BOARD MEETING OF THE
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Room E1.016
State Capitol Extension
1400 Congress Avenue
Austin, Texas

11:05 a.m.
Friday,
October 13, 2000

BOARD MEMBERS:

MICHAEL JONES, Chairman
JAMES DAROSS, Vice Chairman
C. KENT CONINE
MARSHA WILLIAMS
LYDIA SAENZ (not present)
DONALD R. BETHEL
ROBERT BREWER
MARGIE BINGHAM
DR. FLORITA BELL GRIFFIN

ALSO PRESENT:

DAISY STINER, Executive Director
AGENDA ITEM                  INDEX                   PAGE:

CALL TO ORDER, ROLL CALL, CERTIFICATION OF QUORUM  3

PUBLIC COMMENT

Item 1  Presentation, Discussion and Possible Approval of Minutes of Board Meeting of September 15, 2000  5

Item 2  Presentation, Discussion and Possible Approval of Report from Finance Committee  6

Item 3  Presentation, Discussion and Possible Approval of Program Items  13

Item 4  Presentation, Discussion and Possible Approval of Report from Low Income Housing Tax Credit Committee  27

Item 5  Presentation, Discussion and Possible Approval of Report from Audit Committee  31

Item 6  Presentation, Discussion and Possible Consideration and Action on the Litigation Concerning KRR Construction, Inc., and Joseph Kemp v. TDHCA, et al. (Section 551.071 Texas Government Code)  36

REPORT ITEMS
Executive Director's Report  34

EXECUTIVE SESSION  40

ADJOURN  44
MR. JONES: At this time I'd like to call to order the Board meeting of the Texas Department of Housing and Community Affairs for October 13, 2000. The first item that we have on our agenda is to call to order, roll call, and I'll be doing that.

Mr. James Daross?

MR. DAROSS: Here.

MR. JONES: Mr. Donald R. Bethel?

MR. BETHEL: I'm here, sir.

MR. JONES: Happy birthday, Mr. Bethel.

MR. BETHEL: Thank you. It's November.

MR. JONES: November?

MR. BETHEL: Sixth.

MR. JONES: Well, we won't see you again before then. This way we can celebrate it twice.

MR. BETHEL: Thank you. Delores's birthday is about that time too; she's going to be 30; I'm going to be 29.

(General laughter.)

MR. JONES: Happy birthday, Delores.

Ms. Margie Bingham is en route; I understand her plane has been delayed.

Mr. Robert Brewer?
MR. BREWER: Here.

MR. JONES: Mr. C. Kent Conine?

MR. CONINE: Here.

MR. JONES: Dr. Florita Bell Griffin?

(No response.)

MR. JONES: Absent. Ms. Lydia Saenz?

(No response.)

MR. JONES: Absent. Ms. Marsha L. Williams?

MS. WILLIAMS: Here.

MR. JONES: And I determine that we do have, in fact, a quorum. Michael Jones is here. We do have a quorum.

The next thing we will take is public comment. We have nobody that signed a witness affirmation form. Would anybody like to speak to the Board or comment on anything?

MR. DUNN: Mr. Chairman, I'd like to address the Board on the deobligation policy but I was hoping I could do it after you've discussed it.

MR. JONES: We'll be happy to do that. I would request, though, that you fill out a witness affirmation form.

MR. DUNN: Absolutely.
MR. JONES: And at that point in time, I'll do my best to remember to recognize you. If I don't, if you would bring that to my attention, I certainly would appreciate it.

MR. DUNN: Yes, sir.

MR. JONES: We will take your comment then at that time.

Would anybody else like to comment to the Board or address the Board?

(No response.)

MR. JONES: Hearing noon, then, we will close the opportunity for public comment, and move on to our agenda, the first item being the presentation, discussion and possible approval of the minutes of the Board meeting of September 15, 2000.

MR. BETHEL: I move approval.

MS. WILLIAMS: Second.

MR. JONES: We have a motion that's been made recommending approval of those minutes. Any discussion?

(No response.)

MR. JONES: Hearing no discussion, are we ready to vote? I assume we are. All in favor of the motion, please say aye.
(A chorus of ayes.)

MR. JONES: All opposed, nay.

(None.)

MR. CONINE: I abstain.

MR. JONES: We have one abstention which is Mr. Conine.

We will then move to Item 2 of the agenda which is the presentation, discussion and possible approval of the report from the Finance Committee. Mr. Bethel.

MR. BETHEL: Thank you, Mr. Chair.

The Finance Committee met this morning and approved all of our items except one that was pulled, and recommend approval to the Board. If the Board would like, we can have Mr. Onion and Mr. Apple and Mr. Stewart come up, or a lot of you were here at the time. What I'll do, if you want to discuss it, I'll make a motion that we approve Resolution 00-30 at Green Bridge at Buckingham in Richardson, Texas and then if we want discussion about it, we can have discussion.

MR. CONINE: Second.

MR. JONES: We have a motion and a second that Resolution 00-30 be approved. Discussion, questions, comments?
(No response.)

MR. JONES: Hearing none, are we ready to vote on the motion? I assume we are. All in favor of the motion, please say aye.

(A chorus of ayes.)

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

(None.)

MR. JONES: The motion carries.

Mr. Bethel.

MR. BETHEL: The next item on the agenda was the Collingham Park [phonetic] Apartments in Houston, Texas. We discussed that and we passed the resolution, or I'll make a motion to pass the Resolution 00-32 approving that.

MR. BREWER: I second.

MR. JONES: We have a motion that's been made and seconded that the Board pass Resolution Number 00-32. Discussion, comments, questions?

(No response.)

MR. JONES: Hearing none, are we ready to vote? I assume we are. All in favor of the motion, please say aye.

(A chorus of ayes.)
MR. JONES: All opposed to the motion, say nay.

(None.)

MR. JONES: The motion carries.

Mr. Bethel.

MR. BETHEL: Then we had the inducement resolutions for the multifamily housing mortgage revenue bonds, and we discussed that and discussed approving the resolutions, and so I make a motion we approve Resolution 00-33, Resolution 00-34 --

MR. CONINE: Wait a minute. How many of these are you going to do?

MR. BETHEL: Seventy-two.

MR. CONINE: No, we haven't got time.

MR. BETHEL: Then I'll amend that motion and make it from Resolution starting with 00-33 going to 00-104 which was 72 resolutions, and that will be 72 inducements.

MR. BREWER: I second that.

MR. JONES: And could the record also reflect that Dr. Florita Bell Griffin has also joined us.

We have a motion on the floor that we approve Resolutions 00-33 through 00-104, I believe. Is that correct?
MR. DAROSS: I'll second it.

MR. JONES: We have a motion made and seconded to that effect. Discussion, comments, questions?

(No response.)

MR. JONES: Are we ready to vote? I assume we are. All in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed, nay.

(None.)

MR. JONES: All abstentions?

DR. GRIFFIN: I abstain.

MR. JONES: The motion carries.

Mr. Bethel.

MR. BETHEL: The next item was pulled. It was the collateralized mortgage obligation funds for down payment and closing cost assistance. That item has been pulled and I believe it will be presented at the November Board meeting.

So then we go to -- the next item was the approval of lenders participating in Single Family Bond Program 56, and each member should have a copy of the lenders. We recommended approving this lender list. The ones with the asterisks are the ones that Countrywide is
still looking at and there's eleven of those, and so I make a motion to approve the lender list, subject to the approval of those eleven by Countrywide.

MR. JONES: We have a motion. Is there a second?

MR. CONINE: Second.

MR. JONES: We have a motion that's been made and seconded. Any discussion?

MS. WILLIAMS: Mr. Chair, I need to recuse myself.

MR. JONES: Okay. And at this time I will note that Ms. Williams is leaving the Board meeting, and I will read her letter dated October 13, 2000.

"Members of the Board: I am recusing myself from voting on the approval of a resolution approving lenders participating in Single Family Bond Program 56. This agenda item could relate to our firm's representation of mortgage lenders." Signed: Marsha L. Williams.

MR. BREWER: Mr. Chair, can we vote without a quorum?

MR. JONES: I believe we can. We've addressed that issue before and determined that we could, Mr. Brewer.
MR. DAROSS: We have a quorum anyway.

MR. JONES: We have a quorum participating, but I don't think it takes a quorum voting. Any further discussion, comments of the motion, questions?

DR. GRIFFIN: Mr. Chairman, that isn't truthful. We did research it; you couldn't vote without a quorum, but I am a quorum, so I'm here.

MR. DAROSS: We have a quorum anyway.

MR. JONES: We have five?

MR. DAROSS: We have six.

MR. JONES: Okay. Are we ready to vote? All in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed to he motion, say nay.

(None.)

MR. JONES: All abstentions?

DR. GRIFFIN: I abstain.

MR. JONES: The motion carries. Please reflect that the chairman voted in favor of the motion.

If we could, could we go get Ms. Williams? And the record could reflect Ms. Williams has rejoined our meeting.

Mr. Bethel.
MR. BETHEL: The last item on our agenda was the acceptance of the fourth quarter investment report. Mr. Dally presented that, and we accepted the report. If the Board would like to hear that report, we can have Mr. Dally make it again, if it's the pleasure of the Chair and the Board.

MR. JONES: Sure. Obviously, Mr. Dally is here. Any questions? I know the Board has the report in written form and that Mr. Dally has already made it to the Finance Committee.

MR. BREWER: Can he just give us a bottom line on our investments? He doesn't have to go through every item.

MR. JONES: Sure. Mr. Dally, would you address Mr. Brewer's questions?

MR. DALLY: The bottom line, the overall portfolio shrank just a little bit; in total it's $1.04 billion.

MR. BREWER: Do you see that turning around?

MR. DALLY: Turning around?

MR. BREWER: It shrank a little bit, but you're happy with our investments?

MR. DALLY: Oh, yes, and we'll have a new issue
coming out that's going to increase it by about $124 million, so we'll have more lendable proceeds.

MR. BREWER: Okay. Mr. Chair, I make a motion we accept the fourth quarter investment report as given.

MR. CONINE: Second.

MR. JONES: We have a motion that we accept the report and it's been seconded. Any further discussion?

(No response.)

MR. JONES: Hearing none, are we ready to vote? I assume we are. All in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed, say nay.

(None.)

MR. JONES: Any abstentions?

DR. GRIFFIN: I abstain.

MR. JONES: Motion carries.

MR. JONES: Dr. Griffin, I have your note. Would you like to speak?

DR. GRIFFIN: No. I can wait till the end.

MR. JONES: Okay, fine.

I then return to Item 3 on our agenda.

Ms. Stiner.
And we’re asking the Board today to direct the

program rules and regulations.

deobligated funds that come back to the Department would be directed toward the priority of:

the first priority would be disaster relief;

the second priority would be special needs;

the third priority would be in the Colonias; and

then number four, other projects as determined by the Executive Director, the Board that are allowable under the following areas:

Just as a quick review, the Board was presented last month with the deobligation policy. We’ve had that deobligation policy available to the Department from various program sources.

to track and reconcile the deobligated funds that became available to the Department from various program sources.

to track and reconcile the deobligated funds that became available to the Department from various program sources.

For the past few meetings of the Board, you’ve been handed the work that the staff has been doing on a deobligation policy. As you may recall, there’s been an internal task force working on this for some time. The task has been that as a result of the various programs that the Department administers, the requirements relative to funding vary, so a task force has been working over the last several months to come to a position where we’re able to bring it back to you this month as an approved item.

MS. STINER: Thank you, Mr. Chair.
Department to institute the policy that will lend itself to those particular priorities.

MR. JONES: Yes, we did have a public speaker that would like to speak on this. Mr. Dunn.

MR. DUNN: Thank you much, Mr. Chairman. Members of the Board, appreciate the opportunity and special consideration. My name is Mike Dunn; I represent the Texas Association of Community Development Corporations, and I appreciate the efforts of staff in bringing before the Board the proposed deobligated funds policy.

We have been asking the Department since about this time last year about such a policy, and I understand that the deobligated funds committee has met a couple of times to study this issue, and we appreciate that.

We do have concerns about the proposed policy. There are a couple of questions, quite frankly, that I don't understand just about the process. What happens after this policy comes before you, or is this the policies that are written that are going to govern the Department's use of these funds and how they're going to use it according to public policy? Will there be public comment on the deobligated funds policy as it's instituted
by the Department? I guess I don't understand that, first of all.

But first of all, we do have concerns about the policy and appreciate the chance to address this to you. The total amount of the deobligated funds ought to be publicly listed each quarter by the Department. The information should include all the funds that are deobligated by amount and type and the remaining term in which the funds must be used before they either go back to the federal government or whatever entity.

As far as the very first item on there, how the Department suggests to do it through the individual program tracking, to me, since I don't understand how the process is done now, I assume it is already done through the individual program tracking, and I think what we were looking for was an overall Department philosophy of how they were going to be addressing the deobligated funds.

So we don't expect that to address the issue effectively, but if we put, by quarter, how many funds are being deobligated out there, then this allows groups that are out there that have special projects they want to bring to the Board to make use of these funds, perhaps in quick time, because whatever the window is, if it's under
two years or if there's a lack of time that they're going
to need to be doing these projects quickly, it helps if
they know how much is out there and what they can do and
come to the Board with.

Obviously, I'm not prepared, and I appreciate
you allowing me to flip around here. As far as if the
funds have above a two-year window, you know, we could
make them all publicly made available again through like
some sort of request, RFP -- supplemental RFP process.
And with most of the Department programs currently having,
I believe, like an 18-month window or something like that,
that could be done.

And if we had some kind of an innovative
project category, something that there's a way that you
know groups out there that were doing the good work that
you had and you were able to redirect the deobligated
funds, especially like the HOME categories, you could make
decisions based on need, impact, number of units, things
like that, levels of the families and income levels that
you'd be addressing.

And as far as the priorities, the disaster
relief and the Colonias, it was unclear to me at first
whether that was a priority list or that was a list of
priorities, and I appreciate the clarification.

MS. STINER: What's the difference: a priority
list or a list of priorities?

MR. DUNN: Because to me Priority 1 comes
before Priority 4, but Priorities A through D is
Priorities A through D, and there perhaps is not a
difference and it's a fault of myself for not
understanding that.

I appreciate the Department's time and the time
of this Board, and we'd appreciate any chance or
opportunity we'd have to work with staff and the Board as
they implement this further. Thank you very much.

MR. JONES: Thank you.

Ms. Stiner, I'd like to give you the
opportunity just to address those concerns.

MS. STINER: I'd have to try to get to all of
his concerns; I'll try to address those that immediately
come to mind.

The first delineation that he made whether or
not this was going to be tracked at a program level or a
Department level, I think number two speaks to that. We're
going to track them as they become available at both the
Department and the program level, so there will be an
overriding over-arching tracking of the funds.

Relative to what the procedures will be, this policy, as per policies that are directed to the Board, will be reduced to standard operating procedures within the Department. Those are usually also communicated to the public through our NOFAs. Some of these funds lend themselves to NOFAs; others do not. For instance, CDBG traditionally, when the funds have been deobligated, have gone to disaster relief. But that will be a procedure and those procedures will be communicated to the public through the guidelines of the programs and those sort of things.

I'd be happy to sit down with Mr. Dunn, as we've done in the past with your organization, and talk to you more about how administratively this policy is going to be implemented. We'll be happy to do that.

MR. JONES: Thank you, Ms. Stiner.

MR. CONINE: I have a couple of questions, if I might.

MR. JONES: Certainly.

MR. CONINE: Ms. Stiner, do you think we could actually write in another number about the NOFAs if applicable under the funds, so it would be actually in
this written policy? Is that something that you feel comfortable doing?

    MS. STINER: May I address the NOFA situation?

    MR. CONINE: Sure.

    MS. STINER: It occurs to me that the NOFA situation is not necessarily a method that we would want to use in every particular situation. If these funds become available and there's a disaster, we certainly do not want to be in a position of putting our NOFA forward.

    MS. BINGHAM: He said if applicable.

    MR. CONINE: Yes, I said if applicable, so it would give you an out if it didn't pertain to that.

    MS. STINER: Thank you. If applicable, okay. Thank you.

    MR. CONINE: Yes. I didn't want to suggest that public disclosure of deobligated money is appropriate in every case, but in cases that are, we would have a written sentence in here that would say that if applicable, we would do a public disclosure.

    And secondly, under 4(d) when you were reading through there, I think you said the word "and" and between executive director it's written "or" Board, and if we could amend that to say "and/or" it would make me more
comfortable and be in line with what you actually said a few minutes ago.

MS. STINER: Yes, sir.

MR. JONES: Do we have any further discussion or a motion?

MR. BETHEL: Ms. Bingham?

MR. JONES: I'm sorry.

MR. BETHEL: I mean, she is here.

MR. JONES: Ms. Bingham has joined us. Thank you.

Any further discussion or any motions?

MR. CONINE: Mr. Chairman, I move we adopt the policy, the deobligation policy submitted by our staff with the two amendments that I mentioned just a few minutes ago.

MR. JONES: A motion has been made. Is there a second?

MR. DAROSS: Second.

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

(No response.)

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

All in favor of the motion, please say aye.
(A chorus of ayes.)

MR. JONES: All opposed, nay.

(None.)

MR. JONES: All abstentions?

DR. GRIFFIN: I abstain.

MR. JONES: Motion carries.

Ms. Stiner.

MS. STINER: Thank you. On item (b), I'll ask Homer Cabello, the director of the Office of Colonia Initiatives to come forward. I think you heard a little earlier, when the CFO was making his presentation about the Ginnie Mae sale, that there were some proceeds that remained that was available to the Department, about $1.9 million. And Mr. Cabello will present to the Board a use of those funds, and I'll allow him to make that presentation and staff can entertain any questions that you may have relative to that particular item.

Homer, will you identify yourself and make the presentation, please?

MR. CABELLO: Thank you, Daisy. For the record, my name is Homer Cabello, the director for the Office of Colonia Initiatives.

I've been before this body before several times
already talking about the contract for deed conversion issue that we are mandated to do under our appropriations rider. We are required to convert 400 contracts for deed and expend no less than $4 million by August 31, 2001. To date, we have converted 371 contracts for deed and we've expended $4.2 million.

Technically, all these conversions happened within the last 12 months so we could count them for this mandate that we have under this biennium; however, we are intending to fulfill also the mandate of the last biennium that we did not achieve the first time around.

We do have $5.7 million of HOME funds already committed to this program and we also have $2.9 million of 1994 B funds, bond funds, for a total of $8.6. This $1.9 million will take us to about $10.5 million committed.

The reason we're asking for additional money is because we have about 50 applications in-house that we are not able to fund for the approximate amount of $800,000. We also have a minimum of another 50 files in our field offices that we have done intake, totaling $700,000. So we have applications to date of $1.5 million of which we don't have enough money to fund.

I would like to note that this program has
become very successful. We are starting to get many phone
calls and inquiries about this program in other parts of
the state and other parts of the border, and we would like
to continue this initiative. It's also my understanding
that this same rider will be in the next biennium in the
appropriations also, so it will be a program that will be
continued; however, it is an unfunded mandate and we do
request approval of the $1.9 million.

MR. JONES: Thank you, sir.

MR. CONINE: I'll move the item on the agenda
just to get it up for discussion.

MR. JONES: We have a motion that the
recommendation of staff be approved.

MR. DAROSS: I'll second.

MR. JONES: The motion has been made and it's
been seconded. Now discussion.

MR. CONINE: Homer, what is the average size of
those contracts for deed? You said that we get a bunch of
applications in and you gave us a gross dollar amount, but
what's the average size?

MR. CABELLO: We're averaging about $12,000 a
home. However, under the HOME Program we don't just
convert them. We also have to provide the rehabilitation
to bring the houses up to Colonia housing standards in order to be in compliance with the HOME Fund regulations. However, with the bond funds, we just do the contract for deed conversion and by giving title to the family, hopefully they are able to obtain their own home improvement, reap the benefits of home ownership.

But if you combine it all together, if you divide $4.2 million by 371, we're averaging about $12,000 per home.

MR. CONINE: So if this $1.9- gets you to a number over $10 million, you're going to more than likely far exceed the 400-unit mandate, are you not?

MR. CABELLO: Yes. We're trying to do 800 conversions so that -- for the last biennium we didn't meet the mandate, so we're trying to do 800 conversions. Hopefully, by the end of the year, we'll have approximately 500 conversions done.

MS. STINER: May I comment?

MR. JONES: Sure.

MS. STINER: Homer, isn't it correct that those contracts were originated in the past fiscal year and they closed this fiscal year, so those are pursuant to our last fiscal year?
MR. CABELLO: Yes.

MS. STINER: So we'll be able to count them, and this is the beginning of a new fiscal year and we'll have to meet that same mandate.

MR. CABELLO: The mandate is for the biennium; last fiscal year was part of this biennium.

Yes, that's correct.

MR. JONES: Further questions, comments, discussion?

MS. STINER: Oh, I'm sorry. I forgot to make the comment I asked you to make a comment for. The OCI Program, the contract for deed conversion initiative, received a national award last month at the NCSHA, National Council of State Housing Agencies. And we just want to congratulate the staff and ask the Board to join us in congratulating them. It's a program that's serving as a model for the rest of the country, so we're real proud of the fact that it's something that the other states and the national associations have recognized.

(Applause.)

MR. CABELLO: Can I make some comments?

MR. JONES: You sure can. Keep on going.

MR. CABELLO: This program has received two
national awards, one by HUD and one by the NCSHA and one regional award which is comprised of, I believe, five states. But I would like to share the credit with Pam Morris and her staff, because without her staff, these accomplishments would not be at this point. So while we like the spotlight, I think it's also appropriate that we share the spotlight with the Single Family Department and the HOME Department, of which Pam is the director, and she should share the same type of recognition also.

(Applause.)

MR. JONES: Any other acceptance speeches?

(General laughter.)

MR. JONES: Congratulations; that's great. We have a motion on the floor and it has been seconded, and we're into discussion. Further discussion, comments, questions?

(No response.)

MR. JONES: Are we ready to vote? I assume we are. All in favor of the motion, please say aye.

(A chorus of ayes.)

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

(None.)

MR. JONES: All abstentions?
DR. GRIFFIN: I abstain.

MR. JONES: Motion carries.

We will then move to Item 4 on the agenda. Ms. Bingham?

MS. BINGHAM: Item 4 is the approval of the issuance of determination notices for tax exempt bond projects. I notice, Cherno, you moved to the table pretty quick, so I guess you're going to stop me real quick. You may proceed.

MR. NJIE: Do you want me to make the presentation?

MS. BINGHAM: yes.

MR. BETHEL: Ms. Bingham, the Finance Committee did approve these.

MS. BINGHAM: You've already approved these?

MR. BETHEL: Yes, but we didn't do the tax credit one, but we did approve them.

MS. STINER: The bond issuance.

MS. BINGHAM: Well, for those who were here, I would certainly accept a motion, without having been here myself.

MR. BETHEL: I so move.

MS. BINGHAM: I second.
MR. JONES: We have a motion and we have a second, we have Cherno at the table.

(General laughter.)

MR. JONES: Looking pensive like he's ready to comment, but maybe not. Do we have any discussion? Do we have any comments? Do we have any questions on the motion?

(No response.)

MR. JONES: Hearing none, are we ready to vote? I assume we are. All in favor of the motion, please say aye.

(A chorus of ayes.)

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

(No response.)

MR. JONES: All abstentions?

DR. GRIFFIN: I abstain.

MR. JONES: The motion carries.

MR. CONINE: You get a free ride today, Cherno.

MR. NJIE: I look forward to more of these.

(General laughter.)

MR. JONES: Ms. Bingham?

MS. STINER: Daisy, I assume you've got the tax
credit counsel?

MS. STINER: Yes. Betty Marks, will you come forward and make the staff presentation? Ms. Marks is general counsel for the Department.

MS. MARKS: I'm Betty Marks, general counsel of the Department. This item is for the approval of engaging Hawkins, Delafield & Wood as the tax credit counsel for the Department. And as in your write-up, on June 19, 2000, and later revised as August 23, 2000, the AG's office implemented new retention of outside tax counsel contracts to be used by state agencies for this fiscal year upcoming in 2001 which began September 1, 2000.

All state agencies were required to request proposals for outside counsel legal services, excepting bond-related contracts, so we are renewing and extending automatically our bond counsel contracts. However, we were required to send an RFP for our tax credit counsel. What the AG's office is doing is redetermining whether they have the expertise in-house to be able to represent the Agency, and tax credit counsel is one of those where they've asked us to go ahead and put out an RFP.

We put out an RFP, request for proposal. It was filed and posted for tax credit counsel both in the
Texas Marketplace -- which is a requirement -- and also in the Texas Register. The deadline for submitting the proposals from firms who wanted to act as tax credit counsel was September 29. The copies of the requests for proposal were sent to three law firms; the only proposal we received back was from Hawkins, Delafield & Wood in Washington, D.C. This is Mr. Tony Friedman, who has represented us for a number of years, I believe since 1992, maybe before -- since 1993.

I've summarized the proposal from Hawkins, Delafield & Wood, and it's at the bottom of your write-up. And their firm proposal was to engage to continue representation of the Department, and their proposed fees range from $450 an hour to $175 an hour. And then as required on the tax credit counsel form that is required by the AG's office, they will be billed hourly with detailed billing of actual time and they will also have other expenses reimbursed at actual cost at state mandated rates.

The fees and expenses with an hourly breakdown are valid for the duration of the proposal for their contract, which is a one-year contract. If you have any questions?
MR. DAROSS: I move we approve Hawkins, Delafield & Wood as tax credit counsel for the Department.

MR. BREWER: I second it.

MR. JONES: The motion has been made and seconded. Further discussion, comments, questions?

(No response.)

MR. JONES: Hearing none, are we ready to vote? I assume we are. All in favor of the motion, please say aye.

(A chorus of ayes.)

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

(None.)

MR. JONES: All abstentions?

DR. GRIFFIN: I abstain.

MR. JONES: Thank you. The motion carries.

Ms. Bingham, does that conclude your report, ma'am?

MS. BINGHAM: That's all I can gather, for the short time I've been here.

(General laughter.)

MR. JONES: We turn next to Item 5, Mr. Conine.

MR. CONINE: Thank you, Mr. Chairman. The
Audit Committee met this morning and had a presentation from our internal auditor, Mr. David Gaines. Under Tab 5(a) in your book you'll find the Fiscal Year 2001 Internal Audit Plan. You can see the projects that Mr. Gaines has listed down the left side: the software audit; internet security audit; the Community Services Block Grant Program; the Section 8 follow-up audit; and a payroll audit that he wants to implement for next year.

So we discussed this with him at length and unanimously decided to bring it to the Board for your approval, and I make that motion at this time.

MR. DAROSS: I second.

MR. JONES: We have a motion that's been made and seconded. Discussion, comments?

(No response.)

MR. JONES: No other discussion or comments? Are we ready to vote? All in favor of the motion, please say aye.

(A chorus of ayes.)

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

(None.)

MR. JONES: All abstentions?

DR. GRIFFIN: I abstain.
MR. JONES: Motion carries.

MR. CONINE: One other item, Mr. Chairman, I'd like to bring to the Board's attention. We did also, at the Audit Committee, review the status of prior audit issues and it's a report that Mr. Gaines has massaged over time and continues to improve on, and there are several issues listed there. The report is some ten pages long, some of them going back as many as a couple of years.

Two action items that we've requested for the next Board meeting. One, we want the Compliance Division to meet with us for the next several meetings just so we can get an accurate update of where we are on some of these issues that show up on the prior audit issues report and get a direct report, and that will probably start next month when we meet.

Secondly, we've asked Ms. Stiner to put together a written report on some of the older issues. Some of them may not actually be -- the cost-benefit analysis of dealing with them may be out of whack and we'd like her comments directly on some of these issues so we can get them off of our ten-page report and hopefully get it down to a one- or two-pager here shortly. So we look forward to Ms. Stiner providing us with that, and I just
wanted to make the Board aware of that.

MR. JONES: Ms. Stiner?

MS. STINER: Mr. Conine, you expect my report to get it down to a one-pager?

MR. BREWER: If you can do it.

(General laughter.)

MR. CONINE: That concluded my report.

MR. JONES: Thank you, Mr. Conine.

Any further questions or comments concerning the Audit Committee?

(No response.)

MR. JONES: With that, I would turn our attention next to the Executive Director's report. Ms. Stiner.

MS. STINER: Delores, have you handed out the handout for the out-of-state applicants for the Housing Trust Fund? We're finding the copies to hand out to each Board member.

Pursuant to the Board's request that in the future all Housing Trust Fund capacity building awards be made to in-state providers, the legal staff has done some research and have concluded that that is certainly something that can be done under the law. I think that's
the bottom line summary of it, but we have a paragraph that's being passed out to you, and I'll read it into the record until we can get you your own individual copies.

"In the August 11, 2000 Board meeting, a motion was made and approved that the Department exclude out-of-state companies from competing for Housing Trust Fund awards for training non-profit housing providers. Such approval was, however, expressly made subject to review by Legal. The issue has been researched and Legal is of the opinion that while such exclusion could subject the Department to a challenge on the basis that such action is in violation of the Commerce Clause of the U.S. Constitution, such a challenge would likely be unsuccessful, as it would fall within the market participant exception for the Commerce Clause under present case law. The rationale for such exception is that the Department is entering the market to purchase trainers with state funds, and therefore, would be entitled to favor Texas-based organizations over out-of-state trainers."

So with that, I think we're trying to provide the Board with assurance that that is certainly something that we can do and we will include that in all future
NOFAs and solicitation of bids for the Housing Trust Fund capacity training set aside.

MR. JONES: Does that complete the executive director's report?

MS. STINER: Yes, sir.

MR. JONES: Thank you.

One other thing that I'd like to say, kind of in connection with the report, that we've talked about the next Board meeting, and we've talked about trying to do something in South Texas with regard to our work with the Colonias, and Ms. Stiner is looking into that and we'll try to get back with the Board members about that, as we plan our next meeting next month.

With that, we do need to go into executive session. We can move into that room.

Before you go, I'd like to thank a number of people for their attendance. We have Danette Rich from the Governor's Office and we certainly appreciate you being here. We have Michael Grimes from Senator Harrah's [phonetic] office, and Michael, we certainly appreciate you being here. And we have Donna Chatham from the House Urban Affairs Committee. And Donna, we certainly appreciate you being here. We thank you so much for
coming.

DR. GRIFFIN: Mr. Jones, may I speak before everybody leaves, please?

MR. JONES: Dr. Griffin.

DR. GRIFFIN: Thank you, Mr. Jones.

Briefly, it is with a great deal of excitement that I announce the beginning of my criminal court trial on October 16, which is Monday morning at nine o'clock. It will be held at the Houston Federal Building located at 515 Rusk Street on the 9th Floor and the judge is Nancy Atlas. The trial will last a maximum of two weeks, and I am being represented by a team of lawyers led by former U.S. Congressman Craig Washington.

I wanted to say that before you left, and I wanted to say that I am deeply appreciative to all of my friends and foes that have played whatever role you've played and Board members have played to get us to this point. And it was kicking and screaming that I performed to make sure that we were going to trial October 16 and not have it postponed. I was hoping that we could do it 60 days after the indictment in June, but that wasn't possible because of surgery my attorney had to have, so we made sure that the date that was set for October 16 would
be a good date that would get us out maybe a couple of
weeks before the election, and we're all real excited
about that.

    And then I'm sure that you will understand any
repercussions or any fallout that may come as a result of
the truth finally being told, but I think that it will
make us all stronger people. It has definitely made me
stronger, and I'm sure that anything that will come out of
this should make anybody looking on and anybody involved
much stronger after having been there.

    And I think if there's any one thing that I
would hope would come out of this process -- and I'm
speaking especially to citizens of the State of Texas --
is that there is a such thing as due process. And
something like this will happen one day to somebody that
you know, somebody -- and when I say like this, I mean
accusations -- somebody that you know, somebody that you
love -- it might even happen to you.

    But the bottom line is this: There is a
constitution and it does set out what your rights are and
I would challenge you to stand and demand that your rights
be carried out. Nobody has a right to publicly try you in
the press or to take your rights away and try to make you
run, hide and intimidate you.

See, back in North Carolina, where I came from, we were taught to fight, fight to the end. That's your right; that's what you've got to do. Many of you have looked on, and you've made different comments and you really can't understand why I continue to come back. I come back because I can't leave; I have invested too much.

My mother and father and grandparents and my ancestors have invested too much in me, my brother and sister in bringing us up, in our education, in teaching us about God. My dad would turn over in his grave if he ever thought that somebody could come up to me or write something about me or say something about me and I would cower under the pressure. Even as a woman -- and we're supposed to be, as some men say, the weaker sex -- even as a woman, I wouldn't even think about doing that. I know that's hard for some of you to understand, but that's just my makeup.

So it is with a great deal of excitement that I hope that I will see many of you on Monday morning. And regardless of what the outcome of it is, I'm prepared for it. But I also tell you that it might be some surprises.

The Austin American Statesman called the other
day, and they said -- they called trying to get me to talk
about some other Board members, and I refused to. I said,
I don't have time for that right now; I'm concentrating on
me. I hope you'll be there. And they said, Well, Dr.
Griffin, is there anything new that's going to come out?

And I said, Absolutely, the truth. Why don't you come hear it? It ought to be worth it. You know, at
least hear the other side of it. There's always two sides
to a story.

So I would challenge you, as you go through
your life, to be strong, stand up for what you believe in,
because the bottom line is this: everybody is not going
to like you anyway. But if you stand and fight for what's
right, they will have to respect you; they don't have a
choice in that.

And so I just encourage you, as you go through
your life -- I'll see you next month, but as you go
through your life, and regardless of what happens, please
remember this and don't ever forget me and don't ever
forget what I've just told you, because I assure you,
should you live past today, you will need those words.
And I just hope you remember that I spoke them.

Thank you so much.
MR. JONES: I also need to recognize Mike Geeslin from the Lieutenant Governor's Office. We appreciate you being here also.

With that, on this the October 13, 2000 at a regular Board meeting of the Texas Department of Housing and Community Affairs held in Austin, Texas, the Board of Directors adjourned into a closed executive session as evidenced by the following: the opening announcement of the presiding officer which says the Board of Directors will begin executive session today, October 13, 2000, at 12:00 noon.

The subject matter of this executive session deliberation is as follows: personnel actions pursuant to Section 551.074 Texas Government Code regarding discussion and possible approval of performance evaluation for the executive director; secondly, consultation with attorneys concerning pending litigation pursuant to Section 551.071 Texas Government Code, Re: KRR Construction and Joseph Kemp v. Texas Department of Housing and Community Affairs, et al. And with that, we'll go into executive session.

(Whereupon, at 12:00 noon, the meeting was recessed, to reconvene following executive session.)

MR. JONES: I will call back into session the
Board meeting of the Texas Department of Housing and Community Affairs for October 13, 2000.

MS. BINGHAM: Friday the 13th.

MR. JONES: Friday the 13th, 2000.

MR. CONINE: Full moon.

(General laughter.)

MR. JONES: We recently adjourned our meeting and went into executive session today at 12:00 noon. The subject matters of the executive session deliberation were as follows: personnel matters pursuant to Section 551.074, Texas Government Code regarding discussion and possible approval of performance evaluation of executive director. Action taken: None.


The Board of Directors has completed its executive session of the Texas Department of Housing and Community Affairs on Friday, October 13, 2000 at 12:39 p.m.

I hereby certify that this agenda of an
executive session of the Texas Department of Housing and Community Affairs was properly authorized, pursuant to Section 551.103 of the Texas Government Code, posted at the Secretary of State's Office seven days prior to the meeting, pursuant to Section 551.044 of the Texas Government Code, and that all members of the Board of Directors were present with the exception of Lydia Saenz, and that this is a true and correct record of the proceedings, pursuant to the Texas Open Meetings Act, Chapter 551 Texas Government Code. And I will sign that as Chair of our Board.

With that, I'll direct our attention to the agenda and to Item 6 on the agenda, which is the presentation, discussion and possible approval of settlement of KRR Construction, Inc., and Joseph Kemp v. the TDHCA, et al. I believe there is a proposed resolution concerning that matter in the Board packets or has been submitted to the Board members.

Is there a motion concerning this item?

DR. GRIFFIN: May I have a copy of the resolution, as I didn't get a Board packet?

MR. BETHEL: Would that be Resolution 00-105?

MR. JONES: It might well be.
MR. JOHNSON: There was one minor wording change between the settlement agreement that you were sent earlier in the week and the settlement agreement that you're being presented with now that Mr. Kemp asked for at the last minute, which basically says that he agrees to dismiss this case with prejudice at the time that the Board commitment is approved. Previously, that language had not been in there and it is now in there; it's just a minor tweaking of the language.

MR. JONES: Thank you, Mr. Johnson. It is Resolution Number 00-107, in response to your question.

MR. DAROSS: Mr. Chairman, there was a motion, I think, by Mr. Bethel.

MR. JONES: I don't think there has been one. There's been no motion.

MR. DAROSS: Well, then I will move that the Board approve Resolution Number 00-107.

MR. BREWER: I second it.

MR. JONES: We have a motion by Mr. Daross, seconded by Mr. Brewer that Resolution Number 00-107 be approved. Comments, discussion, questions?

(No response.)

MR. JONES: Hearing none, are we ready to vote?
I assume we are. All in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed, say nay.

(None.)

MR. JONES: Abstentions?

DR. GRIFFIN: I abstain.

MR. JONES: The motion carries.

That being the conclusion of our agenda, the Chair would entertain a motion to adjourn.

MR. DAROSS: So moved.

MR. BETHEL: And you're going to let us know when and where?

MR. JONES: I certainly will.

MR. BETHEL: Okay, second.

MR. JONES: Mr. Bethel seconded your motion that we adjourn, Mr. Daross. All in favor of the motion, say aye.

(A chorus of ayes.)

MR. JONES: We're adjourned.

(Whereupon, at 1:00 p.m., the meeting was concluded.)
CERTIFICATE

MEETING OF: Texas Department of Housing and Community Affairs Board Meeting

LOCATION: Austin, Texas

DATE: October 13, 2000

I do hereby certify that the foregoing pages, numbers 1 through 47, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Penny Bynum before the Texas Department of Housing and Community Affairs.

10/17/00
(Transcriber) (Date)

On the Record Reporting, Inc.
3307 Northland, Suite 315
Austin, Texas 78731