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# SAN DIEGO HOUSING COMMISSION

# MINUTES

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**SAN DIEGO HOUSING COMMISSION  
MINUTES OF THE REGULAR MEETING  
JULY 28, 1997  
9:00 A.M.  
CITY ADMINISTRATION BUILDING  
202 C STREET, 12TH FLOOR  
SAN DIEGO, CALIFORNIA**

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

**10     CALL TO ORDER**

Chair Arthur called the meeting to order at 9:18 a.m.

**20     PUBLIC COMMENT**

Executive Director Morris announced that she had received a request from a member of the public to continue Item 104 to the next Housing Commission meeting. As there were no time constraints on the issue and no objections from the members of the Board, Chair Arthur recommended Item 104 be pulled from the agenda and continued.

There were no other public comments.

**30     COMMISSIONER COMMENTS**

Commissioner Nottley reported on a tour of public housing sites she had taken with Commissioner Oxberry, Ms. Morris, Community Relations Manager Bobbie Christensen, and several members of the Press. Ms. Nottley was very impressed by the condition of the projects run by the Commission and in partnership with nonprofits, and the positive impact they make on the neighborhoods, and felt convinced that if more people could actually see the work that is being done, there would be less opposition to affordable housing.

**40     REPORT BY THE EXECUTIVE DIRECTOR**

Executive Director Elizabeth Morris reported about her participation in the Summer NAHRO Conference, entitled "Bridge to the Future." In addition to housing programs, the conference enlightened its participants on current HUD legislation. Ms. Morris was encouraged to learn that the Balanced Budget Agreement now under consideration ensures funding of Section 8 Program Contract Renewals through the year 2002, without diverting funds from other HUD programs. The Low Income Housing Tax Credit would also continue should the Agreement be enacted; however, there is little optimism for any major public housing reform legislation.

**50     APPROVAL OF THE MINUTES**

The Minutes for the meeting of July 14 will be presented at the next Housing Commission meeting, August 18, 1997.

**ADOPTION AGENDA - CONSENT**

Chair Arthur asked for a brief report on Item 103 and a better understanding of Item 105.

**MOTION BY COMMISSIONER DICK TO APPROVE THE FOLLOWING ITEMS ON CONSENT:**

**100    HCR97-108 - Submittal of an Application to the U.S. Department of Housing and Urban Development (HUD) for Shelter Plus Care Program Funds (Citywide)**

Recommendation: Authorize the Executive Director to: 1) submit an application to HUD for approximately \$1.9 million to renew the 1992 Shelter Plus Care (S+C) Program funds, and 2) if the application is successful, recommend Housing Authority approval of authorization to execute documents necessary to receive funding and enter into contracts; implement all program components; and amend the Housing Commission budget to reflect funding received.

**101    HCR97-107 - Administration of Section 8 Vouchers and Certificates for At Risk Housing Developments (Council Districts 4 & 8)**

Recommendation: It is recommended that the Housing Commission accept a one-year, 423 unit allocation of Section 8 Vouchers and Certificates to provide Section 8 assistance to the occupants of President John Adams Manor and the Seaward Arms Apartments and authorize the Executive Director to amend the budget and execute all necessary documents.

**102 HCR97-109 - Establishment of the Southcrest Rehabilitation Program (Council Districts 4 & 8)**

Recommendation: Approve the Southcrest Housing Rehabilitation Program as requested by Southeastern Economic Development Corporation (SEDC) and authorize the Executive Director to execute the Scope of Services and the Agreement between the Redevelopment Agency of the City of San Diego and the San Diego Housing Commission.

MOTION SECONDED BY COMMISSIONER AKILI AND CARRIED ON A UNANIMOUS VOTE OF 4-0, COMMISSIONERS MACIAS, OXBERRY, AND TUMMINIA BEING ABSENT.

**104 HCR97-096 - Contract with David Rosen & Associates for the Provision of Consultant Services Related to Lending Practices and Portfolio Management (Citywide)**

Continued to Housing Commission Meeting of August 18, 1997.

**ADOPTION AGENDA - ACTION AGENDA**

**103 HCR97-110 - Loan to Chicano Federation for the Acquisition and Rehabilitation of 3766-3778 35th Street (Council District 3)**

Staff report was presented by Deputy Executive Director of Housing Finance & Development Paula Burrier-Lund, with Finance Development Project Manager Roger Nulton on hand for questions.

In response to Chair Arthur's query, Staff attested to the soundness of past business with the Chicano Federation, and to the nature of the Acquisition/ Rehabilitation Loan. It is typically not possible in this type of transaction to provide loans at 100% or less loan to value; the risk of the uncollaterized portion of the loan is minimized by conservative assumptions used by staff in underwriting the project. In the case of the Chicano Federation's loan, Staff has confidence in the organization's proven ability to operate affordable housing. Ms. Morris affirmed that often in acquisitions with rehabilitation, the post renovation cost is not fully reflected in the increasing value of the property, but that the Commission has made numerous loans of this type for the benefit of the community. As further testimony of Chicano Federation's proven track record, Ms. Morris called attention to the seven awards she received in behalf of the Commission at the recent NAHRO convention, one of which was for the Barrio Seniors Project, a partnership where the Commission served as Lender to the Chicano Federation.

Chair Arthur thanked Staff for the explanation of why the Housing Commission must at times appear to take risks with public dollars in order to serve the public's

interests. In fact, the Commission minimizes unavoidable risks by entering into reliable and productive partnerships.

Ms. Pam Johannsen spoke in behalf of the Chicano Federation, commending and thanking Staff for its assistance in getting funding approved under a tight deadline and making this project possible.

In response to Commissioner Dick, Ms. Johannsen stated that this is the Chicano Federation's first non-senior project and that, in the way of possible differences from past experiences, she anticipates providing more resident services as needs may be dictated by the make-up of the tenants, many of whom are already residents and hope to stay on with new management and lower rents. As for marketing for new tenants, the organization often gets response by word-of-mouth, as well as local advertising. All properties are professionally managed by Atlantic & Pacific, who handles all underwriting procedures, credit checks, etc.

MOTION MADE BY COMMISSIONER DICK TO APPROVE AND RECOMMEND HOUSING AUTHORITY APPROVAL OF A LOAN TO CHICANO FEDERATION IN THE MAXIMUM AMOUNT OF \$440,970 FOR THE ACQUISITION AND REHABILITATION OF A 20-UNIT PROPERTY LOCATED AT 3766-3778 35TH STREET AND AUTHORIZE EXECUTION OF LOAN DOCUMENTS, IN A FORM ACCEPTABLE TO THE EXECUTIVE DIRECTOR AND GENERAL COUNSEL, TO REFLECT THE TERMS AND CONDITIONS OUTLINED IN THE STAFF REPORT; AND TO AUTHORIZE A 3 PERCENT RESIDUAL RECEIPTS SECOND TRUST DEED IN THE MAXIMUM AMOUNT OF \$440,970. MOTION SECONDED BY COMMISSIONER NOTTLEY AND CARRIED ON A UNANIMOUS VOTE OF 4-0, COMMISSIONERS MACIAS, OXBERRY, AND TUMMINIA BEING ABSENT.

**105 HCR97-116 - Bond Inducement Resolution for The Bluffs Apartments (Council District 6)**

Staff Report was given by Ms. Paula Burrier-Lund, with Financial Specialist Jan Laufik on hand for questions.

Commissioner Akili expressed his concern for a) the population being served by this project, and b) how the Housing Commission would be served by this "private/public partnership."

Commissioner Dick questioned the rotation process of contract award to the chosen bond counsel, and the lack of local representation in the firms that have responded to the Request for Proposals (RFP). Mr. Laufik assured him that the bond counsel being recommended is "in turn" in this rotation, and agreed with the Commissioner that

active solicitation of firms in the San Diego area would be beneficial. Ms. Morris agreed that this would be an appropriate action for the Commission to take, but also pointed out that the final selection of Bond Counsel is up to the City Attorney, acting as Counsel to the Housing Authority.

Commissioner Dick sought clarification on the affordability term of the bond-financing mechanism, and how the Commission will select applicants for this program in the future. Mr. Laufik explained that the affordability term is limited to the fifteen-year statutory requirement; at the end of that period, it is up to the property owner to either refinance through a like mechanism or to convert to market rate. Mr. Laufik assured the Commissioner that at this time, due to the complexity of this type of financing vs. conventional financing, competition has not yet been a problem. Developers are still being educated on the benefits of the program. Ms. Burrier-Lund affirmed that there is a level of competition for bond allocation at the state level, but in the City of San Diego, this is not yet a problem.

Ms. Morris further stated that the bond financing program is a critical instrument in the Commission's affordable housing toolshed. It requires no outlay of public funds in order to achieve affordability, other than the tax subsidy on the federal income tax basis, and will be most useful if it continues to place new units into service, so that after fifteen years, as older projects begin to drop off, there is a continuing supply of affordable housing.

**MOTION MADE BY COMMISSIONER DICK TO 1) RECOMMEND HOUSING AUTHORITY APPROVAL OF A BOND INDUCEMENT RESOLUTION AND AN APPLICATION TO THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE FOR AN ALLOCATION OF BOND ISSUING AUTHORITY TO FINANCE THE ACQUISITION AND REHABILITATION OF THE PROJECT BY ESSEX BLUFFS, L.P., A SUBSIDIARY OF ESSEX PROPERTY TRUST, INC., A PUBLICLY TRADED REAL ESTATE INVESTMENT TRUST; AND 2) APPROVE LITTEN FINANCIAL CONSULTING AND KOSMONT AND ASSOCIATES (MBE - 30 PERCENT), FINANCIAL ADVISOR; ORRICK, HERRINGTON & SUTCLIFFE AND WILLIAMS & GILMORE (MBE - 20 PERCENT), BOND COUNSEL; AND NEWMAN AND ASSOCIATES, INC. AND M.R.BEAL & COMPANY (MBE - 20 PERCENT), BOND UNDERWRITER, AS MEMBERS OF THE FINANCING TEAM. MOTION SECONDED BY COMMISSIONER AKILI AND CARRIED ON A UNANIMOUS VOTE OF 4-0, COMMISSIONERS MACIAS, OXBERRY, AND TUMMINIA BEING ABSENT.**

**106 HCR97-114 - Response to 1996-97 County Grand Jury Report: *Improving Low Income Housing Practices (Citywide)***

The Executive Director, Elizabeth Morris, delivered the Staff Report. Following a brief informational review of the Rental Assistance Program and Section 8 process, Ms. Morris addressed the issues of concern in the Grand Jury's review of these programs. She went on to describe the findings of the HUD Inspector General included in their report to be issued this week. In summary, Ms. Morris noted that the Section 8 overcharges were discovered by Commission staff, and that aggressive steps have been implemented to correct the problem, strengthen the Section 8 program, and collect overpayments.

A member of the public, Mr. Mel Shapiro, raised the following issues: 1) How is the Housing Commission actively pursuing the recoupment of overpayments? 2) The Housing Commission should have an outside auditor review the overpayments and investigate the overpayment status of landlords who have dropped out of the program since investigations began. 3) The audit of Section 8 rents does not correctly characterize the overpayments. 4) Staff should not allow the cost of litigation to interfere with the pursuit of overpayment. 5) The City Attorney Public Integrity Unit is a part of the criminal division and does not pursue overpayments.

Commissioner Akili recalled his own request in April of this year for a public hearing on the rent reasonableness issue and was advised at that time that it would be appropriate to wait for the audit to be completed. Mr. Akili again expressed his interest in a public hearing and his determination to dissolve the discrepancy between the Grand Jury's and public perception of the Housing Commission's handling of the problem and what the Commission is in fact actively doing.

General Counsel Chuck Christensen cited five different occasions when counsel has reported their efforts to recoup funds to the Board in Closed Session. Without compromising confidentiality, Mr. Christensen was reluctant to speak in detail of these efforts, but stated that he has been authorized by the Board to go after funds that have been determined to have been overpaid.

Ms. Morris affirmed that it is not in the public interest to discuss legal strategies in open session, but restated the steps the Commission has and is actively taking to recoup lost funds: first, to recognize and develop data on the scope of the problem, and now, to aggressively martial legal resources to collect moneys overcharged. Ms. Morris stated that more public discussion will be held as the need for confidentiality in the legal process becomes less crucial, and that the Inspector General's Report will be placed on the Housing Commission Public Meeting docket as soon as it is received. She also made particular note that the Inspector General is an independent auditor whose recommendations are made without regard to consequences or resources involved in their implementation.

Commissioner Dick addressed the accusation of Mr. Shapiro's that the audit uses current market rates to determine reasonable rents for previous years, providing inaccurate analysis of the then reasonable rent rates. Ms. Morris countered that at this time the Commission is focused on correcting the amounts of rent currently being paid, and will use appropriate data to determine past overpayments. The Commission's highest priority is to ensure that the system has the internal integrity to prevent any such situation from occurring in the future.

Commissioner Dick referred to Mr. Shapiro's comment that several hundred Section 8 landlords have dropped out of the program when asked to certify their market rents, and questioned the possible implication that these landlords may be dropping out because they have been overcharging. Ms. Morris stated that she didn't believe it an appropriate interpretation to assume these landlords are not recertifying for this reason, that there are always landlords who choose not to continue with the program for many different reasons.

Commissioner Dick characterized Mr. Shapiro's accusation that the Housing Commission was in some way acting in collusion with landlords as a very serious allegation and advised him to be prepared to support his claim.

Commissioner Dick received clarification from Staff and the Executive Director on individual Grand Jury recommendations and moved to accept Staff's written response with modifications. Mr. Dick suggested the following be added to the response to Grand Jury's Recommendation #97-8: that the Housing Commission will recommend HUD amend its HAP Contract form to include a penalty of perjury statement. And, in response to the Grand Jury's Recommendation #97-5, Mr. Dick requested that it be made clear that the Housing Commission's loan documents do provide specific terms without reference to possible extensions. Ms. Morris agreed with these amendments.

Chair Arthur underscored Commissioner Akili's concern to correct any misperceptions that exist about the Housing Commission's role and intentions, and welcomed the opportunity to hold a public hearing. Mr. Arthur declared his sincere belief that no one serving the Housing Commission intended any wrongdoing or committed an act of negligence. The problem was detected by Staff, was brought by Staff to the attention of HUD, was publicly disclosed, and is now being corrected. The procedures are complex and there is always an element of human error to be expected, no matter how good the intentions.

Commissioner Akili asked about the Grand Jury's final recommendation, that the San Diego Housing Commission and the County of San Diego Department of Housing and Community Development consolidate their Section 8 programs.

Ms. Morris stated that this is a suggestion often discussed but is a decision that ultimately would be made by the Board of Supervisors and City Council. Meanwhile,

the staffs of the two agencies do share data and are examining how to further coordinate. Last year the Housing Commission received a \$2.6 million grant to work with other Section 8 administrators in the region to make their programs and procedures more uniform and of a more cooperative effort. At an appropriate time staff will provide the information necessary for the Board to forward a recommendation to the Housing Authority. Commissioner Dick suggested that these current efforts of the Housing Commission and the County of San Diego to work cooperatively be included in the response to the Grand Jury's Recommendation.

MOTION MADE BY COMMISSIONER DICK TO RECOMMEND TO THE HOUSING AUTHORITY THAT THEY ACCEPT, APPROVE AND FORWARD THE PROPOSED RESPONSE TO THE PRESIDING JUDGE OF THE SAN DIEGO COUNTY SUPERIOR COURT.

MOTION SECONDED BY COMMISSIONER NOTTLEY AND CARRIED ON A UNANIMOUS VOTE OF 4-0, COMMISSIONERS MACIAS, OXBERRY, AND TUMMINIA BEING ABSENT.

### **CLOSED SESSION**

General Counsel Chuck Christensen announced that pursuant to Government Code, Section 54956.8(a) and 54954.5(b) that the Housing Commission met in Closed Session to discuss the following items:

**I. Conference with Legal Counsel - existing litigation, pursuant to California Government Code Section 54956.9(b):**

- (a) **Beal Bank, S.S.B, a Texas banking corporation vs. Palm Vista Apartments, a California limited partnership; Daniel H. Appel, general partner; and Does 1 through 100, inclusive**

San Diego Superior Court Case No.: 702683

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

- (b) **San Diego Housing Commission, a public agency vs. Delta Associates, a California General Partnership; Harvard S. Hurst, an individual; Daniel J. Chiapappa, an individual; Jan T. Chandler, an individual; and Does 1 through 20, inclusive**

San Diego Superior Court Case No.: 711155

- (c) **HAR Construction, Inc., a California corporation vs. San Diego Housing Commission, a political subdivision of the United States Government; and Does 1 through 10, inclusive**

San Diego Municipal Court Case No.: SBM021361

BY A VOTE OF 4-0 WITH COMMISSIONERS OXBERRY, TUMMINIA, MACIAS ABSENT, GENERAL COUNSEL AND STAFF RECEIVED INSTRUCTION CONCERNING THE RESOLUTION OF BOTH ISSUES.

- (d) **San Diego Housing Commission, a public agency; and Housing Authority of the City of San Diego, a public agency vs. 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 Appeal Case No.: D027060

NO ACTION WAS TAKEN.

**II. Conference with Legal Counsel - anticipated litigation pursuant to Government Code Section 54956.9(b):**

- a. Two (2) matters .

STAFF AND COUNSEL WERE GIVEN DIRECTIONS. NO ACTION WAS TAKEN.

**III. Public Employee Performance Evaluation pursuant to Government Code Section 54957 and Conference with Labor Negotiator pursuant to Government Code Section 54957.6.**

Title of Employee: EXECUTIVE DIRECTOR

ITEM WAS NOT HEARD IN CLOSED SESSION.

**ADJOURNMENT**

Chair Arthur adjourned the meeting at 11:15 a.m.

Respectfully submitted,

Approved by,

Margaret Hill  
Executive Secretary

Elizabeth C. Morris  
Executive Director

ECM:mh

**Signature Available with  
Original Document**