

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

OPEN SESSION

Saturday, August 24, 2002

9:05 a.m.

The Marriott at Metro Center
775 12th Street, N.W.
Washington, D.C.

BOARD MEMBERS PRESENT:

Douglas S. Eakeley, Chairman
LaVeeda Morgan Battle, Vice Chair
Hulett H. Askew
John T. Broderick, Jr. (via telephone)
John N. Erlenborn (attending as Director and President)
Edna Fairbanks-Williams
F. William McCalpin
Maria Luisa Mercado
Nancy H. Rogers (via telephone)
Thomas F. Smegal, Jr. (via telephone)
Ernestine P. Watlington

STAFF AND PUBLIC PRESENT:

John Eidleman, Acting Vice President for Compliance
and Administration

Victor M. Fortuno, Vice President for Legal Affairs,
General Counsel & Corporate Secretary

Mauricio Vivero, Vice President for Government
Relations & Public Affairs

Randi Youells, Vice President for Programs

Leonard Koczur, Acting Inspector General

Laurie Tarantowicz, Assistant Inspector General and
Legal Counsel

David Maddox, Assistant Inspector General for Resource
Management

David L. Richardson, Acting Vice President for
Administration, Treasurer, and Comptroller

Mattie Condray, Senior Assistant General Counsel

Catherine Sulzer, Deputy Director, Office of
Governmental Relations and Public Affairs

Eric Kleiman, LSC Press Secretary

Patricia Hanrahan, Special Assistant to the Vice
President for Programs

Leslie Q. Russell, Director, Office of Information
Technology

Michael Genz, Director, Office of Program Performance

Robert Gross, Senior Program Counsel, Office of
Program Performance

Robert Dieter, University of Colorado

Thomas Fuentes, Tait & Associates (via telephone)

Michael McKay, McKay Chadwell

Frank Strickland, Strickland Brockington Lewis

Linda Perle, Senior Staff Attorney, Center for Law
and Social Policy

Elizabeth Ardledge, Director of Communications,
National Legal Aid and Defender Association

Julie Strandlie, Director of Grassroots Operations,
American Bar Association

Paul Julien, Executive Director, Southern Arizona
Legal Aid

John Pickering, Wilmer, Cutler & Pickering,
representing the American Bar Association

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1 P R O C E E D I N G S

2 CHAIRMAN EAKELEY: Can we come to order, please?
3 And good morning, everyone.
4 Let me call the meeting to order, and recognize on
5 the telephone with us Tom Fuentes and Nancy Hardin Rogers.
6 MR. FUENTES: Good morning.
7 MS. ROGERS: Good morning.
8 MR. BRODERICK: Good morning.
9 CHAIRMAN EAKELEY: Is that John Broderick as well?
10 MR. BRODERICK: Yes, it is.
11 CHAIRMAN EAKELEY: Wonderful, John. How are you
12 doing?
13 MR. BRODERICK: Well, I'm doing much better. I
14 wish I were down there with all of you this morning. But I'm
15 doing much better.
16 CHAIRMAN EAKELEY: Now, Nancy and Tom, can you hear
17 John when he's speaking? Can all three of you hear each
18 other?
19 MR. FUENTES: Very clearly.
20 CHAIRMAN EAKELEY: Excellent, Tom.
21 MR. BRODERICK: Yes, Tom. Good morning.
22 MR. FUENTES: Good morning.
23 CHAIRMAN EAKELEY: We may -- Tom Smegal had a death
24 in his family, but was going to try and call in later this
25 morning. So he will -- he may hopefully join us.
26 For those on the phone, let me just recognize those
27 at the table: Ernestine Watlington, Edna Fairbanks-Williams,
28 Maria Luisa Mercado, John Erlenborn, Doug Eakeley, LaVeeda
29 Morgan Battle, Bucky Askew, and Bill McCalpin, which means
30 that if Tom Smegal does come on the phone, we will be really
31 in full board.
32 Also present with us today, in addition to Tom, are
33 Mike McKay and Frank Strickland and Rob Dieter. And we
34 welcome all of you back, and look forward to a continued but
35 hopefully abbreviated collaboration before we may turn the
36 gavel over.
37 You all have the agenda distributed in the meeting
38 materials. Is there a motion to approve the agenda as
39 distributed?

40 M O T I O N

41 MR. McCALPIN: So moved.
42 MR. ERLNBORN: Second.
43 CHAIRMAN EAKELEY: All those in favor?
44 (A chorus of ayes.)
45 CHAIRMAN EAKELEY: Opposed?
46 (No response.)
47 CHAIRMAN EAKELEY: You all have the minutes of our
48 June 1, 2002 meeting. Are there any corrections or additions
49 to be made to those minutes?

1 (No response.)

2 CHAIRMAN EAKELEY: Hearing none, is there a motion
3 to -- LaVeeda asks whether she was on the phone. MS.

4 BATTLE: I thought it was.

5 CHAIRMAN EAKELEY: Or was that at the committee
6 meeting?

7 MS. BATTLE: Oh, maybe so. Okay.

8 CHAIRMAN EAKELEY: Hearing no changes, is there a
9 motion to approve the minutes of the June 1 meeting as
10 circulated?

11 M O T I O N

12 MS. FAIRBANKS-WILLIAMS: So moved.

13 CHAIRMAN EAKELEY: Second?

14 MS. WATLINGTON: Second.

15 CHAIRMAN EAKELEY: All those in favor?

16 (A chorus of ayes.)

17 CHAIRMAN EAKELEY: Opposed?

18 (No response.)

19 CHAIRMAN EAKELEY: The ayes have it.

20 You also have in your board materials the minutes
21 of the executive session of the board's meeting of June 1,
22 2002. Again, are there any corrections or additions to be
23 made to those?

24 (No response.)

25 CHAIRMAN EAKELEY: Hearing none, is there a motion
26 to approve the minutes?

27 M O T I O N

28 MS. FAIRBANKS-WILLIAMS: So moved.

29 CHAIRMAN EAKELEY: Second?

30 MS. WATLINGTON: Second.

31 CHAIRMAN EAKELEY: All those in favor?

32 (A chorus of ayes.)

33 CHAIRMAN EAKELEY: Opposed?

34 (No response.)

35 CHAIRMAN EAKELEY: The ayes have it. The minutes
36 are approved.

37 We also had a telephonic meeting on May 23, 2002,
38 and the minutes of that telephonic meeting are attached to
39 your meeting materials as well. Are there any corrections or
40 additions to be made to those minutes?

41 (No response.)

42 CHAIRMAN EAKELEY: Hearing none, is there a motion
43 to approve them?

44 M O T I O N

45 MS. BATTLE: So moved.

46 CHAIRMAN EAKELEY: Second?

47 MS. FAIRBANKS-WILLIAMS: Second.

48 CHAIRMAN EAKELEY: All those in favor?

49 (A chorus of ayes.)

1 CHAIRMAN EAKELEY: All those opposed?
2 (No response.)

3 CHAIRMAN EAKELEY: The ayes have it. The minutes
4 are approved.

5 And that brings us to chairman's report. I really
6 don't have much of a report. I thought yesterday's meetings
7 went very well. I thought that there was a great deal of
8 substance, both in the meeting materials that showed the work
9 that the management and OIG have been doing faithfully, but I
10 thought that the presentations were engaging and informative
11 and really very commendable.

12 I did mention in committee meetings yesterday, and
13 I will mention here today, especially for those present on
14 the phone, that I think it's over time -- we're a good year
15 or so late in dusting off our Strategic Directions document,
16 which we approved in January of 2000, and updating that
17 document, but also doing more to see what we can do to
18 convert it to the semblance of a strategic plan.

19 And I hope to devote a substantial part of our next
20 board meeting to that effort, with the help of a lot of staff
21 input between now and the next board meeting. I would also
22 very much like to engage the board nominees informally in the
23 process so that we have the benefit of some renewed strategic
24 thinking and discussion that may hopefully inform the plans
25 and budgeting and activities of the Corporation moving
26 forward.

27 So that's sort of, I think, the game plan for the
28 next board meeting. We have a fair amount of business to
29 attend to with respect to the ops and regs committee that
30 will come up in that committee's report. But anyway, that's
31 where we are in that.

32 I also wanted first to welcome back a very healthy
33 vice chair of the board. LaVeeda had a pinched nerve -- a
34 slipped disk?

35 MS. BATTLE: Disk.

36 CHAIRMAN EAKELEY: And surgery to correct it. And
37 John Broderick, it's always -- it's a joy to hear you on the
38 path to recovery.

39 MR. BRODERICK: Well, I feel like a bad rerun of
40 Charlie's Angels.

41 MS. WATLINGTON: He's better.

42 CHAIRMAN EAKELEY: You don't sound like your jaw is
43 wired any more, though.

44 MR. BRODERICK: No. No, it's not wired, and I'm
45 doing much better. Just to share something very briefly,
46 this falls under the category of compliments you cannot
47 accept. My 88-year-old uncle, who had not seen me since I
48 was injured, saw me in July and reported proudly that I
49 looked better than I did before.

1 (Laughter.)

2 MR. BRODERICK: So it's not a perfect world.

3 CHAIRMAN EAKELEY: Well, that's -- we miss that
4 humor of yours, John.

5 All right. Well, that is my report. Let's go
6 around the table, then. John Broderick, why don't we
7 start -- why don't we continuation with you for members'
8 reports.

9 TELEPHONE OPERATOR: Tom Smegal is joining.

10 CHAIRMAN EAKELEY: Hello, Tom.

11 MR. SMEGAL: Good morning, Doug.

12 CHAIRMAN EAKELEY: Sorry about the loss in your
13 family.

14 MR. SMEGAL: Well, it was quite sudden, and
15 unfortunately it happened. But everyone has gotten through
16 it.

17 CHAIRMAN EAKELEY: Tom, with you joining, we are
18 now in full membership of the board. We have everybody
19 present. John Broderick and Nancy are on the phone with you,
20 and then everyone else is assembled around me at the table
21 here. Also on the phone are Tom Fuentes from California, and
22 in our audience are Mike McKay and Frank Strickland and Rob
23 Dieter. So we are almost at full strength. And wonderful to
24 have you join us.

25 We were just starting the members' reports, and I
26 was asking John Broderick to continue to entertain and wake
27 us this morning with his report.

28 MR. BRODERICK: No. I was just giving a health
29 update. And I really have nothing to report other than very
30 personal information, which is I'll be going back to work on
31 September 3rd.

32 CHAIRMAN EAKELEY: Excellent. Excellent. Well, we
33 wish you --

34 MR. BRODERICK: It's good. And I also wanted to
35 apologize to LaVeeda, as long as I have her on the phone. I
36 was not aware that she had had surgery. I'm glad things went
37 so well, and I'm hopeful --

38 MS. BATTLE: I looked at it as a six-week vacation,
39 John. So it worked out well.

40 MR. BRODERICK: Well, I'm hopeful that I'll be able
41 to attend one more board meeting, assuming we're still a
42 board. But I was not able to fly this time because of
43 circumstances. But hopefully I'll be there, if there's a
44 meeting in November.

45 CHAIRMAN EAKELEY: Great. Well, we'll look forward
46 to seeing you then, if not before. And good luck on the
47 renewed term of the court in September.

48 Nancy? Any report?

49 MS. ROGERS: I don't have a report. I'm sorry not

1 to be with you in person, and look forward to seeing you all
2 at the next meeting if there is one.

3 CHAIRMAN EAKELEY: Tom Smegal?

4 MR. SMEGAL: Yes. The only thing, I went to the
5 ABA meeting, SCLAID portion of it, and Bucky was there. He
6 may have reported already. So was Bill McCalpin.

7 CHAIRMAN EAKELEY: Ernestine?

8 MS. WATLINGTON: There's nothing to report. I'd
9 like to say that I'm still going for healing and just
10 grateful that I can still do every day.

11 CHAIRMAN EAKELEY: Well, we're grateful, too.
12 Edna?

13 MS. FAIRBANKS-WILLIAMS: Oh, I'm still harassing my
14 group. Now that we have the census numbers, I'm trying to do
15 the amount of cases that are in the different counties to see
16 if we are proportionate to the number of low-income people
17 that are in those counties.

18 CHAIRMAN EAKELEY: Are you still living in
19 temporary digs after the fire?

20 MS. FAIRBANKS-WILLIAMS: Yes. I'm still sleeping
21 on my daughter's couch. But my trailer is on the lot, and we
22 are digging for the water and things now to hook it up.

23 CHAIRMAN EAKELEY: Maria Luisa, we were sorry about
24 the loss of your father.

25 MS. MERCADO: Thank you. And just on a personal
26 note, I want thank all of you for your notes and letters,
27 and, of course, John Erlenborn and the LSC staff and the
28 board for the lovely flowers that they sent. We all
29 appreciated it. Thank you.

30 CHAIRMAN EAKELEY: LaVeeda?

31 MS. BATTLE: You know, I'd just like to report,
32 it's kind of -- in looking back, when we all first got
33 together, I had elementary school kids. And we just reported
34 on all our activities. Now there are health updates in all
35 of our reports, and my kids are off to college.

36 (Laughter.)

37 MS. BATTLE: That's how long we've been together.
38 All I have is a health update, which is the surgery went
39 well, and I'm back at work full-time. And I'm thankful to be
40 here. Thank you.

41 CHAIRMAN EAKELEY: Bucky?

42 MR. ASKEW: My medication's working fine.

43 (Laughter.)

44 MR. ASKEW: I do have two things I'd like to
45 mention. My chief justice and I spoke to the entering class
46 at the University of Georgia law school last Tuesday, which I
47 do at all the law schools about staying out of trouble during
48 law school.

49 And he spoke about legal services to them, totally

1 unprompted by me, and cited the Equal Justice Magazine and
2 the concern about debt, encouraging them to be mindful of
3 their debt, but then encouraged them to go into public
4 service practice, but interest practice, either be a legal
5 aid lawyer or a public defender. It was really quite
6 wonderful. And I've noticed that the Equal Justice Magazine
7 is being read by people without any prompting from us.

8 Secondly, the president of the state bar has named
9 me the co-chair of the access to justice committee of the
10 state bar, without any -- without notifying me in advance he
11 was going to do that. Whereas Randi and Bob were thrilled
12 about the prospect of me riding off into the future, I'm now
13 going to be in charge of state planning in Georgia.

14 (Laughter.)

15 MR. ASKEW: So they're going to have to live with
16 me for a couple more years, unfortunately.

17 CHAIRMAN EAKELEY: That's poetic justice.

18 MR. ASKEW: I think it's a reward for all my duty
19 here.

20 CHAIRMAN EAKELEY: Bill McCalpin?

21 MR. McCALPIN: Sounds like we're all infected with
22 the same bug. I'm on the subcommittee of the state group
23 worrying about reconfiguration, which is penalty for my past
24 sins.

25 Tomorrow, I leave for what is, I think, my 18th
26 visit to the Association of the Legal Aid Plans of Canada.
27 As most of you know, in spite of the very different structure
28 of legal aid in Canada, many of the problems are exactly the
29 same. And I show you the agenda book for the meeting, which
30 is at least as large as the one we have for this meeting.

31 One of the differences in the past has been that
32 there has been very little involvement of the private bar or
33 anybody other than the people directly associated with the
34 provincial plans in Canada. This time, the group is
35 augmented some. I see that the executive officer of National
36 Legal Aid of Australia will be in attendance, as will,
37 somewhat surprisingly, a representative of the Canadian bar,
38 which is not usually there.

39 But also, the chief of defender services division
40 of the Administrative Office of the United States Court and
41 the assistant federal public defender from Washington will be
42 in attendance.

43 And one of the differences is that in their
44 Department of Justice in Canada, they have a research unit on
45 legal aid. And Ab Curry, who is in charge of that group, is
46 regularly in attendance and will be there as well. I will as
47 usual send a report of that meeting to the president when I
48 return.

49 CHAIRMAN EAKELEY: Thank you, Bill.

1 All right. Next, could we invite Len Koczur up for
2 the inspector general's report.

3 MR. KOCZUR: Thank you, Mr. Chairman. I'd like to
4 start today with an update on the GAO survey of small
5 agency -- well, all IGs, but focusing on small agency IGs.

6 I understand that the report has been issued to
7 Congressman Burton on the 15th of this month. Essentially,
8 it's unchanged from what we saw in the draft. They
9 incorporated the consolidated IG comments, and apparently did
10 some analysis of them.

11 The report will be released by the 15th of
12 September, or on the 15th of September, unless the
13 congressman releases it sooner. So I think we can expect to
14 see pretty much what we saw in the past.

15 CHAIRMAN EAKELEY: Which was the IGs of smaller
16 agencies like ours consolidated with the Justice Department?

17 MR. KOCZUR: Basically, yes. Yes. Well, yes,
18 that's right, although it does not make that recommendation
19 at this point. Certainly that's the direction that GAO is
20 suggesting.

21 So again, we don't know what will come out of this.
22 As I indicated before, Congressman Burton's interest was not
23 as great now as it was when the study started, so --

24 CHAIRMAN EAKELEY: When that comes out, Len, is it
25 appropriate for the agency head to respond or provide input,
26 or is this just not --

27 MR. KOCZUR: Normally there's not a response to a
28 final report unless there's specific recommendations to the
29 agency where an audit action plan would be required. So in
30 this case, I don't think there would be anything that we
31 should do unless there's something that we feel particularly
32 strong about, the board feels particularly strong about, that
33 should be addressed, and at least get on the record with GAO.
34 Of course, that wouldn't be in the report, so it would
35 be -- it wouldn't get wide distribution.

36 We're continuing with our program integrity audits.
37 We're wrapped up, pretty much, with California Rural; we're
38 drafting the report on that now. And we expect to have it
39 issued probably towards the end of next month, depending on
40 the resolution of one more issue.

41 This past Monday, we started another audit at
42 Middle Transaction. And basically, it's going very well. We
43 expect to complete onsite work by the end of next week, and
44 then if we're able to achieve that, move on and have the
45 report issued by -- a draft report by the middle of September
46 or so.

47 We plan to start the next one at South Central
48 Michigan in early October. We've notified the program
49 director, and we've -- because of some additional staff that

1 we're bringing on, we've kind of pushed it back a week or
2 two.

3 So that one -- the genesis of that came from
4 several years -- well, I guess about a year and a half ago,
5 there was some concern about another program in Michigan
6 which is now merged with South Central Michigan. So we're
7 going to just pick that up now and do it. Even though it's a
8 new program, it's really just a merger of the old programs.

9 The IPA reports, we have reviewed all the reports
10 for grantees with fiscal years ending December 31st. There
11 were 161 reports. At the last board meeting, I said that we
12 were waiting for two more. They eventually came in, and so
13 we're able to wrap up our work.

14 There were 36 significant findings that we referred
15 to management. The most common was an internal control
16 weakness type thing, where there was a lack of segregation of
17 duties among employees, things of that type. We've referred
18 those to OCE for follow-up.

19 CHAIRMAN EAKELEY: And how is the
20 relationship -- are you getting cooperation from OCE? Is
21 that relationship working out well?

22 MR. KOCZUR: Oh, yes. We have always had good
23 cooperation with OCE. We have -- the IG has an automated
24 system that they have access to for the findings and
25 recommendations, and when they take corrective action or they
26 get an audit action plan from the grantee, they enter it into
27 the system and then we can look at it to make sure that we
28 agree with their acceptance or rejection of the plan.

29 So it works very well. I think the important thing
30 is, from both their standpoint and our standpoint, there's
31 not a lot of time wasted. They're able to do their job very
32 efficiently, and we are. So with this system, we keep track
33 of the reports very well. We have good track of the
34 recommendations and the follow-up action. And we're able to
35 do that all pretty much with our system.

36 The important thing is that there were no
37 reports -- no findings that the grantees didn't comply with
38 the prohibitions and restrictions on practice, and that
39 continues the pattern we've had for a number of years now.

40 We'll issue a summary report in early September on
41 that. We were just waiting for the last report -- the last
42 two reports, and we'll move forward with that.

43 I've decided to issue a paper, if you wish, or a
44 discussion of how we do our audit work. Over the period of
45 time, we've received a number of questions about what we're
46 doing, why we're doing it, how we selected a certain grantee,
47 that type of thing, what we do onsite. Certainly questions
48 about our access to information and that type thing.

49 So what I've done is we're drafting a document that

1 lays out the procedures we follow, from the original
2 selection of the audit through what our staff does onsite
3 through the draft report and the final report. And as part
4 of that, we address information access issues, where people
5 have had concerns. And basically, we lay out how we handle
6 those.

7 If there is an assertion of privilege, that we're
8 asked for privileged information, that is usually discussed
9 with my counsel, Laurie Tarantowicz. And if the case is that
10 we have in fact asked for privileged information, then we
11 modify the quarter or modify the audit.

12 If we can't work that out, if we don't believe it's
13 a request, then we go on and try to work it out other ways.
14 Of course, as a last resort, we have the power to subpoena
15 records. And what I'm emphasizing is we do that only as a
16 last resort. And when everything else fails and we believe
17 that we cannot get the audit done without the information we
18 have, and we're convinced that it's not privileged
19 information, then we would go forward with the subpoena.

20 We've only done that twice since I've been -- I
21 think twice in the history of the IG's office. In one case,
22 after we issued the subpoena, we worked out the problem. The
23 other case, it's gone through the court, and Laurie will take
24 a little bit -- that's coming to resolution. But in that
25 case, the court has ruled that we were entitled to the
26 information.

27 But I think this document will help people
28 understand, particularly -- they are -- the grantees, the
29 program directors and the staff, are very familiar with the
30 IPA audits that they have annually. And then we come along
31 and we do essentially a very different type of audit, and
32 that's confusing to people.

33 So I think this document will help understand what
34 we're doing, and also make it clear that if someone has a
35 problem, they should call us and we can discuss it. And
36 we're not going to sit and say, we absolutely have to have
37 that information, until we have seen what the situation is.

38 CHAIRMAN EAKELEY: I commend you on that
39 initiative. I think that having in writing a description of
40 our rules of engagement and what we expect of our grantees
41 and what they should expect of us really helps the
42 institutional accountability of our job as well as the
43 transparency of the organization. So I think this is an
44 excellent step forward.

45 MR. KOCZUR: And I really think that we'll be
46 making periodic changes to this as we go along and as we see
47 additional problems, or something appears not to be a
48 problem, we'll update this document. I expect to get that
49 published within the next month or so.

1 The next issue, as I've mentioned several times in
2 the past, we have had a staff shortage. And we tried several
3 times -- twice -- to hire individuals and didn't -- we just
4 didn't get acceptable candidates. Well, on our third try, we
5 were very successful. We hired five new people. Three are
6 on board now. Two are out on the audit in Tennessee. And
7 so -- and the other two report next Tuesday -- I'm sorry, the
8 day after Labor Day, September 3rd.

9 All these people are exceptionally well-qualified.
10 They're all CPAs, have extensive audit experience. And I
11 think so far, the ones that have reported have just been very
12 good. They fit right in, and I think it's going to
13 be -- they'll work out very well.

14 We have asked, with John and Danilo's concurrence,
15 Dave de la Tour to provide the type of training that he
16 provides to the grantees when he goes out and does the OCE to
17 these new people so we have a basis -- they understand more
18 about the Corporation and they also understand the
19 perspective, what OCE applies when they go out, so that
20 there's a common standard out there. And I think that will
21 really help -- it will help our staff, certainly.

22 And just as an aside, one of the individuals I
23 hired is from the Administrative Office of the U.S. Courts.
24 And as another side, he's also an attorney. Late in his
25 career as a CPA, he decided to become an attorney, and I
26 think within the last two or three years he passed the bar.

27 The final item I'll report on in the open session
28 is the Georgia mapping project. And we're finally reaching
29 the end of this project. It has gone extremely well. We had
30 a report by the contractor and my staff, Dave Maddox of my
31 staff, on last Tuesday. Phyllis Holman and Steve Gottlieb
32 were there to contribute their perspective, as they were the
33 ones that supplied the data and worked with us very closely
34 on this project.

35 The general consensus of all those involved was
36 that this mapping project -- mapping has a good potential to
37 help managers make decisions. It's very -- it presents a
38 visual representation of data that you can see very easily,
39 where you're closing cases.

40 It shows very clearly the distribution of your
41 cases and whether or not you're getting coverage throughout
42 your service area, or in this case we did the whole state of
43 Georgia. So we have a good sense for the whole state of
44 Georgia.

45 We still have to do some work. Our contractor will
46 provide a draft report, which we will then work with the
47 contractor to produce a final report for issuance. And we're
48 looking to give the board a presentation at the next board
49 meeting, assuming it's some time in October or November, in

1 that time period.

2 But this project has gone very well. One thing
3 we're considering now is to move forward a little bit and use
4 the 2000 census data in there to kind of update and show the
5 difference between the 1990 data and the 2000 data. The 2000
6 data wasn't available when the project started. And I think
7 that will show some very interesting changes in the
8 population and things like that.

9 And in the executive session, I'll provide an
10 update on our investigations, and Laurie will talk about the
11 current status of our litigation.

12 CHAIRMAN EAKELEY: Thank you, Len.

13 Any questions of the inspector general? Maria
14 Luisa?

15 MS. MERCADO: It wasn't necessarily a question. It
16 was more of a comment. I'm glad that you got another
17 attorney. I think that we've discussed before that because
18 the IG's office now does these separate audits that deal with
19 programmatic issues of the Legal Services Corporation and its
20 grantees, the importance of having attorneys, and hopefully
21 attorneys that have some legal services background or
22 experience, or at least in the public interest area, to help
23 do the programmatic audit and compliance that you do, as
24 opposed to just totally financial, you know, CPA people.

25 MR. KOCZUR: The individual that I have hired, as I
26 indicated, this is kind of a second career. And the
27 impression I have from the interview is that he's really
28 interested and does a lot of pro bono work with a small firm
29 in the suburbs where he lives.

30 And that was one of his questions: Could he
31 continue to do that? And I said, most certainly, and I told
32 him a little bit about the LSC program that encourages pro
33 bono work.

34 CHAIRMAN EAKELEY: Edna?

35 MS. FAIRBANKS-WILLIAMS: In your mapping, is it
36 just the low-income and the cases, or have you some way of
37 finding out the ethnic groups, whether they would be Asians,
38 Cubans, Spanish, or --

39 MR. KOCZUR: One of the maps we have addresses that
40 issue. And part of the discussion we had on Tuesday was
41 focusing on ethnic groups and perhaps -- we didn't do that
42 originally as part of the program, the project. And I think
43 that's one of the things that became apparent as we went
44 through.

45 And I think Phyllis Holman was particularly
46 interested in that, doing maps like that.

47 CHAIRMAN EAKELEY: LaVeeda?

48 MS. BATTLE: I would just like to echo how pleased
49 I am, as Doug mentioned, that you're outlining the scope and

1 the kinds of audits that the inspector general does in a
2 paper that will inform the programs as to what they can
3 expect.

4 I think that that will go a long way, particularly
5 for programs that you will be doing the audit for in the
6 future that have not had that experience, to really have a
7 heads up as to what to expect and what to be prepared for.
8 So I do applaud that.

9 MR. KOCZUR: I think it's important -- we usually
10 only do one audit at a program. Chances are we won't get
11 back to that program for many years unless something unusual
12 would happen. So we're always going to new programs,
13 programs we haven't audited before. And I think that it will
14 be very helpful.

15 CHAIRMAN EAKELEY: Any of the new hires any
16 strategic planning experience, or you might want to task for
17 this interim in between board meetings, Len?

18 MR. KOCZUR: Well, I think two of them may have.
19 But I wouldn't volunteer for that project right now.

20 CHAIRMAN EAKELEY: Well, we want your input also,
21 by the way.

22 MR. KOCZUR: Right. We'll be glad to provide that.

23 CHAIRMAN EAKELEY: Any other questions?
24 (No response.)

25 CHAIRMAN EAKELEY: Thank you very much.

26 MR. KOCZUR: Thank you.

27 CHAIRMAN EAKELEY: Next I will turn the podium over
28 to John Erlenborn for the president's report. Actually, I
29 should have asked you whether you wanted to give a member's
30 report as well. Forgive me for --

31 MR. ERLNBORN: I had nothing to report.

32 CHAIRMAN EAKELEY: -- for taking off one hat
33 without putting on the other.

34 MR. ERLNBORN: Thank you, Mr. Chairman. I'm
35 pleased to report that management and staff had a very busy
36 summer, and we continued to make strong progress on many
37 fronts.

38 Congress, as you may know, has yet to finalize any
39 of the 13 appropriation measures, and will likely go into a
40 lame duck session after the November elections. As a former
41 member, I can assure you I don't envy them, given all the
42 work required to finish this process.

43 Next week LSC will be holding a news conference in
44 Columbus, Ohio and Austin, Texas to announce the awarding of
45 a pair of 2002 technological initiative grants. On
46 Wednesday, I will join Congresswoman Deborah Price in
47 Columbus to present a \$175,000 innovation grant to Ohio State
48 Legal Services.

49 This grant will create statewide brief service,

1 self-help, and assisted pro se online network. The materials
2 developed will include letters, documents, pleadings, and
3 motions. They will be integrated into the Ohio State Legal
4 Services' statewide website for use by any legal service
5 staff or authorized pro bono attorneys in the state of Ohio.

6 On Friday, Mauricio will be joined by Congressman
7 Lloyd Doggett of Texas, Justice Deborah Hankenson of Texas,
8 and University of Texas Law Dean Bill Powers to announce a
9 \$100,000 grant to Texas Rural Legal Aid.

10 This grant will fund a new access to justice call
11 center in Austin staffed by University of Texas law students.
12 Other press conferences are being planned for this fall in
13 California, Georgia, and several other states to make similar
14 announcements.

15 On the program front, I would like to start by
16 mentioning I've heard some disturbing commentary about the
17 current work of LSC grantees. Some legal service advocates
18 and critics are asserting LSC-funded grantees no longer do a
19 significant amount of in-court or administrative proceedings.
20 Proponents of this belief describe legal services today as
21 the provision of an increasing amount of band-aid services to
22 a growing number of clients, creating a shallow but wide
23 legacy of legal work.

24 This perception is not supported by the
25 quantitative data reviewed by LSC. Recently, Randi Youells,
26 vice president for programs, and Pat Hanrahan, John Meyer,
27 and Christopher Sundseth examined the LSC CSR, case service
28 reports, and underlying data for a ten-year period. The
29 proportion of cases closed by extended service is broadly
30 constant year to year over the last decade.

31 The numbers show quite clearly our grantees are
32 currently as engaged in representing clients in courts and in
33 other adversarial forums as they ever were. A discussion
34 draft paper regarding this data was included with the board
35 update I distributed earlier this month. I urge you to read
36 this important document.

37 I'm pleased to report that Legal Aid of Ontario has
38 invited Randi Youells to Canada this fall to deliver a
39 keynote speech kicking off their state planning initiative.
40 They also want her to meet with a small group of executive
41 staff from their legal services programs to discuss legal
42 services delivery issues and to address their newly formed
43 planning council.

44 Legal services programs in Canada are launching an
45 examination of their delivery systems with an eye to making
46 them more efficient and effective. They've heard Randi speak
47 on LSC's work in this area, both in Australia and in Japan,
48 and the strength of her reports and LSC's successes in state
49 planning.

1 They've asked her to help them get their own effort
2 off to a strong start. I'm delighted that Randi can go join
3 them for this event, and that our state planning work is
4 achieving international recognition.

5 On the litigation front, two favorable court
6 decisions were recently issued in two cases involving LSC,
7 the first, in a suit by two sub-grantees, Bronx Legal
8 Services and Queens Legal Services, who objected to an OIG
9 data request.

10 The OIG issued a subpoena to obtain the
11 information, and claiming attorney-client privilege and
12 confidentiality/client secret, the sub-grantees resisted
13 providing the information. The U.S. District Court for the
14 Southern District of New York granted defendants' motion for
15 a summary judgment, finding that under the 1996
16 Appropriations Act, the grantees are required to reveal the
17 requested information even if it does constitute a client
18 secret. Moreover, the court found the grant assurances given
19 to LSC also require the plaintiffs to turn the information
20 over to LSC upon request.

21 The second opinion was issued in LSC versus
22 Client-Centered Legal Services of Southwest Virginia. This
23 matter involved LSC's interest in a piece of real property
24 purchased by an LSC grantee with LSC grant funds in 1982.

25 The defendant claimed that LSC was not a recorded
26 title holder, had no lien on the property, and could provide
27 no executed real property agreement granting LSC an interest
28 in the real property.

29 However, the U.S. District Court for the Western
30 District of Virginia found that LSC did have a contractual
31 right, based on the grant assurances signed by the grantee,
32 to direct the disposition of the real property purchased with
33 LSC funds. The court granted LSC's motion for summary
34 judgment, and directed the property be transferred to the new
35 LSC grantee as LSC had originally instructed.

36 And I would note at this point that it is becoming
37 altogether too recognizable as a new way of doing business
38 that we find former grantees who are deciding that the
39 property, the real property, that was purchased with LSC
40 funds belongs to them rather than LSC. And we are going to
41 have to start, I'm afraid, after negotiations have failed,
42 several lawsuits to regain the property that was purchased by
43 LSC funds.

44 I find this very disturbing, that former grantees
45 would refuse to return the property, when we have a great
46 deal of evidence, including the grant assurance papers that
47 they have -- the grantees have in the past adopted, have
48 signed, and it's very clear from this recent case in Virginia
49 that we have a pretty good case and, in fact, maybe one

1 for -- a good case for a motion for summary judgment.

2 But in any event, it's going to cost the
3 Corporation a good deal of money. In cases where we're sued,
4 we have insurance coverage. Unfortunately, there's also a
5 \$100,000 --

6 CHAIRMAN EAKELEY: Deductible.

7 MR. ERLNBORN: -- deductible, thank you. In the
8 cases where we are the plaintiffs, we do, of course, not have
9 any insurance and it's going to have to come out of LSC
10 funds.

11 Two new lawsuits were filed against LSC recently.
12 On August 5th, Bronx Legal Services filed another suit
13 against Legal Services of New York and LSC. The plaintiff
14 alleges that the proposed reorganization of LSNY will
15 effectively put Bronx out of business by forcing it to forego
16 LSC funding, or lose its organizational independence under
17 the proposed restructuring of LSNY.

18 Bronx alleges violations of the LSC Act, violations
19 of New York state law provisions, and violations of Sections
20 1 and 2 of the Sherman Antitrust Act.

21 The second lawsuit was instituted by Passaic County
22 Legal Aid Society against LSC, Legal Services Corporation of
23 New Jersey, and others. Plaintiff claims the state planning
24 process in which they participated -- and as a matter of fact
25 made appeals to Randi Youells, who found against them; made
26 appeals then to me, and I found against them; and now they've
27 filed this suit -- plaintiff claims that the state planning
28 process in which they participated deprived them of their due
29 process rights and violated the LSC Act.

30 Passaic requested a temporary restraining order,
31 but the court denied the motion and set a date for hearing on
32 their motion for a preliminary injunction.

33 Finally, I would like to conclude my report by
34 commenting on management's recommendation to the board of the
35 415 million budget mark for fiscal 2004.

36 After three years of level funding, it's imperative
37 that LSC request an increase in order to meet the
38 overwhelming need for legal services. In 1995, for example,
39 when LSC last received a 400 million appropriation, there was
40 significant unmet need for legal services.

41 Despite the lack of a recent national need study,
42 we know the demand for legal services has risen. This is
43 especially true given the negative state of the national
44 economy.

45 In addition, the collective deficits of state
46 budgets and the depletion of IOLTA program funds because of
47 the drop in interest rates have limited the available amount
48 of non-LSC funding to our grantees.

49 This increase, while certainly not enough to meet

1 all of the outstanding legal need, will be crucial at a time
2 when demand for legal services is increasing and alternative
3 sources of funding continue to decrease.

4 I hope the board will approve our recommendation
5 today as to our budget mark, and I look forward to working
6 with Doug to make our case to the Administration and
7 Congress.

8 Mr. Chairman, that concludes my report to the
9 board, and I'd be glad to answer any questions that anyone
10 may have.

11 CHAIRMAN EAKELEY: Thank you, Mr. President.

12 Are there any questions of John Erlenborn? Bucky?

13 MR. ASKEW: John, from the briefing we got this
14 morning in the breakfast session, on this issue of buildings,
15 it sounded like there are two, maybe three, examples of that
16 nationally. Unfortunately, they all seem to be in the South.

17 But there are only two or three nationally, and my
18 guess is our grantees probably own well over 100 or more
19 buildings. So it's -- with those individual grantees, it's a
20 serious issue, but there's not an endemic of these things
21 happening around the country, is there?

22 MR. ERLNBORN: I think to a certain extent, this
23 is the product of the reconfiguration process that we've been
24 going through. In many cases, with reconfiguration, if there
25 are fewer service areas, you will find that there'll be a
26 mutual integration of the existing facilities into the proper
27 number of -- lowered number of service areas.

28 That process continues, and I think that as long as
29 we're engaged in that process, we're going to stand the
30 chance of other cases such as this. That's why I believe
31 that it is very important that we start early and put all the
32 efforts we can into winning these initial cases because I
33 think that would then discourage these claims to be made in
34 the future.

35 CHAIRMAN EAKELEY: Any other questions? Just a
36 comment. I didn't articulate it quite as well as you did,
37 but it was very clear from the board materials and the
38 presentations yesterday how hard everyone has worked through
39 a very hot summer. And I wanted to commend you and your
40 team, and Len Koczur and his team, for all that hard work.

41 MR. ERLNBORN: Thank God for --

42 CHAIRMAN EAKELEY: Air conditioning?

43 MR. ERLNBORN: -- refrigeration.

44 (Laughter.)

45 MR. ERLNBORN: On the other hand, it ruined the
46 Congress. Congress used to adjourn for the year when it got
47 hot in late June or early July. Now they stay there, you
48 know, and go all year long.

49 CHAIRMAN EAKELEY: Well, but they're in -- they

1 come back after Labor Day from their August recess, but then
2 they go back into recess before the elections. Is that the
3 cycle?

4 MR. ERLNBORN: Yes. They'll only be here a few
5 weeks because then they have to -- members have to get out to
6 complete their campaigning for the primary elections. And
7 then they'll come back after the primary, and there won't be
8 an awful lot of time before we run into the holidays.

9 CHAIRMAN EAKELEY: General elections.

10 MR. ERLNBORN: General election, yes. I might
11 just finally say that there's a saying that's been put on the
12 wall of the Republican cloakroom in the Capitol, and it says
13 that, "No man is secure in their person or property as long
14 as the Congress is in session."

15 MS. BATTLE: But women are.

16 (Laughter.)

17 CHAIRMAN EAKELEY: That was a Republican sign. And
18 it was delivered by a Republican president of the Legal
19 Services Corporation. We don't let partisan politics come
20 into it.

21 All right. Ernestine, you chaired a marathon but
22 very productive session yesterday. Do you want to give us
23 the report of the provisions committee, please?

24 MS. WATLINGTON: All the presenters were quite
25 informative, and it was things we really was brought up to
26 date on. I don't think there was anything that we have to
27 bring that we have to vote on from the committee meeting.

28 We were going to pursue more or something that
29 grant assurance that Bill had some that was to be discussed
30 in this meeting today. But like you say, it was quite a good
31 meeting, quite informative, and brought up to date on the
32 state issues and also the competitive and the census. And
33 the presenters was very good.

34 CHAIRMAN EAKELEY: I meant to commend Bill before
35 on his further hard work on yet another seemingly obscure but
36 important part of the Corporation's written regulatory
37 framework. But the work on the grant assurances and your
38 picking up some inconsistencies, I think, was really just
39 very helpful, and hopefully has set in process a process that
40 will yield some major improvements.

41 MR. McCALPIN: I spend my time in the obscure.

42 MS. WATLINGTON: The suggestion that a committee, a
43 subcommittee, I think, was to be formed to look over all of
44 the grant assurances over that period of time, did that not
45 come out of that? I didn't still get a clear interpretation
46 of where we're going with that.

47 CHAIRMAN EAKELEY: Well, I think we had a report on
48 the drafting history and revisions of the grant assurances
49 that came out of the last meeting. And then Bill has taken

1 it several steps further and made some further suggestions
2 for clarification and revision.

3 MR. McCALPIN: Yes. When I had the conference with
4 Mike Genz and Reggie Haley, I said it didn't seem fruitful to
5 me to plough back over ten years of grant assurances which
6 were past history, and what we ought to do is look at the
7 currently effective ones.

8 We started with the 2003, but time went by and it
9 became too late, really, to do much about them. So what
10 we're really doing is laying the groundwork for the 2004
11 grant assurances which we hope will have some changes from
12 2003.

13 CHAIRMAN EAKELEY: Any questions or comments about
14 the provisions committee report?

15 (No response.)

16 CHAIRMAN EAKELEY: Hearing none, we'll move on.
17 And John Broderick, in your absence, LaVeeda took back
18 command of her former committee.

19 MR. BRODERICK: Well, I'm very appreciative.

20 CHAIRMAN EAKELEY: And it proved very lively.

21 MR. BRODERICK: Well, she's done a great job.

22 CHAIRMAN EAKELEY: It's not a word I would normally
23 apply to operations and regulations, but somehow LaVeeda
24 seems to make it lively.

25 MS. BATTLE: Well, thank you. Thank you, Doug.
26 And John, this is only temporary. We are looking for you to
27 come back, and I will immediately take my position as just a
28 member of that committee when you're here.

29 We met as the operations and regulations committee
30 on yesterday, and there probably are about four things that I
31 want to report to the board.

32 First, we did have a panel that presented to us
33 what the experiences have been when OCE has gone out to
34 conduct its case management reviews, technical assistance
35 reviews, and accountability training. And so we gained
36 insight into programs who've had a positive experience, and
37 had some good evaluative information that they provided us
38 that I think might be helpful to us in our continued, I
39 guess, overall supervision of how that work gets done.

40 We also had a report on current and open
41 rulemakings and rulemaking protocol, and decided not, as of
42 today, to take action on making any changes to the protocol.

43 But we did make a determination that in looking at the
44 rulemaking protocol, which would require reg/neg process with
45 a facilitator, that it has been expensive in the past for us,
46 and that we may now want to take a look at a way to have the
47 board involved earlier on in the process so that we don't
48 have to revamp and go back through decisions that have been
49 made by staff and by the stakeholders. So we'll be

1 continuing to look at that particular issue, I guess, in our
2 future meeting.

3 We were presented the limited English proficiency
4 guidance issue that has come up because of the Title VI of
5 the Civil Rights Act of 1964. The Department of Justice has
6 issued recent guidance to its grant recipients, and the
7 question to us was whether we should wholesale adopt the
8 Department of Justice's guidance, whether we should do our
9 own, and if we did our own, depending on the form that our
10 own would take, whether we would then have some sort of
11 compliance responsibilities associated with it.

12 And I guess the committee's determination was that
13 what we really needed to do was to take a good look at what
14 DoJ has done in terms of providing guidance for compliance
15 with Title VI requirements.

16 And we didn't want to place LSC in the position of
17 attempting to actually do compliance and enforcement of a
18 regulation or a rule where there are other agencies already
19 in place to do enforcement measures, but that certainly
20 guidance probably will be helpful. So I think we'll hear
21 back some more from the staff on what might be the best way
22 for us to give guidance, but not have the enforcement
23 responsibility for Title VI.

24 We also did have a provision on the agenda to
25 consider and act on potentially identification of new
26 appropriate subjects for rulemaking, and we had a list of
27 about six, from which we culled two. And I have a resolution
28 to present to the board today from our committee. It's
29 Resolution No. 2002-017.

30 And in that resolution, Mr. Chair, we
31 recommend -- the operations and regulations committee
32 recommends to the board that we take a look at 1602, which
33 deals with FOIA, and 1604, which would be a proposed
34 rulemaking with regard to the outside practice of law, as the
35 two next regs that this committee will undertake.

36 The reason for us considering these two particular
37 regulations are that we think that we can probably handle
38 them fairly easily from a staffing and substantive standpoint
39 of view; and it was reported that 1604 had already gone
40 through the process of being evaluated by the committee and
41 was ready for publication but had not yet been published. So
42 it will just need to be cleaned up, put out for publication,
43 and for notice and comment to come back.

44 M O T I O N

45 MS. BATTLE: That is the recommendation of our
46 committee, and I so move it.

47 CHAIRMAN EAKELEY: Is there a second?

48 MR. ERLNBORN: I second.

49 CHAIRMAN EAKELEY: Do those of

1 you -- unfortunately, we can't hand out to those in
2 telephonic contact the text of the resolution. But let me
3 just read the decreedal portions rather than the whereas
4 clauses because LaVeeda has covered them.

5 "Now, therefore, be it resolved that pursuant to
6 the Corporation's rulemaking protocol, the board hereby
7 identifies 45 CFR Part 1602 as an appropriate subject for
8 rulemaking.

9 "Be it further resolved that the board directs the
10 republication for public comment of the proposed revisions to
11 45 CFR Part 1604, first published in a notice of proposed
12 rulemaking in 1995.

13 "And be it further resolved that the sense of the
14 board is that, upon completion of the rulemakings identified
15 above, the highest priority item for future rulemaking will
16 be 45 CFR Part 1607, the Corporation's regulation on
17 recipients' governing bodies."

18 I guess that latter one, the sense of the board,
19 because we really didn't spend any time looking into the
20 complexity of that or the other priority issues that the task
21 force had presented to us.

22 MS. BATTLE: That's right. I did not mention 1607,
23 but you're absolutely right about that.

24 MR. McCALPIN: Has it been moved yet?

25 CHAIRMAN EAKELEY: It was moved and seconded.
26 Comment?

27 MR. McCALPIN: Let me ask, what is the effect of
28 the final "Resolved" clause?

29 CHAIRMAN EAKELEY: I don't know. In fact, I think
30 we can dispense with it without doing any injury to ourselves
31 or the rulemaking process.

32 MS. BATTLE: Oh, no. I think that the sense of it
33 was that when we had the discussion yesterday at the ops and
34 regs committee, was that for sure we thought that we could
35 get done 1602 and 1604 by the next meeting, to get them
36 published, I mean, or at least get them worked up; whereas
37 the 1607 would be next in line to work on if and when -- we
38 may be here to do that or we may not, but in any event, that
39 that process should already start in working with 1607.

40 MR. McCALPIN: Then why don't we say it's an
41 appropriate subject for rulemaking, as we do with the others,
42 which I think provides for the initiation of the process. As
43 I understand this, we'd have to come back with another
44 resolution for 1607 to go forward.

45 CHAIRMAN EAKELEY: We would. But we
46 weren't -- we're not -- I mean, I think the minutes or the
47 transcript of the meeting reflects the sense of the board
48 that regulation on governing bodies ought to come next in the
49 order of priority if, as, and when time and resources permit.

1 I thought your question was going to be, Bill, we
2 don't need a resolution expressing the sense of the board
3 because we've already expressed the sense of the board. But
4 I think that that sense of the board also was that we should
5 not move forward with rulemaking on this part at this time.

6 MR. McCALPIN: It wasn't the sense of the board.
7 It was the sense of the committee.

8 CHAIRMAN EAKELEY: Sense of the committee. Yes.
9 Fair enough.

10 MS. BATTLE: Of the committee. So this does bring
11 it to the level of the board having its sense out there.

12 CHAIRMAN EAKELEY: Could do.

13 MR. McCALPIN: Either it calls -- either it's a
14 basis for initiation of the process or it is not. Which is
15 it? If it's --

16 CHAIRMAN EAKELEY: I don't think -- well, my --

17 MS. BATTLE: It establishes it as a priority. We
18 had a list of about six different regs that were just simply
19 a report to the committee about which regs ought to be the
20 next ones to be considered. And what we're doing is
21 prioritizing one out of the list, and then selecting two out
22 of the list.

23 CHAIRMAN EAKELEY: But not initiating for this.

24 MS. BATTLE: But not initiating.

25 MR. McCALPIN: But it will take another resolution
26 to initiate rulemaking under 1607.

27 CHAIRMAN EAKELEY: Yes.

28 MS. BATTLE: That's correct. That's correct.

29 MR. McCALPIN: Then I think this is somewhat
30 superfluous.

31 MR. ERLNBORN: I think it informs us, when we
32 believe that we should move ahead with rulemaking, that 1607
33 is at the top of the list.

34 CHAIRMAN EAKELEY: Edna, did you have a question?

35 MS. FAIRBANKS-WILLIAMS: There was some discussion
36 of the protocol of doing the rulemaking and whether it should
37 be modified or changed or whatever. So, really, when you
38 look at this and you don't know whether you're going to
39 modify the rulemaking or not, I agree with McCalpin that it
40 seems --

41 MS. BATTLE: Well, Edna, I think that's a good
42 point, particularly as it relates to the way that 1602, the
43 resolve with regard to 1602, is worded. It does say pursuant
44 to the present protocol.

45 The protocol provides for the option of reg/neg.
46 We discussed in our committee that we don't think that
47 reg/neg is necessary in order to do the FOIA reg. So
48 immediately, I will get with, as acting chair, I guess, of
49 this committee, with the president and suggest that we go

1 forward not using reg/neg for purposes of 1602.

2 And that would be consistent with the protocol
3 requirements, which would take care of the one item that we
4 heard in our committee, at least, does sometimes take a lot
5 of time to happen.

6 MR. McCALPIN: I don't want to beat this lame
7 horse, but it seems to me that situations could arise between
8 now and the next time which would cause us to put something
9 higher in priority than 1607.

10 MR. ERLBORN: I think, Bill this is being done
11 anyhow. The choice of the two that we're going to go ahead
12 did not take them just because they were in order.

13 MR. McCALPIN: No. I understand. You said that.
14 You took those --

15 MR. ERLBORN: Yes. They were not the top two.

16 MR. McCALPIN: I understand.

17 MR. ERLBORN: And moving 1607 to the top does not
18 guarantee that it will be the next one.

19 MR. McCALPIN: That's right. That's why I think
20 the final "Resolved" clause is superfluous.

21 M O T I O N

22 MR. McCALPIN: I'll move to eliminate the final
23 "Resolved" clause.

24 CHAIRMAN EAKELEY: There's a motion to amend the
25 motion. Does the proponent of the motion consent to it
26 or --

27 MS. BATTLE: I'd like to -- yes, I'd like
28 to -- well, I'd like to at least speak to it.

29 MR. McCALPIN: It hasn't been seconded.

30 MS. FAIRBANKS-WILLIAMS: I'll second it.

31 CHAIRMAN EAKELEY: Well, if it's a friendly
32 amendment, then if the proponent of the motion accepts it,
33 then you don't need --

34 MS. BATTLE: Yes. I think that what we're
35 attempting to do here is to articulate what at least our
36 thinking is at this point. Without it being articulated, to
37 go back to this general list that had been presented to the
38 committee, and it doesn't at least speak to our view today
39 that we think 1607 is the next highest priority.

40 I understand your point. It is not an action item
41 for which we now must take action. But at least it tells
42 future operations and regulations committee what we think is
43 a priority, and I think that that might be important for the
44 process.

45 CHAIRMAN EAKELEY: So you're resisting the
46 amendment?

47 MS. BATTLE: A friendly resistance. Bill is my
48 friend.

49 CHAIRMAN EAKELEY: Any further discussion on the

1 unfriendly amendment?

2 MS. MERCADO: Well, only that I just want to
3 emphasize for purposes of the fact that Nancy Rogers, Tom
4 Smegal, and John Broderick, and of course Tom Fuentes were
5 not present at the ops and regs committee, that the
6 underlying basis for wanting to move 1607 up is that we have
7 spent the last year and a half in a very deliberate and
8 concerted effort as a legal services community, and of course
9 LSC and its leadership, working with the ABA, NLADA, and
10 other partners in diversity issues.

11 And that one of the constant issues that came up in
12 every single session that we had was the issues of the
13 governing bodies of the grantees and the fact that they were
14 not reflective in diversity in a variety of different issues.

15 And so that I thought that would be a rather simple
16 regulation to work on because it would just reflect other
17 issues that we already have in other protocols in dealing
18 with the governing bodies.

19 CHAIRMAN EAKELEY: I don't think the thrust of the
20 amendment was to speak against taking up the governing bodies
21 regulation as a priority. It was really just a question of
22 whether we need to put it in the text of a resolution
23 actually initiating rulemaking, or continuing rulemaking, on
24 Parts 1602 and 1604.

25 MS. MERCADO: I mean, I understand what he's
26 saying. But sometimes you just have to put it in black and
27 white.

28 MR. McCALPIN: Fair enough.

29 CHAIRMAN EAKELEY: Any further discussion on the
30 amendment to the motion?

31 MR. BRODERICK: I would just like to congratulate
32 Mr. McCalpin on having no punctuation concerns.

33 (Laughter.)

34 MR. McCALPIN: I have delegated that to Bucky for
35 training purposes.

36 CHAIRMAN EAKELEY: Bucky has become really the
37 sharpshooter here, John.

38 All right. If there's no further debate, all those
39 in favor of the amendment to the resolution say aye.

40 (A chorus of ayes.)

41 CHAIRMAN EAKELEY: All those opposed say no?

42 (A chorus of noes.)

43 CHAIRMAN EAKELEY: I think the noes have it. Is
44 everyone satisfied with a voice vote? Then the amendment is
45 not passed. It is voted down.

46 And now we move on to the unamended motion. Is
47 there any further discussion?

48 (No response.)

49 CHAIRMAN EAKELEY: Hearing none, all those in favor

1 of Resolution No. 2002-017 say aye.

2 (A chorus of ayes.)

3 CHAIRMAN EAKELEY: All those opposed.

4 (No response.)

5 CHAIRMAN EAKELEY: The ayes have it.

6 MS. BATTLE: What a wonderful debate. I like that.

7 Okay.

8 MR. McCALPIN: We needed to have something.

9 MS. BATTLE: We did. We did.

10 MR. McCALPIN: Divided vote.

11 CHAIRMAN EAKELEY: We don't have too many of those.

12 That was about the most divided vote we've had. I remember
13 Maria Luisa dissenting over the approval of the new logo.

14 That was, what, four years ago, Mauricio? Three years ago.

15 And I have to reach that far back to get to a divided vote.

16 And that was --

17 MS. FAIRBANKS-WILLIAMS: I didn't like it, either.

18

19 MS. MERCADO: She didn't like it, either, but she
20 voted for it.

21 MS. BATTLE: The next item, Mr. Chair --

22 MS. FAIRBANKS-WILLIAMS: Looked too much like Bank
23 of America.

24 MR. ERLNBORN: Now, wait. They gave us a good
25 loan on Friends property.

26 MS. BATTLE: The next item, I know there will be no
27 divided vote on it. It is a resolution. We did consider the
28 renewal of contracts for our vice presidents, Randi Youells,
29 Mauricio Vivero, and Victor Fortuno.

30 And I have a recommendation from the committee that
31 we do extend their contracts for a period of six months, to
32 July 1, 2003, in Resolution No. 2002-016. And it reads that
33 the reasons for the extensions, of course, have to do with
34 our need for continuity going into this next year.

35 We do at least expect that we're going to have
36 another meeting in which all of us will be here. And we
37 don't want to have the unwanted and potentially disruptive
38 departures of our vice presidents before we meet the next
39 time because of the lack of additional time on their
40 contracts.

41 So I'll just read the resolution portion, the "Now,
42 therefore, be it resolved" portion of the resolution. And it
43 reads that, "The board hereby authorizes the president to
44 negotiate and enter into renewals of the employment
45 agreements that LSC has with Randi Youells, Mauricio Vivero,
46 and Victor Fortuno for the terms extending to July 1, 2003.

47 "Be it further resolved, however, that such
48 renewals shall not impair the board's authority under the LSC
49 Act or LSC's bylaws to appoint and remove officers, all of

1 whom serve as officers at the pleasure of the board."

2 M O T I O N

3 MS. BATTLE: I so move on behalf of the committee,
4 Mr. Chair.

5 CHAIRMAN EAKELEY: Is there a second?

6 MS. WATLINGTON: Second.

7 CHAIRMAN EAKELEY: I might just add that the
8 purpose of the renewal or extension is to preserve intact a
9 management team, or a core element of the management team,
10 during the transition to a new board so that the new board
11 would have the benefit of the services of these vice
12 presidents before a certain period of time while that board
13 is looking for a new president and doing other things.

14 MS. WATLINGTON: Question: Have we considered and
15 did that for all the vice presidents?

16 CHAIRMAN EAKELEY: Excuse me?

17 MS. WATLINGTON: Has that been done for all of the
18 vice presidents?

19 CHAIRMAN EAKELEY: Well, we have an acting vice
20 president for compliance and enforcement, John Eidleman, who
21 just came on to that post that was thrust upon him last term.
22 But basically, with these three exceptions, all
23 employees of the Corporation are employees at will. But the
24 proposal had been earlier on that we renew and extend the
25 contracts for the three people who have contracts currently,
26 and those are these three individuals.

27 MS. WATLINGTON: And that's also -- have we
28 addressed all contracts for vice president?

29 CHAIRMAN EAKELEY: As far as I know, John
30 Erlenborn, there are no other -- or Victor Fortuno, there are
31 no other written employment agreements with other officers of
32 the corporation.

33 MR. ERLNBORN: That's correct.

34 CHAIRMAN EAKELEY: So this is it, Ernestine.

35 MR. McCALPIN: Mr. Chairman?

36 CHAIRMAN EAKELEY: Mr. McCalpin?

37 MR. McCALPIN: I have two quick questions. What is
38 the current expiration date of their contracts?

39 CHAIRMAN EAKELEY: December 31, 2002, I believe.

40 MR. McCALPIN: Secondly, what is the effect of an
41 extension to July 1st as opposed to June 30?

42 CHAIRMAN EAKELEY: None that I know of. Oh, wait.

43

44 MR. McCALPIN: I think it may.

45 CHAIRMAN EAKELEY: This says "for terms extending
46 to July 1st."

47 MR. McCALPIN: Yes. I just --

48 MR. ERLNBORN: But not including.

49 CHAIRMAN EAKELEY: Yes. That's -- I read that to

1 mean through June 30.

2 MR. McCALPIN: I just wonder if this has some
3 effect on the fringe benefits, for instance, by moving the
4 employment into another month?

5 CHAIRMAN EAKELEY: Victor, you want to take the
6 stand? That was not something we --

7 MS. BATTLE: You think about it. I'll swear you
8 in, Victor, before you begin.

9 MR. FORTUNO: Well, Alice Dickerson, our HR
10 director, is not here. I'll take a stab at it. I think it
11 does implicate benefits so that, for example, if someone is
12 an employee up until June 30th, it has a different effect
13 than if they're an employee through July 1 -- or, I'm sorry,
14 May 30th/June 1, for example, in health insurance coverage.

15 So I think that there are some minor benefits
16 implications in this May 30/June 1 distinction.

17 MR. McCALPIN: I just wondered if that was the
18 reason for the extension to June 1 [sic]. Ordinarily, it
19 would seem to me you would terminate as of June 30.

20 MR. ERLNBORN: I'm not sure but what that language
21 doesn't really mean that. It says "up to." It does not say
22 "including."

23 CHAIRMAN EAKELEY: It's extending to. We could
24 change it to read "through June 30." That would eliminate
25 the --

26 MR. McCALPIN: It seems to me that would be
27 preferable, unless there is a deliberate intent to extend
28 benefits through the month of July.

29 CHAIRMAN EAKELEY: I don't -- we certainly didn't
30 discuss that.

31 MR. ERLNBORN: I don't think it has any great
32 impact. No one consciously --

33 MR. McCALPIN: That was the question I was raising.

34 MR. ERLNBORN: No one consciously was choosing
35 this date because it would add to or subtract from the
36 benefits.

37 MS. BATTLE: Would you like to amend that? Can we
38 amend that to say "up to but not including July 1"?

39 CHAIRMAN EAKELEY: Well, for terms extending
40 through June 30. I think that would be clearer than the way
41 this is written. Is that --

42 MR. ERLNBORN: And remember that this only has
43 meaning if one of the three persons, or more, are removed
44 from their position as vice president.

45 MR. McCALPIN: Well, it gives them -- presumably,
46 it gives them a right to compensation and benefits through
47 the termination date of the contract, which --

48 CHAIRMAN EAKELEY: Want to make a friendly
49 amendment?

1 MS. BATTLE: I'll accept the friendly amendment.
2 You don't have to --
3 CHAIRMAN EAKELEY: The friendly amendment reads --
4 MR. McCALPIN: You mean I'm going to win one?
5 MR. FORTUNO: Just in the interests of full
6 disclosure, I've been advised by the comptroller that what
7 that one-day difference amounts to is a cost to the
8 Corporation of approximately \$900 per employee.
9 MR. McCALPIN: That was the question that I asked.
10 CHAIRMAN EAKELEY: Yes. Good question.
11 MR. FORTUNO: So there is a cost associated with
12 that, is the answer. Yes.
13 MR. ERLNBORN: Now, is that a bad thing or a good
14 thing? You have to decide.
15 MR. FORTUNO: I don't think I should address that
16 one.
17 (Laughter.)
18 MR. ERLNBORN: Well, I was looking at my friend
19 Mr. McCalpin.
20 MR. McCALPIN: The gentleman from Missouri.
21 CHAIRMAN EAKELEY: I think the resolution ought to
22 be clear. I think that we ought to do it through June 30.
23 My hope and expectation is that the new board is going to
24 find the same value in the three individuals under discussion
25 that we have found and continue with this wonderfully
26 collaborative effort. But that's for the new board to
27 decide.
28 And the idea here is to extend the contracts so
29 that the management team can feel supported and extended and
30 encouraged to stay on during the transition. And I think it
31 does it doing it through June 30.
32 MR. FUENTES: Mr. Chairman?
33 CHAIRMAN EAKELEY: Yes, sir?
34 MR. FUENTES: Tom Fuentes. I would just like to
35 express as a member potentially of the new board an
36 appreciation for your courtesy and professional approach on
37 this. Your consultation, your courtesy, and seeking our
38 input and collaboration in moving forward on this, I think,
39 is a marvelous example of your leadership and of your
40 courtesy and the way that a transition will be smooth. And I
41 salute you on that.
42 CHAIRMAN EAKELEY: Well, thank you very much.
43 M O T I O N
44 MR. McCALPIN: Move the question.
45 CHAIRMAN EAKELEY: Well, Bill McCalpin has moved.
46 Is there a second to amend the resolution?
47 MR. BRODERICK: Second from California.
48 MR. McCALPIN: I thought it was the friendly
49 amendment.

1 MS. BATTLE: I accepted it.

2 CHAIRMAN EAKELEY: Okay.

3 M O T I O N

4 MS. BATTLE: I'll now so move, as amended, the
5 resolution.

6 CHAIRMAN EAKELEY: So for terms extending through
7 June 30, 2003. Is there a second?

8 MR. McCALPIN: Second.

9 CHAIRMAN EAKELEY: Any further discussion?
10 (No response.)

11 CHAIRMAN EAKELEY: All those in favor?
12 (A chorus of ayes.)

13 CHAIRMAN EAKELEY: Opposed?
14 (No response.)

15 CHAIRMAN EAKELEY: The ayes have it. The
16 resolution, as amended, carries.

17 MS. BATTLE: I will never say again that I have a
18 simple resolution that will cause no dissention.

19 MR. ERLNBORN: As long as Bill McCalpin is on the
20 board.

21 MS. BATTLE: Yes. As long as my good friend Bill
22 is around.

23 MR. McCALPIN: But you trained us on the operations
24 committee.

25 MS. BATTLE: I did. I guess I have to take
26 responsibility for that.

27 Mr. Chairman, that ends my report.

28 CHAIRMAN EAKELEY: Thank you. Any questions or
29 further comments on LaVeeda's report?

30 (No response.)

31 CHAIRMAN EAKELEY: Hearing none, actually, I might
32 encourage you and John Broderick, even though he'll be
33 getting back to the court and their fall term, but maybe the
34 two of you could chat further about the negotiated rulemaking
35 protocol --

36 MS. BATTLE: Okay. I will. I will do that.

37 CHAIRMAN EAKELEY: -- experience, comparing that
38 with the prior experiences of the committee, and take it
39 forward.

40 MS. BATTLE: John, we can share our time off from
41 work together, and then we can share protocol together. So
42 I'll give you a call.

43 MR. BRODERICK: I think LaVeeda and I will have
44 some work on the attendance of an EMT.

45 MS. BATTLE: That's right. That's exactly right.

46 CHAIRMAN EAKELEY: All right. Next is consider and
47 act on the report of the board's finance committee. Nancy?

48 MS. ROGERS: Yes. The committee considered three
49 things, one related to fiscal year 2004, one related to

1 fiscal year 2003, and one related to fiscal year 2002.

2 So I'm going to begin, with your permission, Doug,
3 with the budget mark for fiscal year 2004, which is
4 Resolution No. 2002-015. Do those attending by phone have
5 copies of the resolution?

6 CHAIRMAN EAKELEY: I don't think so, Nancy,
7 because --

8 MR. BRODERICK: I do not, Nancy.

9 CHAIRMAN EAKELEY: -- this resolution was in the
10 package that was handed out at the board meeting yesterday.
11 You may want to just read it.

12 MS. ROGERS: Okay. The finance committee heard
13 eloquent testimony on what has happened over the years in
14 terms of demographics, what's happened in recent times with
15 respect to IOLTA, as well as the risks to IOLTA, and heard
16 from John Pickering his observation that he couldn't think of
17 a time in his 60 years of legal practice in which access to
18 equal justice had been as much at risk, and on behalf of the
19 American Bar Association, urged a budget mark of \$502
20 million.

21 We also heard from James Martin, who spoke on
22 behalf of West Virginia, and also gave voice to a
23 communication that we had from NLADA in which they urged, for
24 similar reason, that the budget mark be placed at 506.4
25 million.

26 We then heard from Mauricio Vivero, who talked
27 about the need for greater funds also, and urged, in light of
28 the need to be cooperative and so forth with the American,
29 that we urge a budget mark of 415 million, but that LSC's
30 chairman and president have full authority to negotiate with
31 the Office of Management and Budget, and as it becomes
32 necessary, to adjust the budget mark.

33 M O T I O N

34 MS. ROGERS: And the committee unanimously
35 recommends to the board that the budget mark of 415 million,
36 with that negotiating authority, be passed by the board.
37 Specifically, the key clause of the Resolution 015 is, "Now,
38 therefore, be it resolved that the board hereby adopts a
39 budget mark in the amount of \$415 million for fiscal year
40 2004, with the proviso that LSC's chairman and president have
41 full authority to negotiate with the Office of Management and
42 Budget and, if it becomes necessary, adjust the budget mark,
43 as it becomes necessary."

44 And Bill, if you want to remove the last "as it
45 becomes necessary" --

46 (Laughter.)

47 MS. BATTLE: Nancy, you're right on the mark.

48 MR. McCALPIN: I worry about you, Nancy. You can
49 see what's going on at this board.

1 MS. ROGERS: I would consider that a friendly
2 amendment.

3 MR. McCALPIN: That's what we were talking about.

4 CHAIRMAN EAKELEY: Is there a second?

5 MR. ASKEW: Second.

6 CHAIRMAN EAKELEY: Is there any further discussion?

7 Nancy, I might just note, or actually note and welcome
8 formally, Mr. Pickering is in the audience and has been all
9 morning, and we welcome him back.

10 MS. ROGERS: Thank you, Doug.

11 CHAIRMAN EAKELEY: Any questions?

12 (No response.)

13 CHAIRMAN EAKELEY: We're back where we were seven
14 years ago, a 1995 appropriation of 415 million without
15 adjustment for inflation and with a superseding loss of
16 funding from state governments, from IOLTA, and from private
17 foundations in the face of increased numbers of Americans
18 living below the poverty line, even though the percentage has
19 declined somewhat.

20 All those in favor of Resolution 015, say aye.

21 (A chorus of ayes.)

22 CHAIRMAN EAKELEY: All those opposed?

23 (No response.)

24 CHAIRMAN EAKELEY: The ayes carry it, and we will
25 do our best to take this ball and run as far as we can with
26 it, and hopefully perhaps even with the help of some of our
27 new teammates.

28 Next, Nancy?

29 MS. ROGERS: The next item that was discussed at
30 some length was the resolution, which is 014 for those who
31 have it, the temporary operating budget for fiscal year 2003.

32 We need to adopt one. Typically we might adopt one
33 and then reconsider it at the January meeting. But it was
34 the sense of the committee that although they recommend
35 approval of the resolution as drafted by staff, they would
36 like an opportunity for discussion at the next meeting of the
37 board rather than waiting until January about some of the
38 substantive tradeoffs that are involved in the recommended
39 budget.

40 And John and David have agreed that they would be
41 preparing that for the finance committee for the next board
42 meeting so that there would be an opportunity to see how the
43 decisions that were made in the budget reflect some of the
44 board's priorities and values and policies.

45 M O T I O N

46 MS. ROGERS: But with that in mind, the committee
47 does unanimously recommend to the board approval of
48 Resolution 2002-014, with the key clause reading, "Now,
49 therefore, be it resolved that the board hereby grants

1 temporary operating authority consistent with the attached
2 documents totaling \$335,903,994, of which \$318,382,600 is for
3 the delivery of legal assistance, \$14,242,411 is for
4 management and administration, and \$3,278,983 is for the
5 Office of Inspector General, and subject to final
6 appropriation."

7 CHAIRMAN EAKELEY: Is there a second?

8 MS. MERCADO: Second.

9 CHAIRMAN EAKELEY: Any questions or comments or
10 discussion?

11 (No response.)

12 CHAIRMAN EAKELEY: Hearing none, all those in favor
13 of Resolution No. 2002-014, please say aye.

14 (A chorus of ayes.)

15 CHAIRMAN EAKELEY: Opposed?

16 (No response.)

17 CHAIRMAN EAKELEY: The ayes have it and the
18 resolution carries.

19 MS. ROGERS: The next resolution that the committee
20 recommends to the board is Resolution 2002-013. It is
21 revisions to LSC's consolidated operating budget for fiscal
22 year 2002.

23 M O T I O N

24 MS. ROGERS: And it reflects, if you look at the
25 attachments, those of you who have it before you, simply a
26 transfer from one part of the budget to the other of about
27 14,000. So it's simply an adjustment of the budget to the
28 current realities. And the committee unanimously recommends
29 the adoption.

30 The key clause says, "Now, therefore, be it
31 resolved that the board hereby adopts consolidated operating
32 budget totaling \$336,804,796, reflected in the attached
33 document, as revised, of which \$320,364,090 is for the
34 delivery of legal assistance, \$13,554,525 is for management
35 and administration, and \$2,886,181 is for the Office of the
36 Inspector General."

37 CHAIRMAN EAKELEY: Is there a second?

38 MS. WATLINGTON: Second.

39 CHAIRMAN EAKELEY: And for those on the phone, I
40 just might point out that the only adjustment that rises to
41 the level of the attached financial statements is a shifting
42 of \$14,550 from the Executive Office to the Office of
43 Governmental Relations and Public Affairs.

44 Any further discussion, comments, or questions on
45 Resolution 013?

46 (No response.)

47 CHAIRMAN EAKELEY: Hearing none, all those in
48 favor?

49 (A chorus of ayes.)

1 CHAIRMAN EAKELEY: All those opposed?

2 (No response.)

3 CHAIRMAN EAKELEY: The ayes have it. The motion
4 carries.

5 Anything else, Nancy?

6 MS. ROGERS: No. Thank you very much.

7 CHAIRMAN EAKELEY: Well, thank you. Any questions
8 of Nancy or of the report of the finance committee?

9 (No response.)

10 CHAIRMAN EAKELEY: Next, consider and act on
11 changes to the board's 2002 meeting schedule. Remind me, do
12 we have -- have we been just -- we have schedules at the back
13 of the board meeting materials. I think, given our
14 understanding of the current confirmation process, the
15 likelihood is more substantial than we would have preferred
16 that we will be around for one more board meeting, at least.
17

18 We have a number of matters that need to
19 be addressed, hopefully also by that time an appropriation,
20 even if it's a continuing one. And therefore, I think we're
21 going to have to find a meeting date probably late
22 October/early to mid-November. And I think it would be
23 prudent to set a date for the annual meeting in January as
24 well.

25 And the NLADA -- let's see. I would propose that
26 we look first in the November time frame. I think there's
27 enough to do between now and then that putting it in October
28 is going to rush things. And you've got the NLADA annual
29 conference in Milwaukee, Wisconsin.

30 There had been some thought perhaps to hold the
31 meeting in conjunction with that. My inclination is not to
32 because I really would like to spend a substantial amount of
33 time focused on the planning effort.

34 I do think, however, that it might be appropriate
35 for us to resume, if only once more, our nine-year practice
36 of meeting every other meeting outside of Washington, D.C.,
37 and would like peoples' thoughts and reactions to that.

38 MR. McCALPIN: You're certainly invited to
39 St. Louis if you would like to come.

40 CHAIRMAN EAKELEY: Or you're invited to Newark, New
41 Jersey if you'd like to come. But let's focus on days first.
42 Veterans Day, I guess, Veterans Day weekend is the weekend
43 of the 9th/10th/11th. I don't know whether that makes a
44 difference or not.

45 Clearly, we don't want to conflict with the NLADA
46 annual conference, nor do we want to meet the week before
47 Thanksgiving. So I'm wondering, how does that --

48 MR. McCALPIN: What's wrong with the 22nd and 23rd?

49 CHAIRMAN EAKELEY: Because that's the weekend

1 before Thanksgiving. And that's a --

2 MR. McCALPIN: Well, but Thanksgiving is a whole
3 week away.

4 CHAIRMAN EAKELEY: That's a tough time for me. I
5 just assumed it was a tough time for everybody else, too.

6 MS. MERCADO: What about the 8th and the 9th?

7 CHAIRMAN EAKELEY: Well, that was where I was
8 gravitating. How do people -- and here I invite Tom Fuentes
9 and Michael McKay and Frank Strickland and Bob Dieter, let me
10 just make sure that your schedules are compatible with that
11 as well.

12 MR. McCALPIN: What date?

13 CHAIRMAN EAKELEY: November 8 and 9.

14 MS. FAIRBANKS-WILLIAMS: When is the NLADA?

15 CHAIRMAN EAKELEY: The following weekend.

16 MR. SMEGAL: Doug, this is Tom Smegal.

17 CHAIRMAN EAKELEY: Excuse me, Tom?

18 MR. SMEGAL: Yes. That is unfortunately the only
19 time that I am not available. I had a partnership meeting
20 all day in Tom Fuentes' town on the 9th. So that would be
21 the only weekend I couldn't make it.

22 MR. McCALPIN: November 8th would be the ninth
23 anniversary of our swearing in.

24 CHAIRMAN EAKELEY: Did you hear that, Tom?

25 MR. SMEGAL: I did hear that, yes.

26 CHAIRMAN EAKELEY: What does November 1 and 2 look
27 like?

28 MR. FUENTES: November 1 and 2 is the weekend of
29 the general election.

30 CHAIRMAN EAKELEY: Yes, that's right, Tom.

31 MS. BATTLE: That's right.

32 CHAIRMAN EAKELEY: Agree, we shouldn't --

33 MR. FUENTES: But if you'd like to all come to
34 Orange County and walk a precinct, I can facilitate that.
35 (Laughter.)

36 CHAIRMAN EAKELEY: How was the President's visit
37 yesterday?

38 MR. FUENTES: It was wonderful. I had a nice visit
39 with him and with Justice Gonzales the day before.

40 CHAIRMAN EAKELEY: I hope you didn't lobby them
41 overly on our appropriation, but somewhat.

42 MS. BATTLE: So are we back to October?

43 MR. McCALPIN: What about December?

44 MS. MERCADO: Yes. The 8th and the 9th are
45 probably going to be the best.

46 MS. BATTLE: We're going to meet in January for the
47 annual meeting.

48 CHAIRMAN EAKELEY: Well, or we could just do a
49 December meeting, I suppose. That's a possibility, too.

1 MR. McCALPIN: The first weekend.
2 MS. FAIRBANKS-WILLIAMS: The 8th and 9th is out?
3 CHAIRMAN EAKELEY: How about December 5-6?
4 MS. MERCADO: That's really getting way out there.
5 CHAIRMAN EAKELEY: I'm sorry, December 6-7?
6 MS. ROGERS: Six-7th I couldn't do. I could do 5-6
7 until noon on the 6th.
8 MS. MERCADO: It seems like either the 22nd/23rd or
9 the 8th/9th would be more reasonable in trying to get the
10 work done that we need to get done.
11 CHAIRMAN EAKELEY: Well, let's go back. How about
12 the 22nd/23rd?
13 MS. ROGERS: Of October?
14 CHAIRMAN EAKELEY: Of November?
15 MR. SMEGAL: Of November?
16 CHAIRMAN EAKELEY: Yes.
17 MR. SMEGAL: That's fine here in California.
18 CHAIRMAN EAKELEY: Well, I'll waive the --
19 MS. ROGERS: I'm out both days.
20 MR. FUENTES: Respectfully, I understand there's a
21 conflict on the 8th and the 9th. That is open to me.
22 CHAIRMAN EAKELEY: Okay. Tom Smegal, could you be
23 available by phone that weekend, by any chance?
24 MR. SMEGAL: I can be there on the 8th. I just
25 have to be back in Irvine, California on the 9th.
26 CHAIRMAN EAKELEY: Could we impose upon you to come
27 on out for the 8th of November, then? It looks like that's
28 the best date for everybody else. I mean, we don't lose any,
29 but we get two-thirds of you.
30 MR. SMEGAL: I could do that, yes. I wouldn't be
31 available on the 9th. I have a partnership meeting that goes
32 all day.
33 CHAIRMAN EAKELEY: That's the 9th. Well, why don't
34 we do it November 8 and 9, with Tom's acquiescence, Tom
35 Smegal's acquiescence. And if you would authorize -- how do
36 people feel about meeting outside of Washington, D.C. and
37 picking that up again one more time?
38 The benefits have always -- I mean, the benefits
39 have been fairly obvious. We get a chance to interact with
40 the local bar, judiciary, legal services programs. The
41 strategic planning we've done outside of Washington. We did
42 it in Atlanta the first time. And it has really provided a
43 boost to the local program.
44 MS. ROGERS: Doug, this is Nancy. I think it has
45 provided wonderful advantages in that way. But in guessing
46 that this is our last meeting, I'm not sure that it provides
47 those same advantages.
48 CHAIRMAN EAKELEY: Well, let's do this. Let's --
49 MS. BATTLE: The annual meeting will be outside of,

1 you know, Washington generally, isn't it?

2 CHAIRMAN EAKELEY: Well, but I think the -- if the
3 annual meeting is in January, that will hopefully be the new
4 board. And I don't, again, want to presume, but I would
5 think that their first meeting they'd want to have in
6 Washington and have the staff presentations, and I think the
7 staff is going to want to meet the board and have some
8 quality interaction as well.

9 MS. MERCADO: We've actually have two strategic
10 meetings outside of Washington. We had one in Colorado, in
11 Denver, where we brought in --

12 MS. BATTLE: Atlanta was the other one.

13 MS. MERCADO: And then Atlanta was the other one.
14 I mean, we just flew in the consultant that worked with us.
15 I don't think we're talking about that this time.

16 CHAIRMAN EAKELEY: Why don't you authorize me to
17 consult with staff, and if people have strong feelings in
18 addition to Nancy -- what's the strength of your --

19 MS. ROGERS: It's not a principle thing. I think
20 it's just a practical thing, that I'm not sure we achieve any
21 benefit in having it outside of Washington.

22 MR. McCALPIN: It's a while since you've been to
23 the Midwest. I repeat my statement that you're certainly
24 welcome to come to St. Louis.

25 MR. ERLNBORN: There's always Chicago.

26 MR. McCALPIN: We've been to Chicago. I saw Sammy
27 Sosa in right field in Chicago.

28 CHAIRMAN EAKELEY: Bucky is suggesting that it
29 would be easier for Tom Smegal to get home if we met in the
30 Midwest somewhere also.

31 MR. SMEGAL: Yes. That actually would be helpful.
32 The other thought I had as I was sitting here, Doug, is that
33 although we do tend to meet on Friday and Saturday, an
34 alternative, and to stay away a little bit further from that
35 Veterans Day three-day weekend, would be to meet
36 Thursday/Friday.

37 MS. BATTLE: It's tougher for me to meet on --

38 CHAIRMAN EAKELEY: Yes. There are a couple of
39 rumblings here, Tom, about difficult taking the two workdays
40 off.

41 MR. SMEGAL: I understand. I certainly understand.

42 CHAIRMAN EAKELEY: Okay. Well, with your leave,
43 could I discuss with management the possibility of meeting
44 somewhere other than Washington on November 8 and 9? And
45 we'll advise everyone.

46 Now, if we're going to meet on November 8 and 9 --

47 MR. McCALPIN: That, incidentally, will be right
48 after the election.

49 CHAIRMAN EAKELEY: Yes. Right after the election.

1 MR. ASKEW: We'll have a lot to talk about.

2 CHAIRMAN EAKELEY: I don't have the January
3 schedule here. But I think that we should set a date because
4 of the logistics of arranging for hotel rooms and meeting
5 space and the like. And Victor, did you have some dates in
6 mind?

7 MR. FORTUNO: Actually, I just wanted to call to
8 the attention of the board that the bylaws of the Corporation
9 provide that, "An annual meeting shall be held on the last
10 Friday of January of each year at such hour and place as
11 shall be determined by a majority of the directors."

12 If the meeting is held on the last Friday in
13 January, that would be January 31st. Now, that can be moved.
14 The bylaws also provide some flexibility and allow the board
15 to move that meeting 30 days in either direction. So you
16 have that much flexibility.

17 MR. McCALPIN: We have done that.

18 CHAIRMAN EAKELEY: Yes. Well, let's first inquire
19 of Messrs. Fuentes, McKay, Strickland, and Dieter. January
20 31, or a different date?

21 MR. FUENTES: I don't have any problem with the end
22 of January at the present time. But then, I don't own a 2003
23 calendar, either.

24 CHAIRMAN EAKELEY: A man who lives in the present,
25 which is what we all should be doing.

26 Well, hearing no objection to January 31st from the
27 new board nominees who are present or on the phone, is there
28 any problem with anyone else with that date? Let's go for
29 that, and I would suggest that we schedule it for Washington.

30 And hopefully, we'll be there to say good luck, God bless.

31 MR. McCALPIN: I'll have to leave Arizona a day
32 early.

33 CHAIRMAN EAKELEY: Oh, I'm sorry about that. But
34 you may not have to, in fact.

35 MS. BATTLE: Doug, while we have a calendar out, I
36 just thought -- there was a technology conference mentioned
37 in the provisions committee yesterday. And I don't remember
38 exactly when.

39 MR. ASKEW: It's October.

40 MS. BATTLE: It's October? What's the date on it?

41 MR. ASKEW: October 15th, I think.

42 MS. BATTLE: October 15th?

43 MR. ASKEW: Is that right?

44 MS. MERCADO: October 15th and 16th.

45 MS. BATTLE: Is that going to be at the NLADA
46 conference, or is that someplace separate?

47 MS. MERCADO: No. That's a month before, almost.

48 MR. ASKEW: That's going to be in Denver.

49 MS. BATTLE: It's going to be in Denver?

1 MR. ASKEW: No, in Chicago.

2 MS. BATTLE: At the end of our term, it would be
3 helpful to know programs like that that LSC is putting on so
4 if we do have a minute and can, maybe some of us can attend.
5 I'm real interested in that particular conference and the
6 work that's been done in technology. So let me know about
7 the date and I'll see if I can make it.

8 CHAIRMAN EAKELEY: All right. This brings us to
9 the closed session portion of our agenda. And so I would --

10 MR. FORTUNO: Maybe it's a technicality, but since
11 the bylaws provide that the annual meeting is on Friday,
12 January 31st, if what the board contemplates is committee
13 meetings on Friday and the board meeting on Saturday, is
14 there a view that the board may have to act to --

15 CHAIRMAN EAKELEY: Yes. Let's set the annual
16 meeting for February 1st and the committee meetings on the
17 Friday so we just do it the normal way that I'm assuming that
18 the new board is going to want to have committee meetings in
19 advance of the board meeting, and would prefer to do it the
20 Friday/Saturday.

21 MS. BATTLE: The committees haven't been formed.

22 CHAIRMAN EAKELEY: Well, the committees won't have
23 been formed.

24 MS. FAIRBANKS-WILLIAMS: I thought it was 30 days
25 before or 30 days in advance.

26 CHAIRMAN EAKELEY: There won't be -- LaVeeda's
27 right, the board needs to meet, organize, talk through. So
28 maybe just having the annual meeting, and having a meeting of
29 the whole for that Friday, and if there's a need for
30 Saturday, too. Does that make sense, Mike and Frank and Bob
31 and Tom?

32 MS. MERCADO: We've done business as the meeting as
33 a whole many times.

34 CHAIRMAN EAKELEY: So let's be consistent with the
35 bylaws, I mean, literally consistent this time.

36 Okay? Good. Motion to adjourn into executive
37 session after we take a rest stop or break?

38 M O T I O N

39 MS. BATTLE: I would so move.

40 CHAIRMAN EAKELEY: Second?

41 MS. FAIRBANKS-WILLIAMS: Second.

42 CHAIRMAN EAKELEY: All those in favor?

43 (A chorus of ayes.)

44 CHAIRMAN EAKELEY: We are now in closed session, to
45 resume in ten minutes.

46 (Whereupon, at 10:39, the meeting was adjourned to
47 closed session.)

