



SAN DIEGO HOUSING COMMISSION
MINUTES

**SAN DIEGO HOUSING COMMISSION
MINUTES OF THE REGULAR MEETING
FEBRUARY 23, 1998
CITY ADMINISTRATION BUILDING
202 C STREET, 12TH FLOOR
SAN DIEGO, CALIFORNIA**

Attendance: Present: Chairman Arthur, Commissioners Dick, Macias, Oxberry and Tumminia. Also present were: Ms. Elizabeth C. Morris, Executive Director and Charles Christensen, General Counsel. Absent: Commissioner Nottley.

10 CALL TO ORDER

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

20 PUBLIC COMMENT

Mr. Mel Shapiro inquired as to the status of the 1st and 2nd Program Progress Reports produced by the San Diego Housing Commission. Mr. Shapiro commented that "I see the suppression of reports as part of an overall policy of secrecy."

Commissioner Oxberry requested a staff response to Mr. Shapiro's comments.

Ms. Morris responded that the 2nd Quarter Progress report will be distributed prior to the next Commission Meeting.

30 COMMISSIONER COMMENTS

40 REPORT BY THE EXECUTIVE DIRECTOR

Ms. Morris reported that on February 18, 1998, the Housing Commission held its Annual Employee Awards ceremony for which the theme "Agency of Champions" was chosen. Ms. Morris noted that 14 individuals or teams were recognized for significant contributions during 1997. In addition, awards were given for years of service. In addition, Ms. Morris expressed appreciation for the award she and Chair Arthur received for "Championing" the cause of the Commission throughout the community. These awards were accepted on behalf of the commissioners.

50 APPROVAL OF THE MINUTES

MOTION BY MACIAS TO APPROVE THE REVISED MINUTES OF THE MEETING OF JANUARY 12, 1998 HOUSING COMMISSION MEETING AND THE MINUTES OF THE FEBRUARY 9, 1998 HOUSING COMMISSION MEETING.

SECOND BY OXBERRY.

MOTION CARRIED BY A VOTE OF 4-0, WITH DICK AND NOTTLEY BEING ABSENT.

ADOPTION AGENDA - CONSENT

There were no items taken on Consent.

ADOPTION AGENDA - ACTION AGENDA

Commissioner Dick arrived and was present for the remainder of the meeting.

**100 HCR98-004 - Open Meetings and Public Records Policy (Citywide)
(TRAILED FROM THE FEBRUARY 9, 1998 MEETING)**

Tim O'Connell presented the staff report on this item.

Mr. Mel Shapiro indicated his belief that charging citizens for copies of agenda items will discourage not encourage citizen participation and will financially penalize "any citizen who wants to take a close look at the Housing Commission." Mr. Shapiro also indicated that it is his belief that the proposed policy conflicts with state law. Mr. Shapiro commented that he would be willing to meeting with Commission staff to outline his concerns.

Mr. O'Connell noted that it is not the intent of the Commission to discourage public participation, but rather to reimburse the Commission for the cost of reproduction (15 cents per page) to provide copies to those individuals who want to receive copies outside of the confines of the regular Commission meeting. Mr. O'Connell reiterated that extra copies of Housing Commission staff reports, agenda and minutes are made available for review at each meeting.

Mr. Charles Christensen noted, for the record, that he is not aware of any violation of state or local law that exists in reference to the proposed policy.

MOTION BY TUMMINIA TO:

- 1. APPROVE THE FEE SCHEDULE OUTLINED IN ATTACHMENT 2 OF THE STAFF REPORT; AND**
- 2. APPROVE AND RECOMMEND HOUSING AUTHORITY ADOPTION OF A REVISED OPEN MEETINGS AND PUBLIC RECORDS POLICY.**

SECOND BY MACIAS.

MOTION CARRIED UNANIMOUSLY ON A VOTE OF 5-0, WITH NOTTLEY BEING ABSENT.

101 HCR98-027 - Issuance of Housing Revenue Bonds for John Adams Manor Apartments and Bridgeport Apartments (Council Districts 3,5 and 7)

Commissioner Oxberry abstained from any discussion and voting on this matter although not legally required to do so.

Ms. Pat Getzel presented the staff report on this item.

Mr. Rick Sanborn indicated that the properties being discussed in connection with the Bridgeport Apartments are held by the Conrad Prebys Trust.

For the record, Mr. Christensen noted that certain demand letters were sent out to the Conrad Prebys Trust for repayment of Section 8 monies. All of these demands have been resolved satisfactorily.

Commissioner Dick inquired if the properties in question would be eligible for participation in the Section 8 program in addition to being restricted rent properties.

Ms. Morris responded that within a complex that is bond financed typically there is percentage of the units that are restricted and a percentage that are not restricted. If a restricted unit is rented under the Section 8 program, the rent restriction still applies and that rent restriction becomes the ceiling for the Section 8 rent. If an unrestricted unit in the complex is being rented, that market rent would prevail.

Commissioner Dick inquired as to the identity of the seller of the John Adams Manor Apartments.

Mr. Richard Juarez of the MAAC Project reported that the seller is Bruce Rosette Associated Financial Corporation.

Ms. Burrier-Lund noted that one of the actions is approval of the financing team and that once that team is in place, they will be responsible for a lot of the due diligence.

MOTION BY MACIAS TO RECOMMEND THE FOLLOWING:

1. HOUSING AUTHORITY APPROVAL OF A BOND INDUCEMENT RESOLUTION AND AN APPLICATION TO THE STATE FOR AN ALLOCATION OF BOND ISSUING AUTHORITY FOR THE PROJECTS; AND

2. THAT THE CITY COUNCIL HOLD A PUBLIC HEARING ("TEFRA" HEARING) AND APPROVE A RESOLUTION APPROVING THE ISSUANCE OF BONDS FOR THE PROJECTS BY THE HOUSING AUTHORITY. IN ADDITION, APPROVAL OF FINANCING TEAMS AS FOLLOWS:

1. LITTEN FINANCIAL AND KOSMONT & ASSOCIATES, INC.(MBE-20%), FINANCIAL ADVISOR; STRADLING YOCCA CARLSON & RAUTH AND ROBINSON & PEARMAN (MBE - 20 PERCENT), BOND COUNSEL; AND MILLER & SCHROEDER, BOND UNDERWRITER, FOR THE JOHN ADAMS MANOR BOND ISSUANCE; AND

2. CGMS INCORPORATED AND CIC RESEARCH, INC. (MBE - 20 PERCENT), FINANCIAL ADVISOR; ORRICK, HERRINGTON & SUTCLIFFE AND WILLIAMS & GILMORE (MBE -20%), BOND COUNSEL; AND BANC ONE CAPITAL, BOND UNDERWRITER, FOR THE BRIDGEPORT APARTMENTS BOND ISSUANCE.

SECOND BY TUMMINIA.

MOTION CARRIED BY A VOTE OF 4-0-1, WITH NOTTLEY BEING ABSENT AND OXBERRY ABSTAINING.

102 HCR98-025 - Proposed Acquisition and Rehabilitation of 1101-1241 Spruce Street by Affirmed Housing Group (Council District 2)

Ms. Wendy Dewitt presented the staff report on this item.

Ms. Pat Getzel indicated that this project is on a fast track in order to meet the state's application date for tax credits. If successful, tax credits would provide over half the equity for this project.

Mr. Jim Silverwood of Affirmed Housing requested that Affirmed Housing be provided with a 50% share in the residual receipts or some share in the project income on a percentage basis, to be negotiated with Commission staff.

Ms. Burrier-Lund indicated that the Commission would be open to looking at the operating costs to include a reasonable administrative fee and include it as part of the operating costs as opposed to sharing the residual receipts.

Chair Arthur requested that staff reconsider sharing the residual receipts and return to the Commission as to the advantages or disadvantages of doing so.

Chair Arthur requested that staff look at the per unit subsidy cost detailed on page 7 of the staff report.

Mr. Mel Shapiro inquired as to why the Developer's Disclosure Statement was not attached to the staff report. Mr. Shapiro indicated that he did some research and found that the developer has been a defendant in 8 lawsuits, including a construction defect lawsuit that is currently active.

Commissioner Dick took note of Mr. Shapiro's comments and requested that, in the future, the Commission be provided with as much information as possible (e.g., Developer's Disclosure Statement) so as to enable them to make considered decisions.

Commissioner Oxberry cautioned the Commission to proceed judiciously in underwriting transactions which have tax credits and some up front equity where the development is underwater or close to underwater relative to cash flow and loan-to-value ratio.

Ms. Burrier-Lund responded that for this particular project, the Commission's funds are 100% collateralized and that the project does provide cash flow from year one and, in fact, will produce \$14,000 in residual receipts.

Ms. Getzel added that in the spectrum of projects that is possible to bring forward, that this particular project is one of the more secure projects due to it being a tax credit deal.

Commissioner Dick requested that staff meet with the Developer and consider the possibility of sharing residual receipts on some sort of incentive basis and look at the issue of a residual receipts "catch-up" on debt service at a time of sale. Commissioner Dick directed staff to report back to the Commission once the Developer has been notified as to whether or not he is actually going to receive tax credits.

MOTION BY COMMISSIONER DICK TO RECOMMEND HOUSING AUTHORITY APPROVAL OF A \$1,470,176 LOAN TO AFFIRMED HOUSING GROUP FOR THE ACQUISITION AND REHABILITATION OF 46 UNITS AT 1101-1241 SPRUCE STREET, SUBJECT TO THE CONTINGENCIES OUTLINED BY THE LOAN COMMITTEE ACTION OF FEBRUARY 10, 1998, AS FURTHER DISCUSSED IN THE STAFF REPORT, WHICH INCLUDE SECURING FINANCING AS PROPOSED, AN APPRAISAL THAT MEETS THE HOUSING COMMISSION'S UNDERWRITING CRITERIA, AND APPROVAL OF THE REQUIRED MANAGEMENT, MARKETING AND RELOCATION PLANS.

SECOND BY OXBERRY

MOTION CARRIED UNANIMOUSLY BY A VOTE OF 5-0, WITH NOTTLEY BEING ABSENT.

**103 FY99 BUDGET WORKSHOP - HCR98-011 - Discussion Regarding Private Management of Some Publicly Owned Rental Properties
(TRAILED FROM FEBRUARY 9, 1998 HOUSING COMMISSION MEETING)**

General Counsel disclosed that both Commissioner Dick and Executive Director Elizabeth Morris sit on the San Diego Housing Development Corporation board. Mr. Christensen made this disclosure because one of the issues to be discussed related to this item is a potential ramification of that board. Mr. Christensen was directed to look at and has looked at the provisions of any potential conflict in connection with this matter and he concluded that there is none. Pursuant to the provisions of Government Code Section 1091.5, subsections (7), (8) and (9), the fact that Commissioner Dick and the Executive Director sit on the board of the San Diego Housing Development Corporation and, that there is a noninterest pursuant to the cited Code provisions, therefore, Commissioner Dick is entitled to vote and may be counted for quorum

purposes. In addition, Mr. Christensen noted that there is no problem with respect to the Fair Political Practices Act.

Pat Zamora presented the staff report on this item.

Commissioner Oxberry inquired as to the number of staff hired to oversee the Maya. Ms. Zamora responded that there is full-time Resident Manager and a part-time Resident Manager and that proration of the Capital Area and Property Managers' time is set aside to oversee the Maya.

MOTION BY MACIAS TO RECOMMEND THAT THE HOUSING COMMISSION CONTINUE TO MAINTAIN AND MANAGE THE MAYA APARTMENTS FOR AN ADDITIONAL YEAR.

SECOND BY TUMMINIA.

MOTION FAILED BY A VOTE OF 3-2, WITH OXBERRY AND DICK VOTING NO AND NOTTLEY BEING ABSENT.

MOTION BY MACIAS TO RECOMMEND THAT THE HOUSING COMMISSION SEEK PRIVATE MANAGEMENT COMPANY PROPOSALS AND THAT STAFF RETURN TO THE COMMISSION WITH THE RESULTS OF THAT RFP PROCESS FOR REVIEW AND A DECISION AT THAT TIME.

SECOND BY OXBERRY.

MOTION CARRIED UNANIMOUSLY BY A VOTE OF 5-0, WITH NOTTLEY BEING ABSENT.

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 vs. Creekside Villa Apartments, a California limited partnership; Barbara Barsky, an individual; Morley Barsky, an individual; Richard Kuebler, an individual; John B. Walsh, an individual; Trabajadores de la Raza, Inc., dba Casa Familiar, a California nonprofit public benefit corporation; and Does 1-50, inclusive

San Diego Superior Court Case No.:

712828

BY A VOTE OF 5-0, WITH NOTTLEY BEING ABSENT APPROVED POTENTIAL SETTLEMENT SUBJECT TO ACTUAL DOCUMENTATION.

(b) San Diego Housing Commission, a public entity; Housing Authority of the City of San Diego, a public entity v. State of California, a governmental entity; California Department of Transportation, a department of the State of California, and Does 1-50, inclusive

San Diego Superior Court Case No.:

705157

THIS ITEM WAS TAKEN AS INFORMATIONAL ONLY. NO ACTION WAS TAKEN.

- (c) **Hidden Valley Construction v. San Diego Housing Authority**
San Diego Superior Court Case No.: 704467

BY A VOTE OF 5-0, WITH NOTTLEY BEING ABSENT, DIRECTION WAS GIVEN TO COUNSEL CONCERNING THE LITIGATION.

- 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 NOTTLEY BEING ABSENT, INSTRUCTIONS WERE GIVEN TO COUNSEL CONCERNING THE REQUEST THAT NO LITIGATION BE INSTITUTED IN CONNECTION WITH THIS MATTER.

ADJOURNMENT

Chair Arthur adjourned the meeting at 11:38 a.m.

Respectfully submitted,

Rob Albrecht
Administrative Assistant

ECM:ra

F:\HCMINS\HC022398.MIN

**Signature Available with
Original Document**

Approved by,

Elizabeth C. Morris
Executive Director