



Good Neighbors

San Diego
Housing Commission

MINUTES

**SAN DIEGO HOUSING COMMISSION
MINUTES OF THE REGULAR MEETING
FEBRUARY 5, 1999
CITY ADMINISTRATION BUILDING
202 C STREET, 12TH FLOOR
SAN DIEGO, CALIFORNIA**

Attendance: Present: Chairman Arthur, Commissioners Dick, Grinchuk, Hills, Oxberry, and Tumminia. Also present were: Ms. Elizabeth Morris, Chief Executive Officer, and Charles Christensen, General Counsel.

Absent: Commissioners Dick and Steinke.

10 CALL TO ORDER

Chair Arthur called the meeting to order at 9:15 a.m.

20 PUBLIC COMMENT

None.

30 COMMISSIONER COMMENTS

None.

40 REPORT BY THE CHIEF EXECUTIVE OFFICER

Ms. Morris reported on the February 4 Housing Commission Employee Award Ceremony, commending staff on both the ceremony itself and the performance of their daily duties serving the city of San Diego's housing needs. This was an opportunity to recognize the significant contributions of staff during the course of 1998.

50 APPROVAL OF THE MINUTES

MOTION BY TUMMINIA TO APPROVE THE MINUTES FOR THE MEETING OF JANUARY 22, 1999 .

SECOND BY OXBERRY.

MOTION CARRIED ON A UNANIMOUS VOTE OF 5-0, WITH COMMISSIONERS DICK AND STEINKE BEING ABSENT.

ADOPTION AGENDA - CONSENT

MOTION BY TUMMINIA TO APPROVE THE FOLLOWING ITEM ON CONSENT.

101 HCR99- 018 - Proposed Modification of Expediting Plan for Multifamily Rental Housing Proposals (Citywide)

Recommendation No 1: It is recommended that the Housing Commission make the following changes to the Notice of Funding Availability (NOFA) for the solicitation of multifamily rental housing proposals:

- a. Open the NOFA (currently available only to CHDO nonprofit developers) to all developers until the total funding available is reduced to \$2 million;
- b. Increase the per-project funding ceiling from \$1 million to \$2 million; and
- c. Expand the NOFA to include new construction proposals.

Recommendation No. 2: It is recommended that the Housing Commission modify the Early Assistance Loan Program to make it available to all nonprofit developers.

SECOND BY OXBERRY.

MOTION CARRIED ON A UNANIMOUS VOTE OF 5-0, WITH DICK AND STEINKE BEING ABSENT.

ADOPTION AGENDA - ACTION AGENDA

100 HCR99- 017 - Request for Forgiveness of Predevelopment Loan to COACH for the Acquisition and Rehabilitation of Acacia Imperial Mobilehome Park (Council District 4)

Staff report was presented by Senior Program Analyst Cissy Fisher, with Housing Finance Manager Pat Getzel on hand for questions.

Commissioner Grinchuk spoke in opposition to the Commission forgiving the loan made to COACH. Commissioner Grinchuk requested further explanation as to why staff recommends the forgiveness of the COACH predevelopment loan.

Commissioner Oxberry inquired as to whether there was an alternative to forgiving the loan, such as foreclosure.

To provide further explanation to commissioners Oxberry and Grinchuk, Ms. Fisher explained that this particular loan was an unsecured predevelopment loan. She indicated that staff had considered having an asset search performed, but that there was a relatively high cost attached to performing the search with little anticipated benefit.

Ms. Morris reviewed the Predevelopment Loan Program and described how it works and its intended purpose. Ms. Morris explained that this program was set up to fund the early predevelopment feasibility work which nonprofits might have to undertake to determine whether or not a particular project was viable. In this particular case, quite a bit of engineering work was performed as to the extent of site improvement that would be required to bring the Acacia Mobilehome Park up to standard. This information was useful to provide direction as to the immediate "emergency" situations which existed and led to an emergency repair program to take care of them. She explained further that when the Predevelopment Loan Program was set up, it was assumed that not every predevelopment loan would yield a project. She explained that, thus far, the Predevelopment Loan Program has been quite successful and, that the COACH loan did not represent the norm of the program.

Commissioner Grinchuk requested an explanation as to why it has taken so long to bring this item forward, since the board of COACH had submitted a formal request for forgiveness in 1997.

Ms. Morris pointed out that all delinquent loans are reported in the Commission's Quarterly Status of the Loan Portfolio report. Further, she expressed the concern many members of the community had concerning

this site, including the City's Code Enforcement department, the City Attorney's Office and the Council District. As several subsequent parties analyzed the site, loan write-off was postponed in anticipation of a subsequent development proposal. No feasible proposal has been forthcoming.

Chair Arthur expressed his hesitance to set precedent by forgiving this loan.

Mr. Chuck Christensen offered a historical perspective and explained that the Commission could pursue this matter legally, but that given the circumstances, would probably not be able to collect any judgment which might be entered by the Court.

Chair Arthur reiterated his desire to not set a precedent.

Ms. Getzel explained that when the loan was approved, there were a number of reputable members on the COACH board with the hope to improve mobilehome park living within the City of San Diego.

MOTION BY OXBERRY TO ACCEPT STAFF RECOMMENDATION.

MOTION FAILED FOR LACK OF A SECOND.

Commissioner Oxberry stated that as there were no assets, any attempt to reclaim the loan from COACH would be futile. Therefore, he again expressed his support for staff's recommendation.

MOTION BY TUMMINIA TO ACCEPT STAFF'S RECOMMENDATION.

SECOND BY OXBERRY.

MOTION FAILED BY A VOTE OF 3-2, WITH GRINCHUK AND ARTHUR VOTING NAY.

Mr. Christensen suggested this item be trailed to the March 5 Housing Commission meeting when more board members would be present and another vote could be taken.

102 HCR99-016 - Minimum Organization Standards for Nonprofit Loan Applicants (Citywide)

Staff report was presented by Pat Getzel, with Project Manager Wendy DeWitt on hand for questions.

Mr. Mel Shapiro commented that the subject of the report indicates that it relates to the minimum organization standards for “*nonprofit*” loan applicants, but that on page 4 of the report it states that these standards are equally applicable to “for-profit”. Mr. Shapiro stated further his objection to #5(a) of the report which states that “at loan application submittal, a minimum of an accountant’s *compilation* report of the applicant’s financial statements must be submitted.” Mr. Shapiro commented that a “compilation” is not sufficient for the purposes described in the report. In addition, he requested clarification as to #5(b) wherein it states “audited financial statements must be submitted.” Mr. Shapiro indicated that 5(b) does not specify to who these statements should be submitted and requested clarification of same.

Commissioner Oxberry asked staff for clarification on the issue raised by Mr. Shapiro regarding submission of a “compilation” versus a full audit and the timing of submission.

Ms. DeWitt stated the audit report is a condition of loan funding and that if the audit report at the time of funding is unacceptable then the loan would be not funded. Ms. DeWitt commented that the compilation is required to provide an up-to-date picture of the fiscal well being of the organization at the application stage. However, the loan would be approved conditioned upon the contents of a full audit to be performed prior to loan funding. She commented that the issue was expending moneys for a full audit prior to receiving any indication of funding approval and the attendant burden placed on the applicant.

Commissioner Oxberry inquired as to the procedure that would be followed if the audit is substantially different in the negative compared to the compilation upon which the loan funding was conditionally approved.

Ms. DeWitt responded that a determination would have to be made as to the extent of any negative findings and, whether or not these negative findings could be remedied satisfactorily. If not, the loan would not be funded at that point.

Commissioner Grinchuk requested clarification as to who would absorb the cost of the audit if an audit were performed and its findings were negative to such an extent to prevent loan funding.

Ms. DeWitt responded that if the audit was not consistent with the compilation submitted with application, then the cost would be borne by the applicant.

Housing Finance Manager Pat Getzel provided further clarification as to the history of this item and why it has become an ongoing issue with applicants who submit requests for loan funding. She pointed out the standards outlined in the report are "minimum" standards for nonprofit loan applicants. Ms. Getzel noted that in the for-profit and not-for-profit community audits are not consistently prepared when applying for public funds. Many applicants have indicated that San Diego is the only city which requests a full audit at the front end of this process, which can prove costly to the applicant without any assurance of full loan funding. After discussions with the nonprofit community, it was decided to bring the recommendations forward to the Commission to seek direction as to feasibility. Ms. Getzel addressed Mr. Shapiro's question regarding the accuracy of the report title and stated that all of the minimum organization standards apply to nonprofit loan applicants with the exception of the financial reporting requirements which apply equally to both nonprofits and for-profits.

Commissioner Grinchuk asked for clarification regarding the definition of "smaller non-profit."

Ms. DeWitt responded that the Federal Regulations are utilized as a guideline for projects that have federal funding. The audit requirement becomes effective if cash flow for any given year is \$300,000 or more. The nonprofits that fall under this threshold are generally considered a "smaller nonprofit".

MOTION BY OXBERRY TO ACCEPT STAFF'S RECOMMENDATION TO ADOPT THE FOLLOWING STANDARDS WHEN CONSIDERING NONPROFIT LOAN APPLICATIONS.

1. CERTIFICATION THAT THE ORGANIZATION REQUIRES A MINIMUM OF FOUR (4) DIRECTORS TO ESTABLISH A QUORUM FOR CONDUCTING BUSINESS.
2. CERTIFICATION THAT REGULAR BOARD MEETINGS ARE HELD AT LEAST ONCE A QUARTER, EVIDENCED BY PROPERLY RECORDED, APPROVED AND EXECUTED MEETING MINUTES.
3. CERTIFICATION THAT THE BOARD OF DIRECTORS RECEIVES FINANCIAL STATEMENTS ONCE A QUARTER.
4. CERTIFICATION THAT THE EXECUTIVE DIRECTOR OR ANY OTHER PAID STAFF OF THE ORGANIZATION DOES NOT SERVE AS A VOTING BOARD MEMBER.

5. FINANCIAL REPORTING REQUIREMENTS:

A. AT LOAN APPLICATION SUBMITTAL, A MINIMUM OF AN ACCOUNTANT'S COMPILATION REPORT OF THE APPLICANT'S FINANCIAL STATEMENTS MUST BE SUBMITTED;

B. AFTER APPROVAL AND PRIOR TO LOAN FUNDING, AUDITED FINANCIAL STATEMENTS MUST BE SUBMITTED.

C. IN CASES WHERE AUDITED FINANCIAL STATEMENTS ARE NOT AVAILABLE DUE TO COST FACTORS, THE COST IS TO BE INCLUDED IN THE TOTAL DEVELOPMENT COST PROPOSAL, SO STATEMENTS CAN BE PREPARED PRIOR TO FUNDING.

D. WHERE DEVELOPMENT PROJECT FINANCING IS CREDIT ENHANCED, AUDITED FINANCIAL STATEMENTS ARE NOT REQUIRED.

SECOND BY TUMMINIA.

MOTION CARRIED ON UNANIMOUS VOTE OF 5-0, WITH DICK AND STEINKE BEING ABSENT.

**103 HCR99 - 012 - Fiscal Year 1998 Audit Reports (Citywide)
(CONTINUED FROM 1/22/99 HOUSING COMMISSION MEETING)**

Staff report was presented by Controller Jane Adams, with Accounting Supervisor Dolores Crawford on hand for questions.

Mr. Mel Shapiro's inquiry related to the Balance Sheet column entitled "Trust Funds - Unreserved". Mr. Shapiro commented that, it is his belief, the figure of \$7,434,000 presented therein is an excessive one. Mr. Shapiro requested an explanation as why this amount is on reserve and why it is not being used for housing purposes.

Chief Executive Officer Elizabeth Morris explained that there is different terminology used in the Budget and financial statements. Continuing Appropriations is a specific budget term for official commitments to expend funds where the contract is not completed in a given fiscal year. The committed but unexpended funds are carried into the following year's budget as "Continuing Appropriations". Auditors refer to a "Reserve for

Continuing Appropriations”; those funds held to pay for contracts we entered in a prior fiscal year.

The Budget does appropriate funds to be used for designated purposes throughout the year. The Audit is a picture of one day in time - the last day of the fiscal year (June 30). Auditors show as “Unreserved” those funds which were earmarked in the Budget for certain activities but were not yet under contract on June 30. In the Budget that begins the next day, July 1, these funds would be reappropriated (added back into the Budget) for a designated use.

This fiscal year, staff is working to bring the reserve amount down. Thus far this fiscal year, the Commission has approved several projects totalling approximately \$10 million. We are ahead of last year’s rate of commitments. All funds in the Budget have a use identified. Any funds not committed by June 30 will be forwarded to next year’s budget for use then.

MOTION BY GRINCHUK TO ACCEPT THE AUDITS, THE PROJECT AUDITS, AND THE REPORT TO MANAGEMENT PREPARED BY CALDERON, JAHAM & OSBORN FOR THE FISCAL YEAR ENDING JUNE 30, 1998.

SECOND BY HILLS.

MOTION CARRIED ON A UNANIMOUS VOTE OF 5-0, WITH COMMISSIONERS DICK AND STEINKE BEING ABSENT.

104 HCR99-020 - FY2000 BUDGET WORKSHOP - Discussion of “Multifaceted Approach” to Providing Affordable Housing (Citywide)

Programs and Policy Development Project Manager Joe Correia and Program Manager Nancy Williams invited the Commissioners to enter into discussion regarding allocation of funds and affordable housing strategies to assist in the preparation of the FY2000 Budget.

Mr. Mel Shapiro commented regarding the use of non-categorical and discretionary funds for the FY2000 Budget and suggested that more money be allocated to assist households earning below 30% of Median Area Income. Mr. Shapiro noted that a recent HUD survey ranked San Diego last in assisting those individuals in the very low income group. He also inquired as to how individuals on the Section 8 and Public Housing waiting list will be addressed in the FY2000 Budget.

Ms. Williams noted that the Commission is in the very early stages of developing the FY2000 Budget and that staff is seeking direction from the commissioners as to utilization of non-categorical funds.

Ms. Morris reported that the City has consistently chosen to fund a variety of program activities.

Commissioner Grinchuk requested an explanation of the term "affordability Level" on Attachment 1 of the staff report. Mr. Correia responded that this term refers to the Median Area Income levels of the occupants of the assisted units under this column.

Commissioner Tumminia expressed a continued interest in pursuing projects and/or programs which serve individuals in the very low income group category.

Commissioner Grinchuk expressed a specific interest in the Tenant-Based Rental Assistance (TBRA) program. He indicated that given the current market conditions (e.g., high rents, low vacancy rates, income to housing ratio) the TBRA program warrants consideration as a higher priority in the coming year. Ms. Morris reported that the majority of the agency's categorical funds (approximately 50% of the Budget) are directed to TBRA through the Section 8 Rental Assistance Program. She noted that in today's rental market, individuals with Section 8 Certificates are experiencing difficulty in locating a unit which meets the Fair Market Standard set forth by HUD and, are therefore unable, in some cases, to utilize the Certificate. Given this situation, she noted that it may be practical to focus the utilization of some non-categorical funds on increasing the current supply of affordable housing stock.

Commissioner Oxberry concurred with Ms. Morris' analysis and that of staff. He commended staff on the report under discussion today and its response to the current market conditions. Further, he noted that historically he has been supportive of home ownership. He still is very supportive of home ownership, but given the current shortage of affordable housing stock, he is inclined to place a high priority on increasing the supply of affordable rental housing.

Chair Arthur asked that this discussion continue at the upcoming Commissioner Workshop.

CLOSED SESSION

I. Conference with Legal Counsel - existing litigation, pursuant to California Government Code Section 54956.9(a) and 54954.5(c):

- (a) San Diego Housing Commission, a public agency; and Housing Authority of the City of San Diego, a public agency vs. Industrial Indemnity Company of the Northwest; a Washington corporation; Industrial Indemnity, an unknown entity; Crum & Forster Corporation, a New Jersey corporation; Crum Forster Insurance Risk Management Accounts, an unknown entity; and Does 1 through 10.
San Diego Superior Court Case No. 680684
Court of Appeals Case No. D027060

BY A VOTE OF 5-0, WITH DICK AND STEINKE BEING ABSENT, INSTRUCTIONS WERE GIVEN TO COUNSEL CONCERNING POTENTIAL SETTLEMENT.

- (b) D. Bradley Crow vs. Robert Brewer, aka Jerry Smith; Guy LaFrance; J. Ziegler; and D. Glazewski
United States District Court Case No.: 97-CV-0508-BTM(AJB)

BY A VOTE OF 5-0, WITH DICK AND STEINKE BEING ABSENT, INSTRUCTIONS WERE GIVEN TO COUNSEL CONCERNING LITIGATION.

- (c) London Camille Reems v. San Diego Housing Commission
San Diego Superior Court Case No.: 719138

INFORMATIONAL ONLY. NO ACTION WAS TAKEN.

- (d) SDHC v. John Baranski
San Diego Municipal Court Case No.: 603081
San Diego Municipal Court Case No.: 607170

INFORMATIONAL ONLY. NO ACTION WAS TAKEN.

II. Conference with Legal Counsel - anticipated litigation pursuant to Government Code Section 54956.9(c) and 54954.5(c):

- (a) More than (1) matter.

BY A VOTE OF 5-0, WITH DICK AND STEINKE BEING ABSENT, INSTRUCTION WAS GIVEN TO COUNSEL.

- III. LICENSE/PERMIT DETERMINATION, pursuant to Government Code Section 54956.7 and Government Code Section 54954.5:

Applicants: One (1) applicant

INFORMATIONAL ONLY. NO ACTION WAS TAKEN.

- IV. Adjournment of Closed Session.
V. Announcement of action taken in Closed Session.

ADJOURNMENT

Chair Arthur adjourned the meeting at 11:20 a.m.

Respectfully submitted,

Approved by,

Rob Albrecht
Docket Coordinator

Elizabeth C. Morris
Chief Executive Officer