

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

GOVERNING BOARD MEETING

William B. Travis Building
Room 1-111
1701 Congress Avenue
Austin, Texas

January 26, 2017
9:00 a.m.

MEMBERS:

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

TIMOTHY K. IRVINE, Executive Director

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- f) Presentation, Discussion, and Possible Action Ratifying the Award for Federal Fiscal Year ("FFY") 2016 Community Services Block Grant ("CSBG") Discretionary Funds to Urban Inter-Tribal Center of Texas

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- g) Presentation, Discussion, and Possible Action on Authority to Enter Into a Memorandum of Agreement ("MOA") between the Texas Department of Housing and Community Affairs ("TDHCA") and the General Land Office ("GLO") regarding the administration of the Community Development Block Grant Disaster Recovery ("CDBG DR") Program

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- h) Presentation, Discussion and Possible Action regarding Material Amendment to the Housing Tax Credit Land Use Restriction Agreement

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 99043 Arbor Terrace Townhomes Odessa
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- i) Presentation, Discussion and Possible Action regarding Placed in Service Deadline Extensions

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- k) Presentation, Discussion, and Possible Action to authorize the issuance of the 2017 HOME Investment Partnerships Program ("HOME") Single Family Development Program Notice of Funding Availability ("NOFA"), and the notification of the posting of the NOFA to the Department's

website and in the *Texas Register*

- 1) Presentation, Discussion, and Possible Action to authorize the issuance of the 2017 HOME Investment Partnerships Program ("HOME") Single Family Programs Homebuyer Assistance ("HBA") and Tenant-Based Rental Assistance ("TBRA") Open Cycle Notice of Funding Availability ("NOFA"), and the notification of the posting of the NOFA to the Department's website and in the *Texas Register*

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1
2 MR. OXER: Good morning, everyone. I'd like to
3 welcome you to the January 26 meeting of the Texas
4 Department of Housing and Community Affairs Governing
5 Board.

6 We'll begin with roll call. Ms. Bingham?

7 MS. BINGHAM ESCAREÑO: Here.

8 MR. OXER: Mr. Chisum is not here.

9 Mr. Gann?

10 MR. GANN: Here.

11 MR. OXER: Mr. Goodwin?

12 MR. GOODWIN: Here.

13 MR. OXER: Dr. Muñoz?

14 DR. MUÑOZ: Present.

15 MR. OXER: And I'm here, that gives us five,
16 we've got a quorum, so we're in business.

17 Before we make the salute to the flags, Tim,
18 did you have a comment?

19 MR. IRVINE: Yes. I just have a comment that
20 when J. Paul began his gig as our chair, he instituted
21 reciting the Pledge of Allegiance to the national flag and
22 to the state flag, and it was pretty impressive that he
23 either knew already or learned instantaneously, with his
24 eidetic memory, the Texas Pledge. And for those of you
25 who don't seem to be joining in from month to month, it is

1 printed on the agenda

2 MR. OXER: So read along in your hymnals.

3 MR. IRVINE: Short and easy to learn.

4 (General laughter.)

5 (The Pledge of Allegiance and the Texas Pledge
6 were recited.)

7 MR. OXER: that sounds so much better in a
8 chorus.

9 All right. We've got some guests to recognize
10 today. Rudy England from the House Urban Affairs
11 Committee. Oscar, good morning, welcome. I'll be
12 offering you welcome today and apparently somebody else
13 will be offering it next month. Zack Cochran. There's
14 Zack over there with the Lieutenant Governor's Office. I
15 stopped by to see Julie Frank yesterday and she said she'd
16 send somebody to say hi to us today.

17 Okay. We have a resolution to consider,
18 Michael.

19 And everybody, just for the record, everybody
20 will notice that we're in a new location, new building,
21 where we've been in the Reagan Building for, what, 18
22 months since the circus was in town the last time. So
23 they kicked us out so they could let the elephants and the
24 clowns play over there, so we're all sort of getting up to
25 our rhythm here in this new location, so bear with us for

1 a moment.

2 Michael, good morning.

3 MR. LYTTLE: Yes. As legislative affairs
4 director for this agency, if anybody from the legislature
5 is listening, he was just kidding.

6 (General laughter.)

7 MR. LYTTLE: Yes, sir, we do have a resolution
8 this month before the Board.

9 "Whereas, February 2017 is Black History Month,
10 and has a nationally designated theme of the "The Crisis
11 in Black Education;"

12 "Whereas, the Texas Department of Housing and
13 Community Affairs recognizes the significance of Black
14 History Month as an important time to acknowledge and
15 celebrate the contributions of African Americans in Texas'
16 history and that of the nation;

17 "Whereas, the Department recognizes the central
18 role of education in improving lives and fostering success
19 and the role of stable housing in enhancing academic
20 performance and achievement; and

21 "Whereas, the Department recognizes that the
22 ethnic and racial diversity of Texas enriches and
23 strengthens our nation;

24 "Now, therefore, it is hereby

25 "Resolved that the Texas Department of Housing

1 and Community Affairs

2 "(1) recognizes the significance of Black
3 History Month as an important time to acknowledge, better
4 understand and celebrate the history of African Americans,
5 and encourages the continued celebration of this month to
6 provide an opportunity for all peoples of the State of
7 Texas to learn more about this crisis and its effects on
8 the past, present and future of our Lone Star State, and

9 "(2) recognizes that in pursuit of the goal and
10 responsibility of providing equal housing opportunities
11 for all, the Governing Board of the Texas Department of
12 Housing and Community Affairs does hereby celebrate
13 February 2017 as Black History Month in Texas and
14 encourages all Texas individuals and organizations, public
15 and private, to join and work together in this observance
16 for equal education as well as equal housing treatment and
17 opportunity for all.

18 "Signed this 26th day of January 2017"

19 MR. OXER: Great. We'll have a motion to
20 accept the resolution as described.

21 (Several members made the motion at the same
22 time.)

23 DR. MUÑOZ: Great enthusiasm.

24 MR. GOODWIN: So moved.

25 MR. OXER: Who wanted that one?

1 MR. GOODWIN: So moved.

2 MR. OXER: Okay. Motion by Mr. Goodwin to
3 resolve as read by Michael, and a second by Dr. Muñoz.
4 Those in favor?

5 (A chorus of ayes.)

6 MR. OXER: And opposed?

7 (No response.)

8 MR. OXER: There are none. It is unanimous.

9 So since we're here recognizing guests, we have
10 a few folks that are here that were former players on the
11 dais up here. Barbara Deane, raise your hand. There you
12 are. She was the one that kept the cattle prod close to
13 my ribs so if I really screwed up, I could tell quickly.

14 Thanks very much for showing up and being here
15 today, Barbara.

16 Anything else in preparation?

17 MR. ECCLES: Barbara, we have an app for that
18 now.

19 (General laughter.)

20 MR. OXER: All right. With respect to the
21 consent agenda, I understand there's somebody who wishes
22 to speak on item 1(f). And for purpose of housekeeping,
23 since we're in a new location, we'll keep this row right
24 up here in the front for those who wish to speak, and
25 we'll go from this side over there.

1 So let's hear your comment on item 1(f) and
2 then we'll consider the consent agenda.

3 MS. VOICE: Hi. My name is Snowy Voice. I am
4 a member of the Creek Nation of Oklahoma and I and the
5 program for our CSBG grant at the Urban Inter-Tribal
6 Center of Texas in Dallas.

7 We're just here this morning to thank you guys
8 for giving us that grant. It's beneficial to our American
9 Indian community. Our organization is the only urban
10 Indian health organization in the State of Texas. We
11 serve all American Indians, they all have to come to
12 Dallas to use our services. We have a clinic, medical,
13 dental, pharmacy, and we also have an employment and
14 training department which that's where I work and we get
15 our CSBG grant through that.

16 In our clinic we have over 4,000 patients, with
17 over 22,000 patient encounters every year, and we're very
18 small. Our employment and training department, we see
19 over 1,200 people every year, and our poverty rate for
20 American Indians is very high compared to the national
21 average. American Indians, we have about a 29 percent
22 poverty rate, where compared to the national average it's
23 about, I think, 17 percent.

24 So we're just here, again, to say thank you for
25 considering us for that CSBG. Again, it helps so much.

1 We offer job search and training, but again, like I said,
2 I'm just here to thank you guys for that. And I'm here on
3 behalf of Angela Young; she's our newly appointed CEO.
4 And we're working really hard to spend that money, so
5 again, thank you guys.

6 MR. OXER: Well, for the record, we didn't give
7 you the money to hold onto, and we're glad to see you're
8 trying to spend it, so we appreciate the compliment, and
9 that's a compliment to the staff and to the work that
10 they're doing on behalf of the program.

11 MS. VOICE: And this is my case manager,
12 Samantha, for our CSBG grant.

13 MR. OXER: Hi, Samantha.

14 MS. VOICE: She's working really hard. I'm
15 trying to get her trained and get that money.

16 MR. OXER: Well, you know the way the Marine
17 Corps teaches you how to swim, they just drop you in
18 deepwater and point to you and that's your direction, so
19 that's the quick way to get her to learn.

20 MS. VOICE: That's kind of how it's happened
21 with Samantha.

22 MR. OXER: It's the confirmation pledge. Is
23 that not correct?

24 DR. MUÑOZ: Highly effective approach.

25 MR. OXER: It sort of weeds out the swimmers

1 and the survivors too.

2 (General laughter.)

3 MR. OXER: Thanks very much for your comments.

4 With that comment on 1(f), which I gather we
5 will not have to pull 1(f) to consider, do I hear a motion
6 to consider the consent agenda?

7 DR. MUÑOZ: So moved.

8 MR. OXER: Motion by Dr. Muñoz to approve the
9 consent agenda.

10 MR. GANN: Second.

11 MR. OXER: And a second by Mr. Gann. Is there
12 any other further comment?

13 (No response.)

14 MR. OXER: There appears to be none.

15 Motion by Dr. Muñoz, second by Mr. Gann to
16 approve the consent agenda. Those in favor?

17 (A chorus of ayes.)

18 MR. OXER: Those opposed?

19 (No response.)

20 MR. OXER: There are none. The vote is
21 unanimous.

22 Okay. Let's get down to number 3. Patricia,
23 it looks like you're in the box first.

24 MS. MURPHY: Good morning. Patricia Murphy,
25 chief of Compliance.

1 This is a report item for the Board that we
2 just discussed with the Audit Committee but wanted to
3 bring it to the full Board as well about an email that was
4 purported to be sent by a TDHCA employee to members of the
5 community action network, alleging that some non-
6 compliance issues were covered up by myself and Tim Irvine
7 and Michael De Young, and so we just wanted to explain
8 what happened and answer any questions from the Board or
9 the public on the matter.

10 The Hidalgo County Community Action Agency, the
11 county that runs the program for the Comprehensive Energy
12 Assistance Program which helps low income Texans pay their
13 utility and they were very much struggling to get the
14 funds flowing and help people with those bills. So staff
15 from the Department went down and worked side by side with
16 that staff and helped them get the money moving, which has
17 been commended as a best practice by the U.S. Health and
18 Human Services to really partner with our agencies and
19 help them get things done.

20 We did monitor and we reviewed client files and
21 everybody was eligible for the program, there was nobody
22 found to be served that was not eligible to receive these
23 federal funds. There were some immaterial deficiencies
24 noted in the files but did not impact eligibility, and a
25 group of us discussed that and those issues were omitted

1 from the report, and this matter has been reviewed
2 internally and by several other groups. And so it's just
3 a report to the Board about what happened and if anybody
4 has any questions for me or any of the staff members, I'd
5 be happy to answer any questions, or if anybody would like
6 to make a comment on the matter.

7 MR. OXER: Mr. Gann.

8 MR. GANN: I'd like to ask Chief Murphy a
9 question or two.

10 It's my understanding that they had a lot of
11 new personnel and you went down there to help them because
12 they were not as knowledgeable because they're first-
13 timers, basically.

14 MS. MURPHY: There was an existing staff
15 working the program and the county judge was not aware
16 there was hundreds of thousands of dollars that were being
17 returned every year to Texas and eventually back to U.S.
18 Health and Human Services that was not reaching the
19 intended recipients of these funds. And Brooke Boston
20 reached out to the county judge saying are you aware of
21 this, and there was a wholesale change in staff. So our
22 own staff went down and did training and technical
23 assistance with the new folks to get them up to speed.

24 MR. OXER: Took them another tractor to plow
25 the ground. Right?

1 MS. MURPHY: There you go, J. Paul. Yes.

2 MR. OXER: Check the box, Tom.

3 (General laughter.)

4 MR. OXER: Ms. Bingham, do you have any other
5 questions or anything to share?

6 MS. BINGHAM ESCAREÑO: I don't. The Audit
7 Committee this morning expressed gratitude for management
8 bringing it to our attention, but I think the consensus
9 was that we were satisfied that it had been duly responded
10 to.

11 MR. OXER: Good. Okay. Thanks, Patricia.

12 MR. GANN: Mr. Chairman.

13 MR. OXER: Yes, sir.

14 MR. GANN: I'd like to hear from Hidalgo.

15 MR. OXER: Do we have a representative of
16 Hidalgo County here who wishes to speak?

17 MR. GANN: Let's hear what he has to say.

18 MR. LONGORIA: Good morning, Chairman Oxer and
19 Board members. My name is Jaime Longoria. I'm the
20 executive director of the Hidalgo County Community Service
21 Agency.

22 Harkening back to March of 2015, the county
23 judge asked me -- I was on his staff -- asked me to head
24 up this agency on an interim basis because we had lost the
25 three top leaders in that agency. The county judge and

1 the commissioners court was made aware from Brooke Boston
2 that we were returning money unspent, so the county judge
3 asked the director at the time to come in and give a
4 presentation. Three folks decided to resign en masse, so
5 I was kind of the odd man out and I was asked to go over
6 and run the agency.

7 MR. OXER: Odd man out or the last one left?

8 MR. LONGORIA: That's right. I tell you, the
9 smartest thing I ever did, Chairman, was to put a phone
10 call into Michael De Young and to Brooke and I got to meet
11 Michael De Young and they came in and provided assistance.

12 We have a very capable staff that really weren't in a
13 position to run the agency on a day-to-day basis. Michael
14 and Cathy and Laura Saintey from your staff came in and
15 did a tremendous job in working with us and providing
16 training. We had a backlog of 3,800 applications in the
17 back room that hadn't been touched, and that was
18 potentially \$1,000 or \$1,200 worth of assistance to each
19 of those 3,800 applications in the back room -- this is
20 March 15. And I remember looking at Michael and saying,
21 well, if I do the math right, 3,800 applications times
22 \$1,000, we're done for the entire year.

23 So we had to work through all of that, we did.

24 We've taken the staff of originally 48 staff members
25 become more efficient, and through natural attrition,

1 we're down to 29 and we're serving more clients, we're
2 serving them the day they walk in the door, we're
3 providing services the same day. We're a completely
4 different agency in terms of processes. We do customer
5 surveys with our clients as they're walking out the door.

6 I believe we're a very responsive agency to the folks
7 that need the help in Hidalgo County. We're very grateful
8 to you all, to the staff and to the folks that work with
9 us at the agency.

10 MR. GANN: Mr. Chairman, that's what I wanted
11 to hear.

12 MR. OXER: I believe I understand your point,
13 Mr. Gann.

14 Thank you very much, Mr. Longoria.

15 MR. LONGORIA: Thank you so much.

16 MR. OXER: Thanks, Brooke, and thanks to the
17 team that you had on this making that work. So it sounds
18 like if you ever need an example, we can use Hidalgo
19 County now as an example of how this is supposed to work
20 for us.

21 Any other comment on that item?

22 (No response.)

23 MR. OXER: Okay. Let's go to number 4. Mark.

24 MR IRVINE: Wait. We've got 3(b).

25 MR. OXER: I'm sorry. 3(b). Marni, you're up.

1 MS. HOLLOWAY: Good morning, Chairman Oxer,
2 members of the Board. My name is Marni Holloway. I'm the
3 director of the Multifamily Finance Division.

4 Item 3(b) is a report on the status of the 2018
5 Qualified Allocation Plan and Multifamily rules project.
6 You'll recall that in 2016 we had the meeting the
7 afternoon before most Board meetings to discuss potential
8 changes to the 2017 QAP. Out of those conversations, we
9 were able to identify a number of priorities for changes
10 to the QAP, including decoupling education and
11 opportunity, using regional measures wherever possible,
12 and a new menu structure for the opportunity index.

13 On December 14 of 2016, we held the first
14 monthly meeting for the 2018 QAP project plan. The plan
15 has been updated to include these initial topics that
16 we'll be taking up during the monthly meetings this year.

17 The first one is dispersion and underserved area, the
18 next one is timing issues related to the 9 percent cycle,
19 opportunity index, undesirable neighborhood
20 characteristics -- that's the one everyone wants to talk
21 about -- tenant services and compliance requirements, and
22 then real estate analysis and market demand. There was a
23 good discussion at the meeting and several participants
24 described refinements of the broader topics that we'll
25 incorporate as we're moving forward.

1 We've posted a forum on the TDHCA website
2 requesting the stakeholders tell us what they believe are
3 the three most important policy objectives for the Housing
4 Tax Credit Program. We will continue to use the forums
5 this year as a tool to gather input and allow those who
6 aren't able to attend the meetings a chance to participate
7 in the discussions.

8 Questions?

9 MR. OXER: Any questions from the Board?

10 (No response.)

11 MR. OXER: The public outreach and the
12 opportunity for the sector that participates in this
13 program was one of those things that I had actually wanted
14 when I first got here. I'm glad to see that this seems to
15 be generating a lot of attention. I managed to attend a
16 couple of those meetings, tried to sit in the back and be
17 obscure, but that didn't work all the time. I'm glad to
18 see that we have a process now for engaging those folks
19 that are out there that have some ideas because far be it
20 said for me certainly, and I think anybody else on this
21 Board, that all the ideas on how to do this come from us,
22 this comes from out there.

23 Are there any other comments from any members
24 on the Board?

25 (No response.)

1 MR. OXER: What do we need to do, Marni? Is
2 this just a report item?

3 MS. HOLLOWAY: It's just a report.

4 MR. OXER: So we're perking along in the
5 direction we want to go?

6 MS. HOLLOWAY: We are, and we have Patrick now
7 to kind of keep us on track, so I think that this year
8 will make even more good progress on the QAP and on the
9 list.

10 MR. OXER: Great. Thanks very much.

11 MS. HOLLOWAY: All right. Item 3(c) is report
12 on the submission of the National Housing Trust Fund
13 allocation plan to the U.S. Department of Housing and
14 Urban Development.

15 At the September 8 Board meeting, you approved
16 the final allocation plan for submission to HUD. That was
17 the final step before we're to receive the 2016 allocation
18 of National Housing Trust Fund. We submitted the plan to
19 HUD on September 14 of 2016.

20 On October 22, the Department was notified that
21 HUD was disapproving our allocation plan. The Texas plan
22 was one of 46 that were disapproved at that point. We
23 later learned that all of the National Housing Trust Fund
24 allocation plans have been disapproved by HUD at least
25 once. One state's plan has been disapproved six times.

1 MR. OXER: Who is that, by the way?

2 MS. HOLLOWAY: It was Illinois, I think.

3 MR. OXER: I'll keep my political comments to
4 myself.

5 MS. HOLLOWAY: I'm sure you can imagine there
6 was a very spirited conversation regarding the trust fund
7 and CSHA this year.

8 The disapproval has requested that the
9 Department include sections of Chapter 2306 and the
10 Multifamily rules that would be applicable to the Trust
11 Fund rather than referencing those requirements by
12 citation. This level of detail and specificity has not
13 typically been required by HUD in the past. The
14 Department submitted corrected documentation on December 9
15 to HUD and had a conference call with them on December 22.

16 During the call, HUD indicated that all of the corrective
17 documentation would have to be incorporated into the 2016
18 one-year action plan and the consolidated plan.

19 HUD has requested that the Department be more
20 explicit in its maximum per-unit development subsidy
21 limits, even though we plan to apply the HUD promulgated
22 maximum. So we're using their number and they want us to
23 explain why it's okay to use their number. They also want
24 us to be far more specific in our rehabilitation standard
25 requirements. We have a number of concerns with these

1 latest requests as they potentially have us creating a
2 different set of requirements for Trust Fund than we have
3 for our other programs.

4 As you know, in the past year we've worked
5 really had to correct the direct loan rule that
6 streamlines and aligns administration of all of these fund
7 sources. HUD's request would have us create a program
8 outside of that rule structure. We've expressed our
9 concerns to HUD and will continue to work with them on a
10 solution.

11 Our response on this latest disapproval is due
12 back within 60 days of their letter. We don't anticipate
13 making any changes to the program in responding to this
14 disapproval. If we do wind up make changes, of course,
15 we'll come back to the Board for your approval of those
16 changes.

17 Also, in Trust Fund on December 21 we received
18 a notice that there was an error in HUD's calculation of
19 the 2016 allocations. Texas will receive an additional
20 \$11,113 so that our total Trust Fund grant is now
21 \$4,789,477. So once we receive the grant agreement, which
22 hopefully will be in the next few months, we will propose
23 either an amendment to the current direct loan NOFA to add
24 those funds, or we'll bring a separate NOFA, just depends
25 on the timing and what makes sense at that point.

1 MR. OXER: Any questions from the Board?

2 (No response.)

3 MR. OXER: So it sounds like Texas, through
4 TDHCA, is struggling with HUD to figure out what HUD
5 wants, but we're not the only ones struggling.

6 MS. HOLLOWAY: We are not. And as I said,
7 every National Housing Trust Fund allocation plan was
8 disapproved at some point.

9 MR IRVINE: If I might just inject in my usual
10 glib fashion. It was my sense that largely we had a plan
11 that laid out exactly what we were going to do and it
12 incorporated references to rules and other requirements
13 that would govern the operation of the program, and HUD
14 has asked that rather than making those references, please
15 go back and restate the rule and then explain line by line
16 exactly how it fulfills the requirements that HUD imposes
17 which they have already monitored when they monitor our
18 activities.

19 MS. HOLLOWAY: And including rule in the con
20 plan and action plan creates a number of concerns because
21 the cycles don't necessarily line up, and then it also
22 would mean that every time we change our rule, we would
23 have to go back and amend the action plan and the con plan
24 which is not going to work, so we need to find another
25 solution with HUD. I've had some preliminary

1 conversations with them and we're going to continue that
2 process.

3 MR. OXER: What has been the tenor of those
4 conversations? Contentious, she says.

5 MS. HOLLOWAY: I pointed out to HUD in a
6 session during NCSA these issues, particularly with the
7 subsidy limit and the rehab standards and aid, I'm going
8 to have trouble aligning Trust Fund with our other fund
9 sources, and these other fund sources are what will create
10 viable Trust Fund units. You'll remember that these are
11 all 30 percent AMI units. I said, This is going to be a
12 problem trying to make all of this match up. And the
13 people who were presenting started to respond, but then a
14 much more senior HUD person in the back of the room said,
15 Oh, well, maybe we need to talk about that.

16 MR IRVINE: And I think on the relationship
17 with HUD it's important to distinguish that there are
18 multiple HUDs. Our day-to-day HUD is our CPD office in
19 Fort Worth, and I think we've got a very, very fine
20 relationship with them. They are exceptionally
21 knowledgeable, they've been there since the inception of
22 these programs, they totally get it, they're wonderful to
23 work with. But I think that when some of the folks in
24 Washington get a little more removed from the day-to-day
25 administration of the program and focus on more

1 theoretical policy approaches, the relationship gets a
2 little more difficult.

3 MS. HOLLOWAY: This is the entirety the D.C.
4 office.

5 MR. OXER: So HUD Fort Worth gets caught in the
6 crossfire between what Washington wants and what we can
7 do.

8 MS. HOLLOWAY: But they've been very supportive
9 as we've been working through this.

10 MR. OXER: Good. Keep working and stand your
11 ground.

12 MS. HOLLOWAY: Thank you.

13 MR. OXER: Any other questions, any comments?

14 (No response.)

15 MR. OXER: Okay. Now we go to number 4. Mark,
16 good morning.

17 MR. SCOTT: Good morning. Mark Scott. I'm the
18 director of Internal Audit. I have two action items and
19 two report items for this morning.

20 We met this morning in the Audit Committee and
21 the first item I talked about was the Internal Audit
22 Charter update. The Internal Audit Charter is a formal
23 document that defines the Internal Audit activities,
24 purpose, authority and responsibility. The chief audit
25 executive must periodically review the Internal Audit

1 Charter and present it to senior management and the Board
2 for approval. The TDHCA charter was last updated in
3 January of 2015. We have updated it again based on the
4 peer review checklist. We've added a reference to the
5 IIA's code of ethics, in addition to expanding the quality
6 assurance section. And this item has to be approved by
7 the Board.

8 MS. BINGHAM ESCAREÑO: Mr. Chair.

9 MR. OXER: Ms. Bingham.

10 MS. BINGHAM ESCAREÑO: Mark reviewed it with
11 the Audit Committee this morning, which I'd like to add
12 Mr. Goodwin joined our Audit Committee, so we're
13 appreciative of his participation this morning, and we
14 didn't have any questions. The changes to the charter
15 looked appropriate.

16 MR. OXER: So they've approved it but we have
17 to formally take this up as a Board to approve that
18 change.

19 MR. SCOTT: Yes, sir.

20 MR. OXER: All right. In that case, you're
21 offering that now?

22 MS. BINGHAM ESCAREÑO: I'll motion to approve.

23 MR. OXER: Motion by Ms. Bingham to approve the
24 auditor's recommendation for modifications of the Audit
25 Plan. Is that correct?

1 MR. SCOTT: The Audit Charter.

2 MR. OXER: Audit Charter. Make sure we're
3 right here.

4 MR. GOODWIN: Second.

5 MR. OXER: Second by Mr. Goodwin.

6 Is there any other questions? Anybody that
7 wishes to speak?

8 I would remind you that we've reserved this row
9 for those that want to speak. I mean, you're welcome to
10 stay but we'll keep asking you if you want to speak.

11 (General laughter.)

12 MR. OXER: Any public comment?

13 (No response.)

14 MR. OXER: Okay. Motion by Ms. Bingham, second
15 by Mr. Goodwin to approve staff recommendation on item
16 4(a). Those in favor?

17 (A chorus of ayes.)

18 MR. OXER: And opposed?

19 (No response.)

20 MR. OXER: There are none. It's unanimous.
21 Okay, Mark.

22 MR. SCOTT: The next item is the annual audit
23 of the agency's financial statements. This is a very
24 complex audit and State Auditor's staff is here to present
25 it and they'll ask for acceptance of the audit.

1 MR. OXER: Good morning.

2 MS. ECKFORD: Good morning, Mr. Chairman and
3 Board. I'm Hillary Eckford with the State Auditor's
4 Office. I'm the audit manager for this particular
5 engagement for the financial statement audits of
6 Department of Housing and Community Affairs.

7 I have Philip Stringer here who was the project
8 manager for this audit, and I'll let him present the
9 reports, and we're happy to answer any questions you have.

10 MR. OXER: Great. Thank you.

11 MR. STRINGER: Good morning, Mr. Chairman and
12 Board. I'm Philip Stringer. I'm the project manager with
13 the State Auditor's Office.

14 Before it get started, I wanted to say thank
15 you to David Cervantes and his staff. I wanted to make
16 sure to do that. Audits can go really poorly or really
17 well, and these audits always go really well.

18 MR. OXER: That's always a good sign, as far as
19 I can tell.

20 MR. STRINGER: We really appreciate all their
21 help.

22 As far as this audit, we issued several
23 reports. On December 20, 2016, we expressed unmodified
24 opinions on the Department's basic financial statements,
25 the Revenue Bond Program Enterprise Fund financial

1 statements, and the computation of unencumbered fund
2 balances of the Housing Finance Division. We also issued
3 a report on compliance with the Public Funds Investment
4 Act. And previously during the audit, we issued a report
5 on September 6, 2016 that concluded that the financial
6 data schedule prepared by the Department was fairly stated
7 in material relation to the 2015 basic financial
8 statements, and on September 28, 2016, we issued a report
9 that concluded that the Department's electronically
10 submitted financial data schedule to the U.S. Department
11 of HUD agreed with related hard copy documents.

12 Additionally, on January 6, we emailed you a
13 document titled "Required Communication with Those Charged
14 with Governance" that includes several items that we're
15 required to communicate as part of our audit. I can go
16 over that or if you have any other questions on that or
17 any other parts of the audit, I'll be happy to answer
18 those.

19 MR. OXER: Great. Thanks, Philip.

20 Any questions from the Board? Any comments
21 from the Board or from the Audit chair?

22 MS. BINGHAM ESCAREÑO: No. We were
23 appreciative of the SAO and the good audit report.

24 David brought to our attention -- do you want
25 to bring to the Board's attention just the one change?

1 MR. CERVANTES: Sure.

2 MS. BINGHAM ESCAREÑO: We had one nonmaterial
3 disclosure item that they're going to probably submit an
4 amendment for, but they just wanted to make sure that we
5 were aware of that.

6 MR. CERVANTES: Good morning, Mr. Chair,
7 members of the Board. David Cervantes, chief financial
8 officer for the Department.

9 I mentioned at the Audit Committee, and I guess
10 let me take a step back first, because I too would want to
11 echo a thank you to the State Auditor's Office for their
12 efforts in the engagement. We really appreciate all their
13 efforts and working very closely with us as we moved
14 through the engagement for these audits.

15 Having said that, there was one item that I
16 mentioned to the Audit Committee this morning, and it is
17 that there may be one point of clarification that we may
18 want to make in the future, possibly in February, maybe
19 present a report item. When we issued the financial
20 statements and subsequent to the opinions, there was a
21 subsequent event that we think maybe would be beneficial
22 and prudent for us to publish, and it has to do with
23 disclosure.

24 There's a note 5 and some supplementary
25 information that we included related to our bonds, and in

1 this particular case we issued some bonds, and as you
2 know, Mr. Chair, we've been trying to eliminate variable
3 rate debt and what-have-you, and in doing so part of this
4 transaction was a refunding. And so one of the
5 requirements that we're required to state and disclose in
6 our financial statements and in our notes has to do with
7 the calculation associated with this transaction here.

8 So to make a long story short, as we were
9 reviewing subsequent information, we realized that in the
10 codification of some of the standards there was one
11 additional step that we needed to potentially include to
12 clarify the outcome of the transaction, and that was to
13 bring in the derivative instrument to the calculation and
14 use the interest rate applicable for the derivative. So
15 we've been having preliminary discussions with our
16 auditors to make sure we're on this particular
17 circumstance, and we have not made a final decision on
18 exactly how to disclose and how to move forward, but we
19 believe it probably will be in the form of a report item
20 that we would bring to you.

21 I know the Audit Committee meets every two or
22 three months so I don't know if we'll have an opportunity,
23 but I wanted to disclose that to the Audit Committee this
24 morning and to you as the full Board because we may be
25 coming back to you this coming month, if appropriate, to

1 bring that item. And republish what would be a standalone
2 document, present it to the Board, hopefully approve, and
3 then it would kind of accompany the financial statements
4 that we publish out there on our site in the event that
5 any third parties looking at our financials and the
6 information, we certainly want to be clear that they
7 understand what the outcomes are associated with this
8 transaction.

9 MR. OXER: Okay. So for the record, the Audit
10 Committee meets every quarter, more or less, generally
11 quarterly, but we have the option to do so at your request
12 any time that's necessary. So this item, I gather, you're
13 speaking of is an effort since we were between the
14 publishing and the opinions when they made it, there was a
15 modification there, and you're bringing this item out of
16 an abundance of caution and transparency.

17 MR. CERVANTES: Right.

18 MR. OXER: Does this constitute a material
19 difference in any of the financial statements?

20 MR. CERVANTES: I believe it's fair to say that
21 it does not. We have like \$1.4 billion worth of bonds
22 outstanding at this time, and so this particular
23 transaction we believe is immaterial to that in that
24 respect. And like I said, we're having preliminary
25 conversations with the auditors, obviously to make sure

1 we're all clear on what would be an unaudited subsequent
2 event. So the answer is no.

3 MR. OXER: Well, having just celebrated my 40th
4 anniversary with a woman whose lifetime pursuit has been
5 audit and financing, I understand the pursuit of
6 meticulous attention to detail, so I appreciate that
7 you're bringing this up. Trust me, if you're not worried
8 about it, we're not worried about it.

9 Anything else we need to do on this particular
10 item? This is an information item.

11 MR. SCOTT: I don't think so. That was just a
12 clarification.

13 MR. OXER: Okay. Good.

14 MR IRVINE: And I just want to emphasize that
15 the note that we would issue would not within the scope of
16 the audit, it would be just the Department's note.

17 MR. OXER: Just to say this happened between
18 the audit and the opinions.

19 MR. CERVANTES: Right.

20 MR IRVINE: And putting it all in plain
21 English. When you disclose the value of the financial
22 transaction, we typically look to the face rate, and in
23 variable rate debt in this particular situation it was
24 negative, but when you add the offsetting value of the
25 hedge, it was marginally positive. Obviously, a perfect

1 hedge is going to be no impact, it's going to be zero, but
2 in this particular situation it is what it is, and when
3 you add the synthetic rate produced by the instrument plus
4 the hedge, you get a slight pickup.

5 MR. OXER: Slight positive.

6 MR. CERVANTES: Right. And we just want to
7 make sure anybody relying on this information they can go
8 out there and they'll see both pieces and they'll have the
9 information. The flip side of that would have been us
10 being prepared with documentation for anybody having any
11 questions. Had it been just on the published information,
12 we would have that documentation internally to provide.

13 MR. OXER: What you're essentially doing is
14 taking that available documentation and making it
15 available to anybody that wants to read it.

16 MR. CERVANTES: And we want to make it
17 official.

18 MR. OXER: As far as I'm concerned, that's just
19 one more reason to get rid of the variable rate debt.

20 MR. CERVANTES: I agree.

21 MR. OXER: Thank you very much, David.

22 Mark, do you have anything else to add on this,
23 or should we have Philip finish it up here?

24 MR. SCOTT: No, sir. Since we engaged them to
25 do this audit, we go through the process of accepting the

1 audit, so now the Board needs to vote to accept the audit.

2 MR. OXER: Okay. Ms. Bingham, as chair of the
3 Audit Committee, I'd like to have you offer that.

4 MS. BINGHAM ESCAREÑO: Yes, sir. I move to
5 accept.

6 MR. OXER: Motion by Ms. Bingham, chair of the
7 Audit Committee, to accept the audit as prepared by the
8 State Auditor's Office.

9 MR. GANN: Second.

10 MR. OXER: Second by Mr. Gann.

11 Is there any other public comment?

12 (No response.)

13 MR. OXER: No public comment.

14 Motion to Ms. Bingham, second by Mr. Gann to
15 approve staff recommendation to accept this audit. Those
16 in favor?

17 (A chorus of ayes.)

18 MR. OXER: And those opposed?

19 (No response.)

20 MR. OXER: There are none. It is unanimous.

21 Thanks, Mark. And thank you to the Auditor's
22 Office, Hillary and Philip, we appreciate your work on our
23 behalf.

24 MR. SCOTT: The next item on the agenda is the
25 internal audit of the Compliance Monitoring Division, and

1 we looked at the Tax Credit properties, the section of the
2 Compliance Division that monitors the Tax Credit
3 properties. They monitor for attributes such as rents
4 charged, income eligibility, continued use of property in
5 compliance with terms, and fair housing issues, and we
6 found that the division accomplishes the monitoring
7 effectively. We had recommendations related to timeliness
8 of reporting and reporting of time worked, and that was
9 the conclusion for that audit. So if there's any
10 questions on that audit.

11 MR. OXER: Any questions? So is that simply a
12 report item?

13 MR. SCOTT: Yes, sir. That's one of the items
14 that was on the 2017 Audit Plan that we've now checked
15 off.

16 MR. OXER: All right. If there are no
17 questions, we'll assume that's approve and move on.

18 MR. SCOTT: The next item on the agenda is the
19 report on the meeting of the Audit Committee. We met this
20 morning at eight o'clock, we had a very productive
21 meeting, and I'm going over some of the stuff we talked
22 about.

23 MS. BINGHAM ESCAREÑO: Mr. Chair, I think
24 actually the agenda report items are hitting most of the
25 most critical things that we discussed. We had an end of

1 the committee discussion about the fraud, waste and abuse
2 hotline, and I think you've seen historically we don't get
3 a whole lot of relevant complaints through there, so
4 management and Mark were nice enough to bring it to the
5 committee's attention and brainstorm just a little bit if
6 there are other opportunities to accomplish the same
7 thing, you know, have transparency, have a vehicle for
8 communication. Mark said he's good with it until he has
9 to write that check every few months for overage fees for
10 handling complaints that aren't even relevant, and so I
11 appreciate his fiscal responsibility that he wants to make
12 sure that the agency is using their resources wisely. So
13 it's to be continued; they're going to think about it.

14 MR. OXER: So your discussion is in process
15 about how to approach this.

16 MS. BINGHAM ESCAREÑO: Yes, sir.

17 MR. OXER: And this is my own observation, I
18 defer to the Audit Committee entirely and to your
19 expertise on this, Mark, but in the arena of public
20 transparency for issues of concern that they have, we want
21 to err on the side of transparency. Maybe it costs us
22 some more money than we expect, that's okay.

23 MR. SCOTT: We discussed the net claims
24 contract which is what we're talking about where we have
25 this huge intake of fraud claims or waste claims or

1 whatever type of complaints they have, and I just wanted
2 to lay it out, this is what it costs the agency, this is
3 what we get out of it, and if we want to keep it, then
4 that's fine.

5 MR. OXER: So the real question is that's what
6 it costs the agency and that's what we get out of it. Is
7 there any other way to get that same value or more for the
8 same amount of money or less?

9 MR. SCOTT: Yes. And we discussed ways of
10 doing that, as she said.

11 MR. OXER: So you're still in process. Is that
12 right?

13 MS. BINGHAM ESCAREÑO: Yes, sir.

14 MR. OXER: All right. Good.

15 MR. SCOTT: And then the final item was the
16 self assessment of the Internal Audit program I preparing
17 for the peer review. So we went through the checklist
18 that is used in every peer review and identified a few
19 things where we can improve, mainly had to do with the IT
20 audit, so we're moving forward with that, and we discussed
21 the procurement of the peer review.

22 MS. BINGHAM ESCAREÑO: No problems there.

23 MR. OXER: No formal action on this, it's a
24 report item.

25 MR. SCOTT: Yes, sir. That is a report item

1 and it does not require formal action.

2 MR. OXER: Good. You're simply advising us
3 that that's underway.

4 MR. SCOTT: Yes.

5 MR. OXER: Good.

6 MR. SCOTT: And that concludes my presentation.
7 I'll answer any questions there may be.

8 MR. OXER: Any other questions?

9 I'd like to say, first off, many thanks to Mr.
10 Goodwin for taking the assignment to give us three on the
11 Audit Committee. Appreciate that, J.B. With Mr. Chisum's
12 departure from the Board, we were short one there and we
13 needed somebody to step in and J.B. has agreed to do that
14 for us and I much appreciate it. Irrespective of my short
15 term tenure, I still appreciate you taking it on.

16 Any other questions for Mark?

17 (No response.)

18 MR. OXER: Thank you, sir.

19 MR. SCOTT: All right. Thank you very much.

20 MR. OXER: Okay. Marni, you're back in the
21 box.

22 MS. HOLLOWAY: Good morning. Marni Holloway.
23 Right now I'm wearing my chair of the Enforcement
24 Committee that.

25 MR. OXER: Lucky you.

1 MS. HOLLOWAY: Lucky me.

2 Item 5 is presentation, discussion and possible
3 action on a recommendation to debar Ebenezer Anene for a
4 period of ten years. Mr. Anene is the president and
5 director of Ebenz, a Texas nonprofit corporation that had
6 a reservation system participant agreement in 2012 to
7 participate in the HOME program homeowner rehabilitation
8 program.

9 You have received reports in the past regarding
10 violations that were revealed during monitoring of that
11 agreement, including failure to meet procurement
12 requirements and adequately document costs. On February 9
13 of 2016, TDHCA demanded that Ebenz repay disallowed costs
14 totaling \$73,720.78, which Mr. Anene has repeatedly
15 refused to pay.

16 Texas Government Code 2306.0504(c)(1) addresses
17 debarment and indicates that the Department shall debar a
18 person from participation in a Department program if they
19 materially or repeatedly violate any condition imposed by
20 the Department in connection with the administration of a
21 program. 10 TAC Chapter 2.401(f) lists those material and
22 repeated violations that may be grounds for debarment.
23 Specifically, Ebenz has violated 10 TAC 2.401(f)(3) by
24 failing to repay the disallowed costs.

25 This matter was referred to the Enforcement

1 Committee for an information conference to discuss the
2 disallowed costs with Mr. Anene. After considering the
3 information presented, the Enforcement Committee
4 recommended debarment for a term of ten years, based on
5 the statutory factors detailed in your Board materials.

6 I will be happy to answer any questions about
7 the enforcement action. Jennifer Molinari is here if you
8 have questions about the original HOME contract.

9 MR. OXER: All right. So we've apparently had
10 an issue with this particular individual for some time.
11 Over what period of time did you say?

12 MS. HOLLOWAY: This was a 2012 agreement.

13 MR. OXER: So we've been wrestling this for
14 going on five years then. Right?

15 MS. HOLLOWAY: I believe that the monitoring
16 that started to trigger concerns was in 2014-2015.

17 MR. OXER: So a couple of years. So the
18 discussion about the repayment of the funds has been at
19 least going on for some time.

20 MS. HOLLOWAY: Demand was made for the \$73,000
21 on February 9 of 2016. That was after quite a bit of back
22 and forth between Mr. Anene and our Compliance Division
23 regarding documentation of costs.

24 MR. OXER: I recall, I think, that we had
25 another debarment action sometime ago, and it was

1 estimated at ten years.

2 MS. HOLLOWAY: We recommended at ten years,
3 yes.

4 MR. OXER: It was recommended at ten years; it
5 would up going significantly larger.

6 MS. HOLLOWAY: To twenty years.

7 MR. OXER: Mr. Chisum said we have to think
8 about letting these things trail on. So in this case,
9 this individual has been given an opportunity to make his
10 case and he hasn't made it.

11 MS. HOLLOWAY: He has addressed the Board in
12 the past, I believe. He attended the informal conference
13 and presented his case to the group.

14 MR. OXER: And he's simply doesn't accept the
15 decision. That's what it sounds like.

16 MS. HOLLOWAY: Yes.

17 MR. OXER: Dr. Muñoz.

18 DR. MUÑOZ: Here it says that upon receiving
19 notice of disbarment, did not submit a written appeal, and
20 still that's the case as of today?

21 MS. HOLLOWAY: So far as I know, yes. As of
22 the posting of the Board book, we had not received
23 anything. I haven't heard from Ysella that she has
24 received anything.

25 DR. MUÑOZ: He's made no overtures to the

1 Department?

2 MS. HOLLOWAY: No.

3 MR. OXER: And that's after a couple of years
4 of this discussion going on.

5 MS. HOLLOWAY: Leaving the Enforcement
6 Committee meeting, he knew that our recommendation was
7 going to be debarment.

8 DR. MUÑOZ: All the more reason to appeal as
9 strenuously as possible before this moment, seems to me.

10 MS. HOLLOWAY: And he absolutely has had that
11 opportunity.

12 MR. OXER: Is there any questions? Nobody has
13 requested public comment. Motion to consider?

14 MS. BINGHAM ESCAREÑO: So moved.

15 MR. OXER: Motion by Ms. Bingham to approve
16 staff recommendation on item 5. Do I hear a second?

17 MR. GOODWIN: Second.

18 MR. OXER: There's a second by Mr. Goodwin.

19 There's no request for public comment. Does
20 any of the Board have any questions?

21 (No response.)

22 MR. OXER: All right. Motion by Ms. Bingham,
23 second by Mr. Goodwin to approve staff recommendation on
24 debarment in item 5. Those in favor?

25 (A chorus of ayes.)

1 MR. OXER: And opposed?

2 (No response.)

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

4 Lucky you, Marni. Number 6 has been pulled so
5 you don't have to go sit down, you get to stay right
6 there.

7 (General talking and laughter.)

8 MS. HOLLOWAY: Item 7(a) is presentation,
9 discussion and possible action regarding an exception
10 under 10 TAC 10.101(a)(2) for 2017 Housing Tax Credit
11 application number 17010. This is for Baxter Lofts.

12 Under 10.101(a)(2)(E), undesirable site
13 features, development sites within 500 feet of active
14 railroad tracks may be considered ineligible unless
15 certain conditions exist that will allow the Board to make
16 a determination that the site is eligible under the
17 Department's rules. One of the conditions that allow the
18 Board to grant an exemption from the undesirable site
19 features limitations is if the proposed development
20 qualifies as a historic development under 10 TAC
21 11.9(e)(6), and the exemption is requested at the time of
22 or prior to filing of the application.

23 The applicant for Baxter Lofts has timely
24 requested exemption on the basis that the development will
25 meet the requirements and has provided evidence of its

1 eligibility to receive historic tax credits. Staff is
2 recommending that the requested exemption under 10 TAC
3 10.101(a)(2) regarding undesirable site features for
4 Baxter Lofts be approved.

5 MR. OXER: So they did everything they need to
6 do on time.

7 MS. HOLLOWAY: Yes, they did.

8 MR. OXER: And it fits our rules.

9 MS. HOLLOWAY: Yes.

10 MS. BINGHAM ESCAREÑO: So moved.

11 MR. OXER: Motion by Ms. Bingham to approve
12 staff recommendation on item 7(a). Do I hear a second?

13 MR. GOODWIN: Second.

14 MR. OXER: Second by Mr. Goodwin.

15 Do you want to speak on this item?

16 MS. BURCHERT: Good morning. I am Sally
17 Burchert, construction development on behalf of the
18 applicant Baxter Lofts Housing Partners.

19 In preparing for today I found a newspaper
20 article from July 1926 from the *Harlingen Star* that had
21 three articles in it. The headline is "Harlingen will
22 have seven-story office building" and the second story
23 describes the route of the new railroad. The two linked
24 development and transportation hand in hand back then too.

25 The Baxter Building was built between '26 and

1 '28. This is a uniquely tall and narrow long building
2 that was a business center of economic activity in
3 downtown for many years. The location of Baxter Lofts
4 will be a great place to live. It will have large Texas
5 views. It's at the corner of A and Jackson Street which
6 is the term I've heard locals describe downtown as Jackson
7 Street. It's in walking distance of parks, libraries,
8 entertainment, job opportunities, all the things that the
9 QAP asked for high opportunity this year.

10 And finally, the QAP allows for a waiver for
11 historic projects with the buffer requirements of a
12 railroad, and we respectfully request that you follow
13 staff's recommendation and approve the waiver.

14 MR. OXER: So you're arguing in favor of what
15 we just moved to do. Is that correct?

16 MS. BURCHERT: I'm supporting your motion, yes.

17 MR. OXER: Good. Glad we got that right.

18 Any other questions from the Board?

19 (No response.)

20 MR. OXER: Motion by Ms. Bingham, second by
21 Mr. Goodwin to approve staff recommendation on item 7(a).

22 Those in favor?

23 (A chorus of ayes.)

24 MR. OXER: And opposed?

25 (No response.)

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

2 Okay, Marni.

3 MS. HOLLOWAY: Item 7(b), presentation,
4 discussion and possible action regarding an exemption
5 under 10 TAC 10.101(a)(2) for 2017 Housing Tax Credit
6 application number 17255. This is Trinity Oaks
7 Apartments.

8 This is exactly the same as the last item. The
9 development site is within 500 feet of active railroad
10 tracks and it may be considered eligible as determined by
11 the Board. This one is for a little bit different reason.

12 One is the conditions under which the Board may
13 grant an exemption is for rehabilitation developments with
14 ongoing and existing federal assistance if such exemption
15 is requested at the time of or prior to the filing of the
16 application. The applicant for Trinity Oaks Apartments
17 has timely requested the exemption from the 500 foot
18 distance separation requirement and provided evidence that
19 the existing property is supported by financing and rental
20 assistance both from HUD and USDA.

21 Staff is recommending that the requested
22 exemption under 10 TAC 10.101(a)(2) regarding undesirable
23 site features for Trinity Oaks Apartments be approved.

24 MR. OXER: Hold on just for a second. Any
25 questions from the Board?

1 MS. BINGHAM ESCAREÑO: It was just short of the
2 500, right, it was like 460-something

3 MS. HOLLOWAY: I don't recall the exact number.

4 MS. BINGHAM ESCAREÑO: And it's a rehab.

5 MS. HOLLOWAY: Yes, this is a rehab with
6 existing federal financing.

7 DR. MUÑOZ: Four sixty-six.

8 MS. BINGHAM ESCAREÑO: Oh, then forget it.

9 (General laughter.)

10 MS. BINGHAM ESCAREÑO: I move to approve.

11 MR. OXER: Motion by Ms. Bingham to approve
12 staff recommendation on item 7(b). Do I hear a second?

13 MR. GANN: Second.

14 MR. OXER: Second by Mr. Gann. No request for
15 public comment. Motion by Ms. Bingham, second by Mr. Gann
16 to approve staff recommendation on 7(b). Those in favor?

17 (A chorus of ayes.)

18 MR. OXER: Those opposed?

19 (No response.)

20 MR. OXER: There are none.

21 Okay, Marni.

22 MS. HOLLOWAY: Item 7(c) is presentation,
23 discussion and possible action regarding a request for
24 rural designation under 10 TAC 10.2045.

25 So each application must identify whether the

1 proposed site is located in an urban area or rural area of
2 the Uniform State Service Region. Certain areas located
3 in the boundaries of a primary metropolitan statistical
4 area or a metropolitan statistical area may request a
5 rural area designation if they meet certain requirements,
6 including submission of a letter from a duly authorized
7 official of the political subdivision in which the
8 development is located requesting the designation. The
9 request for rural designation for Country Terrace Village
10 Apartments did not include the required letter, and
11 therefore, did not meet the requirements of the rule.

12 On this basis, staff is recommending that the
13 requested designation for Country Terrace Village
14 Apartments be denied.

15 MR. OXER: Any questions? Motion to consider?

16 DR. MUÑOZ: So moved.

17 MR. OXER: Motion by Dr. Muñoz to approve staff
18 recommendation on item 7(c).

19 MR. GOODWIN: Second.

20 MR. OXER: Second by Mr. Goodwin.

21 Do you want to speak on this one?

22 MS. MCGUIRE: Good morning. I'm Ginger
23 McGuire, speaking on behalf of the Rural Rental Housing
24 Association on general comments about the definition and
25 designation of this rule, but I would also like to

1 disqualify that today I am the HUB on Country Terrace
2 Apartments, and that's the property in question. We are
3 not going to challenge staff's recommendation in this
4 instance, but I would like to make some general comments,
5 both on definition and designation as rural.

6 This is a USDA property, it's an existing
7 property. They were built initially as rural properties
8 all in rural areas initially. They are maintained as a
9 rural properties, they were built under cost containment
10 guidelines originally.

11 MR. OXER: Means cheap.

12 MS. McGUIRE: Which means it saved the
13 government money initially but in the back years it cost
14 the owners a lot more to maintain the properties.

15 They are regulated by the USDA as rural. The
16 USDA approves or disapproves rent increases annually, and
17 they're incremental at best. And we would like to pursue
18 further conversations with staff regarding a permanent
19 designation of USDA properties that are existing with
20 existing USDA financing as rural designation.

21 In this instance, it was confusing, A, from the
22 designation standpoint. The letter from a taxing
23 authority, we went to Harris County, and a letter for the
24 commissioners court would not be acceptable in this
25 instance. It was confusing to the school district in the

1 short period of time after the QAP came out, and because
2 of all those reasons, we're not going to challenge. We
3 understand the rules that you're working under but we
4 would like to have further discussion on those rules.

5 MR. OXER: Thanks Ginger. I think it's fair to
6 say that we're always willing to have further discussion
7 to get those clarified. This maybe is just one more quirk
8 we've got in these things, Marni, just something to iron a
9 wrinkle out of. But we appreciate your comments, and
10 since you're not opposing or not challenging the
11 recommendation, we'll take care of this, but we'll make
12 sure that you get that conversation.

13 MS. McGUIRE: Thank you.

14 MR. OXER: You're welcome.

15 Any other questions? So that was a motion by
16 Dr. Muñoz and a second by Mr. Goodwin to approve staff
17 recommendation on item 7(c). Those in favor?

18 (A chorus of ayes.)

19 MR. OXER: Those opposed?

20 (No response.)

21 MR. OXER: There are none.

22 Cranking it today. Go for it.

23 MS. HOLLOWAY: Item 7(d) is presentation,
24 discussion and possible action regarding a request for
25 waiver of rules for Bishop Courts. This is Housing Tax

1 Credit application number 16049.

2 Bishop Courts received a 9 percent Housing Tax
3 Credit award in the 2016 round for the construction of 60
4 new units in the City of Bishop. They have requested
5 approval of a design change which may require a waiver of
6 10 TAC 10.101(b)(8)(B) for otherwise exempt units by
7 proposing to treat all three bedroom, 2-1/2 bath units as
8 the same unit type and not differentiate their exempt or
9 non-exempt status in order to count them together to meet
10 the 20 percent requirement for a bedroom at the entry
11 level.

12 Staff previously did not recognize that the 20
13 percent otherwise exempt unit requirement in this rule
14 could not be met through provision of other units in this
15 development, and we believe that the applicant has acted
16 in good faith in their interpretation of the rule.

17 The proposed change substitutes twelve one-
18 story units for twelve two-story townhouse or otherwise
19 exempt units of comparable size with the same bedroom and
20 bathroom count. Going to the one-story units eliminates
21 the elevators that were included in the original plan that
22 were to meet accessibility requirements.

23 Staff is recommending approval of the requested
24 change and the accompanying waiver.

25 MR. OXER: Is this just procedural, more or

1 less?

2 MS. HOLLOWAY: This rule has been a little
3 problematic.

4 MR. OXER: Because I recall we had an item last
5 meeting.

6 MS. HOLLOWAY: Right. So for the 2017 round
7 we've made some changes in the application and in the
8 certifications to try to catch these issues before we even
9 get this far down the road. We're also considering some
10 changes to the 2018 rule that we're hoping will create
11 more meaningful visitability features in developments
12 moving forward. So those were a couple of things we're
13 working on to address these issues.

14 MR. OXER: So you're essentially asking for the
15 approval of this waiver in the new rule the rule would
16 accommodate and we wouldn't have to ask for a waiver.

17 MS. HOLLOWAY: If we wind up with that rule
18 change.

19 MR. OXER: Assuming that change goes through.
20 All right.

21 MR. GOODWIN: So moved.

22 MR. OXER: Okay. Motion by Mr. Goodwin to
23 approve staff recommendation on item 7(d).

24 MS. BINGHAM ESCAREÑO: I'll second.

25 MR. OXER: And a second by Ms. Bingham. No

1 request for public comment.

2 Motion by Mr. Goodwin and second by Ms. Bingham
3 to approve staff recommendation on item 7(d). Those in
4 favor?

5 (A chorus of ayes.)

6 MR. OXER: And opposed?

7 (No response.)

8 MR. OXER: There are none. It's unanimous.
9 7(e).

10 MS. HOLLOWAY: 7(e) follows on with the item
11 that we just discussed. This is presentation, discussion
12 and possible action regarding a material amendment to the
13 Housing Tax Credit application of Bishop Court.

14 As part of the change, they've requested
15 approval to reduce the net rentable square footage by more
16 than three percent due to a redesign of twelve of the
17 units from two-story town homes to one-story flats. So
18 previously there previously had been larger town homes
19 that they're now taking down to the one-story flats.
20 Board approval is required for a decrease of three percent
21 or more in the square footage of the units, and the owner
22 has complied with the amendment requirements under the
23 Multifamily laws.

24 Staff finds that the reduction in net rentable
25 square footage does not negatively affect the development,

1 impact the viability of the transaction or affect the
2 amount of tax credits awarded, and recommends approval of
3 the requested material amendment.

4 MR. OXER: Okay. So what was the net
5 differential in percentage?

6 DR. MUÑOZ: How much more than three percent?

7 MS. HOLLOWAY: Four percent, four point
8 something, it was just over the 3 percent.

9 MR. OXER: So Brent, you're good with the REA
10 on this? Okay.

11 Any questions from the Board?

12 (No response.)

13 MR. OXER: Motion to consider?

14 MS. BINGHAM ESCAREÑO: I move to approve.

15 DR. MUÑOZ: Second.

16 MR. OXER: Okay. Motion by Ms. Bingham, second
17 by Dr. Muñoz to approve staff recommendation on item 7(e).

18 No request for public comment. Those in favor?

19 (A chorus of ayes.)

20 MR. OXER: And opposed?

21 (No response.)

22 MR. OXER: There are none.

23 Does this seem particularly easy to you today?

24 (General talking and laughter.)

25 MS. HOLLOWAY: 7(f) is presentation, discussion

1 and possible action on a waiver relating to 10 TAC
2 10.101(b)(5) concerning common amenities associated with
3 Multifamily applications submitted in the 2017 program
4 year.

5 The 2017 Multifamily rules were adopted on
6 November 10 and subsequently published in the *Register* and
7 were effective on December 29. There is a reference error
8 relating to common amenities required as part of the
9 threshold requirements for all developments. The error
10 involves an incorrect reference in the opening paragraph
11 of 10 TAC 10.101(b)(5) that requires that all developments
12 include a porte-cochere which was something that we had
13 added to the list for 2017 as an option, so by missing
14 that reference, it looks like everyone has to put one in.

15 The Department has historically required that a
16 portion of the common amenities come from the green
17 building features listed in this section. This
18 requirement has been in place for a number of years and
19 was not contemplated to be changed in the 2017 rulemaking
20 process. With the addition of the new porte-cochere
21 amenity at the bottom of the list, the reference to the
22 green building features in the opening paragraph was not
23 updated, so we added another one to the list and it bumped
24 the green building down.

25 To address the error, staff recommends a waiver

1 be granted to all 2017 Multifamily development
2 applications so that a porte-cochere would not be required
3 as found under 10 TAC 10.101(b)(5).

4 MR. GOODWIN: So moved.

5 MR. OXER: Well, apparently there are no
6 questions from the Board, so there's been a motion by Mr.
7 Goodwin to approve staff recommendation on item 7(f). Do I
8 hear a second?

9 MS. BINGHAM ESCAREÑO: I'll second.

10 MR. OXER: And there's a second by Ms. Bingham.
11 There's no request for public comment.

12 We're just straightening out a quirk on this, a
13 kink?

14 MS. HOLLOWAY: Yes.

15 MR. OXER: Well, it's like we handle our audit
16 in the finance group, meticulous attention to detail where
17 we'll buff off these mistakes so we can have a nice smooth
18 process, so I appreciate the effort that you're going to
19 on that, Marni.

20 There's a motion by Mr. Goodwin, second by Ms.
21 Bingham to approve staff recommendation on item 7(f).
22 Those in favor?

23 (A chorus of ayes.)

24 MR. OXER: And those opposed?

25 (No response.)

1 MR. OXER: There are none. It's unanimous.
2 Everybody has got an agenda in front of them,
3 and we recognize that we've had this thing up running at
4 flank speed, making good turns today and on our vector and
5 so we're pretty well down the road. What we're going to
6 do right now, since we have an odd location and we don't
7 have a break room for the gang up here to stop to, we're
8 going to take a little bit longer break than we need, and
9 that will give Tim and the crew time to hand out the
10 paintball guns and set up the fireworks because I
11 understand there's something coming after this. But we'll
12 be right back. Let's be back in our chairs, it's ten
13 after 10:00 right, let's be back at quarter to 11:00.

14 (Whereupon, at 10:10 a.m., a brief recess was
15 taken.)

16 MR. OXER: Okay. We'll come to order again,
17 and we have reached the point in the agenda where we'll
18 take public comment to create the agenda for future
19 meetings, and I believe Tim has got something to do beyond
20 that, a little effort that we're going to participate on.

21 But I would remind everybody one more time that I'll have
22 a few comments as we close our public meeting today.

23 So anyone wish to make public comment? Walter,
24 come on up. I expected to hear the list from you today.

25 MR. MOREAU: I'm Walter Moreau, the director of

1 Foundation Communities.

2 I have to admit I threatened a time or two that
3 all the Oxerisms would surface at the appropriate time.

4 I have never seen the chair or leader of a
5 legislative or executive or public body do so much good
6 with honesty, with fairness, with objectivity, humility,
7 and humor. I'm going to really miss your service and I
8 think the development community and staff will as well.

9 I really have only one Oxerism that stuck with
10 me perhaps personally because more than one occasion with
11 a single word you told me to breathe.

12 MR. OXER: I remember that. It was in a major
13 auditorium in there, you were waiting for a decision from
14 the Board and it came down on your side. I think you had
15 your representative with you at the time.

16 MR. MOREAU: That was awesome advice.

17 (General laughter.)

18 MR. OXER: It works short term and long term.

19 MR. MOREAU: That's number one on my ten hit
20 list, I'm sorry I don't have the other nine but maybe
21 others do.

22 Thank you.

23 MR. OXER: My pleasure.

24 If there's anybody else, we'll be happy to
25 recognize you, you'll get a shot at this, but if there's

1 nobody else who wants to make a public statement to add to
2 the agenda, then I think, Tim, you have the next to the
3 last word.

4 MR IRVINE: We're getting close. Actually, I
5 could recite a compendium of Oxerisms and this would be a
6 very long meeting.

7 MR. OXER: Don't tell me it's going to be a
8 greatest hits list here. Right?

9 MR IRVINE: Okay. Our staff has compiled a
10 resolution.

11 MR. ECCLES: Resolution of the Governing Board,
12 Texas Department of Housing and Community Affairs.

13 "Whereas, J. Paul Oxer, appointed by Rick
14 Perry, began his illustrious service on the Department's
15 Governing Board by being sworn in by the Chief Justice of
16 the Texas Supreme Court, Wallace B. Jefferson, on May 5,
17 2011;

18 "Whereas, J. Paul experienced immediately trial
19 by fire, enduring 128 requests for forward commitments --"

20 MR. OXER: I have to interrupt, I'll interject
21 on that. I might add that Mr. Gann was going to prepare a
22 T-shirt that said he survived both of the first meetings
23 that I had.

24 MR. ECCLES: You have to let me continue. And
25 after I say forward commitments, you have to go SSSSSSSSS.

1 MR. OXER: The word that will not be said.

2 MR. ECCLES: It's the direction and word that
3 shall not be said.

4 " -- 128 requests for forward commitments heard
5 over the next two meetings, an episode that to this day
6 Tom Gann refers to by using the phrase I survived J. Paul's
7 first two meetings;

8 "Whereas, J. Paul was appointed by Governor
9 Perry to serve in the role of presiding officer, a/k/a
10 chair, a position which Kathy Walt, former chief of staff
11 for Governor Perry, advised him I would require him to
12 work really hard for which he would receive no
13 compensation and where virtually everything he did would
14 piss someone off.

15 "Whereas, consistent with this advice from
16 Kathy, J. Paul would frequently advise folks that if they
17 had a problem with the job he was doing, they should call
18 512-463-2000 and ask for the Governor;

19 "Whereas, consistent with his engineering
20 background and attention to detail, he would confirm
21 meeting start times by checking the Naval Observatory
22 atomic clock from his phone;"

23 MR. OXER: That was true.

24 MR. ECCLES: "Whereas, J. Paul lent his skill
25 and expertise in the arena of corporate reorganizations

1 and corporate cultures to oversee a major restructuring of
2 the Department's staff, positioning it to be responsive to
3 programmatic compliance and other demands for promoting
4 greater flexibility and nimbleness, equipping it to
5 respond to the inevitability of change;

6 "Whereas, J. Paul also presided over a major
7 revision to rules governing programs, beginning with the
8 wholesale rewriting of the Qualified Allocation Plan;

9 "Whereas, these rule revisions extended to
10 rules governing public testimony and Board materials,
11 assuring that the Board and public were operating in a
12 consistent and transparent manner and that everyone had a
13 full and fair opportunity to make their position known,
14 and that the Board was functioning as a questioning and
15 deliberative body, drawing upon the unique depth and
16 differing experiences and perspectives of each member;

17 "Whereas, J. Paul honored and frequently
18 acknowledged Tom Gann's adage that a rule without a hard
19 edge is just a guideline, even in exceptionally
20 challenging circumstances that brought to tears to his
21 eyes, either virtually or metaphorically;

22 "Whereas, during his time as chair of the
23 Department had accomplished many notable things, including
24 the construction and rehabilitation of nearly 48,000 units
25 of affordable housing, the commitment of over \$1.1 billion

1 to support community affairs and homelessness prevention
2 programs which assisted approximately 4,190,000
3 households, the reduction of variable rate debt-related
4 need for liquidity support from over \$350 million to about
5 \$116 million, and the financing of nearly 10,000 new Texas
6 homeowners, and perhaps most notably, working with fellow
7 Board members, including not only the current Board but
8 Messrs. Kieg, McWatters and Thomas, navigating the
9 defensive litigation that took him and the former chief of
10 staff, Cameron Dorsey, the Department being represented by
11 Scott Keller and Beth Klusman of the Solicitor General's
12 Office, all the way to the United States Supreme Court and
13 ultimately back to Federal District Court in Dallas where
14 the case was dismissed;

15 "Whereas, J. Paul put in long and selfless
16 hours, making the rounds to ensure that oversight offices
17 under two administrations and four legislatures were kept
18 apprised on a current basis on what was going on at the
19 Department;

20 "Whereas, on numerous occasions J. Paul
21 undertook to represent the Department at groundbreaking,
22 grand openings, conventions of developers and community
23 action agencies and other important events;

24 "Whereas, J. Paul taught us the meaning of
25 pithy aphorisms such as having enough ass on one's

1 tractor;

2 "Whereas, J. Paul has taught us time and time
3 again that the difference between Patricia Murphy and a
4 terrorist is that you can negotiate with a terrorist;"

5 (General laughter.)

6 MR. ECCLES: "Whereas, J. Paul only had two
7 rules for behavior at Board meetings which included no
8 yelling and no live ammunition;

9 "Whereas, J. Paul concluded every meeting with
10 the express acknowledgment that it is indeed a good
11 things we do and made each one of us feel valued.

12 "Now, therefore, it is hereby resolved that
13 this, the Governing Board of the Texas Department of
14 Housing and Community Affairs, acknowledges with gratitude
15 and admiration the work that J. Paul Ozer has done for
16 this Department, the State of Texas, for the Texans served
17 by the Department's programs, for the communities
18 strengthened by these programs, and for reinforcing the
19 importance of following laws and rules."

20 (Applause.)

21 MR. OXER: All right. I can see now why this
22 little thing was here because the big one is over there.

23 MR IRVINE: Staff recommends that the Board
24 adopt that resolution by acclaim.

25 MR. GANN: I so move.

1 MR. GOODWIN: Second.

2 MR. OXER: I think the vice chair has to take
3 over on this one because the chair will recuse himself on
4 this vote.

5 DR. MUÑOZ: It's been moved and seconded. All
6 those in favor?

7 (A chorus of ayes.)

8 DR. MUÑOZ: Nobody has the courage to say no.

9 (General talking and laughter.)

10 MR IRVINE: We also want to recognize that you
11 have got one authoritative whack with that gavel, and we
12 wanted to provide you with this lovely gavel and whatever
13 you call the whacky thing for the gavel, the striker, and
14 it says "Thanks for the Whacks." Congratulations.

15 (Applause.)

16 MR. OXER: And my approach to the gavel, there
17 was a purpose for that, and that was to make sure that
18 even in the auditorium when I hit it those three times, I
19 wanted the guy in the far left corner in the back with his
20 back to me talking to somebody else to recognize that it
21 was time to turn around, sit down and shut up.

22 Thank you very much for that, Tim.

23 MR. LYTTLE: J. Paul, we have two other things
24 to provide to you. One is a picture of you with the Board
25 that Amy did.

1 MR. OXER: That's a very good picture, by the
2 way.

3 MR. LYTTLE: And then finally, in your honor
4 this is a flag of the State of Texas that was flown over
5 the Capitol during the first day of the legislative
6 session. In fact, I was told this is one of the first
7 five flags flown over the Capitol that morning which would
8 have been January 10, 2017, in your honor.

9 MR. OXER: Thank you very much.

10 (Applause.)

11 MR. OXER: We're going to have to have much
12 more pictures out of this.

13 MR IRVINE: The only other thing I wanted to
14 say is, you know, a great chair is a reflection of a great
15 Board and the efforts of staff and a love for Texas. So
16 Thanks.

17 MR. OXER: Appreciate that.

18 Anybody else care to make any comment? This is
19 your last shot. Okay?

20 MS. MURPHY: One thing I'm really going to miss
21 about you, and I don't know if you have become aware that
22 you do this or not, but Cameron pointed it out to me.
23 This is J. Paul. Everyone is doing the Pledge of
24 Allegiance to the flag, and then the whole Board does this
25 to go to the Texas state flag, but not J. Paul, J. Paul

1 does this.

2 MR. OXER: And that's recorded on those videos.

3 (General laughter.)

4 MR. OXER: Well, as your chairman, one last
5 time I get the last word one last time. There's a
6 thousand things but it would only reinforce what I've said
7 a number of times, and that is it's a good thing that we
8 do here, and I appreciate that the cake we had last night
9 said "It's a good thing that we've done here." So it's a
10 good thing that we've done, we've done a lot since I've
11 been here, but there's always going to be more to do, and
12 I know that TDHCA is going to be able to do it.

13 I've said many times I hold it to be a hallmark
14 as well as a fundamental moral obligation on a truly
15 civilized society that we freely choose to devote some
16 measure of our resources towards helping meet the basic
17 human needs of those least able and those vulnerable among
18 us in a manner that protects their humanity and respects
19 their dignity. And so TDHCA is the embodiment of that
20 philosophy and I think all of Texas can rightly be proud
21 of the program management that we have, the governance and
22 the financial management that the entire team puts
23 together.

24 Sitting up here one a month for let's see, how
25 many meetings have I missed, Michael?

1 MR. LYTTLE: Zero.

2 MR. OXER: Sitting up here once a month for
3 going on just about six years, I'm acutely aware of the
4 effort that's put in by everybody to make this work, and
5 would offer up that the staff is spectacular, the senior
6 staff and the presentations you make, it's always a
7 comfort to know that it's going to be so complete and well
8 founded and well considered. The current and former Board
9 members, you guys are just the best, period. It's hard to
10 say I'm really just the ringmaster in the circus trying to
11 keep the clowns in the box and the elephants in line, but
12 it only works when everybody else here does it. You guys
13 do the work and we get to take the credit for it.

14 Tim, there's a reason you sit on the right
15 side. Thanks for your strength and perseverance and
16 insight.

17 You'll probably find it to be an anomaly,
18 another one, for an engineer to be quoting a classic poet,
19 but in the words of William Butler Yeats, Think where a
20 man's glory most begins and ends, and say that mine was to
21 have such friends.

22 My last thought is that this agency will
23 forever be a part of me and I will be better for having
24 been a part of what you've done.

25 I'll entertain a motion to adjourn.

1 MS. BINGHAM ESCAREÑO: So moved.

2 DR. MUÑOZ: Second.

3 (Applause.)

4 MR. OXER: We have to finish this. Regarding
5 the motion to adjourn, the chair asks a special voice
6 vote. Regarding the motion by Ms. Bingham to adjourn,
7 second by Dr. Muñoz, how do you say, Ms. Bingham?

8 MS. BINGHAM ESCAREÑO: Aye.

9 MR. OXER: Mr. Gann?

10 MR. GANN: Aye.

11 MR. OXER: Mr. Goodwin?

12 MR. GOODWIN: Aye.

13 MR. OXER: Dr. Muñoz?

14 DR. MUÑOZ: Aye.

15 MR. OXER: God bless each of you. May he be
16 gracious to you, grant you his favor and bring you his
17 peace.

18 The chair votes aye, the vote is unanimous.
19 Time to go. Thanks everybody.

20 (Whereupon, at 11:00 a.m., the meeting was
21 adjourned.)

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C E R T I F I C A T E

MEETING OF: TDHCA Board
LOCATION: Austin, Texas
DATE: January 26, 2017

I do hereby certify that the foregoing pages, numbers 1 through 73, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Nancy H. King before the Texas Department of Housing and Community Affairs.

(Transcriber) 01/30/2017
(Date)

On the Record Reporting
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