

HOUSING FINANCE AUTHORITY OF LEE COUNTY, FLORIDA

MINUTES OF REGULAR MEETING

January 21, 2021

4:02 p.m.

On Thursday, January 21, 2021, at 4:02 p.m. in the offices of PHILIP L. BURNETT, P.A., 2449 First Street, Fort Myers, Florida, E. Walter Barletta, Chairman of the Housing Finance Authority of Lee County, Florida (the "Authority"), called the meeting to order.

Immediately thereafter, the Chairman called for a roll call of the members. Philip Burnett, Esq., counsel for the Authority, called the roll. E. Walter Barletta, Walter Ferguson, Virginia Yates, Michael Villalobos and Kirk Frohme were present at the meeting. Appearing by phone were Tim Wranovix and Misty Dalke with Raymond James and Associates, Inc. ("Raymond James"), the Authority's managing underwriter, Tim Nelson with Hilltop Securities, Inc. ("Hilltop Securities"), the Authority's Financial Advisor, Alex Fischer, Esquire with Nabors, Giblin & Nickerson, P.A., the Authority's Bond Counsel, Sue Denihan with Housing and Development Services, Inc. d/b/a eHousingPlus ("eHousing"), Debbie Berner with RBC Capital Markets ("RBC"), a co-managing underwriter, and Scott Schuhle with U.S. Bank Trust National Association ("U.S. Bank"), the Trustee on the majority of the Authority's bond offerings..

The Chairman then opened the floor for public comment. No members of the public were present at the meeting. Accordingly, no public comment was made. Thereafter, the Chairman closed the opportunity for public comment.

The Chairman next suggested that the Authority address the approval of the Authority's Minutes for its prior meeting. Thereafter, on motion duly made by Mr. Ferguson and seconded by Mr. Frohme, the members of the Authority unanimously approved the minutes of the Authority's November 12, 2020, regular meeting.

The Chairman next suggested that the Authority consider Item V on its Agenda, i.e., consider, discuss and vote on such agreements, resolutions, authorizations, funding, Interlocal Agreements, documents and related matters as are necessary for the Authority to proceed with or amend its Own a Home Opportunity Program ("OAHOP Program") with Raymond James & Associates, Inc. and such other actions as may be appropriate. The Chairman recognized Mr. Wranovix and asked him how the Authority's OAHOP Program was going. Mr. Wranovix said that things were going along pretty good and that the Authority had a settlement of \$30,000 on January 19, 2021. The Chairman next recognized Ms. Denihan. Ms. Denihan said that two new lenders had joined the OAHOP Program and that a couple of additional lenders have expressed an interest in becoming lenders in the OAHOP Program. The Chairman then recognized Mr. Schuhle. Mr. Schuhle said that the Authority had a balance of \$399,853 in its account with U.S. Bank for funding of the OAHOP Program.

The Chairman next suggested that the Authority consider Item VI on its Agenda, i.e., consider, discuss and vote on any pending issues related to the Authority's proposed \$17,396,000 bond offering for financing the acquisition and rehabilitation of the 168-unit multifamily project known as the Crossings at Cape Coral Apartments located at 1150 Hancock Creek South Boulevard, Cape Coral, FL 33909. The Chairman recognized Mr. Burnett. Mr. Burnett said that the Lee County Board of County Commissioners ("Lee County BOCC") approved the Authority's request for approval of its Tax Equity Fiscal Responsibility Act Hearing that was held by the Authority in connection with the proposed financing of the Project. Mr. Burnett then said that he and Mark Mustian, Esquire had been in contact with the developer to determine if the size of the proposed bond offering was correct and to see when they propose to close on the bond offering so that the Authority can request the requisite tax exempt volume cap allocation from the Florida Division of Bond Finance. Mr. Burnett said that the developer had advised he and Mr. Mustian that they might want to increase the size of the proposed bond offering by a small amount due to a recent change in the law related to 4% tax credit deals, which this Project is, and that the anticipated closing on the bonds will be in April or May of 2021. Mr. Burnett said that Mr. Mustian had advised them that the size of a proposed bond offering can be increased up to 10% of the approved amount of the bond offering without having to go through the approval process for an increase. Mr. Burnett said that based upon the above, Mr. Mustian had prepared a Notice of Intent for submission to the Florida Division of Bond Finance for \$17,396,000 for the Chairman to sign so that we can submit it and keep the proposed financing on track. The Chairman said that he had it and that he had executed it for submission. The Chairman then recognized Mr. Wranovix and Mr. Nelson and they briefly described the recent changes in 4% tax credit deals. Mr. Burnett said that the only other thing that he wanted to bring before the Authority with respect to this matter is the selection of a credit underwriter for the proposed financing. He said that he had asked the developer if they had a preference for a credit underwriter and that they had indicated that they would like to use Seltzer Management if that is acceptable to the Authority. Mr. Burnett said that both he and Mr. Mustian approve the use of Seltzer Management and they recommend that the Authority retain them to perform the credit underwriting on the proposed financing at the developer's expense. Accordingly, if the Authority approves Seltzer Management as the credit underwriter for the proposed financing, Mr. Burnett asked that the Authority authorize him to contact Seltzer Management and retain them on behalf of the Authority. Immediately thereafter, on motion duly made by Mr. Frohme and seconded by Ms. Yates, the members of the Authority unanimously authorized Mr. Burnett to retain Seltzer Management on behalf of the Authority as the credit underwriter on this proposed financing, with the developer to be responsible for paying Seltzer Management's fees and costs.

The Chairman then asked if developers were building in contingencies for increased construction costs. He said that construction costs have gone through the roof and that they are looking at an approximate increase of over 30% over the next couple of months. The Chairman recognized Mr. Wranovix. Mr. Wranovix said that he is certain that the credit underwriter and equity lenders will be all over this issue given the substantial increase in construction costs.

The Chairman next suggested that the Authority consider Item VII on its Agenda, i.e., consider, discuss and vote on the proposed Engagement Letter with Markham Norton

Mosteller Wright & Company, P.A. (“Markham Norton”). The Chairman then recognized Mr. Burnett. Mr. Burnett said that MN had submitted a revised engagement letter incorporating the changes that the Authority had requested at its last meeting. Thereafter, on motion duly made by Mr. Ferguson and seconded by Mr. Frohme, the members of the Authority unanimously approved the revised Markham Norton Engagement Letter and authorized the Chairman to execute it on behalf of the Authority.

The Chairman next addressed the necessity of the Authority considering Item VIII on the Authority’s Agenda, i.e., consider, discuss and vote on a possible revision to how the Second Mortgage Loan Receivables (“Loan Receivables”) in the Authority’s OAHOP Program are treated in the Authority’s Financial Statements to possibly reflect that a portion of them are anticipated to be satisfied over a period of time as opposed to them being totally written off upon disbursement each year. The Chairman recognized Mr. Frohme. Mr. Frohme said that Mr. Burnett had asked him to explain what the members of the Authority are being asked to consider with respect to the treatment of, and possible revision to, how the Authority treats its Loan Receivables in its financial statements. He said that he, Mr. Burnett, and Elisa Bowersox, CPA with Markham Norton, had worked together to see if it might be in the Authority’s best interest to revise the treatment of the Authority’s Loan Receivables in the Authority’s financial statements, with Mrs. Bowersox doing most of the heavy lifting. He said that the Authority operates on a cash basis versus an accrual basis and that, in the beginning when the Authority did not have a history of the repayment of its Loan Receivables, they were written off to zero each year due to the uncertainty of the collectability of them. He said that now the Authority has at least a ten (10) year history of the collectability of the Loan Receivables. Mr. Frohme said that as a result, it was felt that it would be a good thing to review the treatment of the Authority’s Loan Receivables to see if they should be treated differently on the Authority’s Financial Statements to give a more accurate reflection of the Authority’s true financial condition. He said that Mrs. Bowersox prepared numerous spreadsheets to try to determine the best way for the Authority to treat its Loan Receivables. Based upon a ten (10) year’s experience, it was determined that if the Authority adopted a change in the treatment of the Loan Receivables in its financial statements from a cash basis to an accrual basis for the Authority’s fiscal year ended 9/30/20, the effect would be \$1.7 million of additional income. Mr. Frohme said that the change would be a change in estimation versus a change in accounting with a 44% collectability factor for the Authority’s last fiscal year. He said that it will be necessary to make adjustments annually to reflect the possible change in collectability of the Loan Receivables and that any Loan Receivables paid off after ten (10) years would be treated as ordinary income on the Authority’s financial statements. Mr. Frohme concluded his remarks by saying that both Markham Norton and the Authority’s Auditors, CliftonLarsonAllen have reviewed the matter and signed off on the proposed change in the estimation of the Loan Receivables. After a brief discussion, on motion duly made by Mr. Frohme and seconded by Mr. Villalobos, the members unanimously agreed that the Authority should revise how it treats its Loan Receivables to reflect the change in estimate of them as discussed and instructed Mr. Burnett to so advise Markham Norton.

The Chairman next addressed the necessity of the Authority considering Item IX on the Authority’s Agenda, i.e., consider and discuss bills and invoices submitted to the Authority

for approval and payment. The Chairman then recognized Ms. Yates. Ms. Yates said that she would like for the members of the Authority to approve the bills and invoices that were submitted in January for approval and payment, all as set forth below:

January 2021

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| Ck # 1672 – VOID | \$ 0.00 |
| Ck # 1673 CliftonLarsonAllen | \$ 1,837.50 |
| Ck # 1674 NALHFA.- Annual Dues | \$ 1,710.00 |
| Ck # 1675 Philip L. Burnett, P.A. Retainer/Fees/Admin | \$ 9,793.33 |

Immediately thereafter, on motion duly made by Mr. Frohme and seconded by Mr. Ferguson, the members of the Authority approved the payment of the Authority’s invoices for January of 2021.

The Chairman next suggested that the Authority consider Item X on its Agenda, i.e., consider, discuss and vote on the Authority’s proposed \$12,480,000 Bond Offering for the Vista Palms Apartments LP (“Vista Palms”) Project. The Chairman recognized Mr. Burnett. Mr. Burnett said that he had reviewed the Authority’s file on this matter and he thought that, given the facts in this matter, the Authority might want to consider cancelling the Memorandum of Agreement with Vista Palms Apartment LP (“Vista Palms”) for the financing of their proposed acquisition and rehabilitation of the Project. Mr. Burnett said that the Authority had issued an Inducement Resolution for the financing of the Vista Palms Apartments on October 25, 2018, and that it had entered into a Memorandum of Agreement with Vista Palms Apartments LP on November 6, 2018, for the financing of same. He also noted that the Authority requested the Lee County Board of County Commissioners (“Lee County BOCC”) for approval of the Authority’s Tax Equity Fiscal Responsibility Act Hearing on the proposed Project, which the Lee County BOCC tabled indefinitely due to their concerns about the Project. Last, he noted that, pursuant to instructions from the Authority, he wrote to Vista Palms on April 9, 2019, asking them to update their Application for the financing and for them to respond to his letter of April 9, 2019, within ten days and that, to date, he had not received a response to his letter. Mr. Burnett said that, based upon the above, he thought that the Authority should consider cancelling the Memorandum of Agreement. He then read Section 4(d) of the Memorandum of Agreement to the members, which provides for the Authority’s right to cancel the Memorandum of Agreement on written notice of cancellation. After considerable discussion of the matter, on motion duly made by Mr. Ferguson and seconded by Mr. Villalobos, the members of the Authority unanimously agreed to the cancellation of the Memorandum of Agreement with Vista Palms and authorized Mr. Burnett to write a letter to them notifying them of the cancellation of the Memorandum of Agreement.

The Chairman next suggested that the Authority consider Item XI on its Agenda, i.e., such other matters as may come before the meeting. The Chairman recognized Ms. Yates. She said that Mr. Burnett had forwarded a draft of the Authority’s 9/30/2020 financial statements to the members for their review to see if any of the members have any comments. She then said that Markham Norton had already sent a draft of the 9/30/2020 financial statements to the Authority’s auditor, CliftonLarsonAllen (“CLA”) but that they will be revised to reflect the

Authority's revised treatment of its Second Mortgage Loan Receivable just approved by the Authority and any other necessary revisions, if any. She concluded her comments by saying that all of the parties working on the audit, i.e., she, Markham Norton, Mr. Burnett and his staff, and CLA are working hard to get the Authority's audit done timely this year. None of the members had any comments concerning the draft of the Authority's 9/30/2020 financial statements. However, Mr. Burnett said that he had discussed the possible revision of them to reflect the Authority's revised treatment of its Second Mortgage Loan Receivables that were discussed earlier with Elisa Bowersox, CPA and that she had indicated that, if the Authority revised their treatment of its Second Mortgage Loan Receivables, the financial statements would be revised to reflect the changes.

The Chairman then recognized Mr. Burnett. Mr. Burnett said that, although it is not on the Authority's Agenda for this meeting, he thought that it would be a good idea to briefly discuss the Amended Application for bond financing filed by East Pointe Phase Two, LLC. The Chairman recognized Mr. Wranovix and Mr. Nelson. They said that they had reviewed the Amended Application together with the original Application and that they both felt that, although there is still some missing information, it was good enough for the Authority to adopt an Inducement Resolution and to enter into a Memorandum of Agreement for the proposed financing. In addition, Mr. Wranovix, Mr. Nelson and Mr. Burnett said that they had been discussing amongst themselves the possible updating of the Authority's Multifamily Bond Program Application Procedures and Program Guidelines to try to more clearly set forth the information that the Authority really needs or wants in Applications filed with it for bond financing. After a brief discussion about how much detail the members of Authority actually want or need in an Application for bond financing, it was agreed that the Authority's Professional Staff would review the Amended Application and seek to get any additional information that they felt necessary and that the matter would be placed on the Agenda for the Authority's next meeting.

The Chairman then recognized Mr. Wranovix. Mr. Wranovix said that the next NALHFA Conference and the next Florida ALHFA Conference will both be virtual conferences.

The Chairman then asked if it was necessary for the Authority to have a meeting in February. After a brief discussion, the members agreed that the Authority's next meeting should be set for February 18, 2021, at 4:00 P.M. at Mr. Burnett's office.

The Chairman then asked if anyone had anything further to bring before the Authority. There being no further business to come before the Authority, on motion duly made by Mr. Ferguson and seconded by Mr. Frohme, the meeting was adjourned at 5:00 p.m.

Respectfully submitted,


E. Walter Barletta, Chairman


Kirk Frohme, Secretary

Approved at the 2/18/2021,
Meeting of the Housing Finance
Authority of Lee County, Florida