

# BREVARD COUNTY HOUSING FINANCE AUTHORITY

4420 South Washington Avenue  
Titusville, Florida 32780  
(321) 264 - 0334 Phone  
(321) 269 - 6840 Fax

MINUTES  
September 26, 2018

The Brevard County Housing Finance Authority convened on the 26<sup>th</sup> day of September, 2018, at the hour of 3:00 p.m. in the Lecture Room of the Brevard County Agricultural Center, 3695 Lake Drive, Cocoa, Florida.

Present: Kamran Sarkarati, Chairman  
Michael Hartman, Vice Chairman  
Barry Forbes, Secretary/Treasurer  
James Katehakis, Asst. Secretary/Treasurer  
Angela A. Abbott, Attorney for the Authority  
Marianne Edmonds, Public Resources Advisory Group, Inc.  
Natalie Sidor, Public Resources Advisory Group, Inc.  
Helen Feinberg, RBC Capital Markets  
Jay Brock, Southern Affordable Services, Inc.  
Marc Gauthier, Atlantic Housing Partners  
David Leon, Esquire, Nelson, Mullins, Broad & Cassel

- I. The Chairman, Kamran Sarkarati, called the meeting to order at 3:04 p.m., determined the presence of a quorum and acknowledged proof of publication of the Notice of Meeting.
  - II. Public Comments: The Chairman called for public comment. Hearing none, public comment was closed.
  - III. Consent Agenda: Motion made by Michael Hartman, seconded by James Katehakis and carried unanimously to approve the Consent Agenda as follows:
    - A. Approval of Minutes of August 22, 2018 meeting
    - B. Approval of payment of Hendrickson Ink invoice for website maintenance
    - C. Approval of payment of Florida ALHFA annual dues for 2018-2019
    - D. Approval of Public Depositor Annual Report to Chief Financial Officer
- Ms. Abbott noted that the payment to Florida ALHFA will be made on or after October 1, 2018.
- IV. Auditor selection and discussion regarding responses to request for proposals: Ms. Abbott stated that the RFP was mailed to the firms on the auditor distribution list. Since no responses were received to the RFP by September 18, 2018, the RFP was re-circulated by email to each of the CPA firms with an extended deadline of October 15, 2018.

Kamran Sarkarati  
Chairman

Michael Hartman  
Vice Chairman

Barry Forbes  
Secretary/Treasurer

James Katehakis  
Asst. Secretary/Treasurer

Angela A. Abbott  
Attorney/Administrator

V. Multi-Family Programs:

A. Consideration of Application of Venue at Brevard, Ltd. (The Venue at Viera Senior Living Project) and approval of Resolution No. 2018-03:

The Chairman recognized the representatives of the applicant for The Venue at Viera Senior Living Project. Ms. Abbott explained that an application has been received and that the proposed Resolution is for inducement of the financing to move forward. The Resolution does not obligate the Authority to act further unless additional information is provided and additional fees are paid. The applicant has requested a reduction in the Authority's fees. Jay Brock stated that the developer is requesting a reduction of the initial fee, as well as the ongoing annual fee of the Authority. As explained in the cover letter, the developer fee will be deferred 100%. The only financing source at this time is the bonds, and the 4% tax credits. David Leon, Esquire explained that the reason for the requested fee reduction is that, under the tax rules, there is a cap of 12.5 basis points on the issuer fee. In order for an issuer to charge more, the bonds have to be a "program investment". However, to qualify as a program investment the bonds may not be held by the borrower or a related party. Bank United has agreed to the financing as long as there is a put right to the one of the principals. Therefore, this financing does not qualify as a program investment. If the Authority fee exceeds 12.5 basis points, then the bonds become taxable. Since the put right is ongoing, there is no time at which the issuer fee could exceed 12.5 basis points. Mr. Hartman questioned whether the fee could be increased if there is a SAIL loan or other additional sources of financing. Mr. Leon suggested that there may be a possibility of a restructuring fee if additional financing becomes available. The restriction is on the amount that the issuer receives not what the borrower pays. Ms. Edmonds recommended that the Authority's fee should be the last dollars out not the first dollars out and she would like the opportunity to explore the possibilities for maintaining the Authority's full fee. The proposed financing is for 17 years with a 35 year amortization. Mr. Hartman stated that the reduction of the Authority's fee is approximately \$323,000. He suggested that perhaps the fee reduction could be recouped after the final cost certification. Mr. Leon responded that this structure could still be a problem under the tax code, even if the financial structure would accommodate the fee. The recoupment may not be an issuer fee per se. Jay Brock agreed to discuss with his partners the possibilities of increasing the payments to the Authority.

Mr. Brock explained that this is a "naked" bond deal without SAIL or other subsidy, which is unusual these days. He reviewed the housing stock in Brevard County and noted that there are approximately 1500 units that could

be leaving the affordable housing market between now and 2024. He encouraged the Authority to consider that this financing will add 155 units for the elderly in an area that is in need. This project should qualify for the “homes for the aged” real estate tax exemption. Mr. Hartman noted that there are many three bedroom units for an elderly project. He explained that 80% of the units must be reserved for residents age 55 or older as an occupant. Mr. Brock stated that the application is wrong where it states that project based Section 8 assistance will be applied for. Barry Forbes asked about the definition of low income when the resident has a high net worth. Mr. Hartman stated the last time he looked into this, there was a requirement that 3% of the residents’ assets were imputed as income, in addition to other income. Mr. Forbes expressed his concern about the need for affordable rentals. He stated that the financing will not diminish the Authority’s ability to do other programs. Ms. Edmonds agreed that the inducement of this project has no downside. However, she stated that the Authority does not have to reach a decision on the fee reduction today and she is concerned about the precedent this could set. Mr. Hartman noted that even if the Authority receives a reduced fee of \$19,000 per year, all other fees and costs will be covered. Mr. Brock asked when a decision would be made regarding the fee reduction since the applicant will not pursue the affordable financing if it will not work. Mr. Forbes and Mr. Hartman expressed that they would favorably consider the fee reduction if that is the only way to make the deal work. Ms. Abbott inquired about the site acquisition since it appears to be owned by the Dudas. Mr. Brock responded that the site is currently under contract for purchase. He further noted that the closest affordable project is Mission Bay with 360 units which will be coming off as affordable this year. The occupancy rates for all the affordable projects are extremely high.

Following discussion regarding the need for this project, motion made by James Katehakis, seconded by Michael Hartman and carried unanimously to approve Resolution No. 2018-03 entitled:

RESOLUTION REGARDING THE OFFICIAL ACTION OF THE BREVARD COUNTY HOUSING FINANCE AUTHORITY RELATIVE TO THE ISSUANCE OF NOT TO EXCEED \$15,250,000 MULTIFAMILY HOUSING REVENUE BONDS FOR THE PURPOSE OF ACQUIRING, REHABILITATING, EQUIPPING, AND DEVELOPING A MULTIFAMILY RESIDENTIAL HOUSING FACILITY FOR PERSONS OR FAMILIES OF LOW, MIDDLE OR MODERATE INCOME; FURTHER AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGREEMENT BY AND BETWEEN THE AUTHORITY AND VENUE AT BREVARD PARTNERS, LTD.; AND PROVIDING AN EFFECTIVE DATE.

B. Consideration and approval of Short Form Bond SAIL Application.

Ms. Abbott stated that this application will allow multifamily borrowers to obtain the required letter from the Authority to proceed with their SAIL loan application through the Florida Housing Finance Corporation. If the SAIL loan is obtained, the borrower would then have to complete the Authority's full multifamily application to proceed with the financing. The goal is to encourage developers to utilize local bonds with the SAIL loan, instead of checking the box for FHFC bonds. Ms. Abbott stated that if the short application is received between meetings, the letter would be issued automatically. It simply states that the application has been received. Following discussion, motion made by Michael Hartman, seconded by James Katakakis and carried unanimously to approve the short form Bond SAIL Application as presented.

VI. Status Reports on Special Projects:

- A. Loan Agreement with Housing for Homeless ("HFH") f/k/a Coalition for the Hungry and Homeless: The loan to HFH is paying as agreed. A summary of all payments was included in the agenda package.
- B. Loan Agreement with Habitat for Humanity of Brevard County: There has been no activity on this loan since the Authority's last meeting.
- C. Loan to Community of Hope, Inc.: The loan to Community of Hope is paying as agreed. A summary of all payments was included in the agenda package.

VII. Single Family Programs:

A. Status Report on 2012-2018 TBA/MCC Program:

Ms. Abbott presented a written status report on the Single Family Program as of September 18, 2018. During the month of August, 22 loans closed. There are now over \$28 million in first mortgages, with 18 loans now pending. Several new lenders are now originating loans under the program. Ms. Abbott estimated that once the maximum DPA loan amount is reduced to \$7,500 on October 1, 2018, if originations continue at the same pace, the DPA custody account funds will run out in mid-April, 2019. The agenda package included status reports on the DPA and GNMA Custody accounts as of August 31, 2018, and a summary of GNMA profits as of September 18, 2018.

B. Discussion regarding funding of Down Payment Assistance loans and Investments:

Ms. Abbott presented an interim balance sheet to give the members a snap shot of where assets stand currently. Mr. Forbes indicated that the Authority needs to maintain liquidity to be able to assist with homelessness issues and other needs as they arise. Mr. Katehakis expressed that as Florida grows, so will the need for affordable housing and the problems with homelessness.

C. Approval of Resolution No. 2018-04:

Ms. Abbott explained that the MCC program will expire next year. Resolution No.18-04 will allow for an extension of the MCC program in time to apply for carryforward allocation before the end of this year, thereby preserving 2019 allocation for other projects.

Motion made by James Katehakis, seconded by Barry Forbes and carried unanimously to approve Resolution No. 18-04 entitled:

A RESOLUTION OF THE BREVARD COUNTY HOUSING FINANCE AUTHORITY RATIFYING THE INITIATION OF ACTION IN CONNECTION WITH THE PROPOSED ISSUANCE OF SINGLE FAMILY MORTGAGE REVENUE BONDS; AUTHORIZING THE INITIATION OF ACTION, IN THE EVENT SUCH BONDS ARE NOT ISSUED, TO ESTABLISH A MORTGAGE CREDIT CERTIFICATE PROGRAM; AUTHORIZING THE EXCHANGE OF UP TO \$40,000,000 OF SINGLE FAMILY PRIVATE ACTIVITY BOND ALLOCATION FOR UP TO \$10,000,000 OF MORTGAGE CREDIT CERTIFICATE AUTHORITY; AUTHORIZING CERTAIN OFFICIALS OF THE AUTHORITY TO TAKE ACTIONS NECESSARY IN CONNECTION WITH THE IMPLEMENTATION OF THE BOND OR MCC PROGRAM; PROVIDING CERTAIN OTHER FINDINGS AND DETAILS WITH RESPECT THERETO; AND PROVIDING AN EFFECTIVE DATE

VIII. Report of Public Resources Advisory Group, Inc.:

A. Discussion regarding proposed investments: Ms. Edmonds stated that, at the last meeting, the Authority determined that \$1,000,000 should be invested in a portfolio of five laddered CD's, in the amount of \$200,000 each for 3, 6, 9 and 12 month terms. Ms. Edmonds has determined that an account can be opened at Fidelity for no fee. Natalie Sidor has the application to open the account. The Authority needs to select an authorized signed to actually purchase the CD's online. Ms. Edmonds is not permitted to act as the authorized signer, but she can review the CD returns and make recommendations. Barry Forbes agreed to act as the authorized signer on the Fidelity account.

B. Ms. Edmonds stated that FLALHFA is working with FHFC on the appraisal issue on the transfer of existing projects. Helen Feinberg added that some developers are approaching FHFC about reducing set asides, so that the projects can be recapitalized. Mr. Forbes asked about the transition period when projects roll off as affordable. Mr. Hartman responded that there is a three year transition period during which rents must remain affordable as long as the tenant remains in the unit. The restriction is tied to the tenant. Mr. Forbes expressed concern about the loss of affordable units in the near future and whether the Authority has any tools to incent developers to keep unit affordable. Ms. Edmonds suggested that the County has more tools than the Authority. Ms. Feinberg stated that there is a new elderly project on University in Melbourne/Palm Bay that is planning to apply for bonds and 4% credits. Mr. Hartman stated that the land is zoned for 1 bedroom, 1 bath units only. Mr. Forbes requested a list of multifamily projects and the expected roll off dates, and suggested sending a letter to the County. Mr. Hartman suggested contacting the County to determine how its funds are being utilized. Ms. Abbott suggested that the next time County Commission approval is needed for a new project, she could appear before the Affordable Housing Council to address the expected loss of affordable units.

IX. Motion made by Michael Hartman, seconded by Barry Forbes and carried unanimously to adjourn the meeting at 4:17 p.m.