

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

Room 140  
John H. Reagan Building  
105 West 15th Street  
Austin, Texas

Tuesday,  
June 30, 2015  
9:00 a.m.

BOARD MEMBERS PRESENT:

J. PAUL OXER, Chair  
TOLBERT CHISUM, Member  
LESLIE BINGHAM ESCAREÑO, Member  
TOM GANN, Member  
J.B. GOODWIN, Member

TIMOTHY K. IRVINE, Executive Director

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MR. OXER: All right. Good morning, everyone.  
I'd like to welcome everybody to the June 30 meeting of  
the Texas Department of Housing and Community Affairs  
governing board.

I will begin with roll call as we do:

Ms. Bingham?

MS. BINGHAM ESCAREÑO: Here.

MR. OXER: Mr. Chisum?

MR. CHISUM: Present.

MR. OXER: Mr. Gann?

MR. GANN: Here.

MR. OXER: Mr. Goodwin.

MR. GOODWIN: Here.

MR. OXER: Dr. Muñoz is not with us today.

I'm here; that will give us five. We have a  
quorum, so we're in business.

Tim, lead us in the pledge.

(Pledges of allegiance to U.S. and Texas  
flags.)

MR. OXER: Well, once more -- I think for the  
third meeting in a row, now -- we get to congratulate one  
of our own and say goodbye, and wish well one of the folks  
that are graduating from our TDHCA school here on how to  
do project development housing.

1                   So would you like to start with that, Mr. ED?

2                   MR. IRVINE: Well, I'd just like to thank Jean  
3                   Latsha for a couple of years of incredible service to the  
4                   State of Texas.

5                   Jean, you've been an amazing impact player in  
6                   your brief tenure here, and I think that you have embodied  
7                   so much that's good about state government, including,  
8                   frankly, an understanding and embracing of the perspective  
9                   of the private sector, who, of course, in the final test  
10                  are really the people that carry out most of our housing  
11                  development programs.

12                  Glad to see you're rejoining that sector.  
13                  Everybody here has got a mission, and we're all here to  
14                  make Texas a better place, and some of us do it by working  
15                  for state government, and some of us do it by working for  
16                  nonprofits; some of us do it by being developers, and it's  
17                  nice to have that many-faceted perspective.

18                  And we thank you for gracing us with it, and  
19                  good luck wherever you go. Stay in touch. You're a good  
20                  friend. So thank you.

21                  (Applause.)

22                  MR. OXER: Jean, you're going to have plenty of  
23                  opportunity, and you'll be welcome to say anything at any  
24                  time while you're at the mic, but I'll give you an open  
25                  mic here if you want.



1 MS. LATSHA: Sure. Jean Latsha, Director of  
2 Multifamily Finance.

3 MR. OXER: For one more day.

4 MS. LATSHA: For another day. Yeah, I've  
5 actually been thinking about this a bit. You know, I  
6 think a few folks out there know that I took up car racing  
7 about a year ago, and one of the things I like about it,  
8 other than the fact that I've been in the McLaren at like  
9 170 miles on COTA, is it's all about kind of forward  
10 thinking, and, you know, you have to look through a  
11 corner, and you have to look to the next two or three  
12 corners, and you're not looking in your rearview mirror;  
13 you're not dwelling and regretting any apex that you  
14 missed a couple turns ago.

15 And I've always tried to keep looking forward,  
16 and that's what this decision partly is about, but when  
17 you get to this point, you also have to reflect a little  
18 bit on where I've been the last three and a half years.

19 And unfortunately or fortunately, sometimes  
20 that reflection calls for a little criticism as well, and,  
21 you know, there were some things that I would have liked  
22 to have done a better job at.

23 You know, this is a tough place, where you've  
24 got limited resources and a vast amount of experience and  
25 talent on the development community side, vying for those

1 limited resources, and it tends to feel like it's pitting  
2 us against each other.

3 And, you know, we were working really hard to  
4 not create that kind of environment, but it's difficult to  
5 not have that kind of environment once in a while. And,  
6 you know, parting words, hopefully; you know, Catherine  
7 and Teresa and Laura and Raquel and Brent and Tom and all  
8 those people that are still here can keep working towards  
9 that.

10 You know, and I would say that Tim and this  
11 board and Barbara and, very recently, Beau and Cameron  
12 always encouraged us to act in a manner that was honest  
13 and consistent and transparent and that upheld the  
14 integrity of this program.

15 And without that kind of encouragement, I would  
16 not have lasted three and a half years. And without the  
17 forgiveness of the development community and the board and  
18 Tim and Cameron and everyone else when I fell short, I  
19 also would not have lasted three and a half years.

20 So I thank you all for that guidance and for  
21 that forgiveness. So I'm off to race my car and forward-  
22 think again. Thank you.

23 (Applause.)

24 MR. OXER: Okay. Let's get to work here. With  
25 respect to the consent agenda, would any board member care

1 to pull one? As chair I'll pull item 2(b) -- I'm sorry --  
2 (b). I understand we have some comments on that one.

3 Absent a request from the board to pull  
4 anything, we'll entertain a motion to consider.

5 MR. CHISUM: So moved.

6 MS. BINGHAM ESCAREÑO: I'll second.

7 MR. OXER: Did you have a comment otherwise,  
8 Ms. Bingham?

9 MS. BINGHAM ESCAREÑO: No.

10 MR. OXER: Okay. Motion by Mr. Chisum, second  
11 by Ms. Bingham to approve the consent agenda with the  
12 exception of item 2(b).

13 All in favor?

14 (A chorus of ayes.)

15 MR. OXER: Those opposed?

16 (No response.)

17 MR. OXER: There are none.

18 Okay. With respect to item 2(b), you need to  
19 speak on that, Jean?

20 MS. LATSHA: All right. Jean Latsha, Director  
21 of Multifamily Finance.

22 2(b) -- so this was really just the start of a  
23 conversation. We've had a lot of recent conversations  
24 with the supportive housing community about using some of  
25 our direct loan program funds to fund those types of

1 applications.

2           So traditionally we have not used the direct  
3 loan program in the form of grants or deferred forgivable  
4 loans. We've able -- by not doing that, we're able to  
5 recycle those funds and obviously continue to use them for  
6 future rounds.

7           That's going to become -- could become quite  
8 important in light of some recent federal legislation  
9 that's not passed yet, but there are certainly talks of  
10 budgets that would reduce the amount of home funding  
11 available significantly, to the point of virtually  
12 eliminating it.

13           So I think staff in general thinks there does  
14 need to still be a consideration for that and using those  
15 funds in a manner that does recycle them.

16           That being said, the supportive housing  
17 community I think is to the point where they would like  
18 the Board to give staff some direction as far as the use  
19 of those funds, and this is basically the start of that  
20 conversation.

21           Chairman Oxeer, I think it would -- the report  
22 mentions a committee that would include one or two Board  
23 members; I don't know that that's been decided yet. I  
24 think that we have some comment from the supportive  
25 housing community, too.

1           No decisions in this report; just the start of  
2 a conversation that I wanted to get started before I left.

3           MR. OXER: Okay. So what you're asking for  
4 is -- this is a report item.

5           MS. LATSHA: Staff was only asking acceptance  
6 of the report, but I think that because it is a report  
7 that is the beginning of a discussion that could  
8 potentially result in some significant policy changes,  
9 that some folks here would like to comment on that.

10          MR. OXER: Okay. Then since it's a report  
11 item, we'll have public comment. But we'll accept the  
12 report first, then I have a thought about how to proceed  
13 on that.

14          So with respect to item 2(b), does any Board  
15 member have a question of Jean?

16          (No response.)

17          MR. OXER: Okay. Then a motion to consider?

18          MS. BINGHAM ESCAREÑO: I move to approve the  
19 report.

20          MR. OXER: Okay. Motion by Ms. Bingham to  
21 approve the report, item 2(b). Do I hear a second?

22          MR. GANN: Second.

23          MR. OXER: Okay. Second by Mr. Gann. And  
24 we'll have public comment.

25          All right. Back to our household. Since we're

1 back here in our old house after six months, having  
2 abandoned it because the circus was in town, we'll remind  
3 everybody we'll start here at the inside next to the  
4 aisle, and those who wish to speak on this item or any  
5 item that's being considered, start from that chair  
6 (indicating) and we'll work to my left.

7 So you're up. Good morning.

8 MR. TAYLOR: Good morning. Craig Taylor with  
9 Communities for Veterans.

10 I've been before y'all a number of times; I  
11 feel like I need to send you holiday greeting cards or  
12 something, I've been here so many times.

13 MR. OXER: Well, as Jean pointed out, we're a  
14 big family in this whole thing.

15 MR. TAYLOR: Thank you very much for giving me  
16 the opportunity to speak on this. I want to speak  
17 somewhat globally about supportive housing, not that I've  
18 done a thorough analysis, but looking at the inventory of  
19 projects that have been done by TDHCA since the specific  
20 distinction of supportive housing was applied to projects,  
21 I've been able to identify five projects that fall into  
22 that rubric.

23 Three are in Austin, one is in Dallas, and one  
24 is in Houston. We happen to be developing a sixth project  
25 in Kerrville; however, that's a rural project. And so

1 there, I think, lies one of the distinctions.

2 Because of the rule that supportive housing  
3 projects must have no hard debt and the source of that  
4 funding is almost exclusively HOME dollars, I mean, we can  
5 cobble together some other dollars, Federal Home Loan Bank  
6 type stuff, but the serious money is in the HOME program.

7 And since rural projects have only access to  
8 that money through TDHCA, it pretty much precludes the  
9 ability to do rural projects if they're not going to have  
10 hard debt, and on the other side, if HOME funds or other  
11 funds are always hard debt, then you have a Catch-22, a  
12 mutual exclusivity.

13 And I think that is perhaps the fundamental  
14 reason why you don't have any rural permanent supportive  
15 housing projects.

16 I'd like to make a couple or three other  
17 points. One other source of money that you are looking at  
18 or could be looking at is R-TCAP funds. Those funds  
19 became available at the height of the financial meltdown  
20 because -- specifically because tax-credit projects had  
21 gaps in their funding because the price of credit had  
22 dropped; credits had been awarded assuming another price.

23 These deals had big gaps in their funding, and  
24 the feds stepped in to fill that gap with R-TCAP.  
25 Thankfully those times are past, but that doesn't mean

1 that specific projects and, in particular, supportive  
2 housing projects don't still have that problem with gap  
3 funding.

4 And therefore you have a resource in R-TCAP  
5 that was explicitly made available to fill gaps in  
6 particular real estate developments, and that funding is  
7 still available, so I would encourage you to look at that.

8 And then finally, of course, Texas has been at  
9 the epicenter of this disparate-impact situation.

10 MR. OXER: Ya think?

11 MR. TAYLOR: And even though the population is  
12 different, it's still -- people with disabilities are a  
13 protected class, and it's probably just a matter of time  
14 before the dots are connected and someone says that there  
15 are these subjective, imprecise barriers being put up that  
16 preclude housing for people with disabilities from being  
17 built in certain parts of Texas.

18 And so it would, I think, behoove public policy  
19 to look at that before thinking, as Jean referenced, and  
20 proactive in terms of putting together policy and  
21 procedures that would allow supportive housing to be built  
22 all across the great state of Texas wherever it's needed.

23 So thank you very much for this opportunity.

24 MR. OXER: Thanks for your comments, Mr.  
25 Taylor.



1           Walter? Three minutes.

2           MR. MOREAU: I'm Walter Moreau, the director of  
3 Foundation Communities here in Austin.

4           We provide supportive housing for about 800  
5 residents, families with children as well as single  
6 adults. I think the best example is your neighbor,  
7 Capitol Studios, and we're really grateful to the Board  
8 and staff for investing in Capitol Studios.

9           We have 135 residents there. Many are just  
10 lower-income workers in the downtown area. We have 10  
11 musicians. We have 47 formerly homeless veterans that  
12 live at Capitol Studios. What makes it supportive housing  
13 is all the support services combined with a very  
14 affordable rent.

15           I want to share a quick story. Eight years ago  
16 we built Skyline Terrace, which was an old Ramada hotel in  
17 South Austin. We needed support from the South Lamar  
18 neighborhood, which we got, but our most vocal opponent, a  
19 retired guy, Bob, he went down to city hall. He said  
20 supportive housing is bad; you know, this is homeless  
21 folks. It's got crime and drugs.

22           Anyways, we built Skyline Terrace. It's been  
23 up and running eight years. Last year, when we went to  
24 build Bluebonnet Studios, we had to go back to South Lamar  
25 and ask for their support.

1           We were at a critical neighborhood meeting. I  
2 was explaining our work, and Bob was sitting at the back  
3 of the row, his arms crossed, shaking his head. Towards  
4 the end of the meeting he said, I need to say something.

5           He said, I bitterly fought Skyline Terrace  
6 eight years ago, and I want to tell my neighbors today, I  
7 was wrong. You built that community; it's beautiful, it's  
8 been well managed. It's never been a neighborhood  
9 problem, and because of that, I'm going to support  
10 Bluebonnet Studios.

11           And the neighborhood went on to vote support.  
12 It was one of those goose-pimple moments, because we have  
13 a track record. We've been doing this for 15 years. It  
14 started with Garden Terrace. TDHCA was part of that  
15 community; you invested HOME funds at that time.

16           I share the story because you all have a track  
17 record that's really admirable of investing in supportive  
18 housing. You used to use HOME funds, but now that goes to  
19 rural areas. You used to use Housing Trust Fund, but  
20 that's been allocated to other program areas.

21           You used to have NSP funds that helped us build  
22 Arbor Terrace, but those are gone. You do not have any  
23 soft financing tools in the toolbox anymore to help  
24 supportive housing projects.

25           Our hope is this committee would take a look at

1 the use of TCAP funds. Supportive housing serves the  
2 least, folks that really need help: veterans, folks that  
3 we know -- not a week goes by that clergy, volunteers,  
4 somebody -- I get phone calls all the time, because you  
5 know somebody who's in recovery, who's been struggling  
6 with different challenges and needs that stable place to  
7 live with the support services to be successful.

8 Those projects can't pay debt. We need some  
9 help with some funds -- not talking about a lot of  
10 money -- that can be invested to continue this track  
11 record.

12 Thank you.

13 MR. OXER: Thanks, Walter.

14 Joy?

15 And everybody, don't forget to sign in today so  
16 that Penny can keep track of the unindicted coconspirators  
17 here.

18 MS. HORAK-BROWN: Joy Horak-Brown. I'm  
19 president and CEO of New Hope Housing in Houston, Texas.

20 We have almost 1000 units of supportive housing  
21 for adults who live alone. I do not at the moment have an  
22 active application in front of the department, but I hope  
23 very soon to have a couple of 4 percent transactions to  
24 help homeless and at-risk individuals and also families.  
25 We're going to expand our services to homeless families

1 very quickly here, and hopefully with your assistance.

2 I believe that Craig missed a couple of  
3 supportive housing projects in Houston. We have seven  
4 buildings. Five of them have been assisted by the  
5 department. Eighty percent of our residents are at 30  
6 percent of median income and below.

7 More than 60 percent of them have been  
8 literally homeless; that means living in their car, living  
9 on someone's sofa, living as Tex did, in the forest for  
10 several years, and living, as one of our residents did, in  
11 Hermann Park for 17 years. It's an extraordinary story  
12 and, I think you will agree, not an appropriate place for  
13 people to live.

14 It's always been my position, as I've worked  
15 with our mission since 1996, that there is some moral  
16 imperative in a civilized society that we don't just blow  
17 past the least and the lost.

18 No, we can't focus totally on that segment of  
19 Texans who need our assistance, but we cannot just simply  
20 leave them behind.

21 I agree with all that has been said prior to my  
22 making these comments to you. We do -- the words "amazing  
23 impact" were applied to Jean today, and I would say that  
24 every day when I get up in the morning, it is my  
25 responsibility to try to have real human impact in

1 Houston.

2 I can't do that without your help. There's  
3 always going to be someone who stands up here and says  
4 that supportive housing should be somewhere else. There's  
5 always going to be someone who stands here and says it  
6 should be built with another funding stream. It's really  
7 important; just not this funding stream.

8 So my message is that the capital stack that  
9 allows supportive housing to meet the test of no true debt  
10 is a very complex capital stack, and you are very much at  
11 the core of that.

12 I ask for your consideration going forward for  
13 those individuals that we represent who are, again, very  
14 truly the least and the lost, who do not qualify to live  
15 in other tax-credit properties.

16 Thank you very much.

17 MR. OXER: Thanks, Joy.

18 MS. ANDERSON: Good morning. My name is Sarah  
19 Anderson, and I am an affordable housing consultant, and  
20 I'm here representing myself and also my clients that are  
21 approximately 10 different developers from throughout the  
22 country.

23 In the last 12 years I've been involved in the  
24 production of, gosh, we're getting close to 10,000 units  
25 that we've brought financing to. We're thrilled to see

1 that this policy discussion is going to happen with these  
2 funds.

3 You know, back when the TCAP funds started, I  
4 think all of us wished that they had been grants the first  
5 time around, and of course now we're here to say how happy  
6 we are that they weren't and that the funds are being  
7 recycled and coming back, and we're thrilled to see that.

8 We're looking forward to the policy discussion  
9 about where and how these funds are going to go. I think  
10 that most of us would agree that with the limited  
11 resource, we'd like to see the funds go to really the  
12 deals that need it the most, that there are 4 percent  
13 deals that desperately need these.

14 There are probably some rural 9 percent deals  
15 that need them, and certainly there are some supportive  
16 housing deals that need them. And we very much look  
17 forward to the policy discussion and the implications of  
18 prioritizing and how to use these funds as we go forward,  
19 so we thank you for the opportunity to participate in that  
20 discussion as we go forward.

21 MR. OXER: Great. Thanks, Sarah.

22 MS. ANDERSON: Thank you.

23 MR. OXER: Is there anyone else?

24 (No response.)

25 MR. OXER: All right. With regard to item

1 2(b) -- motion by Ms. Bingham; second by Mr. Gann -- to  
2 accept staff report. You've heard public comment. Is  
3 there any other comments from the Board -- or questions of  
4 the Board?

5 (No response.)

6 MR. OXER: Okay. Those in favor?

7 (A chorus of ayes.)

8 MR. OXER: And those opposed?

9 (No response.)

10 MR. OXER: And there are none.

11 All right. With respect to this item, it's  
12 obviously a legitimate policy consideration. I'd like to  
13 ask Mr. Chisum and Mr. Gann if you might consider working  
14 with the staff to develop a policy to consider the policy  
15 to see how we might make this work and if it's  
16 appropriate, which it appears it very well could be.

17 And we'll ask that you engage with executive  
18 director and the staff.

19 Mr. Gann?

20 MR. GANN: Okay. Fine.

21 MR. OXER: Mr. Chisum?

22 MR. CHISUM: Yes, sir.

23 MR. OXER: Okay. Thanks very much.

24 All right. Any other comments?

25 (No response.)

1 MR. OXER: Then we'll move to item -- I'm  
2 sorry; the first item, not item 1, but the first item on  
3 the action list, which is item 3(a).

4 David?

5 MR. CERVANTES: Good morning, Mr. Chairman,  
6 members of the Board.

7 As Jean said, you know, in terms of car racing,  
8 I'm going to try to shift gears on you a little bit this  
9 morning and move towards budgets.

10 MR. OXER: Captain Tweety, we've got a new  
11 context to work under here.

12 MR. CERVANTES: For the record, I'm David  
13 Cervantes, Chief Financial Officer for the department.

14 And just to give you a little bit of background  
15 this morning, Mr. Chairman, you mentioned legislative  
16 session wrapping up a few weeks ago, and I think even  
17 when -- I was having conversations with Mr. Goodwin and  
18 Mr. Chisum not too long ago; we were talking about budget  
19 process.

20 And of course with legislative session coming  
21 to close, I'm pleased to report this morning that we had a  
22 very successful session. Our legislative appropriations  
23 request, which is the request that we submit for the two-  
24 year period of '16 and '17, was favorably adopted.

25 And so today, with that in mind, we're taking



1 the next step in the budget process, and that is to  
2 provide you an internal operating budget for 2016. And so  
3 behind items 3(a) and 3(b) we provided you some  
4 information.

5 I won't go into the details this morning, but  
6 we intended to provide you information related to the size  
7 of the budget, the expenditure categories, and where this  
8 money would be used, and of course the financing  
9 associated with recommending a budget for this upcoming  
10 state fiscal year.

11 So in short, the proposed budget is \$26.8  
12 million. This does represent a \$1.1 million increase, or  
13 4.4 percent. I would note, in relation to the increase,  
14 however, there was a separate legislative action that took  
15 place that involved the Employees Retirement System  
16 pension fund, and so in order to try to improve the  
17 soundness of the fund, contributions to the fund  
18 increased, in this particular case, the employee  
19 contributions that would be required.

20 So to counter that contribution that the  
21 employees will have to make, they authorized a pay raise  
22 or an increase in pay and salaries for employees of 2.5  
23 percent. So when you're thinking of the \$1 million that  
24 we're talking about here, you know, that one piece of it  
25 is involved with that particular decision that was made

1       there.

2                   The second one are programmatic costs that we  
3       have that we've had with the department, but in this  
4       process we've redirected some 100-percent federally funded  
5       activities that deal with a proposed weatherization  
6       academy that we may put in place this upcoming fiscal  
7       year.

8                   And so we've included it in this particular  
9       cycle, just because of the nature of the procurement that  
10      will take place, service-oriented and what have you, and  
11      so we've redirected and it's found its way into this  
12      budget here.

13                  When you take a look at those two items, you  
14      pretty much cover about 79 to 80 percent of the increase  
15      that's reflected in the budget. So aside from that it  
16      left probably about 350,000 that was the typical increase  
17      that we have, which I think is modest, and 1 percent of  
18      that is a little over -- is involved with a 1 percent line  
19      item that we put in for potential increases for the  
20      employees; you know, for merits, reclasses, and things  
21      that the department might want to consider during the  
22      course of this year.

23                  So that's the nature of what you find in the  
24      budget. I would also mention that we -- the budget will  
25      have 307 full-time equivalents in it. Of those, 243 are

1 associated with the Department of Housing and Community  
2 Affairs; 64 are associated with the Manufactured Housing  
3 Division of the department.

4 I would mention method of finance is also noted  
5 in our presentation, and the most significant shift was  
6 about 985,000 that moves over into the appropriated  
7 receipts financing that we have in this budget. And  
8 again, this goes back to the 2.5 percent salary increases  
9 that we have.

10 And then last year we had 309 FTEs that we  
11 funded; this year we're down to 307. We lost two as a  
12 result of some attrition, primarily related to the  
13 Neighborhood Stabilization Program. The other seven that  
14 are in play were redirected to help us in areas where we  
15 have other needs this coming year; for instance, the  
16 Compliance Division; the Asset Management Division; and  
17 also in the Bond Finance areas.

18 So that's where you're going to see the shift  
19 because of the redirection. You see where method of  
20 finance also shifted accordingly on this particular  
21 budget.

22 I guess the final two things that I would note  
23 for the record, in accordance with internal auditing  
24 standards and the Board's internal audit charter, the  
25 budget includes the Internal Audit Division's annual

1 operating budget.

2 And the final thing that I'll note as well,  
3 which kind of correlates to your consent item 1(a), is  
4 we've also adjusted the exempt position for the executive  
5 director in this particular budget to correspond to the  
6 alignment in the General Appropriations Act.

7 And so I think that concludes my remarks. I'm  
8 available to take questions; I also have staff members  
9 that are here present in case we get into details.

10 MR. OXER: Thanks, David.

11 MR. CERVANTES: Yes, sir.

12 MR. OXER: Any questions from the Board?

13 MS. BINGHAM ESCAREÑO: I --

14 MR. OXER: Ms. Bingham?

15 MS. BINGHAM ESCAREÑO: Mr. Chair --

16 Thank you for the summary; I think it lined out  
17 everything very clearly.

18 Regarding capital outlay, you mentioned in  
19 there IT.

20 MR. CERVANTES: Right.

21 MS. BINGHAM ESCAREÑO: Does the team have a  
22 comfort level that you're allocating enough capital to  
23 handle staying current with the IT needs? I know they  
24 tend to be fairly expensive.

25 MR. CERVANTES: I guess the short answer is

1 yes. You know, we visited with the legislature and what  
2 have you; we -- you know, we did a lot of work during the  
3 budget process when we prepared the LAR. You know,  
4 there's normal growth and things of that nature.

5 And then the other piece of emphasis that you  
6 probably read in the writeup also is security.

7 MS. BINGHAM ESCAREÑO: Uh-huh.

8 MR. CERVANTES: And we have two initiatives,  
9 you know, looking to improve software and hardware in  
10 relation to being more secure as an organization, and the  
11 other thing is disaster recovery.

12 MS. BINGHAM ESCAREÑO: Right.

13 MR. CERVANTES: We've included a line item in  
14 here that will also help us improve in both facets. And  
15 we are working diligently, you know, to ensure that the  
16 functionality of the employees continues to be as up to  
17 speed as we can.

18 We're still trying to catch up from a couple of  
19 sessions back, because of course we were scaled back quite  
20 a bit, but we feel we've got a little momentum built up  
21 thus far, and I think we'll be fine.

22 MR. IRVINE: I think we're continuing to  
23 refresh and update our equipment as it's aging out of its  
24 useful life and it's no longer supported; likewise with  
25 software that's moving out of supported status.

1           I will say a very positive thing occurred  
2 during the legislative cycle. Our House Appropriations  
3 Subcommittee showed, in my mind, a lot of knowledge and  
4 forward thinking on the whole issue of cloud computing and  
5 lower-cost data storage and retrieval methodologies, and I  
6 would really anticipate that, as we are now underway  
7 preparing for the 85th legislative session, that we'll  
8 work closely with DIR and with our oversight bodies to  
9 come up with something that will keep us, you know, not on  
10 the bleeding edge but on the leading edge.

11           MR. CERVANTES: Yeah. It's very exciting. I  
12 mean, we've been working steadily with DIR over the last  
13 probably, I'd say, four to five months now on the disaster  
14 recovery initiative.

15           And, you know, the first step was getting all  
16 our data backed up and moving it to remote site to have it  
17 available quickly. The second part of it is -- which I  
18 find totally astonishing, is the virtual server world.

19           And, you know, you're talking about, you know,  
20 in the events of disaster, where you would be bringing up  
21 these machines in probably hours, and you're talking about  
22 complete servers ready to work, with data dropped back in,  
23 and you're talking about, you know, movement back into  
24 service in probably, you know, a very short time period;  
25 you know, three to six days, something like that, at the

1 most, which goes in line with the -- we've been working on  
2 the COOP, and that's kind of the statewide recovery  
3 initiative that's been put in place by the State as a  
4 whole in terms of enterprise work that's being done.

5 And so this has fit very nicely into what  
6 they're seeing there and what we're doing, you know, to  
7 continue to make sure the agency's moving forward.

8 MR. IRVINE: And COOP is an acronym for  
9 continuity of operations program plan.

10 MR. CERVANTES: Right. Thank you, Tim.

11 MR. OXER: Questions?

12 MR. CHISUM: Yes, Mr. Chairman.

13 David, you made reference to the pay raise for  
14 employees of 2-1/2 percent --

15 MR. CERVANTES: Yes, sir.

16 MR. CHISUM: -- to offset the decreased  
17 contribution to the retirement system.

18 MR. CERVANTES: That's correct.

19 MR. CHISUM: And that -- is that sufficient to  
20 cover the increased contribution by the employees?

21 MR. CERVANTES: It is.

22 MR. CHISUM: It is.

23 MR. CERVANTES: Yes. It's a complete offset,  
24 yes, sir.

25 MR. CHISUM: Thank you.

1 MR. OXER: Any other questions?

2 (No response.)

3 MR. OXER: Okay. So we got one and one point a  
4 few million dollar increase. Most of that's taken up.  
5 The good news is it's basically flat, we're not any better  
6 off but we're not any worse off than we were.

7 MR. CERVANTES: That's right.

8 MR. OXER: Patricia's getting some help,  
9 Monica's getting some help.

10 MR. CERVANTES: Right.

11 MR. OXER: Mark's getting some help.

12 MR. CERVANTES: Yes.

13 MR. OXER: Okay.

14 MR. CERVANTES: Yes, sir.

15 MR. OXER: And we're trying to make sure that  
16 we don't lose any data. Given the recent headlines with  
17 the loss of data security with the four million federal  
18 employees just had their information exposed, and the fact  
19 that we have our own employees which we are infinitely  
20 concerned for, not to mention the data that's held in the  
21 systems that we have with respect to the applicants for  
22 housing, which tend to be pretty extensive data, I'm happy  
23 to see that we're working on the functionality,  
24 maintaining the forward operations.

25 But I want to make sure somebody's watching the



1 back door too so that somebody doesn't come in and raid  
2 the -- rather than getting four million we get a million  
3 sets of data for the folks that we provided, potentially  
4 provided housing finance for.

5 MR. CERVANTES: Yeah, I think in relation to  
6 the back door, our records maintenance initiatives are  
7 also in full play as well.

8 MR. OXER: Right.

9 MR. CERVANTES: So, you know, we're examining  
10 those well, you know, Beau and others, Information  
11 Systems, some of my Staff Services group. So again we're  
12 trying to make sure that the back door is attended to.

13 MR. OXER: Right.

14 MR. CERVANTES: And then of course with  
15 disaster recovery and what have you, we're making sure  
16 that no sensitive data will be compromised in any way.

17 MR. OXER: Right, right. And the virtual  
18 server is fully backed up from a data set. I happen to be  
19 working on another -- my day job.

20 MR. CERVANTES: Okay.

21 MR. OXER: It's akin to a fast rate turbine to  
22 spine up in 12 minutes so you can be providing power  
23 quickly. You know, if you lose power for a area or lose a  
24 generation asset, and having these subsets. For those --  
25 just as a quick note, could you tell us, David, what the

1 time is for those servers to come up and where we'd be  
2 back in play in terms of the operation for the agency and  
3 then the State?

4 MR. CERVANTES: Well, don't quote me on the  
5 exact turn-around but --

6 MR. OXER: I understand, just --

7 MR. CERVANTES: -- I know that --

8 MR. OXER: -- in the ballpark here.

9 MR. CERVANTES: -- in the past recovery time  
10 could have been as long as 30 days. And I know that now  
11 to spin those up it's probably within a day. And to be up  
12 and active for primary activities you're probably talking  
13 less than 30 days.

14 MR. OXER: Okay.

15 MR. CERVANTES: Okay? And again we're still  
16 midstream so we're still learning as well. This is new  
17 territory for us in terms of preparation. But, you know,  
18 the COOP provides certain standards that we have to meet,  
19 and right now we feel like this initiative right here will  
20 put us right in line.

21 MR. OXER: So you feel we're not operating  
22 under what you would consider a unfunded mandate. We got  
23 enough money --

24 MR. CERVANTES: We've got enough money.

25 MR. OXER: -- to do what they expect of us.

1 MR. CERVANTES: Yes, sir. Yes, sir. We've got  
2 it built into our request in the capital budget we  
3 submitted to the legislature. And of course we're putting  
4 in a plan the first year right here.

5 MR. OXER: Great. Curtis, are you here?

6 Is Curtis here?

7 Curtis, if you're listening, send us a note.

8 MR. IRVINE: And, Mr. Chairman, I would also  
9 say that information security is front and center in our  
10 corporate culture. We have an Information Security  
11 Officer, we have an Information Security Committee. With  
12 the good assistance of DIR, we have worked with a third-  
13 party consultant to assist us in assessing our information  
14 security environment and are also developing a really  
15 robust plan that runs out several years to talk about ways  
16 to improve all aspects of our information security  
17 profile. And that would include budgetary  
18 recommendations.

19 MR. OXER: Good.

20 All right. Any other questions?

21 (No response.)

22 MR. OXER: So we are accepting your report. Is  
23 that correct?

24 MR. IRVINE: Approving the budget.

25 MR. OXER: Approving the budget. All right.

1 Are there anymore questions of the Board?

2 (No response.)

3 MR. OXER: Then motion to consider on the  
4 budget, please.

5 MR. GOODWIN: So move.

6 MR. OXER: Motion by Mr. Goodwin to approve the  
7 budget as presented by staff.

8 Do I hear a second?

9 MR. CHISUM: Second.

10 MR. OXER: Second by Mr. Chisum.

11 Any public comment? There appears to be none.

12 Any other questions of the Board?

13 (No response.)

14 MR. OXER: Okay. Motion by Mr. Goodwin, second  
15 by Mr. Chisum to approve the budget for 2016. Those in  
16 favor?

17 (A chorus of ayes.)

18 MR. OXER: Those opposed?

19 (No response.)

20 MR. OXER: There are none.

21 Good job, David.

22 MR. CERVANTES: Thank you very much. I'll move  
23 over to item 3(b), and this particular item is a subset of  
24 the larger budget. It's in relation to a housing finance  
25 budget that we're required to submit under Texas

1 Government Code 2306.113, and of course in compliance with  
2 the General Appropriations Act.

3 And as I said, it's a subset of the budget that  
4 I just presented but it's specific to the fees that we  
5 generate at the department and the fees that we will put  
6 in place to fund what is typically referred to as the  
7 housing finance budget of the department. And so with  
8 that, we're prepared to certify item 3(b) as well.

9 MR. OXER: Okay. Any questions from the Board?

10 (No response.)

11 MR. OXER: Okay.

12 MS. BINGHAM ESCAREÑO: Move to approve.

13 MR. OXER: Okay. Motion by Ms. Bingham to  
14 approve item 3(b) as presented.

15 Second by?

16 MR. GOODWIN: Second.

17 MR. OXER: Second by Mr. Goodwin.

18 o public comment?

19 Those in favor?

20 (A chorus of ayes.)

21 MR. OXER: Those opposed?

22 (No response.)

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

24 MR. CERVANTES: Mr. Chairman, if you would  
25 indulge me just for a moment. I don't get this

1 opportunity very often but I have some key staff members  
2 that I'd like to recognize this morning.

3 MR. OXER: By all means. Good timing.

4 MR. CERVANTES: And, as I said, the budget  
5 process, we've been working, you know, of course through  
6 the legislative session and went through that round. But  
7 also there's a simultaneous internal process that we've  
8 been working as well, and that process started in March.  
9 And it leads to many meetings with all of the divisions of  
10 the department and pretty much the compilation of what I  
11 get the opportunity to summarize for you today.

12 But in the audience -- and I'd like to see them  
13 stand -- I'd like to recognize Ernie Palecios, who is the  
14 Director for Financial Administration. The second person  
15 is Joe Guevara, who is my manager for financial services,  
16 budget, payroll, and travel. John Tomme, who is one of  
17 our new members, and he is one of the fiscal reporting  
18 analyst for us. And then finally Krissy Vavra, who again  
19 is our team lead in relation to payroll and travel. But  
20 these individuals have played a significant role in the  
21 budget process as well.

22 MR. OXER: So we get to thank the last two then  
23 every month when we send in our travel vouchers?

24 MR. CERVANTES: Yeah. Very popular young lady  
25 over here at the end. So I just want to recognize them

1 today for all their hard work.

2 MR. OXER: Thanks very much to each of you.  
3 Appreciate your help.

4 (Applause.)

5 MR. CERVANTES: Thank you very much for your  
6 support.

7 MR. OXER: Thanks, David.

8 MR. CERVANTES: Thank you, Board.

9 MR. OXER: Okay. Brooke's up but in keeping  
10 with the context that Jean had started us out on car  
11 racing, let me offer up a couple rules that she used that  
12 I use when I was doing that. I was a crew chief, I didn't  
13 drive.

14 The first rule we used in racing was -- which  
15 is antithetical to the government and you have to worry  
16 about that, but if you got it going under control you're  
17 not going fast enough. Okay? The second one is if you  
18 never pushed it hard enough to lose it you never pushed it  
19 hard enough, so.

20 All right. Brooke?

21 MS. BOSTON: Yes. I wanted to speak to you  
22 about the next four items, items 4(a) through (d), which  
23 relate to the rules for the Community Affairs Program.  
24 For all four rules we had comments that were being  
25 accepted up through yesterday, May 29th, and each item

1 prior to submission to the Texas Register we wanted to  
2 make sure we summarized the comments for you because they  
3 weren't written in your Board book.

4 MR. OXER: Let me ask this quickly, Brooke.  
5 Are we going to take these one at a time or would you like  
6 to take them all together?

7 MS. BOSTON: One at a time would be preferable.  
8 But it will be quick, I promise.

9 MR. OXER: Okay.

10 MS. BOSTON: So the comments and staff  
11 responses include those administrative clarifications and  
12 corrections to the amendments recommended by staff. Even  
13 when no changes are being recommended, I am providing you  
14 a very concise summary of what the comments were, to be  
15 sure we're sharing that information with you and you're  
16 staying informed and you understand why staff is not  
17 recommending any changes. So I will go ahead and talk  
18 those through with you. And like I said, I'll take it  
19 rule by rule.

20 So item 4(a) is relating to the definition  
21 section primarily of the community affairs rules. We had  
22 comments from three people: Karen Swenson with Greater  
23 East Texas Community Action Program; Stella Rodriguez, who  
24 is the Executive Director of Texas Association of  
25 Community Action Agencies, what we call TACA; and Doug



1 Misenheimer, who is the housing services manager with the  
2 Travis County Health & Human Services, who administers  
3 weatherization there.

4           So in Section 5.2, the definitions, comment  
5 suggested that the definition for electric base load  
6 measures be moved to the definition section under general  
7 watts definitions. And this is kind of technical.

8           Staff agrees with the suggested change and does  
9 think it's appropriate to move it; however, if we make  
10 this change at this time, it would necessitate taking the  
11 rule out for comment again. And because it doesn't have a  
12 significant impact to weight, we'd prefer to wait on that,  
13 so we're not recommending a change at this time for that  
14 particular comment.

15           MR. OXER: Do you plan to change that in the  
16 future? Does that make sense to do it --

17           MS. BOSTON: Yes.

18           MR. OXER: -- at a point in time where it's not  
19 as disruptive to our process?

20           MS. BOSTON: Correct.

21           MR. OXER: Okay.

22           MS. BOSTON: We want to see these rules get --  
23 and part of -- this is part of why I'm presenting them to  
24 you today instead of even just waiting a few weeks,  
25 because we want to make sure the timeline of this works

1 with getting our funds out and the contracting periods.

2 Another comment we received for this particular  
3 Board item requests that the department increase the  
4 income threshold for LIHEAP WAP, and again that's the low  
5 income home energy assistance program, which we then use  
6 for two different activities, weatherization and utility  
7 payment assistance. So this is the weatherization portion  
8 of the federal LIHEAP fund.

9 The request is that those go up to 150 percent  
10 of federal poverty income guidelines. The basis for the  
11 commenter's suggestion is that the Department of Energy  
12 currently allows for assistance to homes at 200 percent of  
13 poverty. And allowing this fund to go up to 150 percent  
14 of the federal maximum would allow better partnering  
15 between those two activities, therefore allowing more  
16 services to the limited number of homes that will be  
17 weatherized.

18 The difference in the commentator's suggestion  
19 between 125 percent and 150 percent is not a significant  
20 income difference, and they also noted that Texas is one  
21 of only a few states that actually still continues to use  
22 the 125 percent threshold. They also noted that in rural  
23 areas weatherization is the only service that many of  
24 these households will receive.

25 Another commentator separately also asked that

1 the department increase the threshold up to 200 percent of  
2 poverty, but that was not -- an explanation wasn't  
3 provided for that one.

4 MR. OXER: Is the 125 percent an echo of the  
5 changes made a long time ago and didn't get picked up, or  
6 is it something that was policy driven?

7 MS. BOSTON: We've kept it for a variety of  
8 reasons, and we have adjusted it historically at different  
9 points in time. Right now one of the reasons we're  
10 wanting to keep it is primarily -- and we would consider  
11 changing it in the future -- is there is a possibility to  
12 be able to access the LIHEAP leveraging funds, but for us  
13 to do so, we would have to show how in Texas we're  
14 leveraging funds with other funding sources.

15 And one of those is a program called LITE-UP,  
16 and it has 125 percent poverty requirement. So -- and the  
17 leveraging requirement would require that the two of them  
18 be at the same level, so it's a possibility of being able  
19 to leverage those funds.

20 I'll be totally forthcoming; right now the  
21 funds for that activity federally are not available but  
22 the program exists. And so we anticipate that the program  
23 will be going away in the next couple years, in which case  
24 I think there's less purpose for us to need to try and  
25 keep these levels. We don't disagree in premise with the

1 request; I think just we want to keep the option open for  
2 the possibility of leveraging.

3 MR. OXER: Okay. Thanks.

4 MS. BOSTON: A couple of the comments, the  
5 staff asked that I pass along as well is that the  
6 department certifies in its plan that we seek to provide  
7 the highest level of assistance to those with the lowest  
8 incomes and the highest energy costs, and that we in  
9 general think that that would be the 125 percent level as  
10 opposed to 150. That being said, I very much agree that  
11 150 is still, you know, appallingly low, so it's still  
12 serving the poorest of the poor.

13 As part of the proposed LIHEAP state plan the  
14 department has proposed the inclusion of something we're  
15 calling categorical eligibility to also try and adjust  
16 this issue without changing the 125 percent standard.  
17 What that is is it would allow applicants whose households  
18 include a member who are already receiving funding under  
19 SSI or veterans programs to automatically be eligible for  
20 LIHEAP programs even if they exceed the 125 percent. So  
21 we're capturing a population that we think would  
22 potentially fall in this category anyway.

23 As it related to the comment about the 200  
24 percent of federal guidelines, we were not recommending  
25 that either. When -- if we ever adopt 200 percent for

1 LIHEAP, it would then prompt us to have to follow all of  
2 the Department of Energy weatherization requirements,  
3 which are far more restrictive --

4 MR. OXER: Complex?

5 MS. BOSTON: Yes, and some negative. But  
6 LIHEAP in this case provides us some flexibility that we  
7 like to have.

8 The final comment we received on this  
9 particular Board item related to the definition of the  
10 production schedule. They wanted to clarify that the  
11 production schedule does not apply to CSBG and CEAP  
12 programs. They want this clarification because they feel  
13 that the specific criteria for how the schedule would be  
14 applied to the two programs are not clear in other parts  
15 of Chapter 5 and that this clarification would be  
16 consistent with other Community Affair rules and which  
17 rule does not pertain to certain programs.

18 We put it in there -- we don't agree that it  
19 shouldn't apply to CEAP and CSBG. We think that by having  
20 the statement that criteria are identified in this  
21 specific program section, that indicates that if the  
22 program section did not include criteria, then the  
23 production schedule would not apply.

24 However, if the production schedule allows  
25 for -- the definition for program schedule allows for it,

1 then if we chose to define and measure for CSBG or CEAP,  
2 then it would apply. So we wouldn't apply it undefined  
3 or without more specificity, but we don't want to have to  
4 keep going back and revising a definition that is a  
5 broader definition. Does that make sense?

6 That's the summary for 4(a). And, in short,  
7 we're recommending no changes at this time to what was  
8 published for public comment and we recommend approval  
9 unless you have comments.

10 MR. OXER: Okay. With respect to item 4(a),  
11 first to consider.

12 MR. GANN: I'll move staff recommendations.

13 MR. OXER: Okay, a motion by Mr. Gann.

14 MS. BINGHAM ESCAREÑO: I'll second.

15 MR. OXER: Second by Ms. Bingham. Okay,  
16 Stella?

17 MS. RODRIGUEZ: Good morning, Mr. Chair,  
18 members of the Board. My name is Stella Rodriguez, the  
19 Director of the Texas Association of Community Action  
20 Agencies.

21 First and foremost, I want to thank the staff  
22 for taking into consideration our comments. We were down  
23 to the wire in getting them in, and so we appreciate all  
24 the effort taken to read through our comments.

25 I want to stress the reason why we want to

1 increase threshold of 125 percent of poverty income to the  
2 150 percent. Every time this rule comes up we're here  
3 before you asking please increase it to 150 percent.  
4 We've given you information, and staff is going to  
5 consider it. And it seems like every time it's not  
6 considered. So here we are again asking for the increase.

7 The staff referenced the department's  
8 certification of the State plan in reference to seek to  
9 provide in a timely manner the highest level of  
10 assistance. Well, every state has to make that  
11 certification to the federal government. But every state  
12 has to do that, make that assurance.

13 Well, we are only one of five states that is at  
14 125 percent. Twenty-four states are at 150 percent to 200  
15 percent. Nineteen states are at 60 percent of state  
16 medium income, which is actually higher than the  
17 percentage.

18 So here we are real backwards and not in line  
19 with what most states are doing. And so there still can  
20 be an assurance that we're serving the low income because  
21 that is our mission, to serve the poorest of the poor.

22 The 150 percent simply allows us more  
23 flexibility. It doesn't mean that we're going to start  
24 serving everybody at 150. It simply means that we can  
25 serve up to. So those families whose annual income is

1 barely over 125 percent would now qualify.

2 The difference between the 125 percent and the  
3 150 percent is about \$2,000. We're talking about \$21,000  
4 annual income. That's poor. They're still poor. And so  
5 we're asking that instead of denying those clients, to be  
6 able to have that flexibility.

7 And we can come up with a sliding scale of how  
8 we're going to serve them. That's very reasonable that we  
9 could do. But we need to be able to stop denying clients  
10 that are still poor.

11 The LIHEAP State plan is out for comment. So  
12 this is really a prime opportunity to change the rule so  
13 it can be reflected in the State plan that you all will be  
14 approving probably next next month to send to the  
15 Department of Health & Human Services. So the timing is  
16 really perfect. If we can make this change in the rule up  
17 to 150 percent, then it can be reflected in the State plan  
18 and they'll follow its course.

19 Those are my comments. Thank you very much for  
20 consideration. And we request that you change the poverty  
21 income to 150 percent for LIHEAP WAP. Thank you.

22 MR. OXER: Thanks, Stella.

23 Do you have a comment, sir?

24 MR. BETHUNE: Yes.

25 MR. OXER: Okay.



1 MR. BETHUNE: Good morning.

2 MR. OXER: Good morning.

3 MR. BETHUNE: My name is Mark Bethune, I'm the  
4 Executive Director of the Concho Valley Community Action  
5 Agency. Our service delivery area consists of 11  
6 counties. Tom Green would be our seat, which will house  
7 San Angelo. So in Tom Green County we have 120,000  
8 persons. In each of my other counties we average around  
9 3,000 individuals, who are basically we work with the  
10 rural population.

11 I'd like to concur with Stella on her comments  
12 concerning moving the threshold to 150 percent. I believe  
13 that it is important for us to serve the poorest of the  
14 poor. However, when we're looking at a certain level of  
15 income, then you start to get into homes that are in need  
16 of structural repairs.

17 We're not able to weatherize a unit if we walk  
18 in and the ceiling's sagging. You know, we can't conduct  
19 our examination of the home. Those homes are really more  
20 appropriate for the home HRA program, which is a different  
21 issue, that I fully support. However, concerning  
22 weatherization I need to look at what we are able to do  
23 with the population.

24 Also this situation affect rural communities  
25 more than urban areas. I can find plenty of homes to

1 weatherize in San Angelo at 125 or lower. However, I  
2 answer to my board of directors, and we must see an  
3 equitable distribution of our services and it's very  
4 difficult to find those homes in rural areas. And I  
5 believe even if we were adding a few homes per county per  
6 year that we are better serving the rural population.

7 Thank you.

8 MR. OXER: Sure. Thanks for your comments.

9 Are there any other comments?

10 (No response.)

11 MR. OXER: Any questions of the Board? We're  
12 going to take these one at a time, right, and vote on each  
13 one of them? Okay.

14 Did you have a comment? Would you like to  
15 respond to Stella's question about moving this forward, I  
16 guess?

17 MS. BOSTON: Sure. And I would say we're not  
18 taking each of the different comments I mentioned  
19 separately .

20 MR. OXER: We're taking each of the items.

21 MS. BOSTON: Right. I would just note relating  
22 to the comment about the 150, going up to 150 percent, if  
23 we were going to do that I would just clarify, I was just  
24 checking with Mike, and that we would want to be clear  
25 that it's for the 2016 year. So that it doesn't affect

1 where 2015 contracts are set to proceed.

2 MR. OXER: Point noted.

3 Okay. If there's no further comment on that  
4 item -- well, yeah, it looks like there is comment on that  
5 item.

6 MS. SYLVESTER: Well, actually I would really  
7 prefer if we're going to do it -- Megan Sylvester, Legal  
8 Services. If we were going to do that, I would actually  
9 recommend that staff, we adopt the rule as it is. And  
10 then we are going to, we're definitively going to be doing  
11 rule making at the second July Board meeting and that we  
12 could take up the 150.

13 And we're going to reopen the definition  
14 section at that time. And that would be a more  
15 appropriate change to adopt at that time so that there's  
16 not a confusion over which set of rules apply to the 2015  
17 contract. The 2015 contracts have already been signed,  
18 but there's a potential for adding additional funds to  
19 those contracts as unspent balances.

20 MR. OXER: Okay.

21 Ms. Bingham?

22 MS. BINGHAM ESCAREÑO: Mr. Chair, so in the  
23 summary we said that there had been public comment about  
24 asking to raise from 125 to 150; that staff's position was  
25 that wasn't really material. Now we have comments here

1 that at least for certain areas they do view it as  
2 material. If the Board were to move to adopt the rule but  
3 ask for consideration for 2016 during rule making, do you  
4 see any downside to that?

5 MR. OXER: Is there any conflict with the  
6 scheduling of that, Brooke?

7 MS. BOSTON: No. I think if we pursue it the  
8 way Megan suggested, it wouldn't be a problem timing-wise.

9 MR. OXER: So essentially what we're doing is  
10 approving the rule now or are we, Megan, deferring this  
11 for consideration for a month from now?

12 MS. SYLVESTER: You're approving this one now  
13 and then when we come back in about a month from now --

14 MR. OXER: Right.

15 MS. BOSTON: -- if you guys are giving us that  
16 direction, we would make sure that the draft we bring you  
17 then is reflective of the going up to the 150 percent.

18 MR. OXER: Does that answer your question?

19 MS. BINGHAM ESCAREÑO: Yes, sir.

20 MR. OXER: I think it seems appropriate to me.  
21 That's the way I would go. But okay. Then with respect  
22 to this --

23 MR. GANN: I don't think we have to change the  
24 motion any.

25 MR. OXER: That's what I was considering here.

1 We don't need to change the motion but we need to make  
2 sure that we ask the staff to recall this and reconsider  
3 it in 30 days.

4 MS. BOSTON: Sorry.

5 MR. OXER: That's okay. We're getting a signal  
6 from the bench over here.

7 Okay. With respect to item 4(a) on the motion  
8 by Mr. Gann, second by Ms. Bingham, we've heard public  
9 comment, then it's to approve staff recommendation public  
10 comment. Is there any other public comment?

11 (No response.)

12 MR. OXER: Okay. Those in favor?

13 (A chorus of ayes.)

14 MR. OXER: Those opposed?

15 (No response.)

16 MR. OXER: There are none. It's unanimous.

17 Okay. So the direction to the staff would be  
18 to follow what Megan suggested so we can reconsider this  
19 and get this in for next year. Is that --

20 MS. BOSTON: Okay.

21 MR. OXER: -- a fair statement?

22 MS. BOSTON: Thank you.

23 MR. OXER: Okay, 4(b).

24 MS. BOSTON: Okay. Actually 4(b), no comments  
25 were received, so staff recommends approval as reflected

1 in your Board book.

2 MR. OXER: Good. That was easy.

3 MS. BINGHAM ESCAREÑO: Move to approve.

4 MR. OXER: Okay. Motion by Ms. Bingham to  
5 approve staff recommendation on item 4(b).

6 MR. CHISUM: Second.

7 MR. OXER: Second by Mr. Chisum. There's no  
8 public comment. Those in favor?

9 (A chorus of ayes.)

10 MR. OXER: Those opposed?

11 (No response.)

12 MR. OXER: There are none. It's unanimous.

13 Okay.

14 MS. BOSTON: For item 4(c) we received comments  
15 from three people: Karen Swenson, who I mentioned earlier;  
16 Ms. Rodriguez, who I mentioned earlier; and Mr.  
17 Misenheimer. So I won't read their organizations back  
18 into the record unless you would like me to.

19 On this there's just one comment relating to  
20 health and safety and unit deferral, which is Section  
21 5.28. Comments are suggested that the rules are not in  
22 line with the building performance institute guidance,  
23 BPI, regarding cookstoves. Therefore, the requirements  
24 should be updated or referred to BPI guidance.

25 Staff wishes to defer changing that rule

1 pending guidance from Department of Energy regarding this  
2 issue. Should we become confident that the rule should be  
3 changed at DOE guidance, then staff will present the  
4 proposed amendment along with the revision to the  
5 Department of Energy State plan at a future Board meeting.

6 So staff recommends no changes to the rule as  
7 it was published for public comment and recommends  
8 approval.

9 MR. OXER: Okay. Do you expect that guidance  
10 to come from the DOE when -- or let's --

11 MS. BOSTON: It's not anticipated --

12 MR. OXER: -- take it in steps. Do you expect  
13 that guidance to come from DOE? And when?

14 MS. BOSTON: I don't know on both. DOE --

15 MR. OXER: They're not exactly working on our  
16 schedule.

17 MS. BOSTON: Right.

18 MR. OXER: Okay. Any questions from the Board?

19 (No response.)

20 MR. OXER: Motion to consider?

21 MS. BINGHAM ESCAREÑO: So moved.

22 MR. OXER: Okay, motion by Ms. Bingham to the  
23 staff recommendation on item 4(c). Do I hear a --

24 MR. GOODWIN: Second.

25 MR. OXER: Second by Mr. Goodwin. No public

1 comment, no requests. Those in favor?

2 (A chorus of ayes.)

3 MR. OXER: Opposed?

4 (No response.)

5 MR. OXER: There are none. It's unanimous.

6 MS. BOSTON: Okay. And then the last one, you  
7 have a handout; I believe that that was provided to you by  
8 staff. The rule at item 4(d) relates to the deobligation  
9 and reobligation of awards, which essentially gives the  
10 department the ability to move funds or deobligate them  
11 from one recipient based on production to other providers  
12 or reobligate.

13 This is consistent with a practice that many of  
14 you may remember from ARRA weatherization. We had done  
15 this to make sure that we were going to spend our  
16 weatherization funds and moved them around.

17 When we've done so, we have not taken away, for  
18 instance, all the funds. We figure out based on our  
19 production essentially some metrics. We figure out how  
20 much we think they can still continue to spend, and we  
21 leave that much with the particular entity and only move  
22 what we think would not be able to be spent.

23 So in that vein, changes from staff are  
24 suggested to the rule, which I will explain, based on the  
25 comment we received. And again we got comments from three



1 people: Karen Swenson and Stella Rodriguez, and then also  
2 from Neighborhood Centers, Inc., from Summer Harrison.

3 They suggested a change in 5.614, deobligation  
4 and reobligation of awarded funds. Currently the proposed  
5 rule that was released for comment shows that when the  
6 notice of progress of a subrecipient is being made to the  
7 subrecipient, that the notice would be sent directly to  
8 the Board directors.

9 The comment asked that the notice first be  
10 provided to the Executive Director and then seven days  
11 later that it be provided to the Chair of the Board. That  
12 of course would allow the Executive Director some time to  
13 preemptively deal with the issue and kind of lay the  
14 framework before our letter got there.

15 I think that's totally understandable and  
16 legitimate. I would the same from you for you guys. So  
17 that being said, we were going to go ahead and add the  
18 seven day requirement between when the Executive Director  
19 would be notified and the Board.

20 The comment had suggested that it be the Board  
21 Chair. Our original published comment had said the Board  
22 of Directors. We would like to keep it as the Board of  
23 Directors, I think making sure they're all equally  
24 informed is important. So that is a revision in your  
25 handout.

1           And then the other comment we received relates  
2 to the date by which the deobligation process is  
3 triggered. Right now the -- well, the commenters  
4 recommend the removal of the dates referenced in the rule  
5 for 2015 by which specific criteria would trigger the  
6 process.

7           Their comment is the dates in the rule become  
8 obsolete when achieved, and based on when the department  
9 issues contracts, those dates could provide potentially  
10 less time. So, for instance, if we issue contracts two  
11 weeks later than expected, we've essentially cut off two  
12 weeks from their timeframe if we're putting in dates. And  
13 I categorically agree with them, so we have amended the  
14 rule to reflect that change as well.

15           So staff recommends the approval as reflected  
16 in my handout that you have.

17           MR. OXER: And I would point out for the record  
18 that the handout that includes these modifications the  
19 Board was provided with and copies were made available to  
20 all those in the audience who wish to comment on those.  
21 And they were down in front as you came in today, so.

22           Okay. With that, with respect to item 4(d),  
23 motion to consider?

24           MR. CHISUM: So move.

25           MR. OXER: Okay. Motion by --

1 MR. GANN: Second.

2 MR. OXER: -- Mr. Chisum and second by Mr. Gann  
3 to approve staff recommendation on item 4(d). No request  
4 for public comment. Those in favor?

5 (A chorus of ayes.)

6 MR. OXER: Those opposed?

7 (No response.)

8 MR. OXER: There are none. It's unanimous.  
9 Thank you, Brooke.

10 All right. A little housekeeping just for a  
11 second. I'd like to say hi to some of the folks that  
12 represent us over there.

13 Julie Frank. Raise your hand, Julie. You're  
14 out there somewhere. Oh, there she is back in the back.  
15 From Lieutenant Governor's Office

16 Jeremy. Welcome aboard. With Senator Van  
17 Taylor's office.

18 Ms. Chatham, Donna Chatham. Oh, there she is  
19 in the back. With the Senate IGR Committee.

20 So we appreciate all of you taking interest in  
21 what we're doing.

22 It's now a few minutes after 10:00. We're  
23 going to take a short break just to make a pit stop here  
24 just in keeping with our context here today. So it's 10  
25 after the house right now. We'll be back in our chairs at

1 10:30 exactly.

2 (Off the record at 10:10 a.m.)

3 (On the record at 10:30 a.m.)

4 MR. OXER: All right. Let's come to order.

5 Good morning. We're on item 5 under  
6 compliance.

7 MS. MURPHY: Good morning. Patricia Murphy,  
8 Chief of Compliance. The next item before you is a report  
9 item regarding Cameron and Willacy Communities Project, or  
10 CWCCP.

11 As you know, Wipfli CPA's an accountant  
12 consultant performed a review of CWCCP this spring on  
13 behalf of the department. Their report is in your Board  
14 book along with the department's request for repayment of  
15 certain funds and CWCCP's response. In addition, there is  
16 a letter from a law firm engaged by CWCCP requesting to be  
17 on this Board agenda. Your Board writeup provides the  
18 dates that certain actions were approved and required  
19 notices were provided to CWCCP.

20 The bottom line is CWCCP was provided notice  
21 that their low income energy assistance or their LIHEAP  
22 and their weatherization systems programs were going to be  
23 reduced and/or not renewed. They had an opportunity to  
24 request a hearing; they did not request a hearing.

25 The department issued a request for

1 applications for providers to administer these programs.  
2 CWCCP could have submitted an application and they did  
3 not. The LIHEAP and WAP contracts have been awarded to  
4 another agency, and services are being delivered to the  
5 residents of Cameron and Willacy Counties by another  
6 provider. CWCCP's community services block grant contract  
7 has been awarded but suspended subject to fulfillment of  
8 four conditions, and those conditions have not been met.

9 So to recap, CWCCP administered three programs  
10 in Cameron and Willacy Counties, LIHEAP, WAP, and CSBG.  
11 LIHEAP and WAP are now being administered by Community  
12 Action Corporation of South Texas. CWCCP's CSBG contract  
13 is in suspended status at present as they have not met the  
14 conditions imposed on their CSBG award.

15 It has not been formally terminated. Any  
16 measures to terminate their CSBG contract would need to  
17 adhere to a process described in the CSBG Act, guidance  
18 from the U.S. Department of Health & Human Services and  
19 information memorandum number 116.

20 We've been in contact with Health & Human  
21 Services in that regard, and we're taking the necessary  
22 steps to ensure that they're fully aware of what's going  
23 on and our priority to ensuring continued services to low  
24 income Texas in this area.

25 I believe that there may be some public

1 comment, but before you hear that are there any questions  
2 about the Wipfli report or any of the notices or  
3 procedures or anything else that myself or another member  
4 of the staff could answer for you?

5 MR. OXER: Questions from the Board?

6 MS. BINGHAM ESCAREÑO: My question would just  
7 be did we invite anybody from Wipfli to be here today?

8 MS. MURPHY: No, ma'am, we did not.

9 MR. OXER: But you've had regular communication  
10 with the folks at Wipfli for months now, as I recall.

11 MS. MURPHY: We were in communication with them  
12 regarding this report, and I actually have not been in  
13 contact with them since the final report's been received.

14 MR. OXER: Okay. But we've been -- you know,  
15 regarding this issue, we've been dealing with this  
16 particular item for at least six months that I know of.  
17 Is that correct?

18 MS. MURPHY: Correct.

19 MR. OXER: Okay.

20 Okay, any other questions of Patricia from the  
21 Board?

22 (No response.)

23 MR. OXER: Okay. And the recommendations, to  
24 summarize on this, Patricia?

25 MS. MURPHY: It's a report item to you. So

1 there's not an actual --

2 MR. OXER: So we're just receiving the report.

3 MS. MURPHY: That's correct.

4 MR. OXER: Okay.

5 Okay, motion to consider.

6 MR. GOODWIN: I so move.

7 MR. OXER: Okay, motion by Mr. Goodwin to  
8 accept the report by the staff. Do I hear a second?

9 MR. GANN: Second.

10 MR. OXER: Second by Mr. Gann.

11 MR. UHLES: Can we make comments?

12 MR. OXER: You get to make comments as soon as  
13 we make the motion, and we invite you to before we vote.

14 MR. UHLES: Thank you very much.

15 MR. OXER: Okay. There will be public comment.

16 Miss, do you have a comment since you're standing in the  
17 first --

18 MS. PIERCE: Yes.

19 MR. OXER: Okay.

20 MS. PIERCE: Let me sign in first. Otherwise  
21 I'll forget.

22 MR. OXER: And just as a reminder to those of  
23 you who may not have been here first, our protocol says  
24 that for a particular item we hear the staff report as a  
25 motion to consider. That motion is made. Then we hear

1 public comment, staff rebuttal if we request it,  
2 additional public comment, and then we vote.

3 MS. PIERCE: Thank you for that refresher.

4 MR. OXER: Three minutes.

5 MS. PIERCE: Good morning. Ms. Murphy, it was  
6 nice to meet you a few minutes ago. Thank you for the  
7 opportunity to speak. My name is Vanessa Pierce, and I  
8 represent Cameron and Willacy Counties Community Project.

9 I'm going to strictly address the Wipfli  
10 report. Any other issues, those are not the subject of my  
11 comments today. First of all, I think you need to  
12 remember that this report is not an audit. It says that  
13 four sentences into the report.

14 Second, it was not objective or impartial.  
15 Wipfli limited their procedures, quote, to those which you  
16 determined best met your needs, end quote, with you and  
17 your being the department. The department also reviewed  
18 these results telephonically with Wipfli prior to  
19 finalizing the report. My clients were not afforded such  
20 input.

21 Additionally, it's not what the Board approved  
22 nor within the authority based on the agenda item of March  
23 12th. That agenda item stated, quote, presentation,  
24 discussion and possible action to authorize the  
25 procurement of a single audit firm for performance of an



1 audit for Cameron and Willacy Counties. That was item  
2 4(b) on March 12th. Additionally, this Board unanimously  
3 approved that recommendation to secure a single audit  
4 provider.

5 In addition to not accomplishing what the  
6 public was given notice for, this report isn't what was  
7 represented to my client would be accomplished. On a  
8 March 3rd letter from the department to my client the  
9 department stated that a third-party audit of their  
10 financial records would be completed and that the  
11 department was engaging Wipfli.

12 Interestingly enough, this March 3rd letter  
13 stating that you guys were going to be engaging Wipfli was  
14 sent prior to the March 12th Board action where you voted  
15 to approve hiring an audit firm. And as a side note,  
16 there are 71,548 licensed CPAs in the state of Texas, yet  
17 the department chose a firm in Wisconsin.

18 I would just strongly urge the department to  
19 reconsider your position of acceptance of this report.  
20 Because it's not what was approved as the agenda item and  
21 was given public notice of, and actually retain a single  
22 audit firm to conduct an actual independent and objective  
23 audit.

24 MR. OXER: Okay.

25 MS. PIERCE: Thank you.

1 MR. OXER: Thank you, Ms. Pierce.

2 Does anyone have any questions of Ms. Pierce?

3 (No response.)

4 MR. OXER: Okay.

5 MR. UHLES: I'm going to do the same thing  
6 before I forget. My name is Keith Uhles, and I also  
7 represent the CWCCP. And I just want to real briefly put  
8 this audit into context and kind of clear up some things  
9 that were said earlier.

10 This audit, when you go back and really look at  
11 this, is part of a very troubling pattern of denial of due  
12 process and statutory rights to the CWCCP. And that may  
13 seem like a harsh statement and a bold statement, but I do  
14 want to temper that by saying that the goal of CWCCP is to  
15 work with the staff, to work with the Board so it continue  
16 its history of being the number one provider in Texas of  
17 bringing clients to self-sufficiency.

18 The CWCCP, however, has not been able to do  
19 this or has not been able to do for right now because due  
20 process and other statutory rights are not being followed.

21 And when we talk about due process I just want to remind  
22 you of two basic tenets of due process.

23 One is that due process requires notice and a  
24 hearing before a independent, impartial tribunal. Second,  
25 due process requires that the notice be given of what is

1 proposed and how that can be prevented. And that's  
2 something that's wholly been lacking in what's the notice  
3 has been given to CWCCP.

4 I was interested to hear earlier the statement  
5 that a hearing was available to CWCCP. Because that has  
6 never been told to CWCCP. There's nothing in writing to  
7 that effect. And in fact in past years it has been said  
8 in writing that no hearings are available. So that is the  
9 context upon which they were operating.

10 I just want to give you two examples of how  
11 there have been problems with the following of due  
12 process. One is in regard to the community service block  
13 grants. On February 19th there was a recommendation on  
14 the agenda -- not on the agenda but the recommendation was  
15 made to the Board was that the award be made and  
16 immediately suspended.

17 Suspension was never on the agenda. There was  
18 no notice of suspension ever given to my clients. And in  
19 fact there's no notice of how to get out of suspension  
20 given to my client or how to avoid suspension. And none  
21 has been given since that time. And yet we continue down  
22 this path with the denial of due process.

23 Then we talk about the LIHEAP grant. Again on  
24 February 19, 2015, there was a recommendation made to the  
25 Board to deny -- or to deny CWCCP and to award 24.9

1 percent to another agency. The Board ultimately awarded  
2 the 24.9 percent to another agency but it tabled the  
3 recommendation on the denial.

4 Now, it's important to note that that denial  
5 and award to the other agency again were not on the  
6 agenda. They're not a specific agenda item. And there  
7 was no notice given of that. And then there was supposed  
8 to be an audit to deal with this, and that's the audit  
9 that we're talking about here today, the audit that really  
10 never occurred. Because what you have before you is, on  
11 its face, not an audit.

12 But at the 3/12/15 meeting that audit was  
13 authorized, and also on that agenda was the denial for the  
14 first time was on that agenda, the denial of the LIHEAP  
15 grant to my client. And so it kind of raises the question  
16 of what was the purpose of the audit.

17 Was the purpose of the audit to justify action  
18 that had already been taken? Because by that point the  
19 CSBG grant had already been suspended, the LIHEAP grant  
20 had already been denied, and 24.9 percent of the LIHEAP  
21 grant had already been awarded to someone else.

22 And then the day after that meeting, that Board  
23 meeting the notice was sent out of nonrenewal of the  
24 LIHEAP grant, but that notice didn't comply with the Texas  
25 Government Code because it didn't specify the reasons for

1 the denial.

2 So just in closing, I would ask you not to  
3 accept this audit report based on the context and based on  
4 the fact that it is not an audit report, which is what was  
5 called for. Thank you very much.

6 MR. OXER: Thank you for your comments, Mr.  
7 Uhles.

8 Did you have anything more to say behind that,  
9 Patricia? Because I understand that the request the  
10 information was insufficient to be able to compile  
11 essentially an audit.

12 MS. MURPHY: Patricia Murphy, Chief of  
13 Compliance. Agreed, the Wipfli report is not an audit,  
14 and we had stressed that to you at the last -- one of the  
15 last Board meetings where we discussed CWCCP, that we had  
16 a review of their records completed by this CPA firm with  
17 the specialty in these Community Affairs Programs.

18 And again, I've stated it several times, that  
19 the hope was that Wipfli would be able to find some  
20 allowable costs; that we had identified this double-  
21 billing issue and a significant disallowed amount, and  
22 that we were really hoping that Wipfli would be able to  
23 find some offset for those disallowed amounts.

24 And they confirmed the double-billing practice,  
25 you know, so we sent that request for repayment of

1 \$410,000 that's been double-billed over the last two  
2 contracts. And Wipfli was not able to find some allowable  
3 costs to offset that.

4           Within their report, you know, they correctly  
5 point out that Wipfli could have operated these programs  
6 in compliance as all of the other network agencies have  
7 through a proper cost allocations plan, but that did not  
8 happen. So I agree that this was not an audit.

9           And I can't remember which speaker mentioned  
10 that on one of the Board agendas we did have an item where  
11 we requested permission to procure an audit firm, because  
12 we weren't sure that we were going to be able to engage  
13 with Wipfli.

14           So there were sort of two tracks going there,  
15 but we ultimately were able to engage with Wipfli, and so  
16 we did not need to procure another single auditor because  
17 we already had that contract in place with the  
18 partnership, Community Action Partnership, and Wipfli  
19 being a part of that was able to accept an undertake this  
20 assignment.

21           MR. OXER: Any other comments or questions?

22           MR. GOODWIN: Didn't we ask the action agency  
23 to provide an audit and they never did?

24           MS. MURPHY: The Cameron and Willacy  
25 Communities Project has had a single audit performed, and

1 that audit actually resulted in no findings. And I  
2 believe at one of the last Audit Committee meetings our  
3 Director of Internal Audit, Mark Scott, was discussing a  
4 new process for referring over CPAs that appear to have  
5 not fully reviewed an agency's books and records.

6 MR. CHISUM: Mr. Chairman?

7 MR. OXER: Mr. Chisum.

8 MR. CHISUM: You mentioned the double-billing  
9 issue.

10 MS. MURPHY: Uh-huh.

11 MR. CHISUM: And then following that you made  
12 mention of over \$400,000?

13 MS. MURPHY: Yes, sir.

14 MR. CHISUM: Could you give me a little more  
15 specific information on the double-billing?

16 MS. MURPHY: Sure. What our monitoring found,  
17 as well as Wipfli's review found, was that if  
18 Cameron/Willacy, if they had like an energy conservation  
19 workshop and they had one of their employees presenting  
20 this workshop, and let's say that there were 20 people  
21 sitting in the room, the allowable amount that could be  
22 charged to the grant is that one employee's hourly rate.  
23 Let's say the person made \$10 an hour.

24 So you would be able to charge to the grant or  
25 reimburse from the grant \$10, and what they did was they

1 took that \$10 and multiplied it by the number of attendees  
2 in the room. And I can't do math standing up, so whatever  
3 10 times 20 is is how much they billed the grant. So this  
4 practice is a double-billing.

5 MR. CHISUM: Thank you. I understand.

6 MS. MURPHY: Thank you.

7 MR. OXER: So the federal grants that support  
8 those sorts of things are for direct cost, not for income  
9 generation.

10 MS. MURPHY: That is correct, yes. So there  
11 was no -- so the money that they charged our grant, there  
12 were no costs. Right? There's no cost associated with 20  
13 people sitting in the room versus one person sitting in  
14 the room. So we were hoping to find, you know, some  
15 eligible costs to offset that amount that they had been  
16 reimbursed.

17 And they were reluctant to provide us with the  
18 records. They did provide them to Wipfli and Wipfli was  
19 not able to identify any.

20 MR. OXER: So Wipfli -- Mark?

21 MR. SCOTT: Yes.

22 MR. OXER: Please. And we're satisfied that --  
23 go ahead, state who you are.

24 MR. SCOTT: I'm Mark Scott, Director of  
25 Internal Audit.



1 MR. OXER: Right. And we did determine that  
2 Wipfli of course is qualified for an A-133 single audit.

3 MR. SCOTT: Well, actually what this is, it's  
4 kind of a supplement to an A-133 audit that's allowable  
5 under the cost principles. You can have an A-133 audit  
6 and then you have what's called agreed-upon procedures.

7 MR. OXER: Okay.

8 MR. SCOTT: Is that clear?

9 MR. OXER: Is that clear?

10 MS. BINGHAM ESCAREÑO: Not really.

11 MR. OXER: Do it again.

12 MR. SCOTT: Okay. The circular says you can  
13 have an A-133 -- you have to have an A-133 audit every  
14 year. And during that audit the CPA firm that does the  
15 audit is supposed to do certain things, testing the costs  
16 and so forth. As far as us as a passive entity, we're  
17 required to ensure compliance with cost circulars and so  
18 forth.

19 One of the tools we use is the A-133 audit.  
20 We're allowed to supplement that, as we do with Patricia's  
21 monitoring staff, and also by hiring audit firms to -- or  
22 it doesn't have to be an audit firm; we can have an  
23 accounting firm do agreed-upon procedures to test the  
24 accounting records.

25 MR. OXER: So it doesn't require that -- in

1 contrast the requirements for an auditing firm has a CPA  
2 and current expertise, licensing essentially under A-133  
3 for the single audit, but monitoring and compliance and  
4 accounting does not require that.

5 MR. SCOTT: Yes, sir, that's correct.

6 MR. OXER: Okay. So --

7 MR. SCOTT: I mean it's better to have  
8 obviously competent people doing it, but I think we did.

9 MR. OXER: They can be competent without being  
10 licensed.

11 MR. ECCLES: Correct.

12 MR. OXER: Okay.

13 MR. CHISUM: Mr. Chairman?

14 MR. OXER: Mr. Chisum.

15 MR. CHISUM: Yes. In the situation where  
16 there's double-billing, if we find it --

17 MR. SCOTT: Yes.

18 MR. CHISUM: -- then what procedure's in place  
19 to recover those funds?

20 MR. SCOTT: Well, it can be offset against  
21 future payments. It's called the recoupment. It can be  
22 recovered by demand letters. There's various ways.

23 MR. OXER: But there is communication with the  
24 recipient if there's a question of the funds --

25 MR. SCOTT: Correct. Yes, sir.

1 MR. OXER: -- that we're lacking the  
2 information that we requested to satisfy our fiduciary  
3 requirement for the compliance of these funds.

4 MR. SCOTT: Yes, sir. Yeah. You -- there's  
5 different ways of -- you can have -- like when the A-133  
6 audit is done the CPA firm will have findings, and  
7 associated with those findings will have questioned costs.  
8 And then it's up to the funding agency to make the  
9 determination, okay, the CPA identified questioned costs,  
10 we're going to make the determination of whether in fact  
11 they need to pay us back.

12 In this case the CPA firm apparently didn't  
13 look at the billing practices in a sufficient way, and our  
14 monitoring staff found, especially the use of this  
15 equalization fund where they're taking -- basically  
16 they're taking the overbillings and putting them into this  
17 equalization fund and carrying them forward.

18 So in that situation we as a funding agency  
19 can -- will notify the subrecipient that there's  
20 questioned costs or, in this case, disallowed costs, and  
21 we ask for repayment. But as far as the mechanism of  
22 getting it back, that can be done by offset of future  
23 payments or repayment by the subrecipient to the fund.

24 MR. OXER: So either return of funds or offset  
25 of future grants.

1 MR. SCOTT: Correct.

2 MR. OXER: Okay. And the nature of those funds  
3 were? You got a number on those, Patricia?

4 MS. MURPHY: Patricia Murphy, Chief of  
5 Compliance. So regarding an offset of future -- while in  
6 general that may be an allowable way to recover disallowed  
7 costs under certain contracts, like some of our housing  
8 contracts or our emergency shelters grant contracts, that  
9 sort of activity, and a way to recover a disallowed cost  
10 it is an effective tool. With these particular --

11 MR. OXER: Those are for continuing grant  
12 programs.

13 MS. MURPHY: Right, and then if the agency has  
14 some other funds available to do the activity, it kind of  
15 works that way. With this particular agency, as we've  
16 mentioned, the programs they previously administered are  
17 being administered by another agency. So I don't know if  
18 that would work.

19 So we have sent them a notice requesting  
20 repayment from nonfederal funds, that's one key thing.  
21 That, you know, these were federal funds that were  
22 provided to them, and so the repayment does need to come  
23 from nonfederal funds. And we've sent them that notice  
24 for the amounts for the 2013 and '14 contracts.

25 MR. OXER: Okay. If I recall correctly, on the

1 point about the 24.9 percent funds that were extracted and  
2 given to somebody else, those were taken because we wanted  
3 to make sure the services that they provided in their  
4 service area were continued and there was no interruption  
5 of their service to their recipients. Is that correct?

6 MS. MURPHY: That is correct, yes.

7 MR. OXER: Okay.

8 MR. CHISUM: Mr. Chairman?

9 MR. OXER: Mr. Chisum.

10 MR. CHISUM: Were there any laws violated in  
11 the activities of the double-billing and misappropriation  
12 of funds that would result in any criminal charges?

13 MS. MURPHY: Does someone else want to answer  
14 that?

15 MR. OXER: I don't know is always an  
16 appropriate answer if it's something you don't know.

17 MS. MURPHY: Thank you.

18 I don't know.

19 MR. CHISUM: Thank you.

20 MR. GOODWIN: I've got a question.

21 MR. OXER: Mr. Goodwin.

22 MR. GOODWIN: Patricia?

23 MS. MURPHY: Yes.

24 MR. GOODWIN: Is the federal funds what we've  
25 been requesting -- the \$126,000 be returned to us, if

1 they're not returned to us, do we then have to repay the  
2 federal government for those monies?

3 MS. MURPHY: That is a very good question. And  
4 as I mentioned, we are working with Health & Human  
5 Services. There is a risk that the State of Texas could  
6 be asked to repay those federal funds. And we have Health  
7 & Human Services notified and involved in what's going on,  
8 and they are telling us that we're taking appropriate  
9 actions, you know, to safeguard these federal funds.

10 But so in response to that direct question back  
11 to them, like are we ultimately going to be on the hook  
12 for this money, they are -- they don't give a direct  
13 answer. But they're telling us that we're doing the right  
14 thing, then, you know, following these processes and  
15 monitoring and requiring repayment and what-not.

16 MR. OXER: Mark, I have another question.

17 MR. SCOTT: Yes, sir. Mark Scott, Director of  
18 Internal Audit.

19 MR. OXER: Okay. So if there is an A-133 audit  
20 that -- and apparently there's been one done that  
21 offered -- that had no findings, which is considered  
22 basically flat finding; nothing good, nothing bad, we're  
23 not -- or our compliance folks are not restricted to  
24 looking at only the questions that they bring up. Is that  
25 correct?

1 MR. SCOTT: That is correct.

2 MR. OXER: Okay. So we do have the option to  
3 ask about the specific programs that we know about, and we  
4 have --

5 MR. SCOTT: Oh, absolutely, yeah. The A-133  
6 audit is not meant to be a be-all end-all for the  
7 monitoring. It is kind of the -- it's the main tool we  
8 have but it's not -- we're not limited to only that.

9 MR. OXER: It basically says here's the money  
10 that comes in, and it shows you the buckets they got put  
11 in, and our opportunity is to measure those buckets and  
12 see if they were spent properly.

13 MR. SCOTT: That's correct. And the A-133  
14 auditors are supposed to test the billing practices to  
15 determine allowability of costs. That's one of the  
16 minimal things they're supposed to do.

17 MR. OXER: Okay.

18 MR. SCOTT: And if we think they haven't done  
19 it, then we're required to do it.

20 MR. OXER: Okay.

21 MS. BINGHAM ESCAREÑO: Mr. Chair?

22 MR. OXER: Ms. Bingham.

23 MS. BINGHAM ESCAREÑO: I have a question for  
24 Mr. Scott, too, following along the same lines as to  
25 answer -- or to hopefully explore Ms. Pierce's question a

1 little more. So historically -- and I think you were with  
2 us when we were kind of just coming down this path.

3 So just to summarize in laymen's terms, that a  
4 A-133 was completed, the agency through its monitoring  
5 effort, people believed that there were some question  
6 regarding the accounting practices in the agency, in the  
7 Cameron agency, and requested additional information to  
8 which it appears over some period of time there was  
9 difficulty getting that data, those reports, those  
10 numbers, whatever. And at the same time the Cameron  
11 agency was disputing the position that TDHCA monitoring  
12 had regarding that.

13 At some point in time both parties expressed  
14 interest in a third party further audit. And I think for  
15 all points and purposes we did -- I think we all called it  
16 an audit I think at that point in time. And both agencies  
17 were interested in that. I think Cameron was interested,  
18 and obviously we're compelled to continue to try to gather  
19 information and make good decisions.

20 Even to the point where I think the State  
21 Auditor's Office, Mr. Executive Director, was contemplated  
22 where I think both parties would have been comfortable  
23 with the State Auditor's Office doing some level of audit.

24 And unfortunately, the State Auditor's Office declined to  
25 do that. Is that correct?



1 MR. SCOTT: That's correct.

2 MS. BINGHAM ESCAREÑO: Is that y'all's  
3 recollection? And so I don't recall now, I did miss the  
4 last meeting so I don't know if there was anything on the  
5 agenda that I missed in the minutes. But my understanding  
6 was once Wipfli was identified as being a firm that had  
7 experience in this area, I don't recall there being any  
8 dispute from either party about utilizing Wipfli to work  
9 with the Cameron agency to try to gather the rest of the  
10 information.

11 But I just want to affirm that that's our  
12 collective recollection, that we --

13 MR. OXER: That's mine.

14 MR. SCOTT: That's how -- yes. I don't recall  
15 any dispute about using them. And the fact that they  
16 didn't do a full-fledged audit, I don't think that's an  
17 issue at all. Because we -- the main thing we wanted them  
18 to look at was the equalization fund and the allowability  
19 of the costs. As far as auditing everything else again,  
20 that wasn't really necessary.

21 MR. IRVINE: Yeah, I think that when Wipfli got  
22 in there we were all desirous of some clarity and a little  
23 bit of haste. We were looking to get these issues defined  
24 and resolved as quickly as possible. And I think that  
25 Wipfli got there and said, you know, we really

1 have a very, very hard time sorting out these records.  
2 These are very nonstandard accounting procedures, and they  
3 are quite difficult to follow.

4 I think that they basically advised us what we  
5 can do for you is we can, as people say in auditing terms,  
6 we can perform some agreed-upon procedures to assist you  
7 in identifying the disallowed costs and looking for the  
8 possibility of other eligible offsetting costs.

9 And I think the two nuggets from the Wipfli  
10 report were, one, confirmation of the disallowed costs  
11 and, two, kind of going back to the trailing several years  
12 of A-133 audits, that the audit firm that had been  
13 conducting those audits had been looking at equalization  
14 fund balances and essentially signing off on accounting  
15 reports without really looking into the substance of what  
16 was going on there.

17 And to the extent that equalization fund  
18 balances, positive balances reflect billings in excess of  
19 allowable charges and that those balances had built up to  
20 pretty significant levels over preceding years, that would  
21 have presented additional concerns that we would  
22 rationally expect any A-133 auditor to drill into that in  
23 greater detail and render an appropriate opinion that  
24 reflected any concerns about compliance issues

25 MS. BINGHAM ESCAREÑO: Mr. Chair?

1 MR. OXER: Ms. Bingham.

2 MS. BINGHAM ESCAREÑO: I have one more question  
3 for Mr. Scott. Would you have expected that it's a full  
4 audit -- assuming the A-133 should satisfy the full audit  
5 and clearly there were questions above and beyond that,  
6 but if Wipfli had done a full audit, whatever that means,  
7 do you see that any of the findings would materially  
8 change in the context of a full audit?

9 MR. SCOTT: No, ma'am, not at all. Because  
10 the -- I think -- well, without characterizing too much  
11 what the A-133 audit did, as far as doing a financial  
12 statement audit they probably did a adequate job on that.

13 But I think what they didn't do adequately was test the  
14 federal program accounting.

15 And so I think that Wipfli would have probably  
16 found that the financial statements, they probably would  
17 have found the same thing that the A-133 audit found,  
18 which was nothing. And on the handling of the federal  
19 funds if they'd done it thoroughly they would have found  
20 what Wipfli found.

21 MS. BINGHAM ESCAREÑO: Thank you.

22 I don't have any other questions.

23 MR. OXER: Then let's make clear that that's a  
24 speculation on --

25 MR. SCOTT: Yes.

1 MR. OXER: -- Mr. Scott's part, just in their  
2 defense.

3 MR. SCOTT: Right.

4 MR. CHISUM: Mr. Chairman?

5 MR. OXER: Mr. Chisum.

6 MR. CHISUM: Mr. Scott?

7 MR. SCOTT: Yes.

8 MR. CHISUM: Going back to the scenario of the  
9 double-billing, I've heard two numbers, over 412,000 and I  
10 think that I heard another one 26. Which is it?

11 MR. SCOTT: I'll have to defer to Patricia on  
12 that.

13 MS. MURPHY: The amount from the 2013 and 2014  
14 contract, I can get you exact amounts. I sent a letter to  
15 them. 410,000 -- I'm sorry, one minute. It's 410,782 is  
16 the amount from the 2013 and 2014 contracts.

17 MR. CHISUM: Okay. And that being the case  
18 with the double-billing, where did that money go inside  
19 the agency?

20 MS. MURPHY: It went to other --

21 MR. OXER: And this is --

22 MS. MURPHY: -- expenses that --

23 MR. OXER: To be clear, Patricia, and this is  
24 according to reports that we have.

25 MS. MURPHY: Yes.

1 MR. OXER: Okay, just --

2 MS. MURPHY: It went to other expenses. So  
3 they took that money and they moved it into their  
4 equalization fund and then they did -- they operated other  
5 things out of that. They paid some salaries, they paid  
6 some mileage. They did pay some interest on loans, in  
7 allowable. They paid some rent on service centers,  
8 they --

9 MR. CHISUM: That's fine. Thank you.

10 MR. OXER: Just other expenses.

11 MS. MURPHY: Yes.

12 MR. OXER: Okay. Any other questions? Do you  
13 have -- Mr. Eccles.

14 MS. PIERCE: Could I comment, please?

15 MR. OXER: Just hold on a second, we --

16 Mr. Eccles --

17 MS. PIERCE: All right.

18 MR. OXER: -- did you have --

19 MR. ECCLES: Actually it's not for you, Mr.  
20 Scott. I was going to ask counsel for CWCCP.

21 The Board report item for today has a  
22 background section that lays out the factual basis for the  
23 actions dealing with the LIHEAP funds, with the DOE WAP  
24 funds, and with the CSBG funds.

25 Since due process has been raised as a concern,

1 my question to you would be what, if any, factual  
2 misstatements are you alleging are here in these bulleted  
3 items?

4 MS. PIERCE: Are you talking about what's in  
5 this area?

6 MR. ECCLES: The June 30 Board report item from  
7 the Compliance Division that are --

8 MR. OXER: Item 5(a) on the agenda.

9 MS. PIERCE: Right, right, right.

10 MR. OXER: Or item 5 on the agenda.

11 MS. PIERCE: So you're just asking for what  
12 specific violations?

13 MR. ECCLES: If you are contending that there  
14 is a factual misstatement in here -- like, for instance,  
15 on the LIHEAP point, it says, "On March 13, 2015, CWCCP  
16 was given notice under Texas Government Code" and it  
17 continues from there. Are you alleging that that did not  
18 happen?

19 MS. PIERCE: The notice that was given was  
20 notice of intent -- I'll pull up the exact language so I  
21 don't misquote anyone. It --

22 MR. UHLES: I mean, I can clear that up. I  
23 mean, the notice was --

24 MS. PIERCE: I'm talking, Mr. Uhles.

25 MR. OXER: Mr. Uhles, you have to identify

1 yourself.

2 MR. UHLES: I'm sorry. It's Keith Uhles. I  
3 can clear that up. A notice was given. It's our position  
4 that notice did not comply with the Government Code.

5 MR. ECCLES: In what respect?

6 MS. PIERCE: Okay. The actual notice said -- I  
7 really do have it, I swear. It was sent March 13: 30-day  
8 notification of intent of nonrenewal for 2015 LIHEAP  
9 award.

10 This notice only stated that the department  
11 approved giving notice of nonrenewal to Cameron and  
12 Willacy Counties for the program year 2015 LIHEAP award,  
13 thereby reducing 2015 LIHEAP funds to zero dollars.

14 You cite Section 2105.203 of the Texas  
15 Government Code, but there was no notice of nonrenewal  
16 prior to this where the funds were dropped to zero  
17 dollars. It was just a notice that, You have no funding  
18 left. There was also no notice provided that 24.99  
19 percent of our client's property -- because a contract is  
20 a property right -- that that was going to be removed from  
21 them and given to someone else. There was no notice of  
22 that.

23 I have -- I'm sure you guys --

24 MR. OXER: Get ready, Megan.

25 MS. PIERCE: -- have seen I have requested open

1 records; I have sent you several open records requests, so  
2 maybe that will clear things up in the future.

3 But as of what I have right now, there was no  
4 notice that 24.99 percent of my client's property was  
5 going to be removed, given to someone else, or that their  
6 grants were going to be terminated. The notice was  
7 provided after they were terminated.

8 MR. ECCLES: Did CWCCP apply for this -- I'm  
9 just reading along this bullet point. I just want to see  
10 where --

11 MS. PIERCE: Which bullet point? Back to the  
12 first one --

13 MR. ECCLES: The first bullet point.

14 MS. PIERCE: -- you're talking about?

15 MR. ECCLES: The department issued a request  
16 for applications to administer LIHEAP and CWCCP did not  
17 apply. Did you in fact apply?

18 MS. PIERCE: No, they did not. And that was  
19 because they were under the impression that everything was  
20 going to be put on hold by both parties until this Wipfli  
21 audit was completed. That turned out not to be the case.

22 MR. ECCLES: What gave CWCCP that impression?

23 MS. PIERCE: Probably your letter stating  
24 that -- for instance, one of them stated, "We both agree  
25 that we're going to wait to provide technical and training



1 assistance until we perform the audit." That was a  
2 letter, I believe, March 3, and other statements like  
3 that, and just the general common notion that why would we  
4 be paying -- why would the State be paying for an audit if  
5 it really just had every intention of canceling it to  
6 begin with? It doesn't seem like a very fiscally prudent  
7 thing to do.

8 MR. OXER: Perhaps not fiscally prudent but,  
9 with due respect, Governance 101 we would find out the  
10 information to make that decision before we would take a  
11 final action if it does seem so.

12 Patricia?

13 MS. PIERCE: The final action being canceling  
14 the grants

15 MR. OXER: Any final action, any concluding  
16 action. Anything on that

17 MS. PIERCE: But the Board took action to  
18 terminate the grants before Wipfli had even begun their  
19 work.

20 MR. OXER: Patricia?

21 MS. MURPHY: Patricia Murphy, Chief of  
22 Compliance.

23 So remember that CWCCP administered three  
24 programs, so their CSBG contract has not been terminated.

25 MR. OXER: Hold on, Patricia. You can stay

1 right there or stand right here, but stand still for a  
2 second.

3 MS. MURPHY: So the letter that Vanessa  
4 references, a March 3 letter saying once we have the  
5 Wipfli report we can do some training and technical  
6 assistance and look at your quality improvement plan --  
7 that's for their CSBG contract, which has not been  
8 terminated.

9 And we're working with Health & Human Services  
10 to make sure we follow all the due process. There's quite  
11 a bit of due process available to them through the CSBG  
12 Act.

13 Now, the Board took very careful and deliberate  
14 action to ensure the continuity of services to the  
15 community. So those LIHEAP funds that help low income  
16 people pay their utility bills, we went through the  
17 process with the expert advice of our legal counsel Megan  
18 and followed the steps, you know, to make sure that they  
19 got all of their notices and that services continued to be  
20 provided to the community.

21 And remember even the first time it came to  
22 you, you guys tabled it, to say maybe CWCCP will provide  
23 the information that we need to move forward. And they  
24 didn't, and so then at the next Board meeting I remember  
25 it was a very difficult decision for you to deny that

1 award.

2 MR. OXER: Do you have anything else you'd like  
3 to say, Ms. Pierce?

4 MS. PIERCE: I would just remind the Board that  
5 all of this money ultimately comes from federal funding,  
6 and that's all I have to say as far as that goes.

7 MR. OXER: Okay. Great. Thanks for your  
8 comments. It may come from federal funding, but the fact  
9 that it is partly our money, it is our money, it comes  
10 here for Texas.

11 And as a consequence of the acceptance of the  
12 appointments that each of us have up here and the other  
13 obligations we have to the State, we are under a fiduciary  
14 responsibility to see to it as an agency that those funds  
15 are spent in keeping with the guidances offered -- or  
16 that's mandated by those agencies that provide the funds.

17 MS. PIERCE: Right, and my client --

18 MR. OXER: Is that a fair statement, Counsel?

19 MS. PIERCE: -- does understand that and that  
20 was why they had encouraged an audit from the get-go.

21 MR. OXER: Okay. And we audited not all funds,  
22 but there were several of these. Several of these on the  
23 three contracts we had I think they were auditing  
24 principally one of them to see where these monies went  
25 from this --

1 MS. PIERCE: I believe it was Assurance 16 was  
2 the main focus, so that falls under LIHEAP.

3 MR. OXER: Okay.

4 MS. PIERCE: Thank you.

5 MR. OXER: Thanks.

6 Ms. Garza, would you like to speak?

7 MS. GARZA: Yes, sir.

8 MR. OXER: Great. Three minutes, please.

9 MS. GARZA: Just a couple of points. One was  
10 there was some disallowed funds, or frozen. They were  
11 frozen in 2013. We didn't have any money; however, we had  
12 an executed contract. When those monies were restored  
13 about seven or eight months later, we did go back, we had  
14 to get a line of credit so that we could pay --

15 MR. OXER: Can I --

16 MS. GARZA: -- some of the --

17 MR. OXER: I have to ask you to stop just for a  
18 second.

19 MS. GARZA: Certainly.

20 MR. OXER: Okay? State your name and who you  
21 represent.

22 MS. GARZA: Amalia --

23 MR. OXER: This is a process.

24 MS. GARZA: Amalia Garza, Executive Director  
25 for Cameron and Willacy Counties Community Projects.

1 MR. OXER: Good. Thanks very much.

2 MS. GARZA: I've been with the agency for 35  
3 years, or more. As I was saying, we did -- we had our  
4 funds frozen in 2013, so we didn't have any monies to  
5 operate for seven or eight months.

6 We did keep the staff on board, and when those  
7 monies were restored, we took some of those monies to pay  
8 on the line of credit and to pay back our bills, so we  
9 were not just taking money just to take it.

10 So that was the point really that I wanted to  
11 mention. And, secondly, there were reversals that were  
12 done from those grants. And that's why we wanted so badly  
13 to have people on site to be able to look at the  
14 documentation.

15 We are not computerized to the degree that  
16 maybe everybody is, but our recordkeeping is excellent.  
17 You can find -- especially when you have the staff on site  
18 and they can give you any answers to questions that the  
19 monitors would have or the auditors would have. So that  
20 was my --

21 MR. OXER: Good. Thanks for your point.

22 MS. GARZA: Yes, sir.

23 MR. CHISUM: Mr. Chairman?

24 MR. OXER: Mr. Chisum.

25 MR. CHISUM: Ms. Garza?

1 MS. GARZA: Yes, sir.

2 MR. CHISUM: You mention that you have 35  
3 years' experience and you've obviously been involved,  
4 engaged in this in your senior role for many years. Were  
5 you aware of the double-billing?

6 MS. GARZA: No, sir. That was not a double-  
7 billing per se. Some of those monies were used as a  
8 reversal to pay because we were short at the end of the  
9 month, for example. And we might have had expenditures --  
10 because we are a high-production area, very high. We  
11 always spend our money to the last cent, and we account  
12 for it. So we were doing reversals, and those reversals  
13 were going to direct client services always.

14 Now, as far as the 20 people in a room, in a  
15 workshop, that wasn't 20 people sometimes. Sometimes it  
16 might have been 200 people that would come in for our  
17 workshops. And I believe, if I'm not mistaken, a couple  
18 of monitors did visit some of those sites where we had a  
19 lot of clients.

20 We've always had a lot of clients, and how we  
21 transition them out of poverty is also on a wrap-around  
22 philosophy. And that is to use some of the utility monies  
23 to engage people in becoming self-sufficient. And our  
24 message was very clear: You cannot depend on these  
25 programs. You have to get off and you have to get out and

1 work. And we transition people that way.

2 MR. OXER: When you talk about using some of  
3 these funds as wrap-arounds to support them to -- that  
4 were energy assistance programs as wrap-around, what  
5 exactly do you mean by that?

6 MS. GARZA: We would take -- we would do a plan  
7 of action with every client, and we would use utility  
8 assistance portions, CSBG portions to get them additional  
9 services so that we could get them out of poverty.

10 And it might have been at some point -- and we  
11 used the equalization at some point for tuition so that  
12 they could go into an enhanced training program. So we --

13 MR. OXER: Do I understand correctly -- and  
14 perhaps, Patricia, you or Megan can give us an answer on  
15 this. The LIHEAP funds are intended to be spent for  
16 energy assistance only?

17 MS. MURPHY: That is correct, sir.

18 MS. GARZA: And they were.

19 MR. OXER: I mean it's basically -- but you  
20 just said that they were used for training and for other  
21 things.

22 MS. GARZA: The equalization, the equalization  
23 monies, and the equalization monies have existed since the  
24 early '80s in the agency. This was nothing that was born  
25 out of CEAP or when we obtain CEAP funding.

1 MR. IRVINE: May I ask a question about the  
2 equalization funding?

3 MS. GARZA: Certainly.

4 MR. IRVINE: Okay. The agency primarily has  
5 administered three programs historically: LIHEAP, DOE  
6 weatherization, and CSBG. Right?

7 MS. GARZA: From TDHCA, yes.

8 MR. IRVINE: Right. Did you run any other  
9 material or significant programs over recent years?

10 MS. GARZA: We consider all programs  
11 significant.

12 MR. IRVINE: Monetarily significant.

13 MS. GARZA: Not really.

14 MR. IRVINE: Okay. So if you're administering  
15 primarily those three programs, none of which has an  
16 opportunity for profit, how did you manage to amass over a  
17 million and a half dollars in the equalization fund?

18 MS. GARZA: We had -- do you remember the Chase  
19 program?

20 MR. IRVINE: Yeah.

21 MS. GARZA: TEFAP. We had a TEFAP program back  
22 in the '80s, and that was done on a formula basis. We  
23 would get reimbursed on a formula basis. We used a lot of  
24 volunteers, so therefore a lot of the program monies would  
25 not necessarily be expenditures for the program. So we



1 obtained a lot of money through that.

2 We used to have utility programs from the  
3 churches, and some of those people that would come in for  
4 services would leave a nickel, a dime, a dollar as a  
5 donation that would go back into the program. So that  
6 money has been there for a number of years, and we don't  
7 spend it just to spend it.

8 MR. OXER: But yet you just got finished saying  
9 you use your money right down to the last cent every year.

10 MS. GARZA: The grant monies; not the  
11 equalization monies.

12 MR. GOODWIN: Mr. Chairman?

13 MR. OXER: Mr. Goodwin.

14 MR. GOODWIN: Ms. Garza, I'm probably the most  
15 simple-minded of all the people up here.

16 MS. GARZA: That makes two of us.

17 MR. GOODWIN: What I heard you say was you get  
18 money from these three programs. I heard our staff say  
19 that you're taking charges out of that money for  
20 weatherization, and you put it over here in a bucket that  
21 you call equalization, and you use it for whatever you  
22 want. That's what I heard.

23 MS. GARZA: Uh-huh. No.

24 MR. GOODWIN: Now, whether it's for tuition or  
25 to help people out of poverty, no one is questioning your

1 intention. The thing I'm questioning is you don't have  
2 any right -- that would be like getting trust funds and in  
3 deciding there's a better cause for me to go to use it for  
4 than what I was given those for. That's what it sounds  
5 like to me.

6 MS. GARZA: No, no, no, no.

7 MR. GOODWIN: It sounds like you just admitted  
8 that.

9 MS. GARZA: No. We respect --

10 MR. GOODWIN: And you knew this for six months.

11 MS. GARZA: -- the integrity and the compliance  
12 issues with each and every one of these programs. We may  
13 use equalization monies to complement services so that a  
14 person can get enhanced technical training, for example,  
15 vocational training. We have got clients that are now  
16 probation officers, that are --

17 MR. GOODWIN: There's no question. The  
18 question is these grants that funnel through us, where you  
19 take money that shouldn't come out of them, whether it's  
20 for overcharging --

21 MS. GARZA: No.

22 MR. GOODWIN: -- for an instructor to talk to  
23 200 people and you charge 2,000 when you should have  
24 charged 100. If you take that simple little example and  
25 you put 1900 in equalization, that's not money that you're

1 free, as I understand it, to go do --

2 MS. GARZA: No, no.

3 MR. GOODWIN: -- whatever you want to do with.

4 MS. PIERCE: I'm going to --

5 MR. GOODWIN: It sounded like you --

6 MS. PIERCE: -- clarify on that.

7 MR. GOODWIN: -- admitted that.

8 MS. PIERCE: Sorry.

9 MR. OXER: Please don't do that.

10 MR. GOODWIN: I'm just trying to understand  
11 what you said, not what your legal counsel said.

12 MS. GARZA: Which is why it's so important for  
13 monitors and auditors to be present --

14 MS. PIERCE: I'm going to --

15 MS. GARZA: -- and we can explain.

16 MS. PIERCE: I'm going to go and clarify --

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

18 MS. PIERCE: -- that --

19 MR. OXER: Hold on, Ms. Pierce. Hold on just  
20 for a second.

21 Patricia? You said -- talking about monitors  
22 to be present, we had monitors present, did we not,  
23 Patricia?

24 MS. MURPHY: Yes, sir.

25 MR. OXER: On several occasions, if I recall

1 correctly.

2 MS. GARZA: Every year for the last I don't  
3 know how many years.

4 MS. MURPHY: Yes, sir.

5 MS. PIERCE: Yes, you did.

6 MR. OXER: So how is it you had your -- that  
7 you contend that there were no monitors present, Ms.  
8 Garza?

9 MS. GARZA: They didn't know what they were  
10 looking at, apparently.

11 MR. OXER: Ms. Pierce, do you have a last  
12 comment?

13 MS. PIERCE: I'm just going to address Mr.  
14 Goodwin's --

15 MR. GOODWIN: I've still got a question for  
16 her.

17 MS. PIERCE: -- question.

18 MR. OXER: We'll get there. Hold on.

19 MR. GOODWIN: All right.

20 MS. PIERCE: As far as money going from the  
21 grants to the equalization funds, that only occurred when  
22 the funds from the grants were frozen in 2013 and 2014.  
23 And my clients had already -- prior to those funds being  
24 frozen they had already made commitments, they'd entered  
25 contracts, but they had due and owing by then. So they

1 used money from their equalization fund and from their  
2 line of credit to pay for those; that ordinarily would  
3 have been paid by the grant money.

4 And so when the grant money was finally  
5 unfrozen and given to my client, they used that money to  
6 repay the line of credit and the equalization fund. So  
7 while there was a middle step, it ultimately did go to  
8 paying for allowable services and things that are  
9 authorized to be paid for under the grant.

10 MR. IRVINE: Excuse me. Did you say then that  
11 no grant funds went into the equalization fund prior to  
12 2013?

13 MS. PIERCE: I mean, I'm not a CPA, but they  
14 may have put them in there as far as they have different  
15 accounts in the equalization fund and that's what the name  
16 was and that's how they had things organized. But as far  
17 as I know, I can't answer that.

18 MR. OXER: You know, I'm a simple person. I  
19 feel like I can -- and I, frankly, don't see the line to  
20 connect the dots on all of this. I'm not a CPA either,  
21 but I can do math on my feet, Patricia. It's one of those  
22 requirements that you have in engineering school. Okay?

23 The problem I'm seeing is everybody that's come  
24 up here and talked from the accounting side, from the  
25 financial side, from the compliance side says there's not

1 something that shows a direct line of these which would be  
2 able to provide the fiduciary track on all of this that  
3 are required under these contracts.

4 Now, Megan, can you tell us if those are --  
5 because I -- yes, thumbs up or thumbs down, but one of the  
6 things we have is that there has to be evident accounting.

7 MS. PIERCE: Right. And so my question would  
8 be then why wasn't Wipfli sent an invitation to be at this  
9 meeting to present their report that they prepared since  
10 they're the ones with knowledge of what they reviewed, how  
11 they reviewed it, interaction, correspondence, things like  
12 that.

13 MR. OXER: They got the information and they  
14 said that they apparently weren't able to track the -- or  
15 connect the dots either.

16 MS. PIERCE: Right, but my point was why  
17 weren't they here today to present their own report that  
18 they prepared?

19 MR. OXER: Because we accepted their report;  
20 our staff accepted their report.

21 MS. PIERCE: Prior to accepting it at the  
22 meeting you accepted it?

23 MR. OXER: No. Prior to -- the staff brought  
24 the report; the staff has brought the report. We don't  
25 have to accept their report. We get to accept it or not

1 accept it based on what staff thinks.

2 MS. PIERCE: Prior to the meeting?

3 MR. OXER: No, now. That's what we're about to  
4 do, is accept the report if we approve this motion.

5 MS. PIERCE: But how does that --

6 MR. OXER: We don't require --

7 MS. PIERCE: -- translate to not having them  
8 here to present their report? Because --

9 MR. OXER: Their report's in the Board book.  
10 We got it and we've all read it.

11 MS. PIERCE: Right. And so --

12 MR. OXER: They're not required to present it.  
13 They have it in the Board book.

14 MS. PIERCE: No, I didn't say they were  
15 required to present it. I just think that it would have  
16 presented a more thorough explanation --

17 MR. OXER: No, ma'am. That will be a policy  
18 issue you can take up with somebody, because we decided  
19 policy would be what we just did.

20 MS. PIERCE: Okay.

21 MR. OXER: Do you have another thought,  
22 Tolbert?

23 MR. CHISUM: No, sir.

24 MR. OXER: Any other questions?

25 (No response.)

1 MR. OXER: All right. Here'S what we're going  
2 to do.

3 MS. PIERCE: Thank you.

4 MR. OXER: Ms. Pierce, thanks for your  
5 comments.

6 Mr. Uhles, thank you for your comments.

7 Ms. Garza, thank you for your comments.

8 There are some issues associated with this that  
9 we need to have counsel on if we're going to accept. Mr.  
10 Eccles is going to give us some guidance on the Exec  
11 Session.

12 So what I'm going to request is if Mr. Goodwin  
13 and Mr. Gann would comply with their audit, we're going to  
14 table this -- or with their motion and second, we're going  
15 to table this until after lunch for the Exec Session when  
16 we can have some conference with our attorneys, and we'll  
17 take it up first item after we come back from Exec  
18 Session.

19 We're not finished, and we're not through right  
20 now. We're going to have an Executive Session, and those  
21 of you who are aware of and were tracking the not  
22 insubstantial events that occurred up in D.C. last week  
23 with respect to the way the agency prosecutes its work  
24 will recognize we're going to have a fairly substantial  
25 Executive Session with respect to the case that made its



1 way through the Supreme Court.

2 So we're going to break at 12 o'clock. We're  
3 going to continue the session -- we're going to continue  
4 our prosecution of the agenda until 12 o'clock, and  
5 wherever we're at we're going to break there.

6 It's going to take a good hour and a half, I  
7 suspect, with this and a couple of other items and we have  
8 the case at the Supreme Court. So just for planning  
9 purposes, those of you who wish to, we'll break at  
10 12 o'clock, be back in our chairs at 1:30.

11 So given the current circumstances, Mr.  
12 Goodwin, Mr. Gann, would you accept tabling this motion  
13 until --

14 MR. CHISUM: I do.

15 MR. OXER: Okay. Mr. Goodwin?

16 MR. GOODWIN: Uh-huh.

17 MR. OXER: Okay. Those in favor of tabling  
18 until after lunch?

19 (A chorus of ayes.)

20 MR. OXER: Opposed?

21 (No response.)

22 MR. OXER: There are none. Okay. Let's go on  
23 to 6(a), and we'll hopefully hear this one later on.

24 MS. LATSHA: Jean Latsha, Director of  
25 Multifamily Finance. Item 6(a) concerns the multifamily

1 development program and it requires some context due to  
2 its being an integral part of the 9 percent tax credit  
3 amount. Here is a handout.

4 We believe it's a copy of the log which is the  
5 list provided for in Section 2306.6724. This list  
6 reflects all of the 9 percent tax credit applications  
7 still eligible for consideration. It also reflects those  
8 applicants that have requested funds under the multifamily  
9 development program NOFA.

10 As reflected on this list, staff has received  
11 around \$40 million in requests for funds for applications  
12 layered with 9 percent tax credits. Unless you have  
13 questions or changes to the list, we will issue this list  
14 by posting it on our web site today and by retaining it as  
15 part of the Board's official record.

16 MR. OXER: You know, I grew up just south of  
17 Sebring, Florida, which is famous for having a 12-hour  
18 enduro. So what we're really seeing is the list of all  
19 the cars that are still on the track and running after  
20 this five-month enduro have been -- hey, I'm trying to  
21 keep up with our context, folks.

22 MS. LATSHA: Wow. That's a lot of context.

23 MR. OXER: All right. Back in the race here.

24 MS. LATSHA: Yes, sir.

25 MR. OXER: So this is where we accept -- we are

1 simply accepting this report. Is that correct, Jean?

2 MS. LATSHA: Yes, sir. Well, the list is part  
3 of this --

4 MR. OXER: Or are we just accepting the list?

5 MS. LATSHA: It is an action item, yes, sir.

6 MR. OXER: This is an action item to approve  
7 the --

8 MR. IRVINE: Well, the list is just --

9 MS. LATSHA: The list is just --

10 MR. IRVINE: -- being provided and --

11 MS. LATSHA: -- becoming part of the record --

12 MR. IRVINE: -- will be published.

13 MS. LATSHA: -- for the action item.

14 MR. OXER: Okay. So the action is to publish  
15 this item.

16 MS. LATSHA: No. The action will be  
17 potentially to add funds to the multifamily development  
18 program NOFA.

19 MR. OXER: Okay. I'm just making sure we're  
20 clear.

21 MS. LATSHA: Yes, sir.

22 MR. OXER: Any other questions of Ms. Latsha  
23 from the Board?

24 (No response.)

25 MR. OXER: Mr. Taylor, did you have any

1 questions -- okay. Just checking --

2 MS. LATSHA: We've got a few more --

3 MR. OXER: -- because that's the hot seat  
4 there. Okay?

5 MS. LATSHA: That's right. So also we have  
6 another handout, which is the log of applications for  
7 direct loans for applications that are layered with  
8 4 percent tax credits for HOME-only CHDO applications,  
9 CHDO being Community Housing Development Corporation. So  
10 this list totals about \$6 million in applications for HOME  
11 or TCAP. It's layered the 4 percent credit, about 5-1/2  
12 million for HOME-only CHDO applications.

13 So what we have is a NOFA that only had  
14 \$20 million in it. And the short story is we're short.  
15 So we received that \$40 million in requests for  
16 multifamily -- for direct loan program funds layered with  
17 the 9 percent. So when we take into account based on that  
18 list the potential awardees to be announced in a month, we  
19 would need about 17-1/2 million in these program funds to  
20 fund all of those 9 percent awardees.

21 In addition, then we have the \$6 million in  
22 requests for the applications layered with 4 percent tax  
23 credits. Those are pending requests in-house. Those  
24 4 percent transactions you haven't seen yet but  
25 potentially would see at the upcoming July, September, and

1 October Board meetings.

2 Staff is also aware of at least one additional  
3 application, potential application for \$3 million. And  
4 these funds in the multifamily -- the direct line program  
5 funds also paired with the 4 percent deal. We haven't, we  
6 don't have that application in-house. We've just been  
7 talking to the potential applicant, so we know it's  
8 pending. And then of course there's the \$5.5 million in  
9 request for the HOME-only CHDO applications.

10 So in total in order to fund everything that  
11 we -- is potentially going to be awarded 9 percent tax  
12 credits plus the 4 percent applications that we have in-  
13 house plus the HOME-only CHDO applications, we're short.  
14 Then plus the \$3 million application that we don't have  
15 in-house yet. We're short around \$16 million.

16 So what we are requesting essentially here is  
17 to add that \$16 million to this NOFA, not to revise the  
18 NOFA and then the timeframes associated with it or  
19 anything like that, just to add the same types of funds  
20 that were in the NOFA originally.

21 That's broken down in \$9 million from HOME fund  
22 and within that \$9 million we already had programmed in  
23 our slip \$4 million to multifamily rental activities. The  
24 reason that \$4 million wasn't put in this NOFA initially  
25 is because we still to this day, as far as I know, have

1 not executed our 2015 grant agreement for those funds.

2 As soon as that is executed, according to our  
3 slip we already have programmed that to multifamily rental  
4 activities. Now, we could push that off into a 2016 NOFA,  
5 but considering it's 2015 HUD grant agreement staff finds  
6 it -- it makes sense to just hook it onto this NOFA,  
7 especially because we are so oversubscribed.

8 Then the other portion of that \$9 million in  
9 HOME funds comes from an anticipated \$5 million in HOME  
10 program income. That's a relatively conservative figure.

11 We actually would anticipate more program income being  
12 available by the time these funds are actually needed,  
13 meaning by the time all of these transactions actually  
14 close, which won't be until the spring/summer of next  
15 year. Because they're all associated with that 9 percent  
16 award.

17 So the other -- so that accounts for nine  
18 million that we may need. The other seven million that  
19 we're requesting in this action would be from TCAP loan  
20 repayments. That's also a relatively conservative figure.

21 We have more than that technically available, although we  
22 don't want to dip too far into that pot as we do want some  
23 available for potentially other activities, perhaps a 2016  
24 NOFA.

25 So this request, like I said, would only cover

1 the potential 9 percent awardees, the HOME-only CHDO  
2 applications we have in-house, the 4 percent applications  
3 that we have in the house, and then the additional  
4 \$3 million 4 percent application that we were  
5 anticipating.

6 I think there's a couple folks here that kind  
7 of warned me they might have some comments on that. One  
8 thing to consider, a couple things to consider. I would  
9 say paramount in this request is the 9 percent  
10 applications. Those we could take care of with that  
11 \$9 million request in HOME funds.

12 If there were to be any paring down of this  
13 request, my first order priority would be that that \$9  
14 million in HOME funds does get added to this NOFA so that  
15 there -- otherwise it creates some issues with respect to  
16 the 9 percent awardees, meaning deciding, and we decided  
17 through the NOFA, which of those 9 percent awardees falls  
18 out because we don't have enough HOME funds to add to that  
19 application. And so then we would wind up picking up  
20 lower scoring applications that otherwise would not  
21 typically be awarded a 9 percent tax credit award.

22 So that would be, paramount would be that part  
23 of the request. Second would be four million of the seven  
24 million in TCAP. Because those are the applications that  
25 we actually do have in-house. Like I said, that three

1 million is just a potential applicant that we've been on  
2 the phone with quite a bit lately.

3           The other thing to consider on the other side  
4 of the fence is obviously the more we program for this  
5 NOFA the less we have available potentially for a 2016  
6 NOVA. I mentioned earlier, you know, all of these things  
7 are starting to kind of create a perfect storm. Right?

8           We've got some supportive housing folks that  
9 were here who want to program this money a little bit  
10 differently in the first place. Right? And then we've  
11 got all of these applications that are already in-house,  
12 some that are, you know, shovel ready they will tell you  
13 and will argue that those funds should be put in this NOFA  
14 because those deals are ready to go.

15           This ask is about deals that are ready to go,  
16 but there is definitely potential that you would find  
17 yourself in 2016 again very much oversubscribed. Or with  
18 not enough to program for a really substantial NOFA. So  
19 that being said, staff's request remains to add the total  
20 of \$16 million to the current NOFA.

21           And there's some commenters here, unless you  
22 have any other questions for me.

23           MR. OXER: So what we're really doing is  
24 simply, not simply but increasing, because we have  
25 projects that are viable and shovel ready, financially



1 ready, economically viable, that are not dependent on a  
2 change in policy and the development of policy change next  
3 year that Mr. Gann and Mr. Goodwin will be working on with  
4 respect to the TCAP funds, have something we can spend now  
5 so that we can get more housing in place for those folks  
6 who need it here in Texas.

7 MS. LATSHA: A hundred percent correct.

8 MR. OXER: Okay. So what we're really doing is  
9 just expanding what we've got to deal with what we have  
10 trying to -- I frankly have yet to see -- except in the  
11 4 percent market, do we have any funds that are not  
12 oversubscribed?

13 MS. LATSHA: Not any longer. You know, I think  
14 that, you know, that's what I was alluding to earlier,  
15 this gets more and more difficult as resources are limited  
16 and transactions and, quite frankly, a very capable  
17 development community and a great market here with limited  
18 resources on all fronts, whether you're talking about tax  
19 credits or a direct loan program. I don't really see that  
20 problem going away.

21 MR. OXER: We're getting better and better at  
22 stretching our budgets farther and farther, and they keep  
23 pulling on the edges wanting to cover more with them, so.

24 MS. LATSHA: Putting a lot of housing on the  
25 ground too.

1 MR. OXER: Well, and that's a good thing. If  
2 it was easy, anybody could do it, I guess. So all right.

3 Any questions for Jean?

4 (No response.)

5 MR. OXER: Any comments or thoughts? The  
6 Chair's admonition that if it's something that requires a  
7 policy development change for next year, I'd rather work  
8 on something that we can get something on the ground now  
9 or soon, you know, that gets people under shelter as soon  
10 as we can. So with that --

11 MS. BINGHAM ESCAREÑO: Mr. Chair?

12 MR. OXER: Ms. Bingham?

13 MS. BINGHAM ESCAREÑO: I guess I do have just  
14 -- so thinking about that prior agenda item with  
15 supportive housing and kind of, you know, trying to think  
16 forward. So the seven million that we can use from TCAP  
17 right now comes from loan repayments that you believe  
18 that's already conservative, like that there should be  
19 plenty in there.

20 MS. LATSHA: That's correct.

21 MS. BINGHAM ESCAREÑO: And I guess my good  
22 judgment or my conservative judgment would have said if  
23 you weren't forward thinking and trying to kind of make  
24 sure those funds might be available for our supportive  
25 housing needs that have been clearly stated earlier, that

1 would be a more reliable bucket to pull from than, say,  
2 the other five million or so that you're anticipating out  
3 of HOME.

4 But you think that number's conservative also.

5 You don't think we're stretching too far with the  
6 anticipated income. You think five million of the HOME.  
7 So you have the four that was multifamily and then you  
8 have the five. Right?

9 MS. LATSHA: Right.

10 MS. BINGHAM ESCAREÑO: But you think that  
11 number's pretty conservative, like you think that's doable  
12 or we may be robbing Peter to pay Paul relative to 2016  
13 moving forward but handling this cycle that's good  
14 judgment, that recommendation.

15 MS. LATSHA: That's correct. One, a couple  
16 things to consider on those two funding sources too. With  
17 respect to the HOME program income, that number is a  
18 little bit more aggressive than the TCAP. But, quite  
19 frankly, we want it to be. Because HOME also comes with a  
20 commitment deadline that we don't want to be behind.

21 MS. BINGHAM ESCAREÑO: Gotcha. Okay.

22 MS. LATSHA: So it's a fine line to walk. We  
23 want to be a little bit more aggressive with that  
24 programming for that reason. TCAP, that's a more  
25 conservative number, if you will. That's money that is

1 more readily available, if you will.

2 MS. BINGHAM ESCAREÑO: Right.

3 MS. LATSHA: We're waiting on that HOME program  
4 income to come in, and it's coming in as it's going out.  
5 But that's exactly how we want it to happen. The --

6 MR. OXER: So those are recycled funds. Okay?  
7 So what we're really looking at out of this is taking  
8 those funds, we're putting a call on those funds from next  
9 year into this NOFA so that we'll take and refund that,  
10 which essentially recycles those. But what ultimately the  
11 policy direction we're going to get from Mr. Gann and Mr.  
12 Goodwin will be whether or not we put some of those funds,  
13 take them out of that cycling, and make grants to them --

14 MS. LATSHA: Correct.

15 MR. OXER: -- which eventually reduces that  
16 total bucket. Once you've taken the TCAP funds out and  
17 provided on this, how much are left? And understanding  
18 that it's -- you know, you're looking for a probability,  
19 you know, make -- this is like an investment, okay, our  
20 investment guideline. The question is you got -- you're  
21 really confident that you're going to get 2 percent return  
22 or you're betting the house on -- you're really not sure  
23 if you're going to get the 25 percent return.

24 So the question is how confident are we that  
25 we're going to -- you say it's conservative and it's very

1 likely that to add those funds back. What's going to be  
2 left in the bucket after you take those out?

3 MS. LATSHA: Highly confident that the funds  
4 will all be available by the time that all of these  
5 applicants need them to close?

6 MR. OXER: Right.

7 MS. LATSHA: Yes. With respect to what would  
8 actually be available in 2016, it's much less. Right?

9 MR. OXER: Right.

10 MS. LATSHA: Now, it is continually recycled,  
11 so there is a point where, like I said, you're walking  
12 that line where you're constantly programming ahead of  
13 that program, that commitment deadline. I think the real  
14 X factor here though is whether or not there's going to be  
15 a significant 2016 grant agreement.

16 It's I think -- you know, it makes sense to  
17 stay ahead of that commitment deadline and walk that line  
18 between being too aggressive and not getting the funds out  
19 quickly enough if you're confident that you're going to  
20 continue to get money from the fed.

21 I think the reason, the only reason I think  
22 some folks might have a little bit more heartburn about  
23 this than typically is because of the potential for those  
24 funds diminishing. But I think there's another side to  
25 that argument, which is if they're going to go away we

1 might as well --

2 MR. OXER: Might as well use them now.

3 MS. LATSHA: -- spend this now. Right? So all  
4 the more reason to go ahead and program it. And so  
5 maybe --

6 MR. OXER: We got them in the ground --

7 MS. LATSHA: -- it's not an X factor at all.

8 MR. OXER: -- they can't take the concrete  
9 away.

10 MS. LATSHA: Right. Right, so.

11 MR. OXER: Okay. Any other questions?

12 (No response.)

13 MR. OXER: Okay. Anything else you want to sum  
14 up on, Jean?

15 MS. LATSHA: No, sir.

16 MR. OXER: Okay. All right. Item 6(a), is  
17 there a motion to consider?

18 MR. GOODWIN: So move.

19 MR. OXER: Okay. Motion by Mr. Goodwin.

20 MR. CHISUM: Second.

21 MR. OXER: Second by Mr. Chisum to approve  
22 staff recommendation. Looks like we have some folks that  
23 want to talk. Okay.

24 MS. STEPHENS: Good morning, Chairman Oxer. My  
25 name is Lisa Stephens, I'm with Sagebrook Development, and

1 I actually am here on behalf of a group of developers that  
2 have been talking about this item coming up today.

3 As you're aware, this was published as a three-  
4 day notice, and so we really haven't had a lot of time to  
5 digest the full implications of what adding this  
6 additional seven million of TCAP into this program might  
7 be. We also haven't had an opportunity to look and see  
8 what the funding list looks like for the seven million of  
9 TCAP.

10 And so as a group we have some questions and  
11 concerns about exactly where this money is going, what the  
12 ramifications could be on the 2016 cycle. If it is going  
13 actually to supportive housing deals, does that then  
14 become a grant program and not a recycling fund, so it  
15 actually cuts short some future potential funding for  
16 cycles.

17 As well as we understand -- and I haven't seen  
18 a list, but we understand that there may some 2014 deals  
19 that were underwritten without this money that are now  
20 coming in and asking for it. I can't verify that one way  
21 or the other, I haven't seen; that's simply what I've been  
22 told.

23 However, that being said, we would like to ask  
24 for an opportunity to get some more information from both  
25 staff and Jean and her group on adding seven million to

1 this NOFA. It was originally six million in TCAP, so  
2 we're talking about more than doubling it. And I think it  
3 warrants an opportunity to look at the information and  
4 bring it back to the July 15 Board meeting.

5 We understand there are some deals that are  
6 shovel ready; there are some deals that need to move  
7 forward. We get that. But we would like more than three  
8 days to be able to evaluate it, perhaps provide some  
9 feedback, and then have it reheard in July.

10 MR. OXER: Okay. Thanks, Lisa.

11 MS. ANDERSON: Good morning, Chairman Oxer and  
12 Board. Terri Anderson, Anderson Development &  
13 Construction. I appreciate the opportunity to speak with  
14 you all this morning regarding the TCAP funding.

15 As Lisa mentioned, it is an opportunity for the  
16 State of Texas to actually recycle money for additional  
17 housing. I believe we received 158 million or so in TCAP  
18 dollars years ago. And as the money starts to get repaid,  
19 what I'd like to see -- and the group -- quite frankly,  
20 I'm a part of that group as well -- what I'd like to see  
21 and have an opportunity to do is use those funds for high-  
22 opportunity area development. That's kind of where we're  
23 moving.

24 And one part of that is where we've got  
25 9 percent developments that are receiving substantial



1 amount of equity, they are in many instances able to get  
2 conventional financing. And I would like to see that  
3 opportunity for those 9 percent deals. But certainly  
4 4 percent tax credit bond transactions need gap funding,  
5 and then other HOME-only developments, for example, could  
6 probably most beneficially provide housing in areas that  
7 would not otherwise receive affordable housing in the  
8 high-opportunity areas.

9 So I would like an opportunity to relook at  
10 where we are with this NOFA and the use of the TCAP  
11 dollars.

12 MR. OXER: Thanks, Terri.

13 Any questions for Terri?

14 (No response.)

15 MR. OXER: Thanks, Terri.

16 MS. ANDERSON: Thank you.

17 MR. OXER: Mr. Taylor, did you have anything  
18 you wanted to say on this?

19 MR. TAYLOR: No. It is racing; not before I  
20 jump the start --

21 MR. OXER: Good. Getting back with our theme  
22 today.

23 Okay, Jean. With respect to what Ms. Stephens  
24 asked.

25 MS. LATSHA: Sure.

1 MR. OXER: Okay?

2 MS. LATSHA: The only comment I would make  
3 there is that this list has been posted on the web site  
4 for quite some time. I think it just probably -- folks  
5 might not have been doing the math and realizing how  
6 oversubscribed we were until the item did get posted.

7 This NOFA is written in the manner that 2014  
8 deals could not come in for additional funding, so that  
9 will not happen. And this addition of funds would  
10 basically wind up, in a practical sense, closing the NOFA,  
11 because we wouldn't have any more funds left.

12 We would award all those 9 percent deals, and,  
13 you know, we rounded up a little bit. Right? So that  
14 maybe there would be a residual 200 grand left in there or  
15 something like that at the end of the day. But the ask  
16 was such that this NOFA would essentially be over.

17 I would mention too that one of the tie breaks  
18 in this NOFA is deals that are eligible for points on the  
19 Opportunity Index. So we did take that into account as  
20 well.

21 That being said, if the Board did want to opine  
22 a little bit more for a couple weeks, it wouldn't be the  
23 end of the world for the 9 percent cycle, since we do have  
24 two more meetings left. If I was Kathryn, I'd be a little  
25 bit nervous about that.

1 MR. OXER: Yeah, but you're going to jump down  
2 and give somebody else the helmet, and so she's got to  
3 finish this thing. Okay?

4 MS. LATSHA: Yeah. And as I explained earlier,  
5 too, if the Board wanted to opine further on that as well  
6 and take in some additional comment, again that HOME  
7 portion is what's vitally important to the 9 percent  
8 rounds.

9 I know that Teresa then will say, well, my 4  
10 percent guys over there too would like their funds as  
11 well. So she does have -- I think the deal that is slated  
12 to be coming to the next July Board meeting, we have  
13 enough in the NOFA for it already anyway.

14 But there are those next two deals that are  
15 slated for September and October that would definitely  
16 need that additional TCAP if they were going to move  
17 forward.

18 MR. OXER: Okay. So what I'm hearing you say  
19 is in the event we elected to defer until the next  
20 meeting, it would pinch but it wouldn't kill anything  
21 we're working on.

22 MS. LATSHA: Yes, sir.

23 MR. OXER: No schedule -- there wouldn't be any  
24 schedule implications on it?

25 MS. LATSHA: The only one that would be

1 difficult is if at the end of the day in two weeks the  
2 HOME portion was not approved; there would be a pretty  
3 good scramble at the end of July.

4 MR. IRVINE: So basically if you kick the can  
5 down the road, the cans could come to a stop at the next  
6 Board meeting and all of the back and forth and input and  
7 everything would have to take place pretty much  
8 immediately so that we could put together an appropriate  
9 posting for that next Board meeting.

10 MR. OXER: Okay. Well, I'm going to exercise  
11 one of those things that I get to do and say, Ms. Saar,  
12 would you like to say something?

13 MS. SAAR: I was just going to say that that  
14 next --

15 MR. OXER: First thing you got to say is who  
16 you are.

17 MS. SAAR: Kathryn Saar, and 9 Percent Tax  
18 Credits. I was just going to say that, as a very  
19 practical concern, that posting would happen next week.  
20 So there's very little time to, you know, put that Board  
21 book together, and it doesn't give the development  
22 community a lot of additional time.

23 MR. OXER: Yeah, because they don't get two  
24 weeks to read it; they get another six days --

25 MS. SAAR: Correct.

1 MR. OXER: -- maybe seven.

2 MS. SAAR: It's a very practical consideration.

3 MR. OXER: Yes. I'm into practical these days.

4 All right.

5 Mr. Goodwin and Mr. Chisum made the motion and  
6 the second. I think we'll put this as another item in our  
7 Exec Session just to ponder for a bit. Let's table this  
8 until after the -- with your consent we'll table this one  
9 until we return, have some more thoughts on it, because I  
10 think there are some scheduling and some contract issues  
11 I'd like some more input from counsel on what might happen  
12 on this.

13 So given -- I need the script. Thank you.

14 All right. So we will -- regarding item 6(a)  
15 with the current active motion by Mr. Goodwin, second by  
16 Mr. Chisum, motion to table until after we take it up when  
17 we return from Executive Session. Those in favor?

18 (A chorus of ayes.)

19 MR. OXER: Opposed?

20 (No response.)

21 MR. OXER: It's unanimous. Okay. Everybody  
22 sit still for a second.

23 Governing Board of the Texas Department of  
24 Housing and Community Affairs will go into closed session  
25 at this time, pursuant to the Texas Open Meetings Act, to

1 discuss pending litigation with its attorney under Section  
2 551.071 of the Act, to receive legal advice from its  
3 attorney under Section 551.071 of the Act, discuss certain  
4 personnel matters under Section 551.074 of the Act, to  
5 discuss certain real estate matters under Section 551.072  
6 of the Act, and to discuss issues related to fraud, waste  
7 or abuse under Section 2306.039() of the Texas Government  
8 Code.

9 Closed session will be held in the anteroom  
10 immediately behind us. The date is June 30, 2015. The  
11 time right now is 11:54. Let's be back in our seats at  
12 1:30. It's going to be a rousing time we'll have back  
13 there, so see everybody at 1:30.

14 (The Board went into executive session.)

15 MR. OXER: All right. Let's be back in order,  
16 please. Before lunch we tabled item 5 and 6(a). With the  
17 Board's consent I'll recall item number 5 for  
18 consideration now.

19 So, Patricia, can you come do a short one-  
20 sentence summary of where we are?

21 MS. MURPHY: Good afternoon. Patricia Murphy,  
22 Chief of Compliance. So item number 5 was a report item  
23 for you from Wipfli CPAs and consultants regarding Cameron  
24 and Willacy Communities Project. Within your report item  
25 it lays out the process that the department followed for

1 providing the LIHEAP and WAP contracts to another provider  
2 and attached to it as well is the department's letter  
3 requesting \$410,000 in repayment and CWCCP's response to  
4 that.

5 MR. IRVINE: If I might just clarify,  
6 essentially a report from staff, and the Wipfli report was  
7 simply an exhibit.

8 MS. MURPHY: Thank you. Yes.

9 MR. OXER: Okay. So there was a motion by Mr.  
10 Goodwin, second by Mr. Gann, that was to accept the report  
11 from Wipfli as a part of the --

12 Say again?

13 MR. GOODWIN: Report from staff.

14 MR. OXER: I'm sorry -- accept the report from  
15 staff on the current circumstances. Is that correct?

16 MS. MURPHY: Yes.

17 MR. OXER: Okay. Is there any other questions  
18 from the Board?

19 (No response.)

20 MR. OXER: Okay. With respect to item 5(a),  
21 motion by Mr. Goodwin, second by Mr. Gann, those in favor?

22 (A chorus of ayes.)

23 MR. OXER: And opposed?

24 (No response.)

25 MR. OXER: There are none.

1           Okay. With respect to item 6(a), it's been  
2           tabled. This is with respect to the addition of funds.

3           So, Jean, make one summary -- a one-statement  
4           summary, please.

5           MR. OXER: Sure. Jean Latsha, Director of  
6           Multifamily Finance. This is a request to add additional  
7           funds, 16 million, to the current Multifamily Development  
8           Direct Loan Program NOFA, seven million of which is  
9           sourced from TCAP-1 repayments, nine million of which is  
10          sourced from the HOME program; four million of that from  
11          the 2015 HUD grant agreement and five million of that from  
12          anticipated program income.

13          MR. OXER: Okay. Were there any other  
14          questions from the members of the Board?

15          (No response.)

16          MR. OXER: Okay. There was a motion by  
17          Mr. Goodwin, a second by Mr. Chisum. We're taking this up  
18          now. If I might recommend as the Chair that we table this  
19          item to be considered so that there's additional public  
20          notice.

21          Mr. Goodwin and Mr. Chisum, would you accept  
22          that?

23          MR. CHISUM: Yes.

24          MR. GOODWIN: Yes, sir.

25          MR. OXER: Okay. So I now have a motion to



1 consider for tabling until our July 16 meeting, which is  
2 two weeks from the day after tomorrow.

3 MR. CHISUM: So moved.

4 MR. OXER: Okay.

5 MR. GOODWIN: Second.

6 MR. OXER: Okay. Motion by Mr. Chisum, second  
7 by Mr. Goodwin to table this item until the July 16  
8 meeting. Is there any public comment?

9 Mr. Taylor, is there anything you wanted to  
10 say, or you're waiting for the next one. Okay.

11 All right. Those in favor?

12 (A chorus of ayes.)

13 MR. OXER: And those opposed?

14 (No response.)

15 MR. OXER: There are none.

16 Okay, Jean, you're on 6(b).

17 MS. LATSHA: All right. Item 6(b), this is  
18 appeals under the department's program rules. The first  
19 appeal is actually not a current application. This is a  
20 2013 9 percent housing tax credit application.

21 The applicant, Kerrville Senior Limited  
22 Partnership, was awarded tax credits in 2013 as a  
23 supportive housing development. So this has placed-in-  
24 service deadline of the end of this year. Actually I  
25 attended the groundbreaking earlier this spring, so

1 witnessed that they're well on their way. I'm sure well  
2 on their way from when we were out there.

3 The story here is that supportive housing  
4 transactions are defined in our rule, in 10.3 of  
5 subchapter (a), and have been for a couple years. This  
6 definition's been a little bit tweaked from 2013 and '14  
7 and '15. But in general it has the same concept, which is  
8 supportive housing developments don't carry debt. So our  
9 direct loan requirements, as we were talking about  
10 earlier, don't contemplate that type of funding.

11 We -- our rules very clearly lay out that we  
12 don't structure those direct loans as grants or as  
13 deferred nonforgiveable loans, which is the only thing  
14 that you could have in your capital stack for a supportive  
15 housing deal and still be considered supportive housing.

16 This is important for a few reasons. Not only  
17 are the two concepts just kind of incompatible, but also  
18 by being a supportive housing development in 2013, that  
19 afforded you quite a few advantages in the competitive  
20 9 percent cycle, some of which were directly related to  
21 point, some of which were just lesser requirements with  
22 respect to unit sizes and things like that.

23 So there's a very basic difficulty in  
24 reconciling the fact this is a supportive housing  
25 development that can't carry that, and then it's coming in

1 for our direct loan funds that are structured as repayable  
2 debt.

3 On top of that, this is a request for HOME  
4 funds. HOME funds carry quite a few requirements along  
5 with them, quite a few strings with them. Two primary  
6 ones are the requirement for an environmental clearance  
7 and then also for Davis-Bacon waivers during construction.

8 HUD requirements also, basically upon  
9 contemplation of using HOME funds in their transaction, an  
10 applicant is not eligible to take what are called choice  
11 limiting actions, which would include closing on your land  
12 and being in construction.

13 So one big, big problem with this very  
14 particular application, despite a broader conversation  
15 about supportive housing developments and them not being  
16 eligible for these HOME funds as they're administered  
17 right now anyway, is that staff would argue that when this  
18 HOME application was submitted that they should have  
19 stopped construction if they were going to be eligible to  
20 move forward with an award of HOME funds from the  
21 department.

22 They have not stopped construction, it's my  
23 understanding, thank goodness. Because they do need to  
24 place in service by the end of the year or there's a loss  
25 on the tax credit side.

1           There was a lot of, there was some  
2           contemplation from this applicant of applying for the 2014  
3           NOFA. So 2013 tax credit award, gets a tax credit award,  
4           and then as things move along, construction costs go up,  
5           find themselves with a problem. They've got a substantial  
6           gap in financing.

7           So come to 2014 and request HOME funds and  
8           staff's answer was -- I believe we might have been  
9           oversubscribed at the time anyway but also we had those  
10          concerns about the environmental clearance and the Davis-  
11          Bacon really getting in the way of that.

12          Those discussions in the fall of 2014 I don't  
13          think touched, at least didn't emphasize the problem with  
14          just simply being a supportive housing deal that couldn't  
15          carry debt. So we had some more discussions with this  
16          applicant early in 2015 when we developed this NOFA and  
17          said, you know, despite these environmental clearance  
18          problems and Davis-Bacon problems, which the applicant  
19          thought that they could actually work around, we just  
20          don't have a funding source that's compatible with this  
21          supportive housing development.

22          So they applied anyway kind of with the  
23          understanding that we were going to terminate it and that  
24          they could come and appeal to you to overturn that  
25          determination and move forward. So staff recommends

1 denial of that appeal. If there are any other questions  
2 for me or I'm sure the applicant has some comment.

3 MR. OXER: No other questions?

4 (No response.)

5 MR. OXER: Okay. Motion to consider.

6 MR. GANN: I so move.

7 MR. OXER: Okay. Motion by Mr. Gann to approve  
8 staff recommendation to deny the appeal.

9 MS. BINGHAM ESCAREÑO: I'll second.

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

11 Is there a comment?

12 (No response.)

13 MR. OXER: There are none. Okay.

14 MR. LYTTLE: Mr. Chair, I've got these.

15 MR. OXER: Oh, I'm sorry. Go ahead, Michael,  
16 with the two letters that you had two to read into the  
17 record.

18 MR. LYTTLE: Thank you. Michael Lyttle, TDHCA  
19 staff. We've received two letters on this item, one from  
20 State Representative Andrew Muir and the other from State  
21 Senator Troy Fraser, and I'll read the Senator's letter  
22 first.

23 It reads: "Dear Mr. Chairman and Board members.  
24 I have previously supported the Freedom's Path project, a  
25 to-be-constructed affordable housing development for

1 veterans in Kerrville, Texas. It is my understanding that  
2 there has been an appeal submitted to the TDHCA Governing  
3 Board on the agency's termination of an application for  
4 the Freedom's Path Project to receive 2015 HOME funds.

5 "I am writing in support of the Freedom's Path  
6 Project appeal and to urge the TDHCA Governing Board to  
7 grant the appeal and allow the project to receive 2015  
8 HOME funds. This project is extremely beneficial to  
9 veterans and has the full support of the Kerrville  
10 community.

11 "I thank you for your consideration of this  
12 important matter. Please feel free to contact my office  
13 if you have any questions. Sincerely, Troy Fraser, State  
14 Senior of Texas Senate District 24."

15 The second letter reads in a similar text:  
16 "Dear Mr. Chairman and Board members. I have previously  
17 supported the Freedom's Path Project, a soon to-be-  
18 constructed affordable housing development for veterans in  
19 Kerrville."

20 Actually the text is the same as the previous  
21 letter. And this one is from Andrew S. Muir, State  
22 Representative, House District 53.

23 MR. OXER: Okay. Thanks, Michael.

24 Okay. Is there any other public comment?

25 Mr. Taylor? And for the record, you have to

1 identify yourself each time you speak, so.

2 MR. TAYLOR: Yes, sir. Craig Taylor with  
3 Communities for Veterans. And again thank you. I wanted  
4 to mention to Jean that the Flying Lizards KPAX racing  
5 team, which runs in the Pirelli World Challenge, runs two  
6 McLarens, and I'm sure they would love to have a third.  
7 So get on up there, yeah. Big, big road race fan.

8 Thank you again for having the opportunity to  
9 speak. What Jean described is exactly how things  
10 occurred. We got a award in 2013, and I don't want to  
11 throw the VA under the bus or some of the issues with this  
12 project, but it is not easy at all to do a development on  
13 a VA campus with all the levels that you have to go  
14 through.

15 Because of that, it took us a long time to get  
16 to a point where we could finally close on the project,  
17 and in the meantime we wound up with a funding gap. So we  
18 came back to TDHCA and discussed a couple of things. One,  
19 could we refresh the credits to give us more time, because  
20 we had this December 15th deadline, and the answer was no  
21 and we understood that.

22 And so the second was could we ask for  
23 additional money. And the issues raised were essentially  
24 twofold. One, environmental clearance and, two, Davis-  
25 Bacon. And we explained that as a federal project before

1 we could move forward we had already done the Part 50  
2 environmental clearance required, and it was done by the  
3 VA, and what is called a FONSI letter had been issued  
4 already, a finding of no significant impact. So that had  
5 been done.

6 Secondly, we were required to meet Davis-Bacon  
7 wage requirements, which is one of the issues that we had  
8 in terms of our costs for constructing the project. So we  
9 were already under the obligation and had committed to  
10 meeting the Davis-Bacon requirements.

11 So the final question had to do with both  
12 qualification for funding, and that was your loan program  
13 had a must-pay component to it, and we needed some kind of  
14 deferred payment standstill agreement, at least during the  
15 tax credit period and also to meet the permanent  
16 supportive housing requirements. And timing for applying,  
17 when funds would be available.

18 So we discussed that, and the discussion  
19 suggested that if we were to apply we should do so in  
20 2015, which we did. However, the other thing that came  
21 up, caught us by surprise, was that in 2015 unlike 2013 or  
22 2014 there was a requirement in the rule that if you had  
23 been awarded funds for the last five years you could not  
24 apply. So in addition we were precluded from applying in  
25 2015, even though we had had I think fairly candid, very



1 clear discussions about that.

2           So we said, well, what do we do. And so the  
3 idea was to go ahead and apply. It was also discussed  
4 about whether we should come before this Board without an  
5 application and just talk about this stuff in ether or to  
6 actually have a formal application. And so it was decided  
7 that we would put in a formal application. So I think the  
8 staff did exactly what they had to do, and that is based  
9 on the rules there's no recommendation to go forward or  
10 grant a waiver.

11           I'm here to ask for a waiver for this very,  
12 very important project. It is under construction. We're  
13 going to get it completed. We're going to open it. But  
14 that is not without a massive amount of sacrifice and  
15 pain, and I went into some of that at the ground breaking  
16 with the folks who were gathered there. And the idea was  
17 at some point do we go forward and do this housing for  
18 vets regardless of all the issues or do we pull back.

19           And so after the loan gestation process we  
20 decided we got to go forward with the hope that we could  
21 come to you guys and ask for some funds and cover at least  
22 a portion of the gap that we have. So that's why we're  
23 here today, and need your support. The project will get  
24 done, we'll house disabled senior veterans, but it's going  
25 to be at a massive price.

1           I should add, let me just -- parenthetically I  
2 hope I'm not using up my three minutes too much, but we're  
3 only doing these projects. Communities for Veterans only  
4 does this. We have a project that's within a few weeks of  
5 finishing in Hines, Illinois, where we were awarded two  
6 and a quarter million dollars of HOME funds by Cook County  
7 under a deferred payment kind of cash flow-only basis.

8           We have a project that's about 10 percent  
9 complete in Vancouver, Washington, and we've been awarded  
10 \$250,000 of HOME funds there for that project. We have  
11 another project that's about to close in Chillicothe,  
12 Ohio, and there we've been awarded three and a half  
13 million dollars of state funds through R-TCAP, HOME, and a  
14 State Housing Trust Fund.

15           So all of these projects and others -- we've  
16 got one in Augusta, Georgia, and so forth that we're about  
17 to close on, all of these have the same kind of layered  
18 cake stack of soft money in order to make them work. And  
19 the conundrum we have here in Texas, as I shared with you  
20 the first time around, is that there is just not a pot of  
21 money for these smaller rural deals where we can go to.

22           So it's not like we're doing anything different  
23 in Texas than we're doing everywhere else. It's that  
24 Texas is different in this one regard. And for this to be  
25 a really strong viable project we've got to have some kind

1 of soft funding, and this is literally at this point the  
2 only place to come.

3 So thank you very much.

4 MR. OXER: Okay. Thanks for your comments, Mr.  
5 Taylor.

6 MR. TAYLOR: Yes, sir.

7 MR. OXER: Questions from the Board?

8 (No response.)

9 MR. OXER: Jean, does this project work? I  
10 mean Mr. Taylor's going to pursue this project, I  
11 understand that. But is there -- are you aware of  
12 anything different with us or is our HOME program and TCAP  
13 programs materially different from those other states?

14 MS. LATSHA: I don't know particularly some  
15 other practices in other states where they've been able to  
16 do this. And I'm not intimately familiar with the  
17 financing that did come through for this project and how  
18 big that gap is. I do think that this is obviously part  
19 of a larger discussion that we've been having all day  
20 today.

21 You know, it's possible that when that  
22 discussion gets down the road with respect to policy and  
23 administering the HOME and TCAP program, and if it does  
24 get to a point where it could be structured as a grant or  
25 something that could support a deal like this, maybe it is

1 work-out deals that are already constructed that have some  
2 sort of priority in there.

3 I don't know. I think there's a lot of  
4 different ways to prioritize the administration of these  
5 funds moving forward. You know, I think that -- I don't  
6 remember precisely how much this application was for.  
7 It's probably for a couple million dollars. I imagine if  
8 he needs a couple million dollars now, that getting a  
9 couple million dollars in a year would be just as good,  
10 almost as good, at least better than nothing.

11 So I think this is a story that, you know, can  
12 be considered. Moving forward I think that it's a little  
13 bit problematic for this particular application for the  
14 reasons that we laid out. But if this type of development  
15 does become a priority to the Board and/or staff, then  
16 this is the story to remember.

17 MR. OXER: Thank you. From a policy standpoint  
18 we're still -- Mr. Gann and Mr. Chisum are going to be  
19 taking a look at the prospects of using these funds. So I  
20 guess what I was trying to make sure or to see, just  
21 reflection on your comments, Mr. Taylor, irrespective of  
22 how it worked out today, that nothing we do today slams  
23 the door. Because we're still looking at how to do this.

24 And while we recognize that your program, your  
25 projects -- I think there's enormous sensitivities of the

1 veterans programs here on behalf of each of us, but we're  
2 also working as diligently as possible to maintain the  
3 integrity and structure of our rule. So I'm thinking is  
4 that there -- once we have a policy decision or policy  
5 recommendation from Mr. Gann and Mr. Chisum we'll have a  
6 better idea of how to live with the idea that we don't  
7 just -- there's nothing getting slammed shut, it's just be  
8 a decision later once we consider a policy.

9 Is that clear? Does that make sense? Okay.

10 All right. With respect to item 6(b)  
11 application 13167, I have a motion by Mr. Gann, second by  
12 Ms. Bingham. We've heard public testimony. Those in  
13 favor?

14 (A chorus of ayes.)

15 MR. OXER: Those opposed?

16 (No response.)

17 MR. OXER: There are none. It's unanimous.

18 MS. BINGHAM ESCAREÑO: Mr. Chair, could I  
19 just -- I just wanted to also recognize Mr. Taylor and  
20 just appreciate, one, your effort with these initiatives  
21 that are very important. But also just wanted to  
22 recognize that you affirmed that staff did what staff, you  
23 know, had to do in this case, and that your efforts to  
24 work collaboratively with them are greatly appreciated by  
25 the Board. And I think we're all motivated to find

1 alternative good creative ways to help folks like you get  
2 those projects done.

3 MR. TAYLOR: Thank you, ma'am. Without this  
4 staff -- and I've said it at the groundbreaking, this -- I  
5 work in nine states, this is the best staff I've ever  
6 worked with. And without the staff we wouldn't have  
7 gotten to where we are. So when this thing gets built, it  
8 gets built because of the commitment and dedication of the  
9 staff and this Board. Thank you all.

10 MR. OXER: Thanks for your comments, Mr.  
11 Taylor. I will say, to make a Naval analogy on this, as  
12 some of us up here are prone to do, it's like turning a  
13 battleship. So it always takes a while, there's a lot of  
14 thrashing around in the back end of it to make it work.  
15 So be patient, it doesn't happen in a hurry.

16 Okay. Kathryn, good afternoon.

17 MS. SAAR: Kathryn Saar, 9 Percent Tax Credit.

18 The next item on your agenda is an appeal of a scoring  
19 notice for Mariposa at Greenville Road in Royse City.  
20 This is a scoring notice that was denied points under a  
21 community revitalization plan.

22 So the community revitalization plan is a  
23 scoring item that has been extensively developed and has  
24 very specific requirements for what will qualify for  
25 points, and particularly in Urban Region 3. There's only

1 one way that deals in Urban Region 3 can qualify for CRP  
2 points where as urban deals in other regions of the state  
3 has another option as well and rules deals have their own  
4 separate options.

5 So in Urban 3 there are six components of a  
6 qualifying revitalization plan. First, the plan has to be  
7 duly adopted by the municipality or county in which the  
8 development site is located. Second, the municipality or  
9 county must have performed an assessment of five of eight  
10 factors outlined in the QAP as in need of being addressed,  
11 and that must be in a process that allows for public  
12 input.

13 Third, the target area must be larger than the  
14 assisted housing footprint. So we're looking for things  
15 like specific neighborhoods and not large swaths of a city  
16 or a county. Fourth, the plan must be reasonably expected  
17 to revitalize that neighborhood and address in a  
18 substantive and meaningful way the material factors  
19 outlined in the plan.

20 Fifth, the plan must describe a plan budget and  
21 uses of funds to accomplish its purposes within that  
22 target area. And, finally, the CRP must have been in  
23 place on the date of the final application delivery date.

24 So in this case there's no question that  
25 components one and six have been met. I'd like to walk

1 through the other components just to kind of show you the  
2 process that staff uses and where we found difficulties.

3 With component two, when staff reviewed this  
4 plan it had difficulty reconciling the plan goals that are  
5 outlined in the plan with the eight factors that are  
6 spelled out in the QAP. Plan goals two through four --  
7 and you can find these through page 195 of your Board  
8 book. Plan goals two through four are clearly intended to  
9 align with QAP factor C, which is inadequate  
10 transportation or infrastructure, D, lack of public  
11 facilities, and G, lack of local businesses providing  
12 employment opportunities.

13 The fifth goal is a direct quote from the QAP  
14 but it's unclear how lack of diversity is being addressed  
15 by the plan. The first plan goal could be viewed to align  
16 with factor G, which is again the lack of local business  
17 providing employment opportunities, but that's already  
18 been addressed by another factor or plan goal, which was  
19 goal number four. Conversely, plan goal one could be  
20 viewed as a broader economic development effort, which the  
21 QAP calls out as separate and distinct from community  
22 revitalization.

23 So we definitely have three factors. We may  
24 have four factors. We can't get to that magic number of  
25 five factors.



1           The third component is the target area. So  
2 there is a map of the target area on page 197 of your  
3 Board book, and you'll notice when you look at that map  
4 that the vast majority of the plan's target area is vacant  
5 land. You'll see the green outline of the target area,  
6 and a good chunk of that vacant land is actually the  
7 development site in question.

8           So technically the target area is larger than  
9 the assisted housing footprint but I'm not sure that this  
10 really meets the intent of the rule. It should also be  
11 noted that this application was challenged on that issue,  
12 and as reported to you in last -- two-weeks-ago Board  
13 meeting the challenge -- or staff agreed with the  
14 challenger.

15           So we've talked about components two and three,  
16 and you really can't get to four without already achieving  
17 two and three. I find it difficult to reconcile the idea  
18 of developing unimproved land on the perimeter of a city  
19 with a true revitalization effort, especially given the  
20 fact that the adjacent neighborhood to the development  
21 site is not included in the target area.

22           The last component which we haven't discussed  
23 yet is the plan budget. Again, the budget components have  
24 to tie back to those five factors that are in need of  
25 being addressed. So when you look at the budget outlined

1 in the plan, which is on page 196, the plan goals are  
2 summarized as growth, transportation/infrastructure,  
3 public facilities/services, employment, and diversity.  
4 And growth is simply not one of the factors identified in  
5 the QAP.

6 So that kind of gives you the process that  
7 staff uses to look at all of these CRPs and the difficulty  
8 we had with this particular CRP, which is why we  
9 ultimately denied the points.

10 The applicant's appeal has attempted to  
11 correlate the plan factors in the QAP of environmental  
12 conditions and blight, which also includes obsolete land  
13 use. Staff did not find that argument convincing, and the  
14 Executive Director denied that appeal, and staff again  
15 recommended denial here.

16 So if you have any questions for me.

17 MR. OXER: Any questions for Kathryn?

18 (No response.)

19 MR. OXER: Okay. With respect to 6(b)  
20 application 15012, is there a motion to consider?

21 MR. CHISUM: So move.

22 MR. OXER: Okay. Motion by Mr. Chisum.

23 MS. BINGHAM ESCAREÑO: Second.

24 MR. OXER: Second by Ms. Bingham. Okay. Does  
25 anybody on the seat here want to talk about this

1 application?

2 You guys too, Barry, are you waiting for a --

3 MR. PALMER: Yes.

4 MR. OXER: Okay. All right. Let's have it.  
5 Three minutes.

6 MR. GOODWIN: Mr. Chairman, is this 15012  
7 Mariposa, is that the application we're discussing?

8 MS. SAAR: That's correct.

9 MR. OXER: That's correct.

10 MR. GOODWIN: Then I'll recuse myself from this  
11 discussion and deliberation.

12 (Alarm noise.)

13 MR. OXER: We're about to go into dive mode  
14 here in the sub. Batten down the hatches and seal the  
15 weapons. Okay?

16 (General laughter.)

17 MR. OXER: And we have a question, counsel, on  
18 recusal. Does he have to take himself out of the room?

19 MR. ECCLES: Yes.

20 MR. OXER: Okay. That means we got to turn the  
21 mike -- he can't be in the back room either. Step in the  
22 hall.

23 MR. ECCLES: He needs to wander the streets  
24 alone.

25 (General laughter.)

1 MR. ECCLES: We still have a quorum.

2 MR. OXER: Yeah, for the record, for the record  
3 of the transcript, we still -- with Mr. Goodwin absent, we  
4 still maintain our quorum.

5 So very well, sir. Go.

6 MR. BUMP: Okay. Good afternoon. Casey Bump,  
7 President of BonnerCarrington. Thank you for taking this  
8 matter up.

9 We are here to talk about Mariposa Apartment  
10 Homes at Greenville Road. This is a senior community in  
11 Royse City, Texas. We received the scoring notice, and  
12 the scoring notice that staff sent us left out a lot of  
13 the detail that came up in Ms. Saar's presentation. And  
14 we -- let me just quote here from the scoring notice so  
15 that we can get on the same page.

16 So it says -- I'll just take the -- "Assessment  
17 of factors with need of being addressed did not include  
18 five of the eight required under the scoring item. Plan  
19 goal one and plan goal four both equate to factor G,  
20 requested point 6, awarded 0."

21 And so there are a lot of items that Ms. Saar  
22 brought up that we did not have in our scoring notice. So  
23 our assertion is that we have a plan and that it counts  
24 towards the requirements of meeting the QAP, and that the  
25 item up for discussion is whether or not plan goal one and

1 plan goal four are in fact one and the same or are they  
2 different.

3           It is our assertion as the developer that they  
4 are distinctly different. If you read them, they are  
5 different. One, plan goal one deals with growth and  
6 infrastructure -- I'm sorry -- growth only. The item that  
7 we think plan goal one applies to is the presence of  
8 blight, which may include excessive vacancy, obsolete land  
9 use, significant decline in property value, or other  
10 similar conditions that impede growth. And then item  
11 number four is a separate item that deals strictly with  
12 employment.

13           And so in a lot of these plans a lot of these  
14 factors work together to revitalize an area. We assert  
15 that we do have a plan that meets the QAP requirements.  
16 We have five of the eight. And that we brought the --  
17 that there is an opportunity for interpretation here. And  
18 so I know staff has their interpretation, we have ours.  
19 We brought the -- we asked the City Manager of Royse City  
20 to come and give his interpretation as well.

21           And so at the end of the day we just request  
22 that you listen to the testimony and see if you can agree  
23 with a different interpretation. Ours is that we meet the  
24 letter of the QAP and that points should be reinstated.  
25 Be happy to answer any questions. Thank you.

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

2 (No response.)

3 MR. OXER: Okay. Thank you. Don't forget to  
4 sign in, Barry.

5 MR. PALMER: I did.

6 MR. OXER: Each of you.

7 MR. ALSABROOK: Should I do that first?

8 MR. OXER: Of course. Get the paperwork out of  
9 the way early, we don't have to remember it later.

10 MR. ALSABROOK: Mr. Chairman, members of the  
11 Board, my name's Carl Alsabrook, I'm representing the City  
12 of Royse City. Royse City's a town located geographically  
13 about 45 miles to the east of Dallas. We've got about  
14 10,000 residents, and I'm honored to be their city  
15 manager.

16 Like a lot of communities in Texas, we're  
17 experiencing explosive growth. On our west, just inside  
18 of our west city limits we have a very large retail  
19 development going on. On our east side city limits we  
20 were blessed with a Bucky's franchise. We look forward to  
21 that getting started. In between we don't have a lot  
22 going on and one of the --

23 MR. OXER: Eventually that's going to be  
24 welcome to Bucky's home at Royse, you know that, don't  
25 you?

1 MR. ALSABROOK: Yes. That's fine. I've  
2 already approved their sign. We look forward to that.

3 But the one area that we're underserved and  
4 have been for years is in multifamily, especially  
5 affordable, and in this case would be senior affordable  
6 multifamily.

7 I'm not going to repeat everything that Mr.  
8 Bump said. I think he said it quite ably. But one of the  
9 first steps we did, we were excited when this opportunity  
10 was presented to us, spent several hours developing as a  
11 staff, developing this community revitalization plan, got  
12 input from our city council. And on or about February  
13 24th of this year they approved our community  
14 revitalization plan.

15 I can't tell you a lot but I can tell you in  
16 our mind as we developed it we think that our goal, number  
17 one, clearly fits within factor B of the QAP plan. We ask  
18 that you reconsider. It's going to be important for our  
19 community. Can't say that strongly enough. But again we  
20 appreciate what you do and the opportunity we've had here  
21 today. And I'll answer any questions that you may have.

22 MR. OXER: Any questions?

23 (No response.)

24 MR. OXER: Thank you, sir.

25 MR. ALSABROOK: Thank you.

1 MR. OXER: Barry?

2 MR. PALMER: My name is Barry Palmer, I'm with  
3 Coats Rose law firm. We represent the developer on this  
4 project in Royse City. And we would ask the Board to  
5 consider the plan that has been adopted by Royse City as  
6 what we're looking for in the QAP when we provide points  
7 for a community revitalization plan.

8 This is a suburban community. It's not a big  
9 city, you know, Dallas or Houston, but they adopted a  
10 community revitalization plan that follows the  
11 requirements of the QAP. From input we've gotten from  
12 staff, it's been mostly that the QAP requires that the  
13 plan discuss five of the eight factors listed in the QAP  
14 as meeting -- you know, as somehow being addressed in the  
15 plan.

16 This plan that the city adopted does list five  
17 factors. It's just a matter of the staff is interpreting  
18 two of those factors to be the same. We don't view those  
19 as the same but rather one of them is for employment and  
20 one of them is for economic growth and development and  
21 addressing obsolescence, land obsolescence, the equivalent  
22 of blight in a suburban-type setting, and that these are  
23 very different factors.

24 And that we should give some deference to the  
25 local officials of Royse City who have adopted this plan



1 who know their community. You know, they're there every  
2 day, and this is the area that they have chose to adopt a  
3 revitalization plan. And not to be critical of staff,  
4 but, you know, the staff probably hasn't spent a lot of  
5 time in Royse City, if in fact they've been there.

6 But these folks live there every day. They  
7 know what area needs a revitalization plan. So there  
8 should be some deference given to the local officials as  
9 to where they think is appropriate for a revitalization  
10 plan and what should be included in that.

11 So we would ask you to give the points for this  
12 revitalization plan and to, you know, to count the factors  
13 that the community has included in their plan, and there  
14 are five, you know. And as Yogi Berra used to like to  
15 say, there's three kinds of people in this world, those  
16 who can count and those who can't. Well, I'm a lawyer --

17 MR. OXER: Those that can do math on their  
18 feet. Right?

19 MR. PALMER: I'm a lawyer, I'm not much  
20 accounting, but the people at Royse City can and they  
21 counted on five things that need to be covered in their  
22 plan. They've covered those things. They're pretty close  
23 to what's in the QAP. The language is a little bit  
24 different on one of them. But again would ask for some  
25 deference to the community officials in Royse City for

1 their plan.

2 MR. OXER: Thanks, Barry.

3 Any questions from the Board?

4 MS. BINGHAM ESCAREÑO: Mr. Chair?

5 MR. OXER: Ms. Bingham.

6 MS. BINGHAM ESCAREÑO: I think I have just a  
7 question for Mr. Alsabrook.

8 MR. ALSABROOK: Yes, ma'am.

9 MS. BINGHAM ESCAREÑO: Thank you for coming.

10 MR. ALSABROOK: Thank you.

11 MS. BINGHAM ESCAREÑO: So when the city was  
12 putting together the revitalization plan did they have  
13 some guidance on kind of what those five or eight points  
14 would be keyed to make sure were addressed in order for  
15 the development that we're talking about to be supported?

16 MR. ALSABROOK: City staff along with our city  
17 attorney are the ones that set down, went over the QAP.

18 MS. BINGHAM ESCAREÑO: Okay.

19 MR. OXER: Forgive me for interrupting, Mr.  
20 Alsabrook. You have to --

21 MR. ALSABROOK: I'm sorry.

22 MR. OXER: When you come back up you have to  
23 say again.

24 MR. ALSABROOK: Carl Alsabrook --

25 MR. OXER: It's for Penny so she can tell who

1 the --

2 MR. ALSABROOK: -- City of Royse City.

3 MS. BINGHAM ESCAREÑO: Thank you.

4 MR. ALSABROOK: I apologize.

5 MR. OXER: We ask -- it's all right. We all do  
6 it.

7 MS. BINGHAM ESCAREÑO: So your comment was that  
8 the city sat down and reviewed the --

9 MR. ALSABROOK: Yes, ma'am.

10 MS. BINGHAM ESCAREÑO: -- the QAP. Great. And  
11 then so of the five areas, the ones that were listed as  
12 plan goal one, addressing plan goal one, where the water  
13 line extension that I think Kathryn mentioned some  
14 question on how that would relate directly to growth, the  
15 street rehab program, but also the community development  
16 corporation budget.

17 MR. ALSABROOK: Uh-huh.

18 MS. BINGHAM ESCAREÑO: So that may be our best  
19 shot at growth. Could you tell us a little bit, are you  
20 familiar with that or how we could align growth with the  
21 development of that community developing corporation  
22 budget? What would you hope to accomplish?

23 MR. ALSABROOK: The area in question is in the  
24 center of town. And it's an undeveloped, underdeveloped  
25 piece of property. It's bordered by a cemetery on one

1 side, Interstate 30 on the front, and some older houses  
2 that development hasn't found its way to meet yet. So in  
3 our view that fit the definition of obsolete land uses.

4 I left the definition of blight off  
5 intentionally. Because I've got to market my city  
6 wherever I go, and I didn't necessarily want --

7 MR. OXER: That's a fair position.

8 MS. BINGHAM ESCAREÑO: Right.

9 MR. ALSABROOK: -- blight used. Maybe I was  
10 wrong and we may be here because of my inartful wording,  
11 and I apologize if that's the case.

12 In order to pay for some of this stuff the city  
13 doesn't have an inordinate amount of resources so we have  
14 to work together with our economic development corporation  
15 or community development corporation. And that's why they  
16 were listed as well because they're going to help fund  
17 some of the stuff as far as they can.

18 But the reason Mariposa was chosen or the  
19 location that was chosen and our participation was -- and  
20 obsolete land uses is they bought 30 acres, they're only  
21 going to need 15. There's going to be more development,  
22 it's going to hasten. We've already had contacts from  
23 national retailers and things of that sort to be there in  
24 the center part of town. So it's going to be a driving  
25 force for us. I don't know if that answered your

1 question.

2 MS. BINGHAM ESCAREÑO: It does.

3 MR. ALSABROOK: Okay.

4 MR. OXER: Any other comments?

5 MR. PALMER: Well --

6 MR. OXER: Barry, you wanted to follow up?

7 MR. PALMER: Yeah. I just --

8 MR. OXER: And make it a minute, don't --

9 MR. PALMER: Yes. Just following up on what  
10 Carl said. You know, had the term blight been used in  
11 that one factor instead of obsolete land use, we probably  
12 wouldn't be here today. We would have gotten the points.

13 But that word wasn't there. But to say it's the same  
14 meaning and the QAP talks, when it talks about blight, one  
15 of the things it lists as an example is obsolete planned  
16 uses. So we equate that as the same and hope that you  
17 would too.

18 MR. OXER: Okay, thanks.

19 Tom?

20 MR. GANN: I come from a small town also, and  
21 blight was not used intentionally for the same reason.  
22 And it's made it hard to get certain programs into town  
23 simply because it didn't use the word blight.

24 I also know that we're on a small clock here,  
25 tight clock, but I know how a town of two thousand could

1 change some things if they really wanted to and if it's  
2 still working the program. I don't know if that's a fact.

3 I don't know if we have enough time. But if it's just  
4 the word blight, I mean or another phrase that qualifies  
5 you, is it possible for your redevelopment plan to change  
6 quickly? Maybe that's what I'm asking.

7 MR. OXER: That's not a question. We had --  
8 the question --

9 Mr. Alsabrook, you can answer that one.

10 But come on up, Kathryn, I want you back up  
11 too, please.

12 Because would the staff have interpreted this  
13 differently? Now, first --

14 MR. ALSABROOK: Carl -- I'm sorry.

15 MR. OXER: You're first. That's all right,  
16 you're first.

17 MR. ALSABROOK: Carl Alsabrook, City of Roys  
18 City. My city attorney actually cautioned me about using  
19 the word blight. Going back I probably would have  
20 consulted him and would have included the word blight. I  
21 don't think that blight necessarily -- to me blight,  
22 underutilized, it's all the same thing. It's not a  
23 dangerous area, it's just an area that needs to be  
24 redeveloped. And to me, you know, I hate it that we're  
25 playing semantical games or appear to be. Because I'm not

1 sure I would have followed my attorney's advice and might  
2 have used the word blight. I'm not sure.

3 MR. OXER: Kathryn?

4 MS. SAAR: Kathryn Saar, 9 Percent Tax Credits.

5 I'm not sure that the simple use of the word blight would  
6 have been cause for awarding of the points. Because when  
7 we see blight as a factor that needs to be addressed we  
8 take our little Google man and we kind of drop down into  
9 the city and we drive around and see if blight is in fact  
10 a problem.

11 And the QAP actually calls for blight to mean  
12 not only -- I'm trying to get to the -- here we are. It's  
13 not only actual boarded-up structures and homes in  
14 disrepair, it also does include obsolete land use.  
15 However, if staff were to have seen obsolete land use as  
16 one of the plan goals, we would have expected to see  
17 things like zoning changes and, you know, master  
18 redevelopment plans that would drive business and things  
19 to this area and allow for that obsolescence to be  
20 corrected.

21 I don't see that in this plan. And, you know,  
22 we have an extraordinary amount of respect for the City of  
23 Royse City and all of these cities who put these plans  
24 together. It's not that we're calling in to question  
25 their effort, it's just simply do the -- does the CRP as

1 presented meet the definition as required under the rule.

2 MR. OXER: And in addition to that,  
3 irrespective of what we think about their development  
4 plan, is there was at the time this was being considered,  
5 even including our excellent SCOTUS adventure of last  
6 week, we still had a remediation plan to look at for the  
7 QAP and for the tax credit program, which required certain  
8 elements in the redevelopment plans to be considered.

9 MS. SAAR: Correct.

10 MR. ALSABROOK: Okay.

11 MR. OXER: So while I am enormously sensitive  
12 to the benefits that a program, like a project like this  
13 can be to a small city, particularly in an inner city,  
14 we're still -- we continue to labor under the imposition  
15 of some decisions that don't offer us sometimes the  
16 latitude that we'd like to have. So passing comment  
17 there.

18 Any other comments from the Board?

19 (No response.)

20 MR. OXER: Okay. Any other public comment?

21 (No response.)

22 MR. OXER: Okay. With respect to item 6(b)  
23 application 15012, for which Mr. Goodwin has been recused  
24 and four members of the Board remain as a quorum, those in  
25 favor?



1 (A chorus of ayes.)

2 MR. OXER: And those opposed?

3 (No response.)

4 MR. OXER: There are none.

5 MS. BINGHAM ESCAREÑO: Mr. Chairman?

6 MR. OXER: Ms. Bingham.

7 MS. BINGHAM ESCAREÑO: So maybe --

8 MR. OXER: And you going to take care of that,  
9 Tim?

10 MR. IRVINE: Yes.

11 MR. OXER: Okay.

12 MS. BINGHAM ESCAREÑO: So maybe what we could  
13 do though is look -- because what I'm wondering is if in a  
14 small city the equivalent to zoning changes and things  
15 like that might be things like transportation and sewage  
16 and that kind of thing. I understand we're kind of  
17 narrowly limited -- and they've gone so they probably  
18 don't care. But just for us moving forward, you know what  
19 I mean? In other words, it is true when we think about  
20 blight in big cities we all know what that looks like --

21 MS. SAAR: Right.

22 MS. BINGHAM ESCAREÑO: -- in a big city. And  
23 maybe, like Tom said, maybe in smaller cities blight looks  
24 different. If you look at the photos that were provided  
25 to us, it is a different kind of obsolescence or blight.

1 Right? It's not really a city area that's become  
2 deteriorated. It's a historically kind of underutilized.  
3 It looks blightish but in a small-town way.

4 And so maybe we didn't have the latitude that  
5 we might have moving forward to redefine what blight looks  
6 like in a more -- smaller rural setting; just my thought.

7 MR. OXER: That's a good thought, because in  
8 each one of these where there's an appeal -- and I think  
9 everybody in this room recognizes for the QAP it's a  
10 constantly evolving document and a policy guidance.

11 It's basically the score sheet for how you  
12 apply for these funds. And the number of appeals tell us  
13 those places where we need to improve the QAP, and this is  
14 obviously one of those places.

15 So we'll have to put that down. I would hope  
16 that we'll see this project come back for an application  
17 for next year.

18 MS. BINGHAM ESCAREÑO: Thank you.

19 MR. OXER: Okay. Go to the next one, Kathryn.  
20 Let's keep going.

21 MS. SAAR: The next appeal on your agenda is  
22 Reserve at Summit West. This was the appeal of a scoring  
23 notice denying points under local government support.  
24 There are a couple of ways a municipality can get involved  
25 with the tax credit allocation process.

1 MR. OXER: One quick housekeeping note here.  
2 Let the record reflect that Mr. Goodwin has rejoined us.  
3 We're now at a quorum of five.

4 MS. SAAR: Again there are a couple of  
5 different ways that a municipality can get involved with  
6 the housing tax credit application cycle, one of those  
7 being community revitalization plans, which we just  
8 discussed. Another is resolutions of support from local  
9 government, and then another is a commitment of  
10 development funding from a local political subdivision.

11 So this application included a resolution from  
12 the City of Wichita Falls, and the applicant intended for  
13 that resolution to count for both support from a local  
14 government and for commitment of development funding from  
15 LPS, from a local political subdivision.

16 Oftentimes these resolutions are rolled  
17 together, and the department publishes templates for use  
18 to make sure that the language that actually gets included  
19 in the resolution would qualify for points.

20 In this case the template either wasn't used or  
21 was changed in such a way that it didn't end up resulting  
22 in a firm statement of support for an application.

23 As your write-up says, this resolution was  
24 initially scored as one of support, but it was challenged.

25 And when staff did a thorough review of that challenge,

1 reading the resolution word for word, the statement of  
2 expressed support is lacking in the resolution.

3 MR. OXER: So what we're basically saying is  
4 you can't use weasel words to get the points.

5 MS. SAAR: Yes.

6 MR. OXER: Thanks.

7 MS. SAAR: The resolution that is in your Board  
8 book that was submitted -- it's on page 207 if you're  
9 interested in reading it -- it outlines that the applicant  
10 responded to a request for proposal, an RFP, and that the  
11 application to that proposal was the most responsive.

12 The resolution then goes on to award seven -- I  
13 believe it's seven housing choice vouchers to the project.

14 And it makes a statement that the City of Wichita Falls  
15 supports the development of affordable housing in one of  
16 the first resolved clauses, but doesn't go on to say it  
17 expressly supports this particular application. And a  
18 strict reading of the rule calls for that expressed  
19 support from the municipality.

20 I would liken this to an applicant in our tax  
21 credit cycle. TDHCA has \$60 million in tax credits to  
22 award annually, give or take, and one wouldn't say that  
23 TDHCA supports application A over application B simply  
24 because application A was more competitive.

25 There's -- I think that's the applicant's

1 intention, is that the support is implied because of the  
2 award of funding, but I don't think that the rule calls  
3 for an implicit or implied support.

4 This resolution did award the applicant  
5 14 points and for the government support it simply doesn't  
6 meet the requirements of the rule. So the resolution was  
7 denied those points, and that appeal was also denied by  
8 Mr. Irvine.

9 MR. OXER: Do we have a citation on the QAP on  
10 this, Tim? Do we have a --

11 MR. IRVINE: I'll check that out.

12 MR. OXER: I'd just like to have it  
13 specifically on the record --

14 MS. SAAR: Sure.

15 MR. OXER: -- about this particular --

16 MS. SAAR: It is (d)(1), and this would be a  
17 municipality, so big (A).

18 MR. OXER: Okay.

19 MR. IRVINE: 11.9(d)(1)(A).

20 MS. SAAR: 11.9(d)(1)(A).

21 MR. OXER: 11.9(d)(1) -- could you state that  
22 part?

23 MS. SAAR: And just for the record, it states,  
24 "Within a municipality the application will receive  
25 17 points for a resolution from a governing body that the

1 municipality expressly setting forth" -- I'm not reading  
2 this correctly -- "expressly setting forth that the  
3 municipality supports the application or development."

4 MR. OXER: On our FAQs on this --

5 MS. SAAR: Yes.

6 MR. OXER: -- I want to make sure that whatever  
7 we have in it now, there's something that says that  
8 express language includes these words for the next -- this  
9 is a request of staff for that to be answered in the FAQ.

10 MS. SAAR: Okay.

11 MR. OXER: Just so we don't have to interpret.

12 So somebody doesn't have to guess what words satisfy what  
13 we're looking for.

14 MS. SAAR: Sure. And I think I mentioned the  
15 department staff does publish template resolutions which  
16 have that kind of language that would qualify if used in  
17 the correct context. And it just doesn't appear that that  
18 language was used in this case.

19 MR. OXER: Okay. Good. Thank you.

20 All right. Motion to consider on item 6(b)  
21 application 15101. Anybody awake?

22 MR. GOODWIN: So move.

23 MR. OXER: Okay. Mr. Goodwin's awake over  
24 there. Anybody else? I know I get to play; I could  
25 second it, but I'm offering you guys the opportunity.

1 MR. GANN: I'll second it.

2 MR. OXER: Okay. Mr. Gann says he'll do it.  
3 Any public comment?

4 MR. AINSA: Good afternoon. I'm Frank Ainsa,  
5 I'm representing Overland Properties, the appellant on  
6 this case.

7 Board members, I'm here to say some, what I  
8 think are some important things about the interpretation  
9 of this document. And in the process of doing that, I'm  
10 going to be critiquing a letter that Mr. Irvine wrote.  
11 And I want you all to know something from the very  
12 beginning, I know and respect Mr. Irvine, and this  
13 reflects only a professional disagreement and nothing more  
14 than that.

15 Now, this is a serious matter here, and I  
16 believe what I'm going to tell you in just a minute has  
17 led to a serious misinterpretation of what this resolution  
18 really means. And I think the best place for me to start  
19 would be this.

20 You have my letter to Mr. Irvine in your Board  
21 book, and I want to start off by telling you that the  
22 interpretation issue in this case derives from a conflict  
23 between the template and the QAP, a serious conflict  
24 between those two documents which I think is misleading  
25 and, at the very least, I think needs to be corrected

1 immediately.

2           Now, I will point out, if you go to Mr.  
3 Irvine's letter, Mr. Irvine and the staff took great pains  
4 to point out that the department publishes a template  
5 which somebody can use when they go to a city or another  
6 governmental entity, and if you follow this magic  
7 language, the staff won't question it.

8           In the third paragraph of Mr. Irvine's letter  
9 to me denying the appeal, he says that "the template for  
10 support resolutions has the following language which, if  
11 used, would have qualified for 17 points: the name of the  
12 city acting through its government body hereby confirms  
13 that it supports the proposed" -- and then in  
14 parenthesis -- "development name" -- emphasis supplied --  
15 "located at an address and that formal action has been  
16 taken to put this on the record."

17           That is not the test in the QAP. The QAP, on  
18 the other hand -- and if you look at the citation that was  
19 just given to you, you will see that the QAP says "you get  
20 17 points for a resolution from the governing body that  
21 the municipality expressly setting forth supports the  
22 application or development." The key words are  
23 "application or development."

24           The template that is published by the  
25 department refers to a document that says only the name of



1 the development. And I think this is misleading, and I  
2 think that it dramatically affected the interpretation of  
3 this particular resolution.

4 Now, I will tell you that the resolution that  
5 the City of Wichita Falls adopted and gave to my client is  
6 certainly not in the form of a template. That's for sure.

7 But the QAP expressly says you don't have to use the  
8 template, the form in the template. You can use another  
9 form that complies with the QAP.

10 And so if a city chooses to use another form,  
11 then the question becomes one of interpretation, whether  
12 or not they have actually met the criteria of supporting  
13 the application or the development.

14 Now, this particular resolution really has a  
15 twofold purpose, and I want to make it clear that I'm not  
16 trying in any form or fashion to say it doesn't. The  
17 resolution dealt with awarding Overland Properties some  
18 basically project-based vouchers.

19 But it also has all of the words in there that  
20 are required by the QAP, including it identifies the  
21 Reserves at Summit West as the project, as an affordable  
22 housing project, and indicated that the city supports  
23 affordable housing projects.

24 And if you take the resolution as a whole, it  
25 can mean nothing else but the City of Wichita Falls is

1 supporting this particular project. The resolution  
2 doesn't deal with any other developer or any other  
3 project. What's wrong with it is that, according to the  
4 staff, I believe, it doesn't track the template. And the  
5 staff's idea of the template is that it has to name the  
6 development. That's not the requirement in the QAP.

7 Now, in my view I think this is an example of  
8 form trumping substance, nothing more than that. And as a  
9 result my client has lost 17 points even though it  
10 obtained a resolution which has all the language in there,  
11 if you take it as a total document, to support this  
12 project.

13 So I am here to tell you respectfully that this  
14 error between the QAP and the template is serious, it's  
15 misleading, and it may very well have thrown the City of  
16 Wichita Falls off. I'm not going to speculate why the  
17 City of Wichita Falls used that form of resolution. But  
18 what I can tell you is that it contains all of the  
19 elements that the QAP requires for it to be a resolution  
20 fo support.

21 Now, I'd be happy to answer any questions, but  
22 I think that's the heart of my argument. And as I've said  
23 earlier, Mr. Irvine disagreed with me when he denied the  
24 appeal, but I think I've given you a substantive reason  
25 why you should grant this appeal and restore the 17 points

1 to Overland Properties.

2 MR. OXER: Thank you, Mr. Ainsa.

3 Are there any questions of the Board?

4 (No response.)

5 MR. OXER: Come on back up, Kathryn.

6 MS. SAAR: I think -- oh, go ahead.

7 MR. OXER: No, I was going to ask here, it  
8 says, "Now, therefore, be it resolved by the City Council  
9 of the City Of Wichita Falls, Texas, that the governing  
10 body of the City of Wichita Falls supports the development  
11 of quality, affordable housing for its residents" and  
12 earlier identified this applicant, somebody that's  
13 proposed the development; it's awarded -- the City has  
14 been awarded seven points, requested proposals from  
15 developers, determined that proposal to be the most  
16 responsive; so supports the development of affordable  
17 quality housing, confirms the award, reserves the right to  
18 void the assignment.

19 So what were the words that you were looking  
20 for in here, you or Tim?

21 MS. SAAR: Well, the template -- I have the --

22 MR. OXER: Well, the template -- I think it's  
23 fair to say that the template gives some guidance but not  
24 a mandate.

25 MS. SAAR: Correct. That is very correct. The

1       template states, though, that "the governing body hereby  
2       confirms that it supports the proposed" and then insert  
3       the development name. Development name, application  
4       number, application, those are defined terms in our QAP.  
5       And so I think there's the idea that you have to actually  
6       expressly support that --

7                 MR. OXER: That application --

8                 MS. SAAR: -- that application --

9                 MR. OXER: -- as opposed to generic --

10                MS. SAAR: Correct.

11                MR. OXER: Okay.

12                Tim, did you have something you wanted to add?

13                MR. IRVINE: Yeah. I mean, I took the  
14       resolution that was adopted as having, first of all, a  
15       general statement to say it supported development of  
16       affordable housing in general. Okay? I also took it to  
17       say that they were awarding specific vouchers, and that's  
18       kind of all it said.

19                And to me what was at issue here was, all  
20       right, these people are applying for tax credits. Do you  
21       support their getting the tax credits? I mean that to me  
22       is the heart and soul of what we were seeking, and I  
23       thought it was obvious from the total context, but I  
24       certainly respect differing nuanced views.

25                MR. OXER: Okay.

1 MS. SAAR: I think there's a piece here that --  
2 so I think I mentioned already that initially, upon first  
3 read, staff indicated that this was a support resolution  
4 and awarded those points on the log as such.

5 Upon closer review and upon receiving a  
6 challenge of this resolution, staff took a more thorough  
7 look at it and that challenge represented that the City --  
8 I believe it was that the Assistant City Manager of  
9 Wichita Falls was on record in writing stating that the  
10 resolution was intended solely as a financial  
11 contribution, and that was a piece that, you know, we  
12 didn't have up front.

13 Looking at the resolution, even without that  
14 context, I think as Tim was pointing out, that I don't  
15 think the resolution quite gets there. And having that  
16 little bit of context that the City intended to go out for  
17 an RFP and award these vouchers and it wasn't clear that  
18 the support would be associated with that resolution as  
19 well as the financial award, I think, you know, that gives  
20 a little bit more context to the item.

21 MR. OXER: Any other questions?

22 (No response.)

23 MR. OXER: Any other comment?

24 MR. AINSA: Yes.

25 MR. OXER: Frank. Just one minute, please.

1 MR. AINSA: One minute?

2 MR. OXER: One minute.

3 MR. AINSA: I just want to --

4 MR. OXER: And hold on one minute, because  
5 we've got more to go.

6 MR. AINSA: Yes, I understand. I just want to  
7 comment one more time. The QAP --

8 MR. OXER: And who are you again?

9 MR. AINSA: Excuse me?

10 MR. OXER: You have to say who you are again.

11 MR. AINSA: Frank Ainsa. The QAP does not  
12 require anything other than that the resolution indicate  
13 that the municipality supports the application or the  
14 development. If you look at this resolution in total, it  
15 can be referring to nothing other but that.

16 When it goes through this recitation here that  
17 Overland Properties is developing Reserves at Summit West,  
18 it's a affordable housing project, they're going to get  
19 vouches, and then the City supports the development of  
20 quality affordable housing projects. How can that be  
21 anything other than a support for the application or the  
22 development? Everything is there.

23 I think this is a hypertechnical interpretation  
24 not to allow this to be constitute or this to constitute a  
25 municipal support of a project. I think it's as simple as

1 that. And it should be given effect.

2 MR. OXER: Okay.

3 Did you have a thought, Mr. Chisum, or did I  
4 hear --

5 MR. CHISUM: No.

6 MR. OXER: All right. That's all right.

7 MR. CHISUM: Thank you.

8 MR. OXER: Anything else, Kathryn?

9 MS. SAAR: Not at this time.

10 MR. OXER: On this one? Well, you'll be up  
11 next anyway so come back up.

12 MS. SAAR: Not unless you have questions.

13 MR. ECCLES: I have a question.

14 MR. OXER: Mr. Eccles.

15 MR. ECCLES: Were there other applications from  
16 or that were to be dealt within the City of Wichita Falls  
17 in this cycle?

18 MS. SAAR: Yes. There were four applications  
19 in the City of Wichita Falls. My understanding after  
20 speaking with the Assistant City Manager was that they  
21 went out for an RFP to award these vouchers.

22 The RFP was in some people's minds perhaps not  
23 clear as to whether or not support would be issued with  
24 the award of those vouchers. And so the City chose --  
25 because not all four applicants responded to the RFP,

1 thinking that they didn't need those -- I'm not being  
2 clear.

3 Okay. So the City had four applications and  
4 they said we have these seven vouchers, we're going to put  
5 out an RFP. Only three of the four applicants responded  
6 to the RFP. Because the fourth applicant had LPF funding  
7 from another source, so they didn't need the vouchers.

8 It appears that the RFP was not necessarily  
9 clear that the award of the vouchers was also going to  
10 come with a support resolution. So when there was talk of  
11 the counting of the support resolution, the fourth  
12 applicant who didn't apply under the RFP kind of called a  
13 foul and said I would have responded to the RFP if you had  
14 said this would get me a support resolution.

15 And so because that was not clear, the City of  
16 Wichita Falls chose to write the resolution in such a way  
17 that it was limited to financial support.

18 MR. ECCLES: So none of the applicants here  
19 received points for having a resolution expressly setting  
20 forth the City of Wichita Falls --

21 MS. SAAR: Correct.

22 MR. ECCLES: -- support.

23 MS. SAAR: Correct.

24 MR. ECCLES: Okay.

25 MR. GANN: Mr. Chairman, I'd --



1 MR. OXER: Mr. Gann?

2 MR. GANN: -- like to withdraw my second.

3 MR. OXER: Okay. Then withdrawal of second on  
4 the motion to support staff recommendations on item or  
5 application 15101 under item 6(b).

6 Mr. Goodwin --

7 MS. BINGHAM ESCAREÑO: I'll second it. I'll be  
8 the second.

9 MR. OXER: Okay. Ms. Bingham seconds staff  
10 recommendation to deny the appeal. Okay. Is there any  
11 other comment?

12 (No response.)

13 MR. OXER: Okay. Just make sure here. Just  
14 from a -- for a Board admonition to the staff when they're  
15 writing the QAP, make sure the notes go into one of those  
16 places. We want to make very, very sharp, put some real  
17 sharp edges on this. We have to look at this from a  
18 policy standpoint.

19 Jean, did you have something you wanted to say?

20 MS. LATSHA: Jean Latsha, Director of  
21 Multifamily Finance. And although I won't necessarily be  
22 around as a staff member for the rewriting of this, I find  
23 this extremely clear.

24 And to answer that question more directly what  
25 should this resolution have said, instead of saying the

1 governing body of the City of Wichita Falls supports the  
2 development of quality affordable housing, it would have  
3 said City of Wichita Falls supports --

4 MR. OXER: This specific application.

5 MS. LATSHA: -- this specific application with  
6 an application number and/or an address. It's extremely  
7 clear to me in the rule.

8 Also we've talked about our deficiency process  
9 and how we handle that. As staff members when we've come  
10 across something like this, it's always our first reaction  
11 to allow some kind of cure. And rarely are resolutions  
12 able to be cured but on occasion we've accepted a  
13 scrivener's error or something like that. It's very clear  
14 the resolution didn't have to be passed again or anything  
15 like that.

16 So this is the kind of thing where we'll issue  
17 a deficiency and say please show us how this qualifies for  
18 points. But we don't tend to tell folks what to supply us  
19 in response to that. But, for instance, had there been  
20 minutes to the meeting that indicated that supports  
21 specifically related to this scoring item were discussed  
22 at the meeting, that might be something that we would take  
23 into consideration. Or so there would be --

24 MR. OXER: So you look at it as a resolution in  
25 whole?

1 MS. LATSHA: That's right.

2 MR. OXER: Okay.

3 MS. LATSHA: And so when we did issue this --  
4 we basically through the challenge, through the appeal and  
5 everything, this wasn't enough to find this relatively  
6 ambiguous statement to get us to the point of awarding  
7 points.

8 MR. OXER: Okay.

9 MR. AINSA: Mr. Chairman, may I have one more  
10 comment?

11 MR. OXER: One more minute.

12 MR. AINSA: It's really easy to --

13 MR. OXER: You are Frank?

14 MR. AINSA: Frank Ainsa. It's really easy to  
15 say if something follows the template, you know, there's  
16 not a problem. We wouldn't be here if that was the case.

17 But the question always come up when a resolution does  
18 not mirror the template is it reasonably interpreted or  
19 can it be reasonably interpreted to mean a resolution of  
20 support. And that's where I get off with the staff.

21 It doesn't have to have the language that  
22 they're talking about. It has to contain from a  
23 reasonable standpoint, looking at the four corners of the  
24 document, whether it is a support of this project. And  
25 that's what you get when you read this resolution.

1                   And to conclude otherwise is just getting  
2 hypertechnical. And it's hurting a legitimate developer  
3 who had 17 points. And this was the only resolution that  
4 was issued to any developer in this project by the City of  
5 Wichita Falls.

6                   MR. OXER: Thanks for your comments.

7                   MR. AINSA: Thank you.

8                   MR. OXER: Anything else?

9                   MR. IRVINE: Yeah. I would just say I actually  
10 agree with Mr. Ainsa on this one in that the question is  
11 simply does this page, resolution number  
12 33-2015, evidence that the City expressly supports this  
13 tax credit application for this development. That's the  
14 question.

15                   MR. CHISUM: I apologize.

16                   MR. OXER: No apologies.

17                   MR. CHISUM: Mr. Irvine, I didn't understand  
18 what you just said.

19                   MR. IRVINE: The one page that evidences the  
20 resolution. I think the fact question before the Board is  
21 does that resolution expressly support this tax credit  
22 application or the development that it is proposing to  
23 create.

24                   MR. CHISUM: Thank you.

25                   MR. OXER: So you read beyond that, "therefore,

1 be it resolved." That would be the resolution that  
2 follows.

3 MR. IRVINE: Yes. I don't even have a problem  
4 looking at the recitals as well. I look at the document  
5 as a whole and just determine does it expressly support  
6 this deal.

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

9 (No response.)

10 MR. OXER: Okay. There's been a motion by Mr.  
11 Goodwin with respect to item 6(b) application 15101,  
12 motion by Ms. Bingham, I'm sorry, motion by Mr. Goodwin,  
13 second by Ms. Bingham to support staff recommendation to  
14 deny the appeal. Those in favor?

15 (A chorus of ayes.)

16 MR. OXER: Those opposed, including the Chair.

17 (A chorus of nays.)

18 MR. OXER: Three to two. Congratulations,  
19 you've won the appeal.

20 MR. AINSA: Thank you.

21 MR. OXER: Kathryn? Sharp edges, real sharp  
22 edges, because this is the last of the slip through the  
23 crack. Okay?

24 And for the record, for anybody who's here, if  
25 anybody's out there listening or playing at home or

1 watching laps being taken on the racers on this one, the  
2 next time this comes up we won't be quite as generous.

3 They'll be seated. Go ahead.

4 MS. LATSHA: All right. So the next on your  
5 list is number 15135. This is Columbia at Renaissance  
6 Square.

7 MR. OXER: I recognize this whole pit crew over  
8 there.

9 MS. LATSHA: Yes. We've been here before.

10 So the scoring item in question here is  
11 educational excellence. And the way to achieve points  
12 here is to have more than one school that meets a  
13 certain -- the school itself meets a certain threshold  
14 rating, which is a score of 77 on Index 1 of the  
15 Performance Index.

16 So we've also devised a mechanism in the rule  
17 by which we define what an elementary school is, what a  
18 middle school is, what a high school is. It pretty much  
19 conforms to what the Texas Education Agency says that they  
20 are. Elementary school is K through 5 or 6, middle is 6  
21 or 7 through 8, and then high school 9 through 12.

22 So if you have a couple schools, let's say a K  
23 through 3 plus one that serves 4 through 6, you combine  
24 those to form one elementary school score so that we kind  
25 of cover all of our bases in that rule.

1           So the situation here is we have a development  
2 site that is clearly within a clear attendance of a public  
3 school, of three public schools, so an elementary, middle  
4 and high school. Those three schools all do not meet that  
5 threshold, that 77 on the Index 1 score.

6           The argument that you're going to hear today is  
7 that there is another school district that's basically  
8 kind of like a magnet school. I think they would call it  
9 a charter school actually. But they're claiming the  
10 students in this development are going to be guaranteed to  
11 go to this Mighty Uplift. I'm sorry, I'm forgetting all  
12 the names at this point.

13           Is that right?

14           Mighty Uplift. Uplift Mighty Prep, there it  
15 is. So then we'll -- and are asking for some concessions  
16 in the rule here. Our rule clearly states that if you  
17 have charter or magnet schools that we don't consider the  
18 scores of those, we would just look at the public school.

19           So they say, well, we're a little bit different  
20 because we're guaranteeing that all of these kids are  
21 going to go to this school. And so then we say, well,  
22 let's say we were to consider that and come to this Board  
23 and say we think that's a reasonable request. Well, the  
24 problem then is that the school to which they would be  
25 attending, Uplift Mighty Prep, also doesn't have those

1 high TEA ratings of 77 or greater.

2           So I say, well, you still have a problem  
3 because I still have low-rated schools. The answer to  
4 which is, well, the schools right now don't serve all of  
5 the grades across the board. They're only serving about  
6 five or six grades instead of K through 12. So in that  
7 instance they're arguing that we should look at the  
8 district rating of Uplift Mighty Prep.

9           Their reasoning there is that there is a  
10 provision in the rule that if you have a choice program,  
11 which is a public school and usually it's -- well, it  
12 would be a public school district but basically students  
13 would be able to list their top three schools that they  
14 want to go to within that district.

15           You know, you find that 95 percent of the time  
16 they're getting their first choice or maybe their second  
17 choice. And then we'll look at the district rating.  
18 Because it makes sense to look at that district rating if  
19 the kids are getting a choice to where they want to go.  
20 So they're using that logic to apply it to this very  
21 particular situation.

22           Staff just can't -- there's too many dots that  
23 aren't quite connecting there, especially because first  
24 argument is if we're in the attendance zones of three  
25 public schools, a very clear application of the rule, they



1 don't meet the requirements and don't qualify for the  
2 points.

3 Then again that second argument, even if we  
4 were to look at these particular schools, they don't meet  
5 the threshold for the scoring and wouldn't qualify for the  
6 points. This isn't a choice program like one that is  
7 contemplated in the rule. Again no reason to look at the  
8 district rating.

9 I think that there's going to be some argument  
10 about how by the time this is built that these schools  
11 will be serving K through 12, and so then we should still  
12 look at the district rating and not the individual schools  
13 rating.

14 I know we've got a couple new Board members but  
15 I think that there's a few of you that have heard me up  
16 here saying many times that staff evaluates the conditions  
17 as they are on the ground March 1, 2015. And so to be  
18 looking forward and projecting what students might be  
19 served and what that rating might be is really beyond the  
20 scope of the QAP. So staff's recommendation --

21 MR. OXER: So things are fine if you want to  
22 make an application next year at the time those are coming  
23 up, but I suspect that's not what you're looking for.

24 MS. LATSHA: Staff does recommend denial of the  
25 points. I will say, you know, I've spent a lot of time

1 talking with these folks, and I think what they're doing  
2 in general is pretty great. But either way, not worth  
3 three points on their tax credit application.

4 MR. OXER: Okay. Any questions from the Board  
5 members?

6 (No response.)

7 MR. OXER: All right. Is this application  
8 competitive without these three?

9 MS. LATSHA: I believe that the -- didn't the  
10 appeal just happen?

11 MS. SAAR: No, because --

12 MS. LATSHA: So now -- needs the points now.

13 MS. SAAR: No, no, no, no.

14 MS. LATSHA: No?

15 MS. SAAR: Because reserve is in four.

16 MS. LATSHA: I think the answer is it's a  
17 bubble then.

18 MR. OXER: Okay.

19 MS. LATSHA: They may or may not need them.

20 MR. OXER: And I've spent as much time as  
21 anybody at this site with the applicants. I know where it  
22 is, the Board knows where it is. You know, we said last  
23 year if there's ever a site that needs to be developed,  
24 this is one, but we've still got a rule that we need to  
25 attend to.

1                   And I'm going to ask you to hold your  
2 questions, because we don't take public comment till we've  
3 had --

4                   MALE VOICE: Oh, excuse me.

5                   MR. OXER: It's all right. I appreciate your  
6 passion and anxiousness, but we haven't dropped the green  
7 flag on you yet.

8                   Couldn't squeeze this, huh, Jean?

9                   MS. LATSHA: I think I got my appeals mixed up,  
10 and I think these guys don't necessarily need the points.

11                  MR. OXER: Let's --

12                  MR. IRVINE: Well, it doesn't really matter.

13                  MS. LATSHA: But we're going to -- and that  
14 would be as of now. I hate to -- you know, there's still  
15 a month before award announcements.

16                  MR. OXER: We understand all of that, but this  
17 is a --

18                  MS. LATSHA: I didn't know if that was still  
19 the lingering question.

20                  MR. OXER: That was the lingering question or  
21 is the lingering question.

22                  Kathryn, why have you got?

23                  MS. SAAR: Kathryn Saar, 9 Percent Tax Credits.  
24 Even without the three points this application is  
25 competitive.

1 MR. OXER: Good answer. Okay.

2 All right. Can I have a motion to consider on  
3 this item before we take public comment.

4 MR. CHISUM: So move.

5 MR. OXER: Okay. Motion by Mr. Chisum.

6 MR. GANN: Second.

7 MR. OXER: Second by Mr. Gann to approve staff  
8 recommendation to deny these three points. That's a  
9 correct statement of the item. Is that correct?

10 Okay. Now we'll have public comment. I'm  
11 going to ask this, since I know -- having enjoyed the  
12 interest and the passion and actually having been to your  
13 site, and you may recall last year I went up there and saw  
14 your site. And I compliment you entirely for the effort  
15 that you're making to revitalize this particular school  
16 and the whole area of that campus that was being  
17 redeveloped.

18 And Jean and I both put on the record, on the  
19 transcript, if ever there was a site that needed to be  
20 developed with low-income housing tax credits, this is it.

21 And I don't think it's unfair to speak for you  
22 at that point, Jean.

23 Jean's saying yes, just for the record, Penny.

24 So that said, since we are late in the day and  
25 we have a issue with a potential quorum, I'm going to ask

1 out of the -- how many have you got up there that want to  
2 speak on this? Nine, 12, 15 out there, what? With a pit  
3 crew like that, how could you possibly lose. Right?

4 All right. I'm going to ask of all of you  
5 there, you guys figure it out, two of you speak. Three  
6 minutes.

7 MR. GRAWLEY: Can I ask one -- I'm Jim Grawley,  
8 and I'm with Columbia Residential. I'm the president and  
9 chief operating officer, and we are the applicant on  
10 Columbia at Renaissance Square. I would like to, if I  
11 could, turn my time over to others so that two of them  
12 could speak, because we have made our case in the  
13 application if you'll accept that.

14 MR. OXER: You guys pick who gets to play.

15 MR. SMITH: Thank you all for the opportunity  
16 today. Evan Smith, Purpose Built Communities.

17 MR. OXER: Let me ask a quick question here,  
18 Evan.

19 MR. SMITH: Yes.

20 MR. OXER: It will not go against your time.  
21 Is this map available to everybody out there? Was it made  
22 available?

23 MR. SMITH: We entered it in correctly, as I  
24 understand it.

25 MR. OXER: Is this map part of the Board book?

1 MS. LATSHA: I don't believe so, but I'm happy  
2 to show it around.

3 MR. OXER: No.

4 MS. LATSHA: No?

5 MR. OXER: You have to put it down and leave it  
6 alone. Turn it to the wall. There you go.

7 It's a technical item, but I've got to tell  
8 you, as competitive as this program is, we have to pay  
9 meticulous attention to our rule and maintain the  
10 integrity of the rule. Not to mention the fact we've got  
11 a couple of guys in long black robes that keep watching  
12 what we do, to make sure we play by the rules. So timing  
13 and scoring is a real issue in this.

14 MR. SMITH: We understand. Sorry about that.  
15 Evan Smith, Purpose Built Communities. Thanks again for  
16 the opportunity.

17 We are appealing for the three educational  
18 excellence points because Uplift Mighty Prep is a high-  
19 quality, innovative K-12 public school that will be  
20 accessible to every child living at Columbia Renaissance  
21 Square.

22 The first thing the QAP instructs applicants to  
23 consider when determining educational excellence is  
24 access. Any child living at Columbia Renaissance Square  
25 will be able to attend Uplift Mighty Prep. This

1 commitment has been memorialized by the Uplift Education  
2 Board of Directors, which resolved on April 28th of 2015  
3 to -- and I quote -- "define the primary geographic  
4 boundary for Uplift Mighty Prep to ensure any child who  
5 lives at Columbia Renaissance Square will have an  
6 opportunity to attend Uplift Mighty Prep." That primary  
7 boundary I described is roughly 225 acres, so a small  
8 area.

9 Second, consider all grades K-12. We share you  
10 all's view that all grades K-12 must be included in  
11 determining whether or not a child will have access to  
12 educational opportunities that are indeed excellent. By  
13 the time the children and families are living at Columbia  
14 Renaissance Square Uplift Mighty Prep will offer grades  
15 K-12.

16 One school offering all grades K-12 is a  
17 unique, innovative approach that provides children and  
18 families with a more cohesive and aligned experience that  
19 I think helps you really truly live out the vision of  
20 looking at something for K-12.

21 Last, excellence. Is the K-12 educational  
22 continuum excellent? In 2013-14, the school year the QAP  
23 instructs applicants to use to determine educational  
24 excellence, Uplift Mighty Prep offered grades K through 3  
25 and grades 6 through 8.

1           Because Uplift Mighty Prep is not yet offering  
2 the full range of grades they plan to, any TEA ratings for  
3 Uplift Mighty Prep prior to the 2017-18 school year will  
4 not be reflective of a complete school or inclusive of all  
5 grades K-12.

6           During this time of initial growth the district  
7 rating is more reflective of what Uplift Mighty Prep will  
8 be like in 2017 and beyond when they offer all grades K-12  
9 and when families are living on site.

10           In 2014 the district, which in this case is  
11 Uplift Education Summit International School District,  
12 received and met standard accountability rating and  
13 achieved an Index 1 score of 77, meeting the educational  
14 excellence threshold.

15           We share your want to ensure children and  
16 families have access to the opportunities they need to  
17 thrive. Becky will share more information about Uplift's  
18 track record, which gives us great confidence -- and we  
19 hope y'all too -- that children attending Uplift Mighty  
20 Prep will receive the education they need to compete with  
21 anyone. Thanks for your time.

22           MR. OXER: Thanks, Evan.

23           Any questions from the Board?

24           (No response.)

25           MR. OXER: Good.



1 MR. IRVINE: Can I ask a question?

2 MR. OXER: Yes, sir.

3 MR. IRVINE: The resolution that was adopted  
4 about right to attend.

5 MR. SMITH: Yes.

6 MR. IRVINE: You said it was adopted in April.

7 MR. SMITH: April 28th, yes.

8 MR. IRVINE: Okay. So at the application date  
9 did the children have any document that evidenced the  
10 right to attend?

11 MR. SMITH: There was a geographic boundary at  
12 that point that included the development site.

13 MR. OXER: Would that -- and then to follow  
14 onto that question, the resolution said that all those  
15 children will be allowed to or will be at that school as  
16 opposed to are in that school.

17 MR. SMITH: So -- I'm sorry?

18 MR. OXER: The question was is the school  
19 currently functional?

20 MR. SMITH: This school is open, yes.

21 MR. OXER: Okay. So at the point of the  
22 application everybody in that geographical region, they  
23 are -- is it they are -- that it is happening or that will  
24 be happening?

25 MR. SMITH: So it is currently happening, but

1 recognizing that more people are going to be living on  
2 site, they've made the proactive move to further restrict  
3 the primary geographic boundary so that they can truly  
4 realize the vision.

5 MR. OXER: Okay. Good. Thanks.

6 MR. CHISUM: Question.

7 MR. OXER: Mr. Chisum.

8 MR. SMITH: Yes, sir.

9 MR. CHISUM: What grades are being offered now?

10 MR. SMITH: So now it is K-4, 6 through 9.

11 MR. CHISUM: Okay.

12 MR. SMITH: And next year will be K-10.

13 They're growing one grade at a time.

14 MR. CHISUM: One year at a time? Okay.

15 MR. SMITH: And then so K-11 and K-12.

16 MR. OXER: So they're following the ninth grade  
17 class up, this year's ninth grade class.

18 MR. SMITH: Exactly.

19 MR. OXER: For the record, I went to a small  
20 remote location in south Florida where I went to school,  
21 and K through 12 were all in the same building if that  
22 tells you anything. Fortunately it was a two-story  
23 building.

24 Thank you.

25 MR. SMITH: Thank you all.

1 MR. OXER: Becky, you're up. Nice to see you  
2 again, welcome back.

3 MS. MADOLE: Good to see you. Thank you so  
4 much. Good afternoon, Board. Thank you for your time.

5 MR. OXER: Three minutes.

6 MS. MADOLE: My name is Becky Madole, and I  
7 manage strategic partnerships for Uplift Education. In  
8 true Texas fashion, the team assembled here is  
9 extraordinary. We have Columbia Residential, Uplift  
10 Education, the YMCA of Metropolitan Fort Worth, Cooke  
11 Children's Health Care System, ACH Child & Family  
12 Services, and the City of Fort Worth, all of which are  
13 represented here today.

14 And our other partners, Texas Wesleyan  
15 University, Shops at Renaissance, North Texas Area  
16 Community Health Centers, UNT Health Science Center,  
17 United Communities, and Renaissance Heights Development  
18 Group. The community quarterback, our

19 MR. OXER: Would you close that phone book  
20 you're reading from?

21 MS. MADOLE: So here's our team. And I'm going  
22 to tell you a little bit about Uplift Education and why  
23 you are making not just a good investment but a great  
24 investment by putting these points towards us.

25 We have a national model for this community

1 revitalization effort to follow as our road map. But like  
2 the good Texans we are, we've tackled many of the big  
3 rocks maverick style. Regardless of who's with us, we're  
4 getting the important work done for families. There's one  
5 critical piece missing, housing. We ask for your  
6 partnership in making this possible.

7 Uplift Mighty sits on Renaissance Heights.  
8 It's one of 17 Uplift campuses. Our network will serve  
9 nearly 14,000 students throughout north Texas next year.  
10 We're the oldest and largest network of free public  
11 charter schools authorized by the TEA. We take state  
12 tests, we have the same fiscal accountability as any  
13 traditional public school. Next year across our network  
14 we have 21,000 wait-list applications for next school  
15 year.

16 Our schools are free, our schools are public,  
17 and they're built on two premises. One, all children can  
18 succeed in college and career, and, two, all schools can  
19 be excellent. We take these core beliefs seriously and  
20 strategically open schools in communities with few high-  
21 performing options.

22 Uplift Mighty in Renaissance Heights is three  
23 years old. So our kids walked through the door in sixth  
24 grade, many of whom were two to three years behind if not  
25 as high as four to five in reading levels.

1           So at Uplift Mighty our schools are about  
2 eighty -- our scholars are 89 percent free/reduced lunch.

3           Across the network that's 85 percent free/reduced.

4           Last time I was here I told you about the  
5 results of class of 2014. We now have graduating 2015  
6 seniors. I'd like to share those results with you today.

7           Again this year 100 percent of seniors were  
8 accepted to college. Nearly half of those were top 100  
9 schools. This year -- I'm sorry -- top 500 schools. This  
10 year our seniors received -- our seniors, this year -- 67  
11 million in scholarships and grants. We had one Gates  
12 Scholar and six Dell scholarships, and this year all five  
13 Uplift high schools were ranked in Washington Post's  
14 America's Most Challenging High Schools list.

15           This kind of success takes dedication and it  
16 takes time. We work -- the children, like I said, come to  
17 us several years behind, and that was even greater in  
18 southeast Fort Worth. If you take the case of Uplift  
19 Mighty current eighth graders, the percentage of students  
20 achieving level 2 satisfactory on state reading tests over  
21 the last three years we've been open has -- well, it's  
22 triple that of the State. So they have grown nearly 20  
23 percent points in three years time, as compared to the  
24 State who grew their sixth to eighth graders 7 percent.

25           The growth we see is dramatic. By the time we

1 open our doors in 2017 we will be a fully built-out K-12  
2 school, and 900 people in that small community that are on  
3 our wait list that see this as an area of high  
4 opportunity, the people in Columbia Renaissance Heights  
5 will have direct access. So if they are on the wait list  
6 in Columbia Renaissance Heights, they get access.

7 We're excited to show that after that three  
8 years of time our eighth graders, by the time they  
9 graduate, will join our top performing high schools. For  
10 this year at all across the network five out of five of  
11 the end-of-course exams that are required by the State,  
12 Uplift outperformed the State in every single category.

13 So I'm going to conclude by just telling the  
14 story of one of our scholars who goes to the district  
15 school that is in the proximity of Uplift Mighty, the  
16 fully built-out K-12 school Uplift Summit. I was curious  
17 as to why she stayed at school until 7:00 p.m.

18 She shared with me that she sleeps on the couch  
19 at her sister's home. Her sister has roommates, and she  
20 needs some quiet focused time to get her work done before  
21 she goes home and cooks dinner for all the girls, because  
22 that's the way she pays her way. This girl walked across  
23 the stage and is going to be a graduate in 2017 -- a  
24 college graduate. The great thing is that we have alumna  
25 counselors who follow her all the way through, so we know

1 exactly where she is.

2 We want students in Uplift Mighty to be able to  
3 have that opportunity, and we know by the continued growth  
4 we've seen that it's not only possible but that it is  
5 going to happen.

6 We ask that you join us so that these families  
7 not only have access in 2017 to a high quality public  
8 school but have access to high quality housing. This is  
9 transformation from the inside out. This is the Texas  
10 way, and this is an innovative approach and we ask that  
11 you join us. Thank you.

12 MR. OXER: Thanks for your comments, Becky.

13 Any questions from the Board?

14 (No response.)

15 MR. OXER: Okay. With respect to -- and that's  
16 your two folks.

17 So item 6(b) application 15135, there's a  
18 motion by Mr. Chisum, second by Mr. Gann to approve staff  
19 recommendations to deny the appeal. I would add on the  
20 Chair's staff that that appeal -- or the application  
21 continues to be competitive as far as we know with respect  
22 to that.

23 So with that, those in favor?

24 (A chorus of ayes.)

25 MR. OXER: Those opposed?

1 (No response.)

2 MR. OXER: And are none. It's unanimous.

3 While we denied your appeal, we expect that  
4 you're going to be competitive, and we sure want to see  
5 some more of these schools and facilities built.

6 We'll do all we can within the constraints of  
7 our rule, see to it we can support the housing that will  
8 be required up here but I do have a passing question. You  
9 guys have anything going on in Baltimore? Can you help  
10 them out?

11 MS. MADOLE: We're dancing in Baltimore right  
12 now.

13 MR. OXER: Greet, okay. I'm looking forward to  
14 hearing some success stories up there too, so.

15 MR. GRAWLEY: Thank you so much.

16 MS. MADOLE: Thanks.

17 MR. OXER: Jean?

18 MS. LATSHA: All right. Last on the list  
19 today --

20 MR. OXER: Last or next to last? Because you  
21 have Sundance Meadows and Cayetano. Was one pulled?

22 MS. LATSHA: Cayetano was pulled.

23 MR. OXER: Okay.

24 MS. LATSHA: Well, withdrawn by the applicant.

25 MR. OXER: Okay.



1 MS. LATSHA: So Sundance Meadows, 15242. So we  
2 had a lengthy discussion two weeks ago with respect to  
3 points associated with being in a colonia. I think that a  
4 couple of Board members weren't around for that lengthy  
5 discussion. And I think it is relevant. I could wait.

6 MR. OXER: We retain -- Mr. Chisum has stepped  
7 away. We retain quorum, so you can continue.

8 MS. LATSHA: Great. So what happened was a  
9 couple weeks ago we had seven applicants that claimed  
10 points for being in a colonia. All seven of those  
11 applicants also had claimed seven points on the  
12 Opportunity Index and so were basically in census tracts  
13 that had high income, low poverty and were also within the  
14 boundaries of a municipality and so had pretty ready  
15 access to basic utilities.

16 For those very general reasons, basically that  
17 staff and this Board found that those sites did not have  
18 the physical and economic characteristics of a colonia,  
19 all of those appeals were denied.

20 This is a similar appeal although not entirely,  
21 which is why it wasn't treated exactly the same way as the  
22 other ones. Those other appeals were pulled out because  
23 they had claimed those points solely for being located in  
24 a colonia. These points for being in an underserved area  
25 can be obtained by being also in a census tract with no

1 other existing tax credit developments or in an  
2 economically distress area or in a colonia.

3 This particular applicant claimed two boxes on  
4 the application, both for being in a colonia and for being  
5 in an economically distressed area. So we treated that a  
6 little bit differently so that we could review the  
7 application with respect to meeting the requirements of  
8 either part of that rule.

9 I'll say that it was a bit confusing to figure  
10 out exactly what the applicant -- what argument they were  
11 making, whether it was for an economically distressed  
12 area, which is a defined term capital EDA in the QAP, and  
13 has very specific rules associated with it; that you're in  
14 a census tract that has 75 percent or less of the State  
15 median household income and that you can evidence that  
16 you -- that the municipality has received funds from the  
17 economically distressed area program administered by the  
18 Texas Water Development Board within the last I think  
19 three to five years.

20 So very specific requirement for meeting that  
21 part of the rule, which is why we thought perhaps we would  
22 review this application and see that that very specific  
23 requirement was met and award the points as such.

24 It turns out it is not in a census tract that  
25 is under that threshold of 75 percent of the State -- of

1 the area median income. So that part of the underserved  
2 area was thrown out, if you will, with respect to awarding  
3 points.

4 So staff then went to look to see if the site  
5 qualified under being in a colonia. And so through this  
6 appeals process there has still been quite a bit of back  
7 and forth with respect to exactly what argument the  
8 applicant is making.

9 There are two parts to the colonia definition  
10 as well, the first of which refers to a different  
11 definition of a economically distressed area, which is  
12 part of the Texas Water Code, 17.921 of the Texas Water  
13 Code.

14 That definition has three parts to it that  
15 deals with relatively low -- I'm sorry. An area that has  
16 majority of low-income population, inadequate water and  
17 sewer, and that it was a residential subdivision as of  
18 June 1, 2005. This definition also kind of refers to  
19 things that are determined by the Texas Water Development  
20 Board.

21 So staff is hesitant to accept anything outside  
22 of a determination directly from the Texas Water  
23 Development Board that someone's in an EDA, little EDA  
24 defined by their rules, since their definition references  
25 their own board. So again difficult for anyone to meet

1 the requirements of (a) of the definition of colonia. So  
2 then we really went back where we were with everyone,  
3 which was this physical and economic characteristics of a  
4 colonia.

5 I will say this, that the first part of the  
6 definition of colonia that talks about little EDA with  
7 lack of access to basic utilities and a high -- a majority  
8 of population of low-income folks, that basically serves  
9 as kind of a benchmark so that if you are meeting or even  
10 coming very, very close to those, some of those criteria,  
11 then it would make sense that the department then could  
12 determine that you have the physical and economic  
13 characteristics of a colonia.

14 So we visited this site along with all of the  
15 other ones, and our first sense was it looked very much  
16 like a lot of the other ones. It is in the city of  
17 Brownsville. Across the street, across one of the main  
18 streets, very well developed area of town, nice homes, you  
19 know, gas stations, commercial development, everything  
20 that you'd typically see in a thriving city.

21 Admittedly on the other side of that street and  
22 where this development is located is literally on the edge  
23 of the municipality's boundary. So I should have brought  
24 a map with me. But we have Paredes Line Road here in  
25 Brownsville. All on this side of that road nice

1 development, single-family, commercial, all kinds of stuff  
2 going on.

3           And when you drive into the site from the main  
4 highway you pass all of that first, so your first  
5 inclination is this site right here is part of all of this  
6 over here. There's a little paved road, there's a picture  
7 of it in your Board book, that goes kind of like this.  
8 The site's right here, and this is literally right where  
9 the municipality boundary is.

10           It turns out the water and sewer lines stop  
11 really at Paredes Line Road as well, so the applicant here  
12 is having to have 2,000 feet of offset work to connect to  
13 sewer and water lines. The folks -- the few folks that  
14 live on that little curved road on the other side of  
15 Paredes Line where the development site is only have  
16 access to water by a two-inch water line that's serviced  
17 by a private water supply corporation instead of the City  
18 of Brownsville.

19           So the argument here essentially is this is not  
20 as ready access to utilities as some of the other sites  
21 that we were looking at. Yes, they are able to tap into  
22 that Brownsville tub but having to work pretty hard to do  
23 so.

24           So it brings us back to what is the geographic  
25 area that would define this neighborhood. And if you lump

1 in the other side of Paredes Line Road, I think it would  
2 be difficult to say that all of that looks like a colonia.

3 But if you go the other direction, you really are looking  
4 at ETJ, no access to water and sewer.

5 You know, I was just recently reading an  
6 article about big data and it was with respect to  
7 personality tests and how companies are using them to hire  
8 people and things like that. I love Money Ball, and the  
9 Astros are doing well and all of this stuff, but it was  
10 also talking about how, you know, you don't want to rely a  
11 hundred percent on data. Data is useful, though. Right?

12 So in this scenario we have an interesting data  
13 set that's being used. So the census tracts that these  
14 guys are in is huge when you look at it on the map.  
15 Actually I didn't even realize it when we were going down  
16 to perform our site visits, but it's in the same census  
17 tract as another site that we looked at that's way up the  
18 road that you would never dream that it was in the same  
19 census tract. But it is.

20 Now, those two sites are in different block  
21 groups. The block group that this development site is in  
22 has a median income of right around 35,000 or less, right  
23 around there. Anyway, very much right in line with the  
24 Brownsville median income and, coincidentally, less than  
25 75 percent of the State median income. So the argument

1 here is we're in a block group, a census block group that  
2 is less than 75 percent of the State median income. Staff  
3 was able to confirm that information.

4 Now, I used block group information when trying  
5 to dial down into the data on these other sites. I don't  
6 want anyone to think that this is something that we're  
7 writing into the rule. There's no reference to block  
8 group, census block group data in the rule. However, this  
9 is one of those cases where we look at a site, we make an  
10 assessment, and then we look for some data to support that  
11 assessment. And block group data was doing just that.

12 And it's doing that in this case where we seem  
13 to be a little bit on the fence with respect to access to  
14 utilities. It does seem to be, there does seem to be an  
15 argument for a neighborhood that takes in the ETJ instead  
16 of the development across Paredes Line Road.

17 So all that being said, I sound like I'm on the  
18 fence because I probably am on the fence. Staff's  
19 recommendation is still denial, but I will say that  
20 there's some interesting data points that were, they're  
21 pointed out in this appeal and I think that the applicant  
22 might be able to speak to some of those and maybe have  
23 some questions for you so that the Board can dial down  
24 into that a little bit more and make a determination as to  
25 whether this does have a physical and economic

1 characteristics of a colonia.

2 MR. OXER: Any questions from the Board?

3 (No response.)

4 MR. OXER: Okay. Protocol says we have a  
5 motion to consider.

6 MR. IRVINE: Before you call your motion I just  
7 wanted to add I do have some additional sort of late  
8 developing impressions of all of this. After looking at  
9 all these different sites claiming colonias points, it  
10 really did seem to me that this particular one did have  
11 some real proximity to a significant concentration of  
12 lower income persons.

13 It did seem to have some of the physical  
14 attributes of a colonia. And I was especially concerned,  
15 although I'm not professionally capable of making  
16 judgments about it, about their access to utilities. It  
17 seems to me that, you know, living off of a two-inch water  
18 line for a number of households could present some pretty  
19 significant issues. That's all I wanted to add.

20 MR. OXER: Yeah, there just doesn't seem to be  
21 enough horsepower in that.

22 MR. CHISUM: Mr. Chairman?

23 MR. OXER: Mr. Chisum.

24 MR. CHISUM: In reading the report, it stated  
25 that the City of Brownsville whether the utilities cease,



1 is they simply do not have the financial resources to be  
2 able to extend those utilities to this area. So a two-  
3 inch water pipe and lack of sewer and other issues, those  
4 are significant in this --

5 MR. OXER: Sounds like a colonia to me.

6 MR. CHISUM: Yeah.

7 MR. OXER: Okay. Hold on a second, Sarah.

8 MS. ANDERSON: Sure.

9 MR. OXER: Go ahead, Jean.

10 MS. LATSHA: I will point out, just to show how  
11 much on the fence we are, this -- I don't know if I said  
12 this beforehand but this is in that same -- when we look  
13 at census tract data, this is a high income low poverty  
14 census tract. When you dial down to the census block it  
15 gives you some different information. So this application  
16 did get those seven points for High Opportunity Index.

17 But as we had explained before, those two sets  
18 of points, being in a colonia and being in a high  
19 opportunity area, aren't necessarily mutually exclusive in  
20 the rule. Those were two concepts that we had some  
21 difficulty reconciling with some other sites, but that's  
22 not to say they couldn't be reconciled here.

23 MR. OXER: What's the -- just, you know,  
24 ballpark, what's the rough distance between these two?  
25 You said there's one way out on the other side of the

1 census tract.

2 MS. LATSHA: Miles.

3 MR. OXER: Ten, 12, 50, 200 miles?

4 MS. LATSHA: Yeah.

5 FEMALE VOICE: It's more like 20 miles.

6 MS. LATSHA: Yeah.

7 MR. OXER: Twenty miles?

8 MS. LATSHA: Yeah.

9 MR. OXER: That's okay. Good.

10 Okay. So the staff recommendation is to deny  
11 the appeal. Okay. Just as a matter of protocol, were we  
12 to have -- to formulate a motion to support the appeal, to  
13 approve staff recommendation to approve the appeal, we  
14 could have that motion on the table, listen to public  
15 comment, and were we to decide otherwise we could retract  
16 that and change the direction that we're going.

17 So with that, I'll take a motion to consider.

18 MR. GANN: So move.

19 MR. OXER: Motion to --

20 MR. CHISUM: Motion to consider --

21 MR. OXER: The motion will be to --

22 MR. CHISUM: -- staff's recommendation?

23 MR. OXER: Motion to accept staff  
24 recommendation of this item. Or if you choose to do  
25 otherwise, do you want to oppose, elect to oppose --

1 MR. CHISUM: If it dies for lack of a second,  
2 then we're down the path of saying --

3 MR. GANN: Then make a motion to not approve  
4 staff recommendation.

5 MR. OXER: Okay, which reflects your position  
6 on the fence. Okay. Motion by Mr. Gann to deny staff  
7 recommendation to grant the -- which would be effectively  
8 to grant the appeal.

9 MR. GOODWIN: Second.

10 MR. OXER: Okay. Second by Mr. Goodwin.

11 Now, Sarah, I'm going to warn you right now --

12 MS. ANDERSON: I'm going to keep it so brief.

13 MR. OXER: -- say who you are, say what you  
14 want, and sit down. Okay?

15 MS. ANDERSON: Yes. Sarah Anderson,  
16 representing the developer. Thank you very much, staff.  
17 We belabored this for weeks with them.

18 The only points that I would make that might  
19 make you feel a little bit better about that motion is  
20 that this is distinctly different from the other colonia  
21 issues that you had before you a couple weeks ago. That  
22 did have the language that talked about the  
23 characteristics of an area.

24 Definition A of colonia does not have that as  
25 part of its definition. It has very specific detailed

1 items that talk about, you know, are you within 150 feet  
2 of the border, do you have houses in the area, and then,  
3 you know, the Water Development Board definition. And we  
4 feel that we have submitted data that specifically meets  
5 what the Water Development Board's definition is.

6 And thank you very much. If you have any more  
7 specific questions and if this turns against me, I'll  
8 certainly come back up and answer more questions. Thank  
9 you.

10 MR. OXER: Okay. If I got this right,  
11 respecting item 6(b) application number 15242 -- I already  
12 marked through it. -242. Right? Is that correct?

13 MR. IRVINE: Yes.

14 MR. OXER: Okay. The motion by Mr. Gann,  
15 second by -- I'm sorry -- motion by Mr. Goodwin, second by  
16 Mr. Gann. Is that correct?

17 MR. GANN: No, made by Mr. Gann.

18 MR. OXER: Made by Mr. Gann, second by Mr.  
19 Goodwin. Okay. We're marking this. Motion by Mr. Gann,  
20 second by Mr. Goodwin to deny staff recommendation to deny  
21 the appeal, effectively to grant the appeal. Correctly  
22 stated? Okay.

23 MR. GANN: We could restate it if you want to,  
24 make it plainer.

25 MR. OXER: Put it -- I think that's clear

1 enough. What we're basically doing is they're getting  
2 their project. Okay? So all right. With that in mind,  
3 those in favor?

4 (A chorus of ayes.)

5 MR. OXER: And opposed?

6 (No response.)

7 MR. OXER: There are none. It's unanimous.

8 MS. ANDERSON: Thank you.

9 MR. OXER: You're welcome.

10 Okay. Tim?

11 MR. IRVINE: Mr. Chairman, I believe item 6(c)  
12 is being deferred until the July 16 meeting.

13 MR. OXER: When did we know about that or did  
14 that just occur?

15 MR. IRVINE: We just learned that.

16 MR. OXER: Just decided that. Okay.

17 Okay, that being the case, we've reached the  
18 point in the agenda where we'll accept public comment on  
19 matters other than those items for which there are posted  
20 agenda items, recognizing that we cannot comment or take a  
21 action on any of them but we hear them for the purpose of  
22 constructing the agenda for future Board meetings.

23 Is there any comment from the public who are  
24 here?

25 (No response.)

1 MR. OXER: Is there any comment from the staff?  
2 You get one more shot at it there, Jean.

3 MS. LATSHA: Thank you.

4 MR. OXER: You're welcome.

5 MS. LATSHA: No, no comment. But it's been a  
6 great, great pleasure. And I look forward to working with  
7 all of you again.

8 MR. OXER: We look forward to seeing you back.

9 MS. LATSHA: Yeah, it really is. This leave  
10 happy, this is my own rule for my life. Right? This goes  
11 for toddlers at the park or two margaritas, don't have the  
12 third one, and leave before the tantrum.

13 (General laughter.)

14 MS. LATSHA: I'm not saying that this would  
15 inevitably be bad either. Right?

16 MR. OXER: Leave happy with your wits about you  
17 also.

18 MS. LATSHA: But I kind of think of it as it's  
19 the three golf balls that you see at the driving range, is  
20 what it really is. Right? You know what those are. You  
21 know, you hit one like decent shot and you might have  
22 another decent shot in you, but, you know, you might not.  
23 Then you'd have to buy another bucket or leave unhappy.  
24 And so I'm just going to leave my three golf balls here,  
25 and I'll come hit them when I'm done racing cars.

1 (Applause.)

2 MR. OXER: Okay. Any other comments from  
3 staff?

4 MR. IRVINE: One other comment.

5 MR. OXER: One comment from the dais and the  
6 staff up here.

7 MR. IRVINE: Lisa, Terry, everybody else that's  
8 interested in talking about HOME and TCAP and NOFAs and  
9 all that stuff, get in touch with me tomorrow, and we need  
10 to roll up our sleeves and dig into that stuff right away.

11 MR. OXER: Okay. Any member of the Board care  
12 to make a final comment?

13 (No response.)

14 MR. OXER: Okay. As Chairman I get the last  
15 word. It's a good thing that we do. We're at the end of  
16 this marathon, this enduro, so we'll drop the checkered  
17 flag and declare this one a victory.

18 Hear a motion to adjourn.

19 MR. CHISUM: So move.

20 MR. OXER: Motion by Mr. Chisum to adjourn. Do  
21 I hear a second?

22 MR. GOODWIN: Second.

23 MR. OXER: Second by half of us.

24 So all in favor?

25 (A chorus of ayes.)

1 MR. OXER: See you in two weeks, folks.

2 (Whereupon, at 3:30 p.m., the meeting was

3 concluded.)



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C E R T I F I C A T E

MEETING OF: TDHCA Board  
LOCATION: Austin, Texas  
DATE: June 30, 2015

I do hereby certify that the foregoing pages, numbers 1 through 217, 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.

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(Transcriber) 07/07/2015  
(Date)

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