TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING
2007 STATE OF TEXAS

Thursday, October 11, 2007

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State Capitol
1500 N. Congress Avenue
Austin, Texas

BOARD MEMBERS:

ELIZABETH ANDERSON, Chairman
C. KENT CONINE, Vice chairman
SONNY FLORES
GLORIA RAY
SHADRICK BOGANY (absent)
NORBERTO SALINAS (absent)

STAFF:
MICHAEL GERBER, Executive Director

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P R O C E E D I N G S

MS. ANDERSON: Good morning. I welcome everyone. I call to order the October 11, 2007, meeting of the Governing Board of the Texas Department of Housing and Community Affairs. Glad to see you all here with us this morning. The first order of business is to call the roll.

Vice-Chairman Conine?

MR. CONINE: I am here.

MS. ANDERSON: Mr. Bogany?

(No response.)

MS. ANDERSON: Ms. Ray?

MS. RAY: I'm here.

MS. ANDERSON: Mr. Flores?

MR. FLORES: Here.

MS. ANDERSON: Mayor Salinas?

(No response.)

MS. ANDERSON: We have four members present. We do have a quorum. Okay. As is our custom, this forum welcomes public comment, and we take public comment at the beginning of the meeting, or at the witness's option when the agenda item comes before the Board.

I do have a few people that would like to make public comment this morning in the public comment period.

The first witness is Representative Hamilton.

MR. HAMILTON: How are you all doing today?

MS. ANDERSON: Good morning.

MR. CONINE: Good morning.

MR. HAMILTON: Good morning, Madam Chairman and members. I am State Representative Mike Hamilton from the 19th District. And I appreciate you all giving me the opportunity here to talk for just a second. I know you have got a long schedule ahead. So we are not going to take up a lot of your time.

But we just want you to know that down there in Hardin County, when you got this money that is coming up. It has been roughly about almost 2 1/2 years since the hurricane has hit. I know we have worked hard and allotted between states and federal and state-to-state issues, and have come a lot, and a lot of things have happened, especially in these last couple of months as we have tried to get this together and match together of stuff.

We worked very hard with some of the other agencies trying to get them to come along and get this moving, the need for this money down in our area is very well needed right at this time. I mean, it is very crucial to get this money right now. Not only has it been

2 1/2 years, but we are also looking at time for the rainy season to come along, which we are not going to be able to do a lot of work and it drug it down.

We also have major expansion and all the refineries that are going to be happening around January and February. So if we don't get some contractors right now, it is almost going to be impossible to find contractors.

So the need for all these projects to come right now is very essential. So we just would like for you all to be open minded, look at everything, and make a decision if you could, and get us that money, so that we can get to work down there, and do what this was supposed to be done in the first place.

MR. CONINE: Did you say the refineries are going to expand?

MR. HAMILTON: Yes. We have --

MR. CONINE: That is good news.

MR. HAMILTON: It is great news down there for us, as far as economic development. It is bad news as far as trying to sure up a work force, whenever you are already, you know, we have never really experienced a 4 ½ percent unemployment down there, so we are down, everyone that wants to work, could work.

And when the refineries are fixing to hire about another 10,000 people, it is great news for us, but it is going to be terrible news for Hardin County and for Orange County and them, if they don't get these grants down now, and get contractors in line for them before the big boys gobble them up. So we appreciate your hard work. Keep everything going. And thank you all very much.

MS. ANDERSON: The next witness will be John Henneberger.

MR. HENNEBERGER: Good morning. I am John Henneberger with the Texas Low Income Housing Information Service. We are a non-profit housing research and advocacy organization. And I wanted to come today to provide the Board with a copy of a report that my organization has prepared regarding the status of the Hurricane Rita recovery efforts in the State of Texas.

And first of all, I want to say that I believe that with the Round 2 programs, the Department is programmatically headed in the right direction. I believe that the approach the Department has taken to crafting the design of the Round 2 programs will get the assistance eventually to the people who need it, and is a far superior approach than what Louisiana and Mississippi and the other Gulf Coast states have adopted. That said, we have some specific recommendations.

We looked in depth at the experience of the Round 1, which has been unfortunate. And we have looked at the -- tried to anticipate based on talking to people in the area whose homes have been damaged. Some of the things that the state could do to improve the Round 2 program.

And I want to draw your attention to page 20 of the report which contains our recommendations. And specifically to recommendations numbers two through six, which pertain to things which the State of Texas can do. And I would like to just go over these very briefly with you.

First of all, I think the transparency in this process is really important, both from the standpoint of assuring the public as to what is going on, and informing the public as to what is going on. And then secondly, in terms of getting everybody who has a stake in the recovery efforts, involved in solving problems before they draw themselves out in the process.

And as such, we are calling on the state to provide for a more aggressive reporting process on progress under Round 1. And then looking forward under Round 2 as well, which would provide the public detailed information on the status of persons determined eligible for assistance, and providing demographic and income data on that population, so that the public and the agencies and the people locally involved can monitor whether or not the program is in the pipeline to target the people who really need the assistance.

And then similarly on the outcome of this process, as people are assisted, for similarly detailed demographic information to be provided. And we have outlined specifically the demographic data that we think needs to be included.

Secondly, issue number three in the report has to do with our recommendation that the Department convene a citizen's panel to advise the Department and the Board on the implementation of the relief effort which would include people from the Gulf Coast area, and disaster experts and faith-based organizations and local governments. They would meet on a quarterly basis, and basically get the issues out on the table, and attempt to identify problems as the Round 2 program moves forward, again before the become significant problems.

The recommendation number four in our report, it just reiterates this notion that what we need to do, that all of this is really geared at the notion of figuring out how do we learn from the experiences we have got? And particularly, we need to look in depth at round one, and ask ourselves, who have we managed to qualify as eligible? Is that the population we are trying to reach? What have been the barriers to qualifying people as eligible?

And as you will see in the report that you will receive later on today, the number of people certified as eligible has dropped dramatically from what you were told last month had been certified as eligible. So there are clearly problems in the implementation of Round 1. We need to get to what are the root causes of these problems, and get them out on the table, and use the Round 1 process to really resolve the problems that we can anticipate we might encounter in Round 2.

The fifth, recommendation number five is the idea of the state providing a formal quarterly performance report and tying that to contractual measures, so that again the public, the media, and the people in the local area can have some understanding of what the benchmark goals were, and what was accomplished.

And making that just very explicit so there is no misunderstanding about, you know, a misperception about what expectations were. And which were incorrect expectations on the part of people who have been, you know, horribly delayed through a variety of factors.

And then finally, issue number six, we identified three particular specific recommendations about things that we believe need to be incorporated into the round two contract in order to make sure that the people who are most in need are not denied eligibility under the program. And you can read them.

But I want to highlight the first one, because this is the one that concerns me deeply. The idea that we are going to be able to fully rehabilitate houses with a $40,000 maximum grant level at this stage, seems to me to be not correct. The $40,000 maximum level, I understand why the state has set a $40,000 maximum level.

The federal government basically cheated Texas out of the type of resources that it gave Mississippi and Louisiana, and you guys are trying to stretch the money as far as you can. But the problem with setting too low of a threshold level is that these houses must be brought fully to code.

And after 2 ½ years, two and a quarter years of rain through these roofs, $40,000 rehabs are just not feasible to reach especially the low income population. And from my perspective as an advocate for the elderly and the poor, I really believe that the $40,000 threshold of benefit limits is going to just off the top disqualify almost all, a very large portion of elderly and poor residents in the area.

And I would urge the department to raise that to at least $65,000, the benefit level. I understand this is coming on top of the COGs coming in and drastically reducing their numbers of the number of people they will assist at the last Board meeting through a change in their targeting. And this is extremely unfortunate.

My organization two weeks ago spent a lot of time in Washington, trying to work on the next supplemental appropriations bill to ask for more resources for Texas. We will continue to do that. I am not sure we are really going to see that happen. But it would be extremely unfortunate if the effect of the program design rules that you put in place is to exclude the poorest and the elderly and the most needy people.

And I thank you all very much. And I commend you for your persistence and your hard work, and your staff's hard work in this very difficult task. Thank you very much.

MS. ANDERSON: Thank you. Mr. Conine.

MR. CONINE: John, your comment about the

40,000 not being enough and 65 may be the right number. I think our staff did considerable research before we came up with the 40 number, in addition to the fact that we needed to stretch them as far as they could stretch.

But there was also the consideration of if they had insurance proceeds that is out there. So has your organization done any statistical research to show where the actual net of insurance proceeds number is, should be 65 as opposed to 40?

MR. HENNEBERGER: Well, that is a very good question.

MR. CONINE: That is why I am here.

MR. HENNEBERGER: And one of the main characteristics of -- the problem characteristics of this is, that there is not good data. Now the data that we have seen indicates that 70 percent of the home owners had no insurance. And that is off of the Governor's report, which is the only thing we have really got to go on.

Low income people, by and large had little or no home owners insurance from all of the anecdotal evidence, and the people that we have talked to in the field, and the faith-based organizations which are our primary source of information in the Southeast Texas area. So you know --

MR. CONINE: Well, I think just again, what little I know about it, there is really two classes of people out there. There is those that didn't have any insurance and then there is those that hadn't settled with the insurance yet. They don't think it is enough.

They are getting, you know, run over by the insurance company. But again, what did you -- if you didn't go do the statistical work or the groundwork that was needed, how did you come to the 65?

MR. HENNEBERGER: Frankly, that number is based on talking to the Southeast Texas Recovery group. That is largely composed of the faith-based organizations that have been working mostly in the Beaumont-Port Arthur area, and what they are encountering when they are trying to do rehabilitation on houses.

There is also some information that the COGs I think have been providing you all on what they are encountering as they are doing their work; writeups on houses that indicate that they need substantially more money per unit to do these rehabilitations. And so there is no good numbers.

And it is what is so frustrating about this. I have never, in all of my 30 years of working on housing programs, I have never felt like I was as much in the dark statistically as we are on this program. Usually we can rely on census data.

Now we did get new census data out, a special run of census data that is coming up. And people are working hard now to analyze that data as it pertains to the Gulf Coast region. But it is not probably going to give us that level of detail.

MR. CONINE: Madam Chair, I guess I would recommend that staff take a look at John's list here, and see, you know, his recommendation, see what we can and can't do. And come back to the next Board meeting and do that.

But maybe we can work out a program, it would be a hybrid of what he is saying. You know, of the 65 with no insurance, and 40 with insurance. You know, something like that.

We just need -- the comments that I have, a ton of information now that they have gone through; seven or 800 people seeing what their situation is, when is giving us some pretty good data. If the program needs to be modified, let's take a look at it.

MS. ANDERSON: Right.

MR. HENNEBERGER: Thank you.

MS. ANDERSON: Thank you John, for your

comments. And I would just add to that. I am very supportive of your comments about transparency, because we have a lot of people that are working very hard at this at the COG level and certainly at our staff level. And, you know, I was disappointed in the news coverage, because that part of the story was not told.

And if we, and we do have -- you know, clearly our monthly reports and our Board book are available to the public, but don't really describe reasons for disqualification and, you know, what the core root cause issues are. So I think that some of your comments on reporting that are part of your recommendations, I am interested to see what the staff comes back to us with in terms of those recommendations also.

MR. HENNEBERGER: Thank you very much.

MS. ANDERSON: I want to welcome some special guests this morning. We have Cristen Wohlgemuth with the Governor's Office, our housing advisor at the Governor's Office. And she is new in that role, and we already are off to a great start with Cristen. And we appreciate her attention and interest in housing. We are glad she is here.

We also have Jonathan Hurst from the Senate Finance Committee, and Don Jones from the office of State

Representative Jose Menendez. So welcome to all of you all. Continuing with the public comment, Mr. Darrell Jack is our next witness.

MR. JACK: Good morning. My name is Darrell Jack, and my firm is Apartment Market Data. I am here this morning, to try to kind of prime the pump for next month's Board meeting when you will be considering the changes to the QAP. Particularly to the real estate analysis rules.

While I won't have time in ten minutes to go over all the objections that the market analyst community has come up with, I do want to touch this morning on the rule change for seniors, changing the capture rate from 75 percent down to 50. If you remember back last year, we looked at this rule at this time. And the rule, at the time was 100 percent capture rate, taking it down to the 50 percent.

So you know, in my analysis, I went back and looked to see how many of the senior projects allocated in 2007 would have met this capture rate. I found 19 projects, senior projects were allocated. Only five of those would have had a capture rate of less than 50 percent. And that is what I have provided to you on the front page of that.

It is less than 25 percent of the units that you allocated this year would have met the threshold. Now our, the opinion of the market analyst community once again is that this is going to cripple the opportunity to put senior housing on the ground. You know, and these rules, I know, were well intended. They are just ill-conceived in what actually happens once the rules are implemented.

We went through the same thing last year when we looked at doing capture rate by unit type as a threshold item. But I noticed that where it was proposed at the threshold, we compromised to do a test this year, and you see that there is no mention of any capture rate by unit type being a threshold. We found it simply didn't work.

In this past year, we were forced to go to the HISTA data for our demographics. And what we found is that this HISTA data often misrepresents the demand for housing.

One project in specific was San Juan II that you may be familiar with in San Antonio. The HISTA data represented that the market would demand over 600 units per year. This is not reflected in historical absorption. Frankly, there is not vacant land to put 600 units a year on the ground.

If you are familiar with the Austin Riverside area, I am working on a project right now. The historical absorption has been 600 units per year. And the HISTA data represents over 1,200 units a year are needed in that area. It is simply not reflected by the facts that go on to the market. Nor is there that much land available in the area to build 1,200 units a year.

So you know, we really want you to consider the effect that these rule changes are going to have on the future viability of the low income housing tax credit program. Not only does it impact it, it impacts the financial feasibility of these projects, because developers to do senior housing are going to be forced to do smaller and smaller projects.

If I remember right, SB 264 that was passed several years ago put financial feasibility as the number one concern that the State had for going forward with these projects. And this certainly affects the financial feasibility of these projects going forward.

And I just want to touch on the concentration policy. You know, as it is proposed, I know it doesn't even address some of the concerns in Houston that Mr. Flores and Mr. Bogany have expressed in recent meetings for the 288 corridor. It doesn't meet the mark.

And I will be by to talk next month. And I am sure you will hear from more market analysts and the development community as these items come up before you. Thank you.

MR. CONINE: Give us some draft language that meets the mark.

MS. ANDERSON: Yes. It would be good to see that in the written public comments, so that we then get it back in the reasoned response that we get from staff, when the Board book goes up, so we can, rather than -- I mean it just more -- this is fine for you to come and sort of do a pre -- to bring an issue today, while we have got some time to think it over. But when people just bring live testimony in November, that is harder for the Board to digest when we are trying to do it real time.

MR. JACK: Well, and paying a little. Unfortunately, the first opportunity for the market analyst community to come together and meet and talk with staff about this is the day before the next Board meeting. And so to fully understand the impact that this is going to have, and to be able to discuss it with staff at late we are on a very short time line.

MS. ANDERSON: I bet Mr. Gouris would make some time for you to do that between now and November the 7th.

MR. JACK: Okay. Thank you.

MS. ANDERSON: Okay. Thanks. Oh, I have one other question, Mr. Jack. Your reference, your couple of references to HISTA, the two examples that you used about the HISTA data. Did I understand correctly that in both of those cases, HISTA overstated demand?

MR. JACK: By a great margin.

MS. ANDERSON: Right. And so would you entertain a rule that says we shouldn't use HISTA data in a market analysis?

MR. JACK: Well, I don't know that I would go that far. You know, the analysis of the market is part scientific, and part hard. And we have other resources available to us, and other sources of demographics and looking at historical absorption in the market that really give us a way to triangulate on what would be a reasonable expectation for demand in the market.

When you write the rules trying to get everybody to do it in a very scientific methodology, you take away the art. And, you know, getting these cases --

MS. ANDERSON: My experience is that market analysts have plenty of latitude to apply their art to the process.

MR. JACK: But you know, when I write market studies and have to discount the HISTA data as being inaccurate --

MS. ANDERSON: Right.

MR. JACK: You know, and the State is hanging their hat on the cash rate generated by the HISTA data, there is a disconnect.

MS. ANDERSON: Right.

MR. JACK: And it is not in every case. But certainly the rules should have latitude to address items like that, and not simply look at one source of information deeming with that it is 100 percent correct.

You know, the level of detail that it is trying to get to in many cases is just -- it is too high an expectation, I have found. Thank you.

MS. ANDERSON: That concludes public comment until we get to specific agenda items. So the next item on the agenda is Item 1, the Consent Agenda.

MR. CONINE: Move approval.

MS. RAY: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. With the Board's indulgence -- excuse me.

MS. BOSTON: I am sorry. There is one item we need to pull to clarify something on it that was part of the Consent Agenda.

MS. ANDERSON: And that item is --

MS. BOSTON: One F.

MR. GERBER: The 2008 emergency shelter grants program?

MS. BOSTON: Yes.

MR. GERBER: We will pull that.

MS. ANDERSON: Okay.

MR. CONINE: So I modify my motion to pull 1F and approve everything else.

MS. RAY: Second.

MS. ANDERSON: Should we re-vote, Mr. Hamby?

MR. HAMBY: Yes.

MS. ANDERSON: Okay. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. With the Board's indulgence, because of the large number of special guests from Southeast Texas that we have with us today, I would like your indulgence to proceed to agenda Item 4.

MR. CONINE: Okay.

MS. ANDERSON: Mr. Gerber.

MR. GERBER: And what this deals with obviously with the Community Development Block Grant program. And perhaps our COG officials can come forward and join us in the discussion. I will just give a brief overview. What you have in the Board book there is obviously, there were changes to the project activity targets that you have brought in, to more accurately record project activity by COG. The most significant reporting change is to the number of certified eligible individuals, applicants in that COG. Previously, applicants were reported as eligible, they were only income eligible, but did not necessarily met all program requirements. Now, the number that you see in that column indicates that they have met all program requirements. Let me just make note though, that we are still working to get those numbers exactly right, and we have had a lot of discussions in the last seven days. So you will be getting orally briefed on what those exact numbers are. In an effort to make the administrative expenses and match those to production and to our program activities, we have worked very aggressively in the last several weeks to try to make sure that each COG is hitting certain programmatic benchmarks, and we appreciate their cooperation and their hard work. The goal has been to certify at least 75 percent of their contractually projected households by this Board meeting. The second goal is to certify at least 50 percent of their contractually projected households by the November 8 Board meeting, get 75 percent by the December 13 Board meeting and then wrap up fully certifying all their contractually projected households by December 31. We want to know clearly the universe of households that we are dealing with and we want to move quickly to construction of those homes. And each of the COGS has been very -- will report out to you on their anticipated construction schedule to meet the timetables that we have identified. We know that there are a lot of challenges with these, with meeting these benchmarks. There are a lot of people. It is a lot of documentation to work through. And I think it might be best at this point, Kelly, if you would like to say a couple of words. But then, with the Board's indulgence, we would like to hear from each COG and let them report on basically how we together are going to get this job done.

MS. CRAWFORD: Good morning. Kelly Crawford, Deputy Executive Director for disaster recovery. We have really been working very intensely with the COGs over the last four months, as you know we have reported to you. With technical assistance, working through some of the kinks in the program, getting on the same page.

And we were really getting close with the certified eligible definition that we are putting out there, we believe that we are getting more in line with expectations and understandings between each other. And we believe that once those have been -- as Mr. Gerber said, that population has been determined, there will be nothing left to do but serve these folks, and that is where we all want to be.

We are serving now in greater quantities than I think we have in the past. In part due to getting our eligibility in line. We have directed the COGs to develop plans for how they are going to meet the benchmarks and for how they are going to ensure that all homes have been constructed by the close of their contract at the end of

July next year. So we have got some figures, but I think it would be good at this point for the COGs to say what they need to say.

MR. GERBER: With your indulgence, perhaps Jack, I know that you have got -- you are a little pressed for time, so why don't you go ahead and lead us off?

MR. STEELE: I am Jack Steele. I am Executive Director of the Houston-Galveston area council. To give you an idea of the part in the situation, we have roughly 19,000 homes damaged in some way, in the region. But we received 256 applications for assistance. We have 61 certified eligible at this time.

I anticipate by the end of the process, that we will be able to assist about 130 applicants. The majority of ours is going to be reconstruction. For reasons that you have heard, a smaller number of repairs and rehabilitation. But we have 61 certified eligible and ready to go.

TDHCA has formally approved assistance for seven applicants. And as we sit here today, we have two modular units installed. I would advised that one, another one was installed yesterday. And if it doesn't rain today, we are going to have another one installed. Three more are scheduled to be installed next week.

So one clear message is that the log jam has broken with regard to modular units. We have sort of looked at who is likely to make it through to the end of the process, and we have pre-ordered, because of some preexisting agreements with the modular vendor, a number of units. They are going to be on the ground at a staging area in Houston.

As soon as applicants are complete in the process, we can basically pick up the phone, and say, install it. And then it is a go. The seven that have been handled so far represent approximately $320,000 of housing assistance. And so we think that is some significant progress.

We are also moving forward in soliciting bids and doing the other things that are going to be necessary for reconstruction. As this moves forward, we anticipate sending to the Department 20 cases per week to be set up.

And so that is going to mean that we are going to have to work very closely together, and there is going to have to be no lost motion. Because if we bog down, we will lose momentum. And so we would support very much Kelly's suggestion that we need to work closely together as we go forward so that there are no unexpected.

We want to have basically all of the work done in terms of completing eligibility, completing the bid process, completing the project setup, if possible by the first of the year. But certainly by the end of January, the remainder of the process is going to be construction. Frankly at that point, most of our work, and it has been education and notification of the applicants.

Outreach, assessing eligibility; all of that is over. It is done. It is going to be construction, supervision, and being sure that what we have got ordered is delivered. We have two experienced inspectors on our staff. We feel fully confident that we can accomplish that work.

But one key, and I don't want to get ahead of us on our agenda, to all of this happening in a timely way is going to be addressing the gap and have that on your agenda. And when that item comes, we would like to make comment on that.

MR. FLORES: Can I ask a question on that. Madam Chair.

MS. ANDERSON: Certainly.

MR. FLORES: Kelly, going back to your project activity on this.

MS. CRAWFORD: Yes, sir.

MR. FLORES: I am just going to take the Deep East Texas line. And it says, the number of applications was 744. And there is 15 certified. There are so many ineligible, and so many in the pipeline. But that is not shown on here.

So if you all would kind of tell us how many are in the pipeline. Because obviously, Jack Steele just said that he has 61 certified but 130 expected. You have got some in the pipeline going. Is the eligibility period open still?

MS. CRAWFORD: Yes, sir. It is.

MR. FLORES: Okay. So that the pipeline is open. Okay. That was what I was having trouble with. That is fine. Thank you.

MR. GERBER: Mr. Diggles, are you next.

MR. DIGGLES: I am Walter Diggles. I am the Executive Director of the Deep East Texas Council of Governments. And I guess Board member Flores, I have an addendum to today's report. So I am going to share it with the Board.

I want to ditto Jack Steele's comment about the status of where we are. What you are getting now is as of, an applicant approval as of October 8, 2007. And if you just take a look at these, these are black and white names and statuses of approximately $1.5 million of what we call committed and obligated projects. If you look at the center of that sheet, you see environmental duplication of benefits. And duplication of benefits again.

I think that that is where we are really want to, I think, back to Kelly's comment about working together to be sure we get a project ready to go. One of the things that I certainly appreciate from Mr. Gerber and Kelly is their commitment to providing us not only feedback but immediate assistance when we ask for it. And I think that is why we are where we are now.

And not only moving probably faster as we ever have in this project, because we do now understand what an approved eligible project is. The extenuating circumstances when you are dealing with these kind of what we call moderate income persons, there are just a lot of issues that come up daily that may affect a project, or may affect a family status. And we have been facing those.

But currently now, if you look at the process we have in place now, these are priority items. And we are cherry picking to make sure that if something comes up, we can go to the next project in place. And I think with this particular process that is going on now, we project that our 263 units that we are going to be reconstructing and rehabbing will be completed prior to the end of this contract period.

I think the most encouraging sign that we have now is the gap financing issue. That has been a major challenge to a lot of the families who have not either kept receipts or don't know what they did with their FEMA or their other assistance or insurance money.

So many of them have been ripped off by bad contractors, and they have no way to recover. And they are just not capable of trying to go after it. So we are facing those issues, and I think that gap financing will be a major help to us down the road.

MR. GERBER: Walter, could I ask the Board's indulgence. Could you describe when you are next looking to, as Jack sort of described, when you are anticipating sort of wrapping up the eligibility process and when you will actually start bidding these out. Because there is a large number, and we want to see what the flow of this will be.

MR. DIGGLES: You know currently now, the following number of households that have been certified eligible. In Angelina County, 22. And that represents

$902,000. In Jasper County, 90, and they represent $3.6 million. In Nacogdoches County, four; $464,000.

In Newton County, 54. They represent $2.2 million. In Polk County, 20 for $820,000. In Sabine County, 26 as to $1 million. In St. Augustine County nine, for $369,000. For San Jacinto County four, for $164,000.

And in Shelby County, two, $42,000. Trinity County, three for $123,000. And Tyler County, 29, for $1.8 million. Now that represents, if it is $41,000 per household, that would come up to approximately $10 million.

So again, that is what is projected. And since we're projecting, but we are not sure what the costs will be, but we are going to average $41,000. That is what that would come up to be.

MR. GERBER: In terms of when will you release the first contracts for actual construction?

MR. DIGGLES: Now, if you look at ours, the majority of ours is manufactured housing. We only have currently now, attaching our bids with Houston-Galveston. In other words, when we go out for bids, we will be sending ours to them, and we will be using the same RFP process.

So everything else, we have already done within manufactured housing. We have already identified those providers already.

MR. CONINE: Under the duplication of benefits, there is an S and a Y. Tell me what that means. And then right next to it, there is a duplication of benefits X column, with a YOK, or a Y and a check.

MR. DIGGLES: Okay. Now the do -- if it YOK, that means Molinari has okayed it. And if it is a Yes, okay, that is from Jennifer. And then each one of them, either Y means yes, and S means that it is not completed yet.

MR. CONINE: Okay. So all the S's are still researching to see, get all their receipts or see what is going on with insurance, or whatever.

MR. DIGGLES: Right.

MR. CONINE: Okay.

MR. FLORES: Let me ask first, the cost on the last line, is that direct cost to the actual owner of the property?

MR. DIGGLES: That is the cost directly for the unit.

MR. FLORES: So your administrative costs are somewhere else. They are not on that base of service.

MR. DIGGLES: That is correct.

MR. FLORES: When you bring a manufactured unit, I assume there is a damaged house or something that has been demolished and moved and so on?

MR. DIGGLES: Yes. If there is a manufactured house that is still on the property, the cost associated with demolition and removal is included in that.

MR. FLORES: Okay. So we are paying for that, and that is taken care of.

MR. DIGGLES: That is correct.

MR. FLORES: And then the reconnection of the utilities, is that part of these costs in here?

MR. DIGGLES: Yes. All of that is a part of that to be included.

MR. FLORES: Okay. So he has got a ready to go house when he gets through. Turn the lights on, water is on.

MR. DIGGLES: It is a turnkey operation.

MR. FLORES: Okay. Thank you.

MR. GERBER: If I can ask Kelly to clarify. Do we have the sense of how we get this done by the end of July, fully? Do we know?

MS. CRAWFORD: Well, ones, can I ask --

MR. GERBER: Go ahead.

MS. CRAWFORD: Because that is a lot of folks. And Mr. Diggles, have you all done all income and program eligibility on all of these folks?

Because that is what certified eligible is defined as. When it is ready to go, you know you have every single last piece of paper, and will be able to serve them, and all you need to do now is to bid out.

MR. DIGGLES: Okay. The only ones that we have that are certified eligible now are on this list here, approved; applicant approved.

MS. CRAWFORD: Okay. So those all could go tomorrow.

MR. DIGGLES: That is correct.

MS. CRAWFORD: Okay.

MR. DIGGLES: This is the sort of applicant who can do that now.

MS. CRAWFORD: Okay.

MR. DIGGLES: And Jennifer has this now.

MS. CRAWFORD: Okay.

MR. DIGGLES: And she is probably working on it now to get back with our staff.

MS. CRAWFORD: Okay. And then, I am sorry. Okay.

MR. FLORES: That is fine.

MS. CRAWFORD: Okay.

MS. RAY: Madam Chair.

MS. ANDERSON: Yes, ma'am.

MS. RAY: May I ask Mr. Gerber a question. Mr. Diggle mentioned that many of the houses they are considering are manufactured housing. Are these manufactured houses?

MR. GERBER: No. Not the ones that we had the chance to see.

MS. RAY: Okay. Thank you.

MR. GERBER: Mr. Davis.

MR. DAVIS: Good morning. Shaun Davis from Southeast Texas Regional Planning Commission. Nice to be with you this morning. I have got three graphics I wanted to call your attention to this morning, that gives kind of a thumbnail sketch, a snapshot of where we are in Southeast Texas.

The first graphics you should have in front of you, demonstrates our pipeline, and kind of what we have on the ground right now. If I could, I want to do it a little bit in reverse, to call your attention to Phase Five. Which for us, Phase Five means certification is complete.

And those residents, home owners are in the preconstruction, construction or in cases of a mobile home, a manufactured home. They are in a setup process. We currently have 77 of those applicants ready to go in that phase. Our pipeline, or the other phases that you will see, we have 379 applicants. And we have applications on file. That is Phase One.

Phase Two is our income verification process. Phase Three is environmental clearance. And Phase Four is what we call the final certification process, which is of course, making sure we have, that all environmental documents and everything else required for us to put them out for bid is in place.

We feel like we have got good traction now, in Southeast Texas. Our processes are in place. Great communication and cooperation with TDHCA. And we feel like we are on target to meet the benchmarks established.

The next graph shows where we are right now with meeting the TDHCA benchmarks. For this month, you will see that for October we are at about 75 percent of our certified applications.

We expect to be, to meet the 100 percent by next month. But we are not going to stop of course. We are going to just keep certifying folks income eligible, to keep them in the pipeline, and keep them moving until we have expended the last dollar.

The last graph you will see is our expected construction time line. The way we have done our process is, we did urge eligible to bid out, and we are not waiting to have a big group to send out. When we get a batch eligible to bid out, we are bidding them out, and we are starting a construction process.

What you will see here in this last graph, we anticipate, and this is a conservative number, but we didn't want to overshoot. Based on what we have done over the last four months, we could have 16 homes per month, ready to bid out. And then we are allowing for a 90 day bid out and construction time line.

So based on that 16 per month, and 90 days for bid out and construction, we will have everything bid out. We anticipate having everything bid out. We anticipate having everything bid out in the month of June, with all the money committed and construction we are shooting for being complete by the end of September '08. Certainly, there are a lot of variables in that schedule.

Particularly I will call your attention to the fact that we are calling for 16 homes per month. That number could certainly go up, because we are calling on, that is if all 16 were stick built.

We have a lot of manufactured housing in our program as well. And as those come up, of course, we get those on the ground more quickly, and it is likely we can move that schedule up a little quicker.

MS. ANDERSON: Yes. It is very prudent to be conservative, but I would personally welcome any acceleration of this process. And as you get better and better at it, no doubt you can bid more than 16 a month.

MR. DAVIS: We believe we can.

MS. ANDERSON: We would be looking forward to seeing that craft change.

MR. DAVIS: Yes, ma'am. I will be looking forward to reporting that.

MS. ANDERSON: Good.

MR. FLORES: Madam Chair, may I?

MS. ANDERSON: Yes, sir.

MR. FLORES: That is -- on the next stick built versus manufactured, what percentage would you say would be the --

MR. DAVIS: Currently, we have got 52 stick builts that are out for bid or in preconstruction construction. And we have got 25 manufactured houses. Sixteen of those have been installed. Nine of those, we have an issue right now where to extend the federal dollars in the flood plain for a manufactured house, we are having to work out those loan issues because that has to be a loan.

We are working really hard. In fact, we just talked yesterday, and it looks like we are getting really close to having that done. So we have got nine.

Sixteen are installed through the CDBG program. Nine have those loan issues, but we expect those to be resolved very quickly. In addition, I know it is another pool of money, but we also have 15 manufactured houses on the ground through the HOME program as well.

MR. FLORES: The culture there, in your part of the state, would you say that there is a two to one stick versus manufacturing is going to be about the way we go?

MR. DAVIS: I would. That is what we are basing all our projections on is what we are seeing at this point.

MR. FLORES: It will be stick building over manufactured.

MR. DAVIS: Yes, sir.

MR. FLORES: Do you have any communications or ties to the other two COGs that are buying manufactured buildings?

MR. DAVIS: Actually, we communicate every day.

MR. FLORES: You do. Let me get more specific. Do you do any joint RFPs or RFQs, whatever you call them. Where if you are going to get a manufactured house, I would like the one he gets in East Texas as same as yours, and so on. Do you do any joint purchasing.

MR. DAVIS: I think that in Mr. Diggles' case we are using the same one. If we wound up on that manufactured housing dealer based on the fact that he could deliver quickly, he understood our programs, and moving them out quickly.

MR. FLORES: The same specs and requirements, so he understands it.

MR. DAVIS: A quick turnaround.

MR. FLORES: Okay. Thank you.

MR. DIGGLES: And we are doing the same thing with Jack Steele on his stick deal. You know, instead of us doing three or five, we just add them into theirs, and they do the RFP together jointly.

MR. FLORES: Good. Well, we have to pay for a telephone line to tie you all together every day. That is fine with us, but you know --

(Simultaneous discussion.)

MR. FLORES: What you are saying, you have exactly the same problems, the same things. You just happen to be in different parts of the state --

MR. DAVIS: Exactly.

MR. FLORES: That is all.

MR. DAVIS: Yes, sir.

MR. FLORES: Okay. Well, you have become brothers in this process, obviously.

MR. DAVIS. Oh, yes. Unfortunately.

MR. FLORES: You say, unfortunately. I want to record that.

(Pause.)

MR. DIGGLES: We're really calling Mike Gerber like Daddy, but we really --

MR. DAVIS: We don't want that to go to his head though.

MR. FLORES: He is not as old as he looks.

MR. GERBER: We appreciate the partnership and the willingness of the COGs to work with us and to be as aggressive as they can be. And they have expressed some interest, and have worked with us to improve, we think, the gap financing question.

So with the Board's indulgence, if we could go from now Item 4A back to Item 2, which is the gap financing question, I think some of them might want to comment on that.

Board members, what the Department is proposing, as, you know, the Housing Trust Fund plan was last approved at the last Board meeting. And one of the activities in the plan dedicates $1 million to gap financing for the families that are impacted by the hurricanes, and who are receiving CDBG assistance through the COGs represented here today.

The COGs have identified to the Department some changes that would significantly improve their ability to get housing on the ground, and to utilize those funds as intended. And what we would propose is an amendment to the plan that would provide the families a grant instead of a loan in all instances except if the assistance exceeds $5,000 and if the household's AMFI exceeds 60 percent.

The assistance to households earning more than 60 percent AMFI with needs greater than $5,000 will continue to be at zero percent interest loan. And the amortization period will depend on the income level of the family to ensure their ability to repay.

But this helps up make sure that these CDBG dollars get to those most in need. And I don't know if my colleagues want to comment on that.

MS. ANDERSON: Okay. Did you all want to comment on that?

(Simultaneous discussion.)

MR. DAVIS: Madam Chair and Board members, we have had a lot of great moments in our partnership through this trying process. But to me, in what I have witnessed in my short time here, this would be as significant program to us as any I have seen.

We see about between 60 and 70 percent of our applicants had these gap money issues and this would release many applicants to move in the process. So I just wanted to let you know how significant it would be for us.

MR. STEELE: Our situation is very similar; 40 of our 61 certified eligibles have a gap that ranges from a low of $50 which obviously we can take care to a high of $15,000. So if we can address this issue today, this is the most significant thing to moving this program forward. If we can resolve this, we can move forward and have probably $2 million in housing services committed and underway before the end of this year.

In addition, I would expect that the Gulf Coast Small Business Finance Corporation, which is a subsidiary of HBAC, I serve as President, without pay, I might add, will also commit up to $50,000 to work with gap issues in areas that the Department can't participate in, or where we need some extra funding. So we want to bring some dollars to the table to help resolve some of these issues as well.

MR. DIGGLES: And I guess in some of those areas, especially in Deep East Texas where you have a real large rural area, and I have heard John Macon's report about the poor. When you have those senior center providers who are going out and delivering meals, you get a chance to see some of those poor.

And about 50 percent of those folks who are eligible for this program need gap financing. They spent their FEMA check on medications, on just family bills and things. And in many cases, they tried to get a bad contractor or a brother-in-law who just didn't do the job.

And we are encountering that. Especially with those frail and elderly seniors. So this gap financing is a very good project, and we certainly applaud you for making it available for this program.

MS. RAY: Madam Chair.

MS. ANDERSON: Yes, ma'am.

MS. RAY: If there is no further public comment I move staff recommendation.

MR. FLORES: May I ask a few questions? I will second the motion, if you will let me ask a couple of questions.

MS. RAY: Yes.

MR. FLORES: Okay. Kelly, if I divided a million bucks by 3,000, I think it would come out to about 333 units or so. I assume that is somewhere in the ballpark? 333 units?

MS. CRAWFORD: I am sorry.

MS. ANDERSON: Times $3,000 average per unit.

MS. CRAWFORD: Oh.

MS. ANDERSON: It is how far the money will go.

MR. FLORES: Is that adequate?

MS. CRAWFORD: I think it should be, especially because they are committing other funds to this, to help support. And I am happy to hear about Mr. Steele's opportunity. I also know that Mr. Davis has been really hitting the streets to get some money to match this as well. I think it will take care of the first round for sure.

MR. FLORES: And according to what we have got here, the recipient can get up to 5,000. But you are saying an average of three.

MS. CRAWFORD: Right.

MR. FLORES: What are you going to do to keep people from gaming the system? If they know there is $5,000 available, are they going to game the system.

MS. CRAWFORD: We are really going to have to rely on the COGs for their strict application of these funds to assist as many households as possible. And it is in their best interests. I believe they will do it. I think they are very concerned with how these funds are utilized, and what to apply them appropriately.

MR. GERBER: And remember, they are matched with a much larger grant that has lots and lots of information that has to be submitted to the COGs and to the Department. So we are going to make sure that these are only the best qualified people for the CDBG program who are going to be accessing these additional gap financing to make this work.

MS. CRAWFORD: And this of course --

MR. GERBER: But you are right. The program details are important.

MS. CRAWFORD: Right.

MR. GERBER: And we need to make sure that no one does game or --

MS. CRAWFORD: What will happen is, the folks -- the COGs determine the gap, not the applicant. So that also helps.

MR. FLORES: Okay. So it is on the COGs side, not on the applicant's side.

MS. CRAWFORD: Yes, sir.

MR. FLORES: Okay.

MR. STEELE: Let me just speak one word about that. Basically, through the intake process, we have already nailed down what the gap is and why it is. We will continue to work to resolve some. A few may.

But by and large, we know where the gaps are, and why that happened. We deal with other eligibility driven programs. We touch about 500,000 people per year. We have had no question or disallowed costs in at least the 15 years that I could go back and easily research. And we are not going to start now.

MS. ANDERSON: Yes.

MS. RAY: Madam Chair, while we have the witnesses before us at this time, the hurricane situation was a very trying time, not only for the State of Texas but all across the Gulf region. And I am honored, impressed and pleased to see groups of affected Texans coming together and building resolutions.

To me, this is a perfect example that we can do all things through the power of our collective intellect by working together. It has been a model for a public private collaboration, state, counties, COGs working together, to help the citizens of Texas. And you are all to be commended for the work that you have done.

Kelly, you have done a yeoman duty. You make us proud. We still have got a lot of work to do. And Shaun.

MR. DAVIS: Yes, ma'am.

MS. RAY: I like your charts. A picture is always worth a thousand words. Consider bringing us something that tells the story in picture form. It is a lot easier for us to understand. Thank you so much. And thank you for working together to serve the citizens of Texas.

MR. DIGGLES: Thank you very much for those comments. And we really appreciate that. It has been a long two years for those of us who have lived through Hurricane Katrina and Rita in East Texas. And having eleven of those 22 counties declared disaster in our region, you know, we always go around in a 360.

I guess a couple of weeks ago, HUD asked us to take back over several of those evacuees that we were providing case management for. And one of the things that we found out is that the folks in the Louisiana and Mississippi are looking closely at the Texas model. And I think it really goes to this Board. Chairman Anderson and Vice-Chairman Conine, your leadership early on, even though I know the newspapers didn't pick up on that.

But early on, we don't have those kind of problems. We are collecting. We are doing fraud recovery now in our programs. But I think that it has been a model, and it is to your leadership. And we appreciate your patience with us.

MS. RAY: You are a magnificent staff.

MR. FLORES: You got an A for presentation. I am going to try and get you the money now. I second the motion.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. Thank you all very much.

MR. FLORES: You have got the bacon now, Mr. Davis.

MS. ANDERSON: We now are ready to proceed to agenda item 4B.

MR. GERBER: And I am going to ask my colleagues from ORCA to come forward and present these next items, as they deal with the non-housing infrastructure piece of CDBG disaster funding.

MR. STONE: Good morning, Madam Chair. I am Charlie Stone, Executive Director of the Office of Rural and Community Affairs. To my right is Heather Lagrone, who is a new manager within the CDBG program at the Office of Rural and Community Affairs. And to my left, Mr. Mark Wyatt, Director of the CDBG program for the Agency and the State of Texas.

We want to report first to you on Round 1 of the non-housing activities. A fairly brief report for you this morning. We have expended $5,371,496 through the non-housing contractors and $322,739 of that are administrative costs. Approximately 46 percent of the contracts that were awarded under the CDBG Round 1 have requested draws. And 16 of those have completed environmental reviews.

So we are making some progress. And environmental has been one of the roadblocks to moving this along as quickly as we would like to do it. Nine of the contracts that we have total 4.7 million are experiencing delays. And the same thing that we were reporting last time. It is due to the Hazard Mitigation Grant program, and FEMA just not deciding to move those projects along as quickly as we would like for them to do that.

We have reported to you in the past about our initiative called a project status and plan next step initiative, which is the fact that our field staff that are related to the disaster programs are going out and visiting every single grantee out there, every contractor, and visiting with them to ensure that we know any obstacle that is out there prohibiting them or slowing them down from getting draws into us. Because these contracts have been awarded. We just need to get it in, and get the contracts fulfilled and the money expended.

So our staff is working very hard on that. They have just about visited all of them. Not all of them yet, but we coordinate these with the consultants. And sometimes we are having problems getting with them. But if we can't get the consultants there, we will go ahead and visit with the communities and work with them.

So we think we are making some progress there. The budget breakdown starts on page 3 of 6, that shows line item by line item. I won't go through the detail on that. We do have some interesting success stories at this particular time, if you would like to hear some of those, I have more than a couple.

But one that I wanted to highlight was the City of Onalaska, which is in Polk County. It is located in the heart of Lake Livingston. And the town is actually on a peninsula which extends out into the lake. And that city of just over 1,100 people found itself without utilities for several days.

And Onalaska was also inundated with unexpected evacuees from outlying areas. Their chief concern at that time was providing emergency services to the citizens of the community, as well as those seeking temporary shelter and housing. And as a result of the strain on the city electrical, the fire department shut down, had a failure to function.

And because of that power outage, the City was awarded a grant for $28,050 in supplemental funds by ORCA. And the grant was to secure a 45 kilowatt generator for the fire department located in the center of the town. And this is the interesting part. When the City was ready to receive the bids for that generator, a surprise happened.

A generator showed up in the community that was actually shipped in error to a local water company. And the City folks, being the shrewd negotiators that they are and you will see this in agenda item 4C, negotiated a substantially good deal and bought that generator, a larger generator than what they originally needed for a substantially lower price.

And so now they have some excess funds which you are going to see in a budget amendment in a little bit, to come back to you, and move those funds into another area with the police and fire department. So good success story there, and we thank the local citizens for being on top of that particular situation there.

One other one, that I think we want to talk about, the City of West Orange also. This is the one that has absolutely expended every single dollar already. So we have to salute them by recognizing them. They had a $200,000 grant award. All of it is drawn. They supplied their own admin.

So it is all -- it all went into it. There was insurance money, local money and $200,000 in the federal funds here through the Agency and through TDHCA. The City of West Orange was severely impacted. There was a great amount of damage to the city and the main area was the police and fire facilities.

A 100 foot antenna was twisted and slammed into the police department and fire station, completely destroying that building through holes that were punched in the roof and partial collapses. And so the siding of the building was also allowing water to get into the building. Both buildings, as a matter of fact. So they couldn't be occupied.

But through this grant, the buildings, the police and fire station were both completely renovated and now occupied. And the funds are fully expended, just 13 months after the award.

So those are the kind of success stories that we all want to hear in both our program and the housing program. But we salute them for doing that. I am going to move on to the DR2 unless you have questions about DR1.

MS. ANDERSON: I have a question, and I am gratified to hear those success stories. And at the same time, I am troubled by some very major allocations where there has not been a penny drawn.

At the risk of calling names, I will call names. You know, Jefferson County, the City of Lufkin, Orange County, Tyler County. Can you help me understand why that is?

MR. STONE: Sure. I am going to ask Heather to explain that, since you work these on a daily basis every day.

MS. LAGRONE: I am Heather LaGrone with the Office of Rural and Community Affairs. A lot of these communities are still working on their environmental processes. There are FEMA dollars involved. Some of the FEMA dollars have been delayed.

As a partial funder, we fund after FEMA funds their portion of the money. So in some cases, it has to do with us waiting on FEMA. In other cases, these communities are not equipped to do self administration. So we have got grant consultants who have taken on two and three times their normal caseloads. And they just have not been able to accomplish everything that we have hoped they could do.

What we have done is, we have hired someone in the Austin office who is going out now and helping to do technical assistance. She is helping them set up their procurements. She is helping them write the appropriate letters that they need to write.

She is helping them finish their environmentals. So where their consultant hasn't been able to do things, we are sending our staff out to do that technical assistance and to help them move these dollars.

MS. ANDERSON: Thank you. Mr. Conine.

MR. CONINE: I know this is kind of beyond you all's pay grade maybe, but it sounds like to me we need some interaction with FEMA at the Washington, D.C., level here. Because I keep hearing FEMA's name, coming up and coming up. And I guess from you all's perspective, would that help, or would it hurt? Or do we need to get members of the Congress on the horn?

MS. LAGRONE: I think that that could help. The Hazard Mitigation Grant program is funded 75 percent FEMA, and the community has to provide 25 percent of that match. And what we are hearing from our communities is they are not getting any movement towards beginning those projects.

And that program is stretched just as thin as everyone else. They are working in Louisiana. They are working in Mississippi. They are in Alabama and Florida as well. And so we are just not being prioritized I think, at this point.

MR. CONINE: I don't know how best to attack this animal. But I have got a feeling that with all the newspaper publicity and because of the anniversary, I have just got to believe that a phone call or two in the right spot might help.

The specificity which Heather articulated on her specific problem, I think, is an example we need to take upstream maybe. If you could give us a couple of others.

MS. LAGRONE: Sure.

MR. CONINE: We will do what we can to call on our folks in DC, and see if we can rattle the trees somewhere. Because that, I am with Ms. Anderson that you hate to see a couple of million dollars sitting there and for them not to be able to use it and to hear that FEMA hasn't even thought about starting on whatever they need to do in order for that community to access those dollars. We need somebody else to hear that story.

MS. LAGRONE: Thank you.

MS. ANDERSON: And it is FEMA, Washington, not the regional office? It is not Denton; it's Washington.

MS. LAGRONE: Yes.

MR. FLORES: Ms. LaGrone, it looks like you have a two pronged problem. You just identified the upstream problem, FEMA. Downstream, it looked like you need some help administratively to get some of these things going. And you have one person, we see, at TDHCA?

MS. LAGRONE: Well, we have two field offices, one in Nacogdoches that has two employees, and one in Kountze that has two employees. And in addition to that, in Austin, we have another staff member that is 100 percent devoted to the disaster funding.

So we have got five folks who are working on this regularly. And then I am involved. And we have got some other people who are partially funded from these dollars.

MR. FLORES: But on the other side, on the demand side, how many towns, counties, you know, political entities out there are needing our service for that, that don't have the administrative help that they need?

MR. CONINE: Like about 70 or 80.

MR. FLORES: I am just guessing about it.

MS. ANDERSON: Well, there is admin dollars that went with these monies.

MR. FLORES: What I am concerned about is --

MS. ANDERSON: You know, and I don't buy that Jefferson County doesn't have the capacity.

MR. FLORES: Well, that is the big one. But I know how big Onalaska is. Onalaska doesn't have administrative help.

MS. ANDERSON: Right.

MR. FLORES: How bad is the problem? Like I said, do you need some time to identify it? Do you need to send me an email? Whatever. You don't have to answer the question right now.

But if that is a problem, we need to know about it. Because I don't want to get this chain, you know, plugged up because of a situation where we don't have enough administrative help.

MR. STONE: Well, we have discussed this within the Agency. I think we are adequately staffed here, within in ORCA. We try to be as politically correct as I can. We have communities who have hired consultants who are good, let me say that first.

Who are now overworked and understaffed. And we will be talking with them about the movement of these grants, because it is their responsibility to get it going. They are contracted with the communities to do the work.

So we need to get the money out the door, because the communities need it. They realize that. But they don't have the capacity, some of them do not have the capacity to get the job done. And it is a matter of too much work and too little staff.

MS. ANDERSON: And the appropriate time, we might want to understand who those intermediaries are.

MR. FLORES: Would you get that into a more detailed discussion with Mr. Gerber and then I will have Mr. Gerber to pass that on, to see what we can do about helping out.

MR. STONE: I will be glad to discuss that with Mr. Gerber. We recognize the problem.

MS. ANDERSON: And I don't want to beat up on public jurisdictions when it is the people they have hired to give them help that are the bottleneck. So we have talked.

Mr. Henneberger started out this morning. We have had a couple of conversations about transparency that would be consistent with the process here being transparent to know really where the bottlenecks are.

MR. STONE: Okay. If you would like to move along to Round 2. On page two of six in your Board action item, talking about the 42 million under DR2. There is a chart there that specifies $10 million for Hardin County. You are going to be hearing that today later on.

Bridge City, 3.8 million set-aside for that, will be back on the agenda on November 8. Memorial Hermann Baptist Hospital, you actually approved that one on August 23. And they are already in the process of purchasing their CT equipment that they wanted to, and also working on the demolition areas damaged by Hurricane Rita. So they are moving along on theirs.

We have the total competitive awards for the infrastructure of $22.2 million. That is the amount of funds. We have all of those applications in. Those are under review. And we have set a guaranteed goal of having them back to you. You are going to write that down. November 8, at your November 8 Board meeting.

In fact, we have gone through those. We are going through a second review of those for accuracy. So those will be back. And you will be seeing at least four or maybe five contracts where they come in at the $5 million max on those.

Interesting to note though, that we have $73 million in applications for $42 million. So there is a $51 million shortage in the infrastructure program. So for the record, since you all have made it very well known to ORCA that if we had any money left over, it would be used in housing.

And if you all have any money left over in housing, we could certainly use it on infrastructure. I know there is not enough money to go around. But I just had to say that. So we will be back on November 8 with some applications for you.

MS. ANDERSON: I think that is another reason why we need more transparency on the progress on Round 1. Because I am very curious.

For example, in these 26 applications, how many of them are from jurisdictions that have not drawn penny one on Round 1 yet. So we really need to understand what the holdup is in Round 1 so we understand if those are justifiable or not.

And are we proposing to give new awards to the same consultants that are overburdened today. I mean, we have got to look at this from a systems thinking, a systemic holistic kind of point of view.

MR. STONE: We will clearly provide that information.

MS. ANDERSON: Thank you, Mr. Stone.

MR. STONE: Any other questions on that?

(No response.)

MR. STONE: That completes A, or B rather. Do you want to go to 4C? These are amendments to the CDBG contracts that we are requesting action exceeding the 5 percent on your Board action request that is in your Board books. You have the City of Hemphill.

They have a total of $26,236 that they want to move into their water facilities as a line item. And that is money that is no longer needed for a FEMA match.

And so that money, and that line item budget is shown on page two of three at the top. It shows the items that it is taken out of to balance that budget. And so we are requesting approval of the transfer of those funds in those other categories from sewer, other public facilities and street improvements to balance that budget.

The City of Onalaska, which you have already talked about, they are shrewd operators there, that managed to save some money. They are -- you previously requested $28,050 for them for the generator for the fire station. And they were able to buy another one for, it appears, only $9,720.

So they now have $15,780 that they are requesting to be moved into the purchase of another generator. And that is going to be in a local water company pumping station out there. So those are the two requests, Onalaska and Hemphill, for you for your consideration, Madam Chair.

MR. CONINE: Move approval.

MR. FLORES: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. STONE: Item 4D. This is about reserve funds. Let's go over this very briefly. I know there is going to be some conversations about this one. At your August meeting, ORCA was unable to recommend approval of the Hardin County and Bridge City set-asides.

We were requesting additional information at that particular time in order to evaluate the administrative expenses related to those projects. And at this time, what you have before you is a requested action.

It is itemized at $9,021,051 for debris removal, $700,000 for engineering. $49,745 for a planning study which has to do with the Pine Island Bayou area which is a National Park Service request before any debris is removed out of there, they are requiring a study. So that is a change there.

And then for this particular part of the project, from what staff can recommend at this time,

$229,204 for administration for this particular project. So this is where we are right now.

I know you are going to have some comments about that, Madam Chair, and you may want to listen to those before any other action is taken. But we are recommending approval of the Hardin County set-aside project for the activities allowable with the budget that I just went over, for a total of $10 million.

MS. ANDERSON: I just have one question, and then we will ask you all to sit down, and we will have the -- because we have some other public comment on this item. My question is, do you, within 5 percent or this Board in formal public action have the ability to change the administrative dollar component at a future date if there were documented things?

I mean, just like we see other kinds of budget changes, can you bring us an administrative budget change? Is that within the allowability in the rules?

MR. STONE: Yes, it is.

MS. ANDERSON: Okay. I like a yes or no answer.

MR. CONINE: Is that the 5 percent, limited to 5 percent within their own discretion. Over five, it comes back to us? Is that the way it works?

MR. STONE: It cannot exceed 10 percent overall. We still have the 10 percent rule.

MS. ANDERSON: Right. Okay.

MR. CONINE: I have a question before they leave. And I am sure I am going to hear that Hardin County needs to spend $10 million to fix up their place. How did, what process did you go through to make the decision to request a $10 million set-aside for this specific project, when you are oversubscribed three to one on the competitive bid process?

MR. STONE: That was a process which ORCA was not part of, Mr. Conine.

MR. CONINE: Really.

MR. STONE: Yes, sir.

MR. GERBER: There were determinations on --

MR. CONINE: How did we get to the ten. Why, if this chart is correct, and they have got 51 million in requests, and we have only got $23 million left over, 22.2. If we took the ten out -- obviously if we left the ten in, it would be 32.2. How did we get to this point of requesting a $10 million set-aside?

MR. GERBER: Some time ago when these funds were made available to the State of Texas, local officials throughout Southeast Texas had the opportunity to meet with the Governor. The Governor was designated by the HUD Secretary as the individual responsible for making the allocation choices.

And based on the best information that we had at the time, that was the decision that he made. And that was reflected in the action plan that was submitted by this Board to HUD.

MR. CONINE: Okay.

MR. GERBER: Doesn't mean it can't be amended and changed, but --

MR. CONINE: All right.

MR. GERBER: But that was reflective of nine months ago or ten months.

MR. CONINE: That is what I want to know.

MS. ANDERSON: Any other questions for this panel of witnesses?

(No response.)

MS. ANDERSON: Thank you all so much. But I wouldn't go too far away. I have three people that would like to make public comment on this item. And I will just let you all go in the order that you would prefer. Judge Griffith, John Johnson and Regina Bell. And in the order you choose.

MR. GRIFFITH: If you wouldn't mind, we would all come up and sit, and I will really turn it over to them, because they have worked the numbers. If that would be okay.

MS. ANDERSON: Uh-huh.

MR. GRIFFITH: Thanks.

MR. GERBER: Judge, could you state your name, sir?

MR. GRIFFITH: Yes. My name is Carl Griffith, and I represent Carl Griffith and Associates. And Regina Bell and John Johnson are also both working with me. Our office is in Port Arthur, Texas. 2901 Turtle Creek Drive, Port Arthur, Texas.

We are going to deliver some information to you. It was not our intent to do it at this point, because it is a lot. But because as we went through this process, we were not given the information used to make up this scale until yesterday afternoon at about 3:00 by ORCA. And as you read through it, you will find out they forced us to go through it.

MS. ANDERSON: I really encourage you Judge, to summarize. Because this is --

MR. GRIFFITH: I am sorry. I just couldn't get to it. I would love. I sat in this chair on the State Board also. I like to get information long before hand.

And I am really sorry. We didn't get it to where we could prepare it. We were up most of the night putting this together for you.

MS. ANDERSON: Just, I mean, I don't have a time limit. I want to hear you out. But summarize.

MR. GRIFFITH: Let me just thank you all very much for allowing us to be up here today to talk to you about this. And we are not sure if you want to go through by line item on the major issues. I am not sure how you want to handle it.

The recommended budget that ORCA has made, we couldn't financially proceed to make it -- we couldn't. It would be money out of our pockets. And we already have a contract with Hardin County that we entered into back in July to administer this at 8 percent, which fits within the guidelines of what you have proposed, ORCA has proposed.

And going after the fact, I have found that the most hurricane hit state in this country is Florida. And that is their minimum amount that they pay for administration not including the state's administration fees, and they pay up to 15 percent.

But with that, I will turn it over to John Johnson and Regina Bell. Because they have really worked the details of this. And we have been working on it since January of this year. John.

MR. JOHNSON: Madam Chair, I am John Johnson with Carl Griffith & Associates. And I will try. We have got prepared testimony in this document. I will do my best to summarize it and cut through it pretty quickly, and hit the high points.

But we do believe, with all due respect, ORCA's own documents demonstrate that their process of determining these administrative fees was undertaken in a very perfunctory manner, and did not adequately consider the scope of the project and the extent of the tasks involved. The Action Plan was approved by this Board and by HUD to cap administrative fees at 10 percent.

Specifically, to minimize those costs, and maximize direct project funds. And we believe our application does that. We submitted an application on June 30 of this year. It proposed reasonable administrative fees based on the scope of the project. And it conformed in all respects to the guidelines issued by ORCA.

Prior to entering into a contract with our firm, the county contacted ORCA on July 9 and asked if there were any issues they needed to be aware of before they executed a contract. They received no response from ORCA and subsequently entered into a contract with our firm on July 23.

Now the Hardin County project will involve at least 38 debris removal sites and stream segments. Those were prioritized from a list of over 100 stream segments and debris sites. And the 38 most severe were selected because a bridge project has also emerged as a priority for the county. And we will be pursuing an amendment on that project.

But we factored the bridge project into our proposal, into our application. After our application was submitted, and the application proposed 8 percent administrative fees to our firm, and another 2 percent to the county, because the county simply doesn't have the capacity to do it. This grant will essentially increase the county budget by 30 percent a year.

MR. GRIFFITH: Judge Caraway would be here today. He called me right while we have been in the meeting and asked how it was going. But he had a trial today. And I mean, they are just a small county with a lot of devastation. I know you understand.

MR. JOHNSON: So county staff will be burdened really beyond their ability to absorb with their existing resources. So we had hoped to help them with some of these funds. This is not the case of our firm making a grab for 10 percent admin. We went through in greater detail, we proposed than any consulting firm has ever gone through, and came up with what we think were realistic numbers.

Following submission of our application, ORCA published new guidance. In fact, it was published a week before this Board was to take up the Hardin County application. And their new guidance set a range of administrative fees from 2.38 percent to 10 percent, depending on the size of the project.

We set out almost immediately to get an understanding of how ORCA developed their scale. And a number of phone calls and meetings occurred during August, following which on August 16 it appears ORCA took their first steps to validate the numbers they had published. And they did that by surveying other Gulf Coast states to ask them if they had issued any caps or guidance on administrative fees.

The only response they got was Florida which sets administrative fees on infrastructure grants at eight to 15 percent, depending on the type of project. We met with ORCA on August 30, trying to resolve this, and gained a better understanding of how they developed the scale. We asked them for examples.

They essentially asked us for a line item budget. How we would propose to spend the administrative fees. We asked them for examples of another line item budget, because in our experience, these budgets are milestone budgets based on the major task groups that are required to administer the grant. They declined to provide us with any line item budgets.

We asked them for guidance on how they proposed we would administer the grant for 2.38 percent. They refused to provide us with any guidance in that regard. And we asked them how they arrived at the scale; if they could give us any background on that. And they refused to provide us with any information in that regard.

In fact, they refused all our requests, and instructed us that we would have to file an Open Records request with the Agency if we wanted any information from them. We saw our effort as seeking technical support, technical assistance from the Agency, and their response was to direct us to file an Open Records request.

So we did. We filed several Open Records requests, asking for detailed budgets, and asking for how they arrived at their scale, and other information. And I won't go through all the details, but the essence of their responses were they have no line item budgets.

They have never required another grant consultant to submit line item budgets. And they have absolutely no basis in the Agency for the development of the scale.

In fact, I had to ask several times over a months time for documents relating to the development of the scale, and their ultimate response was to send me a copy of the scale itself. And let me digress and go back to the August 30 meeting when we asked the Agency how they developed the scale, their response was, experience.

MR. GRIFFITH: Those emails are all in your book. You will see the responses. That is not just -- you can read the facts.

MR. JOHNSON: So following the August 30 meeting, our director from the Agency was to develop a line item budget, so we did. We went through in painstaking detail, the tasks involved in administering the grant.

And we came back with the grant proposal. And their response was to cut it again to something on the order of 2.3 percent. So we continued our analysis of their 2.38 percent.

And one of the really troubling features of their proposal is that it would zero out major activities associated with administering the grant. And these are activities that we are contractually obligated to provide, and in fact, are required to provide under the guidance issued by ORCA.

Our contract and the budget we developed, we used the management consultants scope of services that ORCA publishes in their implementation guide, and we built our budget around their guidance, essentially. And some of the things, some of the areas they modified the budget in, for example, is the provision of technical assistance.

Their response was -- well, let me preface that. The implementation manual, ORCA's implementation manual in several places provides that the consultant will provide general advice and technical assistance to the locality personnel and implementation of project and regulatory matters. Now they zeroed that line item out.

And I believe they did that, interpreting the term technical assistance to refer only to the programmatic technical assistance that the Agency provides localities and then ignores a higher obligation to provide general advice to the locality. We have been providing general advice to the locality for nine months. And we are confident that that is going to continue. Again, the county has no capacity to administer this grant on their own.

MR. GRIFFITH: Let me stop you right there, and give you just a little insight. They are in the documents required to remove debris. It is required that you go in and move the debris, pick it up, take it out of the stream segments, carry it out and either chip it or dispose of it some other way.

I called Judge Stone, and said, back months ago, and said, we can do this by going in and grinding it on site. There is a national permit for that. We do that all the time in East Texas. He called me back and said, it is not legal. TCEQ will not allow us.

I said, Judge, I will go over and meet with your staff and meet with TCEQ and the Corps of Engineers who actually controls that. It is not TCEQ. They are over the waters, but the Corps ultimately has the national permit for that.

Second, he called me back and they still couldn't find it. And I know I am carrying on long, but this is important to us. If we can go and grind down those stream salients, we will probably get double the use of the money. You can probably make this money go twice as far. Plus, not the environmental impacts on those stream segments.

Finally, after the fourth time, in the meeting of August 30. And Mike was on one of my conference calls with them about this issue. And not to get him involved in it. You all have your staff, has been awesome -- TDHCA's -- from day one and Mike, before he was here, I can't tell you. We wouldn't have recovered where we are today if it wasn't partly for his leadership. He has always been a driving force, and I am appreciative of that.

It took four times for me to convince them what I already knew we could do. And do that, we clean our stream segments that way. It took four times to the site. Yes, we can go to the right person. And I will give you the people to talk to.

Well, they sent me an email back which was in August that says, okay. Yes. We agree. We found, I guess, found somebody that would say, yes. You are right. You can grind it. And this will make our money go I will bet you at least twice as far and not have the environmental impacts.

Anyway, I am sorry to get off on that. But that is technical advice that we were given and that we know that community, and have been involved in those issues for 30 years.

MR. JOHNSON: And in the area of technical advice, I would point out that we set out as currently as March to secure preagreement cost letter from the Agency. And this is detailed under Tab 3 in the chronology of significant events.

It took us five months working with the Agency to get a preagreement cost letter. Five months and half a dozen emails and a direct appeal to this Agency for guidance on a preagreement cost letter.

MR. GRIFFITH: You all had to help us, get involved to get it done.

MR. JOHNSON: And the point is that it is not a standard process. ORCA's position has been that this is just another CDBG grant, just like your typical two to $300,000 water project. And they have standard administrative tasks that shouldn't require significant deviations from -- and in fact, because of the size of the project, there should be economies of scale.

I would suggest to you that in the DR1 grants, that Judge Stone just talked about, we actually got involved in trying to understand their analysis. And they sent us a group of DR1 grant.

But just as an example, actually we picked them up at their office yesterday. The average admin on the DR1 grants, infrastructure grants was 6 percent. And as you have just heard, consultants in East Texas are overtasked, and they are not getting it done for 6 percent admin.

I would suggest that perhaps the cap on admin may be slowing them down. But certainly a 2.38 percent cap on admin on this grant is going to paralyze this grant.

MR. GRIFFITH: Chair Rath and actually on Jefferson County's DR1, when we did that, Chair Rath was able to get over $100 million for NEG funds, which I hired people to do the work to give that, deliver that information to our consultant to do the grant funding.

So the consultant was able to use money to actually have people help from my office, because I had an additional four or six people in my office paid with NEG funds out of Workforce Commission to help combine that information, and actually took over 6,000 housing requests in my office alone. So those DR1, I know that in Jefferson County, we are subsidized, those DR1 funds were subsidized to the consultants by us compiling the information so that you can get it quicker and act on it.

I am not sure. I know you have got many things to go through. I can just tell you that I am comfortable. I know you asked about the administrative cap and can we come back and ask for additional funds. I really talked to Mike and Charlie.

If we can move this thing forward, I can't sign a contract for under 6 percent and know that we could go back to you all and ask for additional funds. Because it would be committing to taking the money out of our pockets to be able to pay the people to do the work. It is not possible to do it for the numbers that they have in there. And $70,000 is eaten out of that for the study for the Big Thicket.

MR. JOHNSON: The competitive applications --

MR. GRIFFITH: I think she has got it.

MS. ANDERSON: No. Go ahead.

MR. JOHNSON: Well, the competitive applications that were submitted after ORCA issued their guidance, their 2.8 to 10 percent guidance, those applications excluding three applications that have zero admin because they are going to be done in house. Those applications exceed -- the average have been requested by the consultants. It is 6 ½ percent.

If ORCA's scale is applied to those applications, the admin will be an average of 3.3 percent. We think that is unrealistic. We think the 6 percent on the DR1 money is approaching the ball park to break even.

We have questions about it. We think we are going to have to come back at 6 percent. But that has got -- I mean, it has got to be a minimum.

MS. ANDERSON: Does the Board have questions for the witnesses?

(No response.)

MS. ANDERSON: Do you all have a closing kind of statement, comment you would like to make?

MR. GRIFFITH: No.

MS. ANDERSON: And then I have some questions for ORCA staff. We appreciate your being here today.

MR. GRIFFITH: Two things. Temple is about to sell their property. And this has to get to a resolution for us to get the rights of entry on those stream segments, because as soon as they say, the longer we delay, and we were ready to go on August, as you all directed us to be.

But this deal came up a week before we were ready to go. But we are not going to be able to get -- we are going to have a much more difficult time with many more owners on those properties for rights to entry. And the other thing that I suggested, if that won't work, we are willing for you all to come and audit our books, and do cost plus 10 percent.

I mean, if you can't, if it is going to change from what the state has always done with an eight and 10 percent administration. I mean, we have just got to move this thing forward for those people in Hardin County. We have got to do that. And I will leave it in your hands. We appreciate all your help.

MS. ANDERSON: Thank you. I know, but I was trying to finish this item first.

MR. FLORES: It is a long item.

MS. ANDERSON: We are going to take a break. As soon as we -- we don't want to make that mean that we handle this in a hasty fashion. Does the Board have questions for the ORCA staff?

MR. FLORES: Well, we ought to at least give them the opportunity to answer any accusations. And that is about all I ask. Mr. Stone?

MR. STONE: Madam Chair and members. We certainly didn't want this to become a contentious interaction between Carl Griffith & Associates and ourselves. And we apologize to the Board that it has come to that.

But we do have differences of opinion about what we estimated it would take to run a project of this size. I will recognize the fact that Carl Griffith & Associates is a powerful group of people. They are doing what they think is right. I recognize that.

I respect them for what they are trying to do. And in their hearts, I believe they believe they are actually right. And I will leave it at that.

What I will tell you today is that we bring to the table over 100 years of CDBG experience within our agency. And we used that heavily to make this determination. And we kept in mind the TDHCA Board's guidance on watching administrative funds as closely as possible.

And because this was the largest grant, we watch all of them. We watch this one especially. And Mark did have some real concerns about this, as did other staff. And so we -- the process got a little drawn out on this. And we apologize that it has had to come to this, that we can't come forward and make a recommendation that concurs with what they feel is necessary to operate this.

So basically, we think the economies of scale associated with this, this is a debris removal project, primarily. It is not rocket science. It is a debris project. And we think it can be done.

And we would say that it can be done for the amount that we are recommending. It however is the Board's decision on what to do, and we will respect that decision and comply with your decision whatever it is.

MS. ANDERSON: You have a hundred, in the Department, in your Agency, you have 100 years of CDBG experience that you relied upon. If the Board were to take an action that would, in the views of the consultant not provide funds according to their budgets that administrative dollars to execute this project, do you believe that if ORCA were to self administer this project, could you do this debris removal contract. If it were your business, could you do it for the administrative dollars that you have proposed the Board to approve?

MR. STONE: Yes. And the reason I say that is, because I had that same question on my mind when Mark and the staff gave me the proposal. And I called Mark in. Afterwards, I looked at him. I said, Mark. What we are saying to the TDHCA Board is that this is what it could be managed for. Could we do that.

And without a doubt, and without any hesitation, Mark said, yes. We could manage the contract for that amount. That is not our intent. We don't want to do that, but we could do that.

MR. WYATT: I will concur. This is Mark Wyatt, Director of CD and ORCA. I will for the record concur with that. I would like to say that while we answer that question from the perspective of your confidence in our numbers, we obviously strongly believe in the system here in this country where we prefer free enterprise.

We have approached this from day one with the assumption that Carl Griffith & Associates would carry out this contract. What we were working at from our perspective is not who would do it, but simply an appropriate, reasonable budget based on our duty to manage a CDBG program based on tasks that we have implemented through our manual, our process. And that is how we approached it from day one.

And that is why we have recommended it in this fashion. And I just want to say that for the record. That we concur with the number. But we also deeply respect the tradition in this country where private enterprise carries it out, and we would encourage that to be the way this one is handled for that reason.

MS. ANDERSON: So what would be the process. You know Bridge City and CRG have entered into a contract, contemplating some level of administrative expense. And so if the Board action contemplates a very, pretty dramatically different level of administrative expense, based on your experience, Judge Stone, you know, can they unwind that contract? Can they rebid the job?

I mean, what do you think? What would happen? I mean, sort of what are the next steps? If the Board took an action that resulted in administrative costs substantially different than what the consultant proposed.

MR. STONE: If you were to do that, there is an existing contract with Carl Griffith & Associates with Hardin County. The County is the driver of this. The county would have to make a decision on whether to offer --

MS. ANDERSON: Okay.

MR. STONE: I am not a lawyer. I am going to say that up front. But obviously, they already have a contract. So I think the first step would be to ask Carl Griffith & Associates if they wish to perform the duties with the new recommended admin amount, whatever it is, as the TDHCA Board. They can choose to accept it or not.

And then it would be up to the county to decide where to go from there. Probably to -- I don't know what would happen between Carl Griffith & Associates. Something would. I don't know what would happen. But they would -- it is the county's next step, where they go.

MS. ANDERSON: The counties.

MR. STONE: Yes, ma'am.

MS. RAY: Madam Chair.

MS. ANDERSON: Yes, ma'am.

MS. RAY: Can we take a break before we vote on this?

MS. ANDERSON: Yes. But I ask the Board members not to talk to witnesses during the period of the break.

MS. RAY: Absolutely.

MS. ANDERSON: Okay. Thanks. We will take like a, we are going to take a ten minute kind of bayou break. Right. Okay.

MR. CONINE: A what break?

MS. ANDERSON: Bayou.

MS. RAY: Bayou.

MR. CONINE: Oh. That means body?

(Simultaneous discussion.)

MS. ANDERSON: I have a question for the ORCA team. I just have one more question. And that is, when did CRG become aware of the redlining that you had done on their line item budget? I mean, how long have they known what those redlines were? When it went up in the Board book?

MR. WYATT: No. We got the proposal. Staff worked extremely hard, very quickly. Nine staff members worked on it. And within days, it was just a reasonable time. I want to say --

MS. LAGRONE: Probably about two weeks. Two weeks before today would be my estimate.

MR. WYATT: But I just want to clarify that from the day that we saw the breakout and staff immediately, we had staff geared up. Immediately got on it. And as soon as their writeup was done, we emailed that to them.

MS. ANDERSON: Okay. So approximately two weeks before today. So approximately a week before the Board book went out. Okay. Thank you.

MR. CONINE: Madam Chair, I move approval of Item 4D, taking the ORCA recommendation.

MR. FLORES: I second that motion.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. Now we are on to --

MR. GERBER: Madam Chair, actually I made an error on Item F.

MS. ANDERSON: Yes.

MR. GERBER: If I could ask the Board's indulgence to go back to that. This is the presentation, discussion and possible approval of the 2008 emergency shelter grants program, sub-recipient application. The Department staff is recommending that the Board approve this application packet.

The application is similar to the one that the Board approved last year, and follows the requirements that are set forth in the program's rules. This package used by the Department, it is competitive federal fiscal year 2008 ESGP funds distribution obligation process, for which the Department expects to receive about $5 million for distribution.

Funding is contingent upon, of course, an authorization and funding from Congress. The Department expects to release this application the week of October 22, with the deadline we foresee of mid-January 2008. The reason that we ask that it be removed from the Consent Agenda is because there was a need to make a couple of edits in the section dealing with statewide initiatives.

Staff is requesting that we be able to make additional revisions to that section, to just make sure that we are consistent with HUD's requirements. And there is nothing significant in that. Just a couple of small changes that we want to make sure that we are being in strict compliance and conformity with HUD rules.

MR. FLORES: So the motion is to receive Item 1F from the consent agenda that we previously passed.

MR. GERBER: No. It was removed from the Consent Agenda. But because we want to have the flexibility to make a couple of small edits, we ask that it be, that the staff be given that flexibility, and that you all provide approval of the ESGP packet.

MS. ANDERSON: What is the nature of the edits?

MR. GERBER: Dealing with the statewide initiative section. And Brooke, do you want to come forward and touch on that for just a second.

MS. BOSTON: Sure.

MR. CONINE: Why did you pull it, girl?

MS. BOSTON: Pulling it, we just wanted to change it a little. The way it was written, it referenced solely a statewide activity. And it also referenced a HMIS, which is the Homeless Management Information System. And that is one of the eligible activities with HUD, and we wanted to emphasize that more in the writeup, as well as emphasize that if an applicant is applying for some type of HMIS activity, and I am afraid they are not statewide.

But they are regional or local, but that might also be an eligible activity. We didn't want to say that the only applicants for this activity would have to be a statewide contract.

MR. CONINE: Move approval subject to giving staff some leeway in modifying the language. But with that language modification, coming back to the Board next month for information only.

MS. ANDERSON: Okay.

MS. RAY: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. GERBER: Now we go to Item 3A, Madam Chair, which is the presentation, discussion and possible approval of an MOU between TDHCA and ORCA regarding management of the CDBG grant funds for our Self-Help Center program. The purpose of the MOU is to transfer CDBG grant funds from ORCA to TDHCA consistent with the MOUs that you have seen in the past years.

The significant difference in this MOU, versus prior MOUs is that now TDHCA will be fully responsible for all of the monitoring, not only just for management of the program, but also for the monitoring of the program. And instead of monitoring contracts, ORCA will periodically monitor TDHCA's monitoring process.

We are really pleased that PMC is going to take over the rule of onsite monitoring visits for this program that is administered by OCI. And that is really the only significant difference. And we can touch on that further, or we would seek the Board's approval for this.

MS. RAY: Madam Chair, do we have any public comment?

MS. ANDERSON: No, ma'am.

MS. RAY: I move staff recommendation.

MR. CONINE: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. GERBER: The next Madam Chair, I will move to Item 5A, which is presentation, discussion and issuance of Housing Tax Credits associated with mortgage revenue bond transactions that have other issuers. We are only going to be dealing today with Enclave Gardens. The remainder of the deals have been pulled from the agenda today, but they will be on November's Board agenda.

So we are looking at Enclave Gardens. This is a tax exempt bonds application that is requesting 4 percent tax credits. The San Antonio Housing Finance Corporation is the issuer. It is a Priority Two application, proposing 228 new construction units, and with a general target population.

The Department has not received any letters of support or opposition. And the applicant is requesting and the Department is asking the Board to approve $601,737 in Housing Tax Credits.

MR. CONINE: So moved.

MS. RAY: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. GERBER: Next moving on to Item 5B, which is the presentation, discussion and possible reallocation of 2007 Housing Tax Credits and the possible allocation of 2008 tax credits. As, you know, the Department has experienced a higher than usual number of applicants returning previously awarded tax credits from the credit ceiling.

There have been ten returns prior to the 2007 awards in July, which were already reallocated in July. Seven returns after the awards in July, of which, three were awards that were made at the July meeting. This is also the Department's first year in dealing with binding agreements issued for additional tax credits that curbs part of the construction cost relief approved by the Board, this Board last year.

The numerous credit returns in the binding agreements caused much uncertainty for staff, as was demonstrated by the options that are going to be detailed in my presentation. And the staff can expand further.

First, staff is asking that the Board ratify two commitment notices for application number 07-189 which is Sunlight Manor Apartments, and also for 07-257, which are the Historic Lofts of Waco High. Secondly, the staff is asking that the Board approve commitment notices for one of the three options presented in the Board materials, and staff is not recommending which one of the three options the Board should approve, and we will walk through that.

In all three options, the same three applications are recommended for credits. The options vary in whether the applications would need to be sized down to fit a smaller credit amount, and or vary in what the credit ceiling 2007 or eight, the credits would come from.

The first option would allow all three applications to receive a full allocation of credits for their proposed applications without resizing. And it would require only one of the applications to be split with some of the ceiling coming from '07 and some coming from '08 as a forward commitment.

The second option allows all three applications to be funded, but requires all three applications to resize their developments to fit the amounts available in the respective region. In this option, there are no awards split between years, and this option follows the waiting list procedure established by the Board and the Department.

Option three would allow all three applications to receive a full allocation of credits for their proposed applications without resizing. In this case, all three applications will have split awards with some of their credit coming from '07, and some coming from '08 as forward commitments.

In all three options, the applications remain subject to underwriting. And since publication of the

Board materials, REA has told us that they have identified a concentration violation with the Villas on Raiford. And so therefore, REA is not recommending the Villas on Raiford.

However, staff is recommending one of the options be approved as presented, so that the applicant for Villas on Raiford may continue to have the opportunity to appeal to the Board in November. The commitment for Villas on Raiford will not be drafted until appeal is determined by the Board.

MR. FLORES: Would you repeat the part about the Villas on Raiford?

MR. GERBER: Sure. There is a concentration issue on the Villas on Raiford that has been identified. And we are still, so at this point, REA is not able to recommend that development for consideration by the Board. So we want to make sure that they have the opportunity to come back and appeal to the Board. There is a lot there, and Ms. Meyer is here to clarify.

MS. ANDERSON: Do we think we might get any more 2007 credits back in the remaining 60, 75 days of the year? Because I would rather not use any more 2008 credits than we have to. Because we have already forwarded a whole bunch of 2008 credits. And we will just dig a big hole for somebody to have to deal with next year.

MS. MEYER: Robbye Meyer, Director of Multi-family Finance. We do expect some returns. We do have several outstanding binding agreements that are still there. And they are still in the process of receiving their 8609s. So we do expect some additional returns. Part of the recommendation is to allow staff to be able to use those credits to fulfill the forward commitments, if that is one of the options that you choose.

MS. ANDERSON: To the biggest extent that is possible.

MS. MEYER: Yes, ma'am.

MS. ANDERSON: While I have you, Ms. Meyer, it would seem to me that it would be a little cleaner, but maybe I just don't understand something. It would be cleaner to not, in option one, where you mostly are given all 2007 credits, rather than option three, where you are splitting on all the deals, or on several of them, 2007 and 2008. Is that cleaner?

MS. MEYER: That is correct. We are only splitting one deal, whereas in option three, you are actually doing a forward commitment and split awards on three separate actions.

MR. CONINE: It is a question of how much you want to penalize one region versus multiple regions.

MS. MEYER: It is not really a penalty -- it is not penalizing --

MR. CONINE: Using 2008 credits. I will rephrase that. I have a question. On the first paragraph of the recommendation, where we are ratifying commitments for those two projects.

MS. MEYER: Yes, sir.

MR. CONINE: It is not very clear in my writeup anyway, how those two projects bubble to the top. Can you explain how that happened?

MS. MEYER: Yes, sir. The Point North was an allocation that was awarded in July in Region 5 in urban Region 5, and it was out of the state collapse.

MR. CONINE: Okay.

MS. MEYER: It comes back to Region 5 because it was still, urban Region 5 was still the most underserved. So this is the next application in line. There were enough credits coming back from Point North to fulfill Sunlight. So there is actually additional leftover credits. So Sunlight could be awarded fully.

MR. CONINE: Which is following the procedure that is in the QAP relative to the waiting list.

MS. MEYER: Yes. That is correct.

MR. CONINE: Okay.

MS. MEYER: The same thing with the Historic Lofts of Waco High. We had a return. There was an appeal at the Board's September meeting for the Mansions at Briar Creek, which the Board did not grant the appeal. And therefore, those credits were rescinded.

They came back to Region Eight. There was enough credits able to fund the next eligible application in Region Eight and therefore, that is why. Those were clear cut. It is the other ones that aren't.

MR. CONINE: Okay.

MS. ANDERSON: I do have public comment on this item.

MR. CONINE: All right.

MS. ANDERSON: Do we have any more questions for Ms. Meyer. Yes, sir.

MR. FLORES: If the Villas on Raiford is considered ineligible does that resolve the situation or not?

MS. MEYER: It is -- they have identified a violation of concentration policy. That particular applicant still has the right to appeal.

MR. FLORES: But that is not my question.

MS. MEYER: Okay.

MR. FLORES: My question is, if indeed it is not eligible, then what happens to the 1.2 million?

MS. MEYER: It would go to the next eligible application.

MS. ANDERSON: In Region Three.

MR. FLORES: In Region Three?

MS. MEYER: Uh-huh.

MR. FLORES: Okay. So it doesn't resolve it. You can't distribute on the others.

MR. CONINE: Does our QAP say that, or does it say, it goes to, if we have funded 2008, why wouldn't it fill up the 2007 bucket first?

MS. MEYER: Well, you have to look at the major part that is coming out of Region Three to fund Villas on Raiford was a return of Oak Timbers, which was also an award at the July meeting.

MR. CONINE: Okay. All right. I see what you mean.

MS. MEYER: And so the bulk of that is 897,000, I do believe. No, 912,955 is actually what is in Region Three. So it would be to the next eligible application there.

MR. CONINE: Even though on another region, we have done a 75-25 split on seven and eight credits.

MS. MEYER: Yes.

MR. CONINE: You know, I understand the logic of trying to take care of the region before we take care of the year of credits probably, but it seems to me that we need to look at that mechanism and see. It is obviously not working real good, when we have a bunch of '07 credits coming back, and we have done a bunch of '08 forwards, and we can't, we have to go give another project that is on the list an '07 credit, versus taking care of -- you know.

And leaving more room in '08. I am comfortable with the mechanics the way it is set up now. And this may be an odd year, or a weird year. But I am uncomfortable with them still respecting the regional allocation distribution.

MS. MEYER: And this option actually, it best uses the regional allocation formula.

MR. CONINE: I know. But it uses a lot of 2008 credits to do that. Especially at the July meeting. That is my problem. So what I am asking staff to look at, and before we get to the end of the QAP in November, ratifying it, is that in this interim period, is there a better way to do it, and not burn up future year allocation credits.

I think that is what the Chairman was saying earlier, and it is somewhat. It gets somebody in the money, even though, and burns up a lot of future credits, under the current system we have. And I am not sure that is the best.

MS. MEYER: You have that authority now just to be clear. The QAP references in general how the waiting list works.

MR. CONINE: Right.

MS. BOSTON: I mean, this case, and the reason why we brought these to you, is because this is fairly anomalous. We had somebody come back that there wasn't enough in several regions; how do you handle that.

That is why the three options were presented. Because it is not entirely clear what we should do. Which is why there is three choices, even today, on those three deals.

And so you have the authority, if you so choose, to make a different decisions on how those credits from Villas on Raiford are handled, with the understanding that the reason why Robbye's answer is what it is, is that staff is always trying to come as closely as possible to achieving almost to the number the Regional Allocation

Formula. And so that is our general response. But in this case, obviously, it is a little -- it is more grey.

MR. CONINE: And I understand why. I am asking staff just to take a look at that process. Again, this is post-July.

MS. BOSTON: Totally.

MR. CONINE: The problem doesn't occur before then. It is only occurring now afterwards.

MS. BOSTON: Correct.

MR. CONINE: And if we have 13 service regions in the state that ended up with little pieces of '08 credits because of a bunch of returns. That is not what I think we really need to be doing. You know, I am just concerned about the mechanics is all. I am making a generic comment.

MS. BOSTON: Yes. Okay. We can definitely keep looking at that.

MR. CONINE: Okay. Go ahead.

MR. FLORES: Are you saying that what Robbye's answer to my question was, is incorrect? That we can't put the 1.2 million on Raiford back in the bucket if indeed they are ineligible project?

MS. BOSTON: Robbye's answer was the correct staff response, which was that the credits need to go back to Region Three. Because we are statutorily required to adhere to the Regional Allocation Formula. You all have done that to a very large extent in Region Three.

Region Three gets a lot of money. You have come very close. You did make the initial allocation in Region Three. If the Board chose to decide to use the credits somewhat differently, I do believe you have that ability.

MR. FLORES: Do you agree with that, Counsel?

MR. HAMBY: Yes.

MR. FLORES: Okay. So by the next meeting, it is possible that this thing could be corrected, if indeed we want to correct it, and not go to the '08 year. So is there any reason why we couldn't postpone this until next meeting?

MS. BOSTON: I would ask that if anything, we could postpone maybe the Villas on Raiford. I would ask that we still take action on the other, on the two ratifications, and on the other two deals.

MR. FLORES: What is the consequence in delaying it, though?

MR. CONINE: They need to get going for carryover issues and --

MS. ANDERSON: Placed in service.

MR. CONINE: They need to get going, if they are going to get going.

MR. FLORES: So what we could do is to approve the other ones, fully funded, and let the deficit fall on the Villas on Raiford. Is that one of the options in here? I didn't see that.

MR. CONINE: That is not an option.

MS. MEYER: Well it is not. Taking one off was not one of the options. But all three --

MR. CONINE: Because the issue came up after the Board book was printed. Correct?

MR. FLORES: Well, could somebody help me frame that? I kind of like that option.

MR. CONINE: Do we have public comment? Let's get it before he makes a motion.

MS. ANDERSON: Yes, we do.

(Simultaneous discussion.)

MS. ANDERSON: Mr. Caldwell.

MR. CONINE: Let's pull the bridle back on Sonny just a minute.

MR. FLORES: Well, I just don't like too many hops.

MR. CONINE: I can understand that.

(Simultaneous discussion.)

MS. ANDERSON: Go ahead, sir.

MR. CALDWELL: Thanks, Madam Chair. My name is Mark Caldwell. Orange Palm Garden Apartment Homes. I will be very brief. You all understand the need down there. You heard from Mayor Claybar. You have heard from quite a few folks from Southeast Texas today and in the past few months.

I just wanted to maybe provide a little clarity to some of the options. We would request support on option one. And the reason being is with the Palm Garden Apartment Homes, it will allow for the leveraging of credits in a pretty unique way to allow for an additional 20 units to get on the ground for 188,000 credits. This is based on the option two where it would be required to downsize or resize the development.

And you lose a lot of the economies of scale, where we have heard today. We really lose a lot of that. So I will leave it at that. I just want to thank you all again for your consideration.

MS. ANDERSON: Thank you. Terri Anderson.

MS. T. ANDERSON: Good morning, Madam Chair and members of the Board and Mr. Gerber. I am Terri Anderson, Anderson Capital, LLC. I am speaking on the Villas on Raiford.

And we would respectfully request the $1.2 million be considered for Villas on Raiford in whole. And the issue that has come up with regard to the capture rate, I sincerely believe is an error in the market.

MS. ANDERSON: We can't address that, because it is not on the agenda for us today, and this is not the public comment at the beginning of the meeting. You must limit yourself.

MS. T. ANDERSON: We respectfully request the $1.2 million option one for Villas on Raiford. I apologize.

MR. FLORES: You will get another shot at the next meeting, Terri.

MS. T. ANDERSON: Thank you.

MS. ANDERSON: And Mr. Dally, I need to write you a check.

MR. CONINE: Right. That is what that bayou break got you.

MS. ANDERSON: And I am going to get Sarah Anderson because she is the guilty party calling me.

MR. CONINE: She did?

MS. ANDERSON: Yes. I think she texted me. Do text cell phone rings count, or just phone?

MR. CONINE: No, they don't.

(Simultaneous discussion.)

MS. ANDERSON: Okay. That is the end of the public comment on that agenda item.

MR. CONINE: Now Sonny, you can go.

MR. FLORES: Yes. But I am having a little trouble framing the motion, because I am trying to give funding to all of them except for Villas on Raiford.

MR. CONINE: Second.

MS. ANDERSON: Can you all manage that, Mr. Hamby?

MR. HAMBY: Yes, we can.

MS. ANDERSON: Our intent is clear, or the intent of the maker and the seconder is clear.

MS. BOSTON: Conditioned on underwriting, please.

MS. ANDERSON: Conditioned on underwriting and all outstanding compliance and all the usual dates.

MR. FLORES: That is exactly what I meant.

MR. CONINE: I will accept that.

MS. ANDERSON: Any discussion?

(No response.)

MS. ANDERSON: All in favor of the motion, please say -- oh, do we need to say option one, option two, option three?

MR. HAMBY: No, ma'am. You have made your own option.

MS. ANDERSON: I think we are clear it all comes out of the 2007.

MR. HAMBY: Correct. Except the 1.2 we are putting it on hold.

MR. CONINE: Right. That will come out next month.

MR. HAMBY: And so that will be the one that is adjusted next meeting if you choose to go forward with it.

MS. ANDERSON: You understand the intent. Any other discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. CONINE: Good job, Sonny.

MR. GERBER: Madam Chair and Board members, for Item 5C, during the September Board meeting, the Board requested an agenda item for this meeting to address public comment concerning extensions of placement in service due to concerns that bad weather had made it very difficult for 2005 applicants to complete their developments. And I am going to ask Ms. Meyer to come forward and talk about the policy, a policy that the staff has drafted, and some real concerns we have with it.

MS. MEYER: Robbye Meyer, Director of Multi-family. We did draft the policy as requested. And the eligibility for that is detailed in your Board materials. I can go over those if you would like me to. Which ones.

First, there is two revenue proclamations that are outstanding. Revenue proclamation 9528, and also 0754. If a development would fit under one of those proclamations under the revenue ruling, then they would actually get an additional year, and there wouldn't be any need for the policy. So they wouldn't be eligible under this policy if they fit under that revenue proclamation.

Also if they fit under any of the GO Zone, Rita Gulf Opportunity legislation, then they wouldn't fit under this policy either. They wouldn't be eligible for it. They have to provide documentation of 90 days of inclement weather.

The construction has to be at least 40 percent complete. And the placement in service extension would only be until March 15 of 2008. And then their 8609s issued by December 31 of '08. And there is a $10,000 fee for that extension.

That is the basics of the policy, of who would be eligible for it. Staff does not recommend the use of this policy. What you are actually doing is allowing an applicant to give back their credits, and then you are going to give them right back to them, and reallocate them straight back.

The revenue, the IRS has made clear guidance to the Department and to the states of what actually is a major event. As far as placement in service, by doing the revenue proclamations, we think they have covered that. To date, staff has identified 73 counties that would come under the revenue ruling 07-54.

There is counties being added all the time for major disasters, and we are also trying to get additional clarification on some that came out previous to the proclamation. Staff is still working on that. We feel that there is enough out there.

There is right now 30 percent of the counties in Texas who were affected. As staff knows, the developments that were in this situation, there were two disaster declarations that were issued earlier, just a few months ago, for Hurricane Erin and Hurricane Dean. And that covers the major counties of Harris County, Bexar County, Dallas County, Travis County. And those are some of the developments that we know of.

So they would come under the revenue proclamation. And that, staff has great concerns that we already have protections out there. The developments have over two years to place in service when they receive an award. And we don't feel that it is necessary to extend that placement in service for inclement weather.

MS. ANDERSON: What is it? Since we have never done this before, what kind of staff responsibilities are involved when you, were we to end up doing some of these. Is it small, big? What kind of staff effort?

MS. MEYER: We are requesting that they provide documentation for that, which we would have to review that documentation, to make sure that they would be eligible for it. So that is going to take staff time. Without having ever done it before, I don't know exactly how much it would take. But Ms. Boston probably does.

MS. BOSTON: It is fairly significant, because for every one of those applications who would qualify for this, which in theory could be many, we are literally going back and restarting with them. New commitment notices. Every deadline is in theory extended.

The fact that the process we are experiencing with the binding allocations is probably the closest example of how this might manifest. And that has been a struggle. It has been very hard. It doesn't necessarily follow at a convenient time.

There are things occurring with deadlines and staff work relating to the binding allocations that are occurring in the midst of a cycle. It has been very arduous for the real estate analysis group.

Because we are talking, in this case, we are suggesting, because we don't think that they should be recommended for a full new 2 ½ years, because if you give them '08 credits, federally, they would have until 2010. We don't think that that is what you all -- we don't think that is a great idea.

And we think that to address some rain delays, if you choose to do it, you are talking more about three to six months. Therefore, there is a lot of pressure to get the 8609s, which are the IRS forms, that are the true allocation of credits.

We would be needing to get those executed by

December 31, 2008, which not only puts a big burden on the applicant, although this is in some respects, this is being generous to them anyway, so they should have to have some extra burden, in my mind, to get those into us. But it puts a huge burden on Tom Gouris and Hector Morales and the cost certification staff to get that done. And so it is a significant administrative challenge to do it.

MR. FLORES: Brooke, I think Robbye just mentioned that there were 73 projects affected.

MS. BOSTON: Seventy-three counties.

MR. FLORES: Counties.

MS. BOSTON: There are 73 counties that have disaster declarations that could make them eligible for the revenue proclamation. Even if they are in a county where the revenue proclamation is, could be in effect, they still have to come to the Agency and get permission.

MR. CONINE: And that buys them a year, right?

MS. BOSTON: Yes.

MS. ANDERSON: Any other questions for staff, before we hear public comment?

(No response.)

MS. ANDERSON: Thank you all. Don't go away. Ms. Bast.

MS. BAST: Good morning.

MR. CONINE: Good morning.

MS. BAST: I am Cynthia Bast of Locke, Lord, Bissell and Liddell.

MS. ANDERSON: When did that happen?

MS. BAST: On October 2, my law firm, Locke, Liddell and Sapp merged with Lord, Bissell and Brook, another major national law firm, so that we now have 700 attorneys in 11 different cities across the United States and London, to better serve the needs of our clients.

MR. FLORES: Do you have a calling card?

MS. BAST: I do.

MR. FLORES: That is a lot of names.

MS. BAST: It is a lot of names. In September, I did present the concern that there are several properties at risk of not being placed in service by December 31 because of the construction deadlines and delays associated with the unprecedented rain that we have had in 2007. Based on surveys that we have done, we do believe that this is only several properties with problems, although the potential theoretical pool is definitely larger.

We don't believe the problem is truly that big. At the time I made the request in September, I was particularly concerned about several properties in Harris

County. And Harris County was not found on FEMA's list of declared disaster areas.

So at that time, the remedy for the one year extension under Rev. Proc. 2007-54 was not available. And therefore, led me to asking for the greater remedy of going to the QAP and allowing the credits to be turned back and then returned. Since then, as staff mentioned, October 2, Harris County was placed on the list of disaster areas for FEMA's website. So that would make Harris County properties eligible.

So assuming that TDHCA staff can resolve all the outstanding issues with the IRS with regard to permitting all of the properties in Harris County to receive this extension if needed under Rev. Proc. 2007-54, then I believe that that is the best method to resolve the problem. If for some reason Rev. Proc. 2007-54 cannot apply to the properties in Harris County, or if their properties requiring relief in other counties that have not been declared disaster areas, then we do need to look at this proposed policy for returning the credits and having them reissued.

I think the policy presented is good and well thought out. I would like to request one revision, and that would be to expand the policy to allow any tax credit project with a 2007 placement in service deadline to obtain the relief. And the property that I am concerned about of course, is Commons of Grace, in Houston, in the Tidwell neighborhood.

I am sure you recall this property. It received a credit award as a joint venture between a faith-based non-profit and Southwest Housing. A variety of problems plagued this property. When Southwest Housing could not advance it, the NRP Group came in to pick it up and move it over the finish line. And they are doing that. They are trying to make sure that this property isn't lost for the Tidwell neighborhood in Houston.

But the project cannot be completed by December 31 and will lose its tax credits unless some relief can be had. So, knowing that you don't like options, Mr. Flores, here is what I would like to request.

First of all, if Revenue Procedure 2007-54 is available to provide the relief to the projects, all the projects that must place in service by December 31, and any IRS hurdles are taken care of, then I ask that you implement that relief for projects that need assistance, including Commons of Grace. If the Revenue Procedure is not available for relief, then I ask that you please approve the policy to allow these credits to be returned and reissued, revising the policy to permit all projects of December 31, 2007 placement in service dates to access the policy, so that Commons of Grace can be included.

And then finally, if necessary, I ask that you please place Commons of Grace on the November Board agenda as needed for approval of whichever form of relief is available for that property.

MR. CONINE: What county is it located in?

MS. BAST: Harris.

MS. ANDERSON: So why are we putting something on an agenda, when Harris has just been added to the disaster list. Tie this up.

MS. BAST: What I am saying is, is that assuming that there are in my, as I understand it, a couple of questions about whether Rev. Proc. 2007-54 can apply to this particular property. If it cannot -- if it can, then that is the relief we will seek, and we won't take any more of your time. If it cannot, then I need alternatives to be able to help try to save this property from losing its credits.

MS. ANDERSON: What is the construction status of Commons of Grace?

MS. BAST: It is under construction. As I understand it, they are framing. And I believe there are a couple of people here who might be able to give me more information if necessary. Mr. Dunn is here from the NRP Group who can give you more information.

MS. RAY: Madam Chair.

MS. ANDERSON: Yes, ma'am.

MS. RAY: I am very concerned about making this particular discussion that is dealing with an overall procedural change for the entire state, to make it specific to an individual project. But this specific project was not part of the agenda item to deal with.

MS. ANDERSON: Mr. Hamby agrees. Yes. Thank you, Ms. Bast.

MS. BAST: Thank you.

MS. ANDERSON: You are absolutely right. Told by our General Counsel. Right. Okay.

MR. FLORES: Well obviously, this policy will be acted upon at this meeting.

MS. ANDERSON: The policy.

MS. RAY: The policy.

MR. FLORES: The policy. Okay. And so then they will know how to proceed on the project. Because what appears to me from what I read the writeup on it is, you had a developer who couldn't move the project along. And finally somebody comes and saves it. And then -- that is a different problem. But we have got to decide on the policy first.

MS. ANDERSON: Mr. Hamby.

MR. FLORES: Okay.

MR. HAMBY: And I just wanted to clarify that the discussion that Ms. Bast had in details of the project is not for this agenda. The request to actually place it on the November agenda is an appropriate request, because this Board can, if they want more information on the project, have it placed on the agenda.

MS. RAY: Madam Chair.

MS. ANDERSON: Yes, ma'am.

MS. RAY: May I ask Mr. Hamby a question.

MS. ANDERSON: Sure.

MS. RAY: Based on the discussion, did Proclamation 2007-54 allows all of the projects in Harris County to receive relief under that particular proclamation, then the issue on that specific project is kind of moot.

MS. ANDERSON: No. Because it is a project from a different year.

MR. HAMBY: Yes. It was a different year that was placed. It already has an extension. And so that is why --

MS. ANDERSON: It has already been out a long time.

MR. HAMBY: The request would be that, the request Ms. Bast made is that you give the staff direction that if this property doesn't fit, then you put it on the agenda, without a discussion of what the property itself is.

MS. RAY: That is the next question I would like to ask staff about, the Proclamation and how that would play in this.

MS. BOSTON: Well, and a couple of things. One, the illusion that the Rev. Proc. would apply to all properties in Harris County doesn't really work that way. The Revenue Proclamation is tied more to when the disaster occurs, as it relates to when the credits have been allocated. And so I wouldn't recommend that you ever use the blanket term all.

And we would probably just say all applicable. And because in this case, Commons of Grace did get, there was a Rev. Proc. before the 2007 one that was almost identical. Allowed for disaster relief for an extra year, Commons of Grace already got the one year extension under that one. Which is why we do not necessarily have confidence that they now can get another one under this same type of a Rev. Proc.

We would need to confirm that with the IRS before we would be comfortable with that. And we don't have that confirmation at this time. Obviously, we would look in that.

And actually, that is also why we were very clear in the policy, that the policy was only for 2005 applications. Because Commons of Grace has already had 3 1/2 years, we didn't necessarily feel that we need to make this a 4 1/2 year policy by doing that.

MR. HAMBY: Of course, technically, Ms. Bast can't talk about it, nor can Ms. Boston.

MS. BOSTON: And in a non-deal specific sense, 2005 is what the policy references.

MS. ANDERSON: I do have more public comment. Mr. George Littlejohn, assuming you are not here to talk about that development, that we all know -- we will not name it again.

MR. LITTLEJOHN: Good morning, Madam Chair, Board, Mr. Gerber. My name is George Littlejohn. I am with Novogradac and Company, a national CPA firm. I have been working with Mr. Gouris on these disaster relief issues.

And I think that we are comfortable that with the exception of the unnamed project we cannot talk about, we are probably are at a position where the disaster relief and the Revenue Procedures will provide enough relief for these projects. To that extent, I very much support this disaster relief effort, because I do think that providing developers an opportunity to finally get the housing on the ground, when they are up against a wall is very helpful.

With specific reference to this policy, one of my comments was that the policy does require a placement in service date of March 15. Cost cert submission by May 15 and 8609s by the end of the year. I absolutely understand. We all want to get this done.

I also understand that 1231 on the 8609s is a hard deadline. The cost for submission, just in general, if they placed in service March 15 to get all the contractors to submit their invoices, subcontractors to submit their invoices, construction draws, and have all the administrative stuff done so that the auditors can come in and do their job, that is a very tight deadline.

And in the ideal world, it would work. But in an ideal world, we wouldn't need the policy. So that is my only comment. Thank you very much.

MS. ANDERSON: Well, what is your suggestion?

Because we also have constraints on our side, where if they not in by May 15, then we are in the middle of a tax credit underwriting season, and we are going to penalize next years applicants, because we are not going to get underwriting done.

MR. LITTLEJOHN: I think that we have already a process for requesting a waiver of the deadline and a fee. And I know that we have been able to work with Tom before. My option --

MS. ANDERSON: Leave it at May 15, and then still have the waiver?

MR. LITTLEJOHN: I would like to let it be sort of an issue that be handled administratively, and maybe not have to come back to the Board. So that if we are a month late, or we get it done, and Tom still has enough time to issue the 8609s, that we are not constantly just running against deadlines, or just stopping the project right there. Mainly, because maybe the construction lender can't get us the stuff we need, or anything like that.

MS. ANDERSON: Thank you. Mr. Palmer.

MR. PALMER: Hello. My name is Barry Palmer. I am with the Coates Rose Law Firm, although I am thinking about adding a few names onto that, to keep up with Ms.

Bast

I wanted to talk about the policy. And the main reason that the Board or the staff, as I understand it, is not recommending the passing of the policy is because relief is available to a large number of projects under the Revenue Proc. that is out there. However, and that is true. The Revenue Proc. does call for the Agency to make a determination to grant an extension.

And so I would hope that the Board today could authorize staff to grant extensions under the Revenue Procedure if they satisfy the requirements of staff, so that we don't have to wait and come back to the Board with projects that meet the requirements of the Rev. Proc. that is out there. I know that there are projects in Harris County that were awarded credits in July of '05, and shortly thereafter, Hurricane Rita hit.

And although that didn't cause physical damage to the projects, what happened was, there was so much turmoil in the construction industry and the rising costs of construction were such that we couldn't get deals closed in early 2006. And this Board and the Department looked at that issue, and provided relief in the form of additional tax credits to 2005 and 2006 allocations to deal with the escalating construction costs that were caused to a large extent by Hurricane Rita.

Because of that, a number of projects in Harris County couldn't get started until those additional credits were granted in October of '06. So we had projects that closed in October of '06, in Harris County, thinking we had 14 months to complete construction, and that we would be fine, based on historical pasts and how long it takes to complete construction.

What we didn't count on was the unusual number of rain delays that we have had this year. And that has been well documented by TAAHP. A number of projects have had 1000 to 150 rain delays, rain days.

So because of that, we have projects now that are 60, 70 percent complete, but will not be complete by December 31. And so they are entitled to relief under the Rev. Proc. We would just ask that the Board today authorize staff to grant relief to those projects that are entitled to relief under the Rev. Proc.

MS. ANDERSON: Lincoln Park, sir, is in Harris County?

MR. LITTLEJOHN: Lincoln Park is in Harris County. It is 67 percent complete.

MS. ANDERSON: Okay. Thank you. Mr. Allison?

MR. ALLISON: I will pass.

MS. ANDERSON: Thank you, sir. Wise man. That is the end of the public comment on this item.

MR. CONINE: Move staff recommendation.

MS. RAY: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. As a point of clarification, the last witness brought up the notion that staff be allowed to grant extensions that are permissible under the Rev. Proc. Administratively. Is that permissible, Mr. Hamby?

MR. HAMBY: Yes, ma'am. Actually, that is how we handled Hurricane Rita and Katrina.

MS. ANDERSON: Right. Okay.

MR. HAMBY: I would request it as well. That is an administrative process that the Board's involvement in that would be if Mr. Gerber denied a request and they could appeal that denial of the request. So that would be the Board's involvement.

MS. ANDERSON: Thank you.

MS. RAY: Madam Chair.

MS. ANDERSON: Yes, ma'am.

MS. RAY: Out of consideration for the request of Ms. Bast, put that specific unnamed project on the agenda for November. I move that staff be directed to place that unnamed project on the agenda for the month of November.

MS. ANDERSON: Hearing no objection, we will look forward to that. Yes, ma'am.

MS. BOSTON: Did we end up determining that they are eligible under the Rev. Proc. and Mike chooses to approve that administratively, that we wouldn't need to bring it. Is that accurate, or are you asking?

MS. RAY: That is exactly what I said.

MR. FLORES: Well, we need a report.

MS. ANDERSON: Yes. You might just advise us of that as a report item.

MR. HAMBY: A second clarification, because I don't want 60 people to ask us what the unnamed project was, you can name that project now. It is the Commons of Grace.

MS. ANDERSON: If I can ask the Board, I have been sort of not knowing what to do about this. This is going to be about the shortest Board meeting in my recent memory. But we do need to have an Executive Session, Board members. And so we have another agenda item, that I think there is some public comment and discussion about.

So I am going to recommend that we ask Lydia as usual to get us lunch and have our Executive Session after we have completed the rest of the agenda. We will have an Executive Session. We will have to reconvene briefly, probably to an empty room.

But that would mean, that if you haven't already done so, if we could take like about a 60 second break to get our lunch. You eat a big breakfast, so you may not need lunch.

MR. FLORES: Yes. But the staff was lying to me again. They told me I would be out of here by 12:00. Obviously, I am not going to be out of here by 12:00.

MS. ANDERSON: We were hopeful. We were very hopeful.

(Simultaneous discussion.)

MS. ANDERSON: Okay. The next item is agenda item 5D, Mr. Gerber.

MR. GERBER: Madam Chair and Board members, this is a presentation, discussion and possible action for some various Housing Tax Credit amendments. The first one we will bring up is one that you heard last month and asked to be brought forward again today, so that you could have a chance to digest the information that was present. Palms of Parker County, number 99005.

To refresh your memory, ths was originally approved in 1998. It is a forward commitment with a HUB as a general partner. The Department required an experienced developer to later to be added to the organizational structure.

Construction was completed, and the development was placed in service in 2001. The general partner was replaced by the syndicator in 2004. Cost certification was submitted to the Department in July of 2005. The original applicant asserts that his ownership interest was reduced when the experienced developer was added, and he did not have control of the development from that point, which is a violation of HUB participation.

There were deficiencies in the development that have been identified. 26 of the two bedroom units were completed with one bath instead of two. The net rentable and common areas were reduced by about 30,000 square feet. There was the omission of day care facility, community recreational facilities, covered in garage parking, playground equipment, energy saving devices, volleyball courts, swimming pool and spa, microwave ovens and a 24 hour public phone.

The owner asserts that these items were not threshold requirements and has not proposed any substitutes. The owner is also claiming an additional investment of almost $3 million. And the Department has struggled to determine the sufficiency.

We believe that it is insufficient documentation to prove that amount of money up. Staff is recommending the denial unless there are appropriate substitutions and proper documentation of the additional costs are provided. And we are recommending that the assessment of penalties be applied in this case to the previous ownership.

MS. ANDERSON: I do have public comment on this item. If you all are ready for that. Mr. Lee Stevens?

MR. STEVENS: Just available to answer any questions.

MS. ANDERSON: Mr. Oji.

MR. OJI: Madam Chair, my name is Jay Oji. Sphinx Development Corporation in Dallas, Texas. I would like to say exactly what Lee Stevens said. Available for comment. But I thought I would have an opportunity once again to address the Board, and cannot give the Board a general orientation as to how this development came about, and why we are where we are at today.

One of the first things I wanted to make the Board aware is, this project is an adaptive reuse of a historical school building and new construction. It is not a rehabilitation project of an existing apartment complex. Nor is it a new construction in complete.

By definition, this means a great complexity in the development itself. Our application today was the GP, was the applicant. At that time we had proposed to rehabilitate one building, which is the Parker Building. The Parker Building was built in 1910.

We have proposed to rehabilitate the property in a four story configuration. Part of the building was going to house a day care center. We never intended to rehabilitate the whole building. We are allowed to demolish the recreational building.

The result of that was a 3.6 acre site that we are now forced to do a new construction building on a very small site to fit 182 units. It is one of the most difficult things any developer will face, when you have the historic society forcing you to save a building and then the zoning ordinance makes it impossible for you to increase the height of the structure. The end result was we couldn't tamper with the existing structures; with the Parker Building and the HUB building.

The proposed four story building in Parker was impossible. We couldn't increase the number of units in the HUB building, either. The result was to get a new construction, a new product that would give us the number of units that we wanted. At the end of the day, it became more cost prohibitive to rehabilitate the historic building than to do new construction.

I am saying all this to say that as a HUB, the Board gave condition to make this Parker Commons development possible. In other words, bring in a qualified, experienced developer or contractor. Marty Myers, an 80 year old man who has done this for many years, he is a very good friend of mine, came on board to the project, and became the sole GP. That was the last I knew about this project.

I have never had any communication with AIG, Sun America. At the point when Sun America took out Marty Myers as the GP, I don't have any communication, any letters from any of them stating that that was the case. I never got paid on this project. At the end of the day, my application was for 168 units. The project was built to 192 units.

Construction was completed. TDHCA has 192 units of affordable housing, property 97 percent occupied as we speak. I don't understand frankly, why the same department that give the credits and give conditions for a HUB to get experience would turn around and penalize the HUB who by virtue of her condition would give his rights to someone more experienced to do the job. I am here today facing not only financial loss in this project, but a potential penalty for something I did not contribute or do.

I am asking the Board to please look into this. It is a very complex project to develop. It was done. It was not a financially sound project to do. Somebody lost money. At the end of the day, TDHCA and the State of Texas has more units than was proposed.

And I am going to answer any questions that you have, because I don't think it is right for a developer who did not have any say or any part in what finally came out of the project, to be penalized for something he did not do. Thank you, Board members.

MS. ANDERSON: Mr. Stevens and Ms. Bast are here available to answer questions if the Board has questions. That is the end of the public comment on this.

MR. CONINE: Madam Chair, I took the liberty to go visit this property since our last Board meeting, just because of the complexity of this particular issue. And this is a complex issue at least in my mind. It may not be for Mr. Flores, but it is in my mind. A lot of moving parts here. A lot of things that reminded me of the old days in this Agency that aren't too pleasant memories for me, anyway.

And so I have a soft spot, I guess, for what our staff is trying to do under the current regs. And kind of our operational procedure back in the old days. The project is very nice. I drove up, went into the leasing office, looked at a model home. Got some of the information.

There was people milling around out there. It is in the middle of south, the southern part of downtown Fort Worth. There is medical community around there, so a lot of the residents are in the medical field, whether they be nurses or technical assistants or whatever the case may be. It is doing what I think a tax credit project is supposed to do.

That being said, what is sitting there today hardly represents at all what was in our application, although it does somewhat. Somehow or another, the party who actually got it off the track and ended up pushing it through all the settlement hurdles isn't sitting here today in front of us.

And so a lot of questions still remain unanswered. There is a huge financial risk to where we are today if we don't come through with the 8609s relative to Sun America and the equity partner here, in the amount of money that they have actually put into the project.

It is easy to see how the project could have cost more, because you have got more units. Totally different configuration. The tax credits don't even underwrite to what is sitting there today probably. It is a totally different number.

But what they tried to do is take the amount of tax credits they had with their staff approvals they had, and just make the deal work with what they had to deal with. So I would just from my own personal visits to the property and so forth, would offer the following.

I think we approve the amendment that the syndicator has provided so that he can get the 8609s issued under the current physical specifications that are out there right now, with a couple of caveats. I think the population over there would be greatly served with some microwaves, and I don't think that is too much to ask for the current ownership group to move forward with.

And then secondly, I think their dealings with the Historical Commission, because this is an old school building that has been fixed, there is a great deal of surface parking there that is exposed to the elements. And what I would like for staff to do is to write a letter that would request approval or express the TDHCA's, the Department's understanding for our requesting approval to put car ports that would total the number of tax credit units. In other words, one carport for every tax credit units.

MS. ANDERSON: One covered parking space.

MR. CONINE: One covered parking. Not garages. That is way too difficult. Just the car ports. And to have them so that the development team, or the current ownership group could represent that letter to the appropriate city officials in Fort Worth as well as the Historical Commission to try to get permission to put carports.

Our current understanding, or my current understanding is now that they would not receive that permission. But at least go through the process and see if we can get permission with a letter from us so that they can at least see that some state agency would like to see it done. And come back to ths Board at the point in time they either get rejected or accepted.

And then we an make a decision as toward to that specific item later on. As far as the penalty assessments are recommended, I would agree with staff tat the penalty assessments should be assessed to the previous owner, M. Myers Development, Inc.

And I think in Mr. Oji's case, although I think at least from what I have heard, he should have had more interaction with Mr. Meyers as the project went along. I think we need some sort of probational provision just for lack of better words. I know it is not in our current rules.

But I think Mr. Oji has developed other projects, tax credit projects and has gained a lot of experience. This was his first one. And I would like for his compliance file to at least have a note that this project just didn't disappear off of this record into thin air. But this Department recognized that he needed some experience. We asked for him to get the experience.

MR. OJI: I got it.

MR. CONINE: And he got it. Yes. He got it in the wrong way. And so this Board, if another Jay Oji issues comes up on compliance issues, we would at least, the file would be noted that he had another previous project with that, with a problem. And all that being said, I would move that as my motion.

MS. RAY: I will second him.

MR. FLORES: Discussion.

MR. CONINE: Yes.

MR. FLORES: Number one, you are taking it easy on Mr. Oji, obviously. But you have visited this site, and we haven't. So the mitigation you are asking for; the carports and the microwave ovens, if indeed he could build a carport.

And if indeed they are turned down by the City, I would like to have some substitute mitigation in substitution for that carport, that you are asking for. So I would like to have you amend the motion to that effect. I understand the problems of a historic building and all the intervening things that happen when you are involved in a historical project. But that ought to be one.

I assume this is a sophisticated developer that understood and can read contracts, and ne knew what he was taking over. A bunch of things did not get built. And I think we are just -- in fairness to the state, that there ought to be some mitigation back from Mr. Oji. Those two things are pretty minor, I think; mitigation.

However, the developer that caused the problem obviously is gone. On the second part of your motion, the penalty assessments. You didn't mention Sphinx Development that is considered part of the ownership. That is according to the document.

MR. CONINE: Yes. That is Mr. Oji.

MS. ANDERSON: That is the name of his company.

MR. FLORES: So you are then, the leading Sphinx, Mr. Oji. And then you are just leaving, Mr. Myers. Okay. That is fine.

MR. CONINE: Put him on probation.

MR. FLORES: Yes. But I mean he --

MR. CONINE: Right.

MR. FLORES: Mr. Myer gets a harsher penalty than Mr. Oji, is what you are saying.

MR. CONINE: My understanding is two years. You can't do a tax credit project for two years. Is that right? That is what the penalty is.

MR. FLORES: Okay. Could I have Mr. Oji come back and answer the question. Whether indeed he is --

MR. CONINE: Sure.

MR. FLORES: Mr. Oji, did you understand the mitigation that Mr. Conine is asking for, and then my amendment to his, or my proposed amendment to his motion, which would be for mitigation, number one. It would be the microwaves in each unit. And the second part of it would be carports, if you are allowed by the city.

MS. ANDERSON: Mr. Flores, if I may. Mr. Oji has no ownership of this development. The person, the gentleman you want to talk to and ask that question is Mr. Stevens with AIG.

MR. FLORES: I am sorry. I didn't realize that. Okay. Mr. Stevens, did you hear my questions?

MR. STEVENS: Yes. And we have a very and have enjoyed a long healthy relationship with the Agency. And so we are certainly willing to work within the context of the microwaves and to forward on the letter that you envision. But I would -- I thought I heard -- I hope I didn't hear that Mr. Oji and his company were being prevented from developing for two years.

MR. CONINE: No. You didn't hear that.

MR. FLORES: No. That was a misunderstanding on my part. I didn't know who Sphinx Development was. Now are you affordable housing GP?

MR. STEVENS: Excuse me. I am Lee Stevens. I am the Vice President with AIG Sun America.

MR. FLORES: At what company?

MR. STEVENS: AIG Sun American Affordable Housing Partners.

MR. FLORES: Okay.

MS. ANDERSON: They are the syndicator.

MR. FLORES: I understand. There are so many companies on this list. You know, if you were like baseball, you could wear uniforms.

MS. ANDERSON: It is sort of like musical chairs, and they were the last man standing.

MR. FLORES: I want a number on you. But okay. Congratulations. You are the last man standing, so you are the one that is holding the bag.

(Simultaneous discussion.)

MR. FLORES: Congratulations to us for finding someone like you. But anyway, you do understand what this is all about?

MR. STEVENS: I do. And as long as Mr. Oji isn't -- you mentioned a probation. It is simply putting a letter in the file, or is it some sort of -- does the term probation, is it a term of art?

MR. CONINE: I just made it up. It is just a note in his file. Just a note to file.

MS. RAY: Note to file.

MR. CONINE: Note to file in the compliance file.

MR. STEVENS: Yes. We want to work with you, as you can see, on this issue, and we will continue to do so.

MR. FLORES: Thank you very much.

MS. ANDERSON: Thank you.

MR. FLORES: Mr. Conine, do you accept my friendly amendment, or should I make it on --

MS. ANDERSON: Other mitigation.

MR. FLORES: Yes. And a substitute mitigation.

MR. CONINE: Part of the reason I went over there, Mr. Flores, was to see what could be done. And I am convinced there is not much else that can be done relative to another amenity we can offer those residents, if it isn't carports. I just don't know what it would be.

I hear what you are saying, that you want to try to get them something. But you know, I am in the business myself. And I would have a hard time, the way the site is configured and so forth, the best solution to us getting those tax credit residents something that they can obviously benefit from would be a carport over there. I don't know what else they can do.

So that is why I wanted them to go try and get the City to give them a permit to be able to do it. But if they don't, then I don't know what other blood you can get to make it work. The project is nice. Everybody likes it over there.

MR. FLORES: I understand it is a historic building and I understand all those things. And so that is the issue. But I think you are right, though. Okay. I withdraw my request. Thank you. Did we get a second on my motion, Madam Chair?

MS. ANDERSON: No.

MR. FLORES: Okay. So fine.

MS. ANDERSON: Any other discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. Chaparral Townhomes, Mr. Gerber.

MR. GERBER: The last item, Madam Chair, is Chaparral Townhomes. This development was awarded in 2000 as a forward commitment from 2001. The HUB general partners was removed by the syndicator. The syndicator is requesting a waiver to require the general partner be replaced with another HUB.

Staff is recommending denying the request, because the general partner replacement proposed is neither a HUB, nor is it a qualified non-profit which would also have been eligible for the same number of points under the 2000 QAP under which the applicant applied, and which basis of the forward.

MR. CONINE: Do we have public comment here?

MS. ANDERSON: Yes. I am sorry. Mr. Viscuso.

MR. VISCUSO: Good morning. My name is Mark Viscuso. I am with the law firm of David, Goodman and Madole. And I represent the existing general partner.

We object to the request for removal. We dispute the default claim by the limited partner. And we are currently involved in disputes on two other matters with the similar limited partner, that are being handled in court.

And we believe this one is headed in that same direction as well. Although we did not receive notice of the last two removal requests, which I believe happened in June, and the other two projects are Cohen Park and Cedar Point, all involving the same parties. We are affiliates there.

MS. ANDERSON: Any questions of this witness at this time?

(No response.)

MS. ANDERSON: Thank you for your testimony. Mr. Bowles? And Ms. Bast.

MS. BAST: May I start?

MS. ANDERSON: Yes.

MS. BAST: Thank you.

MS. ANDERSON: Thanks.

MS. BAST: Cynthia Bast of Locke, Lord, Bissell and Liddell, representing the investor limited partner of this project for this amendment request. Chaparral Townhomes applied for tax credits in the 2000 round and received a 2001 forward commitment.

The partnership was formed with a Historically Underutilized Business as the sole general partner, and took points on its tax credit application for that participation. The investor limited partner is now taking action to remove the general partner for non-performance. This is a matter that is not a TDHCA issue, but is a contractual matter between the limited partner and the general partner.

But the question posed to you then is, upon removal of the general partner that is a HUB, is the investor limited partner required to find another HUB to take that substituted general partner's position? We believe that that kind of requirement would be detrimental. And if you agree, then you should approve our amendment request, to waive the ongoing HUB requirement on this property as is reflected in its LURA.

When an investor limited partner has a troubled property, it needs to be able to act quickly, to remove the general partner if necessary, and then it must be able to act quickly to bring in someone else who has the capacity to get this troubled property back on its feet. If TDHCA requires that the replacement general partner also be a HUB, then that does significantly decrease the pool of eligible parties that can be a replacement general partner, and makes it more difficult for the investor or the limited partner to find that replacement that is going to help pull this troubled property out of the fire.

And that is the case here. The investor limited partner does take this HUB commitment seriously, has contacted several HUBs, to see if those HUBs with strong reputations here in Texas would be interested in taking a substitute general partner position. They have been unable to find a HUB that can or will do this.

So the original HUB in this deal participated for approximately seven years. Now the project needs to be able to move to maintain its financial feasibility and the investor needs to be able to identify a replacement as quickly as possible, so that they can preserve this asset.

We ask that you waive the HUB requirement, so that the investor limited partner can expand the horizons of available replacement general partners, and find one that will be suitable for this property. Mr. Bowles, who is the Vice President of Special Assets for the investor limited partner, PNC multi-family has some additional information about this property.

MR. BOWLES: Thank you very much for hearing the testimony. The circumstances that surrounded the removal of the GP in this request stems from a notice of default that went out at the end of June. Pursuant to that notice, they were given a cure period that expired at 12:00 noon on July 13.

The nature of the default related to violations of reps and warranties and guarantees that constituted a default on the operation partnership agreement. Specifically, they related to lawsuits that had been filed against the partnership and a lien that had been filed, due to the general partner's failure to pay vendor accounts that eventually sued.

Furthermore, the legal entity status of the partnership was not renewed. And to this day, I have confirmed actually as of last week, with our counsel, as to whether or not the filing --

MS. ANDERSON: Thank you. I was wondering the same thing. Let's keep the comments very germane to the amendment request, concerning the replacement of a HUB, replacement with another, not a HUB.

MR. BOWLES: Okay. I will surmise this, that the default was not cured in time. The reasons that we are requesting a HUB waiver is, this property has failed to break even in its operations. It currently has a less than 1.0 debt service coverage ratio. Then in the second quarter of 2007, it was a 0.72. There is an operating deficit that is being provided for, being paid for under the operating deficit guarantee by the guarantors. That is due to expire in 2009. We have contacted several HUBs. Some of the problems associated with selecting them has either related to capacity, their financial wherewithal, and being able to provide any sort of financial guarantee to operating deficits if they fail to stabilize in a certain amount of time, as well as interest, and wanting to come on board, and take responsibility in this project that is not presently cash flowing . And as a result, we would like to have the HUB removal, excuse me, the HUB waiver in place so that we can have the opportunity to market this interest to essentially a wider market, and bring a qualified entity for profit entity on board to help us stabilize this property. Thank you.

MR. FLORES: Madam Chair, may I?

MS. ANDERSON: Yes, sir.

MR. FLORES: Would you repeat your name again, please?

MR. BOWLES: John Bowles.

MR. FLORES: Mr. Bowles, how many HUBs did your company call?

MR. BOWLES: I called three.

MR. FLORES: How many potential HUBs or minority contractors outside the State of Texas did you contact?

MR. BOWLES: Sir, I had to actually refer on suggestions as to which HUBs could potentially be qualified. And I took it upon myself to contact them. One of the HUBs didn't bother to call me back. The other ones, we received materials. One specific HUB, we are familiar with. We have done construction loans with them. But there were concerns as to whether or not they had the capacity to come on board and fulfill the position that we were looking for.

MS. RAY: Madam Chair, can I ask a question.

MS. ANDERSON: Yes.

MR. FLORES: One more, if I may. Getting certified as a HUB is not that difficult, if indeed you are a minority, somewhere, in some other state, as long as you can put a state office in place. Did you even think about considering the other 49 states, of other minority contractors you might have gone to, or minority developers?

MR. BOWLES: Sir, I actually just thought that the HUB was germane to doing business in Texas.

MR. FLORES: It is. But what I am saying is, it is easy enough to get certified, a legitimate HUB or MBE in another state could be eligible in this state. Obviously, you didn't know that. That is fine. Thank you.

MS. ANDERSON: Ms. Ray.

MS. RAY: It was just, the question was, how many -- if Mr. Flores is comfortable with the response, so am I. And I withdraw my concern.

MR. FLORES: Well, I -- you know, I am ready for a motion now.

MS. ANDERSON: We are ready for you to make one.

MR. FLORES: Okay. I move staff recommendation.

MS. ANDERSON: Is there a second?

MR. CONINE: Hang on just a second.

MR. FLORES: My point is that -- well, I can't discuss it until someone gets me a second.

MS. ANDERSON: I guess I shouldn't discuss a motion that has not been seconded. So I will second it to get it on.

MS. RAY: I will second it to get it on.

MS. ANDERSON: I am receptive to Mr. Flores' line of questioning that leads one to think that perhaps we have not drained the swamp of all HUB options as well as we might, given this Department's pretty consistent commitment to participation by HUBs in our programs. And so, while we have a motion on the floor, I guess I would look to somebody on staff, or some guidance about whether the proper activity might be to potentially make another kind of motion to give the syndicator longer to demonstrate to us before we waive the HUB requirement, demonstrate to us that they have in fact, pursued the HUB requirement with a lot of vigor and enthusiasm.

MR. FLORES: Madam Chair, I am willing to remove my motion and substitute a 30 day delay, if indeed it does make any difference, to give the developer a chance to go out there and search, cast a wider net so to speak.

MS. ANDERSON: Yes, sir.

MS. RAY: Madam Chair, I accept the amendment to the motion with a second.

MR. FLORES: Is that a second that will do.

MS. ANDERSON: So essentially, we are converting this to a motion to table for 30 days. Is that acceptable, Mr. Hamby?

MR. HAMBY: Yes. I am sorry.

MS. ANDERSON: Okay. Everybody understand what we are voting on.

MR. HAMBY: A clarification that it is only HUBs and not non-profits, because the staff write up had HUBs or non-profits for the same point. So I just want to make sure that they know what they are looking for.

MR. FLORES: Well, just a minute, before you sit down. Is that in our rule, is that a HUB and a non-profit exactly the same.

MR. HAMBY: Oh, I am the wrong person. No they are not exactly the same. The same points.

MS. ANDERSON: But they are same for the purpose of the points.

MR. FLORES: It is just the points.

MS. CRAWFORD: For that year.

MS. ANDERSON: For that year.

MS. RAY: That was the year 2000?

MR. FLORES: This was some time ago, I realize that. But okay, I want to amend that to say, cast the net either for a HUB or a non-profit. I want to be fair, and make sure that the rules stay exactly the same as they were at the time that you received you award.

MR. CONINE: Now, hang on just a second. Why are we bringing non-profits into this equation?

MS. ANDERSON: Because they were for points in the award year.

MR. FLORES: In that award year, they were the same, that is why. I just got a clarification from the staff.

MR. HAMBY: It was just, Mr. Conine, I just brought it up because it is in the staff recommendation. So I wanted to make sure that we were giving the person who is seeking it, and we also have Mr. Flores we have some little concerns about the 30 days because we have a week posting requirement. So they have two weeks to do it. And the meeting is on November 8. So they would have in essence about ten days to do it.

MS. ANDERSON: Give them until the December meeting.

MR. FLORES: Would you like 60 days? I will give you 60 days.

MR. HAMBY: I think the December meeting would be a better target.

MR. FLORES: No, that is fine.

MS. BOSTON: Mr. Conine, to answer your --

MR. CONINE: I have got dual issues running on my head. I am sympathetic with trying to get a replacement general partner to maintain integrity of the process. I don't think that is probably all that hard to do. In fact, I am surprised you don't have one in your hip pocket like most businesses. But I am conflicted by a dispute going on with the replacement of a general partner on a project that is obviously having some struggles and strains. So were we asked to approve a replacement general partner? We weren't. We were just asked to waive the HUB requirement. Okay. Right. So I --

MR. FLORES: Okay. But let's go back to the --

at the time the award was made, was a non-profit and a HUB equal in the eyes of the award recognition rules.

MS. BOSTON: Yes, it was. And had this been turned in with a proposed non-profit, this would have been approved internally, as an administrative issue, because the points would have had no impact. It would have been a wash.

MR. CONINE: Well, let me ask the witness then. Would it help you to add non-profits? I think the staff recommendation says a qualified non-profit could then take this position over instead of a HUB. Would that help you in your search?

MR. BOWLES: I think that certainly helps us to cast a wider net. That has been some of the problems that we have been having trouble locating someone that fits the bill and meets our needs.

MR. CONINE: So then I need to ask you a question. Since the LURA says HUB, do we have the discretion to make that decision?

MR. HAMBY: Yes, sir.

MR. CONINE: Okay.

MR. FLORES: I just want to go back to the original rules. That is all. And I think that would --

MR. CONINE: You are going back to the original

QAP?

MR. FLORES: QAP, yes.

MR. CONINE: But these guys were in a LURA that said HUB. It didn't say anything about non-profits. And to bring in a QAP from previous years --

MR. FLORES: And the more we talk, the more we are confusing him.

MS. ANDERSON: We have a motion on the floor. It has been seconded. Any discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are to table this. To table the request for the waiver of the HUB until the December meeting, and direct the investor to cast a wider net for HUBs or non-profits. Everyone understand the motion? Any other discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. Mr. Gerber.

MR. GERBER: Some wrap up report items that I wanted to share with you. You have a list of the month's TDHCA outreach activities for you to look at. I wanted to share with you one that is coming up next week, on October 17. It is our intention to be able to complete an agreement with the City of Houston to enable them to receive their $40 million in CDBG funds for use for law enforcement overtime, as well as to do some rental housing, multi-family rental rehabilitation. And so that event will be taking place once that agreement is consummated. And that will happen next week.

And two of our Board members will be participating in that. Mr. Flores and Mr. Bogany.

MR. FLORES: Just in case you need some heavy lifting.

MR. GERBER: Absolutely. I will also point out to you that under report item 3, the second item is our monthly report on HOME amendments that have been granted, as we always do each month. The third item is a response to some of the questions that you have had, that you posed to the HOME task force and you asked for staff response. And so I will share those with you. And you will see those. And certainly if you would like for us to go into those more in depth, we would be pleased to. The last item I wanted to mention is that we closed on our $160 million single family mortgage bond program 70 on September 20. To date, we have gone through $42 million, and our first time home buyer team is doing a great job in getting those loans done. Those authorizations done. So we are grateful for Heather Hodnett who is here today to represent that division. And to Matt Pogue [phonetic] and all his team.

MS. ANDERSON: I had just one question for the HOME Division about the update on the HOME amendments, if I could see.

MR. GERBER: Ms. Arellano.

MS. ANDERSON: If not, I don't mean to take you off guard, if you don't have an answer, because you didn't expect, certainly didn't expect this question. First of all, it is very helpful to me as a Board member to just get these monthly reports on the HOME amendments. And we have worked so hard over the last 18 months to try to bring some heat and light to the HOME program to make it perform better in terms of putting housing on the ground faster. So there is a report here from Alpha Concepts that is a homebuyer assistance contact. It says, the start date of the contract was in October of '04, and after extensions, the current expiration is April 30 of '08. Homebuyer assistance for 29 units. And the comment says, they are to open their bid for contractors on September 28, '07. So I am just, you know, wondering how they will ever be done by April. And, you know, how do we put a note in their compliance file that, you know, that they -- does this qualify for giving them negative points the next time they come in to a HOME cycle. That they had contracts starting in October of '04, and they have opened bids for contractors on September 28 of '07. So that is just two days shy of three years.

MS. ARELLANO: Jeannie Arellano.

MS. ANDERSON: You got a loaded question.

MS. ARELLANO: We are now transitioning. The Division reorganized October 1. And we are now transitioning all of the contract files and the information that is in those to the Division. We have already started working on these. We have staff that are going to be assigned that will have these assigned to provide oversight to them, and push performance on them. We are just now getting into those assignments. Some of those we have already started looking at. You mentioned the City of Louisville last month, and so we have looked into that. And I have received back the documentation from the City explaining what the circumstances were, and we will be using that to also refine the amendment process to make sure that we are collecting adequate support documentation for anything that is occurring on these, and what the slow progress is on them. And we are also looking at a system for developing points when they come back in and apply for funding. That that is something that is included in our compliance history evaluations system. And also looking at ways that we can proceed with the administrators to get them to perform. But these are our priority for that team that is going to be looking at the performance of the contracts.

MS. ANDERSON: Moving forward, clearly when you are 38 months into a contract that was supposed to be whatever it was, 24 or 36, you know, as opposed to trying to front load the technical assistance so that you have an early warning system so you know by four or five or six months in, whether they are going to be on track or not. And so as you work through all of your processes, as you have taken this great responsibility, I hope you will think about how you front load technical assistance.

MS. ARELLANO: We are.

MS. ANDERSON: Thank you. Thank you so much. Is there any other business to come, or monkey business to come before this Board today.

MR. CONINE: Move to adjourn.

MR. FLORES: No.

MR. HAMBY: You are going into Executive Session.

MS. ANDERSON: Do I read that before we --

(Simultaneous discussion.)

MR. HAMBY: Yes. If you don't adjourn, you are taking a break.

MS. ANDERSON: Sorry, I almost misspoke. I wasn't thinking about it right. So with that then, we're in recess until the conclusion of the Executive Session. And I will -- do I really have to read this?

MR. HAMBY: Yes.

MS. ANDERSON: No other Board Chair has to read it.

MR. HAMBY: I can read it for you.

(Simultaneous discussion.)

MS. ANDERSON: They all do? Well, I wouldn't want to be different than any of the rest. Okay. They all read it, so I shall read it as well.

On this day, October 11, 2007, in the regular meeting of the Governing Board of the Texas Department of Housing and Community Affairs held in Austin, Texas, the Board adjourned into a closed executive session as evidenced by the following.

The Board will begin its executive session today, October 11, 2007, at 12:10 p.m. The Board may go into executive session and close this meeting to the public on any agenda item if appropriate, and authorized by the Open Meetings Act, Texas Government Code Chapter 551.

The Board may go into executive session pursuant to Texas Government Code 551.074 for the purposes of discussing personnel matters, including to deliberate the appointment, employment, evaluation or reassignment of duties, discipline or dismissal of a public officer or employee. Consultation with attorney pursuant to 551.071(A) of the Texas Government Code with respect to pending litigation styled Beaver v. TDHCA, filed in federal court. With respect to pending litigation styled Brandal v. TDHCA filed in federal court in Potter County.

With respect to pending litigation styled Ballard v. TDHCA filed in federal court. With respect to contract negotiations with selected vendor on Housing Assistance Program Disaster Recovery RFP. With respect to any other pending litigation filed since the last Board meeting.

(Whereupon, Board went into Executive Session at 12:10 p.m.)

MS. ANDERSON: The Board has completed its executive session of the Texas Department of Housing and Community Affairs on October 11, 2007, at 2:00 p.m.

I hereby certify that this agenda of an executive session of the Governing Board of the Texas Department of Housing and Community Affairs was properly authorized pursuant to Section 551.103 of the Texas Government Code. The agenda was posted at the Secretary of State's office seven days prior to the meeting pursuant to Section 551.044 of the Texas Government Code, that all members of the Board were present with the exception of Mr. Bogany and Mr. Salinas, and that this is a true and correct record of the proceedings pursuant to the Texas Open Meetings Act. Chapter 551 Texas Government Code.

MR. HAMBY: If we no longer have a quorum, we can adjourn.

MS. ANDERSON: We have no quorum, so we are adjourned.

(Whereupon, at 2:03 p.m., the meeting was adjourned.)

C E R T I F I C A T E

IN RE: Board Meeting

LOCATION: Austin, Texas

DATE: October 11, 2007

I do hereby certify that the foregoing pages, numbers 1 through 167, 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.

10/17/2007
(Transcriber) (Date)

On the Record Reporting, Inc.
3307 Northland, Suite 315
Austin, Texas 78731