do have to discuss their application  
9 with the units of general local government in which the  
10 project takes place.

11 MR. SALINAS: But you don't have the general  
12 community or the general county or city responsible for  
13 those nonprofits. Right?

14 MR. FARISS: When we contract with a nonprofit,  
15 the nonprofit is responsible for the funds. And that's  
16 generally who -- and the communities offer that type of  
17 assistance. So you know, that's why I -- I am sure that's  
18 why HUD changed the rules, so that we could contract  
19 directly with the organizations that are providing our  
20 services.

21 MR. SALINAS: But if the county has an agency  
22 or the city has an agency, or wherever has an agency  
23 that -- along the border, or wherever, wouldn't it be  
24 better to -- that they would be better accountable for the  
25 funds, instead of going straight to the nonprofits

1 which -- at one time some nonprofits would like to apply  
2 for funds to get the administration fees. Wouldn't it be  
3 better just --

4 MR. FARISS: Well, there's not a lot of  
5 administrative fees attached to this.

6 MR. SALINAS: That's why it's hard to  
7 understand how a nonprofit could survive. But if when you  
8 have a county, especially along the border, that would be  
9 responsible for those funds, at the same time they would  
10 try to come up with a little bit of money themselves to go  
11 ahead and not make it a \$60,000 application, but maybe  
12 100,000. Local funds from --

13 MR. FARISS: In administering this grant for 13  
14 or 14 years, I've found that most units of general local  
15 government are reluctant to participate monetarily in the  
16 provision of this type of service. This grant does  
17 require a match. And that was one of the problems earlier  
18 on, finding units of general local government that were  
19 willing to participate in the program when a match was  
20 required.

21 You know, a match will generally come from the  
22 nonprofit that is providing the assistance.

23 MR. SALINAS: From the nonprofit --

24 MR. FARISS: That --

25 MS. ANDERSON: Like from United -- if they are

1 a member of United Way, or something, they've matched  
2 for future --

3 MR. FARISS: Of course, and they can match with  
4 the facilities or the salaries and those kinds of things.

5 MS. ANDERSON: -- kind of match.

6 MR. FARISS: Right.

7 MR. SALINAS: How about the utility system  
8 payout, a system that would -- with the bills though. Do  
9 you have other agencies that do that? Or does it come  
10 with the county? Does it come with the --

11 MR. FARISS: Are you still asking about the  
12 Emergency Shelter Program?

13 MR. SALINAS: Not the shelter, but also the  
14 people that go to agencies asking for them to get help on  
15 the utility bill. The electric bill, water bill,  
16 whatever.

17 MR. FARISS: Right. I'm not sure what your  
18 question is. We do administer --

19 MR. SALINAS: What other agency -- or those  
20 agencies that do the same thing?

21 MR. FARISS: Some applicants -- some  
22 organizations that receive Emergency Shelter Grant funding  
23 do provide utility assistance. However, they target a  
24 specific population.

25 Generally the -- that's a population that is

1 not a priority in a general nonprofit group that's  
2 providing utility assistance, or -- so this is -- although  
3 the -- you know, the emergency shelter grant money is  
4 specifically targeted for a small segment of the  
5 population, those that are homeless.

6 MR. SALINAS: Then you have another program,  
7 then, that helps to assist people with their bills --  
8 utility bills. What type of --

9 MR. FARISS: The Comprehensive Energy  
10 Assistance Program, which is funded by the U.S. Department  
11 of Health and Human Services. And those funds generally  
12 go to private, nonprofit organizations as well.

13 Certainly if someone that was at risk of losing  
14 their house because of their inability to pay utilities,  
15 if they went to that organization and were eligible to  
16 receive assistance, they could receive assistance from --  
17 through the CEAP program.

18 The Emergency Shelter Grant Program is so --  
19 has such a small -- is funded at such a low level, that  
20 those -- you know, that assistance is not available in  
21 every area of the state.

22 You can go ahead. In fact, we'll see you in  
23 three months.

24 MR. JONES: I appreciate it. Thank you so  
25 much.

1 MS. CARRINGTON: One comment if I might make,  
2 Mr. Chairman.

3 MR. JONES: Certainly.

4 MS. CARRINGTON: As the board can see, there is  
5 a substantial amount of funds on an annual basis that  
6 comes through the department related to activities in the  
7 Community Affairs division. And we are the Texas  
8 Department of Housing and Community Affairs, 91 and a half  
9 million through this agency.

10 We do achieve a substantial amount of our  
11 performance measures for our very low income, through the  
12 programs that are administered by the Community Affairs  
13 division. And what we want to do is bring light to the  
14 board on those activities.

15 MR. JONES: Thank you.

16 MR. FARISS: Thank you.

17 MR. JONES: Item 2 on our agenda is the  
18 Presentation, Discussion and Possible Approval of the  
19 Legislation Appropriations Request.

20 Ms. Carrington?

21 MS. CARRINGTON: Thank you, Mr. Chairman.  
22 Actually the Legislative Appropriations Request.

23 MR. JONES: I'm sorry.

24 MS. CARRINGTON: The LAR. Bill Dally, our  
25 chief financial officer, and I will be presenting this



1 item. I will be first outlining the intents of the LAR.  
2 Bill will then discuss the process and summary of the  
3 budget numbers.

4 And then I'll finish up by discussing the  
5 exceptional items that we're requesting in the LAR, and  
6 then also any additions, changes and deletions to our  
7 rider.

8 The department's 2004/2005 legislative  
9 appropriation request is our fiscal framework that  
10 supports our work for the next biennium. It contains  
11 TDHCA's baseline budget request for fiscal years '04 and  
12 '05, our performance measures, and our requested items in  
13 our budget riders.

14 Exceptional items are those funding requests  
15 that are actually beyond the department's baseline budget,  
16 while riders are very specific legislative mandates that  
17 govern certain program funding strategies.

18 The culmination of these items lays down a  
19 targeting funding pattern for many of our programs.  
20 Within this pattern, you'll find significant policy  
21 directives for the department.

22 We aim to reach the very lowest income Texas in  
23 dire need through our Emergency Nutrition and Temporary  
24 Relief Program that Eddie just mentioned, to firm up a  
25 consistent source of funding for our colonias programs,

1 and to improve our compliance monitoring for all of our  
2 housing programs.

3           The strategies that are outlined in our  
4 baseline budget will dictate the performance measures  
5 established for the department by the legislative budget  
6 board. And it's through these measures by which the  
7 legislature will ultimately evaluate TDHCA's performance.

8           It's also very important to note, as the  
9 department presents this legislative appropriation request  
10 to you, that we are very cognizant and knowledgeable about  
11 the budget crisis that looms in the next biennium with our  
12 Legislature and in the state in this legislative session.

13           Given the projected shortfalls that's going to  
14 be in our state budget over the next biennium, we believe  
15 that it's prudent to submit an austere document, and  
16 indeed, I think if you ask the staff that was in the  
17 audience, they would say yes, they believe it is very  
18 austere.

19           We will, however, continue to focus on  
20 improving the department's efficiencies through our  
21 reorganization, addressing outstanding audit findings, and  
22 working to implement mandates in previous legislation,  
23 which we will -- you will see as we go through the  
24 rationale for some of the exceptional items.

25           With that, I'd like to turn it over to Bill,

1 who will talk about the process and the summary and the  
2 LAR, and actually preparation of the LAR.

3 MR. DALLY: I'll kind of walk you through the  
4 process here. This is about a one-year process. It began  
5 with our submission of a strategic plan in June. That  
6 plan lays out the various goals and strategies, our first  
7 goal being housing and the various strategies being the  
8 Housing Trust Fund and HOME and tax credits and stuff.

9 And then the next group is the OCI and colonia  
10 initiatives. We also have the group that Eddie was just  
11 talking about, the Poverty-Related Funds, Community  
12 Service Block Grant, and Energy Assistance.

13 That is laid out, and those goals and  
14 strategies make the framework for this document. We  
15 then -- internally, this summer we would solicit from  
16 directors, managers, and the executive group to get their  
17 input on this document. So this document is not financial  
18 services. This is an effort of the entire department to  
19 put this together.

20 They develop and build their own baseline  
21 numbers for their strategies, and set performance targets.

22 We also have an internal discussion of what we're going  
23 to have in the way of exceptional items. We then discuss  
24 what we may need in the way of changes to riders. And  
25 then people make revenue estimates on what they think

1 their funding will be in '04 and '05.

2 We then took that draft and developed the draft  
3 to this document, and circulated that back to the  
4 directors and managers. We got their comments. We then  
5 had a final review from the Executive team before this  
6 document was submitted. And it was -- this is our initial  
7 submission. And it went into the LBB and the Governor's  
8 Office of Budget and Planning on September 3.

9 It is, however --it's not a final document.  
10 And we are currently -- now that they've had it about a  
11 week and a half, we're in discussions, and we're going to  
12 be making some revisions to this document. And we will  
13 then send a revised one. And we can bring that back to  
14 you at the October board meeting.

15 We also have a meeting -- our first meeting,  
16 public hearing with the LBB and the Governor's office next  
17 Tuesday, where they will go over this -- our request. In  
18 particular they will look at our baseline and our various  
19 strategies and then ask us questions about our exceptional  
20 items.

21 And they're gathering their input in order for  
22 them to make their decisions on their actual proposal and  
23 writeup of our request. They'll take this request, and  
24 this fall work on all the other requests of other agencies  
25 and develop their own bill. And that will come out about

1 the first of January. And that's what the Legislature  
2 will start from.

3 We will then begin the hearing process in  
4 January and February. We'll meet with House  
5 Appropriations and that subcommittee, and the Senate  
6 Finance. And they'll compare -- LBB will get up and  
7 present what they have for their recommendation and  
8 budget, and then the -- we will come up and bring our LAR.

9 And they'll make comparisons, and see what those  
10 differences are.

11 And typically, there won't be -- the LBB will  
12 just work off that baseline, and exceptional items are  
13 then really for the department to discuss and for those  
14 committees to consider through the session.

15 That -- then those two committees will get  
16 their own proposals, and we will have a joint committee  
17 where they reconcile the differences between the Senate  
18 and the House. That's generally in April and May.

19 And then the final bill is passed by the  
20 Legislature, and the Governor looks at it in June. And  
21 then based on whatever is left, he has some veto power  
22 there, we'll get a final bill about the end of June for  
23 the 2004 and '05.

24 So we'll have in June where we would start that  
25 next September in 2004 and '05. If you will, turn to

1 pages 5 and 6 in this LAR document. And I apologize.  
2 It's a voluminous document. It has lots of detail. We  
3 slice and dice a lot of the same numbers many different  
4 ways. It's built this way for the budget riders and for  
5 the Legislative Budget Board and the Governor's office, so  
6 that they can take this information.

7 But this is a good summary. Pages 5, 6, and 7  
8 are sort of the top of the pyramid of this set of numbers.

9 And it's laid out in a five-year format. The two columns  
10 in the far right are the ones that are requests. Then the  
11 next two columns over are the current biennium that we're  
12 in. And so we -- that second column, where we finished up  
13 2002, we have a 2003 to finish the current biennium.

14 And then it goes back historically, and looks  
15 back at 2001. Like I say, this is laying it out so that  
16 you can see. We have Goal One, and then you have six  
17 various housing strategies.

18 You have then the Colonia Service Center, which  
19 let me point out here. This is where CDBG and the local  
20 government services were in our bill pattern last year.  
21 And they are actually -- they've been removed from 2001  
22 and 2002, even though in actuality they're really with us.

23 But for purposes of billing the Office of  
24 Community Rural Affairs LAR, we stripped out our  
25 historical information and put it with theirs.

1           We then -- then you go through. I think the  
2 only -- I talked about poverty-related goal. The fourth  
3 goal is our Compliance division. And that's the group  
4 that looks at our multifamily properties, that go on site  
5 and check for eligibility.

6           We also have the second strategy there, or the  
7 financial document reviews. And these are the groups that  
8 will look at the single audits that come in. They can  
9 also go out and do monitoring on some of our  
10 subrecipients.

11           The fifth goal is regulated of manufactured  
12 housing. This is a little awkward because with our  
13 legislation we now have a separate board over this  
14 particular area, and they have their own executive  
15 director. However, we were still instructed to have a  
16 combined LAR. So this is here for information purposes  
17 for you guys.

18           And then that sixth area is our central  
19 administration. In that first group it includes  
20 Executive, Legal, the board, Government Relations,  
21 Internal Audit, Financial Services and Accounting. Then  
22 the second strategy there is our information resource  
23 technologies. And then we have our operating and support.

24           If you'll then flip over to -- are there any  
25 questions at this point? No?

1 MR. JONES: Just rapt attention.

2 MR. DALLY: Okay. Page 7. Bottom line --  
3 what's the bottom line here? If you take the summation of  
4 the figures in bold at the top there, you'll see  
5 \$167,889,160 in '04, a similar figure in '05. That's a  
6 combination there of \$335,733,316.

7 And that also -- it's the strategy request you  
8 see here. And then there are some appropriations in our  
9 riders of a million three-fifty.

10 MS. ANDERSON: I'm sorry. What page are you  
11 reading from? I'm sorry.

12 MR. DALLY: Page 7.

13 MS. ANDERSON: Oh, okay.

14 MR. DALLY: Up at the top. No, there is not a  
15 summation figure.

16 MS. ANDERSON: I'm just wondering -- I'm just  
17 not seeing the numbers I heard you say. So I just --

18 MR. DALLY: Okay. What I do is I combined the  
19 numbers under those last two columns up in bold,  
20 167,889,000.

21 MS. ANDERSON: Okay.

22 MR. DALLY: And then a similar figure for '05.

23 MS. ANDERSON: All right.

24 MR. DALLY: So putting those in -- it's not  
25 combined here, but putting those in combination --



1 MS. ANDERSON: Okay.

2 MR. DALLY: -- for the biennium, it's \$335  
3 million. You then see a breakdown of the financing of  
4 those. And that first figure, the General Revenue Fund,  
5 that 10.8 million, roughly, in each year -- that  
6 represents six-and-a-half percent of this budget.

7 The next figure, the 130 million each year, is  
8 78 percent of this budget. Appropriated receipts --  
9 those are our fees that are associated with the bond  
10 programs and the compliance, and multifamily programs.  
11 That makes up eight-and-a-half percent of this budget.

12 Interagency contracts -- we had some figures in  
13 there in prior years. Those were due to some oil  
14 overcharge monies that we're not anticipating in the  
15 current biennium. So that figure has fallen considerably.

16 Then we have the System Benefit Fund. That's  
17 the one Eddie was talking about that came out of the  
18 deregulation of -- in the state. That is six-and-a-half  
19 percent of this budget, roughly 10.7 million each year.

20 And then the last category here, Earned Federal  
21 Funds, is a little over half a percent. Those are the  
22 funds that the department earned by virtue of having so  
23 many in federal direct employees. We then have an  
24 indirect cost rate that we can bill the Feds. And so we  
25 earn that.

1           And that covers the cost of indirect groups  
2 like Accounting, and Executive, and some of those groups  
3 that support the federal programs, their direct salaries.

4           So this is the summation right here of the  
5 budget. It then goes and slices and dices it several  
6 different ways. I think I'd point your attention to, if  
7 you'll flip over to page 16. This is the area that's gone  
8 beyond -- that was the base request.

9           This page shows our four exceptional items.  
10 And I'm not going to discuss them in detail. But I want  
11 you to see this page, so that you can see. We've got our  
12 first one, which is the ENTERP program that Eddie was  
13 talking about. We're requesting \$3 million in general  
14 revenue each year.

15           The second is Office of Colonia Initiatives, 15  
16 million over the two years. We then have -- and that's  
17 again, general revenue. Third one is a Section 8 and Fair  
18 Housing. We're actually asking for another FTE, or I  
19 should say there's an FTE added in the OCI request.

20           But that will be -- when it says under All  
21 Funds, that will be funded by the -- we're going to have  
22 some compliance fees, because this is related to Fair  
23 Housing and those kind of things that are associated with  
24 our multifamily properties.

25           The fourth item is something related to the

1 Manufactured Housing Division and their request. So if  
2 you look at all funds over and above our baseline request,  
3 we have 23,271,886. Now, that's including the  
4 Manufactured Housing piece in there.

5 MR. SALINAS: That's part of the 91 million?  
6 Is that the Community Affairs, or --

7 MR. DALLY: No. No, this is --

8 MR. SALINAS: That's not part of the 91  
9 million?

10 MR. DALLY: No, the 91 was back in their  
11 baseline.

12 MR. SALINAS: Yes.

13 MR. DALLY: That -- back in this first request  
14 under that third goal.

15 MR. SALINAS: Okay.

16 MR. DALLY: No, this would be over and above  
17 that number. Oh, yes, let me point this out. If you flip  
18 to page 17 and 18, what they've done is they've taken that  
19 same schedule that we had on the first still, where we go  
20 by goals and strategies. And you see the first two  
21 columns are the baseline.

22 Then in the second -- I mean, the third and  
23 fourth columns are exceptional items. So that's where you  
24 can see where these monies are showing up.

25 I want to point out the OCI -- most of that is

1 showing up under the Housing Trust Fund strategy. That is  
2 a quirk of the system, in that because OCI hadn't had  
3 funding to this level, they didn't have measures in their  
4 strategy. So in order to have measures to measure this,  
5 we had to move this to Housing Trust Fund.

6           However, I feel like if they do get this  
7 funding, you know, dedicated to them, we will develop  
8 measures through the legislative process, and that funding  
9 will actually come down to that.

10           And then you'll see -- in Eddie's group, you  
11 see down where the 36 million, 178, those were the 3  
12 millions being added there on that ENTERP. So you have a  
13 total then, on the 39. And then you combine that with the  
14 Energy Assistance figures to get your 92 million.

15           Another schedule I think it's important for  
16 you to see is, if you'll flip over to page 22 and 23.  
17 Here again, we go through every one of our strategies.  
18 But we break out in that -- in the first two columns, it's  
19 the 2004 request. In that first column, it's the total  
20 funding for that strategy. In that second column, then,  
21 it's the GR, and the GR-dedicated.

22           So for illustrations, the Housing Trust Fund --  
23 that's entirely general revenue of \$5.3 million, and it's  
24 50 percent of our total general request, the 2 million for  
25 each year.

1           You can then scan down the next -- that's  
2 ENTERP money that you see, the 376. That would be the  
3 baseline funding for Eddie's ENTERP, but we've got a  
4 request for more. The next three are the general revenue  
5 that's associated with the Manufactured Housing and  
6 licensing. Again, it's not very significant with these  
7 Housing programs.

8           Skipping down, there is some money in our  
9 Central Administration and Information Resources. There  
10 again, supporting the Executive and Information Resources  
11 and Financial. I'm going to kind of close here and turn  
12 this back to one of the -- this document, like I say, is  
13 our first submission.

14           And my prediction here is that this is the  
15 high-water mark of funds. But it will be reduced, as we  
16 go through this process. And as a matter of fact, and  
17 I'll fill you in, in our discussions right now with the  
18 LBB, we're going to be moving off about two-and-a-half  
19 million of general revenue off the base request over to an  
20 exceptional item.

21           This is all being reclassified. We're still  
22 going to be asking for it, but it will reduce our base  
23 requests and general revenue by that amount. With that,  
24 unless there are some questions here, I'll turn it over to  
25 Edwina.

1 MR. JONES: Questions?

2 MR. SALINAS: Has it increased overall for  
3 2002? 2000 -- yes, 2002? How much is the percentage of  
4 the increase of asking for more funds?

5 MR. DALLY: Actually, it's decreased, in the  
6 sense that we've moved off of the CDBG and the local  
7 government services. So we had, in combination, we had  
8 \$210 million each year, in '02/'03 --

9 MR. SALINAS: And how about --

10 MR. DALLY: -- in our requests, so we're --

11 MR. SALINAS: How much do you have in '01?  
12 127?

13 MR. DALLY: No, that's representative of our  
14 actual expenditures. Our budget was higher than that.  
15 And the reason -- if we want to go back, the reason that  
16 is so low is if you'll go to the second line in the HOME  
17 Program, they did not make their cycle with their 2001  
18 funds.

19 That cycle came at the very first part of 2002.

20 And so that -- their normal deal of 40 or \$41 million  
21 shifted to 2002. That had another effect. And if you  
22 look in 2003, where we have 2002 money in 2003 is going to  
23 go out as a two-year cycle. And so we've got a blip there  
24 at 78 million.

25 So you've really got three years of funding

1 stuffed into '02 and '03, and it decreased from 2001. So  
2 if you move that 40 million back, a more typical number  
3 would be about 167 in 2001, if you move that HOME money  
4 back.

5 MR. SALINAS: Well, I just feel we need to do a  
6 realistic budget, but that might not have -- what we  
7 really asked you for right now, because we -- because of  
8 what is happening in the shortfall.

9 MR. DALLY: There is exposure to this being  
10 cut. And it's generally in those general revenue areas.

11 MR. SALINAS: How much?

12 MR. DALLY: I've heard talk of the Governor's  
13 office wanting us to take this and shave it to maybe 95  
14 percent, to a 5 percent cut. That wouldn't achieve a lot  
15 if you're just cutting your general revenue. It wouldn't  
16 be a lot of money.

17 The other thing to point out here too, is our  
18 resources are not all appropriated. They are not all on  
19 this budget. We still have the private capital markets  
20 where we can go out and issue bonds for multifamily and  
21 single family. So that's \$150 million.

22 We still have tax credits to allocate. We will  
23 have those fees that are associated with those programs.  
24 So there is some exposure for us -- this being trimmed a  
25 drastic amount, not really, because it doesn't help the

1 general revenue cost of the state.

2 MS. ANDERSON: I have just a couple of  
3 questions. You just mentioned that about two-and-a-half  
4 million of this is going to be reclassified as -- and  
5 identified as an exceptional item. Can you tell me the  
6 nature of those expenditures that we're being asked to  
7 reclassify?

8 MR. DALLY: Yes. There is going to be \$200,000  
9 that's related to the rider for the Housing Trust Fund.  
10 That's our estimate of an increase in repayments. And  
11 then there's a million dollars each year that was  
12 associated with consumer claims in the Manufactured  
13 Housing Division.

14 So that's going to go back to the number of  
15 50,000 each year, which is what they have had in the last  
16 biennium. And it will be an exceptional item to add the  
17 other \$1.9 million in the biennium.

18 MS. ANDERSON: Second question. On page 23, in  
19 the far right column that talks about cumulative  
20 percentage of 2002-03 general revenue funds, this is  
21 109.61 percent. Can you define that number for me?

22 What is -- are we -- does that mean we're  
23 asking for a 109.61 percent of what we actually spent in  
24 the 2002-03 biennium? Or what's that number? What does  
25 the 109 mean?



1 MR. DALLY: Yes. It's an overage.

2 MS. ANDERSON: Okay.

3 MR. DALLY: So, basically reducing that,  
4 reclassing that two-and-a-half --

5 MS. ANDERSON: Right.

6 MR. DALLY: -- million will bring that back  
7 down under 100 percent.

8 MS. ANDERSON: Oh, it will. Okay. Okay.

9 MR. SALINAS: How much under? How much under?

10 MR. DALLY: A little bit.

11 MS. ANDERSON: That's a 95, but it will make it  
12 98, 99, something like that?

13 MR. DALLY: Correct. And then we will -- there  
14 was a request for us to take this set of numbers and shave  
15 it a little bit more. So that's not the LBB's request on  
16 this particular one, but from the Governor's office. So  
17 there will be another.

18 MR. JONES: Other questions?

19 Ms. Carrington?

20 MS. CARRINGTON: Thank you. As staff worked on  
21 the requests for the LAR over the last two or three  
22 months, we did start out with a number that was much, much  
23 greater than this, like 200 million.

24 We struggled with the question of what do we  
25 really need to be able to do our business, and what do we

1 know is reasonable to request from the Legislature?

2 So we did quite a whittling down and quite a  
3 prioritizing job to come down, basically about 21,400,000,  
4 that then, as Bill said, these exceptional items -- these  
5 four exceptional items that are over and above the  
6 baseline.

7 And the way we determined what would be  
8 included in that was looking at any mandates we had in  
9 legislation that we did not have funds to pay for. And  
10 also with the --

11 MR. JONES: No, that doesn't happen, does it?

12 MS. CARRINGTON: Well, Homer Cabello would tell  
13 us that it happens quite frequently in legislative  
14 sessions. And several of the items, as Bill has  
15 mentioned, are related to OCI mandates that we are looking  
16 to satisfy.

17 The first one we listed was ENTERP, which is  
18 the Emergency Nutrition and Emergency Relief Program.  
19 This program serves very, very, very, low income. In the  
20 past the state's had about \$3 million a year in oil  
21 overcharge funds to fund this program. We're basically  
22 down now to 3-, 400,000 -- 700,000, a very small amount of  
23 money.

24 So that was our first request. So it was six  
25 million over the biennium to fund that program, really,

1 very low poverty program. Also some colonia  
2 initiatives -- I think, Homer, your office has the biggest  
3 requests. And we have about a \$15 million request in OCI.

4 It's actually broken up into money for  
5 contract-for-deed conversions for a program -- a model  
6 subdivision program that was mandated with the last  
7 Legislature and did not have any funding attached to it,  
8 and also our Texas Bootstrap Program. So those are the  
9 three areas we're looking at, the 15 million and OCI going  
10 into.

11 And the Section 8 monitoring tenant occupancy,  
12 and the Fair Housing Officer, those were mandates in  
13 Senate Bill 322. We borrowed an FTE from another section  
14 of the department to put it in the compliance area to  
15 start to comply with that mandate. But the funding, about  
16 324,000, is related to those mandates that we are doing  
17 right now, and we're looking to find funding to be able to  
18 do it.

19 So that's how those exceptional items got  
20 identified in actually our request over to the LBB. And  
21 of course, any questions on exceptional items? The last  
22 thing I will touch briefly on are budget riders. And if  
23 you're interested in following along on this, this is on  
24 page 70 of your LAR. There is actually six riders that we  
25 are recommending deletion of.

1           And primarily the reason for the deletion of  
2 these riders were that they either related to the  
3 Community Development Block Grant Program, which has gone  
4 over to ORCA, or one or two of them that was related to  
5 Sunset, and contingencies, and what would happen if TDHCA  
6 went away. And so that's no longer necessary.

7           Rider 21 relates to ex parte contacts with  
8 board members. It's already established in statute and  
9 our code, and so is unnecessary. We've updated seven  
10 riders, and basically, what we've done through these is  
11 look at them and done cleanup, or we're recommending some  
12 language that we believe works better in taking out some  
13 redundancy in those.

14           We have three riders that are OCI-related. And  
15 then we have two new rider requests that I believe Bill  
16 mentioned. One of them is the ability for the department  
17 to contract -- to do third-party contracts for services  
18 that we might need, and to not have that apply against our  
19 FTE cap.

20           One of the things I don't think I've heard this  
21 morning is the department does have an FTE cap of 323  
22 employees. Eighty-seven-and-a-half of those are in the  
23 Manufactured Housing Division. And so that makes 220 --

24           MR. DALLY: And a half.

25           MS. CARRINGTON: -- and a half for the other

1 part of TDHCA. So the first part of this allow us to  
2 contract for some services and not go against our FTE cap.

3 And then the second part of this is to allow the  
4 department to retain professional services, or to retain  
5 professional fees that we have collected in relation to  
6 our programs.

7 And with that, Mr. Chairman, I'll turn it over  
8 to the board for any questions that you all might have of  
9 Bill and I.

10 MR. JONES: Any questions?

11 (No response.)

12 MR. JONES: I hear none.

13 What's the board's pleasure?

14 MR. CONINE: Mr. Chairman, I move approval of  
15 the legislative appropriation request.

16 MR. SALINAS: Second.

17 MR. JONES: We have a motion by Mr. Conine. It  
18 was seconded by the mayor to approve the legislative  
19 appropriations request.

20 Discussion, debate, questions, comment?

21 (No response.)

22 MR. JONES: Hearing none, I assume we're ready  
23 to vote. All in favor of the motion, please say aye.

24 (A chorus of ayes.)

25 MR. JONES: All opposed to the motion, please

1 say nay.

2 (No response.)

3 MR. JONES: The motion carries.

4 It might be an appropriate point, since we're  
5 talking about the Legislature, to introduce our  
6 legislative guests today. Ms. Julie Street is here from  
7 the House Committee on Urban Affairs.

8 Ms. Street?

9 MS. ANDERSON: She was.

10 MR. JONES: She was. Marcelo --

11 VOICE: There she is.

12 MR. JONES: Oh. Excuse me. I'm sorry. I  
13 apologize. Okay. Marcelo Guevara is here from the Sunset  
14 Advisory Committee. Nice to have you. Johnnie Morales is  
15 here. Good to see you, from the Speaker's office. And  
16 Perla Cavazos, from Senator Lucio's office. Nice to have  
17 you. Thank you for being here.

18 All right. And with that, we will then turn  
19 our attention to Mr. Gonzalez from the Audit Committee.

20 MR. GONZALEZ: Okay. We'll call on David  
21 Gaines.

22 MR. GAINES: Good morning, Chair.

23 MR. JONES: Good morning.

24 MR. GAINES: Good morning.

25 MR. JONES: It's good afternoon.

1 MS. ANDERSON: Afternoon.

2 MR. GAINES: Good afternoon.

3 MR. GONZALEZ: Auditors should know that.

4 MR. GAINES: It's been a long day.

5 MR. GONZALEZ: You ought to give them the long  
6 version.

7 MR. GAINES: Actually, I'm debating that as I  
8 sit here. I've heard rumors that there's board members  
9 that need to leave early today, and we've got a full  
10 agenda. The committee did meet. We discussed the status  
11 of prior audit issues. We discussed the status of central  
12 database. We got a good demonstration by the functional  
13 user group, discussed survey results from operators out in  
14 the field using the system. We discussed a new project  
15 that Internal Audit has undertaken, pursuant to a request  
16 by Ms. Carrington relating to tax credit inspection fees.

17 And with that, I'd be glad to elaborate on any  
18 of those issues.

19 MR. GONZALEZ: I think one of the main things  
20 to touch on is the review of the inspection fees, or just  
21 touch on that for the board, please.

22 MR. GAINES: Okay.

23 MR. GONZALEZ: I mean, if that has any other  
24 requests, we'll go there.

25 MR. GAINES: After the last board meeting, Ms.

1 Carrington contacted me and other appropriate staff to  
2 discuss the status of the situation that had come to our  
3 attention just recently.

4 This related to the department's payment of  
5 inspection fees on tax credit properties. While these  
6 fees should be -- were to be reimbursed to the department,  
7 adequate procedures had not been established to properly  
8 account for and collect these fees.

9 And accordingly, Ms. Carrington contacted me  
10 and appropriate staff, specifically requested me to  
11 conduct a review of the circumstances surrounding this.

12 And to date, the Tax Credit staff has provided  
13 me and my staff an accounting of the related fees and  
14 collections that it's maintained on a central-access  
15 database. And according to these records, as of  
16 yesterday, Tax Credit has billed 107,779 -- or excuse me,  
17 \$703,000, rounded.

18 MR. CONINE: How much? You're going to have to  
19 repeat that number.

20 MR. GAINES: It billed 703 --

21 MR. CONINE: Okay.

22 MR. GAINES: -- for inspection fees. The  
23 department has collected \$402,000 of that, of which  
24 236,000 has been collected in the last 30 days. That  
25 leaves a remaining balance of \$203,000. And this is kind



1 of a net figure, because there is like, 33,000 in  
2 overpayments. And so considering that, it nets out or  
3 grosses out, if you will, at a remaining balance of  
4 \$237,000.

5 According to the tax credit staff, all the  
6 inspection fees have been billed. And again, this is as  
7 of yesterday. And the internal auditing division is in  
8 the process of reviewing the completeness and accuracy of  
9 the information that they've brought forward.

10 The division anticipates they will be able to  
11 provide you a report next month at the October board  
12 meeting, assuming no unanticipated obstacles surface  
13 relating to the objectives of the review, which is again,  
14 the completeness and accuracy of this report.

15 Upon completion of the report, Ms. Carrington  
16 has also requested that the division review other fees  
17 that the department collects, just to ensure that we do  
18 have reasonable -- that a control is in place to provide  
19 reasonable assurance that all such fees that should be  
20 collected are in fact being collected and properly  
21 processed, reported, and accounted for.

22 As we move forward with those that I see as a  
23 subsequent project or projects, we'll of course keep the  
24 board apprised of progress being made on that.

25 MR. CONINE: Mr. Gaines, can you express an

1 opinion on the -- whatever is left outstanding, 237  
2 million? Is that what you said?

3 MR. GAINES: That was a thousand.

4 MR. CONINE: Or excuse me. As to the age of  
5 those particular receivables?

6 MR. GAINES: No, I'm not able to speak to that  
7 right now.

8 MR. CONINE: Will you be able to next month?

9 MR. GAINES: Yes. I can -- I'll certainly get  
10 that.

11 MR. CONINE: Okay. And can you give me your  
12 thoughts on the fact that, I guess, 703,000 that's been  
13 billed -- can you give me your thoughts as to -- my  
14 understanding is, the department had third-party  
15 inspectors. So we got bills from those third-party  
16 inspectors?

17 MR. GAINES: Yes, sir.

18 MR. CONINE: How close does the 703 that we  
19 billed approximate to what we paid for those inspections?

20 MR. GAINES: One of the objectives will be  
21 determining completeness. And we'll be making that  
22 comparison between what we've actually paid, what we've  
23 actually billed, and what we've collected and set --

24 MR. CONINE: So you'll have that for us next  
25 month as well?

1 MR. GAINES: Correct. Now, I understand that  
2 the information provided has been reconciled to the  
3 accounting records as to the amount paid on inspections.  
4 So it's been represented that that question has been  
5 answered. And yes, all inspections that we've paid have  
6 been accounted for and reconciled to the accounting  
7 record -- accounting records. And we will be  
8 independently verifying that.

9 MR. CONINE: Do you want to weigh in on that?

10 MS. CARRINGTON: Yes, I do. One thing that I  
11 do think is worth mentioning, even though we maybe can't  
12 answer the first part of that question of aged.

13 What I think is important to say is that the  
14 department billed these fees on August 22 of this year --  
15 this past August. And that we gave the deadline to the  
16 development community of August 29th. So we gave them  
17 really a very short period of time to pay.

18 And we have had a substantial amount of money  
19 come in during that period of time. And one of the  
20 questions that came up in the audit meeting from Ms.  
21 Anderson was that, you know, are we going to follow up, or  
22 when are we going to follow up?

23 And our thought is that we get this, we get  
24 the 30 days behind this from August 22 to September 22,  
25 and then we will bill again on any remaining fees that may

1 still be outstanding.

2 MR. CONINE: Okay. All right. Well, we have a  
3 lot of our friends in the development community here today  
4 to talk about the QAP and I'm sure they'll spread the word  
5 on getting those in. Thank you.

6 MR. GAINES: I believe the word's out there.

7 MR. SALINAS: I think we've had that today.

8 They have any outstanding balance, it might be --

9 MS. CARRINGTON: No, it's not in there.

10 MR. SALINAS: Well, we will put them in there.

11 MS. CARRINGTON: Well, we are looking at  
12 that --

13 MR. SALINAS: But it did have the  
14 outstanding --

15 MS. CARRINGTON: Yes. It didn't address -- I  
16 mean, it's not going to address the current amounts on  
17 here for future -- yes.

18 MR. JONES: Is there discussion, questions?

19 Yes, Mr. Gonzalez?

20 MR. GONZALEZ: No, I was just going to see if  
21 Beth had --

22 MS. ANDERSON: No, I have no --

23 MR. GONZALEZ: Okay.

24 MS. ANDERSON: I will say that we had a good  
25 Audit Committee meeting this morning. Good set of reports

1 from David. And I think our decision to have the Audit  
2 Committee meet monthly has been a good decision, and we  
3 sse good progress there.

4 MR. JONES: And I would like to say too that I  
5 was very encouraged by the staff's prompt response to the  
6 situation and activities and progress. It's just not only  
7 activity that result. And I want to say that's very  
8 impressive.

9 Why don't we take a five-minute break. We've  
10 been going quite a while. And then we'll crank back up in  
11 five minutes. Thank you.

12 (Whereupon, a short recess was taken.)

13 MR. JONES: I call the meeting back to order.  
14 Are we finished with our Audit Committee  
15 report, Mr. Gonzalez?

16 MR. GONZALEZ: Yes, sir.

17 MR. JONES: Okay. Great. Well, I want to  
18 thank the audit committee. They had a wonderful meeting  
19 this morning, and they're doing great things. So we  
20 appreciate it.

21 I would then turn our attention to Item 4 on  
22 the agenda.

23 Ms. Carrington?

24 MS. CARRINGTON: Item 4(a) is the review of the  
25 Draft Qualified Allocation Plan for 2003.

1 MR. JONES: If I could, could I suggest perhaps  
2 how we proceed? I mean, we have the suggested plan that's  
3 been submitted to us by staff in writing. So we all know  
4 that that's staff's recommendation. I know that we had a  
5 number of questions for board members.

6 But prior to the board member questions, I'd  
7 like to give the people who would like to speak an  
8 opportunity to comment on the staff's proposal.

9 Ms. Talerico?

10 If you would, I do know we have some time  
11 constraints today. We have a number of people that want  
12 to speak to us. I'm going to try to have a loose three-  
13 minute limitation. So we'll work from that, and go where  
14 we need to go.

15 MS. TALERICO: Good afternoon.

16 MR. JONES: Thank you.

17 MS. TALERICO: If you had called John Garvin up  
18 first, mine would have been a ten-second presentation.  
19 But --

20 MR. CONINE: We can do that. I think I  
21 understand Garvin.

22 MS. TALERICO: Oh, okay.

23 MR. JONES: We are not -- we are not listening  
24 to Garvin. I tried to get him to fill it out  
25 right twice. He refused to do it. He lost his chance.

1 MS. TALERICO: He blew it. Okay. My name is  
2 Jeanne Talerico, for the record. And I'm the director of  
3 the Texas Association of Local Housing Finance Agencies.  
4 We had one comment that we wanted to make on the proposed  
5 QAP.

6 And that has to do with the restriction or  
7 change in the limitation on the unit size on the  
8 construction from the 280 units down to the 250.

9 Our request is that you defer this to the 2004  
10 program year, primarily just because of timing. The Bond  
11 Review Board begins accepting application for private  
12 activity bonds on October 10, excuse me, which means that  
13 the local Housing Finance agencies are in the process  
14 right now of inducing these projects for their application  
15 to the Bond Review Board. If they're lucky enough to get  
16 a reservation, they will be coming to you for 4 percent  
17 tax credits.

18 These deals have already been structured and  
19 sized, and the land contracted. And many of them have  
20 already been induced because of deadlines at the beginning  
21 of September from the issuers.

22 If this is in its place, and the developer has  
23 a 280-unit project that he's applied for at the local  
24 level, it's been induced, it's gone to the Bond Review  
25 Board, it's getting a reservation that may not be until

1 February or March, then the 2003 QAP would apply, and  
2 they're now ineligible.

3 And so what we were asking, instead of changing  
4 the rules after the game has already started, because of  
5 other agencies, that we defer this and discuss it during  
6 the year and perhaps apply it to the 2004 program year.

7 MR. CONINE: Could I ask a question?

8 MR. JONES: Yes, you surely may.

9 MR. CONINE: We're also changing several other  
10 rules of the game with -- relative to the QAP, more than  
11 likely. How do the local Housing Finance corporations  
12 feel? If anything else, I guess nothing else upsets them  
13 in there, other than the size limit to some of these?

14 MS. TALERICO: This is a test to see how well  
15 I've read it, isn't it?

16 MR. CONINE: Yes.

17 MS. TALERICO: And I'm failing the test, Mr.  
18 Conine. I'm sorry. This is our primary concern.

19 MR. CONINE: Okay.

20 MS. TALERICO: Is that we would be inducing  
21 projects, or applying for a volume cap with the Bond  
22 Review Board on something that would ultimately be  
23 ineligible once it gets to TDHCA.

24 MR. CONINE: I would suggest, I guess, that  
25 your group keep a close watch on the QAP as it goes



1 through the public comment and final approval period.  
2 There may be -- are other things that would be in there  
3 that might have some influence over projects that would,  
4 quite frankly, if they submit them as of October 10 to the  
5 Bond Review Board, there may be certain things in the QAP  
6 that come along ultimately in November, or whatever month  
7 we approve this thing. And it would make them ineligible  
8 as well. So --

9 MS. TALERICO: We are sending out a postcard on  
10 Monday with the dates of all your public hearings on it to  
11 you --

12 MR. CONINE: Great.

13 MS. TALERICO: -- to get our members to be  
14 sure to participate in those public discussions.

15 MR. CONINE: Okay. Thank you.

16 MS. TALERICO: Thank you.

17 MR. JONES: Don't feel bad about it. Some of  
18 us flunk his tests repeatedly.

19 MS. TALERICO: Someday I'm going to be up there  
20 and pass his test.

21 MR. JONES: I'll teach you.

22 MS. TALERICO: Thank you.

23 MR. JONES: I never have.

24 MR. CONINE: You went to Baylor.

25 MR. JONES: Ms. Bast.

1 MS. BAST: Good afternoon.

2 MR. JONES: Good afternoon.

3 MR. CONINE: Good afternoon.

4 MS. BAST: I may slightly exceed my three  
5 minutes loosely, but I do have several others here who  
6 could yield some time.

7 I am Cynthia Bast of Locke Liddell and Sapp.  
8 And I am here today representing four development  
9 companies that are experienced and respected developers in  
10 the Texas tax credit industry.

11 I first want to say that we appreciate the work  
12 of Brooke Boston in revising the QAP, and of Tom Gouris in  
13 preparing the underwriting guidelines. We sincerely  
14 appreciate the many opportunities we have had for public  
15 comments, and the ways in which the staff has tried to  
16 incorporate public comment in their revisions.

17 We will be participating in the process,  
18 attending the public hearings, providing written comments.

19 But we wanted to take this opportunity today to address  
20 the board with regard to a few of the issues that we think  
21 are most important in the QAP.

22 The QAP is clearly heading in the right  
23 direction, and some positive changes are apparent. For  
24 instance, the proposed changes to the threshold criteria  
25 regarding zoning, requiring that evidence of rezoning be

1 submitted earlier for certainty is very beneficial.

2 We do want to point out though, that having  
3 that evidence submitted in advance of the June board  
4 meeting may be problematic in rezoning situations, in that  
5 land sellers may not want to have their land rezoned,  
6 unless they know for certain that there is going to be a  
7 sale and a tax credit development on their site.

8 We have proposed that the date for the final  
9 zoning evidence in a rezoning case should be that the date  
10 that the tax credit recipient pays its commitment fee.  
11 This gives TDHCA enough time to reach deals on the waiting  
12 list, if it needs to do so, and provides enough certainty  
13 to the process as to the zoning availability.

14 We definitely support the idea that the forward  
15 commitment be used flexibly to meet important housing  
16 needs. However, we would note that the industry has long  
17 relied on the department's forward commitment of 15  
18 percent of the credits.

19 To reduce the forward commitment dramatically  
20 next year, if you would choose to do so, would be a large,  
21 one-time hit. So we would like to recommend that at least  
22 10 percent of the forward commitment be utilized within  
23 that discretion in 2003, and then at least 5 percent be  
24 used in years thereafter.

25 We appreciate the staff's proposal to allow the

1 portfolio of social services offered to tenants to be  
2 flexible. That's very good. However, we think it's  
3 important that the applicant have some sort of contract in  
4 place at the time of application.

5 This shows that the applicant has carefully  
6 thought through the role of social services on the site,  
7 has considered the various social service providers, the  
8 cost of those social services, and has made that a part of  
9 the application's overall plan.

10 We do oppose the omission of points from mixed-  
11 income transactions. We understand your difficulty with  
12 this issue from an underwriting perspective, that the  
13 market rate rents can be hard to analyze. But there are  
14 market studies available to support those rents.

15 And we believe that mixed-income projects have  
16 an important public purpose, in that they reduce the  
17 concentration of low-income people, and provide social  
18 benefit. They are often preferred by local governments  
19 and by neighborhoods for that very reason.

20 Mixed-income transactions can be complex, and  
21 very well may not be done without a point-driven incentive  
22 in the QAP. We also note that applicants may struggle to  
23 combine the points with mixed income with the points for  
24 deep skewing.

25 We hope that the department will reconsider its

1 position on mixed-income transactions and find ways to  
2 address the underwriting issues without eliminating the  
3 incentive from mixed-income projects.

4 We recognize the troubles that TDHCA has had  
5 this year with regard to noncompliance issues in other  
6 states. We do have a concern that applying Texas  
7 standards to compliance issues in other states may create  
8 an incompatible comparison that is ultimately subject to  
9 interpretation.

10 MR. JONES: Why?

11 MS. BAST: Because if, for instance, there is  
12 an event of noncompliance that would be noncompliance in  
13 Texas, but would not be noncompliance in another state,  
14 and you're abiding by the rules of the other state, you're  
15 doing everything you're supposed to do in the other state,  
16 but yet, what you're doing in the other state might be a  
17 noncompliance event in Texas, that could create a  
18 situation where the Texas rule --

19 You have to look at the Texas rule and say,  
20 Well, is this event, even though it's not considered  
21 noncompliance in the other state, is this really a  
22 noncompliance for Texas, and therefore, does it cause a  
23 problem for the applicant here? And their concern that  
24 there could be an apples and oranges situation in that  
25 circumstance.

1 MR. JONES: Well, why wouldn't it be a good  
2 policy idea, though, to have developers meet certain  
3 standards in all their projects and developments? Why  
4 wouldn't it be a good idea for us to only want to do  
5 business with developers who set certain minimum standards  
6 that we find to be very important here in Texas?

7 MS. BAST: As long as there are certain minimum  
8 standards that are clearly achievable across 50 states,  
9 then I think that that potentially could be fine. I think  
10 where we get concerned is that if there -- something  
11 beyond that that may not be applicable, appropriate, or  
12 otherwise --

13 MR. JONES: What would that be? I mean, give  
14 me an example.

15 MS. BAST: To be honest, I don't have an honest  
16 example on that.

17 MR. JONES: Okay.

18 MS. BAST: We just want to express a concern at  
19 this time, and we want to, perhaps in our written  
20 comments, flesh that out a little bit more with you. We  
21 just want to make you aware of it at this time.

22 MR. JONES: Thank you.

23 MS. BAST: Finally, I know this is Item --  
24 Agenda Item 5, but if I could speak very briefly regarding  
25 the underwriting guidelines. One thing we do want to

1 reiterate is the position of many others in the industry  
2 with regard to the valuation of existing properties in  
3 identity-of-interest transactions.

4 We're concerned that using a holding-cost  
5 concept is too subjective, and allows staff to decide what  
6 should go into the calculation and what should not. We  
7 recommend that a third-party appraisal be used. Lenders  
8 and investors are comfortable with this.

9 If TDHCA is uncomfortable with third-party  
10 appraisals, then we would hope that you would address the  
11 issue of appraisals head-on, rather than trying to come up  
12 with another valuation mechanism.

13 We appreciate that you want owners to keep as  
14 much equity in these transactions as possible, to enhance  
15 their financial feasibility. However, we believe that the  
16 policy may be a disincentive for owners to improve the  
17 quality of their older properties, and that the Internal  
18 Revenue Code already provides restrictions as to the  
19 amount of profit that an owner can take on any related  
20 party acquisition.

21 Again, I appreciate the opportunity to bring  
22 these points to your attention today. You will be hearing  
23 from us throughout the process. And thank you very much.

24 MR. JONES: Thank you, Counselor.

25 MR. CONINE: Could I ask? You represent four

1 independent developers. Is that correct?

2 MS. BAST: That is correct.

3 MR. CONINE: Okay. Thank you.

4 MR. JONES: Any other questions?

5 (No response.)

6 MR. JONES: Thank you so much.

7 Mr. Deyoe?

8 MR. DEYOE: I'll try to be real brief.

9 MR. JONES: Thank you, sir.

10 MR. DEYOE: And in fact, what I will do is just  
11 kind of go down Brooke's outline, and just touch on some  
12 of the points that I think are important.

13 My name is Rick Deyoe. I'm President of Rural  
14 Texas Development Corporation. And I appreciate the fact  
15 that the QAP is being redone, because hopefully, it will  
16 be easier for us to read, and be able to interpret.

17 A couple of things that I think are good items,  
18 and then I'll talk about some of the things that I think  
19 might -- could use some additional change. The unit  
20 cap -- the reduction in unit cap from the 250 to 200, I  
21 think is a good item, because it allows the credits to be  
22 spread a little more between developers.

23 The development experience in eliminating the  
24 general contractor, in the development experience I think  
25 is also a good item, because the general contractor is



1 only in the process during the construction period.

2 The zoning -- I agree with what Ms. Bast was  
3 talking about on zoning. And that is, as a developer,  
4 nine times out of ten, if you've got a piece of property  
5 that's not zoned properly while you're in the zoning  
6 process, it's very -- most times, you can't get a city to  
7 make the zoning change contingent upon an allocation of  
8 credits.

9 And so the landowners, as Ms. Bast said, would  
10 not like necessarily to have their land rezoned to  
11 multifamily, unless they know that they're going to --  
12 unless they know that you're going to complete the sale.

13 I do want to touch briefly on the points for  
14 elderly developments. There is -- the elderly  
15 developments, the points have been eliminated in the  
16 proposed draft. I think that those points ought to be  
17 added back in, because I think it's important for an  
18 elderly development to compete head-to-head with a family  
19 development.

20 It's mentioned in here that the elderly  
21 development is -- it's a set-aside that's not  
22 necessarily -- that used to have points, and the rural  
23 set-aside and the nonprofit set-aside did not get points  
24 if you were in those set-asides.

25 The elderly set-aside, however, as you know, is

1 an overall set-aside. It's not a specific set-aside as it  
2 was in the past. And the only way that elderly projects  
3 competed head-to-head with Family was to -- was through  
4 the points.

5 The mixed-income points -- I think that we  
6 probably could keep mixed-income points in. However, the  
7 staff's got a real challenge on their hands if you're  
8 going to do mixed-income points and also do deep-skewing  
9 points.

10 We're finding in the industry that very few  
11 lenders and syndicators are able to -- the appraisals that  
12 the lenders and syndicators are getting are much different  
13 than the projected performers that were sent into the  
14 state at the time of the allocation, because it's hard to  
15 get a market-rate unit rent when it's next-door to a 30  
16 percent unit rent. And so there's some -- I think there  
17 is some work that could be done there.

18 Which brings me to the low-income targeting  
19 points. And that kind of goes along with the geographic  
20 dispersion, as well as the location in a QCT. I think  
21 that it was good that the QCT points be eliminated,  
22 because we're getting pretty concentrated in the QCTs.

23 However, the geographic dispersion being very  
24 low on the list of the evaluation factors, the low-income  
25 targeting points are 37 percent of the total point

1 structure still, if you looked at the maximum amount of  
2 points.

3 And what's going to happen is, you're going to  
4 continue to see deals done in QCTs, because those are the  
5 areas where you can do more deep skewing, because you've  
6 got the 30 percent boost in the credits, versus other  
7 areas.

8 And so if you're going to continue to leave the  
9 points in in the amounts that they're in for the low-  
10 income skewing, I think you've got to do something  
11 regarding geographic distribution of the credits amongst  
12 regions, because there is going to be areas such as this  
13 region here in Austin where other cities aren't going to  
14 be able to compete equally on a point structure with  
15 Austin, because of the QCT and the amount of low-income  
16 units that you could do here. And so I think that that  
17 still needs a little work.

18 Other than that, I think that -- I think  
19 everything else is in pretty good order. And I appreciate  
20 the work Brooke's done. I appreciate the work Tom's done.

21 And I think we can get through it and have something  
22 ready by November.

23 MR. JONES: Thank you, sir. Questions?  
24 Comments?

25 (No response.)

1 MR. JONES: Thank you.

2 Mr. Saling?

3 MR. SALING: I'll pass.

4 MR. JONES: Thank you, sir. Mr. Stewart. How  
5 is the baby?

6 (Pause.)

7 MR. STEWART: Thank you for the opportunity.  
8 Normally, I would not be here commenting on a draft  
9 document that's going out for public comment. But the  
10 issue that I want to speak on is very important as it  
11 relates to the allocation of the bonds that's coming up at  
12 the end of October. And it solely relates to the unit  
13 limitation on the size of the developments.

14 I've been working on pieces of dirt to submit  
15 into this year's bond lottery since, you know, March and  
16 April of this year. And I think what we have is a timing  
17 difference that's created by the Legislature on how the  
18 bonds are allocated, and the process by which the QAP goes  
19 through an approval.

20 So I would just propose that we defer the  
21 discussion on the size limitation on the bond deals, take  
22 that up and consider it for the QAP for the subsequent  
23 year, and let the 280-unit cap stay in the 2003 version of  
24 the QAP.

25 And I certainly will participate in the rest of

1 the public comment process on the QAP, but I just felt  
2 that was a big-enough issue to come today with.

3 Thank you, ma'am.

4 MR. JONES: Questions? Comment?

5 (No response.)

6 MR. JONES: Thank you, Mr. Stewart.

7 MR. STEWART: Thank you.

8 MR. JONES: Last, and certainly least -- now,  
9 who can I be talking about?

10 MR. GARVIN: I'm the weakest link.

11 MR. JONES: You're something. Counsel has  
12 informed me I have to let you speak.

13 VOICE: Oh, we have it in writing, so we can --

14 MR. GARVIN: Good afternoon. My name is John  
15 Garvin. I'm with the Texas Affiliation of Affordable  
16 Housing Providers. And I'm just here basically to  
17 reiterate what Jeanne Talerico and Brent said.

18 We have a letter that we drew up this morning  
19 on taking the 250-unit cap out of this QAP. And we'll  
20 discuss it. I mean, just for confusion sake alone, I've  
21 gotten a lot of members' comments saying that a lot of the  
22 applications will be ineligible if this stays.

23 If at all possible, we request you take it out  
24 of the Draft 2003 QAP. And if you have to leave it in,  
25 look at it for program year 2004.

1           TAAP will be holding a meeting in September in  
2 Houston to go over the entire QAP with a fine-tooth comb,  
3 so that if you're having more than one comment. We do  
4 want to thank Brooke and Tom Onion for a great job,  
5 getting everyone in to talk about this -- all these issues.

6           And we'll also be going through at that  
7 September meeting the Section 2306 of the Government Code  
8 on tax credits, too. So we're doing it all at once, and  
9 giving our QAP comments to you, and our legislative  
10 comments to the Legislature.

11           We thought we really would appreciate it if you  
12 would pull that 250-unit cap out of this draft QAP. Any  
13 questions?

14           (No response.)

15           MR. JONES: Thank you.

16           MR. CONINE: Do we have an opinion on the 9  
17 percent cap?

18           MR. GARVIN: I'm only allowed just one opinion  
19 today. We'll discuss that at the --

20           MR. CONINE: Okay. And what rule is that?

21           MR. GARVIN: We do it as a big group. So I  
22 can't -- I'll get in trouble if I say what I think.

23           MS. CARRINGTON: Probably his board's rule.

24           MR. GARVIN: I would say we're not that far  
25 along yet.

1 MR. JONES: You can't speak your own mind. I  
2 understand.

3 MR. GARVIN: They won't let me.

4 MR. JONES: What else? Anything else?

5 (No response.)

6 MR. JONES: Mr. Garvin, thank you for being  
7 here.

8 MR. GARVIN: Thank you.

9 MR. JONES: And we look forward to more  
10 opinions.

11 MR. JONES: As they are so authorized. All  
12 right. That takes us through all the public comment, I  
13 believe, on Item 4(a). So we have staff's recommendation,  
14 and we've gone through public comment.

15 Ms. Carrington?

16 MS. CARRINGTON: I think, Mr. Jones, it would  
17 be for the board to discuss this draft and look to make  
18 any revisions, recommendations. The process from here  
19 will be the document that the board approves today will be  
20 published in the Texas Register.

21 And a series of public hearings are in the  
22 process of being scheduled, if they're not already  
23 scheduled. Brooke's shaking her head. They are already  
24 scheduled. And then of course, the board will approve the  
25 final document in November of this year.

1           And what we are asking -- and then of course,  
2 go to the Governor for his approval. Staff is asking the  
3 consideration of the board today for a couple of items.

4           As we look to being very expeditious in getting  
5 the draft ready to go into the Texas Register, what we  
6 would like to ask the board to do today, is if you do  
7 propose to make changes in what's in the draft, that you  
8 all would give us that suggested language. And Brooke  
9 will be our scribe.

10           And then we will read that back to make sure  
11 that we have accurately captured what it is the board is  
12 intending for that language to be. So what this will do  
13 is allow us to get a draft ready prior to the full ten  
14 days in getting the transcript back. So it basically will  
15 speed up the process for us.

16           MR. JONES: Can I raise two issues? The first  
17 is one that I thought I overheard you and the mayor  
18 talking about, which would be putting something in the QAP  
19 with regard to the payment of all fees that might be due.

20           MS. CARRINGTON: Uh-huh.

21           MR. JONES: And I frankly think the mayor's  
22 idea is a good one, and would wonder how we would go about  
23 adding that in if we wanted to? And my second thing that  
24 I would raise is that I personally would like to see the  
25 points put back in for elderly developments. But you



1 know, again, how would we go about that? And what  
2 opportunities are you suggesting?

3 MS. CARRINGTON: In addressing the first  
4 question, and that is timely payment of fees, in Section  
5 49.31, that provision is in there that says if you have  
6 unpaid fees, it will cause an applicant to be ineligible  
7 to apply for additional credits, and ineligible to submit  
8 extension requests, ownership changes, and application  
9 amendments. So that provision is already in the draft.

10 MR. JONES: Could you -- and Chris -- excuse  
11 me, you know, I'll lead this because essentially, it's  
12 already handled. Do you feel comfortable that this is  
13 strong enough, that if we disqualified somebody on this  
14 basis, and they turned around and sued us next year, that  
15 we'd be a winner?

16 And I know I'm putting you on the spot, but  
17 that's what we need to think about, don't we? Because as  
18 soon as we disqualify somebody for this, that's the first  
19 thing they're going to do.

20 MR. WITTMAYER: I'd like to take a closer look  
21 at it before I --

22 MR. JONES: Okay. Would you do that for us?

23 MR. WITTMAYER: All right.

24 MR. JONES: Okay. Because I think that's where  
25 we want to go.

1 MR. CONINE: We wouldn't --

2 MS. CARRINGTON: Certainly.

3 MR. JONES: Yes. You know, we want to -- okay,  
4 excuse me. I didn't mean to interrupt.

5 MS. ANDERSON: That would be true of any --  
6 that's frankly true -- I'd like to ask Chris to, you know,  
7 look at the whole document from that perspective.

8 MR. JONES: Right.

9 MS. ANDERSON: I mean, any of these conditions  
10 are things that we would want to be worded to, you know,  
11 minimize any ambiguity, or any other kinds of issues that  
12 would cause us and our constituents to end up in a  
13 litigation situation, I mean.

14 MR. JONES: I interrupted you. I'm sorry.

15 MR. GONZALEZ: I have a question. How would we  
16 handle a case where someone maybe knows that they owe the  
17 money, but haven't been billed?

18 MR. SALINAS: Or that is out, but they know  
19 they owe the money and they --

20 MR. GONZALEZ: But they may need to pay it.

21 MR. SALINAS: They don't have to get a bill.  
22 They know the responsibilities of what they have with the  
23 agency --

24 MR. GONZALEZ: But they may not know how much  
25 they owe, but they know that they haven't been billed, I

1 guess. Now, I'd be curious to --

2 MR. SALINAS: That's our answer to everything  
3 down where past -- I mean, I didn't get a bill. But we  
4 know if we owe it.

5 MR. GONZALEZ: I know, but I guess we would  
6 have to change that.

7 MR. JONES: I mean, I guess what I envision is  
8 there just ought to be something on your checklist when  
9 you're going to turn in your application, as Okay, I'm  
10 going to make sure all my fees are up to date, because if  
11 they're not the first thing that's going to happen is then  
12 it comes right back at me. I mean, I think that's where  
13 we're trying to head.

14 MR. SALINAS: The other one that I think we  
15 need to be strong about is the zoning. That if the city  
16 does not have a zoning in place, then I don't think we  
17 should take time to look at it until we get an okay on the  
18 zoning.

19 And I understand what they mean, but if we go  
20 ahead and give them some tax credits, and then the city is  
21 not going to give them zoning, then we waste our time of  
22 our staff.

23 And then we get -- we let somebody else get in  
24 those tax credits. And we lose probably a year or maybe  
25 half a year, for them to go back to the city and get

1 zoning and then they deny them.

2 And we've accepted those, even with zoning, and  
3 they've beaten us -- on defending us on the Review Board  
4 on -- like the McKinney case.

5 We want to be very careful that we do have  
6 everything in place. But we'd also -- even though we had  
7 everything in place, and the McKinney case, we spent a lot  
8 of time, a lot of money on that deal. So did the  
9 developer by going through the whole process. And they  
10 had the zoning in place. And even though they had the  
11 zoning in place, they still had problems.

12 And I would hate to see something that is not  
13 zoned and I was giving them some tax credits. Then the  
14 worst thing is having that help somebody else that  
15 probably has everything in place.

16 MR. JONES: I agree with that. And I just want  
17 to make sure I'm reading it -- the draft right. I think  
18 the draft is as the mayor suggested to the -- or I'm  
19 almost --

20 MR. SALINAS: I think we need to be very  
21 careful with that. And every city should have a  
22 comprehensive plan, and every two or three years to be  
23 eligible for federal funds. And they should have that in  
24 place to be eligible for our funds and our tax credits.

25 And they should do that every three years, to

1 be able to change their zoning and to change what they  
2 have through a comprehensive plan every three or four  
3 years in their own cities.

4 And I can understand Houston does not have  
5 zoning. Right? How would we address that?

6 MR. CONINE: That means you can do anything  
7 anytime. So it would be eligible already, I would -- or  
8 automatically, I would say.

9 MR. SALINAS: Yes. Exactly. But if you have a  
10 plan in zoning in the city, I mean, you have to respect  
11 those board members that serve in that city.

12 MR. CONINE: Is there a -- can I ask a question  
13 on the procedure here for just a minute?

14 MR. JONES: Certainly.

15 MR. CONINE: My understanding is that once we  
16 publish the draft, comments that are made at this meeting,  
17 any subsequent public hearing meetings are eligible for  
18 change incorporation into the final QAP? Is that correct?

19 MR. JONES: The qualitative -- a qualified yes.  
20 Would that be fair, Chris? He gave me a -- about as  
21 definitive statement on this as you're going to see. But  
22 basically --

23 MR. CONINE: Here's where I'm driving. Ms.  
24 Carrington suggested we have specific language and changes  
25 today. And what I'd like to do is to be able to, I guess,

1 mention some items that I have concerns about, but not  
2 have the specific language, but have them on the record,  
3 so that when we do the subsequent change ultimately in  
4 November, any of those items would fall into the  
5 qualifying scenario of being able to change them. Is that  
6 appropriate?

7 MR. JONES: You know, we're I think, off in  
8 some gray areas here. I would say this. If we could make  
9 as many changes today as we could, we would probably be  
10 better off doing that.

11 And let me ask this. If the board -- and I  
12 guess it depends on what the suggestions are. You know,  
13 my hope would be that Brooke could help us, and that if  
14 the board had a consensus about changes that need to be  
15 made, we would go ahead and take a stab at it.

16 MR. CONINE: I'm trying to admit I didn't do  
17 all of my homework, you know.

18 MR. JONES: I understand. But -- and I'm  
19 trying to be very serious, though, in responding, because  
20 I think that we're -- we would like to make as many  
21 changes as we could today that the board desires to make.

22 I understand there may be further, based upon  
23 additional public comment after today it will have to  
24 make. And if public comment is going to be meaningful, we  
25 have to take the opportunity to do that.

1           But having said that, I think we want to go  
2 forward and make as many changes as we could today. And  
3 that's been the suggestion that I've received from my  
4 counsel.

5           I was going to -- I think -- and before we jump  
6 to your comments, could we go -- I think Ms. Carrington  
7 wanted to finish answering a question she was asked. And  
8 then I'll come straight back to Mr. Conine.

9           MS. CARRINGTON: And the question was on  
10 zoning. Now, the way the draft QAP reads right now is  
11 that at the -- and we actually do specify the June board  
12 meeting. And if that stayed in, I was going to recommend  
13 that the language to the specific month come out, because  
14 that board meeting might be June, it might not be June.

15           But it is at that board meeting where the board  
16 approves the recommended list. But right now, the QAP  
17 says zoning must be in place. So they've gone through the  
18 tax credit round. They are recommended per staff's  
19 recommendation.

20           And so it's at that point we've said we want  
21 zoning to be in place. What we've heard today is that  
22 it's difficult to get an owner to be willing to zone the  
23 land when you don't know the tax credits are in place.  
24 And so the recommendation that you heard from, I think, a  
25 couple of folks testifying, is that at the time the

1 developer pays their commitment fee --

2 MR. CONINE: Which is how many days after we  
3 issue the commitment letter -- the reservation letter?

4 MS. BOSTON: This year it's September 12, so  
5 it's about a month.

6 MR. CONINE: Okay.

7 MS. CARRINGTON: So it's about a month for --  
8 if you all didn't hear that. It's about a month after the  
9 issuance of the commitment notices, they must pay their  
10 commitment fee. So it is prior to the carryover time, and  
11 prior to the meeting the 10 percent test time. So it's an  
12 interim date between those times.

13 MR. JONES: You know, I understand the issue.  
14 I guess I still agree with the mayor, and I like it better  
15 the way you all had it drafted.

16 MR. SALINAS: There is a map in every city --

17 MR. JONES: Yes.

18 MR. SALINAS: -- that zones their property.  
19 That property owner cannot build anything -- if it's for  
20 apartments or for housing, that's all they can build  
21 there. A first-time homebuyers, a family house --  
22 affordable-home programs, or whatever, that's shown by the  
23 planning and zoning.

24 The property owner has no other choice but to  
25 sell that kind -- to have those kind of tenants there. I



1 don't see why -- how the tax rates have to do with the  
2 property owner. And I can understand somebody trying to  
3 buy a piece of property, and the right zoning, it says,  
4 Well, if you get the tax credit, then I'll sell you the  
5 property. That's fine.

6 But then you don't have to go back to the  
7 planning zoning and city council, public hearing, and say,  
8 Well, we're going to have affordable homes here.

9 MR. JONES: Right.

10 MR. SALINAS: I clearly think that those people  
11 have to go back to their cities and get approval from  
12 their city leaders or county leaders as to where that  
13 project is going to go. And if I was in their case, I  
14 would do that first before I came down here.

15 I mean, I will not waste our time and the  
16 staff's time by getting the tax credits and going back to  
17 there and saying, Well, that's not zoned, and then having  
18 those cities to have a battle between themselves and  
19 fighting between themselves, like we had that big fight in  
20 McKinney.

21 And having to rent at the Hilton where we could  
22 accommodate 300 people there that were opposed to our tax  
23 credits, which had already been approved, we ended up not  
24 helping that developer over there. So I think we need to  
25 very careful over how we do the zoning.

1 MR. CONINE: May I speak to the issue, Mr.  
2 Chairman?

3 MR. JONES: Mr. Conine, sure. Certainly.

4 MR. CONINE: I have softened my opinion on this  
5 particular issue. And let me explain why. And let me see  
6 if I can suggest a compromise that may make this where we  
7 might want to be.

8 Most of these properties are held under control  
9 by a contract of sale. But most of them have to last for  
10 a year. Between the time, like now, they've been out, as  
11 Brent testified earlier, he's been out looking for land  
12 since March.

13 And it will take him till next March to get  
14 things done and closed, or longer than that. So by its  
15 own definition, there are not people running over these  
16 land sellers to try to buy these properties. They are  
17 very patient sellers in the marketplace out there.

18 They are dying for someone to come along and  
19 buy their dirt, or they wouldn't let them tie it up for  
20 that length of time. So we're not in a market where you  
21 have to move quick and respond quickly to be able to buy a  
22 piece of land.

23 Secondly, I think in undeserved areas in, let's  
24 call it the poorer sides of town, where some of these  
25 projects end up going, a lot of the zoning and land use

1 plans were developed years ago. And those changes --  
2 those communities go through change and metamorphosis over  
3 the years.

4 And part of the projects that we bring to the  
5 table with these tax credits actually participate in some  
6 of that change. The in-between that I think might be  
7 something that I would at least be palatable with is most  
8 of these municipalities have both a planning and zoning  
9 commission, and a city council process that they have to  
10 go through in order to change the zoning.

11 MR. JONES: Uh-huh.

12 MR. CONINE: If we could have some indication  
13 from the planning and zoning process prior to the -- and  
14 approval, if you will, from the planning and zoning  
15 commission, that they would recommend to the city council  
16 that that project -- that piece of land be rezoned.

17 And then subsequently require that the city  
18 council approve that zoning change again by the payment of  
19 the commitment fee, which would be within the 30-day time  
20 frame later.

21 I think I would be comfortable enough to know  
22 that the local citizens and communities could rally behind  
23 the meeting at the planning and zoning level, so that that  
24 particular approval or denial would take place before we  
25 get it to this board.

1 MR. JONES: Yes, I have no problem with this.

2 MR. CONINE: And then the land seller would not  
3 be at risk of rezoning his property and not getting the  
4 credits, which I think is something we really don't want  
5 to get in the business of.

6 MR. SALINAS: I agree.

7 MR. CONINE: So I would suggest that change,  
8 and would make that, I guess, as a motion to change the  
9 QAP just to get this ball rolling.

10 MR. JONES: Okay.

11 MR. SALINAS: We don't have any problems, as  
12 long as we let the community involve in what they are  
13 going to be having there. If they go through the zoning  
14 and they get the -- they have public hearings and  
15 everything, and you don't have anybody at the public  
16 hearings. Well, nobody showed up. Everybody is going  
17 along with the system.

18 But sometimes you have problems like the one  
19 we had in McKinney, which then created a big hassle. This  
20 way, if everybody knows that they have to go through the  
21 public hearings to the -- through the planning/zoning, and  
22 the city council. And then once they get their opinion  
23 in, they can come over here. I have no problems with  
24 that. As long as everybody knows that they're here.

25 MR. CONINE: Well, again, this is a -- most

1 cities it's a two-step process.

2 MR. SALINAS: Yes.

3 MR. CONINE: P and Z and council. What I'm  
4 suggesting is they go through the first step now, or  
5 before we get it.

6 MR. SALINAS: Yes.

7 MR. CONINE: We can then approve it, and the  
8 council can either accept the zoning change or not accept  
9 the zoning change.

10 MR. SALINAS: I agree.

11 MR. CONINE: And then we get -- we would have  
12 enough time left over to be able to do that. Now let's  
13 talk, Brooke, about the time in the timeline when the P  
14 and Z approval needs to be had, so that underwriting  
15 doesn't waste a whole lot of time on it.

16 MS. BOSTON: Okay. That was actually going to  
17 be my question, was when you said when we get it, do you  
18 mean the agency on March -- or February 28 or March 1? Or  
19 do you mean meet the board at the first meeting where you  
20 see our recommendations?

21 MR. CONINE: I don't know.

22 MS. BOSTON: Obviously, Underwriting all spent  
23 the time by June.

24 MR. JONES: I would say March 1.

25 MS. ANDERSON: I think it might be July.

1 MR. CONINE: I think it might be too early.

2 MS. ANDERSON: So --

3 MR. JONES: If you've got it --

4 MS. ANDERSON: Thirty day before we --

5 MR. JONES: We're going to save staff being on  
6 this. Your counterpart will have it easy.

7 MS. BOSTON: Well --

8 MR. CONINE: Then determine threshold --

9 MS. ANDERSON: They're underwriting them in  
10 March. Right? You're scoring them first, before  
11 underwriting gets them. So underwriting is scoring them  
12 in what? Late April and May?

13 MS. BOSTON: Correct.

14 MR. JONES: So you want to line it up. That's  
15 when it would get kicked over to underwriting.

16 MS. BOSTON: We could pick a date and not have  
17 it be --

18 MR. CONINE: We still have -- we have March 1  
19 as the --

20 MS. BOSTON: -- any number of days prior to  
21 anything else.

22 MR. CONINE: -- the submittal date?

23 MS. BOSTON: This year it's February 28. But  
24 yes, it's no later than March 1.

25 MR. CONINE: All right.

1 MS. BOSTON: We -- you could just do it as May  
2 31.

3 MR. CONINE: I'm thinking more along the lines  
4 of April 1. Because they would have had to tie the  
5 project up, let's say in -- let's say if they're not doing  
6 a bond application, they're just strictly doing 9  
7 percents. Okay?

8 So they have to tie the land up and have enough  
9 time to prepare their submission, their application,  
10 which, granted, takes a few days for most of them to do it  
11 in a professional manner. And they could submit zoning  
12 application at that time. And there's generally a 30-day  
13 wait for staff to review it and get on the docket of the  
14 agenda.

15 So we need to allow enough time for that. I  
16 would -- my gut feel is that April 1 would be plenty of  
17 time. And then if they don't achieve a P and Z approval  
18 by that time, you could just kick it back to them and say,  
19 Sayonara, or whatever.

20 MR. JONES: Any other thoughts on that?

21 MS. BOSTON: Yes?

22 MS. ANDERSON: Brooke, do you have a date  
23 certain that you release the scoring before anything goes  
24 to underwriting?

25 MS. BOSTON: No.

1 MS. ANDERSON: Okay. So that's not --

2 MR. SALINAS: They give you 30 days to go to  
3 planning and zoning and city council. Thirty days.

4 MR. JONES: Right. So we're looking at a April  
5 1 date in connection with your motion?

6 MR. CONINE: Yes.

7 MR. JONES: By way of housekeeping, is there a  
8 second to Mr. Conine's motion?

9 MR. SALINAS: I'll second it.

10 MR. JONES: Okay. The motion's been made and  
11 seconded. Further discussion?

12 MS. BOSTON: Can I ask a clarification?

13 MR. JONES: Certainly.

14 MS. BOSTON: If I heard you correctly, you're  
15 suggesting that at application, you would have to have  
16 proof that you had applied for your zoning, is what I  
17 think you just said.

18 MR. CONINE: That's fine.

19 MS. BOSTON: And then at -- by April 1, you'd  
20 have to have proof that it had been a pre-fab T and Z.  
21 And then by the commitment fee being turned in, you would  
22 need to have actual zoning approved by the city council?  
23 Is that right?

24 MR. CONINE: Yes. What kind of -- refresh my  
25 memory on the commitment fee. I know the time frame. But



1 extensions of family commitment fee? Is there any -- does  
2 this come back to the board for extension?

3 MS. BOSTON: Yes.

4 MR. CONINE: Okay.

5 MR. JONES: And Brooke, I'm going to trust you  
6 to be our scribe, to carry forth your revisions that are  
7 contemplated by these motions.

8 MS. BOSTON: Okay.

9 MR. JONES: Thank you. Further questions,  
10 comments, discussion on the motion? I assume we're then  
11 ready to vote on the motion. The motion is to amend the  
12 draft as suggested by Mr. Conine. All in favor of the  
13 motion to amend, please say aye.

14 (A chorus of ayes.)

15 MR. JONES: All opposed, nay.

16 (No response.)

17 MR. JONES: The motion carries. I think I  
18 promised I'd go back to Mr. Conine for his list of  
19 comments.

20 MR. CONINE: On the subject of the unit caps, I  
21 tend to agree with those who have testified here today.  
22 On actually -- under the 4 percent and the 9 percent, I'm  
23 having a little trouble understanding this, since we have  
24 dollar limits, why we need unit limits reduced at the same  
25 time.

1           On the other hand, on the rules side, I think  
2 it's important that we release the restriction on the 76  
3 units there, because there may be a situation pop up in a  
4 rural area that demand is just, you know, so and so moves  
5 to town, and they're creating a thousand-employee  
6 population. And it would be beneficial to have something  
7 there.

8           So I'd like to see the QAP amended to release  
9 the restriction on rural development caps, but keep the  
10 250 and the 280 limits on the nine and the 4 percent bond  
11 developments. And I make that as a motion.

12           MR. SALINAS: Just for 2003?

13           MR. CONINE: Just for the -- yes, just for the  
14 '03.

15           MR. SALINAS: Well, '04 would be there? We  
16 would literally try to --

17           MR. CONINE: I would think on '04, we needed  
18 to -- you know, the problem was some of the suggestions in  
19 '04 is that we're on -- first, we're going to talk about  
20 this this time next year.

21           MS. ANDERSON: Right. So we --

22           MR. CONINE: And we have to, as a board, figure  
23 out how to talk about this sometime before this time next  
24 year, so that we give adequate notice --

25           MR. SALINAS: But we sent the notice that we're

1 going to cut it back to two --

2 MR. CONINE: Yes, maybe this public testimony  
3 is adequate notice. I don't know. But --

4 MR. SALINAS: But I was -- think that we need  
5 to send a message now that 2004 would be different. That  
6 we would probably do this in '03 because of their comfort  
7 level.

8 MR. CONINE: I think you just did that fairly  
9 well, Mayor.

10 MR. SALINAS: Yes.

11 MS. ANDERSON: Yes, I agree with the mayor on  
12 that.

13 MR. CONINE: Okay.

14 MR. SALINAS: So we're hearing the message  
15 from -- and the lady that can help that much going to  
16 happen with it, in terms of --

17 So I am seconding his motion.

18 MR. JONES: Okay. We have a motion's been made  
19 and seconded. Further discussion, question, comments,  
20 arguments?

21 MS. BOSTON: Clarification again?

22 MR. JONES: Yes.

23 MS. BOSTON: You don't want us to refer in any  
24 way, though, to an adjustment in 2004? Just --

25 MR. SALINAS: 2004 means that we're going to be

1 cutting the QAP [phonetic] funding.

2 MR. JONES: Not in the QAP.

3 MS. BOSTON: And so do we -- okay. That's what  
4 I was told.

5 MR. CONINE: They've done it by public  
6 testimony.

7 MS. BOSTON: Okay.

8 MS. CARRINGTON: May I have a clarification?

9 MR. JONES: Edwina?

10 MS. CARRINGTON: So rural, we would eliminate  
11 the cap at 76.

12 MR. CONINE: Correct.

13 MS. CARRINGTON: And it would just fall within  
14 the caps for the 9 percent and the 4 percent?

15 MR. CONINE: Right.

16 MR. JONES: I'll speak against the motion. I'd  
17 go ahead and do it this year. But that's just me. Are we  
18 ready to vote?

19 MS. BOSTON: I -- yes.

20 MS. ANDERSON: I agree, and I think maybe that  
21 was the mayor's intent.

22 MR. SALINAS: Yes, the QAP, not 2004.

23 MS. ANDERSON: That the QAP language ought to  
24 say that the cost next year at this time will be here, and  
25 we'll have to defer it again, because next year's Bond

1 review will be the same.

2 MR. CONINE: Can we make the language ambiguous  
3 enough? Because I'm not sure the numbers suggested are  
4 the right numbers. And I don't want to get into that  
5 argument or debate today. But I think there are some  
6 mathematical calculations that can go -- that can help me  
7 understand whether they're the right numbers or not.

8 For us to say that in '04 the board has been  
9 contemplating reduction of these numbers is fine. But to  
10 what level? I'm not prepared to say those are the right  
11 numbers.

12 MS. ANDERSON: I think you have to make the --  
13 make it specific, though, so that then in the subsequent  
14 30 days of public comment, we get some industry input on  
15 what the number ought to be.

16 MR. CONINE: Yes.

17 MS. ANDERSON: They can still change it.  
18 Right? I mean --

19 MR. CONINE: Yes, we --

20 MS. ANDERSON: From 250 to 262, or whatever in  
21 30 days, when we do a final approval?

22 MR. SALINAS: But that's what '03 is planning.  
23 Because there's some people that are already on board.

24 MS. ANDERSON: Right.

25 MR. SALINAS: But the first -- the best in '04

1 will do it the way the QAP says right now. And I'm --

2 MR. CONINE: I hear what he's saying. And I  
3 vote for that motion. That's fine.

4 MS. CARRINGTON: May I -- do you have five --  
5 tax exempt bond and 4 percent credit transactions to vote  
6 on today? All of them local issuers? Of those five,  
7 there is only one that's the maximum 280 units. There are  
8 some others that are actually, you know, 150 and 180.

9 So I haven't looked at, you know, what comes  
10 through here, and how many of them are the max. But if  
11 today you have us all looking at it as an example, yes.

12 MR. CONINE: We'll have another shot at that.

13 MS. CARRINGTON: And staff did have some  
14 language on that that we could --

15 MR. CONINE: May I make a motion again?

16 MR. JONES: Yes, because we do have --

17 MR. CONINE: I need to amend that motion --

18 MR. JONES: Yes.

19 MR. CONINE: -- to help them.

20 MR. JONES: Well, let's make it clear. Yes,  
21 both of them help you.

22 MS. CARRINGTON: Yes.

23 MR. JONES: Exactly. You've got a problem.  
24 The pick-up's [phonetic] still going to happen, but go  
25 ahead.

1 MR. CONINE: '03, we're going to get -- we'll  
2 keep them at the '02 limits, which is -- and we're going  
3 to release the restriction on rules. And we create a  
4 sentence in here that indicates to the development  
5 community that in '04, we're going to cut them to 200 for  
6 9 percent, and 250 for 4 percent.

7 MR. SALINAS: Okay.

8 MS. ANDERSON: And we'll get comment on that.

9 MR. CONINE: And get comments on that, and then  
10 we can --

11 MS. ANDERSON: Come back next year.

12 MR. CONINE: Come back in November and  
13 manipulate or change it, as the case may be.

14 MR. JONES: And again, not to be argumentative,  
15 but to make my position clear, I would leave the draft the  
16 way it was. But that's just, again, me speaking to the  
17 motion. It has nothing else to do --

18 MS. ANDERSON: May I ask a question of staff?  
19 Is there any other remedy -- you know, because a lot of  
20 these bills that are being prepared now to hit this  
21 October 10 deadline may not be subject to this cap because  
22 they're below -- they're at 250 or below.

23 So I mean, is there any other room in these  
24 that could be worded in the QAP that would let us go ahead  
25 and cut the numbers to 250, except for where somebody

1 already had a deal in process before we vote the final  
2 QAP? Do we have that as a remedy?

3 MS. CARRINGTON: When staff talked about what  
4 the remedy was, we looked at just excepting --  
5 E-X-C-E-P-T, excepting the 4 percent bond transactions out  
6 of this requirement.

7 As with TDHCA, I mean, our deadline for the  
8 applications from the developers was Monday of this week.  
9 So it's too late for them.

10 MS. ANDERSON: Right.

11 MS. CARRINGTON: I don't know what other local  
12 issuers deadlines are. And we received, I think 114  
13 applications. So we have our pool. And that pool is  
14 based on different numbers, so we could except -- of that  
15 114, we could just except or exempt, or --

16 MR. SALINAS: Not a problem.

17 MS. CARRINGTON: The ones that were at 280 for  
18 this year's --

19 MR. SALINAS: Did we grandfather that? That  
20 actually what you --

21 MS. ANDERSON: And then you -- that has the  
22 practical effect of implementing it this year.

23 MR. JONES: Exactly. I understood.

24 MS. CARRINGTON: But it gets Mr. Stewart and  
25 others relief that are already in the process.



1 MR. SALINAS: Okay.

2 MR. JONES: I think where we're at then, is we  
3 do have a motion on the floor. It has been seconded.  
4 And I understand -- and I didn't mean to cut Ms. Anderson  
5 off. I mean -- okay.

6 MR. SALINAS: Well, I want to be able to get  
7 everybody some consensus for what we really want to do  
8 here.

9 MR. JONES: And don't --

10 MR. SALINAS: I agree with staff. I also agree  
11 with the person who has testified that there are some  
12 people there that if you don't give them an exemption,  
13 they won't come back -- they'll be thrown out. And I  
14 really don't want to be --

15 MS. CARRINGTON: That's not what we want to do.

16 MR. SALINAS: This is not what we really want  
17 to do. This is why -- Mr. Conine on probably doing some  
18 changes on this QAP for 2002, but I really don't want to  
19 do anything against staff's recommendation. And I also  
20 don't want to give the implication to the people that  
21 already spent so much time and so much money into their  
22 application. We have a chance to change it in '04.  
23 That's what I -- that's my -- at the end of '03, we'll  
24 say, well, we talked about it last year. And we said that  
25 that no more; this is the QAP now. Now, how do we get

1 everybody to agree?

2 MR. JONES: Well, I -- then we're going to -- I  
3 think we're very close. I really think it requires we try  
4 to deal with the staff, even intending to do two.  
5 So maybe -- you're very persuasive; you're convincing me.

6 I think the motion sounds like a good one. It's probably  
7 as close to a bright-line way to do this.

8 The exception being, the only thing that  
9 concerns me about that is being that's really vague. I  
10 think we're putting staff in a really tentative position,  
11 although I know that was you all's first inclination  
12 anyway.

13 But unless Ms. Carrington thinks I'm way off  
14 base, I think we're still pretty close to what staff  
15 talked about here.

16 The question has been called. I assume we're  
17 ready to vote, if anybody chooses not. Okay. I assume  
18 we're ready to vote.

19 All in favor of the motion please say aye.

20 (A chorus of ayes.)

21 MR. JONES: All opposed, nay?

22 (No response.)

23 MR. JONES: The motion carries.

24 MS. CARRINGTON: May I ask that you all clarify  
25 for Ms. Boston -- yes, she has that look on her face like,

1 I'm not quite sure here.

2 MR. JONES: Well, I think -- I would like to  
3 say this. You know, we are making these motions. And  
4 then she can, you know, put the language in. And then we  
5 are, I think, based on public comment, that we have to  
6 fine-tune language. We can't -- yes, please, ask for  
7 clarification.

8 MS. BOSTON: So your motion approved it with a  
9 clause at the end of it saying this way it would iterate  
10 it as the 280 and the 250 with the clauses referring to,  
11 it would be reduced in 2004 to 200 for 9 percent and 250  
12 for 4 percent?

13 MR. JONES: Exactly. Thank you. All right.

14 MR. CONINE: Could we talk, Brooke, about the  
15 mixed income points again, please? And refresh my memory,  
16 because we've had this discussion before. And I'm sorry I  
17 can't remember what the outcome of it was.

18 MS. BOSTON: As to why we removed it?

19 MR. CONINE: And the problems that staff has.

20 MS. BOSTON: Okay. One of our goals this year  
21 was to make sure that we removed as much as possible any  
22 subjectivity and any correlation between scoring and  
23 underwriting evaluation.

24 And this was one of the exhibits it was a real  
25 difficulty to administer in both of those things. The

1 evaluation by the tax credit staff involves looking at the  
2 market study, and confirming that the rents that they're  
3 attesting that will be the market rents, are supportable.

4 The calculation of those was often disputed.  
5 And there was also concerns from the development community  
6 that we heard about on our Friday open forum, that  
7 different market analysts are willing to say different  
8 things, depending on, you know, the relationship they have  
9 with the applicant or developer.

10 And so some people felt like, Well, I picked,  
11 you know, an upstanding, you know, whatever. And someone  
12 else -- and I'm not trying to cast aspersion or say  
13 anything, but there is concern about that.

14 Then likewise, once the developments got to  
15 underwriting, Tom also may -- Tom or his staff may have  
16 adjusted rents and not found the market rate rents  
17 acceptable as portrayed in the market study. And again,  
18 we would need to adjust.

19 So at several different points, we will be  
20 potentially adjusting those scoring points, which is  
21 problematic for our staff, that -- it was very hard on the  
22 developers, because after they thought they knew what  
23 their score was, it would be adjusted again.

24 I think there is merit to keeping some approach  
25 to mixed income, but it needs to be a way that doesn't

1 open the door for so much subjectivity. And I don't know  
2 exactly right now what that solution would be. So I think  
3 the public comment we would get on this -- I know even  
4 just some of the people here today have indicated to me  
5 that they plan on making quite a bit of comment at the  
6 public hearings.

7 MR. CONINE: I don't know what the right answer  
8 is yet, either. And I'm -- but I'm in agreement with  
9 mixed-income projects are desirable for us to be  
10 supportive of.

11 Where I think I want to come down in the  
12 future -- I need to look and think about this. So Mr.  
13 Chairman, we're going to leave this kind of as an open  
14 item to get back to, but --

15 MR. JONES: Certainly.

16 MR. CONINE: But in some cities, market rates  
17 rents and tax credit rents could be close to being the  
18 same, or even in some cases, market rate would be under  
19 tax credit. And where these projects do the most good, in  
20 my opinion, is where market rate is substantially higher  
21 than tax credit rents.

22 And I think maybe a percentage of market rate  
23 rents might be worthy of looking at in order to create a  
24 point score. And that -- so that's really all I'm going  
25 to say. I'm not going to propose anything right now. But

1 at least we can think about that between now and November.

2 MS. CARRINGTON: And I do think, Mr. Conine,  
3 that one of the things that we will work to do is figure  
4 out how we get those points in the application -- in the  
5 tax credit part of the review, as opposed to the two areas  
6 that we have that, as Brooke has already mentioned, when  
7 they go to underwriting, there is an opportunity then for  
8 points to be adjusted a second time.

9 And that we need to be able to give the  
10 development community some assurance that the points they  
11 have -- you know, there needs to be a stopping point for  
12 when they get points added and subtracted. And so that's  
13 what we will struggle with also.

14 MR. JONES: While we're on the points issue,  
15 elderly points -- could you address that?

16 MS. BOSTON: Yes, we felt that it would be a  
17 time to just make a -- one of the steps in cleaning up the  
18 QAP was that if we had a set-aside for something we did  
19 not feel that it also needed points. And we had -- we  
20 were trying to apply it universally. And since there is  
21 an elderly set-aside, that was our rationale.

22 MR. JONES: Okay.

23 MS. ANDERSON: Sort of like giving them a  
24 double credit, which we didn't do for the nonprofit and  
25 the rural set-aside?

1 MS. BOSTON: Right.

2 MR. JONES: And we did that with regard to  
3 every set-aside?

4 MS. BOSTON: Correct.

5 MR. JONES: Okay.

6 MS. BOSTON: As proposed through no points in  
7 the QAP for any set-aside.

8 MR. JONES: Okay. Excuse me, sir.

9 MR. CONINE: While we're on the points issue, I  
10 notice on -- in my board workbook, on page 9 of nine,  
11 there is that chart that I don't think was circulated with  
12 the QAP, draft QAP. Was this -- was that in the draft QAP  
13 or not? I don't believe it is.

14 MS. BOSTON: The breakout of the scores is not  
15 part of the QAP, but it's in everyone's board book.

16 MS. CARRINGTON: It's in the board book.

17 MR. CONINE: It's in the board book.

18 MS. BOSTON: Yes.

19 MS. CARRINGTON: It is on the website. Yes.

20 MR. CONINE: Mr. Chairman, I think I'd like to  
21 make a motion that this chart be put in as a part --  
22 circulated as a part of the draft QAP, so that we can get  
23 some public comment back on the weighting of all the  
24 points.

25 And this is -- thank you for doing this, by the

1 way. But I'd like a little more public comment on the  
2 record, on the weighting of how many of these particular  
3 issues get certain points.

4 And if there's no public comment, you know, by  
5 the time he gets back, then wonderful. And if there is,  
6 we can address it at that point in time. But I think it  
7 would help for the public to see this chart, if we could  
8 include it as circulated in the draft QAP. And I so move.

9 MS. ANDERSON: Second.

10 MR. JONES: Motion has been made and seconded.

11 Is there any problem with that, Ms. Carrington? I would  
12 think not.

13 MS. CARRINGTON: No.

14 MS. BOSTON: Actually, it -- I don't know why  
15 I'm offering to do this because it's a bunch more work,  
16 but I think it might have a proposal going out be more  
17 helpful for the public is, if it's okay, if I could also  
18 amend this to include an evaluation of the 2003 deals --

19 MS. CARRINGTON: Side by side.

20 MS. BOSTON: And potentially maybe by set-  
21 aside.

22 MR. CONINE: That would be helpful if you had  
23 another column in there.

24 MS. BOSTON: Which would capture some of your  
25 comments I've heard from you before about rural, we'd be



1 able to see that.

2 MR. CONINE: I think you were offering to do  
3 that, weren't you?

4 MS. CARRINGTON: Yes, because this is, of  
5 course, projected. This is '03. It's not what it looked  
6 like in '02.

7 MR. CONINE: Again, this will allow the board  
8 and the public to have some good public policy debate on  
9 how much weight we give each of these particular items,  
10 which we haven't had for a long time.

11 MR. JONES: Yes, it helps the cause and effect  
12 analysis.

13 MS. CARRINGTON: One of the things we did go  
14 back and look was at the '02 applications, and to see what  
15 was the average score on the '02s. As you can see in '03,  
16 we're looking at an average transaction of being able to  
17 score about 118.5. And for the '02 transactions, that  
18 average score was actually 122.

19 And some of the difference, of course, is  
20 because we've taken out some items that were point items.

21 MR. CONINE: Right.

22 MS. CARRINGTON: And so there is not as much of  
23 an opportunity to score as high next year.

24 MR. CONINE: Apples and oranges. That's what I  
25 believe.

1 MS. BOSTON: And interestingly, I was looking  
2 this morning at some of the higher-scoring developments  
3 from 2002, and what person the -- the low-income targeting  
4 had portrayed on a specific project basis.

5 And even though on the averages here it comes  
6 out, you know, in the 19 percent area, on those higher-  
7 scoring deals, it came out in the high 30 percents. So I  
8 think that I'll use part of my comment in wanting to use  
9 the 2002 deals under the 2002 scoring breakout, because  
10 the averages may be a little different.

11 MR. JONES: Okay. We have a motion on the  
12 floor that's been made and seconded. Further discussion?

13 (No response.)

14 MR. JONES: Hearing none, I assume we're ready  
15 to vote. All in favor the motion, please say aye.

16 (A chorus of ayes.)

17 MR. JONES: All opposed, nay?

18 (No response.)

19 MR. JONES: Motion carries.

20 MR. CONINE: Another item that I guess I  
21 brought up in the workshop last time was the elimination  
22 of the eligibility of four-bedroom units in our  
23 calculations. Again, I -- as a real estate professional  
24 for many, many years, do not see a tremendous demand for  
25 four-bedroom units across the state. And I think it tends

1 to skew some of the score and the eligible basis  
2 calculations that are going on relative to the cost of the  
3 projects and the tax credits that they're eligible to  
4 receive.

5 And I just don't think it's good public policy  
6 to have a concentration of a family that size. And  
7 admittedly, the demand is very low. Everyone I've talked  
8 to that has four-bedroom units has a hard time renting  
9 them.

10 You have to have families double up in some  
11 cases. And I just don't think it's good public policy for  
12 this department to encourage that sort of development. So  
13 I would move to add the elimination of four-bedroom units  
14 in the QAP.

15 MR. SALINAS: Second.

16 MR. JONES: Motion's been made and seconded.  
17 Further discussion?

18 Excuse me, Brooke, you had a question?

19 MS. BOSTON: I have two questions. One was I'm  
20 guessing the best place for that would be under an  
21 eligible building types, no building would be eligible if  
22 it had 4 percent [sic] units. It --

23 MR. CONINE: Four bedroom.

24 MR. JONES: Four bedroom.

25 MS. BOSTON: Four -- I'm sorry. That's what I

1 meant. My other question is, are family points that we  
2 give, discussed, you know, three and four-bedroom units.  
3 Do you want to -- and maybe this needs to be discussed as  
4 a separate item. But do you want to change anything  
5 having to do with family points? Or still just keep it  
6 there, but it would only be for three-bedroom units?

7 MR. CONINE: We'll get those comments to the  
8 point process, the charts you're going to put in there. I  
9 think we'll get some of those comments. And we'll get  
10 some comments on this, I'm sure.

11 MR. JONES: We have a motion made and seconded.  
12 Further discussion on the motion? Hearing none, I assume  
13 we're ready to vote. All in favor of the motion, please  
14 say aye.

15 (A chorus of ayes.)

16 MR. JONES: All opposed, nay?

17 (No response.)

18 MR. JONES: The motion carries.

19 MR. CONINE: The only other thing, I guess, I  
20 would bring up right now, Mr. Chairman, is the wonderful  
21 paragraph about -- in 49.12(d) about the ability to  
22 increase credits for 4 percent bond developments. I think  
23 maybe we'll do it. And I know it's on our agenda later on  
24 today, but if it's just going to be in the QAP, we ought  
25 to, I guess, address it now.

1 MR. JONES: I think we should.

2 MR. CONINE: Again, I guess I've softened my  
3 stance a little bit on this, since the -- I've discovered  
4 since our last meeting the '01 and '02 QAP had provisions  
5 allowing increases in there.

6 And I guess after debating several folks about  
7 the subject, and I've asked Ms. Carrington to supply some  
8 more information, not only from other states around the  
9 country, but also our tax counsel in Washington, D.C., to  
10 write me, I'll ultimately formulate the decision.

11 The only change I'd like to recommend as this  
12 QAP then goes out for comment would be to include some  
13 language, and you may or may not have this language in  
14 this, but I'm going to refer to Mr. Nwaneri's memo that he  
15 drafted to the board members earlier this week, where you  
16 would have a carve-out, if you will, or an exemption from  
17 this particular provision of the QAP on projects -- and  
18 I'm going to read his words. I guess it would be the  
19 opposite of this.

20 His description of projects that would qualify  
21 for this are which "projects that demonstrate that  
22 increases in development costs were beyond their control,  
23 were not foreseeable at the time of application, or were  
24 not preventable during construction."

25 And I think that's good policy for the

1 department to have on these issues as it comes down,  
2 because if you can find a project that didn't meet that,  
3 then staff would, I'm sure, recommend or reject any  
4 increases in tax credits at that time.

5 So again, I don't know that I would -- I'm not  
6 going to make a motion to change anything at this time,  
7 but I'd like for staff to take that particular sentence,  
8 and see if we can incorporate it into some of the  
9 language, or maybe into some public comment, as we go  
10 forward. And then have something ready when we come back  
11 in November.

12 MR. JONES: Can I ask why we wouldn't go ahead  
13 and make that change, as suggested by that sentence, and  
14 let Brooke come up with the exact language, and then get  
15 the input back on the proposed change? I would encourage  
16 you, as Chairman, to make -- go ahead and make the motion,  
17 myself, because I'm in total agreement with you.

18 MR. CONINE: Well, I -- okay. I'll so move  
19 that we draft language that would be to that effect.

20 MR. JONES: Is there a second to that motion?

21 MR. SALINAS: I'll second.

22 MR. JONES: Okay. Second. I'd like to say  
23 this. I -- you know, this is a policy, this -- as you  
24 draft it, you know.

25 Obviously, as a policy, I think if we approve a

1 development, and we all believe we're going forward with  
2 it, and then thereafter, we find out, Well, it really  
3 wasn't -- you know, there were other things that needed to  
4 happen in order to really make it a go, and if that  
5 happened, great. And if they don't, then we -- you know,  
6 that's the thing I think we want to avoid as the board.

7 We want to know that if we approve these  
8 things, and they were in place, you know, it's not  
9 contingent on some other things coming down the pike  
10 later. And I think that's what's as a policy matter,  
11 disturbing to the board, that you know, we don't like to  
12 hear that, well, that deal that you approved, really, as  
13 you approved it, wasn't a doable deal.

14 It -- you know, we were contingent on these  
15 other things, and now they've happened, and now we'll put  
16 it together. Do you understand what I'm saying?

17 Okay. I probably said it very, you know,  
18 inartfully. But that's what I think concerns the board.  
19 And I think Mr. Conine's motion makes progress in that  
20 area.

21 MR. CONINE: Yes. And I -- you know, again,  
22 this is stuff that came up after our last board meeting  
23 and some of the decisions we made there. But it appears  
24 to me that we made a decision that might be in conflict  
25 with our QAP. I don't think that's good for the board to

1 be doing. And we probably need to take a look at that,  
2 and I've gotten a little education along the way.

3 MR. JONES: Yes. Sure.

4 MR. CONINE: I think we ought to have, again, a  
5 carve-out for those people who can't control construction.  
6 That things were in their control that they weren't able  
7 to do, just for the ability to run up the eligible basis  
8 and get more tax credits.

9 MR. JONES: Any further comment, questions,  
10 discussion?

11 (No response.)

12 MR. JONES: Hearing none, I assume we're ready  
13 to vote. All in favor of the motion, please say aye.

14 (A chorus of ayes.)

15 MR. JONES: All opposed, nay.

16 (No response.)

17 MR. JONES: Motion carries. Great.

18 MR. CONINE: I think I'm done, Mr. Chairman.

19 MR. JONES: Okay. We've had several  
20 amendments. Mr. Gonzalez, do you have anything for us?

21 MR. GONZALEZ: No, I have not.

22 MR. JONES: Ms. Anderson?

23 (No response.)

24 MR. JONES: Mayor?

25 (No response.)



1 MR. JONES: Ms. Carrington?

2 MS. CARRINGTON: I do.

3 MR. JONES: Thank you. Okay. I'm sorry --

4 MS. CARRINGTON: Okay. These are two or  
5 three -- actually about four, I think, that staff would,  
6 if we can go ahead and get them read into the record and  
7 get them in the draft.

8 One of them is on Section 49.9, which relates  
9 to points for public housing authorities. And this is on  
10 page 5 of 9 of your book. This is proposed -- "Currently  
11 the QAP does not award points for Public Housing  
12 Authorities, unless they have HOPE VI funds."

13 What we've said is those are points for  
14 developments that are owned by public housing authorities.

15 Typically, what happens is the public housing authority  
16 creates a nonprofit, and that nonprofit is actually the  
17 owner in a transaction. And so that's really what we  
18 meant. And so what we would like to do is say, "Owned by  
19 Public Housing Authorities, or a nonprofit controlled by a  
20 PHA."

21 MR. JONES: Move for approval.

22 MS. ANDERSON: Second.

23 MR. JONES: Motion's been made and seconded.  
24 Further questions, discussion, comments? Hearing none, I  
25 assume we're ready to vote. All in favor of the motion,

1 please say aye.

2 (A chorus of ayes.)

3 MR. JONES: All opposed, nay?

4 (No response.)

5 MR. JONES: The motion carries.

6 MS. CARRINGTON: These are two global issues,  
7 and that is references that are in this draft QAP. We  
8 make reference several times in the QAP to the  
9 underwriting market analysis appraisal and environmental  
10 site-assessment rules.

11 And we've used a little bit different name,  
12 because it changed during the process, and so we'd like to  
13 use the name that you all are going to be looking at  
14 today. So that would be global through the QAP.

15 MR. JONES: Move for approval.

16 MS. ANDERSON: Second.

17 MR. JONES: Motion's been made and seconded.

18 Further questions, comments, discussion?

19 (No response.)

20 MR. JONES: Hearing none, I assume we're ready  
21 to vote. All in favor of the motion, please say aye.

22 (A chorus of ayes.)

23 MR. JONES: All opposed, nay?

24 (No response.)

25 MR. JONES: The motion carries.

1 MS. CARRINGTON: Another cleanup in the QAP.  
2 We interchanged the words allocation and commitment. And  
3 what really mean is the commitment notice. That's the  
4 board -- that's the action that you all take on that board  
5 meeting when you say these are the allocations of tax  
6 credits.

7 And our proper term is really commitments. So  
8 we want to go through the QAP, and make sure that we use  
9 the word commitment and not allocation.

10 MR. JONES: Move for approval.

11 MS. ANDERSON: Second.

12 MR. JONES: Motion's been made and seconded.  
13 Questions, discussion, comments?

14 (No response.)

15 MR. JONES: Hearing none, I assume we're ready  
16 to vote. All in favor of the motion, please say aye.

17 (A chorus of ayes.)

18 MR. JONES: All opposed, nay?

19 (No response.)

20 MR. JONES: Motion carries.

21 MS. CARRINGTON: And the last two we have  
22 relate to compliance items in the QAP. And our general  
23 counsel has suggested some change in language.

24 And Section 49.5(b)(6), that I won't read to  
25 you, but we basically want to be consistent, and we want

1 to say, "On the date the application round closes." And  
2 then on material noncompliance, we would also add the same  
3 language, and say, "On the date the application round  
4 closes."

5 MR. JONES: Move for approval.

6 MS. ANDERSON: Second.

7 MR. JONES: Motion's been made and seconded.

8 Questions, discussion, arguments?

9 (No response.)

10 MR. JONES: Hearing none, I assume we're ready  
11 to vote. All in favor of the motion, please say aye.

12 (A chorus of ayes.)

13 MR. JONES: All opposed, nay?

14 (No response.)

15 MR. JONES: Motion carries.

16 Anything, Ms. Carrington? At this time, we  
17 would entertain a motion to approve the draft as it has  
18 been amended by the various motions.

19 MR. CONINE: So moved.

20 MS. ANDERSON: Second.

21 MR. JONES: Motion's been made and seconded.

22 Further questions, comments, discussion of the QAP?

23 (No response.)

24 MR. JONES: Hearing none, I assume we're ready  
25 to vote. All in favor of the motion, please say aye.

1 (A chorus of ayes.)

2 MR. JONES: All opposed, nay?

3 (No response.)

4 MR. JONES: Motion carries. And I think that  
5 then will bring us to Item 4(b) on our agenda.

6 Ms. Carrington?

7 MS. CARRINGTON: Yes, sir. We have five tax  
8 exempt bond applications with local issuers, actually six.  
9 The last two on your agenda had been withdrawn, 02-434  
10 has been withdrawn; 02-435 has been withdrawn. So you  
11 will be considering six of these applications today.

12 The first one is the Park At Shiloh Apartments.  
13 It's located in Tyler. This is a local issuer. It's 176  
14 units. Total development cost on this transaction will be  
15 over 4 million. The unit configuration is one, twos and  
16 three bedrooms. There are no compliance issues.

17 The eligible basis amount, the amount that  
18 we've allocated, we recommend in credits on this, based on  
19 our three methods, is \$420,543. This is a priority 2 tax  
20 exempt bond allocation. And there are some conditions  
21 that had been placed on the development. None of them --  
22 all of them were basically our standard conditions, and  
23 those are listed on page 2 of the page that's in front of  
24 you.

25 MR. JONES: Move for approval.

1 MR. GONZALEZ: Second.

2 MR. JONES: We have a motion's that's been made  
3 to be approved, and has been seconded. I think it's Mr.  
4 Gonzalez. It may have been the mayor. I think it was  
5 kind of tied. You can take your pick.

6 We do have two people that would like to speak  
7 to Item 4(b) on the agenda.

8 Mr. and Mrs. Moore, would you all care to  
9 speak? Can I ask you, which development are you speaking  
10 to?

11 MS. MOORE: Spring Hill.

12 MR. JONES: Spring Hill? I'll tell you what --

13 MR. SALINAS: I have a question on this one.

14 MR. JONES: Yes. Okay. We'll go ahead and  
15 vote on this one, and I'll call you up and we'll do Spring  
16 Hill. Excuse me.

17 All right. Are we ready to vote on the motion?

18 I assume we are. All in favor of the motion, please say  
19 aye.

20 (A chorus of ayes.)

21 MR. JONES: All opposed, nay?

22 (No response.)

23 MR. JONES: Motion carries. Why don't we --

24 MS. CARRINGTON: We'll put the development  
25 number in here.

1 MR. JONES: Yes, please.

2 MS. CARRINGTON: I would like to read for the  
3 record the development number. TDHCA Number 02-420.

4 MR. JONES: I'll tell you what. By way of  
5 timing, why don't we move then next to the Spring Hill  
6 matter. And we already have in written form staff's  
7 recommendation.

8 Would you all care to comment? We'll take up  
9 the Spring Hill matter now, if you'd care to comment.

10 MR. CONINE: Is there anybody else to speak  
11 when they're done?

12 MR. JONES: No.

13 MS. CARRINGTON: Uh-uh.

14 MR. JONES: I got you. I agree.

15 MS. MOORE: I'm Carol Moore, President of  
16 Partners Prospective Development. And I am the co-  
17 developer for Spring Hill Apartments in Nacogdoches,  
18 Texas. The other co-developer is Piney Woods Home Team  
19 Affordable Housing. And they are a nonprofit located in  
20 Nacogdoches.

21 Sorry. Thank you. We are here to not only ask  
22 for the approval of the project, but also to request that  
23 the full amount of tax credits that we submitted in our  
24 latest sources and uses and documentation that was sent in  
25 on September 4 be awarded.

1           We received a phone call from Raquel Morales on  
2 September 4, asking us to increase our applicable  
3 percentage from 3.54 percent to 3.67 percent, which we  
4 did. And we -- those requested tax credits were 712,683,  
5 at which point, we submitted all of that to our  
6 syndicator, as we are on a tight time frame on this. It  
7 is set to close 12 days from now.

8           So we've had a lot of work from the syndicator  
9 being done this week. And we were shocked to see that  
10 when we were -- it was printed, that it was reduced. So I  
11 must commend staff. David Burrell and Tom Gouris and Mr.  
12 Hoover have been very helpful for us, to talk to us today,  
13 and try to get some of our concerns straightened out.

14           But that is the bottom line. We misunderstood.

15           We thought that when we sent in that final sources and  
16 uses, those were going to be the tax credits that would be  
17 awarded. And there was a significant difference.

18           Jerry Moore, who is senior partner for Moore  
19 Building Associates, can address questions concerning any  
20 construction questions you have.

21           MR. JONES: Thank you, ma'am.

22           MR. MOORE: Yes, I'm Jerry Moore. And I would  
23 like to make one correction. What we're really requesting  
24 today is that the requested amount of our application be  
25 approved subject to a final approval of underwriting and



1 staff on the amount.

2 The real issue today is one of timing. We  
3 received a letter from the agency last week, whereby we  
4 had actually slightly increased what our original request  
5 had been. The application was submitted in May. We had  
6 comments with the underwriting staff in July and possibly  
7 early August.

8 We had not heard anything else from  
9 underwriting until last week, when the credit amount was  
10 actually increased. And so we've been working -- actually  
11 this is the third bond application in east Texas. The  
12 previous two were -- we were unable to do with Piney Woods  
13 Home Team. It's very difficult to do a bond transaction  
14 in an area where the rents are so low.

15 This one is ready to go. It is set to close  
16 in -- before the end of this month. And so really what  
17 we're asking you to do is to approve the full amount that  
18 we had requested, subject to approval by staff, and so  
19 that we can stay on track to get the project closed by the  
20 end of this month. And if anyone has any questions, I'll  
21 be glad to answer them.

22 MR. CONINE: I've got one.

23 MR. MOORE: Yes, sir.

24 MR. CONINE: If staff recommended a lower  
25 amount now, why are they going to change their mind in 12

1 days?

2 MR. MOORE: We had the opportunity. I didn't  
3 really explain the timing issue. We found out late  
4 yesterday, about 4:30, the actual amount that had been  
5 recommended. And so in the -- we set up a meeting  
6 immediately this morning with staff, and had an  
7 opportunity to review in depth how they came up with their  
8 number.

9 And there are some issues there that they  
10 agreed to that did exist. However, they don't have the  
11 time today, in that short amount of time, to change it.  
12 And all we're asking for is the time for staff to look at  
13 that more in depth.

14 And in other transactions that we've done,  
15 where staff had issues and brought them to us and we  
16 corrected maybe minor errors or misunderstandings to  
17 correct it to get it to the actual -- what is actually  
18 being submitted, those changes have been permitted and  
19 been made.

20 And now, that's really all we're asking for, is  
21 that we let staff look at it and then make their final  
22 recommendation.

23 MR. CONINE: Could we get staff response, Mr.  
24 Chairman, either from Ms. Carrington or Mr. Gouris?

25 MR. JONES: Certainly. Does anybody else have

1 any questions of our speakers? Thank you all so much. We  
2 appreciate it. And we -- let staff address that, if you  
3 would --

4 Tom, come on up and -- I presume that's who you  
5 want, Ms. Carrington?

6 MS. ANDERSON: Yes.

7 MS. CARRINGTON: Yes. I -- yes.

8 MR. JONES: My only comment as you dive off  
9 into Mr. Conine's question is this. You know, you're  
10 really making this board's action pretty superfluous, if  
11 you say, you know, I mean, I don't even know why we're  
12 bothering to vote, if what we're saying is that, you know,  
13 well, staff can work it out. Whatever staff does, it's  
14 okay. I mean, you know, it --

15 MS. ANDERSON: Well, I know --

16 MR. JONES: If you don't --

17 MS. ANDERSON: This recommended amount has been  
18 posted on the website since last Thursday. So I --

19 MR. JONES: So I -- yes, but that's -- and I'd  
20 like staff to address that comment, because it makes me  
21 feel very uncomfortable as a board member to be going --  
22 you know, I don't have any idea what I'm voting for, but  
23 whatever you all end up agreeing to, I hope it's good. So  
24 anyway, if you'd address that question, too?

25 MS. CARRINGTON: Tom, may I lead in first?

1 MR. GOURIS: Yes, ma'am.

2 MS. CARRINGTON: Give you few minutes to -- a  
3 few seconds to think anyway.

4 I think, as you know, we have said to the board  
5 time and time again, in that underwriting is not precise  
6 and exact, and sometimes can end up being somewhat of a  
7 negotiative process. And yes, it has been on the website  
8 for a week.

9 When Tom spoke to me a little while ago, he did  
10 have a chance to talk to Carol and Jerry this morning, and  
11 believes that what they have brought to him is perhaps  
12 reasonable.

13 We have obviously not had a chance to  
14 underwrite what -- and I don't say new information, but  
15 the information that they discussed this morning. So with  
16 that, Tom, I'll turn it over to you.

17 MR. GOURIS: I think that that issue at hand is  
18 really -- has to do with these bond transactions and how  
19 they do fluctuate over time, and the timing issues that  
20 are associated with them. And there are certain pieces of  
21 information in the application that change.

22 MS. CARRINGTON: They change over time.

23 MR. GOURIS: They change over time. And while  
24 we try to catch those inconsistencies and address them and  
25 ask for that type of information to be brought to -- to be

1 verified, to be clarified, in some cases, you know, we  
2 don't even know that that change has occurred.

3           And in the case today, there are a couple of  
4 issues that, you know, had we known, you know, we would  
5 have made the adjustments. And I feel like it's strictly  
6 a timing issue as to why we didn't know about it.

7           MR. JONES: There's -- that would be a time  
8 when it's, you know, done. Unless you just don't want  
9 this board to act, which you know, maybe our action in  
10 this matter is not necessary.

11           But I just feel very uncomfortable, number one,  
12 basically we don't even have a recommendations from staff  
13 at this point. And number two, just saying, you know,  
14 Good luck, staff. Hope you do it right.

15           I don't -- and I have every confidence in the  
16 world that you would do it right. But I would prefer the  
17 board not to have to act in those instances, because if  
18 you keep saying, Well, it keeps changing, it keeps  
19 changing, it keeps changing, you know, this board -- you  
20 know, it may change after we act today. It may change,  
21 you know.

22           MR. GOURIS: I think that staff's  
23 recommendation here is to look at the adjusted amount as  
24 the maximum, and look at the staff's original  
25 recommendation as a minimum. And that's a pretty good

1 range. But I think that's where we are. I think we'll  
2 get pretty -- we will -- we would be able to recommend  
3 additional credits based on the information that I was --  
4 that we talked about this morning.

5 But having -- not having had time to review  
6 that, and for that matter, for you all, we wouldn't be  
7 able to consider it anyway, because it's not been  
8 posted --

9 MR. CONINE: I'm going to move that on the 02-  
10 424, Spring Hill Apartments in Nacogdoches, that we  
11 recommend approval on a range of the -- being a minimum  
12 amount of 646,069, and the top end of the range as being  
13 712,683, providing that staff work out the discrepancies  
14 and come to a satisfactory staff approval.

15 And also I noticed in here that the developer  
16 fees exceeded 15 percent of the -- our normal 15 percent  
17 standard, that that particular provision remain intact in  
18 your analysis.

19 MR. JONES: Okay. I've got a motion. Is there  
20 a second?

21 MS. ANDERSON: Second.

22 MR. JONES: Motion's been made and seconded.  
23 Remind me again, what did we post? What figure did we  
24 post?

25 MS. CARRINGTON: We posted 646,069.

1 MR. JONES: We're -- you know, can you help me,  
2 Ms. Carrington, and tell me where I'm wrong in my analysis  
3 of this -- these kind of situations where we -- you know,  
4 I mean, really what we're doing is the board is never  
5 approving the exact deal that's going to be done.  
6 Correct?

7 MS. CARRINGTON: That is correct.

8 MR. JONES: Do you feel comfortable with that?  
9 I mean, is that what our rules and our statute  
10 contemplates?

11 MS. CARRINGTON: Having been on the other side  
12 of these transactions, and on these bond transactions,  
13 they get a reservation. They have 120 days. It's my  
14 understanding from Tom, and Carol and Jerry, you can kind  
15 of tell me that your syndicator changed a week or so ago.  
16 And that maybe your lender changed also?

17 And you know, unfortunately, it's the nature of  
18 these transactions.

19 MS. ANDERSON: And so Tom didn't know about  
20 those changes until this morning?

21 MR. CONINE: Let me remind the board that we  
22 just talked a few minutes ago about these bond  
23 transactions having the ability to come back again after  
24 they are all built and cost-certified, and have the  
25 ability to go up and down anyway.

1           And so the firmness of our decision on these 4  
2 percent bond transactions are -- is not as great as they  
3 should be on the 9 percent, where there is a competitive  
4 situation.

5           These things are very, very fluid, and our QAP  
6 for the last two years has allowed these people to come in  
7 and readjust up or down these tax credit amounts at the  
8 time that cost certification takes place. So you know, in  
9 essence, it's not -- you shouldn't get too burned up  
10 about a \$50,000 discrepancy on the front end, because it's  
11 going to change on the back end anyway.

12           MS. ANDERSON: May I have an answer to my  
13 question, which is when did you hear about the change in  
14 the lender and the syndicator?

15           MR. GOURIS: This morning.

16           MR. SALINAS: The legality of changing  
17 something that's on the agenda at 646,000 -- that's what  
18 it -- is it legal for us, and I ask the bond counsel --  
19 our counsel if it's legal for us to change the figure  
20 today simply because they got a different opinion this  
21 morning, that they could go up to 712. Is it legal for us  
22 to do that, being that the agenda says -- our post agenda  
23 says in our website -- it says 646.

24           Now, we ask -- doing everything legally, is it  
25 legal for us to do that? To --



1 MR. WITTMAYER: Would you prefer me to address  
2 that during the executive session?

3 MR. SALINAS: I mean, I would want it right  
4 now, because the motion -- you have a motion and second.

5 MR. JONES: Yes, I don't think so. I mean, I  
6 think the question that's being asked Chris, you know, by  
7 the mayor, is, you know, are we somehow in violation of  
8 the Open Meeting Act?

9 MR. WITTMAYER: Our posting doesn't list a  
10 specific amount.

11 MR. SALINAS: It doesn't?

12 MR. WITTMAYER: Because I am looking at the  
13 agenda for today.

14 MR. JONES: Okay.

15 MR. SALINAS: So it doesn't? So that's the  
16 answer? I mean, it's not illegal to change this -- that  
17 we had no numbers on the agenda, on what you were  
18 recommending? Right?

19 MS. CARRINGTON: Yes.

20 MR. JONES: We have a motion --

21 MR. SALINAS: See, the motion is in between.  
22 No more than 712?

23 MS. MOORE: Could I make one comment in  
24 response to Ms. Anderson's question about the change?

25 MR. JONES: You can answer Ms. Anderson's --

1 you can answer Ms. Carrington's question. Excuse me.

2 MS. MOORE: We faxed a commitment letter back  
3 to our syndicator last night about 12:00 p.m. with my  
4 signature on it. So it wasn't final, the decision --  
5 final decision for the change, until I signed that  
6 commitment letter, which we did at midnight last night.

7 So this morning was the first opportunity to  
8 tell you for sure what we were going to do.

9 MR. JONES: Thank you, ma'am.

10 MS. CARRINGTON: And I will be sure and convey  
11 that to Ms. Anderson.

12 MR. MOORE: One other comment. The syndicator  
13 that we signed with last night is the syndicator, and the  
14 proposal that was submitted with the original  
15 application -- the syndicator changed during the course of  
16 the negotiation from the one we had originally, to a  
17 second one. And then we changed back to the initial  
18 syndicator that -- whose letter was in the application --  
19 in the package that was submitted to the agency.

20 So technically, at this point, we have not  
21 changed the -- changed and back.

22 MR. JONES: Okay.

23 MR. MOORE: So -- and -- or we changed twice.

24 MS. CARRINGTON: Or you changed twice.

25 MR. JONES: We've got a motion that's been made

1 and seconded on the floor. Any further questions,  
2 comments, discussion?

3 (No response.)

4 MR. JONES: Hearing none, I assume we're ready  
5 to vote. All in favor of the motion, please say aye.

6 (A chorus of ayes.)

7 MR. JONES: All opposed to the motion, please  
8 say nay?

9 (No response.)

10 MR. JONES: Motion carries.

11 Before we leave this, though, I -- yes, and  
12 this may be for future years QAP, because I know we've  
13 already done our draft. But if these deals were like  
14 this, to me, it seems like we need to take them out of the  
15 board's hand and put them in some kind of ministerial  
16 hand, so that the staff can do that as a ministerial  
17 matter.

18 I mean, I just do not feel comfortable with the  
19 board acting upon things that, you know, nobody's telling  
20 us what we're acting on. And there can't be  
21 recommendations because staff looks at us and says, you  
22 know, we can't know. We haven't checked it out.

23 We're hearing this is the very nature of the  
24 transactions. Nobody can give us any, you know, real  
25 figures. So it seems to me like it's something we ought

1 not to be acting on. We ought to change the rules  
2 accordingly.

3 MR. CONINE: Mr. Chairman, until last -- after  
4 last month's meeting, I felt the same way. It's just that  
5 I was pointed out a policy provision within our QAP.

6 MR. JONES: I understand.

7 MR. CONINE: And I think the very issue you  
8 touch upon will be subject to the final outcome of next  
9 year's QAP. And it's going to be a wonderful policy  
10 discussion by this board, because we're going to get  
11 comment on the particular issue you're talking about. And  
12 it will come back to us.

13 MR. JONES: I see.

14 MR. CONINE: But for right now, I see us having  
15 to operate within the rules of the game as we have them  
16 published today.

17 MR. JONES: I understand. I agree with you.  
18 All right. Thank you.

19 Item -- it's been suggested by a board member  
20 that we deal with the next ones, Ms. Carrington,  
21 collectively, if you wouldn't mind. So make your  
22 recommendation as to the remainder that we still have on  
23 our list collectively, if you wouldn't mind.

24 MS. CARRINGTON: Staff's recommendation on the  
25 remainder of the requests for the allocations of 4 percent

1 credits are to approve the requests for the 4 percent  
2 credits on each of these. And the credit calculation is  
3 based on the eligible basis amount.

4 And Mr. Chairman, if you would like, I would  
5 read each of the names of the development and the TDHCA  
6 development number, and the amount of credits that are  
7 being recommended.

8 MR. JONES: Thank you. Please do.

9 MS. CARRINGTON: TDHCA Number 02-422,  
10 development location is Amarillo, Rosemeade Apartments.  
11 The eligible basis amount that's being recommended is  
12 \$384,427.

13 The next is Town Vista Apartments, located in  
14 Austin, TDHCA development number 02-425, eligible basis  
15 amount, \$917,733.

16 The next TDHCA Number, 02-426 Blanco Falls  
17 Apartments, to be located in San Marcos. Eligible basis  
18 amount \$820,213.

19 And the last, Heatherwilde Villas, TDHCA Number  
20 02-433, to be located in Pflugerville, eligible basis  
21 amount \$704,917.

22 MR. CONINE: Move for approval.

23 MR. GONZALEZ: Second.

24 MR. JONES: Motion's been made and seconded.  
25 Further discussion, questions, comments?

1 MR. CONINE: I'd like to just point out one  
2 item to staff and Mr. Gouris and Brooke. I continue to  
3 have concern about these local issuers and issuing  
4 inducements for projects in markets that are saturated  
5 with multifamily units. And Austin is a prime example of  
6 that.

7 I would highly encourage a strict review of the  
8 market studies on these projects from this point further,  
9 until we have evidence that this -- that the market is  
10 straightening back up. You know, I just -- local issuers  
11 have, you know, quote, no risk here.

12 And we're dependent upon this department to  
13 look at them and underwrite them. And I have great  
14 concerns about continuing to build into a market that's  
15 got so much vacancy in it.

16 MR. JONES: Are we ready to vote on the motion?

17 (No response.)

18 MR. JONES: I assume we are. All in favor of  
19 the motion, please say aye.

20 (A chorus of ayes.)

21 MR. JONES: All opposed, nay?

22 (No response.)

23 MR. JONES: Motion carries. We then will turn  
24 our attention to Item 4(c) on the agenda. And we have  
25 staff's recommendation. We do have some people that like

1 to speak to 4(c).

2 Mr. McCalley?

3 MR. McCALLEY: Yes, sir. Well, actually, I  
4 didn't know I would have the opportunity to speak here.  
5 But I think I've had time to get prepared.

6 MR. JONES: I'd say, you don't have to.

7 MR. McCALLEY: I filled out the witness thing  
8 in case there were specific questions to ask me.

9 MR. JONES: Okay.

10 MR. McCALLEY: And I'm available for that.  
11 This is the situation where we had cost --

12 MR. JONES: Yes, go ahead.

13 MR. McCALLEY: We had cost overruns and -- on a  
14 large project, which you've just been talking about. You  
15 just left talking about one that had a change in pricing  
16 before they've even begun. So this is not unusual.

17 Mr. Conine came up with a solution of wording  
18 which I agree with should be put into the QAP. Basically,  
19 this was a situation where I was awarded bonds in -- at  
20 the last minute. I got my award date on September 24,  
21 1999.

22 And I had to close the bonds by year end, which  
23 means I had to have the credits approved by the December  
24 board meeting. So I effectively had 30 days to put my  
25 application together.

1           Because of that, and that was part of the  
2 reason that I had the cost overruns. In addition, part of  
3 this process I purchased two additional buildings that  
4 were within the parameter of this project, or that I  
5 actually had owned and had under contract. It took two  
6 years -- two years, two different bond lotteries before  
7 this project was approved.

8           Those two buildings were occupied and full.  
9 And with 30 days to put together and close, I didn't -- I  
10 made assumptions, since they were occupied, that the  
11 condition of the buildings was better than it actually  
12 was.

13           Without wanting to pad the costs in order to  
14 get more credits going in, I made those assumptions. I  
15 would -- addressed in detail, item by item, the cost  
16 overruns with the staff. And I believe they are satisfied  
17 with it. I am available to answer those questions with  
18 the board. But I think the costs should be approved,  
19 because they were above and beyond my control.

20           The QAP for those years has allowed for this.  
21 And I'll answer any questions for you if you wish.

22           MR. JONES: Thank you, sir.

23           Mr. Mitchell.

24           MR. MITCHELL: Thank you. I am Ken Mitchell  
25 from Fort Worth. I have a presentation and two projects,



1 two senior citizen's projects, Country Lane in Kenny, and  
2 Stoneybrooke in San Marcos.

3 MR. CONINE: Wait a minute. It's not on our  
4 agenda.

5 MR. MITCHELL: This is for general comments.

6 MR. JONES: Okay. I had you down for 4(c).

7 MR. MITCHELL: Yes, this is on 4(c).

8 MR. JONES: Okay.

9 MR. MITCHELL: This is about initial costs.  
10 I'm also with Heather Lane.

11 MR. JONES: Okay.

12 MR. MITCHELL: So I am on 4(c).

13 MR. JONES: Okay.

14 MR. MITCHELL: Sorry about that. I'd like to  
15 pass these out.

16 MR. SALINAS: Could I have -- what's the  
17 recommendation of the staff on this matter?

18 MR. JONES: Ms. Carrington?

19 MS. CARRINGTON: Yes, we do.

20 MR. SALINAS: I've always believed that I like  
21 to have the recommendations of staff before the hearing to  
22 testify. It really confuses me to have somebody else come  
23 before it, before you, and see how you recommending this  
24 issue to us for this line item. And I think it's the  
25 request to increase the tax credit for some of these

1 projects. What does the staff say?

2 MR. CONINE: Can we get a staff recommendation  
3 on it --

4 MR. JONES: Yes. And then --

5 MR. CONINE: -- specifically on all three of  
6 these transactions, I guess at this point, so we know --

7 MR. JONES: So we know where we're at.

8 MR. CONINE: -- where we're going from and to?

9 MR. JONES: That would be fine.

10 Ms. Carrington?

11 MR. CONINE: And I'm curious what these two  
12 have to do with what's on the agenda.

13 MS. CARRINGTON: What you're being asked to  
14 consider today is an increase in the allocation of tax  
15 credits, the 4 percent credits on three prior tax exempt 4  
16 percent credit transactions.

17 These transactions -- the first one was a 1998  
18 bond allocation, an allocation of tax credits. And that  
19 one is Brisbon [phonetic] Hickory Limited Partnership,  
20 Greens of Hickory Trail, located in Dallas. They are  
21 requesting an additional amount of credits. Staff is  
22 recommending an additional allocation of \$194,244 on that  
23 particular transaction.

24 The second one is a 1999 bond allocation and  
25 credit transaction filed with Houston Limited Partnership.

1 This one is located in Houston. This is the one that Mr.  
2 McCalley just spoke to a moment ago.

3 This is an acquisition rehab of an older  
4 property. Staff is recommending an additional allocation  
5 of \$96,790 of tax credits on that particular transaction.

6 The third one, a 1999 allocation of bonds and  
7 credits, Heather Lane Apartments. It's located in  
8 Terrell, and staff is recommending an additional \$18,164  
9 in tax credits.

10 The QAPs for the department for 1998 and 1999  
11 and 2000 were silent on how the department would handle  
12 additional requests for tax credits on 4 percent  
13 transactions. We first started addressing this in our  
14 2001 QAP.

15 MR. SALINAS: This is your recommendation on  
16 those three items?

17 MS. CARRINGTON: Yes, it is.

18 MS. CARRINGTON: Can I make a motion to accept  
19 the recommendation?

20 MR. CONINE: I'll second.

21 MR. JONES: Motion's been made and seconded.  
22 Mr. Mitchell?

23 MR. MITCHELL: Oh, thank you.

24 MR. SALINAS: Do you have anything to do with  
25 those three items?

1 MR. MITCHELL: Heather Lane.

2 MR. SALINAS: Heather Lane?

3 MR. MITCHELL: Yes.

4 MR. SALINAS: Well, do you think we're going to  
5 change the recommendation?

6 MR. CONINE: Do you have a problem with the  
7 motion that's --

8 MR. SALINAS: Do you have a problem with that  
9 motion?

10 MR. CONINE: Yes, oh, my gosh.

11 MR. SALINAS: And why do we have to --

12 MR. MITCHELL: Well, I wanted to present some  
13 information real quickly about the additional costs that  
14 was occurred -- incurred.

15 MR. SALINAS: But is that supposed to increase  
16 the recommendation from the staff? I don't think it is.

17 MR. MITCHELL: No, these are projects that are  
18 waiting to be presented.

19 MR. SALINAS: Okay. Why don't we just go ahead  
20 and act on --

21 MR. MITCHELL: Okay.

22 MR. SALINAS: -- the business today. You know,  
23 I don't want to get confused here.

24 MR. MITCHELL: I --

25 MR. SALINAS: You know, and this is why I like

1 to get the staff recommendation, and I would like to see  
2 that we do away with the business today.

3 MR. JONES: Okay. And I understand that. And  
4 let me rule as the Chair on it, because the issue has been  
5 taken by Mr. Conine.

6 It's the same issue you're raising, Mayor.

7 MR. SALINAS: Yes.

8 MR. JONES: Is that in light of the fact that  
9 the testimony is going to deal with other matters besides  
10 this agenda item --

11 MR. SALINAS: Yes.

12 MR. JONES: -- that the testimony is improper.

13 As I understand the law, it is not. As I understand the  
14 law, if Mr. Mitchell wants to speak on this, even though  
15 the board does not think it's on its agenda, and even  
16 though the board does not care to listen to it at this  
17 time, they probably -- as I read the law, he is still  
18 entitled to make a public comment to the extent of the  
19 three minutes that he has available to him.

20 The Chair's already ruled. Having said that,  
21 that's the way the --

22 MR. CONINE: Excuse me, Mr. Chairman, but how  
23 would -- and my opinion would be, and I'm not a lawyer  
24 like you are. My opinion would be that he deferred from  
25 the public comment period at the beginning of the agenda

1 to a specific item on the agenda.

2 And for him to deviate from that would require  
3 him to do that in the public comment area at the beginning  
4 of this meeting.

5 MR. SALINAS: Exactly.

6 MR. JONES: Let's do this. I think we have a  
7 motion that's been made and seconded that's on the floor.

8 MR. CONINE: Correct.

9 MR. JONES: I think it -- my interpretation of  
10 the board members' comments are, they're calling the  
11 question. Hearing the question called, the Chair first  
12 will call for a vote on that question, unless some board  
13 members object.

14 (No response.)

15 MR. JONES: All in favor of the motion, please  
16 say aye.

17 (A chorus of ayes.)

18 MR. JONES: All opposed, nay?

19 (No response.)

20 MR. JONES: The motion carries. I then will as  
21 chairman, say this. In accordance with the law as I  
22 understand it to be, if Mr. Mitchell wants to speak the  
23 three minutes, he certainly may.

24 According to this chairman's rule, that's  
25 the --

1 MR. SALINAS: That's fine. I just want to get  
2 our business out of the way, and then we could stay here  
3 another hour, if you wanted, we could do that.

4 I do not agree with putting aside our business  
5 and then listening to something that's going to happen  
6 in --

7 MR. JONES: Thank you, sir.

8 MR. MITCHELL: I agree with that. If I could  
9 just pass out my information, and you can read it at your  
10 leisure, would that be acceptable?

11 MR. JONES: It certainly will be.

12 MR. MITCHELL: Okay.

13 MR. JONES: The Chair has ruled that you have  
14 three minutes.

15 MR. MITCHELL: Please. If I could leave two  
16 for the board members who are not here.

17 MR. JONES: Thank you.

18 MR. MITCHELL: Are they here? I mean, and I  
19 would like Tom -- Tom Gouris and Charles Nwaneri to have a  
20 copy.

21 MR. JONES: All right.

22 MR. MITCHELL: And thank you very much.

23 MR. JONES: Thank you, Mr. Mitchell. Now,  
24 again, the Chair is going to follow the same ruling it's  
25 already followed, unless it's overruled by the board.

1           There is another person that would like to  
2 speak to this agenda item. And I will give them three  
3 minutes. And that's Ms. Cheryl Potashnik.

4           MS. POTASHNIK: I think my issue has already  
5 been addressed. Thank you, though.

6           MR. JONES: Okay. Thank you. I appreciate it.  
7 I want to comment, too, on your wisdom.

8           MR. CONINE: Unlike some of those in Fort  
9 Worth.

10          MR. SALINAS: And let me tell you how I feel  
11 about this public comment.

12          MR. JONES: Sure.

13          MR. SALINAS: And I -- this is certainly an  
14 idea that none of our line item actions do we have on our  
15 agenda should be addressed by anybody. I think we should  
16 have public comments at the beginning, and let everybody  
17 speak at public comments.

18                 And I also think that they should not speak on  
19 any items on the agenda, and let the board members and  
20 staff do the work. We have too many people coming up on  
21 line items. And I don't agree with that.

22                 I agree that everybody that needs to speak to  
23 speak at the very beginning of the agenda, whether it's on  
24 the bottom area of the agenda, the beginning of the  
25 agenda. But that is my opinion. And I wanted to be on



1 record that I don't agree with anybody speaking on the  
2 line item of the agenda. I think public comments is just  
3 strictly for that.

4 And I'll go a little furthermore that I don't  
5 think that anybody should speak on anything that's on the  
6 agenda. And I don't know how else to tell you that I do  
7 not agree with the form that we're having right now. And  
8 I think that legal counsel should look at it.

9 But this is why we have a public comment. We  
10 could take every day on public comments. But I just  
11 wanted to make those comments and put them on the record.

12 MR. JONES: And I appreciate those comments,  
13 Mayor, and I appreciate where you're coming from. And let  
14 me say this. Senate Bill 322 expressly states by law that  
15 public comment will be taken after the agenda item.

16 Quite frankly, I will follow the law as I  
17 understand it to be. And so no, I just want the board to  
18 understand that that's what I think I'm doing. Further,  
19 as I understand the Open Meetings Act requirements, I  
20 don't think there is a relevancy objection to public  
21 comment testimony.

22 I have yet to find one. I don't think one is  
23 there. So again, as Chair, that's the way I will always  
24 rule. But now, I also want you all to know that as a  
25 board, you all have the ability to overrule the chairman.

1 I think I have the obligation --

2 MR. CONINE: Yes.

3 MR. JONES: -- to try to enforce the rules as I  
4 see that they should be enforced, and as I believe them to  
5 be enforced. And then you all, when you see me go wrong,  
6 certainly have the opportunity -- you are encouraged to  
7 overrule me. If you vote to overrule me, I will be  
8 delighted to abide by your wishes.

9 So having said that, we then can move to  
10 Item -- and Mayor, I want you to know I take your comments  
11 in the spirit in which they are intended.

12 MR. SALINAS: And I really would like our  
13 counsel to send me a memo to that effect. That -- and the  
14 question is, Can anybody address this board and debate the  
15 project and the agenda, or can they just go ahead and  
16 debate it at the beginning of the meeting and public  
17 comments?

18 I will follow the law. But I would like it in  
19 writing, because I run City Council business, and I do not  
20 let anybody talk to us about anything on the agenda, even  
21 on the public comments. And that is the law.

22 I don't know if state law has changed. And if  
23 it's changed, I'd like to have something in writing,  
24 because anybody that addresses the council -- or the City  
25 Council needs to address us on anything else, except

1 things from the agenda.

2 Now, I would like to get that in writing, so I  
3 will feel more comfortable to go ahead and discuss the  
4 items in the agenda with anybody that comes forward to  
5 this board.

6 MR. JONES: And I join the mayor's request. I  
7 think it's a good idea. With that, we'll turn to Item  
8 4(d) on the agenda.

9 MS. CARRINGTON: Thank you, Mr. Chairman. What  
10 we have on 4(d) are two 2002 9 percent tax credit  
11 allocations that were both in the at risk set-aside.  
12 These are fairly difficult transactions to put together.  
13 They have Housing Assistance Payments contracts. And what  
14 the developer is requesting on both of these -- they're  
15 identical, is an extension on the deadline to submit their  
16 carryover allocation documents from October 11 of this  
17 year to December 11 of this year.

18 And staff is recommending that the board  
19 approve these extensions for the carryover allocation on  
20 both of these transactions.

21 MR. CONINE: So moved.

22 MR. SALINAS: Second.

23 MR. JONES: Motion's been made and seconded.  
24 Further discussion?

25 (No response.)

1 MR. JONES: Hearing none, I assume we're ready  
2 to vote. All in favor of the motion, please say aye.

3 (A chorus of ayes.)

4 MR. JONES: All opposed, nay?

5 (No response.)

6 MR. JONES: Motion carries. Item 5.

7 MS. CARRINGTON: Thank you, Mr. Chairman. We  
8 have taken, as you all are aware, the underwriting -- the  
9 market study, the appraisal, and the environmental site  
10 assessment information out of the QAP. These items were  
11 previously included in our Qualified Allocation Plan.

12 And we have taken them out of the QAP, and we  
13 are proposing them as a separate document that will be our  
14 underwriting market analysis appraisal and environmental  
15 site assessment rules and guidelines.

16 And one of the primary reasons we're doing this  
17 is because we anticipate using these rules for all other  
18 financing programs within the department. So they would  
19 apply to our own multifamily programs. They would also  
20 apply -- some of them would also apply to our single  
21 family programs.

22 And so we believe that it -- from a policy  
23 standpoint, that these need to come out of the QAP and  
24 become a separate document. And I will note that in the  
25 QAP, they were four pages. And you will now note that

1 they are at 19 pages.

2 So we didn't shorten anything. However, we  
3 indeed truly believe that what we've done here is clarify.

4 We've provided expanded language. In areas that were  
5 problematic in interpretations, we now believe that we  
6 have made quite a bit of improvement on understanding --  
7 being able to understand the requirements that we're  
8 asking.

9 The underwriting staff did have an industry  
10 group that they put together that was 22 members, made up  
11 of syndicators, lenders, et cetera. And they met five  
12 times. They had an all-day meeting with a set of -- with  
13 market analysts, the 28 market analysts.

14 They also participated in the three round  
15 tables that were held in the tax credit area. And they  
16 also participated, of course, in those eight weekly open  
17 forums that we had. So there has been quite a bit of  
18 industry input, as we have expanded, and refined and  
19 defined these guidelines.

20 What we've done in the presentation for you is,  
21 say that there is eleven items that there was consensus on  
22 with the ad hoc group and others. We had two items that  
23 had a mixed amount of support. And then we had two areas  
24 that are being proposed that basically there was not  
25 agreement, and staff's recommendation is very contrary to

1 what we heard from the industry.

2 MR. GONZALEZ: So moved.

3 MR. JONES: We have a motion for approval. Is  
4 there a second?

5 MR. SALINAS: Second.

6 MR. JONES: Motion's been made and seconded.

7 Further discussion, questions, comments?

8 MR. CONINE: I've got some questions, I  
9 guess --

10 MR. JONES: Sure.

11 MR. CONINE: -- of either Ms. Carrington or Mr.  
12 Gouris, whichever one wants to take them. The -- I'm on  
13 page 2 of the memo, I guess, where you've synopsized  
14 everything that was agreed upon --

15 MR. JONES: Yes.

16 MR. CONINE: -- by the groups.

17 MS. CARRINGTON: Uh-huh.

18 MR. CONINE: On the second one there, Maximum  
19 Allowable Debt Coverage Ratio to 1.3. Could you comment  
20 on that?

21 MR. GOURIS: It had been 1.25, and that has  
22 caused a lot of concern about the department underwriting  
23 deals that -- too tight, in a too-tight manner. And at  
24 1.3, we allow -- it will allow transactions to be a  
25 little healthier, and not have to adjust to a debt amount

1 upward in order to reduce the credit amount.

2 MR. CONINE: Why would we be concerned about  
3 the topside ratio?

4 MR. GOURIS: We have been concerned about the  
5 topside ratio for as long as I've been here. And the  
6 reason we're concerned about that is we're trying to  
7 ensure that we try to earn only enough credits or funds  
8 that are necessary. And if they can get funds from a  
9 conventional process, then they don't need the  
10 department's funds.

11 MR. GAINES: Okay. The next one, where it  
12 talks about looking at these things on a 3 percent  
13 increase, and then count on 4 percent increase and  
14 expenses, the industry groups went along with that okay?

15 MR. GOURIS: Again, that's a -- that has been  
16 what the practice had been, with 3 and 4 percent. There  
17 had been some discussion of moving it to 2 and 3 percent,  
18 or two-and-a-half and three-and-a-half, or something of  
19 that order.

20 I think in the final analysis, the reason we do  
21 this analysis at all is to determine if the deferred  
22 developer fee can be repaid. And using a 3 and 4 percent  
23 gives a better -- it typically provides a little bit more  
24 availability or ability for the deferred developer to be  
25 repaid in a timely manner.

1 MR. CONINE: Okay. I would love to debate the  
2 issue of are the numbers correct or not? And we probably  
3 will when this thing comes back for final approval.

4 MR. GOURIS: Sure.

5 MR. CONINE: Secondary income limits in the  
6 range of five to \$15 per unit per month -- the --  
7 obviously, there were some questions about that. And  
8 again, I'm referring to -- kind of the new-found cable  
9 t.v. income, and telephone income and the like that are  
10 out there now, relative to the way it was five, ten years  
11 ago.

12 MR. GOURIS: Yes. I think we're still allowing  
13 for levels above 15, if they're well documented and well  
14 substantiated. But our standard line will be five to 15.

15 And 15, you know, would be what we would standardly  
16 accept as the max, unless they can really substantiate  
17 more than that in the entire amount.

18 So for example, garages, or cable revenues --  
19 if they had contracts to that effect.

20 MR. CONINE: Do we have language in this that  
21 would -- and the case -- garages are a great example.

22 MR. GOURIS: Right.

23 MR. CONINE: Because they're going for -- you  
24 know, if they're attached, they're 75 bucks a unit or  
25 better. You do have allowances for a separate line item



1 other than miscellaneous, I guess. Or you call it  
2 secondary. And I -- that kind of gives me a little --

3 MR. GOURIS: It would be based on the entire  
4 amount. They wouldn't be able to start at 15, and then  
5 tack on garages on top of that. They would have to prove  
6 up the entire amount. And that might exceed 15, if they  
7 can prove up the entire amount.

8 MR. CONINE: Well, I -- I guess I have a  
9 problem with the \$15. We'll let the public comment on it  
10 as it comes through.

11 MS. CARRINGTON: Although, Mr. Conine, may I?  
12 What I'm looking at, what we've done on miscellaneous  
13 income, which is what we call it, exceptions -- maybe  
14 they've made for special uses, such as garages, congregate  
15 care, assisted living, elderly and child care. Exceptions  
16 must be justified by operating history.

17 Any estimates for secondary income above or  
18 below this are only considered if they're well-documented  
19 by financial statements. So we do provide a pretty good  
20 description, I think, of the fact that we recognize there  
21 might be exceptions, and then what kind of documentation  
22 we want to back that up.

23 MR. CONINE: And I guess I just take issue with  
24 the fact that in today's world, someone has to have an  
25 exception as opposed to within a range that's a tolerable

1 range.

2           You know, I -- I could easily see a range of  
3 15 -- of five to \$150 a unit, depending on what is a  
4 tolerable range and acceptable product out there. And I  
5 don't -- to require the development community, both for-  
6 profit and non-profit to have to jump through hoops when  
7 they get over \$15, to me is not acceptable. But that's  
8 just one board person's opinion.

9           We've already discussed the Identity of  
10 Interest Transfers. And I think we'll have plenty of  
11 public comment on that in addition to what we've had  
12 today. I'm not going to -- I don't want to belabor that  
13 at all.

14           I'm going to refer you to page 9 of 19, under  
15 an issue that's near and dear to my heart, called Direct  
16 Construction Costs. We've had discussion about the  
17 Marshall and Swift usage, and the category of usage. And  
18 I have, I guess, a concern about the overall way that  
19 we're using that as an underwriting guideline.

20           And specifically, as I've mentioned in the  
21 past, when we have a Phase II application that comes in  
22 after a Phase I application, it demonstrates that  
23 construction costs were a lot less than what Marshall and  
24 Swift would quote.

25           And I would strongly urge us to come up with

1 some language that would be better than what's here, where  
2 it says, "the underwriter will attempt to reconcile this  
3 concern, and ultimately identify as a cost concern in the  
4 report."

5 Which generally gives a developer the ability  
6 to say, Look, Phase I cost me X. And I'm going to put X  
7 plus 3 or 4 percent, whatever the inflation factor might  
8 be.

9 And that should satisfy us as an underwriting  
10 department that if the product is similar, and apples are  
11 to apples, then we would be a little higher in what --  
12 then -- our methodology here would be higher than what is  
13 experienced in the marketplace.

14 And I think we ought to let the marketplace  
15 supersede what's in some handbook somewhere, when we have  
16 a direction connection with Identity of Interests of  
17 people who have just built one particular product and  
18 are contemplating building a second product.

19 Again, I didn't do my homework appropriately  
20 enough to suggest some language here. But I will raise  
21 that concern, and I guess reserve my option to raise that  
22 concern when it comes back with some specific language if  
23 it's not in there when it comes back.

24 MR. GOURIS: If I might, that last sentence  
25 is -- was intended to address that concern and address

1 that issue. And the difficulty and the reason why it's  
2 maybe more vague than you'd like is maybe --

3 MR. SALINAS: Do you want to wait for the next  
4 board meeting?

5 MR. CONINE: Yes. I'm going to wait until the  
6 next board meeting. I'm not going to change anything  
7 here, but I just wanted the board --

8 MR. SALINAS: We have a motion and a second to  
9 approve this.

10 MR. JONES: Uh-huh.

11 MR. SALINAS: We would like to --

12 MR. CONINE: I'm done.

13 MR. SALINAS: But do you want more time on this  
14 item? We can -- can I -- who made the motion on it? Did  
15 I?

16 MR. JONES: I think it was Mr. Gonzalez made  
17 the motion, and you seconded it, Mayor.

18 MR. SALINAS: Ms. Carrington, do you want to  
19 give us more time? Or is it important that we approve it  
20 today, or, are we meeting some kind of deadline?

21 MS. CARRINGTON: We would like to ask board  
22 approval of the draft rules today, because it needs to  
23 track -- this document needs to track the same public  
24 hearing process as our Qualified Allocation Plan, because  
25 these rules will accompany the QAP, and will be what every

1 developer needs as they are applying for tax credits.

2 So we do need approval of the draft so it can  
3 track our QAP. And as we have the public hearings, folks  
4 can comment either on a QAP or on those draft rules also.

5 MR. JONES: Okay. Question's been called for.

6 Are we ready to vote? All in favor of the motion, please  
7 say aye.

8 (A chorus of ayes.)

9 MR. JONES: All opposed, nay?

10 (No response.)

11 MR. JONES: Motion carries.

12 MS. CARRINGTON: I'd like to go on the record  
13 in saying on our definition of NOI, that there was a  
14 consistency in what was published, and that staff would  
15 like to have the ability to correct that inconsistency.

16 MR. CONINE: So moved.

17 MS. CARRINGTON: Thank you.

18 MR. SALINAS: Second.

19 MR. JONES: Motion's been made and seconded.

20 Are we ready to vote? I assume we are. All in favor of  
21 the motion, please say aye.

22 (A chorus of ayes.)

23 MR. JONES: All opposed, nay?

24 (No response.)

25 MR. JONES: Motion carries. Turn to Item 6 on

1 the agenda. Mr. Conine.

2 MR. CONINE: These are a couple of extensions  
3 of our Single Family Mortgage Revenue Bond Program. Do we  
4 have Mister -- are you going to do it, Ms. Carrington?

5 MS. CARRINGTON: I'm going to do it, yes, sir.

6 MR. CONINE: Good.

7 MS. CARRINGTON: The first one is the extension  
8 for Program 55A, which was Series 2000A. It currently has  
9 a little bit over a million left of lendable proceeds in  
10 this transaction or in this bond issue.

11 We have a call provision of May 1, '03. So  
12 what we're asking the board to approve today is an  
13 extension for the origination of loans under this program  
14 to April 1, 2003.

15 MR. CONINE: So moved.

16 MR. SALINAS: Second.

17 MR. JONES: We have a Motion made and seconded.

18 Any discussion?

19 (No response.)

20 MR. JONES: Hearing none, I assume we're ready  
21 to vote. All in favor of the motion, please say aye.

22 (A chorus of ayes.)

23 MR. JONES: All opposed, nay?

24 (No response.)

25 MR. JONES: Motion carries.

1 MS. CARRINGTON: Do I need to read the  
2 resolution number into the record?

3 MR. JONES: Please do.

4 MS. CARRINGTON: Resolution Number 02-44.

5 MR. CONINE: Thank you. Item B?

6 MS. CARRINGTON: Item B is also requesting an  
7 extension of Series 2000B, 2000C, 2000D and Series 2000E,  
8 otherwise known as Program 56 for us.

9 This has quite a bit more lendable proceeds in  
10 it. This is a newer program, 17,000 -- 17 million six  
11 hundred. These programs have a call date on the bonds of  
12 April 2004. So what we're asking is an extension on these  
13 programs to February 2004.

14 MR. GONZALEZ: So moved.

15 MR. SALINAS: Second. And this is resolution  
16 02 --

17 MR. CONINE: 02-45, correct.

18 MR. JONES: Motion made and seconded. Any  
19 discussion?

20 (No response.)

21 MR. JONES: Hearing none, I assume we're --  
22 okay, the motion was made by Mr. Gonzalez, and the mayor  
23 seconded it. Hearing no further discussion, I assume  
24 we're ready to vote. All in favor of the motion, please  
25 say aye.

1 (A chorus of ayes.)

2 MR. JONES: All opposed, nay?

3 (No response.)

4 MR. JONES: Motion carries.

5 MR. SALINAS: We need to vote on the  
6 resolution, I would think, to make it --

7 MR. JONES: Okay.

8 MR. SALINAS: Thank you.

9 MR. JONES: Is it --

10 MR. CONINE: 02-45, I think.

11 MR. JONES: 02-45.

12 MR. SALINAS: All right. That would be that we  
13 need to approve the resolution, which it was approved.

14 MS. CARRINGTON: Okay.

15 MR. JONES: Do we -- I think we approved that  
16 resolution, is what I understood the motion to be.

17 MS. CARRINGTON: Yes.

18 MR. JONES: Okay.

19 MS. CARRINGTON: Okay.

20 MR. CONINE: I'm okay.

21 MR. JONES: So Resolution 02-45 has been  
22 approved. Let's turn to the Executive Director's Report.  
23 See how smart you are.

24 MS. CARRINGTON: I don't have one today.

25 MR. JONES: Great. Good.



1 MS. CARRINGTON: The first item that I'd like  
2 to bring to your attention is information on increased  
3 Purchase Price Limits for Single Family  
4 Mortgage Revenue Bonds. TSAHC requested and did receive  
5 from the Internal Revenue Service a private letter ruling  
6 allowing for the increase of purchase price limits on  
7 the -- on Single Family Mortgage Revenue Bond Programs.

8 And what our Bond Finance Division has provided  
9 for the board today is information only. It's background  
10 on that, and also a chart that shows what those income  
11 limits will be.

12 What we will be doing in October at the October  
13 board meeting is bringing some recommendations to the  
14 board on considering -- perhaps adopting some of these  
15 higher limits for our programs.

16 So it's really information for you all only  
17 today, to let you know that this private letter ruling has  
18 been received, and to give you an idea of what those new  
19 limits are that are allowed under TSAHC's program.

20 MR. JONES: And we're planning for that October  
21 board meeting being in Corpus Christi. Correct?

22 MS. CARRINGTON: That is correct.

23 MR. JONES: Okay. Thank you.

24 MS. CARRINGTON: Correct. We have had our  
25 first visit from the Sunset Advisory Commission staff.

1 And I see Jeremy Mazur [phonetic] still in the audience  
2 with us this afternoon.

3           They came over en masse. I think there were  
4 five of them. They outlined for us what the process was  
5 going to be for them through this fall. And then staff  
6 did a presentation on our activities to date in  
7 implementing Senate Bill 322.

8           Also addressing management recommendations that  
9 Sunset had made, which were not part of our legislation,  
10 but were items that in many instances we had been  
11 addressing as a department.

12           They are now back in our offices meeting with  
13 individual staff on particular items, and will be there  
14 probably for the next two to three weeks, and looking at  
15 documentation. And they anticipate a draft report --  
16 their draft report about the 23rd or 24th of October.

17           Probably the report finalized sometime in  
18 November, and then our hearings in December. Reorg is  
19 still in process. We hope to report to you at the October  
20 board meeting.

21           MR. CONINE: Could I stop you there for just a  
22 second, and back on that issue of Sunset for just a  
23 second? We -- I think all the board members got a letter  
24 about participating in that process with the Sunset staff,  
25 and I guess I'd like to express the ability to do that at

1 some point in the future.

2 And I know we all had some tense moments over  
3 the last two or three years, and love to share, at least  
4 our ideas and concepts directly with staff whenever that's  
5 appropriate. Thank you.

6 MS. CARRINGTON: Okay. Thank you. Reorg is in  
7 process. We'll have a report for you in October of what  
8 our organization looks like. I went last week to HUD,  
9 Forth Worth. Spent about three hours meeting with the  
10 regional director up there. And I was out of the room  
11 this morning when you all were talking in Audit about some  
12 of the issues with HUD.

13 I certainly had a good reception with them, had  
14 a good meeting with them. They are very willing to work  
15 with us as we move forward to resolving our issues with  
16 our various programs that HUD monitors.

17 And with that, Mr. Chairman.

18 MR. JONES: I think we need to go in executive  
19 session. Do you have the executive session binder?

20 We do need executive session, do we not?

21 MR. GOURIS: Yes, we do. Yes.

22 MR. CONINE: Ask her nicely. She's -- please.

23 May I?

24 MS. ANDERSON: I gave her her sugar pill.

25 MR. JONES: Oh, really? All right. At this

1 point in time, we'll go into the executive session of the  
2 Board of the Texas Department of Housing and Community  
3 Affairs. On this September 12, 2002, the regular board  
4 meeting of the Texas Department of Housing and Community  
5 Affairs held in Austin, the Board of Directors adjourned  
6 to a closed executive session as evidenced by the  
7 following:

8           The Board of Directors will begin its executive  
9 session today, September 12, 2002 at 2:33 p.m. The  
10 subject matter of this executive session will be  
11 Litigation and Anticipated Litigation, Cause No. GN-  
12 202219, Century Pacific Equity Corporation versus Texas  
13 Department of Housing and Community Affairs et al. in the  
14 53rd Judicial District Court of Travis County and  
15 Sheltering Arms Apartments litigation.

16           Number two, Consultation with Attorney Pursuant  
17 to Section 551.071(2), Texas Government Code and  
18 discussion of any item listed on the board meeting agenda  
19 of even date.

20           And we will now go into executive session.  
21 Where are we going to be? Are we going to be here?

22           (Whereupon, at 2:33 p.m., the hearing was  
23 adjourned, to reconvene this same day, Thursday, September  
24 12, 2002.)

25           MR. JONES: I will call us back into open

1 session. The executive session of the Board of Directors  
2 of the Texas Department of Housing and Community Affairs  
3 for September 12, 2002, was concluded.

4 The subject matter of the executive session was  
5 litigation and anticipated litigation, Cause No. GN-  
6 202219, Century Pacific Equity Corporation versus TDHCA  
7 and the Sheltering Arms, litigation action taken, none;  
8 consultation with attorney pursuant to Section 551.071(2),  
9 Texas Government Code, action taken none; and discussion  
10 of any item on the board meeting agenda of even date,  
11 action taken none.

12 The Board of Directors has completed its  
13 executive session of the Texas Department of Housing and  
14 Community Affairs on September 12, 2002, at 3:47 p.m. I  
15 hereby certify this agenda of an executive session -- or  
16 2:00. Oh, I'm sorry, 2:47.

17 MR. GONZALEZ: We're not going to be here that  
18 long.

19 MR. JONES: I hereby certify this agenda of an  
20 executive session of the Texas Department of Housing and  
21 Community Affairs was properly authorized pursuant to  
22 Section 551.103 of the Texas Government Code, posted at  
23 the Secretary of State's Office seven days prior to the  
24 meeting, pursuant to Section 551.044 of the Texas  
25 Government Code, and that all members of the Board of

1 Directors were present, with the exception of Shadrick  
2 Bogany and Beth Anderson. And that this is a true and  
3 correct record in proceedings pursuant to the Texas Open  
4 Meetings Act, Chapter 551 of the Texas Government Code, as  
5 amended. Signed by Michael E. Jones.

6 We will then turn our attention to action taken  
7 on matters that we dealt with at the executive session.  
8 And I would like to read the following statement that the  
9 chairman will recommend that the board adopt.

10 The board would like to make this statement  
11 concerning Century Pacific. Century Pacific submitted  
12 four applications to the department, the low income  
13 housing tax credit applications numbers 02-019, 02-020,  
14 02-021, and 02-022.

15 On June 10, 2002, the department disqualified  
16 Century Pacific's four applications based on material  
17 noncompliance related to health and safety on other low-  
18 income rental property owned by Century Pacific.

19 Century appealed its disqualification to this  
20 board. And after hearing Century Pacific's presentation,  
21 the board denied Century Pacific's appeal on June 24,  
22 2002. Century Pacific, however, sought judicial relief.  
23 And by order dated July 22, 2002, the 200th District Court  
24 of Travis County temporarily enjoined the department and  
25 the board from disqualifying Century Pacific's

1 applications.

2 Finding that Century Pacific met the  
3 requirements for issuance of a temporary injunction, the  
4 Court's ruling effectively precluded the department and  
5 this board from considering Century Pacific's material  
6 noncompliance relating to health and safety and from  
7 disqualifying their applications.

8 Therefore, the department processed Century  
9 Pacific's application following the Court's temporary  
10 injunction order as if the material noncompliance did not  
11 exist. And on July 29, 2002, as the Court ordered, this  
12 board approved the department's recommendation allocating  
13 tax credits to Century Pacific's four applications.

14 This board's approval was as ordered by the  
15 Court. And as the Court's temporary injunction order  
16 states, it's conditioned on final Court determination.

17 If the Court's temporary injunction order of  
18 July 22, 2002 -- excuse me. But for the Court's temporary  
19 injunction order of July 22, 2002, this board would not  
20 have changed its decision of June 24, 2002, denying  
21 Century Pacific's appeal, the department's  
22 disqualifications of the applications for Century  
23 Pacific's material noncompliance relating to health and  
24 safety.

25 After the board's action on July 29, 2002, and

1 in accordance with the department's Qualified Allocation  
2 Plan rules, the department's staff properly issued four  
3 commitment notices to Century Pacific with two amendments  
4 to each, the second amendment, using language and  
5 condition number three, that Century Pacific agreed to at  
6 a Court hearing on September 6, 2002.

7 These commitment notices accurately reflect  
8 that the board's action on July 29, 2002 was as ordered by  
9 the temporary injunction, a condition of the final Court  
10 decision.

11 The board's position today remains that Century  
12 Pacific's four applications were legally, correctly and  
13 appropriately disqualified, based on material  
14 noncompliance relating to health and safety on other low-  
15 income property owned by Century Pacific.

16 The people of Texas rightly expect that the  
17 state will not allocate scarce, public low-income housing  
18 resources to owners that have an unsatisfactory record of  
19 managing and maintaining their properties.

20 Mr. Gonzalez, do you agree with this statement?

21 MR. GONZALEZ: Yes.

22 MR. JONES: Mr. Conine, do you agree with this  
23 statement?

24 MR. CONINE: Yes, Mr. Chairman.

25 MR. JONES: Mayor, do you agree with this



1 statement?

2 MR. SALINAS: Yes, sir.

3 MR. JONES: And I would like to note for the  
4 record that the chairman agrees with this statement. And  
5 all the board members, four of which are attending this  
6 meeting, all concur with the statement individually. And  
7 I will sign it Michael E. Jones, as chairman of the board.  
8 Thank you.

9 With that, I believe we've concluded our  
10 agenda. Is that true?

11 MR. CONINE: Move for adjournment.

12 MR. GONZALEZ: Second.

13 MR. JONES: Motion has been made that we  
14 adjourn. All in favor, say aye.

15 (A chorus of ayes.)

16 MR. JONES: The meeting is adjourned.

17 (Whereupon, at 2:55 p.m., the meeting was  
18 concluded.)

C E R T I F I C A T E

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MEETING OF: TDHCA Board  
LOCATION: Austin, Texas  
DATE: September 12, 2002

I do hereby certify that the foregoing pages, numbers 1 through 170, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Penny Bynum before the Texas Department of Housing and Community Affairs.

09/16/02  
\_\_\_\_\_  
(Transcriber) (Date)

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