TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

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

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

BOARD MEMBERS PRESENT:

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

TIMOTHY K. IRVINE, Executive Director

ON THE RECORD REPORTING
(512) 450-0342
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CONSENT AGENDA REPORT ITEMS

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  b) Report regarding programming future Multifamily Development Program funds as Grants to Supportive Housing providers

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ITEM 6: MULTIFAMILY FINANCE

a) Presentation, Discussion, and Possible Action regarding addition of funds to the 2015-1 Multifamily Development Program Notice of Funding Availability

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c) Presentation, Discussion, and Possible Action on appeal of denial of funding due to Previous Participation compliance history of Housing Services Incorporated in connection with the application under the 2014 Notice of Funding Opportunity (A (“NOFA”) for Cornerstone Apartments, #14501

PUBLIC COMMENT ON MATTERS OTHER THAN ITEMS FOR WHICH THERE WERE POSTED AGENDA ITEMS.

ADJOURN

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MR. OXER: All right. Good morning, everyone.

I'd like to welcome everybody to the June 30 meeting of the Texas Department of Housing and Community Affairs governing board.

I will begin with roll call as we do:

Ms. Bingham?

MS. BINGHAM ESCAREÑO: Here.

MR. OXER: Mr. Chisum?

MR. CHISUM: Present.

MR. OXER: Mr. Gann?

MR. GANN: Here.

MR. OXER: Mr. Goodwin.

MR. GOODWIN: Here.

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

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

Tim, lead us in the pledge.

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

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

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

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

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

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

(Applause.)

MR. OXER: Jean, you're going to have plenty of opportunity, and you'll be welcome to say anything at any time while you're at the mic, but I'll give you an open mic here if you want.
MS. LATSHA: Sure. Jean Latsha, Director of Multifamily Finance.

MR. OXER: For one more day.

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

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

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

You know, this is a tough place, where you've got limited resources and a vast amount of experience and talent on the development community side, vying for those
limited resources, and it tends to feel like it's pitting us against each other.

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

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

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

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

(Applause.)

MR. OXER: Okay. Let's get to work here. With respect to the consent agenda, would any board member care
to pull one? As chair I'll pull item 2(b) -- I'm sorry -- (b). I understand we have some comments on that one. Absent a request from the board to pull anything, we'll entertain a motion to consider.

MR. CHISUM: So moved.

MS. BINGHAM ESCAREÑO: I'll second.

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

MS. BINGHAM ESCAREÑO: No.

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

All in favor?

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

MR. OXER: There are none.

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

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

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

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

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

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

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

Chairman Oxer, I think it would -- the report mentions a committee that would include one or two Board members; I don't know that that's been decided yet. I think that we have some comment from the supportive housing community, too.
No decisions in this report; just the start of a conversation that I wanted to get started before I left.

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

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

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

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

(No response.)

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

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

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

MR. GANN: Second.

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

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

So you're up. Good morning.

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

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

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

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

Three are in Austin, one is in Dallas, and one is in Houston. We happen to be developing a sixth project in Kerrville; however, that's a rural project. And so
there, I think, lies one of the distinctions.

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

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

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

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

These deals had big gaps in their funding, and the feds stepped in to fill that gap with R-TCAP.

Thankfully those times are past, but that doesn't mean
that specific projects and, in particular, supportive
housing projects don't still have that problem with gap
funding.

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

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

MR. OXER: Ya think?

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

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

So thank you very much for this opportunity.

MR. OXER: Thanks for your comments, Mr.

Taylor.
Walter? Three minutes.

MR. MOREAU: I'm Walter Moreau, the director of Foundation Communities here in Austin. We provide supportive housing for about 800 residents, families with children as well as single adults. I think the best example is your neighbor, Capitol Studios, and we're really grateful to the Board and staff for investing in Capitol Studios.

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

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

Anyways, we built Skyline Terrace. It's been up and running eight years. Last year, when we went to build Bluebonnet Studios, we had to go back to South Lamar and ask for their support.
We were at a critical neighborhood meeting. I was explaining our work, and Bob was sitting at the back of the row, his arms crossed, shaking his head. Towards the end of the meeting he said, I need to say something.

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

And the neighborhood went on to vote support.

It was one of those goose-pimple moments, because we have a track record. We've been doing this for 15 years. It started with Garden Terrace. TDHCA was part of that community; you invested HOME funds at that time.

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

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

Our hope is this committee would take a look at
the use of TCAP funds. Supportive housing serves the least, folks that really need help: veterans, folks that we know -- not a week goes by that clergy, volunteers, somebody -- I get phone calls all the time, because you know somebody who's in recovery, who's been struggling with different challenges and needs that stable place to live with the support services to be successful.

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

Thank you.

MR. OXER: Thanks, Walter.

Joy?

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

MS. HORAK-BROWN: Joy Horak-Brown. I'm president and CEO of New Hope Housing in Houston, Texas. We have almost 1000 units of supportive housing for adults who live alone. I do not at the moment have an active application in front of the department, but I hope very soon to have a couple of 4 percent transactions to help homeless and at-risk individuals and also families. We're going to expand our services to homeless families
very quickly here, and hopefully with your assistance. I believe that Craig missed a couple of supportive housing projects in Houston. We have seven buildings. Five of them have been assisted by the department. Eighty percent of our residents are at 30 percent of median income and below.

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

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

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

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

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

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

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

Thank you very much.

MR. OXER: Thanks, Joy.

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

In the last 12 years I've been involved in the production of, gosh, we're getting close to 10,000 units that we've brought financing to. We're thrilled to see
that this policy discussion is going to happen with these funds.

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

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

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

MR. OXER: Great. Thanks, Sarah.

MS. ANDERSON: Thank you.

MR. OXER: Is there anyone else?

(No response.)

MR. OXER: All right. With regard to item

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

(No response.)

MR. OXER: Okay. Those in favor?

(A chorus of ayes.)

MR. OXER: And those opposed?

(No response.)

MR. OXER: And there are none.

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

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

Mr. Gann?

MR. GANN: Okay. Fine.

MR. OXER: Mr. Chisum?

MR. CHISUM: Yes, sir.

MR. OXER: Okay. Thanks very much.

All right. Any other comments?

(No response.)
MR. OXER: Then we'll move to item -- I'm sorry; the first item, not item 1, but the first item on the action list, which is item 3(a).

David?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

So that's the nature of what you find in the budget. I would also mention that we -- the budget will have 307 full-time equivalents in it. Of those, 243 are
associated with the Department of Housing and Community Affairs; 64 are associated with the Manufactured Housing Division of the department.

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

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

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

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

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

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

MR. OXER: Thanks, David.

MR. CERVANTES: Yes, sir.

MR. OXER: Any questions from the Board?

MS. BINGHAM ESCAREÑO: I --

MR. OXER: Ms. Bingham?

MS. BINGHAM ESCAREÑO: Mr. Chair --

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

Regarding capital outlay, you mentioned in there IT.

MR. CERVANTES: Right.

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

MR. CERVANTES: I guess the short answer is
yes. You know, we visited with the legislature and what have you; we -- you know, we did a lot of work during the budget process when we prepared the LAR. You know, there's normal growth and things of that nature.

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

MS. BINGHAM ESCAREÑO: Uh-huh.

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

MS. BINGHAM ESCAREÑO: Right.

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

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

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

ON THE RECORD REPORTING
(512) 450-0342
I will say a very positive thing occurred during the legislative cycle. Our House Appropriations Subcommittee showed, in my mind, a lot of knowledge and forward thinking on the whole issue of cloud computing and lower-cost data storage and retrieval methodologies, and I would really anticipate that, as we are now underway preparing for the 85th legislative session, that we'll work closely with DIR and with our oversight bodies to come up with something that will keep us, you know, not on the bleeding edge but on the leading edge.

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

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

And, you know, you're talking about, you know, in the events of disaster, where you would be bringing up these machines in probably hours, and you're talking about complete servers ready to work, with data dropped back in, and you're talking about, you know, movement back into service in probably, you know, a very short time period; you know, three to six days, something like that, at the
most, which goes in line with the -- we've been working on
the COOP, and that's kind of the statewide recovery
initiative that's been put in place by the State as a
whole in terms of enterprise work that's being done.

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

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

MR. CERVANTES: Right. Thank you, Tim.

MR. OXER: Questions?

MR. CHISUM: Yes, Mr. Chairman.

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

MR. CERVANTES: Yes, sir.

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

MR. CERVANTES: That's correct.

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

MR. CERVANTES: It is.

MR. CHISUM: It is.

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

MR. CHISUM: Thank you.
MR. OXER: Any other questions?

(No response.)

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

MR. CERVANTES: That's right.

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

MR. CERVANTES: Right.

MR. OXER: Mark's getting some help.

MR. CERVANTES: Yes.

MR. OXER: Okay.

MR. CERVANTES: Yes, sir.

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

But I want to make sure somebody's watching the
back door too so that somebody doesn't come in and raid the -- rather than getting four million we get a million sets of data for the folks that we provided, potentially provided housing finance for.

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

MR. OXER: Right.

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

MR. OXER: Right.

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

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

MR. CERVANTES: Okay.

MR. OXER: It's akin to a fast rate turbine to spine up in 12 minutes so you can be providing power quickly. You know, if you lose power for a area or lose a generation asset, and having these subsets. For those -- just as a quick note, could you tell us, David, what the
time is for those servers to come up and where we'd be back in play in terms of the operation for the agency and then the State?

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

MR. OXER: I understand, just --

MR. CERVANTES: -- I know that --

MR. OXER: -- in the ballpark here.

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

MR. OXER: Okay.

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

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

MR. CERVANTES: We've got enough money.

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

ON THE RECORD REPORTING (512) 450-0342
MR. CERVANTES: Yes, sir. Yes, sir. We've got it built into our request in the capital budget we submitted to the legislature. And of course we're putting in a plan the first year right here.

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

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

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

MR. OXER: Good.

All right. Any other questions?

(No response.)

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

MR. IRVINE: Approving the budget.

MR. OXER: Approving the budget. All right.
Are there anymore questions of the Board?

(No response.)

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

MR. GOODWIN: So move.

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

Do I hear a second?

MR. CHISUM: Second.

MR. OXER: Second by Mr. Chisum.

Any public comment? There appears to be none.

Any other questions of the Board?

(No response.)

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

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

MR. OXER: There are none.

Good job, David.

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

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

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

(No response.)

MR. OXER: Okay.

MS. BINGHAM ESCAREÑO: Move to approve.

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

Second by?

MR. GOODWIN: Second.

MR. OXER: Second by Mr. Goodwin.

Public comment?

Those in favor?

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

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

MR. CERVANTES: Mr. Chairman, if you would indulge me just for a moment. I don't get this
opportunity very often but I have some key staff members
that I'd like to recognize this morning.

    MR. OXER:  By all means. Good timing.

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

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

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

    MR. CERVANTES:  Yeah. Very popular young lady
over here at the end. So I just want to recognize them
today for all their hard work.

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

(Applause.)

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

MR. OXER: Thanks, David.

MR. CERVANTES: Thank you, Board.

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

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

All right. Brooke?

MS. BOSTON: Yes. I wanted to speak to you about the next four items, items 4(a) through (d), which relate to the rules for the Community Affairs Program. For all four rules we had comments that were being accepted up through yesterday, May 29th, and each item
prior to submission to the Texas Register we wanted to make sure we summarized the comments for you because they weren't written in your Board book.

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

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

MR. OXER: Okay.

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

So item 4(a) is relating to the definition section primarily of the community affairs rules. We had comments from three people: Karen Swenson with Greater East Texas Community Action Program; Stella Rodriguez, who is the Executive Director of Texas Association of Community Action Agencies, what we call TACA; and Doug
Misenheimer, who is the housing services manager with the Travis County Health & Human Services, who administers weatherization there.

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

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

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

MS. BOSTON: Yes.

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

MS. BOSTON: Correct.

MR. OXER: Okay.

MS. BOSTON: We want to see these rules get -- and part of -- this is part of why I'm presenting them to you today instead of even just waiting a few weeks, because we want to make sure the timeline of this works
with getting our funds out and the contracting periods.

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

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

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

Another commentator separately also asked that
the department increase the threshold up to 200 percent of poverty, but that was not -- an explanation wasn't provided for that one.

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

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

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

I'll be totally forthcoming; right now the funds for that activity federally are not available but the program exists. And so we anticipate that the program will be going away in the next couple years, in which case I think there's less purpose for us to need to try and keep these levels. We don't disagree in premise with the
request; I think just we want to keep the option open for the possibility of leveraging.

MR. OXER: Okay. Thanks.

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

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

As it related to the comment about the 200 percent of federal guidelines, we were not recommending that either. When -- if we ever adopt 200 percent for
LIHEAP, it would then prompt us to have to follow all of
the Department of Energy weatherization requirements,
which are far more restrictive --

MR. OXER: Complex?

MS. BOSTON: Yes, and some negative. But

LIHEAP in this case provides us some flexibility that we
like to have.

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

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

However, if the production schedule allows
for -- the definition for program schedule allows for it,
then if we chose to define and measure for CSBG or CEAP, then it would apply. So we wouldn't apply it undefined or without more specificity, but we don't want to have to keep going back and revising a definition that is a broader definition. Does that make sense?

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

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

MR. GANN: I'll move staff recommendations.

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

MS. BINGHAM ESCAREÑO: I'll second.

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

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

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

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

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

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

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

The 150 percent simply allows us more flexibility. It doesn't mean that we're going to start serving everybody at 150. It simply means that we can serve up to. So those families whose annual income is
barely over 125 percent would now qualify.

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

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

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

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

MR. OXER: Thanks, Stella.

Do you have a comment, sir?

MR. BETHUNE: Yes.

MR. OXER: Okay.
MR. BETHUNE: Good morning.

MR. OXER: Good morning.

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

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

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

Also this situation affect rural communities more than urban areas. I can find plenty of homes to
weatherize in San Angelo at 125 or lower. However, I answer to my board of directors, and we must see an equitable distribution of our services and it's very difficult to find those homes in rural areas. And I believe even if we were adding a few homes per county per year that we are better serving the rural population.

Thank you.

MR. OXER: Sure. Thanks for your comments.

Are there any other comments?

(No response.)

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

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

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

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

MS. BOSTON: Right. I would just note relating to the comment about the 150, going up to 150 percent, if we were going to do that I would just clarify, I was just checking with Mike, and that we would want to be clear that it's for the 2016 year. So that it doesn't affect
where 2015 contracts are set to proceed.

MR. OXER: Point noted.

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

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

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

MR. OXER: Okay.

Ms. Bingham?

MS. BINGHAM ESCAREÑO: Mr. Chair, so in the summary we said that there had been public comment about asking to raise from 125 to 150; that staff's position was that wasn't really material. Now we have comments here
that at least for certain areas they do view it as material. If the Board were to move to adopt the rule but ask for consideration for 2016 during rule making, do you see any downside to that?

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

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

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

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

MR. OXER: Right.

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

MR. OXER: Does that answer your question?

MS. BINGHAM ESCAREÑO: Yes, sir.

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

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

MR. OXER: That's what I was considering here.
We don't need to change the motion but we need to make sure that we ask the staff to recall this and reconsider it in 30 days.

MS. BOSTON: Sorry.

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

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

(No response.)

MR. OXER: Okay. Those in favor?

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

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

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

MS. BOSTON: Okay.

MR. OXER: -- a fair statement?

MS. BOSTON: Thank you.

MR. OXER: Okay, 4(b).

MS. BOSTON: Okay. Actually 4(b), no comments were received, so staff recommends approval as reflected
in your Board book.

MR. OXER: Good. That was easy.

MS. BINGHAM ESCAREÑO: Move to approve.

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

MR. CHISUM: Second.

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

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

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

Okay.

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

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

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

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

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

MS. BOSTON: It's not anticipated --

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

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

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

MS. BOSTON: Right.

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

(No response.)

MR. OXER: Motion to consider?

MS. BINGHAM ESCAREÑO: So moved.

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

MR. GOODWIN: Second.

MR. OXER: Second by Mr. Goodwin. No public
comment, no requests. Those in favor?

    (A chorus of ayes.)

MR. OXER: Opposed?

    (No response.)

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

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

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

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

    So in that vein, changes from staff are suggested to the rule, which I will explain, based on the comment we received. And again we got comments from three
people: Karen Swenson and Stella Rodriguez, and then also from Neighborhood Centers, Inc., from Summer Harrison. They suggested a change in 5.614, deobligation and reobligation of awarded funds. Currently the proposed rule that was released for comment shows that when the notice of progress of a subrecipient is being made to the subrecipient, that the notice would be sent directly to the Board directors.

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

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

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

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

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

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

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

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

MR. CHISUM: So move.

MR. OXER: Okay. Motion by --
MR. GANN: Second.

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

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

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

Thank you, Brooke.

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

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


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

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

It's now a few minutes after 10:00. We're going to take a short break just to make a pit stop here just in keeping with our context here today. So it's 10 after the house right now. We'll be back in our chairs at
10:30 exactly.

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

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

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

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

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

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

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

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

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

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

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

I believe that there may be some public
comment, but before you hear that are there any questions
about the Wipfli report or any of the notices or
procedures or anything else that myself or another member
of the staff could answer for you?

MR. OXER: Questions from the Board?

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

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

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

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

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

Is that correct?

MS. MURPHY: Correct.

MR. OXER: Okay.

Okay, any other questions of Patricia from the
Board?

(No response.)

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

MS. MURPHY: It's a report item to you. So
there's not an actual --

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

MS. MURPHY: That's correct.

MR. OXER: Okay.

Okay, motion to consider.

MR. GOODWIN: I so move.

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

MR. GANN: Second.

MR. OXER: Second by Mr. Gann.

MR. UHLES: Can we make comments?

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

MR. UHLES: Thank you very much.

MR. OXER: Okay. There will be public comment. Miss, do you have a comment since you're standing in the first --

MS. PIERCE: Yes.

MR. OXER: Okay.

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

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

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

MS. PIERCE: Thank you for that refresher.

MR. OXER: Three minutes.

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

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

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

Additionally, it's not what the Board approved
nor within the authority based on the agenda item of March
12th. That agenda item stated, quote, presentation,
discussion and possible action to authorize the
procurement of a single audit firm for performance of an
audit for Cameron and Willacy Counties. That was item 4(b) on March 12th. Additionally, this Board unanimously approved that recommendation to secure a single audit provider.

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

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

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

MR. OXER: Okay.

MS. PIERCE: Thank you.
MR. OXER: Thank you, Ms. Pierce.

Does anyone have any questions of Ms. Pierce?

(No response.)

MR. OXER: Okay.

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

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

The CWCCP, however, has not been able to do this or has not been able to do for right now because due process and other statutory rights are not being followed. And when we talk about due process I just want to remind you of two basic tenets of due process.

One is that due process requires notice and a hearing before a independent, impartial tribunal. Second, due process requires that the notice be given of what is
proposed and how that can be prevented. And that's
something that's wholly been lacking in what's the notice
has been given to CWCCP.

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

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

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

Then we talk about the LIHEAP grant. Again on
February 19, 2015, there was a recommendation made to the
Board to deny -- or to deny CWCCP and to award 24.9
percent to another agency. The Board ultimately awarded the 24.9 percent to another agency but it tabled the recommendation on the denial.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

MR. OXER: Any other comments or questions?

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

MS. MURPHY: The Cameron and Willacy Communities Project has had a single audit performed, and
that audit actually resulted in no findings. And I believe at one of the last Audit Committee meetings our Director of Internal Audit, Mark Scott, was discussing a new process for referring over CPAs that appear to have not fully reviewed an agency's books and records.

MR. CHISUM: Mr. Chairman?

MR. OXER: Mr. Chisum.

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

MS. MURPHY: Uh-huh.

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

MS. MURPHY: Yes, sir.

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

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

So you would be able to charge to the grant or reimburse from the grant $10, and what they did was they
took that $10 and multiplied it by the number of attendees in the room. And I can't do math standing up, so whatever 10 times 20 is is how much they billed the grant. So this practice is a double-billing.

MR. CHISUM: Thank you. I understand.

MS. MURPHY: Thank you.

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

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

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

MR. OXER: So Wipfli -- Mark?

MR. SCOTT: Yes.

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

MR. SCOTT: I'm Mark Scott, Director of Internal Audit.
MR. OXER: Right. And we did determine that Wipfli of course is qualified for an A-133 single audit.

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

MR. OXER: Okay.

MR. SCOTT: Is that clear?

MR. OXER: Is that clear?

MS. BINGHAM ESCAREÑO: Not really.

MR. OXER: Do it again.

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

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

MR. OXER: So it doesn't require that -- in
contrast the requirements for an auditing firm has a CPA
and current expertise, licensing essentially under A-133
for the single audit, but monitoring and compliance and
accounting does not require that.

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

MR. OXER: Okay. So --

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

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

MR. ECCLES: Correct.

MR. OXER: Okay.

MR. CHISUM: Mr. Chairman?

MR. OXER: Mr. Chisum.

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

MR. SCOTT: Yes.

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

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

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

MR. SCOTT: Correct. Yes, sir.
MR. OXER: -- that we're lacking the
information that we requested to satisfy our fiduciary
requirement for the compliance of these funds.

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

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

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

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

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MR. SCOTT: Correct.

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

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

MR. OXER: Those are for continuing grant programs.

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

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

MR. OXER: Okay. If I recall correctly, on the
point about the 24.9 percent funds that were extracted and
given to somebody else, those were taken because we wanted
to make sure the services that they provided in their
service area were continued and there was no interruption
of their service to their recipients. Is that correct?

MS. MURPHY: That is correct, yes.

MR. OXER: Okay.

MR. CHISUM: Mr. Chairman?

MR. OXER: Mr. Chisum.

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

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

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

MS. MURPHY: Thank you.

I don't know.

MR. CHISUM: Thank you.

MR. GOODWIN: I've got a question.

MR. OXER: Mr. Goodwin.

MR. GOODWIN: Patricia?

MS. MURPHY: Yes.

MR. GOODWIN: Is the federal funds what we've
been requesting -- the $126,000 be returned to us, if
they're not returned to us, do we then have to repay the federal government for those monies?

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

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

MR. OXER: Mark, I have another question.

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

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

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

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

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

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

MR. OXER: Okay.

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

MR. OXER: Okay.

MS. BINGHAM ESCAREÑO: Mr. Chair?

MR. OXER: Ms. Bingham.

MS. BINGHAM ESCAREÑO: I have a question for Mr. Scott, too, following along the same lines as to answer -- or to hopefully explore Ms. Pierce's question a
little more. So historically -- and I think you were with
us when we were kind of just coming down this path.

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

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

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

And unfortunately, the State Auditor's Office declined to
do that. Is that correct?
MR. SCOTT: That's correct.

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

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

MR. OXER: That's mine.

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

MR. IRVINE: Yeah, I think that when Wipfli got in there we were all desirous of some clarity and a little bit of haste. We were looking to get these issues defined and resolved as quickly as possible. And I think that Wipfli got there and said, you know, we really
have a very, very hard time sorting out these records. These are very nonstandard accounting procedures, and they are quite difficult to follow.

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

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

And to the extent that equalization fund balances, positive balances reflect billings in excess of allowable charges and that those balances had built up to pretty significant levels over preceding years, that would have presented additional concerns that we would rationally expect any A-133 auditor to drill into that in greater detail and render an appropriate opinion that reflected any concerns about compliance issues
MR. OXER: Ms. Bingham.

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

MR. SCOTT: No, ma'am, not at all. Because the -- I think -- well, without characterizing too much what the A-133 audit did, as far as doing a financial statement audit they probably did a adequate job on that. But I think what they didn't do adequately was test the federal program accounting.

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

MS. BINGHAM ESCAREÑO: Thank you.

I don't have any other questions.

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

MR. SCOTT: Yes.
MR. OXER: -- Mr. Scott's part, just in their defense.

MR. SCOTT: Right.

MR. CHISUM: Mr. Chairman?

MR. OXER: Mr. Chisum.

MR. CHISUM: Mr. Scott?

MR. SCOTT: Yes.

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

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

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

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

MS. MURPHY: It went to other --

MR. OXER: And this is --

MS. MURPHY: -- expenses that --

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

MS. MURPHY: Yes.
MR. OXER: Okay, just --

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

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

MR. OXER: Just other expenses.

MS. MURPHY: Yes.

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

MS. PIERCE: Could I comment, please?

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

MS. PIERCE: All right.

MR. OXER: -- did you have --

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

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

Since due process has been raised as a concern,
my question to you would be what, if any, factual
misstatements are you alleging are here in these bulleted
items?

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

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

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

MS. PIERCE: Right, right, right.

MR. OXER: Or item 5 on the agenda.

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

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

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

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

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

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

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

MR. ECCLES: In what respect?

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

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

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

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

MR. OXER: Get ready, Megan.

MS. PIERCE: -- have seen I have requested open
records; I have sent you several open records requests, so maybe that will clear things up in the future.

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

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

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

MR. ECCLES: The first bullet point.

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

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

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

MR. ECCLES: What gave CWCCP that impression?

MS. PIERCE: Probably your letter stating that -- for instance, one of them stated, "We both agree that we're going to wait to provide technical and training
assistance until we perform the audit." That was a letter, I believe, March 3, and other statements like that, and just the general common notion that why would we be paying -- why would the State be paying for an audit if it really just had every intention of canceling it to begin with? It doesn't seem like a very fiscally prudent thing to do.

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

Patricia?

MS. PIERCE: The final action being canceling the grants

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

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

MR. OXER: Patricia?

MS. MURPHY: Patricia Murphy, Chief of Compliance.

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

MR. OXER: Hold on, Patricia. You can stay
right there or stand right here, but stand still for a second.

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

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

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

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

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

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

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

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

MS. PIERCE: Right, and my client --

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

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

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

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

MR. OXER: Okay.

MS. PIERCE: Thank you.

MR. OXER: Thanks.

Ms. Garza, would you like to speak?

MS. GARZA: Yes, sir.

MR. OXER: Great. Three minutes, please.

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

MR. OXER: Can I --

MS. GARZA: -- some of the --

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

MS. GARZA: Certainly.

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

MS. GARZA: Amalia --

MR. OXER: This is a process.

MS. GARZA: Amalia Garza, Executive Director for Cameron and Willacy Counties Community Projects.
MR. OXER: Good. Thanks very much.

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

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

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

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

MR. OXER: Good. Thanks for your point.

MS. GARZA: Yes, sir.

MR. CHISUM: Mr. Chairman?

MR. OXER: Mr. Chisum.

MR. CHISUM: Ms. Garza?
MS. GARZA: Yes, sir.

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

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

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

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

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work. And we transition people that way.

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

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

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

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

MS. MURPHY: That is correct, sir.

MS. GARZA: And they were.

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

MS. GARZA: The equalization, the equalization monies, and the equalization monies have existed since the early '80s in the agency. This was nothing that was born out of CEAP or when we obtain CEAP funding.
MR. IRVINE: May I ask a question about the equalization funding?

MS. GARZA: Certainly.

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

MS. GARZA: From TDHCA, yes.

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

MS. GARZA: We consider all programs significant.

MR. IRVINE: Monetarily significant.

MS. GARZA: Not really.

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

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

MR. IRVINE: Yeah.

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

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

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

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

MR. GOODWIN: Mr. Chairman?

MR. OXER: Mr. Goodwin.

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

MS. GARZA: That makes two of us.

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


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

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

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

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

MS. GARZA: No. We respect --

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

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

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

MS. GARZA: No.

MR. GOODWIN: -- for an instructor to talk to
200 people and you charge 2,000 when you should have
charged 100. If you take that simple little example and
you put 1900 in equalization, that's not money that you're
free, as I understand it, to go do --

MS. GARZA: No, no.

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

MS. PIERCE: I'm going to --

MR. GOODWIN: It sounded like you --

MS. PIERCE: -- clarify on that.

MR. GOODWIN: -- admitted that.

MS. PIERCE: Sorry.

MR. OXER: Please don't do that.

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

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

MS. PIERCE: I'm going to --

MS. GARZA: -- and we can explain.

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

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

MS. PIERCE: -- that --

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

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

MS. MURPHY: Yes, sir.

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

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

MS. MURPHY: Yes, sir.

MS. PIERCE: Yes, you did.

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

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

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

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

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

MS. PIERCE: -- question.

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

MR. GOODWIN: All right.

MS. PIERCE: As far as money going from the grants to the equalization funds, that only occurred when the funds from the grants were frozen in 2013 and 2014. And my clients had already -- prior to those funds being frozen they had already made commitments, they'd entered contracts, but they had due and owing by then. So they
used money from their equalization fund and from their
line of credit to pay for those; that ordinarily would
have been paid by the grant money.

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

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

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

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

The problem I'm seeing is everybody that's come
up here and talked from the accounting side, from the
financial side, from the compliance side says there's not
something that shows a direct line of these which would be able to provide the fiduciary track on all of this that are required under these contracts.

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

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

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

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

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

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

MR. OXER: No. Prior to -- the staff brought the report; the staff has brought the report. We don't have to accept their report. We get to accept it or not
accept it based on what staff thinks.

MS. PIERCE: Prior to the meeting?

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

MS. PIERCE: But how does that --

MR. OXER: We don't require --

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

MR. OXER: Their report's in the Board book.

We got it and we've all read it.

MS. PIERCE: Right. And so --

MR. OXER: They're not required to present it.

They have it in the Board book.

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

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

MS. PIERCE: Okay.

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

MR. CHISUM: No, sir.

MR. OXER: Any other questions?

(No response.)
MR. OXER: All right. Here's what we're going to do.

MS. PIERCE: Thank you.

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

Mr. Uhles, thank you for your comments.

Ms. Garza, thank you for your comments.

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

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

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

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

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

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

MR. CHISUM: I do.

MR. OXER: Okay. Mr. Goodwin?

MR. GOODWIN: Uh-huh.

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

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

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

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

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

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

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

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

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

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

MS. LATSHA: Yes, sir.

MR. OXER: So this is where we accept -- we are
simply accepting this report. Is that correct, Jean?

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

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

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

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

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

MS. LATSHA: The list is just --

MR. IRVINE: -- being provided and --

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

MR. IRVINE: -- will be published.

MS. LATSHA: -- for the action item.

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

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

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

MS. LATSHA: Yes, sir.

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

(No response.)

MR. OXER: Mr. Taylor, did you have any
questions -- okay. Just checking --

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

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

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

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

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

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

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

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

That's broken down in $9 million from HOME fund and within that $9 million we already had programmed in our slip $4 million to multifamily rental activities. The reason that $4 million wasn't put in this NOFA initially is because we still to this day, as far as I know, have
not executed our 2015 grant agreement for those funds.

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

Then the other portion of that $9 million in HOME funds comes from an anticipated $5 million in HOME program income. That's a relatively conservative figure. We actually would anticipate more program income being available by the time these funds are actually needed, meaning by the time all of these transactions actually close, which won't be until the spring/summer of next year. Because they're all associated with that 9 percent award.

So the other -- so that accounts for nine million that we may need. The other seven million that we're requesting in this action would be from TCAP loan repayments. That's also a relatively conservative figure. We have more than that technically available, although we don't want to dip too far into that pot as we do want some available for potentially other activities, perhaps a 2016 NOFA.

So this request, like I said, would only cover
the potential 9 percent awardees, the HOME-only CHDO
applications we have in-house, the 4 percent applications
that we have in the house, and then the additional
$3 million 4 percent application that we were
anticipating.

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

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

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

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

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

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

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

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

MR. OXER: So what we're really doing is simply, not simply but increasing, because we have projects that are viable and shovel ready, financially
ready, economically viable, that are not dependent on a
change in policy and the development of policy change next
year that Mr. Gann and Mr. Goodwin will be working on with
respect to the TCAP funds, have something we can spend now
so that we can get more housing in place for those folks
who need it here in Texas.

    MS. LATSHA: A hundred percent correct.

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

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

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

    MS. LATSHA: Putting a lot of housing on the
ground too.
MR. OXER: Well, and that's a good thing. If it was easy, anybody could do it, I guess. So all right. Any questions for Jean?

(No response.)

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

MS. BINGHAM ESCAREÑO: Mr. Chair?

MR. OXER: Ms. Bingham?

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

MS. LATSHA: That's correct.

MS. BINGHAM ESCAREÑO: And I guess my good judgment or my conservative judgment would have said if you weren't forward thinking and trying to kind of make sure those funds might be available for our supportive housing needs that have been clearly stated earlier, that
would be a more reliable bucket to pull from than, say, the other five million or so that you're anticipating out of HOME.

But you think that number's conservative also. You don't think we're stretching too far with the anticipated income. You think five million of the HOME. So you have the four that was multifamily and then you have the five. Right?

MS. LATSHA: Right.

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

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

MS. BINGHAM ESCAREÑO: Gotcha. Okay.

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

MS. BINGHAM ESCAREÑO: Right.

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

MR. OXER: So those are recycled funds. Okay?

So what we're really looking at out of this is taking those funds, we're putting a call on those funds from next year into this NOFA so that we'll take and refund that, which essentially recycles those. But what ultimately the policy direction we're going to get from Mr. Gann and Mr. Goodwin will be whether or not we put some of those funds, take them out of that cycling, and make grants to them --

MS. LATSHA: Correct.

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

So the question is how confident are we that we're going to -- you say it's conservative and it's very
likely that to add those funds back. What's going to be left in the bucket after you take those out?

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

MR. OXER: Right.

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

MR. OXER: Right.

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

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

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

MR. OXER: Might as well use them now.

MS. LATSHA: -- spend this now. Right? So all

the more reason to go ahead and program it. And so

maybe --

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

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

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

away.

MS. LATSHA: Right. Right, so.

MR. OXER: Okay. Any other questions?

(No response.)

MR. OXER: Okay. Anything else you want to sum

up on, Jean?

MS. LATSHA: No, sir.

MR. OXER: Okay. All right. Item 6(a), is

there a motion to consider?

MR. GOODWIN: So move.

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

MR. CHISUM: Second.

MR. OXER: Second by Mr. Chisum to approve

staff recommendation. Looks like we have some folks that

want to talk. Okay.

MS. STEPHENS: Good morning, Chairman Oxer. My

name is Lisa Stephens, I'm with Sagebrook Development, and
I actually am here on behalf of a group of developers that
have been talking about this item coming up today.

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

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

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

However, that being said, we would like to ask
for an opportunity to get some more information from both
staff and Jean and her group on adding seven million to
this NOFA. It was originally six million in TCAP, so we're talking about more than doubling it. And I think it warrants an opportunity to look at the information and bring it back to the July 15 Board meeting.

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

MR. OXER: Okay. Thanks, Lisa.

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

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

And one part of that is where we've got 9 percent developments that are receiving substantial
amount of equity, they are in many instances able to get conventional financing. And I would like to see that opportunity for those 9 percent deals. But certainly 4 percent tax credit bond transactions need gap funding, and then other HOME-only developments, for example, could probably most beneficially provide housing in areas that would not otherwise receive affordable housing in the high-opportunity areas.

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

MR. OXER: Thanks, Terri.

Any questions for Terri?

(No response.)

MR. OXER: Thanks, Terri.

MS. ANDERSON: Thank you.

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

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

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

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

MS. LATSHA: Sure.
MR. OXER: Okay?

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

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

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

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

That being said, if the Board did want to opine a little bit more for a couple weeks, it wouldn't be the end of the world for the 9 percent cycle, since we do have two more meetings left. If I was Kathryn, I'd be a little bit nervous about that.
MR. OXER: Yeah, but you're going to jump down and give somebody else the helmet, and so she's got to finish this thing. Okay?

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

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

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

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

MS. LATSHA: Yes, sir.

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

MS. LATSHA: The only one that would be
difficult is if at the end of the day in two weeks the HOME portion was not approved; there would be a pretty good scramble at the end of July.

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

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

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

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

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

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

MS. SAAR: Correct.
MR. OXER: -- maybe seven.

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

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

All right.

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

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

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

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)


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

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

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

(The Board went into executive session.)  

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

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

MS. MURPHY: Good afternoon. Patricia Murphy, Chief of Compliance. So item number 5 was a report item for you from Wipfli CPAs and consultants regarding Cameron and Willacy Communities Project. Within your report item it lays out the process that the department followed for
providing the LIHEAP and WAP contracts to another provider
and attached to it as well is the department's letter
requesting $410,000 in repayment and CWCCP's response to
that.

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

MS. MURPHY: Thank you. Yes.

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

Say again?

MR. GOODWIN: Report from staff.

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

MS. MURPHY: Yes.

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

(No response.)

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

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

MR. OXER: There are none.
Okay. With respect to item 6(a), it's been tabled. This is with respect to the addition of funds.

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

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

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

(No response.)

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

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

MR. CHISUM: Yes.

MR. GOODWIN: Yes, sir.

MR. OXER: Okay. So I now have a motion to
consider for tabling until our July 16 meeting, which is
two weeks from the day after tomorrow.

    MR. CHISUM: So moved.

    MR. OXER: Okay.

    MR. GOODWIN: Second.

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

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

    All right. Those in favor?

    (A chorus of ayes.)

    MR. OXER: And those opposed?

    (No response.)

    MR. OXER: There are none.

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

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

    The applicant, Kerrville Senior Limited
Partnership, was awarded tax credits in 2013 as a
supportive housing development. So this has placed-in-
service deadline of the end of this year. Actually I
attended the groundbreaking earlier this spring, so
witnessed that they're well on their way. I'm sure well on their way from when we were out there.

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

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

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

So there's a very basic difficulty in reconciling the fact this is a supportive housing development that can't carry that, and then it's coming in
for our direct loan funds that are structured as repayable
debt.

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

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

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

They have not stopped construction, it's my
understanding, thank goodness. Because they do need to
place in service by the end of the year or there's a loss
on the tax credit side.
There was a lot of, there was some contemplation from this applicant of applying for the 2014 NOFA. So 2013 tax credit award, gets a tax credit award, and then as things move along, construction costs go up, find themselves with a problem. They've got a substantial gap in financing.

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

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

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

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

MR. OXER: No other questions?

(No response.)

MR. OXER: Okay. Motion to consider.

MR. GANN: I so move.

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

MS. BINGHAM ESCAREÑO: I'll second.


Is there a comment?

(No response.)

MR. OXER: There are none. Okay.

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

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

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

It reads: "Dear Mr. Chairman and Board members.

I have previously supported the Freedom's Path project, a to-be-constructed affordable housing development for

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

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

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

The second letter reads in a similar text:

"Dear Mr. Chairman and Board members. I have previously supported the Freedom's Path Project, a soon to-be-constructed affordable housing development for veterans in Kerrville."

Actually the text is the same as the previous letter. And this one is from Andrew S. Muir, State Representative, House District 53.
identify yourself each time you speak, so.

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

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

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

And so the second was could we ask for additional money. And the issues raised were essentially twofold. One, environmental clearance and, two, Davis-Bacon. And we explained that as a federal project before
we could move forward we had already done the Part 50 environmental clearance required, and it was done by the VA, and what is called a FONSI letter had been issued already, a finding of no significant impact. So that had been done.

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

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

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

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

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

And so after the loan gestation process we decided we got to go forward with the hope that we could come to you guys and ask for some funds and cover at least a portion of the gap that we have. So that's why we're here today, and need your support. The project will get done, we'll house disabled senior veterans, but it's going to be at a massive price.
I should add, let me just -- parenthetically I hope I'm not using up my three minutes too much, but we're only doing these projects. Communities for Veterans only does this. We have a project that's within a few weeks of finishing in Hines, Illinois, where we were awarded two and a quarter million dollars of HOME funds by Cook County under a deferred payment kind of cash flow-only basis.

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

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

So it's not like we're doing anything different in Texas than we're doing everywhere else. It's that Texas is different in this one regard. And for this to be a really strong viable project we've got to have some kind
of soft funding, and this is literally at this point the only place to come.

So thank you very much.

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

MR. TAYLOR: Yes, sir.

MR. OXER: Questions from the Board?

(No response.)

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

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

You know, it's possible that when that discussion gets down the road with respect to policy and administering the HOME and TCAP program, and if it does get to a point where it could be structured as a grant or something that could support a deal like this, maybe it is
work-out deals that are already constructed that have some sort of priority in there.

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

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

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

And while we recognize that your program, your projects -- I think there's enormous sensitivities of the
veterans programs here on behalf of each of us, but we're also working as diligently as possible to maintain the integrity and structure of our rule. So I'm thinking is that there -- once we have a policy decision or policy recommendation from Mr. Gann and Mr. Chisum we'll have a better idea of how to live with the idea that we don't just -- there's nothing getting slammed shut, it's just be a decision later once we consider a policy.

Is that clear? Does that make sense? Okay.

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

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

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

MS. BINGHAM ESCAREÑO: Mr. Chair, could I just -- I just wanted to also recognize Mr. Taylor and just appreciate, one, your effort with these initiatives that are very important. But also just wanted to recognize that you affirmed that staff did what staff, you know, had to do in this case, and that your efforts to work collaboratively with them are greatly appreciated by the Board. And I think we're all motivated to find
alternative good creative ways to help folks like you get those projects done.

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

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

Okay. Kathryn, good afternoon.

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

The next item on your agenda is an appeal of a scoring notice for Mariposa at Greenville Road in Royse City. This is a scoring notice that was denied points under a community revitalization plan.

So the community revitalization plan is a scoring item that has been extensively developed and has very specific requirements for what will qualify for points, and particularly in Urban Region 3. There's only
one way that deals in Urban Region 3 can qualify for CRP points where as urban deals in other regions of the state has another option as well and rules deals have their own separate options.

So in Urban 3 there are six components of a qualifying revitalization plan. First, the plan has to be duly adopted by the municipality or county in which the development site is located. Second, the municipality or county must have performed an assessment of five of eight factors outlined in the QAP as in need of being addressed, and that must be in a process that allows for public input.

Third, the target area must be larger than the assisted housing footprint. So we're looking for things like specific neighborhoods and not large swaths of a city or a county. Fourth, the plan must be reasonably expected to revitalize that neighborhood and address in a substantive and meaningful way the material factors outlined in the plan.

Fifth, the plan must describe a plan budget and uses of funds to accomplish its purposes within that target area. And, finally, the CRP must have been in place on the date of the final application delivery date.

So in this case there's no question that components one and six have been met. I'd like to walk
through the other components just to kind of show you the
process that staff uses and where we found difficulties.

With component two, when staff reviewed this
plan it had difficulty reconciling the plan goals that are
outlined in the plan with the eight factors that are
spelled out in the QAP. Plan goals two through four --
and you can find these through page 195 of your Board
book. Plan goals two through four are clearly intended to
align with QAP factor C, which is inadequate
transportation or infrastructure, D, lack of public
facilities, and G, lack of local businesses providing
employment opportunities.

The fifth goal is a direct quote from the QAP
but it's unclear how lack of diversity is being addressed
by the plan. The first plan goal could be viewed to align
with factor G, which is again the lack of local business
providing employment opportunities, but that's already
been addressed by another factor or plan goal, which was
goal number four. Conversely, plan goal one could be
viewed as a broader economic development effort, which the
QAP calls out as separate and distinct from community
revitalization.

So we definitely have three factors. We may
have four factors. We can't get to that magic number of
five factors.
The third component is the target area. So there is a map of the target area on page 197 of your Board book, and you'll notice when you look at that map that the vast majority of the plan's target area is vacant land. You'll see the green outline of the target area, and a good chunk of that vacant land is actually the development site in question.

So technically the target area is larger than the assisted housing footprint but I'm not sure that this really meets the intent of the rule. It should also be noted that this application was challenged on that issue, and as reported to you in last -- two-weeks-ago Board meeting the challenge -- or staff agreed with the challenger.

So we've talked about components two and three, and you really can't get to four without already achieving two and three. I find it difficult to reconcile the idea of developing unimproved land on the perimeter of a city with a true revitalization effort, especially given the fact that the adjacent neighborhood to the development site is not included in the target area.

The last component which we haven't discussed yet is the plan budget. Again, the budget components have to tie back to those five factors that are in need of being addressed. So when you look at the budget outlined
in the plan, which is on page 196, the plan goals are summarized as growth, transportation/infrastructure, public facilities/services, employment, and diversity. And growth is simply not one of the factors identified in the QAP.

So that kind of gives you the process that staff uses to look at all of these CRPs and the difficulty we had with this particular CRP, which is why we ultimately denied the points.

The applicant's appeal has attempted to correlate the plan factors in the QAP of environmental conditions and blight, which also includes obsolete land use. Staff did not find that argument convincing, and the Executive Director denied that appeal, and staff again recommended denial here.

So if you have any questions for me.

MR. OXER: Any questions for Kathryn?

(No response.)

MR. OXER: Okay. With respect to 6(b) application 15012, is there a motion to consider?

MR. CHISUM: So move.

MR. OXER: Okay. Motion by Mr. Chisum.

MS. BINGHAM ESCAREÑO: Second.

MR. OXER: Second by Ms. Bingham. Okay. Does anybody on the seat here want to talk about this
application?

You guys too, Barry, are you waiting for a --

MR. PALMER: Yes.

MR. OXER: Okay. All right. Let's have it.

Three minutes.

MR. GOODWIN: Mr. Chairman, is this 15012 Mariposa, is that the application we're discussing?

MS. SAAR: That's correct.

MR. OXER: That's correct.

MR. GOODWIN: Then I'll recuse myself from this discussion and deliberation.

(Alarm noise.)

MR. OXER: We're about to go into dive mode here in the sub. Batten down the hatches and seal the weapons. Okay?

(General laughter.)

MR. OXER: And we have a question, counsel, on recusal. Does he have to take himself out of the room?

MR. ECCLES: Yes.

MR. OXER: Okay. That means we got to turn the mike -- he can't be in the back room either. Step in the hall.

MR. ECCLES: He needs to wander the streets alone.

(General laughter.)
MR. ECCLES: We still have a quorum.

MR. OXER: Yeah, for the record, for the record of the transcript, we still -- with Mr. Goodwin absent, we still maintain our quorum.

So very well, sir. Go.

MR. BUMP: Okay. Good afternoon. Casey Bump, President of BonnerCarrington. Thank you for taking this matter up.

We are here to talk about Mariposa Apartment Homes at Greenville Road. This is a senior community in Royse City, Texas. We received the scoring notice, and the scoring notice that staff sent us left out a lot of the detail that came up in Ms. Saar's presentation. And we -- let me just quote here from the scoring notice so that we can get on the same page.

So it says -- I'll just take the -- "Assessment of factors with need of being addressed did not include five of the eight required under the scoring item. Plan goal one and plan goal four both equate to factor G, requested point 6, awarded 0."

And so there are a lot of items that Ms. Saar brought up that we did not have in our scoring notice. So our assertion is that we have a plan and that it counts towards the requirements of meeting the QAP, and that the item up for discussion is whether or not plan goal one and
plan goal four are in fact one and the same or are they different.

It is our assertion as the developer that they are distinctly different. If you read them, they are different. One, plan goal one deals with growth and infrastructure -- I'm sorry -- growth only. The item that we think plan goal one applies to is the presence of blight, which may include excessive vacancy, obsolete land use, significant decline in property value, or other similar conditions that impede growth. And then item number four is a separate item that deals strictly with employment.

And so in a lot of these plans a lot of these factors work together to revitalize an area. We assert that we do have a plan that meets the QAP requirements. We have five of the eight. And that we brought the -- that there is an opportunity for interpretation here. And so I know staff has their interpretation, we have ours. We brought the -- we asked the City Manager of Royse City to come and give his interpretation as well.

And so at the end of the day we just request that you listen to the testimony and see if you can agree with a different interpretation. Ours is that we meet the letter of the QAP and that points should be reinstated. Be happy to answer any questions. Thank you.

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

(No response.)

MR. OXER: Okay. Thank you. Don't forget to sign in, Barry.

MR. PALMER: I did.

MR. OXER: Each of you.

MR. ALSABROOK: Should I do that first?

MR. OXER: Of course. Get the paperwork out of the way early, we don't have to remember it later.

MR. ALSABROOK: Mr. Chairman, members of the Board, my name's Carl Alsabrook, I'm representing the City of Royse City. Royse City's a town located geographically about 45 miles to the east of Dallas. We've got about 10,000 residents, and I'm honored to be their city manager.

Like a lot of communities in Texas, we're experiencing explosive growth. On our west, just inside of our west city limits we have a very large retail development going on. On our east side city limits we were blessed with a Bucky's franchise. We look forward to that getting started. In between we don't have a lot going on and one of the --

MR. OXER: Eventually that's going to be welcome to Bucky's home at Royse, you know that, don't you?
MR. ALSABROOK: Yes. That's fine. I've already approved their sign. We look forward to that. But the one area that we're underserved and have been for years is in multifamily, especially affordable, and in this case would be senior affordable multifamily.

I'm not going to repeat everything that Mr. Bump said. I think he said it quite ably. But one of the first steps we did, we were excited when this opportunity was presented to us, spent several hours developing as a staff, developing this community revitalization plan, got input from our city council. And on or about February 24th of this year they approved our community revitalization plan.

I can't tell you a lot but I can tell you in our mind as we developed it we think that our goal, number one, clearly fits within factor B of the QAP plan. We ask that you reconsider. It's going to be important for our community. Can't say that strongly enough. But again we appreciate what you do and the opportunity we've had here today. And I'll answer any questions that you may have.

MR. OXER: Any questions?

(No response.)

MR. OXER: Thank you, sir.

MR. ALSABROOK: Thank you.
MR. OXER: Barry?

MR. PALMER: My name is Barry Palmer, I'm with Coats Rose law firm. We represent the developer on this project in Royse City. And we would ask the Board to consider the plan that has been adopted by Royse City as what we're looking for in the QAP when we provide points for a community revitalization plan.

This is a suburban community. It's not a big city, you know, Dallas or Houston, but they adopted a community revitalization plan that follows the requirements of the QAP. From input we've gotten from staff, it's been mostly that the QAP requires that the plan discuss five of the eight factors listed in the QAP as meeting -- you know, as somehow being addressed in the plan.

This plan that the city adopted does list five factors. It's just a matter of the staff is interpreting two of those factors to be the same. We don't view those as the same but rather one of them is for employment and one of them is for economic growth and development and addressing obsolescence, land obsolescence, the equivalent of blight in a suburban-type setting, and that these are very different factors.

And that we should give some deference to the local officials of Royse City who have adopted this plan.
who know their community. You know, they're there every
day, and this is the area that they have chose to adopt a
revitalization plan. And not to be critical of staff,
but, you know, the staff probably hasn't spent a lot of
time in Royse City, if in fact they've been there.

But these folks live there every day. They
know what area needs a revitalization plan. So there
should be some deference given to the local officials as
to where they think is appropriate for a revitalization
plan and what should be included in that.

So we would ask you to give the points for this
revitalization plan and to, you know, to count the factors
that the community has included in their plan, and there
are five, you know. And as Yogi Berra used to like to
say, there's three kinds of people in this world, those
who can count and those who can't. Well, I'm a lawyer --

MR. OXER: Those that can do math on their
feet. Right?

MR. PALMER: I'm a lawyer, I'm not much
accounting, but the people at Royse City can and they
counted on five things that need to be covered in their
plan. They've covered those things. They're pretty close
to what's in the QAP. The language is a little bit
different on one of them. But again would ask for some
deference to the community officials in Royse City for
their plan.

MR. OXER: Thanks, Barry.

Any questions from the Board?

MS. BINGHAM ESCAREÑO: Mr. Chair?

MR. OXER: Ms. Bingham.

MS. BINGHAM ESCAREÑO: I think I have just a question for Mr. Alsabrook.

MR. ALSABROOK: Yes, ma'am.

MS. BINGHAM ESCAREÑO: Thank you for coming.

MR. ALSABROOK: Thank you.

MS. BINGHAM ESCAREÑO: So when the city was putting together the revitalization plan did they have some guidance on kind of what those five or eight points would be keyed to make sure were addressed in order for the development that we're talking about to be supported?

MR. ALSABROOK: City staff along with our city attorney are the ones that set down, went over the QAP.

MS. BINGHAM ESCAREÑO: Okay.

MR. OXER: Forgive me for interrupting, Mr. Alsabrook. You have to --

MR. ALSABROOK: I'm sorry.

MR. OXER: When you come back up you have to say again.

MR. ALSABROOK: Carl Alsabrook --

MR. OXER: It's for Penny so she can tell who
the --

MR. ALSABROOK: -- City of Royse City.

MS. BINGHAM ESCAREÑO: Thank you.

MR. ALSABROOK: I apologize.

MR. OXER: We ask -- it's all right. We all do it.

MS. BINGHAM ESCAREÑO: So your comment was that the city sat down and reviewed the --

MR. ALSABROOK: Yes, ma'am.

MS. BINGHAM ESCAREÑO: -- the QAP. Great. And then so of the five areas, the ones that were listed as plan goal one, addressing plan goal one, where the water line extension that I think Kathryn mentioned some question on how that would relate directly to growth, the street rehab program, but also the community development corporation budget.

MR. ALSABROOK: Uh-huh.

MS. BINGHAM ESCAREÑO: So that may be our best shot at growth. Could you tell us a little bit, are you familiar with that or how we could align growth with the development of that community developing corporation budget? What would you hope to accomplish?

MR. ALSABROOK: The area in question is in the center of town. And it's an undeveloped, underdeveloped piece of property. It's bordered by a cemetery on one
side, Interstate 30 on the front, and some older houses
that development hasn't found its way to meet yet. So in
our view that fit the definition of obsolete land uses.

I left the definition of blight off
intentionally. Because I've got to market my city
wherever I go, and I didn't necessarily want --

MR. OXER: That's a fair position.

MS. BINGHAM ESCAREÑO: Right.

MR. ALSABROOK: -- blight used. Maybe I was
wrong and we may be here because of my inartful wording,
and I apologize if that's the case.

In order to pay for some of this stuff the city
doesn't have an inordinate amount of resources so we have
to work together with our economic development corporation
or community development corporation. And that's why they
were listed as well because they're going to help fund
some of the stuff as far as they can.

But the reason Mariposa was chosen or the
location that was chosen and our participation was -- and
obsoleta land uses is they bought 30 acres, they're only
going to need 15. There's going to be more development,
it's going to hasten. We've already had contacts from
national retailers and things of that sort to be there in
the center part of town. So it's going to be a driving
force for us. I don't know if that answered your
question.

MS. BINGHAM ESCAREÑO: It does.

MR. ALSABROOK: Okay.

MR. OXER: Any other comments?

MR. PALMER: Well --

MR. OXER: Barry, you wanted to follow up?

MR. PALMER: Yeah. I just --

MR. OXER: And make it a minute, don't --

MR. PALMER: Yes. Just following up on what Carl said. You know, had the term blight been used in that one factor instead of obsolete land use, we probably wouldn't be here today. We would have gotten the points. But that word wasn't there. But to say it's the same meaning and the QAP talks, when it talks about blight, one of the things it lists as an example is obsolete planned uses. So we equate that as the same and hope that you would too.

MR. OXER: Okay, thanks.

Tom?

MR. GANN: I come from a small town also, and blight was not used intentionally for the same reason. And it's made it hard to get certain programs into town simply because it didn't use the word blight.

I also know that we're on a small clock here, tight clock, but I know how a town of two thousand could
change some things if they really wanted to and if it's still working the program. I don't know if that's a fact. I don't know if we have enough time. But if it's just the word blight, I mean or another phrase that qualifies you, is it possible for your redevelopment plan to change quickly? Maybe that's what I'm asking.

MR. OXER: That's not a question. We had --

the question --

Mr. Alsabrook, you can answer that one.
But come on up, Kathryn, I want you back up too, please.

Because would the staff have interpreted this differently? Now, first --

MR. ALSABROOK: Carl -- I'm sorry.

MR. OXER: You're first. That's all right, you're first.

MR. ALSABROOK: Carl Alsabrook, City of Royse City. My city attorney actually cautioned me about using the word blight. Going back I probably would have consulted him and would have included the word blight. I don't think that blight necessarily -- to me blight, underutilized, it's all the same thing. It's not a dangerous area, it's just an area that needs to be redeveloped. And to me, you know, I hate it that we're playing semantical games or appear to be. Because I'm not
sure I would have followed my attorney's advice and might have used the word blight. I'm not sure.

MR. OXER: Kathryn?

MS. SAAR: Kathryn Saar, 9 Percent Tax Credits.

I'm not sure that the simple use of the word blight would have been cause for awarding of the points. Because when we see blight as a factor that needs to be addressed we take our little Google man and we kind of drop down into the city and we drive around and see if blight is in fact a problem.

And the QAP actually calls for blight to mean not only -- I'm trying to get to the -- here we are. It's not only actual boarded-up structures and homes in disrepair, it also does include obsolete land use. However, if staff were to have seen obsolete land use as one of the plan goals, we would have expected to see things like zoning changes and, you know, master redevelopment plans that would drive business and things to this area and allow for that obsolescence to be corrected.

I don't see that in this plan. And, you know, we have an extraordinary amount of respect for the City of Royse City and all of these cities who put these plans together. It's not that we're calling in to question their effort, it's just simply do the -- does the CRP as
presented meet the definition as required under the rule.

MR. OXER: And in addition to that, irrespective of what we think about their development plan, is there was at the time this was being considered, even including our excellent SCOTUS adventure of last week, we still had a remediation plan to look at for the QAP and for the tax credit program, which required certain elements in the redevelopment plans to be considered.

MS. SAAR: Correct.

MR. ALSABROOK: Okay.

MR. OXER: So while I am enormously sensitive to the benefits that a program, like a project like this can be to a small city, particularly in an inner city, we're still -- we continue to labor under the imposition of some decisions that don't offer us sometimes the latitude that we'd like to have. So passing comment there.

Any other comments from the Board?

(No response.)

MR. OXER: Okay. Any other public comment?

(No response.)

MR. OXER: Okay. With respect to item 6(b) application 15012, for which Mr. Goodwin has been recused and four members of the Board remain as a quorum, those in favor?
(A chorus of ayes.)

MR. OXER: And those opposed?

(No response.)

MR. OXER: There are none.

MS. BINGHAM ESCAREÑO: Mr. Chairman?

MR. OXER: Ms. Bingham.

MS. BINGHAM ESCAREÑO: So maybe --

MR. OXER: And you going to take care of that, Tim?

MR. IRVINE: Yes.

MR. OXER: Okay.

MS. BINGHAM ESCAREÑO: So maybe what we could do though is look -- because what I'm wondering is if in a small city the equivalent to zoning changes and things like that might be things like transportation and sewage and that kind of thing. I understand we're kind of narrowly limited -- and they've gone so they probably don't care. But just for us moving forward, you know what I mean? In other words, it is true when we think about blight in big cities we all know what that looks like --

MS. SAAR: Right.

MS. BINGHAM ESCAREÑO: -- in a big city. And maybe, like Tom said, maybe in smaller cities blight looks different. If you look at the photos that were provided to us, it is a different kind of obsolescence or blight.
Right? It's not really a city area that's become deteriorated. It's a historically kind of underutilized. It looks blightish but in a small-town way.

And so maybe we didn't have the latitude that we might have moving forward to redefine what blight looks like in a more -- smaller rural setting; just my thought.

MR. OXER: That's a good thought, because in each one of these where there's an appeal -- and I think everybody in this room recognizes for the QAP it's a constantly evolving document and a policy guidance.

It's basically the score sheet for how you apply for these funds. And the number of appeals tell us those places where we need to improve the QAP, and this is obviously one of those places.

So we'll have to put that down. I would hope that we'll see this project come back for an application for next year.

MS. BINGHAM ESCAREÑO: Thank you.

MR. OXER: Okay. Go to the next one, Kathryn.

Let's keep going.

MS. SAAR: The next appeal on your agenda is Reserve at Summit West. This was the appeal of a scoring notice denying points under local government support. There are a couple of ways a municipality can get involved with the tax credit allocation process.
MR. OXER: One quick housekeeping note here.

Let the record reflect that Mr. Goodwin has rejoined us. We're now at a quorum of five.

MS. SAAR: Again there are a couple of different ways that a municipality can get involved with the housing tax credit application cycle, one of those being community revitalization plans, which we just discussed. Another is resolutions of support from local government, and then another is a commitment of development funding from a local political subdivision.

So this application included a resolution from the City of Wichita Falls, and the applicant intended for that resolution to count for both support from a local government and for commitment of development funding from LPS, from a local political subdivision.

Oftentimes these resolutions are rolled together, and the department publishes templates for use to make sure that the language that actually gets included in the resolution would qualify for points.

In this case the template either wasn't used or was changed in such a way that it didn't end up resulting in a firm statement of support for an application.

As your write-up says, this resolution was initially scored as one of support, but it was challenged. And when staff did a thorough review of that challenge,
reading the resolution word for word, the statement of expressed support is lacking in the resolution.

MR. OXER: So what we're basically saying is you can't use weasel words to get the points.

MS. SAAR: Yes.

MR. OXER: Thanks.

MS. SAAR: The resolution that is in your Board book that was submitted -- it's on page 207 if you're interested in reading it -- it outlines that the applicant responded to a request for proposal, an RFP, and that the application to that proposal was the most responsive.

The resolution then goes on to award seven -- I believe it's seven housing choice vouchers to the project.

And it makes a statement that the City of Wichita Falls supports the development of affordable housing in one of the first resolved clauses, but doesn't go on to say it expressly supports this particular application. And a strict reading of the rule calls for that expressed support from the municipality.

I would liken this to an applicant in our tax credit cycle. TDHCA has $60 million in tax credits to award annually, give or take, and one wouldn't say that TDHCA supports application A over application B simply because application A was more competitive.

There's -- I think that's the applicant's
intention, is that the support is implied because of the
award of funding, but I don't think that the rule calls
for an implicit or implied support.

This resolution did award the applicant
14 points and for the government support it simply doesn't
meet the requirements of the rule. So the resolution was
denied those points, and that appeal was also denied by
Mr. Irvine.

MR. OXER: Do we have a citation on the QAP on
this, Tim? Do we have a --

MR. IRVINE: I'll check that out.

MR. OXER: I'd just like to have it
specifically on the record --

MS. SAAR: Sure.

MR. OXER: -- about this particular --

MS. SAAR: It is (d)(1), and this would be a
municipality, so big (A).

MR. OXER: Okay.

MR. IRVINE: 11.9(d)(1)(A).

MS. SAAR: 11.9(d)(1)(A).

MR. OXER: 11.9(d)(1) -- could you state that
part?

MS. SAAR: And just for the record, it states,
"Within a municipality the application will receive
17 points for a resolution from a governing body that the
municipality expressly setting forth" -- I'm not reading
this correctly -- "expressly setting forth that the
municipality supports the application or development."

MR. OXER: On our FAQs on this --

MS. SAAR: Yes.

MR. OXER: -- I want to make sure that whatever
we have in it now, there's something that says that
express language includes these words for the next -- this
is a request of staff for that to be answered in the FAQ.

MS. SAAR: Okay.

MR. OXER: Just so we don't have to interpret.

So somebody doesn't have to guess what words satisfy what
we're looking for.

MS. SAAR: Sure. And I think I mentioned the
department staff does publish template resolutions which
have that kind of language that would qualify if used in
the correct context. And it just doesn't appear that that
language was used in this case.

MR. OXER: Okay. Good. Thank you.

All right. Motion to consider on item 6(b)
application 15101. Anybody awake?

MR. GOODWIN: So move.

MR. OXER: Okay. Mr. Goodwin's awake over
there. Anybody else? I know I get to play; I could
second it, but I'm offering you guys the opportunity.
MR. GANN: I'll second it.

MR. OXER: Okay. Mr. Gann says he'll do it.

Any public comment?

MR. AINSA: Good afternoon. I'm Frank Ainsa, I'm representing Overland Properties, the appellant on this case.

Board members, I'm here to say some, what I think are some important things about the interpretation of this document. And in the process of doing that, I'm going to be critiquing a letter that Mr. Irvine wrote. And I want you all to know something from the very beginning, I know and respect Mr. Irvine, and this reflects only a professional disagreement and nothing more than that.

Now, this is a serious matter here, and I believe what I'm going to tell you in just a minute has led to a serious misinterpretation of what this resolution really means. And I think the best place for me to start would be this.

You have my letter to Mr. Irvine in your Board book, and I want to start off by telling you that the interpretation issue in this case derives from a conflict between the template and the QAP, a serious conflict between those two documents which I think is misleading and, at the very least, I think needs to be corrected.
immediately.

Now, I will point out, if you go to Mr. Irvine's letter, Mr. Irvine and the staff took great pains to point out that the department publishes a template which somebody can use when they go to a city or another governmental entity, and if you follow this magic language, the staff won't question it.

In the third paragraph of Mr. Irvine's letter to me denying the appeal, he says that "the template for support resolutions has the following language which, if used, would have qualified for 17 points: the name of the city acting through its government body hereby confirms that it supports the proposed" -- and then in parenthesis -- "development name" -- emphasis supplied -- "located at an address and that formal action has been taken to put this on the record."

That is not the test in the QAP. The QAP, on the other hand -- and if you look at the citation that was just given to you, you will see that the QAP says "you get 17 points for a resolution from the governing body that the municipality expressly setting forth supports the application or development." The key words are "application or development."

The template that is published by the department refers to a document that says only the name of
the development. And I think this is misleading, and I think that it dramatically affected the interpretation of this particular resolution.

Now, I will tell you that the resolution that the City of Wichita Falls adopted and gave to my client is certainly not in the form of a template. That's for sure. But the QAP expressly says you don't have to use the template, the form in the template. You can use another form that complies with the QAP.

And so if a city chooses to use another form, then the question becomes one of interpretation, whether or not they have actually met the criteria of supporting the application or the development.

Now, this particular resolution really has a twofold purpose, and I want to make it clear that I'm not trying in any form or fashion to say it doesn't. The resolution dealt with awarding Overland Properties some basically project-based vouchers.

But it also has all of the words in there that are required by the QAP, including it identifies the Reserves at Summit West as the project, as an affordable housing project, and indicated that the city supports affordable housing projects.

And if you take the resolution as a whole, it can mean nothing else but the City of Wichita Falls is
supporting this particular project. The resolution
doesn't deal with any other developer or any other
project. What's wrong with it is that, according to the
staff, I believe, it doesn't track the template. And the
staff's idea of the template is that it has to name the
development. That's not the requirement in the QAP.

Now, in my view I think this is an example of
form trumping substance, nothing more than that. And as a
result my client has lost 17 points even though it
obtained a resolution which has all the language in there,
if you take it as a total document, to support this
project.

So I am here to tell you respectfully that this
error between the QAP and the template is serious, it's
misleading, and it may very well have thrown the City of
Wichita Falls off. I'm not going to speculate why the
City of Wichita Falls used that form of resolution. But
what I can tell you is that it contains all of the
elements that the QAP requires for it to be a resolution
for support.

Now, I'd be happy to answer any questions, but
I think that's the heart of my argument. And as I've said
earlier, Mr. Irvine disagreed with me when he denied the
appeal, but I think I've given you a substantive reason
why you should grant this appeal and restore the 17 points
to Overland Properties.

MR. OXER: Thank you, Mr. Ainsa.

Are there any questions of the Board?

(No response.)

MR. OXER: Come on back up, Kathryn.

MS. SAAR: I think -- oh, go ahead.

MR. OXER: No, I was going to ask here, it says, "Now, therefore, be it resolved by the City Council of the City Of Wichita Falls, Texas, that the governing body of the City of Wichita Falls supports the development of quality, affordable housing for its residents" and earlier identified this applicant, somebody that's proposed the development; it's awarded -- the City has been awarded seven points, requested proposals from developers, determined that proposal to be the most responsive; so supports the development of affordable quality housing, confirms the award, reserves the right to void the assignment.

So what were the words that you were looking for in here, you or Tim?

MS. SAAR: Well, the template -- I have the --

MR. OXER: Well, the template -- I think it's fair to say that the template gives some guidance but not a mandate.

MS. SAAR: Correct. That is very correct. The
template states, though, that "the governing body hereby
confirms that it supports the proposed" and then insert
the development name. Development name, application
number, application, those are defined terms in our QAP.
And so I think there's the idea that you have to actually
expressly support that --

    MR. OXER: That application --
    MS. SAAR: -- that application --
    MR. OXER: -- as opposed to generic --
    MS. SAAR: Correct.
    MR. OXER: Okay.
    
Tim, did you have something you wanted to add?
    MR. IRVINE: Yeah. I mean, I took the
resolution that was adopted as having, first of all, a
general statement to say it supported development of
affordable housing in general. Okay? I also took it to
say that they were awarding specific vouchers, and that's
kind of all it said.

    And to me what was at issue here was, all
right, these people are applying for tax credits. Do you
support their getting the tax credits? I mean that to me
is the heart and soul of what we were seeking, and I
thought it was obvious from the total context, but I
certainly respect differing nuanced views.
    MR. OXER: Okay.
MS. SAAR: I think there's a piece here that -- so I think I mentioned already that initially, upon first read, staff indicated that this was a support resolution and awarded those points on the log as such.

Upon closer review and upon receiving a challenge of this resolution, staff took a more thorough look at it and that challenge represented that the City -- I believe it was that the Assistant City Manager of Wichita Falls was on record in writing stating that the resolution was intended solely as a financial contribution, and that was a piece that, you know, we didn't have up front.

Looking at the resolution, even without that context, I think as Tim was pointing out, that I don't think the resolution quite gets there. And having that little bit of context that the City intended to go out for an RFP and award these vouchers and it wasn't clear that the support would be associated with that resolution as well as the financial award, I think, you know, that gives a little bit more context to the item.

MR. OXER: Any other questions?

(No response.)

MR. OXER: Any other comment?

MR. AINSA: Yes.

MR. OXER: Frank. Just one minute, please.
MR. AINSA: One minute?
MR. OXER: One minute.
MR. AINSA: I just want to --
MR. OXER: And hold on one minute, because we've got more to go.
MR. AINSA: Yes, I understand. I just want to comment one more time. The QAP --
MR. OXER: And who are you again?
MR. AINSA: Excuse me?
MR. OXER: You have to say who you are again.
MR. AINSA: Frank Ainsa. The QAP does not require anything other than that the resolution indicate that the municipality supports the application or the development. If you look at this resolution in total, it can be referring to nothing other but that.
When it goes through this recitation here that Overland Properties is developing Reserves at Summit West, it's a affordable housing project, they're going to get vouches, and then the City supports the development of quality affordable housing projects. How can that be anything other than a support for the application or the development? Everything is there.
I think this is a hypertechnical interpretation not to allow this to be constitute or this to constitute a municipal support of a project. I think it's as simple as
that. And it should be given effect.

MR. OXER: Okay.

Did you have a thought, Mr. Chisum, or did I hear --

MR. CHISUM: No.

MR. OXER: All right. That's all right.

MR. CHISUM: Thank you.

MR. OXER: Anything else, Kathryn?

MS. SAAR: Not at this time.

MR. OXER: On this one? Well, you'll be up next anyway so come back up.

MS. SAAR: Not unless you have questions.

MR. ECCLES: I have a question.

MR. OXER: Mr. Eccles.

MR. ECCLES: Were there other applications from or that were to be dealt within the City of Wichita Falls in this cycle?

MS. SAAR: Yes. There were four applications in the City of Wichita Falls. My understanding after speaking with the Assistant City Manager was that they went out for an RFP to award these vouchers.

The RFP was in some people's minds perhaps not clear as to whether or not support would be issued with the award of those vouchers. And so the City chose -- because not all four applicants responded to the RFP,
thinking that they didn't need those -- I'm not being clear.

Okay. So the City had four applications and they said we have these seven vouchers, we're going to put out an RFP. Only three of the four applicants responded to the RFP. Because the fourth applicant had LPF funding from another source, so they didn't need the vouchers.

It appears that the RFP was not necessarily clear that the award of the vouchers was also going to come with a support resolution. So when there was talk of the counting of the support resolution, the fourth applicant who didn't apply under the RFP kind of called a foul and said I would have responded to the RFP if you had said this would get me a support resolution.

And so because that was not clear, the City of Wichita Falls chose to write the resolution in such a way that it was limited to financial support.

MR. ECCLES: So none of the applicants here received points for having a resolution expressly setting forth the City of Wichita Falls --

MS. SAAR: Correct.

MR. ECCLES: -- support.

MS. SAAR: Correct.

MR. ECCLES: Okay.

MR. GANN: Mr. Chairman, I'd --
MR. OXER: Mr. Gann?

MR. GANN: -- like to withdraw my second.

MR. OXER: Okay. Then withdrawal of second on the motion to support staff recommendations on item or application 15101 under item 6(b).

Mr. Goodwin --

MS. BINGHAM ESCAREÑO: I'll second it. I'll be the second.

MR. OXER: Okay. Ms. Bingham seconds staff recommendation to deny the appeal. Okay. Is there any other comment?

(No response.)

MR. OXER: Okay. Just make sure here. Just from a -- for a Board admonition to the staff when they're writing the QAP, make sure the notes go into one of those places. We want to make very, very sharp, put some real sharp edges on this. We have to look at this from a policy standpoint.

Jean, did you have something you wanted to say?

MS. LATSHA: Jean Latsha, Director of Multifamily Finance. And although I won't necessarily be around as a staff member for the rewriting of this, I find this extremely clear.

And to answer that question more directly what should this resolution have said, instead of saying the
governing body of the City of Wichita Falls supports the
development of quality affordable housing, it would have
said City of Wichita Falls supports --

MR. OXER: This specific application.

MS. LATSHA: -- this specific application with
an application number and/or an address. It's extremely
clear to me in the rule.

Also we've talked about our deficiency process
and how we handle that. As staff members when we've come
across something like this, it's always our first reaction
to allow some kind of cure. And rarely are resolutions
able to be cured but on occasion we've accepted a
scrivener's error or something like that. It's very clear
the resolution didn't have to be passed again or anything
like that.

So this is the kind of thing where we'll issue
a deficiency and say please show us how this qualifies for
points. But we don't tend to tell folks what to supply us
in response to that. But, for instance, had there been
minutes to the meeting that indicated that supports
specifically related to this scoring item were discussed
at the meeting, that might be something that we would take
into consideration. Or so there would be --

MR. OXER: So you look at it as a resolution in
whole?
MS. LATSHA: That's right.

MR. OXER: Okay.

MS. LATSHA: And so when we did issue this -- we basically through the challenge, through the appeal and everything, this wasn't enough to find this relatively ambiguous statement to get us to the point of awarding points.

MR. OXER: Okay.

MR. AINSA: Mr. Chairman, may I have one more comment?

MR. OXER: One more minute.

MR. AINSA: It's really easy to --

MR. OXER: You are Frank?

MR. AINSA: Frank Ainsa. It's really easy to say if something follows the template, you know, there's not a problem. We wouldn't be here if that was the case.

But the question always come up when a resolution does not mirror the template is it reasonably interpreted or can it be reasonably interpreted to mean a resolution of support. And that's where I get off with the staff.

It doesn't have to have the language that they're talking about. It has to contain from a reasonable standpoint, looking at the four corners of the document, whether it is a support of this project. And that's what you get when you read this resolution.
And to conclude otherwise is just getting hypertechnical. And it's hurting a legitimate developer who had 17 points. And this was the only resolution that was issued to any developer in this project by the City of Wichita Falls.

MR. OXER: Thanks for your comments.

MR. AINSA: Thank you.

MR. OXER: Anything else?

MR. IRVINE: Yeah. I would just say I actually agree with Mr. Ainsa on this one in that the question is simply does this page, resolution number 33-2015, evidence that the City expressly supports this tax credit application for this development. That's the question.

MR. CHISUM: I apologize.

MR. OXER: No apologies.

MR. CHISUM: Mr. Irvine, I didn't understand what you just said.

MR. IRVINE: The one page that evidences the resolution. I think the fact question before the Board is does that resolution expressly support this tax credit application or the development that it is proposing to create.

MR. CHISUM: Thank you.

MR. OXER: So you read beyond that, "therefore,
be it resolved." That would be the resolution that

follows.

MR. IRVINE: Yes. I don't even have a problem
looking at the recitals as well. I look at the document
as a whole and just determine does it expressly support
this deal.

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

(No response.)

MR. OXER: Okay. There's been a motion by Mr.
Goodwin with respect to item 6(b) application 15101,
motion by Ms. Bingham, I'm sorry, motion by Mr. Goodwin,
second by Ms. Bingham to support staff recommendation to
deny the appeal. Those in favor?

(A chorus of ayes.)

MR. OXER: Those opposed, including the Chair.

(A chorus of nays.)

MR. OXER: Three to two. Congratulations,
you've won the appeal.

MR. AINSA: Thank you.

MR. OXER: Kathryn? Sharp edges, real sharp
dges, because this is the last of the slip through the

crack. Okay?

And for the record, for anybody who's here, if
anybody's out there listening or playing at home or
watching laps being taken on the racers on this one, the next time this comes up we won't be quite as generous. They'll be seated. Go ahead.

MS. LATSHA: All right. So the next on your list is number 15135. This is Columbia at Renaissance Square.

MR. OXER: I recognize this whole pit crew over there.

MS. LATSHA: Yes. We've been here before.

So the scoring item in question here is educational excellence. And the way to achieve points here is to have more than one school that meets a certain -- the school itself meets a certain threshold rating, which is a score of 77 on Index 1 of the Performance Index.

So we've also devised a mechanism in the rule by which we define what an elementary school is, what a middle school is, what a high school is. It pretty much conforms to what the Texas Education Agency says that they are. Elementary school is K through 5 or 6, middle is 6 or 7 through 8, and then high school 9 through 12.

So if you have a couple schools, let's say a K through 3 plus one that serves 4 through 6, you combine those to form one elementary school score so that we kind of cover all of our bases in that rule.
So the situation here is we have a development site that is clearly within a clear attendance of a public school, of three public schools, so an elementary, middle and high school. Those three schools all do not meet that threshold, that 77 on the Index 1 score.

The argument that you're going to hear today is that there is another school district that's basically kind of like a magnet school. I think they would call it a charter school actually. But they're claiming the students in this development are going to be guaranteed to go to this Mighty Uplift. I'm sorry, I'm forgetting all the names at this point.

Is that right?

Mighty Uplift. Uplift Mighty Prep, there it is. So then we'll -- and are asking for some concessions in the rule here. Our rule clearly states that if you have charter or magnet schools that we don't consider the scores of those, we would just look at the public school.

So they say, well, we're a little bit different because we're guaranteeing that all of these kids are going to go to this school. And so then we say, well, let's say we were to consider that and come to this Board and say we think that's a reasonable request. Well, the problem then is that the school to which they would be attending, Uplift Mighty Prep, also doesn't have those
high TEA ratings of 77 or greater.

So I say, well, you still have a problem because I still have low-rated schools. The answer to which is, well, the schools right now don't serve all of the grades across the board. They're only serving about five or six grades instead of K through 12. So in that instance they're arguing that we should look at the district rating of Uplift Mighty Prep.

Their reasoning there is that there is a provision in the rule that if you have a choice program, which is a public school and usually it's -- well, it would be a public school district but basically students would be able to list their top three schools that they want to go to within that district.

You know, you find that 95 percent of the time they're getting their first choice or maybe their second choice. And then we'll look at the district rating. Because it makes sense to look at that district rating if the kids are getting a choice to where they want to go. So they're using that logic to apply it to this very particular situation.

Staff just can't -- there's too many dots that aren't quite connecting there, especially because first argument is if we're in the attendance zones of three public schools, a very clear application of the rule, they
don't meet the requirements and don't qualify for the points.

Then again that second argument, even if we were to look at these particular schools, they don't meet the threshold for the scoring and wouldn't qualify for the points. This isn't a choice program like one that is contemplated in the rule. Again no reason to look at the district rating.

I think that there's going to be some argument about how by the time this is built that these schools will be serving K through 12, and so then we should still look at the district rating and not the individual schools rating.

I know we've got a couple new Board members but I think that there's a few of you that have heard me up here saying many times that staff evaluates the conditions as they are on the ground March 1, 2015. And so to be looking forward and projecting what students might be served and what that rating might be is really beyond the scope of the QAP. So staff's recommendation --

MR. OXER: So things are fine if you want to make an application next year at the time those are coming up, but I suspect that's not what you're looking for.

MS. LATSHA: Staff does recommend denial of the points. I will say, you know, I've spent a lot of time
talking with these folks, and I think what they're doing in general is pretty great. But either way, not worth three points on their tax credit application.

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

(No response.)

MR. OXER: All right. Is this application competitive without these three?

MS. LATSHA: I believe that the -- didn't the appeal just happen?

MS. SAAR: No, because --

MS. LATSHA: So now -- needs the points now.

MS. SAAR: No, no, no, no.

MS. LATSHA: No?

MS. SAAR: Because reserve is in four.

MS. LATSHA: I think the answer is it's a bubble then.

MR. OXER: Okay.

MS. LATSHA: They may or may not need them.

MR. OXER: And I've spent as much time as anybody at this site with the applicants. I know where it is, the Board knows where it is. You know, we said last year if there's ever a site that needs to be developed, this is one, but we've still got a rule that we need to attend to.
And I'm going to ask you to hold your
questions, because we don't take public comment till we've
had --

MALE VOICE: Oh, excuse me.

MR. OXER: It's all right. I appreciate your
passion and anxiousness, but we haven't dropped the green
flag on you yet.

Couldn't squeeze this, huh, Jean?

MS. LATSHA: I think I got my appeals mixed up,
and I think these guys don't necessarily need the points.

MR. OXER: Let's --

MR. IRVINE: Well, it doesn't really matter.

MS. LATSHA: But we're going to -- and that
would be as of now. I hate to -- you know, there's still
a month before award announcements.

MR. OXER: We understand all of that, but this
is a --

MS. LATSHA: I didn't know if that was still
the lingering question.

MR. OXER: That was the lingering question or
is the lingering question.

Kathryn, why have you got?

MS. SAAR: Kathryn Saar, 9 Percent Tax Credits.

Even without the three points this application is
competitive.
MR. OXER: Good answer. Okay.

All right. Can I have a motion to consider on this item before we take public comment.

MR. CHISUM: So move.

MR. OXER: Okay. Motion by Mr. Chisum.

MR. GANN: Second.

MR. OXER: Second by Mr. Gann to approve staff recommendation to deny these three points. That's a correct statement of the item. Is that correct?

Okay. Now we'll have public comment. I'm going to ask this, since I know -- having enjoyed the interest and the passion and actually having been to your site, and you may recall last year I went up there and saw your site. And I compliment you entirely for the effort that you're making to revitalize this particular school and the whole area of that campus that was being redeveloped.

And Jean and I both put on the record, on the transcript, if ever there was a site that needed to be developed with low-income housing tax credits, this is it. And I don't think it's unfair to speak for you at that point, Jean.

Jean's saying yes, just for the record, Penny.

So that said, since we are late in the day and we have a issue with a potential quorum, I'm going to ask
out of the -- how many have you got up there that want to
speak on this? Nine, 12, 15 out there, what? With a pit
crew like that, how could you possibly lose. Right?

All right. I'm going to ask of all of you
there, you guys figure it out, two of you speak. Three
minutes.

MR. GRAWLEY: Can I ask one -- I'm Jim Grawley,
and I'm with Columbia Residential. I'm the president and
chief operating officer, and we are the applicant on
Columbia at Renaissance Square. I would like to, if I
could, turn my time over to others so that two of them
could speak, because we have made our case in the
application if you'll accept that.

MR. OXER: You guys pick who gets to play.

MR. SMITH: Thank you all for the opportunity
today. Evan Smith, Purpose Built Communities.

MR. OXER: Let me ask a quick question here,
Evan.

MR. SMITH: Yes.

MR. OXER: It will not go against your time.
Is this map available to everybody out there? Was it made
available?

MR. SMITH: We entered it in correctly, as I
understand it.

MR. OXER: Is this map part of the Board book?
MS. LATSHA: I don't believe so, but I'm happy to show it around.

MR. OXER: No.

MS. LATSHA: No?

MR. OXER: You have to put it down and leave it alone. Turn it to the wall. There you go.

It's a technical item, but I've got to tell you, as competitive as this program is, we have to pay meticulous attention to our rule and maintain the integrity of the rule. Not to mention the fact we've got a couple of guys in long black robes that keep watching what we do, to make sure we play by the rules. So timing and scoring is a real issue in this.

MR. SMITH: We understand. Sorry about that. Evan Smith, Purpose Built Communities. Thanks again for the opportunity.

We are appealing for the three educational excellence points because Uplift Mighty Prep is a high-quality, innovative K-12 public school that will be accessible to every child living at Columbia Renaissance Square.

The first thing the QAP instructs applicants to consider when determining educational excellence is access. Any child living at Columbia Renaissance Square will be able to attend Uplift Mighty Prep. This
commitment has been memorialized by the Uplift Education Board of Directors, which resolved on April 28th of 2015 to -- and I quote -- "define the primary geographic boundary for Uplift Mighty Prep to ensure any child who lives at Columbia Renaissance Square will have an opportunity to attend Uplift Mighty Prep." That primary boundary I described is roughly 225 acres, so a small area.

Second, consider all grades K-12. We share you all's view that all grades K-12 must be included in determining whether or not a child will have access to educational opportunities that are indeed excellent. By the time the children and families are living at Columbia Renaissance Square Uplift Mighty Prep will offer grades K-12.

One school offering all grades K-12 is a unique, innovative approach that provides children and families with a more cohesive and aligned experience that I think helps you really truly live out the vision of looking at something for K-12.

Last, excellence. Is the K-12 educational continuum excellent? In 2013-14, the school year the QAP instructs applicants to use to determine educational excellence, Uplift Mighty Prep offered grades K through 3 and grades 6 through 8.
Because Uplift Mighty Prep is not yet offering the full range of grades they plan to, any TEA ratings for Uplift Mighty Prep prior to the 2017-18 school year will not be reflective of a complete school or inclusive of all grades K-12.

During this time of initial growth the district rating is more reflective of what Uplift Mighty Prep will be like in 2017 and beyond when they offer all grades K-12 and when families are living on site.

In 2014 the district, which in this case is Uplift Education Summit International School District, received and met standard accountability rating and achieved an Index 1 score of 77, meeting the educational excellence threshold.

We share your want to ensure children and families have access to the opportunities they need to thrive. Becky will share more information about Uplift's track record, which gives us great confidence -- and we hope y'all too -- that children attending Uplift Mighty Prep will receive the education they need to compete with anyone. Thanks for your time.

MR. OXER: Thanks, Evan.

Any questions from the Board?

(No response.)

MR. OXER: Good.
MR. IRVINE: Can I ask a question?

MR. OXER: Yes, sir.

MR. IRVINE: The resolution that was adopted about right to attend.

MR. SMITH: Yes.

MR. IRVINE: You said it was adopted in April.

MR. SMITH: April 28th, yes.

MR. IRVINE: Okay. So at the application date did the children have any document that evidenced the right to attend?

MR. SMITH: There was a geographic boundary at that point that included the development site.

MR. OXER: Would that -- and then to follow onto that question, the resolution said that all those children will be allowed to or will be at that school as opposed to are in that school.

MR. SMITH: So -- I'm sorry?

MR. OXER: The question was is the school currently functional?

MR. SMITH: This school is open, yes.

MR. OXER: Okay. So at the point of the application everybody in that geographical region, they are -- is it they are -- that it is happening or that will be happening?

MR. SMITH: So it is currently happening, but
recognizing that more people are going to be living on site, they've made the proactive move to further restrict the primary geographic boundary so that they can truly realize the vision.

MR. OXER: Okay. Good. Thanks.

MR. CHISUM: Question.

MR. OXER: Mr. Chisum.

MR. SMITH: Yes, sir.

MR. CHISUM: What grades are being offered now?

MR. SMITH: So now it is K-4, 6 through 9.

MR. CHISUM: Okay.

MR. SMITH: And next year will be K-10.

They're growing one grade at a time.

MR. CHISUM: One year at a time? Okay.

MR. SMITH: And then so K-11 and K-12.

MR. OXER: So they're following the ninth grade class up, this year's ninth grade class.

MR. SMITH: Exactly.

MR. OXER: For the record, I went to a small remote location in south Florida where I went to school, and K through 12 were all in the same building if that tells you anything. Fortunately it was a two-story building.

Thank you.

MR. SMITH: Thank you all.
MR. OXER: Becky, you're up. Nice to see you again, welcome back.

MS. MADOLE: Good to see you. Thank you so much. Good afternoon, Board. Thank you for your time.

MR. OXER: Three minutes.

MS. MADOLE: My name is Becky Madole, and I manage strategic partnerships for Uplift Education. In true Texas fashion, the team assembled here is extraordinary. We have Columbia Residential, Uplift Education, the YMCA of Metropolitan Fort Worth, Cooke Children's Health Care System, ACH Child & Family Services, and the City of Fort Worth, all of which are represented here today.

And our other partners, Texas Wesleyan University, Shops at Renaissance, North Texas Area Community Health Centers, UNT Health Science Center, United Communities, and Renaissance Heights Development Group. The community quarterback, our

MR. OXER: Would you close that phone book you're reading from?

MS. MADOLE: So here's our team. And I'm going to tell you a little bit about Uplift Education and why you are making not just a good investment but a great investment by putting these points towards us.

We have a national model for this community.
revitalization effort to follow as our road map. But like
the good Texans we are, we've tackled many of the big
rocks maverick style. Regardless of who's with us, we're
getting the important work done for families. There's one
critical piece missing, housing. We ask for your
partnership in making this possible.

Uplift Mighty sits on Renaissance Heights. It's one of 17 Uplift campuses. Our network will serve
nearly 14,000 students throughout north Texas next year. We're the oldest and largest network of free public
charter schools authorized by the TEA. We take state
tests, we have the same fiscal accountability as any
traditional public school. Next year across our network
we have 21,000 wait-list applications for next school
year.

Our schools are free, our schools are public,
and they're built on two premises. One, all children can
succeed in college and career, and, two, all schools can
be excellent. We take these core beliefs seriously and
strategically open schools in communities with few high-
performing options.

Uplift Mighty in Renaissance Heights is three
years old. So our kids walked through the door in sixth
grade, many of whom were two to three years behind if not
as high as four to five in reading levels.

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So at Uplift Mighty our schools are about eighty -- our scholars are 89 percent free/reduced lunch. Across the network that's 85 percent free/reduced.

Last time I was here I told you about the results of class of 2014. We now have graduating 2015 seniors. I'd like to share those results with you today.

Again this year 100 percent of seniors were accepted to college. Nearly half of those were top 100 schools. This year -- I'm sorry -- top 500 schools. This year our seniors received -- our seniors, this year -- 67 million in scholarships and grants. We had one Gates Scholar and six Dell scholarships, and this year all five Uplift high schools were ranked in Washington Post's America's Most Challenging High Schools list.

This kind of success takes dedication and it takes time. We work -- the children, like I said, come to us several years behind, and that was even greater in southeast Fort Worth. If you take the case of Uplift Mighty current eighth graders, the percentage of students achieving level 2 satisfactory on state reading tests over the last three years we've been open has -- well, it's triple that of the State. So they have grown nearly 20 percent points in three years time, as compared to the State who grew their sixth to eighth graders 7 percent.

The growth we see is dramatic. By the time we
open our doors in 2017 we will be a fully built-out K-12 school, and 900 people in that small community that are on our wait list that see this as an area of high opportunity, the people in Columbia Renaissance Heights will have direct access. So if they are on the wait list in Columbia Renaissance Heights, they get access.

We're excited to show that after that three years of time our eighth graders, by the time they graduate, will join our top performing high schools. For this year at all across the network five out of five of the end-of-course exams that are required by the State, Uplift outperformed the State in every single category.

So I'm going to conclude by just telling the story of one of our scholars who goes to the district school that is in the proximity of Uplift Mighty, the fully built-out K-12 school Uplift Summit. I was curious as to why she stayed at school until 7:00 p.m.

She shared with me that she sleeps on the couch at her sister's home. Her sister has roommates, and she needs some quiet focused time to get her work done before she goes home and cooks dinner for all the girls, because that's the way she pays her way. This girl walked across the stage and is going to be a graduate in 2017 -- a college graduate. The great thing is that we have alumna counselors who follow her all the way through, so we know
exactly where she is.

We want students in Uplift Mighty to be able to have that opportunity, and we know by the continued growth we've seen that it's not only possible but that it is going to happen.

We ask that you join us so that these families not only have access in 2017 to a high quality public school but have access to high quality housing. This is transformation from the inside out. This is the Texas way, and this is an innovative approach and we ask that you join us. Thank you.

MR. OXER: Thanks for your comments, Becky.

Any questions from the Board?

(No response.)

MR. OXER: Okay. With respect to -- and that's your two folks.

So item 6(b) application 15135, there's a motion by Mr. Chisum, second by Mr. Gann to approve staff recommendations to deny the appeal. I would add on the Chair's staff that that appeal -- or the application continues to be competitive as far as we know with respect to that.

So with that, those in favor?

(A chorus of ayes.)

MR. OXER: Those opposed?
(No response.)

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

While we denied your appeal, we expect that you're going to be competitive, and we sure want to see some more of these schools and facilities built.

We'll do all we can within the constraints of our rule, see to it we can support the housing that will be required up here but I do have a passing question. You guys have anything going on in Baltimore? Can you help them out?

MS. MADOLE: We're dancing in Baltimore right now.

MR. OXER: Greet, okay. I'm looking forward to hearing some success stories up there too, so.

MR. GRAWLEY: Thank you so much.

MS. MADOLE: Thanks.

MR. OXER: Jean?

MS. LATSHA: All right. Last on the list today --

MR. OXER: Last or next to last? Because you have Sundance Meadows and Cayetano. Was one pulled?

MS. LATSHA: Cayetano was pulled.

MR. OXER: Okay.

MS. LATSHA: Well, withdrawn by the applicant.

MR. OXER: Okay.
MS. LATSHA: So Sundance Meadows, 15242. So we had a lengthy discussion two weeks ago with respect to points associated with being in a colonia. I think that a couple of Board members weren't around for that lengthy discussion. And I think it is relevant. I could wait.

MR. OXER: We retain -- Mr. Chisum has stepped away. We retain quorum, so you can continue.

MS. LATSHA: Great. So what happened was a couple weeks ago we had seven applicants that claimed points for being in a colonia. All seven of those applicants also had claimed seven points on the Opportunity Index and so were basically in census tracts that had high income, low poverty and were also within the boundaries of a municipality and so had pretty ready access to basic utilities.

For those very general reasons, basically that staff and this Board found that those sites did not have the physical and economic characteristics of a colonia, all of those appeals were denied.

This is a similar appeal although not entirely, which is why it wasn't treated exactly the same way as the other ones. Those other appeals were pulled out because they had claimed those points solely for being located in a colonia. These points for being in an underserved area can be obtained by being also in a census tract with no
other existing tax credit developments or in an economically distress area or in a colonia.

This particular applicant claimed two boxes on the application, both for being in a colonia and for being in an economically distressed area. So we treated that a little bit differently so that we could review the application with respect to meeting the requirements of either part of that rule.

I'll say that it was a bit confusing to figure out exactly what the applicant -- what argument they were making, whether it was for an economically distressed area, which is a defined term capital EDA in the QAP, and has very specific rules associated with it; that you're in a census tract that has 75 percent or less of the State median household income and that you can evidence that you -- that the municipality has received funds from the economically distressed area program administered by the Texas Water Development Board within the last I think three to five years.

So very specific requirement for meeting that part of the rule, which is why we thought perhaps we would review this application and see that that very specific requirement was met and award the points as such.

It turns out it is not in a census tract that is under that threshold of 75 percent of the State -- of
the area median income. So that part of the underserved area was thrown out, if you will, with respect to awarding points.

So staff then went to look to see if the site qualified under being in a colonia. And so through this appeals process there has still been quite a bit of back and forth with respect to exactly what argument the applicant is making.

There are two parts to the colonia definition as well, the first of which refers to a different definition of a economically distressed area, which is part of the Texas Water Code, 17.921 of the Texas Water Code.

That definition has three parts to it that deals with relatively low -- I'm sorry. An area that has majority of low-income population, inadequate water and sewer, and that it was a residential subdivision as of June 1, 2005. This definition also kind of refers to things that are determined by the Texas Water Development Board.

So staff is hesitant to accept anything outside of a determination directly from the Texas Water Development Board that someone's in an EDA, little EDA defined by their rules, since their definition references their own board. So again difficult for anyone to meet
the requirements of (a) of the definition of colonia. So then we really went back where we were with everyone, which was this physical and economic characteristics of a colonia.

I will say this, that the first part of the definition of colonia that talks about little EDA with lack of access to basic utilities and a high -- a majority of population of low-income folks, that basically serves as kind of a benchmark so that if you are meeting or even coming very, very close to those, some of those criteria, then it would make sense that the department then could determine that you have the physical and economic characteristics of a colonia.

So we visited this site along with all of the other ones, and our first sense was it looked very much like a lot of the other ones. It is in the city of Brownsville. Across the street, across one of the main streets, very well developed area of town, nice homes, you know, gas stations, commercial development, everything that you'd typically see in a thriving city.

Admittedly on the other side of that street and where this development is located is literally on the edge of the municipality's boundary. So I should have brought a map with me. But we have Paredes Line Road here in Brownsville. All on this side of that road nice
development, single-family, commercial, all kinds of stuff going on.

And when you drive into the site from the main highway you pass all of that first, so your first inclination is this site right here is part of all of this over here. There's a little paved road, there's a picture of it in your Board book, that goes kind of like this. The site's right here, and this is literally right where the municipality boundary is.

It turns out the water and sewer lines stop really at Paredes Line Road as well, so the applicant here is having to have 2,000 feet of offset work to connect to sewer and water lines. The folks -- the few folks that live on that little curved road on the other side of Paredes Line where the development site is only have access to water by a two-inch water line that's serviced by a private water supply corporation instead of the City of Brownsville.

So the argument here essentially is this is not as ready access to utilities as some of the other sites that we were looking at. Yes, they are able to tap into that Brownsville tub but having to work pretty hard to do so.

So it brings us back to what is the geographic area that would define this neighborhood. And if you lump
in the other side of Paredes Line Road, I think it would
be difficult to say that all of that looks like a colonia.
But if you go the other direction, you really are looking
at ETJ, no access to water and sewer.

You know, I was just recently reading an
article about big data and it was with respect to
personality tests and how companies are using them to hire
people and things like that. I love Money Ball, and the
Astros are doing well and all of this stuff, but it was
also talking about how, you know, you don't want to rely a
hundred percent on data. Data is useful, though. Right?

So in this scenario we have an interesting data
set that's being used. So the census tracts that these
guys are in is huge when you look at it on the map.
Actually I didn't even realize it when we were going down
to perform our site visits, but it's in the same census
tract as another site that we looked at that's way up the
road that you would never dream that it was in the same
census tract. But it is.

Now, those two sites are in different block
groups. The block group that this development site is in
has a median income of right around 35,000 or less, right
around there. Anyway, very much right in line with the
Brownsville median income and, coincidentally, less than
75 percent of the State median income. So the argument
here is we're in a block group, a census block group that
is less than 75 percent of the State median income. Staff
was able to confirm that information.

Now, I used block group information when trying
to dial down into the data on these other sites. I don't
want anyone to think that this is something that we're
writing into the rule. There's no reference to block
group, census block group data in the rule. However, this
is one of those cases where we look at a site, we make an
assessment, and then we look for some data to support that
assessment. And block group data was doing just that.

And it's doing that in this case where we seem
to be a little bit on the fence with respect to access to
utilities. It does seem to be, there does seem to be an
argument for a neighborhood that takes in the ETJ instead
of the development across Paredes Line Road.

So all that being said, I sound like I'm on the
fence because I probably am on the fence. Staff's
recommendation is still denial, but I will say that
there's some interesting data points that were, they're
pointed out in this appeal and I think that the applicant
might be able to speak to some of those and maybe have
some questions for you so that the Board can dial down
into that a little bit more and make a determination as to
whether this does have a physical and economic
characteristics of a colonia.

MR. OXER: Any questions from the Board?

(No response.)

MR. OXER: Okay. Protocol says we have a motion to consider.

MR. IRVINE: Before you call your motion I just wanted to add I do have some additional sort of late developing impressions of all of this. After looking at all these different sites claiming colonias points, it really did seem to me that this particular one did have some real proximity to a significant concentration of lower income persons.

It did seem to have some of the physical attributes of a colonia. And I was especially concerned, although I'm not professionally capable of making judgments about it, about their access to utilities. It seems to me that, you know, living off of a two-inch water line for a number of households could present some pretty significant issues. That's all I wanted to add.

MR. OXER: Yeah, there just doesn't seem to be enough horsepower in that.

MR. CHISUM: Mr. Chairman?

MR. OXER: Mr. Chisum.

MR. CHISUM: In reading the report, it stated that the City of Brownsville whether the utilities cease,
is they simply do not have the financial resources to be able to extend those utilities to this area. So a two-inch water pipe and lack of sewer and other issues, those are significant in this --

MR. OXER: Sounds like a colonia to me.

MR. CHISUM: Yeah.


MS. ANDERSON: Sure.

MR. OXER: Go ahead, Jean.

MS. LATSHA: I will point out, just to show how much on the fence we are, this -- I don't know if I said this beforehand but this is in that same -- when we look at census tract data, this is a high income low poverty census tract. When you dial down to the census block it gives you some different information. So this application did get those seven points for High Opportunity Index.

But as we had explained before, those two sets of points, being in a colonia and being in a high opportunity area, aren't necessarily mutually exclusive in the rule. Those were two concepts that we had some difficulty reconciling with some other sites, but that's not to say they couldn't be reconciled here.

MR. OXER: What's the -- just, you know, ballpark, what's the rough distance between these two? You said there's one way out on the other side of the
census tract.

MS. LATSHA: Miles.

MR. OXER: Ten, 12, 50, 200 miles?

MS. LATSHA: Yeah.

FEMALE VOICE: It's more like 20 miles.

MS. LATSHA: Yeah.

MR. OXER: Twenty miles?

MS. LATSHA: Yeah.

MR. OXER: That's okay. Good.

Okay. So the staff recommendation is to deny the appeal. Okay. Just as a matter of protocol, were we to have -- to formulate a motion to support the appeal, to approve staff recommendation to approve the appeal, we could have that motion on the table, listen to public comment, and were we to decide otherwise we could retract that and change the direction that we're going.

So with that, I'll take a motion to consider.

MR. GANN: So move.

MR. OXER: Motion to --

MR. CHISUM: Motion to consider --

MR. OXER: The motion will be to --

MR. CHISUM: -- staff's recommendation?

MR. OXER: Motion to accept staff recommendation of this item. Or if you choose to do otherwise, do you want to oppose, elect to oppose --
MR. CHISUM: If it dies for lack of a second, then we're down the path of saying --

MR. GANN: Then make a motion to not approve staff recommendation.

MR. OXER: Okay, which reflects your position on the fence. Okay. Motion by Mr. Gann to deny staff recommendation to grant the -- which would be effectively to grant the appeal.

MR. GOODWIN: Second.

MR. OXER: Okay. Second by Mr. Goodwin.

Now, Sarah, I'm going to warn you right now --

MS. ANDERSON: I'm going to keep it so brief.

MR. OXER: -- say who you are, say what you want, and sit down. Okay?

MS. ANDERSON: Yes. Sarah Anderson, representing the developer. Thank you very much, staff. We belabored this for weeks with them.

The only points that I would make that might make you feel a little bit better about that motion is that this is distinctly different from the other colonia issues that you had before you a couple weeks ago. That did have the language that talked about the characteristics of an area.

Definition A of colonia does not have that as part of its definition. It has very specific detailed
items that talk about, you know, are you within 150 feet of the border, do you have houses in the area, and then, you know, the Water Development Board definition. And we feel that we have submitted data that specifically meets what the Water Development Board's definition is.

And thank you very much. If you have any more specific questions and if this turns against me, I'll certainly come back up and answer more questions. Thank you.

MR. OXER: Okay. If I got this right, respecting item 6(b) application number 15242 -- I already marked through it. -242. Right? Is that correct?

MR. IRVINE: Yes.

MR. OXER: Okay. The motion by Mr. Gann, second by -- I'm sorry -- motion by Mr. Goodwin, second by Mr. Gann. Is that correct?

MR. GANN: No, made by Mr. Gann.

MR. OXER: Made by Mr. Gann, second by Mr. Goodwin. Okay. We're marking this. Motion by Mr. Gann, second by Mr. Goodwin to deny staff recommendation to deny the appeal, effectively to grant the appeal. Correctly stated? Okay.

MR. GANN: We could restate it if you want to, make it plainer.

MR. OXER: Put it -- I think that's clear.
enough. What we're basically doing is they're getting their project. Okay? So all right. With that in mind, those in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

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

MS. ANDERSON: Thank you.

MR. OXER: You're welcome.

Okay. Tim?

MR. IRVINE: Mr. Chairman, I believe item 6(c) is being deferred until the July 16 meeting.

MR. OXER: When did we know about that or did that just occur?

MR. IRVINE: We just learned that.

MR. OXER: Just decided that. Okay.

Okay, that being the case, we've reached the point in the agenda where we'll accept public comment on matters other than those items for which there are posted agenda items, recognizing that we cannot comment or take a action on any of them but we hear them for the purpose of constructing the agenda for future Board meetings.

Is there any comment from the public who are here?

(No response.)
MR. OXER: Is there any comment from the staff? You get one more shot at it there, Jean.

MS. LATSHA: Thank you.

MR. OXER: You're welcome.

MS. LATSHA: No, no comment. But it's been a great, great pleasure. And I look forward to working with all of you again.

MR. OXER: We look forward to seeing you back.

MS. LATSHA: Yeah, it really is. This leave happy, this is my own rule for my life. Right? This goes for toddlers at the park or two margaritas, don't have the third one, and leave before the tantrum.

(General laughter.)

MS. LATSHA: I'm not saying that this would inevitably be bad either. Right?

MR. OXER: Leave happy with your wits about you also.

MS. LATSHA: But I kind of think of it as it's the three golf balls that you see at the driving range, is what it really is. Right? You know what those are. You know, you hit one like decent shot and you might have another decent shot in you, but, you know, you might not. Then you'd have to buy another bucket or leave unhappy. And so I'm just going to leave my three golf balls here, and I'll come hit them when I'm done racing cars.
(Applause.)

MR. OXER: Okay. Any other comments from staff?

MR. IRVINE: One other comment.

MR. OXER: One comment from the dais and the staff up here.

MR. IRVINE: Lisa, Terry, everybody else that's interested in talking about HOME and TCAP and NOFAs and all that stuff, get in touch with me tomorrow, and we need to roll up our sleeves and dig into that stuff right away.

MR. OXER: Okay. Any member of the Board care to make a final comment?

(No response.)

MR. OXER: Okay. As Chairman I get the last word. It's a good thing that we do. We're at the end of this marathon, this enduro, so we'll drop the checkered flag and declare this one a victory.

Hear a motion to adjourn.

MR. CHISUM: So move.

MR. OXER: Motion by Mr. Chisum to adjourn. Do I hear a second?

MR. GOODWIN: Second.

MR. OXER: Second by half of us.

So all in favor?

(A chorus of ayes.)
MR. OXER: See you in two weeks, folks.

(Whereupon, at 3:30 p.m., the meeting was concluded.)
CERTIFICATE

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

I do hereby certify that the foregoing pages, numbers 1 through 217, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Penny Bynum before the Texas Department of Housing and Community Affairs.

07/07/2015
(Transcriber) (Date)

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