

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

MEETING OF THE
BOARD OF DIRECTORS

OPEN SESSION

Monday, September 18, 2006

3:05 p.m.

The Legal Services Corporation
3333 K Street, N.W., Third Floor
Washington, D.C.

BOARD MEMBERS PRESENT:

Frank Strickland, Chairman
Lillian R. BeVier, Vice Chairman
Jonann Chiles
Thomas A. Fuentes
Herbert S. Garten
David Hall (via telephone)
Michael McKay
Thomas R. Meites
Bernice Phillips
Sarah Singleton
Helaine M. Barnett, ex officio

STAFF AND PUBLIC PRESENT:

David L. Richardson, Treasurer and Comptroller
Patricia D. Batie, Manager of Board Operations
Karen M. Dozier, Executive Assistant to the President
Karen Sarjeant, Vice President for Programs and
Compliance
Victor M. Fortunato, Vice President for Legal Affairs,
General Counsel, and Corporate Secretary
Mattie Cohan, Senior Assistant General Counsel
Lynn A. Bulan, Senior Assistant General Counsel
Mark Freedman, Assistant General Counsel
Richard (Kirt) West, Inspector General
Laurie Tarantowicz, Assistant Inspector General and
Legal Counsel
Joel Gallay, Special Assistant to the Inspector General
David Maddox, Assistant Inspector General for Resource
Management
Ronald (Dutch) Merryman, Office of the Inspector
General
Charles Jeffress, Chief Administrative Officer
Alice Dickerson, Director, Office of Human Resources
John Meyer, Director, Office of Information Management
Danilo A. Cardona, Director, Office of Compliance and
Enforcement
Michael A. Genz, Director, Office of Program
Performance
Thomas C. Polgar, Director, Office of Government
Relations and Public Affairs
Jeffrey J. Morningstar, Director, Office of Information
Technology
Demille James, Legal Intern, Office of Legal Affairs

Deborah Hankinson, Chairman, SCLAID Committee, American
Bar Association (ABA)
Julie M. Strandlie, Director, Grassroots Operations/
Legislative Counsel, American Bar Association (ABA)
Linda Perle, Center for Law & Social Policy (CLASP)
Don Saunders, National Legal Aid and Defenders
Association (NLADA)
Julie Clark, National Legal Aid and Defenders
Association (NLADA)
Jose Padilla, Director, California Rural Legal
Assistance (CRLA)
Allison Davis, CBS News
Adam Briddell, Senate HELP Committee
Jeannine Winch, law student

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P R O C E E D I N G S

CHAIRMAN STRICKLAND: Let me call to order a meeting of the board of directors of the Legal Services Corporation for September 18, 2006.

And first I will welcome all those in the audience. Thank you for attending the meeting today. We're glad to have you with us on relatively short notice.

The first order of business is the approval of the agenda. And there are a couple of items that I need to bring to your attention that suggest the need for an amendment to the agenda. And let me explain to you how we do that.

Under Section 1622.4(d)(2) of the regulation that implements the Sunshine Act for the Corporation, the subject matter of a meeting may be changed by a recorded vote of a majority of the directors that one, the Corporation business so requires, and two, no earlier announcement of the change was possible. This needs to be a recorded vote of each director.

So with that background, I propose that such a vote be taken to amend our agenda to include two new agenda items.

And I'll be glad to explain these after I present this.

A new open session item to read as follows:

Consider and act on whether to authorize the chairman of the board, after consultation with the board's vice chairman and the chairman of the board's finance committee, to communicate to the Congress the board's view of H.R. 5974.

And a new closed session item to read as follows: Briefing on recent developments in litigation involving the Corporation.

Taking those in reverse order by way of -- well, let me ask, may I entertain a motion to approved the agenda as amended by the two points I just made?

MS. PHILLIPS: Chairman Strickland?

CHAIRMAN STRICKLAND: Yes?

MS. PHILLIPS: Can I move that we take item 4 and 5 and make them action items, and have the word "consider and act on" be inserted in front of 4 and 5? Or no? Or wait?

CHAIRMAN STRICKLAND: Those were not intended to be action items. They're just -- we're going to receive reports on those.

MS. PHILLIPS: But if someone wanted to recommend something, are they --

CHAIRMAN STRICKLAND: You can do it at that time. But I think before we can get started, we need to act on our

agenda. So I would ask for a motion to approve the agenda, as amended.

M O T I O N

MR. MEITES: So moved.

MR. MCKAY: Second.

CHAIRMAN STRICKLAND: Okay. Does anybody need an explanation on either of those points?

(No response.)

CHAIRMAN STRICKLAND: All right. Let's proceed to a vote on the approval of the agenda. All those in favor of approving --

MS. SINGLETON: Just a minute.

CHAIRMAN STRICKLAND: Sorry.

MS. SINGLETON: I have a follow-up question. I think that Bernice is correct that we couldn't act on -- we couldn't take any action with regard to either item 4 or 5 as the agenda is written unless we modify it to say something about "and possible action on the report." And I think that was the point she was making. And she may want to do something in reaction to those staff reports.

CHAIRMAN STRICKLAND: All right. I misunderstood. Let me ask the general counsel for advice on that. Can we

make that amendment to the agenda?

MR. FORTUNO: Yes, but we go back to the section of the Sunshine Act reg that you referred to at the outset. That is, we have a published notice. The notice notices those two items as reports, not as action items.

But if the board takes the vote under aforementioned section of the sunshine reg, that Corporation business requires it and that no earlier notice is possible, the agenda can be revised to make those items action items.

CHAIRMAN STRICKLAND: All right. Is there --

MR. MEITES: I would accept an amendment to my motion to that effect.

CHAIRMAN STRICKLAND: All right. Fine. Based on that amendment, then, items 4 and 5 would both read, "Consider and act on" those two items.

With that further amendment, then, is there -- let's take a vote on the approval of the agenda, as amended by all the amendments stated so far.

Would those in favor please say aye? I beg your pardon. We have to have a recorded vote on that. I was mistaken. So let me -- I'm just going to go around the room, starting over here.

MS. SINGLETON: And right now we're just voting on whether to amend the agenda? That's what we have to --

CHAIRMAN STRICKLAND: Right. Adopting the agenda, as amended. As amended.

Are we supposed to -- help me on that again, Mr. Fortunio. Do we need to vote on the amendment, or can we vote on the agenda as amended?

MR. FORTUNIO: I think first you need to vote on the amendment, and that would be a recorded vote. I think at that point you can vote on the agenda, as amended, and adopt it by voice vote.

CHAIRMAN STRICKLAND: And is it all right for us to take up all the amendments under one vote?

MR. FORTUNIO: Sure.

CHAIRMAN STRICKLAND: All right. Let's proceed --

MR. FUENTES: Mr. Chairman, I'm sorry because I know that we have to move along. But by our vote yes, are we making a determination, are we stating, that taking action on Bernice's desire to take action here could not have been noticed at an earlier time?

I'm certainly empathetic to Bernice having the opportunity to bring up anything she wants to. But I'm a

little burdened by making a decision that that could not have been earlier agendized. And if I'm questioned on that --

CHAIRMAN STRICKLAND: Well, I think that's a good point. And the agenda was published in this format in the Federal Register. As we all know, we're required to publish that seven days in advance of a meeting. So it was published that way, and it's quite possible those items could have been presented as action items.

MS. SINGLETON: Well, maybe you should do them separately, then. We already voted on the first two amendments that you wanted. Why don't we do a separate motion to do Bernice's proposed amendment.

CHAIRMAN STRICKLAND: All right. Gosh, I didn't realize we were going to have such trouble getting the agenda approved.

MS. SINGLETON: I know.

CHAIRMAN STRICKLAND: But we've got to follow this regulation.

All right. I think that we need to take a recorded vote first on the two amendments that I proposed and read to you. So let's take that first, on a recorded vote basis. And if somebody could -- I'll do it myself.

Mr. Meites.

MR. MEITES: I vote yes.

CHAIRMAN STRICKLAND: Mr. Fuentes.

MR. FUENTES: Aye.

MS. SINGLETON: Yes.

CHAIRMAN STRICKLAND: Ms. Singleton.

MS. SINGLETON: Ms. Singleton. Yes.

CHAIRMAN STRICKLAND: Ms. Singleton. And

Mr. McKay.

MR. MCKAY: Yes.

CHAIRMAN STRICKLAND: Ms. BeVier.

MS. BEVIER: Yes.

CHAIRMAN STRICKLAND: Mr. Garten.

MR. GARTEN: Yes.

CHAIRMAN STRICKLAND: Ms. Phillips.

MS. PHILLIPS: Yes.

MS. CHILES: Yes.

CHAIRMAN STRICKLAND: And Ms. Chiles.

MS. BEVIER: And David.

CHAIRMAN STRICKLAND: I'm sorry. David Hall?

MR. HALL: Yes.

CHAIRMAN STRICKLAND: All right. So that's --

MR. MEITES: Chairman's vote.

CHAIRMAN STRICKLAND: And the chairman votes aye.
So that's ten to zero, unanimous vote.

All right. Let's proceed, then, to a vote on the amendment proposed by Bernice Phillips, which is to amend items 4 and 5 on the printed agenda so that they read "Consider and act" on each of those items. The same mechanism.

Mr. Meites?

MR. MEITES: I vote aye.

CHAIRMAN STRICKLAND: Mr. Fuentes.

MR. FUENTES: Aye.

CHAIRMAN STRICKLAND: Ms. Singleton.

MS. SINGLETON: Aye.

CHAIRMAN STRICKLAND: Mr. McKay.

MR. MCKAY: Aye.

CHAIRMAN STRICKLAND: Ms. BeVier.

MS. BEVIER: Aye.

CHAIRMAN STRICKLAND: Mr. Garten.

MR. GARTEN: Aye.

CHAIRMAN STRICKLAND: Ms. Phillips.

MS. PHILLIPS: Aye.

CHAIRMAN STRICKLAND: Ms. Chiles.

MS. CHILES: Yes.

CHAIRMAN STRICKLAND: And Mr. Hall.

MR. HALL: Yes.

CHAIRMAN STRICKLAND: All right. And the chair votes aye. Unanimous vote.

So now let's proceed to a voice vote on approval of the agenda, as amended. All those in favor, please say aye.

(A chorus of ayes.)

CHAIRMAN STRICKLAND: Those opposed, nay.

(No response.)

CHAIRMAN STRICKLAND: The ayes have it and the agenda is adopted. And that's probably a new record for the length of time it takes to adopt our agenda.

MR. MEITES: An inauspicious start.

CHAIRMAN STRICKLAND: Next is the approval of the minutes of the board's meeting of July 29, 2006. You have those minutes before you.

M O T I O N

MS. SINGLETON: I would move to table consideration of these minutes.

CHAIRMAN STRICKLAND: Items 2 and 3?

MS. SINGLETON: Two and 3.

CHAIRMAN STRICKLAND: Until the October meeting?

MS. SINGLETON: October meeting.

CHAIRMAN STRICKLAND: All right. Is there a second to that motion?

MR. MEITES: Second.

CHAIRMAN STRICKLAND: Any discussion?

(No response.)

CHAIRMAN STRICKLAND: All those in favor of the motion, please say aye.

(A chorus of ayes.)

CHAIRMAN STRICKLAND: Those opposed, nay.

(No response.)

CHAIRMAN STRICKLAND: The ayes have it. That motion is adopted.

All right. Next is, under the amended agenda, consider and act on a staff report on document requests, plural, dated April 12, 2006, June 19, 2006, and August 8, 2006 that were received from Congress, and LSC's responses thereto.

I see Charles Jeffress at the table. Are you going to handle that item for us?

MR. JEFFRESS: I'll be glad to, Mr. Chairman.

CHAIRMAN STRICKLAND: Go right ahead.

MR. JEFFRESS: Vic Fortuno at the meeting in Providence had with him the materials in response to the first two congressional letters of April 12th and June 19th. We had a subsequent letter addressed to us on August 8th, which the management and administration responded to on August 25th.

All of those questions asked in that August 8th letter, and there were 27 items, many of them with multiple parts, were responded to in the submission of August 25th. We have copies available on this table over here. We actually have copies of all of the responses to all three letters.

They total, I would guess, about 8,000 pages in terms of the responses to the letters we have received thus far. There may well be more letters coming; I do not know. But in addition to providing these responses to the three chairmen, of course, we responded -- provided a copy to the Office of Inspector General as well to assist with his investigation.

At this point, all of the documents that have been

requested for us have been provided. I'd be happy to respond to any questions anybody has about them.

CHAIRMAN STRICKLAND: Sarah.

MS. SINGLETON: Mr. Chairman, I have a -- I'm going to start out with a procedural question because I don't really know how to go about this. I have questions about the narrative that accompanied the document productions. It appears as though some of the narrative answers may not have been correct. That is based on a draft report that I presume is still confidential, but I don't know.

At what point in the meeting can we ask questions about the narrative?

CHAIRMAN STRICKLAND: I guess we can ask it here, unless it pertains to some -- I'm not following you on exactly what part of it is still confidential.

MS. SINGLETON: The draft report that we received from the Office of Inspector General that came late --

CHAIRMAN STRICKLAND: Oh, yes.

MS. SINGLETON: -- or I don't know when it got there. Some time last night, I think.

CHAIRMAN STRICKLAND: Right. I think we plan to take that document up in the closed session.

MS. SINGLETON: We're going to take that document up as it relates to the narratives that went to Congress from management and the board. Can we ask questions about those narratives at that time?

CHAIRMAN STRICKLAND: I suppose we --

MS. SINGLETON: In other words, I see discrepancies between what's in the inspector general's reports and the narratives that went to Congress. And I want to ask somebody questions about that.

CHAIRMAN STRICKLAND: Yeah.

MS. SINGLETON: At what time is it appropriate to ask such questions?

CHAIRMAN STRICKLAND: I'm guessing since they will be derived from your review of the as-yet-unpublished inspector general's report, that probably we should take it up in that session.

MS. SINGLETON: And someone from management will be available --

CHAIRMAN STRICKLAND: Yes.

MS. SINGLETON: -- at that time to answer? Okay.
Thank you.

CHAIRMAN STRICKLAND: Is that satisfactory with the

board? I'm giving you my instinctive reaction to that, but is that all right?

MR. MCKAY: Yes.

CHAIRMAN STRICKLAND: All right. Are there any other questions, then, or proposals regarding item 4 on the agenda, as just reported on by Mr. Jeffress?

(No response.)

CHAIRMAN STRICKLAND: All right.

MS. CHILES: Excuse me.

CHAIRMAN STRICKLAND: Yes.

MS. CHILES: I just have a few questions.

CHAIRMAN STRICKLAND: Go ahead.

MS. CHILES: Is there -- are there any outstanding requests or any categories of documents that we've refused to produce or that LSC has refused to produce? Or have we, to the best of our knowledge, fully responded to Congress's inquiry?

MR. JEFFRESS: To the best of my knowledge or collective knowledge, we have responded to the congressional inquiry. There were some categories that we believed were questionable as to whether we should provide them or not, people's personal information. But we did provide everything

that was asked for, and we have responded to all of those.

After responding to the first two letters, we received requests for additional information. And so the response to June 19th included further responses to some of the April 12th questions, and the response on August 25th included further responses to some of the -- some of both previous letters. But we did provide everything that was asked.

I'm sorry. Tom reminds me of one point. They asked for copies of settlement agreements that were signed with departing employees. Many of those settlement agreements contain confidentiality clauses, so we provided a summary of that information but we didn't provide the specific settlement agreements because of the confidentiality clauses in those agreements.

MS. CHILES: Okay. And have we followed up with the three chairmen to ascertain whether or not they're satisfied with our responses?

MR. JEFFRESS: Well, at the concluding letter for each of those three letters that they sent us, we asked that they contact us if they wanted further information. And we are in regular contact with staff members for each of those

three chairmen. At the moment, we have no further requests.

But again, I would not want to predict the future.

MS. CHILES: I would just encourage you to be very cooperative with the three chairmen.

MR. JEFFRESS: Absolutely.

CHAIRMAN STRICKLAND: Any other questions on that item?

(No response.)

CHAIRMAN STRICKLAND: All right. Let's move to item 5, consider and act on staff report on the CBS News story of August 13, 2006 and the Associated Press story of August 14, 2006, and LSC's responses thereto.

Tom, you're going to handle that?

MR. POLGAR: Yes, sir. For the record, I'm Tom Polgar, although I'm sure the court reporter knows that by now.

You all saw the story that ran on CBS News on August 13th, and the AP story which was released to the wire on August 14th, although it actually was run by different papers at different times over the following three or four days. For example, it didn't get carried in the Washington Post until August 17th. Some people ran it the 14th; some

people ran it the 15th.

The story, as best we can tell, ran in approximately -- the AP story ran in approximately 50 papers, and about 160 newspapers put it on their website, but 110 of them did not run it in the print edition of their papers.

Following that story, there were a number of editorials, mostly supporting the programs -- supporting the legal services program, a few editorials using the AP story as a justification for terminating the Corporation, although that came from news outlets which had previously expressed a view that LSC should exist -- should not exist. So it wasn't that the story changed their minds; it was just that it was another opportunity to bag us, to attack the Corporation.

There were also a number of letters to the editor written by program executive directors, and in one case, at least, a program employee, which were -- supported LSC and separated the legal services programs. Those appeared for the most part starting around the 17th of August, and appeared in papers over the weekend and into early next week.

There has been virtually no press on the subject now in nearly a month. So -- which isn't to say that it couldn't start up again, but that's where we are right now.

And that's my report.

CHAIRMAN STRICKLAND: Any questions on item 5 from any board members? Yes, sir?

MR. MEITES: I just have a small footnote to add. There was an op-ed piece on the Chicago Sun Times earlier this week by Edward Felner, who is the long-time head of the Heritage Foundation. And I wrote a short letter to the editor in response, which I don't know if it has or will be published.

But Mr. Felner's piece followed what Tom said. It was of the variety that Legal Services, as presently constituted, is a mistake. And my response simply said that I think it's not.

MR. POLGAR: The Felner piece cited two examples from the AP story, but it was actually more -- a majority of it was based on citing old things that they didn't like about the Corporation and which they had previously complained about.

CHAIRMAN STRICKLAND: Any other questions on item 5?

(No response.)

CHAIRMAN STRICKLAND: All right. The next item is

the chairman's report, which is three items. Lillian BeVier and I -- I believe this is on August 25th; is that the correct date? -- came to Washington to continue our discussions with the inspector general and management relative to the relationship between the Office of Inspector General and the agency. And we had productive meetings on both sides of that equation on August 25th.

It was a continuation of our previous effort in that regard, the date of which I don't recall. But I would describe those as productive. And Lillian, you're free to add anything to that that you might want to.

MS. BeVIER: It works.

CHAIRMAN STRICKLAND: And this morning, Tom Polgar and I met with the Committee on Homeland Security and Governmental Affairs, which is a Senate committee that has jurisdiction over all inspectors general. And also attending that meeting were representatives of the House and Senate oversight committees.

And it was a general discussion about the role of an inspector general within a agency, whether or not it's proper for the board to do a performance review of the inspector general. And it was a cordial discussion and

lasted about an hour. And we have agreed to provide certain documents that were requested by one or more members of that group.

I don't know whether we'll have any more meetings with that group or any member of the group, but it was one that they asked us to come to a meeting, so we appeared. And I would describe it as a productive meeting. And Tom Polgar, do you have anything to add to that?

MR. POLGAR: I think we were not told not to do -- you were not told not to do a performance evaluation. I thought that was the most interesting news item out of the meeting.

CHAIRMAN STRICKLAND: In fact, I think I put the question to the group: Is there a prohibition on that? And the answer was no. So there are arguments on both sides of the question, and I think we all understand those. But that's a report on that meeting.

And for the next item that I have put under the chairman's report, I'd like to call on Vic Fortuno to give us a report on an opinion that we received, I believe, after the agenda notice was published from the General -- I beg your pardon; it's not called the General Accounting Office. It's

now called --

MR. FORTUNO: General Accountability Office?

CHAIRMAN STRICKLAND: -- the Government
Accountability Office.

MR. FORTUNO: Oh, Government Accountability Office.

CHAIRMAN STRICKLAND: The Government Accountability
Office. Still the same initials, GAO. But would you give us
a report on that, please, sir?

MS. SINGLETON: Still the same fine job.

MR. FORTUNO: They did, by letter opinion dated
September 14th, which was then forwarded -- a copy was
forwarded to us, the general counsel of the Government
Accountability Office issued an opinion as to LSC's
establishment of Friends of LSC for the purpose of
identifying, acquiring, and providing a building to serve as
LSC's home.

And the opinion -- and I should note, by the way,
is B-308037 -- it's six to seven pages long, and it
essentially addresses two issues, and that's whether LSC was
legally authorized to create Friends of LSC for the purpose
of this transaction, and two, whether that violated the Anti-
Deficiency Act.

The opinion concludes that those two legal questions, the answers are yes, that LSC was within its rights, legal rights, to establish Friends for the purpose of acquiring a building to serve as LSC's home, and for LSC to lease space; and that the LSC is not subject to the Anti-Deficiency Act, and so consequently there was no violation of the Anti-Deficiency Act by entering into a long-term lease or, for that matter, even accepting the assets of Friends should Friends cease to exist and there be assets remaining after Friends' liabilities were paid off.

CHAIRMAN STRICKLAND: I think we -- thank you for that report, Vic. I think we circulated a copy of that opinion from GAO to all board members. Do you recall getting that?

MS. CHILES: Yes.

CHAIRMAN STRICKLAND: Okay. I'd intended for that to be circulated, so I'm glad that I remembered to do it.

Anyone have any questions of Vic on that report?

(No response.)

CHAIRMAN STRICKLAND: Okay, Vic. Thank you very much.

That concludes the chairman's report. We'll next

move to item 7, consider and act on the report of the board's finance committee. Mr. McKay.

MR. MCKAY: Thank you, Mr. Chairman. Virtually, I think, everyone was here, but I will briefly summarize what we did earlier this afternoon.

We first heard from Mr. Jeffress and Mr. Richardson on the financial report through July 31, 2006. And the report was -- I think it's fair to say, fair to summarize it as saying we are well within budget and will be through the end of this fiscal year.

We then addressed a piece of good news, the fact that the State Justice Institute made a grant and gave us \$318,867 for our Technology Initiatives Grant line item. And we were asked to then recommend to the board a resolution, which is not in our book; I hope it's now in front of everyone. It's Resolution No. 2006-012.

And it's entitled, "Resolution: Revised Consolidated Operating Budget for Fiscal Year 2006." And this resolution, as amended by the committee -- we added to the title, "and Approving the August 24, 2006 Memorandum of Understanding." And we interlineated at the end, "Now, therefore, be it resolved that the board hereby approves

entering into the SJI MOU dated August 24, 2006, and adopts a consolidated operating budget."

M O T I O N

MR. MCKAY: The bottom line here is that this resolution simply would approve adding to the Technology Initiatives budget line the \$318,867 that we've received from SJI. So I do move the adoption of the resolution. It's been recommended to you by the finance committee.

MR. FUENTES: Second.

CHAIRMAN STRICKLAND: Moved and seconded that the board adopt Resolution 2006-012. Any discussion on the motion?

(No response.)

CHAIRMAN STRICKLAND: All those in favor of adoption, please say aye.

(A chorus of ayes.)

CHAIRMAN STRICKLAND: Those opposed, nay.

(No response.)

CHAIRMAN STRICKLAND: The ayes have it and the resolution is adopted.

MR. MCKAY: Thank you, Mr. Chairman. We then considered and acted upon LSC fiscal year 2008 budget

request. We heard from the ABA, represented by Deborah Hankinson, and she gave us a written report which we all studied ahead of time. And ABA was recommending that we -- our request from Congress for our fiscal year 2008, the amount of 473 million.

We heard from NLADA, Mr. Don Saunders. And he on behalf of his organization recommended that we request 482.4 million.

We then heard from LSC management, Mr. Jeffress and Mr. Polgar, and they gave us a written report ahead of time -- as did the NLADA, by the way -- which we went over carefully. They recommended that we propose to Congress 431.3 million.

And I invite your attention to page 11 of that report -- it's page 2 of the report, page 11 in your board book -- which received considerable discussion from the committee and the board, frankly. And we received very good input from the entire board. Before I go to that, I'll also report that we heard from the OIG. Mr. Kirt West gave a presentation on behalf of his office.

But going back to page 11, we spent considerable time discussing this and came up with several scenarios. But

finally we concluded, and are recommending to the board in the form of a resolution, that we take this last column set forth on page 11 and essentially accept all of the numbers except for the one at management and administration; that instead of having -- recommending 14,500,000, that we insert the number 12,825,000, which is the number that the Senate Appropriations Committee has approved for fiscal year '07.

And of course, you all heard the discussion that our budget request -- getting back up to basic field, our budget request for 407,718,000 is the number that the Senate Appropriations Committee is recommending for '07 plus 20 percent. So when you do the arithmetic, you add up those numbers and you have \$429,681,000.

M O T I O N

MR. MCKAY: The committee then approved a resolution -- or, excuse me, recommended to the board the adoption of a resolution -- which is at page 16 of the board book, Resolution 2006-011, which resolves that we adopt a budget mark in the amount of 429,681,000. And I move the adoption of that resolution.

MR. MCKAY: Second.

CHAIRMAN STRICKLAND: All right. Any discussion on

the motion?

MS. BeVIER: Mr. Chairman, I said I would go on record, and I will. I apologize for my shilly-shallying. I'm going to vote for the resolution because, first of all, I think it's important that LSC continue to make its case in Congress just on the merits.

I do not think it's appropriate to even ask for the full amount that we need for legal services just because it's both unrealistic and completely imprudent. But I do think our rationale makes sense. A second -- and that we need to be able to say why we are going this high despite the political climate and so forth.

I also would like to suggest that one of the things that propels me to vote yes after considerable uncertainty about this is the fact that we have really made progress in the last year, I think, in beginning to develop ideas about harnessing the private sector and the help that can be offered.

I do not believe that it is possible to get legal services provided to the poor through strictly voluntary efforts. We just need to have the organization and the skill and the expertise of our -- of the local grantees. It's just

simply a fact of -- a practical fact of life, and of the complexity of the kinds of problems that arise.

I hope and trust that we will continue our efforts to leverage private support in all possible ways. This is a fight that's going to have to be fought on many fronts. The government funding is not going to be ever sufficient to meet it.

Moreover, it's a responsibility of lawyers and the legal profession to participate in this effort, and not just by sending in their checks to the Internal Revenue Service. I know I don't need to say that to the members of this board, who have -- many of whom have given yeoman's service through many years to the efforts. But it needs to be something that everyone in the profession takes seriously and does.

But I'm going to vote for the resolution. Thank you.

CHAIRMAN STRICKLAND: Any other discussion on the motion? Yes, sir, Tom.

MR. MEITES: Yeah. I want to clarify my earlier remarks as to why I withdrew my motion which was not seconded. I was persuaded by David Hall's comment that the amount that the Senate had appropriated is the number that we

should use. And the reason is that it's not a matter of tactics.

It's really a matter -- and it's not a matter of supporting the Senate in its negotiation with the House. It's what David said, that this board believes that 358 is a more appropriate number than the House number, although it's still not large enough. And that's why I withdrew my motion.

CHAIRMAN STRICKLAND: All right. Further discussion?

MR. FUENTES: Mr. Chairman.

CHAIRMAN STRICKLAND: Yes, sir.

MR. FUENTES: It's my intention to cast a no vote here. I have stated it for the record before, but I will state it now.

I think that a vote at this -- a number at this level conveys an approval of business as usual. I think that LSC is in need of reform. I think that it is in need of new direction. I think it should be the encouragement of this board to promote volunteerism, which is too underplayed in our agenda. And so I will cast a no vote.

CHAIRMAN STRICKLAND: All right. Hearing no further discussion, then, let's proceed to a vote on the

motion to adopt Resolution No. 2006-011. All those in favor of the motion, please say aye.

(A chorus of ayes.)

CHAIRMAN STRICKLAND: Those opposed, nay.

MR. FUENTES: Nay.

CHAIRMAN STRICKLAND: All right. I believe that would make it a nine to one vote. David Hall, did you vote?

MR. HALL: Yes, I did.

CHAIRMAN STRICKLAND: And you voted aye?

MR. HALL: I did.

CHAIRMAN STRICKLAND: Thank you. And David, I was just thinking here. Did I call your name a while ago on the second time I polled the --

MR. HALL: Yes. I think you did.

CHAIRMAN STRICKLAND: All right. Anything else from the finance committee?

MR. MCKAY: No. Thank you. That's the end of our report.

CHAIRMAN STRICKLAND: All right. At this point, I need to -- under consider and act on other business, I think this is the appropriate place to take up the amended agenda item that I presented at the beginning of the meeting. Yes.

Good idea. Let me ask Tom Polgar to give a little background on why we have this item.

MR. POLGAR: Sure. Under the Inspector General Act of 1978, the power to appoint and remove inspectors general rests either with the President of the United States, in the case of large cabinet departments and some very large federal agencies, or it vests with the head of the agency. If the head of the agency is an individual, you know, then it vests with him. If it's a commission or a board like we have here and they're determined to be the head of the agency, then the decisions to hire and remove an inspector general are done by a majority vote.

And the board, I should note, has been designated as the head of the agency for purposes of the Inspector General Act. That was done by OMB back in 1992.

When we were in Providence on the last night of the August -- as the House was heading out for the August recess, Congressman Cannon introduced a bill that would, in effect, change that majority vote requirement and provide that the inspector general of the Legal Services Corporation can only be removed if nine members of the board agree to it in writing. It's essentially a two-page bill. It's very short.

It has no other provisions. It doesn't affect any other inspector general or any other agency anywhere in the government.

Last Wednesday, we were notified that Congressman Cannon intended to hold a hearing on his bill this coming Wednesday or the day after tomorrow, and inviting Helaine to testify. After discussions with the chairman, who also, I think, talked this matter over with Professor BeVier and Mr. McKay, we made -- a decision was made that it's not appropriate for Helaine to be testifying with respect to board authority.

And we had several -- three board members all volunteered to come up and testify, said we couldn't do it -- they couldn't do it this coming Wednesday and let's work on a mutually convenient date, in effect, asking for a postponement. We do not have an answer on that yet so I don't know if the hearing is going to be postponed Wednesday or not.

If the hearing is not postponed, the board needs to make a decision whether it wants to take a position on the bill and communicate that in writing. And that's the matter before you.

CHAIRMAN STRICKLAND: And I might add that that would be on very short notice because we sent that letter Friday and this is at the end of the business day on Monday.

And the proposed -- not proposed, but the scheduled hearing date on that bill is this Wednesday.

So if our offer we just put forward three members of the board to testify on the bill at another time is declined and the hearing is going to go forward, then we'd have to very quickly prepare a statement of the board's position on the merits of the bill and submit it in writing.

And we would intend to prepare that and circulate it to the board.

I think it would be a matter we've already voted on; we just would be simply circulating to you the language that we propose to send if that is how things develop.

But any questions on that of Tom or me?

MR. POLGAR: I should just add one more thing. Mr. Cannon has not made any statements or comments about why he is for this bill or why he introduced it.

CHAIRMAN STRICKLAND: Tom, go ahead.

MR. MEITES: Are we to be asked to -- is this discussion now for us to formulate a position with regard to

this bill and designate some of our members as our representatives to elements to it?

CHAIRMAN STRICKLAND: Yes. I think so.

MR. MEITES: Because it doesn't do us good to designate representatives unless we give you directions as to what to say.

CHAIRMAN STRICKLAND: Well, I think -- and the open session item that we've added is to authorize the chairman, after consultation with the board's vice chairman and chairman of the finance committee, to communicate to the Congress the board's view. But we perhaps need to obtain the board's view before we prepare any language forwarding the board's view.

MR. MEITES: Do we -- is the board's view in closed session or open session? When do we have that discussion?

CHAIRMAN STRICKLAND: I think we probably better take it up right here.

Herb, did you have --

MR. GARTEN: Is there anybody within the organization has had any indication whether they're going to postpone the hearing date?

CHAIRMAN STRICKLAND: No. We have not heard a

word. I'm presuming as of -- word would have come to your office, Tom, and there has been no --

MR. POLGAR: Word would have come to my office. In fairness, we faxed the letter over to the House Judiciary Committee at approximately 4:30 on Friday. The House is out today. The House -- I think they're in tomorrow.

They don't have any votes until 6:30, so most of the members will be trickling in during the course of the day. And my guess is that staff has not had the opportunity to speak to Mr. Cannon and find out what he wants to do.

CHAIRMAN STRICKLAND: I'd entertain any other discussion on the matter. Oh, sorry, Bernice. Go ahead.

MS. PHILLIPS: Frank, would it be appropriate to prepare the statement and then have Helaine present it to the committee?

CHAIRMAN STRICKLAND: Well, I think that would -- the reason why we suggested that Helaine was not the appropriate person is because, after all, the board appointed her to her position. And the point we made in our letter was that we did not think it was appropriate to ask her view of what the board's authority ought to be. That ought to be a board decision, in other words.

So I think that would put her in an unfair position, to go there and present the letter and subject herself to questions. It would defeat the purpose of what we said in our letter last Friday.

MR. GARTEN: Has the IG or anyone in his office gotten an indication from staff or anybody in their office as to whether they're going to postpone this?

CHAIRMAN STRICKLAND: I don't know. We can ask the inspector general.

MR. WEST: The update I have is the minority and the majority are discussing it. I think Tom could tell you who knows.

MR. POLGAR: Well, I was going to wait until after the board meeting. But I got a phone call, a message handed to me a little while ago, where they were -- from minority staff where they were asking what dates would be appropriate. So Mr. Watt is definitely trying to push the hearing back.

CHAIRMAN STRICKLAND: All right. I think we've told you as much as we know.

MR. GARTEN: Well, that seems to indicate that they are considering changing the date.

CHAIRMAN STRICKLAND: Well, possibly. Possibly.

And I hope that's the case. I think it would be much better for us to go and comment on the bill in person before the committee.

Go ahead, Mike.

MR. MCKAY: In response to Bernice's question, which is an appropriate one, just to add to what our chairman said, this bill relates to board authority, not the president's authority. And I know I personally feel that at least one member of the board, if not more, should be personally at the committee hearing to address that bill as it relates to the board's authority.

I think it would be important for us to be there personally to make that presentation. I am not excited about submitting a written document that sets forth our position because of the short notice. And so I'm hopeful that the committee will delay the hearing so that we can be heard on this.

But if they do proceed, we do have to -- I believe we have to submit something in writing so at least the know our position. But it really is a fast track thing here and a tad bit unfair that the people whose authority would be affected would not be personally heard from.

CHAIRMAN STRICKLAND: Lillian, did you have a comment?

M O T I O N

MS. BeVIER: Well, I think we should get this in the form of a motion to focus discussion. And I think I would move that it ought to be the board's position that we oppose the bill, if that's the right way to put it, that we would not be in favor of this bill.

My rationale for that is rather complicated, but I can state it fairly simply. I do not see why the inspector general of the Legal Services Corporation should be treated any differently in terms of job security than any other inspector general in the federal government.

And I just don't -- moreover, I think the board hires and the board fires, and we do it by majority vote. We do it, you know, so that it's got to be something that we -- unless there's a rationale for giving inspector generals generally this kind of super job protection, which I have not heard articulated by anyone, then I don't believe we should be in support of the bill. In fact, I think we should be in opposition to it.

MS. SINGLETON: Second.

CHAIRMAN STRICKLAND: All right. Discussion on the motion.

MR. FUENTES: Well, Mr. Chairman, I think we might be forcing our own hand here a bit in that we're taking a position that states where we are before we have heard background or information as to what prompts this. I mean, I don't know anything but this very brief few words that we've had here today as to what is Mr. Cannon's motivation for the presentation of this.

And I would like to hear more before I take a position, much like where Lillian was earlier in this meeting in terms of abstaining. So if we then abstain, then whoever goes to speak on behalf of the board is going to have to say there is a difference of opinion. There is not a unanimous consensus on the part of the board.

So I would think that a reasonable response would be that the board took the matter up because it was presented to us expeditiously, but we felt we don't have adequate information presented to us yet to address it.

MR. HALL: If I could comment, unfortunately --

CHAIRMAN STRICKLAND: Yes, David.

MR. HALL: -- because I'm going to have to go. I'm

scheduled to be on a panel.

In addition to the arguments or the explanation that Lillian gave, which I, you know, fully support, my only -- my main concern is that even the existence of the legislation or proposed legislation casts some aspersion on us as a board. It suggests that we would act improperly and that therefore there needs to be some special provision for us because we couldn't be trusted to act properly.

And that's not the board I know. You know, these are thoughtful individuals who take their role very seriously. And no one has said that to me, that that's the motivation behind the legislation. But I think it's obvious to read into that since it's not being applied to other IGs.

And so I would resist it just on -- without hearing anything else, I would resist it on the ground that I know the people around the table, though I'm not there right now looking at them, and I know these are people of integrity who would operate in a proper way. And this legislation seems to suggest that we would not.

And so it is for that reason that I think we do need to take a stand, without even hearing what is being proposed, because someone has to go or someone in writing has

to submit where we stand on this if we can't be there to engage in the dialogue. And I do think a starting point is that, you know, this board operates in a proper way and would never try to abuse that power in regards to the IG or in regards to the president or anyone else.

So I really regret that I have to leave because there are some critical issues that I know are coming up. But I had a commitment that I made long before we had agreed on this meeting. So I apologize.

MR. MCKAY: Can we call for a vote?

CHAIRMAN STRICKLAND: If you could hold for just a minute or two, David, perhaps we can come to some resolution on this and take a vote.

MR. HALL: Okay.

CHAIRMAN STRICKLAND: Yes, sir.

MR. FUENTES: Mr. Chairman, I'm concerned that this happens in something of a charged political environment. And I don't think it needs to be, and I don't want to encourage that.

I recall a moment in time in this board when the party affiliation of this board reversed itself due to vacancies, when the majority -- when the President's party

had less than the majority on this board. You know, that could be an opportunity for a coup, so to speak, for lack of a better term.

And I don't know what's behind this bill. I just -- I mean, we've had a three-minute presentation on this proposal, and I think this is very serious stuff. And I would think that we could take the time to learn more before we vote on this.

CHAIRMAN STRICKLAND: I think, if I may reply to that, I don't think we have the time. If the hearing in fact moves forward on Wednesday afternoon at 4:00, we simply don't have the luxury of time to find out more about it. And frankly, I don't know how we would find that out, unless Mr. Polgar has some advice on what you've heard regarding the bill.

Have you heard anything?

MR. POLGAR: In terms of what Mr. Cannon's motivation was?

CHAIRMAN STRICKLAND: Yes, or anything else you can do to enlighten us.

MR. POLGAR: Well, I've had conversations with -- now, this bill has been referred to not only the Judiciary

Committee but also to the House Government Reform Committee.

I've had some conversations over there. And it has to clear both committees before it could even come to the House floor, so I just don't think it's very likely anything is going to happen this session.

I mean, I sort of agree with some of the sentiments that have been expressed here. I mean, in the absence of a rationale, I don't see why this board is being singled out to be the only entity in the U.S. government that has to have a super majority. And incidentally, the bill does say that nine members have to agree in writing. So to turn around here and have a ten-zero vote like you had to amend the agenda wouldn't be sufficient.

So to me, I think it's obvious from an institutional standpoint that the board needs to defend its role in this position.

MR. HALL: Frank, unfortunately I do have to go. I'm holding up the program.

CHAIRMAN STRICKLAND: All right, David. Thank you for staying with us.

MR. HALL: All right. Sorry.

CHAIRMAN STRICKLAND: We appreciate your views on

the matter.

MR. MEITES: Frank, I have a brief comment.

CHAIRMAN STRICKLAND: Go ahead.

MR. MEITES: I kind of share Tom's point --

OPERATOR: David Hall is now exiting.

MR. MEITES: -- that I don't know where the congressman is coming from, of course. But I do know something. What I do know is what David said, that we've done a very good job. And nothing I have seen or heard would suggest that there's any reason that we know of why we, of all the entities in the federal government, cannot be trusted to act like everyone else.

So we do know something. We know what we've done. And we know we are a responsible, thoughtful, careful body. And until somebody tells me differently, I think that's the position we have to take. So I would support the motion.

CHAIRMAN STRICKLAND: Thank you.

MS. BeVIER: Can I just say one more thing with reference to the possibility of this being sort of politically motivated? I don't think there's anything in Washington that isn't.

But this is one issue that's come before us that I

think it's very difficult to discern how a Republican could differ from a Democrat with respect to whether or not the Legal Services Corporation should be treated differently in this respect from every other government entity. I mean, the rationale for IGs, as we know, is a little interesting. It's a hard thing to get your arms around. Once you get your arms around it, you still have to struggle to continue to understand it on a daily basis.

But to my mind, this is not a question of politics. I cherish my naivete in that regard, and I'm going to hang onto it.

CHAIRMAN STRICKLAND: Okay. Any other comments?

MR. FUENTES: Well, Mr. Chairman, I would just comment that a valid position can be you are opposed to this bill or you are in favor of this bill or we are not prepared at this point to say our position. I think any one of those are thoughtful. Any one of those are valid. And an abstention can be just that, that statement.

CHAIRMAN STRICKLAND: Kirt.

MR. WEST: Without getting into the merits, I just would like to provide a couple pieces of information that maybe help the board to understand this.

This would not be the first independent inspector general whose board has such a requirement imposed upon it. In 1996, the Postal Service IG was created. It had been the Postal Inspector in the IG Act of 1988, and they determined that -- I mean, the chief postal inspector determined that was a conflict. He was a member of management. And they put an independent IG in.

When they did that, they put in the Postal Service Act, not the IG Act, the requirement that the board of governors, which there are nine in the Postal Service, it takes seven out of nine governors to remove the inspector general with a for cause provision.

So you have that. So it's not unique to the -- Mr. Cannon's bill would not be unique to the inspector general community. And recently they created a position of the Inspector General for the U.S. Capitol Police, and there he's appointed by three -- I believe it's the general -- it's the Public Printer, the Architect of the Capitol, and somebody else. I forget who it is. But that requires a unanimous vote of those three to remove the IG.

So some of the more recent actions by Congress have been in that direction. So I just wanted to let you know

that you're not talking about something that's completely unique.

CHAIRMAN STRICKLAND: All right. That's very informative. I don't think any of us knew about that.

MR. POLGAR: The unanimity requirement that exists for the operations of the Capitol Police for the little board that oversees it exists so that the Senate and the House can block, unilaterally block, anything they don't like as it relates to their respective side of the Capitol. So that's a slightly different situation.

CHAIRMAN STRICKLAND: All right. We do have a motion before us. As I recall the motion -- who made the motion? Let's get it restated.

MS. BeVIER: I think I did.

CHAIRMAN STRICKLAND: And your motion was that the board should --

MS. BeVIER: Take the position that we oppose the bill.

CHAIRMAN STRICKLAND: Oppose the bill. All right. That's the motion before us. Any other discussion on the motion?

(No response.)

CHAIRMAN STRICKLAND: Let's proceed to a vote on the motion. All those in favor of the motion, please say aye.

(A chorus of ayes.)

CHAIRMAN STRICKLAND: Those opposed, nay.

(No response.)

CHAIRMAN STRICKLAND: All right. Is there any --

MS. SINGLETON: And one recorded abstention.

CHAIRMAN STRICKLAND: All right. Is there an abstention?

MS. CHILES: Yes.

MS. PHILLIPS: Yes.

MR. FUENTES: Yes.

CHAIRMAN STRICKLAND: Three abstentions? All right. So help me on the numbers. We've lost David, so we're down to nine people. So is that six for and three abstentions? Six in favor.

MS. SINGLETON: Six-four in favor of the motion.

CHAIRMAN STRICKLAND: Six members of the board voted in favor of the motion. Three members of the board abstained from voting. That's the way the recorder should record it.

MR. FUENTES: And one absence.

CHAIRMAN STRICKLAND: And one absent, but who had spoken in favor of the bill, I believe, before he had to leave the meeting. All right. Thank you for that discussion.

The next item on the agenda is public comment. Is there any public --

MS. BeVIER: There is another issue.

CHAIRMAN STRICKLAND: Oh, sorry.

MS. BeVIER: Sorry, Mr. Chairman. We have to affirm the -- we have to authorize an appearance, if that's right, and --

CHAIRMAN STRICKLAND: Oh, right.

MS. BeVIER: -- perhaps delegate a statement of reasons why we are opposed.

CHAIRMAN STRICKLAND: That's right. The other part of this proposal was that consider and act on whether to authorize the chairman, after consultation with the board's vice chairman and chairman of the board's finance committee, to communicate with Congress the board's view of H.R. 5974.

Do you want to make a motion on that, a separate motion?

M O T I O N

MS. BeVIER: Do I have to put my hand down to vote on it? Yes. I move to that effect.

CHAIRMAN STRICKLAND: All right.

MS. BeVIER: But Mr. Chairman, I'd like to suggest that it might be, especially in light of the concern that Tom Fuentes has expressed, that we might include authorizing David Hall to accompany us and -- you know, three out of four, two out of four of us can go.

But I think perhaps a more politically inclusive group might be useful, although it seems that -- I mean, I don't know whether that's true. But I would like to -- if I'm amending -- no, I can't be. I'm making the motion. I would like to --

CHAIRMAN STRICKLAND: You can make it in that form.

MS. BeVIER: -- put in that the board authorize the chairman, the vice chairman, the chairman of the finance committee, and the chairman of the provisions committee, or any --

MR. GARTEN: I second the motion.

MS. BeVIER: -- number of those.

CHAIRMAN STRICKLAND: Okay.

MS. BeVIER: And to draft and submit for board -- submit to the board a statement of reasons. We'll draft and submit it for the board's -- can we submit it for the board's approval, or we just have to submit it so that the board knows what we've decided to do? Because it won't be with --

MR. GARTEN: Why are you putting that other burden on yourselves when you have a short time? Why don't you just have the authority of the board to appear. They voted in opposition of it.

MS. SINGLETON: Or to prepare a written statement. And if you have time to circulate it to all of us, do so. But otherwise, I'm comfortable authorizing you to prepare the statement.

CHAIRMAN STRICKLAND: All right. That's your motion, then?

MS. BeVIER: That's my motion.

MR. MEITES: Second.

CHAIRMAN STRICKLAND: And there's a second. Is there any further discussion on that motion?

(No response.)

CHAIRMAN STRICKLAND: All right. All those in

favor of the motion --

MR. FUENTES: Mr. Chairman?

CHAIRMAN STRICKLAND: Yes, sir?

MR. FUENTES: Forgive me for taking the time here.

But is it not a little presumptuous of us, if the Congress wants to hear from this board and the Congress invites, and it's not for us to say who will go talk to the Congress if the Congress invites. For instance, the Congress could invite a minority opinion representative from this board, could invite all of us to come and speak, et cetera.

There's been an expression of position of a divided board already as it is not unanimous. So if the chairman is invited by the committee of Congress to come and offer testimony, God bless you, go. But I don't know that we need to say who's going to go talk to the Congress.

CHAIRMAN STRICKLAND: Well, we're not trying to take Congress's prerogative. But we're saying that we've got four members of the board now that we would put forward as possible witnesses. They don't have to accept that, of course.

MR. FUENTES: Well, I would hope that any and all members of this board who might like to address this

committee would be open to commenting to this.

CHAIRMAN STRICKLAND: As far as I'm concerned, the entire board could go. But I think it's highly unlikely that a committee would entertain ten or eleven people from the same organization.

Do you have a comment on how those things work, Tom?

MR. POLGAR: I don't think it's at all presumptuous for you to suggest who the witnesses are. But the committee clearly retains the right to invite whoever they wish. But normally, these things are worked out and negotiated out to everybody's satisfaction.

MS. BeVIER: Please forgive me, Mr. Chairman. I have a question for Mr. Fuentes about your vote. I understood your vote to be, I can't take the position on this because I do not know enough. I did not understand your vote to be a nay on the position that the board endorsed, which was to be against the bill.

Am I mistaken about what your position is?

MR. FUENTES: The position was, as you stated it. But if invited to attend before this committee of the Congress, I might as a board member enjoy entering into

dialogue, learning more about the intent of this bill, before that committee and then offering an opinion as a member.

MS. SINGLETON: Mr. Chair, I do think that the board can authorize people to go as its spokespeople. I agree that if -- that Congress can call any one of us and we probably would go or not go at our own peril. But it does seem to me that the purpose of this motion is to authorize specific people to be potential spokespeople, and also to prepare and draft a written statement should one be needed.

And so I do think there is a difference between the roles that, say, Mr. Fuentes is going to play if he is called to go talk to Congress and the role the people we put into this motion would play.

CHAIRMAN STRICKLAND: Well, having heard all that, we still have -- I agree with your statement. But I think we still have a motion before us, which as I understand it, is we are selecting four people who would be possible witnesses if that opportunity should arise. And in addition, we're authorizing that group to prepare a statement, which in essence is that a majority of the board, with three abstentions, voted to oppose the legislation.

Is that a fair summary?

MS. SINGLETON: Yes. I believe it is.

CHAIRMAN STRICKLAND: All right. I'm going to exercise the prerogative of the chair and say that the discussion is now closed. And I'm going to call for a vote on the motion.

All those in favor, please say aye.

(A chorus of ayes.)

CHAIRMAN STRICKLAND: Those opposed.

(No response.)

CHAIRMAN STRICKLAND: Are there any abstentions?

(Two abstentions indicated.)

CHAIRMAN STRICKLAND: An abstention. Did you vote aye?

MS. PHILLIPS: No. Only because what you may prepare in the statement may not reflect how I feel.

MS. BeVIER: So are you abstaining or voting no?

MS. PHILLIPS: I'm abstaining.

CHAIRMAN STRICKLAND: Okay. So we have the -- how did you vote?

MS. CHILES: Aye.

CHAIRMAN STRICKLAND: All right. So at this time we have seven, and two abstentions. Is that correct on the

numbers?

MR. FUENTES: Mr. Chairman?

CHAIRMAN STRICKLAND: Yes, sir?

MR. FUENTES: For the record, I'd like to acknowledge that I think you as chairman are authorized to represent this board in any situation like this, and to take a delegation of any members of this board you want to take with you to go testify on something. I think it's a bit of a silly precedent to pick a delegation to send with you to testify before the Congress.

CHAIRMAN STRICKLAND: Well, I appreciate that point. I think the real thrust of this was in case somebody -- they pick a date, and let's say I'm not available, that we want to move to somebody else.

And also, in terms of drafting a statement, I don't think the statement is going to be very long. I didn't want to undertake to do that by myself. So that was the reason for this particular direction. All right. So the vote again on that is seven in favor and two abstentions.

All right. Let's move to the next item on the agenda, unless I'm forgetting another item, which is public comment. Is there any public comment at this point?

(No response.)

CHAIRMAN STRICKLAND: All right. The --

MS. SINGLETON: Wait. Mr. Chairman, you were about to act on going into closed session, which I assume means that members of our audience will not be invited.

CHAIRMAN STRICKLAND: Correct.

MS. SINGLETON: I don't mean to put anybody on the spot, but I know that the director of CRLA is here, Jose Padilla, and I didn't know if he was here just to listen to our meanderings or if he wanted to say something to us. But I'm assuming he will not be in the closed session.

CHAIRMAN STRICKLAND: That is correct.

MS. SINGLETON: And I think we should specifically ask him if he does want to address us.

CHAIRMAN STRICKLAND: How about it, Jose?

MR. PADILLA: No. I came to educate myself about the subject. I have no interest in joining the closed session at this point in time. But I thank you very much for the indirect invitation, if it was an indirect invitation.

MS. SINGLETON: It was, Jose. You read the tea leaves right.

CHAIRMAN STRICKLAND: All right. I'm glad we got

that on the record.

All right. Is there any other public comment that I'm overlooking?

(No response.)

CHAIRMAN STRICKLAND: All right. Hearing none, item 10 on the agenda is consider and act on whether to authorize an executive session of the board to address the items listed below under closed session. And you remember that we amended the agenda to include briefing on recent developments in litigation involving the Corporation.

So as amended, the closed session agenda is before you. So all those in favor of the -- let me entertain a motion on that. I'm sorry.

M O T I O N

MS. BeVIER: So moved.

CHAIRMAN STRICKLAND: Is there a second?

MR. GARTEN: Second.

CHAIRMAN STRICKLAND: Any discussion?

(No response.)

CHAIRMAN STRICKLAND: All those in favor of the motion to go into closed session at this time, please say aye.

(A chorus of ayes.)

CHAIRMAN STRICKLAND: Those opposed.

(No response.)

CHAIRMAN STRICKLAND: The ayes have it and we will take a short break and then -- about five minutes -- well, six or seven minutes. 4:30 will be the starting time for the closed session.

MR. FUENTES: In here?

CHAIRMAN STRICKLAND: In here.

(Whereupon, at 4:24 p.m., the board adjourned to executive session.)

E V E N I N G S E S S I O N

6:45 p.m.

CHAIRMAN STRICKLAND: We're back in open session.

M O T I O N

MS. SINGLETON: I would like to move that we ask that our government affairs people and the inspector general, if he's willing, request that the hearing that we've been informed has been rescheduled for Tuesday be postponed even further, even if it means it has to be after the election. That should be our first course of action.

Assuming or if our request is not granted to delay it, I think that we should recess this meeting until we can have a telephone resumption of the meeting on Friday morning first thing, and at that meeting, we should take up items -- the last two items on our agenda for the closed session; and that we should also at this time move to amend the agenda to have an open session, at which we will take action concerning or possibly take action concerning the IG draft report on the board -- or certain fiscal practices at LSC.

CHAIRMAN STRICKLAND: So as I understand -- is there a second to that motion?

MS. BeVIER: Second.

MR. GARTEN: I'll just ask for a friendly amendment, and that would be that we ought to -- if the hearing has to go forward next Tuesday, we ought to ask them to limit it to the proposed legislation and not get involved in anything dealing with this report because we've just gotten it and are not prepared to discuss it.

CHAIRMAN STRICKLAND: Can you advise us on that, Tom? I take from what you said a moment ago that that's not the way you would see it going?

MR. GARTEN: What harm is there?

MR. POLGAR: We can ask, sure. I mean, it's very hard for chairmen to limit what members can ask. And so -- but I've seen it done. So we can certainly ask.

MR. MEITES: Is there a price we pay by asking? I mean, is it -- I mean, in your judgment, under the circumstances here, does it look like we're trying to hide something when we do that?

MR. POLGAR: I'm very comfortable asking because we just haven't had -- we got it at 7:00 last night. Some of you didn't even get it until today. We've given it one quick read and -- I mean, the report needs work. I mean, that's my opinion. And --

MR. MEITES: He's not finished.

MR. POLGAR: -- if it doesn't get serious work, then we're going to need a serious response. And doing that in seven days is going to be hard.

MR. MEITES: So you can package it to make it look like it's something we'd be happy to address at some point down the line?

MR. POLGAR: Yeah. Right.

MR. MEITES: It's just that, you know, one week's notice is short.

MS. SINGLETON: I do need to amend the motion that I made to make it clear that the discussion of this report in closed session will be a discussion as well as a briefing, but no action will be taken until we go into open session.

CHAIRMAN STRICKLAND: Or such action as we might decide.

MS. SINGLETON: Right. Right.

MS. BeVIER: If any.

MR. MEITES: If the committee doesn't have the report, then we don't have to worry about having it discussed at the hearing.

MS. SINGLETON: This is an investigation of the

board. I don't think it would be wise for us to make a point of telling the IG not to give it to Congress.

MR. MEITES: I'm not saying not to give it. I think at some point he's going to have to give it to Congress. But I get back to the fact that we were promised two weeks to review it.

MS. SINGLETON: I'm not going to amend the motion to put that in. It makes me uncomfortable, govern the subject matter of the report.

CHAIRMAN STRICKLAND: All right. Does everybody understand the motion?

MR. GARTEN: I second it as clarified.

CHAIRMAN STRICKLAND: All right. And is there any further discussion on the motion? Yes, sir?

MR. FORTUNO: Mr. Chairman, just one point, and that is that there will be an open session discussion. Was there also something said about having a discussion in executive session?

MS. SINGLETON: The idea was to amend the agenda for this meeting so that in our closed session on this item, we can not only have a briefing but can have a discussion, but take no action.

MR. FORTUNO: Okay. We would have to -- we would have to have -- we would have to cite to a section of the Sunshine Act in our reg that authorizes the discussion in closed session. So we would have to identify the grounds for that.

MS. SINGLETON: Can you help me out here? No?

MR. FORTUNO: I could tell you what they are. And offhand, unless you're aware of something to be discussed that I'm not, it's hard to imagine because it's -- if the discussion would deprive a person of a right to a fair trial or an impartial adjudication, you could have it in closed session. If it would constitute an unwarranted invasion of personal privacy, you could have it in the -- in closed session.

If it disclosed the identity of a confidential source or disclosed investigative techniques and procedures or endanger the life or physical safety of law enforcement personnel. And I don't think that Kirt feels that he's in --

MS. SINGLETON: Come on, Kirt. Help us out here.

(Laughter.)

MR. FORTUNO: And if it would disclose information the premature disclosure of which would likely frustrate

significantly the implementation of a proposed Corporation action. And the other is specifically concern the Corporation's participation in a civil action or proceeding.

MS. SINGLETON: Why wouldn't it be that one you just read about Corporation action?

MR. FORTUNO: In a civil action or proceeding in action before a court, international tribunal --

MS. SINGLETON: No. Before that.

MR. GARTEN: No. The one before that.

MR. FORTUNO: Oh, the one before that? Disclose information the premature disclosure of which would likely frustrate significantly implementation of a proposed Corporation action?

MS. SINGLETON: That's it. If we prematurely disclose what we're going to do, Congress will kill us.

(Laughter.)

MR. FORTUNO: Let me look at it because that's what we need to do, is to -- I don't want to say shoehorn it, but we need to identify the exemption to the Sunshine Act that is provided here that would cover this. And then that would have to be noticed in the Federal Register notice as well, in addition to the certification.

MR. MEITES: Yeah. I can't agree with the word "shoehorning" it. I think our chair's or our reprv's appearance before Congress is significant Corporation action. And I think for us to disclose prematurely what our determination of that position to be would be deleterious to the significant Corporation action.

I don't think we have to go any farther, and I'll take my chances on that. So I support the motion that we continue this discussion in closed session under the amended agenda.

MR. GARTEN: Do we have a time for that?

CHAIRMAN STRICKLAND: You mean a time for the hearing?

MR. MEITES: Our meeting.

MR. GARTEN: No. The meeting. It's going to be Friday?

CHAIRMAN STRICKLAND: It's going to be Friday, early in the day. I mean, we're trying to observe --

MR. MEITES: What's good for you? 10:00 your time?

MR. GARTEN: I looked at the wrong calendar. 9:00?
10:00?

MR. McKAY: Well, that's fine with me.

MS. BeVIER: Let's do it as early as possible.

MR. GARTEN: Is 9:00 --

MS. SINGLETON: 9:00 Eastern time?

MR. GARTEN: Yeah.

MR. MEITES: That's 6:00 Mike's time.

MR. McKAY: That's fine for me.

CHAIRMAN STRICKLAND: And what's the -- is that the
25th?

MS. SINGLETON: No. It's the 22nd.

CHAIRMAN STRICKLAND: The 22nd. I'm sorry.

MS. SINGLETON: And it's telephonic?

MR. MEITES: And someone will give us information
about calling in and all that.

MS. BARNETT: And that will begin with board only,
or will that begin with --

MS. SINGLETON: No. It should begin with
management being --

MS. BARNETT: Management. And then you go into
board only.

MR. GARTEN: And we're going to try to get these
quick responses.

MS. BARNETT: We're going to try to get you

something.

MR. MEITES: And Frank, if you could call Tom Williamson and get some idea about whether our private session will be private.

CHAIRMAN STRICKLAND: Yes. So this is -- the time 0900 Eastern time on the 22nd for the conference call?

MS. SINGLETON: You might need to get close to the microphone.

CHAIRMAN STRICKLAND: Sorry. We're talking about having this conference call meeting at 9:00 Eastern time on the 22nd, as I understand. That is Monday the 22nd?

MS. CHILES: No. It's Friday.

CHAIRMAN STRICKLAND: Beg your pardon, Friday. And in between now and then, I will contact our outside counsel.

MR. MEITES: Thank you.

CHAIRMAN STRICKLAND: All right. Is that -- anything else you want to take up this afternoon? I don't think so. Are we going to have your litigation briefing then, too, Vic?

MR. FORTUNO: Sure. We could do it then. In fact, if you'd like, the reason why we don't have outside counsel available to participate today is because he's in Ireland

meeting with the board of another client. But if you wanted him available to address this, he could be available next Friday, if you'd like. This coming Friday, I should say.

CHAIRMAN STRICKLAND: Well, you might check with him and see if he's available. We'll be glad to have his personal briefing on it.

Okay. In light of that action --

MR. GARTEN: We have to vote first.

MS. BeVIER: We have to vote.

CHAIRMAN STRICKLAND: Sorry. Hearing no further discussion on the motion, all those in favor of the motion please say aye.

(A chorus of ayes.)

CHAIRMAN STRICKLAND: Opposed, nay.

(No response.)

CHAIRMAN STRICKLAND: The vote is unanimous and the resolution or motion is adopted.

Is there anything else to take up today, or are we at adjournment? Is it adjourn or --

MR. MEITES: Recess.

CHAIRMAN STRICKLAND: All right. Is there a unanimous vote on that? All right. We're in recess. Thank

you very much, everybody.

(Whereupon, at 7:00 p.m., the board meeting was recessed, to reconvene Friday, September 22, 2006, at 9:00 a.m.)

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