ACTION
MINUTES OF THE REGULAR BOARD MEETING
OF THE
HOUSING AUTHORITY OF THE COUNTY OF MONTEREY
HELD JULY 24, 2017

Commissioners met at the Central Office. Chair Mary Jo Zenk called the meeting to order at 5:03 p.m. Present: Chair Mary Jo Zenk, Vice Chair Kathleen Ballesteros and Commissioners Elizabeth Williams and Viviana Gama. Absent Commissioners Kevin Healy and Rita Dady. Also Present: Jean Goebel, Executive Director; Lynn Santos, Director of Finance; Joni Ruelaz, Housing Programs Manager; Pat Wyatt, Human Resources Manager; Shannon Tonkin, Housing Management Manager; Starla Warren, Fee-for-Service Director of Development; and Tom Griffin, Legal Counsel. Recorder: Sandy Tebbs.

COMMENTS FROM THE PUBLIC: None

CONSENT AGENDA

The Board Clerk stated Mr. Griffin, Legal Counsel, needs to be added to the list of attendees on the June 26th Board minutes.

A. Minutes – Approval of Minutes of the Regular Board Meeting held June 26, 2017

Upon motion by Commissioner Ballesteros, seconded by Commissioner Gama, the Board approved the Consent Agenda with the addition of Mr. Griffin as an attendee at the June 26, 2017 Board meeting. Motion carried with the following roll-call vote:

YES: Zenk, Ballesteros, Gama
NOES: None
ABSENT: Healy, Dady
ABSTAIN: Williams

REPORTS OF COMMITTEES

Personnel Committee: Commissioner Ballesteros reported the committee did not meet.
Finance/Dev Committee: Commissioner Williams reported the committee did not meet.
Monterey County Housing, Inc.: Ms. Ruelaz reported MCHI had election of officers; she stated Directors Hesron and Scott will be leaving the Board.
Sunrise House: Ms. Goebel stated this item will be discussed in closed session.

REPORT OF SECRETARY

A. Executive Report:

Ms. Goebel reported there was an All Staff meeting last Friday at Toro Park; there was Safety Training which included Earthquake Preparedness, Heat Illness, and Housekeeping Safety. The training was provided by Bickmore Insurance Company.

Chair Zenk noted that the Old Business and New Business items will be on hold until Legal Counsel arrives.

OLD BUSINESS

A. Discussion of Changes to Board of Governance as Recommended by the Ad Hoc Board of Governance Committee (addressed after information items)

NEW BUSINESS

A. Resolution 2908: Authorization to Execute Loan Documents Relative to the Castroville FLC, LP Development (addressed after old business)

INFORMATION

A. Finance Report:

Ms. Santos reported there are seven outstanding audits for December 2016; four of them are RAD which will take extra time. The other audits are Oak Park I and II along with Haciendas Senior. Ms. Santos next stated Pacific Meadows has paid their 2015 funds in the amount of
$1,554.00 to the Housing Authority; it was $26K last year. She further reported HACM is still working on upgrading to the Cloud before going to 7S. To query, Ms. Santos replied that when Castroville closes, HACM will receive back over $1.2M. Ms. Warren noted that we are completing several RAD projects which will get us in line for another increment of cash. To query regarding money that HUD owes, Ms. Tonkin replied there is a conference call scheduled tomorrow with HUD. To query regarding budgets, Ms. Santos noted that the audits have a filing deadline of August 31st and there are consequences if that unaudited differs significantly from the audited. She feels the audits are more important than budgets at this point.

B. Human Resources Report:

Ms. Wyatt reported there have been some updates since the report was written. The Maintenance Worker I position has been filled by Mr. Sotelo who was listed under acting capacity. A new section regarding temporary staff has been added since the Union expressed interest in the temporary hires even though they are not part of our payroll.

C. Development Report:

Ms. Warren reported that HACM Legal Counsel will be providing information regarding the draft resolution on the agenda but the numbers highlighted are numbers that are unknown at this time; once the correct numbers are provided then a Special Board meeting will be requested. Ms. Warren further reported the TCAC issue where tax credits were reduced by the Administration and TCAC came out with a certificated tax that allows investors to buy in increments State tax credits and put them on their balance sheet for depreciation over a ten year period; usually you get 65 cents on the dollar and we got around 95 cents. The equity partner and lender are trying to figure this new deal out and the financial advisor is talking to tax counsel on how to treat this new deal since they felt there was an issue with a related third party (HDC). If HACM is involved there would be no financial impact to HACM.

To query on who ends up with the money, Ms. Warren replied the Castroville project. To another query on 123 Rico building, Ms. Warren stated she is waiting for the specifications on the energy equipment from Redwood Energy so the RFP can be completed. To query on Rippling River, Ms. Warren responded that is about a community group that has concerns about the residents. Staff recommended the residents of Rippling River be advised that they do not have to provide personal information to people other than HACM and John Stewart Company. Staff also suggested Alliance on Aging would provide a presentation if requested. To a question on Castroville, Ms. Warren noted it has been challenging to get some members at the County level to understand what needs to be done to help make things happen until recently when we were told $320 can be waived administratively and we have a meeting with that individual on the impact fees and how that can be done on a deferred loan. They are also working with the Castroville water district board to mitigate those fees; TAMB already did a mitigation on their fees and the school impact fees came in significantly lower.

D. Property Management Report:

Ms. Tonkin reported that we should hear back from Health and Human Services within the next couple weeks regarding the return of the warehouse at Fort Ord. To query, Ms. Tonkin replied units at Castroville are boarded up but people are still breaking in.

E. Housing Programs Report:

Ms. Ruelaz pointed out the attached notices for the Project Based wait lists opening in August; after these are closed, the wait list for Housing Choice Vouchers will be opened if the Yardl software is ready. Her department is working with the Homeless Coalition and the VA to do another Rental Summit in October. Ms. Ruelaz noted that they are looking forward to the payment standards coming out because rents are going up; they may have to go to 120% on some of the bedroom sizes. To query, Ms. Ruelaz responded for Project Based vouchers the new properties are Vista Point in Pacific Grove and Charles Apartments in Marina and neither have a wait list.

F. Strategic Goals:

Ms. Goebel reported there are no changes from last month.
The Chair of the Board adjourned the meeting at 5:45 p.m. to the call of the Chair. The Chair of the Board reconvened the meeting at 6:04 p.m.

Legal Counsel Tom Griffin arrived at 6:04 p.m.

Mr. Griffin stated, regarding a proposed Joint Powers Agreement (JPA) between Livermore Housing Authority (LHA) and HACM, there were two issues: whether HACM is legally allowed to enter into this JPA since it is with an agency that is operating outside of Monterey County. The second question is whether, putting aside the legal issues, it is a good idea from the perspective of HACM to do so. He noted he would need to review the documents that created HACM to answer the first question. If HACM has authority to operate outside Monterey County and HACM has the authority to engage in the stated purpose of the proposed JPA then HACM could enter into such a JPA.

The second issue includes looking at the extent of any potential liabilities that participating in this JPA might entail. Mr. Griffin stated language in the documents creating the JPA can provide that any legal liability that arises out of the JPA based on activities of LHA would require that agency to defend and indemnify HACM. This indemnification agreement would be between LHA and HACM and would not be effective to bar a third party, who is not a member of the JPA, from seeking to recover against HACM for claims arising out of tort liability. Mr. Griffin suggested that the commissioners decide whether this activity is in the best interest of the agency. Mr. Griffin stated he would review the opinion of the Attorney General and documentation from the Monterey Board of Supervisors and submit a memo to Ms. Goebel and Ms. Warren addressing the first issue whether HACM had authority to enter into a JPA with LHA. He stated more specificity is needed to understand the scope of work on this project. Ms. Warren stated the scope is really consulting and there would be opportunities for HACM to get compensated as a financial accounting source for this project. She stated the resolution is a template that she provided to LHA. Commissioner Zenk requested the resolution be tightened up with the services to be provided such as consulting and if possible the name of the property. Ms. Goebel stated her concern was that HACM becomes involved with tax credits that end up being rolled into HACM’s financials; Ms. Warren replied that no tax credits are contemplated on these projects at this time. Commissioner Williams reminded that several years ago HDC was directed to find other agencies to work with to bring in money for HACM and that is what they are doing with LHA. Chair Zenk requested $15K from HDC for Mr. Griffin’s review of the documents on this issue; Ms. Warren replied in the affirmative.

Mr. Griffin noted on another issue, the Castroville project, that he is waiting to hear from the tax folks regarding the 501c(3) issue and what will be the effect of HACM holding tax credits temporarily and what is involved in moving the tax credits from HACM to the developer. Ms. Santos pointed out she read that the entity that receives tax credits bears full responsibility for any tax recapture so another agreement would be needed with HDC. Mr. Griffin stated that it is a critical piece to understanding HACM’s potential liabilities. Chair Zenk requested the attorneys review this issue to be clear on who has the responsibility.

OLD BUSINESS

A. Discussion of Changes to Board of Governance as Recommended by the Ad Hoc Governance Committee

The Board tabled this issue until the full Board could be present for discussion. Mr. Griffin noted he would not be available for the next Board meeting and would provide his comments on this issue now.

Mr. Griffin stated it was his understanding that the modification to the policies involves several different issues, some of which come under the Bylaws and some which do not. The ones that come under the Bylaws are those having to do with joint meetings and waiving meetings and are totally acceptable and not a problem; the Bylaws can be modified to achieve that goal.

Mr. Griffin next addressed the second issue as to who the Clerk of the Board reports to and he doesn’t believe that is a matter of the Bylaws; the Bylaws speak to the Executive Director being the person who is responsible to the Board and is the employee of the Board. To the extent when issues arise, those would be dealt with through the oversight of the Executive Director and not the Clerk of the Board. It was thought to be relevant to address this issue now even though it is
not particularly a pressing issue in light of the anticipation of having a new Executive Director and whether that person will have the Clerk of the Board report to them or the Board. The question is whether it is practical to have the Clerk of the Board report to the Board versus reporting to the Executive Director. On one hand the person is under the direction of the Executive Director and on the other hand that person is being managed, supervised, and evaluated by the Board and there is nothing in the Bylaws that requires it to be either way; what makes for best operation of the organization and what is best for the Executive Director who has to manage employees on a day to day basis was his take on this issue. Mr. Griffin responded to query regarding the Clerk of the Board on the organizational chart that there would be a solid line from the Clerk of the Board to the Board and a dotted line from the Clerk of the Board to the Executive Director. He stated the Clerk of the Board reports two ways because the person is working under the direction of the Executive Director but on the other hand the person is ultimately responsible to and for the Board. To query, Mr. Griffin stated it is not a violation of the Bylaws to maintain it the way it is; it is not required by the Bylaws to be there or not be there. To another query, Mr. Griffin replied it is not precluded by the Bylaws and it is not authorized by the Bylaws, it is silent.

The Board directed the Board Clerk to poll the Board Clerk organization on who those Board Clerks report to directly. The Board further directed the Board Clerk to research the Board minutes on when the Board Clerk position was placed under the Board of Commissioners.

NEW BUSINESS

A. Resolution 2908: Authorization to Execute Loan Documents Relative to the Castroville FLC, LP Development

The Clerk of the Board asked about this New Business item and Chair Zenk stated this is for information only and will be a future agenda item when the numbers are known. Mr. Griffin also commented on this issue after the dialogue on the JPA with Livermore.

The Board next convened to Closed Session at 6:59 p.m.

CLOSED SESSION:

The Board of Commissioners met in Closed Session for the following purposes and reasons:

A. Government Code Section 54956.9(d)(1) Existing Litigation
   ACTION: Nothing to report.

B. Government Code Section 54956.9(a) Las Palmas Ranch v. HACM
   ACTION: Nothing to report.

C. Government Code Section 54957(b) Personnel Contract Extension – Executive Director
   ACTION: The Board gave direction to Legal Counsel to draft an amendment to the Executive Director’s contract and bring it back to the August Board meeting.

The Board of Commissioners reconvened to regular session at 7:51 p.m.

COMMISSIONER COMMENTS:

Commissioner Williams thanked Mr. Griffin and Staff.

Commissioner Ballestros thanked Mr. Griffin for his expertise.

Mr. Griffin commented he appreciated those kind thoughts and stated that the Board is being asked to address and decide a very complex financial question that is not easily answered. He respects the fact that the Board is willing to take on the responsibility knowing that they are being asked to decide on things without necessarily having all of the tools and expertise that someone in the financial industry might have when facing similar questions. It is because of the Board’s willingness to participate in these kinds of organizations that allows the good work of the organization to be accomplished and so he commends the Board for taking on that responsibility which is not easy and wasn’t fully appreciated when they first signed on.
ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 7:54 p.m.

Chairman

ATTEST:

Secretary

Date 8-28-2017