



**MEETING OF THE
TEXAS WORKFORCE COMMISSION**

June 30, 2020

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TUESDAY, JUNE 30, 2020

CHAIRMAN DANIEL: Morning, everyone. This meeting is called to order. Mr. Trobman, has anyone signed up for public comment?

TROBMAN: Morning, Commissioners. No, we do not have anyone signed up for public comment this morning.

CHAIRMAN DANIEL: Thank you very much. Good morning, Ms. Miller.

CHAIRMAN DANIEL: Okay. Hopefully that [unintelligible]. Is everybody ready?

AARON DEMERSON: Yes, Chairman.

JULIAN ALVAREZ III: Yes, sir.

CHAIRMAN DANIEL: We're back in session. This is [unintelligible] for the year of 2020, fiscal year 2021, allocations, planning estimates and funding distributions for adult education and the literacy programs.

CHRIS NELSON: Good morning, Chairman and commissioners, Mr. Serna. For the record Chris Nelson, Chief Financial Officer. Can you hear me?

CHAIRMAN DANIEL: Yes.

CHRIS NELSON: Okay. This morning you have before you the FY21 PY20 Education and Literacy allocations. As you recall, on May 12th the commission was presented with AEL planning estimates for contracts that would go into effect July first based off planning numbers provided by the department of

1 education. TWC expects to receive the final state allotment on
2 July first, however we have reached out to the Department of
3 Education last week and were notified that they do not expect
4 the final allotment to change at this point. So, there are two
5 changes made to the final allocation being presented this
6 morning versus the planning estimate document. First, the total
7 AEL allocation, excluding EL civics, consist of approximately
8 77% federal funds, 14% state and nine percent NF funding.
9 Starting last year, TWC began validating with its available data
10 the AE program services that provided AEL programs enough
11 talent, eligible clients to fully support spending this NF
12 funding. Since local providers are no longer required to
13 document NF eligibility, the allocation by funding source has
14 been recalculated so that each area and provider receives the
15 same equitable distribution of each funding source and the
16 associated administrative limit with funding source.
17 [unintelligible] their total allocation the same as the planning
18 estimate numbers. The second item different is page three which
19 shows a provider breakdown of the AEL allocation as we use the
20 factor data by county to determine the appropriate share of
21 funding for each provider considering the counties that they
22 serve. That concludes my remarks. I'll be happy to answer any
23 questions.

24 CHAIRMAN DANIEL: Any comments or
25 questions?

1 JULIAN ALVAREZ III: No, Chairman.

2 AARON DEMERSON: None here.

3 CHAIRMAN DANIEL: Is there a motion?

4 JULIAN ALVAREZ III: I move that we approve
5 Program Year 2020, Fiscal Year 2021 AEO block grant allocations
6 and the executive director is hereby ordered to administer these
7 block grants, allocations in the most feasible and economical
8 manner and within all guidelines prescribed by HB1 General
9 Appropriations Act, 86th Legislature, regular session, the Texas
10 Labor Code and the TWC rules.

11 AARON DEMERSON: Second.

12 CHRIS NELSON: Thank you.

13 CHAIRMAN DANIEL: It's been moved and
14 seconded.

15 AARON DEMERSON: Yes.

16 CHAIRMAN DANIEL: Motion carries. This is
17 Item Nine. Item Nine, chapter 800 rules on contract purchasing
18 is being postponed to a future meeting. Okay. That would bring
19 us to Item 10, discussion, consideration and possible action
20 regarding proposed rule reviews under Texas Government Code
21 Section 201.039 relating the Jobs Education for Texans Grant
22 Program, vocational rehabilitation services, career schools and
23 colleges, administrative rules and regulations, business
24 enterprises in Texas, VR services and VR services contract
25 management requirements.

1 JOE MULLINS: Good morning, Chairman,
2 commissioners, Mr. Serna. For the record, this is Joe Mullins
3 with Workforce Development. Texas Government Code Section
4 2001.039 requires that state agencies review their rules every
5 four years to assess whether the reasons for adopting or
6 readopting the rules continue to exist. Additionally, the
7 assessment includes the determination of whether the rules are
8 obsolete, whether they reflect current legal and policy
9 considerations and whether they reflected the commission's
10 current procedures. In accordance with their rule review
11 requirements, staff is seeking direction on pushing a notice in
12 the Texas Register notifying the public of our intent to review
13 Chapter 804, Jobs and Education for Texans Grant, Chapter 807,
14 Career Schools and Colleges, Chapter 850, Vocational
15 Rehabilitation Services Administrative Rules and Regulations,
16 Chapter 854, Business Enterprises of Texas, Chapter 856, VR
17 Services, and Chapter 858, VR Services Contract Management
18 Requirements. After a 30-day public comment period, staff will
19 bring forth the results in the assessment. I'll be happy to
20 answer any questions you have.

21 CHAIRMAN DANIEL: Comments or questions?

22 AARON DEMERSON: No comments here,
23 Chairman.

24 JULIAN ALVAREZ III: None here.

25 CHAIRMAN DANIEL: Is there a motion?

1 JULIAN ALVAREZ III: I move that we file a
2 notice of intent for rule review with the Texas Register for
3 Chapters 804, 807, 850, 854, 856, and 858 as recommended by
4 staff.

5 AARON DEMERSON: Second.

6 CHAIRMAN DANIEL: [unintelligible] second,
7 motion carries.

8 UNKNOWN: Thank you.

9 CHAIRMAN DANIEL: I am allotted discussion
10 consideration and possible action regarding proposals pertaining
11 to the Agricultural Improvement Act of 2018 and the SNAP EMT
12 Good Cause process is being postponed to a future commission
13 meeting. This will bring us to Item 12, discussion,
14 consideration and possible action regarding statewide
15 initiatives funded with workforce innovation opportunity act,
16 temporary assistance for needy families, adult education,
17 literacy, childcare and other state level funds.

18 JENNIFER TROKE: Good morning, Chair,
19 commissioners and Mr. Serna. For the record, Jen Troke
20 Workforce Division. Over the past year the Texas Workforce
21 Commission in partnership with the Office of the Governor, Texas
22 Workforce Investment Counselor TWIC, and Rural Capital Area
23 Workforce Board have worked together to develop a new evidence
24 framework to better measure the impact of publicly funded
25 workforce development programs. A goal of the work is to

1 discover innovative approaches and replicable models that leave
2 transformative outcomes for workers and employers. This
3 approach creates an evaluation point structure that incentivizes
4 grant applicants to identify and use program models that have
5 demonstrated a record of effective outcomes. In August 2019 the
6 commission approved \$1.8 million and we owe a statewide funding
7 for the building construction trades request for applications or
8 RSA. The team is preparing to implement the evidence framework
9 into this RFA, which includes incorporating evidence, tiers and
10 new space metrics. Recognizing that many Texas youth ages 16 to
11 24 are not currently engaged in employment or the workforce,
12 also known as the opportunity give, and the growing demand for
13 workers in the construction trade, staff recommends prioritizing
14 opportunities, models in this RFA that provides training and
15 demand skills that can be learned and applied quickly.
16 Additionally, staff recommends that an evaluation of the project
17 be conducted to ensure that we are learning from the youth
18 training project, figuring out what works and providing real-
19 time adjustments to programs so that training participants are
20 positioned for long-term success. Today staff are seeking
21 commission approval to prioritize opportunity youth as the
22 eligible participants in the 2020 Building and Construction
23 Trades RSA and competitively procure a program evaluator who can
24 support the implementation of these grantees using up to

25

1 \$300,000 of the \$1.8 million in funding previously approved for
2 this project. Any questions?

3 CHAIRMAN DANIEL: Comments or questions?

4 JULIAN ALVAREZ III: No questions,
5 Chairman.

6 AARON DEMERSON: Chairman, one quick
7 question. Jennifer, proposed evaluators, are those common uses
8 under grant programs or program evaluators or is this the first
9 time that we're doing that?

10 JENNIFER TROKE: It's the first time that
11 TWC is doing that, but this is a practice that's been, I would
12 say, advancing more and more in recent years. And the idea is
13 that by evaluating we then know what works and then we're
14 putting our money in the future into those programs that are
15 working. So, it's a smarter way to invest.

16 AARON DEMERSON: Good, good, and tells the
17 story. Good, thank you.

18 JENNIFER TROKE: Thank you.

19 CHAIRMAN DANIEL: Yeah. Certainly,
20 commissioners that is true. And I just want to also point out
21 that we're breaking a little new ground here in the way we'll be
22 doing or at least seeking applicants. You know, we're sort of
23 broadening our pool of applicants here and given ourselves more
24 opportunities to succeed in my opinion. I think that this
25 evidence-based approach to selecting folks to do these workforce

1 programs that we have is a little bit of a departure from some
2 of the ways we've done it in the past. I think it gives us
3 additional capabilities and the evaluator, if I understand it
4 correctly, it gives us a chance to evaluate this new process
5 while it's at least new to us. It's not a new process in the
6 broad scheme of things. But while we're mastering this
7 progress, it gives us a chance to both update what we're doing
8 and then update or keep the process kind of moving forward so
9 that we can understand it better for the future.

10 JULIAN ALVAREZ III: [unintelligible]

11 CHAIRMAN DANIEL: Yeah, yeah, for sure.

12 Any other comments or questions? So, do we have a motion on
13 this?

14 JULIAN ALVAREZ III: Yes, Chairman. I move
15 that we approve modification to the 2020 Building and
16 Construction Trades RFA to prioritize opportunity youth as the
17 eligible participants and competitively procure a program
18 evaluator who can support the implementation of these grantees
19 and work cooperatively to build the evidence base for youth
20 workforce development programs using up to \$300,000 of the \$1.8
21 million in funding previously approved for this project.

22 AARON DEMERSON: I second.

23 CHAIRMAN DANIEL: Seconded. We're
24 unanimous. Thank you.

25 JENNIFER TROKE: Thank you.

1 CHAIRMAN DANIEL: This will take us to
2 Agenda Item 13, discussion, consideration and possible action
3 regarding guidance on resource utilization and implementation
4 services and strategies to target disaster relief efforts and
5 public health emergencies, including those funded by the
6 Department of Labor's Disaster Dislocated Workers Grant. Mr.
7 Serna.

8 ED SERNA: Yes, sir. We have a couple of
9 things for you. First Clay Cole has got two items and I think
10 Chris is actually going to present the first item. Go ahead.

11 CHRIS OAKLEY: Yes, sir. Good morning,
12 Chairman, commissioners, Mr. Serna. For the record, Chris
13 Oakley, UI Division. At the last open meeting on June 23rd the
14 UI Division was instructed to provide an update regarding the
15 performance of UI policy during the Covid-19 pandemic. The
16 following is our update. Each time the federal government has
17 passed UI-related legislation or Governor Abbott has issued
18 orders dealing with the Covid-19 pandemic the UI Division
19 believes the TWC has acted appropriately in passing on
20 flexibility to customers. In response to Covid-19, the TWC has
21 waived the initial waiting week, waived work search, suspended
22 offset over payment recovery for regular unemployment,
23 implemented emergency rule making to align with the new federal
24 programs, issued suitable work guidance and suspended and
25 delayed chargeback and reimbursement recoveries. Additionally,

1 within the UI Division, our policy department works on a daily
2 basis with operations to ensure that we are serving our
3 customers as efficiently as possible. However, each time the
4 DOL has provided information and guidance they have also
5 stressed the importance of program integrity. UI Division
6 continues to follow DOL guidance and strives to [unintelligible]
7 these programs along with state unemployment in a proper and
8 compliant manner. After conducting the review requested at the
9 last commissioners meeting our opinion is that our existing
10 laws, rules and policies have performed well and provide the
11 intended flexibilities to customers under current laws. We find
12 no reason to alter or modify our current strategies and see no
13 current opportunity for rulemaking under the current state and
14 federal legislation that provides the flexibilities benefitting
15 Texans during the Covid-19 pandemic. We also identified and
16 reviewed the following areas. First is the safety requirements
17 of those employers opening or operating their businesses during
18 the Covid-19 pandemic. The UI Division notes that guidelines
19 for opening and operating businesses during the pandemic can be
20 found among other places in the governor's open Texas rules, the
21 Department of State Health Services, the Department of Homeland
22 Security and the Centers for Disease Control. Additionally,
23 businesses have taken these guidelines and crafted their own
24 specific guidelines that best cover their unique circumstances.
25 The UI Division believes that continuing to utilize our existing

1 laws, rules and policies on a case by case basis works best to
2 promote the opening of the Texas economy while safeguarding the
3 safety of employees. Our opinion is that additional rulemaking
4 in this area might operate to limit our adjudicator's ability to
5 fairly determine whether the employer is safeguarding the
6 perspective employee's health and safety at the workplace.
7 Furthermore, the UI Division believes it is not within the TWC's
8 purview to decide which of the guidelines published by the
9 various entities are best for Texas. We can only determine on a
10 case by case basis if a particular employer is providing a safe
11 working environment for a particular employee, not make an
12 overall ruling on the applicability and sufficiency of the
13 various guidelines for Texas. The second area is our
14 administering of the PUA Program. The UI Division continues to
15 administer this program in compliance with DOL guidance. As of
16 Monday June the 29th, approximately 699,000 claimants have filed
17 for PUA. And of those, 420,000 are self-employed individuals
18 and as a result do not have regular unemployment eligibility.
19 As explained by the DOL, the program is often of short-term
20 duration and the numbers do not appear to be out of place.
21 Also, when Texas triggered on to the extended benefits, we
22 triggered due to the insured unemployment rate, not the total
23 unemployment rate. This leads to our conclusion that regular
24 benefits are being paid to the majority of claimants and that
25 the PUA Program has been reserved as a program of last resort,

1 just as it was intended and as it has been described by the DOL.
2 However, we monitor DOL guidance on an ongoing basis. If at any
3 time DOL issues guidance that in some way allows the expansion
4 of the PUA Program, we will not hesitate to implement that
5 guidance. In conclusion, the UI Division understands that
6 numbers and data don't always give the true picture of crisis
7 and of those that are suffering as a result of the Covid-19
8 pandemic. Every day we receive calls from claimants that are
9 suffering and in crisis as a result of this pandemic. And each
10 one of those claimants' stories moves us on a personal level and
11 motivates us to do our jobs better. We constantly work to
12 provide comfort and assistance to claimants in need striving to
13 make the customer experience the best possible. Our policy
14 should provide clarity to the process and we will continue to
15 monitor them to ensure that they do just that. That concludes
16 my report and I'm happy to answer any questions.

17 CHAIRMAN DANIEL: Comments or questions?

18 JULIAN ALVAREZ III: Chairman, I do have
19 comments at this time. First of all, I want to applaud and I
20 want to thank Chris, Mr. Oakley, for the great report that you
21 just brought forth and the research that you've put together for
22 today's meeting. I certainly appreciate it and I think we all
23 do. I would like to state, though, I would ask that the staff
24 bring forth a policy concept for rules related to good cause for
25 refusing suitable work based on the guidance adopted by the

1 commission on June 16, 2020 for Covid-19 impacted claimants,
2 maintaining ability and availability, eligibility when refusing
3 work because of those factors. In work search exemptions for
4 part-time employees whose hours were reduced by the employer
5 because of business was impacted by Covid. I feel that it's
6 important for us to keep in mind that this allows us for
7 transparency and I certainly would appreciate public input.
8 There's a lot of confusion among UI claimants, in my opinion and
9 by what we've experienced here at the office. Clear rules will
10 provide guidance. Those are my comments, Chairman.

11 AARON DEMERSON: First of all, let me thank
12 Chris, Clay, Leshay and that entire UI team for partnering us
13 and the governor's office on these virtual townhall meetings
14 that we've had over the past bringing valuable information to
15 the Texas employers' associations. And so, we appreciate the
16 work you're doing. That report that you just brought is
17 something that's of value and that we appreciate the work that
18 you guys have been doing.

19 CHAIRMAN DANIEL: All right, any other
20 comments or questions? Mr. Serna.

21 ED SERNA: I think Clay's got a standing UI
22 update.

23 CHAIRMAN DANIEL: All right.

24 CLAY COLE: Good morning, Chairman Daniel,
25 Commissioner Demerson, Commissioner Alvarez, Mr. Serna. For the

1 record, Clay Cole, Unemployment Insurance Division. I'm going
2 to start off with our UI claims and payment activity update.
3 Over the past four weeks of June compared with the last four
4 weeks of May claims are down slightly. However, we still have
5 average of approximately 146,000 claims per week in June. This
6 includes all claim types. And to date we've processed over 3.5
7 million claims and paid out over \$15 billion in unemployment
8 benefits. Now the 3.5 million represents approximately 2.7
9 million unique claimants and we have processed approximately 2.6
10 million claims. Next week we anticipate an uptick in claims,
11 'cause it's a quarter change and any time we have a quarter
12 change we have new people eligible for regular benefits based on
13 their wage credits. But you can see that comparison and total
14 number of unique claimants, 2.7 and the claims process 2.6.
15 Just want to commend all our UI staff, our contract call centers
16 and volunteers for their great work. And clearly, we understand
17 we still have a lot of work in front of us and we're continuing
18 to strive to meet the needs of our fellow Texans. And efforts
19 to improve our overall service delivery, we're continually
20 working to expand the skillsets of our contract call centers,
21 constantly working with them on training, developing new
22 assignment types that they can work. And this is just
23 continuing to free up our staff in UI on more complex back end
24 assignments and outbound calls. UI is hiring an additional TWC
25 temporary staff just for our overall support too. Just want to

1 make sure y'all can hear me clearly. We continue to see
2 improvement in our assignment management, very pleased with the
3 improvements we're seeing there. We've been able to
4 successfully backdate claims for those that have difficulty
5 getting through to us and we still have some work there. But at
6 this point, we're going to point where we can address backdated
7 requests on a case by case basis as we go forward. Just want to
8 thank IT and our UI staff. Over the weekend we deployed the
9 State Extended Benefits Programming which provides 13-week
10 extension of unemployment benefits to individuals who have
11 exhausted the pandemic emergency unemployment compensation and
12 remain unemployed. The first payable week for the state
13 extended benefits will be this weekend, July fourth. So, those
14 individuals that are exhausting the PEUC, the emergency
15 unemployment now will transition automatically over to the state
16 extended benefits. Again, just want to thank those teams that
17 were able to, you know, deploy that successfully over the
18 weekend. Of course, as we deploy one program yesterday we were
19 officially notified by the Department of Labor that the Texas
20 Workforce Commission is now triggered onto high unemployment
21 period beginning July 5, 2020, which extends potential duration
22 for benefits for eligible claimants up to seven weeks or 30% of
23 their regular entitlement. This extension is for individuals
24 that will exhaust state extended benefits, so those that will
25 come on here July fifth. Once they exhaust that, they're

1 potentially eligible for an extension of seven weeks because of
2 the high unemployment period Texas is now triggered on. It also
3 potentially adds seven weeks to the Pandemic Unemployment
4 Assistance individuals. So, it will take them from right now 39
5 weeks to 46 weeks potentially. And so, what we're looking at
6 right now, the first payable week, say if somebody triggers onto
7 the state extended benefits and gets 13 weeks, so the first week
8 they would be eligible for the new high unemployment period
9 would be the week ending October 3, 2020. So, IT and UI will be
10 working on implementing that new program. And finally, UI and
11 IT are working on a portal for employers to report return to
12 work date for employers that they're working to retain. The
13 portal will capture return to work dates for employees on
14 temporary layoff up to 12 weeks. And if it's beyond that, we'll
15 need some justification and talk through some of that. But
16 right now, initially we tell them to give us that 12 weeks and
17 then we can talk later. These individuals with the return to
18 work date will be exempted from work search as the company works
19 to reopen. We plan to have this ready sometime next week and we
20 continue to work closely with external relations on messaging
21 for all these things that I've discussed today. And this
22 concludes my update and I'll be happy to answer any questions
23 you might have.

24 CHAIRMAN DANIEL: All right, any questions
25 or comments?

1 JULIAN ALVAREZ III: Chairman, I just
2 wanted to take this opportunity to thank Clay. Great report and
3 great update. Thank you, Clay.

4 CLAY COLE: Thank you.

5 AARON DEMERSON: I likewise would like to
6 thank Clay and the team. Clay, you mentioned messaging and
7 information that you laid out. That's going to be very, very,
8 very important. So, information on our website, information
9 working with my team as related to the employers, we want that
10 information because we love to provide this valuable information
11 and those dates. We're proactive with it, the less amount of
12 questions that we'll receive in regards to it. So, this is new
13 again for a lot of people, lot of companies, lot of individuals.
14 And so, we're messaging and getting that word out. It's very,
15 very, very important. I want to overcommunicate the need to do
16 that.

17 CLAY COLE: I hear you loud and clear. I
18 agree.

19 CHAIRMAN DANIEL: Thank you, Clay.

20 CLAY COLE: Thank you.

21 ED SERNA: One last thing, Mr. Chairman,
22 under this agenda item. Of course we agree with Commissioner
23 Demerson and all of y'all about the importance of messaging.
24 With regard to that based on the increase in Covid-19 cases and
25 the Governor's June 26 executive order we'll be pausing the

1 reinstatement of the work search requirement for unemployment
2 insurance. We'll continue to monitor the situation and come
3 back to the commission in late July with a recommendation
4 regarding reinstatement, but at the current time we're going to
5 pause the reinstatement. I'll answer any questions y'all have.

6 CHAIRMAN DANIEL: I think everything that's
7 going on that's a very prudent move. My opinion is we should
8 pause that and reevaluate the situation. We're seeing continued
9 claim activity in numbers that would suggest there's still more
10 to come, at least that's what I'm sort of processing through
11 after hearing Clay's report. Certainly, we've seen a pause on
12 some reopenings. A lot of our discussion a couple weeks ago
13 when we talked about this last time was related to reopening.
14 With that paused, I think for us to hit the pause button here
15 now is a very prudent move and one that I could support.
16 Commissioner Alvarez?

17 JULIAN ALVAREZ III: No, I agree with you,
18 Chairman. And thank you for the update and again thank you for
19 allowing the commissioners to have input in this decision. I
20 think it's really important that we continue the dialogue with
21 you. And I, again, appreciate your remarks and you working
22 closely with the three commissioners or the commission during
23 this time. So, thank you for that, ED.

24 ED SERNA: Yes, sir.

25

1 AARON DEMERSON: Chairman, something you
2 mentioned early on, being flexible, nimble and taking care of
3 business. Proactive is the way that we want to go and so keep
4 in lock step with reality and what's happening out there keeps
5 us relevant. And so, pausing at this point makes a lot of
6 sense.

7 CHAIRMAN DANIEL: Mr. Serna, that's an
8 operational issue and one that falls in your jurisdiction. I do
9 appreciate the update and I do think that moving through July is
10 prudent as well.

11 ED SERNA: Thank you, sir. That's all we
12 have for this agenda item. I think Tom has an update.

13 AARON DEMERSON: That doesn't look like
14 Tom.

15 MICHAEL BRITT: Good morning, Chairman
16 Daniel, Commissioner Alvarez, Mr. Demerson and Mr. Serna. For
17 the record, I am Michael , Director of Governor Relations in
18 place of Tom this morning. We've been monitoring one
19 congressional hearing this week. This morning the U.S. Senate
20 Health Education, Labor and Pensions Committee is holding a
21 hearing right now to receive a Covid-19 update on progress
22 towards safely getting back to work and getting back to school.
23 We also continue to monitor congressional action on potential
24 legislation that would provide further assistance to those
25 affected by Covid-19, and we'll keep you updated if there's any

1 developments there. And that [unintelligible]. I'll be happy
2 to answer any questions that you all may have.

3 CHAIRMAN DANIEL: Any questions?

4 JULIAN ALVAREZ III: No, Chairman.

5 AARON DEMERSON: None here.

6 CHAIRMAN DANIEL: I wrote all my questions
7 for Tom, so I don't have any. Thank you, Michael. Mr. Serna.

8 ED SERNA: I have one thing under the
9 Executive Directors Report and that is a bit of good news. E
10 Republic Government Technology Magazine has recognized our Work
11 in Texas website with a Best in Texas award. We were recently
12 awarded that. Though we know we still need to continue to work
13 on it and improve it, even though it's new, we did receive that
14 award.

15 CHAIRMAN DANIEL: Well, I'll take some good
16 news.

17 JULIAN ALVAREZ III: That's really good to
18 hear. Really good. Thanks, Ed for that.

19 AARON DEMERSON: You see my hand's up over
20 there? I'm using technology there. You see that thumbs up over
21 there?

22 CHAIRMAN DANIEL: That's right. That
23 [unintelligible]. Also needs to come before the commission?
24 No? Is there a motion to adjourn?

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JULIAN ALVAREZ III: Chairman, I move that
we adjourn.

AARON DEMERSON: Second that motion.

CHAIRMAN DANIEL: It's been moved and
seconded that we adjourn and we are adjourned. Thank you all.

AARON DEMERSON: Thank you.