

**Florida Housing Finance Corporation
Board of Directors' Meeting Minutes
November 1, 2013**

TIME: 8:30 a.m.

LOCATION: Tallahassee City Hall
300 S. Adams Street
Tallahassee, FL 32301

BOARD MEMBERS PRESENT:

Len Tylka, Chairman
Ray Dubuque
John Hawthorne
Brian Katz
Bill Killingsworth
Natacha Munilla
Barney Smith

CORPORATION STAFF PRESENT:

Stephen P. Auger
Wayne Conner
Laura Cox
Sheila Freaney
Barbara Goltz
Chris Hirst
Wellington Meffert
Nancy Muller
Jacqui Peters
Ken Reecy
David Westcott

ADVISORS AND OTHERS PRESENT:

Junious Brown, Nabors, Giblin & Nickerson
Jan Carpenter, Shuffield Lowman
Ben Johnson, Seltzer Management
Paula Rhodes, Norstar Development
Kevin Letch, Volunteers of America Florida

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

MINUTES

Item A, Approval of Minutes of September 20, 2013, Board Meeting. Chairman Tylka asked for a motion to approve the Minutes of the September 20, 2013, Board Meeting.

Motion to approve the Minutes was made by Mr. Hawthorne with a second by Mr. Dubuque. Motion passed unanimously.

FINANCE

Item A, 2014 Draft Operating Budget. Barb Goltz presented the 2014 draft Operating Budget to the Board for review before the December 13, 2013, Board Meeting, when it will be presented for approval. She directed the Board to contact her with any questions prior to the December meeting.

LEGAL

Item A, Procedures for Public Comment. Wellington Meffert stated that due to legislation passed during last year's session which allows for public comment at any publicly noticed meeting, staff has prepared written procedures for people wishing to speak at Board Meetings. He stated that the written procedures are merely a codification of procedures that have been in place for many years, and give control to the Chair to establish reasonable time limits for each speaker, but with flexibility to increase the limit if necessary. He asked the Board to approve staff's recommendation to adopt the written procedures for public comment at Board Meetings.

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

Mr. Dubuque expressed concerns about people not knowing ahead of time how much time they would have for a presentation, and consequently, not knowing how to prepare. Mr. Meffert stated that historically, if someone knows ahead of time they would like to present something to the Board that might take longer than the standard 2-3 minutes allotted for each public comment, they contact staff ahead of time to get on the agenda.

Mr. Smith expressed concerns about being too restrictive in the policy. Mr. Auger stated that putting the procedures in place was just a formality based on the recent legislation, and essentially, the written public comment procedures would not differ from the informal public comment policy currently in place in that no one is ever denied permission to speak.

Motion passed unanimously.

Item B, Request Authorization to Commence the Rule Amendment and Promulgation Process for Rule 67-49, Procurement of Commodities or Contractual Services.

Wellington Meffert stated that legislation passed during last year's session required some changes to Florida Housing's promulgation process for the procurement of commodities or contractual services. He stated that Florida Housing is allowed to vary from Chapter 287 of Rule 67-49, but must account for its requirements in some fashion. He stated the most significant change requires Florida Housing to make all vendors aware that they are responsible for compliance with the Florida Public Records law, Chapter 119. He stated that the competitive solicitation threshold was raised from \$25,000 to \$35,000. He stated that audit services would no longer be exempt from the competitive solicitation process. He stated that the single source provisions were amended to be consistent with current law, including the provision that for a single source good or service, the public must be given seven days' notice to allow anyone who thinks they can compete to respond. He added that there were other technical, non-substantive changes. He asked the Board to authorize staff to commence the rule amendment and promulgation process for Rule 67-49, Procurement of Commodities or Contractual Services.

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

Item C, Janie Poe Associates 3, LLC v. Florida Housing Finance Corporation.

Wellington Meffert stated that Janie Poe Associates 3, LLC v. Florida Housing was a bid protest stemming from the PHA Revitalization High Priority Affordable Housing Developments Request for Proposals. He stated that Janie Poe was among the applications in the RFP that were failed due to threshold issues. He stated that Janie Poe challenged their failure under Chapter 120, which froze the process. He stated that in the recommended order before the Board, the hearing officer held that Florida Housing erred in requiring applicants to list nonexistent principals and that Janie Poe had a limited liability company that was the general partner of the entity. He stated that Florida Housing's rule requires that all principals be listed in the application, including the managers or members, and that Florida Housing scored the application as failing threshold because there was only one member listed and no manager. He stated that the hearing officer ruled that one cannot go beyond what is given in the application. He stated that the hearing officer also ruled that Florida Housing is entitled to rely on the representations in the application as being truthful and complete, and if something is not truthful or complete, it would be discovered during the underwriting process.

Mr. Meffert stated that the final order recommends that Florida Housing sustain Janie Poe's protest and find that Janie Poe correctly filled out the section on principals, which would make it eligible for funding. He stated that no other applicant protested their failure, so funding Janie Poe would not affect any other applicant. He stated that the recommended order can only determine what happened and if it was correct or not, and cannot compel a certain course of action. Mr. Meffert asked the Board to accept the recommended order, adopt the findings of fact and conclusions of law as its own and accept the recommendation to the extent that it sustains Janie Poe's protest.

Motion to approve staff's recommendation was made by Mr. Dubuque with a second by Mr. Killingsworth.

Mr. Hawthorne asked how a decision would affect this issue going forward. Mr. Meffert stated that accepting the final order would mean the RFAs currently out would be governed by the decision, and if the Board wanted to change the requirement going forward with RFAs issued in the future, it could change the language in the RFAs to make it clear that every position must be accounted for.

Mr. Auger stated that after the first two RFAs in June produced so many threshold failures, staff instituted a pre-approval process for this boilerplate item, which should take care of this issue in future RFAs.

Motion passed unanimously.

Mr. Meffert then asked the Board to rescind a motion and decision made at the June 21, 2013, Board Meeting awarding funding to one applicant to the RFP for PHA Revitalization High Priority Affordable Housing Developments and reissuing the RFP to allocate the leftover funds from the initial RFP.

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

Chairman Tylka suggested approving the two projects and then going back out with the RFP. Mr. Auger stated that the original idea to reissue the RFP discussed at the June Board Meeting was based on only having one applicant awarded funding. He stated that because there are now two developments awarded financing, the original one from June, and now Janie Poe, there may not be enough housing credits to issue another RFP at this time.

Chairman Tylka asked for a motion to fund Janie Poe.

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

Mr. Smith asked if there were any credits left after the Janie Poe award. Mr. Auger stated that there would be a small amount, but recommended waiting until the results of the hearings on the Special Needs RFP were received and decide what to do with the leftover credits at the December meeting before deciding to issue another RFP.

Paula Rhodes, of Norstar Development, asked if there would be a reissue of the PHA RFP. Mr. Auger stated that there could possibly be a reissue. Ms. Rhodes stated that she believed at the June meeting it was decided that the leftover credits definitely would be combined with the leftover special needs credits and the RFP would be reissued. Mr. Auger stated that reissuing was discussed at the June meeting as a way to fund a second PHA development, which has now occurred.

Ms. Rhodes expressed concern that this seemed to be a different direction than previously discussed, which affected her developer's decisions. She asked what amount of funding was left over after the Janie Poe award. Mr. Auger stated that in December more would be known about what has been funded based on the results of the 2014 RFAs, and . Chairman Tylka stated that the decision could not be made until December when the Board has the pertinent information available.

MULTIFAMILY PROGRAMS

Item A, Request for Applications (RFA) to Finance Affordable Multifamily Housing Properties with SAIL and HOME Rental Funding to be used in Conjunction with Tax-Exempt Bond

Financing. Ken Reecy asked the Board to authorize staff to issue two RFAs to finance affordable multifamily housing with SAIL and HOME rental funding to be used in conjunction with tax-exempt bond financing. He stated that the legislature appropriate \$35 million in SAIL funds with \$25 million to be used for elderly housing and \$10 million to be used for families, with a portion targeted to persons with developmental disabilities. He stated that an additional \$15 million was allocated to the corporation for the HOME program. He stated staff plans to use additional SAIL gap funding to finance a minimum required percentage of units set aside for ELI households with the SAIL funding in conjunction with tax-exempt bonds. He asked the Board to authorize staff to proceed with the RFA competitive process to offer \$35 million in SAIL funds and \$15 million in HOME funds to be used in conjunction with tax-exempt bonds to finance affordable multifamily housing and authorize the executive director to establish review committees for each RFA to make recommendations to the Board.

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

Barney Smith asked that the RFA go out the Board for review prior to the workshop on November 14.

Motion passed unanimously.

PROFESSIONAL SERVICES SELECTION

Item A, Request to Approve Responses to Request for Proposals for Cash Flow Verification

Agent Services. Wayne Conner asked the Board to approve the review committee's recommendation to enter into contract negotiations for cash flow verification agent services with Causey, Demgen & Moore subject to successful negotiation of fees, verification of insurance and receipt of a certificate of good standing from the Florida Department of State and approval of counsel and staff.

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

Item B, Request Approval of Response to Request for Qualifications 2013-01 for Housing Counseling Agencies to Provide Services for the Foreclosure Counseling Program.

Nancy Muller stated that in February the Board approved the issuance of a Request for Qualifications for housing counseling agencies to participate in the Foreclosure Counseling Program which

allowed agencies to respond beyond the original submission date in order to maximize the number of agencies working throughout the state to provide good coverage. She stated that the Tallahassee Urban League submitted their credentials which were reviewed by the review committee. She stated that the review committee recommends approval the Tallahassee Urban League to participate in the program pending submission of all required documentation and asked the Board to approve the recommendation.

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

SPECIAL PROGRAMS

Request Approval of Credit Underwriting Report for Arbor Place Apartments, Ltd., a Development Owned by Volunteers of America of Florida. Nancy Muller stated that on January 23, 2009, the Board approved a loan to Volunteers of America Florida in the amount of \$674,556 for rehabilitation of Arbor Place Apartments, an aging development in Florida Housing's portfolio with an existing SAIL loan from 1996 that will be refinanced as part of the recapitalization of the property. She stated that in December 2012 the Board approved a restructuring of the SAIL loan in the amount of \$185,000 which matured in May of 2012. She stated that the SAIL loan restructuring has been ready for execution pending the receipt of necessary information by the credit underwriter. She stated that the credit underwriter submitted a report with a positive recommendation for the rehabilitation loan contingent on the conditions detailed in the report provided to the Board.

Ms. Muller asked the Board to approve the credit underwriting report contingent on the developer meeting all conditions in the report for Arbor Place Apartments, Ltd., for a rehabilitation loan in the amount of \$674,556, and allow staff to proceed with the loan closing with a closing deadline of no later than 120 days from electronic transmission of the loan commitment letter.

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

Brian Katz asked why the credit underwriting report was missing many financial reports regularly found in the reports. Ben Johnson, of Seltzer Management, explained that this project was part a special program, and generally, the credit underwriting reports are not as extensive as the ones prepared for bonds and SAIL. He stated that Seltzer did evaluate the applicant information, both the single asset entity, Arbor Place, and the strength of the guarantor, Volunteers of America of Florida. Mr. Auger added that with specialized, smaller pots of money, which tend to attract developers new to the process, staff has tried to make the process less onerous to manage. Mr. Katz reiterated his desire to get more information in the credit underwriting reports rather than less, including the numbers provided in the standardized format to allow for an objective analysis in order to deploy resources to fund the best projects from a risk and return standpoint.

Ray Dubuque expressed his concern that the recommendation contained so many things that still needed to be accomplished before moving forward. He stated that he believes those kinds of things should be done before projects are presented to the Board for approval. Chairman Tylka stated that criteria have been set regarding presentation of final credit underwriting reports to the Board, and if those have been met, in the interest of timeliness, sometimes they are presented with further conditions that must be met. Mr. Auger stated that it was unusual to have so many conditions in a credit underwriting report, but this transaction was a workout situation and that was why this Board item was put on the Action agenda, to make sure the staff received the Board's feedback. Mr. Hawthorne indicated that because the staff has a good track record, he trusted that this would get done.

Motion passed by a vote of six to one with Mr. Katz casting the dissenting vote.

Kevin Letch, of Volunteers of America Florida, thanked Florida Housing and Seltzer Management for their assistance and patience in working with Volunteers of America Florida to get them through the process.

SPECIAL ASSETS

Item A, Request Affirmation of Short Sale for Bonita Springs Area Housing Development Corporation for Red Hibiscus Lane. Laura Cox stated that Bonita Springs Area Housing Development Corp. applied for a PLP loan in 2004 and received an award of a little over \$317,000 to build an 18-unit homeownership development in Lee County. She stated the PLP loan closed in June 2005 and matured in 2010, and the Board approved two one-year extensions due to construction delays. She stated that the borrower drew \$112,000 of the PLP funds, but never constructed the development, and BB&T, as successor to the first mortgage, initiated a foreclosure action and the property was sold at auction on June 14, 2012, but Florida Housing was not noticed in that action, and consequently, the sale was vacated and the foreclosure was recommenced. She stated that during that time, Habitat for Humanity, Lee and Hendry Counties, negotiated with BB&T to purchase the land to build six affordable homes per year, and entered into negotiations with Florida Housing staff with a \$60,000 offer to satisfy the PLP mortgage. She stated that BB&T agreed to delay the foreclosure sale as long as Habitat closed the transaction by October 21.

Ms. Cox stated that pursuant to Board Resolution 2010-20, which delegates authority to the Chair, with the advice of Florida Housing's financial advisor, to sell a development as it may become necessary between Board Meetings, the Board Chair authorized staff to proceed with the sale of the property. She stated the BB&T transaction closed on October 21 and the Florida Housing transaction closed on October 22. She asked the Board to ratify the short sale.

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

Mr. Katz asked if there could be any adverse consequences as a result of the short sale, such as coming back for more funds in the future. Ms. Cox stated that all Florida Housing loans are non-recourse loans, which means Florida Housing can only go after the property, not the individuals, so once it is cleared and the property is gone, which it is, there is no other avenue. She stated that it is now in the rules that if you've had foreclosures after a certain date equal to a percentage of your portfolio, you are not allowed to compete for more funding.

Motion passed unanimously.

CONSENT AGENDA

Chairman Tylka asked for a motion to approve staff recommendations on the items on the Consent Agenda.

Motion to approve items on the Consent Agenda was made by Mr. Dubuque with a second by Mr. Smith. Motion passed unanimously.

PRESENTATION ON MULTIFAMILY FINANCING TRANSACTIONS

Steve Auger gave the Board a brief overview of the anatomy of a multifamily financing transaction, including historical trends in the market.

ELECTION OF CHAIR AND VICE CHAIR

Chairman Tylka expressed his appreciation to the Board Members and Florida Housing staff for their support during his tenure as Chairman.

Chairman Tylka asked for nominations for Chairman.

Motion to nominate Barney Smith as Chairman was made by Ms. Munilla and seconded by Mr. Killingsworth. There were no other nominations. Motion passed unanimously.

Chairman Smith asked for nominations for Vice Chairman.

Motion to nominate Natacha Munilla as Vice Chair was made by Mr. Tylka and seconded by Mr. Hawthorne. There were no other nominations. Motion passed unanimously.

AUDIT COMMITTEE

Chairman Smith appointed Brian Katz as Chairman of the Audit Committee. He stated that other appointments to the Audit Committee would take place at the December Board Meeting in Orlando.

HARDEST-HIT FUND UPDATE

David Westcott updated the Board on the new Principal Reduction Program, which is part of the Hardest-Hit Fund. He reported that the program received all 25,000 applications in a little more than one week and those applications were being reviewed and processed by the advisor agencies and some have already been forwarded to Florida Housing for underwriting. He stated that staff expects to make the first payments to mortgage servicers by mid-November.

PUBLIC COMMENT

No public comment was offered.

Motion to adjourn was made by Mr. Tylka with a second by Mr. Hawthorne.

Chairman Smith adjourned the meeting at 10:33 a.m.