



DELRAY BEACH HOUSING AUTHORITY

REGULAR BOARD MEETING **APRIL 18, 2008** **MINUTES**

CALL TO ORDER

Meeting called to order at 8:55 a.m.

ROLL CALL

Joseph Bernadel - Present
Angela Randolph - Present
Sylvia Morris - Present
Thuy Shutt - Present
Christel Silver - Present
Morris Weinman - Present

APPROVAL OF AGENDA

With the inclusion of the Developer's Report under Item B of Old Business, a motion to approve the Agenda was made by Commissioner Weinman. Motion seconded by Vice Chairman Randolph. All in favor. Motion passed. Also, a motion was made to change the order of presentation of the Agenda to accommodate the need to wait for the arrival of Knox LaSister, of Smart, Inc., by Commissioner Weinman. Motion seconded by Commissioner Shutt. All in favor. Motion passed.

APPROVAL OF MINUTES

- A. March 7, 2008 – Motion to approve minutes made by Commissioner Weinman. Motion seconded by Vice-Chairman Randolph. All in favor. Motion passed.
- B. March 26, 2008 – Motion to approve minutes made by Commissioner Weinman. Motion seconded by Vice Chairman Randolph. All in favor. Motion passed.

RECOGNITION OF VISITORS

Dwight Gibson – Triple B Realty
Don Rufrano – R2T, Inc.
Joe Grey – Delray Beach Community Land Trust
Yvonne McClain – Construction Management
Brian Hinnners – Auburn Development
Tom Hinnners – Auburn Development
Dom Graziano – CMTS
Dawn Guzzetta – Auburn Development
Alex Crespo – S. Group, Inc.
Cito Beguiristian – Auburn Group
Kathy Rainey-Homes – Family Self Sufficiency
Manny Sanchez – S. Group. Inc.

PUBLIC COMMENTARY

It was noted by Dawn Guzzetta, of Auburn Development, that Tom Hinnners, President of Auburn, had been nominated by Palm Beach County Commissioners Addie Green, Mary McCarty, Karen Marcus and Jeff Koonz to the Affordable Housing Commission of Palm

Beach County. Mr. Hinnens was unanimously appointed.

VII. CONSENT

- a. Chief Operating Officer's Report – Shirley Erazo
- b. Section 8 Coordinator's Report – Bridgette Huff
- c. Chief Financial Officer's Report – Naomi Durham
- d. Administrative/Grant Report – Nina Levine
- e. Development Officer's Report – Kelvin Crockett
- f. Quality Control Report – Jakeleen Fernandez
- g. Family Self Sufficiency Quarterly Report – Kathy Rainey-Homes

Motion to approve Consent Agenda made by Commissioner Weinman. Motion seconded by Vice-Chairman Randolph. All in favor. Motion passed.

VIII. CORRESPONDENCE

Resignation Letter from Commissioner Alfred Etienne

IX. OLD BUSINESS

After a brief discussion a motion to review items under Old Business in the order of:

- c. President/CEO's Report
- d. President/CEO's Annual Evaluation
- a. Presentation by ERA of Market Study, and
- b. Auburn Development's response to the Operating Agreement

was made by Commissioner Weinman. Motion seconded by Vice-Chairman Randolph. All in favor. Motion passed.

c. President/CEO's Report –

1. Demolition Update – As noted by the Development Officer, demolition is well underway. Further information can be found in his report.
2. Update on N.W. 5th Avenue Property – The purchase contract has been reviewed by the Delray Beach Housing Authority legal counsel, Gilberto Pastoriza. Negotiations are on-going. Receipt of the appraisal for the property is expected this week. Discussions with Banks, to secure funding are taking place.
3. HOPE VI – As reported previously, the DBHA was not selected to received funding from the 2007 HOPE VI. 2008 applications will be due in June and a decision by the Board as to applying again is needed. After a brief discussion, it was noted that a decision relating to this item will be made once Knox LaSister, of Smart, Inc. arrives.
4. Replacement Housing Plan – This will also be discussed once Mr. LaSister arrives.
5. Cross Access Between Rental and For Sale Communities Discussion – This item was delayed from a previous meeting so that Commissioner Silver could be present and her input noted. Mr. Pastoriza noted some concerns:
 1. In-put from Auburn Development, as a partner in the project, was needed.
 2. Condominium documents had to be amended to disclose that residents from the rental community would be using some of the common facilities.
 3. Because there is a lake, liability would be increased due to there being more people on the property.

It was noted that these items needed to be discussed with Auburn Development. Brian Hinnners, of Auburn, noted his firm's opinion that it was not a good idea to allow cross-access between the rental and for-sale communities. Auburn's feeling is that the owners would resent the renters using their facilities and vice-versa. He also stated that it was his company's belief that no one would benefit from having cross-access and that both the renters and homeowners would have outstanding amenities in the own areas. Commissioner Silver noted that considering the sale of the properties, cross-access would probably be a negative issue. Commissioner Shutt voiced her opinion that a pedestrian access was not unreasonable and that a position needed to be taken as to whether the project should be socially integrated, economically, physically or not. Vice-Chairman Randolph noted that as a representative of the people from Carver Estates, she believed that it would forecast a negative image on the rental portion and that some provision should be included to allow some type of access. Brian Hinnners related that there was a good amount of open access, including the park across the street and the Boys and Girls Club close by. After further discussion, a motion was made by Commissioner Shutt to revise the site plan to include a pedestrian access and add a decorative fencing in lieu of a wall on the shared property line. The Motion was seconded by Vice-Chairman Randolph. At this time, a roll call was taken relating to this motion.

Chairman Bernadel	-	no
Vice Chairman Randolph	-	yes
Commissioner Weinman	-	no
Commissioner Morris	-	yes
Commissioner Silver	-	no
Commissioner Shutt	-	yes

There being a 50/50 vote, there would be no action taken and the plans would remain with no connectivity. At this time, Commissioner Shutt reminded the Board that when the wall was originally attempted between existing Auburn Trace and the Delray Beach Housing Authority property it was not received well. She now had a concern that this will come up again, regarding connectivity.

- d. President/CEO's Annual Evaluation – The Evaluation Committee, consisting Of Vice-Chairman Randolph and Commissioner Weinman met with the President/CEO on April 15 and reviewed goals and accomplishments for the period of April 2007 through March 2008. It was agreed that her performance, as in the past, continued to be outstanding. It was recommended that a 5% increase be awarded. Motion to approve a 5% increase was made by Commissioner Weinman. Motion seconded by Commissioner Shutt. All in favor. Motion passed.

Commissioner Shutt made a motion that a new goal, considering the current foreclosure rate, that attempts should be made to devise a foreclosure prevention plan in an effort to assist homeowners to remain in their homes. Motion seconded by Vice-Chairman Randolph. All in favor. Motion passed. Chairman Bernadel also requested that an additional goal be that a suitable solution, along with Auburn Development's input, be found relating to the cross-access issue. The above noted Motion was amended to include this item as well. Motion to amend the above noted Motion was made by Commissioner Weinman. Seconded by Vice-Chairman Randolph. All in favor. Motion passed.

- a. ERA Presentation on the Market Study - Knox LaSister, of Smart, Inc. related that for a number of reasons the full report was not available at this time. The summary

report presented previously by ERA and the discussions relating to the mixed use item remained the same. ERA's recommendation for a mixed use component was not feasible. After further discussion on this item, Mr. LaSister noted that the Board's action, if any, should be, either, to accept the report and authorize Executive staff to work with Auburn to determine the feasibility of utilizing the duplexes adjacent to the project site for the mixed use component and make a recommendation. Based on the final determination, the Board would engage with counsel to negotiate whatever modifications to the Master Development Agreement would be appropriate. For the record, it was noted that the Market Study did not support a mixed use component. Tom Hinners, of Auburn Development related that it was Auburn's intention, when they closed on the Schaffer property, that this would be the most appropriate site on that end of the Village Avenue corridor for a mixed use component. He also mentioned that another site to be considered would be on Atlantic Avenue and 12th. After further discussions, the Chairman requested a motion to accept the recommendation of ERA relating to the mixed use component being located where originally intended was not a viable option and to continue discussions with Auburn Development to arrive at a suitable solution concerning this item. Mr. LaSister recommended that the Board not take any action at this time and that it would be more prudent to wait for the receipt of the final report from ERA. A motion was made by Commissioner Weinman that, based on the findings of ERA, that the Board make a determination whether a mixed use component occur on the 18 acre site as provided in the MDA. Motion seconded by Commissioner Silver. All in favor. Motion passed. An additional motion was made to instruct staff to work with Auburn to explore the feasibility of creating a mixed use or appropriate use component on the duplex property, located across the street from the redevelopment site by Commissioner Weinman. Motion seconded by Vice-Chairman Randolph. All in favor. Motion passed.

5. HOPE VI – Mr. LaSister related that he had gone to Washington and had spent time at the HUD office in an attempt to pin-point what was deficient with the DBHA's last application and what the status was for the current round of HOPE VI. The new HOPE VI application is due on June 20 and the only changes were the addition of 2 paragraphs relating to site control (which was the issue with the DBHA's previous application) and the removal of Provision F of 12, relating to the site control issue also. The only other change to this year's NOFA was that one of the determinant issues is that the Public Housing site must be severely distressed at the time of the application or at the time of a Section 18 demolition application was submitted and approved by HUD, but before replacement housing factor funds are awarded to the Housing Authority. Mr. LaSister noted that at this point, his concern is that if an application is not done for the 2008 funding period, at the time of the 2009 funding, the Agency would have already received the replacement funding grant funds. Unless another change in the NOFA was made, the DBHA would not meet the issue on severe distress, because the property would have already been demolished. It was his recommendation, that after consideration of the above, that the DBHA go forward with a 2008 HOPE VI application. Smart's contract will be revisited and certain funds will be moved to accommodate the cost of the new application. It was also recommended by Mr. LaSister that before the time of submission, he and the President/CEO go to Washington to meet with representatives of HUD to discuss what the DBHA is doing from the standpoint of a new mixed finance transaction and discuss it in the context of mixed finance as well as replacement housing factor funding. At this time a motion was made to pursue submission of a 2008 HOPE VI Grant application, subject to negotiations of a new contract with Smart, Inc., by Commissioner Weinman. Motion seconded by Commissioner Morris. All in favor. Motion passed.

A short recess took place at 10:25 with the meeting reconvening at 10:30.

Gilberto Pastoriza, legal counsel for the DBHA, noted that he had received a letter from Nixon,

Peabody, Auburn Development's attorneys relating to the DBHA's comments regarding the Operating Agreement. Mr. Pastoriza proceeded to describe DBHA issues and how Auburn had addressed them. He recommended to the Board that those changes be accepted as proposed by Auburn and that the DBHA proceed to finalize the Operating Agreement and convey the for-sale property to the LLC. He proceeded to outline the issues of concern:

1. The DBHA had wanted some assurances that Auburn had not diluted itself by getting into a series of projects. Mr. Pastoriza read Auburn's response and recommended approval.
2. Financing and Redevelopment of the Property – With regard to the original financing, Auburn has prepared a proforma budget which will be delivered to the Board at a later meeting. Auburn has agreed to go back to the DBHA in the event that they determine to refinance the construction loan or encumber the redevelopment site with any additional construction financing. Auburn will also agree to provide good faith consideration to any comments the Authority may have with respect to the proposed financing and to any proposed refinancing on the project provided that such comments are provided in a timely manner. This relates to the budget and Auburn has agreed to give the DBHA authority over any line item in the budget that is exceeded by more than 15%. Mr. Pastoriza recommended the addition of the word cumulative after 15% and 10% of the overall budget. He then recommended adoption of this item.
3. Retaining Counsel and Instituting Legal Action – Auburn is offering and it is also recommended by Mr. Pastoriza that current legal counsel be listed, with the modification where it states “will not engage in any additional counsels in connection with the budget without advising the Authority”, changing the word advising to “without having the written consent of the Authority”.
4. Commencing Legal Action – Language provided for Auburn's justification is persuasive and Mr. Pastoriza would recommend that the language be adopted.
5. Transferring of Controlling Interest – There was a concern that the controlling interest of Auburn would change and that the DBHA had, at all times, entered into this Agreement with certain representations of who Auburn was going to be. Auburn has stressed the fact that they have certain personnel as provided in the MDA. This personnel is Tom Hinners, Brian Hinners, Eric M. Weiner and Cito Beguiristian that constitutes the members of the development team. The Developer will only substitute any of the principles only with the prior approval of the DBHA. Auburn will continue to abide by the provisions of the MDA. In addition, Auburn will agree to a condition in the Operating Agreement that notes that Auburn will not transfer any controlling interest in the membership of Auburn without the Authority's consent.
6. Insurance – Mr. Pastoriza agrees with Auburn's comments on this item.
7. Default Provision – Mr. Pastoriza recommended one minor change – taking the language that Auburn has proposed with the addition of:

That one of the default remedies should clearly state that in the event the default comes from the managing partner, the managing partner shall cease to be the managing partner. The remaining member shall designate the managing member.

With these revisions the Delray Beach Housing Authority and Auburn Development will be in a position to revise the Agreement and move forward with the other business at hand. Mr. Pastoriza recommended that, with regard to the rental property, Auburn transfer it to the LLC. At this time a motion to adopt the noted changes to the Operating Agreement as modified directly by Nixon Peabody and subject to review by Gilberto Pastoriza was made by Commissioner Shutt. Motion seconded by Commissioner Morris. All in favor.

Motion passed.

It was recommended by DBHA legal counsel that the conveyance documents be prepared for the rental as well as the for sale portions, going into the corresponding LLC by resolution with 2 legal descriptions and 2 deeds.

- e. Update By Developer – Cito Beguiristian, of Auburn Development noted that plans for Village at Delray was presented to Planning & Zoning on March 17 and approval was received. Approval for the rental site was received by the City Commission on April 1. It is anticipated that site plan approval for the rental portion will be before SPRAB for approval on May 14. The South Florida Water Management District permits are almost ready for submission for the Village At Delray. The Engineer anticipates approval next month from the Water Management District for Village Square (the for-sale community).

X. NEW BUSINESS
None

XI. ADJOURNMENT
11:40 a.m.