

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

12:30 p.m.
Tuesday,
August 21, 2001

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

COMMITTEE MEMBERS:

MICHAEL JONES, Chair
SHADRICK BOGANY
ROBERT BREWER
C. KENT CONINE
JAMES DAROSS
LYDIA SAENZ
NORBERTO SALINAS
MARSHA WILLIAMS

STAFF PRESENT:

DAISY STINER, Executive Director
DELORES GRONECK

A G E N D A

<u>ITEM</u>	<u>PAGE :</u>
CALL TO ORDER, ROLL CALL CERTIFICATION OF QUORUM	4
PUBLIC COMMENT:	
John Henneberger, Co-Director Texas Low-income Housing Information Service, Austin, TX	7
Mia Ford, Director Texas Development Institute	12
Jerry Howard, Mayor Pro Tem China, TX	15
Bruce Spitzengel, President Grant Works	27
Raymundo Ocanas, Executive Director State Association of CDCs	32
Willie Alexander, Houston, TX (On behalf of Scott Street Townhomes)	34
John Barineau, Administrative General Partner (On behalf of Scott Street Townhomes)	37
Rowan Smith, Houston, TX (On behalf of El Pueblo Dorado Apartments)	128
ACTION ITEMS	
Item 1 Presentation, Discussion and Possible Approval of Minutes of Board Meeting of July 31, 2001	51
Item 2 Presentation, Discussion and Possible Approval of Report from Programs Committee	52
Item 3 Presentation, Discussion and Possible Approval of Report from Finance Committee	62
Item 4 Presentation, Discussion and Possible Approval of Report from Audit Committee	102
Item 5 Presentation, Discussion and Possible	

Approval of Low Income Housing Tax Credit
Items

103

Item 6	Presentation and Discussion of Letter Requesting Attorney General's Opinion	129
Item 7	Consideration and Discussion of and Possible Action on Posting the Position of the Executive Director of the Texas Department of Housing and Community Affairs in Order to Create an Applicant Pool for the position of Executive Director Which Can Be Considered in the Selection of an Executive Director by the New Board to be Appointed by the Governor in Accordance with the Sunset Legislation	185
REPORT ITEMS		
EXECUTIVE SESSION		190
ADJOURN		193

P R O C E E D I N G S

1
2 MR. JONES: I call to order the meeting of the
3 Texas Department of Housing and Community Affairs Board of
4 Directors for August 21, 2001. And the first thing on our
5 agenda will be the roll call and a determination of
6 quorum.

7 Mr. James Daross?

8 MR. DAROSS: Present.

9 MR. JONES: Mr. Shadrick Bogany?

10 MR. BOGANY: Present.

11 MR. JONES: Mr. Robert Brewer?

12 MR. BREWER: Present.

13 MR. JONES: Mr. Kent Conine?

14 MR. CONINE: I'm here.

15 MR. JONES: Mr. Gonzales?

16 (No response.)

17 MR. JONES: He is absent.

18 Ms. Saenz?

19 MS. SAENZ: Present.

20 MR. JONES: Norberto Salinas?

21 (No response.)

22 MR. JONES: He is absent.

23 Ms. Williams?

24 MS. WILLIAMS: Here.

25 MR. JONES: And Mr. Jones is present.

1 We have seven members present and two members
2 absent. I do determine that we have a quorum.

3 I believe the next thing on our agenda is the
4 period for public comment. Oh. Excuse me. And we would
5 like to recognize certain special guests we have with us.

6 We have Johnnie Morales here from the Speaker's
7 office. I see Johnnie at the back.

8 We also have Donna Chatham here, from the
9 Committee on Urban Affairs. Thank you for being here.

10 We have Eddie Salinas from Governor Ratliff's
11 office.

12 Eddie?

13 (No response.)

14 MR. JONES: I'm missing Eddie. He told me he
15 was coming, though. And I think Representative Ehrhardt
16 has been with us and will be back; she has gone on an
17 errand.

18 But we're glad to have all of you with us.

19 I did want to turn to public comment. The
20 first matter of public comment: I have here a statement
21 that Senator Lucio has requested that I read.

22 And it states this -- and, again, this is from
23 Senator Eddie Lucio, Jr.: "First of all, let me emphasize
24 that I am very much in support of your agency, and want us
25 to work together for the countless Texans who depend on

1 your leadership and that of the legislature. The last
2 thing I would ever want to do is battle with the TDHCA,
3 for that would only stymie the efforts we are making to
4 provide affordable housing to people throughout the state.

5 "Please know that as a State Senator, as a
6 member of the Sunset Commission, you can count on me as
7 you undergo a transition according to the rules and
8 procedures established through Senate Bill 322, the Sunset
9 Bill I authored. I speak on behalf of the entire
10 legislature when I say that we stand behind every board
11 and commission as you offer the State of Texas your
12 dedication and commitment.

13 "I also want you to be fully aware that I trust
14 your judgment and that I do not intend to become involved
15 in the day-to-day operations of TDHCA or any agency; that
16 I leave entirely under your purview. But I will work and
17 fight for the betterment of any agency through legislative
18 efforts. On this I give you my word."

19 And on behalf of our entire board, I would like
20 to thank Senator Lucio for his statement. And that -- he
21 also has some comments or -- I've been in touch with his
22 staff about some matters with regard to an agenda item
23 that I'll be happy to refer to the board about when we --
24 that item comes up.

25 With regard to other public comment, the first

1 witness affirmation form I have is from John Henneberger.

2 Mr. Henneberger, would you like to wait for
3 that agenda item, or would you like to go now? Take your
4 pick. It's up to you.

5 MR. CONINE: I think he has got a tee time this
6 afternoon.

7 MR. JONES: Okay.

8 MR. HENNEBERGER: Let me just get it out of the
9 way.

10 MR. JONES: Okay.

11 MR. HENNEBERGER: Mr. Chairman and members, my
12 name is John Henneberger, also known by the staff as The
13 advocate.

14 (Laughter.)

15 MR. HENNEBERGER: I'm --

16 MR. JONES: I remember you as a long-time
17 friend and sometime critic.

18 MR. HENNEBERGER: Sometime -- that's right.

19 MR. CONINE: Can we make a movie out of that?

20 MR. JONES: That's how I remember you.

21 (Laughter.)

22 MR. HENNEBERGER: I'm the Co-Director of the
23 Texas Low-income Housing Information Service, a nonprofit
24 organization that works on behalf of housing for low-
25 income people. I'd like to briefly touch on two matters

1 today.

2 The first has to do with the allocation of low-
3 income housing tax credits by board -- by the board at the
4 last meeting. I'm here to express my deep concern over
5 the failure to meet the regional allocation goals set by
6 the TDHCA Board in the allocation of tax credits,
7 particularly to the border region.

8 As you are aware and as, I believe, the board
9 discussed at the time you deliberated on this matter at
10 your last board meeting, the staff recommended and the
11 board chose to substantially underfund the allocation of
12 tax credits in the -- in Region 8B, which is that portion
13 of the border that comprises the area from Brownsville on
14 up toward the Del Rio way.

15 This is an area that has arguably the greatest
16 housing needs in the state, as reflected by the regional
17 allocation formula, which the board itself adopted prior
18 to or -- earlier this year. Nonetheless, there were tax
19 credit deals which met threshold criteria which were
20 available to the board to fund under the allocation last
21 time, which -- the board chose not to do so.

22 The result was an underfunding of almost \$1.8
23 million of low-income housing tax credits, which
24 translates over the life of those credits into almost \$18
25 million of money for low-income housing which was

1 underfunded to the region. It's significant that this
2 region stands head and shoulders above all other regions
3 in the state in terms of the level at which it was
4 underfunded in the tax credit round.

5 As I read the statute which was enacted, the
6 regional allocation requirement, the provisions of which
7 are set forth in Senate Bill 11 -- SB 11.12, I believe,
8 the department is to make every effort to achieve a fair
9 regional allocation of tax credits. I don't believe that
10 that was accomplished this time, in that there were deals,
11 as I said before, which were fundable, which met threshold
12 criteria, which were not funded in that region.

13 TDHCA's qualified allocation plan clearly
14 requires the board to make a careful documentation of the
15 reasons for a failure to reach the regional -- to meet the
16 regional allocation formula levels the board has adopted.

17 I call on the board now to do four things.

18 First of all: To clarify the department's
19 obligation to comply with the regional allocation goals,
20 specifically by adopting a policy that TDHCA will meet
21 regional allocation funding levels in housing programs by
22 funding all applications in the future that meet threshold
23 criteria before redirecting funds outside of a region to
24 another region.

25 Second: To modify the waiting list and forward

1 commitments to fund low-income housing tax credit
2 developments in Region 8B at the levels that are called
3 for in the 2001 regional allocation formula adopted by
4 this board.

5 Number three: To publish the detailed
6 documentation for the reasons for the violation -- for the
7 variation of funding in Region 8B, as required in your
8 2001 qualified allocation plan.

9 And, number four: To develop and publish for
10 public comment a plan that will offset this year's funding
11 shortfall to the border by providing additional funds from
12 other TDHCA programs.

13 Mr. Chairman and Board members, I provided
14 detailed information about the funding levels of these
15 various programs in the letter that I've provided you.

16 The second matter that I'd like to bring before
17 the board is a matter that I just discussed with the
18 Finance Committee, and that has to do with the bond -- the
19 proposed bond refunding and the use of those bond -- that
20 bond refunding to essentially make a deal work that's a
21 single-family mortgage revenue bond deal.

22 I'd like to say that the comments of staff that
23 I heard in no way indicated that it was not possible to
24 use the bond refunding monies which are being -- which are
25 now going to be pledged to the single-family mortgage

1 revenue bond -- to use those bond refunding monies for the
2 Bootstrap Housing Loan Program.

3 (Pause.)

4 MR. HENNEBERGER: And if you don't do what I
5 ask, the lights will go off.

6 (Laughter.)

7 MR. JONES: You know, you can look at that two
8 ways. There's a good side to that and a bad side to that.

9 MR. BREWER: He's still here.

10 (Laughter.)

11 MR. HENNEBERGER: And I seek to lead you out of
12 the darkness that you're now in.

13 (Laughter.)

14 MR. HENNEBERGER: The -- I did hear bond
15 counsel indicate that -- the only problem that I heard
16 bond counsel indicate in applying bond refunding monies to
17 the bootstrap program had to do with, quote,
18 Representations made to the bondholders concerning the
19 credit worthiness of the borrowers under the original
20 indenture.

21 And I would suggest to you that that is a very
22 narrow view of what those representations are. And I
23 would urge the board -- you have a chance here to use the
24 money in the most flexible way to apply the bond refunding
25 to the highest priority need, which is low-income people.

1 And I would urge the board to carefully review
2 this matter and to make absolutely certain that this is
3 impossible, because this is a source of revenue which
4 could offset a \$6 million -- this biennium -- call on the
5 Housing Trust Fund and the HOME monies which is going to
6 have to be made under the current statute. And if there's
7 a way to do this with bond refunding monies, I believe it
8 would be prudent and I believe it would be in the best
9 interest of low-income people in this state.

10 Thank you, very much.

11 MR. JONES: Thank you.

12 MR. CONINE: Thank you, John.

13 MR. JONES: Thank you, so much.

14 The next form I have is from Mr. Rowan Smith.

15 Mr. Smith?

16 MR. SMITH: Yes. I'd prefer to wait for that
17 agenda item. It has to do with the tax credits for the
18 Valley.

19 MR. JONES: Thank you.

20 Ms. Mia Ford? Ms. Ford?

21 MS. FORD: I'm here to talk to you about the
22 Housing Trust Fund Predevelopment Loan Program. And I
23 have passed out some written information to you, as well,
24 on the Texas Development Institute. I am the Director of
25 the Texas Development Institute.

1 After capacity building grants, the next-best
2 resource for initiating new affordable housing development
3 projects is the Housing Trust Fund's Predevelopment Loan
4 Fund. However, the loan fund will be as effective as the
5 organization performing the marketing and the
6 administration of it.

7 In past years, as I have facilitated training
8 around the state on available financing programs, I have
9 been disappointed in the lack of awareness by the CHDOs
10 and nonprofit housing organizations of the Housing Trust
11 Fund's Predevelopment Loan Fund.

12 There needs to be a better outreach for this
13 year's loan fund. We need to get the loan funds out to
14 the CHDOs, nonprofit organizations, housing authorities,
15 and local governments all over the state who are trying to
16 get affordable housing development projects off the
17 ground. Texas Development Institute will get the job
18 done.

19 Through our statewide training outreach, we
20 have established the relationships and mechanisms to
21 market the loan fund quickly and extensively all over the
22 state. We have the technical expertise to develop the
23 loan fund documents and to guide and counsel the
24 applicants through the loan process, and we have
25 experience in managing both state and federal funds.

1 I ask you today, board members, to award the
2 administration of the predevelopment loan fund to Texas
3 Development Institute or, as an alternative, let TDI
4 partner with the agency recommended by the Housing Trust
5 Fund staff.

6 The RFP allowed for up to two nonprofit
7 organizations to administer the funds. And I believe one
8 of those organizations should be a statewide organization,
9 but, most of all, I maintain that Texas Development
10 Institute is the best candidate for the job. Thank you.

11 MR. JONES: Thank you.

12 Ms. Kim Vowell?

13 MR. VOWELL: That's Mister, but --

14 MR. JONES: Oh. I'm sorry. I apologize.

15 MR. VOWELL: That's all right. I'll wait for
16 the agenda item.

17 MR. JONES: All right.

18 MR. VOWELL: Thank you.

19 MR. JONES: Mr. Willie Alexander?

20 (No response.)

21 MR. JONES: Mr. Alexander?

22 (Pause.)

23 MR. JONES: Mr. John Barineau?

24 (No response.)

25 MR. JONES: Mr. Barineau?

1 (Pause.)

2 MR. JONES: Mr. Jerry Howard?

3 MRS. HOWARD: That's Mrs.

4 MR. JONES: Oh. Excuse me, Mrs. Howard.

5 MRS. HOWARD: Hello. My name is Jerry Howard;
6 I am the Mayor Pro Tem for the City of China.

7 I did not want to be here today, but the
8 disqualification of China's 2001 HOME Program application
9 for the owner-occupied rehabilitation assistance demanded
10 that I speak with you today. A lot of work was completed
11 to prepare and submit our application to your agency. I
12 actually went door to door to find people that would
13 qualify for this program and told them that we were
14 attempting to help them with their homes.

15 When I heard that the application was
16 disqualified, I was stunned and greatly distressed, but
17 the worst news was the reason that the program gave us for
18 disqualification. Apparently, we were supposed to submit
19 a form to the agency telling them that we didn't owe them
20 a copy of our audit because we had no grants for them in
21 the years in question. I think that's something they
22 should know anyway, but somehow, we failed to submit the
23 form.

24 A delinquent audit is one of the thresholds
25 that HOME used this year to weed out applications. As we

1 told them, we did not have an audit due to the TDHCA. As
2 you can see in the handouts I've given you, the audit
3 certification form our independent auditor completed on
4 July 9 and submitted to TDHCA indicates that we do not
5 need to complete any single audit forms or submit any
6 audit to the TDHCA.

7 This certification form is not an audit. If
8 you'll look carefully, the audit certification form and
9 its instruction sheet have conflicting information about
10 when the form is due. From reading the instruction sheet,
11 it is not at all clear whether or not this form should be
12 turned in at all unless the city spends over \$300 in
13 federal and state funds.

14 The second document is the preliminary funding
15 recommendations as prepared by the Texas Community
16 Development Program in March of this year. Please note
17 that China was awarded and is currently implementing a
18 grant in the amount of \$250,000.

19 My point in showing you this information is
20 that the community development program did not disqualify
21 our CD application that was submitted in August of 2000
22 because of a past-due audit certification form. We have
23 always found that -- this part of TDHCA to be service-
24 oriented and helpful to small towns.

25 The third item passed out is a July 27 letter

1 from the Texas HOME Program reaffirming our
2 disqualification because, quote, Applicant is not eligible
3 to apply for funds unless any past-due audit has been
4 submitted to the department in a satisfactory format on or
5 before the application deadline, unquote.

6 The HOME Program specifically stated that the
7 threshold requirement was a past-due audit. In no way did
8 the City of China fail to meet this threshold. If HOME
9 wants to change the threshold requirement to include,
10 quote/unquote, Past-due audit certification forms, for
11 next year, that is their choice, but changing the rules
12 before we submit applications is not the way to resolve
13 this issue.

14 I would like for you to instruct HOME Program
15 to reconsider our disqualification, taking into account
16 the actual language found in their application guide, of
17 their role as a partner with rural communities, rather
18 than a punisher, and the fact that the audit certification
19 form itself is a confusing and self-contradicting
20 document.

21 All I want is that -- our application to be
22 scored and be given a fair opportunity for funding. And I
23 do thank you for your consideration in this.

24 MR. JONES: Any questions?

25 MR. CONINE: Yes. I've got lots of questions.

1 MR. JONES: Okay.

2 MR. CONINE: I mean I would presume, since it's
3 not on an agenda item, that we need to handle questions
4 now.

5 MR. JONES: I agree.

6 MR. CONINE: This says for fiscal year ending
7 '98, the one I'm looking at?

8 MRS. HOWARD: Yes, sir.

9 MR. CONINE: Okay. And I guess my question is:
10 Why are we going back that far on audited statements?
11 Did you turn in '99 and 2000?

12 MRS. HOWARD: We didn't have any -- we didn't
13 have an audit due, period. In other words, there was no
14 audit due. This was evidently the one in question, the
15 only one that we had some state funding on. And, if
16 you'll see, it was in the amount of \$32,367.81, nowhere
17 near 300,000. But we didn't have audits due. So why
18 should we turn in an audit if we don't have one due?

19 MR. CONINE: You're saying the conflicting
20 statements are for the box that's checked there and then
21 the sentence right below that, which says --

22 MRS. HOWARD: Not only that. In the
23 instructions on how to fill out this form, it tells you
24 that you don't need to fill it out if you don't have an
25 audit due. It tells you that you don't need to fill it

1 out.

2 Thank you.

3 I'll read the instructions to you. It says,
4 "If the subrecipient is subject to OMB Circular A-133, the
5 following items should be submitted to TDHCA's Compliance
6 Division within nine months after the end of the audited
7 fiscal year:

8 "Audit certification form; the single audit
9 report submission checklist completed and signed by the
10 independent CPA; two copies of the entire audit report
11 issued by the CPA; two copies of any management letter
12 issued in conjunction with the audit report; and two
13 copies of management's response and planned corrective
14 action on all findings, recommendations and questions
15 contained in the audit report and management letter."

16 The very next statement on this instruction
17 sheet says, "If the subrecipient did not exceed the
18 \$300,000 threshold, records must still be kept available
19 for review or audit by TDHCA staff," which -- we had the
20 records available. And this was the money that was spent.

21 They were available, but, as per your instructions on the
22 instructions on this, we didn't have to submit it because
23 we didn't --

24 MR. CONINE: We kicked you out instead of
25 asking to look at it?

1 MRS. HOWARD: Yes. It wasn't \$300,000.

2 MR. CONINE: Okay. And pardon my ignorance,
3 but where is China?

4 (Laughter.)

5 MRS. HOWARD: It's about 90 miles east of
6 Houston, near Beaumont, Texas.

7 MR. CONINE: And your application was for
8 \$250,000. Is that right?

9 MRS. HOWARD: Yes, sir.

10 MR. CONINE: All right.

11 Mr. Chairman, I'd like to hear from staff, I
12 guess --

13 MR. JONES: Yes.

14 MR. CONINE: -- the appropriate staff.

15 MR. JONES: Would that be Ms. Morris?

16 MS. STINER: Yes, sir.

17 MR. JONES: Yes, please.

18 MS. MORRIS: I'd like to see if there's anyone
19 from the compliance division, as well, since they monitor
20 the audit certificates and --

21 MS. STINER: I'm sorry, Ms. Morris; I should've
22 made that clear.

23 The program staff depend on the compliance
24 histories that's generated by the compliance division. I
25 know Ms. Phillips is on vacation. I don't know if Ms.

1 Trevino is here.

2 Lucy Trevino, will you come forward, please?

3 Ms. Trevino is the manager of the audit
4 division of the compliance division or -- yes.

5 MS. MORRIS: I'll begin to say I'm Pam Morris,
6 Director of Housing Finance Programs. We did a very
7 careful process with the 2001 application by making sure
8 that we checked literally all the threshold requirements
9 and took them very seriously. And we wanted to make sure
10 that we weren't approving anyone to go into the scoring
11 round that didn't meet those minimum requirements.

12 From -- our understanding in working with the
13 compliance division is that they have to have the audit
14 cert form in so that they can determine whether or not an
15 audit is required. Otherwise, we just show them as
16 pending receiving that form so that we know whether
17 they're delinquent on an audit.

18 Some of our administrators receive funding
19 outside of this agency, so we really don't always know
20 what funds they may have received in order to be in
21 compliance with the HUD federal requirements. And I'll
22 let Lucy explain the process of collecting those certs.

23 MS. TREVINO: I'm Lucy Trevino, Compliance
24 Manager. And the way the threshold is determined is by
25 total cumulative federal expenditures. So we can't -- we

1 don't know if they're subject to a single audit or not
2 until they certify to us whether they are or not. And
3 that's the reason for this form.

4 The form has been in place for about three
5 years. So most of our subrecipients, unless they're a
6 first-time applicant, have been submitting the form year
7 after year.

8 Also, as far as the City of China, I'm not
9 prepared because I wasn't aware of this. But I'm pretty
10 sure we've sent them several letters requesting the form
11 back, especially if it's a 1998 that was delinquent. I'd
12 have to go back and check our records, but typically, we
13 send reminder letters asking that the form be returned to
14 us, you know, several times during the year.

15 Also, if they have a prior certification or
16 audit that was required, when that audit is reviewed,
17 we'll ask for the form again to be submitted in the
18 following year. So I couldn't tell you the details on the
19 City of China, but, you know, if that is the case, I'm
20 sure they were aware of it.

21 MR. CONINE: Given what you know now, do they
22 meet the threshold requirements based on what she has
23 presented?

24 MS. TREVINO: Apparently, after the deadline,
25 they submitted the form that indicated they were not

1 subject to a single audit. But prior to them submitting
2 the form, we did not know one way or the other.

3 MR. CONINE: And refresh my memory on when the
4 cutoff date was.

5 MRS. HOWARD: June 11.

6 MR. CONINE: So it's fairly recent?

7 MRS. HOWARD: Uh-huh.

8 MR. CONINE: And we probably don't have any
9 money left in that account. Right?

10 MS. MORRIS: Well, we haven't completed all the
11 scoring. We're wrapping that up now. Because of some
12 other disqualifications that were added back into the
13 round and so -- we're off our schedule a little bit for
14 the funding cycle to know what funds will be awarded.

15 MR. CONINE: Mr. Chairman, I'm hearing a lot of
16 technical ambiguity, I guess, because of one side saying
17 one thing and one side saying the other. And I don't know
18 whether we want to take the time to resolve that issue
19 here today. I --

20 MR. JONES: I don't think we can --

21 MR. CONINE: I don't think we can.

22 MR. JONES: -- in light of our agenda.

23 MR. DAROSS: I don't think so.

24 MR. JONES: But I guess the only thing we can
25 do probably, Mr. Conine, is ask for the staff to see if

1 there's any relief available for this type of situation.

2 MS. MORRIS: We met with Executive on two
3 occasions to discuss all of the disqualifications in the
4 HOME cycle. It was determined at that time that an audit
5 certificate in essence was an audit requirement; so if
6 they weren't in compliance at that deadline, we -- the
7 decision was that we would stick to the disqualifications
8 with regard to that expenditure rate and any delinquencies
9 or loan defaults.

10 MR. CONINE: Well, you know, I guess I would
11 applaud staff in dotting the i's and crossing the t's. On
12 the other hand, I think, based on the distribution that
13 our agency's letter went to, there was a professional
14 grant writer involved in this particular application who
15 interpreted the rules and regulations for not only this
16 client but, I'm sure, others in a consistent manner that
17 would be different than what I'm hearing.

18 And I'd like at least for staff to -- knowing
19 what they know now, if they meet the threshold -- go
20 through and finish the, I guess, underwriting requirements
21 and come back to us next month with an appropriate
22 response.

23 (Pause.)

24 MR. CONINE: I'll make that in the form of a
25 motion.

1 MR. DAROSS: I don't think you can --

2 MR. JONES: I don't think --

3 MR. DAROSS: -- do a motion.

4 MR. JONES: -- you can do that.

5 MR. CONINE: We can't do that?

6 MR. JONES: No, you can't do that. I think you
7 can --

8 MR. DAROSS: It's not an agenda item.

9 MR. JONES: I -- it's not an agenda item. I
10 think all we can do is just ask the staff to evaluate the
11 situation for us and report back at the next meeting.

12 MR. DAROSS: I think that one thing we ought to
13 look at is: Were the letters of reminder sent, and were
14 they received?

15 MS. TREVINO: And we can go back to the office
16 and certainly get all that information for you.

17 MRS. HOWARD: That would be something that --
18 you know, if they can show us where the letters were sent
19 to the City of China, saying that they needed the audit
20 certification form, you know, then I can more see your
21 point. But those letters, to me -- to satisfy me, I would
22 appreciate seeing those.

23 And, also, the very fact that the HOME
24 Program -- it specifically stated that they wanted a past-
25 due audit. Because we did not have an audit due, we

1 assumed that we were not out of compliance, because there
2 was not an audit due. You didn't ask for an audit
3 certification form; you asked for a past-due audit.

4 That's two different papers. Right?

5 MS. MORRIS: Correct.

6 MRS. HOWARD: You know, so --

7 MS. MORRIS: It's just that we --

8 MRS. HOWARD: -- that's what we're questioning.

9 You asked for two different things. In our instructions,
10 it was a past-due audit, not a certification form.

11 MR. BREWER: Yes. But you're not aware if any
12 letters were received and --

13 MRS. HOWARD: Not that I'm aware. But I'm
14 going to say that they -- I'm not going to say that they
15 weren't. I could check and see.

16 MR. BREWER: Okay. Thank you.

17 MR. JONES: Well, I would just like to suggest
18 that the staff, you know, review this information.
19 Obviously, you're just hearing it for the first time. See
20 what the --

21 MS. MORRIS: That's correct.

22 MR. JONES: See what the circumstances are, and
23 then report back to us at the next meeting.

24 MS. MORRIS: Okay.

25 MR. JONES: Let's see if there's any relief

1 that can be --

2 MS. MORRIS: All right.

3 MR. JONES: Yes? Do you --

4 MR. SPITZENGEL: Chairman Jones, I'm Bruce
5 Spitzengel. I'm here, already listed.

6 MR. JONES: You're our next speaker. So --

7 MR. SPITZENGEL: Yes.

8 MR. JONES: -- if you want to speak now, come
9 on.

10 MR. SPITZENGEL: Yes, I certainly would. I
11 think it would be appropriate. I'm the professional grant
12 writer that Mr. Conine was speaking to, and I think I can
13 add some pertinent information.

14 My name is Bruce Spitzengel; I'm president of
15 Grant Works. First of all, I'd like to contradict some of
16 the comments that were made in terms of there being a very
17 careful review. If you all will recall, there was nearly
18 47 or 50 applications that were disqualified. We came,
19 and a representative from my company spoke. And as a
20 direct result of that, there's now only 25 applications
21 that have been disqualified.

22 It appears that we've had a careful review now.
23 And what I'm asking for is additional careful review.

24 In terms of the applications that were
25 disqualified, those that remain disqualified, based on the

1 information I have, were: One for not having a
2 certification form; there are approximately nine dealing
3 with audits; there are four that were 90 days delinquent
4 in repayment or loan payment applications; there were
5 expenditure performance requirements that were not met.

6 Out of that group of -- out of nine, seven of
7 them are still disqualified. And I would stand by that.
8 If they didn't meet performance standards, they should be
9 disqualified. And it goes on.

10 Now, getting into audit reports and -- what you
11 have passed out to you is from the City of La Coste. What
12 you have is the July 27 letter.

13 What you have was what Ms. Howard was reading.

14 This is the -- if you will, the instruction page. And
15 now that you have that in your hands, you can look at the
16 two items that are asterisked. It is confusing.

17 I think -- the next page is the audit
18 certification form. You can see it's a one-page form;
19 it's very brief.

20 The last is a letter dated August 20 -- well,
21 actually, no. The next-to-the-last is a letter of August
22 20 in response to the second disqualification. I want to
23 just read an out-take from that: "Thresholds must be
24 specifically delineated and stringently followed if they
25 are to be understandable and fair.

1 "HOME's threshold requirement language
2 specifically stated that applicants with past-due audits
3 were to be disqualified. Under no rational interpretation
4 of this language did the City of La Coste have a past-due
5 audit. I can see no benefit to the State of Texas, the
6 HOME Program or, certainly, the residents of La Coste in
7 the HOME managers' disqualification decision.

8 "I suggest that the HOME Program admit that
9 they used imprecise language in their application guide,
10 perhaps adding a broader and more detailed list of
11 threshold documents for next year. For 2001, they should
12 stick to the rules they set forth at the beginning instead
13 of changing them after the fact. Please instruct the HOME
14 Program to re qualify the city's application for this
15 funding competition."

16 I think -- the next letter goes into great
17 detail -- the July 19 letter -- in terms of that
18 particular form. I think the fact that -- both China and
19 La Coste were funded under the Community Development
20 Program, which is still, up until September 1, a part of
21 this agency, and they had these same issues.

22 China is currently implementing that community
23 development project. The City of La Coste is funded for
24 2002, assuming those funds become available. Obviously,
25 there's a departmental inconsistency. Whenever there's

1 departmental inconsistency, there's reason for doubt,
2 there's reason for concern.

3 It was mentioned that you have a professional
4 grant writer. I have been writing grants for 25 years;
5 this is the first time I've had four applications
6 disqualified -- even one. Two of them got reinstated. I
7 certainly hope the other two will be reinstated, also.

8 One of the things that I think is obviously a
9 problem with the audit issue is that -- I saw a report --
10 and it's very, very lengthy -- about how many audits are
11 outstanding. And I saw this after, I think, July. And
12 this information is not available on the web.

13 Cities constantly change administrators, city
14 secretaries, CPAs, mayors and council members. Even if
15 you send out notices, in small towns, these things can and
16 do get misplaced.

17 We're dealing with small, rural Texas. Small,
18 rural Texas is not a state agency. It is not a bona fide
19 bureaucracy. In many cases the elected officials have
20 other jobs. It's part time. In terms of their city
21 administrators and city secretaries, those change.

22 I think China recently had a change.

23 MRS. HOWARD: Yes.

24 MR. SPITZENGEL: These are the kind of things.
25 What we're asking for for both La Coste and -- by the

1 way, Ken Roberts has just gone back to the City of La
2 Coste; he had been gone for about three years. So they
3 had changes.

4 Those are just some of the issues that I think
5 need to be looked at, and I'm hoping -- all we're asking
6 for is an opportunity to be scored. That's what we're
7 hoping for. It doesn't mean we're going to get the money,
8 just a chance to be funded or scored.

9 Any other questions?

10 (Pause.)

11 MR. SPITZENGEL: No?

12 MR. JONES: Thank you, sir.

13 MR. SPITZENGEL: Thank you.

14 MR. JONES: I think, with regard to both of
15 them, if you all would, look at them based upon the
16 information you've gotten here today, and just report
17 back -- well, we may not ever be here again. So report
18 back to the appropriate board --

19 MR. DAROSS: Yes.

20 MR. JONES: -- at that time.

21 MRS. HOWARD: Thank you, very much, for your
22 time.

23 MR. JONES: Thank you. We appreciate you being
24 here.

25 MR. SPITZENGEL: Thank you.

1 MR. JONES: All right. This is all of the
2 public comment I have. Does anybody else want to address
3 the board?

4 Yes, sir, Mr. Ocanas?

5 MR. OCANAS: Good afternoon, Chairman, members.
6 I'm Raymundo Ocanas, executive director of the State
7 Association of CDCs; we represent the nonprofits that work
8 in affordable housing and economic development throughout
9 the state.

10 I have a lot in writing, so I'll just summarize
11 my comments to you in writing, and that's just to say that
12 we have some similar questions about the Housing Trust
13 Fund Program for this year that I've already addressed to
14 staff.

15 And some questions are already coming back to
16 us. But I do want you to be aware that we have some
17 questions about some potential inconsistencies with the
18 threshold requirements for the trust fund program, as
19 well, particularly in regard to the nonprofits'
20 applications that were submitted for this year.

21 The trust fund statute for the department
22 particularly states how much of the money that you get
23 every biennium shall go to nonprofits. And I think that
24 my calculations show that about 7.1 billion -- million --
25 I wish it was billion -- 7.1 million of your 12.6 a year

1 in development dollars and capacity development dollars
2 are to go to nonprofits. And I think there's a \$2 million
3 discrepancy or difference in what has been awarded for the
4 biennium so far, including the award that you made last
5 year.

6 One other concern is that for the development
7 awards that were made last month, there was significant
8 waiting or -- I guess, significant attention given to the
9 metro areas with no funding, about \$210,000 out of the 5
10 million available, to the border, Region 8B and Region 10,
11 I believe.

12 So I just want to point that out and say that
13 we're asking additional questions. We have had several of
14 our members that applied for funds talk to us about some
15 inconsistencies that they saw with threshold requirements.

16 I'd just like to point out the fact that this
17 last round that you approved funds for the development
18 cycle, there was not one single nonprofit awarded funds;
19 all nine applicants were disqualified from the process.
20 So that -- I have no idea what that means at this point
21 except that we're asking these questions and asking you to
22 ask the same questions to help us understand what happened
23 in this process, particularly in light of what we just
24 heard with the other program that are having the same
25 kinds of questions asked.

1 So I appreciate your time. And I will -- could
2 entertain any other questions or would be happy to be
3 available later to correspond with you about this issue.

4 MR. JONES: Thank you, sir.

5 MR. OCANAS: Thank you.

6 MR. JONES: We appreciate it.

7 At this time, that's all the witness
8 affirmation forms I have --

9 Yes, sir?

10 MR. BARINEAU: Yes. Sir, we were out of the
11 room when you called our names a minute ago: Willie
12 Alexander and John Barineau.

13 MR. JONES: Yes, sir?

14 MR. BARINEAU: Can we come on up?

15 MR. JONES: Yes, you sure may.

16 MR. BARINEAU: Okay.

17 (Pause.)

18 MR. ALEXANDER: Good afternoon. My name is
19 Willie Alexander, and I'm here to speak on behalf of Scott
20 Street Townhomes. And the primary reason for addressing
21 you today is that -- is regarding the awarding of tax
22 credits for Scott Street Townhomes.

23 First, I want to thank you for the awarding of
24 the credits, but the issue that I want to speak to you
25 about is in regard to the reduction of the credits. And

1 they were reduced by 11 percent.

2 I have brought some exhibits here to give you
3 to show you what the area looks like, and we're talking
4 about an area that is really a depressed area and that
5 hasn't had any development in about the last 30 years.

6 According to a site inspection report that was
7 presented by TDHCA -- and this was done back on May 18 of
8 2000 -- it said that the surrounding area is unattractive,
9 no real vitalization is apparent nearby and that the
10 adjacent multifamily residences are in poor condition.
11 What we are asking you to do today is to -- we --
12 hopefully, we'll present a case as to why you should
13 reinstate some portion or all of the 11 percent reduction.

14 I have a picture here that I would just like to
15 pass around for you to look at as we speak.

16 (Pause.)

17 MR. ALEXANDER: As businessmen, we based our --
18 the market rents, the rents that we are -- the rents were
19 based on studies that were performed by two credible
20 organizations. And according to their studies, it says
21 that Scott Street cannot achieve the maximum tax credit
22 rents.

23 And they were done -- and this was as a result
24 of a study that was done by O'Connor, which was a market
25 study done on August 7 of 2001. And Lend/Lease

1 [phonetic], who will be buying the tax credits, also did a
2 study, on August 17 of 2001, that -- the maximum tax
3 credits would not -- the rents would not be available in
4 this area.

5 What I'm showing you is, if you -- as you pass
6 that picture around: A -- the letter "A" has to do with
7 our project site. The letter "B" is a site with purchase
8 options where we're going to purchase in the future for
9 additional development.

10 "C" is Missionary Village, which is a Section 8
11 project that we've owned for the last 20 years, and "X"
12 shows the sites of two junkyards.

13 The problem that we are running into is that we
14 will not be able to charge market rate rents in this area
15 of town -- I'm sorry -- tax credit rents in this area of
16 town. And that -- we are committed to this area of town.

17 And that -- and I just want to assure you that whether or
18 not we get the tax credits restored, the 11 percent
19 restored, or not, we are committed.

20 But the only problem that we run into is that,
21 as businessmen, we made the commitment. In the end, we
22 build the apartments -- the townhomes. The residents who
23 will be renting these apartments -- townhomes will win.
24 TDHCA is going to win because we're going to build a very
25 nice townhome, as we've done before with Reed Park

1 [phonetic]. And the City of Houston is going to win, and
2 that area of town is going to win.

3 But what we're asking you as -- from a business
4 standpoint is: Do not penalize us as businessmen. And
5 we're asking that -- we're asking you to restore the 11
6 percent tax credits or some portion thereof.

7 My -- I have some information here from John
8 Barineau, who's the administrative general partner, who
9 can give you some further details.

10 MR. JONES: Mr. Barineau?

11 MR. BARINEAU: Yes, sir. Thank you.

12 Well, Mr. Alexander has talked about the
13 neighborhood, and it seems very obvious that this
14 neighborhood is not your typical tax credit neighborhood;
15 it is an inner-city development project on a part of
16 Houston that hasn't had any housing development or any
17 kind of economic activity for 30 or 40 years -- although
18 we've operated some housing nearby in that area and are
19 familiar with the area.

20 So when we started out working on this project,
21 we wanted to -- we considered that the tax credit
22 development would be a pioneer in effect and begin to try
23 to spark and develop some economic activity in this area.

24 On the other hand, moving into neighborhoods --
25 this is the Sunnyside/Foster Place neighborhood of

1 Houston -- you really can't expect -- you talk about,
2 "Location, location, location," in real estate -- it's not
3 reasonable in our opinion to expect that the department
4 should project that we would be getting the maximum tax
5 credit rents, which is -- as we understand after having
6 reviewed the underwriting analysis of the department, that
7 is the reason -- apparently, when they ran their numbers
8 and did their revenue projections, they projected that we
9 would be getting a higher level of debt and, with a higher
10 level of debt, obviously, we don't need as many tax
11 credits.

12 So therefore the tax credits were cut back.
13 The predominant reason for that in the analysis is that
14 they are projecting that this project will receive the
15 maximum or close to the maximum allowable tax credit
16 rents. We believe that our rents in this neighborhood
17 will be at a substantial discount from the maximum tax
18 credit rents because of the local market conditions; it's
19 not as pure or clean or attractive a site, if you will, as
20 it exists today.

21 Now, the information we have to support that
22 position is, first of all, from a -- our own experience
23 with Reed Park Townhomes, which is one of the properties
24 hereby and is a successful tax credit property we
25 developed a couple of years ago. It's outside this

1 immediate submarket, but it's nearby, and it serves as
2 sort of a reference point. Even that property today
3 doesn't achieve the maximum tax credit rents.

4 And there's a distinction here. I think when
5 the department may call or contact for what rents a given
6 development is getting, they get the quoted rent on the
7 telephone: "What are you asking tenants when they come
8 in?"

9 But, in fact, if you look at our rent roll for
10 August on Reed Park Townhomes there's a 4 or 5 or 6
11 percent difference between the average rents you're
12 actually achieving and the maximum target rents that you
13 would be asking. And that's always going to be the case.

14 So our first point of view here -- and it's
15 demonstrated by the facts -- is that we'll almost never
16 achieve the theoretical maximum tax credit rents even
17 though those are eligible by the guidelines.

18 Then you move into the question of neighborhood
19 considerations. And we feel there's no question that this
20 neighborhood and the ability to attract the 96 -- we're
21 not talking about a huge project here; we're talking about
22 a 96-unit project -- when they have other options, a
23 slight discount below the maximum would be the business-
24 like way to project this deal. And that's what we had in
25 our application.

1 And I think the department, in good faith, in
2 their underwriting analysis has, in our minds, somewhat
3 unrealistically --

4 And I don't want to use the word, "Naively,"
5 Tom, Mr. Gouris, but --

6 -- we think, unrealistically assumed that, Why
7 should this property -- with the neighborhood conditions
8 that have been described here, why should it be expected
9 that it's going to achieve the maximum tax credit rents
10 just like every other tax credit project in Houston?

11 Now, we had O'Connor and Associates, who did
12 our original market study, do a supplemental market study
13 that was just delivered to the department two days ago.
14 They did a survey of all 36 tax credit properties in
15 Houston. And of those properties, they took -- they
16 compared what their tax credit rents were versus the
17 maximum.

18 And the average tax credit rents of all 36
19 properties in Houston -- and there are adjustments you can
20 make for size and all that kind of thing, but, just across
21 the board, the average tax credit rents in Houston are all
22 less than the maximum -- if you just average all the
23 projects across the board. And there's a detailed study
24 that we've submitted to the department that shows the data
25 for that conclusion.

1 So, number one, no one's getting the maximum
2 tax credit rents across the board on every tenant living
3 on their property; there's a built-in discounting. You
4 have holdover tenants, for example, that renew leases, and
5 you don't renew them at the maximum. It's theoretically
6 impossible to ever get to the point where your units are
7 all getting the maximum rent. So that's number one.

8 Moreover, this neighborhood, in our view,
9 warrants a 4 or 5 or 6 percent discount off the maximum to
10 be realistic in terms of the neighborhood conditions that
11 we have to equate to these other locations that are on
12 major freeways and alternative -- represent alternative
13 housing for the same people.

14 So that's the details. And we would -- we've
15 already submitted the reports to the agency, but we would
16 be happy to submit the summary details to the board to
17 make it a matter of record.

18 MR. JONES: That would be great. Just submit
19 them to Delores.

20 Any questions?

21 Yes, sir?

22 MR. BOGANY: I have a couple of questions. I'm
23 familiar with this location of this complex. And I guess,
24 being new to the board, this is some things I need extra
25 explaining for.

1 Are you saying that you're not going to be able
2 to make as much because of the 11 percent discount that
3 the board recommended on lower tax credits? Because --
4 I'm looking at this location, and I agree with you guys
5 whole-heartedly. And I'm happy to see that you guys are
6 trying to do something there.

7 But on the flip side of this, this project is
8 inside the loop of 610. It's probably -- you've got one
9 on Yellowstone and yours on Reed Road -- so you've gotten
10 two other projects within that period of time. And just
11 being in real estate in Houston, I've never seen one of
12 these affordable home projects ever advertise looking for
13 tenants. I -- that's just me. And I just have never seen
14 any advertising.

15 So then you've got the medical center, which is
16 a mile or half-a-mile away from this project, where you've
17 got a bunch of condos and townhomes where the starting
18 rents for a one-bedroom probably are about \$600 a month
19 over there. And then you've got the A-plus apartments,
20 which are probably getting 8- or \$900 a month starting at
21 a one-bedroom.

22 And I just can't see why people wouldn't want
23 to come to your nice project inside the loop in that area
24 based on what the rents are going to be, because you're
25 going to be cheaper than everybody else that's in that

1 general area. And I'm just trying to understand why you
2 feel this is going to be a hindrance, because it looks
3 like you've got a lot of things going for you in that
4 location.

5 I mean it's blighted, but you're going to
6 revamp it. So why do you think you're not going to be
7 able to get your market rents there?

8 MR. BARINEAU: Are you saying the market rents,
9 or the tax credit rents?

10 MR. BOGANY: The tax credit rents, the ones
11 that you're saying that we cut back.

12 MR. BARINEAU: Well, the tax credit rents, of
13 course, are, I mean, obviously, restricted to people by --
14 based on their income and how they qualify, whether
15 they're 60 percent or 50 percent. And so that's the
16 market we're focusing on.

17 MR. BOGANY: Right.

18 MR. BARINEAU: We're -- we've set aside -- 85
19 percent of these units will be tax credit units: Half at
20 60 percent and half at 50 percent.

21 MR. BOGANY: Okay.

22 MR. BARINEAU: So to talk about the condos
23 around the medical center and the higher-end apartments,
24 the class A apartments, and that kind of thing -- those
25 folks are not going to move into the Sunnyside/Foster

1 Place neighborhood. And, of course, they would have the
2 capability of paying higher rents if they were to move
3 there; they're living in what they would consider a more
4 desirable neighborhood, given where they're coming from.

5 And I think that's -- so you're talking about a
6 different population of people who would be income-
7 eligible or income-qualified for tax credits versus the
8 rest of the world, including nurses, nurses' aides and
9 people that might be working at the medical center and
10 that type of thing, who could afford higher rent.

11 They're not going to move to Foster
12 Place/Sunnyside -- Mr. Bogany, you're familiar with that
13 neighborhood -- as opposed to just save a few dollars on
14 the rent. But, even so, they're going to be -- most of
15 those are going to be over income, anyway.

16 MR. BOGANY: Right.

17 MR. BARINEAU: We're talking about the band of
18 income of eligible people in the 60 percent eligibility
19 range for tax credits. Those folks won't be able to
20 afford those higher apartments you're talking about that
21 are over by the medical center, or the condos; they're
22 going to be looking for lower-cost housing. And that's
23 what tax credits are supposed to represent.

24 MR. BOGANY: All right.

25 MR. BARINEAU: And given a choice, I would

1 think that there needs to be a slight incentive to be a
2 pioneer moving into a new development in an area that's in
3 the early stages of revitalization. And that's why we're
4 looking for projections of maybe 30- or 40- or \$50 per
5 less unit than the surrounding tax credit properties that
6 you mentioned, which are really on major freeways.

7 They're --

8 MR. BOGANY: But you're not -- but you're about
9 a quarter-of-a-mile from 610 right there at that location.

10 MR. BARINEAU: Oh, yes I know. But visibility
11 and access -- those are factors.

12 MR. ALEXANDER: You do have to go four -- at
13 least four blocks down inside that loop --

14 MR. BOGANY: It's about a quarter-of-a-mile.

15 MR. ALEXANDER: -- to get to where we're going.

16 MR. BOGANY: Yes. I -- you know, I think
17 that -- I'm glad to see you guys doing the project. But I
18 also believe when you go into these projects -- and I
19 don't understand why none of the tax credits -- maybe
20 because the tax -- nobody's marketing these properties.

21 And I --

22 MR. BARINEAU: Oh, they'll fill up. I'm not --
23 we're not saying they're not going to fill up --

24 MR. BOGANY: So why do you --

25 MR. BARINEAU: -- no matter what the rent was.

1 The question -- there's a question of volume, and there's
2 a question of price.

3 MR. BOGANY: Okay.

4 MR. BARINEAU: There is not a question of
5 having 96 families; we're very confident that there are 96
6 families --

7 MR. BOGANY: Okay.

8 MR. BARINEAU: -- that will -- that are in need
9 of this housing and will want to live in this housing. We
10 suspect that most of them are going to come from the
11 immediate neighborhood because they already have
12 connections through family and that type of thing.

13 I will say, though, that those families are
14 probably going to be of somewhat lower economic average
15 incomewise. Perhaps, because of their -- because of the
16 neighborhood and the way it exists now, they're going to
17 be moving -- this will be an upgrade of housing for them
18 in some -- in where they're living now. Maybe they'll be
19 paying a little more rent, frankly, than what they're
20 paying in some other places.

21 But Park Yellowstone, being on a major freeway,
22 people driving in to and from work in downtown Houston
23 every day -- they see that property. They may live in
24 Pearland or Missouri City, and they drive right by it.

25 The same for Reed Park Townhomes. There's the

1 visibility from the freeway of the building, and they say,
2 Hey, that's apartments that's closer to work; let me go
3 knock on the door about renting there.

4 We won't get that type of drive-by traffic.
5 And traffic -- any apartment developer will tell you that
6 traffic and drive-by is probably 80 percent or 90 percent
7 of the people that rent apartments from you. So that's
8 why we say, Not on a major freeway.

9 MR. BOGANY: All right.

10 MR. BARINEAU: But it's also the physical
11 conditions of the surroundings. This neighborhood, with
12 the junkyards that Willie mentioned -- there's some
13 boarded-up buildings there -- all of which represent
14 development challenges, by the way. We're taking a risk
15 to go in there.

16 We know we can find the families. We're
17 confident we'll find the families. We know what we're
18 doing --

19 MR. BOGANY: But you don't think the
20 families --

21 MR. BARINEAU: -- but we don't think we're
22 going to get the maximum tax credit rents.

23 MR. BOGANY: Okay.

24 MR. BARINEAU: We think it would be unfair --
25 we don't -- lenders are not going to give us credit for

1 the maximum tax credit rents. And that's the bottom line.

2 What will it -- the department may think we can
3 get them, the board may think we can get them, but, if a
4 lender -- we have a letter from Lend/Lease, who had their
5 own market study done, and they don't think we can get
6 them. Now, five years from now --

7 MR. JONES: We appreciate it.

8 MR. BARINEAU: -- or ten years from now, maybe
9 it will be different.

10 MR. BOGANY: Yes. Okay.

11 MR. JONES: Any further questions?

12 MR. BOGANY: No. I'm through.

13 MR. JONES: Okay.

14 Hearing none --

15 Do you?

16 MR. CONINE: Yes.

17 MR. JONES: Okay.

18 MR. CONINE: I have a question in a totally
19 different direction. I guess that would be -- and I
20 understand this is on the agenda items for later on --

21 MR. JONES: It is.

22 MR. CONINE: -- this particular project, along
23 with others. But -- and I'm -- and I guess we don't have
24 any other public comments relative to any of the -- well,
25 we do, but those are coming later.

1 MR. JONES: Yes, they're coming later.

2 MR. CONINE: But I guess I would question the
3 appropriateness of Item 5(c) being on the agenda to begin
4 with. I was of the understanding that we had a July 31
5 statutory deadline. And that -- in the four years I've
6 been here doing this, this is the first time I've seen
7 folks kind of coming back to the well a month after. And
8 I just would like some staff comment on that.

9 MR. JONES: Ms. Stiner?

10 MS. STINER: Yes, sir?

11 MR. JONES: I'll tell you what. Since you -- I
12 don't think there are any more questions for you all. We
13 thank you for being here, appreciate it.

14 MR. BARINEAU: Thank you.

15 (Pause.)

16 MR. JONES: Ms. Stiner?

17 MS. STINER: Yes, sir.

18 The item is on the agenda because it was my
19 understanding -- at the last board meeting, Mr. Conine,
20 staff indicated that they would be taking a look at those
21 that had requested additional credits. Now, if I
22 misunderstood that, I --

23 MR. BREWER: That was my understanding, too,
24 that they were to bring us back a list of --

25 MR. CONINE: Well, I'm confused as to which

1 credits he had cut. Was it -- did he have credits cut by
2 our underwriting staff that came into the meeting, on the
3 sheet, or did he have credits cut by the board action?

4 MS. STINER: No. They were recommended by the
5 underwriting staff. There were --

6 MR. CONINE: Right.

7 MS. STINER: There were various categories.
8 Some had been increased according to the underwriting
9 staff, and the board took action at that particular
10 meeting to cut those back down to the original amount.

11 MR. CONINE: Right.

12 MS. STINER: And it -- I understood that the
13 staff was instructed to take a look at that and bring it
14 back the next time --

15 MR. CONINE: That wasn't --

16 MS. STINER: -- and tell the --

17 MR. CONINE: That wasn't my understanding, Mr.
18 Chairman. And, again, I -- it's a legal question more
19 than anything else. And we need some help there, because
20 we do have the statutory deadline of the 31st of July in
21 the QAP, and I don't know, you know, what -- I guess we
22 can always go down, but I don't think we can go up.

23 MR. JONES: Well, that's take that up when the
24 agenda item comes up, if we could, because I do think that
25 needs to be addressed.

1 If we would, then I'm going to close the time
2 for public comment. Is there anyone else that would like
3 to comment?

4 (Pause.)

5 MR. JONES: Hearing none, public comment will
6 now be closed.

7 Before we do anything else on the agenda -- as
8 I've noted, this is the last time that I know of that this
9 particular board will meet, in light of our Sunset
10 legislation. And there has been one person that has
11 served the State of Texas so well, so unselfishly, and
12 helped this board do its function day in and day out that
13 we would be very remiss if we did not recognize her.

14 And I would like for the board to stand with me
15 and applaud and congratulate Delores for everything she
16 has done for us through the years.

17 MR. CONINE: Absolutely.

18 (Applause.)

19 MR. JONES: This is an individual that is a
20 true Texan and has served Texans in her job very
21 unselfishly. There's something in the Bible about having
22 a servant's heart, and this lady has one, and it is just
23 nice to know her and be her friend.

24 With that, I'd like now to turn to our other
25 agenda items. The first item is, number one, The

1 presentation, discussion and possible approval of minutes
2 of the board meeting of July 31, 2001.

3 MR. CONINE: Mike, can I propose that we push
4 that off and let me go back and re-read what Ms. Stiner's
5 interpretations of some of the actions were in there?

6 MR. JONES: Well, I -- we sure can. Let's hold
7 that agenda item until another time --

8 MR. CONINE: Thank you.

9 MR. JONES: -- unless there's an objection.
10 Any objection?

11 (Pause.)

12 MR. JONES: And can I also note for the record
13 that Mayor Salinas has joined us?

14 It's so good to have you.

15 MR. SALINAS: Thank you.

16 MR. JONES: We will then move to Item 2, which
17 is the report of the Programs Committee.

18 Mr. Brewer, would you mind doing that for us?

19 MR. BREWER: Okay. The Programs Committee met.

20 And what I'd like to do now is just have Stacy Higgins
21 come up and take and brief Items 2 and 3 to the board.

22 Stacy?

23 MS. HIGGINS: Good afternoon, Board, Mr.
24 Chairman and Ms. Stiner. And I'm also fortunate that I
25 have our manager, Keith Hoffpauir, up here with me, as

1 well.

2 I am Stacy Higgins, and I am the Senior Planner
3 for the Housing Trust Fund. And I'm here today to present
4 you with staff recommendations for the Predevelopment Loan
5 Program.

6 On June 1, the department issued a request for
7 proposals for the Predevelopment Loan Program, looking for
8 up to two nonprofit organizations to administer these
9 funds. We received seven proposals and -- on July 3. And
10 out of the seven proposals received, we had one, from Ark-
11 Tex Council of Governments, that scored a perfect 100.

12 Ark-Tex Council of Governments was the only
13 proposal, as I just noted, to score the 100. They
14 provided the most extensive and detailed marketing plan of
15 the seven proposals that we found. Ark-Tex demonstrated
16 extensive experience in administering programs on behalf
17 of governmental entities, including revolving loan
18 programs and other loan programs.

19 And Ms. Burtchell from Ark-Tex is here. If the
20 board has any questions for her for -- about the proposal
21 submitted or about their program -- does the board have
22 any questions at this point?

23 MR. DAROSS: Yes. I have one question --

24 MS. HIGGINS: Okay.

25 MR. DAROSS: -- addressing what Ms. Ford spoke

1 to us about earlier. The RFP said that we were -- we
2 would have possibly up to two agencies to receive this
3 award. Could you address the fact of why you just limited
4 it to the one?

5 MS. HIGGINS: We limited it to one because we
6 had one that scored 100 and the next three scored 95. And
7 so it was just a matter of simplicity, because it was
8 flexible with the RFP. It was some flexibility we were
9 trying to give ourselves to make sure that the program was
10 developed in the best way possible. And the way the
11 scores came out, it just was the logical choice.

12 MR. BREWER: Mr. Chair, I recommend approval
13 for the award of the 2001 Housing Trust Fund
14 Predevelopment Program Award for Ark-Tex Council of
15 Governments.

16 MR. DAROSS: I second.

17 MR. JONES: A motion has been made by Mr.
18 Brewer and, I think, it was seconded by Judge Daross. Any
19 discussion, question or comments?

20 (Pause.)

21 MR. JONES: Hearing none, are we ready to vote?
22 I assume we are.

23 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 audible response.)

3 MR. JONES: The ayes have it.

4 Mr. Brewer?

5 MR. BREWER: Stacy, let's do the third item.

6 MS. HIGGINS: Certainly.

7 This deals with the correction of an incorrect
8 amount awarded last month during the Capacity Building
9 Program funding. This is for the Habitat of Humanity of
10 El Paso. When the data was entered into our database when
11 the 64 proposals came in, the dollar amount was entered
12 incorrectly.

13 And that's basically what happened. And so
14 this action is just to correct that and bring their dollar
15 amount to the correct level. These funds will come out of
16 local funds.

17 MR. JONES: Any questions?

18 (Pause.)

19 MR. BREWER: Mr. Chair, I recommend approval of
20 the funding in the amount of \$10,200 for Habitat for
21 Humanity of El Paso, Inc. to resolve an incorrect amount
22 award approved for the 2001 Housing Trust Fund Capacity
23 Building Program.

24 MS. SAENZ: I second.

25 MR. JONES: We have a motion.

1 MS. SAENZ: I second.

2 MR. JONES: Is there a second? Okay.

3 A motion by Mr. Brewer, seconded by Ms. Saenz.
4 Further discussion, questions or comments?

5 (Pause.)

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

8 (A chorus of ayes.)

9 MR. JONES: All opposed, nay.

10 (No audible response.)

11 MR. JONES: The ayes have it.

12 Thank you.

13 MS. HIGGINS: Thank you.

14 MR. BREWER: On Item 4, the Presentation,
15 discussion and possible approval of the letter of
16 endorsement for the Housing Bond and Credit Modernization
17 and Fairness Act S. 677, Michael Lyttle will brief the
18 board on that.

19 MR. LYTTLE: Good afternoon, Mr. Chair, fellow
20 Board members and Ms. Stiner. We are looking at Senate
21 Bill 677, which is being considered by the U. S. Congress
22 right now. This piece of legislation, among other things,
23 will repeal what's referred to as the ten-year rule in
24 single-family mortgage bond yields.

25 There are a number of state housing finance

1 agencies and state housing corporations that are working
2 together with the NCSHA, which is the National Council of
3 State Housing Agencies, in lobbying Congress, if you will,
4 to pass this piece of legislation. As I pointed out to
5 the Programs Committee this morning, we need to be very
6 careful because we are a state agency against the lobbying
7 provision.

8 Therefore what we would like to do is simply
9 raise the awareness of this legislation to the Texas
10 congressional delegation by pointing out some facts and
11 how we believe this piece of legislation would affect
12 Texas. We believe it would affect it in a very favorable
13 way in creating approximately \$160 million in additional
14 bond authority, as well as creating about 2,200 qualified
15 home loans for Texans.

16 Therefore we think it would be a good idea for
17 the board to send this letter to the Texas congressional
18 delegation, simply raising the awareness of the
19 legislation and offering them the opportunity to get more
20 information from our staff if they request that.

21 Are there any questions?

22 (Pause.)

23 MR. JONES: No questions? Okay.

24 MR. BREWER: I make the motion that we approve
25 the letter of endorsement for the Housing Bond and Credit

1 Modernization and Fairness Act, S. 677, to be signed by
2 Chairman Jones.

3 MS. WILLIAMS: Second.

4 MR. DAROSS: Second.

5 MR. JONES: The motion has been made and
6 seconded.

7 We had a tie between you two. How about Ms.
8 Williams'? She's further away. Maybe I heard her first.

9 Any further discussion, questions or comments?

10 (Pause.)

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

13 (A chorus of ayes.)

14 MR. JONES: All opposed, nay.

15 (No audible response.)

16 MR. JONES: The ayes have it.

17 MR. BREWER: Okay. The next item on the agenda
18 was the possible approval of HOME Program award in the
19 amount of \$500,000 for the United Cerebral Palsy for home
20 buyer assistance and rehabilitation. Pam Morris will make
21 that presentation.

22 MS. MORRIS: Good afternoon, again.

23 In the 2001 consolidated plan for the HOME
24 Program, we had made a statement, that, We strongly
25 support and encourage the collaboration between the

1 department and the Home of Your Own Coalition. We have
2 since received an application from then and have processed
3 that for this recommendation. We are recommending that
4 500,000 be awarded to United Cerebral Palsy for down-
5 payment assistance and for architectural barrier removal.

6 They encourage people for home ownership, 100
7 percent persons with disabilities. They have a set-aside
8 of two households that will be at 30- and below, as a
9 requirement in their contract, and then the remaining can
10 go up to 80 percent and below. And that's a total
11 estimate of 20 households served statewide. And that's
12 just to go in accordance with what we had stated in the
13 2001 consolidated plan.

14 MR. BOGANY: I move that we approve the HOME
15 Program award for United Cerebral Palsy in the amount of
16 500,000 for home buyer assistance and rehabilitation.

17 MS. WILLIAMS: I second.

18 MR. JONES: We have a motion made by Mr. Bogany
19 and seconded by Ms. Williams. Further discussion,
20 questions or comments?

21 (Pause.)

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, nay.

1 (No audible response.)

2 MR. JONES: The ayes have it.

3 Discussion of the appeals policy?

4 MR. BREWER: The presentation and discussion of
5 the appeals policy -- we tabled it to bring it straight to
6 the board as a matter of information.

7 And who's going to be presenting that, David?

8 David Burrell will make that presentation.

9 MR. JONES: Thank you.

10 MR. BURRELL: Good afternoon, Mr. Chairman,
11 members of the Board and Ms. Stiner. I'm David Burrell,
12 Director of Housing Programs.

13 Back during the fall of last year, the Sunset
14 Commission recommended that we develop an appeals process
15 policy for the housing programs. And back in January of
16 2001, a committee was formed; it was primarily made up of
17 Ms. Williams as a board member and several staff members.

18 We developed an initial policy which we
19 presented to the board in March, on March 27, of this
20 year. And during that meeting, the board tabled the
21 policy so that we could get some clarifications. In the
22 process of getting those clarifications, we also had the
23 legislation session.

24 And as a result of the legislature passing
25 Sunset -- I'm sorry -- Senate Bill 322, there were some

1 specific items which they required of the housing
2 programs. One of those items is the development of an
3 appeals process specifically for the tax credits program.

4 So as a result of that legislation, we pulled
5 the tax credits portion from this initial appeals process
6 policy, and we're going to include it in our QAP as part
7 of the annual qualified allocation plan.

8 That QAP is currently being developed, and it
9 will be presented to you all during the September board
10 meeting. And shortly after you all approve the initial
11 draft, then we'll put it out for public comment. And the
12 final QAP is to be reviewed and possibly signed by the
13 governor on December 1.

14 The original appeals process for the rest of
15 the programs -- we have gone back and we're making
16 revisions to take out items that had been included in that
17 for the tax credits program. We plan to have that to you
18 all at the September board meeting, but, once that -- you
19 all approve the initial draft, then we'll have to go back
20 and take it through the rules process, also.

21 So it will actually be somewhere in the latter
22 part of 2001 or the first part of 2002 before the policy
23 will be finalized.

24 MR. JONES: Is that it?

25 MR. BREWER: That's it, sir.

1 MR. JONES: That's just a report?

2 MR. BURRELL: Just a report.

3 MR. JONES: Any questions for Mr. Burrell?

4 (Pause.)

5 MR. BURRELL: Thank you, all.

6 MR. JONES: Thank you.

7 MR. JONES: Does that conclude the Programs
8 Committee, Mr. Brewer?

9 MR. BREWER: Yes, sir.

10 MR. JONES: Thank you.

11 We then turn to Item 3 on our agenda, which is
12 the discussion of the report of the Finance Committee.

13 Mr. Conine?

14 MR. CONINE: The Finance Committee met this
15 morning, Mr. Chairman. And on Item 3(a), the approval of
16 the Fiscal Year 2001 operating budget, the Finance
17 Committee voted to bring it to the board and recommend it
18 for approval. But I'd call on Bill Dally now to walk us
19 through it to the board's satisfaction.

20 MR. DALLY: Good afternoon, Board members, Mr.
21 Chairman and Ms. Stiner.

22 MS. STINER: Good afternoon.

23 MR. DALLY: I've made a presentation at the
24 Finance Committee, looking chiefly at pages 2 and 3, which
25 are the agencywide level. To get to the bottom line, if

1 you will, turn to page 2. Under that second column,
2 you'll see that this budget's proposed at 31,180,370; that
3 is an increase overall of \$3,181,347.

4 I highlighted some of the major issues. This
5 is no different than prior budgets; it's chiefly salary
6 and wages and payroll-related costs for 66 percent of this
7 budget. There was an across-the-board 4 percent raise
8 given by the legislature, so all the standing salaries
9 that people have at the end of this year will bump up 4
10 percent come September.

11 I then showed you in that salary schedule that
12 that has the equivalent effect of about \$747,000 worth of
13 change. The rest of those would be merits and
14 reclassifications and longevity pay.

15 MR. CONINE: Now, remember, Mr. Dally, that
16 the --

17 MR. DALLY: Okay.

18 MR. CONINE: -- whole board hasn't seen that
19 schedule. I think it was just the Finance Committee --

20 MR. DALLY: Oh.

21 MR. CONINE: -- unless it was passed out.

22 MR. DALLY: Let's --

23 MR. CONINE: And I don't know that they need
24 it. I'm -- just make sure that they know --

25 MR. DALLY: Yes. Let me -- I passed out

1 several items, one being that one-page salary schedule.
2 In addition, I had sent out a letter to board members
3 regarding this budget, dated August 16.

4 MR. CONINE: That's right. There's three
5 columns of bumps -- well, four.

6 MR. DALLY: Yes. Sent a letter.

7 Also, we made an error when we were putting
8 together the org. chart for the book that you received.
9 On page 31, we had put in the department as a whole, as
10 opposed to -- what we were trying to do was show
11 manufactured housing individually.

12 MR. CONINE: That's right.

13 MR. DALLY: I think that I'll be repeating
14 myself here, but one thing I want to bring to your
15 attention is that this budget brought to you today is
16 TDHCA as it has been in the past. With the new
17 legislation, this will actually be carved up and end up in
18 three different entities, and each of the other two will
19 have their own boards.

20 And we'll be bringing their portions of the
21 budgets to them individually. And then, as that's done, I
22 feel it's appropriate to bring back to you an amended
23 budget that, finally, this is what the department has
24 after the subdivision with the other groups.

25 The other thing I think I pointed out was, if

1 you go to page 3, you'll see each of the divisions and the
2 comparison of their budgets and the changes between the
3 two years. And then, in that far right-hand column,
4 you'll see there have been some minor changes in FTEs.

5 And you will note that individually, some of
6 the areas' salaries will have rather large increases, much
7 more so than you would expect, and that's generally
8 because they've either had an addition of FTEs from one
9 area to another or they're the one that was sending the
10 FTEs and, consequently, will have an unusual drop in
11 salary and wages.

12 MR. CONINE: Would you mind also going over the
13 other little piece of the 27 FTEs so that --

14 MR. DALLY: Okay.

15 MR. CONINE: -- with the likelihood of any of
16 us sitting here today ending up here next month, there'll
17 be some history there?

18 MR. DALLY: Okay.

19 And I'll back up and say, you know, we've
20 brought several different waivers to this board, most of
21 which were for the fiscal year that's expiring. Those
22 have since been withdrawn, and the only waiver that's
23 still pending is -- we have a waiver of 27 FTEs related to
24 the additional duties that we saw as part of Senate Bill
25 322, our Sunset legislation.

1 And those are not until -- I'm not -- I don't
2 even want to bring those forward into this budget, because
3 they're not approved yet. They weren't appropriated. And
4 so we'll have to have sign-off from the governor's
5 office -- and the speaker's and the House appropriations
6 committee and Senate finance in order --

7 MR. CONINE: I want to --

8 MR. DALLY: And it may be something less than
9 27. And so when that happens, I will bring back an
10 amendment --

11 MR. CONINE: I just want to make sure --

12 MR. DALLY: -- to amend this budget.

13 MR. CONINE: -- that the board recognizes that
14 it's not in these numbers --

15 MR. DALLY: Right.

16 MR. CONINE: -- and that there will be an
17 amended budget, I guess, once we get those -- the approval
18 for that or anything less than that at some fairly large
19 number --

20 MR. BREWER: Yes.

21 MR. CONINE: -- because 27 people don't come
22 cheap, I don't imagine.

23 MR. DALLY: That's correct.

24 MR. BREWER: And that 27 counts the regional
25 coordinators. Right? Doesn't that 27 --

1 MR. DALLY: Yes. Yes, it does.

2 MR. BREWER: Okay.

3 MR. DALLY: And that's a new function. We
4 have -- centrally, that area has done one plan for the
5 State of Texas. And now that Sunset recommendation --

6 MR. BREWER: Right.

7 MR. DALLY: -- wants it to get out in the
8 field. So --

9 MR. CONINE: Would you mind sending me, at
10 least, a back-up for that request? I'd like to see the
11 paper work on that.

12 MR. DALLY: I've got a copy with me I can get
13 to you.

14 MR. CONINE: Thank you.

15 MR. DALLY: The other thing I wanted to point
16 out to you is: On this page 3, as you'll see, are methods
17 of finance, the first being general revenue. I -- the
18 percentages you see in the column are changes between
19 years. But what I want to do is just give you -- out of
20 the 100 percent total of 31 million, this is how the
21 percentages break down.

22 General revenue makes up 18 percent. We've got
23 a line item in there for a system benefit fund at -- it's
24 about a half-a-percent. Federal funds make up 27 percent
25 of the budget.

1 Appropriated receipts make up 49 percent of the
2 budget, and those appropriated receipts are the fees
3 associated with manufactured housing titling and
4 inspections and licensing; they also include our tax
5 credit fees, the department funds that we get off our
6 bonds to help pay for our programs. And those fees and
7 those revenues are set by the board.

8 Now, this budget includes some of the fund
9 balances that we have collected today, but they also
10 include a projection of what we expect to see over the
11 next year. Should we have economic slowdown or not meet
12 some of those predictions, then we have two choices: We
13 can trim the budget to adjust to what the revenue stream
14 is going to be, or we can look at it and consider changing
15 the fees.

16 But those would be the choices for the board.
17 And some of these will be contemplated by other boards, i.
18 e., manufactured housing and the OCRA board.

19 And then, finally, we've got earned federal
20 funds at about 6 percent. The remaining part of the book
21 is each individual division showing their particular
22 budget by line items.

23 And I'll be happy to field questions and get
24 back to you, but the one thing to remember is that this
25 budget will come back and be amended. It's just -- I

1 mean, as a matter of course, it will have to. As we go to
2 take the manufactured housing division -- as that board
3 meets and we subdivide that piece out, we'll bring back
4 the results to this board.

5 And with the Office of Community and Rural
6 Affairs, that will actually -- eventually, when they're
7 ready and they're in place, there will be a transfer of
8 these budget resources and assets to that group.

9 MR. CONINE: Let me go ahead and move, Mr.
10 Chairman, and get it on the table for discussion that we
11 approve the Fiscal Year 2002 TDHCA operating budget.

12 MR. BREWER: I second it.

13 MR. JONES: We have a motion made and seconded.
14 Further discussion, questions or comments?

15 Yes, Ms. Williams?

16 MS. WILLIAMS: I have a question --

17 MR. JONES: Sure.

18 MS. WILLIAMS: -- with regard to the low-income
19 housing tax credit. I know that you mentioned it one of
20 the handouts, the August 16 -- that the low-income housing
21 tax credit added \$400,000 to their budget for construction
22 inspections. And that was 1,620 percent more than it was
23 last year. It was 24,000, and then the budget's for
24 413,000. I'd just like -- I mean that's a huge increase.

25 MR. DALLY: Yes, it is. And we've been

1 doing -- we've been mandated to do those inspections for
2 about two bienniums. And when that first came out in our
3 appropriations bill, it was after we had established our
4 LAR and our budget. So it was handled off budget.

5 What happens is -- we contracted with
6 architects and engineers to go out and inspect about three
7 different times during construction of those buildings,
8 and then bill the developers to pay that. And that's all
9 part -- that's described in the QAP. What we've done now
10 is bring it on budget.

11 So it has been off budget. We've been
12 offsetting and reimbursing. When we have the expenses to
13 pay, we would collect the revenues, and then that would be
14 an offset. But we're actually bringing it onto budget
15 this time.

16 MR. JONES: Any questions?

17 (Pause.)

18 MR. JONES: Hearing none, are we ready to vote?

19 I assume we are.

20 All in favor of the motion, please say aye.

21 (A chorus of ayes.)

22 MR. JONES: All opposed to the motion, please
23 say nay.

24 (No audible response.)

25 MR. JONES: Item 3(b) -- the ayes have it.

1 Excuse me.

2 MR. CONINE: Item 3(b) will be the approval of
3 the Fiscal Year 2002 Housing Finance Division operating
4 budget.

5 Mr. Dally?

6 MR. DALLY: Yes.

7 This ends up being a subset of the original
8 budget. And it -- what it is -- it's detailing out the
9 appropriated receipts associated with the housing finance
10 division and would not include the manufactured housing
11 appropriated receipts or fees.

12 MR. CONINE: Would you please point it out in
13 here, where the board members can turn right to it, in
14 case they have any questions?

15 MR. DALLY: Okay. I'll -- (Perusing
16 documents.)

17 (Pause.)

18 MR. DALLY: Tab B.

19 MR. CONINE: Okay. Got it. I was looking in
20 the budget book. It's separate and apart from that.
21 Correct?

22 MR. DALLY: Yes. I'm sorry. It's within the
23 board book.

24 MR. CONINE: Okay.

25 Mr. Chairman, I'm going to move that we approve

1 the Fiscal Year 2002 Housing Finance Division operating
2 budget.

3 MR. BOGANY: Second.

4 MR. JONES: We have a motion made by Mr. Conine
5 and seconded by Mr. Bogany. Further questions or
6 comments?

7 (Pause.)

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

10 (A chorus of ayes.)

11 MR. JONES: All opposed, nay.

12 (No audible response.)

13 MR. JONES: The ayes have it.

14 MR. CONINE: Okay. Item 3(c) will be the
15 approval of Proposed Issuance of Multifamily Mortgage
16 Revenue Bonds for the Greens Road Apartments in Houston,
17 Texas.

18 MR. BOGANY: So move.

19 MR. CONINE: Do we want a presentation?

20 MR. JONES: We have a motion.

21 MR. BOGANY: Oh.

22 MR. CONINE: There's is no -- he jumped right
23 on that.

24 MR. JONES: Well, that's okay. We can have a
25 motion.

1 Do we have a second to the motion?

2 MS. SAENZ: I second it.

3 MR. CONINE: I'll second it, yes.

4 MR. JONES: Okay.

5 A motion has been made and seconded. And, now,
6 discussion?

7 (Pause.)

8 MR. JONES: Any presentation needed?

9 (Pause.)

10 MR. JONES: Hearing none, I assume we're ready
11 to vote.

12 MR. CONINE: Good job.

13 MR. JONES: Yes.

14 All in favor of the motion, please say aye.

15 (A chorus of ayes.)

16 MR. JONES: All opposed to the motion, please
17 say nay.

18 (No audible response.)

19 MR. JONES: Motion carries.

20 MR. CONINE: Next we have the approval of the
21 proposed issuance of Multifamily -- you know what? I'll
22 bet I didn't do a --

23 MR. JONES: Resolution number?

24 MR. CONINE: -- resolution number on that. Can
25 we amend that --

1 MR. JONES: Sure.

2 MR. CONINE: -- last motion?

3 MR. JONES: Why don't we do that?

4 MR. CONINE: That one --

5 MR. JONES: That was Greens Road, wasn't it?

6 MR. BREWER: Yes.

7 MR. JONES: And that --

8 MR. CONINE: Robert, what number is it?

9 MR. JONES: And that resolution number is
10 01-30, for the record.

11 MR. CONINE: Mr. Chairman, can we agree by
12 acclamation or something to put that into the record?

13 MR. JONES: Yes. Without objection, that will
14 be put into the record.

15 MR. CONINE: Okay.

16 Now we're moving on to 3(d): "Approval of
17 proposed issuance of Multifamily Mortgage Revenue Bonds
18 for the Meridian Apartments, Fort Worth, Texas, in an
19 amount not to exceed \$14,310,000." And that would be
20 Resolution --

21 MR. JONES: 01-31.

22 MR. CONINE: -- Number 01-31.

23 MR. JONES: Do we have --

24 MR. CONINE: I'll make that in the form of a
25 motion, I guess.

1 MR. DAROSS: I'll second it.

2 MR. JONES: Okay.

3 A motion has been made and seconded; it was
4 Judge Daross who seconded it. Further discussion,
5 questions or comments?

6 (Pause.)

7 MR. JONES: All in favor of the motion, please
8 say aye.

9 (A chorus of ayes.)

10 MR. JONES: All opposed, say nay.

11 (No audible response.)

12 MR. JONES: The ayes have it.

13 MR. CONINE: Item 3(e): Approval of proposed
14 Mortgage Revenue Bonds for the Wildwood Branch Apartments,
15 Fort Worth, Texas, in an amount not to exceed \$14,365,000.
16 That would be Resolution 01-32, I believe.

17 MR. JONES: I believe you're right.

18 MR. CONINE: I'll make that as a motion.

19 MR. BOGANY: Second.

20 MR. JONES: A motion has been made and
21 seconded. Further discussion, questions or comments?

22 (Pause.)

23 MR. JONES: Mr. Bogany?

24 (Pause.)

25 MR. JONES: Okay. Hearing none, I assume we're

1 ready to vote.

2 All in favor of the motion, please say aye.

3 (A chorus of ayes.)

4 MR. JONES: All opposed, nay?

5 (No audible response.)

6 MR. JONES: The ayes have it.

7 MR. CONINE: Next will be Item 3(f) --

8 MR. JONES: Before we turn to that, I do need
9 to read a letter to the board just for a second: "To the
10 Board" -- and this is signed by Marsha Williams -- "RE:
11 The approval of resolution approving documents relating to
12 the issuance of Residential Mortgage Revenue and Refunding
13 Bonds, Series 2001A, 2001B, 2001C, 2001D and 2001E, and
14 other related matters," which, I believe, is this one.
15 Correct?

16 MS. WILLIAMS: That's correct.

17 MR. JONES: "Ladies and gentlemen, I must
18 recuse myself from voting on the referenced matter because
19 our firm represents mortgage lenders which may participate
20 in the issuance of such bonds," signed, "Marsha Williams."

21 And please note for the record that before any
22 discussion is taken on this matter, she is leaving the
23 room. So we'll let Ms. Williams leave the room, and then
24 turn it back over to Mr. Conine.

25 (Pause.)

1 MR. JONES: And she has left the room.

2 Mr. Conine?

3 MR. CONINE: Well, hang on. I lost my sheet --
4 my cheat sheet.

5 MR. JONES: Kind of like Elvis leaving the
6 building?

7 MR. CONINE: Yes.

8 MR. JONES: Yes.

9 MR. CONINE: Approval of a resolution -- this
10 is 3(f), now: "Approval of resolution approving documents
11 relating to the issuance of Residential Mortgage Revenue
12 and Refunding Bonds, Series 2001A, 2001B, 2001C, 2001D and
13 Series 2001E, and other related matters." And on this, I
14 will call Byron Johnson up to make a presentation. We
15 need to have, I think, a board discussion on it.

16 And, Mr. Johnson, you might just hit the high
17 points relative to what we're trying to do here. Rather
18 than going into the details of the Finance Committee on
19 the makeup of the entire funding, you might just hit the
20 high points and then let us throw it open for discussion.

21 MR. JOHNSON: Okay.

22 Good afternoon, Mr. Chairman, members and Ms.
23 Stiner. We are attempting to issue mortgage revenue bonds
24 and refunding bonds in the amount of \$151 million. We
25 plan to issue the bonds under two tax plans. The first

1 series will be Series 2001A, B and C. The second issuance
2 would be 2001D and E.

3 We are warehousing a certain portion of this
4 year's volume cap in order to attempt to mitigate negative
5 arbitrage and yield drift. We have -- because of the
6 decline in short-term rates and the relative stability of
7 long-term rates, we have incurred in the market something
8 that's referred to as negative arbitrage, the spread
9 between those short-term rates and the long-term rates.
10 On \$65 million, that equates approximately to \$80,000 a
11 month.

12 We are splitting up our volume cap in an effort
13 to mitigate the cost to the department. If the department
14 continued this year to issue bonds at one time, we
15 probably would have to come out of pocket with about \$4
16 million to cover negative arbitrage and capitalized
17 interest during the origination period.

18 The issue will offer down-payment assistance to
19 borrowers. We are restricting the cap of AMFI of the
20 buyers to 60 percent of AMFI. We anticipate that 4
21 percent of the mortgage amount will be available to the
22 borrowers, and we're offering down-payment assistance to
23 approximately 50 percent of the borrowers under the
24 program.

25 We anticipate two -- that we will offer two

1 mortgage rates: An unassisted and an assisted rate. The
2 unassisted rate will be in the range of 5.95 to about
3 6.25, and the assisted rate will be in the range of 6.75
4 to about 7 percent.

5 We anticipate pricing the issues September 11
6 and October 3, and we'll be closing the issue on October
7 18. And if there are any questions, I'll be welcome [sic]
8 to respond to those.

9 MR. JONES: Any questions?

10 (Pause.)

11 MR. JONES: I just have one, and I direct it to
12 Elizabeth.

13 We've already talked about this once. And by
14 asking you, I don't mean to be redundant, but Mr.
15 Henneberger urged us to carefully review this matter and
16 make sure it is impossible to do what he's requesting. As
17 I read your letter and as I remember your comments to the
18 Finance Committee, it is impossible. Correct?

19 MS. RIPPY: That is correct.

20 MR. JONES: Okay.

21 MS. RIPPY: We've made representations to
22 bondholders. And once the funds are released from the
23 indenture, they can be used for these purposes. Your
24 contract will provide for that. But while the funds are
25 under the indenture, you're subject to the restrictions

1 that are there.

2 MR. JONES: Thank you, ma'am. I just wanted to
3 make sure of that.

4 MR. CONINE: Could I get her to -- wait a
5 minute.

6 MR. JONES: Sure.

7 MR. CONINE: Could I get her to comment on
8 the -- her last sentence of her letter, though, saying
9 what we're including in this particular indenture, so that
10 the rest of the board will understand?

11 MS. RIPPY: And --

12 MR. JONES: Feel free.

13 MS. RIPPY: The supplemental indenture that
14 relates to this refunding will provide that the
15 department, when funds are -- savings are produced as a
16 result of this refunding over time and are released from
17 the indenture, you'll be contracting now to use that money
18 for the purposes that the rider requires for the bootstrap
19 program.

20 Or if that direction from the legislature
21 changes over time, you'll have the ability to go to
22 whatever program the legislature directs you to use those
23 savings for.

24 MR. CONINE: To get it on the table, Mr. Chair,
25 I move for approval of Item 3(f).

1 MR. JONES: Mr. Conine made the motion.

2 MR. BOGANY: Second.

3 MR. SALINAS: How much are the real numbers?

4 MR. JOHNSON: The real numbers?

5 MR. SALINAS: 155-?

6 MR. JOHNSON: The amount of the transaction

7 will be 151- or something like that -- 151,535-

8 MR. BREWER: I've got 155-. It says --

9 MR. JOHNSON: 151,385-. What I handed out --
10 and I passed it out to the members this morning -- was a
11 corrected version of the write-up.

12 MR. SALINAS: Of the 160- in the --

13 MR. JOHNSON: Correct. And --

14 MR. SALINAS: 155,135-?

15 MR. JOHNSON: 151-.

16 MR. SALINAS: So it's 151 --

17 MR. JOHNSON: 151,385-. This, I believe --

18 MR. BREWER: We need the right total.

19 (Pause.)

20 MR. SALINAS: Is everybody on the same page, or
21 am I the only one?

22 MR. BREWER: No.

23 MS. SAENZ: No. You -- I've got the same
24 thing.

25 MR. BREWER: I've got 155,135- on --

1 MR. JOHNSON: Okay. Well, 155,135-.

2 MR. BREWER: Okay. You're saying 151-?

3 MR. JOHNSON: Yes.

4 MR. CONINE: I'll amend my motion to accept
5 that number.

6 MR. JONES: Okay.

7 MR. SALINAS: 155?

8 MR. JOHNSON: 155 --

9 MR. JONES: And it's Resolution --

10 MR. JOHNSON: -- 135-.

11 MR. JONES: It's Resolution 01-33.

12 MS. RIPPY: Thirty-three is the correct
13 resolution number.

14 MR. CONINE: We'll amend it for that, as well.

15 MR. JONES: Okay.

16 For those board members that may be new: Ms.
17 Rippy is our bond counsel from Vinson and Elkins. So
18 that's why we've addressed those questions to her, for
19 those of you that may not know her.

20 And we certainly appreciate your advice and
21 your counsel in these matters.

22 MS. RIPPY: Well, you're welcome.

23 MR. JONES: Okay. Further questions, comments
24 or discussion?

25 (Pause.)

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 audible response.)

6 MR. JONES: The ayes have it.

7 Mr. Conine?

8 MR. CONINE: Item 3(g), Approval of Senior
9 Managing and Co-Senior Managing underwriting firms for
10 detailed research and preliminary structuring of Mortgage
11 Revenue Bonds secured by certain subprime mortgage loans,
12 nd other related matters.

13 And, Mr. Johnson, would you like to do that
14 one, as well?

15 MR. JOHNSON: Yes, sir.

16 Mainly --

17 MR. CONINE: And let me also say for the record
18 that the Finance Committee approved Items (g), (h), (i)
19 and (j) in a block to get them to the board. So we'll
20 have the presentations here.

21 Go ahead.

22 MR. JOHNSON: In January of 2000 or
23 thereabouts, the department staff started working on
24 research into the subprime market in trying to determine
25 whether this was something the department should pursue.

1 In May of 2001, the legislature authorized the department
2 to offer, if feasible, subprime mortgages to low-income
3 residents of the State of Texas using mortgage revenue
4 bonds.

5 The bill doesn't require the department to
6 comply with the requirements of the subprime mortgage loan
7 mandate should such a subprime mortgage loan program
8 endanger the financial viability of the department.

9 If you look in the third paragraph of the
10 write-up, one of my colleagues pointed out that the
11 language -- I stated there that we possibly may not
12 adversely affect the department's financial condition
13 using the approach we're taking. He said that was kind of
14 wishy-washy. Well, yes, because, you know, we're going to
15 try our best to come up with a program that doesn't place
16 our current bond indentures in the risk of being
17 downgraded.

18 This is a program that, because of the inherent
19 credit quality of the underlying mortgages, requires
20 insurance or reserves to guard against those types of
21 losses. So with that in mind and -- I passed out or had
22 passed out to you three recent articles.

23 The first one was one that appeared in Business
24 Week: "Have banks been giving tequila to a drunk?" And
25 it's talking about how subprime mortgages and subprime

1 lending has been very volatile. And most of the bank
2 failures recently are attributable to subprime lending.

3 The second article is from a trade publication
4 called Inside B&C Lending. And it points out that serious
5 delinquencies are up primarily due to the weakness in the
6 economy.

7 And the third article, which was last week's,
8 is -- was from The Wall Street Journal, and it states
9 that, "As the economy slows, subprime lending looks even
10 riskier." And the biggest thing that caught my attention
11 there -- and bond counsel advised me of this article --
12 was that Bank of America is pulling out of the market
13 totally. So I thought, Wow.

14 And what -- once again, what we're trying to do
15 is not become a subprime lender but offer, somehow,
16 someday, through the bond program, whether it be through
17 tax-exempt bonds or taxable bonds, an alternative -- to
18 very low-, low- and moderate-income people an alternative
19 to the traditional subprime mortgages that are out there
20 on the market right now.

21 It is -- I wouldn't say it's impossible, but it
22 is a formidable task. And I would like to get started
23 with the task of researching and looking at different bond
24 structures as soon as we can. And with that, I will
25 entertain any questions or comments.

1 MR. JONES: Yes, sir?

2 MR. BOGANY: Personally, I think this would be
3 a waste of your time. And I say this from the standpoint
4 that affordable housing shouldn't be going out for pawn
5 shop-type mortgages.

6 And I totally believe to put people that -- who
7 are less educated and not as familiar with affordable
8 housing financing and give them high interest rates to get
9 them in homes -- and to lenders who charge them a bunch of
10 fees to get them in there -- with fees and monies coming
11 from us because we're making down-payment assistance --
12 and all of those sorts of programs -- I think, would just
13 be very volatile.

14 And with Bank of America pulling out, with my
15 own experience with first-time home buyers going out
16 there -- this is where -- all the foreclosures that we're
17 getting right now. Then they get these subprime loans.
18 They can't refinance them. Then they get hit with a
19 three- or four- -- Well, you can't refinance me; I'm going
20 to hit you with a \$5,000 prepayment penalty.

21 And I just think the people who don't need this
22 are affordable housing people. And if you're in the
23 financing, great. Go do it. If you decide to move
24 forward with this -- and I think this should be tailored
25 to something like the Timely Rewards program that Fannie

1 Mae has that has the -- after you pay your bills on time
2 for two years, they drop the rate 1 percent.

3 And think about -- they have a truth-in-lending
4 statement that should be signed at the time of the
5 application so the new consumer knows what the interest
6 rate's going to be. It -- all of this information should
7 be provided to that consumer up front. But to first-time
8 home buyers being able to go subprime? I mean it's
9 ridiculous.

10 And being able for us as a government to
11 partner with them to help mess over these people, I just
12 totally disagree with this. I think this is just not a
13 good thing. And you -- unless you can come up with
14 something with a lot of safeguards to protect those
15 individuals, I would be totally against us even
16 researching or doing anything with this.

17 MR. JOHNSON: And --

18 (Pause.)

19 MR. JONES: Mr. Conine?

20 MR. CONINE: Do you want to respond to that?

21 MR. JOHNSON: Yes.

22 MR. CONINE: Because I will if you don't.

23 MR. JOHNSON: I -- well, I agree with Mr.
24 Bogany in that we as a department should not be subprime
25 lenders. And I think the objective of the bond finance

1 and single-family lending divisions would be to offer a
2 subprime product or a product to the credit-challenged
3 that would not have the prepayment penalties, the
4 mandatory arbitration and the other bells and whistles
5 that go along with the subprime-type product.

6 So I agree. And that's why I really prefer to
7 start to do the research to see if we can come up with a
8 product like that in our, shall we say, bond program.

9 And another aspect that I want to bring out is
10 that the legislation requires that we set aside 40 percent
11 of total annual bond volume. That's a lot. That's --
12 with the new volume cap amounts, that's like 70- or \$80
13 million.

14 Originally, the staff thought that this should
15 be something that should be a component or a small
16 component of what we do. And so what we would like to do
17 is take a look and see if we can come up with that type of
18 product and then bring it back to you for approval to go
19 forward or to just say, I don't think this is what the
20 department should be doing.

21 MS. WILLIAMS: I'd like to make a comment, Mr.
22 Chair. There was legislation during the last legislature
23 that specifically prohibits bond program money from having
24 mandatory arbitration clauses in it.

25 MR. JOHNSON: Yes, ma'am.

1 MR. CONINE: Let me if I can -- I probably
2 would agree with my friend from Houston if the ultimate
3 research ended up showing it the way you described it.
4 But I've seen so much creativity in the REFI structure
5 here mentioned just a minute ago, plus my knowledge of
6 what's going on in the 49 other states, that it makes we
7 want to at least go out and put my toe in the water and
8 see what's out there.

9 And Byron and his staff are not going to be
10 doing the majority or the lion's share of the research. I
11 think that what has been proposed here is that some
12 investment bankers that have our best interest at heart
13 have agreed to do the research, go scour the land, if you
14 will, and go see if we can structure it an A and a B
15 piece. You know, I think that has possibilities.

16 But I'd hate to foreclose and shut the door on
17 creativity right now. And I'd be for approving this
18 recommendation.

19 MR. JOHNSON: And may I please add that the two
20 banks we're recommending both have done -- at least, in
21 fiscal year or calendar year 2000, roughly \$6 billion of
22 these types of securitizations each.

23 MR. BOGANY: And I guess my thing is that I'm
24 where the tire meets the road. And I'm going to tell you
25 right now that this is pawn shop mortgaging, and those who

1 cannot afford it should not be being sold down the river
2 for fees, and this is what's going to happen.

3 I don't want to take the board's time or your
4 time giving you examples of the problems that I see with
5 these types of mortgages. And if you can come up with
6 something that protects that consumer, I'm all for it, but
7 it needs to be able to protect that consumer because the
8 products that are out there now don't protect the
9 consumer --

10 MR. JOHNSON: Yes, sir.

11 MR. BOGANY: -- at all.

12 MR. CONINE: Mr. Johnson, you need to point
13 out, I think, that the list of investment bankers that are
14 going to do this is on the following page in our book.

15 MR. JOHNSON: Yes, sir.

16 On the following page, I've listed for Senior
17 Manager Bear Stearns and Company and for Co-Senior Manager
18 Salomon Smith Barney. And --

19 MR. BREWER: Right at --

20 MR. JOHNSON: This is Tab --

21 MR. BREWER: -- Tab 3(g).

22 MR. JOHNSON: -- G.

23 MR. SALINAS: Let me ask a question. What he's
24 saying is that people that cannot afford a house should
25 not be given an opportunity to become a first-time home

1 buyer?

2 MR. BOGANY: No, I'm not saying that.

3 MR. SALINAS: Well, what is that -- I just need
4 to --

5 MR. BOGANY: Okay. Well, my clarification is
6 that if you have credit issues and you've been challenged
7 because of whatever issues, then you should work on those
8 issues to get you from C- to A Paper-type loans.

9 And when FHA, who doesn't credit score at this
10 particular period of time, is out there, when you've got
11 Fannie Mae with the new Timely Rewards program that's
12 available to these people, if they set up repayment
13 programs, then I feel that there are enough products out
14 there that could be partnered with those products we could
15 partner with.

16 I don't think we need to go out onto the open
17 market and give somebody a 12 percent interest rate at 7
18 percent. And I'll give one example of a subprime loan I
19 got a call yesterday on. A lady has a \$69,000 mortgage
20 with \$1,200-a-month payments. And she's selling that
21 house now because she has been there a year-and-a-half and
22 now can no longer afford the house. That's what I want to
23 try to eliminate.

24 So I'm saying if you can -- if you've got
25 issues, then work on those issues, you know, and not just

1 getting in more issues, because I don't -- I just see it
2 all rolling, snowballing on them.

3 MR. CONINE: How long is this going to take, do
4 you think?

5 MR. JOHNSON: We're thinking about putting in
6 at least four months -- four to five months.

7 MR. SALINAS: But it would be something like --
8 I agree with him on a 12 percent interest. And -- but
9 there is a lot of people out there that would like to own
10 their own homes. And they become responsible citizens and
11 taxpayers, at least, in our communities. So --

12 MR. JOHNSON: And --

13 MR. SALINAS: I don't know about that 12
14 percent. I know that these bankers are interested in
15 helping. I'm sure you're not going to be able to get
16 those people to pay 12 percent, especially the way the
17 market is right now.

18 MR. JOHNSON: Well, one advantage that we have
19 is that we would be using tax-exempt cost of capital to a
20 certain point. A limitation on that is that we have this
21 arbitrage restriction of 1.125 percent. So how do we
22 compensate the department for taking on the additional
23 risk yet keep the rate below what the traditional subprime
24 market is? And that's the type of challenge we're looking
25 to try to address.

1 MR. BOGANY: Yes. And I would just like to
2 say, if we could, partner with Fannie Mae with their
3 Timely Rewards and maybe see how we can take that program
4 that they've done as a pilot -- and now they've kind of
5 opened it up to some other lenders -- and maybe partner
6 with that, because there's some light at the end of that
7 tunnel -- not at 10 percent or 12 --

8 MR. JOHNSON: Right.

9 MR. BOGANY: And they are adjustable rates, Mr.
10 Salinas. We're not talking about fixed interest rates;
11 these rates adjust. And I'd like to see us put caps on
12 the fees that can be charged, and so -- I mean, because
13 that's what it's all about.

14 MR. JOHNSON: And I think that's where we're
15 headed, in that we want to offer an alternative -- a
16 subprime product but alternative subprime product that
17 doesn't have the high fees, doesn't have the prepayment
18 penalties and doesn't make you sign a mandatory
19 arbitration statement. And so if we can get that, we'll
20 bring something back to you and say, Look, this is what we
21 have, this is an alternative.

22 If -- plus, if we can get it structured so that
23 investors will buy the bonds, that's another challenge.
24 So --

25 MR. CONINE: Mr. Chairman, I move we approve

1 staff recommendation on Item 3(g).

2 MR. DAROSS: I --

3 MS. WILLIAMS: Second.

4 MR. DAROSS: -- second it.

5 MR. JONES: Okay. We have a motion made by Mr.
6 Conine and seconded by Ms. Williams. Further questions,
7 comments or discussion?

8 (Pause.)

9 MR. JONES: I really encourage you to work with
10 some of the people that have given you input on this
11 issue. That's just the only comment I have. I think it
12 has been a good, good discussion, and, hopefully, you can
13 continue it as you move forward and not just, you know, at
14 a board meeting, because some of these people that, as
15 we've heard, are where the rubber meets the road can
16 probably give you some really valuable input.

17 MR. JOHNSON: I will be calling you.

18 (Laughter.)

19 MR. JONES: Thank you.

20 Any further discussions?

21 (Pause.)

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, nay.

1 MR. BOGANY: Nay.

2 MR. JONES: The ayes have it.

3 MR. CONINE: Item 3(h): "Approval research and
4 structuring of Single-family Mortgage Revenue Bonds,
5 Series 2001A, and other related matters."

6 MR. JOHNSON: This is an idea that we've been
7 discussing with M. R. Beal. It was done previously or --
8 something similar was done back in '94. The indenture
9 does have some wealth built up in it, and it's trapped in
10 the indenture; as Ms. Rippy stated earlier, funds released
11 from the indenture are subject to certain restrictions and
12 requirements.

13 What we would like to do is explore ways of
14 somehow securitizing or monetizing some of that wealth; we
15 don't want to pull everything out, but we want to
16 maintain, you know, the appropriate levels of credit
17 enhancement and credit ratings in the -- on the
18 indentures. But what we're looking at doing is issuing
19 taxable bonds and allowing the indenture, and not
20 mortgages, to secure the debt service on those bonds.

21 In order to do that, we may have to switch from
22 the single-family indenture to a junior lien or a
23 subordinate-type indenture. But I think it's something,
24 given the amount of -- well, we don't like to use the
25 words "unfunded mandates"; that's a bad word or a bad

1 phrase -- the amount of work that the department has in
2 front of it, we think that this may be a good way of
3 funding or financing some of those activities.

4 MR. CONINE: And this is research, again --

5 MR. JOHNSON: Once again, this is research.

6 MR. CONINE: -- that will come back to the
7 board?

8 MR. JOHNSON: And we will present the structure
9 to you.

10 MR. CONINE: Move for approval of (i), Mr.
11 Chairman.

12 MR. DAROSS: Second.

13 MS. SAENZ: I second.

14 MR. JONES: We have a motion that has been made
15 and seconded. It was made by Mr. Conine and seconded by
16 Ms. Williams.

17 MR. JOHNSON: It was (h). That was Item (h).

18 MR. CONINE: By Ms. Saenz.

19 MR. JONES: By Ms. Saenz? Excuse me. I'm
20 sorry.

21 It was (h). Is that correct?

22 MR. CONINE: I thought it was (i) -- 3(i).

23 Excuse me.

24 MS. SAENZ: No.

25 MR. JONES: 3(i)? Okay. 3(i).

1 MR. CONINE: I think. Was it (h)?

2 MR. BREWER: I thought it was (h).

3 MR. CONINE: (h)? Excuse me.

4 MR. BREWER: (h).

5 MS. SAENZ: It was (h).

6 MR. CONINE: I'm jumping ahead of myself.

7 3(h). I apologize. I amend my motion to state 3(h).

8 I -- it's getting late.

9 MR. JONES: I understand.

10 So we have a motion that was made, and it was
11 seconded by Ms. Saenz.

12 And, also, the court reporter has asked that we
13 all turn on our microphones when we speak, or she will
14 kick you.

15 (Laughter.)

16 MR. JONES: Any further discussion?

17 (Pause.)

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

20 (A chorus of ayes.)

21 MR. JONES: All opposed, nay?

22 (No audible response.)

23 MR. JONES: The ayes have it.

24 MR. CONINE: Now I'm going to go to 3(i).

25 MR. JONES: Thank you.

1 MR. CONINE: "Approval of Senior Managing and
2 CO-Managing underwriting firms for researching structuring
3 Single-family Mortgage Revenue Bonds, Series 2001A, and
4 other related matters."

5 MR. JOHNSON: This is --

6 MR. CONINE: You've got two minutes.

7 MR. JOHNSON: I'm sorry?

8 MR. CONINE: You've got two minutes. Go ahead.

9 MR. JOHNSON: -- identical to (h), appointing
10 the underwriting firms. Senior Manager is M. R. Beal, and
11 Co-Managers are George K. Baum and Siebert Branford.

12 MR. CONINE: Move for approval of 3(i), Mr.
13 Chairman.

14 MR. DAROSS: Second.

15 MR. JONES: We have a motion that has been made
16 by Mr. Conine, and it was seconded by Judge Daross.
17 Further discussion, questions or comments?

18 (Pause.)

19 MR. JONES: All in favor of the motion, please
20 say aye.

21 (A chorus of ayes.)

22 MR. JONES: All opposed to the motion, please
23 say nay.

24 MR. BOGANY: Nay.

25 MR. JONES: The ayes have it.

1 MR. CONINE: Item 3(j), Approval of recommended
2 underwriting firms for the structuring and sale of the
3 department's Mortgage Revenue Bonds for single-family
4 mortgages, and other related matters.

5 Mr. Johnson?

6 MR. JOHNSON: In 1996, the department selected
7 underwriting firms for investment banking services. Since
8 '96, there have been numerous mergers which resulted in
9 firms being acquired or dissolved or getting out of public
10 finance. In March, the board approved an RFP for
11 investment banking services.

12 Staff reviewed those responses or -- reviewed
13 the responses received as a result of the RFP, and staff
14 recommends the following: That six firms be appointed as
15 senior managing underwriters; the firms would be assigned
16 as co-senior and senior manager; each team -- there will
17 be three teams of two; each team will senior-manage a
18 transaction; the next time that team comes up, the firm
19 that was the co-senior will then become the senior
20 manager; the senior manager will then become the co-senior
21 manager.

22 This will rotate deals among the firms, and we
23 won't have one firm monopolizing or underwriting all of
24 the bonds. And it will open the department up to, I
25 guess, some creative and -- more creative and innovative

1 ideas from the investment banks.

2 The staff also recommends that the board
3 appoint six investment banks as co-managing underwriters.

4 We want to maintain a larger pool size. These firms'
5 primary responsibilities will be to sell bonds, but they
6 will not be precluded from participating as a senior
7 manager should they bring in a truly, truly unique
8 financing idea.

9 And I want to add that the firms appointed as
10 senior managing underwriters -- although they are senior
11 and co-senior, they also would be eligible to participate
12 as co-managers.

13 MR. CONINE: Move for approval --

14 MR. JOHNSON: The firms --

15 MR. BOGANY: Second.

16 MR. JOHNSON: Okay.

17 MR. JONES: We have a motion made by Mr. Conine
18 and seconded by Mr. Bogany: That they be approved as
19 presented.

20 MR. CONINE: Did you have another comment you
21 wanted to make?

22 MR. JOHNSON: I was just going to read the list
23 of firms off.

24 MR. JONES: Well, you can do that --

25 MR. CONINE: Okay. Go ahead.

1 MR. JONES: -- for the record.

2 MR. CONINE: For the record.

3 MR. JOHNSON: Senior managers: Bear Stearns
4 and Company, George K. Baum and Company, M. R. Beal and
5 Company, Salomon Smith Barney, UBS/PaineWebber and
6 USbancorp Piper Jaffray. Co-managers: Estrada Hinojosa;
7 First Southwest Company; Goldman, Sachs and Company;
8 Lehman Brothers; Morgan Keegan and Company, and; Siebert
9 Branford Shank.

10 MR. JONES: We have a motion that has been made
11 and seconded. Further questions, comments or discussion?

12 (Pause.)

13 MR. JONES: All in favor of the motion, please
14 say aye.

15 (A chorus of ayes.)

16 MR. JONES: All opposed to the motion, please
17 say nay.

18 (No audible response.)

19 MR. JONES: The ayes have it.

20 MR. CONINE: That concludes my report, Mr.
21 Chairman.

22 MR. JONES: Thank you.

23 That concludes the Finance report. Why don't
24 we do this? Why don't we take a short recess, until 2:30?
25 We'll start promptly at 2:30 and continue with the Audit

1 Committee report.

2 MR. JOHNSON: Thank you.

3 MR. JONES: Thank you.

4 (Whereupon, a short recess was taken.)

5 MR. JONES: I'll call the meeting back to
6 order.

7 And I believe we're on Item 4, the report from
8 the Audit Committee.

9 Mr. Conine?

10 MR. CONINE: You would right when I have a
11 cookie in my mount.

12 MR. JONES: I did it on purpose.

13 MR. CONINE: Item 4 is going to be easy. The
14 Audit Committee met this morning and listened to the
15 reports of the internal auditor, as well as three staff
16 members: Nothing out of the ordinary, I don't believe,
17 and nothing that I believe requires action of the board at
18 this time.

19 I will tell you that in relation to the very
20 last item listed there under Item 4, the preliminary
21 security audit, we've made great strides over the last 12
22 months relative to some of the viruses that are going
23 around and being able to catch them and not be down for
24 any measurable length of time.

25 The one that was given to us as an example was

1 the Code Red virus, or whatever the name of it was. And
2 we were shut down for about an hour while several other
3 agencies and departments were shut down for three, four or
4 five days.

5 So they're to be commended for the work they're
6 doing, I'm sure, on a shoe-string budget. And we look
7 forward to them continuing their good efforts.

8 But in response to the rest of the reports you
9 see listed here, nothing extremely out of the ordinary.
10 The Audit Committee agreed to meet again in October to go
11 over an annual review, some reports that are still
12 outstanding and to set the 2002 audit plan. That
13 concludes my report, Mr. Chairman.

14 MR. JONES: And a wonderful one it was.

15 MR. CONINE: It's an exciting subject.

16 MR. JONES: All right.

17 Okay. Well, that will bring us then to Item 5
18 on the agenda, which is the presentation, discussion and
19 possible approval of low-income housing tax credit items,
20 which I'll turn over to Ms. Stiner.

21 Did you -- were you able to review the minutes,
22 Mr. Conine, to your satisfaction?

23 MR. CONINE: Yes. I still have a problem, I
24 guess, with 5(c) being on here --

25 MR. JONES: Okay.

1 MR. CONINE: -- but not (a).

2 MR. JONES: Okay. Well, let's do 5(a) then.

3 And I think the first thing we need to do on 5(a) is to
4 hear from Mr. Vowell. He wanted to speak.

5 MR. DAROSS: Before we do that, we had -- you
6 had passed on the approval of the minutes --

7 MR. JONES: Okay.

8 MR. DAROSS: -- in order to give Mr. Conine an
9 opportunity to look at it. And I'll move for approval of
10 the minutes, but I must say that I was saddened -- deeply
11 saddened that Delores did not give us the opportunity to
12 read all 237 pages of the minutes from last meeting.

13 MS. GRONECK: Do you want them? They're here.

14 MR. DAROSS: I don't think so.

15 MR. BOGANY: I'd second that.

16 MR. JONES: Well, we have a motion --

17 MR. BOGANY: Second.

18 MR. JONES: -- that they be approved.

19 And we have a second.

20 Mr. Bogany?

21 (Pause.)

22 MR. JONES: Right there.

23 MR. CONINE: You've got to speak up.

24 MR. JONES: From now on, if you make the
25 second, just throw this at her.

1 (Laughter.)

2 MR. JONES: And she'll know, based upon what
3 direction it came from, who made the second.

4 (Laughter.)

5 MR. JONES: All right.

6 Penny, I'm sorry they're mean to you. I just
7 can't understand it. I hate them.

8 Okay. Further discussion?

9 (Pause.)

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 to the motion, please
14 say nay.

15 (No audible response.)

16 MR. JONES: Motion carries.

17 Then, with everyone's permission, we'll turn to
18 Item 5(a). And I think --

19 MR. VOWELL: Mr. Chairman, I'm just here to
20 answer questions if you have any.

21 MR. JONES: Okay. Great. Thank you.

22 MR. VOWELL: Thank you.

23 MR. JONES: We then will turn to Item 5(a).

24 Ms. Stiner, would you like to present that?

25 MS. STINER: Thank you, Mr. Chair.

1 Staff is here to present that.

2 Charles Nwaneri will make the presentation on
3 behalf of the Low-income Housing Tax Credit staff.

4 MR. JONES: Thank you.

5 MR. NWANERI: Good afternoon, Mr. Chair, Board
6 members and Ms. Stiner.

7 MS. STINER: Good afternoon.

8 MR. NWANERI: My name is Charles Nwaneri; I'm
9 the Chief Accountant for the Low-income Housing Tax
10 Credits Program. And today the staff is making the
11 recommendation on the possible approval for four tax-
12 exempt bond transactions.

13 And these four bond deals are located -- two
14 are in Houston, and two are in Fort Worth. And all four
15 of these bond deals are targeting 100 percent low-income
16 tax credit; there is no mixed income. All four bond deals
17 are located in qualified census tracts. So, in other
18 words, all four of them are getting the 30 percent
19 increase in basis to boost their eligible bases.

20 All four also are within their first year from
21 bond review board-leased, meaning that they are all
22 targeting rents that are 50 percent or less for rent,
23 maximum rent that they could charge their tenants.
24 Starting with -- and all four, in particular, have
25 demonstrated consistency with the local consolidated plans

1 of the cities, and all four have -- none of the four has
2 material noncompliance issues.

3 Beginning with the Meridian in Forth Worth:
4 The owner is Brisben Meridian Limited Partnership. And
5 the general partner is Brisben Hickory Bend, Inc., 100
6 percent owned by Don Paxton. All of these four projects
7 are new constructions, and the issuer is TDHCA. They are
8 asking for \$929,154, and the staff is recommending
9 \$924,154, although they're qualified for more money than
10 what they requested.

11 They are producing 280 units, all of which are
12 low-income housing tax credit. They have a total of
13 343,381 square feet. And they've under real favorably, at
14 1.09, approximately, to the minimum acceptable debt
15 coverage ratio set by the department.

16 The second one is the Wildwood Branch in Fort
17 Worth. This also, as I mentioned, is a new construction.
18 The owner is Wildwood Branch Townhomes Limited
19 Partnership. The GP is Brisben Hickory Bend, Inc., again,
20 100 percent owned by Don Paxton. They are requesting
21 998,496. The department is recommending \$856,163.

22 They are also producing 100 and -- 280 units,
23 all of which are 100 percent tax credits. The total
24 development cost on this project is 21,202,471.

25 The third is Greens Road in Houston, Texas.

1 The owner is Greens 14 Partners Limited. The GP is
2 Lausanne Company, L.L.C., and it's 100 percent owned by
3 Richard Wilson. It's a new development, and the issuer is
4 Fannie Mae. They're requesting \$635,401, and the
5 department is recommending their request.

6 They are producing 224 units, all of which are
7 low-income housing. The total development cost is 14.5
8 million, and they under the rate favorably, with a DCR of
9 1.11.

10 And the fourth is Park Row Apartments in
11 Houston. The owner is Park Row Limited. The GP is Park
12 Row Development, L.L.C., owned 50 percent by Dwayne Henson
13 and 50 percent by Steve Ford. The issuer is Houston
14 Finance Corporation. They requested \$774,485. The staff
15 is recommending \$764,807.

16 They are producing 248 units, out of which --
17 all of which are low-income housing tax credits. The
18 total development cost is \$17,627,425. And this fell
19 under rate favorably at 1.10.

20 These are all the tax-exempt bonds -- all the
21 four tax-exempt bonds that staff is seeking approval for
22 possible issuance of determination notices.

23 MR. CONINE: Mr. Chair, I'll make the motion
24 that Item 5(a) on our agenda be approved per staff
25 recommendations.

1 MR. BOGANY: Second.

2 MR. JONES: It's made by Mr. Conine and
3 seconded by Mr. Bogany.

4 MR. ONION: Could I approach the board?

5 MR. JONES: Sure.

6 MR. CONINE: You may.

7 (Pause.)

8 MR. ONION: In the Finance Committee, I had
9 indicated to put a bookmark in on Wildwood with regard to
10 the property itself. If you will, look in your write-up
11 under the site plan, which, I believe, is the second
12 page -- the third page.

13 You will see that the property has some
14 topography challenges. The actual layout of the apartment
15 complex is on top of that ridge, which requires an
16 extensive amount of retaining walls, as well as additional
17 concrete for the stair-stepping of the individual
18 buildings for each of the units.

19 Tom Gouris, the chief underwriter, indicated
20 that the amount of the development was 21,202,471. The
21 developer indicated it was 23,736,515.

22 MR. CONINE: You mean million?

23 MR. ONION: Excuse me. Yes. 23,736,515 --

24 MR. SALINAS: Is he with the staff, or is he --

25 MS. STINER: Yes.

1 MR. SALINAS: Okay. Would he want to give his
2 name for the record?

3 MR. JONES: Please.

4 MR. CONINE: Robert Onion.

5 MR. ONION: Oh, excuse me. Robert Onion,
6 director of Multifamily.

7 MR. SALINAS: Okay.

8 MR. JONES: Thank you.

9 MR. ONION: The issue here is under site work
10 and what could be verified at the time of the underwriting
11 report. The borrower has provided to us additional
12 information showing that there are additional costs with
13 regard to additional site work, as well as hard costs with
14 regard to concrete and other items.

15 The underwriting department is in the process
16 of reviewing that. Our chief underwriter is here -- Tom
17 Gouris. He can give you more of a background of where he
18 is today.

19 The problem that we have is that this is
20 scheduled to close September 11 and the reservation will
21 expire September 13. This will not give us an opportunity
22 to come back to you and ask for additional credits.

23 What I am suggesting is that the amount of
24 credits that the borrower requested be the amount that is
25 set, subject to verification of the underwriting

1 department of the eligible basis. And so I'm recommending
2 that or -- suggesting that at this time.

3 The developer's here to give you an explanation
4 of some of the difficulties of the site and why this is
5 not just a normal apartment complex from -- with regard to
6 construction. I think this is something that can be
7 resolved in the next couple of days, but, unfortunately,
8 due to the reservation time with the bonds, they have to
9 close within 120 days, and there's just not another
10 opportunity to approach the board with the corrected
11 amount.

12 MR. SALINAS: What is the corrected amount?

13 MR. ONION: The corrected amount of eligible
14 basis that could be verified by the underwriting
15 department.

16 MR. SALINAS: That would be what, 998?

17 MR. BREWER: Yes.

18 MR. ONION: Yes, sir.

19 MR. SALINAS: And they're recommending what?

20 MR. BREWER: 856.

21 MR. NWANERI: Staff is recommending \$856,163
22 based on information they submitted at the time the file
23 was underwritten.

24 MR. SALINAS: What would you recommend now?

25 MR. NWANERI: Well, Robert presented some

1 discussions this morning, and we did receive some
2 information this morning before we left the office. But
3 in consultation with -- Tom Gouris, the chief credit
4 underwriter -- the director of credit underwriting, has
5 not had the time to review it.

6 So part of what we are here to seek is -- if
7 the board approves, then -- at the time the application
8 comes in for submission and cost certification, the
9 department may have the time and the opportunity to
10 increase the application request up to the amount they
11 requested in the -- for -- in the amount of 998,496.

12 MR. CONINE: Could we get Mr. Gouris to comment
13 on that, please?

14 MR. JONES: And please state your name for the
15 record.

16 MR. GOURIS: Tom Gouris. I'm the Director of
17 Credit Underwriting for the department.

18 Yes, I did receive some additional information
19 this morning from the Brisben Companies regarding the
20 allocation of site work costs. And the -- when we
21 originally underwrote this project, we recognized that the
22 site work costs were going to be high, and we requested
23 from the applicant through one of our conditions and
24 through Robert a detailed breakdown of those site work
25 costs so that we could verify it from a third-party

1 engineer.

2 And that was our number one condition in that
3 report. And they've been working to try to get that
4 information to us. What they provided to us this morning
5 was a breakdown that they provided, that they did
6 themselves, instead of a third party doing that breakdown.

7 And so we're still working with them to try to get some
8 conclusive verification of what those costs really are.

9 MR. JONES: Well, you know, you guys put us in
10 a really bad position.

11 MR. CONINE: Yes. It's very, very --

12 MR. JONES: I mean it is a heck of a position
13 to put this board in. And I think -- well, whatever

14 MR. GOURIS: It is.

15 MR. CONINE: It's over twice the normal --

16 MR. GOURIS: Yes, sir.

17 MR. CONINE: -- site work.

18 MR. GOURIS: Yes, sir.

19 MR. BREWER: Mr. Chair, why don't we take these
20 individually? And then we can comment on that when we get
21 to that one.

22 MR. JONES: We had a motion on the table.

23 MR. CONINE: I withdraw my motion.

24 MR. JONES: It has been withdrawn. So the
25 Chair will entertain any motions any board member may wish

1 to make.

2 MR. BREWER: Okay. I would make the motion for
3 approval of Project Number 01427, Meridian Apartments,
4 Fort Worth, Texas --

5 MR. JONES: We have a motion. Do we have a
6 second?

7 MR. BREWER: -- subject to the conditions that
8 are in the underwriting.

9 MR. SALINAS: Are they here today?

10 MR. DAROSS: I'll second.

11 MR. SALINAS: Are these people here today?

12 MR. BREWER: Meridian?

13 MR. ONION: The developer on this transaction
14 that we're --

15 MR. SALINAS: On the first one in Fort Worth.

16 MR. BREWER: No.

17 MR. CONINE: Mr. Vowell --

18 MR. ONION: The developer representative is.

19 MR. VOWELL: Kim Vowell. There's not a
20 question -- on the Meridian property, there's not an
21 underwriting issue.

22 MR. SALINAS: Okay.

23 MR. BREWER: Did you have a question on it?

24 MR. SALINAS: No. I just don't want them to
25 come back and say -- well, you know, it's pretty hard to

1 change the recommendation at the very end, especially with
2 the odds that they'll have to come back --

3 MR. BREWER: Well, they won't have any problem
4 because they're getting --

5 MR. JONES: Well --

6 MR. BREWER: -- what they asked for.

7 MS. STINER: On this one.

8 MR. BREWER: On this one, sir.

9 MR. SALINAS: Well, that's -- yes, they're
10 getting what they want. So what --

11 MR. JONES: We're taking them one at a time.

12 MR. BREWER: We're taking them one at a time.

13 MR. JONES: This is number two, Wildwood.

14 MR. SALINAS: Okay.

15 MR. BREWER: Yes, sir.

16 MR. JONES: The motion then would be on the
17 Meridian Apartments, and it has been made and seconded.

18 Further discussion with regard to the Meridian
19 Apartments?

20 (Pause.)

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

23 (A chorus of ayes.)

24 MR. JONES: All opposed, nay?

25 (No audible response.)

1 MR. JONES: The ayes have it.

2 And then we'll turn our attention, I would
3 suggest, just by the order, to the Wildwood Branch
4 Apartments, which is the one where there is a problem with
5 regard to underwriting.

6 MR. DAROSS: Well, so that it can be discussed,
7 I'll move that we approve the bond issue as to the
8 Wildwood Apartments.

9 MR. CONINE: At which amount?

10 MR. BREWER: Yes. At which amount, Jim?

11 MR. SALINAS: The one recommended by the staff?

12 MR. DAROSS: The one recommended by the staff.

13 MR. SALINAS: 856?

14 MR. DAROSS: I mean we have to have something
15 to vote on.

16 MR. SALINAS: 856?

17 MR. DAROSS: Yes, 856.

18 MR. SALINAS: Okay. I'll second that.

19 MR. JONES: So we have a motion that it be
20 approved, by Judge Daross, and seconded by the mayor. And
21 that would be with regard to it as it's written in our
22 board books, at the 856- figure.

23 MR. BREWER: But my understanding is that they
24 won't be able to do that deal if they just get the 856.

25 MR. ONION: There will be approximately 100

1 percent of deferred developer's fee. In going through
2 with this transaction and closing, there certainly is the
3 added risk that the additional credits will not be
4 received, and so that has to be viewed.

5 And Tom can certainly address this. I think
6 we're just a day or two away from verifying these. These
7 are issues that are related to the site work, and we
8 normally don't have this situation because we have a more
9 level piece of ground on which to develop. That's why it
10 becomes difficult and additional information is needed.

11 We have received the itemized breakdown of
12 those additional costs. The engineer had indicated that
13 he's in agreement with it. I think what we want from them
14 is the third-party engineer to cite these costs as
15 additional verification. So we're right there; we're a
16 day or two away. Again --

17 MR. DAROSS: I guess my question on that is:
18 Has there been an earthquake or some other seismic
19 activity that, all of a sudden, created this site problem
20 since the day that the application was first submitted?

21 MR. ONION: It -- no, sir. The difficulty is
22 going through the development process and -- in getting
23 the engineer to verify those costs, design the plans and
24 the specs specific to what it's going to take in order to
25 complete that development. And that takes additional

1 time. And that's where we are today, and, like I said,
2 we're a day or two away from rectifying it.

3 Certainly, the credits are set based upon the
4 eligible basis as determined by the underwriting
5 department. And if given an opportunity to provide
6 additional information, I think we'll get to that number.

7 MR. CONINE: You stated something just a tad
8 different which may end up changing my mind.

9 MR. ONION: Okay.

10 MR. CONINE: You said that the developer
11 provided us the information this morning, and then -- in
12 your first comments. Then you said his engineer is now on
13 board with those particular numbers, which -- and then
14 there's a third-party engineer that we hired to review
15 those numbers and give us up or down.

16 I -- if his engineer furnished the numbers, I'm
17 a little more comfortable rather than just the developer
18 saying, "We've got X lineal feet of retaining walls," and
19 coming up with a number. If there is an engineer
20 document, whether it's his own or anybody else's, I feel a
21 little more comfortable about granting him the ability to
22 go up subject to third-party review.

23 MR. ONION: Well, let me clarify that. The
24 borrower, through their construction arm, provided the
25 numbers. A letter was written by the engineer referencing

1 those numbers, saying he's in agreement with it. What the
2 department is looking for is a letter from the engineer
3 with those numbers on it.

4 MR. GOURIS: With their -- them deriving of
5 those numbers, he gave a blanket letter saying these are
6 consistent with a project of this type.

7 MR. ONION: And --

8 MR. CONINE: But they're not specific?

9 MR. ONION: And, to further clarify it --

10 MR. GOURIS: Not the specifics.

11 MR. ONION: -- we do not have a third-party
12 costing person that arrived at this number.

13 MR. CONINE: You use Marshall and Swift --

14 MR. ONION: This is --

15 MR. CONINE: -- locally, don't you?

16 MR. GOURIS: This is why we emphasize, when the
17 site work costs are extraordinary, to have the engineer's
18 detailed cost justification, because we don't have an
19 internal mechanism other than that, other than what they
20 provide. And if we just use what the developer themselves
21 said, instead of the engineer, we're -- you know, we don't
22 have as much comfort with that.

23 MR. CONINE: Right. I wouldn't, either.

24 MR. GOURIS: Yes.

25 MR. CONINE: But if we're days away and we've

1 got a couple more engineers that are going to ante up some
2 opinion, I think I can get fairly comfortable with it,
3 especially it being a 4 percent credit, versus a 9 percent
4 credit.

5 MR. ONION: Yes, sir.

6 MR. CONINE: That's all the questions I've got,
7 Mr. Chairman.

8 MR. JONES: Okay.

9 We have a motion on the floor, and a second.
10 Any further discussion?

11 (Pause.)

12 MR. BREWER: What --

13 MR. CONINE: I'm going to --

14 MR. BREWER: What would it do to the deal,
15 Robert, if we go along with just the --

16 MR. SALINAS: 856?

17 MR. BREWER: -- 856?

18 MR. CONINE: I'm going to give the staff the
19 authority to --

20 MR. BREWER: I'm worried about the people that
21 are going to get the 280 houses.

22 MR. CONINE: I think we ought to give the staff
23 the ability. I'm going to vote against the current motion
24 on the floor.

25 MR. JONES: Would you like to offer an

1 amendment to the motion?

2 MR. SALINAS: But my question is -- they come
3 here today. He makes a recommendation on 856; he's the
4 guy in charge. And then two guys stand up and tell us
5 different. So who are we going to take the lead from?
6 Because we've got the guy that's making the recommendation
7 to us and telling us this is an \$856,000 deal, and then
8 we've got two guys, one on each side, that says we've got
9 to change it.

10 MR. NWANERI: Actually, his recommendation
11 doesn't take away any portion of my recommendation. Mine
12 is based on his. It -- my recommendation was predicated
13 on the underwriting --

14 MR. SALINAS: Yes. See, you all could have
15 gotten --

16 MR. NWANERI: -- at the time. So we all in a
17 group --

18 MR. SALINAS: -- together yesterday --

19 MR. NWANERI: Yes.

20 MR. SALINAS: -- to be able to come here and be
21 able to work, you know, as one. I mean you all can see
22 how we can get confused here.

23 MR. ONION: Yes.

24 MR. NWANERI: Right. But the only problem we
25 had is: As of yesterday, we didn't have the information

1 we had this morning. And --

2 MR. SALINAS: Well, we didn't have it --

3 MR. NWANERI: -- we had it --

4 MR. SALINAS: I mean we didn't have it until
5 right now.

6 MR. NWANERI: Right. He came in and dropped it
7 on our way to over here. And we did realize that the
8 amount was grossly, you know, cut from underwriting, but
9 it was based on information that was available at the time
10 it was underwritten.

11 And so, in addition, we are just asking for an
12 opportunity that, if the information they have submitted
13 meets the needs to go up on their credits, that the staff
14 has the ability to increase it at cost certification,
15 given the fact that this is a tax-exempt bond transaction.

16 MR. JONES: That's true.

17 All right. We have the motion on the table
18 that has been made and seconded to approve it as it was
19 presented at the \$856,000 figure.

20 MR. BREWER: But we -- I thought that was going
21 to be withdrawn.

22 MR. JONES: It has not been withdrawn.

23 MR. DAROSS: I haven't done it.

24 MR. JONES: The motion has been made, and it
25 has been seconded.

1 MR. DAROSS: I mean if the feeling is that we
2 ought to allow the staff the leeway to increase this
3 thing, the thing to do is to vote against the motion.

4 MR. JONES: That's correct.

5 MR. DAROSS: And that's -- even though I made
6 the motion, I'm going to vote against it.

7 MR. JONES: I understand. But we had to have
8 the motion to be able to --

9 MR. DAROSS: We had to have something to
10 discuss.

11 MR. JONES: Yes. We have the motion that has
12 been made and seconded. So --

13 MR. BREWER: Okay.

14 MR. JONES: -- let's vote on it unless there's
15 further discussion.

16 MR. BREWER: All right.

17 MR. JONES: All in favor of the motion, please
18 say aye.

19 MR. SALINAS: I will vote -- aye.

20 MS. SAENZ: Aye.

21 MR. JONES: There are two ayes. All opposed to
22 the motion, please say nay.

23 (A chorus of nays.)

24 MR. JONES: The nays carry.

25 MR. CONINE: Mr. Chairman, I'll make a motion

1 that we approve the Wildwood Branch Townhomes Limited
2 Partnership at the 856,163 level but allowing staff, based
3 on further input from the engineer, as well as cost
4 certifications, to allow the applicant to go up to
5 \$998,496.

6 MR. BREWER: I second it.

7 MR. JONES: The motion was made by Mr. Conine
8 and seconded by Mr. Brewer. Further discussion?

9 MR. SALINAS: We set a precedent here; so we
10 can do that on other items?

11 MR. BREWER: Yes.

12 MR. CONINE: We have done.

13 MR. BREWER: We've done it before.

14 MR. SALINAS: Oh, I know you've done it before.

15 But are we going to do it later? So I don't have any
16 problem with the motion, but, I think, sometime, somehow,
17 we just have to do -- what we get from the staff and then
18 change it in a matter of minutes in the board meeting. So
19 I just don't agree.

20 MR. JONES: I -- and I would echo the mayor's
21 comments. I think that --

22 MR. SALINAS: It's terrible.

23 MR. JONES: You know, I think

24 MR. SALINAS: I think this is the problem that
25 we've been having here and why we get in the media. We

1 just don't have our things together. Sometime, we're just
2 going to have to.

3 MR. CONINE: Let me, if I could, amend my
4 motion to make sure that all three branches of the staff
5 agree on the increased cost being allowed -- and the tax
6 credits -- including the underwriting department.

7 MR. JONES: Further discussion?

8 (Pause.)

9 MR. JONES: All in favor of the motion, please
10 say aye.

11 (A chorus of ayes.)

12 MR. JONES: All opposed, nay.

13 MR. SALINAS: Nay.

14 MS. SAENZ: Nay.

15 MR. JONES: The nays were Ms. Saenz and the
16 mayor. And the Chair will join in voting nay.

17 Which brings us to the Greens Road Apartments.

18 (Pause.)

19 MR. JONES: Is there a motion?

20 MR. BOGANY: I move that we accept the Greens
21 Road proposal.

22 MR. JONES: Okay.

23 MS. WILLIAMS: Second.

24 MR. JONES: A motion has been made and
25 seconded. Further discussion?

1 (Pause.)

2 MR. JONES: All in favor of the motion, please
3 say aye.

4 (A chorus of ayes.)

5 MR. JONES: All opposed, nay?

6 (No audible response.)

7 MR. JONES: The ayes have it.

8 Which brings us to the Park Row Apartments.

9 (Pause.)

10 MR. JONES: Is there a motion?

11 MR. CONINE: I move for approval.

12 MR. BOGANY: Second.

13 MR. JONES: A motion has been -- I think it was
14 Mr. Conine who made the motion.

15 MR. CONINE: Yes.

16 MR. JONES: And then it was seconded by Mr.
17 Bogany. Further discussion?

18 (Pause.)

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

21 (A chorus of ayes.)

22 MR. JONES: All opposed to the motion, please
23 say nay.

24 (No audible response.)

25 MR. JONES: The ayes have it. Motion carries.

1 Item 5(b) at this time --

2 MS. STINER: That has been pulled --

3 MR. JONES: It has been pulled?

4 MS. STINER: -- from the agenda, sir.

5 MR. JONES: Okay. Great.

6 Which brings us to Item 5(c). Mr. Smith would
7 like to comment on Item 5(c).

8 Mr. Smith?

9 MR. CONINE: Can -- do you mind if we have some
10 sort of resolution of whether or not it's appropriate to
11 be on the agenda or not?

12 MR. JONES: I will bring that up --

13 MR. CONINE: Before we --

14 MR. JONES: -- as soon as we have public
15 comment. I do think that we've always allowed everybody
16 to speak on anything they wanted to, whether it was on the
17 agenda properly or not. So --

18 MR. CONINE: I got you.

19 MR. JONES: -- I feel the obligation to allow
20 Mr. Smith to comment on it.

21 MR. CONINE: All right.

22 MR. SALINAS: Is this public comment?

23 MR. JONES: I then will --

24 MR. BREWER: Yes.

25 MR. JONES: Yes, this is public comment.

1 MR. SALINAS: Okay.

2 MR. BREWER: Yes.

3 MR. JONES: Mr. Smith was recognized, Mayor,
4 prior, and requested to defer it until this time.

5 But let me make sure that everybody understands
6 what the Chair is ruling here. I am not taking up the
7 issue about the agenda item being properly here; I'm just
8 merely allowing public comment to be reopened and
9 completed.

10 MR. CONINE: Okay.

11 MR. JONES: Thank you, Mr. Smith.

12 MR. SMITH: Okay. Thank you.

13 My name is Rowan Smith; I'm from Houston,
14 Texas, and I'm here to talk about the additional tax
15 credits that the board talked about at the -- that I
16 brought up for the El Pueblo Dorado Apartments in the --
17 in Pharr, Texas.

18 Now, in regards to -- these other items on the
19 agenda I don't know about, but in that meeting last month,
20 I submitted this documentation to the board, which
21 everyone reviewed. And it is -- my recollection of what
22 happened at that meeting was that the board had some
23 questions about it because it was in a Valley area and
24 there was quite a difference in tax credit amounts per
25 unit. That and --

1 MR. JONES: If you could -- I need to interrupt
2 for a second. We have a board member that's going to have
3 to leave and wants to look at another agenda item. I
4 promise I'll come right back to you --

5 MR. SMITH: Okay.

6 MR. JONES: -- but we're going to change our
7 agenda just for a second.

8 MR. SMITH: All right.

9 MR. JONES: And then we'll be right back to
10 you, sir. And I apologize.

11 MR. SMITH: Okay.

12 MR. JONES: If we could, I'd like to turn our
13 attention to Item 6 because we have a board member that's
14 having to leave. Let's do that before he leaves.

15 (Pause.)

16 MR. JONES: I would like to take up Item 6,
17 which is the presentation and discussion of a letter
18 requesting the attorney general's opinion. And I will do
19 that unless there's an objection from a board member.

20 There was -- I believe all of the board members
21 have received a copy of it now, but there was a letter
22 written by Ms. Stiner requesting an attorney general's
23 opinion concerning the Sunset legislation, Senate Bill
24 322, I believe. And that letter has caused a great deal
25 of concern on the part of the legislature.

1 I have asked Michael Lyttle, if he would --
2 he's our public information officer -- to summarize for me
3 the legislative reaction.

4 If you would, come down.

5 And I'll be -- I wanted to report on this to
6 all the board members because it has received some press.

7 And I have also received some comments from various
8 members of the legislature.

9 And I guess I'll summarize, Michael. And if
10 you want to go into more detail, please feel free to,
11 because I know you and I have both had conferences. And I
12 know Ms. Stiner has had conferences, and I'll turn it over
13 to her, too.

14 I have gotten or received inquiries about the
15 matter from the governor's office, I've received inquiries
16 about the matter from the lieutenant governor's office,
17 I've received inquiries about the matter and talked to
18 people from the speaker's office, and I have talked to,
19 also, legislators. And for that reason, I wanted to bring
20 it up before the board and make sure you all were aware of
21 it since it is something that has drawn a great deal of
22 attention.

23 I would say that the legislative reaction to
24 the letter as best I can term it --

25 And, Michael, if -- and I'm going to broad-

1 breast this and try to give broad statements.

2 The legislative reaction has been fairly
3 concerned. They have viewed it as maybe our department,
4 when they have looked at the Sunset legislation, instead
5 of moving forward and trying to cooperate with it and --
6 as opposed to that is us taking an aggressive stance
7 against certain parts of it. And there has been a lot of
8 concern about that.

9 The second concern about that that has been
10 expressed to me that I wanted to express to all of the
11 board members is -- I have been asked repeatedly what role
12 the board played with regard to that particular letter.
13 And I wanted to tell the board exactly what I have said.

14 And, in fact, I believe, each of you got a
15 letter yesterday from Senator Lucio, where he has asked
16 each of us, in writing, to state whether or not we knew of
17 the letter before it was sent. My plan is to do this: To
18 respond on behalf of the board as Chairman of the Board
19 that I, as Chairman of the Board, did not know of the
20 letter before it was sent.

21 I don't -- I've talked to a number of board
22 members, and I don't know of any board member that did.
23 So I assume that no board member did. And if that's
24 different, I really request that you all let me know,
25 because I plan to put that in a letter to Mr. -- Senator

1 Lucio. Senator Lucio also told me to request each board
2 member to respond to him in writing on that issue.

3 So there has been a great deal of concern
4 expressed to me that the board was not aware of the letter
5 before it was sent. And I have told them that the board
6 was not aware of the letter before it was sent.

7 With that, that's kind of the reaction I have
8 gotten. I would say that the legislature -- I think
9 that -- as we've gone through the Sunset process and then
10 as we've gone through the aftermath of it, I think, the
11 department has strived mightily to improve its
12 relationship with the legislature. I don't know that I
13 can say this has improved it.

14 I do think there are some real concerns that
15 have been raised that I thought the board needed to know
16 about, and I wanted to raise that to the board's
17 attention. So those are kind of my comments.

18 I guess, Michael, you know, you've gotten a lot
19 of responses from people, too. I'll give you the
20 opportunity to give them and give Ms. Stiner the
21 opportunity to address this issue.

22 MR. LYTTLE: Well, Mr. Chair, the responses
23 I've heard have been both from legislative staff as well
24 as members of the legislature and advocates.
25 Unfortunately, it has been universally negative with

1 regards to this letter. I have attempted in my role to
2 explain as best as I could understand the intent that Ms.
3 Stiner had, and I feel that it's only fair that, you know,
4 she should talk about that.

5 MR. JONES: Sure.

6 MR. LYTTLE: The two problems that at least
7 I've heard from these individuals have been: Number one,
8 that it appeared to them from their information that there
9 was a disconnect between the executive management of the
10 agency and the board of directors; and the second issue
11 they raised is their -- regardless of the noble intent of
12 the question, the perception of that letter has been that
13 we don't want to comply with S.B. 322. And that has
14 concerned a great many people that I've talked to.

15 MR. SALINAS: Can I ask -- is it okay to ask a
16 question?

17 MR. JONES: Sure.

18 MR. SALINAS: Is this a letter, or a request?

19 MR. LYTTLE: Well, I mean it -- we refer to it
20 as a letter, but my understanding is it was an actual
21 request to the attorney general's office for an opinion --

22 MR. SALINAS: And --

23 MR. LYTTLE: -- for them to make a legal --

24 MR. SALINAS: Don't they have to ask permission
25 from the board to ask for a legal opinion from the

1 attorney general's office? Isn't that the way it should
2 work: That if anybody on this board would like any
3 information from the AG, it should be done on a board item
4 and asked by who ever is going to ask for it for the
5 approval of the board?

6 MR. LYTTLE: Well --

7 MR. SALINAS: I mean --

8 MR. LYTTLE: -- I'm not in a position to
9 make --

10 MR. SALINAS: -- you refer to it as a letter,
11 Mr. Chairman, but -- is that a request for an attorney
12 general's opinion, or is it a letter?

13 MR. JONES: It's a request for an attorney
14 general's opinion --

15 MR. SALINAS: Okay.

16 MR. JONES: -- as what I've --

17 MR. SALINAS: Then we should address it as a
18 request from the AG's office --

19 MR. JONES: Okay.

20 MR. SALINAS: -- from --

21 And you're saying they want to know if it was
22 requested by this board?

23 MR. LYTTLE: "They," meaning the legislature?

24 MR. SALINAS: Well, whoever's asking the
25 questions about the request.

1 MR. JONES: The -- what transpired was: A
2 letter was written by Ms. Stiner to the attorney general's
3 office, requesting the attorney general's opinion as to
4 the constitutionality of our Sunset legislation and
5 certain provisions in it. And the act -- the questions
6 that I've received repeatedly were: Did the board know of
7 such a letter before it was sent and authorize it?

8 MR. BREWER: But haven't we had other opinions
9 asked of the attorney general's office on different
10 policies that have been signed by the executive director
11 without our input? I mean there are things that happen in
12 everyday business, so I'm just curious. I mean --

13 MR. CONINE: Yes.

14 MR. SMITH: The executive director does have
15 that power. I'm Paul Smith from Legal. And I do know
16 that the executive director has the power without the
17 board to --

18 MR. SALINAS: Then she should answer in saying,
19 Well, I did it on my own, and not on behalf of this board.

20 MR. BREWER: Well --

21 MR. SALINAS: I can tell you one thing that --

22 MS. STINER: Excuse me. That would be --

23 MR. SALINAS: I will tell you that --

24 MS. STINER: -- or appear --

25 MR. SALINAS: -- if I would like an opinion

1 from my county -- as an elected official of my county --
2 from our district attorney, I have to go through my
3 district attorney to get an attorney general's opinion
4 before I can get it myself.

5 I don't know that it was ever on the agenda for
6 us to question the legislature or if she has that right to
7 do it on her own, which is fine. But I think it's no
8 surprise to anybody that it was not on our board's agenda.

9 So now, you know, I just got confused between a letter
10 and a request for an opinion.

11 MR. JONES: And at this point, I recognize Ms.
12 Stiner.

13 MS. STINER: Thank you, Mr. Chair.

14 I -- let me -- before I go any further, let me
15 just tell you -- share with this board my just
16 astonishment that a staff member would get up and have
17 information to share with this board that hasn't been
18 shared with the executive director. And if he has been
19 instructed to do that, I'll take that as a direction by
20 this board, but I find that just to be astonishing.

21 If someone would have asked me, I would have
22 shared this with you before you did it here at this
23 session.

24 As I talked to you about this last week, Mr.
25 Jones, I went over with you -- which I want to go over

1 with the board right now -- what prompted me to seek an
2 opinion from the attorney general. But first, let me
3 respond to Mr. Salinas' question.

4 The executive director, under 23.06, has the
5 authority and the power granted to the executive director
6 to administer the day-to-day operations of the department.

7 And intrinsic in that, as Mr. Smith indicated, is the
8 authority to ask for an attorney general's opinion on
9 legislation that the department may want to have clarified
10 for purposes of running the department on a day-to-day
11 basis.

12 So, you know, if there's a further question on
13 authority, I think that could be pulled out more clearly
14 by the legal department and the attorney general's office.

15 So I just wanted to respond to that.

16 But Mr. Jones asked me this question some time
17 ago, and I have taken the opportunity to put some remarks
18 down in writing because I want to make sure this is part
19 of the record. He also alluded to the fact that, in
20 addition to himself -- and, I suspect, Mr. Lyttle --
21 having conversations with members of the legislature that
22 I have, too -- I've only had one conversation with
23 Representative Pete Gallego on yesterday, where I
24 explained to him what prompted this request.

25 It is not questioning the constitutionality of

1 SB 322; it's asking for clarification of two provisions of
2 322. And I'll get to that a little bit later. But I do
3 want to say we had that conversation, and he told me he
4 was offended by the -- by my requesting an opinion. I
5 apologized to him and said that it wasn't intended to
6 offend him.

7 So let me apologize to any other legislative
8 persons in this audience or that have queried the Chairman
9 or Mr. Lyttle on why the opinion was granted. It was not
10 intended to offend anyone.

11 So I want to make this very public before
12 everybody in this room, before God and before the State of
13 Texas: That I apologize if I offended and stepped on
14 anyone's toes.

15 But as executive director of the agency, I
16 think it was quite clear, as Mr. Brewer has indicated,
17 that there has never been a directive before or any
18 amendment to 23.06 to require that the executive director
19 seek authority from the board before asking for a legal
20 opinion from the attorney general. If that's the
21 direction of this board, I will be happy to comply with it
22 in the future -- or whoever happens to be sitting in the
23 seat of the executive director in the future.

24 I've heard several references here to, Today,
25 it's not a given that the board will be back. Well, it's

1 not a given that I'm going to be back, either. But I
2 think that it's important for whoever sits in this seat to
3 know clearly where their authority comes from to do their
4 job on a day-to-day basis.

5 So with that said, I would like to read into
6 the record what I shared with Rep. Gallego on yesterday
7 and what I hope to share with this board and what I
8 attempted to share with Mr. Jones on last week.

9 Unfortunately -- Paul is here from the legal
10 department, but the attorneys that I instructed to seek an
11 opinion are not here today for various reasons. So they
12 can't make themselves available to you to talk to you
13 about the discussions we had. So I'm not asking you to
14 accept my word on that; you can verify it with them
15 whenever they're back if you wish to pursue it further.

16 But let me just read this into the record,
17 please, for the purposes of this board and for all in
18 attendance and for the public and for purposes of this
19 record: "Senate Bill 322, as everyone knows, is the
20 Sunset legislation for the TDHCA. It added additional
21 revolving-door requirements for five TDHCA staff
22 positions; one of those is for the executive director of
23 the agency.

24 "With the exception of those five positions,
25 all other State of Texas employees must comply with the

1 revolving-door policy under the General Code at Chapter
2 572" -- and it's pretty clear -- I mean that has been
3 around forever -- how that law -- particular law is
4 applied -- "SB 322 provisions relating to the revolving
5 door for those five positions are relatively new.

6 "And what was not clear to me about the
7 additional revolving-door requirements of SB 322 was how
8 it would be enforced against me in particular, being the
9 executive director, and, even if I'm not here as the
10 executive director, whoever comes after me as the next
11 executive director for the next two years, and those four
12 other positions when the new law takes effect on September
13 1.

14 "My question to legal was: If any of those
15 five position-holders, specifically me, wanted to know how
16 to avoid criminal prosecution, since violation of the new
17 law is now a criminal offense, what could I look to or
18 what could they look to to provide an affirmative defense
19 against prosecution under SB 322; further, whether it was
20 me or the next executive director, how would the new
21 provisions impact my future employment in the State of
22 Texas or my ability to continue to make a living in the
23 area of housing, which has been my profession for the last
24 almost-30 years, since it does question and impact the
25 ability to continue making a living in that arena if you

1 want to do business with the State of Texas.

2 So since the answers to those questions could
3 not be provided to me by TDHCA legal staff and be relied
4 upon as an official legal opinion for the State of Texas,
5 I queried the Attorney General in the letter.

6 "Secondly, there was an ex parte provision
7 under SB 322, and the only thing that I asked to have done
8 was to seek clarification on how far reaching those
9 requirements would be for the TDHCA staff members
10 designated as members of that executive award and review
11 advisory committee.

12 "Since the designated members also have other
13 responsibilities in the TDHCA which require that they
14 communicate and interact with the developers and related
15 parties and applicants to the tax credit program on a
16 regular and ongoing basis, I wanted an opinion for each of
17 us, particularly me, as to how to limit my communication
18 with applicants so as to be in conformance with SB 322 and
19 their ability to keep carrying out their normal and
20 regular jobs.

21 "And in some cases specifically, I needed to
22 know if, before you accepted a telephone call during that
23 blackout period or a letter from any person during the
24 blackout period, you needed to have those persons
25 affirmatively certify that the person was not an applicant

1 or a related party of an applicant before I or any member
2 of that committee violated the ex parte rule.

3 "I felt that the ex parte rule as it applied to
4 these positions was a bit different from the ex parte in
5 the tax credit program that applied to the board members.

6 The board members, certainly with all due respect, don't
7 work in the department on a day-to-day basis. So they
8 wouldn't have the same kinds of challenges that those
9 position holders would have if a call came in and you
10 decided not to talk to them.

11 "But that was it. So the request to the
12 attorney general's office was to provide me as the
13 executive director of the department with some direction
14 so that everyone could be in conformance with those two
15 provisions of SB 322."

16 Again, I want to close with -- I have the
17 utmost respect for the legislators who work in the State
18 of Texas to develop laws. But as all of you know here in
19 the audience, and particularly those of you that are
20 lawyers, the laws are on the books, but it's the
21 implementation that kills you.

22 So I wanted to be sure that I was clear in
23 performing my job responsibilities. And even, as I said,
24 if I'm not here, the next person, I think it's important
25 that anyone coming into this position and working with

1 those persons so named would be clear on how to proceed
2 with implementing SB 322.

3 We're well underway with SB 322. Our Rep.
4 Gallego yesterday -- if what's needed is for me to visit
5 with everybody who has been offended personally and
6 apologize, I'll do that. But I think the fact remains
7 that this is the clarification that I was seeking. I have
8 the authority under the covered rules. I didn't see
9 anything in SB 322 to change that, either, to request that
10 this as the executive director of the agency.

11 But, again, if the directions are coming from
12 this board that the executive director of the agency,
13 regardless of who that is, whether it's me or someone
14 else, needs to seek the authority from this board to
15 request an attorney general's opinion, then that -- I have
16 no problems with it.

17 But I wanted to be sure I got my thoughts down
18 on the record because it has been told to me that this has
19 created a firestorm out in the general community. That's
20 very, very -- I regret that very much because it wasn't
21 meant to do that. The firestorm that was created by this
22 letter is in my opinion not responsive to the two narrow
23 questions that I asked in that particular letter.

24 I was also told that my conversation with Rep.
25 Gallego, who happens to be an attorney -- that the case

1 law and the arguments that were laid out were
2 overreaching. Again, I apologize for that. I asked the
3 attorneys to be very clear and narrowed it down to those
4 provisions. It seems as if that wasn't interpreted that
5 way. So, again, we -- I apologize for that.

6 But in terms of asking for those
7 clarifications, that's what I thought I had the authority
8 to do as the executive director. And those are the two
9 provisions that, regardless if it's me or whom ever comes
10 after me, we'll have problems with, particularly the one
11 is criminal if you violate it.

12 So thank you, Mr. Chair, for the opportunity to
13 speak to the board about that and to clarify that. And
14 I'll respond to any direction this board is wanting to
15 give me relative to that.

16 MR. BREWER: Mr. Chair, I have another
17 question.

18 I'd like to know from Mr. Smith: In regards to
19 the authority that has been given to the executive
20 director to seek an AG opinion, is that mandated by a --
21 the legislature, or by this board?

22 MR. SMITH: It's by the Government Code Section
23 23.06 --

24 MR. BREWER: Thank you.

25 MR. SMITH: -- the legislature.

1 MR. BREWER: Thank you. And --

2 MR. SALINAS: Did you know that, that that
3 was -- that she had the authority to ask on her own?

4 MR. JONES: Can I interrupt here because --

5 MR. BREWER: Yes.

6 MR. JONES: Mayor, if I could address this
7 question? The question has not been whether she had the
8 authority to do it or not. The question has been whether
9 this board supported the letter. And that's what the
10 legislators want to know.

11 MR. SALINAS: Well --

12 MR. JONES: And that's the question that has
13 been asked repeatedly by the legislators. And that's the
14 one I wanted to bring up today.

15 MR. SALINAS: Well, I think that Ms. Stiner
16 just answered that. She said that she took it on her own
17 to ask because she needed to get some advice from -- and
18 public information should have told the legislature that
19 she had done it on her own, as she -- like she told Mr.
20 Gallego, that she needed to clarify some items on the
21 bill, which makes it utterly -- the only answer would be
22 that Ms. Stiner is telling them that she did it on her
23 own.

24 MR. DAROSS: Mr. Chair?

25 MR. SALINAS: I didn't know about the so-called

1 letter or the attorney general's opinion, but I've gotten
2 several calls. But I haven't talked to anybody about it.

3 But I would think that if she has the authority to do
4 that, then, if the legislature wants to change it, they
5 need to go back in in the next session and change that --
6 or if this board has or the board that's coming has the
7 authority to do that.

8 I myself would agree that anybody that works
9 for the agency as an executive director should advise the
10 board before asking for an AG's opinion.

11 MR. BREWER: But I think we've got to be
12 careful --

13 MR. SALINAS: It's a --

14 I understand. But as a good working
15 relationship between the executive Director -- and I'm new
16 here -- and the board, it would be only logical to tell
17 the board what she was going to do and, of course, she had
18 the authority to do it and she was trying to take care of
19 some other problems that she was foreseeing coming for not
20 only herself but some other staff members -- which I don't
21 have any problems with.

22 But I think that the legislature or the --
23 Senator Lucio would have to be told that this was an
24 action done by Ms. Stiner on the way she just explained
25 here today. Or do we still have to write him a letter and

1 tell him that we had nothing to do with it?

2 MR. JONES: I have promised to write him a
3 letter because he asked that I confirm whatever I said in
4 writing.

5 Judge Daross?

6 MR. DAROSS: Yes. Mr. Chairman, it seems to me
7 that there are two different issues here. And first, let
8 me say that I'm not sure how Mr. Lyttle ended up in the
9 hot seat.

10 MR. LYTTLE: Yes. I'd like to know myself.

11 MR. JONES: Well -- and let me address --

12 MR. DAROSS: I don't think he has done anything
13 other than report to you --

14 MR. JONES: That's correct.

15 MR. DAROSS: -- what you asked him to report to
16 you --

17 MR. JONES: Right. And what --

18 MR. DAROSS: -- and what he has heard.

19 MR. JONES: Exactly what transpired is: I was
20 going to report to the board, because I felt I needed to,
21 the comments that I have received from the legislators. I
22 asked Mr. Lyttle to come up because I knew that he had
23 been receiving a lot of calls, too, which is --

24 MR. DAROSS: Which, in his position, you would
25 expect him to have.

1 MR. JONES: Right. And the only reason I know
2 that is because a number of people have said, "I want to
3 talk to the chairman of your board; who is that?" and Mr.
4 Lyttle has referred them to me and he has done me the
5 courtesy of telling me when I was going to get calls.

6 So I did it, though, thinking that he was
7 our -- you know, a public information purpose, that it was
8 good for him to give the reaction of what he has heard --
9 as well as good for me -- because I thought that would
10 give a more fair presentation to the board --

11 MR. DAROSS: Right.

12 MR. JONES: -- of what was going on.

13 MR. DAROSS: And, Mike, I would agree with
14 that.

15 MR. JONES: Okay.

16 MR. DAROSS: And I think he's been --

17 MR. JONES: And that's the reason I called him
18 up there.

19 MR. DAROSS: All right. The two issues that it
20 appears to me that this board should be considering at
21 this meeting: Number one -- well, first, let me back up
22 and say that although I am an employee of the Attorney
23 General, I am not in the opinion section, and I do not
24 purport to say that I know anything about how the opinions
25 division views these requests. So I'm going to ask the

1 official member of the Attorney General's office who is
2 here, Mr. Walker, to speak to that issue.

3 But the two questions are -- number one, what
4 authority does the executive director have under the law
5 to request an attorney general's opinion? And the second
6 one is: As a matter of policy and a matter of relations
7 with the board, what should the executive director have
8 done regardless of what the law says that person may do?

9 And I'd like Mr. Walker, if you could, to
10 address at least the first issue. I'm not sure if you can
11 speak to the second one; I think that's for our
12 consideration.

13 MR. WALKER: I've been asked to use the
14 microphone. So I'll --

15 MR. JONES: Okay. Sure.

16 MR. WALKER: -- trade chairs.

17 (Pause.)

18 MR. WALKER: For the record, my name is Don
19 Walker, and I'm an Assistant Attorney General. And I am
20 here as an Assistant Attorney General.

21 The process for requesting Attorney General's
22 opinions is set forth in the Government Code. It has a
23 list of certain persons who are authorized to request and
24 to whose request the Attorney General is authorized to
25 write an official opinion. One of those listed

1 individuals is the heads of all other state boards, which,
2 I think, would apply in this circumstance.

3 Our opinions division follows some treatment of
4 this issue from a 1984 Attorney General opinion, JM 149,
5 where they wrote that it has long been the policy of the
6 Attorney General's Office to accept requests submitted by
7 the secretary, the executive director or the executive
8 secretary of a board -- and this -- different boards have
9 different names for their chief operating officer or CEO
10 or whatever you want to call it, and that's why those are
11 the three there; they're not three people on the same
12 board -- to accept those requests on behalf of the
13 particular board, but the request should reflect that the
14 board desires the opinion.

15 In essence, I think the way I read this is that
16 the opinions committee will accept a request from an
17 executive director, but they want to have an idea that
18 that is within the desire of the board itself. And I
19 think that probably links to Judge Daross's second
20 question.

21 And I believe that, as Ms. Stiner had stated,
22 the executive director does have the authority under your
23 particular statute and in general to run the day-to-day
24 operations of the agency. And boards should not and
25 should not really want to micromanage an agency, and

1 that's consistent advice that we give to all of our
2 boards.

3 I think it's also within a board's authority to
4 set a policy procedure that deals with how this might be
5 done. If the board wants to know after the fact that an
6 opinion has been requested and asks for a copy to be sent
7 to the individual board members so they know what's going
8 on, I think they could do that.

9 If they would like to know ahead of time just
10 to get a copy of what the request will be so that, if they
11 had some input or some question among themselves or with
12 the executive director, they could do that. I would
13 suggest that going beyond that might -- as to whether it
14 violates the law is probably not a question that would
15 necessarily come up.

16 But in terms of just a practical matter in
17 dealing with the operation of an agency, it's probably
18 best to leave most of the details to the executive
19 director. So, hopefully, that has answered your question.

20 MR. DAROSS: It has. I take it that what
21 you're saying is that the opinions committee of the
22 attorney general's office views a request from an
23 executive director of an agency as essentially being the
24 voice of the board and as having the imprimatur of the
25 board in asking that -- for that opinion.

1 MR. WALKER: Yes, sir. I believe so.

2 MR. DAROSS: All right.

3 MR. WALKER: And if it happens that that later
4 turns out not to be, that could also be communicated to
5 the Attorney General's office, and it could be dealt with
6 appropriately.

7 MR. DAROSS: Thank you.

8 Now, that essentially sets up the second part
9 of my question, and that is: Whether in this particular
10 case on this particular issue with the particular
11 legislature that we've been dealing with over the last
12 year, the board should have been involved in, first,
13 deciding whether or not this letter should have been sent
14 at all.

15 And, second, after seeing the language of it --
16 I'm not saying that I want to second-guess the language,
17 but I have to agree with the members of the legislature
18 who have said that this letter was very confrontational in
19 nature. I mean it was basically saying, You people didn't
20 know what you were doing when you were writing this
21 legislation; rewrite it.

22 MR. JONES: And I do think that -- to be fair
23 to Ms. Stiner, it was not written by Ms. Stiner, it was
24 written by our Legal.

25 MR. DAROSS: Right. I --

1 MR. JONES: That's obvious.

2 MR. DAROSS: I understand that.

3 MR. SALINAS: Did you ever get an opinion back?

4 (Laughter.)

5 MR. WALKER: It takes a little longer than
6 that.

7 MR. BREWER: Yes.

8 MS. STINER: No, not yet.

9 MR. CONINE: I have a couple of things. I
10 heard Ms. Stiner suggest that -- whether or not she's here
11 or not, I guess she wanted to understand how the law
12 affected her. And I'm curious as to whether or not we
13 wouldn't seek our own outside counsel -- we'd bifurcate an
14 employee, versus a private citizen, and we'd seek our own
15 outside counsel relative to a private citizen, and we'd
16 ask the attorney general if we're an employee.

17 I don't know the rules relative to that. I'm
18 just asking that as a question.

19 MS. STINER: There's also a 50 percent chance
20 that I would be here. So I think that, in that sense, I'm
21 still a public employee.

22 MR. CONINE: Oh, sure. I mean I'm just -- but
23 I'm saying that the way you framed your statement, I
24 think, included the potential of you not being here.
25 And --

1 MS. STINER: Yes. That's --

2 MR. CONINE: And I think the letter was pretty
3 well written relative to the effect of questioning the
4 AG's office as an employee and not as a private citizen.

5 MS. STINER: Oh, yes, sir. And I thank you for
6 that. And I want to make that perfectly clear. It was
7 written from the -- my official capacity as being an
8 executive director the day I wrote that letter. So it was
9 not anticipated that I would ask for the attorney
10 general's opinion as a private citizen. So thank you.
11 I'd like very much to clarify that.

12 MR. CONINE: The other question I have is, I
13 guess, that -- you probably didn't do this in a vacuum,
14 that you consulted with potentially the four or five
15 employees that were also affected by the legislation. And
16 I'm curious as to when those discussions started and, I
17 guess, why they weren't in the July 19 letter that you
18 wrote to Mr. Jones and the rest of the board relative to
19 our response on Senate Bill 322.

20 It wasn't listed as something we were going to
21 go do. And I'm curious as to why that was left out of
22 this letter.

23 MS. STINER: Well, I -- let me clarify. Any
24 reference to the other four staff persons was only a
25 reference from a standpoint because of their names. I, as

1 the executive director, took the liberty of writing and
2 asking for an opinion because I, as the office holder, am
3 included in both of those provisions. So any opinion from
4 the attorney general's office would apply to them.

5 But, no, sir, I did not consult with them. I
6 was asking for the opinion strictly from the standpoint of
7 me being the office holder -- an office holder mentioned
8 in both of those provisions.

9 One director made an inquiry to the legal
10 department regarding ex parte. And, of course, she is
11 named as one of the other staffers on the executive awards
12 committee. But that was the only other staff person that
13 raised the question as to how they were to conduct
14 themselves in implementation of the ex parte rule.

15 MR. CONINE: When did you ask the general
16 counsel to start work on this? Because it was obviously
17 before the July 19 letter to the board, and -- because of
18 all the details that are in that, it had to be quite a bit
19 of time. And I'm just curious as to when the process
20 started.

21 MS. STINER: The process started as soon --
22 very closely on the heel of the law being passed.
23 Again -- I'm going to reiterate this because I want to be
24 sure that you are instructing me and you instruct the next
25 person who may come after me. It -- historically, I -- it

1 has never been a matter of getting permission from the
2 board to ask an attorney general's opinion.

3 I think what I got out of Mr. Walker's comments
4 to you is that if that's the policy of this board, then,
5 certainly, we need to embrace that. But when I did it, it
6 was not, and it did not enter into any of the discussions
7 I had: That a final, prerequisite check was to pass this
8 by the board.

9 MR. CONINE: And why it wasn't included in your
10 letter of July 19, when we had asked at the July -- the
11 way the letter starts off, you asked during the July 12
12 board meeting for a summary of our response to Senate Bill
13 322. And you --

14 MS. STINER: Right.

15 MR. CONINE: And you gave, you know, several
16 examples of things you were doing, but this letter wasn't
17 one of them.

18 MS. STINER: Well, I don't even recall what
19 you're referring to over there, but I don't -- I can't
20 tell you what my mind-set was then, but, if you'll give me
21 some time, I think I can remember it. But I don't know
22 if -- what my mind-set was when I wrote this and why it
23 wasn't one of the things that was -- I mean I didn't
24 represent what I was working on. There were dozens of
25 others that I was working on, too, that I didn't mention.

1 So to go back and try to determine what my
2 mind-set was on this particular day, I'm not able to tell
3 you. But I --

4 MR. CONINE: Well, I think our concern at the
5 July 12 board meeting was, Are we responding in an
6 appropriate manner to all the issues involved? And just,
7 you know, common sense was -- would tell you that in your
8 response, I would think, you would list out everything you
9 were going to do.

10 And if this was contemplated well before that,
11 which you're saying it was, right after the legislation
12 was passed, it seems to me that you should have included
13 it in the list of things we were going to do to comply
14 with Senate Bill 322 as a department.

15 MS. STINER: So -- common sense. So I'm stupid
16 and ugly?

17 MR. JONES: No.

18 MS. STINER: No.

19 MR. JONES: It's just common sense.

20 MS. STINER: No, it's not common sense. I
21 appreciate your observation, but it was not done. And I
22 don't know how to go back and fix that. And I don't know
23 how to go back and tell you what the mind-set was of not
24 including it and telling you.

25 At that time, we outlined for you several steps

1 we were taking to implement SB 322, and none of this was
2 untrue. Just by omission, that one wasn't put in there.
3 But I can't go back and tell you what my mind-set was.

4 It certainly -- and I hope this is not the
5 presumption and the inference: That it was meant to not
6 let the board know what I was doing and it was an opinion
7 as -- again, that I'll mislead this board. And I hope
8 that's not the assertion or inference, because I would
9 never do that.

10 I just since I've been in this position -- and,
11 again, I think the -- you know, again, I -- it is very,
12 very easy to continue to do things that you've done all
13 along. But I certainly am not resisting any instructions
14 from this board for future letters to the attorney
15 general -- and even for this one; if you want, I think Mr.
16 Walker referred that you have some leeway on this one if
17 you want to take some action.

18 So I'm certainly not resisting any of that.
19 But to go back and try to re-create what my mind-set was
20 on July 19, I'm not able to do that.

21 MR. CONINE: Well, I would -- Mr. Chairman, I
22 think I would be for retracting this particular letter.
23 If we've got to write a letter to the attorney general's
24 office -- all of us have to respond to at least one
25 senator, it sounds like -- because I haven't gotten the

1 letter yet. But we ought to withdraw the letter and maybe
2 reframe the issue a little differently.

3 Our General Counsel is not here on how she
4 particularly framed this letter, but I think we would want
5 to review any sort of constitutionality question on
6 anything this sensitive and that has been this sensitive.

7 It's just -- that's just common sense to me.

8 MR. DAROSS: If that's a motion, I'll second
9 it.

10 MR. BREWER: Yes. Well, I'd still like to
11 know --

12 MR. JONES: Mr. Walker --

13 MR. BREWER: -- about the legal on it.

14 MR. JONES: Mr. Walker, could I get you to
15 address something? I think, though -- and this is -- I'm
16 the one that put this on the board agenda, and I did not
17 anticipate action at the time I did it last week.

18 I put, "Presentation and discussion of letter
19 requesting Attorney General's opinion." And the reason I
20 put it there was that I wanted to make sure -- excuse me.

21 The reason I put it on the agenda is that I did not know
22 for sure that all -- at that time that all the board
23 members had received the letter. And I was getting so
24 many calls, I knew you all probably were, too. And I knew
25 that it needed to be discussed.

1 However, I did not put it as an action item.
2 So can we take action with it listed the way it is on the
3 agenda, Mr. Walker?

4 MR. WALKER: Well, I believe you can, Mr.
5 Chairman --

6 MR. JONES: Okay. Thank you.

7 MR. WALKER: -- because, at the very first part
8 of the agenda, it does say, The board will meet to
9 consider and possibly act on the following. So that
10 does --

11 MR. JONES: Thank you.

12 MR. WALKER: -- apply to all of the items.

13 MR. JONES: Thank you, Mr. Walker. I
14 appreciate it.

15 MR. SALINAS: My question is: Do you want to
16 reflect the opinion? I mean this is beyond our control
17 here. I'll make a motion.

18 MR. BREWER: Well --

19 MR. SALINAS: Do you think so? I mean --

20 MR. BREWER: -- how can we direct --

21 MR. SALINAS: -- she asked for it. And she has
22 the authority to do it. I mean I would think that we
23 should be asking her if she wants to do it or not.

24 MR. BREWER: Yes. I would --

25 MR. SALINAS: I wouldn't want to tell her by a

1 vote of this board to go ahead and retract her request.

2 I would think it would be entirely up to you
3 Ms. Stiner.

4 I -- that's my opinion.

5 MR. CONINE: Yes. I think my motion or my
6 comment was -- before it got converted into one was that
7 we reframe the issue in a little bit different manner
8 relative to the verbiage used to the attorney general's
9 office.

10 And I, for one, because of the sensitivity of
11 the Senate Bill 322, would love to see what -- the
12 language on this particular issue -- not all attorney
13 general opinion letters that are issued by this department
14 or any other, but on this particular issue, I'd like to
15 see us recraft and reword our wording and maybe even, you
16 know, get some outside counsel relative to some of the
17 issues that were raised in the letter.

18 MR. SALINAS: But if we didn't ask for an
19 opinion, how can we be asking to retract that opinion?

20 MR. CONINE: Well, we can retract it and ask it
21 again, I think. That's what I'm saying we do --
22 suggesting that we do. And again, I'm --

23 MR. SALINAS: I don't think this board has done
24 anything wrong.

25 MR. CONINE: No. I don't --

1 MR. SALINAS: We've asked for nothing from the
2 AG's office. She has the legal authority to ask --

3 MR. CONINE: Yes. But the executive director
4 responds or reports to the board. And --

5 MR. SALINAS: After she gets her opinion --

6 MR. CONINE: -- she has taken an action that
7 we're responding to.

8 MR. SALINAS: After she gets her opinion back.
9 Right? I didn't ask for it. So -- and I did not know of
10 it. I think that she already explained to us why she did
11 that.

12 MR. DAROSS: Well, I was not aware of it. I
13 did not ask for the letter to be written. And I'm very
14 uncomfortable with the language in which the letter was
15 written. And --

16 MR. BREWER: Well, I'm --

17 MR. DAROSS: -- I'm really uncomfortable --

18 MR. BREWER: -- uncomfortable with how that
19 senator got involved in it. I haven't seen his letter
20 yet. But if she asked an opinion of the attorney general,
21 how did the legislators get involved in it already, when
22 we don't even know about it?

23 MR. JONES: They were copied by the attorney
24 general's office when they acknowledged receipt of the
25 letter. Since it dealt with the Sunset legislation, I

1 believe the people that testified before that committee,
2 as well as all the legislators involved, were sent copies
3 of the letter acknowledging receipt of the letter by the
4 attorney general's office.

5 Is that correct? I mean that's what -- our
6 view of things.

7 MR. WALKER: Well, that wouldn't surprise me.
8 There's a very broad list of people who are given copies
9 of all of the requests made to the attorney general for
10 opinions, as well as a listing on our web site, as I
11 recall, of all of the letter requests that are made to the
12 attorney general's office.

13 So it's a matter of public knowledge, and there
14 is a specific list, as I understand it, of people to whom
15 notice is given of request letters. Now, that's not
16 anything that happened specifically because of this or in
17 relation to this letter request.

18 MR. JONES: The motion that I hear on the floor
19 that has been made by Mr. Conine, if I could restate it,
20 would be that legal be instructed to revise the letter and
21 bring it back to the board, whatever board may exist, at
22 the end of this month and present -- I mean there's no
23 reason why Ms. Stiner can't make a request for an opinion
24 and this board can't make a request for an opinion.

25 And to revise it and make a request for an

1 opinion after it had been approved by the board -- I mean
2 that's the motion that I hear --

3 MR. CONINE: Well, I --

4 MR. JONES: -- Mr. Conine making. So --

5 MR. CONINE: I had -- I guess I had the
6 retraction of the one that's in there currently --

7 MR. JONES: Okay.

8 MR. CONINE: -- as a portion of my motion.

9 MR. BREWER: Can we actually do that? If she
10 asks for an opinion and it's the law --

11 MR. SALINAS: Do we really want to ask for --

12 MR. BREWER: -- she can -- we can tell her to
13 withdraw it? Or --

14 (Pause.)

15 MR. JONES: I think this question is directed
16 to Mr. Walker from Mr. Brewer.

17 MR. WALKER: Yes. I believe the opinions group
18 would welcome some direction from the board. In terms of
19 whether it's legal for the board to withdraw it or for the
20 board to direct the executive director to withdraw it,
21 whichever way it chooses to do that or whether it wants to
22 do both, I think, the board has the authority to do that.

23 MR. SALINAS: Well, why do we want to include
24 ourselves in this, I mean, when we have not asked for it?

25 MR. WALKER: Well, the board is responsible --

1 MR. SALINAS: Are you asking us to do it? You
2 are our counsel. Right?

3 MR. WALKER: No. I --

4 MR. BREWER: No.

5 MR. WALKER: I'm from the Attorney General's
6 Office.

7 MR. BREWER: He's from the attorney
8 general's --

9 MR. SALINAS: I know. But he represents us?

10 MR. JONES: Yes. He represents the State of
11 Texas --

12 MR. SALINAS: And --

13 MR. JONES: -- which is us.

14 MR. SALINAS: -- which is us.

15 So what are you recommending to us to do?

16 MR. DAROSS: Well, he's not recommending
17 anything. What -- we're making a motion here --

18 MR. SALINAS: Well, I think that it's clear
19 that we had nothing to do with the request. If that's the
20 message that we want to send all the legislature, that we
21 had nothing to do with it, then make the motion.

22 MR. CONINE: That -- it's clear at this
23 meeting.

24 MR. SALINAS: Because we had nothing to do
25 with --

1 MR. CONINE: It's not clear at the attorney
2 general's office, though.

3 MR. BREWER: Well, it will be when Lucio --
4 Sen. Lucio gets our letters. Right?

5 MR. CONINE: No.

6 MR. BREWER: Well, I --

7 MR. CONINE: It's not going to the attorney
8 general.

9 MR. BREWER: Well, I'll courtesy-copy him, I
10 mean. If you all send them to him, I can send one to Sen.
11 Lucio, I mean, if it will help.

12 MR. WALKER: Well, if I may --

13 Yes, sir?

14 MR. BOGANY: You know, I don't understand why
15 we just -- the letter that Ms. Stiner talked to Mr.
16 Gallego about -- why she just can't copy everybody in the
17 legislature on that letter and -- because it's basically
18 stating what she said. Now, I read the letter myself, and
19 I didn't get what she said; I get what you guys got out of
20 the letter. But she has just now clarified what she
21 meant.

22 And Chairman Jones just said that legal counsel
23 wrote the letter. And so why can't she just take what she
24 has written and just have it copied out to everyone?

25 MR. SALINAS: Where's our legal counsel?

1 MR. CONINE: He left.

2 MR. SALINAS: Well --

3 MR. DAROSS: She's not here today.

4 MR. SALINAS: See, that's another problem, you
5 know. We hire legal counsel, and then they don't show up.

6 (Laughter.)

7 MR. JONES: They're entitled --

8 MR. DAROSS: They're entitled to vacation.

9 MS. STINER: One took a daughter to college.

10 And so I think that's -- you know, you've got to let them
11 do that. And the other one had scheduled vacation before
12 this board date, and couldn't withdraw, because the state
13 just doesn't have the luxury of reimbursing dollars that
14 they've spent.

15 So it is a little odd for neither one of them
16 to be here, but I apologize for that, Mr. Salinas. Mr.
17 Smith, who's here, works for them, but he's not the --
18 either of the attorneys that assisted with us.

19 MR. SALINAS: Well, we're in the hell of a
20 shape.

21 MR. BREWER: Yes.

22 MR. SALINAS: We're in the hell of a shape.
23 Well, we travel 500 miles to get there, and then we don't
24 have our counsel here when we have a mess here about an
25 opinion.

1 MR. BREWER: And we put Mr. Walker on the
2 spot --

3 MR. SALINAS: And she has the right to ask.
4 And now we want to make a motion to retract it? Or -- all
5 I think we should do is just send a message to the
6 legislature that we had nothing to do with the opinion.

7 MR. CONINE: I think the board would send a
8 tremendous message to everyone involved if we retracted
9 the letter, recrafted it, got our approval and then sent
10 it again.

11 MR. SALINAS: Would you want to do that, Ms.
12 Stiner? I mean you are the executive director. Would you
13 want to do that? Would you accept an amendment to your
14 request?

15 MS. STINER: I most certainly would, Mr.
16 Salinas.

17 MR. SALINAS: Okay.

18 If that's the case, then let's get it done.

19 MR. JONES: All right. So we have a motion by
20 Mr. Conine, and he stated it well, I believe. Ms. Saenz,
21 I believe, seconded it.

22 MS. WILLIAMS: Do we have a quorum?

23 MR. JONES: Did I hear that right?

24 MR. CONINE: Yes. We've got five.

25 MS. WILLIAMS: Do we have a quorum?

1 MR. JONES: Yes, we do. We have a quorum.

2 MR. SALINAS: Okay. So what is the amendment
3 to the request for the attorney general's opinion?

4 MR. JONES: Okay.

5 But why don't you state your motion again, Mr.
6 Conine?

7 MR. CONINE: To ask the executive director to
8 retract the letter from the Attorney General's office and
9 to -- for the board to have a chance to review the
10 rewritten letter requesting the items that the executive
11 director asked for an opinion on at our next board
12 meeting.

13 MS. WILLIAMS: I second.

14 (Pause.)

15 MR. JONES: It has been seconded by Ms.
16 Williams. I'm sorry about that.

17 MR. SALINAS: This is discussion?

18 MR. JONES: Discussion, yes, sir.

19 MR. SALINAS: Ms. Stiner, do you have any
20 problems with that?

21 MS. STINER: What I'm going to suggest is
22 that -- as Mr. Conine has said, the legal people aren't
23 here -- who will be drafting the letter. Of all the
24 things I am, I'm not an attorney. So I'm going to let
25 them draft it and get it back to this board. I don't know

1 the procedures you'll go through. We'll consult with the
2 attorney general and see how you retract an opinion --

3 MR. SALINAS: The only one that would --

4 MS. STINER: -- and substitute it for another.

5 MR. SALINAS: The only one that would be able
6 to have this motion completed would be you -- that you are
7 willing to do what Mr. Conine is wanting us to do.

8 MS. STINER: Oh, yes, sir.

9 MR. SALINAS: You are?

10 MS. STINER: By all means. I've been directed
11 by the board to do that. I'll most happily comply.

12 MR. SALINAS: But it -- okay. Well, there you
13 go.

14 MR. BREWER: Well, are we --

15 MR. JONES: All right. We have a motion then
16 on the table that has been seconded. Any further
17 discussion?

18 MS. WILLIAMS: Mr. Jones?

19 MR. JONES: Yes?

20 MS. WILLIAMS: I'd just like to say for the
21 record that I really feel that the attorney general's
22 office does want some sort of direction from this board,
23 and I think we should give it.

24 MR. JONES: Okay.

25 MR. SALINAS: Well, she should give us -- he

1 should give us a recommendation.

2 MR. JONES: All right. We've had a motion that
3 has been seconded, and we've had discussion. Any further
4 discussion?

5 (Pause.)

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

9 (A chorus of ayes.)

10 MR. JONES: All opposed to the motion, say nay.

11 (No audible response.)

12 MR. JONES: The motion carries. Thank you, so
13 much.

14 Now, I'm sorry for that interruption, Mr.
15 Smith.

16 MR. SMITH: Okay. I will make mine --

17 MR. JONES: Here you go again.

18 MR. SMITH: -- real brief now.

19 MR. JONES: Great.

20 MR. SMITH: But let me just -- I'm going to --
21 this is my understanding of what happened at the last
22 board meeting, just to be real frank with you. I got up
23 and I made a presentation to the board about the tax
24 credits being cut on El Pueblo Dorado Apartments.

25 The board had some conversations with Cherno

1 about whether or not, you know, they could put -- was
2 there some funds available to do that. And Chernob said
3 there might be. And he said that he would get with us
4 and -- get with me and the staff and try to work it out --
5 something out for the next meeting. So that's what I did,
6 and I put together the presentation based on that.

7 All right. I mentioned at the last meeting
8 that I had some updated current construction costs on the
9 project that we're building right now in Donna, Texas, the
10 Amistad Apartments. It was a 2000 allocation. It's 90
11 percent complete, 35 percent occupied. And it cost --
12 according to this front letter on the first page, it cost
13 \$53.83 a square foot to build. I have a computerized cost
14 report that shows that.

15 The tax credit allocation that we asked for for
16 El Pueblo Dorado is \$52.02. It's a little bit over what
17 the legislated amount is; according to the QAP, the
18 maximum amount is \$52 a square foot.

19 So it's -- we know it's going to cost us more
20 than what -- the maximum that the TDHCA allows for
21 construction costs down in the Valley, because you've got
22 to bring a lot of imported, high-skilled labor down into
23 that region. That's why it's one of the -- it's
24 considered a difficult development area by HUD, you know,
25 in that area.

1 So we are asking that baaed on what the board's
2 action was last week -- last month on this particular
3 project -- all these other ones I don't know about, but,
4 on this one, it's of record in the record that we did make
5 mention of this project in the last board meeting. I'm
6 requesting that the board grant the project its tax
7 credits back.

8 Now let me just say another thing so that we
9 can get the project built. At cost certification, when
10 the project is completed and we go through a cost
11 certification process with an auditor on the use of the
12 tax credits -- okay -- on the whole cost to the project,
13 the eligible basis -- if there's a gap in there because
14 interest rates have fallen or gone up or a tax credit
15 equity has gone up or come down, or -- whatever the
16 requirements are of financing, if there's a gap in there,
17 they do a gap analysis and, if there's any credits that
18 need to be returned, we have to return those credits.

19 So what we're trying to do is build, you know,
20 some housing -- needed housing in the Valley. I know what
21 the costs are. I've done a thousand units in the Rio
22 Grande Valley. I've built them under my own construction
23 company, and we know the construction costs.

24 And compared to all the other -- a lot --
25 several other tax credit projects that were granted tax

1 credits -- I'll go down the list, because we have a list
2 here. Timber Ridge, between 7,900 credits a unit to
3 11,486 units of -- credits per unit have been granted by
4 the same staff that has cut the credits on our project.

5 Now, our project, El Pueblo Dorado, is -- has
6 received 6,709. We requested 7,400 or -- \$7,345 in
7 credit. That's not much. But it's a lot because that
8 difference in credits cuts out of the construction budget
9 \$700,000. I can't make that up, you know.

10 So that's my request.

11 MR. JONES: Thank you, Mr. Smith.

12 MR. SMITH: Okay.

13 MR. JONES: Any questions?

14 (Pause.)

15 MR. JONES: Okay. I -- the Chair is going to
16 make a ruling, but I do want the board members to know
17 what ruling I've made and tell you basically the -- how
18 I've dealt with these situations at past board meetings.

19 After public comment has been closed -- and it
20 was closed several hours ago -- just a minute ago, as we
21 started discussing this item, I've received three witness
22 affirmation forms of witnesses that want to speak with
23 regard to these tax credit items.

24 Once we start a debate on something, unless I
25 have allowed somebody to delay their comments, I have

1 closed public comment and not allowed additional public
2 comment unless a board member had a question that he
3 wanted somebody to address. And then I've let them speak.

4 I will continue to follow that process now,
5 since public comment was closed several hours ago, unless
6 there's a board member that would like to hear them speak;
7 if there is, I will open public comment once again.

8 MR. SALINAS: How many people are requesting?

9 MR. JONES: Three.

10 MR. SALINAS: Three? Well, if we gave Mr. --
11 if we gave one an opportunity, I would think that --

12 MR. JONES: No. I did not. He -- during
13 public comment, he came, and he wanted to speak --

14 MR. SALINAS: But he was the only one that
15 asked?

16 MR. JONES: Yes. He was the only one that
17 asked, and he delayed his comments until the agenda item.

18 And I allowed him to do that. These people, after public
19 comment has been closed, are now asking to speak. If any
20 board member would like to hear them speak, I will allow
21 it; if not, we will move forward.

22 (Pause.)

23 MR. JONES: Okay. Public comment will remain
24 closed. We are on Item 5(c).

25 Ms. Stiner?

1 And I do think, also, we have an issue that Mr.
2 Conine wants to raise as to whether or not we should
3 address this.

4 Mr. Conine?

5 MR. CONINE: Again, as I stated earlier during
6 the public comment, that -- I thought that we had a
7 statutory requirement in the QAP to resolve these issues
8 by July 31. I have since gone back and reviewed the
9 minutes that we approved a few minutes ago.

10 And on page 8 in, roughly, the middle
11 paragraph, it said that -- says, "Mr. Bogany stated that
12 the department staff looked at these particular projects.

13 If staff feels that these projects are going to need more
14 credits to make them work better, that the board is
15 micromanaging. He asked the staff to provide answers as
16 to why they recommended additional credits for some
17 projects."

18 So there's no -- in my interpretation of that
19 particular paragraph, there's no particular invitation to
20 come back.

21 Secondly, I was provided with some comments
22 directly from the court reporting which Mr. Njie was
23 quoted in here by saying when he was addressing the board,
24 saying that, "Hopefully, we can in the coming month or so
25 see if there are additional ways we can make those

1 projects a little bit more whole in terms of the credits
2 that were reduced.

3 "We recognize the points raised by Rowan Smith
4 regarding the lower rents in the Valley and the need for
5 more equity to be able to finance the projects. So we
6 don't want to handicap a project from the get-go. So we
7 will pray to the board to go ahead and look at those
8 projects again with the intention of adjusting the credits
9 upward."

10 Now, that was a statement by Mr. Njie. I don't
11 think there was any board action that either agreed with
12 that statement or asked them to come back, simply because,
13 as the rest of the meeting went forward, we read specific
14 numbers off specific lists, and they were entered into the
15 record, and they were approved.

16 Thirdly, I'd mention that under Agenda Item
17 2(e) -- I guess it is -- relative to the appeals policy,
18 which -- you know, I kind of get a hunch that this is what
19 this is, an appeal. In the fourth paragraph it says -- in
20 our report that we received earlier -- "As a result of
21 Senate Bill 322, the Low-income Housing Tax Credit portion
22 of the appeals process has been removed from the agency's
23 proposed appeals process policy.

24 "The Low-income Tax Credit Program, in
25 accordance with the requirement in Senate Bill 322, will

1 include its prescribed appeals process in the rules as a
2 part of the program's QAP. The QAP is the process used
3 for rules in the Low-income Housing Tax Credit Program,
4 and the QAP will be revised this fall and must be approved
5 by the governor December 1, 2001."

6 Aside from all -- aside from whether or not we
7 have the authority to even go back and do that, I just
8 think it sets a terrible precedent to come back and come
9 back and come back. And I need some help --

10 MR. SALINAS: And --

11 MR. CONINE: -- with that ruling.

12 MR. SALINAS: I agree with you about us coming
13 back and back, like we just did about an item ago -- on
14 another item that we had. And I said, We're going to set
15 a precedent.

16 My only question here is on -- and I agree with
17 you on coming back.

18 The only thing is that the treatment the South
19 Texas, or 8B, region has gotten for -- as far as I see it
20 on El Pueblo Dorado -- these tax credits is 67.09 per
21 unit --

22 Is that per unit, Mr. Smith?

23 MR. SMITH: Yes.

24 MR. SALINAS: While we have people and you have
25 other areas for 11,486, where you have a need that is

1 greater than in any other part of the state in 8B. I
2 think we were accommodated something like \$5.5 million,
3 and we only appropriated 4.3-.

4 My question was: Why were we shortchanged by a
5 million? Or am I wrong? I mean why do we have projects
6 in our area that are rated at a 72 the last time and areas
7 that were rated at 66 and got funded -- and monies pulled
8 away from 8B for a portion of the rest of the state?

9 One of the -- then, of course, you might have
10 some price for labor, but you also are -- we are known to
11 be cheap labor. But I don't think that should be an
12 excuse for the people that are getting involved in doing
13 these kinds of buildings. I think you all have an effort
14 in South Texas of groups that are saying that you have to
15 pay not only the minimum wage, but it's always -- now up
16 to about \$8 an hour.

17 I see the request from El Pueblo Dorado. And I
18 don't know Mr. Smith at all. But I think that it's only
19 fair that I say this because -- on behalf of this area
20 which -- I know that I represent the whole state, but I
21 also would like the people on this board to look at the
22 need and the necessity that we have in South Texas.

23 Now, we also would like to put people in --
24 first-time home buyers in homes better than doing all
25 this. But I think there is a request here. And I would

1 like for Mr. Njie to --

2 Are you recommending that these tax credits be
3 changed? Or why wasn't that done before or why do we have
4 to be here today --

5 MR. CONINE: Can we resolve the issue of
6 whether it should be on the agenda or not before we get
7 into specific cases?

8 MR. JONES: The board will entertain any
9 motion. It's obviously on the agenda. I mean so it is on
10 the agenda. There could be a motion that it be taken off
11 the agenda and that we not act on it.

12 MR. CONINE: I'm --

13 MR. SALINAS: Well --

14 MR. CONINE: Then I make that motion, just to
15 get the thing going. I move that we remove Item 5(c) from
16 the agenda and not deal with any of these issues relative
17 to what it says in our QAP.

18 MR. SALINAS: Well, why was it put on the
19 agenda to begin with? And why didn't we --

20 MR. DAROSS: Well --

21 MR. SALINAS: -- take action on it before?

22 MR. DAROSS: I'll second the motion, but it --
23 I'm not sure that we need a motion of what -- your
24 position is that we had a deadline of July 31 to vote on
25 tax credit allocations. That deadline has passed.

1 Therefore we can't vote on anything more legally.

2 MR. CONINE: That's the --

3 MR. DAROSS: Isn't that the position?

4 MR. CONINE: -- the instruction of -- and I'm
5 doing it from a real weak position, because I don't have
6 legal counsel here to tell me.

7 MR. JONES: Yes.

8 MR. SALINAS: Well, that's another --

9 MS. STINER: Well, let me --

10 MR. SALINAS: That's another problem.

11 MR. JONES: Ms. Stiner?

12 MS. STINER: May I respond to --

13 MR. JONES: Yes, you may.

14 MS. STINER: -- it? Legal is not here.

15 MR. BREWER: No.

16 MR. JONES: Ms. Stiner?

17 MS. STINER: The QAP requires that the tax
18 credits be allocated by July 31. The -- it does not
19 anticipate that, if credits become available, you can't
20 adjust developments as you move forward.

21 The reason it's on the agenda? Because of --
22 the same provision, Mr. Conine, that you read and
23 concluded from that we were weren't instructed to come
24 back to the board we understood as instruction to come
25 back to the board. And there was no vote on it, but

1 those -- that's what we understood. So that's how it came
2 on the agenda.

3 MR. CONINE: That suggestion came from staff,
4 though, not the board.

5 MS. STINER: I understand that. But the board
6 didn't say not to or didn't say to. And that's why we
7 came back with it as -- again. I mean --

8 MR. CONINE: Well --

9 MR. SALINAS: But nobody has answered the
10 question about why the tax credits are lower for the
11 people in South Texas than it is for San Antonio and
12 Houston and everybody else. Can you answer that question?

13 MS. STINER: I --

14 MR. SALINAS: I mean --

15 MS. STINER: Excuse me.

16 MR. SALINAS: -- this is for my information.

17 MS. STINER: Oh, sure. I understand, Mayor
18 Salinas.

19 May I, Mr. Chairman?

20 MR. JONES: Yes, please do.

21 MS. STINER: Mr. Njie is not here today. Mr.
22 Nwaneri did not respond to the letter. So I don't know
23 that he has all of the -- I know that Mr. Njie laid out
24 for you all of the various aspects of why it happened.
25 I'm not sure. Because I don't mean to speak for you

1 but --

2 MR. JONES: Ms. Stiner, would you like to speak
3 to that?

4 MS. STINER: No. I don't --

5 MR. JONES: Okay.

6 MS. STINER: -- have the letter here, either.

7 MR. JONES: Okay.

8 MS. STINER: I mean there were various reasons.
9 Tom is here. To -- I see him motioning. Tom Gouris, who
10 is the chief underwriter, perhaps can speak to that.

11 MS. STINER: Thank you, Tom.

12 MR. GOURIS: Thank you.

13 To the extent -- I'm Tom Gouris, Director of
14 Credit Underwriting. I think I can speak to why the
15 amount of the cost of projects are -- as proposed are
16 less -- as underwritten are less in the border region.
17 And that's because -- we use a costing service called
18 Marshall and Swift, and, you know, it's -- they have
19 multipliers for each subregion of the state and for
20 various cities.

21 And in this particular region, they have a
22 lower multiplier to use to confirm -- to help us confirm
23 the cost of a project. And it -- I looked at it
24 yesterday. And compared to the Dallas area, for example,
25 it's -- Hidalgo and Cameron Counties are about an 11

1 percent difference.

2 MR. SALINAS: Well, I don't think they're
3 right.

4 MR. GOURIS: I --

5 MR. JONES: All right. We then have a motion
6 on the floor, and it has been seconded.

7 MR. CONINE: Yes. Let me add to the discussion
8 on the motion. I --

9 MR. JONES: Thank you.

10 MR. CONINE: I don't believe that postponing
11 this for a month or not doing it at all until we get -- at
12 least get some letter of opinion on what we have here
13 today is going to make or break any of these projects.
14 They all are in their current designing plans. I mean we
15 have problems with projects not getting started a year-
16 and-a-half later after they get the credits. So --

17 MR. SALINAS: And then they get the tax credits
18 all over again.

19 MR. CONINE: Right. So I don't think --

20 MR. SALINAS: I mean I don't mind --

21 MR. CONINE: I don't think getting --

22 MR. SALINAS: -- if we fix the problem, but
23 let's go ahead and fix it.

24 MR. CONINE: I don't think getting an
25 appropriate response to my fellow board members is going

1 to in any way jeopardize any of these projects.

2 MR. JONES: Okay. We have a motion on the
3 floor; it has been made and seconded. Are we ready to
4 vote, or further discussion?

5 (Pause.)

6 MR. JONES: Hearing no discussion, I assume
7 we're ready to vote. All in favor of the motion, please
8 say aye.

9 (A chorus of ayes.)

10 MR. JONES: All opposed, nay?

11 MR. SALINAS: I will vote against the motion.

12 MR. JONES: Okay.

13 The motion carries. The ayes have it. We will
14 not act on Item 5(c).

15 Now Item 7 is, I believe, the next item on our
16 agenda, which is, Consideration and and possible action on
17 posting the position of the executive director of the
18 Texas Department of Housing and Community Affairs.

19 I had been contacted by the governor's office,
20 saying that in light of the legislation we have pending
21 that Ms. Stiner has referred to, the new board -- not us,
22 another board -- will move forward and hire an executive
23 director under that legislation.

24 They asked me some time ago if our board would
25 move forward and help in that process by going ahead and

1 posting the position -- and, in fact, there was even some
2 discussion about interviewing -- so that the new board
3 would be ready to move forward on that issue.

4 I told them that, obviously, our board did not
5 want to do anything to usurp any function of the next
6 board and were wanting to comply in every respect with the
7 Sunset legislation and with its intent, as well as its
8 letter, and said that we probably wouldn't feel
9 comfortable with doing anything beyond the fact that we
10 would be happy to post the position so that applications
11 could be received and a pool of applicants could be
12 established for the new board to move forward with when
13 they were in place.

14 I discussed this with Ms. Stiner some time ago.

15 And, you know, the question came up based upon an opinion
16 from our legal department, which was that we could not
17 post a position that was not open. I reported that to the
18 governor's office and told them that our legal had told me
19 that we could not post the position because it was not
20 open.

21 That issue has now been addressed by the
22 attorney general's office, as well as by the governor's
23 general counsel's office. And they have both told me that
24 they believe we can post the position so that an applicant
25 pool can be established for the next board.

1 So that brings us to Item 7. And, certainly,
2 everybody needs to understand that there's no prohibition
3 whatsoever from Ms. Stiner applying for the job and being
4 the next executive director, in my opinion. I'm not
5 trying to interpret the statute, but there's no reason
6 that that can't be done.

7 But it does contemplate that the new board will
8 hire an executive director when you read the legislation.

9 So this is in an effort to conform with that legislation.

10 MR. CONINE: What are the details on posting a
11 job such as this? Is it any different than what we do
12 on -- you know, because I get the letters where -- we've
13 got a little posting letter for various positions. Is
14 there anything different from what we do normally?

15 MS. STINER: I think this is new territory for
16 this board because the executive director here to date has
17 been a gubernatorial appointee. And when I was hired, it
18 was not relative to any posting. So we'll have to try to
19 figure out how from a board level the posting would be
20 handled. We have no history on that from that
21 perspective.

22 MR. CONINE: So, Mike, are you -- Mr. Chairman,
23 are you comfortable with the mechanics of posting it at
24 this point?

25 MR. JONES: Yes. And the mechanics of it that

1 I would suggest is that we have the Secretary to the board
2 help us with it, working with the general counsel's office
3 of the governor, as well as with the attorney general's
4 office, because that's the only avenue I have in order to
5 accomplish this.

6 And all I'm trying to do is do an administerial
7 act that's going to further the wishes of the executive
8 branch of government, that we just move forward on behalf
9 of a new board and get them an applicant pool started.

10 MR. DAROSS: Do we need a motion?

11 MR. JONES: I think I would prefer it that we
12 do. I think this has been listed as an agenda for action.

13 And if we're going to do this, I would like to have the
14 approval of the board.

15 MR. DAROSS: Well, I move --

16 MS. WILLIAMS: So move.

17 MR. DAROSS: -- that we post it.

18 MR. JONES: Okay. The motion was made by Ms.
19 Saenz --

20 MS. WILLIAMS: Ms. Williams.

21 MR. JONES: It was made by Ms. Williams --

22 Excuse me. It has been a long day.

23 MS. SAENZ: Second.

24 MR. JONES: It's seconded by Ms. Saenz.
25 Further discussion on the motion?

1 MR. SALINAS: The AG's -- are we on the right
2 track here by posting the position? I mean, being that we
3 don't have our legal counsel here, you're the next in
4 line. So are we on the right track here by doing this?

5 MR. WALKER: This is within the Board's
6 authority, yes, sir.

7 MR. SALINAS: Okay.

8 MR. WALKER: I would note the agenda item
9 references, "Selection of an executive director by the
10 Board to be appointed by the Governor." That should be,
11 "To be approved by the Governor." The statute requires --

12 MR. BREWER: Right.

13 MR. WALKER: -- the governor's approval, and
14 not appointment.

15 MR. JONES: Well, I guess it's unartfully
16 worded. It was referring -- that, "To be appointed," was
17 referring to the new Board to be appointed by the
18 governor.

19 MR. WALKER: Oh, yes. Okay.

20 MR. JONES: Okay.

21 MR. WALKER: Thank you.

22 MR. JONES: It's very unartfully worded. I
23 wonder who did that.

24 (Laughter.)

25 MR. JONES: Okay? All right.

1 Okay. Well, we have a motion on the floor, and
2 it has been seconded. Is there any further discussion of
3 it?

4 (Pause.)

5 MR. JONES: Hearing none, are we ready to vote?
6 All in favor of the motion, please say aye.

7 (A chorus of ayes.)

8 MR. JONES: All opposed to the motion, please
9 say nay.

10 (No audible response.)

11 MR. JONES: The motion carries.

12 Our next item is the executive director's
13 report.

14 MS. STINER: I don't have anything to report,
15 Mr. Chair.

16 MR. JONES: Okay.

17 And the next item would be the executive
18 session of the Board.

19 Okay. On this, the 21st Day of August, 2001,
20 at a regular Board meeting of the Texas Department of
21 Housing and Community Affairs held in Austin, Texas, the
22 board of directors adjourned into a closed executive
23 session as evidenced by the following opening announcement
24 by Presiding Officer: "The board of directors will begin
25 its Executive Session August 21, 2001 at 4:12 p.m.

1 "The subject matter of this Executive Session
2 deliberation is as follows: Personnel matters; number
3 two, consultation with attorneys concerning pending
4 litigation, Cause Number GN102420, the Encinas Group of
5 Texas and William Encinas versus the Texas Department of
6 Housing and Community Affairs, et al., in the 53rd
7 Judicial District Court of Travis County."

8 And at this point, we will go into executive
9 session on those matters.

10 (Whereupon, at 4:12 p.m., the Board met in
11 closed, Executive Session.)

12 MR. JONES: I'll call this back into session.
13 We're back into an open meeting.

14 I hereby certify that an Executive Session of
15 the Texas Department of Housing and Community Affairs, was
16 properly authorized pursuant to Section 551.103 of the
17 Texas Government Code and posted with the Secretary of
18 State's Office seven days prior to the meeting pursuant to
19 551.0044 of the Texas Government Code and that all members
20 of the board of directors were present, with the exception
21 of Mr. Shadrick Bogany, Mr. James Daross and Mr. Vidal
22 Gonzales, and that this is a true and correct record of
23 the proceedings pursuant to the Texas Open Meetings Act,
24 Chapter 551, Texas Government Code.

25 The subject matter of this executive

1 deliberation was as follows. Personnel matters: Action
2 taken, none.

3 THE REPORTER: Your microphone's not on. I'm
4 sorry.

5 MR. JONES: I'm sorry. Do you want me to start
6 all over again?

7 MR. CONINE: No.

8 MS. WILLIAMS: No.

9 (Laughter.)

10 MR. JONES: Consultation with attorneys
11 concerning pending litigation, Cause Number GN102420, the
12 Encinas Group of Texas and William Encinas versus the
13 Texas Department of Housing and Community Affairs, et al.,
14 in the 53rd Judicial District Court of Travis County,
15 Texas: Action taken, none.

16 The board of directors has completed its
17 Executive Session of the Texas Department of Housing and
18 Community Affairs on August 21, 2001, at 4:30 p.m.

19 MR. CONINE: Mr. Chairman?

20 MR. JONES: Yes, sir?

21 MR. CONINE: I'd like to, if I could -- again,
22 not knowing who's going to be back and who's not going to
23 be back, it has been a pleasure to serve on this Board
24 with this group and all the staff that are here.

25 If we're -- at least, if I personally am not

1 back, I appreciate all of the efforts that we've made over
2 the -- over time. And we'll, you know, kind of see how --
3 what the governor's office has in store for the rest of
4 us, but I just wanted to say thank you to everybody.

5 MR. JONES: I join you. Thank you.

6 MS. SAENZ: Me, too. And I won't be back.

7 (Laughter.)

8 MR. JONES: You've been very kind to all of us.

9 And I would like to say this: We've been
10 through some storms, but the future's bright.

11 Is there a motion to adjourn?

12 MR. CONINE: So move.

13 MS. SAENZ: I second.

14 MR. JONES: A motion has been moved and
15 seconded. All in favor, say aye.

16 (A chorus of ayes.)

17 MR. JONES: The ayes have it.

18 (Whereupon, at 4:30 p.m., this board meeting
19 was concluded.)

C E R T I F I C A T E

1
2
3 MEETING OF: TDHCA Board
4 LOCATION: Austin, Texas
5 DATE: August 21, 2001

6 I do hereby certify that the foregoing pages,
7 numbers 1 through 195, inclusive, are the true, accurate,
8 and complete transcript prepared from the verbal recording
9 made by electronic recording by Penny Bynum before the
10 Texas Department of Housing and Community Affairs.

08/29/01

(Transcriber) (Date)

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