

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD OF DIRECTORS MEETING

Ric Williamson Hearing Room  
DeWitt Greer Building  
125 East 11th Street  
Austin, Texas

Thursday,  
April 11, 2013  
9:00 a.m.

MEMBERS:

J. PAUL OXER, Chair  
JUAN MUÑOZ, Vice Chair  
LESLIE BINGHAM ESCAREÑO, Member  
TOM GANN, Member  
LOWELL KEIG, Member  
J. MARK McWATTERS, Member

TIMOTHY K. IRVINE, Executive Director

*ON THE RECORD REPORTING*  
*(512) 450-0342*

INDEX

<u>AGENDA ITEM</u>	<u>PAGE</u>
CALL TO ORDER, ROLL CALL CERTIFICATION OF QUORUM	7
CONSENT AGENDA	
ITEM 1: APPROVAL OF THE FOLLOWING ITEMS PRESENTED IN THE BOARD MATERIALS EXECUTIVE:	8
a) Presentation, Discussion, and Possible Action on the Board Minutes Summary for February 21, 2013	
RULES	
b) Presentation, Discussion, and Possible Action on an order adopting the repeal of 10 TAC Chapter 9, §§9.1 - 9.8, concerning Texas Neighborhood Stabilization Program, and directing its publication in the Texas Register	
c) Presentation, Discussion, and Possible Action on an order adopting an amendment to 10 TAC Chapter 25, §25.5, regarding the Colonia Self Help Center Program Rule, and directing its publication in the Texas Register	
d) Presentation, Discussion, and Possible Action on an order adopting amendments to 10 TAC Chapter 1, §1.5 regarding Previous Participation Reviews, and directing its publication in the Texas Register	
e) Presentation, Discussion, and Possible Action an order adopting amendments to 10 TAC Chapter 60, Compliance Administration, Subchapter B, Accessibility Requirements, §60.209 regarding Reasonable Accommodations, and directing its publication in the Texas Register	
MULTIFAMILY FINANCE DIVISION:	
f) Presentation, Discussion, and Possible Action to allow for public comment regarding proposed demolition of units at Villa Brazos in Freeport and one-for-one replacement under §104(d) of the Housing and Community Development Act as outlined by 24 CFR Part 42	
g) Presentation, Discussion, and Possible Action on Determination Notices for Housing Tax Credits with another Issuer	

- h) Presentation, Discussion and Possible Action regarding Resolution No. 13-032 for the First Amendment to the Loan Agreement relating to the Multifamily Housing Revenue Bonds for Stonehaven Apartment Homes, Series 2006
- TEXAS NEIGHBORHOOD STABILIZATION PROGRAM
- i) Presentation, Discussion, and Possible Action to approve certain activities necessary for adherence to extended deadlines established by HUD for NSP1 and NSP3 and to direct the Executive Director to execute such actions

**BOND FINANCE:**

- j) Presentation, Discussion, and Possible Action on Resolution 13-026 approving the Department's Interest Rate Swap Policy
- k) Presentation, Discussion, and Possible Action on Resolution 13-027 authorizing the Amendment of Depository Agreements relating to Single Family Mortgage Revenue Bonds and Residential Mortgage Revenue Bonds
- l) Presentation, Discussion, and Possible Action adopting Resolution No. 13-028 authorizing the investment of General Funds in Mortgage Backed Securities
- m) Presentation, Discussion, and Possible Action on Resolution No. 13-029 approving modifications to the Mortgage Credit Certificate Program (MCC) (Program 80)
- n) Presentation, Discussion, and Possible Action on Resolution No. 13-030 authorizing Publication of Public Notice for Mortgage Credit Certificate Program (MCC) (Program 81)
- o) Presentation, Discussion, and Possible Action on Resolution 13-031 authorizing the tender remarketing of Residential Mortgage Revenue Bonds, Taxable Series 2009C-1

**REPORT ITEMS:**

The Board accepts the following reports:

1. Report on the status of a rule regarding rent limits for certain tax exempt bond Developments
2. Status Report on the HOME Program Contracts and Reservation System
3. Final Report on actions taken under the Texas Neighborhood Stabilization Program

4. grant of emergency authority  
TDHCA Outreach Activities, February -  
March 2013

**ACTION ITEMS**

**ITEM 2: MULTIFAMILY FINANCE DIVISION:**

- a) Presentation, Discussion, and Possible Action on the Issuance of Multifamily Housing Revenue Bonds with TDHCA as the Issuer, Resolution No. 13-033 and a Determination Notice of Housing Tax Credits for Waters at Willow Run 14
- b) Presentation, Discussion, and Possible Action on Preclearance requests for Community Revitalization Plans filed with Pre-Applications in the 2013 Competitive Housing Tax Credit Cycle 75

**ITEM 3: EXECUTIVE:**

- a) Presentation and Discussion on the \$12 million Award to TDHCA from the U.S. Department of Housing and Urban Development (HUD) for the Section 811 Project Rental Assistance Demonstration Program 171
- b) Presentation, Discussion, and Possible Action on a Reprogramming of 2014 - 2015 CSBG Discretionary Funds and Notification of Capital Budget Item Request Change 180

**ITEM 4: HOUSING RESOURCE CENTER:**

- Presentation, Discussion, and Possible Action authorizing the release and award for a Request for Proposals for funds under the Affordable Housing Research and Information Program and with other funds eligible for research activities under the purview of the Housing Resource Center 177

**ITEM 5: BOND FINANCE:**

- Presentation, Discussion, and Possible Action on Resolution 13-025 approving the Department's Investment Policy 9

**ITEM 6: COMPLIANCE:**

- Presentation, Discussion, and Possible Action on proposed amendments to 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter F, §§10.601 - 10.608, §§10.610-10.611, §§10.613-10.621, relating to Compliance Monitoring a proposed repeal of §10.609, relating to Annual 183

Recertification for All Programs and Student Requirements for HTC, Exchange, TCAP, and BOND Developments; a proposed repeal of §10.612, relating to Requirements Pertaining to Households with Rental Assistance; a proposed new §10.609, relating to Tenant File Requirements; a proposed new §10.612 relating to Affirmative Marketing Requirements; and a proposed new §10.626, relating to Tenant Selection Criteria, for public comment and publication in the Texas Register

- ITEM 7: COMMUNITY AFFAIRS 210  
 Presentation, Discussion, and Possible Action on approval to release a Request for Applications (RFA) to administer the Comprehensive Energy Assistance Program (CEAP) in Dimmit, LaSalle, and Maverick counties and the Weatherization Assistance Program (WAP) in Dimmit, Edwards, Kinney, LaSalle, Maverick, Real, Uvalde, Val Verde and Zavala counties
- ITEM 8: ASSET MANAGEMENT: 213  
 Presentation, Discussion, and Possible Action to approve the repayment of HOME funds to HUD with nonfederal funds
- ITEM 9: HOME: 217
- a) Presentation, Discussion, and Possible Action to approve certain actions as necessary for adherence to deadlines established by regulation for the HOME Investment Partnerships Program and to direct the Executive Director to execute such actions
  - b) Presentation, Discussion, and Possible Action to authorize the issuance of a 2013 HOME Single Family Development (SFD) Activity Notice of Funding Availability (NOFA)
  - c) Presentation, Discussion, and Possible Action to authorize the issuance of a 2013 HOME Single Family Programs Notice of Funding Availability (NOFA) for the Contract for Deed Conversion (CFDC) Program
- ITEM 10: PROGRAM, PLANNING, POLICY, AND METRICS: Tabled  
 Presentation and Discussion on the Department Snapshot tool for the Housing

Trust Fund and Colonia Self Help Center  
programs

PUBLIC COMMENT ON MATTERS OTHER THAN ITEMS FOR WHICH THERE WERE POSTED AGENDA ITEMS.	221
EXECUTIVE SESSION	169
OPEN SESSION	169
ADJOURN	230

PROCEEDINGS

MR. OXER: Good morning, everyone. I'd like to welcome you to the April 11th meeting of the Texas Department of Housing and Community Affairs governing board. We will begin as we typically do -- can we hear, is this all right?

Can everybody hear in the back? Is the volume right on this? Okay.

We will begin as we do with certifying the quorum. So, Ms. Bingham.

MS. BINGHAM ESCAREÑO: Here.

MR. OXER: Mr. Gann.

MR. GANN: Here.

MR. OXER: Mr. Keig.

MR. KEIG: Here.

MR. OXER: Professor McWatters.

MR. McWATTERS: Here.

MR. OXER: Dr. Muñoz.

MR. MUÑOZ: Present.

MR. OXER: And I am here. That gives us all six, full house today, so we can transact our business. Let's stand and salute the flags, please.

(Pledge of Allegiance was recited.)

MR. OXER: Okay, let's get the consent agenda.

Or do we -- first of all, do we have any guests to recognize, Michael?

MALE VOICE: No, sir.

MR. OXER: Good. Not good but good, we haven't missed them. We're hoping they're all busy across the street doing what they're here for. Any special items we need to talk to, Tim? Or should we go straight to the consent?

MR. IRVINE: No.

MR. OXER: All right. With respect to the consent agenda, would any member care to pull anything from the consent agenda?

(No response.)

MR. OXER: And with respect to the Bond Finance Unit, Tim Nelson, we have an extra item in there beyond what's on the consent agenda, right?

MR. NELSON: Right.

MR. OXER: Okay. I'll entertain a motion.

MS. BINGHAM ESCAREÑO: Move to approve the consent agenda.

MR. MUÑOZ: Second.

MR. OXER: Okay. Motion by Ms. Bingham to approve the consent agenda, second by Vice-Chairman Muñoz.

Newly installed, and welcome to your first day



on the chair there, buddy.

MR. MUÑOZ: Thank you.

MR. OXER: Okay. Is there any other comment?

(No response.)

MR. OXER: There is none, no public comment.

All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none, it's unanimous.

All right. Just a quick housekeeping item.

We've got the two chairs, the two front rows here in the seating are marked for those who wish to speak. When an item is called and we're working on that, please come up here to speak. We'll move from the left side that way. If there happen to be more people that wish to speak than there are chairs, which might happen in a couple of occasions today, then as these empty from the left to right you can add to them as we go. So, okay.

I exercise the discretion of the Chair here. I'd like to have Tim Nelson come up, let's get this taken care of.

MR. NELSON: Good morning. Tim Nelson, Director of Bond Finance. The item, item number 5, that

we have before you today is presentation, discussion, and possible action on Resolution 13-025 authorizing the Department's investment policy. I would like to point out to the Board that we did have a bit of a snafu in posting this initially, and the policy that went up in the initial posting was missing some edited items so we did a supplemental posting.

And so the action that we'll be requesting today will be related to that supplemental posting, which has the policy with the full amount of editing. It was just missing a couple of items or a couple of sentences or parts of sentences under the scope section. So I apologize for that.

MR. OXER: Were they considered substantive, Tim?

MR. NELSON: No.

MR. OXER: Okay. Just incidental?

MR. NELSON: Just incidental.

MR. OXER: Okay.

MR. NELSON: The Public Funds Investment Act requires the Board to, first of all, have an investment policy and to annually review that policy and approve it.

So that is what we -- that's what we're doing today. And no real substantive changes. If you take a look at it --

we've, I think over time -- and that was the primary reason we wanted to pull this off of consent and have a bit of a discussion with you this morning.

Staff over the years has kind of struggled a little bit with our investment policy because of the fact that we have funds, mostly our general funds, that are subject to the Public Funds Investment Act. We also have funds which are primarily our indenture-related funds that are not subject to the Public Funds Investment Act.

And, unfortunately or whatever, we need a policy that covers all of those funds, and we've kind of grappled with how to get those all under one policy, and some of the editing that you see in the policies that we have before you that we're looking for approval today is an attempt at providing some additional clarity on that. Staff I think has ultimately determined that going forward what probably would be better, and what we're going to endeavor to do, is really break our policy out so that we will be looking to come back to the Board probably in the early fall and have you review and approve really a set of policies.

And what we're looking to do is have an investment policy that relates to our Public Funds Investment Act-related funds. And then rather than trying

to cobble our indenture funds into that, that prior policy, we would just create a separate policy that would deal with our indenture funds. And so I just wanted to make the Board aware of that.

And with that, I will say that staff recommends approval, and I'd be more than happy to address any questions.

MR. OXER: Any questions from the Board?

MR. KEIG: Yes. Just one question, is why not have one policy but have a Section A and a Section B so that they know that's the place to go for all investment policies?

MR. NELSON: Well, we could go with that approach. Again that's kind of what we've struggled with is, like I said, we have our indenture-related funds and then even within the indenture-related funds we have two broad categories. All of our multifamily deals, the authority to direct investment of those funds is vested with the developer or the entity that we're lending our bond proceeds to, so we don't even get involved in those.

And then we have our single-family indentures that we do direct on.

But again our challenge with our indentures is that those have their own set of guidelines that are

typically outlined, that are either dictated by rating agency constraints or, if it's a private placement, the investor a lot of times will come in. So it's difficult.

It's kind of difficult to set that all out in one, like I said, in one document. So we'll certainly take a look at that, if there's a way to sort of include it all in one. But, like I said, that's the challenge that we've kind of come up with.

And, in any case, we wanted to make the Board aware of that. Again we are recommending approval of what you have in front of you. We believe what you have in front of you is adequate for our current purposes. But we would like to try to work on it and improve it. And, like I said, we'll certainly take a look at whether or not we can recraft things and have it all under one policy.

But that's what we're going to try to address is, you're really setting out a policy that deals with probably three distinct group of funds on every sort of strata item -- maybe look at them, so it's a very unwieldy task to try to go in and do it. And, more importantly, to do it clearly, and that's what I think we're concerned about now, is that it's just sort of an unwieldy document the way it's currently set up.

MR. KEIG: I think clarity's more important

than finding it all in one place, just, you know. I move to approve staff's recommendation.

MR. OXER: Okay. Motion by Mr. Keig to approve staff recommendation.

MR. GANN: Second.

MR. OXER: Second by Mr. Gann. There's no public comment. All in favor.

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none.

Thank you, sir.

MR. NELSON: Thank you.

MR. OXER: Sort some of the paperwork out here.

(Pause.)

Okay, as we continue with our agenda, we'll go back to the -- we've reorganized it, and the parts where we want to maintain a quorum in case we lost some, so we'll start with number 2.

Good morning, Teresa.

MS. MORALES: Teresa Morales, manager of Multifamily Finance. Chairman Oxer, members of the Board, the Waters at Willow Run is a multifamily bond transaction of which the Department is the issuer that was previously

brought before you at the February 21st Board meeting. This transaction was approved at that meeting subject to six specific conditions that were imposed and required to be met prior to closing.

Subsequent to your approval, we proceeded with submitting the application to the Bond Review Board for consideration at their March board meeting. Through the course of their review of the documentation that was submitted, in response to each of those conditions questions were raised by the Attorney General's Office as to whether or not they adequately addressed those conditions.

As a result, staff felt the need to bring this transaction back before you for consideration. I would like to briefly recap those conditions and the documentation that staff has received as well as make a clarification to documentation in your materials relating to the emergency services condition.

The first condition relates to school bus service that would be provided to the property. On March 7th we received a letter from the Round Rock ISD Transportation Department that stated school bus service would be provided to the elementary, middle, and high school for this site. The letter further stated that such

determination was based on current school boundaries and provisions.

After receipt of that letter we learned that the elementary school is within the walking zone, which is less than two miles, from the proposed site, therefore bus service would not be provided. We then reached out to the Round Rock ISD Transportation Department for clarification, and was told that there are certain hazardous conditions or a reasonable level of safety standards that are applied for those who reside within the walking zone that could affect whether or not school bus service is provided.

In an effort to provide the Bond Review Board and the Attorney General's Office with more specific information, we requested that the District revise their letter to briefly explain those hazardous conditions that could affect bus routes. We were told that a determination of safety conditions is dependent upon area conditions that could change as well as subject to reconsideration by the school board. In the end they reaffirmed the statements made in their letter.

The second condition relates to the fall distance of the transmission lines. We received a letter from both the civil and the structural engineer on this



development attesting to the fact that the engineered fall distance for each tower is within the easement of those lines, and they have confirmed that the design of the property meets their requirements for work within their transmission mains.

The third condition is in regards to the location of a minimum of six services within a one mile radius of the proposed site. Staff verified the existence of a church, an indoor recreation center, a park, a restaurant, a day care, a convenience store, and a fire station.

The fourth condition relates to car pool van service provided by Capital Metro. The letter received confirmed the applicant's intention on participating in the ride share program, which will be funded at the applicant's expense.

The fifth condition is in regards to school overcrowding in the Round Rock ISD. We received email correspondence that indicates school officials recognize the overcrowding and performed an assessment of enrollment projections; however, the data from that assessment has not been compiled. Moreover, the email also indicates that the district essentially put on hold any plans to address overcrowding that would require additional funding

to be secured.

The last condition relates to emergency services. We received a letter from Travis County Emergency Services District Number 2 stating that they will be the responding agency for emergency services. The letter suggested that contact also be made with Williamson County ESD Number 9 or the Round Rock Fire Department to confirm whether it would be an additional responder.

The civil engineer for this development, on behalf of the applicant, contacted ESD Number 9 and received verbal confirmation that they will also provide EMS services to this site.

Subsequent to the posting of these Board materials, staff reached out to Travis County ESD Number 2 to confirm the statements made in their letter, and it was at this point when they retracted that letter. They indicated that because the ingress and egress of the site is located in Williamson County it would not be within their jurisdiction to be the first responder.

At this point I then contacted the Round Rock Fire Department, and my conversation with the fire marshal there indicated that Round Rock ESD Number 9 would provide the first response for this area. Additionally, the fire marshal indicated that they have automatic mutual aid with

Travis County ESD Number 2 such that they could be dispatched for secondary response if needed.

Included in your Board materials is a summary of the documentation that was provided and the actual documentation relating to each of these conditions. However, please note the clarification of the emergency services that I just explained. With that, I'd be happy to answer any questions that you may have.

MR. OXER: Okay. So you have a Board action. Do we have any questions from the Board?

MR. MUÑOZ: Well --

MR. OXER: Vice Chairman Muñoz. I'm still working to roll that off my tongue.

MR. MUÑOZ: That's all right.

It seems that based on your description of these six areas, that they've been satisfactorily addressed, why would the AG have reservations? And why would we continue to consider this if the AG -- if they have reservations?

MS. MORALES: Part of this process is getting all of those, all of the documentation relating to each of these conditions. And at the February Board meeting you all delegated the ability to clear those conditions to the Executive Director. Through the submission of the

materials, the AG's Office was going into a lot of detail with regards to the specific conditions and the documentation provided.

Through our discussions there were -- they made their way through two conditions in particular, the one that relates to the school bus service and the other one that relates to the school overcrowding, and expressed concerns that include the wording of our condition for the school bus service being provided. We stated that it would be provided at the site, and the letter that we received from the ISD said that it would be provided to the site. And so there was some issues that they had with to versus at.

The other concern that they noted was in regards to school overcrowding. And the wording of our condition made reference to enrollment projections and plans to address school overcrowding.

They felt that because the -- while the school district did commission a study to address enrollment projections, they put that study on hold, didn't compile that data, and was going to pick that up at another point in time. The AG's Office felt like, based on the wording of our condition, it was a two-prong test, that the study must have been completed and that the documentation

address overcrowding.

Because of that, I think that we felt it necessary to bring it back before you to get at what was the intent. Was it the intent of this Board to require an actual study and assessment of enrollment projections, or was it merely for the school district to acknowledge overcrowding and possible plans.

MR. OXER: Any other questions of the Board?  
Okay.

MR. KEIG: Yes.

MR. OXER: There appears -- oh, Mr. Keig.

MR. KEIG: ESD Number 9 has confirmed verbally that it will be a primary responder.

MS. MORALES: Yes, that's correct.

MR. KEIG: And ESD Number 9 has told you that ESD Number 2 will be a secondary responder.

MS. MORALES: That's correct.

MR. KEIG: Has ESD Number 2 verbally confirmed that it will be a secondary responder?

MS. MORALES: No. My conversations with ESD Number 2 was that they could not provide first response. We did go into conversations about automatic mutual aid, and that at the time that the primary unit is dispatched there could be a secondary for response. But when I had

the conversation with ESD Number 9 they indicated that they would be the primary response, they also indicated because of the automatic mutual aid they could dispatch either Austin Fire Department if that's closer or Travis County or ESD Number 2. At that point I did not go back to ESD Number 2 and confirm.

MR. MUÑOZ: I have a follow-up question.

MR. OXER: Dr. Muñoz.

MR. MUÑOZ: And you're certain about that automatic mutual aid. I recall in the testimony there seemed to be -- I thought it was implied that that did not exist. And you're saying that automatic mutual aid agreement, understanding does exist.

MS. MORALES: That's correct. Based on my conversation with the fire marshal at ESD --

MR. MUÑOZ: Were you here at the last testimony?

MS. MORALES: Yes, I was. And I was --

MR. MUÑOZ: Did you get the impression that it was being suggested that that relationship did not exist nor could it exist? There was one, there was a witness that provided some testimony that questioned whether or not that -- that was my --

MS. MORALES: I don't recall them definitively

stating that the automatic mutual aid does not exist. But I can go off of my conversation with them in indicating that the situation of automatic mutual aid is something that's handled at the headquarter level and agreements that are put in place.

MR. MUÑOZ: All right.

MR. OXER: Any other questions of the Board?

(No response.)

MR. OXER: I have a couple. As I recall, this facility, this particular piece of property is zoned multifamily.

MS. MORALES: That's correct.

MR. OXER: It is zoned multifamily. It already has been. The city has determined that they want to have a -- that they're allowing for multifamily development there.

MS. MORALES: They went through a rezoning in December of 2011, and the City of Austin granted that rezoning.

MR. OXER: Okay, and that would have been well ahead of the applicant's -- for the application for this particular project.

MS. MORALES: That's correct. We received the bond pre-application in July of 2012.

MR. OXER: Okay. On the elementary school, refresh our memory, but refresh mine particularly, the request was that -- and because schools are overcrowded, I think if I recall correctly, I made the comment that schools are always going to be overcrowded because they wait till they're overcrowded to build new ones. So it's building -- putting this in would drive that overcrowding to the point that ISD would obviously have to consider something because it's overcrowded.

So just restate the school -- how the school overcrowding issue was addressed and what you received since our last meeting, please.

MS. MORALES: The applicant had reached out to the Round Rock School District to try to figure out if they had plans to address the overcrowding that currently exists with the elementary school, the middle school, and the high school. Based on correspondence -- email correspondence with officials with the Round Rock ISD, they'd indicated that while they had initially wanted -- they had initially engaged, I guess, demographers to assess enrollment projections given the growth and all of the redevelopment that's occurring within Wells Branch, until they could secure additional funding they were going to put the possibility of building another school on hold.



As I understand it, Round Rock ISD does have a 12-acre tract of land with which they have sort of earmarked for an additional school that is located in between the Wells Branch and the Blue Bonnet area. But a plan as far as when another school will be built has not been identified by the school district.

MR. OXER: So they at least have allowances for the property to put the school in and the capacity via bond finance of it.

MS. MORALES: I would imagine, yes.

MR. OXER: Yeah. Okay. Is there -- and I just, I think I understand the Bond Board's -- I think I understand that. The Bond Board's a little hard to understand some days, certainly the way they think. But they look at simply the financial aspects of the bond for this in terms of capacity to be returned, whereas I think what they were looking for is for the decision to come back to us so it was made in this venue as opposed to in their venue.

MS. MORALES: I think that, number one, it's been a while since we've brought a multifamily bond transaction before the Bond Review Board. The other thing to keep in mind is --

MR. OXER: It's certainly a while since we were

in the middle of a legislative session.

MS. MORALES: That's correct. So long as I have been doing this we have not brought a transaction before the Bond Review Board with as many conditions as this one has. Understanding that there's always conditions associated with any transaction and the underwriting report, specific conditions that we went to or that were imposed at the February Board meeting and the ability to clear those through our Executive Director, that is something that the Bond Review Board had not had familiarity with. And so they were looking at the documentation that was submitted, in addition, to Mr. Irvine.

MR. OXER: So they were more concerned with the process of the clearing rather than the fact that it had conditions. Because they all typically have conditions.

MS. MORALES: They all have conditions, but the fact that these were six of them in particular, that they seemed to be very specific, and that they were addressing a range of issues from emergency services to school to school bus to transportation.

MR. OXER: Dr. Muñoz?

MR. MUÑOZ: Right. And so, I mean, given the volume of these conditions and the specificity of these

conditions, which I think reflected -- reflects, you know, a fairly substantive consideration of all the testimony in favor of the project as well as opposed to it that was considered in formulating these conditions, I mean, is there anything -- and based on my reading of this, I thought that the conditions had been satisfactorily met up until you expressed that there had been some reservations from another office.

I'm not persuaded that those are enough to change my position, but is there anything else that, based on your understanding of the case and how these conditions have been addressed, that would concern you or not satisfy your threshold?

MS. MORALES: I am 100 percent confident that our due diligence, my due diligence was performed. I think that I've learned more about school bus and transportation and emergency --

MR. OXER: Than you probably ever wanted to know.

MS. MORALES: -- than I ever thought that I would. But I can confidently say that I did the due diligence in reaching out to the appropriate parties, whether it was with the school or with fire response folks, in order to satisfy all of these conditions.

MR. OXER: So you and staff are confident that what we asked for at the last meeting they delivered.

MS. MORALES: Yes.

MR. OXER: Okay. Professor McWatters.

MR. McWATTERS: Do you know if any private sector deals, similar deals with private sector, not low income housing tax credit deals have been proposed in this area lately, recently? And if so, have these same issues been raised with respect to those projects?

MS. MORALES: I do not know of any market-rate properties that have been proposed within this area. There was, I think within a mile there was a 2012 tax credit property, that is a recent one, and then there is a market-rate property directly across the street but my understanding is that's maybe ten years old.

MR. McWATTERS: But presumably there is private sector activity going on, building some sort of housing, I would think, in the area. Maybe I'm mistaken, I'm just guessing, and --

MS. MORALES: I would imagine, but the exact locations, I'm not --

MR. McWATTERS: And so my question would be, and to any of the future speakers, is what's been the response to that? In other words, is there a different

response to low income housing tax credit projects than there is to market-based projects? And if so, why. Thank you.

MR. OXER: Any other questions from the Board?

(No response.)

MR. OXER: Okay, we'll have a motion to consider.

MS. BINGHAM ESCAREÑO: Mr. Chair, I would move to resolve the as-recommended by staff and resolution proposed number 13 -033.

MR. OXER: Okay. Motion by Ms. Bingham essentially to approve staff recommendation. Do I hear a second?

MR. MUÑOZ: Second.

MR. OXER: Second by Dr. Muñoz. Okay. Before we vote we'll have public comment. We have some folks here. Good morning.

MR. SWAIN: Good morning. My name is Scott Swain, I'm a resident of Wells Branch, and I spoke before the Board before. And I just want to sort of read into the record concerning the ESD comments from one of our other speakers that were here at an earlier date to Dr. Muñoz's comment about this. And I'll read it because I'm not an expert on it, he is.

It says, "Austin Fire would get the call first plus this is in Williamson County, so because of the ongoing 911 boundary confusion the call would first go to Williamson County. This is not an active fire department that would serve this area if it was not in Austin." Of course, the property we're speaking of is actually Austin, Texas, not in the EDC -- EDA -- EDS.

"EMS is also limited in this area and must come from Williamson County up I-35 close to Round Rock. Note that Austin Fire Department would have to review the plans so they are considered the responding fire department. The nearest station is Parmer at MoPac, very much more a mile from the property, Note that the --," excuse me. "ESD 2 would not be called and accept as mutual aid after Austin contacted them. Fire response could be eight to 10 minutes or more depending on the situation. This is a very remote area of emergency response and has overlapping jurisdictions that cause confusion."

I just wanted to read that into the record since Dr. Muñoz commented on it. Also with the -- in regards to the parks and pool recreation, the Wells Branch Recreation Center and pool are not public, they're not even public to me as a resident of Wells Branch. I have to pay for this. And anyone being out of the district

would have to pay, of course, more per visit. That is all I have to say.

MR. OXER: Any questions from the Board?

(No response.)

MR. OXER: I have a question.

MR. McWATTERS: Yes.

MR. OXER: Professor McWatters, please.

MR. McWATTERS: Are there any other properties located in the area that have the same issue, the same distance from EMS, the same distance from fire? Or is this a completely unique situation here, a case of first impression, or are there just a lot of folks who live in places right now that are, you know, ten minutes away from fire and they're in overlapping jurisdictions, which seems to me not to be that uncommon. But I just want to check.

MR. OXER: And let me add a corollary to that question. We understand your point about these being overlapping jurisdictions on this piece of property. So why do they not overlap across the street?

MR. SWAIN: One thing is the property itself is Austin, Texas, as opposed to the ETA, where all the other properties are. And as far as residential, every one of the other properties around there fall within that, within one jurisdiction or the other for the most part. They're

a little better defined, should I say. This particular property, the county line, Travis and Williamson, runs right through the property itself. And of course we're talking about 222 homes as opposed to one home in question.

MR. OXER: Did one of the earlier speakers from -- and, Teresa, I have a follow-up, do you want to join us, please?

Is there not a multifamily project right across the street? Did I hear you say that? Or nearby?

MS. MORALES: There is a multifamily market-rate property that's directly across the street from this particular site. I would imagine if this one straddles the county line, that perhaps the one across the street does, but I'm not confident.

MR. OXER: Well, that's -- yeah, even less the matter of straddling the county line, if it's 12 minutes to get to this property we're talking about, wouldn't it be 12 minutes to get to the one across the street? For fire control, fire services to get to the -- if it takes 12 minutes, as you suggest, it would be 12 minutes to get from the fire house over to this project we're talking about, wouldn't it take about the same time to get to the one across the street?



MR. SWAIN: I would say so, yes.

MR. OXER: Okay.

MR. SWAIN: Of course it's all about who's responding.

MR. OXER: That's typical though, I think.

MR. SWAIN: But I guess the question here is, we have a number of verbal, some verbals on this but nobody's actually signed off on it and that's what we're kind of concerned about.

MR. OXER: Okay, I understand your point.

Any questions from the Board?

(No response.)

MR. OXER: Okay. Thank you.

Next. Yes? Good morning.

MS. THOMPSON: Good morning.

MR. OXER: So far.

MS. THOMPSON: Well, hopefully we'll keep it that way.

MR. OXER: North Korea hasn't targeted us yet. She's got -- when that alarm goes off, everybody duck under the covers because North Korea's found us. All right.

MS. THOMPSON: Oh, right. My name is Debby Thompson. I'm the president of the Wells Branch

Neighborhood Association. We cover all of Wells Branch, not just the area within the Municipal Utility District but the out-of-district properties, and we will include this property if and when it's built. They're more than welcome to be a part of our neighborhood association. We run numerous functions in -- we collaborate with the MUD even though we're separate entities.

My concern today is once again about the services and the -- I understand that to the letter they do barely meet six of the minimum requirements for services. What Scott had said about the recreation center and the pool, those are for out-of-districts since they are within the Municipal Utility District. In-district residents get one rate, all out-of-district get another.

Their rates for an annual membership for a family would be \$300 a year in order for them to use the recreation center or the swimming pool. And so I was concerned about those two amenities that they have listed as qualifications as being cost prohibitive in an affordable income housing.

The number 4, the Texas Bar and Grill, if you Google it it's listed as a biker bar. They hold -- it's not quite what you would consider a restaurant, even a family restaurant. I think you can get food but still not

what I would qualify as a restaurant. And I don't think the staff's counting Newton Nursery. I know that Atlantic had listed those an amenity but it is a wholesale plant nursery, not a day care.

Anyway, I know that they meet the conditions. My concern was just I wanted to stress to you guys they are going to be out on an island. The closest grocery store is three miles away. The convenience store prices are twice what they are at the grocery store. If people do have to walk or take their bicycle to the store, you know, they're going to be somewhat limited. The closest pharmacy is two miles away.

I just wanted to call that to your attention, and that is truly our only concern is the quality of life for the residents who will live there. You all had asked about the market property across the street. That is across a five-lane highway. It's not like just across a residential street, it is across a five-lane highway. They are completely in Williamson County.

And because of the distance, the neighborhood association, the MUD, no one on our side of Wells Branch had a say in whether the property would be built or how it would affect the schools or anything else. Because they -- while it is across the street, technically it is

quite a distance from Wells Branch. Their children do attend the same schools but it is geared more towards singles. It is multifamily but it is geared more towards single-family housing.

Professor McWatters, you had asked about other affordable housing units that were being built in Wells Branch. We do have one currently under construction on the east side of Wells Branch. It feeds to Pflugerville ISD instead of Round Rock ISD. Six or seven years ago when they first approached us about building this property we were dead set against it because the infrastructure had not caught up with that part of town.

They are about halfway through building it now. We support it wholeheartedly. The school district has -- they made efforts, they built another school, they have been able to accommodate or will be able to accommodate the residents. And they have a large grocery store and pharmacy right across the street from them. So we felt that was a project we could support because the infrastructure was there and it would not be isolating the folks.

There is another apartment complex planned for Wells Branch. It will be for 351 units. It has not been approved yet. It is a market -- I'm not sure of the

terminology, but it is a regular complex. But they have it is -- they do not feel it's going to have a great impact on the schools. It is far enough on the other side of Wells Branch where they do have access to grocery stores and to the pharmacy and everything is across the street from the pharmacy. It's a good two miles from this other property.

But it will have an impact on our schools too. So Round Rock ISD is going to have to do something about the schools. But it has not progressed to the state where anyone would be giving input on it and it won't be affordable housing.

But it's not we don't like affordable housing, we love affordable housing in Wells Branch, and we support it wholeheartedly. We were just -- we're concerned about the location of this particular property and, like I said, the isolation.

MR. OXER: Okay. Dr. Muñoz, you have a question?

MR. MUÑOZ: Teresa, I have a question for you. Under the location of services where you have the different North Creek Park and Texas Bar and Grill, et cetera, does there have to be a certain number in that category to satisfy that item? I'm asking Teresa.

MS. THOMPSON: I know. I'm sorry.

MR. MUÑOZ: Do we have to have six in there, location of services? There's got to be six different services?

MS. MORALES: Six different services within one mile.

MR. MUÑOZ: Okay. And so I assume that you didn't conflate or confuse the nursery versus day care.

MS. MORALES: I'm aware of that, yes.

MR. MUÑOZ: Okay. And did you know about this fee for the swimming pool? I mean because, you know, that's a -- I mean, you know, that's a pretty steep price tag.

MS. MORALES: After the February Board meeting, Cameron and I did go back through and research the Wells Branch MUD Recreation Center, and I don't have that documentation with me so I can't confirm the exact price.

The rules do not stipulate that any of these services have to be --

MR. MUÑOZ: Oh.

MS. MORALES: -- free but they can very well be fee-based.

MR. MUÑOZ: I know the services at the Chevron service station are not free. So, okay, but I mean --

MR. OXER: Nor are they likely at the day care.

MR. MUÑOZ: Okay.

MR. OXER: And while the Texas Bar and Grill restaurant, and I understand your point, that that's probably not a place you're going to take a pre-K, unfortunately, we're not assessing the quality of those so much as are they there or not. You know, the pool, you know, we don't -- it's not a question of whether or not it's affordable or free or cheap or expensive, the question is is it there, you know, according to what -- I'm just -- I toss that out just because that's the way we have to consider that. You know, the fire station ultimately is not free either and it's a good ways away, but.

MR. MUÑOZ: Uh-huh.

MS. MORALES: There's also going to be a swimming pool on-site for this property too that would be free.

MR. OXER: All right. Anything else, Dr. Muñoz? Okay.

All right. Thank you. We have another comment?

MS. BERSER: Yes.

MR. OXER: Two more, I think, at least. Good

morning and welcome back.

MS. BERSER: Yes, good morning. I'm Emily Berser, I spoke last time. And I'm here this time because I question whether the Board's requirement for certification of engineering fall distance has fully been met. I read both the letter from the civil and the structural engineer, and in these letters I do not see an actual fall distance nor do I see any failure modes on how they feel that these towers would fall.

I also spoke with David Lambert, who is conducting the City of Austin electric site review, Tuesday this week. And as of Tuesday he has not received a formal or informal approval from Oncor or LCRA that they have approved the site plans. And this is, you know, April 9, 2012, the City of Austin is not aware of the utility company signing off on this.

I myself went to City of Austin Site Planning and measured out the distances from the LCRA tower to Buildings 9 and buildings at -- and Building 10. And I measured -- through my engineering scale, I measured a minimum of 63 feet from the tower to Building 9 and a minimum of 70 feet from the tower to Building 10. So these buildings will be close to the LCRA tower.

MR. OXER: What's the height of those towers?



MS. BERGER: That's -- I do not know the exact height of that tower, but the LCRA tower directly north of the property, it's a concrete tower, it's at T136S1 by Newmark, which is a company of Valmont. It is, the height on it is 105 feet, it weighs 31,106 pounds. I have worked with other Valmont pole products, and so I -- their engineering services put me in touch with Luis Mendoza, the plant manager, who -- they're the ones that do the design and manufacture of those poles. And, like I said, the one on the property appears to be the same style.

He told me -- confirmed the T136 are their prestressed concrete poles, and that Valmont has designed those poles to fail at the ground line moment, which is located at the ground line. So that's -- also some additional research I've done on this particular type of pole, the PCI Journal, Spring 2012 had a paper where they have found that these poles perform very poorly in torsion loading. In fact, their brittle failure and they found cracking torque value predicted by all codes to be unconservative with a large range of scatter.

Now, this type of pole could be put into a torsion loading should you have a combination of high winds, ice, and failure of tension lines on one side could put a pole into torsion. And, you know, we do not know

how the pole would respond exactly, but predicted codes are finding that these poles don't perform as thought in that particular loading conditions. So as I do --

MR. OXER: And your point about the torsion loading, it could conceivably be done if you had a failure of one of the lines on it and increased stress on the pole because of the increased weight on --

MS. BERSER: Yes.

MR. OXER: -- the wire, you snap one of those wires, tends to twist that pole.

MS. BERSER: Yes.

MR. OXER: So that's torsion loading. And it didn't say it was 100 percent failure, it says it doesn't perform --

MS. BERSER: Yes, they just found that the torque crack values predicted by all design codes are unconservative based on their testing. They also found that they thought that the poles -- when subject to torsion they thought that they would fail towards, you know, after loading, which is a smaller section, but they found many of them actually failed at the base, which is a larger section.

You know, more research will -- you know, that was not something they had expected in their tests. This

research took place in Canada where they have more ice loadings than, you know, we do here in Texas, but we do --

MR. OXER: We do occasionally, yes.

MS. BERSER: Yes, we do occasionally have ice, and we're one of those areas where, you know, we mainly get ice on bridges and -- things in the air, such as bridges and power lines, so ice loadings, you know, are not a normal design consideration because we don't -- you know, most ground constructions don't get ice.

MR. OXER: Yeah, if you have a torsion load on this thing, it's probably not going to fall sideways either. The torsion, the force that caused the torsion would pull it lateral or along the axis of the transmission line itself, at least to some extent. So even if --

MS. BERSER: So --

MR. OXER: -- even if it's 100 feet, 105 feet, you've got 70 feet to the fall -- to your nearest building, with the other cable lines there's a likelihood that it would at least turn some to limit the fall distance.

MS. BERSER: Yeah, though that's also too with the, you know, high wind, that would be pushing it in the perpendicular direction, so that could --

MR. OXER: I'm fairly certain that LCRA wouldn't -- and this was an LCRA line?

MS. BERSER: Yeah, it's a LCRA line.

MR. OXER: Okay. Well, the LCRA, my guess is they're not going to use things that have a probability that they're going to fail anyway. So yes, they could potentially fail. We'll spot you that. I suspect that we could probably take this building down with a tornado too. But --

MS. BERSER: Yes.

MR. OXER: -- we're --

MALE VOICE: Or North Korea.

MR. OXER: Yeah, or this week the North Koreans might get us, so.

MS. BERSER: But anyway, the structural engineer is the only one who has concluded that these are within, and he did not seal his letter.

MR. OXER: Right. And this structural engineer that's -- okay, stay here.

Teresa, can we follow up here just for a second? Because I've got another one for you. Actually it's another one for us. Okay. The structural certification was not actually a certification.

It was a letter that they said under the

conditions that they looked at this, the likelihood was low that this would fall and hit the building. Right? That it would fall within the fall pattern? Within the fall distance?

MS. MORALES: That's correct. I had conversations with Oncor. There's -- as far as the lines are considered, there's one that's LCRA, the other one's, that's Oncor.

MR. OXER: But they're in a parallel easement. Is that eight?

MS. MORALES: Correct.

MR. OXER: Okay. Not on the same poles.

MS. MORALES: I'm sorry?

MR. OXER: Not on the same poles.

MS. MORALES: Correct.

MR. OXER: Okay.

MS. MORALES: In my conversations with one of the engineers with Oncor, she went into a lot of detail about how these things are constructed, the concrete. They're buried into the ground 35 to 40 feet. They're constructed with a weak joint at the bottom to where if something were to happen and they were to fall, it's not necessarily the chopped tree distance but that they would fall along the lines within that easement.

MR. OXER: Right, that's what I --

MS. MORALES: But even if the line snapped or if something happened to the pole, it would go within the lines of the easement.

MR. OXER: Right. So if we had an extraordinary event of one of the lines loading or snapping so that you'd get two of them, because it's a two circuit, three circuit line?

Do you know, Emily?

MS. BERSER: I'm not sure.

MR. OXER: Okay. It's probably a three circuit line. Okay? So it's got three sets of cables on it. Are they stacked on top of each other or are they T on the top? Because it's T136. Right?

MS. BERSER: Yes.

MR. OXER: Okay. All right. It's probably twin parallels all the way down. That means if you snap one of those lines, there's still five that are holding. Okay? It's a multi-circuit line. So the -- probably that it's going to fall sideways, even if it did, those cables, the ones that were left, would hold it in some measure within the easement.

The likelihood -- I'm not signing the letter so I'm not going to guarantee that either. Okay? But just

from an engineering approach to it, that's the likelihood of that happening. So when the engineer that did this -- Oncor has agreed to it.

Have they essentially given you any -- have they give you any documentation or just the verbal discussion, Teresa?

MS. MORALES: We do have some email correspondence relating to this engineered fall distance and how it's a term that's not really used by them. But in a lengthy conversation with an engineer with Oncor we did go into a lot of detail, and the thing that she did mention is they can't definitively say anything. Because if you have a tornado, for example, I mean even though these poles are designed to withstand 110 mile per hour winds, you can't rule out other.

MR. OXER: Okay. All points noted.

MS. BERSER: I would like to add that this pole I'm discussing is the LCRA pole, not the Oncor one. I don't know if they have spoken to anyone with LCRA. But that, you know, appears to be the tallest pole and also the buildings are, like I said --

MR. OXER: They're the closest to it, this tall pole.

MS. BERSER: They are closest to it, and that's

-- and, you know, these distances aren't measured perpendicular. Because they're actually further away if it's measured -- you know, if it were to fall perpendicular to the line, so, you know, these would be at an angle between the line and the right-of-way.

MR. OXER: It's not going to fall -- if the line's running this way, it's not going to fall straight over that way.

MS. BERSER: No.

MR. OXER: Right. For the engineers in the audience, they understood what we were talking about. I felt everybody else. Okay.

MS. BERSER: But, yeah, I do, I guess, kindly ask that you consider a sealed letter from the structural engineer.

MR. OXER: Okay. Point noted. Thanks for your comments.

Any other questions from the Board?

(No response.)

MR. OXER: Okay.

MS. BERSER: Thank you.

MR. OXER: Yep. Let's see here.

MS. LUDWIG: Good morning. I'm Laura Ludwig, Wells Branch resident. I did speak at the last meeting.



Appreciate all of your recent consideration greatly. I'm kind of listening again to some of the same points that we've over all of this time been discussing, the same consistent points, site plan safety, emergency services, overcrowded schools, and amenities.

And as I said, it meant a lot that you put these conditions and some time on the last meeting and on this application. I'm concerned still because I kind of keep hearing a bit of a recurring theme, and I touched on this last time, where we've got some of this data, we've got some of this information, it's kind of, you know, these verbals and kind of projections. I'm not completely satisfied that these requirements are totally met, and I feel like even some of your questions today may be reflective of that.

And I'd like to respectfully speak to the point of quality, which was just recently referred to. I know that you have a difficult job to do here in balancing all of these things, but I feel like if we're not considering the quality of this development, why are we even here discussing this. I mean there are lots of developers. There are lots of applications, lots of people that would like to build all kinds of projects. And I would respectfully urge you to consider quality.

I mean this is exactly why we've been up here and speaking on these points. The overcrowded schools, yes, in a city like this that's thriving where people want to keep coming and moving to, of course, you know, it is a tricky balance, developments and kind of keeping a reasonable infrastructure that can support our population.

But we're talking about overcrowded schools on top of already overcrowded schools, not just a level one but we're increasing in the level here. And again I guess there was reference made to possible land, I mean the possibility again. But I believe Dr. Muñoz commented on the last meeting that that doesn't make it so. And we've already experienced that, and I really am asking that you consider whether these conditions are truly met.

We've got, kind of, some, I think, very minimal at best satisfaction of these amenities as well as, of course, the concerns about emergency services and even the site plan safety. So I would ask that question, let's do consider quality, that that has been kind of my consistent point all along.

And it also speaks to your points, Mr. McWatters, about other projects, market rate or otherwise, that may or may not have met this kind of, we can call it, I think, resistance because of our concerns.

And I know you asked about that several times during the last meeting.

I wasn't aware of recent projects, so I wasn't able to speak to that. And I didn't even hear of any that anyone else was aware of until recently when the president of the neighborhood association did give you that information, and I'm glad she did. I can tell you that if I'm made aware, then absolutely whatever kind of project it's going to be, whatever kind of development, I want to be in the know and I want to participate.

I want it to be a good addition to our community and I want it to be a win-win for everyone. Maybe that's pie in the sky, but yeah, I do expect that and I do want that. And I think it's possible, but it's hard work.

So I do ask you to keep that in mind when you are considering all of these different factors. Because I'm kind of hearing, you know, almost questions of, well, is there anything, is there any reason why we can't let this go through. And I've heard over and over these concerns from not only us but even yourselves and people, the Bond Board folks. So I'm really not totally satisfied that these requirements have truly been met.

I haven't enjoyed kind of being part of the

process and feeling kind of pitted against people. I think our neighborhood does show a history of supporting affordable housing. I think we've said over and over it's just that this particular one we don't feel good about, and we told you our reasons why. So, you know, I can't change the system today, none of us here can, but you do have impact on how we work within the system that we have.

So this is going to come down to you doing the heavy lifting, as I said before, and considering not just minimal standards at best in some areas for these residents as well as for us, but is it a quality development that's worthy of this precious funding. I would still say no. And I ask you to do the heavy lifting and do that work. Thank you very much for your time again.

MR. OXER: Good. Are there any questions from the Board?

Just for the record, when it gets to us it's all heavy lifting. The guys that show up there on our side have already done the easy stuff. That's when we get these. Okay? So we appreciate your comments.

MS. LUDWIG: Thank you.

MR. McWATTERS: I do have one.

MR. OXER: Professor McWatters.

MR. McWATTERS: Let me ask you this. Of the private sector deals that have been done, the market-rate deals, has there been this type of community involvement or community opposition? I received a hundred letters. I mean I know how difficult it is to get a hundred people to do anything. If I was handing out gold bars it would be hard to get a hundred people up here. So to get a hundred folks to write me a letter, even though it's more or less of a form letter, takes some time and takes some energy. Takes some sincerity, and I appreciate that.

But has that same response been directed towards private sector deals? I just want to make sure that these transactions are treated fairly. Low income family housing, low income housing is not treated at a disadvantage.

MR. OXER: And let me add -- and pardon me for interrupting, but I would offer up a comment to your comment, Mark, and that is that this is still a private sector deal, it will have some public sector funding to support this. And so much of what goes on about this is about the financing of the project, not about the quality of the project or who's -- we're not building it.

MS. LUDWIG: Uh-huh.

MR. OXER: Okay? I mean this is not a

government project. Okay? We don't build these, you know. People appeal to us for the financing essentially to handle that.

MALE VOICE: A portion.

MR. OXER: Yeah, a portion -- not all of it, a portion of the finance. The Bond Review Board, you know, their concerns to Dr. Muñoz's point earlier, their position was that they -- and we agree, they shouldn't be in the position of determining whether the criteria have been met. We told him to do that, we told him to do that. Okay?

He says they've been met, and their position as they review it is what they should be reviewing, in our estimation -- you know, at least from my perspective, I won't speak for the rest of the members of the Board, but they review the financial aspects of it about the possible recovery of the capital for the bond given. Okay?

So what they do is return the decision making to see that those criteria have been addressed to us. We were trying to make sure that a reasonably expeditious but not overly aggressive decision in terms of timing was made in terms of resolving this issue. So it's back to us now so that's why I've asked the staff -- we want a full review of this, full diligence on it, tell us what the

rules are, let's go back to detail and see what each one of them are.

And while we appreciate your comments, you know, we've got a set of rules, you know, what we're talking about, and we have a compliance group that measures the -- that monitors and enforces the quality of projects over time. We can't monitor and enforce the quality of a church in one of the amenities in there, and that church could be, you know, a towering cathedral or it could be something in a shopping center that somebody set up.

MS. BERSER: I would like to ask you about the specifics of that monitoring. From what I'm informed of, it's also quite minimal. And yes, I understand that you've got your basic minimum rules and requirements, and the Bond Board is technically looking at the financing of it. Considering the -- I will say quality or even adequacy of the project does come into play. Correct? It's not just a check the box action here.

I don't think that you would have had all of the public input, and I don't think that you would have even considered putting some of these conditions on if you weren't trying to do that work, to make sure that this is worthy. Because that's the bottom line as far as the

financing. Which one is worthy of these precious dollars. Because there are lots of applications out there.

MR. OXER: The Executive Director has a comment with respect to the number of these.

MR. NELSON: Well, I mean, 4 percent tax credits paired with bonds are at the moment a relatively unconstrained resource, unlike 9 percent committed of credits, so.

MR. OXER: The competitive route is the one that is so -- the 9 percent route, and we'll get into the real fireworks here in July, now, that one's hard to come by. Okay? But there's actually a lot of money left in the 4 percent program.

MS. BERSER: My impression is that there are lots of projects similar to this sort that seek financing. Is that not correct?

MR. NELSON: We are beginning to experience a coming back to life of the bond market. But it was really constrained by the state bond cap and there's plenty of available bond cap to use on these deals.

MS. BERSER: It's also my understanding that there was an intentional shift made by the City of Austin to move away from more of a regulatory process to more of an incentive-based process. So the data that I read from



that report showed a very significant jump in applicants, and I can see why, of course. If you're going to make it more incentive-based, you're going to have more applicants. So that's what I'm referring to, the data that I saw.

MR. OXER: Well, and that -- I mean the, quote, precious resource, it's not nearly as precious as the 9 percent tax credits. Okay? Financing these days has been -- you know, it's available and there's plenty that -- I don't think I overstate it to say there's, you know -- we have more capacity to do 4 percent tax deals --

MR. NELSON: We do.

MR. OXER: -- 4 percent bond deals.

MS. BERSER: Even if we have more money than perhaps I realized, I still don't find it acceptable to pass on a substandard project. That's the bottom line. And I --

MR. OXER: I understand that, and our exe to determine what the standard is and see that this project it's met.

MS. BERSER: I understand. But I think even that, even from what I'm hearing today, you know, I've been coming to these meetings because I was notified -- also I wanted to get back to your point in just a moment.

But I've been coming to these meetings all along the way, and it's definitely been a process but I keep hearing some of the same concerns. And I also keep hearing where people kind of gloss over, in a sense, the satisfaction of these requirements. I don't know --

MR. OXER: In what way do you decide that glossing over?

MS. BERSER: Well, I think some of the information, including I think at the last meeting on the emergency services, it was said that they really couldn't, they couldn't officially comment or they couldn't officially commit until the site was there and the buildings were there and the people were there and it's off and running, that kind of thing. Where it's -- I'm hearing too much of people not completely willing to commit and stand by their opinion or their -- if you want to call it a guarantee or their input of these satisfactory requirements. I mean even --

MR. OXER: Well, let me offer you up an example. Okay? Because Emily just pointed out that she didn't think these had been a signed letter from a civil engineer, and I have a letter here in the data from Vickrey & Associates from -- or to Mr. Kent Foster and Michael Millyen [phonetic]. It talks about the fall, the

engineer's fall distance, Vickrey & Associates, and he signs it Steven S. Frost, Texas Board of Professional Engineers, Registration Number F159, which you can just stamp and seal March 13, 2013.

MS. BERSER: Uh-huh.

MR. OXER: So is that data --

MS. BERSER: So we may have that --

MR. OXER: -- that's new to you, Emily?

MS. BERSER: We may have --

MR. OXER: What?

MS. BERSER: There are two letters, the letter and the one from the structural engineer is the one that's not signed.

MS. BERSER: And while we may have that letter for things such as -- what I'm talking about is kind of a general pattern that concerns me.

MR. OXER: Well, the general pattern is here there were things brought up, there were questions asked about it, we put some conditions on it. People went out, sought to satisfy those conditions, staff came back and said they were satisfied.

MS. BERSER: Staff came back and said they were satisfied.

MR. OXER: Right.

MS. BERSER: We also have our input, and that's what I'm asking you to consider.

MR. OXER: And you made your input, and staff has told us that they were satisfied. Okay.

MS. BERSER: I understand, but you are listening to all of the input today. Correct?

MR. OXER: Right.

MS. BERSER: All right. That's all --

MR. OXER: And we've heard you.

MS. BERSER: -- I'm trying to do.

MR. OXER: Okay. Thanks very much for your comments. Wait.

Is there any questions from the Board? Okay.

MR. McWATTERS: Just let me follow up on this.

I mean when I talk about market rate versus low income housing, it's a surrogate for saying there's different types of people that rent in market rate and there are different types of people that are in low income housing.

I want to make sure that the response to people who are living in low income housing is not any worse that a response of people living in market rate housing.

So if someone could demonstrate the response in the community has been consistent and sincere across the board without consideration of whether it's low income

residents coming to the community or higher income residents to the community, I would appreciate that. You're right, I've asked the question several times, and I've not heard any objective verifiable evidence that it's anything other than this project.

MS. BERSER: I think that's a fair question, and I respect that question and I appreciate you coming back to it because I did want to answer that.

MR. SWAIN: Mr. Chairman, may I answer that question?

MR. OXER: You have to ask her for that. You can ask her if she can answer it.

MS. BERSER: Sure. He's definitely lived there longer than I have.

MR. SWAIN: The --

MR. OXER: You have to reintroduce yourself for the recording.

MR. SWAIN: Excuse me, I'm sorry. My name is Scott Swain, I'm a Wells Branch resident. This issue as to the -- sort of drummed out and beaten all along, and the idea of affordable housing is generally accepted that we get people out of less wonderful housing or off the streets into something that is nice to live in, affordable for them, and it's also their pathway to home ownership

themselves and other good things, educations. It's all part and parcel of the idea of providing affordable housing.

Given that, we're concerned about the property itself and where it's located and access to -- and I call this access to other things that they -- the amenities we're talking about. The amenities we're talking about, which are within a mile, are at best any one of them is a bit of a journey to get to. They're not -- what I'm trying to say is none of them, not even one is, except for maybe the restaurant or the convenient store, is easy to get to.

My point is this. See, it's the location itself that we're concerned about and the success that will come out of it. We have another project on the other side of Wells Branch that we're completely okay with. It backs right up against Wells Branch, it's quite a bit larger, but they have access to, they can walk to stores and walk to HEB. They can walk to numerous restaurants, fast food restaurants or upscale restaurants or even much more affordable restaurants, even within down Wells Branch Parkway.

And, no, we don't differentiate, we're not differentiating between something that is commercial, if

you will, and affordable housing. To the best of my knowledge, there's been nothing currently coming up that we're concerned with. Does that answer your question?

MR. McWATTERS: It's an answer. But what I'm not hearing is that there has been a market rate project which has evoked this type of response in the past. So the only type of response that's been evoked, that's gotten people to write hundreds of letters and the like has been with respect to this project.

MR. SWAIN: Correct.

MS. BERSER: If I can speak about it?

MR. OXER: Sure.

MS. BERSER: Thanks. I think the point that we're trying to make in answering this is that we do have other successful affordable housing projects, that I don't believe did get this kind of response. There are specific reasons on this specific project for this response.

So whatever kind of development was going to be in my back yard, I would want to be involved in it with a quality development. In this particular case it happens to be affordable housing. So yeah, I want that to be successful. And I do think it's a very fair and an appropriate question. I can tell you that since I've been involved in this we've all talked to a lot of our

neighbors, and we have been consistent in the points that we have made.

In fact, you know, in a lot of ways somewhat of a buffer, because it's absolutely true that people have fears and concerns. But I don't think the way to address those is to not talk about them or not address them. And what I've asked for is to not approve the project at this time. I think there could be a lot of work done between the developer and the community to really make this a success. I do believe that's possible, and I've already offered to serve in that capacity.

I think I can bridge some of those gaps that are there. But I would tell you the people that have been coming to these meetings and consistently speaking to these points, that is not our focus. That is not what we're trying to say. And I think the fact that we have these kinds of projects all around our neighborhood, which we do, that are successful, I would think, I would hope answers the question. I know it's not exactly the way that you need it answered.

MR. OXER: Where are the one around your neighborhood? Name the low income housing.

MS. BERSER: I don't have the list in front of me, but I can get you that list.



MR. OXER: Well, Scott probably has it.

MS. BERSER: Yes.

MR. SWAIN: Yeah, we can supply that in -- and at other times. Sweetwater is one of them on Wells Branch Parkway. They're located conveniently to a number of other amenities. They also have a bus stop right at their front door.

MR. OXER: Scott, I'm not asking for clarification, I just wanted the list on them. Okay?

MR. SWAIN: Sure.

MR. OXER: All right. Do you have some others? You mentioned or suggested -- at least intimated that these would not have the same quality as the monitoring compliance review that the rest of them.

We have -- I'm going to ask Patricia Murphy to come up just for a minute, I just have a couple of questions for her.

MS. BERSER: Do you want me to stay up here?

MR. OXER: You're welcome to if you'd like. Because this was addressing your question.

MS. MURPHY: Patricia Murphy, Chief of Compliance.

MR. OXER: Morning, Patricia.

MS. MURPHY: Good morning.

MR. OXER: So far. All right. What's the difference -- we understand that the 9 percent deals, all of these deals have a certain monitoring. Would there be any difference between the 9 percent deal and the 4 percent deal monitoring that your shop does?

MS. MURPHY: Actually there is. The 9 percent deals are monitored once every three years, the 4 percent deals we monitor every other year.

MR. OXER: So it's actually --

MS. MURPHY: For the issuer --

MR. OXER: -- more --

MS. MURPHY: -- of the bonds, yes.

MR. OXER: More often --

MS. MURPHY: More often.

MR. OXER: -- than, okay. And so then the time text of the monitoring for a housing financial agency, which TDHCA represents, the monitoring compliance component basically that you represent for our shop here, where's that rank nationwide?

MS. MURPHY: Rumor has it --

MR. OXER: I can let the Executive Director answer that if he'd like too.

MS. MURPHY: -- that we are one of the top monitoring shops in the nation.

MR. OXER: Okay. So when the IRS wants to do -- which is one of the offers the tax code or the tax credit housing, you know, offers the tax credits for the housing -- the 9 percent deals, when they go out and do seminars and workshops on how to do this monitoring and compliance, do you have a role you typically play in those?

MS. MURPHY: Yes. I'm a frequent figure at national conferences and national webinar/seminars.

MR. OXER: Okay. So it's fair to say that Texas -- the TDHCA has, among other things, it has the most transparent tax credit program, it has number one ranked monitoring compliance for all the state housing finance agencies in the country.

MS. MURPHY: Much to the chagrin of some other people in the room.

MR. OXER: Granger, are you here? Where's Granger?

So I guess I wanted to make sure we put at rest the issue that this is not going to be monitored for compliance, that it's not a pass over review, that there's much more detail on this.

MS. BERSER: I have a point on that. I don't -- I can't really get a gauge with these rankings

within the time period without knowing the full context, but what I heard was once every two years. Is that correct? And what does that entail?

MS. MURPHY: Once every other year we go to the property and we review 20 percent of the low income files to ensure that the units are properly leased to low income people, there's adequate documentation of their income, and that the rents are properly restricted. In addition, we inspect the exterior of all the buildings, we inspect all the building systems, we inspect all the common areas, the leasing office, the grounds, the playground, the amenities. And then we physically inspect the interior of 20 percent of the units. And it is a very --

MR. MUÑOZ: A random 20 percent?

MS. MURPHY: It's a random 20 percent. And it is a very detailed inspection which I expect there might be some discussion about later today. Item number 6, it gets --

MR. OXER: Yeah, most of Granger's scars have sort of healed up already. Okay? So.

MS. MURPHY: It really -- it's a maintenance inspection. You know, do the carpets need to be replaced, do the walls need to be painted down to the seals on the refrigerator doors. It's very detailed. And we don't

have announcing which units are we going into ahead of time, so that --

MS. BERSER: You announce the visit?

MR. OXER: They do not.

MS. MURPHY: We announce that the visit is planned. We don't announce which units we're going into. So that they -- with the --

MR. MUÑOZ: And there --

MS. MURPHY: -- edification that these units are --

MR. MUÑOZ: And there are penalties for those that are found to be materially out of compliance.

MS. MURPHY: Yes. Any deficiencies that we identify must be corrected, and there are administrative penalties for noncompliance. There's like a whole scoring system about if you have, you know, past issues of noncompliance it hampers your ability to get future funding from us. We also take tenant complaints or, you know, if this proposed development are constructed and there are problems with property, that there is a way to complain online or let us know about that there's issues that we need to address.

This one would be right down the road. So we could get there and remedy that. We have a real

commitment to making sure that the housing that we build is compliant and maintained and merit it suitable for occupancy.

MR. OXER: And the period for that compliance is a number of years? How many is it?

MS. MURPHY: They have to comply for a minimum of 30 years, yes.

MS. BERSER: What kind of notice is given before the visit?

MS. MURPHY: Prior to an on-site monitoring visit, we give about a 30-day notice to the owner of the property to announce that we are coming. And we are required by the Treasury regulations to provide notice.

The only time we don't give notice is -- it's pretty rare that we wouldn't give notice. In addition, the tenants have a right that their unit not be entered without prior notice. So we don't -- we can't just show up and say let me in your unit, we're the government, we're here to look, you know, that kind of thing. So that the owner -- we have to tell the owner we're coming so that they provide notice to the tenant that we might go in.

You know, all the amenities that they're describing as well, those will all be translated into a

deed restriction and we'll continue to monitor and make sure all of those committed amenities are still there, that if it's owners committing to providing social services that we'll go out and make sure that they're doing all of those things.

MR. MUÑOZ: Let me interrupt here for just a second. Because this, I mean this is very helpful testimony and evidence but I'm not sure that it should be taking place right here in this kind of context. So unless there are other questions from the Board or what have you, maybe, Mr. Chair, we can bring this to --

MS. MURPHY: You can always contact me.

MR. MUÑOZ: -- a closure.

MS. BERSER: I appreciate the information. It doesn't change my position at this time but I appreciate it.

MR. OXER: We somehow suspected that might be the case, but we wanted to get it on the record. All right. Thanks for your comments.

Are there anymore questions of the Board?  
Apart from I think the way --

MR. KEIG: Yeah, I just --

MR. OXER: Yeah, Mr. Keig.

MR. KEIG: Does Mr. Winn have any additional

response from the developer's point of view?

MR. WINN: Hi. Michael Winn, president of Atlantic Housing, the developer. Let's see, no, I think I really don't have anything much to add. I think you've pretty well vetted the issues, and I know the staff have done a tremendous job, you know, and very diligent in their analyses to make sure that your -- the conditions you set forth are met.

I just wanted to say that with respect to quality, I think I can fairly straightforward address that. We had last September, prior to meeting with the neighborhood, we invited them to come visit one of our properties that we operate here south of town. And a group of them did come and visit, and I think that the feedback was generally very positive.

In fact, at the September meeting I was asked, well, why don't you build that project. And we said, well, that's what we're building. We're building that quality or better. After a couple back-and-forth it turns out, I think it was more of why don't you build a mixed income versus strictly an affordable project. And so but in terms of the quality of constructions and locations, et cetera, I mean this is -- you know, we're going to have to live with this project for a very long time, and we



don't intend to build anything substandard.

MR. OXER: More importantly, you're going to live for 30 years with Patricia on your heels.

MR. WINN: That's correct. And in addition to Patricia, I want to also add that our lender's HUD, who has an annual requirement called REAC inspection that sounds awfully similar to Patricia's. They also have a requirement for us to provide audited financial statements by an independent auditor. And then in addition to that we -- you know, our equity investor provider to the project, CREA, is also -- they have their peer audit inspection. So there will not be a lack of oversight on this project.

Is there anything I can answer for the Board, anything you want me to touch upon?

MR. OXER: Any other questions from the Board?

(No response.)

MR. OXER: Okay.

MR. MUÑOZ: Can we call the question? I mean have we heard all we need to hear?

MR. OXER: There appears to be -- Emily, do you have any other comments? I think you've had plenty of time, so if there's anything you can summarize in 30 seconds, you have one more shot here.

MS. BERSER: Yes. Emily Berser, and I'd like to follow up. You know, I've not heard anyone from the staff say that they have spoken to LCRA about the fall distance of the tower or the location of the buildings or the building on this property to their tower. The engineer that did seal his letter, he placed responsibility on LCRA. The other letter from the structural engineer, he did not seal his letter. So all I am asking is for the Board to, you know, consider a sealed letter or, you know, a sign-off from LCRA regarding the distance from their tower to the buildings, which are very close.

MR. OXER: Okay. Your comment's noted.

All right. There's been a motion by Ms. Bingham earlier this century, I think but --

MS. BINGHAM ESCAREÑO: Yes.

MR. OXER: Ms. Bingham.

MS. BINGHAM ESCAREÑO: If I may just clarify my motion --

MR. OXER: Please.

MS. BINGHAM ESCAREÑO: -- to approve. The way the resolution is written it allows the Board to approve or not to approve. So it would be to approve the revenue bonds.

MR. OXER: Okay. That's a -- and I'll assume that falls within Dr. Muñoz's approval?

MR. MUÑOZ: Second.

MR. OXER: Because of the -- okay. Or the second. All right. Motion by Ms. Bingham to approve staff recommendation --

(Pause.)

MR. OXER: Yeah, we're getting a signal in from the dugout.

MR. MUÑOZ: You read the record, right, Leslie? You said 13 point dash --

MS. DEANE: Approval of the resolution is included in that, correct?

MS. BINGHAM ESCAREÑO: Yes. That was included in my original motion.

MR. OXER: All right. For clarity's sake --

MS. BINGHAM ESCAREÑO: Yes, sir.

MR. OXER: -- restate completely.

MS. BINGHAM ESCAREÑO: Okay. Mr. Chair, I move to approve Resolution number 13, 032 to approve the housing revenue bonds for -- oh, wait.

MR. MUÑOZ: 33.

MS. BINGHAM ESCAREÑO: That's the wrong one, sorry. Sorry. 33? Resolution No. 13-033, pardon me, to

approve the housing revenue bond for Waters at Willow Run.

MR. OXER: Okay. Motion by Ms. Bingham to approve the resolution as described.

MR. MUÑOZ: Second it.

MR. OXER: Seconded by Dr. Muñoz as a clarification. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none. Thank you for your comments. And we understand it was a difficult decision. There were some things going on. We're at a point right here, it's 10:30, we've been in our seats for an hour and a half. We'll take a 15-minute break, be back in the saddle here at quarter of 11:00.

(Short recess taken.)

MR. OXER: All right. Thanks for the break, everyone. Let's take our seats and come to order again, please. Okay. We have a signal in from the dugout here.

MS. DEANE: Well, I just wanted to --

MR. OXER: And you are?

MS. DEANE: -- suggest to the -- Barbara Deane, general counsel.

MR. OXER: You're the one we'd have to say that

to make sure --

MS. DEANE: I would suggest that we reopen Item 2A and entertain a separate motion to approve the determination notice of housing tax credits. Just to be very clear, that we're covering all the bases on that particular agenda item.

MR. OXER: Okay. This does not require public comment, as I understand it, since we've entertained --

MS. DEANE: It's part of the --

MR. OXER: It's the same item.

MS. DEANE: -- Item 2 that we've already taken public comment on.

MR. OXER: Okay. So would the original --

MS. BINGHAM ESCAREÑO: Mr. Chair, I'd like to make a motion to approve the determination notice of housing tax credits for Waters at Willow Run.

MR. OXER: Okay.

MR. MUÑOZ: Second.

MR. OXER: And second by Dr. Muñoz. There needs no public comment. So all in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none. That's unanimous.

The point is to make sure there was a specific clarification on this item so that there was no question that what was approved by this Board. So good.

With that, Jean.

MS. LATSHA: Good morning. Jean Latsha, Competitive Housing Tax Credit Manager. So Item 2B is the results of this year's QAP. It has in it a new concept which is that of preclearance of community revitalization plans. This is the mechanism by which staff and really the Board can make a determination that a community revitalization plan meaningfully satisfies a revitalization effort despite not meeting all of the QAP requirements.

The QAP includes detailed requirements regarding what we think a community revitalization plan should look like. That includes a list of factors that municipalities should assess in order to determine target areas for revitalization and a requirement that the plan be adopted in a process that allows for public comment.

QAP also requires that the plan taken as a whole -- and this is taken straight from the QAP -- could be reasonably expected to revitalize the neighborhood. The QAP goes on to state: "Generally because revitalization must identify specific matters needing to be addressed by revitalization and provide a plan and

budget specifically directed to those identified issues, revitalization will be considered distinct and separate from broader economic development efforts."

Unlike staff evaluating, for instance, how many 30 percent units the development has or whether a third party report came in by the submission deadline, this concept of preclearance calls for a really substantive review of the community revitalization plan since these plans can be approved without meeting every single requirement of the QAP.

However, there are certain requirements the staff feels must be met, particularly the requirement that the plan have a budget. And that's because the budget of the plan is tied to how we score the applications.

If the applications have a budget of \$4 million, they get two points or if the plans have budgets of \$4 million the application gets two points. If the plans have budgets \$6 million or more, they get 4 points.

So the budget is an important aspect of these plans.

However we did recognize the nature of this substantive review. The staff invited all of the applicants listed on the agenda to meet in person to assist staff in fully understanding the plans that were submitted. Each applicant met with a panel that consisted

of six folks, not all from the Multifamily Division. We had folks from the Legal Division, our Home Division, and also Housing Resource Center, so a variety of staff members. Everyone met with five or six people on the panel. And the recommendations that are presented here are the result of unanimous votes from this panel after meeting with each applicant.

So after those meetings -- in two cases these meetings resulted in a change in staff's initial assessment of the submission, which is the reason for the ultimate recommendation of approval. You have three applications that are recommended for approval on your list today.

The submissions that are not being recommended had, in the estimation of staff, a variety of reasons why they fell short. And first some of the submissions appeared not to be plans at all. It is important to understand that when crafting the rules in the fall of 2012 staff heard public comment and responded by adding two options for obtaining these same points that did not involve actually having a community revitalization plan in place.

In general, those options involved either a commitment of CDBG-DR funds or evidence of infrastructure



improvement, although these options were only available to specific developments. Second, some of the plans submitted here appeared to be broader economic development plans instead of revitalization plans, and the rule specifically calls for staff to distinguish between these two concepts. And finally again we need to have budgets associated with these plans in order to assess points.

That being said, one housekeeping really quickly, and this was included in the writeup, but on the agenda you have several applications listed. We gave all of the applicants the option to defer to the May meeting, and about half of them did so. So on your list today we just have staff's recommendation of approval for three. That's Patriot's Crossing, Serenity Place, and Villages of Penitas.

MR. OXER: Say that again, Jean, please.

MS. LATSHA: Sure. It's Patriot's Crossing, it's 13-023.

MR. OXER: Yep.

MS. LATSHA: Serenity Place, 13-124.

MR. OXER: Yep.

MS. LATSHA: And Villages of Penitas, 13-100. Those three we are recommending for preclearance, to grab preclearance of those plans. What -- the assessment for

the plans that you'll hear today are for -- that we are not recommending for preclearance are for Woodland Creek Apartments, that's 13-082, in Corpus Christi. Songhai at Westgate, that's 13-125 in Austin. Mariposa at Pecan Park, it's 13-144 in La Porte. Lexington Manor, that's 13-163 in Corpus Christi. And then Oak Creek Village, it's 13-252 in Austin. There are two others in your writeup in San Antonio, and those actually did defer to May as well. We just didn't have time to pull them out of the writeup.

MR. OXER: So for now we're dealing with these eight that you've dealt with, three that you're approving and then five that you suggest that we -- that are not --

MS. LATSHA: That's correct.

MR. OXER: That are insufficient.

MS. LATSHA: Yes, sir.

MR. OXER: And the rest have either deferred or pulled.

MS. LATSHA: That's right.

MR. OXER: Okay.

MS. LATSHA: That's right. So if you'd like, I can just -- I can tell you staff assessment and then let people speak to those plans, and then -- and approach them that way, if you'd like. Unless you want to address just

the recommended plans.

MR. OXER: Yeah, let's break these up. Because I can tell some of these, they're going to be easy and some aren't.

MS. LATSHA: Sure.

MR. OXER: So I think we ought to take this up and have a motion for the three.

FEMALE VOICE: Three to approve.

MR. OXER: The three to approve. And then we'll get into the ones -- have a discussion on the ones that have been denied, so to speak. So okay.

MS. BINGHAM ESCAREÑO: So do you need anything for the record from Jean on the three to approve, or do you want to entertain a motion?

MR. OXER: I think we need to state what the staff recommendation is with respect to those three, and state each one of them. And then we'll --

MS. LATSHA: Sure.

MR. OXER: Oops, hold on.

MR. IRVINE: We've got a little bit of additional information that's not -- I believe you're going to want to consider before you take action.

MR. OXER: On those three?

MR. IRVINE: Yes. I'm sorry. Barbara's going

back to get it right now. We've got some comments specifically about site clearance issues on two of the deals.

MR. OXER: On two of the three to be --

MR. IRVINE: On Serenity --

MS. LATSHA: On Serenity Place and Patriot's Crossing. I believe that documentation speaks more to undesirable, although it mentions the community revitalization plan. I've read the letter. I think it speaks more to a separate part of the QAP that also calls for preclearance but it's under a different part of the QAP that addresses undesirable site features.

MR. OXER: So the question under consideration now is not with respect to the undesirable site features but --

MS. LATSHA: That's correct.

MR. OXER: -- solely with the revitalization program.

MS. LATSHA: Right. We could approve the community revitalization plans that are associated with those applications but still find their sites to be ineligible should we determine that they have undesirable site features.

MR. OXER: Okay. Hold on just for a second and

let us make sure we've got this.

MS. LATSHA: Sure.

MR. IRVINE: And there are additional copies available for the public. Right?

FEMALE VOICE: Yes.

MR. OXER: Okay, I think I got the gist of it. We're looking at -- all right. So we're not approving the deal for -- we're not approving the deal, we're approving the points for the revitalization program or evaluating the points for the revitalization program.

MS. LATSHA: That's correct. What we're approving here today is the community revitalization plan and its associated budget itself. Now, we might find for a number of other reasons that the actual application is ineligible, including finding that its site itself is ineligible.

MR. OXER: Right.

MS. LATSHA: But this is strictly related to the community revitalization plan itself.

MR. OXER: And to your understanding, the information we have received, it's available to the rest of us here in the room, addresses the site eligibility as opposed to the community revitalization program.

MS. LATSHA: That's my understanding of that

letter, yes.

MR. OXER: Okay. Does any member of the Board have any different interpretation on that? Okay. And negative response on that question. Any other contribution?

Mr. E.D., is that --

MR. IRVINE: No. It's simply making a determination as to whether the listed plans substantively and meaningfully fulfill the purposes of a concerted plan of community revitalization, notwithstanding the fact that they do not crisply address each and all of the points in our QAP.

MR. OXER: Right. Okay. I take it that's clear to the Board, clear to the members. Okay. All right. To that end, we'll take these first three.

MS. LATSHA: Yes, sir. And the staff recommendation is to grant preclearance for the Lancaster Corridor Cigarette Hill community revitalization plan and its associated \$20 million budget for the application's Patriot's Crossing, number 13-023, and Serenity Place Apartments, 13-124.

Staff also recommends granting preclearance for the revitalization plan for the Diamond Avenue neighborhood with its associated \$8 million budget and

associated with the application Villages of Penitas,  
number 13-100.

MR. OXER: Great. Is that clear to the members  
of the Board? Okay. Do I have a motion to consider?

MS. BINGHAM ESCAREÑO: I'll move to approve  
staff's recommendation to preclear the revitalization  
plans for Lancaster Corridor in Cigarette Hill and also  
for Diamond Avenue neighborhood.

MR. OXER: Okay. Motion by Ms. Bingham to move  
staff recommendation. Second?

MR. KEIG: Second.

MR. OXER: Second by Mr. Keig. There is no  
apparent public comment, nobody's in the chairs. We'll  
assume there are none. All in favor?

(A chorus of ayes.)

MR. OXER: There -- opposed?

(No response.)

MR. OXER: There are none. That's unanimous.  
Okay. Those three are out of the way.

MS. LATSHA: I think that -- and I did not  
expect any public comment on two of these, the Corpus  
Christi applications, 13-0 --

MR. OXER: Let's do those first.

MS. LATSHA: Exactly. 13-082 and 13-163,

Woodland Creek and Lexington Manor. Do you have --

MR. OXER: What were the two? 13-082 and?

MS. LATSHA: And 13-163, Woodland Creek and  
Lexington Manor --

MR. OXER: I got it, okay.

MS. LATSHA: -- both in Corpus Christi.

MR. OXER: Okay. And your position on those?

MS. LATSHA: We recommend denying preclearance  
for the Northwest Area Development Plan and the South Side  
Area Development Plan, for those two applications,  
Woodland Creek, number 13-082, and Lexington Manor, number  
13-163.

MR. OXER: Okay. Motion to consider?

MR. MUÑOZ: Motion so moved.

MR. OXER: Okay. Motion by Dr. Muñoz to  
approve staff recommendations. Is there a second?

MR. GANN: Second.

MR. OXER: Second by Mr. Gann.

Sarah, do you have a comment on this couple or  
you want the next one? Okay.

All right. There appear to be no public  
comments, those who wish to make comments. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?



(No response.)

MR. OXER: There are none. Okay.

MS. LATSHA: The next on the list is the Westgate Corridor Plan. This is associated with the application Songhai at Westgate, number 13-125. I expected that -- staff recommends denial of preclearance for that as well.

MR. OXER: Okay.

MS. LATSHA: I expected comment on that one, so.

MR. OXER: Okay. All right. Motion to consider.

MR. GANN: I move for staff recommendation.

MR. OXER: Okay. Motion by Mr. Gann to approve staff recommendation to deny the preclearance. Do I hear a second?

MS. BINGHAM ESCAREÑO: Second.

MR. OXER: Second by Ms. Bingham. Okay.

MS. LATSHA: All right.

MR. OXER: Let's see, we've got some folks that want to chitchat up here, so.

MS. LATSHA: Yes.

MR. OXER: Okay, Sarah, you're first.

MS. LATSHA: The next on the list is Mariposa

at Pecan Park. This is number 13-144 --

MR. OXER: Wait.

MS. LATSHA: -- in La Porte. Yes.

MR. OXER: We're going to take these because there are folks that will want to speak on each one of them.

MS. LATSHA: That's correct.

MR. OXER: We're going to take these one at a time.

MS. LATSHA: I think that would be appropriate.

MR. OXER: Yes. Okay. So let's hear comments on this one. We have a motion by the Board to approve staff recommendation to deny this. And seconded. So let's have it, let's take a seat and we'll have some comments and then we'll go back to the vote.

MS. LATSHA: Did you want to hear staff's assessment on this plan or --

MR. OXER: Yes.

MS. LATSHA: -- let them -- good, okay, all right. Basically with this -- I want to say first off that the La Porte Comprehensive Plan that was submitted really impressed staff when we were reviewing it, and actually even includes in it a really great definition of revitalization, although we eventually came to the

decision that it really was not a revitalization plan itself. But I'd just like to say that we were really impressed by what was submitted, although we don't think it qualifies.

The applicant submitted the La Porte Comprehensive Plan 2030 as well as a letter from the City Planning Director. And the letter dated December 10, 2012, stated that the comprehensive plan, I quote, "encourages the City to create revitalization plans for targeted areas, and the City intends to create a meaningful revitalization plan that meets TDHCA CRP requirements."

(Pause.)

MS. LATSHA: I'll continue --

MR. OXER: Please.

MS. LATSHA: -- I'll address Tom in a second.

That letter goes on to say that the City has not developed a budget for the subject revitalization zone but anticipates that the projected economic value of subsequent development resulting from the Mariposa at Pecan Park project within the community revitalization plan effort will exceed \$6 million.

Mainly the big problem with this was that they were -- instead of having a budget associated with this

plan they took the development costs of the project that's going to be built in this area and kind of turned that into what they're calling their budget. Their comprehensive plan did include in it a map of a revitalization area, but that's really where the effort to develop a true revitalization plan kind of stopped. So staff therefore is recommending denial of this plan.

And Tom just wanted to clarify, so my understanding was that the Songhai at Westgate, that we did make a motion and vote to deny on that one, but --

MR. OXER: That's the one we just took?

MS. LATSHA: That's not this one.

MR. GANN: Motion made but not voted on yet.

MS. LATSHA: It's not this one. The previous one. Not voted on. Okay. So -- and we just have a motion on Mariposa at Pecan Park as well, but not voted on. But there's public comment on Mariposa at Pecan Park, the La Porte plan.

MR. OXER: Okay, here's what I want to --

Go ahead, Lowell.

MR. KEIG: No, no. I'll listen.

MR. OXER: All right. Just so I'm clear on this, it's important I think for me to be clear on, we've got three that we approved.

MS. LATSHA: Yes.

MR. OXER: There were two that have been denied that were unchallenged.

MS. LATSHA: That's right.

MR. OXER: Okay. I want to take them one at a time after this.

MS. LATSHA: Right. And my --

MR. OXER: So we have --

MS. LATSHA: But there's -- my understanding was there was no comment on the Songhai at Westgate one. Is that -- that it was also unchallenged. But is that not the case?

MR. OXER: Which is the one --

MALE VOICE: No.

MR. OXER: Sarah, what do you --

MS. LATSHA: She's --

SARAH ANDRE: I'm --

MR. OXER: Okay. All right. So is there any comment on Songhai? Any public comment on Songhai?

MALE VOICE: We didn't vote on that one.

MS. LATSHA: But we haven't voted on it yet. That's what I was asking.

FEMALE VOICE: That's correct.

MR. OXER: Okay. All right. Concurrent.

Let's see, it was Ms. Bingham made the move to accept staff recommendations and deny the revitalization plan designation or the preclearance for Songhai. Second by Mr. Gann I believe?

MR. GANN: Yes.

MR. OXER: Okay. There's no public comment.

Are there any other questions of the Board for Jean?

(No audible response.)

MR. OXER: Okay. Now, with respect to Songhai, which is application number 13-125, all in favor of the motion on the floor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

MR. OXER: There are none.

MS. LATSHA: Now we have comment on the La Porte plan.

MR. OXER: Right. Now we're going.

MR. GANN: Do you want me to make a motion --

MR. OXER: Hold on. We've got to have, we have to have a motion to consider on this. That's all right. Motion to consider on Mariposa at Pecan Park, 13-144. Staff recommendation, Jean. Just restate the staff recommendation.

MS. LATSHA: Yes. Staff recommendation is to deny preclearance.

MR. OXER: The preclearance. Okay. Motion to consider.

MR. KEIG: I move.

MR. OXER: Okay. Motion by Mr. Keig to approve staff recommendation to deny the preclearance. Looks like a second by Dr. Muñoz. Now its time.

Good morning.

MR. ELKIN: Good morning, Mr. Chairman. Good morning, distinguished Board members and staff. We appreciate staff's kind comments on our 2030 Comprehensive Plan. My name's Chuck Elkin. I'm the council member for this particular district in City of La Porte. I'm representing La Porte, the mayor, as well as the entire council, the city administration, and our Planning Department. Many of them would have liked to have been here but scheduling conflicts prohibited that. And obviously sending that many people up here would be not cost-effective.

But I'm here today to speak for the City of La Porte specifically about the revitalization efforts underway in our city. The revitalization efforts that I'm about to describe were set in progress well before the

Mariposa at Pecan Park was decided. That process was probably about 14 months before this opportunity came along to make the application for the housing tax credits in our community.

In case you're not aware, the City recently adopted its 2030 Comprehensive Plan that includes many other things specifically targeted to the revitalization area. The proposal at Pecan Park community is that consistent with the comprehensive plan and is located in one of the areas targeted for revitalization by the comprehensive plan. The City's leadership, staff, consultants have spent a great deal of time, efforts and resources reviewing the data, listening to public comments in a number of public meetings, creating strategies and representative in the comprehensive plan.

We anticipate that the comprehensive plan will be modified over time, but it will be a valuable guide and resource for the City to navigate for the next 20 to 30 years. The comprehensive plan has a number of goals included in it, not limited to encouraging revitalization in targeted areas, providing affordable housing for seniors, which -- along with the other comprehensive plans of the City.

Comprehensive revitalization efforts have taken



into consideration a number of the TDHCA required elements for community revitalization points. Our comprehensive plan and our City's plans are both real, meaningful and substantial plans, and a plan documented for the City. The Mariposa at Pecan Park is located in an area of the city which is targeted for revitalization.

The City staff has met with your staff in November to assure the existing revitalization efforts in the City were agreed and the rules were set forth by the staff. Without question, the City revitalization effort currently under way is impactful and meaningful to the citizens of La Porte and the City as a whole. The efforts that have included, are certainly not limited to, our ongoing facade enhancement grant programs, rigorous code enforcement, our annual sidewalk repair and replacement programs.

The City had left the meeting in November with the impression that the revitalization efforts underway with the city were qualified for the full points. But after reviewing the November meeting minutes we learned that the staff had changed their position.

In March our city manager, Corby Alexander, had traveled to Austin to meet with the staff. In the meeting Mr. Alexander reiterated the firm and unwavering

contention of the City of La Porte and the mayor and council and staff that the revitalization components were recently adopted in the comprehensive plan. Consequently made them think that we felt like we satisfied the various plan.

It is our understanding that the 2013 QAP does not preclude community revitalization that is part of the larger comprehensive plan. The goal of the comprehensive plan that are applicable to the revitalization are based off our submittal, implementation of identified goals constitutes revitalization strategy and essentially our plan.

When the City was working with the applicant last December the 2013 QAP did not have a definition for projected economic value. The City had and interpreted the meaning, and in the meeting in March the TDHCA staff took the position that the projected economic value would not include the total value of a property development for construction activity in the targeted area facilitated by the revitalization effort.

In staff's review the projected economic value must be the value that has been or is projected to be conveyed to the revitalization area by the City or local government, and it reflects some budgetary impact

statements and analysis. In our view, the revitalization plan components of the City comprehensive plan will provide economic value in excess of the \$6 million, which is consistent with the QAP at the time of the submittal of the revitalization effort document.

The City has no reason to believe that the financial resources necessary to implement these goals will not be funded in future ongoing budget processes such as funding from our reserves, issuance of bonds, and also our La Porte Development Corporation 4B bonds for development funding and grants.

The comprehensive plan and revitalization plan was adopted by the city council prior to the January 8, 2013 deadline, which was a 14-month process as I described earlier, and the activity solicited here in the form of public input addresses the revitalization factors and the developmental plans, including the specific targeted areas of the revitalization plan, the geography where Mariposa Park will be located.

The City would like to clarify that its letter to the staff on December 10th was drafted before the adoption of the plans and stated the comprehensive plan encourages the City to create a meaningful revitalization plan for targeted areas. The City intends to create a

meaningful revitalization plan that meets all the requirements, the CRP requirements where the Mariposa at Pecan Park is located.

With the subsequential adoption of the comprehensive plan for 20 -- or December 10th of 2013, the City of La Porte therefore adopted a revitalization plan within its comprehensive plan. Because the plan is much more thorough than just revitalization, it has much more to that.

In addition, the revitalization efforts of the City has also adopted a resolution in our February meeting, naming Mariposa at Pecan Park as a project that essentially contributes to the City's revitalization efforts. It was a very good opportunity.

I have a copy with me if anyone was interested in that resolution. Without question, the City's revitalization efforts currently under way is impactly meaningful to the citizens of La Porte as well as the city as a whole. Accordingly, the City requests that the Board approves the city's revitalization efforts so that the Mariposa at Pecan Park application can achieve the maximum allowed points under the 2013 QAP.

It's truly a -- I'm sorry. It will serve a true and deep need for affordable housing that has gone

unanswered since Hurricane Ike. I'd like to add one other thing. We did have a senior citizen development along Galveston Bay called Happy Harbor, but with Hurricane Ike it's no longer there. So there is a need for this, and whatever consideration you could give this project to the City of La Porte on behalf of the entire La Porte city council would be appreciated. Thank you, sir.

MR. OXER: Thanks for your comments.

All right, any questions of the Board?

MS. BINGHAM ESCAREÑO: I have one question.

MR. OXER: Ms. Bingham.

MS. BINGHAM ESCAREÑO: Just probably a stupid question. But so it sounds like your perception is at the November meeting you thought that you had staff support and that you checked the minutes and realized that, in your perception, the staff had kind of changed their position. But at that point it became clear to you that what they were looking for was a budget.

Was it impossible to put a budget together? Like with your constraints, within your municipality, was it impossible for you to -- for a budget to be built at that time?

MR. ELKIN: At that time, yes, it was. Okay. We do have other resources, like I said. We have the

annual budget process, we have the La Porte Development Corporation board is always looking to fund various projects and we also can issue bonds.

But as per se do we have a precise budget? No, that was not the understanding at that meeting. Okay? So with the changes in the rules we felt like we qualified for the points at that point.

And also this project -- I mean our comprehensive plan started well before this project was even an opportunity. So this particular project kind of dovetailed into our comprehensive plan. And we do appreciate staff's compliments on the comprehensive plan, because it was a number of public meetings with a number of people.

It took many, many hours, and it did cost the City plenty. But it's a road map for the future for the City of La Porte, and we appreciate all the comments. But we feel like that we've met all the requirements early on just to find out that it changed. Hopefully that satisfies your question.

MR. OXER: Okay. And we understand your point about the comprehensive development plan and the -- it seems to me that the issue at hand here is we're trying to make a -- there's sometimes a sometimes subtle distinction

that has to be made between a community development plan and a revitalization plan. Which is one of those things we're having to balance here. That's -- if it was easy, we'd already do it. Okay? We'd already be done, we wouldn't be having this conversation.

So, Jean, I wonder if you might come up and readdress some of those points in that differentiation if you would, please. Could you?

MS. LATSHA: Sure. And I was the person that La Porte met with, the City of La Porte met with in November. And it is really the first time that this subject came up, you know, what did we mean by this projected economic value language in the QAP, and it was actually our discussion with the City of la Porte that kind of made us basically -- what's the word I'm looking for. Anyway, make that distinction, what is it.

MR. OXER: The impetus.

MS. LATSHA: It made us answer that question.

MR. OXER: Right.

MS. LATSHA: What is projected economic value. And we came to the conclusion very quickly, within a day of our first meeting, and actually contacted the City of La Porte again and said, you know, that's not what we mean. We don't mean the value of the developments that

are going to wind up being in this revitalization area.

I'm not sure if I went back to answering your question. But that's still our primary issue with this plan is regardless of whether it was in November or January or February or March, there's just still no budget. And so there's really no way for us to assess points when the points are specifically tied to the budget for the plan. My understanding is there's not even a budget for the comprehensive plan much less a budget that is for that targeted revitalization area.

MR. MUÑOZ: Jean, is that your -- you said that's my understanding. But are you definitive? I mean --

MS. LATSHA: I think you could add --

MR. OXER: Let's get a good citation from the QAP. Can we do that?

MR. MUÑOZ: Well, no, I'm saying are you -- you said that you -- my understanding is that there isn't a budget associated with the comprehensive redevelopment, revitalization plan. But is there? Do we know? Because if there is, then one could theoretically extract the financials, the budget projection, et cetera --

MS. LATSHA: Right.

MR. MUÑOZ: -- for the --



MS. LATSHA: There was no evidence of a budget submitted with all the documentation that we received. And in our meetings with the applicant and the City, recently with the panel, there was still no evidence of a budget associated with the plan submitted.

MR. IRVINE: Yeah, I'd like to clarify two pretty important points. First of all, although we did have extended meetings and discussions with various folks, the record is what was in the application. Okay? That's fixed and firm. Unless we actually issue an administrative deficiency and seek additional information to supplement that record, the record is what it is and we cannot expand upon it.

The second thing I would say is that our view of how the affordable housing development relates to the community revitalization plan is it's a layered thing. I mean for example, you go back to the language in Section 42(m) of the Internal Revenue Code in which this has its genesis, and it talks about contributing to a concerted plan of revitalization.

And it really to me indicates that the plan of revitalization has to have an independent existence, it has to address other factors besides the need of housing, and that housing is simply an additional element that is

brought in to something that already has meaningful substance. And in our belief, the way that you make it meaningful is to put a budget on it.

MR. OXER: Okay. Mr. Keig.

MR. KEIG: I just need some clarification on where in the QAP is the requirement for the budget. I understand you're talking about some scoring, but it's not the one point scoring section. Where are we talking about?

MS. LATSHA: It's the scoring section under community revitalization plan. And I don't know if you have a QAP handy, but --

MR. KEIG: Yeah.

MS. LATSHA: -- it's page 19 of 25, right there at the bottom, and it says "points will be awarded based on applications will receive four points if the community revitalization plan has a total budget or projected economic value of \$6 million or greater."

MR. KEIG: Thanks.

MS. LATSHA: Uh-huh.

MR. OXER: Okay, any other questions of this?  
Thanks.

Next? And just as a reminder, a little housekeeping item, make sure you sign in.

MR. SHAW: Okay.

MR. OXER: And that's all right, we'll give you time to take care of it.

MR. SHAW: Thank you. Good day, Chairman and Board staff. Stuart Shaw with Bonner Carrington. I'm the sponsor of the applicant. And I want to thank Councilman Elkin for taking the time to come here today to support this development.

His efforts reflect the unparalleled support we have received from the City of La Porte and its staff over the last two years. We start with the neighborhood group in his district and we've gone through city council, many other organizations from the city. And so we are getting -- it's an epic amount of support and no opposition at all.

As an initial matter, I just want to highlight that they've really taken immense efforts to have the comprehensive plan comply with TDHCA requirements. And to the Executive Director's points, I watched 15 years ago as the City of Cedar Park, a bedroom community here in Austin, implemented its own plan, and I certainly am not here to debate you, Tim, but a plan is a plan.

A plan is the one that points the way to the future. And you're going to fund this as it goes along in

many cases, and that's what happened in the City of Cedar Park and that's what turned a little rural community into the wonderful community it is today. And we funded part of their plan with the development we did ten years ago in Cedar Park.

I think that the most important feeling about a comprehensive plan and a revitalization plan is for the city to come together, as this city has done, and go through meaningful efforts over many months, many meetings and spending lots of money. That's the meaningful effort that creates a plan. They've got -- and they've cited in their letters many opportunities to fund this plan. There's -- funding the plan is not the issue, getting a plan is the issue and getting one that goes through city council. And that's really the big issue. So that's what I would submit to you is really important about a plan.

While the City had initiated its services available plan prior to the inception of this deal, since lending their support to our development the City has devoted a great deal of time and expense to this effort. Besides corresponding with staff on multiple occasions, City staff traveled to Austin twice on their volition to meet with TDHCA staff.

Additional follow-up meetings, the City sent a

letter of March 21, 2013, to TDHCA staff clarifying issues raised by the staff, which letter is not a part of the staff's write-up. This letter makes clear that the City has a material plan in place which will add at least \$6 million in projected economic value to the targeted area from the revitalization from a variety of sources and emphasizes the City's need for this housing based on severe housing loss caused by Hurricane Ike.

And I just want to read to you from that. This is the March 21 letter from Corby Alexander, who is the City Manager of the City of La Porte. And in his letter I'll read you a paragraph. "There is no definition of projected economic value in the 2013 QAP. However, in our meeting TDHCA staff took the position that projected economic value would not include the value of property, of development, or construction activity in the targeted area facilitated by our revitalization efforts. In TDHCA staff's view, projected economic value must be value that has been or is projected to be conveyed to the revitalization area by the city of local government and is reflected in some budgetary impact statement or analysis."

Mr. Alexander, City Manager, goes on to say, "In our view, the City of La Porte's view, the revitalization plan components of the City's comprehensive

plan will provide economic value well in excess of \$6 million. The City has no reason to believe that fiscal resources necessary for implementing those goals will not be funded in the future through our ongoing budget process. Such funding sources consist of our reserves, issuance of bonds for the economic development funding, and grant opportunities."

Mr. Alexander goes on to say, "The comprehensive plan and integral revitalization plan was adopted by council just prior to the January 8 deadline. It was already on its own schedule. In a 14-month process that actively solicited and provided for a forum for public input it addressed appropriate revitalization factors for developing the plan and included within specific target areas of the revitalization plan the geography on which Mariposa at Pecan Park will be located."

And then they go on to mention -- in the later meeting with TDHCA offices staff recall that the City mentioned in a previous letter the revitalization plan had not created. "The City would like to clarify that the letter drafted before the adoption of the plan states the plan encourages the City to create meaningful revitalization plans for targeted areas, and the City

intends to create a meaningful revitalization plan that meets TDHCA-CRP requirements where Mariposa is located."

This was before the application, before they had met. So they're clarifying this. This is the letter that's not in your packet. I have a copy if you'd like it. With a subsequent adoption of the plan, we think we have done so.

So it's the intention I think of TDHCA to encourage developments to go into areas of true revitalization. And Mariposa at Pecan Park does just that. This is an area of true revitalization. It's identified in a wonderful plan that addresses their comprehensive plan, which you have to address, and a revitalization within that as an integral part to it.

As such, I think Mariposa at Pecan Park deserves to be recognized as such. In terms of need, it's important to note that La Porte has suffered an actual loss of affordable units as a result of Hurricane Ike. The city sustained wave action, 500 single-family homes, 47 of which were substantially damaged and subsequently demolished. Many of those lower income seniors. Perhaps even more compelling is the fact the Happy Harbor senior residential complex, which contained 75 affordable rental units fronting Galveston Bay, were irreparably damaged and

had to be demolished in 2009.

So it's been four years since Hurricane Ike, and only a small handful of single-family units have been replaced. The City still maintains optimism regarding the eventual replacement of those units but recognizes that the open market will not likely provide such housing stock. And it needs at least affordable rents. So it's through TDHCA programs like this one that our low-to-moderate income seniors can have hope for such replacement of that housing stock.

And that's what we're really trying to do, and that's what the City's trying to do with this revitalization plan within the comprehensive plan. Not only is Mariposa at Pecan Park project important to the city as a mechanism to replace the housing stock lost in Hurricane Ike, but it adds also to house a significant influx of seniors who are retiring in historic record numbers.

It's also important to note that these same seniors have access to high quality neighborhoods. Although Mariposa at Pecan Park's location is in a revitalization area, bordering an aging neighborhood with code issues, it's also within the second quartile of the median household income, furthering the mixed income



approach sought, we believe, in support in the QAP.

Those are my comments, and I just want to reiterate I've never seen this amount of support from a city across the board. And we happened to walk into this where they were already well along the way with a comprehensive plan that as our -- you know, as TDHCA staff said is really a wonderful piece of work. So that all came together. We think we can serve a wonderful purpose here, and we hope that you will grant us that opportunity. We need the support.

MR. OXER: Okay. Thanks, George. Stay where you are for a second.

Are there any questions from the Board? Any other comments?

MS. BINGHAM ESCAREÑO: I just had a question. The letter that you were referring to, was it dated December 10th?

MR. SHAW: No, ma'am.

MS. BINGHAM ESCAREÑO: Okay. Because you quoted some things. We have a letter in our record that has some of that same information.

MR. SHAW: This was the March 21 follow-up letter --

MS. BINGHAM ESCAREÑO: Okay.

MR. SHAW: -- that clarifies the point that staff really had focused on in the December 10th letter that was prior to their adoption of their comprehensive plan prior to our pre-ap.

MR. OXER: Then the question is, I think, was that a component of the application. And if it was not, was it something as an administrative deficiency that we requested.

MR. SHAW: No, sir.

MR. OXER: Jean --

MR. SHAW: I don't think the December 10 letter was either.

MR. OXER: Okay. Jean?

MS. LATSHA: Sure. No, the letter was not requested. It was in response to our meeting --

MR. OXER: The discussions?

MS. LATSHA: Right. I had some conversations with the City of La Porte before our panel meetings even to give them an idea of what our assessment of their plan was. So they wrote that letter too.

But I'd like to say that even after reading that letter it really drew us to the same conclusion. It was still talking about -- even if it clarified that maybe there was a \$6 million budget associated with a plan, it

was with the comprehensive plan. And it was also submitted well after the deadline.

And they're still -- even in that letter there is still basically a need for an adoption of an actual community revitalization plan. I appreciate that you can have that community revitalization plan inside of a comprehensive plan. The only thing that has been adopted by the City is the larger comprehensive plan at this point. And if we could accept the March 21st documentation that there might be a \$6 million budget associated with a plan, it's still with that larger comprehensive plan and cannot and is not attributed to any smaller, more targeted community revitalization plan.

MR. OXER: Okay. Any other questions?

MR. KEIG: Yes.

MR. OXER: Mr. Keig.

MR. KEIG: So we can't have a projected economic value of \$6 million or \$4 million because that's an overall value they've assigned to the whole comprehensive plan.

MR. SHAW: I'm sorry, are you addressing that to me or to --

MR. KEIG: No, to her.

MR. OXER: To Jean.

MR. KEIG: To Jean.

MS. LATSHA: That's right. We really need the budget to be associated with the community revitalization plan. Or the projected economic value.

MR. KEIG: Because the number they've given is for their comprehensive.

MS. LATSHA: That's correct.

MR. KEIG: Okay.

MR. SHAW: May I address that, please? I don't think they did say that's for the comprehensive plan. I think they're saying it's for the revitalization plan. And we can certainly ask the council member. But let me just say this.

This is with due, more than due respect to Jean, who I respect, and to the staff. That's fine for next year. In this year there's no definition of this in the QAP. After the application is turned in there's some information in the --

MR. MUÑOZ: Hey, Stuart, let me interrupt you right there. No definition of what, the requirement of a budget?

MR. SHAW: I'm so sorry. Thank you. Of what projected economic value is. It says a budget or projected economic value. I believe that's specifically

how it's addressed. And so you look at it and you say a budget. I mean I'm not an accountant but a budget to me, I have to have one, is a budget and --

MR. MUÑOZ: There was no budget at the time of the application. There was no budget contained for the projected economic impact.

MR. SHAW: I think --

MR. MUÑOZ: At the time that it was submitted.

MR. SHAW: No, I think we did proposed projected economic impact. Projected economic impact to me is projected in the future, it's impact, it's going to happen. And so we projected the economic impact.

MR. MUÑOZ: The 6 million?

MR. SHAW: Yes, sir.

MR. MUÑOZ: Or just for the revitalization? Or is it --

MR. SHAW: Yes, sir.

MR. MUÑOZ: -- subsumed within a --

MR. SHAW: Yes, sir.

MR. MUÑOZ: Is that what your position is?

MR. SHAW: Yes, sir. Yes, sir.

MR. OXER: What's your assessment, Jean? Let's go back to that.

MR. SHAW: Well, but may I just finish? And so

there was no definition, so that's how we proceed. Next year we're -- if we have a definition, we'll live to that.

This year we live to what's in that QAP. And I know we're going to hear from Jean but that's certainly our -- and we'll hear from Barry in a moment. But that's our understanding of it.

That's the City's understanding of it. And the City would differ with us or with this conversation about what was -- you know, what's revitalization. If you ask Councilman Elkin, who I asked this morning, he says you can't have one without the other, you have to have both.

MR. OXER: That is not necessarily true. You can have the comprehensive budget without the revitalization budget --

MR. SHAW: Oh, yeah.

MR. OXER: -- but you can't have the revitalization budget without the comprehensive plan budget --

MR. SHAW: I think that --

MR. OXER: -- I would think.

MR. SHAW: Well, and I'm not going to, I'm certainly not going to debate you. I'm just telling you what he told me this morning. And it's more of a plan. Remember it's not a comprehensive budget, it's a

comprehensive plan.

MR. OXER: Plan.

MR. SHAW: And a revitalization plan. It's for their city. Not my city, their city. And I believe that, you know, even in that frequently asked questions then, if we're going to, you know, look at that, that's where staff begins to define, you know, what a budget is? Okay, if we're going to look at that, let's look at the other definition, the other thing they define, and they say -- just a second, I'm trying to think.

Did you ever think of that, Barry?

MR. OXER: Help him out, Barry.

MR. MUÑOZ: A G, while he's doing his due diligence --

MS. LATSHA: Sir, I --

MR. MUÑOZ: Let me ask a question.

MS. LATSHA: Sure.

MR. MUÑOZ: Does it say budget for projection, is that the specific language? Because a projection you could say, well, I'm projecting, you know, six million or six billion.

MS. LATSHA: Right. And I think the distinction that I'm hearing here, the language in the QAP is specifically budget or projected economic value of the

plan, not projected projected economic impact --

MR. SHAW: Oh.

MS. LATSHA: -- of the plan.

MR. SHAW: Okay.

MS. LATSHA: And our interpretation of budget or projected economic value is if you have a budget, maybe you have \$6 million in your coffers that you're willing to put directly into this revitalization area as opposed to maybe you have --

MR. OXER: It might also include \$2 million in a budget --

MS. LATSHA: Plus a budget --

MR. OXER: -- and \$4 million worth --

MS. LATSHA: -- tax incentive.

MR. OXER: Correct.

MS. LATSHA: Which would be projected economic value --

MR. OXER: Value as opposed --

MS. LATSHA: -- of the plan.

MR. OXER: -- to impact.

MS. LATSHA: Right.

MR. OXER: Good distinction.

MR. SHAW: And we just have a different interpretation, and so that's why I'm saying let's define



this and next year we'll live with the definition but it's not defined this year. I mean that's really fair enough, you know, that's fair game. It's just not in the QAP.

But here's what the -- if we go to the FAQ it says staff -- the question is if a community revitalization plan is part of a larger citywide comprehensive plan, can the budget of the projected value of the comprehensive plan be prorated in order to determine a budget value of the community revitalization plan. Answer: Staff will rely on statements from local city officials as to the budget or value of the community revitalization portion of the comprehensive plan.

So we have that. We have a March 21 letter from the city manager and we have the city council member here today. And if we're going to rely on that, then let's rely -- I'm asking you to rely on it. Okay. Thank you.

MR. OXER: We hear you, Stuart.

MR. SHAW: Thank you.

MR. OXER: You understand this is an extraordinarily competitive process, we have to have some -- we have to thread the needle on some of these sometimes, which is very painful. But, you know, it's also -- if the rule were clear, you wouldn't be here.

MR. SHAW: Yes, sir. And just for the record, we are rule followers and will follow the rules.

MR. OXER: I know you will, and we appreciate that. And, you know, it's --

MR. SHAW: Within the body of doing that we also try to do a extraordinary job.

MR. OXER: And I have to say you make a very passionate and strong argument. I've never seen you except on your game, so. But I would also remind you of the -- and everybody here can quote this already -- the three admonitions that I was given when I took this job. Okay?

MR. MUÑOZ: Remind us, Mr. Chair.

MR. OXER: Okay. You want to say the first? It's going to be really hard work, nobody will appreciate what you're doing, and every decision you make is going to piss off somebody.

MR. SHAW: All right.

MR. OXER: The fourth one I asked about when I asked if there was anything I need to know, he said yeah, we're not going to pay for it either. Well, that adds a certain luster to it.

MR. SHAW: Well, thank you all for serving.

MR. OXER: Barry, good morning.

MR. PALMER: Good morning. My name's Barry Palmer, I'm with Coats Rose, and I'm speaking on behalf of this community revitalization plan. As you heard from representatives of the City and the developer, the City of La Porte has put an enormous amount of time into developing this revitalization plan. This is not a plan that was done for this specific project. This is a plan that was developed over the last 14 months.

And this revitalization plan included within it as a critical component the replacement of housing lost to Hurricane Ike. And the need for affordable housing for the elderly in La Porte was so acute that representatives of the City came to Austin on two occasions. The mayor, the city manager, director of planning came up to meet with staff on two occasions to make sure that their revitalization plan that they'd been working on for 14 months was going to satisfy the requirements of the QAP.

Now, as you may recall, we went through a substantial rewrite of the QAP this past year, including the points for revitalization plans. And that QAP was adopted by this Board in November and signed by the Governor by December 1st. And then by January 8th applicants were required to submit their revitalization plans for approval. So there was very little time to

react to the new rules. And the Board recognized that in the QAP, and so I'm going to read a provision from the QAP that you put in here to address just this issue.

It said, "It is recognized that municipalities and counties will need to devote time and effort to adopt a concerted revitalization plan that complies with the requirements of the scoring item. Therefore, for purposes of the 2013 application round only, the Department's Board may at a public meeting determine whether a revitalization plan substantively and meaningfully satisfies a revitalization effort notwithstanding the failure to fulfill one or more factors of the subparagraph."

That to me reads that the Board for this year, because of the short time frame, is going to give cities the benefit of the doubt when they invest substantial time and resources to try to adopt a plan that meets the requirements of the Board, that you're going to approve that plan. This is the plan from the City of La Porte. It's over 200 pages, developed over 14 months, includes in there revitalization of affordable housing.

I don't see how the Board cannot give the City of La Porte the benefit of the doubt on this when we're talking about, you know, technical requirements of the QAP. You looked at the language of the QAP, there's

nowhere in there that says you have to have a budget. It says you have to have either a budget or projected economic value of \$6 million. We have a letter from the City saying there's projected economic value of \$6 million.

The FAQs from staff says when determining projected economic value we're going to rely on statements from the city. That's what we have here. The City's determined \$6 million of economic value. They're not sure exactly where it's coming from, they listed a number of sources.

Just yesterday the City received a letter from the county commissioners of Harris County responding to their request to help on the revitalization plan saying that they, the County will have \$15 million a year available for revitalization. So there are a number of sources out there that La Porte can use. They haven't identified exactly where the six million is coming from, but they have stated that it's going to be available. And I would request that the Board should accept that and approve this plan as substantially meeting the requirements of the QAP.

MR. OXER: Thanks, Barry.

Any questions from the Board?

MR. KEIG: Yeah.

MR. OXER: Mr. Keig.

MR. KEIG: Was the \$6 million figure in the application? Or was that submitted subsequently?

MS. LATSHA: I can speak to that. It was included in a letter that was submitted in the original submission but it was clear that that \$6 million was associated with the value of Mariposa at Pecan Park in that letter. Yes, so --

MR. OXER: Do that again, Jean.

MS. LATSHA: So that a figure of \$6 million was included in the original submission. It was in the letter that was submitted in the original submission. But that letter indicated that that \$6 million was coming from the value of Mariposa at Pecan Park. Does that make sense?

MR. KEIG: May I read the sentence from the letter? "The City has not developed a budget for the subject revitalization zone but anticipates that the projected economic value of subsequent development resulting from the MPP project within the CRP efforts will exceed \$6 million."

MS. LATSHA: Right. That was the only mention of the \$6 million in the original submission.

MS. BINGHAM ESCAREÑO: I have a follow-up

question.

MR. OXER: Ms. Bingham.

MS. BINGHAM ESCAREÑO: So then in the QAP so it says "applications will receive four or two points" -- let's do the four, right, for six million -- "if the community revitalization plan has a total budget or projected economic value of \$6 million or greater." And in the letter that Mr. Keig read says "the subject revitalization zone," which we're assuming in the letter the subject means the one that we're all talking about, "anticipates the projected economic value of subsequent development resulting from the Mariposa project within the CRP efforts will exceed \$6 million."

So your position is that that is not compliant with what's in the QAP?

MS. LATSHA: That's correct.

MS. BINGHAM ESCAREÑO: Because what would that need to say? What would the letter have needed to say in order for it to be compliant?

MS. LATSHA: It would have needed to say there is a budget or a projected economic value of the plan that is \$6 million or greater, not a projected economic value of the development that will be a result of the plan.

MR. IRVINE: Yeah, the elements of a CRP are

pretty specifically lined out in the QAP. And what this says, what was intended to say, and I believe it does say, is that funding financial impact of things addressing those factors must meet the threshold in order for the development to be deemed to be taking place within a concerted revitalization plan.

MR. PALMER: I would like to point out that in the March 21st letter from the City they stated that the revitalization plan component of the City's comprehensive plan will provide economic value well in excess of \$6 million, and then they went on to list a number of sources from where this could come from.

MR. OXER: And run through some of those, Barry. Because what --

MALE VOICE: We've done that.

MR. OXER: Well, state that again because it's -- we're trying to differentiate between economic value, which is the amount of investment into the project, and the economic impact, which is the result of the project.

MR. PALMER: Right.

MR. OXER: Is that fair to the Board?

MR. PALMER: Right. And the QAP says you need either a budget or projected economic value. And what we have here is a letter from the City saying that "the



revitalization plan will provide economic value well in excess of \$6 million, and it will be funded in the future through ongoing annual budget process. Such funding sources could consist of our reserves, issuance of bonds, 4B economic development funding, and/or grant opportunities."

MR. OXER: All right. Let me ask you another question, counselor. If you were going to write this -- and this is something I'm asking for. It's one of our quirks we're trying to hammer a quirk here. Okay? And everybody knows we did this in the QAP. And for the record you said we might recall having made a few modifications in the QAP last year? I assure you that we recall.

What would you put in the FAQ to be able to clarify that for next year?

MR. PALMER: Well, if you're going to require a budget, say that you have to have a budget, don't say either a budget or a statement of economic --

MR. OXER: Projected economic --

MR. PALMER: -- value.

MR. OXER: -- value. Or, no, it's a budget of projected economic value. It was essentially looking at the investment into the project.

MR. PALMER: Well, that's --

MR. OXER: That's what we're looking for. And  
so what --

MR. MUÑOZ: Hey, Jean, I got a question.

MS. LATSHA: Yes.

MR. MUÑOZ: How does what Barry just read not  
satisfy?

MS. LATSHA: There are two main issues here.  
And I still stand by the argument of projected economic  
value should not be tied to the subsequent development in  
the area because it was targeted. But I'd like to read  
you one sentence from their actual comprehensive plan, not  
from a letter --

MR. MUÑOZ: Okay, because right before you read  
that let me --

MS. LATSHA: Sure.

MR. MUÑOZ: -- tell you where my sticking point  
is.

MS. LATSHA: Sure.

MR. MUÑOZ: Obviously I made the second, so,  
you know, you could -- I'm telegraphing my inclination.  
But I tell you, I'm having a real hard time with this sort  
of -- with this interpretation when he reads something  
from the City stating about as explicitly as you can the

economic value to be a certain amount. And in that frequently asked questions directive you say, you know, ask local leaders, and they're producing a document from local leaders that uses the exact vernacular. Now you can read yours.

MS. LATSHA: Yes, sir. There are -- like I said, I think there are two really big problems with this.

MR. MUÑOZ: All right.

MS. LATSHA: Number one is this whole budget projected economic value that we -- the discussion that we've had.

MR. MUÑOZ: Either/or.

MS. LATSHA: But the other -- right. The --

MR. MUÑOZ: One will satisfy the --

MS. LATSHA: Yes.

MR. MUÑOZ: -- requirement. Either/or.

MS. LATSHA: Yes. But the other real problem is that there's not a community revitalization plan here.

There is a comprehensive plan that in it -- that plan says that to reverse this investment in these areas that it's talking about it will require the City to establish and administer a proactive and ongoing program for revitalization. Making it very clear that this plan is suggesting that the City actually develop community

revitalization plans but they have not done so yet and looked right at us and told us via their letters that they had not done so.

MR. OXER: So it's less a matter of the \$6 million issue than it is that there's not a revitalization plan in the first place. It's a development plan that holds out the prospect of adding a component to it, which is the revitalization plan for this project.

MS. LATSHA: That's correct. It's both but it's -- yes.

MR. MUÑOZ: That's a good distance --

MR. OXER: I'm a simple person.

Barry, go ahead.

MR. PALMER: And I guess I come back to a couple of things. You know, the City is here, and they're saying that this is their comprehensive plan that includes within it their revitalization plan and they provided a letter saying that this revitalization plan will have value in excess of \$6 million.

But the other thing is that I think we really need to focus on is that we knew that people were going to have very little time when we adopted this substantially rewritten QAP, finalized on December 1st, preapplications and revitalization plans due on January 8th. You know, 38

days. And so we wrote something or you wrote something into the QAP acknowledging that cities were going to devote substantial effort and time to this and we don't want that to happen, and then for them to be kicked out on some gotcha because they didn't have time to meet all the requirements of the QAP that we just published 30 days ago.

And so you put in the QAP that for this year only that you were going to give cities the benefit of the doubt if they made a good faith effort to adopt a revitalization plan. I don't know how they could have made more of a good faith effort than what this City has done, including coming to this meeting here today.

I know on other occasions on other issues that perhaps we've tended to read the QAP extremely closely for technical compliance with every little factor. But here you said that for this year for this item we weren't going to do that, we were going to see if they had made a substantial effort and, if so, we were going to approve it.

MR. MUÑOZ: Barry, you know, I just -- you know, I think you've acquitted yourself well. Just a point of sort of get you on a got you. You know, that presupposes sort of an intentionality to try to, you know,

get you. And I don't believe that that exists now. With the exception of that in your remarks, I think the rest of it is quite fair. But, you know, I don't know that or I don't believe anybody was trying to get anybody. And, you know, they were exercising their responsibilities under the same time constraints that the City was and others trying to respond. So I'm not sure that that's a fair or reasonable sort of observation. Nevertheless, the outcome is the same, so.

MR. OXER: And just a -- and your point's well made, Barry, that there was a fairly short period of time in here. And yeah, we're going to try to do everything we can, you know, to consider those who made an effort at the revitalization plan. And we can see that they did a development plan, comprehensive development plan.

In the letter that we have, the December 10th letter that we have to Jean from -- I'm going to butcher this, okay -- Tim Tietjens?

MALE VOICE: Tietjens.

MR. OXER: Tietjens, okay. Tietjens, the planning director for the City of La Porte Planning Department. Okay. In that it says "the plan --" referring to this comprehensive plan -- "encourages the City to create revitalization plans for targeted areas and

the City intends to create a meaningful revitalization plan that meets TDHCA community revitalization plan requirements where this project is located."

MR. PALMER: Right, and that letter was written prior to December 10th when they had not yet adopted their revitalization plan. And so when staff brought to their attention that that letter gave the impression that the revitalization plan had not yet been adopted, the City wrote to staff in their March 21st letter saying that the comprehensive plan and revitalization plan was adopted by city council just prior to the January 8, 2013 deadline.

So between the time of that December 10th letter when they said we haven't yet adopted a revitalization plan but we intend to and the January 8th deadline they adopted the revitalization plan.

MR. OXER: January 8th deadline, so we get this on the record, that was the application deadline. Is that correct?

MS. LATSHA: That's right. Except that my documentation shows that the comprehensive plan was actually adopted in October of 2012. And so my understanding of that statement is, you know, we have an October 2012 adopted comprehensive plan, then they write a letter in December that says they're going to adopt a

community revitalization plan. But I've never seen another plan that was adopted.

MR. OXER: Do you have that plan, Barry?

MR. PALMER: Right, but that -- it wasn't part of the original documentation --

MR. OXER: It wasn't part of the original application. And I would remind everybody that -- I mean I don't have to remind anybody in here about this tax credit program, it is so ultra competitive, but we're slicing some pretty thin slices here.

Go ahead, Barry. I'm sorry.

MR. PALMER: And my understanding is that the plan that Jean's talking about that was dated October was not adopted until December 10th.

MR. ELKIN: I was there when it was adopted, and it was adopted in December. I was there.

MR. OXER: Mr. Keig, did you have a question? He's got his mouth full of a piece of candy.

MR. KEIG: I'd like to hear from the councilman if that's actually what happened.

MR. OXER: Very well. Councilman?

MR. ELKIN: I don't recall the exact date, okay, but we did pass it here a few months ago. Okay? You got to remember that concluded a very long process



that started well before this possibility came about. Okay? And we did spend a lot of money on that, and, you know, but it boils down to a couple things.

We've had a lot of good conversation here, and I appreciate the Board members' questions. Because that's very passionate about making sure you do the right thing, and I can appreciate that. And I can also go to your comment earlier about, you know, when you vote on something you're going to make somebody mad. I can understand that one quite well. Okay?

But with that being said, I think the City staff as well as the staff here has done a remarkable job.

Okay? They made a couple of remarkable comments about the comprehensive plan that La Porte went into, you know - - and I'll take that back and I'll share that with the City staff too. And also the public. Because we had a lot of volunteers for that plan. Okay?

But it is the interpretation of that one sentence seems to be the hold-up here. And I'm not disputing what staff's saying, I'm not disputing what the City's saying. All I'm trying to do is look for the high road here to make sure that we do the right thing for all parties involved and make sure we comply with all the rules here.

And you're right, we're getting into pretty thin slices here. Okay? So I'm trying to get us to the high road here and say if we can get some consideration on the terminology between a budget or a value, you know, we're getting thin slices here. So that's where we're coming from. We have a little difference of opinion about how it is, and obviously that's going to weigh in on the points.

So with that being said, you know, I'm here on behalf of the entire city council. Because we felt like that this was an admirable project for our city, and also we would replace some of the stuff we lost during Hurricane Ike. Okay? And we would give -- we would consider it a very well worthwhile consideration to give the benefit of the doubt.

Because I know the City staff has put a lot of work into it, you all have put a tremendous amount of work into it. And it doesn't look like we're going to agree on the actual word here or here. But with -- given the discrepancy there, it looks like the new rules moving forward is going to clarify that. You know, it was a little unclear but sometimes when you come to situations like this you have to have a process like this to make the process better going forward. And that's the way we've

done just about every process.

So with that being said, I don't remember the exact date to your question. Okay? But it was late last year, and we had a number of workshops, so we had at least two workshops to go over the comprehensive plan. It was very long, we spent a lot of hours not only with the PNZ, the citizens input, but the council time as well. I don't remember the exact date. But I'm just trying to get us moving on to the other point.

So if we could get some consideration. Because I know with all the questions that the Board members are asking, I really appreciate that and I'll share that with the whole council. Hopefully that answers your question, sir.

MR. OXER: Thank you for your comments, councilman. You're right, we're all right, and I would hope that everybody in this room would concur that our interests are in -- or the best interests of Texas are our interests. And so, you know, fundamentally we're doing the best we can do.

So, Stuart, you got something else you want to add to the mix?

MR. SHAW: Yes, sir. Thank you. I do remember the exact date, and it was in late December because we

were there. We heard the council discussion on it. They were beating this horse all the way through, and there's one council member that wanted to --

MR. OXER: We've had a few dead horses in this building, I think.

MR. SHAW: They were doing what they were supposed to do. They were looking at it. Some people were saying I want to add this, I want to do that. They were hearing from their consultant.

I was there for a lot of those meetings. So that October date is meaningless. They're doing their job looking at things, and they didn't do it -- they didn't vote on this because we asked them to.

It was such a huge matter for that city council that it would be disrespectful for us, and we did not ask them to do this in time for us. We were hoping that they would, and I sat there and with my eyes and ears watched that, heard it as they were grappling with those issues. And they were questioning it, you know. And I know some of those council members now, and they vote, and it was some time in, you know, mid December and it was not even close to -- so anyway, it was after the fact.

So he's telling you what they're about to do. He can't say they've already done it till they've done it.

And then they did it. And guess what, surprise surprise, it happened to coincide with our time frame. It was just almost providential. And so, you know, that's what happened. Okay. Thank you for letting me say that.

MR. OXER: Good. We appreciate your comments.

All right. Barry, did you have anything else to add? One last?

MR. PALMER: I just had one last thing to say. Is that --

MR. OXER: Barry, [indiscernible] order here, counselor.

MR. PALMER: Yeah. If you're thinking that this is a close case, that this is one of those that could go either way, then you really need to approve the plan. Because that's kind of what we said in the QAP that we were going to do for 2013 only, because people had such a short period of time that if a city devoted a lot of time and a lot of effort to try to get a plan approved that complied with the QAP, that the Board was going to approve that.

And that's what we have here. Yeah, there may be some deficiencies, it could have been better. They only had, you know, 38 days. And but I really think that if it's a close case, the language in the QAP would imply

that you would support the City's efforts for all the work they've put into it.

MR. OXER: Mr. E.D.?

MR. IRVINE: May I just clarify staff position on that? The QAP doesn't speak in terms of substantial work. It speaks in terms of the plan substantively and meaningfully satisfying a revitalization effort.

Revitalization effort is described in the rule with seven specific components other than housing. And my question simply is in the City's plan, whatever it's called, that addresses one or more of those seven nonhousing items, is there \$6 million or more of budget or associated economic value?

MS. LATSHA: And I would like to add to that I think the one thing has happened a lot in this discussion and that is basically we're looking at one plan. And in some instances we're calling that a comprehensive plan, in some instances we're calling it a community revitalization plan, but the fact is there was only one plan submitted and it was the comprehensive plan in addition to what Tim has said.

MR. MUÑOZ: Could we get the E.D.'s question responded to by the city councilman?

MR. OXER: We put you on the spot there,

councilman.

MR. MUÑOZ: That's going to be on the record, so.

MR. OXER: Don't threaten him.

MR. MUÑOZ: No, no, I mean there's a microphone.

MR. ELKIN: Yeah, could you go ahead and repeat the question?

MR. IRVINE: Sure. I'll even flesh it out a little bit. In the rule it defines seven points other than housing, some or all of which should be addressed in order for there to be revitalization plan. And they are addressing adverse economic conditions or, excuse me, adverse environmental conditions, presence of blighted structures, inadequate transportation, lack of accessibility or presence to health care, presence of significant crime, condition and performance of public education, the presence of local businesses providing employment opportunities.

And my question if those are the elements other than housing to be addressed in a community revitalization plan effort, did the City have one or more of those items addressed and have associated with it \$6 million or more, either in a budget or in economic impact? So one or more.

MR. OXER: Economic value.

MR. IRVINE: Economic value. Excuse me.

MR. OXER: That's one of our differentiators here.

MR. ELKIN: Okay. In the city manager's letter he mentioned economic value, okay, in the COP. Okay? So this particular project is valued at \$6 million. Okay? So it's -- "In our view, the revitalization component of the City's comprehensive plan will provide economic value in excess of \$6 million. The City has no reason to believe that the fiscal resources necessary for implementing these goals will not be funded through future through our ongoing budget process. Such funding sources could consist of reserves, issuance of bonds, 4B, or other grant opportunities," similar to what I said in my --

MR. MUÑOZ: Councilman, let me offer a clarification. Here's how I'm understanding the E.D. Your -- the City's approach to revitalization may be different from the QAP's representation of revitalization, which is to cover other than housing one or more of those six areas that he just read.

Is the City, are you prepared to say that there has been a \$6 million investment, will be, in one or more of these areas that he just read other than housing? You



may define revitalization differently, not to include any of those five, six areas. But he's explicitly asking whether in those six areas he just read.

MR. ELKIN: I'm not prepared to answer that question thoroughly without additional research. Okay?

MR. OXER: Fair enough.

MR. MUÑOZ: Because this is what we have to use as guidance for our decision, this operationalization of revitalization.

MR. ELKIN: Understand.

MR. KEIG: Just a clarification, it's seven factors.

MR. OXER: Yes. Point made by Mr. Keig. So Barry, one more.

MR. PALMER: A number of those factors are addressed in the plan. This is the first time that we've heard anyone on staff question the plan itself. But a number of the revitalization factors are included in this comprehensive plan, including, you know, parks, recreation, open space, environmental. You know, we could go -- we didn't know that that was going to be raised, but we could go back and address all seven of those, I'm sure.

MR. IRVINE: And I was just asking about the associated budget or projected economic value.

MR. PALMER: Right.

MR. OXER: And I think where that question is coming down, Barry, is for any of those seven components, apart from housing, is there essentially an economic investment which could be cash in, bond proceeds, tax deferrals, all that sort of thing that's investment into the project. And I think it can be fairly stated that, at least my interpretation of what the City's letter was, that there will be an economic impact from the project in excess of \$6 million. So the question is whether is it going into it or is it coming out of it.

MR. PALMER: Well, no, in the March 21st letter from the city manager that we read from he specifically says that there will be economic -- "the revitalization plan components of the City's comprehensive plan will provide economic value well in excess of \$6 million."

MR. OXER: And the budget for that is shown where?

MR. PALMER: The budget is not shown. The budget's not required to be shown by the QAP.

MR. OXER: Okay.

MR. PALMER: If you want us to come up with a budget, I'm sure that we could. It would take a little time. It's not required by the QAP, but we'll do that.

And if you want that to be required by the QAP --

MR. OXER: Can we --

MR. PALMER: -- next year, we can do that.

MR. OXER: We can straighten that out for next year, I understand.

Lowell?

MR. KEIG: Yeah. One question. In that comprehensive plan is there a target area that includes the subject site?

MR. SHAW: Yes, sir.

MR. KEIG: And does that target area in the plan, is it -- is there a discussion with regard to that target area about one or more of the seven factors that we --

MR. SHAW: I believe there is.

MR. KEIG: For that specific target area.

MR. SHAW: Yes, sir.

MR. OXER: Let's hear it, let's see it.

MR. PALMER: Just a second.

MR. OXER: We'll give you a minute, look through it.

MR. SHAW: Okay. And while he's doing that may I say something?

MR. OXER: Please.

MR. SHAW: You know, there's planners and there's planners. I'm not one, I've already told you I'm not an accountant. But there are professional planners, and we have some wonderful planners on the TDHCA staff who I'm on record for having a great deal of respect for, Jean and Cameron being amongst them and at the top of the list.

And there are other planners, and the City went out and hired one and they paid him a lot of money. And those people think they have a revitalization plan. So does Tim Tietjens, who is a planner on the City staff and so does Corby Alexander. I don't know if he's a planner but he's our city manager, and he says so in his letter. He thinks that that's a revitalization plan.

And so I guess there's some subjectivity in this but there's some people out there who went to school and have planning degrees, and they say it's a revitalization plan.

MR. OXER: Well, let me interrupt here for a second, sir.

MR. SHAW: Yes, sir.

MR. OXER: Because while I appreciate that comment --

MR. SHAW: Yes, sir.

MR. OXER: -- your assessment of whether or not

it's a revitalization plan is not at issue. It's our assessment of whether it's a revitalization plan.

MR. SHAW: Fair enough.

MR. OXER: And unfortunately, they're not making the decision that we have to make. So I point that out only to say that in this and in other cases the -- there will invariably be, however smooth and evolved our QAP becomes, there'll be times when there has to be an interpretation. And unfortunately we're not here for you to tell us what you think it could mean, we're here to tell you what it does mean.

MR. SHAW: Fair enough. And I respect that.

MR. OXER: Okay. I'm just -- I point that out.

The --

MR. SHAW: Thank you. I accept that and respect that. No questions. I was trying to point out what other people think, and to the point of the City of La Porte, if it matters what they say, and I think it does, at least in the FAQ it does --

MR. OXER: Right, and that's a valid point and we're --

MR. SHAW: That's my point.

MR. OXER: -- trying to see if --

MR. SHAW: That's my point.

MR. OXER: We're trying to see if there's some overlap --

MR. SHAW: Sure.

MR. OXER: -- in our respective positions.

MR. SHAW: When I introduce myself in front of city councils I oftentimes say developers are one step above dog catchers. And one time a city council member said, Mayor, I think he just insulted our dog catchers. And so we know, my opinion doesn't count. But I think the City -- your opinion counts and I think you've called out that you're going to value the City's opinion. I was just trying to speak to theirs.

(Pause.)

MR. PALMER: So Casey Bump, Chief Operating Officer of Bonner Carrington.

MR. OXER: No, he's got to say it.

MS. LATSHA: You know --

MR. PALMER: Okay.

MS. LATSHA: -- I understand that Casey is trying to answer the question about whether there was a revitalization area that was developed after an assessment of these seven factors. And I'd probably be willing to concede that there was.

They have a revitalization area in their

comprehensive plan. And again, like I said when I read from that comprehensive plan, that's -- it's kind of as far as discussed. They have this comprehensive plan that says you should develop a community revitalization plan for this area right here. But that's really as far as the process went.

What we're asking for is for that plan that is suggested to be developed actually go through a process that allows for public comment and has a budget or a projected economic value attached to it. And that part of the process just simply has not happened yet.

MR. SHAW: Except that the City disagrees with that.

MR. BUMP: Casey Bump with Bonner Carrington. Does that answer your question or?

MR. OXER: What I'd like -- if you have a comment to make, Casey, have at it.

MR. BUMP: Okay. According to our packet -- Casey Bump with Bonner Carrington. According to the WPDD package that was submitted on January 8th, the items identified in the comprehensive plan, the revitalization areas efforts within that comprehensive plan included adverse environmental conditions, presence of blighted structures, lack of accessibility, particularly dealt with

the recreational facilities, and finally the presence of local businesses providing employment opportunities.

And I do not think we have to address every single one of those seven items, but we have addressed some of them.

MR. OXER: I think that's fair, Jean, they don't have to address every one of them, right? Yeah, if there's any -- right.

MS. LATSHA: That's correct.

MR. OXER: Okay.

MS. LATSHA: That's correct.

MR. OXER: All right. Lowell?

MR. KEIG: I'm still not clear whether what you just read to me was specific to that community revitalization target area or whether that was an overall comment for all of the areas under the comprehensive plan.

MR. BUMP: Casey Bump again. I believe that in the overall comprehensive plan the City does address a number of these issues in the areas they targeted within the city, which are -- there's a number of them. But in the -- for revitalization. But in the particular area we're in there is a RV park that the City would like to see that go -- or not RV, trailer park that the City would like to go. So there are some of these items that are



included in our revitalization area but for the plan we do not have it broken out at this time, the specifics for our particular area.

MR. KEIG: I'd like to call the question.

MR. McWATTERS: Let me ask one question.

MR. OXER: One more comment and question by Professor McWatters.

MR. McWATTERS: Jean, is there a plan or is there a plan to have a plan?

MS. LATSHA: I believe there's a plan to have a plan.

MR. McWATTERS: Thank you.

MR. OXER: Okay. All right. There's been a motion by Mr. Keig, second by Dr. Muñoz. We've had staff questions, staff comment, Board questions, public comment, heartburn, nausea. All right. For the staff, motion was to deny the precertification of the revitalization plan for -- get the project number correct here -- for the Mariposa at Pecan Park. Is the Board clear on the motion? Okay. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none. Okay. The motion

of staff recommendation is approved. All right. Unless this is going to be -- what's your anticipation on this one?

MS. LATSHA: We'll have some discussion.

MR. OXER: Okay. All right. We're going to take a break. Wait, I want everybody to sit still.

MR. KEIG: Is this going to be Oak Creek Village?

MR. OXER: Will it be Oak Creek --

MR. GANN: It's going to be Lexington.

MR. OXER: No, we've already taken care of Lexington. Lexington has been handled. Okay. Oak Creek Village will be the next one. What I'm trying to get to --

Lowell?

MR. KEIG: I do not have an actual conflict on Oak Creek Village. I do not have an actual conflict on Oak Creek Village but I've decided I should go ahead and recuse myself. And my recusal should not be taken as a comment either way on that request.

MR. OXER: All right. Where I was going with that is we've got six, we're about to lose Professor McWatters for an earlier flight than he has to -- than ordinary. So based on the fact that you'll be recused

from that one, we'll take up Oak Creek Village --

MS. LATSHA: And that's the last one.

MR. OXER: And that's the last one. And then we'll break for lunch as soon as that one's over. Okay? All right.

MS. LATSHA: All right. So Oak Creek Village, number 13-252, this is a project in Austin. The applicants submitted portions of the City of Austin 2009/2014 consolidated plan, strategic plan, which addresses affordable housing and community development strategies and the administration of funding by the Neighborhood Housing and Community Development Office.

They also submitted the 2012-2013 action plan which accompanies the consolidated plan to define specific funding goals. And the action plan includes proposed new federal grant entitlement funding for over \$10 million, which is what the applicant claims is the budget associated with the community revitalization plan. However, our understanding of the plan is that this budget is for funding throughout the city and is not focused on a revitalization area.

There's some other issues with this plan but what it really comes down to is the City of Austin actually has a revitalization plan that's associated with

the 11th and 12th Street corridor. And in the consolidated plan and the action plan that was submitted for this application it actually speaks to that plan, to that revitalization plan in the 11th and 12th Street corridor quite frequently.

This project is not in that 11th and 12th Street corridor, it's in south Austin and it simply is not targeted for revitalization. So the staff recommends denial.

MR. OXER: Okay. Are there any questions of the Board of staff?

Ms. Bingham, did you have a question? No question.

MS. BINGHAM ESCAREÑO: No.

MR. OXER: Okay. We'll have to have a Board motion to proceed. Motion to consider.

MR. MUÑOZ: Move staff's recommendation.

MR. OXER: Okay. It's motion by Dr. Muñoz to approve staff recommendation.

MR. GANN: Second.

MR. OXER: Second by Mr. Gann. Are there any other questions from the Board?

(No response.)

MR. OXER: Okay. Sarah, I think that you've

got some comments to make.

MS. ANDRE: Yes, I do. And hopefully you can see that it's just a site plan to show where the location is. I think during the last --

MR. OXER: This is -- let me -- I have to ask you a question right quick.

MS. ANDRE: Yes.

MR. OXER: You've got to say who you are to start with.

MS. ANDRE: I'm going to.

MR. OXER: Okay. But was this information available in the Board book so that it was published so everybody else out there saw it?

MS. ANDRE: That's just a site plan.

MR. OXER: Okay. Then that would be a no on that question.

MS. ANDRE: No.

MR. OXER: Okay.

MS. ANDRE: My name is Sarah Andre, I'm here today on behalf of Eureka Holdings and Oak Creek Village. It's for application 13-252. I think we just had a lot of the argument that we might have today, so what I'd like to do on Oak Creek Village is just focus on what staff has said is the crux of the issue, which is whether or not the

development is located in a targeted revitalization area.

I need to give you some background on this project. Because I think that in addition to -- you know, there's what's in the plan that we presented, and there are maps and targeted areas that include our site. But there is also, I believe, some bias against the site because, with all due respect, staff lives here in Austin and we have a variety of opinions about whether or not this is an area that should be considered in need of revitalization.

And I do want to say I do have utmost sympathy and respect, I cannot believe how many plans staff has had to go through. I do understand how hard this has been for them. But I also feel that we're down to a very fine point on this plan, and we need to really consider the context.

So Oak Creek Village, it's an existing development, it's here in Austin. It contains 172 units, more than 600 people live there. The project has a HAP contract on it. So it has some of our very most vulnerable populations, the elderly, people with disabilities, young families at very low incomes. Many of these people have lived at Oak Creek Village for more than a decade. We have adults who were raised there and are

now raising their children at Oak Creek Village. They have a long history in this part of the city.

The project is 40 years old, it's at the end of its useful life. We want to tear it down and replace it with brand new units. We have the full support of this city, our local elected officials, our state representatives, the neighborhood, and the tenants.

Now, this year most projects fell into two categories, either high opportunity or revitalization. And Oak Creek is in this unique situation in that it falls in an area that most definitely qualifies for revitalization because it's in a QCT, it has very low incomes within that census tract. And, you know, I used to live over here and I can tell you more than once I was approached for services in the area that have nothing to do with my consulting contract. It was a rough, rough area.

What's happened over the years since this plan was enacted is that it's gentrified, revitalized, it's starting to come back. And so there is this perception that it's a high opportunity area. And in fact it even has -- some of the surrounding area has high incomes. There are some high-performing schools over there.

But we're in a QCT island in the midst of a

higher opportunity area, so we don't qualify for high opportunity. But based on the staff's ruling today, we're also being told we don't qualify for community revitalization.

So you've already been through the six, seven different points that you have to meet to get revitalization. We could go down those and the answer would be check, we have the money; check, the plan was adopted; check, there was public input; check, they looked at different factors besides affordable housing, they coordinated with different entities. The real issue is whether or not this is a targeted area.

And the consolidated plan for the City of Austin, it's 500 and something pages. My submittal was 143 pages. There are numerous maps. This site shows up on no less than four of the maps that are in the consolidated plan as targeted areas.

Where things get tricky is the City of Austin, like TDHCA, came under fire very recently, in the past two years, for concentrating poverty and putting all of their developments in one part of town, in particular east Austin, and through a very painful public process slowly backed off having targeted areas.

And so they said in their plan we target



certain census tracts, and they list them all out. My census tract, my site is within that. But we're not really going to target affordable housing resources in any one area because we believe in geographic dispersion. And those are political issues, and I understand why they did that. But it puts this site in a very murky area, especially when you have a plan like the consolidated plan that is done in year one and then updated annually and changes and tweaks are made to it with public process.

That being said, the staff has asserted once again that we're not in a geographic area of focus. And so, as I said, you know, there's four different maps that we appear on. One is the Neighborhood Commercial Management Program priority areas, that map. Our site is there, and our census tract is there.

Another are the neighborhood planning areas, and those aren't revitalization areas but it is there and it's called out. Another is the low-to-moderate income census tracts, Bouldin, our neighborhood, and our site is called out. And then finally there is one that is commercial management priority areas. And those are areas where they want to dedicate funding for commercial improvement projects. And two of -- there's three places called out, two of them are the major corridors that are

around our site, South Congress, South First Street, and the Montopolis corridor.

And the reason I brought that site plan for you to see is that our site touches South First Street. We are intending to exit out onto South First. So the site does in fact hit this commercial management priority area.

Even if you don't believe that the census tracts count as a targeted area, here we are on one of the other targeted areas in the revitalization zone.

Now, we never stated -- I agree with Jean, the plan does say that East 11th and 12th Street is a revitalization area. We never claimed to be on East 11th and 12th Street. The city has some other revitalization plans. I believe the Mueller plan and the East Riverside corridor plan were both approved as revitalization plans. We're not saying we're in those.

We're saying we're part of the consolidated plan, we're part of a targeted area that the consolidated plan specifically calls out. And beyond just being in a census tract that qualifies for funding, we are along one of these commercial corridors that are highlighted in the plan.

MR. OXER: Good job and good summary.

Okay. Any questions from the Board?

(No response.)

MR. OXER: Jean, can you come back up? I suspect that you might be able to.

MS. LATSHA: Sure.

MR. OXER: Okay. So let's counter some of the -- or let's address some of the arguments.

MS. LATSHA: Sure. I think, though, it's still pretty simple to me. I've seen all of the maps that Sarah has shown you. They were submitted with her original -- all of her documentation. But it's difficult for me to say that this is a community revitalization area over here when it's defined as something else, and the term community revitalization area was used over here.

And if it was truly intended to be a target area for revitalization, and this is clearly a term that the City of Austin is familiar with because they use it over here, then they would have used it again for the other area. I think that they might be targeted for some other type of financing or whatever, but it's not the same thing as a concerted revitalization effort.

MR. OXER: And there are specific definitions that we're having to exercise here as a consequence of that.

Sarah, you had a response?

MS. ANDRE: I do. I disagree with that assertion. Because it's just getting into what you've called it, whether you use the word revitalization. I mean we used to call things affordable housing, now we call it workforce housing because that's out of fashion. Revitalization on East 11th and 12th, that plan was put into place 15 something years ago. I used to work for the Revitalization Authority that worked to make changes over there. It wasn't particularly successful.

Mueller, the Mueller redevelopment plan has been declared a revitalization plan. It's not called a revitalization plan. The East Riverside corridor plan has been deemed a revitalization plan. It is called a corridor plan. So whether the City calls it a revitalization plan or, you know, a plan for happiness for its citizens, it doesn't matter. What matters is whether or not it meets the items that were listed in the QAP, which it does meet.

And also you are provided in the QAP the discretion to state that it meets those factors even if one or more of the factors is missing. And I don't think we're missing any of the factors. But if we are, we're only missing one.

MR. OXER: Okay. For the record, does anybody

know where Lowell got off to?

MR. IRVINE: He's recused.

MR. OXER: Oh, that's right. That would explain that.

Professor?

MR. McWATTERS: Let me ask this. Jean, at the beginning you said that this project was not within this revitalization plan.

And then, Sarah, you said that part of the plan exits on 11th Street or something like that, which is part of the plan. So --

MR. OXER: Exits on First Street.

MR. McWATTERS: First Street. Well, you know, one of those one streets, you know. Are you suggesting that just because the project exits on the street as part of a plan then it's somehow included in the plan?

MS. ANDRE: No.

MR. McWATTERS: It can't be that, right?

MS. ANDRE: And forgive me, let me clarify. East 11th and 12th Street is right over here. It's a specific area that within the 500-page document the City of Austin talks about. They also talk about other specific areas which are corridors. One is the Montopolis corridor, which is in the southeast part of town. Two

other corridors that they talk about are South Congress Avenue, which I'm sure you're familiar with, and then South First Avenue or South First Street, which parallels South Congress.

And our site is along South First Street. So what I am saying is that the site for this development is within a specific geographic location that is called out in the revitalization plan, in the larger plan. They have multiple targeted areas within their plan.

MR. McWATTERS: But where does it extend on either side of First Street or South Congress? That's what I'm trying to figure out.

MS. ANDRE: It's on -- sure. We -- you have an entrance onto the site off of South First Street. And then it's a nine-acre site, so it goes up in there. It also exits out onto Oltorf, which is north. It's basically in a corner, so.

MR. McWATTERS: So because it exits onto First Street, then you include it in the revitalization plan? I'm just --

MS. ANDRE: I do. Because the plan, the corridor that the revitalization plan calls out is the South First Street corridor, which is all of the commercial properties up and down South First. So

anything with a curb cut on South First would therefore be part of and eligible for their corridor revitalization effort. And our site will have a curb cut onto First Street.

MR. McWATTERS: Okay. Jean?

MS. LATSHA: You know, I looked at the maps that she was talking about, and I think what she's saying is absolutely true, that, you know, there's this corridor that's defined on this map that says something about commercial property management. I mean I don't know how much of their site actually lies within that greyed-out area on the map. I guess it's probably just the entrance.

But again this greyed-out area on the map that's along First Street just isn't a targeted area for revitalization. It's -- regardless of whether the site's there.

MR. McWATTERS: Okay. That's what I'm trying to figure out.

MS. ANDRE: Okay. If it's not a targeted area for revitalization, then why is it called out specifically in the plan as a targeted area for funding? That would be my question.

MS. LATSHA: My understanding is it's called out for commercial property management. It's different

than revitalization.

MS. ANDRE: But we've been asked to show that our sites are within larger revitalization plans, the consolidated plan of which might be considered a revitalization plan, and commercial management is a part of revitalization. And in fact the QAP asked for these plans to consider things other than affordable housing. Revitalization is a holistic process.

It can include, you know, weed-and-seed crime programs, it can -- you know, facade. We have a facade improvement program on commercial districts where you fix up aging commercial buildings. We put money into affordable housing. There are a number of different things that are considered revitalization. It's not about affordable housing, it's about whether or not you're in an area that needs city money and city will put behind it. And this is in one of those areas.

MR. OXER: Revitalization can include, of course, the commercial sector but also the infrastructure that's there to support it, the improvement of the streets, the improvement of the lights, all that sort of thing. So we're not saying it has to be housing addressing those issues that are there. We accept, I think -- I think I can say for the Board that we accept



that all those issues are addressed in the plan that you're talking about.

The -- I think what I'm still struggling with or considering is if a corridor plan, how far out from the center line is a corridor. And it's just one of those things, the thing is, is it in the zone or not. And if the corridor plan, if it's a revitalization plan that says everything that abuts to that street is part of that corridor, commercial property, and this would be a commercial property because it would be a rental property, commerce being done there, then -- I'm --

MS. ANDRE: Well, and I can say, you know, I cannot address how many feet from the center line --

MR. OXER: No, I --

MS. ANDRE: -- but I can say it does not extend north of Oltorf. You know, it is this specific targeted section of South First that we're on. It's not a long section of the street. It's specifically -- you know, there's a square on the map.

MS. LATSHA: I think we might have another issue though even if we were to come to the conclusion that this map represented the target area for revitalization plan. I think we would have a lot of trouble associating the \$10 million budget in the

consolidated plan with just this target area.

MR. OXER: Sarah?

MS. ANDRE: But that wasn't in your -- that was not in their letter or their request about why they were denying this appeal. So I would want to start back on that and look at it. I mean --

MS. LATSHA: I mean I have the --

MS. ANDRE: I don't feel like this is the forum to go back and come back with other reasons why it may or may not work.

MR. OXER: We hear your point, Sarah.

MS. LATSHA: But I'm not still willing to concede that that is even a target area for revitalization.

MS. ANDRE: I'm good.

MR. OXER: Okay.

MS. ANDRE: We'll get in a Jell-O wrestling ring later.

MR. McWATTERS: Let me ask this question.

MR. OXER: Don't get him all excited.

MR. McWATTERS: If you look at your map -- is it okay to look at the map --

MR. OXER: Go for it.

MR. McWATTERS: -- even though it's not posted?

Can you show me South First Street and show me where the project is?

MS. ANDRE: I'm going to turn it upside-down so you can think of it this way. We're down here on Congress Avenue. This is south Austin. South First Street. South Congress is over here. This is our site. We've got an entry. This is our site plan. These are other -- this is a carpet cleaning business, some, you know, lame art place.

MR. McWATTERS: Lame art? That's a nice --

MS. ANDRE: Lame Art Gallery, yes.

MR. McWATTERS: So I mean this property doesn't affront First Street. There's some intervening commercial property which you have to drive through.

MS. ANDRE: We own this property, this is just showing the driveway.

MR. McWATTERS: Yeah, but is that part of the project?

MS. ANDRE: Yeah, the sign is going to be there.

MR. McWATTERS: Signage. But I mean the real property, is that part of the project? Or is the project that far --

MS. ANDRE: Oh, yes, this is all part of the

project.

MR. McWATTERS: No, the area --

MS. ANDRE: Right here?

MR. McWATTERS: No, not the street. That area you're pointing to. Right where your finger is.

MS. ANDRE: That's a driveway.

MR. McWATTERS: Okay, it's a driveway. Okay. The area to the north and south of the driveway, that area.

MS. ANDRE: That is not -- that's something else. This is our property.

MR. McWATTERS: Okay. Okay.

MR. OXER: So the property actually abuts to First. Okay.

Does that answer your question, Mark?

MR. McWATTERS: No, it's --

MR. IRVINE: Not the site but the property --

MR. McWATTERS: The site, yes. And it's through a driveway, through some --

MS. ANDRE: Yes, this is a bridge right here. I mean you can't -- you've got to drive over a bridge.

MR. McWATTERS: Well, when the city designated this First Street as some sort of development zone, some sort of commercial zone, what did they say? Did they draw

any lines how far on either side?

MS. ANDRE: It's just shaded, and literally it's all on the board and it's just shaded. Somebody, a planner --

MR. McWATTERS: It's those planners again. You need to sic Stuart on those guys.

MS. ANDRE: I'm one of those people that --

MR. McWATTERS: So if you have the driveway there and you had a 5,000-acre development, you would say that all 5,000 acres of it would be included, or if you had a five acre development. Just as long as there's a curb cut on First Street, that somehow brings you into this development.

MS. ANDRE: I don't understand how you can say it's not. I don't understand how you can have an address on First Street and not qualify to be part of their plan.

You know, like I said, it is a targeted area of First Street. It does not go beyond Oltorf. I would have to look to tell you exactly where it starts. But you're on South First Street, so whether I am the coffee shop across the street or the current lot that we have, we're on South First. There's no way to say that we're not on South First.

MR. OXER: And the address again is?

MS. ANDRE: The current address is --

MR. OXER: I know but --

MS. ANDRE: -- 2324 Wilson Street, which is --

MR. OXER: What will be the address of your --

MS. ANDRE: I don't know. It hasn't been determined yet.

MR. OXER: All right. Something something First Street?

MS. ANDRE: If the City gives it to us, yeah. I mean they could also say we have to be -- our current street address is 2324 Wilson. We exit into the neighborhood.

MR. OXER: Right.

MS. ANDRE: What we're trying to do is exit out of the neighborhood and get out of there and be onto South First. We also have a curb cut out to Oltorf Street. It's currently being used as a parking lot by a dog shampoo company. But we still have that curb cut and the right-of-way. And that can get into all kinds of technical development issues about -- well, you're an engineer -- about --

MR. McWATTERS: Yeah.

MS. ANDRE: -- you know, whether the street's been vacated or not vacated, and it has not been vacated.

MR. OXER: Okay. Let's see, who did this damage? Who did the -- okay, Tom, did you make the motion on this, the original?

MR. MUÑOZ: Leslie did and then Tom seconded it.

MR. OXER: Okay. Yeah, that was like early this morning before breakfast, wasn't it?

MS. DEANE: I have Muñoz and Gann.

MR. OXER: Okay, good. Okay, there's been a motion -- is everybody satisfied with the discussion? Are there any further questions of the Board?

(No response.)

MR. OXER: There's been a motion by Dr. Muñoz to approve staff recommendation to deny the preclearance of the revitalization plan. Is that properly stated? Okay. Second by Mr. Gann. Okay? And let the record reflect that Board Member Keig has been recused on this item, so the five of us remaining. So all in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none. All right. We're going to break for lunch. We have an extended executive session. We'll be back -- it's 12:42 now. Let's be back

in our chairs at two o'clock straight up, please.

Oh, oh, everybody be careful, we got to listen to this. The Governing Board of the Texas Department of Housing and Community Affairs will go into closed session at this time pursuant to the Texas Open Meetings Act to discuss pending litigation with its attorney under Section 551.071 of the Act, to receive legal advice from its attorney under Section 551.071 of the Act, to discuss certain personnel matters under Section 551.074 of the Act, to discuss certain real estate matters under Section 551.072 of the Act, and to discuss issues related to fraud, waste or abuse under Section 2306.029(c) of the Texas Government Code.

The closed session will be held in the Delegation Room immediately to the rear of this room. The date is April 22, 2013. Current time is 12:43.

MS. DEANE: April 11.

MR. OXER: I'm sorry, April 11, 2013. The current time is 12:43.

(Recess taken.)

(On the record, 2:00 p.m.)

MR. OXER: Welcome back, everybody, after lunch. Hope you had some sustenance. But I'm hoping we also get through the rest of our agenda fairly



expeditiously. Let the record reflect that Professor McWatters is now gone. He is no longer on this. Mr. Keig is delayed, he'll be back in a minute. We remain in quorum with four of us here, Mr. Gann, Ms. Bingham, you know, Vice-Chairman Muñoz, and myself, so we are able to --

MS. DEANE: You skipped --

MR. OXER: Let me get there. Yes, ma'am. I get most of the argument, I get the last word and most of the arguments. Yes, ma'am.

Okay. The Board's now reconvened in open session at two o'clock in the afternoon on Thursday, April 11, 2013. We took up the discussion but there was no action taken. It was only to consider issues of legislation and legal advice.

MS. DEANE: No, it was legal advice and pending litigation.

MR. OXER: Okay, legal advice and pending litigation, that's right. No decisions were made, no actions were taken. And any discussion requiring a vote will be taken up in the full venue of the Board. Okay. So we are now reconvened in open session at two o'clock. Let's see, I got that out of the way.

All right. Where are we on our agenda here.

It looks like item number 3. Well, that's 3 but we've already done number 5, so, you know. That's one more checked off the box here, so.

She's like having you take the bullet for this one, is that what this is?

MS. MOORE: She is. Good afternoon. My name is Kate Moore, I'm a policy advisor in the Housing Resource Center. I'm pleased to be here to tell you about TDHCA's recent award of \$12 million from HUD for a new federal initiative called the Section 811 Project Rental Assistance Demonstration Program.

On February 12, 2013, the U.S. Department of Housing and Urban Development announced that TDHCA was one of 13 states selected to participate in the first ever Section 811 Housing for Persons with Disabilities Project Rental Assistance Demonstration. This new Section 811 PRA Demonstration is designed to assist state housing agencies through the provisions of project-based vouchers, to expand integrated supportive housing opportunities for people with the most significant and long-term disabilities, and was the centerpiece of the Frank Melville Supportive Housing Investment Act of 2010.

The award of \$12 million is anticipated to provide approximately 385 Section 811 PRA project-based

vouchers for extremely low income persons with disabilities. The governing board approved authorization to apply for the funds on June 14, 2012, and we submitted an application based on significant public input in August 2012 in response to a competitive notice of funding availability.

As required by the federal NOFA, we are partnering with the state's Medicaid agency, the Health and Human Services Commission or HHSC in administration of the program, including four of the other agencies that HHSC oversees. One of those, the Department of Aging and Disability Services or DADS, is taking the lead for all of the health and human service agencies for this program.

Through many of the interagency counsels and work groups that we participate in we have very strong relationships with these agencies already in place. In this partnership TDHCA contributes the housing voucher administration and expertise while the health and human service agencies contribute the provision and coordination of services.

I will take a few minutes to describe in greater detail for you particularly as it relates to the intersection of this activity with our existing multifamily portfolio.

The program serves extremely low income persons with disabilities. This means people at or below 30 percent of median family income. TDHCA designated three target populations in our application. The first is people with disabilities living in institutions. These are people that wish to transition out of nursing facilities and intermediate care facilities or people with intellectual disabilities.

Our second target population is people with serious mental illness. These individuals are engaged in services with local mental health authorities but face challenges due to housing instability. Our third target population is youth with disabilities exiting foster care.

Youth exiting foster care often become homeless, particularly without the stability of long-term housing and comprehensive support services.

Due to the large size of the state of Texas and the primary locations of concentrations of these populations, we tailored our program to be located in seven distinct areas, all of which are metropolitan statistical areas or MSAs, and our geographically dispersed statewide. They are Austin/Round Rock/San Marcos MSA, Brownsville/Harlingen MSA, Dallas/Fort Worth/Arlington MSA, El Paso MSA, Houston/

Sugar Land/Baytown MSA, McAllen/Edinburgh/Mission MSA, and finally San Antonio/New Braunfels MSA.

The premise of the design is to identify existing multifamily properties funded with TDHCA programs through a competitive NOFA in the seven geographic areas specified on TDHCA's application. Properties awarded from the NOFA will enter into a rental assistance contract with TDHCA committing to, among other things, a set number of units that they will be setting aside for use by one of the target populations. Those units will receive project-based rental assistance.

The health and human service agencies I mentioned earlier have local providers who will identify and refer income-eligible clients from the target population. Those referrals will be channeled through TDHCA and the client given a choice of which participating properties they would like to reside in. Once in a unit, the health and human service agencies will continue to provide ongoing services to the tenant, including being a resource for property managers.

TDHCA will maintain a waiting list for each participating property, process the voucher payments, manage the administrative and fiscal responsibilities with HUD, oversee the contractual relationship with the

developments, and monitor the properties for compliance on these units.

So what happens next? First, TDHCA will proceed with a negotiation with HUD on a cooperative agreement that will govern our contractual obligations to HUD. The agreements will vary for each of the 13 selected states. HUD estimates that they will have a draft cooperative agreement to begin the negotiation process later this month, and it will be signed by the end of May 2013.

While we are beginning the contract negotiation process with HUD, staff is moving forward with other aspects of grant management, including participating in available technical assistance from HUD, outreach and communication with the HHSC agencies, initial drafting stages of the NOFA and applications, assessing training needs, and identifying other correlated activities including one item which you will hear from later on in the agenda.

Organizationally, this program will be administered as a discrete section under Brooke Boston. I am pleased to have been designated as a manager for this program. I will continue to provide the Board with periodic updates on TDHCA's progress on implementing this grant award.

MR. OXER: Good. Thanks, Kate.

Okay. Are there any questions of the Board?

MS. BINGHAM ESCAREÑO: Did you mention what's the period for the spend-down? When do we have to spend it?

MS. MOORE: Sure. So it's anticipated that it's a five year grant, but that's from when the properties would sign a contract with us. So in our application we estimated it will take us approximately seven years.

MR. OXER: What's the maximum grant for any property?

MS. MOORE: We don't have a maximum. It would really be, a cap would be complying with our integrated housing rule. Since this is requiring to serve people with disabilities, we do have a cap based on that. So our integrated housing --

MR. OXER: What's that cap?

MS. MOORE: So our integrated housing rule does not allow properties if they have 50 or more units to have more than 18 percent of the units set aside specifically for persons with disabilities. And so it would have to follow the integrated housing rule.

MR. OXER: Okay. Any questions? Is this a

report item? It's a report item only, I take it.

MS. MOORE: Yes.

MR. OXER: Good. Thanks so much, Kate.

Good job, Brooke. You've got some good crew there.

All right. We're going to have to get whistling on this, so we're going to work pretty quick.

Elizabeth?

Ms. YEVICH: Good afternoon, Chairman Oxer, and Board. Elizabeth Yevich, Housing Resource Center. This is regarding item number 4, and it is requesting the authorization to release a request for proposals, an RFP for funds, specifically under the Section 811 Housing Program through our Affordable Housing Research and Information Program.

As you just heard from Kate Moore, Texas was recently awarded this 12 million from HUD to undertake this brand new Section 811 Project Rental Assistance Demonstration Program. As explained, the department recognizes the unique challenges of affordable housing activities related to this first-ever program. So the program is going to require extensive partnerships with multiple entities.

Now, in order to ensure a successful grant



implementation, the department plans to undertake education, training, technical assistance, and information dissemination to the department, state, and local partners as well as its multifamily development partners. And, in other words, lay a good foundation for this program from the beginning.

So in order to proceed with this plan the department is requesting today the authority to release an RFP to secure a vendor to provide one or more research activities related to Section 811, and the document plans to use the findings reported to assist with program planning,

Several ideas are currently contemplated and they're laid out in your Board book write-up. These includes training manuals, webinar, peripheral agents, policies and procedures development support, et cetera. Unfortunately, the HUD funding award provides not enough administrative funding. It's equivalent to only 5 percent of the grant award, which is actually insufficient to cover these admin costs over the seven-year implementation period, let alone this training and technical assistance that we have plans for.

However, the Affordable Housing Research and Information Program, which is part of Chapter 2306 of our

government code, and it's overseen by the Housing Resource Center, this Section of 2306 requires the department to establish a research and information program.

And the research ideas I just read off all contain elements that fit well under the following types of activities already specified in this code, specifically market studies, research from qualified professionals to determine the effect of affordable housing developments, independent research in affordable housing design, and public education in outreach efforts.

So as for the current funding levels in this Research and Information Program for the 2013 fiscal year, there is 120,000, and that has not yet been committed. And that source plus any other eligible general revenue funds would then be used as a funding source for research activities for this new Section 811 Demonstration Program.

Therefore, staff recommends approval for the release for one or more RFPs for research activities as proposed utilizing the funds under the Affordable Housing Research Program. Are there any questions?

MR. OXER: Thanks, Elizabeth.

Any questions from the Board?

(No response.)

MR. OXER: Okay. Motion to consider?

MS. BINGHAM ESCAREÑO: So moved.

MR. OXER: Okay. Motion by Ms. Bingham.

Second by?

MR. GANN: Second.

MR. OXER: Mr. Gann, okay. There appears to be no public comment. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none. Thanks.

MS. YEVICH: Thank you.

MR. OXER: Go get them. Yeah, we did miss 3B.

Kate, you want to come back up? Oh, Brooke's going to do it. Okay.

MS. BOSTON: Brooke Boston. This is an item that ties in with actually some of our legislative action.

When we submitted our legislative appropriation request, which had been before you as a Board for approval as well as before the Strategic Planning and Budget Committee, we had included a capital budget item that would have used some of our discretionary funds of community services block grant to cover the expenses associated with the homeless information exchange.

We talked about that with you quite a bit. It

was meant to be a statewide compilation of information that would capture all of the homeless management information data that's captured in the local community. Because right now there's no one place where that's captured. And I think we continue to think that it's a good idea. But based on the external partners that we would have to be coordinating with, we determined, we and they jointly determined that we do not think we could successfully implement the capital budget item during this biennium coming up.

So we have agreed with that group that we are not necessarily going to proceed at this time, and because of that we wanted to make sure that the Board was aware that something that had been in our legislative appropriation request was not something we were intending to proceed with.

Instead with those funds we would like to get Board approval for two different activities that are eligible with CSBG discretionary. One of those, as we've been dealing with sequestration, our Section 8 Housing Choice Voucher Program has had a pretty big impact on its administrative funds. In the long term I think we can accommodate that. In the short term we currently have administrators who are operating those vouchers for us.

And so for just this year's CSBG discretionary, we would like to use some of the funds to cover the administrative costs that we would be paying out to these administrators.

MR. OXER: I assume that's an allowable cost under the HUD structure?

MS. BOSTON: It is. It is.

MR. OXER: Okay.

MS. BOSTON: And then additionally, as you guys know, we talk a lot about our community action agency network. And I think we've come before you several times and talked about an organization called Meliora, who is an outside third party, who has been very helpful in going in and helping us assess community action agencies when we think there may be area for improvement. And they help us identify what those could be and issue a report, which we usually then rely on in asking the community action agency to do an improvement plan.

Meliora is just one example of an organization who can do that. What we would like to do is use some of these funds to be in a position to procure some outside parties like Meliora who could go in and help us with some management assessments, developing plans for improvement if we need them to look into specific fiscal accounting

issues. Because I think that would be a real proactive step this year with these funds to try and kind of get ahead of the game.

MR. OXER: Good. Any questions from the Board?

(No response.)

MR. OXER: No? Okay. There appears to be no -- I'll need a motion to consider.

MR. GANN: So move the staff recommendation.

MR. OXER: Okay. Motion by Mr. Gann to approve staff recommendation.

MR. MUÑOZ: Second.

MR. OXER: Second by Dr. Muñoz. And there appears to be no public comment. And I'm sure these will be answered but those allocable funds go to approved places. Okay. All right. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none. Good.

Okay. Patricia?

MS. MURPHY: Good afternoon. Patricia Murphy, Chief of Compliance. Item 6 is proposed amendments to the compliance monitoring rules. These rules were adopted in December of 2012 with very little public comment. But as

staff began monitoring pursuant to the new rules issues surrounding the Fair housing disclosure notice became evident.

So we initiated an online discussion forum about the rules, and we've received some pretty significant feedback. So we are bringing proposed amendments to the Board to make sure that these rules identify significant issues of noncompliance but avoid inappropriate outcomes.

One of the significant revisions to the rule is regarding the annual eligibility certification. A new section titled Tenant File Requirements is proposed. This section replaces a section of the rule which explained which properties were required to do full annual income recertifications and which needed to just collect demographic data.

Although staff feels very strongly that owners and managers should not be recertifying households unnecessarily, owners and managers continue to do so and in doing that collect the data that we need to report to HUD. So the proposed amendments provide that as long as all the required elements are satisfied the department will accept the data on whatever form the owner chooses to use, the annual eligibility cert, the income cert, or the

income cert for other programs.

Note that in the proposal staff is requesting that currently pending matters related to the Fair housing disclosure notice and past findings related to the annual eligibility certification be held in abeyance until final adoption of these rules. At that time those events of noncompliance will be treated in a manner consistent with the final outcome of this rule making.

So if the Board agrees, during a previous participation review we would disregard the finding failure to provide annual income certification, and until final adoption of the rules we would not score the finding related to the Fair housing disclosure notice.

Another significant amendment is in Section 616 in response to a lively online discussion regarding tenant treatment of property. Staff understands that certain identified deficiencies are tenant caused. In response we reviewed each inspectible item for the interior of units and the reason that something could be cited for a finding.

We've come up with a proposed list of items that an owner could use to request an adjustment to their UPCS score, and those items are now listed in Figure 616. For example, when a unit is inspected the walls are



examined, and a wall can be found deficient because there are holes, cracks, missing tile or panel, or other damage.

So Figure 616 includes damaged walls as an item that an owner could request an adjustment for. But if the wall is found deficient because of cracks, we will not consider an owner's request to adjust the score because we feel that's more likely caused by structural or foundation problems, something outside the tenant's control. So it goes through what an owner could request and why.

The new concept provides some relief for owners but only to five points. Staff acknowledges that residents can damage the unit the day before we come to inspect. But we believe the majority of these issues should be addressed through communication with the residents, regular inspection and maintenance, and not in response to our monitoring.

Another significant proposed amendment can be found in Section 621 regarding material noncompliance. The proposed amendments provide an owner of a development in material noncompliance the opportunity to request an informal conference with a compliance review committee to have their score adjusted.

If the staff committee agrees that the circumstances do not constitute material noncompliance,

then the score could be adjusted. If the committee does not agree and declines the owner's request, then they could go through the staff appeals and Board appeals process in Rule 1.7 and 1.8 of the General Rule section.

In addition, Section 621 pulls in the department's provisions of our enabling legislation regarding debarment. And it outlines the criteria under which a person could be found in material noncompliance with a LURA or have repeatedly violated the terms of their LURA.

Before the Board approves this item, staff would like to request an edit prior to publication in the Texas Register. On page 36 of 43 in your handout a new event of noncompliance has been added. The new event is gross rent exceeds the highest rent allowed under the LURA or other deed restriction, and was refunded. Staff meant for the uncorrect and corrected points to be zero, but it was just we transposed the other event and it shows five uncorrected and one correct, and we meant for that to be zero. So staff is requesting permission to make this change before sending the proposed amendment to the Register.

MR. OXER: So it constitutes an incidental administrative change edit.

MS. MURPHY: Yes.

MR. OXER: Okay.

MS. MURPHY: And looks like we have some comment on the item. But before we hear from them do you have any questions for me?

MR. OXER: Why just the five point adjustment?

MS. MURPHY: I went through -- I didn't bring it with me. I went, yes, I went through the list and I looked at some reports and there was this report that had like pages of deficiencies. And I looked everything over and it came to like 2.7 points.

So the tenant-caused items are really not the high scoring things. And I think that if owners and managers are doing due diligence and getting in those units and inspecting them on a quarterly basis, a lot of these things could be avoided.

So I'm recommending that we look at just adjusting by five points. People might have some other ideas about that, and I'm willing to consider other things. But I'm recommending five.

MR. OXER: Okay. Are there any questions from the Board?

(No response.)

MR. OXER: Motion to consider.

MR. MUÑOZ: So move.

MR. OXER: Okay. Motion by Dr. Muñoz to accept staff recommendation.

MS. BINGHAM ESCAREÑO: I'll second.

MR. OXER: And second by Ms. Bingham. We apparently have some public comment here.

So he's got a flight, we'll let him go first. Does that work?

MR. KAHN: Good afternoon, everyone. My name is Barry Kahn, I'm with Hettig Kahn Development. I've probably been in this program --

MR. OXER: Let me interrupt --

MR. KAHN: -- too long.

MR. OXER: -- just for a second, Barry. Owing to the fact that we have some time constraints too that we're trying to fight with, I've got to put everybody on the clock on every one of these so I -- three minutes, please.

MR. KAHN: Okay. Well.

MR. OXER: Be tight and fast.

MR. KAHN: The compliance rules involving HTC properties have been becoming increasingly complex, not only for the development communities and their management teams but for the inspectors who perform periodic

inspections. Notwithstanding any training given to these inspectors, the rules are widely interpreted from property to property.

Additionally, not all rules are clear to inspectors, much less to property management personnel who work very hard to comply with these rules. Some rules can adversely impact even the best of developers who have a long history of compliance, and they should not be subjected to debarment due to inadvertent mistakes.

And there's no way to control resident behavior, particularly when it deals with housekeeping. Further, rules change from one year to the next. And even for an experienced developer and management group, keeping up with the compliance rules and all the changes becomes more and more challenging.

Now there's legislation proposing removal from program for repeated violators. What does this mean? Does this put an experienced developer at a disadvantage since they have more properties that could be subject to repeated violations. The compliance rules previously included a provision that if an owner cured the inspection issues they would not be deemed in material noncompliance.

Even though policy is to inspect only once every three years, the rules should be made clear that one

wouldn't be inspected more than once every three years barring extenuating circumstances. Thus, if one uses commercially reasonable efforts to comply, one is not subject to debarment.

An inequitable rule now exists where penalties are applied on a per building basis. If an issue exists across a development in all units, points are applied on a per building basis. Thus if a development consists of three buildings, three points are allocated. Whereas if there's 40 buildings that exist, then 40 points would be allocated. And the developer would be deemed in material noncompliance. The issue arises with fourplexes which were required in the past and single-family homes.

The rules are also not always followed by the inspectors. Some inspectors do not allow one to make on-the-spot repairs during an inspection, as the rules have permitted. And when they arrive on a Monday morning early and it is raining outside, there will naturally be issues that might not otherwise exist that cause quite a few deficiency points and which cloud an otherwise good condition of a property, like trash on the ground where the maintenance guy hasn't had a chance to pick it up, a resident putting a bag of trash on their porch waiting for the rain to stop, and a tree weighed down with the heavy

weight of the rains and touching a roof, all higher negative REAC points.

REAC scoring needs to be modified to eliminate any points for tenant housekeeping issues and at a minimum at least all L1 issues. To give negative points for furniture in front of a window is not constructive since residents will move the furniture back after the issue is corrected.

The suggested rule and appeal of REAC points is a positive step, but more than five points may be appropriate, particularly for items beyond the developer's control, housekeeping, and L1 items. And an overly picky inspector may give a development a low score, creating a material property condition where a significant part of the score results from these issues or even weather.

And why should on-site staff who are already stressed with regular management duties and compliance have to prove up the issues to be appealed? Does one have to have a professional photographer videotape a unit to show what existed before and after move-ins? And this may not be practical at times, particularly when there is a quick turnaround.

And just doing the housekeeping, which is the point of this, may be easier than proving up issues to the

Compliance Department. To comply with any IRS requirements the department should disclose their interpretation of the rules as part of their certifications as compared to overly strict compliance.

The 8823 guide, as its name suggests, is a guide, not a law, and with all legal firepower at the department, this should be able to be solved. We are fortunate to have a member on the Board with tax expertise. All should be able to develop less stringent impositions to reduce these burdens, yet otherwise comply with the intent of the federal requirements. If fewer issues were subject to deficiencies, staff's burden of issuing as many 8823s and corrected 8823s would be substantially reduced, allowing them more time to address more significant issues.

Query: Why is Texas so stringent on these issues when other states show more flexibility? Most owners have very dedicated staffs working at the properties who are committed to doing a good job. They stay very busy independent of the inspection process. The process demoralizes them, particularly when they receive a low REAC score due to matters beyond their control rather than it being an aid to help improve properties.

We suggest that all Board members spend a day



or two at a property to see first-hand the challenges of on-site personnel which will help them better understand changes are needed to the proposed rules. All this is becoming more and more of an issue as the department ties the REAC rules and the noncompliance or points in the QAP and as an owner with multiple properties, a repeated violator, under the proposed new legislation

With timely correcting compliance issues, low REAC scores should not impact anyone. In fact, the contrary should apply where one receives bonus points for correcting deficiencies on a timely basis. And if one cures issues and otherwise complies with the program, why do we have negative points, period? Let's do something to inspire the property personnel whose job it is to keep those Texans of lesser means in housing rather than discourage them.

Further, the rules need to be written in a manner that is more easily understood by property personnel. Many if not most of the on-site employees do not have more than a high school education. With issues as important as certifying annual incomes, using a description that is difficult to understand, and which I trust is also confusing to the Board.

Such as using the definitions of annual income

described at 24 CFR 5.609, as further described in the HUD handbook 4530.3, as amended from time to time. For the Housing Tax Credit Program where there's a conflict between the HUD handbook and the IRS guide, the department will evaluate annual income consistent with the IRS guide.

I mean that makes it real easy for personnel and property to understand. This causes confusion and mistakes.

There is also a variety of changes that need further clarification. The rules need to be easy to follow, and there needs to be more partnership with the department rather than adversity. The intermediate appeal is a positive addition. Nevertheless, more work is needed on the rules so corrective work doesn't result with the need of this process. A few bad apples in the industry should not burden the hard working on-site personnel who work hard to comply with the rules.

I've got some suggested changes which I've made, but just in closing a new proposal is very troubling. Over the years staff has encouraged owners to use consumption models. These models are sometimes used with applications and have been accepted by staff for underwriting, then continued operations. Investors have relied on the department's acceptance of these models and used for their own underwriting.

For the compliance staff to now say they have a right to second guess the models the owners, investors and lenders have relied on is unacceptable. This will have a chilling effect on investment in Texas credits if the investment and lending community cannot rely on staff's prior approvals. Staff needs to live with their prior decisions to have consistency with the rules.

We thank all for their work on the rules, yet wish to make this maze of rules more workable, understandable, and less stressful for the hardworking employees dealing with the day-to-day management in trying to provide affordable housing for Texans. We suggest setting up a roundtable with staff and a Board member or two to discuss the proposals in more detail.

Happy to answer any questions.

MR. OXER: Good. Thanks, Barry.

Any questions of the Board?

(No response.)

MR. OXER: Okay, Trisha, I got a question.

Okay, Barry. The training for your staff?

MS. MURPHY: My staff is all required to get their certified occupancy specialist. It's a designation through the National Center for Housing Management. It's on that 4350.3 handbook. In addition, our staff has to

have their housing credit certified professional so they take a course and pass a test.

MR. OXER: And one of your overarching administrative requirements, see to it that these rules are applied consistently, I take it.

MS. MURPHY: Yes. I acknowledge with any monitoring staff consistency is very difficult, and we have regular staff meetings and communication and bat things around to ensure consistency. We have consistency with the state requirements, I think we have consistency issues, particularly if social services is.

It's very difficult to say does this -- this LURA is very unclear, what are they supposed to be doing, do you think it meets it or not. I acknowledge we struggle with that.

MR. OXER: Okay. Barry, you can just hold up a number here. You said you would consider something more than a five point variation?

MR. KAHN: I think if somebody fixed -- well.

MR. OXER: Hold a number up. Okay? Do seven, do nine. Okay.

MR. KAHN: I don't think it's a specific point issue. I think if somebody cures the problem and fixes it, the points should just go away. I mean if really

there's only one inspection every three years, what's the point of having those points hanging out there, what's the point of having staff worried about what's going to happen? And we need some clarity that it's really only once every three years.

MR. OXER: Good.

Patricia?

MS. MURPHY: If the points go away when it's corrected, then every property scores 100. Because I require every property to fix every deficiency. So there's no way to distinguish between the property that scored a 58 and the one that scored a 98 if you say there are no points if you correct it.

MR. KAHN: And I will say that may be valid to a certain degree. But we have all types of properties in the state, an older property isn't going to compare with a newer property on score. And again the issue is what are we trying to do. We're trying to have safe, clean, and affordable housing.

This is not a program that, you know, with compliance who scores the highest REAC score. I mean that's irrelevant. What's relevant is that the properties are well-maintained and well-taken care of. And if people cure whatever problems TDHCA comes in and sees, that

should be it.

MR. OXER: Okay.

MR. KAHN: I mean that's the whole point of inspections and compliance. I mean what difference does it make if there's a overriding 72 point REAC score versus a 98 point REAC score if the inspection's once every three years?

MR. OXER: Patricia?

MS. MURPHY: I've done a pretty detailed analysis of how do properties score. And our older properties, some of the rehabs are still scoring fine whereas some of our new construction deals that maybe there wasn't the quality of construction we needed are not doing well.

And I think that this morning is a great example of, you know, why we're doing these maintenance inspections, to ensure that these properties are maintained and that we have a commitment to the communities where we're placing these properties that we're going to make sure that they are maintained.

And I agree REAC is not perfect. I don't control that. It's a difference -- you know, it's a HUD thing and it was out for public comment. Maybe we can get them to take it out for public comment again. And some of

the things, the block egress or whatever, how those things are scored. But I don't control that piece of law.

MR. OXER: That's -- I understand that. Okay.

Barry, will you let somebody else speak?

Because we're going to run out of time.

MR. KAHN: Well, I was just going to say we aren't disputing the department coming in and inspecting.

We're for that. Because there are some bad apples in the industry and they need to be caught. But everybody else should not be penalized for the bad apple.

And that's why I come back. If we come back and fix it, that's fine. If some other choose not to comply after getting the notices, which I've heard in the past -- you know, part of this is all about, you know, making sure people comply, and that's why we led into the financial penalties and other things. You know, if they don't want to comply, that's their choice but --

MR. OXER: Okay. All right. Your point is noted. Okay.

Cynthia?

MS. BAST: Good afternoon. Cynthia Bast from Locke Lord. And thank you for your time this afternoon. Over the past few years helping clients with compliance issues has become an increasing part of my practice. And

that tells me that there is more confusion, there is more need help in understanding and clarification with regard to compliance rules.

And as you heard from Mr. Kahn, this is something about which these owners are extremely passionate. Because, one, they take great pride in their work and, two, very honestly, their business is on the line when you're talking about issues like ineligibility to apply or debarment.

So this body of rules is perhaps one of the most -- is probably the most important body of rules that we have for everyone. So I just wanted to say that I do appreciate the staff effort to hear about some of these concerns, hear about some of these inequities that appear to be happening out there, and to try to address them.

I appreciate their recommendation that certain of these owners that have some of these issues will be held in abeyance and any points won't be counted against them in previous participation reviews until we work through these things. Very honestly, at this point I have a lot of questions, and honestly more questions than comments. And what I think would be great and suggested by Mr. Kahn and I've talked to several other clients about this, is to have some sort of implementation workshop



where we could sit down with staff.

And I'd really like to go through these rules on a section-by-section basis and say, okay, what did you mean by this, why did you make this change, what are you looking for, so we understand how it is intended to be implemented and can make sure that it cuts across all of the other body of rules appropriately with regard to ineligibility, debarment, appeals, all of those kinds of things. And that all of the technical aspects are in there as well.

So I think that a public comment period would be great but I think this could lend itself to that kind of discussion opportunity so that we can all really understand what each other is saying.

MR. OXER: Good. Thanks.

MS. BAST: Thank you.

MR. OXER: Patricia. Okay. The request, your request, staff request for Board action is to issue this public notice to solicit public input. Correct?

MS. MURPHY: Correct.

MR. OXER: Okay. So is there a standard time for doing that, a typical time? We haven't --

MS. MURPHY: In the preambles it says it's going to the April 26th Texas Register, and that I think

it's going to be out for public comment for 30 days but I think it's easy enough for us to extend that. And, you know, for a long time the compliance rules have kind of flown beneath the radar, which has sort of been great and sort of been not so great. Because maybe there are things that, you know, would have been helpful for me if someone had commented on them.

MR. OXER: Eventually we will dig up all the floorboards in this place. You know that, don't you.

MS. MURPHY: So I'm delighted to host a roundtable or have an implementation workshop. We have a training the first Thursday of every month about how to determine annual income that, you know, apartment managers go to. We also have, you know, workshops probably once a month throughout the state. We were in Amarillo yesterday, we're going to be in Austin next month. We're all over the place.

And typically Cynthia types and owner types don't go. We have UPCS stuff. But I would be delighted to sit down and, you know, like the comment about typically it's someone with a high school diploma who's running the property. Maybe if they came to one of our workshops they'd be like, wait a minute, maybe I should be requiring a CPA to run my property so if they think, you

know, it's so complicated. So I would be happy to host some kind of a roundtable.

MR. OXER: Okay. Just I'm taking a moment with the discretion of the Chair here. I think you ought to extend that an extra 30 days, make sure we have plenty of time for comment, plenty of time for questions, plenty of time for anybody who wants to say anything they want to. And then to the extent possible engage a roundtable in there somewhere soon --

MS. MURPHY: Sure.

MR. OXER: -- to have Barry and Cynthia come in and, you know, let's do that.

MS. MURPHY: Okay.

MR. OXER: Okay. So you need a resolution or a motion by us to issue the -- or to send it to the Register. Is that correct?

MS. MURPHY: Uh-huh.

MR. OXER: Okay. It's been -- I know, I'm just clarifying where we're at.

So it's been moved by Mr. Gann, seconded by Dr. Muñoz. I know we have other public comment but I'm just trying to make sure.

MS. DEANE: No, Dr. Muñoz made the motion and Leslie seconded it.

MR. OXER: Okay. All right. We have other comments here, I take it.

MR. IRVINE: I would actually offer a slightly different approach. I believe that the publication of a rule for initial consideration is not necessarily a matter that the Board must approve. And I think it would be neater and cleaner for the Board to approve holding in abeyance these difficult compliance --

MR. OXER: Statements.

MR. IRVINE: -- items, and direct staff to publish this rule with incorporated modifications based on those workshops.

MR. OXER: And based on the fact that we're -- you're going to have those workshops and they're going to be another -- there'll be at least one more meeting in there. Because you got to put this out for -- if we're going to put it out for 60 days, there'll be at least one more meeting in there somewhere.

MR. IRVINE: Well, that would shorten up the necessary time frame. Because you would have frankly worked through all of these issues before you actually published.

MR. OXER: But you're saying have the workshop before you publish.

MR. IRVINE: I mean, I'm kind of bothered by the idea of putting out a rule with an adoption time frame and everything that gets completely upended because of the materiality of changes.

MR. OXER: Okay, I see where you're at on this.

MS. DEANE: I would suggest though that it comes back to the Board. I mean because the Board's not going to know the changes that are incorporated.

MR. OXER: Right.

MR. IRVINE: We'd report the changes back.

MS. DEANE: Come back to the Board before it goes to the Register.

MR. OXER: Okay. All right. I know you're going to have some comments on this, but I'm going to help you out. Okay? What I'm --

MR. IRVINE: We've lost our quorum.

MR. OXER: Yeah, we can't do anything right now till --

MR. IRVINE: We're in recess.

MR. OXER: -- Dr. Muñoz returns from the lavatory.

FEMALE VOICE: That's okay. I have a question which may mean that I don't have any comment.

MR. OXER: Well, and unfortunately we're going

to have to sit here till he comes back --

FEMALE VOICE: I think you're about to answer it, so that's okay.

MR. OXER: All right.

MR. IRVINE: It's four, the answer's four.

MR. OXER: Yeah. So. Well, we stand in recess until Dr. Muñoz returns.

(Recess taken,)

MR. OXER: We were about to send out a search party for you.

All right. And it sounds to me like if we send this out for 60 days, we have you have a hearing on this, a seminar or workshop, some engagement of all this, that means whatever comes from that could be stirred into the recommendation that we're looking to post. Is that correct?

MS. MURPHY: It sounds to me like I'm supposed to have a workshop.

MR. OXER: I got that part so far.

MS. MURPHY: Incorporate comments from the workshop into the rule.

MR. OXER: Right.

MS. MURPHY: Send the rule to the Register, and report to the Board the changes based on the workshop?

MR. OXER: No. What we want to do is have the workshop, incorporate -- you know, find out what changes make sense, okay, and next meeting, 30 days, come back and tell us what that says, have those in ours, and then we'll post that to the Register.

MS. MURPHY: And then it will go to the Register. Okay.

MR. OXER: Okay. So essentially what we're saying is we're going to table this one until the next meeting. Is that correct?

MS. BINGHAM ESCAREÑO: With instructions to have the roundtable or no?

MR. OXER: Correct.

MS. MURPHY: With the recital part, the whereases.

MR. IRVINE: I think there may be some urgency though to address the abeyance issue because of people who are currently impacted --

MR. OXER: I got it.

MR. IRVINE: -- by some of these issues.

MR. OXER: So what we're -- we would also be instructing you to hold in abeyance the implementation of the rule set until we got these comments and posted.

MS. MURPHY: So we would not score any finding

related to the fair housing disclosure notice. And during a previous participation review we would disregard the finding failure to maintain or provide annual eligibility certification until this is in a --

MR. OXER: Out.

MS. MURPHY: -- final form. Yeah.

MR. OXER: Resolved in a final form.

MS. MURPHY: Yes.

MR. OXER: Okay. There needs to be a Board motion to that effect. Is that correct?

MR. MUÑOZ: Correct.

MR. OXER: Okay. Can you state that? Or should we have one of us state it?

MS. MURPHY: Whatever you want.

MR. OXER: I just want to make sure we've got all the parts in this so that --

MR. MUÑOZ: She should state it and then we'll approve it.

MR. OXER: Her recommendation.

MS. MURPHY: Staff's recommendation is to -- oh, sorry.

MR. OXER: Okay. Owing to the fact that we're modifying the approach to this, we're going to request a withdrawal of the second and the original motion. The



Chair requests it.

MR. GANN: I so move.

MR. OXER: Okay.

MS. BINGHAM ESCAREÑO: I'll withdraw my second.

MR. OXER: Okay. Ms. Bingham withdraws her second, Mr. Gann withdraws his motion. So now we can start over clean on this. So.

MS. MURPHY: Staff recommends that the Board direct the staff to hold in abeyance any findings related to the fair housing disclosure notice form, and in conducting previous participation reviews disregard the finding failure to maintain or provide annual eligibility certification until these rules are adopted in final form, and to table the rest of the recommendation related to approving the proposed amendments to the rule in the Texas Register.

MR. OXER: Good. Is that --

MS. DEANE: And have a roundtable.

MR. IRVINE: Hold a workshop --

MS. MURPHY: Oh, yeah, and have a roundtable.

MR. IRVINE: -- and bring back comprehensive work-through rule for the next meeting.

MR. OXER: Okay. Is that clear to the Board?  
Okay.

MS. BINGHAM ESCAREÑO: Move that staff recommendation.

MR. OXER: Okay. Motion from Ms. Bingham to do what she just said, you know.

MR. GANN: Second.

MR. OXER: And second by Mr. Gann. You know, we'll assume that the public opinion on this will be satisfactory. Okay. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none. So see you in a month.

Okay. Have at it, Michael.

MR. DEYOUNG: All right. Item 7, which is a request from staff to release and subsequently award an RFA to administer the CEAP Program in three counties and the Weatherization Assistance Program in a nine-county area in south Texas just south of San Antonio. Staff is concerned that we haven't provided services in the area for either of these programs since early 2011, and it is our desire to release for a one-year period an RFA, identify a provider, and provide services to those residents who need these services.

The RFA would have the ability for one provider to say we'll do the CEAP portion and another provider to do the WAP portion of this or someone could say we want to do both portions. So we would have a fairly flexible RFA.

MR. OXER: So -- but that doesn't require somebody with expertise in both programs to be able to apply.

MR. DEYOUNG: Correct. If there was some solution to this that one agency says we can do the WAP. It is a much larger -- WAP is a much larger area, including some larger cities. The CEAP tends to be just Maverick County and two other, Dimmit and LaSalle Counties. The big population center there is Eagle Pass, which is a very significant low income population.

MR. OXER: Okay.

MR. DEYOUNG: So staff is recommending to go out with this RFA as soon as we are authorized so that we can provide services. Our concern with CEAP is that we provide services very quickly so that the summer months we are already have an identified service provider and can move to provide payments for those clients.

MR. OXER: Okay. Good. All right. I got it.  
Motion to consider.

MR. MUÑOZ: So move.

MR. OXER: Okay. Motion by Dr. Muñoz to approve staff recommendation.

MS. BINGHAM ESCAREÑO: Second.

MR. OXER: And second by Ms. Bingham.

Is there a public comment on this item? Would you care to speak on this item? Okay.

MR. OJEDA: Mr. Chairman, my name is David Ojeda Jr. I am the executive director of the Community Services Agency of South Texas, the agency that we're talking about here. I'd like to inform you that on behalf of our board of directors they have instructed me to let you all know that we support the RFP that's going to go out for this.

The services are desperately needed in our area. They do serve a significant population of low income families in our area. So I've been instructed by the board that we should do this as soon as possible so that the services continue in our community. That's one thing. The second thing is that for the --

MR. OXER: For the record, we're looking to do it as soon as you get finished here. Okay?

MR. OJEDA: The second thing is that I am requesting that we be placed on the agenda of your next Board meeting because we would like to present some issues

to the Board regarding the events which led up to this situation. And we are requesting that we be placed on the agenda to present those issues.

MR. OXER: I think there's a formal period we'll do that, but we'll take that as an early entrance in that, but we'll see to it. I think we can say we can see to it to have -- do you have some time on the agenda next meeting?

MR. MUÑOZ: If you direct it.

MR. OXER: So directed. Okay.

MR. JUNELL: Thank you, sir.

MR. OXER: Thank you, Mr. Ojeda.

Okay. So we had a motion by Dr. Muñoz, second by Ms. Bingham to approve staff recommendation for item 7. All in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No audible response.)

MR. OXER: There are none. Thank you.

All right. Well, let's see, Cari, come on.

MS. GARCIA: Cari Garcia, Director of Asset Management. Oh, let me put my eyes on. Agenda item 8 is the request for approval to repay HOME funds in the amount of approximately \$933,000 for three failed HOME

transactions with a source of nonfederal funds, which is further described in the background section of your Board write-up.

You may recall that this item was brought to the Board in February. However, at that time you decided to table the item since just before that meeting we received a letter from HUD indicating that all outstanding transactions from the 2009 HUD monitoring review had to be closed by April 30th. Since the February agenda item only addressed three of those eight outstanding items, the Board requested that this item be presented at this meeting and with a more comprehensive plan of action for all of those outstanding issues.

For a brief recap, in March 2009 HUD conducted a monitoring review of the agency's HOME program, and identified 26 HOME multifamily developments with noncompliance issues that could result in a loss of affordability and risk of repayment in the HOME funds by the department. Staff worked diligently with the owners of these developments to correct the identified issues and provided quarterly updates to HUD.

In June 2012 HUD monitored the agency again and found no new issues of noncompliance in the multifamily HOME program but did recognize that there were still eight

development activities that had not been resolved from the 2009 audit, and so that finding was carried forward.

At the time these activities were already in our workout portfolio and continued to be worked on toward a satisfactory resolution. And although our attention in Asset Management has been to work on these identified transactions, we've also worked on other HOME transactions to resolve noncompliance issues before they become a HUD audit finding. For example, we've successfully resolved three transactions that were at one time considered lost causes and prevented the department from having to repay approximately 1.5 million back to HUD.

So since the last Board meeting we were able to confirm with HUD that the deadline of April 30th in their previous letter was actually a request to voluntarily reduce our annual HOME allocation to close out that finding. It was not a final demand for payment, which according to our Legal staff and also confirmed by HUD, would have provided us with the option of requesting a hearing with the national office of HUD to discuss our case.

So in coordination with the HOME director, Jennifer Molinari, we responded to HUD's February letter with a proposed plan of action for each of the eight

development activities. Our plan included repayment of these three transactions under this agenda item, which are Mexia Homes, Duncan Place, and Flamingo Bay Apartments.

In these three instances all department liens have been extinguished, the debt was nonrecourse, or the borrowers are no longer active entities. And the properties are no longer suitable due to changes in permitted use or the condition of the property is very poor.

Second, we propose that two of the development activities totaling approximately 468,000 in HOME funds be deleted from the list since the original findings identified in the 2009 audit had been corrected. In both cases the current owner continues to work with the asset manager to reinstate ongoing compliance at the developments.

And, third, we've requested additional time beyond the April 30th date to work on the remaining three development activities, which could take up to 18 months.

We received feedback from HUD. HUD accepted our proposal in writing on April 1st and requested quarterly updates on the progress of these remaining activities.

So if the Board approves this agenda item today, there will be three outstanding development



activities to resolve this matter with HUD and close out this finding. With that I welcome any questions.

MR. OXER: Good. Thanks, Cari.

Any questions from the Board?

(No response.)

MR. OXER: Okay. There are no request for public comment. Motion to consider.

MR. GANN: I so move.

MR. OXER: Okay. Motion by Mr. Gann to move staff recommendation.

MS. BINGHAM ESCAREÑO: I'll second.

MR. OXER: Second by Ms. Bingham. No public comment. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none.

MS. GARCIA: Thank you.

MR. OXER: Thank you.

Okay. Hi, Jennifer.

MS. MOLINARI: Good afternoon. Jennifer Molinari, Director of the HOME Program. And in the interest of time I'll keep our next three agenda items as short and sweet as possible. Item 9(a) that you have in

front of you is a request for Board approval to invite HOME administrators to request contract increases or time extensions that require Board approval. Contract increases in excess of 25 percent require Board approval, and extensions in excess of one year would require Board approval.

The staff is asking for this authority from the Board should it become necessary to enable the department to meet our HOME commitment, which is coming up due on June 30th. At the present time we have a commitment shortfall of \$3.9 million, and we are very confident that we will meet that commitment deadline. However, in order to ensure that we have a backup plan, so to speak, we are asking for Board approval to invite performing administrators to request contract increases.

Also, and you will see in items 9(b) -- (c), excuse me, we're asking for Board authority to also invite Contract for Deed administrators that are requesting participation in our housing trust and NOFAs to also be awarded funds under the contract for deed satisfied.

MR. OXER: So you're requesting a little more latitude and a little more strength in your management of these programs. Is that basically it?

MS. MOLINARI: Should we need that --

MR. OXER: If you need it.

MS. MOLINARI: -- authority to do so, right.

MR. OXER: Right. Okay. So that you don't bump up against the deadline that squeezes the funding commitments.

MS. MOLINARI: Correct.

MR. OXER: Okay. Any questions from the Board?  
(No response.)

MR. OXER: Motion to consider.

MR. MUÑOZ: So moved.

MR. OXER: Okay. Motion by Dr. Muñoz to accept -- and we'll take these one at a time, one, two, and three. I think we have to do that. Don't we?

MR. IRVINE: Don't have to but you can.

MR. OXER: Let's take them one, two, and three. I just want to make sure these are clear. Motion to consider No. 9(a) on the HOME Investment Partnerships. Motion by Dr. Muñoz and a second by Mr. Gann. No public comment. All in favor?

(A chorus of ayes.)

MR. OXER: There are none. Noes, there are none. That one passes. Okay.

MALE VOICE: Public comment.

MS. CISCO: We're in favor of 9(a). Robin

Cisco with Langford Community Management.

MR. OXER: They were giving you what you're looking for, okay, so.

MS. CISCO: That's right. I wasn't getting up to say anything.

MR. OXER: Okay.

MR. GANN: I'll move 9(b).

MR. MUÑOZ: Second.

MR. OXER: Okay. Motion by Mr. Gann to approve item 9(b). Second by Dr. Muñoz. Is there a public comment -- or is there any questions from the Board?

(No response.)

MR. OXER: Okay. Is there any public comment on this one?

(No response.)

MR. OXER: Okay. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: And there are none.

MALE VOICE: Mr. Chairman, you may want to reflect that Mr. Keig came back and was in on that vote.

MR. OXER: Very good point. Let the record reflect that Mr. Keig has returned for the vote on item

9(b) and was a part of the unanimous vote. Good point from the staff here. Shot in from the dugout there. Signal in from the dugout.

Okay, on item 9(c), which is the possible action on 2013 HOME single-family program, NOFA. Okay. Motion to consider.

MR. MUÑOZ: So move.

MR. OXER: Okay. Motion by Dr. Muñoz.

MR. KEIG: Second.

MR. OXER: And a second by Mr. Keig, who is here in time to give his second. Okay.

Is there any public comment on that item?

(No response.)

MR. OXER: And I hear none. All in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No audible response.)

MR. OXER: There are none.

Now, owing to the fact that we're about to lose a couple of our Board members to some flights because they're scrambling, I'm going to exercise the Board discretion on item number 10, is Brooke's snapshot, that we're going to table this one until next month just because we're about to lose these guys up here. Okay?

And while I'm dying to see how this came out, I really am, you know, we'll have a more detailed review of it next month.

All right. Now we have an opportunity to make public comment on items that have not been addressed today for the purpose of generating the agenda for the forthcoming meeting.

MS. Dula, I understand you have a comment.  
Good afternoon.

MS. DULA: Thank you. I'll make it fast.  
Tamea Dula with Coats Rose law firm. I'm here to express a concern. I have been practicing before the TDHCA since 1999. Back then it was bad times. Lots of stormy situations. Edwina Carrington cleared them up, and we have a period of transparency and objectivity. But I'm -- and I have had the opportunity to practice in other jurisdictions, and believe me that makes Texas shine. You really can see the difference.

However, now I see issues arising with regard to this transparency and the objectivity of the program. And in particular this comes up now in the revitalization plan considerations. To clarify things, I'm not sure that it's clear to the Board.

The WPDD, the Waiver Preclearance Determination

and Disclosure package, had to be filed by January 8th. And that's where the preclearance of the revitalization plan generally appeared. Also January 8th was the preapplication filing deadline. The application deadline was in March, March 1st; however, if you had not had your revitalization plan precleared or be in the process, you couldn't claim any points in the application.

The revitalization plan stands for two different things. One is the point item which everybody here today has been concerned about. But it is also a way of getting the 30 percent boost on eligible basis if you do not happen to meet the other criteria, which are largely being in the high opportunity area. So for some applications it's critical in that regard.

In terms of preclearing your plan, you were required to preclear a plan that had certain specifications in it, those seven items that we have had discussed, which had to be some addressed or all of them but not none of them. In the panels, however, it became clear to me -- I had the opportunity to be involved in two -- that there was a lack of objectivity or certainty with regard to what constitutes a plan, and subjectivity is slipping in.

For instance, we get the expectations of the

people involved. And I'm not saying that this is wrong that they have expectations, but we ought to have a QAP that does not depend upon the expectations of the people who review things. For instance, in one instance a plan was considered inadequate because it did not involve enough land, notwithstanding that there is no minimum land requirement for a revitalization zone.

In another instance there was too much vacant land, and that was a complaint with regard to the revitalization plan area. Notwithstanding that Austin had a plan approved that's for the Air Force base which is all vacant land. Number three --

MR. OXER: Except for the part that has runways on it.

MR. DULA: Are they still there?

MR. OXER: Yes.

MR. DULA: Okay. Number three, I heard one complaint about because there was no budget. The budget only appears in connection with the points. It is not an element that is a requirement for the plan itself. The points are based upon the budget. But I submit to you that you could get a plan precleared with no budget and no economic whatever the word is --

MR. OXER: Value I think the term is.



MR. DULA: -- value anticipated as long as it meets the criteria for the plan in the QAP. And that would be good in order to get your 30 percent boost. So it's a really important distinction here. And finally another plan was criticized because the area that was being revitalized did not have enough blight.

So all these things are being considered but they're not elements or requirements of the plan. Blight is one of the seven issues that can be considered, but you don't have to consider all of them. So there didn't need to be any blight in order to have a revitalization plan.

That's not the way things are being interpreted. And this subjectivity in my opinion is not a good thing. We need to return to a clear set of objectives and objective criteria and not have this touchy-feely situation. And whatever needs to be done to redraft the QAP -- say this -- in order to --

MR. OXER: Again.

MR. DULA: Again. Needs to be done, in my opinion.

MR. OXER: Okay. And message received. For the record, I understand, and I would report and remind every member here that the QAP will be a constantly evolving living document, you know.

Boy, I wish we could find some way to get it pinned down, nailed down, and be done with it, but I just, frankly, don't expect that to ever happen. So we're going to constantly be evolving it, and I hear your point.

MR. DULA: One other thing I failed to mention is the transparency. We have not seen what constitutes a good plan that was adopted in February as being appropriate by the consent agenda. Can't get a copy of them. They're not published. How do we know what we have to measure up to?

MR. OXER: Okay. Your point's taken.

MR. DULA: Thank you.

MR. OXER: Okay. Did you have a comment?

MR. WOODLEY: Hello. I'm John Woodley.

MR. OXER: Hi, John.

MR. WOODLEY: And I apparently missed my meeting earlier in the day because I was actually told by Cameron that we weren't going to have the meeting. I'm here for action item number 2. I just want to make a couple statements concerning -- can you hear me?

MR. OXER: Yes.

MR. WOODLEY: Okay. I just wanted to make a couple statements concerning some of the safety issues that I have with the property development. And my main

concerns are going to be with the sidewalk building and the amount of traffic on the highway there.

The developer, Michael, has said that you cannot build sidewalks on other people's property. And my reading of the Texas Code of Transportation say that you have to apply for permits with the county in order to build in the right-of-way, not on other people's property.

And the National Safety Council has stated that safety demands good sidewalks on each side of the street.

Vehicle traffic and pedestrians should be segregated. It is unsafe, unreasonable and often disagreeable to pedestrians to be forced to walk on paved roadways.

Parents want children playing in the roadway -- I mean parents do not want children playing on the roadway, yet if they have roller skates, scooters, other wheeled toys they will use roadways unless sidewalks are available.

Mothers with baby carriages and elderly persons should have sidewalks. Nearly three-fifths of the persons killed in traffic or killed at night and walking on the roadway is a major -- at night is a major hazard. In numerous places state or county highway authorities have become impressed -- just a second -- have become so impressed with the need that they are building extensive mileage of highways and sidewalks.

How inappropriate would it be for new residential development not to provide them. There may be places as in SA-type developments with sidewalks only on one side or even no sidewalks can be justified but that should be a very big exception.

MR. OXER: Time. Can you hear me? Okay.

Well, I understand your point.

MR. WOODLEY: Okay.

MR. OXER: Okay. And your comments are noted.

MR. WOODLEY: Say again.

MR. OXER: Your comments are noted.

MR. WOODLEY: Okay.

MR. OXER: We understand you.

MR. WOODLEY: Okay.

MR. OXER: Okay? And they're good comments that refer to that. And I think you're asking to reopen an item that we've already dealt with.

MR. WOODLEY: Okay.

MR. OXER: Okay. But we're not going to do that. But the comments are noted for the discussion for that item this morning.

MR. WOODLEY: Okay.

MR. OXER: Okay? All right. At this point we're accepting comments that will add to the agenda for

the next meeting. Okay?

MR. WOODLEY: For the next meeting?

MR. OXER: Yes. I mean your comments are well-made. Okay? But -- and we accept those.

MR. WOODLEY: The next meeting here or the Texas Board meeting? Texas Bond.

MR. OXER: Oh, no, this one.

MR. WOODLEY: This one?

MR. OXER: Yeah.

MR. WOODLEY: Okay. So there's going to be a schedule for another meeting here?

MR. OXER: The next TDHCA meeting is scheduled for the 9th, I believe.

MALE VOICE: May 9th?

MR. OXER: May 9th.

MR. IRVINE: We will not be taking up the Waters at Willow Run bond issuance again at the May meeting though. I mean we --

MR. OXER: Right. No --

MR. IRVINE: -- that action has been taken. The portion of the meeting which you're commenting now is the portion that's reserved mainly for just general information comments or to request action at future Board meetings.

MR. WOODLEY: Okay.

MS. DEANE: I did mention to him that we will incorporate this statement --

MR. OXER: Yes.

MS. DEANE: -- into the record --

MR. OXER: Right.

MS. DEANE: -- of the comments on Willow Run, but I --

MR. IRVINE: Yeah.

MR. OXER: Right.

MS. DEANE: -- he does understand that that item is closed.

MR. OXER: The item that you're commenting on is closed. We've voted on it. But we'll incorporate your comments into the record --

MR. WOODLEY: Okay.

MR. OXER: -- that we'll publish for that item. Okay?

MR. WOODLEY: Okay.

MR. OXER: But at this point you're welcome to submit those via email or anything else, but we'd like to have whatever comments are going to be necessary now for our next agenda items for our next meeting.

MR. WOODLEY: Okay.

MR. OXER: But thank you for staying and working through it.

All right. We've heard comments from the -- any other public comment? Anybody else got anything? Does staff have anything they'd like to say?

You get to talk in a minute.

MS. DEANE: I'm staff.

MR. OXER: I know but you're up here with us.

Okay. Anybody out there on the staff have anything they want to say?

Okay. Mr. E.D., do you have anything you'd like to say?

MR. IRVINE: Just a shameless plug for the two notes that you just authorized under item 9.

I really hope that Texas will take note of these, especially the single-family development NOFA. It's been out before and has not been aggressively subscribed. And I understand there are areas of the state that really need more affordable housing, and this is an opportunity to put some on the ground.

MR. OXER: Okay. Is there any other comment from members of the Board? Anything you'd like to say?

As the Chairman I get the last word. Thanks for being here. We appreciate your time. We'll see you

next month.

(Whereupon, at 3:20 p.m. the meeting was  
concluded.)



CERTIFICATE

MEETING OF: TDHCA Board

LOCATION: Austin, Texas

DATE: April 11, 2013

I do hereby certify that the foregoing pages, numbers 1 through 241, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Penny Bynum before the Texas Department of Housing and Community Affairs.

04/17/2013  
(Transcriber) (Date)

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