



DELRAY BEACH HOUSING AUTHORITY

REGULAR BOARD MEETING **SEPTEMBER 12, 2008** **MINUTES**

I. CALL TO ORDER

Meeting called to order at 8:45 a.m.

II. ROLL CALL

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

III. APPROVAL OF AGENDA

A motion was made by Commissioner Weinman to remove Item A (Sales/Purchase Agreement for the 85 N.W. 5th Avenue property) from Old Business; and to remove from Correspondence and add as Item A of Old Business a letter from Tom Hinnars (relating to the Articles of Amendment to the Articles of Organization for Village Square Developers, LLC). Motion was seconded by Vice Chairman Randolph. All in favor. Motion passed.

IV. APPROVAL OF MINUTES OF:

- a. Revised July 11, 2008 – Motion to approve made by Vice Chairman Randolph. Motion seconded by Commissioner Weinman. All in favor. Motion passed.
- b. August 8, 2008 – Motion to approve made by Commissioner Weinman. Motion seconded by Vice Chairman Randolph. All in favor. Motion passed.

V. RECOGNITION OF VISITORS

Sandra Rocher – R2T, Inc.
Eric Wiener – Auburn Group
Brian Hinnars – Auburn Group
Kathy Rainey-Holman – Families First of Palm Beach County
Gregory Clay – Families First of Palm Beach County
Tom Mitchell – Auburn Group
Connie Stodding – Auburn Group

VI. 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. Quality Control Report – Jakeleen Fernandez
- f. DHG Property Manager's Report – Tiffany Ramo
- g. Resolution 2008-14 – A Resolution of the Delray Beach Housing Authority Supporting Partners For Workforce Housing
- h. Approval of the Interlocal Agreement Between Palm Beach County, the City of Delray Beach and the Delray Beach Housing Authority

Motion to approve Consent Agenda made by Commissioner Weinman. Motion seconded by Commissioner Morris. All in favor. Motion passed.

VII. CORRESPONDENCE

- a. Memo from Carolanne Kucmerowski – Construction Management Technician – City of Delray Beach – Contract Closeout – The BG Group – Carver Estates Demolition
- b. HOPE VI Support Letters from Mayor Rita Ellis
- c. Letter of Commendation from FAHRO
- d. Journal of Housing

VIII. OLD BUSINESS

At this time the President/CEO made note that due to the DBHA's change in hours of operation to 7:30 a.m. to 6:00 p.m., Monday through Thursday, the suggested new monthly date for Board Meetings would be the third Thursday of each month at 8:45 a.m. This would be effective with the November Board Meeting. The Annual Meeting, held each year in October will be scheduled for Tuesday, October 14 at 8:45 a.m.

Note was made that a review by HUD had taken place the previous week and commendations were made to the Section 8 staff as well as Jakeleen Fernandez, Quality Control Specialist. Comments resulting from this review were that all files examined were very impressive.

- a. Letter from Tom Hinners – Auburn Group – Articles of Amendment to the Articles of Organization of Village Square Developers, LLC. – At this time a discussion took place and it was mentioned that DBHA staff had been meeting with the Auburn Group throughout the summer relating to the Operating Budget. A meeting was held on September 11, and compromises or agreements were reached on all items except one. This item related to the budget. DBHA staff felt that the budget should be more detailed, which had been requested by the Board of Commissioners several times previously. Reference was made to Michael Arciola's report dated September 3 where Notes A, B and D had been discussed at the meeting, but still needed clarification.

Mr. Arciola noted that with regard to Note A, relating to accounting and

administration, a compromise had been reached. This item will include a reduction in salaries and benefits to be charged to the project. An updated budget summary, distributed at today's meeting showed changes agreed to.

One item of discussion related to the Master Development Agreement's statement that there was a limitation of four (4) persons assigned to this contract/development project. The language of this item, which included Tom Hinnners, Brian Hinnners, Cito Beguiristian and Eric Weiner as the four (4) assigned personnel to the project, was not resolved. Interpretation of this item noted that any other than those four individuals would be considered contracted employees and the DBHA would have to approve the contract for those employees. Gilberto Pastoriza, Housing Authority legal counsel, noted his recollection that there were, in fact, limited employees assigned to this project and by including more staff it would be concluded that the DBHA was financing Auburn's operations. An agreement on this item was not reached at the meeting. Commissioner Shutt inquired that with the additional support furnished by DBHA staff to Auburn would the Agency receive any in-kind or credit for this support. Also, noted by the President/CEO was that expenses incurred relating to the project by the Housing Authority had been reported to the Auburn Group. These expenses exceeded Capital Contributions, as noted in the MDA and Auburn's position to this was that this was all that the Agency was limited to and therefore, not appropriate to be reported on the tax report. Staff disagreed with this, feeling that this should be reported. At this time, Mr. Pastoriza asked for an explanation of what predevelopment expenses were being contributed to by Auburn. Tom Mitchell, of the Auburn Group related that this amount was approximately \$1.3 million and justification for these expenses were being prepared presently for the DBHA. Mr. Pastoriza clarified that these justifications should be presented on a line-by-line basis. Mr. Mitchell agreed to this request. Once an approved budget is arrived at, an expenditure report will be submitted to the DBHA on a quarterly basis.

Note B of Mr. Arciola's report, relating to the need for a full time attorney, Mr. Pastoriza noted that with separate counsel being hired for such items as land use, condominium preparation, corporate formulations, etc. there was no need for the hiring of a General Counsel. Tom Mitchell, of the Auburn Group noted that this item had been resolved at the meeting held the day before. Mr. Pastoriza recommended that this budget item not be lumped into one legal category, but rather have it broken down. For example; corporate assistance, land use, zoning, document preparation, etc. He also noted that the more specific the breakdown is, the more able it is to see exactly where the funds are going. It should be broken down as to what legal assistance the project requires. Commissioner Shutt requested that once the budget is approved, there by a cash call, outlining what has been spent. This would include receipts for all scope of services for all consultants already approved in the budget. In this way, DBHA staff will know what has been spent, the current status of the budget and if more funds are needed to be allocated to a particular line item. This cash call should be prepared on a monthly basis.

As stated previously at past Board Meetings, there should have been a budget available before the project started, with amounts for individual line items made clear. It was noted that with a meeting scheduled for the following week with the CRA relating to the loan of \$3.5 million for the project, a budget for this meeting will be mandatory. Brian Hinnners stated that Auburn will be able to furnish the level of detail required to the Board prior to the meeting with the CRA.

Mr. Pastoriza inquired that with Auburn already incurring \$1.3 million in predevelopment expenses, where did the funds come from. Where the funds came from was not known, but it was described that they had been applied to zoning issues, plotting issues, legal work regarding these issues, and architectural designs. Mr. Pastoriza noted that these expenses should have been put on paper as justifications for the expenditures and that these justifications should have been made available to the Board of Commissioners. Commissioner Shutt requested the desire for all information relating to what other items needed clarification, how much more money would be needed to be allocated and if over budget, where will the funds come from.

Tom Mitchell noted that Auburn had been diligently working on entering budget related figures into their software system since the land was transferred to the LLC in May. Vice Chairman Randolph inquired as to who was listed on the LLC, but Mr. Mitchell was not certain of the answer. Mr. Pastoriza noted that at the time the LLC was formed, the Housing Authority was not listed as a member. The only member was Auburn Development. This had been discussed with Auburn at the time and Mr. Pastoriza had informed Auburn that the Articles needed to be amended to show the Delray Beach Housing Authority as a 50% member. In today's packet was language agreed to by both the DBHA and Auburn to be included. This was sent to Auburn's legal counsel. It was Auburn's attorney's responsibility to have this filed with the State of Florida. Mr. Pastoriza was under the belief that this did not happen because Auburn is now saying that they do not want to agree to language already agreed to. Mr. Pastoriza had intentions of advising the Board of Commissioners not to agree to this. At the present time, the DBHA does not have a copy of a signed Operating Agreement. Chairman Bernadel advised Brian Hinnners that there still remained information needed by the Housing Authority. Mr. Hinnners agreed to contacting the Housing Authority staff to ascertain what was needed.

Vice-Chairman Randolph expressed concerns due to her understanding that the DBHA had turned over land, that was 100% owned by the Delray Beach Housing Authority to an LLC with the understanding that the Agency was 50% partner in . Note was made that this was not the case; the Delray Beach Housing Authority currently is not listed in the LLC. Commissioner Shutt noted that all applications subsequent, including the HOPE VI application was under the assumption that the DBHA is a partner. Commissioner Weinman expressed his concern that with the transfer of approximately \$7 million worth of land to the LLC, which only names Auburn, not the DBHA. He also noted his distress that Auburn had not kept the Housing Authority updated.

Vice-Chairman Randolph, at this time, referenced the scheduled meeting with the CRA

next week. This meeting would relate to the \$3.5 million loan to the LLC, which currently the Delray Beach Housing Authority is not a part of. Note was made that the loan related to the rental portion of the project, which is currently owned by Village at Delray, LTD. The Housing Authority is not a part of this yet. Auburn plans to include the Agency in this.

Mr. Pastoriza noted that in May, 2008 the amended Articles were, without the strike through wording done by Tom Hinnners at a later time, was approved by Mr. Hinnners and the Board of Commissioners. That document should have been filed with the State of Florida. Mr. Hinnners is now objecting to language he had already agreed to and now places lines through said language currently objected to. The original approved document should have been filed and any issues should have been brought back to the Board and the Articles could possibly have been amended. Mr. Pastoriza recommended that in the future all document be kept and filed by the DBHA.

After further discussion relating to information that had been repeatedly requested of Auburn, but are still to be received, the President/CEO recommended that all dealings with third parties be suspended until clarification of the following is received:

- A signed Operating Agreement
- Proper recording of the LLC for the Village Square Development (For Sale component), to include the name of the Delray Beach Housing Authority, without the language strike-through, or including the strike-through if the Operating Agreement is signed;
- Clarification of the Limited Partnership make-up for the rental component;
- Line item justifications for the Operating budget, so as to be able to determine lump sum amounts such as the marketing line item of \$4,188,651;
- An itemized list of the \$1.2 million expended to date;
- Any items that may affect the budget, such as funding; applications filed with Palm Beach County, for the For Sale or Rental portions of the project;
- Any information/backup relating to the obligation of the Housing Authority for any public funding;

This information should be made available to the Board of Commissioners prior to the October Board meeting, to permit sufficient time for proper review.

At this time Commissioner Weinman made a motion to suspend dealings with any third parties until receipt of the above listed information is received. The motion was seconded by Commissioner Morris. All in favor. Motion passed.

At this point in the discussion, the meeting turned to the rental piece of the project, noting a letter from the Developer to the President/CEO. Included with this letter was the latest rental portion of the budget. A meeting held on September 4 and attended by the President/CEO and Brian Hinnners, the rental development budget and the loan from the CRA were discussed. At that time, Auburn realized that sufficient funds could not be obtained for the original design of a mixed income community. Originally, it was planned to build 264 rental units; 212 of these would be tax credit and 52 would be market rate units.

Eric Weiner, of Auburn, described the current financial status of the capital market and outlined how after a review of the statistics, and how low income tax credits have detrimentally been affected. He noted that a mixed income community would not be feasible. Brian Hinnners noted that although at the beginning of the project it was intended to be a mixed income development, but with the current rate it would be more prudent to have a complete low income development. After further discussion a motion to continue with the mixed income as apposed to a totally low income development was made by Commissioner Weinman. Motion seconded by Commissioner Shutt. All in favor. Motion passed.

At this time Knox LaSister noted his feeling that there were still avenues yet to be explored. He felt that options should be discussed with Auburn and proposed syndicators so that the DBHA can have a full appreciation of what the issues are and be able to arrive as close as possible to the DBHA's model that had been indicated by the Board for the past four (4) years. He recommended that Auburn engage the Housing Authority in that process to be able to fully understand and deal with some of the issues which will arise with the syndicators.

Commissioner Shutt recommended that the President/CEO explore some of the other applications and grants from which commitments have already been received and how they would be affected by a change in the rental component.

Mr. LaSister commented that what had been demonstrated over the past several months is a reflection of Auburn's lack of appreciation that the DBHA should be included in discussions at the beginning of an issue rather than at the end. If items had been brought up in a proper problem solving manner, there would not be the tension that has been generated when items are brought to the Board as something already completed.

At this time, the President/CEO noted that the \$3.5 million loan from the CRA was included in the rental portion of the project. This loan required that the Housing Authority pay for the due diligence involved. The cost of this study of the project numbers to determine if what is being assumed is so would be \$25,000. A rental budget had previously been requested of Auburn, formally in writing, approximately three (3) weeks ago. The budget was received, but with the motion made previously at today's meeting to suspend dealings with third parties, this will not be done by the DBHA at the present time. The Delray Beach Housing Authority will clarify its' position to the CRA.

VIII. NEW BUSINESS

None

IX. ADJOURNMENT

11:00 A.M.