

**Florida Housing Finance Corporation  
Board of Directors' Meeting Minutes  
December 15, 2006**

**TIME:** 9:10 a.m.

**LOCATION:** Hyatt Regency Coconut Point  
5001 Coconut Road  
Bonita Springs, Florida

**BOARD MEMBERS PRESENT:**

Lynn Stultz, Chairman  
Thaddeus Cohen  
James F. Banks, Jr.  
J. Luis Rodriguez  
Zully Ruiz  
Vicki Vargo

**CORPORATION STAFF PRESENT:**

Stephen P. Auger, Executive Director  
Wayne Conner  
Laura Cox  
Rebecca DeLaRosa  
Sheila Freaney  
Barbara Goltz  
Wellington Meffert  
Nancy Muller  
Vicki Robinson  
David Westcott

**ADVISORS AND OTHERS PRESENT:**

Junious Brown, Nabors, Giblin & Nickerson  
Al Cardenas, Tew Cardenas  
Jan Carpenter, Shuffield, Lowman  
Bill Johnston, WLJ Capital

Chairman Stultz called the Board of Directors' meeting to order at 9:10 a.m., and confirmed that a quorum was present.

Chairman Stultz introduced and welcomed Vicki Vargo, Florida Housing's new Board Member.

Chairman Stultz recognized Wellington Meffert to address the Board. Mr. Meffert introduced Representative Mike Davis, from Naples, who headed the Legislative Committee on House Bill 1363. Representative Davis welcomed Florida Housing to Southwest Florida and stated that he was looking forward to the coming legislative session and continuing his efforts to promote affordable housing in Florida. Mr. Auger thanked Mr. Davis for coming and for his efforts.

Chairman Stultz stated that since Terry Santini's term as a Board Member ended, she was accepting nominations for Chairman of the Board of Directors of Florida Housing. Sandra Terry nominated Lynn Stultz to serve as the next Chairman, and then took over the meeting to preside over the voting. Lynn Stultz was unanimously elected Chairman. Chairman Stultz then asked for nominations for Vice Chairman. James Banks nominated David Oellerich as Vice Chairman. Mr. Auger stated that although Mr. Oellerich was not present to accept the nomination, he had previously indicated that he would be willing to serve if he was nominated. David Oellerich was unanimously elected Vice Chairman.

Chairman Stultz recognized Steve Auger to make a presentation. Mr. Auger asked outgoing Board Member Terry Santini to step forward and he presented her with a plaque and thanked her for her eight years of dedicated service to Florida Housing Finance Corporation and the citizens of the State of Florida. Ms. Santini thanked Mr. Auger and Florida Housing's staff and Board Members.

### **MINUTES**

Chairman Stultz asked for a motion to approve the Minutes of the October 20, 2006, Board Meeting.

Motion to approve the Minutes was made by Mr. Banks with a second by Ms. Terry.  
Motion passed unanimously.

### **DEMONSTRATION LOANS**

Chairman Stultz recognized Nancy Muller to address the Board regarding Demonstration Loan matters.

**Item A, Sunsouth Place.** Ms. Muller reminded the Board that in September 2001 it approved a \$1 million Demonstration Loan to Carrfour Corporation for Sunsouth Place for the rehabilitation of a 71-unit, single-room occupancy building designed to serve homeless people. She added that the credit underwriting report was approved in April 2002 and the loan closed in April 2005 after a lengthy process to obtain environmental clearance on the property. She stated that \$896,252 of the \$1 million has been drawn by Carrfour to complete 28 percent of the rehabilitation to the property and requests have been received from both Carrfour and the Miami Beach Community Development Corporation to transfer ownership of the development to the Miami Beach CDC and to change the name from Sunsouth Place to Meridian Place. She added that the Miami Beach CDC also requested a change in the configuration of the building from 71 single-occupancy units with group facilities for bathrooms to 34 one-bedroom units and 17 studios, all with their own bathrooms, and the addition of an elevator for the three-story building. She stated that the credit

underwriting report received on November 29, 2006, supported both the transfer of ownership and the reduction in units. She asked the Board to approve staff's recommendation to approve the credit underwriter's recommendation, subject to the conditions in their report, to allow the transfer of ownership and assumption of the existing loan from Carrfour to the Miami Beach CDC, and to allow the name change of the development and the reduction in units.

Motion to approve staff's recommendation to allow the transfer of ownership and change of name was made by Ms. Ruiz with a second by Ms. Vargo. Motion passed unanimously.

Motion to approve staff's recommendation to allow the reduction in units was made by Mr. Banks with a second by Ms. Terry. Motion passed unanimously.

## **FISCAL**

Chairman Stultz recognized Barb Goltz to address the Board regarding Fiscal matters.

**Item A, 2007 Operating Budget.** Ms. Goltz reminded the Board that at the October 2006 meeting it received the proposed 2007 Operating Budget for review. She stated that the only major difference in the version presented for approval is a reduction of about \$100,000 in the cost of benefits and insurance. She asked the Board to approve staff's recommendation to approve the 2007 Operating Budget as presented.

Motion to approve staff's recommendation was made by Mr. Banks with a second by Ms. Terry. Motion passed unanimously.

## **HURRICANE PROGRAMS**

Chairman Stultz recognized Nancy Muller to address the Board regarding Hurricane Program matters.

**Item A, Final Ranking for Farmworker Housing Recovery Program and Special Housing Assistance and Development Program.** Ms. Muller stated that the Farmworker Housing Recovery Program and Special Housing Assistance and Development Program were recommended by the 2005 Governor's Hurricane Housing Work Group and were funded for a total of \$15 million in the 2006 Legislative Session. She stated that staff developed a prototype application and rule similar to the Universal Application, but simpler and focused on serving those with special needs and smaller projects that could be used down the line for other funding situations.

(Secretary Cohen entered the Board Room)

Ms. Muller stated that the application cycle for the programs opened on August 7, 2006, and seven applications were submitted by the October deadline. Preliminary scores were issued and applicants were given an opportunity to cure a number of errors and review other applications for possible errors. Once all cures were received, staff did the final scoring and carried out the final ranking. She stated that staff recommended approving funding of approximately \$3.9 million to eligible applicants, leaving approximately \$11.1 million uncommitted, which, pursuant to the emergency rule, will be made available through another application. She stated that staff would take what was learned through the first application cycle and fine tune the process to ensure the successful allocation of the remaining funds in the second round. She asked the Board to approve

the ranking and direct staff to processed with the issuance of final ranking scores and notice of rights to the applicants. She also asked the Board to authorize staff to revise the application process and re-issue available funds through an application process for the development of housing for farmworkers and housing for persons with special needs.

Mr. Auger added that because this money was for hurricane recovery we went through an emergency rule making process more faster than normal to get the money out on the street quickly, and when staff saw how undersubscribed the \$15 million were, began talking to folks that didn't submit application, and learned some things that can be done differently during the next funding cycle. He added that folks will also be given adequate time to get deals ready so they'll be ready to come in and apply for funding.

Motion to approve staff's recommendation was made by Ms. Ruiz with a second by Mr. Banks. Motion passed unanimously.

Secretary Cohen asked what issues would be reviewed to make the revisions to the process. Mr. Auger stated that staff attempted to homogenize the application so it would be accommodate migrant farmworker housing in Immokalee and homeless housing in downtown Jacksonville, and it ended up being over-homogenized. He stated that staff needed to go back and make sure the appropriate mechanisms are in place to allow for some things that weren't allowed this time. He stated that the other significant point voiced was the quick time frame. He stated that developers said they needed more time to put deals together. Secretary Cohen asked if farmworker housing already existed. Mr. Auger said that the focus of this funding was to migrant farmworkers, a different population that we normally serve. Mr. Auger stated that there apparently weren't those sort of ready-made deals, and they needed more lead time to put the projects together.

Motion passed unanimously.

## **LEGAL**

Chairman Santini recognized Wellington Meffert to address the Board regarding Legal matters.

Mr. Meffert stated that the first three Legal Items involved recommended orders and reminded the Board that recommended orders are brought before them as a result of a hearing either before one of Florida Housing's contract hearing officers from an informal proceeding or an administrative law judge from the Division of Administrative Hearings. He stated that they are presumed correct in their findings of fact and conclusions of law, and the Board is free to disagree with them, but must state specific reasons for such disagreement. He added that none of the recommended orders had any exceptions filed to them, and both parties had an opportunity to do so once the order was filed.

**Item A, Meadowbrook Apartments, Ltd.** Mr. Meffert stated that Meadowbrook scored 57 on the Universal Cycle Application and the rules and instructions say an application scoring below 60 will not get ranked for funding unless it is a nonprofit Housing Credit application necessary to meet that goal. He stated that the hearing officer found that Florida Housing properly applied the rules in not ranking Meadowbrook and denied the petition. He asked the Board to approve staff's recommendation to deny the petition and dismiss the case and adopt the findings of fact and conclusions of law of the recommended order and issue a final order accordingly.

Motion to approve staff's recommendation was made by Mr. Banks with a second by Ms. Vargo. Motion passed unanimously.

**Item B, Pinnacle Plaza, Ltd.** Mr. Meffert that this case was tried before the Division of Administrative Hearings and the issue is proximity points for being located near a grocery store. He stated that the rule requires 4,500 air-conditioned square feet be available to the public at the time of the application deadline, and at the hearing, the administrative law judge found there was not 4,500 square feet available to the public as of the application deadline, and recommended dismissal of the petition and denial of the proximity points petitioner sought. He asked the Board to approve staff's recommendation to adopt the administrative law judge's findings of fact and conclusions of law as their own and enter a final order.

Motion to approve staff's recommendation was made by Mr. Banks with a second by Ms. Terry.

Secretary Cohen asked if the position Florida Housing would take when looking at some of these issues as to whether it is perceived as storm damage and they're temporarily closed, but the store is paying licensing fees, paying taxes and everything else. He added that Florida Housing might also be unsure of what the end result would be after the renovations. Mr. Meffert stated that the notion of an exception for storm damage is a policy decision going forward, but on the facts of the case at the time it was tried, the rule in effect did not recognize any exception at all. Mr. Auger stated that staff would take a look at what are appropriate allowances to make to such things in the rule development in 2007.

Mr. Auger stated that one of the concepts developed at the time was tie-breaker points for proximity to services and amenities such as grocery stores, and it was decided to define a grocery store by square footage, but that definition might need to be redefined.

Ms. Ruiz asked if staff had a copy of the lease that states how many square feet is actually being leased. She stated that she would hate to make a decision based on a small technicality. Mr. Auger stated that a system was set up in order to give some bright lines in the process, and in doing so, the current process evolved. He stated that in this instance there are dueling sets of facts presented in different areas. He stated that a third-party objective person at the Division of Administrative Hearings presides over the facts and how they fit into the application of the rule as it exists.

Ms. Ruiz asked about the size of the grocery store. Mr. Meffert cautioned that it was a recommended order from the Division of Administrative Hearings and the case could not be retried at a Board Meeting. He stated that a decision needed to be made based on the record, and if the developer disagrees, they can go to the Court of Appeals. He stated that they had a chance to file a disagreement with the recommended order and chose not to. Secretary Cohen asked what the next step would be if the Board voted not to accept the administrative law judge's position. Mr. Meffert stated that the Board would then direct staff to draft an order stating the Board's reasons for rejecting the recommended order. Ms. Ruiz stated that she understood the rule, but also understood that for a very small amount of square footage in a grocery store, she could not vote against the application. Mr. Auger stated that it didn't mean that families wouldn't get funding, it was just a matter of where they got served.

Mr. Meffert stated that if the Board decided to reject the recommended order, that it state specifically the fact in issue, which numbered paragraph in the recommended order, specifically, that it disagrees with and what it is that you see that causes that disagreement, as required by law.

Motion passed five to one, with Ms. Ruiz opposing.

**Item D, Emerald Terrace Limited Partnership.** Mr. Meffert stated that the issue in this case was the wording on an exhibit called the Phase 1 ESA Verification Form and the way it was worded. He stated that the form adopts an American Standards and Testing Materials (ASTM) practice for site evaluations for environmental purposes which exempts asbestos and lead-based materials from its scope, but the form asks if there is an existing building on site, is it addressed in the ESA or by a separate report. He stated that the hearing officer found that even though it made sense to ask the question, it did not require it because the reference to the ASTM standard did not require the petitioner to answer the question. He asked the Board to approve staff's recommendation to adopt the findings of fact and conclusions of law of the recommended order and issue a final order based thereon.

Motion to approve staff's recommendation was made by Mr. Banks with a second by Ms. Terry. Motion passed unanimously.

**Item C, Harbour Cove Associates, Ltd.** Mr. Meffert stated Item C was two Petitions for Variance and Waiver filed by Harbour Cove Associates, Ltd. He stated that the Petitioners asked for a waiver of rules to allow for an award of an additional \$2 million in SAIL money and to lower the interest rate on their entire SAIL loan to one percent simple. He stated that a representative from Harbour Cove was present to address the Board. He stated that staff's recommendation was to deny both Petitions.

Motion to approve staff's recommendation was made by Ms. Terry with a second by Secretary Cohen.

Al Cardenas, an attorney with the Tew Cardenas law firm, the attorneys for Cornerstone, stated that the 212-unit high-rise project is located east of I-95 in the City of Hallandale in Broward County. He stated that Cornerstone obtained a \$2 million SAIL loan in the 2003 Universal Cycle and has no bond or tax credits. He stated that in February 2004 it was discovered that the site was contaminated, but they decided to move forward with the project, working on a two-year remediation plan with the County. He said that even with the provision of an additional \$3.8 million for remediation, project costs are 50% higher. He added that the project would receive its certificate of occupancy in the spring. He stated that the Board had already granted two similar requests from non-profit developers for additional SAIL funds. He added that the additional \$2 million granted to those two developers covered 100 percent of their cost overruns, and the request for Harbour Cove would only cover approximately 20 percent of the cost overruns. He stated that there were no rules in place to distinguish between non-profit and for-profit developers in this area.

Ms. Ruiz asked what percentage of the development construction was complete. Mr. Cardenas stated about 90 percent. Ms. Ruiz asked if the developer would be willing to return the additional \$2 million if they were to subsequently receive any money from Brownfields funding. Mr. Cardenas stated that the developer believed it had received all the money it would be getting from Brownfields.

Ms. Stultz asked about the developer's past performance with Florida Housing. Mr. Auger distributed a spreadsheet detailing Cornerstone's past performance. He added that Mr. Cardenas' assertion that this request was similar to the two other requests was not true, explaining that the 2005 nonprofit farmworker deals were, as a result of getting SAIL allocation on a separate process, inadvertently left out of the next year's provision that all 2005 SAIL deals could come back for additional funds because of unprecedented spikes in construction costs. He added that

the material difference is that in those instances, the loans had not closed. He stated that in this instance, the SAIL loan has closed and the units are being built.

Secretary Cohen expressed his concern over the certitude of the language that says that as a policy Florida Housing doesn't do these things by saying that if the loan is not closed, additional funds are available, but if the loan is closed, the developer is on its own. Mr. Cardenas stated the developer received no developer fee on the project and the cost overruns were the difference in the original construction costs and the subsequent construction costs when they had to stop the project for over two years in order to do remediation. He stated they ended up cleaning up an environmentally contaminated area in the middle of an urban infill situation.

Ms. Stultz expressed concerns that it would be setting a precedent to approve the request and that she didn't want to open the floodgates for people who have already closed loans to come back and ask for more money. Mr. Auger stated that Florida Housing has never gone back and awarded more SAIL funds after a loan closing, and Florida Housing has not see the concern that it was rewarding bad behavior. He added that the precedent that would be set is regardless of what the developer agrees to at closing, if they run into unexpected costs, they can come back and Florida Housing will cover those costs.

Ms. Ruiz asked if there was any excess SAIL money. Mr. Auger stated that there was about \$9 million in SAIL funds, which, according to the SAIL rules, will flow into the next cycle.

Mr. Meffert stated that two petitions were on the table, and there was no discussion of the request to reduce the interest rate. Mr. Auger stated that the precedent was that Florida Housing has not gone back and changed terms on a loan after a loan has closed. Mr. Cardenas suggested that two items on the Consent Agenda did just that. Ms. Robinson stated that they applied in the 2003 cycle and in the 2004 cycle, there was not a provision to allow 2003 SAIL deals to come back and asked for the difference between the '03 request limits and the '04 request limits, but in the 2004 cycle, they could have returned their prior allocation and reapplied to get more money once they discovered they had environmental issues. Ms. Vargo asked the developer to explain why they didn't come back for more money earlier. Mr. Cardenas said they didn't think there would be any more money available until '06. Ms. Vargo stated that if they didn't have an opportunity after they learned of the contamination to come back, she felt that was something that needed to be taken into consideration as a substantial hardship. Ms. Robinson stated that they would have been able to apply in the 2004 cycle after the January when they discovered the contamination or the 2005 cycle before they closed on their loan, as that happens all the time.

Ms. Stultz called the vote on the Motion to deny both rule waivers. Ms. Terry withdrew her motion and Secretary Cohen withdrew his second.

The issue was tabled for discussion at the next meeting.

### **PROFESSIONAL SERVICES SELECTION (PSS)**

Chairman Stultz recognized Ian Smith to address the Board regarding PSS matters.

**Item A, RFQ for Specialty Promotional Printing Services.** Mr. Smith reminded the Board that at the January 2006 meeting it authorized staff to enter into contract negotiations with Global DocuGraphics to provide printing services for special promotional printing. He stated that in July 2006, Global DocuGraphics filed a petition for bankruptcy and its assets were taken over by Core GlobalWare. He stated that Global DocuGraphics is the only company under contract with

Florida Housing to provide specialty promotional printing services, so he asked the Board to authorize staff to begin the solicitation process and establish a review committee to select a pool of vendors that can be used to provide specialty promotional printing services.

Motion to approve staff's recommendation was made by Mr. Banks with a second by Ms. Terry. Motion passed unanimously.

### **CONSENT AGENDA**

Chairman Santini asked for motion to approve everything on the December 15, 2006, Consent Agenda. Mr. Meffert stated that Legal Consent Item A regarding Maple Crest was being withdrawn from the Consent Agenda.

Motion to approve everything on the Consent Agenda with the exception of Legal Item A was made by Mr. Banks with a second by Ms. Terry. Motion passed unanimously.

### **LEGISLATIVE UPDATE**

Rebecca DeLaRosa informed the Board that Senator King and Senator Geller have filed bills to eliminate the Trust Fund cap.

Hearing no further business, Chairman Stultz adjourned the December 15, 2006, Board of Directors' Meeting at 11:45 a.m.