

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD OF DIRECTORS MEETING

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

July 30, 2015
9:30 a.m.

MEMBERS:

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

TIMOTHY K. IRVINE, Executive Director

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c) Presentation, Discussion, and Possible Action regarding the adoption of Agreed Final Orders concerning related properties Sunrise Village II (HTC 96113/ HOME 536265/CMTS 1574) and Rincon Point Apartments (HOME 534031/CMTS 2618)	
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P R O C E E D I N G S

1
2 MR. OXER: Good morning, everyone. I'd like to
3 welcome you to the July 30 meeting of the Texas
4 Department of Housing and Community Affairs Governing
5 Board.

6 We'll begin with roll call. Ms. Bingham is
7 absent today.

8 Mr. Chisum?

9 MR. CHISUM: Present.

10 MR. OXER: Mr. Gann?

11 MR. GANN: Present.

12 MR. OXER: Mr. Goodwin?

13 MR. GOODWIN: Present.

14 MR. OXER: Dr. Muñoz?

15 DR. MUÑOZ: Present.

16 MR. OXER: And I'm here, so we've got a quorum,
17 we're in business.

18 Tim, lead us in the salutes.

19 (The Pledge of Allegiance and the Texas
20 Allegiance were recited.)

21 MR. OXER: Okay. We have no special items yet
22 today, correct, Tim? Will I just go straight to the
23 consent or do we need to pull a couple of items on the
24 consent agenda?

25 MR. IRVINE: We have several items, Mr.

1 Chairman, that need to come off of consent, and if staff
2 can help me navigate this. Under the Community Affairs
3 items, the first two sections (m) and (n) need to come
4 off. Those are plan items. And the next two relating to
5 Northeast Texas Opportunities and the counties it serves
6 need to come off of consent.

7 MR. OXER: So Community Affairs, item number
8 (m) Michael and (n) as in November, and also item (o)
9 October and (p) as in Papa, let's see Texoma Council of
10 Governments. And item 1(f). Is that correct?

11 MR. IRVINE: Yes, item 1(f) needs to come off
12 of consent.

13 MR. OXER: Okay. Item 1(f) which Patricia will
14 handle will come off of consent; we're going to pull item
15 1(g) under Asset Management.

16 MR. IRVINE: We're pulling 14051 Churchill at
17 Champion Circle, we'll bring that back next month.

18 MR. OXER: So that's off the list. Right,
19 Tom?

20 MR. IRVINE: Off the list entirely. And then
21 the consideration on the Lodge at Huffmeister 14272 will
22 be taken up as an action item.

23 MR. OXER: Has everybody got that, or do you
24 want me to read it?

25 MR. IRVINE: We've got it.

1 MR. OXER: So with those items on the consent
2 agenda which are (f), part of (g), (m), (n), (o) and (p)
3 off the consent agenda, is there a motion to consider?

4 MR. GOODWIN: So moved.

5 MR. OXER: Okay. Motion by Mr. Goodwin to
6 approve the consent agenda with those items pulled as
7 listed. Second?

8 MR. GANN: Second.

9 MR. OXER: Second by Mr. Gann.

10 Is there anybody to speak on these particular
11 items? Quick housekeeping item here, those of you that
12 are regulars know that the front row here on our left is
13 for those who wish to speak on an item. When we take
14 those we'll start from the one nearest to the aisle and
15 work our way out that way. The chair where Brooke is
16 sitting, rather than people who wish to speak, is
17 reserved for the staffer -- in this particular case,
18 Brooke -- the staffer who will be speaking to address
19 that item, so this chair right here is for staff.

20 So with that, is there anybody that wishes to
21 speak on the consent agenda?

22 (No response.)

23 MR. OXER: Motion by Mr. Goodwin, second by Mr.
24 Gann to approve the consent agenda as modified. Those in
25 favor?

1 (A chorus of ayes.)

2 MR. OXER: Opposed?

3 (No response.)

4 MR. OXER: And there are none.

5 Let the record reflect that Ms. Bingham has
6 joined us and we're happy to say we have a full house
7 today.

8 MS. BINGHAM ESCAREÑO: Good morning.

9 MR. OXER: Good morning.

10 Okay. We'll start it from the top down on the
11 consent agenda then. Patricia, good morning.

12 MS. MURPHY: Good morning. Patricia Murphy,
13 chief of Compliance.

14 Item 1(f) is a ratification.

15 MR. OXER: And a quick timeout here just for
16 another housekeeping item. Can you folks up there in the
17 back hear her at the podium? She's not talking now.
18 Okay?

19 (General laughter.)

20 MR. OXER: And I would remind everybody when
21 you come up, those of you, others not staff who wish to
22 speak on an item, come up and sign in but don't sign in
23 because most of your signatures are as illegible as mine
24 which is not saying anything complimentary to you, so
25 make a point to sign your name, print your name so that

1 we can get accurately within the transcript and the
2 record, please.

3 So Patricia.

4 MS. MURPHY: Good morning. Patricia Murphy,
5 chief of Compliance.

6 Item 1(f) is presentation, discussion and
7 possible action on ratification of withdrawal of
8 proceedings to terminate contracts and eligible entity
9 status of the Urban League of Greater Dallas.

10 So the Urban League of Greater Dallas is one of
11 the community action agencies that's part of the network
12 that administers our Community Services Block Grant, or
13 CSBG, funds. In December of 2014 the Board approved most
14 of the awards for the network, however, the Urban League
15 of Greater Dallas was not approved at that time because
16 their required A-133 audit was delinquent and the
17 previous year's audit had some very significant concerns
18 and findings noted therein. So an award was not
19 recommended. However, subsequent to that
20 the required audit was received. It was received eight
21 months late but we did get it, and so the Board
22 conditionally approved an award and a contract for the
23 Urban League of Greater Dallas, contingent up meeting
24 several criteria. The Urban League of Greater Dallas did
25 not meet those criteria and so staff issued proceedings

1 to terminate their eligible entity status and start
2 taking the process of taking that eligible entity status
3 away, going down that required federal path.

4 After we issued that notice to them, one of the
5 very significant requirements was met by the agency, and
6 the agency had some pretty serious financial management
7 issues that they have lacked a staff to oversee their
8 finances and have had a great deal of difficulty there.
9 So subsequent to us saying we're proceeding with
10 termination of your eligible entity status, they hired a
11 qualified chief financial officer. So up on that news
12 and after discussions with that individual, that gave the
13 staff some confidence that we could sort through the
14 issues that the agency was having.

15 The Department staff issued a notice to them
16 saying we're withdrawing, we're withdrawing our notice
17 that we're proceeding to terminate your eligible entity
18 status, and we were bringing that action here to you to
19 ratify that. Then after we posted this in the Board
20 book, a significant development has occurred that we want
21 to make sure that you're aware of, and what has happened
22 is we have received notice from the National Urban League
23 that they are disaffiliating or they intend to
24 disaffiliate with the Urban League of Greater Dallas and
25 North Central Texas. So we wanted to make you aware that

1 that is happening and that we understand that the Dallas
2 Urban League is going to contest this disaffiliation from
3 the National Urban League.

4 We are continuing to work with the Urban League
5 staff in Dallas to determine what will be their position
6 on this and what will happen if they do get
7 disaffiliated, and at this time we are still recommending
8 that you the notice that the Department sent withdrawing
9 those proceedings. We're continuing to try to unravel
10 all of this with the Urban League staff in Dallas, and if
11 we're not able to do so, we will need to renotify the
12 Dallas Urban League that we're resuming or reinitiating
13 proceedings to terminate.

14 But we just wanted to make you aware of what's
15 going on and see if you had any questions. I know the
16 CFO with Dallas Urban League is here and they're
17 available to answer any questions that you have. I don't
18 think that they really wanted to make any comment, but
19 they are here if you have any questions of them or me or
20 any other member of the staff.

21 MR. OXER: Are there questions from the Board
22 for Patricia?

23 DR. MUÑOZ: Patricia, functionally speaking,
24 aside from the financial concerns that seem to be
25 addressed now with the acquisition of the new staff, what

1 functionally or substantively would this disaffiliation
2 create on our end, if any at all?

3 MR. OXER: And let me amplify that and expand
4 on that part of the discussion. Absent the potential
5 disaffiliation or the relationship that they have with
6 the National Urban League, would that change in any way
7 our process for dealing with this?

8 MS. MURPHY: No.

9 MR. OXER: Okay. Does that answer your
10 question?

11 DR. MUÑOZ: Yes. Thank you, Mr. Chair, for
12 answering that question.

13 MR. OXER: Clarification.

14 DR. MUÑOZ: It's well done.

15 MR. OXER: Is there anybody wishes to speak?
16 We have to have a motion to consider on this item. And
17 for what you're requesting, Patricia, this is just
18 ratification.

19 MS. MURPHY: Ratification of our withdrawal of
20 our notice to proceed to terminate.

21 MR. OXER: Okay.

22 MR. CHISUM: So moved, Mr. Chairman.

23 MR. OXER: Motion by Mr. Chisum to approve
24 staff recommendation on the notification to -- what does
25 it say again?

1 MS. MURPHY: To withdraw.

2 MR. OXER: To withdraw your certification.

3 DR. MUÑOZ: Second.

4 MR. OXER: Second by Dr. Muñoz. Is there
5 anyone who wishes to speak on this item? There appears
6 to be none.

7 Okay. With respect to item 1(f), those in
8 favor?

9 (A chorus of ayes.)

10 MR. OXER: Opposed?

11 (No response.)

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

13 The next item pulled from the consent agenda is
14 item 1(g) on Asset Management which is 14272. Tom,
15 you're going to handle that one?

16 MR. GOURIS: I'm going to handle this one. Tom
17 Gouris, deputy executive director for the Department.

18 The Lodge at Huffmeister is a relatively
19 straightforward but somewhat unique amendment request.
20 The development is a 2014 tax credit award to construct
21 170 units in Cypress which is in Harris County. The
22 owner has met the 10 percent test, is not asking for any
23 extensions, he's taken down the land and has been working
24 on water and wastewater for the site but has been unable
25 to obtain service from any of the nearby utility

1 providers. So they've adjusted their site to accommodate
2 a private well and a wastewater facility.

3 The amendment that is being taken up by the
4 Board today, because of the movement of some of the
5 buildings and because some of the site is taken out is
6 fairly unique. It doesn't meet our threshold for how
7 much of the property is coming out to have to come to the
8 Board, it's just a unique amendment so we felt like it
9 would be prudent for us to bring it before the Board.

10 MR. OXER: So it's incidental in change on the
11 land surface?

12 MR. GOURIS: It's non-material.

13 It has been reevaluated by underwriting and we
14 are comfortable at this time in recommending approval of
15 the amendment. I know there's a number of people here to
16 speak, the applicant is here and so are a number of other
17 folks. So I'll leave it at that unless you have
18 questions.

19 MR. OXER: Okay. And staff recommendation is
20 to approve the amendment?

21 MR. GOURIS: Approve the amendment. Yes.

22 MR. OXER: Are there any questions from the
23 Board? Motion to consider?

24 MS. BINGHAM ESCAREÑO: Move to consider.

25 MR. OXER: Motion by Ms. Bingham to approve

1 staff recommendation on item 1(g) which is application
2 number 14272.

3 MR. GANN: Second.

4 MR. OXER: And a second by Mr. Gann.

5 Those here to speak, how many of you are there?

6 You as well? Do you have questions or support, or you
7 don't have anything other than just answering questions?

8 And you four have a position to take on this? Okay.
9 Let's hear the first one then.

10 MR. IRVINE: Be sure to print your name
11 legibly.

12 MR. OXER: Which means better than I would do
13 it. Okay? Which is not a real high standard, frankly.

14 MS. LAMPE: My name is Charlotte Lampe.

15 MR. OXER: I'm sorry to interrupt you, Ms.
16 Lampe, but we obviously have a pretty busy agenda today,
17 it looks like there might be several people that want to
18 speak. We're going to run a hard clock today, you'll
19 have three minutes.

20 MS. LAMPE: Do I have three minutes now?

21 MR. OXER: You have three minutes beginning
22 now.

23 MS. LAMPE: All right. Here we go. My name is
24 Charlotte Lampe, and I've been a resident in the Cypress
25 area since 1978, and as a volunteer I have worked

1 tirelessly to bring services and opportunity to our
2 community. As the need arose in our area for
3 firefighters and EMS personnel, I became one of the
4 first -- the first woman captain EMT in the Cy-Fair
5 Volunteer Fire Department. Further addressing the needs
6 in our community as president, I developed an
7 organization called Focus that addressed the educational
8 issues of Cy-Fair ISD. That organization during the next
9 five years grew to over 8,000 members.

10 Throughout that time I participated in debates
11 on national TV, and won, about the educational and the
12 financial direction of school districts in general, and
13 specifically using Cy-Fair ISD as an example of what
14 could be done differently. Within the last ten years I
15 have been part of the team that brought the Lone Star
16 College System to the Cy-Fair area, and I am proud of the
17 services that they provide to all in our community.
18 Today I am heavily involved in local issues and
19 government as GOP precinct chair and volunteer chairman
20 of training and development for the Harris County
21 Republican Party.

22 As a private citizen in my community, I stand
23 before you today to thank you for the opportunity to
24 voice my hope that the application amendment for the
25 Lodge at Huffmeister, now known as the Meadows of Cypress

1 Creek, should not be approved. I would specifically like
2 to address that the applicant states that the developer
3 originally allotted 2.2 acres of the development site for
4 the use of a detention pond, however, it has now been
5 dedicated 1.25 acres to utilize as an infrastructure
6 buildout. The overall footprint of the detention pond has
7 now been reduced to roughly two acres. The applicant is
8 neither a hydrologist or a civil engineer, but further
9 states that the volume of the pond is sufficient to
10 address the detention requirements of the planned
11 development. It must be duly noted that the applicant
12 lacks the appropriate credentials to make such a
13 statement.

14 It should be further noted that there is no
15 signed or stamped drawings that state that the two acres
16 is sufficient for the onsite detention which will be
17 critical to the site and the surrounding areas. Flooding
18 is fast becoming a major issue and a huge burden to parts
19 of Houston and surrounding areas for our citizenry.
20 Without clear and concise information proving that these
21 water concerns have been accurately reported and
22 verified, the damage to the overburdened Cypress Creek
23 environment may very well be extensive. Should the waste
24 treatment plant also be in such close proximity to an
25 adequate detention pond, the danger of flooding with

1 treated wastewater could be a very serious threat to the
2 health and well-being of all concerned. The possibility
3 of numerous waterborne pathogens, including but not
4 limited to viruses, bacteria, salmonella, is a
5 substantial concern.

6 And finally, may I ask you to consider our area
7 is predominantly a community of single family dwellings.

8 By the developer's own feasibility study, it shows we
9 are already being able to sufficiently and effectively
10 serve the current tax subsidized low housing. In the
11 case of the Meadows Cypress Creek, the developer holds
12 his project above the mandates that are currently in
13 place. There is a current countywide mandate to
14 transition to surface water, with most MUD districts
15 throughout Cypress required to deliver surface water via
16 the Northwest Regional Water Authority. In the 15-year
17 period of tax credit projects, approximately 570 million
18 gallons of groundwater will be removed. Why the special
19 distinction for the Meadows of Cypress Creek?

20 On behalf of myself and the Cypress community,
21 I ask for the extension to be denied. And thank you for
22 the time.

23 MR. OXER: Thank you for your comments, Ms.
24 Lampe.

25 Next?

1 MS. HARDIN: Well, good morning. Thank you for
2 the opportunity to speak in front of the Board. My name
3 is Barbara Hardin, and I'm a vice president of Cypress
4 Coalition which represents many subdivisions that
5 surround the Cypress Creek and the proposed development
6 site. I also live across the street in the neighborhood
7 Ravens Way, and I too have seen evidence of the flooding.

8 I've lived there for over 20 years and each year you see
9 more and more flooding, and people in the street behind
10 me have to use a canoe to get out, and we park the cars
11 up front so we can get out whenever we have the floods.

12 What I would like to state is that the time
13 involved to get the permit for the wastewater treatment
14 plant is longer than the 90-day extension that they're
15 asking to receive from you. It would be a minimum of six
16 months to a year to receive it. Approving the extension
17 is simply putting a band-aid on this problem.

18 As mentioned before, there is a concern about
19 the environmental and ecological impact on our creek.
20 Our area holds an annual Skim Jam, and I don't know if
21 you're familiar with that but it's where kids go skinning
22 on the creek, and they use it as a fundraiser every year,
23 an annual fundraiser for breast cancer awareness. This
24 started after one teen lost his mother in the fight of
25 breast cancer, and they've raised probably about \$20,000

1 over this period of time. This is a community effort
2 that the community is all involved in to help with this
3 fight of breast cancer.

4 Also, the Cypress Creek is being developed into
5 a greenbelt. We have kayaking and canoe points of
6 entrance where you can enter that has been made already.

7 We have walking trails that are being developed. We
8 have horses that are able to also utilize these trails.
9 The Boy Scouts in their local troop clean along the
10 banks. And with all the ecological changes that can
11 occur from flooding and then possible what gets emptied
12 into the creek due to the treatment plant could be a
13 drastic stop to all these events that are already in
14 place.

15 My hope is that you've not made a decision
16 before listening to us, and just thank you so much for
17 your time and the community would really value your
18 support. Thank you.

19 MR. OXER: Thank you for your comments, Ms.
20 Hardin.

21 MR. NEISEL: Thanks for letting me speak. My
22 name is Phil Neisel, and I live on Cypress Creek
23 Boulevard and that's about 700 feet north of the proposed
24 Meadows at Cypress Creek.

25 I became concerned about this development when

1 I heard about their plans for onsite sewage treatment and
2 large scale water wells that may damage my own water
3 well. And also, I live 700 feet directly downwind of
4 their proposed sewage treatment plant, so I'm not excited
5 about that. I'm here on my own but I also have letters
6 of support from about 35 other Cypress residents.

7 After looking at the application, I believe the
8 amendment should be denied. The current plans to drill
9 municipal size water wells and treat sewage on site is
10 irresponsible and harms the future occupants and the
11 existing community surrounding the property. The sewage
12 plant is located a mere 150 feet from the property line
13 of a longtime neighbor, and the wells will draw more than
14 30 million gallons of water a year from the watertable,
15 potentially damaging several of our water wells and
16 causing local subsidence.

17 Additionally, sewage treatment on such a small
18 lot is extremely inconsiderate of the people that would
19 live within the development. Many of these units on the
20 western edge will be less than 300 feet from the sewage
21 treatment plant and continually subjected to the wafting
22 sewage odor. This proximity to sewage treatment shows a
23 clear disregard for the future residents.

24 Just as troubling, the developer's budget does
25 not appear to provide any amounts for the North Harris

1 County Water Authority subsurface water penalty of \$2 per
2 1,000 gallons pumped. A conservative estimate of this
3 fee for the property would be in the \$20- to \$25,000
4 range. At higher flow rates that are well within the
5 range of reasonableness, this fee would be close to
6 \$60,000 a year and eat up over half the project's
7 expected annual profits.

8 Most baffling, however, is the developer's plan
9 to sell the sewage and freshwater systems to Aqua Texas
10 which is a subsidiary of Aqua America, a national for-
11 profit water utility outfit. Aqua American and Aqua
12 Texas have a long history of high cost service, repeated
13 and unsustainable rate increases in their communities and
14 poor quality service. Aqua Texas has a D-plus rating
15 with the Texas Better Business Bureau, and there have
16 been several TCEQ rate and service investigations.

17 Privatization of water utilities at a low
18 income housing development is completely inappropriate
19 and clearly demonstrates how ill-conceived this plan has
20 become. Exposing the most vulnerable of our citizens to
21 a company that will exact as much money as humanly
22 possible to provide life's most essential services is the
23 exact opposite of what you stand for.

24 Finally, just a couple of points on their
25 application. The water wells, the pump house, the

1 freshwater treatment plant, the freshwater storage tanks,
2 they are nowhere on the development plans. These
3 freshwater facilities which cost over \$1.7 million are
4 located offsite on property that is not owned or leased
5 by the developer. For this reason, the developer has
6 failed to provide offsite construction details in their
7 application. The developer's construction and operating
8 budget is also deficient because it does not provide any
9 detail whatsoever on the lease, easement or purchase
10 contract for the land necessary to build these
11 facilities. The applicant's financing documentation also
12 does not provide you the details on their seller
13 financing note that they just put in place, and that, I
14 think, is required in the application as well.

15 Just in conclusion, I support your goals of
16 providing affordable housing to those that need it. This
17 project is not worthy of your approval. Thanks for your
18 time.

19 MR. OXER: Thank you, Mr. Neisel.

20 MR. HARDIN: My name is James Hardin. No, I'm
21 not the James Hardin with the Houston Rockets.

22 MR. OXER: You don't have near enough beard to
23 be that one.

24 MR. HARDIN: I shaved this morning and I'm
25 wearing my platform tennis shoes, but I'm the original

1 James Hardin.

2 I'm with the Cypress Coalition, I am the
3 president of it. These people have spoken to you and
4 brought notable ideas to you. They're wanting to put a
5 water well on here. In our area in two years we're going
6 to surface water and they're for groundwater, so what are
7 they going to do? The Northwest Regional Water Authority
8 has not given them permission yet, and they may very well
9 put them on surface water with everybody else. Who's
10 going to pay for that water well?

11 Plus, they're pumping out approximately 38
12 million gallons per year for Phase I, they have a Phase
13 II. We're already into a three milliliter per year
14 subsidence in Cypress is about that much; fifteen years
15 it's that much. So there's that question of those two
16 items.

17 Also, there's the land cost. He originally ran
18 about \$4 a square foot, now he's up to about \$10. The
19 reason being the price of the property is \$1,900,000 and
20 some change, to which he only put in \$262,000 which goes
21 against the 10 percent rule with a year that you have to
22 spend that money and hasn't spent that money. But going
23 back to the fact is the \$10 rule is the fact that he's
24 going to have to spend \$2,600,000 and some change for
25 sewage and for water treatment. And talking about water

1 treatment, Paul Bettencourt's office said that it will
2 take six months for that application to be then
3 submitted, which could be a year. So what are we going
4 to do for the 90 days? Are we going to extend it and
5 extend it and extend it? I mean, a decision needs to be
6 made now as to what is going to be done because you can't
7 keep extending that which is going to be prolonged and
8 the can is going to be kicked down the road. On top of
9 the \$10 per foot, we're not even talking about the \$95-
10 or \$96,000 he's spent for the easement for his water
11 treatment plant.

12 It's in our opinion, as Phil said earlier, we
13 are for low income housing, we have it in our area. This
14 is a bad area, it's not a good area. We have 141 packing
15 plants already in this area. Mr. Blum with the Harris
16 County Authority says in three days that there's no rain
17 in our area for Cypress Creek or the other major creeks,
18 the water you see flowing is sewage and that's all it is
19 is sewage. If we don't stop it now, when; if not us,
20 who? We need to find another location for that property
21 to go up and not here. Thank you.

22 MR. OXER: Thank you, Mr. Hardin.

23 Is there anyone else that wishes to speak on
24 this item?

25 Tom, we've got a couple of questions.

1 MR. GOURIS: I think the applicant is here as
2 well, but I can answer what I can answer.

3 DR. MUÑOZ: Tom, you know, we're having some
4 fairly serious concerns about proximity to this facility
5 and these wells. I mean, have we done our due diligence?

6 Have we examined if there's any statutory limitations in
7 terms of proximity? I heard 100 feet or something, 300
8 feet from something that's being proposed as
9 sophisticated as this kind of water treatment plant.

10 MR. GOURIS: My understanding -- we don't
11 regulate that issue at all. What we do look at it what
12 reports and what professional engineers and others
13 provide to us to support the feasibility and viability of
14 the transaction. We've gotten to a point in the process
15 that we're comfortable for it to move forward. That
16 doesn't mean it's all resolved and they will continue to
17 move forward.

18 There was a comment or a continued comment that
19 there was some sort of 90-day extension or something.
20 There's nothing in our process right now that requires
21 them to extend. All they're asking for is an amendment
22 to their site plan to move forward with this alternative
23 water treatment facility in order to be able to construct
24 the property. I think they would be glad to work
25 something out with a local water provider if that was

1 available to them, but this is what they're needing to do
2 to keep the project moving.

3 The next deadline for them is the end of next
4 year when they have to place the property in service, so
5 they're in a pretty tight time frame in order to get
6 everybody in line and everybody on board. They need to
7 continue to keep moving with it to get the construction
8 started and be able to place it in service by the end of
9 next year. If they aren't able to do that, I think
10 they'll make the wise decision to pull the plug
11 themselves, because if they can't get to that deadline,
12 it's a cliff.

13 MR. OXER: So essentially this gives them the
14 option to see if they can work out the issues associated
15 with this?

16 MR. GOURIS: That's correct. And I think
17 they've given us a plan that seems reasonable, seems like
18 they can reasonably accomplish it, but we don't regulate
19 the water quality and how they create that facility.
20 They'll have to go through TCEQ and other entities, I'm
21 sure.

22 MR. OXER: I've bumped into a couple a couple
23 of water quality and supply projects in my career.

24 MR. GOURIS: I've heard that, yes.

25 MR. OXER: Okay.

1 DR. MUÑOZ: And this proximity to this kind of
2 facility is not sort of undesirable?

3 MR. GOURIS: I mean, I think our Board chair
4 would probably be more able to speak on that topic, but I
5 think it's not uncommon. I know our high school has a
6 water treatment facility onsite, there's an apartment
7 complex right next to that. We don't think it's terribly
8 uncommon to treat water near a residential area. You can
9 do it very safely is what I'm told, but again, I think
10 our Board chair probably has more experience in that.

11 MR. OXER: Any other questions from the Board?

12 MR. CHISUM: Yes.

13 MR. OXER: Mr. Chisum.

14 MR. CHISUM: The Aqua Texas comments that were
15 made about the national company and not for Texas. Do we
16 have any insight there to their capabilities?

17 MR. GOURIS: Again, we don't really regulate or
18 evaluate that. That was their proposal in order to
19 maintain ongoing operations. The owner here and the
20 applicant is not in the business of operating a water
21 utility, and they were looking for someone to do that.

22 MR. OXER: It's contract operations.

23 MR. GOURIS: I think they have a different
24 organization that's going to help them get it started. I
25 don't know that Aqua Tex is locked in, but I think

1 they've made a proposal and that gives them an option for
2 a permanent operator, but they may choose someone else.
3 Again, we don't regulate that.

4 MR. OXER: Right.

5 MR. GOURIS: This gives a plan that says, okay,
6 this is somebody that could do it.

7 MR. OXER: They have an option, they have at
8 least a program concept in mind for being able to provide
9 the service. Tragically sometimes, that's not something
10 that we regulate.

11 We had a couple of questions for the developer.

12 MR. CHISUM: Well, I've got another one.

13 MR. OXER: For Tom?

14 MR. CHISUM: Yes.

15 MR. OXER: Okay. Come on up and be signing in.

16 MR. CHISUM: I read here somewhere about the
17 reduction in square footage and I also read about the
18 retention pond being a quarter of an acre. Is that
19 correct?

20 MR. GOURIS: I think it was reduced by a
21 quarter of an acre. Is that right? And I think there,
22 for us, again, we don't regulate whether that's a
23 sufficient amount because we don't have that expertise.
24 What we do is we look at the engineering that has been
25 provided that says that that's satisfactory, it meets the

1 requirements there. The same engineers that would have
2 said 2.2 acres are going to tell us that the two acres --
3 are or are not going to tell us that the two acres are
4 sufficient.

5 MR. CHISUM: Thank you, Mr. Chairman.

6 MS. BINGHAM ESCAREÑO: Mr. Chair, I have a
7 question.

8 MR. OXER: Ms. Bingham.

9 Ms. BINGHAM ESCAREÑO: Tom, hate to try and
10 back the hands of time but this is a 2014 project that
11 was part of the competitive bid process?

12 MR. GOURIS: That's correct.

13 MS. BINGHAM ESCAREÑO: Okay. Are any of these
14 folks representative of organizations that had given
15 support for which the project received additional
16 competitive points who are now not supportive of the
17 project because of the addition of the plans for the well
18 now? Stumper, I stumped you.

19 MR. GOURIS: Yes, you did. I don't believe the
20 folks that spoke today that their position has changed,
21 if that answers the question. I know the state rep's
22 position didn't change but that isn't part of these
23 folks.

24 (Gentleman speaking from audience.)

25 MR. OXER: Hold on, hold on. We're going to

1 take a deep breath.

2 MS. BINGHAM ESCAREÑO: So my question was
3 specifically related to neighborhood organizations and
4 points possibly awarded.

5 MR. GOURIS: As far as I know, they've always
6 been opposed to it.

7 MS. BINGHAM ESCAREÑO: Okay. Very good. Thank
8 you, Mr. Chairman.

9 MR. OXER: Any other questions? You basically
10 couldn't get somebody to supply you water so now you're
11 going to have somebody provide contract operations for a
12 system you're putting in yourself?

13 MR. FUQUA: That's correct.

14 MR. OXER: And please state who you are.

15 MR. FUQUA: Thank you, Chairman Oxer. Matt
16 Fuqua, Blazer. A pleasure to be here.

17 MR. OXER: She's got to be able to say who it
18 is.

19 Tom, get back up to the mic, please, or come
20 back up to the mic. Essentially, were we to approve
21 this, which is what the current motion is to do, it
22 simply gives Matt some time to see if he can work this
23 out but it doesn't guarantee his performance. You've
24 still got to go through this process, get the permit, put
25 the plant, put the system in. This is just giving you

1 some more time and it's for something which we have no
2 regulatory authority over.

3 MR. GOURIS: I might just add. So technically,
4 they've met all of our requirements, the 10 percent test.
5 They've identified that there's a change in their site
6 plan and they've come to us proactively today. This is a
7 change that we wanted to make sure that you guys are
8 comfortable with because of where we are and they wanted
9 to make us aware of it and ask for approval of the change
10 in site plan proactively. That's what we expect all of
11 our developers to do, so we're appreciative of that
12 effort. That doesn't mean that they are going to be able
13 to accomplish it or that we're stamping and saying it's
14 been accomplished. They still have to go out and get it
15 done.

16 MR. OXER: Still got a lot of hurdles to get
17 over. Right, Matt?

18 MR. FUQUA: Yes, sir. We do have a lot of
19 irons in the fire with the development side of the plans.
20 The plans have been reviewed by county agencies.
21 Southern Trench Services is planning to help prepare and
22 operate the facilities for the development, but the plans
23 have been reviewed by the county and state agencies, and
24 we anticipate approval within the next 30 days to start
25 construction.

1 MR. OXER: Okay. All right. I'm going to ask
2 the board, at the chair's request, to simply hold off on
3 the vote. We're going to table this until after we have
4 a quick executive session, but because we have several
5 other things coming up in exec session, it's not going to
6 be right now. So we're going to table this for the
7 moment to be taken up here within the next hour. So
8 everybody that's interested in this, sit tight and stay
9 still, we've got other things to do. We will not have
10 executive session now because we've got plenty more to do
11 yet, so what we're going to do is move on with this as an
12 open motion on the table here. We're going to hold this
13 and then move on to item 1(m) under Community Affairs.
14 So Michael, if you want to come up.

15 Thanks, Matt.

16 MS. BOSTON: I'm Michael today. Brooke Boston.

17 MR. OXER: Love the jewelry.

18 MS. BOSTON: Thank you.

19 So the first item is 1(m) and this is relating
20 to the Community Services Block Grant plan and awards.
21 On this one I just have two clarifications that I'd like
22 to make as per the approval. The first item relates to
23 the plan itself and in this one there was a comment from
24 TACAA, the Texas Association of Community Action
25 Agencies, and they had clarified for us that there was

1 a -- we require of them something called a CAP, a
2 Community Action Plan, and that's where they identify
3 what they're going to do in their area and they turn that
4 in to us, and we typically review that sometime during
5 the course of the year. They have asked that that review
6 occur earlier and we give them feedback earlier, which we
7 agree with.

8 So we were kind of amending what we say in
9 there to say that staff will complete this review with
10 notification to the subrecipients within one month prior
11 to the execution of a contract, unless unforeseen
12 circumstances disrupt this timeline. That makes sure
13 they're getting feedback from us prior to them kind of
14 ramping up their program.

15 The other clarification for the CSBG plan
16 relates to, as you will see in the AR, we had a list of
17 different subrecipients that were either being approved
18 with conditions or were not being approved at this
19 meeting, and it wasn't a denial, it's just kind of a no
20 action for some of them. One of those was South Plains
21 Community Action Association, Inc., and in the action
22 item we said that EARAC has not yet considered the
23 recommendation for an award, and we would like to change
24 that and say that they are being approved for an award
25 conditioned on the Department receipt of the remaining

1 \$8,056 in disallowed costs or other acceptable resolution
2 prior to contract execution. And that's consistent with
3 the approach that we've taken on the others that were
4 conditional awards.

5 MR. OXER: Which is essentially to clean up
6 your accounting before we give you some more money?

7 MS. BOSTON: Correct.

8 MR. OXER: Any questions from the Board? And
9 this is only solely on item 1(m).

10 MS. BOSTON: Correct.

11 MR. OXER: Okay. With regard to item 1(m), is
12 there a motion to consider?

13 MR. CHISUM: So moved.

14 MS. BINGHAM ESCAREÑO: Move to approve. Excuse
15 me. I'll second.

16 MR. OXER: 1(m) motion by Mr. Chisum, second by
17 Ms. Bingham. Is there any public comment?

18 (No response.)

19 MR. OXER: Item 1(m) motion by Mr. Chisum,
20 second by Ms. Bingham to approve staff recommendation.
21 Those in favor?

22 (A chorus of ayes.)

23 MR. OXER: And those opposed?

24 (No response.)

25 MR. OXER: And there are none. It's unanimous.

1 Okay. 1(n), Michael.

2 And just a second here to just recognize
3 somebody in the audience. Is Ms. Pedraza in the house?
4 Welcome. Glad to have you here. She's the committee
5 clerk from the House Urban Affairs Committee. Always glad
6 to see that the folks in the pointy building down here to
7 our south are taking interest in what we're trying to do.

8 It seems like today generates a lot of interest, it
9 turns out. Still trying to figure out why everybody is
10 here. Oh, yeah, it's the \$600 million we're giving out.

11 (General laughter.)

12 MS. BOSTON: On item 1(n), this is relating to
13 the state plan for the Low Income HOME Energy Assistance
14 program application, so it's the annual plan and the
15 awards, similar to what we just did for the CSBG program.

16 I have three clarifications for this one. The
17 first clarification is the exact same clarification we
18 made for the South Plains Community Action Agency. They
19 have the same caveat language in the writeup that they
20 have not yet been recommended by EARAC, and I'm
21 recommending the same replacement language, and I'll just
22 read that in. South Plains would be approved for an
23 award conditioned on Department receipt of the remaining
24 \$8,056 in disallowed costs or other acceptable resolution
25 prior to contract execution.

1 MR. OXER: That seems like that's the same
2 number as before.

3 MS. BOSTON: It's the same organization.
4 They're just getting two different awards from us and so
5 we had placed the same condition on them.

6 DR. MUÑOZ: You said that's in the South
7 Plains? Five people out there.

8 (General laughter.)

9 MS. BOSTON: The next two items relate to
10 comments we also received from TACAA. The first related
11 to in a section of the plan that's 17.2 that relates to
12 identification documents that we require. We had checked
13 a box prior to public comment, then it showed up in the
14 same document that we released subsequently without a
15 check, and then it was rechecked. So there was some
16 confusion on TACAA's part, rightfully so, that it wasn't
17 exactly clear what we were intending. So the item that
18 we had checked relates to needing to have a government-
19 issued ID and we're keeping that, but we need to clarify
20 that in that section it's relating specially to local
21 governments as it relates to the SAVE system which is the
22 Systematic Alien Verification for Entitlement system
23 that's a federal system that's used. So I wanted to
24 clarify that to make sure that they aren't thinking that
25 it's other than that.

1 And then the other item was relating to we have
2 a box checked relating to countable income, and the box
3 that we have checked relates to general assistance, and
4 we had not stuck a response in the writeup explaining
5 what that was meaning. They were asking what that meant
6 or asking specifically that we define what that means.
7 I'm going to relay some information I got from Megan
8 which is that general assistance benefits is a term used
9 in the LIHEAP application with HHS and it's not defined
10 anywhere that staff can identify in the materials.
11 However, the rule in 10 TAC, which is our program rule,
12 states that all income is included unless specifically
13 excluded and the exclusions are listed in our rule at 10
14 TAC. So no matter what HHS may have meant by general
15 assistance, unless it's excluded, it is allowed to be
16 included.

17 MR. OXER: So it's explicit in the exclusions.

18 (General talking and laughter.)

19 MR. OXER: Do you intend for us to take all
20 three of these at once, or would that be possible?

21 MS. BOSTON: So those two for 1(m) and 1(n), I
22 think that's fine.

23 MR. OXER: We've already voted on 1(m).

24 MS. BOSTON: Oh, I'm sorry. You mean just the
25 three clarifications?

1 MR. OXER: Correct.

2 MS. BOSTON: Yes. I'm sorry. You could take
3 all three of those together.

4 MR. OXER: Does that suit you, Counselor? So
5 with respect to the three items (n), (o) and (p) on the
6 consent agenda now pulled for action -- I'm sorry.

7 MR. IRVINE: Just (n) with these changes.

8 MR. OXER: Right. Just (n) with these changes.

9 MS. BINGHAM ESCAREÑO: Move to approve 1(n)
10 with the changes proposed by staff.

11 MR. GOODWIN: Second.

12 MR. OXER: Okay. Motion by Ms. Bingham, second
13 by Mr. Goodwin to approve staff recommendation on item
14 1(n). Is there anyone who wishes to speak on this item?
15 Stella, are you okay? Good.

16 All right. As stated, motion by Ms. Bingham,
17 second by Mr. Goodwin to approve staff recommendation.
18 Those in favor?

19 (A chorus of ayes.)

20 MR. OXER: And those opposed?

21 (No response.)

22 MR. OXER: And there are none. It's unanimous.

23 MS. BOSTON: So the next two items I will talk
24 about together.

25 MR. OXER: Can they be considered together?

1 MS. BOSTON: Yes.

2 MR. OXER: Single motion.

3 MS. BOSTON: So they both relate to the area of
4 the state currently covered by an organization called the
5 Northeast Texas Opportunities, Inc., and we call them
6 NETO. They currently receive a Community Services Block
7 Grant from us and CEAP which is our utility assistance
8 funds. From the time we posted the book and we had two
9 items relating to that, items (o) and (p), they have
10 subsequently taken some board action that I wanted to
11 share with you just so you knew what the implications of
12 that would be. On Monday, July 27, they chose to
13 relinquish both programs. They state that they're
14 relinquishing the contracts as well as relinquishing
15 their eligible entity status under the CSBG Act and
16 relinquishing their actual role as a CEAP provider, not
17 just this year's contract. So effectively, they will no
18 longer be a participant in agency programs.

19 The item for (o) had been a request for
20 applications so that we could find potentially a
21 temporary or a permanent provider on the utility
22 assistance activity, knowing that we had a little period
23 where we were going to have a gap. So the implication of
24 their action for (o) is that any RFA we pursue will be a
25 permanent, there won't be an issue of trying to find a

1 temporary provider.

2 As it relates to item (p) which was that we are
3 going to provide a temporary award for providing the
4 utility assistance payments to the Texoma Council of
5 Governments in the counties that are covered by NETO, so
6 essentially Texoma is going to come in and take care of
7 those counties for us with utility payment assistance
8 until an RFA will result in a provider.

9 MR. OXER: So there's no gap in services.

10 MS. BOSTON: Correct.

11 MR. OXER: So essentially, on the one we're
12 saying they're off the field, one we have a temporary so
13 we're moving it in, straightening all that, getting past
14 that to provide a permanent provider.

15 MS. BOSTON: Correct. And just for your
16 information, as well, as it relates to the Community
17 Services Block Program, neither of these action items
18 relate to that but they are, indeed, one of our eligible
19 entities and that's one of the things they also
20 relinquished. So in September we'll be bringing you back
21 an item getting permission to identify and find, through
22 a request for application process, a replacement
23 provider.

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

25 (No response.)

1 MR. OXER: Okay. With respect to items (o) and
2 (p) considered together regarding a recommendation to
3 approve staff recommendation, do I hear a motion to
4 proceed?

5 MR. GOODWIN: So moved.

6 MR. GANN: Second.

7 MR. OXER: Motion by Mr. Chisum and second by
8 Mr. Gann. I'm sorry. Mr. Goodwin and second by Mr.
9 Gann. Anyone wish to speak on the item?

10 (No response.)

11 MR. OXER: Items 1(o) and (p), motion by Mr.
12 Goodwin, second by Mr. Gann to approve staff
13 recommendation. Those in favor?

14 (A chorus of ayes.)

15 MR. OXER: Those opposed?

16 (No response.)

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

18 Okay. I think we're on to our action item list
19 here. We're going to have a brief executive session
20 before we get to the actual tax credit awards today and
21 that's the time we'll take up the interest we have in the
22 exec session for item 1(g). So let's go to item 3.
23 Mark.

24 MR. SCOTT: Good morning. I'm Mark Scott,
25 director of Internal Audit.

1 We had an Audit Committee earlier this morning.
2 Mr. Gann chaired the meeting. We went over the Internal
3 Audit Plan, external audits and the management letter
4 report on internal controls and assurance functions at
5 TDHCA.

6 I asked to have the internal audit of Single
7 Family HOME removed from the 2015 Audit Plan and the
8 Audit Committee approved this. And the reason for that
9 is KPMG recently announced that they will be auditing the
10 HOME program as part of the statewide A-133 audit.

11 I also went over the report on internal
12 controls and assurance functions at TDHCA. This project
13 was requested by Chairman Oxer. The report includes
14 brief descriptions of the programs, who audits them, and
15 the last audit that was done. There is a reference chart
16 in the back of the document. The letter also indicates
17 the federal oversight agencies and the CFDA numbers for
18 each program -- that's Code of Federal Domestic
19 Assistance. In addition to the auditing monitoring
20 function, the report also describes the agency
21 organization and internal controls. I also went over,
22 briefly, the various external audits that are in
23 progress.

24 That concludes my presentation. I'll be happy
25 to answer any questions.

1 MR. OXER: Mr. Gann, since you chaired the
2 Audit Committee this morning, do you have any comments?

3 MR. GANN: No, nothing.

4 MR. OXER: And for the record, I think you're
5 doing a great job, Mark. We really appreciate the
6 efforts you're doing. Although, I have to say that Mr.
7 Gann is making a run on my effort to be efficient in
8 this, and a 14-minute Audit Committee meeting sets a new
9 standard for us.

10 MR. SCOTT: He went through it very quickly,
11 very well.

12 MR. OXER: Yes, he did.

13 Any questions from the Board?

14 (No response.)

15 MR. SCOTT: Thank you very much.

16 MR. OXER: We appreciate the report.

17 All right. Item 4 which is our Multifamily
18 Finance is going to take a little while. I can tell this
19 is going to be an interesting day. So ahead of this,
20 we're going to take a break. We would have normally come
21 to a break in a little while anyway, so we're going to
22 take a break and go through our executive session and
23 take care of those items we need to and get back.

24 So what we're about to do here -- everybody
25 just sit still -- is the Governing Board of the Texas

1 Department of Housing and Community Affairs will go into
2 closed executive session at this time. The Board may go
3 into executive session pursuant to Texas Government Code
4 551.074 for the purposes of discussing personnel matters,
5 including deliberating appointment, employment,
6 evaluation, reassignment, duties, discipline or dismissal
7 of a public officer or employee, pursuant to Government
8 Code 551.071(1) to seek advice of its attorney about
9 pending or contemplated litigation;

10 This seems a lot more complex than it used to
11 be.

12 Pursuant to Texas Government Code 551.072(2)
13 for the purpose of seeking advice from its attorney about
14 a matter in which the duty of the attorney to the
15 governmental body under the Texas Disciplinary Rules of
16 Professional Conduct of the State Bar of Texas clearly
17 conflicts with Texas Government Code, Chapter 551,
18 including seeking the legal advice in connection with a
19 posted agenda item;

20 Pursuant to Texas Government Code 551.072 to
21 deliberate the possible purchase, sale, exchange, or
22 lease of real estate because it would have a material
23 detrimental effect on the Department's ability to
24 negotiate with a third person; or

25 Pursuant to Texas Government Code 2306.039(c)

1 the Department's internal auditor, fraud prevention
2 coordinator or ethics advisor may meet in executive
3 session of the Board to discuss issues related to fraud,
4 waste or abuse.

5 The closed session will be held in the anteroom
6 in the Reagan Building here, the main conference room.
7 The date is July 30, 2015, and the time is 10:29. We've
8 got a couple of things to take up, so let's be back in
9 our chairs here at eleven o'clock straight up.

10 (Whereupon, at 10:20 a.m., the meeting was
11 recessed, to reconvene this same day, Thursday, July 30,
12 2015, following conclusion of the executive session.)

13 MR. OXER: We're now reconvened in open
14 session. It's now 11:07. During the executive session
15 the Board did not adopt any policy position, resolution,
16 rule, regulation, or did not take any formal action or
17 engage in any substantive discussions on particular items
18 before the Board on which a final vote has not yet been
19 made. We received counsel from our counsel.

20 With respect to the agenda, we have an open
21 motion on the floor for item 1(g), application 14272, the
22 Lodge at Huffmeister, counsel could have a question.

23 MR. ECCLES: I'm going to put Tom on the spot.

24 I have a couple of questions that I just need to ask on
25 the record.

1 MR. GOURIS: Tom Gouris, deputy executive
2 director.

3 MR. ECCLES: I'm referencing Section 2306.6712
4 of the Texas Government Code, and I'd like to just put on
5 the record staff's recommendation regarding the
6 following. The modification proposed in this amendment,
7 would it materially alter the development in a negative
8 manner?

9 MR. GOURIS: I don't believe so.

10 MR. ECCLES: Would it have adversely affected
11 the selection of the application in the application
12 round?

13 MR. GOURIS: No.

14 MR. ECCLES: Is it staff's understanding that
15 the amendment was reasonably foreseeable by the applicant
16 at the time the application was submitted?

17 MR. GOURIS: I don't believe so.

18 MR. ECCLES: And is it staff's understanding
19 that this amendment was preventable by the applicant?

20 MR. GOURIS: I don't believe so.

21 MR. ECCLES: That's all I have.

22 MR. OXER: Okay. Any other questions from the
23 Board? None.

24 Okay. Let's see where we were, there was a
25 motion by Ms, Bingham, second by Mr. Gann to approve

1 staff recommendation with respect to item 1(g),
2 application number 14272. Is there any other public
3 comment?

4 (No response.)

5 MR. OXER: With respect to the motion and
6 second and information just provided, those in favor?

7 (A chorus of ayes.)

8 MR. OXER: And opposed?

9 (No response.)

10 MR. OXER: There are none. The amendment is
11 approved.

12 I think we are at item 4(a). Is that correct?

13 Teresa, good morning.

14 MS. MORALES: Good morning. Teresa Morales,
15 acting director of Multifamily Finance.

16 Item 4(a) involves two 4 percent Housing Tax
17 Credit applications with bonds issued through a local
18 issuer. There really aren't any major issues associated
19 with them, so if it pleases the Board, I'd like to take
20 them both together.

21 MR. OXER: Okay.

22 MS. MORALES: Harris Branch Seniors proposes
23 the new construction of 216 units serving the elderly
24 population and is located on Dessau Road here in North
25 Austin. The Department received a letter of support from

1 State Representative Celia Israel. Retreat at Westlock
2 proposes the new construction of 104 units serving
3 elderly households in Houston. Both applications have
4 conditions that the Department's EARAC committee
5 recommended be placed on the award, and those are further
6 explained in your Board writeup.

7 Staff recommends the issuance of a
8 determination notice of \$801,260 for Harris Branch
9 Seniors, and a determination notice of \$560,983 for
10 Retreat at Westlock.

11 MR. OXER: Okay. Any questions from the Board?
12 Representative Israel, we'll ask you to speak
13 in a moment.

14 Is there questions from the Board?

15 (No response.)

16 MR. OXER: The key issue on this is just the
17 transition. Is that correct, Teresa? Say it again, just
18 go through it again one more quick time.

19 MS. MORALES: What do you mean by transition?

20 MR. OXER: That's all right. Ignore what I
21 said, I want to hear what you said. You're the staff,
22 you do all the work, we just get to take credit for it.

23 MS. MORALES: These are two 4 percent Housing
24 Tax Credit applications with bonds that are going to be
25 issued through a local issuer. One is Harris Branch

1 Seniors, the other one is Retreat at Westlock. They're
2 both serving elderly households.

3 MR. OXER: These are 4 percent deals so they're
4 not competitive.

5 MS. MORALES: Not competitive. Correct.

6 MR. OXER: All right. With respect to item
7 4(a), do I hear a motion to consider? We'll consider
8 together 4(a), the two items.

9 MR. GANN: I so move.

10 MR. OXER: Motion by Mr. Gann.

11 MR. CHISUM: Second.

12 MR. OXER: Second by Mr. Chisum to approve
13 staff recommendation on item 4(a).

14 Representative Israel, would you care to speak
15 on this?

16 MS. ISRAEL: It's not on this project but I
17 would like to speak, perhaps once you vote.

18 MR. OXER: Well, just tell us which one you
19 want to speak on. If it's a later project, that's okay,
20 we'll get to it.

21 With respect to item 4(a), motion by Mr. Gann,
22 second by Mr. Chisum to approve staff recommendation.
23 Those in favor?

24 (A chorus of ayes.)

25 MR. OXER: And opposed?

1 (No response.)

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

3 Back in the box, Tom.

4 MR. GOURIS: Good morning again. Tom Gouris,
5 deputy executive director, and also the current chair of
6 the Executive Award Review Advisory Committee, EARAC, and
7 I'm presenting this item on that basis. It's a previous
8 participation review issue.

9 Now, I just heard that they maybe have some
10 news for us and maybe we can expedite this issue. I
11 don't know if they're here to speak.

12 MR. OXER: Say again, Tom.

13 MR. GOURIS: My understanding of what I heard
14 was they're maybe withdrawing their request, but I don't
15 know if that's correct.

16 MALE SPEAKER FROM AUDIENCE: We have two
17 speakers.

18 MR. OXER: Then we'll have to --

19 MR. GOURIS: Is it to withdraw the request,
20 though?

21 MALE SPEAKER FROM AUDIENCE: Do you want me to
22 come forward?

23 MR. OXER: No. Answer his questions.

24 MALE SPEAKER FROM AUDIENCE: The answer is yes,
25 we want to withdraw the request and we wanted to state

1 that on the record.

2 MR. OXER: Okay. We'll do that then. If
3 they're just pulling this off, we'll take this off
4 consideration, Tom?

5 MR. GOURIS: That's my understanding that
6 they're withdrawing the request

7 MR. OXER: So item 4(b) is being pulled from
8 consideration. Is that what I hear?

9 MR. GOURIS: Yes.

10 MR. OXER: Then if that's the case, if you wish
11 to speak on that, I'll give you three minutes to say
12 whatever it is you want to say, but you need to say it
13 now, we have a pretty full agenda.

14 MR. VOELKER: Bob Voelker, Mr. Chairman and
15 members of the Board. Appreciate you hearing me for
16 three minutes and I'll make it very brief.

17 We've been working with the EARAC committee and
18 with staff to try and come up with a resolution to some
19 of the issues that were raised on this particular item,
20 and we just feel like it's probably better for us to
21 withdraw this particular application and continue to move
22 forward with trying to resolve some of those issues
23 cooperatively with staff. We're in this whole area of
24 material participation where I think a lot of us are
25 trying to figure out what the federal rules are and how

1 the state is applying the rules, and I think even in the
2 writeup that staff did you'll see that they say we're
3 making some good progress. We still have some additional
4 items that we want to address to move this forward, but
5 it's very much the nonprofit's goal to work together with
6 staff and with the EARAC committee to try and resolve all
7 these issues, and we'd just like to continue that
8 dialogue and continue to make changes so that we're all
9 happy with where this goes going forward.

10 MR. OXER: So rather than coming to any sort of
11 final determination, you're saying it's not kicking the
12 can down the road so much as milling it and polishing it
13 and making it better.

14 MR. VOELKER: Absolutely. The nonprofit is
15 very dedicated and wanting to get this right, and so we
16 just want to continue to work with staff and the
17 committee to make that happen.

18 MR. OXER: Great. We appreciate the comments
19 and staff's working with you. Thank you for your
20 comments.

21 MR. VOELKER: Thank you very much.

22 MR. OXER: Tom.

23 MR. GOURIS: Next item then?

24 MR. OXER: Next item.

25 MR. GOURIS: So the next item is presentation

1 and possible action regarding expansion of funding,
2 ending the application acceptance period, and the awards
3 of HOME and TCAP funds from the 2015-1 Multifamily
4 Development Program Notice of Funding Availability.

5 This item is a little bit more complex than
6 most in that not all the underwriting has been completed,
7 and so what we've got for you today is a list of
8 approximately 19 prospective awardees. We believe that
9 we'll end up with 15 of those that will receive funds.

10 MR. OXER: Wait a minute. How many did you
11 say?

12 MR. GOURIS: Nineteen awardees potentially but
13 I think 15 will actually receive funds.

14 Several changes have occurred as a result of
15 ongoing underwriting that will cause this list to shift a
16 little bit. The 19 that are in consideration won't shift
17 but which ones actually receive awards will likely shift
18 based on completion of the underwriting, some of which
19 notifications have gone out and conversations have
20 happened. For example, Mariposa Apartments at South
21 Broadway, 15010, was one that was anticipated to be
22 recommended for award. Issues have come up such that
23 underwriting doesn't believe that they'll be able to
24 issue an affirmative recommendation, and we've talked to
25 the applicant and we think the applicant is understanding

1 of that position.

2 So what's going to happen for approval is that
3 the list as presented will be approved subject to
4 underwriting. Underwriting will continue to complete
5 their process in the next couple of weeks and hopefully
6 any appeals that come out of that and a kind of
7 reconciliation of this list will occur at the September
8 meeting.

9 One of the main issues has been in how the
10 underwriting has been processed, and that is that we've
11 allowed folks to apply for what they believe they need
12 but we indicated in the NOFA that we'd underwrite for 3
13 percent interest rate over a 30-year amortization, and
14 that has caused some --

15 MR. OXER: Consternation?

16 MR. GOURIS: -- consternation or
17 misunderstanding of what we're recommending. I think
18 consistently underwriting is going to recommend from that
19 perspective and we'll deal with the fallout of that in
20 the appeal process that will ensue as soon as those
21 reports are published. Some of that has already been
22 resolved, some of it is yet to come. We wish we were
23 more complete with the underwriting and giving you a
24 complete and final package. The reason why we want to go
25 ahead and give this package today for your approval is

1 that some of these have ramifications with the 9 percent
2 list and we want to make sure that we're walking together
3 with those transactions. Again, if it should be
4 determined that they're not feasible for the HOME/TCAP
5 funding and that makes them feasible for the 9 percent,
6 that, I'm sure, will come back in September as an appeal
7 as well. So I don't think that that's going to happen in
8 only but maybe one case that I am familiar with at the
9 moment, but I think that we're very close to having that
10 all resolved and giving everyone the ample amount of time
11 to formulate their appeal if it's necessary.

12 MR. OXER: So how many of these integrate with
13 the 9 percent list?

14 MR. GOURIS: All but one. I think it is all
15 but one. Yes.

16 MR. OXER: Okay. So if they can't -- you're
17 presuming they're going to underwrite at 3 percent in 30
18 years.

19 MR. GOURIS: That's correct.

20 MR. OXER: And so if it doesn't work with those
21 numbers?

22 MR. GOURIS: There are a number of ways to
23 adjust the structure or adjust the financing, even
24 identify things that weren't originally identified by the
25 applicant as far as capacity in rent or capacity

1 somewhere else to make that work, and so there are a
2 whole variety of things that they might appeal and ask us
3 to reconsider based on, and some of those appeals
4 hopefully will be able to be resolved at the executive
5 director level and we'll report those all back to you in
6 September. Some of those may not be resolvable at that
7 level and they'll come back as an appeal to this Board in
8 September.

9 MR. OXER: So if they come back as an appeal
10 after this, if they're in the 9 percent, there's a
11 prospect for them to lose their credits later on? Or
12 they have to get through this process to be able to
13 exercise their credits?

14 MR. GOURIS: Yes. They'll be recommended for
15 an award subject to underwriting.

16 MR. OXER: Subject to underwriting.

17 MR. GOURIS: There are a number of
18 transactions, both in this list and outside of this list,
19 that the underwriting is not yet complete and they will
20 be recommended subject to that underwriting. If it
21 should come to pass that there's one that underwriting
22 can't be comfortable with and does not ultimately
23 recommend, in that unlikely scenario, then they could
24 potentially lose their credits if they appeal and fail to
25 win their appeal.

1 MR. OXER: Okay. So as is the case in every
2 year, every tax credit application we approve still has
3 to satisfy underwriting and basically be financially
4 viable.

5 MR. GOURIS: That's right.

6 MR. OXER: Okay. Any credits -- questions from
7 the Board? Credits from the Board, we're about to give
8 away a whole bunch of them, a sackful we're going to give
9 out today.

10 (No response.)

11 MR. OXER: Okay. So you said there were 15,
12 there's a whole list on here.

13 MR. GOURIS: There's 19. If you look at the
14 list at the very back is probably the easiest way to look
15 through this, there's some white items and then there's
16 some gray shaded ones. All the white deals above the
17 gray shade are the ones that are likely to be eligible;
18 the gray ones are primarily transactions that they've
19 either withdrawn or they're 9 percent deals that are not
20 competitive in the 9 percent cycle. The white ones that
21 are below the gray shaded areas are ones that came in
22 after the priority date, and so we're not considering
23 them or recommending in this holding pattern today.

24 We're also asking that once we solve all this
25 and once we get through all the appeals, whatever is left

1 in this NOFA doesn't go to the next deals in those groups
2 but instead gets moved to the next NOFA which we hope to
3 bring out earlier in the fall than later.

4 MR. OXER: So not go to the follow-ons on the
5 list but go to a new NOFA.

6 MR. GOURIS: Yes, a new NOFA, if there's any
7 money left over after we're done. And there may not be.
8 We may have to come back and tell you we're using some
9 other funding. That is yet to be finalized.

10 I know it seems like we've got a fluid
11 situation and that's really what it is, but I think we're
12 pretty close to being resolved.

13 MR. OXER: Good.

14 Okay. Any questions of the Board?

15 (No response.)

16 MR. OXER: With respect to item 4(c), is there
17 a motion to consider?

18 DR. MUÑOZ: So moved.

19 MR. OXER: Motion by Dr. Muñoz to approve staff
20 recommendation on item 4(c).

21 MS. BINGHAM ESCAREÑO: Second.

22 MR. OXER: Second by Ms. Bingham. Is there any
23 public comment requested? Anybody wish to speak on this
24 item? Okay. Three minutes, and good morning.

25 MS. ANDERSON: Good morning, Chairman Oxer and

1 Board and Mr. Irvine. Thank you all for giving me the
2 opportunity to speak.

3 MR. OXER: You have to say who you are. We
4 know who you are but you have to tell her who you are.

5 MS. ANDERSON: My apologies. Terri Anderson,
6 Anderson Development and Construction.

7 I am actually representing the community
8 housing development organization that has applied for
9 Westridge Villas which is TDHCA number 15502. We are
10 currently going through the underwriting process. I know
11 that only \$2-1/2 million is being recommended at the
12 time, but we do expect to have an opportunity to get to
13 the full formula. And so I just wanted to say thank you
14 to the staff for giving us an opportunity to do that.

15 In addition to that, it is an FHA transaction,
16 and I know the terms that are provided for in the NOFA
17 show a 30-year amortization with a 3 percent interest
18 rate, and certainly wanted to make the Board aware, and I
19 know staff is, that when we're doing an FHA transaction
20 those typically do require a co-terminus, subordinate
21 debt that is repayable from surplus cash only which would
22 require a 40-year term as opposed to a 30-year term.

23 But thank you all. I appreciate it.

24 MR. OXER: Thanks, Terri. So you're not
25 opposed to this, you're simply adding information to the

1 record.

2 MS. ANDERSON: I was essentially adding the
3 information to the record. Yes, sir.

4 MR. OXER: You got that, right, Tom?

5 MR. GOURIS: Yes.

6 MS. ANDERSON: Thank you.

7 MR. OXER: Great. Any other questions of the
8 Board? Anyone else wish to speak? Sarah.

9 MS. SARAH ANDERSON: Sarah Anderson, S Anderson
10 Consulting.

11 I'd like to start my comments by just thanking
12 staff. We had a couple of deals that we went in with
13 different underwriting assumptions and we really
14 appreciate that staff worked with us as we had to adjust
15 to the 30-year, 3 percent issue, and our deals are on the
16 list and so I do want to say thank you.

17 That said, I do want to bring up a little bit
18 of the discussion that we've heard a little bit about,
19 and I just want to, again, be on the record. The NOFA
20 did say that underwriting would look at it at 30-year, 3
21 percent interest rate, but all of the guidance that we
22 received in addition to that said but you can submit
23 whatever terms you want when you apply. And so almost
24 all of us actually submitted terms that were distinctly
25 different from that and went in with lower interest

1 rates, and if you had FHA, with longer amortization
2 schedules.

3 You know, underwriting feels that they are
4 distinctly separate and that they have to follow the
5 NOFA, but this is one of those times where the Department
6 as a whole has to take some responsibility for the
7 guidance that's been given, and I feel like there could
8 have been or should have been maybe a little bit more
9 elegant solution to this than us having to deal with this
10 in an appeal process. It's a lot of time and effort for
11 staff, it's a lot of time for us and it's a lot of
12 heartburn to be told that you can come back but you're
13 going to have to appeal it, and maybe you lose your deal
14 or maybe you don't.

15 So I know that you guys are looking at this but
16 it would be great if there were a process that was less
17 appeal into the Board and a little bit more giving and
18 taking based on the guidance, frankly, that all of us
19 were given. I understand underwriting's position but the
20 Department did tell us that we could come in with
21 different terms if they were needed, and we've been
22 allowed to change our deals, but again, I would like to
23 have seen the Department work with us a little bit more
24 and not leave underwriting out sort of on their own
25 having to deal with this.

1 So appreciate their help, but if we could
2 prevent people having to come back before the Board to
3 deal with this, I think we would all appreciate that.

4 MR. OXER: And boy, wouldn't we too.

5 (General laughter.)

6 MR. OXER: Appreciate your comments, Sarah.

7 Do you have a comment on that, Tom?

8 MR. GOURIS: Tom Gouris, deputy executive
9 director.

10 I think that's a fair criticism. This is
11 something we're doing a little bit new in that I think we
12 want to create a structure that allows the ability for
13 the Board and the Department to approve something that
14 might provide a zero percent 40-year loan, but we
15 certainly don't want everyone to say, well, that minimum
16 is our maximum and that's all we're going to ask for. So
17 we attempted to do that by putting something in the NOFA
18 that said we would underwrite and recommend at 3 percent,
19 30-year amortization.

20 I think as we go forward we might clarify that
21 in how we approach that situation with a draft term sheet
22 or something to that extent to share how we're
23 anticipating these loans will be made. But we wanted to
24 provide the ability for the Board, where necessary, to do
25 something more specific to a particular need that

1 supports that zero percent longer term potentiality.
2 It's very difficult to set a rate out there and then have
3 that minimum not be the maximum as well, and so we're
4 just trying to find a way to do that so that we can
5 return funds to the HOME program to continue to make that
6 program viable in the future if we don't receive those
7 sorts of funds in the future.

8 The same with the TCAP program, we had the same
9 kind of conversation, and we'll have this conversation
10 again as we create the new NOFA and a new plan. We had
11 that conversation when we did the original TCAP program
12 and we got \$148 million, and there was a large amount of
13 folks who wanted to see us do it as deferred forgivable
14 loans or grants to make it be zero percent loans, make it
15 as flexible as possible, which is great and makes a lot
16 of sense, but if we had done that we would not have the
17 \$60 million a year we have now to be able to recycle and
18 reuse.

19 So it's that balance that we're trying to seek
20 and certainly try to create a structure that everyone
21 understands how we would like to see the deals done but
22 give us the latitude, give the Board the latitude to
23 approve something that might be necessary on a specific
24 case-by-case basis.

25 MR. OXER: So we're exploring some new

1 territory and trying to figure out better ways to do
2 things. We're not going to get it perfect every time.
3 And for the record, I'll speak for the Board, I think I
4 can speak reasonably us en banc here that we appreciate
5 the comments that are made, appreciate the comments that
6 you make, Tom, but also appreciate the comments that
7 Terri and Sarah make. That's the appropriate way to make
8 comments and continue to have that conversation. So
9 don't anybody ever think we're in this doing mandates,
10 we're trying to figure out a way to make these programs
11 work for the entire State of Texas.

12 MR. GOURIS: That's right.

13 MR. OXER: With that, any other public comment
14 on this item?

15 (No response.)

16 MR. OXER: With respect to item 4(c), motion by
17 Dr. Muñoz, second by Ms. Bingham to approve staff
18 recommendation. Those in favor?

19 (A chorus of ayes.)

20 MR. OXER: And those opposed?

21 (No response.)

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

23 Okay. Deep breath, Kathryn.

24 MS. SAAR: Good morning.

25 MR. OXER: Yes, it is, it's a wonderful

1 morning.

2 MS. SAAR: It is. I think this is what
3 everybody is here for. Right?

4 MR. OXER: It must be the jewelry and the high
5 heels.

6 (General laughter.)

7 MS. SAAR: So the last item on your agenda is
8 the 9 Percent Tax Credit awards. So we have 64
9 applications that we're recommending for award.

10 Kathryn Saar, 9 Percent Tax Credits, for the
11 record.

12 So 64 applications recommended for award that
13 totals 63,535,055 in annual tax credits. In your Board
14 book, report 1 shows those 64 applications. There's a
15 number of statuses associated with each. There's a
16 column that shows whether or not underwriting has been
17 complete. As previously mentioned, there's a number that
18 are still in the process. I'm told that we should have a
19 batch coming out very soon.

20 There's also the status of our staff review in
21 a column all the way over to the right next to where it
22 says recommended. All of those show complete except for
23 one. There's one application that came up late in the
24 cycle that our staff is still reviewing, and that one is
25 being recommended subject to the score being maintained.

1 If the competitive status of that application is
2 changed, it would be up for appeal but it would no longer
3 be recommended, and those credits associated would fall
4 into the statewide pool for collapse.

5 There's also a column that shows the previous
6 participation status. All recommended awards have
7 undergone a previous participation review. A number of
8 them have had conditions placed on those awards by EARAC,
9 and that is shown in report 4.

10 Report 2 in your Board book shows the 64
11 applications that we're recommending plus all the active
12 applications that are still in the round that makes up
13 our waiting list.

14 Report 3 shows how the money has flown through
15 the state. It also gives some information on the
16 percentage of nonprofit allocations, and it totals the
17 \$63 million. And then as previously mentioned, report 4
18 shows the EARAC conditions. If you actually counted up
19 on report 1 the number of conditional approvals by EARAC,
20 it totals twelve but there's only eleven on this list.
21 That eleven is correct. One was marked incorrectly and
22 that was application 15020; that one does not have any
23 EARAC conditions.

24 And then finally, report 5 shows the summary of
25 all the public comment. I just want to say a big thank

1 you to our staff because they spend an inordinate amount
2 of time reviewing these applications and they reviewed 94
3 of these applications this round, and in a very short
4 period of time that's a tremendous effort, and I really
5 want to thank them for their effort there.

6 MR. OXER: Let's do a little sequence in
7 numbering here. In the pre-app you had 300 and
8 something.

9 MS. SAAR: Yes, 26 maybe.

10 MR. OXER: The next gate to get through is?

11 MS. SAAR: There was 176 full applications, and
12 then finally, we are left with a total of 155
13 applications that are still active, and of those there
14 are 64 being recommended for award.

15 MR. OXER: Pretty active year for you.

16 MS. SAAR: Yes, sir.

17 MR. OXER: Well, we're satisfied that we've got
18 everything under control? You know what they say in
19 racing: If you've got it under control, you're not going
20 fast enough.

21 (General laughter.)

22 MS. SAAR: I think as Tom previously mentioned,
23 there are some underwriting reports that are still
24 outstanding. If any of those were to result in a do not
25 recommend and it was recommended for a tax credit award,

1 that award would be rescinded and obviously after their
2 appeal rights had expired with the underwriting report.

3 MR. OXER: Okay. All right. Are there any
4 questions from the Board?

5 (No response.)

6 MR. OXER: Ms. Bingham, as we do each year --

7 MS. BINGHAM ESCAREÑO: My pleasure.

8 MR. OXER: -- I'm going to ask you to make a
9 motion and I'm going to exercise the chair's prerogative.

10 MS. BINGHAM ESCAREÑO: I'll move staff's
11 recommendation regarding the awards for the 2015 state
12 housing tax credit ceiling and approval of the waiting
13 list for the 2015 Housing Tax Credit application round.

14 MR. OXER: And as the chair, this is the one
15 time of the year that I get to second the motion.

16 I understand we've got several folks who wish
17 to speak.

18 Representative Israel, we'll give you the
19 courtesy. We appreciate you being here and participating
20 in the process.

21 MS. ISRAEL: Thank you, Mr. Chair. Thanks for
22 the courtesy afforded to me on a very busy day for you.
23 I really appreciate the consideration because I, too, am
24 a woman on a different kind of mission but I appreciate
25 your mission very much.

1 MR. OXER: I'm just trying to keep up with Ms.
2 Bingham most days.

3 MS. ISRAEL: You guys are doing great work and
4 it's very much needed.

5 My name is Celia Israel. I am a state
6 representative and I represent northeast and northwest
7 Travis County.

8 I'm here today on behalf of project number
9 15152, and in the heart of my district there is a
10 neighborhood called the Ashton Woods neighborhood. I
11 wrote a you guys a letter in support of this project in
12 March. When you get a letter from me, it's because I
13 actually met with the developer, I want to be supportive
14 of tax credit programs. I know that the federal, state
15 and in the case of Austin, our local governments very
16 much support these. As we grow and we become more
17 unaffordable, these projects are crucial.

18 I wrote you a letter in support in March, I met
19 with the developer, I thought they had a very thoughtful
20 proposal. I was contacted by the neighbors and I asked
21 them if I could go to them and see the project for myself
22 because they had some concerns. I'm on the
23 Transportation Committee in the House of Representatives,
24 and one of my big areas of interest is supporting mass
25 transportation. We can only grow so much without having a

1 robust mass transit system that serves all of us.

2 Right next to this proposed project is a train
3 station but there is also the only switching station in
4 Travis County. What is a commuter rail line, at night
5 becomes a freight line. Our transit authority makes a
6 lot of money by having recycled goods and rock from the
7 quarries out there, there's just cars full of that
8 material at night, so there is at least six sections of
9 track that you have to cross within yards of this
10 development.

11 So for that reason, I wrote you a second letter
12 in April laying out my concerns. Safety is a big one,
13 and I've been on the bond committee for Travis Count
14 before I was elected, and I know that drainage is also a
15 big issue. These neighbors get flooded out, and they
16 will speak to you in more detail later. But I wanted to
17 let you know that I've tried to be ver thoughtful in the
18 letters that I've been writing you and considerate of the
19 neighbors, and I think they raise valid points.

20 I'm a Realtor, and I can tell you that as
21 Realtors who are involved in the community, we see
22 NIMBYism all too often. This is not a case of NIMBYism
23 at all. They have supported previous projects that are
24 located very close to them. This is simply a project
25 that needs a lot more work and a lot more thought before

1 it moves forward. So it is not on your recommended list
2 but it is on that backup list that if someone should fall
3 short, the lady in waiting, so to speak, swoops in.

4 So I hope that you'll consider my comments and
5 my constituents' comments as you move forward. And I
6 think that covers everything that I wanted to say, but
7 thank you for the time and the consideration. If you
8 have any questions, I can tell you about what I saw
9 onsite and what I'm hearing from the constituents.

10 MR. OXER: We appreciate your presence and
11 we're honored that you've come to speak to us, so thank
12 you for your investment in the effort and time on this.

13 Are there any questions from the Board members?

14 (No response.)

15 MR. OXER: Thank you, Representative.

16 MS. ISRAEL: Thank you. Thanks for your work.

17 MR. GOODWIN: Thank you.

18 MR. OXER: Are there any other speakers on this
19 item 4(d)? Peggy, you've got a couple, and I think,
20 Terri, you've got a couple. Is that how we're going to
21 do this? Michael, you're going to put some on?

22 Sit tight, Kathryn.

23 Peggy, let's get yours in first.

24 MS. HENDERSON: Peggy Henderson, TDHCA staff.

25 Reading registering opinions for the Wheatley

1 Courts Senior Apartments, project number 15069, for Tim
2 Alcott and David Nisivoccia of the San Antonio Housing
3 Authority. They are for staff's recommendation of this
4 project.

5 MR. OXER: Great. Thank you.

6 Michael, do you have an addition to make?

7 MR. LYTTLE: Yes, sir. We've received 90
8 letters registering opinions on item 4(g) and the
9 application is 15121, The Glades of Gregory-Portland in
10 Gregory, which we will list. These registered opinions
11 are in opposition and we register that in the Board
12 record with the names individually mentioned.

13 And then also on application 15152, which is
14 Merritt Cornerstone in Austin, we've received 19
15 registered opinions in opposition to the project and we
16 will mention each name individually in the Board record
17 on that as well.

18 MR. OXER: Hold on just for a second. So
19 Kathryn, on these two projects there seems to be a
20 violent reaction to this, at least a voluble reaction on
21 those two projects. I assume these folks were given
22 sufficient opportunity to make their case heard, and to
23 remind everybody here, we're in the business of
24 evaluating the applications. The local choice of where
25 to put these projects is something we feel is best left

1 to local choice. So do you have a thought or a comment
2 on either one of those two?

3 MS. SAAR: The second one that Michael
4 mentioned, the Merritt Cornerstone, is the same
5 application that the representative was just speaking to.
6 Again, that's not being recommended for award today. It
7 would be in the event that there was enough credit later
8 in the cycle and they were sufficiently high on the
9 waiting list.

10 MR. OXER: It's pretty deep down the list.
11 Where do they rank here? We have 64 that made the list
12 and some that didn't.

13 MS. SAAR: Correct. The way the money flows,
14 they're second in the waiting list right now.

15 MR. OXER: Okay. Any other questions from the
16 Board?

17 (No response.)

18 MR. OXER: With regards to item 4(d) which is
19 the 2015 State Housing Credit Ceiling and approval of the
20 waiting list for tax credits.

21 MS. SAAR: Chair Oxer, I believe there's one
22 gentleman that would like to speak.

23 MR. OXER: Okay. That's why we were looking
24 for people up there. If you weren't there, you didn't
25 get to speak.

1 MR. WHITTENBURG: Thank you, Chairman. My name
2 is James Whittenburg. I was elected president of Ashton
3 Woods McNeil Drive Neighborhood Association, and we have
4 a number of people here. I'd just ask them to raise
5 their hands just to be recognized.

6 I would like to share a few thoughts related to
7 this project, application 15152. As Kathryn Saar
8 mentioned, it is on the waiting list, and if I could take
9 two seconds, without using my three minutes, and
10 compliment Kathryn.

11 MR. OXER: We'll give you plenty of time to
12 compliment staff. Okay?

13 (General laughter.)

14 MR. WHITTENBURG: Even though we may be at odds
15 over what status this application should have, I will say
16 that Kathryn always answered my call and she has always
17 answered my questions, and she has always been direct and
18 forthright in our dealings with her, and I think that's a
19 very positive reflection on this organization.

20 MR. OXER: We appreciate those comments. As
21 we've related before, we can disagree without being
22 disagreeable, so appreciate those comments.

23 MR. WHITTENBURG: Absolutely.

24 So with respect to this project, we do believe
25 this project should not be even considered for an award

1 of credits. As Representative Israel mentioned, there's
2 a train yard. It would sit less than 30 feet, in fact,
3 not much further from the two of us and the corner of one
4 of the buildings, several of the apartments. And this
5 train yard is not subject to the quiet zone. Even though
6 the intersection is designated a quiet zone, the train
7 yard itself is not because it engages in switching
8 activities, so the train whistles, most of which were
9 moved to nighttime activities to accommodate Capital
10 Metro transit now occur at night, and they occur
11 frequently. Locomotives in the winter idle all night,
12 the localized emissions from diesel exhaust. You also
13 have the vibrations which are felt, not just heard, over
14 half a mile away. These individuals would sit mere feet
15 from those idling locomotives.

16 There is an attractive nuisance issue. This
17 switch yard actually crosses McNeil-Merriltown Drive, and
18 the residents of this would exit the development at
19 effectively the intersection where the switch yard
20 crosses McNeil-Merriltown Drive. Because the switch yard
21 itself crosses the street -- and by the way, we've raised
22 this issue for a decade well outside of this context --
23 the drive is frequently blocked and it's very difficult
24 to traverse that. This is the route that individuals
25 would have to take if they were to walk to the Capital

1 Metro station.

2 Limited visibility. It has the fourth highest
3 number of school bus crossings in all of Travis County.
4 This is the only location in Travis County where a
5 street, a road crossing crosses three sets of parallel
6 tracks because it's a switch yard, and this is the only
7 switch yard in Travis County. There is blight, there's
8 graffiti on cars that sit in the switch yard almost every
9 day, and it's a long time, and this would be what the
10 residents of this development looked at out the window.

11 There is frequent flooding in the area. It's
12 been a problem for over a decade. We've raised this well
13 outside this context. It was the subject of an
14 allocation of a bond package in 2011. Travis County is
15 in the planning stages to try and remediate the flooding
16 at the intersection, but it doesn't necessarily address
17 the flooding itself on the site, and the site does have
18 an enormous amount of standing water any time there's
19 more than an inch of rain in a relatively short duration.

20 MR. OXER: Which has been relatively rare
21 recently. Right?

22 MR. WHITTENBURG: Yes, exactly.

23 Every elected official who had previously given
24 you a letter of support that has visited the site has
25 also sent you a letter indicating they no longer support

1 the site. And that raises the issue of process. Those
2 letters, procedurally, are not considered, so
3 procedurally TDHCA, by its rules, takes the position that
4 those elected officials continue to support the site
5 when, in fact, they do not.

6 In 2013 and '14 there were two provisions in
7 the rules that designated undesirable neighborhood
8 characteristics related to flooding and proximity to a
9 non-transit train line. Either of those two would have
10 been triggered by this site. Those two provisions were
11 removed, conspicuously, going into 2015. We've tried to
12 determine the origin of the removal of those provisions,
13 and I can't say that I know what it was or what the
14 rationale was, but those related to a common sense test
15 that a buyer would apply.

16 And I really believe that this site, if it's
17 approved, will give TDHCA, in a really publicly
18 underwritten initiative like affordable housing, a black
19 eye because it takes a location at a far edge of a census
20 tract that qualifies, on the very edge of the census
21 tract, that sits next to a switch yard, at a site with
22 frequent flooding that's been problematic for decades,
23 and it's going to incentivize people to move to that
24 site.

25 One last point that a number of neighbors find

1 objectionable. This property was put under contract by
2 the seller in December of '14 for roughly \$1.35 million.
3 Less than 30 days later, the purchaser under that
4 contract flipped it to the business associate who he
5 works with on other projects, which is the developer, for
6 \$2 million, which is a 15 percent markup in less than a
7 30-day period. More problematic is the business
8 associate that entered into the first contract is also
9 related by family to the seller of the property. And so
10 what you have, what it appears to some is that this is an
11 opportunistic taking advantage of a formulaic, publicly
12 underwritten process that you go through to divest a
13 piece of property that is the most problematic piece of
14 property in a miles around radius to a publicly
15 underwritten effort that will put residents at this site.

16 And I would ask you to take into serious
17 consideration these issues. I very much appreciate your
18 effort, your time. As Representative Israel mentioned.
19 We have not opposed projects that are closer to some of
20 our neighbors than this one. This is an affront to the
21 process itself. Thank you for your time.

22 MR. OXER: Thank you, Mr. Whittenburg.

23 Is there any other public comment?

24 (No response.)

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

1 (No response.)

2 MR. OXER: Good work, Kathryn.

3 MS. SAAR: Thank you.

4 MR. OXER: With regard to item 4(d), as
5 described by staff, there's been a motion by Ms. Bingham,
6 second by the chair to approve staff recommendation with
7 regard to the Low Income Housing Tax Credit approval and
8 waiting list for 2015 tax credits, the application round.
9 Those in favor?

10 (A chorus of ayes.)

11 MR. OXER: And those opposed?

12 (No response.)

13 MR. OXER: There are none. Congratulations,
14 everybody. There's your tax round.

15 (Applause.)

16 MR. OXER: Let the record reflect that Mr.
17 Goodwin had to depart. Those of you who are leaving,
18 please be quiet so we can maintain the transcript. You
19 in the back, please be quiet as you're leaving.

20 We've reached the point in the agenda where
21 we'll accept public comment for anything to add to the
22 future agendas. Does anybody wish to speak? Apparently
23 not.

24 Any other comment from the Board?

25 (No response.)

1 MR. OXER: Then we'll entertain a motion to
2 adjourn.

3 MR. CHISUM: So moved.

4 MR. OXER: Motion by Mr. Chisum to adjourn.
5 Second?

6 DR. MUÑOZ: Second.

7 MR. OXER: Second by Dr. Muñoz. Those in
8 favor?

9 (A chorus of ayes.)

10 MR. OXER: All in favor. We're adjourned.

11 (Whereupon, at 11:55 a.m., the meeting was
12 adjourned.)

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C E R T I F I C A T E

MEETING OF: TDHCA Board
LOCATION: Austin, Texas
DATE: July 30, 2015

I do hereby certify that the foregoing pages,
numbers 1 through 90, 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.

08/05/2015

(Transcriber) (Date)

On the Record Reporting
3636 Executive Cntr Dr., G22
Austin, Texas 78731