

**Florida Housing Finance Corporation  
Board of Directors' Meeting Minutes  
June 21, 2013**

**TIME:** 8:30 a.m.

**LOCATION:** Tallahassee City Hall  
300 South Adams Street  
Tallahassee FL 32301

**BOARD MEMBERS PRESENT:**

Len Tylka, Chairman  
John Hawthorne  
Brian Katz  
Natacha Munilla  
Barney Smith

**CORPORATION STAFF PRESENT:**

Stephen P. Auger  
Wayne Conner  
Laura Cox  
Marvin Doyal  
Sheila Freaney  
Barbara Goltz  
Wellington Meffert  
Nancy Muller  
Jacqui Sosa  
Kevin Tatreau  
David Westcott

**ADVISORS AND OTHERS PRESENT:**

Junious Brown, Nabors, Giblin & Nickerson  
Jan Carpenter, Shuffield Lowman  
Bill Johnston, WLJ Partners/Tibor Capital  
Shannon Nazworth, Florida Supportive Housing Coalition  
Jaimie Ross, 1000 Friends of Florida  
Allison Colvard, Housing Consultant

Chairman Tylka called the meeting to order at 8:30 a.m.

## **MINUTES**

**Item A, Approval of Minutes of April 26, 2013, Board Meeting.** Chairman Tylka asked for a motion to approve the Minutes of the April 26, 2013, Board Meeting.

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

Chairman Tylka introduced newly appointed Board Members Brian Katz and John Hawthorne, as well as Bill Killingsworth, the new Board designee from the Department of Economic Opportunity (sitting in the audience).

## **AUDITED FINANCIAL STATEMENTS**

**Item A, Presentation of 2012 Audited Financial Statements.** Barb Goltz introduced Mike Patillo, of Ernst and Young, who presented the Board with the results of its audit of Florida Housing Finance Corporation for the year 2012.

**Item B, Acceptance of the 2012 Audited Financial Statements.** Barb Goltz asked the Board to accept the audit as presented by Ernst & Young.

Motion to accept the audited financial statements presented by Ernst & Young was made by Ms. Munilla with a second by Mr. Smith. Motion passed unanimously.

## **FORECLOSURE COUNSELING PROGRAM**

**Item A, Request Approval of Program Parameters and the Funding Allocation for the Foreclosure Counseling Program.** Nancy Muller stated that through the Foreclosure Counseling Program Florida Housing will provide funding to participating housing counseling agencies on a fee-for-service basis to provide free counseling to homeowners at risk of foreclosure. She stated that the funds would allow for counseling over and above the basic services the federal foreclosure counseling funds allow with the objective of helping homeowners obtain loan modifications to be able to stay in their homes, and short of that, providing financial education to assist them to transition into rental housing.

Ms. Muller stated that staff has been in program development for several months with counseling agencies and other experts to develop the parameters and processes for the program and is bringing those to the Board today for approval. She stated that Exhibit B in the Board Package provides a summary of the counseling services and expected fees to be paid.

Barney Smith asked if the payments would be directly to the housing counseling agencies. Ms. Muller stated that the payments would be from Florida Housing to the agencies after they have provided the services on a monthly basis. He asked if those payments came out of the seven and a half percent Florida Housing receives for administrative purposes. Ms. Muller stated that the seven and a half percent is for support work such as compliance monitoring, training and

technical assistance, data management, etc., and the payments to the agencies would not come from that pot.

Ms. Muller stated that staff worked with the attorney general's office to put together a needs-based allocation methodology to provide legal services to assist homeowners alongside the funding they appropriated to Florida Housing for foreclosure counseling. She stated that Exhibit C in the Board Package provides the allocation methodology. She stated that it reserves funding by geographic area based on need.

Ms. Muller stated that once the Board approves the program parameters, the scope of services will be finalized, the contracts with the housing counseling agencies will be completed, and staff will work with the Florida Housing Counseling Network to finalize the training of the participating agencies with the hope that the program will in place and ready to go in late July.

Ms. Muller asked the Board to approve the program parameters and funding allocation for the Foreclosure Counseling Program.

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

John Hawthorne asked how homeowners will be made aware of the program. Ms. Muller stated that it is expected that the majority of the homeowners will find out about the program from the local housing counseling agencies who are already working with them. She added that there is currently no funding budgeted in the seven and a half percent for advertising, but staff has had discussions with the attorney general's office regarding doing something at a state level. She stated that Florida Housing's Communications staff is also working to develop online communication tools.

Chairman Tylka and Mr. Katz both expressed desires that monitoring and oversight of the program are firmly in place to ensure adherence to policies and to prevent double dipping with other federal foreclosure counseling programs. Mr. Katz also stressed the importance of having well-defined policy and financial goals for the program, and cost control mechanisms, particularly in relation to the HCAs. Mr. Katz also noted the need for a means to measure and monitor such goals and control for desired outcomes. Ms. Muller assured the Board that the program would be monitored and reports would be provided to Board Members on a regular basis.

Motion passed unanimously.

#### **HARDEST-HIT FUND**

**Item A, Request Approval to Allocate Funds, Submit Term Sheets, Open Rulemaking and Enter into Agreements for Needed Services for the Hardest-Hit Fund ("HHF") Elderly Mortgage Assistance Program ("Elmore")**. David Westcott asked the Board to authorize staff to allocate funds, submit term sheets, open rulemaking and enter into agreements for needed services for the Elderly Mortgage Assistance Program (Elmore). He stated that the first two Hardest-Hit Fund programs, the Unemployment Mortgage Assistance Program (UMAP) and the Mortgage Loan Reinstatement Program (MLRP), have been running for two years. He reminded the Board that

at the April 26 Board Meeting it authorized staff to move forward with the Modification Enabling Pilot Program and they expect to have that up and running in the next week.

Mr. Westcott stated that the Elmore program is designed to assist senior homeowners who have become delinquent on home equity conversion mortgages (HECM), otherwise known as reverse mortgages, as they have tapped all the equity they are permitted to pull under the terms of the HECM and then have trouble paying expenses such as taxes and insurance, and are in danger of losing their home to foreclosure.

Mr. Westcott asked the Board to allocate up to \$25 million in Hardest-Hit funds, authorize staff to begin rulemaking, enter into agreements for services and begin working with the US Treasury on the terms for the Elmore program, subject to further approvals and conditions as necessary from counsel, US Treasury and appropriate Florida Housing staff.

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

Mr. Hawthorne asked how extensive the problem was. Mr. Westcott indicated that the servicers of HECMs in Florida indicate there are 15,000 to 20,000 homeowners currently delinquent on taxes and insurance, although not all will be eligible for the program. He stated that the median amount senior homeowners are in arrearages is less than \$10,000, so the \$25 million should be able to serve many people.

Mr. Katz reiterated the need for well-defined policies and goals, and similar measurement and control mechanisms for the Hardest-Hit Fund.

Mr. Smith asked why a two-year loan term was chosen. Mr. Westcott explained that HUD and Fannie Mae do not allow subordinate mortgages under the terms of the HECM, but are willing to make an exception if the loan term is only two years.

Chairman Tylka asked how much of the Hardest-Hit funds have been expended across all the programs. Mr. Westcott stated that over \$250 million had been reserved in the UMAP and MLRP programs, plus the \$50 million in the Modification Enabling Program which begins operating in one week, and the \$25 million for the Elmore Program, for a total of approximately \$325 million.

Motion passed unanimously.

## **LEGAL**

**Item A, The Arbors Senior Apartments v. Florida Housing.** Wellington Meffert stated that The Arbors Senior Apartments v. Florida Housing matter was a request for an order closing file. He stated that it was the last of the 2011 funding cycle challenges that was originally heard in an informal hearing, as there were no material facts in dispute; however, during the hearing, the petitioner tried to put evidence into the record that would have raised a factual dispute, so it was transferred to the Division of Administrative Hearings for a formal hearing. He stated that after a while, the petitioner abandoned the effort at the Division of Administrative Hearings and the case was transferred back to the contract hearing officer in November 2012, but since that time, there has been no action in the case. Therefore, he asked the Board to allow staff to issue

an order closing the case without prejudice, which means the petitioner can come back and try to refile the case in the future.

Motion to approve staff's recommendation was made by Mr. Hawthorne with a second by Mr. Smith. Motion passed unanimously.

**Item B, Villa Aurora, LLLP.** Mr. Meffert stated that the Villa Aurora matter was a request for a rule waiver. He stated staff originally recommended that the Board grant the request for a blended interest rate based on the number of homeless units in the development which gives the development the benefit of a rule that was changed less than a year after it was funded which allows a pro rata blending of the interest rates, resulting in a lower interest payment. He stated staff also originally recommended granting the request effective 2011. He stated that the third part of the request was to be allowed to change the payment order on SAIL interest and pay developer costs before SAIL interest, and staff recommended denying that request. He stated that the Petitioner subsequently withdrew the part of their request regarding the order of payment on the SAIL interest, and he asked the Board to accept staff's recommendation to withdraw the SAIL interest portion of Petitioner's request.

Motion to approve staff's recommendation was made by Mr. Smith with a second by Mr. Hawthorne. Motion passed unanimously.

Mr. Meffert then asked the Board to approve staff's recommendation to grant Petitioner's variance for requirement of Rule 67-48.010(3)(b), Florida Administrative Code, 2006, to apply a blended interest rate of one percent based on the number of the homeless units, effective with the 2011 year.

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

## **LEGISLATIVE REPORT**

Jacqui Sosa updated the Board on the results of the recently concluded 2013 legislative session and how Florida Housing will be impacted and thanked everyone for their participation and support during session.

## **MULTIFAMILY PROGRAMS**

**Item A, Request for Proposals 2013-07 for PHA Revitalization High Priority Affordable Housing Developments Request for Proposals.** Kevin Tatreau stated that seven responses were received for the Request for Proposals for PHA Revitalization High Priority Affordable Housing Developments. He stated that \$2,616,862.44 was available, but based on the selection process, only Application No. 2013-105C for \$865,000 was eligible for funding, leaving \$1,751,862.44 unallocated.

Mr. Tatreau asked the Board to approve the Review Committee's recommendation to have staff amend and reissue the RFP in an attempt to allocate the remaining funding; authorize the funding of Application 2013-105C; and deem the following applications ineligible to be considered for funding:

- Application No. 2013-100C - failed threshold
- Application No. 2013-101C - failed threshold/did not achieve minimum score of 56
- Application No. 2013-102C - failed threshold
- Application No. 2013-103C - failed threshold
- Application No. 2013-104C - failed threshold/did not achieve minimum score of 56
- Application No. 2013-106C - failed threshold/did not achieve minimum score of 56

Motion to approve the review committee's recommendations made by Ms. Munilla with a second by Mr. Smith.

Steve Auger pointed out that this was one of the first RFPs in the new process of allocating funds via the RFP process as opposed to the Universal Application Cycle. He stated that the scoring process involved each member of the review committee scoring the same item of each application, while on the special needs RFP, there were subjective scoring items that a couple people scored across all applications and then reconciled their scores at a public meeting. He stated that as more RFPs are issued and scored, the process will be refined and evolve based on what works and doesn't work with each RFP. He stated that staff was working on developing a pre-qualification process to provide applicants with a process to get all the threshold items correct before the scoring begins.

Mr. Hawthorne asked how the reissuance of the RFP would impact the applicants that failed threshold in the first RFP. Mr. Auger stated that they would be able to submit again if they chose to.

Mr. Smith asked if the results of the first RFP could be scrapped and start the process all over again. Mr. Meffert stated that would invite a challenge from the successful applicant and they would have good grounds, so he would not recommend doing that.

Ms. Munilla asked if lawsuits were expected. Mr. Auger said yes, and no money goes out the door until those are all settled.

Motion passed unanimously.

**Item B, Request for Proposals for 2013-08 for Special Needs High Priority Affordable Housing Developments.** Kevin Tatreau stated that seven responses were received for the Request for Proposals for Special Needs High Priority Affordable Housing Developments. He stated that \$1,744,574.96 in housing credits were available, but based on the selection process, only Applications 2013-111C and 2013-113C are eligible for funding. He stated that Application 2013-111C was the highest scoring application in the amount of \$1,300,000, leaving \$444,574.96, which is not enough to fund 2013-113C's request of \$1,000,000.

Mr. Tatreau asked the Board to approve the Review Committee's recommendation to consider having staff amend and reissue the RFP in an attempt to allocate the remaining funding; authorize the funding of Application 2013-111C; deem Application 2013-2013-113C eligible, but unfunded; and deem the following applications ineligible to be considered for funding:

- Application No. 2013-107C - failed threshold/in financial arrears
- Application No. 2013-108C - failed threshold
- Application No. 2013-119C - failed threshold/did not achieve minimum score of 57/in financial arrears
- Application No. 2013-110C - failed threshold/did not achieve minimum score of 57/in financial arrears
- Application No. 2013-112C - failed threshold/in financial arrears

Motion to approve the review committee's recommendations made by Ms. Munilla with a second by Mr. Smith.

Barney Smith asked why the RFP should be reissued if the only other eligible application in the initial round was for more money that was available. Mr. Auger agreed and recommended not reissuing the RFP. Mr. Smith asked if the remaining \$444,000 could be combined with the new PHA RFP when it was reissued. Mr. Auger stated that it could.

Motion passed unanimously.

**Item C, Competitive Housing Credits, SAIL and HOME Rental Programs – Rulemaking.** Kevin Tatreau asked the Board to approve the proposed Rule Chapter 67-48 regarding housing credits, SAIL and HOME, and Chapter 67-60 regarding the new application process. He also asked the Board to authorize staff to file the rules for adoption if a notice of change is not required; however, if a notice of change is required, to authorize the Chair to determine if it makes material, substantive changes to the rule, and if he determines that it does not, approve the notice of change without the requirement of another board meeting. If he determines that the notice of change does make material, substantive changes to the rule chapters, he asked the Board to approve staff's recommendation to hold a telephonic board meeting to obtain Board approval of any required changes with such changes ratified at the next regularly scheduled board meeting.

Motion to approve staff's recommendations made by Ms. Munilla with a second by Mr. Smith.

Steve Auger stated that Rule Chapter 67-21 was the old rule that governed bonds and Rule Chapter 67-48 governed tax credits, competitive and non-competitive SAIL funding, HOME rental funding and the old Universal Application Cycle process. He stated that at the April meeting, the Board approved new Rule Chapter 67-21 which is now the noncompetitive multifamily rule, and includes bonds and noncompetitive low income housing tax credits. He stated that the new Rule Chapter 67-60 will govern the new process of applying for funding through RFPs or RFAs, and Rule Chapter 67-48 includes credit underwriting and terms and conditions, but everything pertaining to allocation was removed. He stated that since the last revision of 67-48, the IRS issued rules in regard to the 15 year process to tax credit deals once their initial investor compliance period has expired, and that has been addressed in the new rule. He stated that for competitive tax credits, language was added to size the credit request based on a reasonable first mortgage. Kevin Tatreau added that there is also market rate pricing for housing credits to make sure credits are being utilized at a decent mark for each one and not over subsidized.

Motion passed unanimously.

Mr. Auger added that the qualified allocation plan was still being developed by staff and discussed the limited development areas that will be incorporated.

#### **OFFICE OF INSPECTOR GENERAL**

**Item A, Competitive Funding Lottery See Number Selection.** Marvin Doyal explained that at times lottery numbers needed to be used for a random number generator and asked Chairman Tylka to choose ten numbers from the pages Mr. Doyal provided.

Chairman Tylka chose 30, 100, 341, 366, 891, 956, 986, 1036, 1071, and 1276.

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

**Item A, Request Approval of Request for Proposals for Printing Services.** Wayne Conner stated that one response was received for the Request for Proposals for Printing Services. He asked the Board to approve the review committee's recommendation to enter into contract negotiations with Image Master for printing services.

Motion to approve staff's recommendation was made by Mr. Smith with a second by Mr. Hawthorne. Motion passed unanimously.

#### **Item B, Approval for Request for Qualifications Responses for Environmental**

**Engineering/Consulting Services.** Wayne Conner stated that six responses were received for the Request for Qualifications for Environmental Engineering/Consulting Services. He asked the Board to approve the review committee's recommendation to enter into contract negotiations with the top four offerors which were Arcadia, Genesis Group, Professional Services, Inc., and Florida Planning Group, and if contract negotiations fail with any of the four, to enter into negotiations with Terracon, the fifth ranked offeror.

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

**Item C, Request Approval of Request for Qualifications Responses for Structuring Agent Services.** Wayne Conner stated that three responses were received for the Request for Qualifications (RFQ) for Structuring Agent Services. He asked the Board to approve the review committee's recommendation to enter into contract negotiations with all three offerors for three year contracts with two one-year renewals.

Mr. Conner stated that Stern Brothers, a previous structuring agent for Florida Housing, sent notice that they had not received notification of the RFQ. Wellington Meffert stated that the RFQ was inadvertently not properly noticed, but e-mails were sent. He stated that Stern Brothers' spam blocker apparently intercepted Florida Housing's e-mail so they did not know about the RFQ. He stated that this raised the issue of fairness under the APA, so Stern Brothers had a legitimate issue to raise in that regard. He suggested that the Board approve the recommendation to enter into contract negotiations with the three offerors and authorize staff to reissue the RFQ to invite Stern Brothers and anyone else who may not have known about it to submit responses.

Motion to approve staff's amended recommendation was made by Mr. Smith with a second by Mr. Hawthorne. Motion passed unanimously.

**Item D, Request Approval of Request for Qualifications Response from Housing Counseling Agencies to Provide Counseling Services for the Foreclosure Counseling Program.** Nancy Muller stated that an RFQ was issued for housing counseling agencies for the implementation of a new foreclosure counseling program, and at the April meeting, the Board approved a list of agencies as recommended by the review committee. She added that two agencies, Ocala Housing Authority and Consolidated Credit Solutions, were inadvertently left off that list, so she asked the Board to approve the review committee's recommendation to approve the two agencies. She also asked the Board to approve two additional agencies, Community Homeownership Inc. and Urban League of Broward County, who submitted responses subsequent to the April meeting.

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

#### **CONSENT AGENDA**

Steve Auger indicated that Special Assets Consent Item G was pulled from consideration at the borrower's request, and Chairman Tylka asked for a motion to approve staff recommendations on the remaining items on the Consent Agenda.

Motion to approve staff's recommendations on the remaining Consent Agenda items was made by Mr. Hawthorne with a second by Ms. Munilla.

Wellington Meffert stated that the recommendations on Legal Consent Items B, C and D, Dante Fascell Preservation, Stirrup Plaza Preservation Phase One and South Miami Plaza Preservation, needed to be amended to allow 24-inch ranges, not 20-inch ranges as written in the original recommendation.

Mr. Hawthorne and Ms. Munilla accepted the amendments. Motion passed unanimously.

Steve Auger stated that one of the issues staff has been discussing in regard to leveraging is the fixed nine percent credit rate which, when multiplied by the qualified basis for a tax credit project, bolsters the tax credit request amount. He stated that provision ends with the 2013 credits, so going forward, that will go back to a floating rate, which will have to be considered when discussing leverage. Mr. Auger added that proximity continues to be an important component as well. Barney Smith echoed Mr. Auger's concerns about proximity and stated that he believed the proximity requirements should be loosened.

## **PUBLIC COMMENT**

Shannon Nazworth, from the Florida Supportive Housing Coalition, thanked Florida Housing staff for their efforts in regard to the Special Needs RFP.

Jaimie Ross, of 1000 Friends of Florida, suggested that three people score each section of responses to RFPs. She also spoke in support of pre-qualification for RFPs to avoid so many threshold failures. She also expressed her displeasure that there was only one public workshop held before the rule was adopted. She suggested Florida Housing offer more opportunities for public comment on rules before adoption.

Allison Colvard, housing consultant, stated that she did not want the funding that was left over in the Special Needs RFP to roll over into the re-issued PHA RFP. She suggested adding it to the 2014 special needs money.

Hearing no further business, Chairman Tylka asked for a motion to adjourn the June 21, 2013, Board of Directors' Meeting.

Motion to adjourn was made by Mr. Reecy with a second by Mr. Smith.

Chairman Tylka adjourned the meeting at 10:37 a.m.