

**HOUSING OPPORTUNITIES COMMISSION OF MONTGOMERY COUNTY**

10400 Detrick Avenue  
Kensington, Maryland 20895  
(301) 929-2380

**Minutes**

October 5, 2005  
05 - 14

A regular meeting of the Housing Opportunities Commission of Montgomery County was conducted on Wednesday, October 5, 2005 at 10400 Detrick Avenue, Kensington, Maryland beginning at 7:30 p.m. Those in attendance were:

**Present**

Richard Y. Nelson, Jr., Chair  
Norman Cohen, Vice Chair  
Y. Monroe Galloway, Chair Pro Tem  
Ralph D. Bennett, Jr.  
Roberto Piñero

**Absent**

LaKeyia L. Thompson  
Michael J. Kator

**Also Attending**

D. Scott Minton, Executive Director	Ken Tecler
Annie Alston	Bill Murphy
Earl DeMaris	Scott Ewart
Lillian Durham	Joy Flood
Stuart Raynor	Earl DeMaris
Gail Willison	Cornelia Kent
Kayrine Brown	Tedi Osias
Vivian Benjamin	Doug Ryan
Sharon Marbley	Andrew Oxendine
Lembit Jogi	Jim Miller
Peter Engel	Ted Heflin
Thomas Purdue	David Brody
John McIlroy	Sal Dangamuwa
Dana R. Miller, Special Assistant to the Commission	Tom DeBrine

**Guests**

Steve Singal, Esq.  
Brent Polkes  
Stan Hersovitz, Fairfield Residential  
Sharon Knuth, Fairfield Residential  
Norman Dreyfuss  
Laytha Dangamuwa  
Jordan Beane

Chair Nelson convened the meeting of the Housing Opportunities Commission at 7:45 p.m. Chair Nelson then called for consideration of the Consent Calendar. The Consent calendar was approved upon a motion by Vice Chair Cohen, seconded by Commissioner Bennett. Affirmative votes were cast by Commissioners Nelson, Piñero, Galloway, Bennett and Cohen. Commissioners Kator and Thompson were necessarily absent and did not participate in the vote.

**I. CONSENT CALENDAR**

- A. Approval of Minutes of August 3, 2005** – The minutes were approved as written.
- B. Approval of Minutes of September 7, 2005** – The minutes were approved as written.
- C. Approval of Resolution Recognizing Sal Dangamuwu’s Contribution to the Tsunami Recovery Effort in Sri Lanka**– The following Resolution was adopted:

**RESOLUTION: 05-89**

**RE: Approval of Resolution Recognizing Sal Dangamuwu’s Contribution to the Tsunami Recovery Effort in Sri Lanka**

**Whereas**, the Housing Opportunities Commission of Montgomery County recognizes the significant efforts of Trades Maintenance Worker Sal Dangamuwa on behalf of the victims of the devastating tsunami that struck on December 26, 2004; and

**Whereas**, Mr. Dangamuwa has demonstrated extraordinary compassion and charity to the people of Sri Lanka; and

**Whereas**, Mr. Dangamuwa raised thousands of dollars to help build a study hall for children, assist with more than 1,200 book purchases and school supplies; and

**Whereas**, Mr. Dangamuwa’s efforts have helped place children, orphaned by the tsunami, in a Montessori boarding school; and

**Whereas**, Mr. Dangamuwa’s efforts to benefit the tsunami victims have earned him the respect and admiration of the Housing Opportunities Commission.

**Now, Therefore, Be It Resolved** by the Housing Opportunities Commission of Montgomery County that it recognizes the extraordinary compassion of Sal Dangamuwa and his contribution to the adult citizens and children of Sri Lanka who suffered so much as victims of the devastating tsunami that struck their country on December 26, 2004.

*(The resolution was presented to Mr. Dangamuwa who then made brief remarks)*

**D. Approval to Use the M&T Bank Line of Credit for Closing Costs for the Metropolitan and Montgomery Paint Branch II and III Apartments Bond Issue**

The following Resolution was adopted:

**RESOLUTION: 05-90**

**RE: Approval to Use the M&T Bank Line of Credit for Closing Costs for the Metropolitan and Montgomery Paint Branch II and III Apartments Bond Issue**

**WHEREAS**, the Housing Opportunities Commission of Montgomery County has approved refunding of the outstanding bonds for The Metropolitan and Montgomery Paint Branch II and III Apartments at its meeting on September 7, 2005; and

**WHEREAS**, the transaction costs for the refunding transactions are estimated to be \$1,066,049 and expected to be repaid over a two year period; and

**WHEREAS**, it is necessary to use interim financing to fund the cost of issuance and the optional call premiums.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County, that it hereby approves the use of the M&T Bank line of credit to fund the cost of issuance and prepayment premium for the refunding of bonds for Montgomery Paint Branch II and III and The Metropolitan Apartments and authorizes the Executive Director to finalize the necessary documentation, including execution and delivery of the required contract, subject to appropriate legal review.

**BE IT FURTHER RESOLVED**, that the term of the financing will be approximately two years with an annual interest rate of 60% of Prime or 4.05% (based on a current Prime Rate of 6.75%, as of September 26, 2005 and that such interest cost is to be paid from interest savings in the Indenture. Interest rates are subject to change based on changing market conditions).

**E. Ratification of Action Taken in Executive Session on June 1, 2005: Authorization for the Executive Director to Execute the Purchase and Sale Agreement for Kensington Park Development**

The following Resolution was adopted:

**RESOLUTION: 05-91**

**RE: Ratification of Action Taken in Executive Session on June 1, 2005: Authorization for the Executive Director to Execute the Purchase and Sale Agreement for**

**Kensington Park  
Development**

**WHEREAS**, the Kensington Park development is a 201-bed assisted and independent living facility located in Kensington, Maryland that provides 40 beds to residents with income at or below 50% of the Washington, DC-VA-MD area median income and operates in a highly regulated and competitive industry that continually exposes the Commission to financial risk from operations; and

**WHEREAS**, the Commission and the staff of the Housing Opportunities Commission have been involved in discussions over the past two years regarding an optimal long-term strategy for Kensington Park; and

**WHEREAS**, since December 15, 2004, the Commission has authorized the staff to explore the proposed sale of the property subject to certain sale parameters that protect the current residents and preserve the long-term affordability of the development; and

**WHEREAS**, Fountain Square Properties, LLC was recommended by staff and selected by the Commission as the party with which HOC would negotiate for the sale of Kensington Park, resulting in the approval of the Executive Director to sign a Letter of Intent for the purchase of the property on April 6, 2005; and

**WHEREAS**, the purchase price of \$12.5 million has been accepted by the Commission, resulting in certain losses to the Commission estimated to be \$3.27 million that are projected to be funded from various sources, including the property’s cash and reserves, Montgomery County, and the Commission; and

**WHEREAS**, Fountain Square Properties, LLC and HOC have negotiated a Purchase and Sale Agreement and that, subject to successful due diligence, commits the Commission to the sale of the property which could be completed by October 31, 2005.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County, that it hereby authorizes the Executive Director to execute the negotiated Purchase and Sale Agreement, which commits the Commission to sell the Kensington Park development to Fountain Square Properties, LLC subject to successful due diligence.

**F. Authorization to Implement Voucher Payment Standards Based on HUD 2006 Published Fair Market Rents**– The following Resolution was adopted:

**RESOLUTION: 05-92**

**RE: Authorization to Implement  
Voucher Payment  
Standards Based on HUD  
2006 Published Fair  
Market Rents**

**WHEREAS**, *The Policy Statement Regarding Property Management Principles and the Setting of Market Rents* adopted by the Commission on November 4, 2001 provides excellent guidelines for adjusting turnover market rents; and

**WHEREAS**, staff proposes revising the document by adding a paragraph at the end under the heading *Policy for Setting Market Rents* (and adding the word “market” before the word “rent” in the last paragraph of the *Preamble*) as authorized below.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission that the HOC *Policy Statement Regarding Property Management Principles and the Setting of Market Rents* is hereby revised to authorize the Executive Director or his designee to approve turnover market rent adjustments in accordance with principles contained in the *Policy*.

**G. Authorization to Amend the Contract for Professional Services with Reznick, Fedder and Silverman for Spring Garden and Barclay**– The following Resolution was adopted:

**RESOLUTION: 05-93**

**RE: Authorization to Amend the Contract for Professional Services with Reznick, Fedder and Silverman for Spring Garden and Barclay**

**WHEREAS**, the Housing Opportunities Commission of Montgomery County owns Spring Garden and Barclay Apartments and intends to sell a portion of its equity in these properties to fund necessary renovations; and

**WHEREAS**, the use of low-income housing tax credits requires ownership of the project by a limited partnership, with the tax credit investor acting as the limited partner, and HOC acting as the general partner; and

**WHEREAS**, HOC selected the firm of Reznick, Fedder and Silverman to provide an independent review of HOC’s financial projections for Spring Garden and Barclay. The original estimated cost of \$25,000 to complete the analysis is insufficient to complete the work because of an increase in the scope of work due to the complexity of the ownership interests; and

**WHEREAS**, staff estimates that an additional \$50,000 will be necessary to complete the analysis for Spring Garden and Barclay. The contingency in the development plan budgets for each property has available funds to pay for the increased cost of this service.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County that the Commission authorizes the Executive Director to amend the contract with Reznick, Fedder and Silverman, and the Executive Director is authorized to execute an increase of the contract value not to exceed an additional \$50,000.

**H. Ratification of Action Taken in Executive Session on August 3, 2005: Approval of the Contribution by South Bay Club Apartments – Van Nuys to Archstone – Smith Operating Trust of the Oakwood Gaithersburg Apartments –**

The following Resolution was adopted:

**RESOLUTION: 05-94**

**RE: Ratification of Action Taken in Executive Session on August 3, 2005: Approval of the Contribution by South Bay Club Apartments – Van Nuys to Archstone – Smith Operating Trust of the Oakwood Gaithersburg Apartments**

**WHEREAS**, the Housing Opportunities was notified by South Bay Club Apartments -Van Nuys (the “Borrower”) of its intention to contribute the Oakwood Gaithersburg Apartments (the “Project”), a 784 unit multifamily residential development to Archstone-Smith Operating Trust (“Archstone-Smith”), a Maryland real estate investment trust through a subsidiary, ASN Gaithersburg, L.L.C., pursuant to the terms of a certain Master Agreement (the “Master Agreement”); and

**WHEREAS**, the Commission issued its Forty-Eight Million Two Hundred Twenty Thousand Dollar (\$48,220,000.00) Multifamily Housing Revenue Bonds, 1991 Issue A(Oakwood Gaithersburg) (the “Bonds”), to finance the refunding of certain outstanding prior bonds for the Borrower; and

**WHEREAS**, as part of the financing for the refunding for the Borrower, the Commission and the Borrower entered into an Amended and Restated Regulatory Agreement (the “Regulatory Agreement”); and

**WHEREAS**, the Regulatory Agreement provided the Commission with the right of first refusal with respect to the sale or transfer of the Project; and

**WHEREAS**, the Commission has approved the contribution of the Project to Archstone-Smith and the assumption by Archstone-Smith of the obligations of the Borrower subject to the exercise of the Commission’s right to purchase the Project under the terms of the Regulatory Agreement by Resolution adopted on July 6, 2005; and

**WHEREAS**, the Commission submitted an offer to purchase the Project to Borrower pursuant to its rights in the Regulatory Agreement and subsequently filed suit to enforce its rights to acquire the Project; and

**WHEREAS**, after the adoption of Resolution adopted on July 6, 2005, and submission of the offer, the Commission, Archstone-Smith, and the Borrower entered into negotiations and discussions regarding the Commission’s exercise of its right to purchase under the Regulatory Agreement; and

**WHEREAS**, the Borrower has proposed that the Commission withdraw its offer to purchase the Project based upon the agreement with respect to continuation of certain occupancy standards and income restrictions for a portion of the units under the terms of the Regulatory Agreement.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County, subject to the execution of an agreement among the Commission, the Borrower, and Archstone Smith regarding continuation of compliance with occupancy requirements and income restrictions for a portion of the units in the Project, the Commission shall withdraw the exercise of its right of purchase of the Project under the Regulatory Agreement; and

**BE IT FURTHER RESOLVED**, that the Executive Director is authorized to enter into an agreement on the terms and conditions identified to the Commission providing for continued occupancy of at least 157 units in the Project by income qualified persons or families under the terms of the Regulatory Agreement.

## **II. INFORMATION EXCHANGE**

### **A. Executive Director's Report** – Mr. Minton added the following to his written report:

- 1) He informed the Commission that the City of Gaithersburg asked HOC to administer its closing cost assistance for the families being displaced from the West Deer Park Apartments. A proposal will be submitted to the Commission at the November meeting.
- 2) Mr. Minton stated that Magruders Discovery opened the two bedroom waiting list online on October 3<sup>rd</sup>. The computer kiosk has been placed at the property for applicants to use. Forty-seven (47) applications had been submitted within the first two days of opening.
- 3) He stated that the Governor's Housing Conference would be on October 18<sup>th</sup>.
- 4) Bill Murphy, Director of Real Estate Development, and Ted Heflin, Construction Manager, provided an update on property renovations. Mr. Heflin stated that Chevy Chase Lake is on schedule and under budget. He stated that 17 units would be delivered in the month of October. Mr. Heflin stated that Spring Garden is also on schedule and under budget. He noted that 21 units would be delivered in October and 21 more would be delivered in November. Finally, Mr. Heflin stated that The Barclay is under budget, but approximately 60 days behind schedule due to delays with WSSC.

There was a brief discussion pertaining to the projected loss of rental revenue due to the delays at The Barclay. Gail Willison, Assistant Chief Financial Officer, explained that the tax credit budgets would be reviewed at an upcoming Commission meeting.

## **B. COMMISSIONER EXCHANGE**

Commissioner Piñero thanked staff for assistance at the St. Raphael Housing Fair and the County Housing Fair. The events occurred over the prior two weekends. He noted that both events provided good opportunities to inform the community about rental and home ownership programs.

## **C. COMMUNITY FORUM**

Steve Singal, Esq. expressed his concerns as a landlord and an attorney who represents other landlords in the Housing Choice Voucher Program. The issues he raised involved HOC's level of assistance to resolve issues pertaining to lease enforcement and occupancy and Housing Assistance Payments (HAP). He noted that a landlord that he represents alleges that tenants in a home in Montgomery Village are violating the terms of their lease by allowing 15 people to reside in the house which is leased to a maximum of four people. Joy Flood, Director of Rental Assistance, provided the Commission with background on the efforts staff has taken to assist the landlord in determining whether there are lease or program violations.

Mr. Brent Polkes of 4808 Montgomery Lane in Bethesda stated that his townhome development is adjacent to 4917 Hampden Lane. He expressed his concerns about the Polinger Company's intention to construct a seven-story development at that site. He asked for information pertaining to an agreement between HOC and the developer to swap parcels of land at the Hampden Lane site.

Mr. Tecler, Legal Counsel, stated that the agreement involves a private party. As such, he would have to determine whether the document could be made public. Chair Nelson explained that 4917 Hampden Lane was not under HOC's control, although HOC had a contract to obtain the property. He explained that HOC's initial plans to develop 12 units of transitional housing at the site will still be accomplished, however, on a different lot. A lengthy discussion ensued. It was noted that the development plans for the other four lots will have to be reviewed by the Planning Board. Mr. Polkes stated that members of the community feel that they have been deceived by HOC and other parties because discussions of the parcel swap were not brought to the community and the proposed construction at 4917 Hampden Lane will be dramatically different from HOC's initial plan for the site.

## **III. COMMITTEE REPORTS**

### **A. Budget, Finance and Audit Committee –**

#### **1. Approval of Loans and Advances to Non-HOC-Owned Entities as of June 30, 2005 –**

Earl DeMaris, Chief Financial Officer, and Cornelia Kent, Controller, made a brief presentation.



The resolution was adopted upon a motion by Commissioner Bennett and seconded by Commissioner Piñero. Affirmative votes were cast by Commissioners Nelson, Cohen, Galloway Piñero and Bennett. Commissioners Kator and Thompson were necessarily absent and did not participate in the vote.

**RESOLUTION: 05 - 95**

**RE: Approval of Loans and Advances to Non-HOC-Owned Entities as of June 30, 2005**

**WHEREAS**, in accordance with the Commission approved budget policies as amended on December 7, 1998, the Commission must approve any transfers of HOC funds to any properties HOC does not own; and

**WHEREAS**, at the October 2, 2004 meeting, the Commission approved \$17,149,962 in loans and advances to tax credit partnerships and \$464,480 to 236 properties as of June 30, 2004; and

**WHEREAS**, total advances to the tax credit partnerships increased by \$7,477,392, from \$17,149,962 on June 30, 2004 to \$24,627,354 as of June 30, 2005; and

**WHEREAS**, total advances to the 236 properties increased by \$82,516, from \$464,480 on June 30, 2004 to \$546,996 as of June 30, 2005.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County that \$24,627,354 in loans and advances to the tax credit partnerships and \$546,996 in advances to the 236 properties shall be approved as of June 30, 2005.

**2. Approval of Capital Budget Amendment for The Willows of Gaithersburg Associates, L.P. –**

Earl DeMaris, Chief Financial Officer, and Gail Willison, Assistant Chief Financial Officer, made a brief presentation.

The resolution was adopted upon a motion by Commissioner Bennett and seconded by Vice Chair Cohen. Affirmative votes were cast by Commissioners Nelson, Piñero, Galloway, Cohen and Bennett. Commissioners Kator and Thompson were necessarily absent and did not participate in the vote.

**RESOLUTION: 05 - 96**

**RE: Approval of Capital Budget Amendment for The Willows of Gaithersburg Associates, L.P.**

**WHEREAS**, The Willows of Gaithersburg Associates, L.P. requires repairs in excess of what have been budgeted for the calendar year 2005; and

**WHEREAS**, staff proposes adding funding for the inclusion of a capital needs assessment study; and

**WHEREAS**, the total proposed budget amendment is \$63,402; and

**WHEREAS**, there are sufficient property reserves to support this budget amendment.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County that it hereby approves the Capital Budget Amendment for The Willows of Gaithersburg Associates, L.P.

**3. Approval of Use of Excess Reserves from MHLP I – VI and Pooks Hill High Rise–**

Earl DeMaris, Chief Financial Officer, and Gail Willison, Assistant Chief Financial Officer, made a brief presentation.

The resolution was adopted upon a motion by Commissioner Bennett and seconded by Commissioner Piñero. Affirmative votes were cast by Commissioners Nelson, Cohen, Galloway, Piñero and Bennett. Commissioners Kator and Thompson were necessarily absent and did not participate in the vote.

**RESOLUTION: 05 - 97**

**RE: Approval of Use of Excess Reserves from MHLP I – VI and Pooks Hill High Rise**

**WHEREAS**, there is \$414,917 in excess operating reserves from MHLP I – VI; and

**WHEREAS**, there is \$125,000 in excess operating reserves from Pooks Hill High Rise; and

**WHEREAS**, these funds are available for use as directed by the Commission.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County that it hereby approves the entire \$539,917 be transferred and restricted to the General Fund Property Reserve Account.

**4. Acceptance of Fourth Quarter FY'05 Budget to Actual Statements –**

Earl DeMaris, Chief Financial Officer, and Gail Willison, Assistant Chief Financial Officer, made a brief presentation.

The resolution was adopted upon a motion by Vice Chair Cohen and seconded by Commissioner Bennett. Affirmative votes were cast by Commissioners Nelson, Piñero, Galloway, Bennett and Cohen. Commissioners Kator and Thompson were necessarily absent and did not participate in the vote.

**RESOLUTION: 05 - 98**

**RE: Acceptance of Fourth Quarter FY'05 Budget to Actual Statements**

**WHEREAS**, the budget policy for the Housing Opportunities Commission of Montgomery County states that quarterly Budget to Actual Statements will be reviewed by the Commission; and

**WHEREAS**, the Commission reviewed the Fourth Quarter FY'05 Budget to Actual Statements during its October 5<sup>th</sup> meeting.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County that it hereby accepts the Fourth Quarter FY'05 Budget to Actual Statements.

**5. Approval of Warehousing Authority, Volume Cap and Issuance of New Single Family Mortgage Revenue Bonds –**

Earl DeMaris, Chief Financial Officer, and Tom DeBrine, Manager of Single Family Programs, made a brief presentation. There was a brief discussion regarding bond cap allocations for 2006.

The resolution was adopted upon a motion by Vice Chair Cohen and seconded by Commissioner Bennett. Affirmative votes were cast by Commissioners Nelson, Piñero, Galloway, Bennett and Cohen. Commissioners Kator and Thompson were necessarily absent and did not participate in the vote.

**RESOLUTION: 05 - 99**

**RE: Approval of Warehousing Authority, Volume Cap and Issuance of New Single Family Mortgage Revenue Bonds**

**WHEREAS**, the 2005AB Mortgage Purchase Program first mortgage funds have become fully committed; and

**WHEREAS**, the Commission desires to maintain a continuous supply of mortgage funds available to eligible first time home buyers in Montgomery County; and

**WHEREAS**, additional volume cap is necessary to issue new single family mortgage revenue bonds.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County that:

1. The Executive Director is authorized to request between \$7 and \$10 million of additional volume cap from the State Department of Business and Economic Development for use in a new single family mortgage revenue bond issue, providing the allocation is not attributable to the Commission's 2006 volume cap allocation. If such allocation is not available, the Commission approves the allocation of \$7 million to a new single family bond issue from the County's normal annual allocation in 2006.

2. The Executive Director is authorized to begin preparation for a new single family mortgage revenue bond issue.

3. The Mortgage Purchase Program is authorized to warehouse up to \$7.5 million in first mortgage loan commitments through January 31, 2006.

**6. Approval of Revision to Policy Statement Regarding Property Management Principles and the Setting of Market Rents –**

Stuart Raynor, Director of Housing Management, and Jim Miller, Portfolio Manager, made a brief presentation. There was a brief discussion regarding notification to the Commission of adjustments to rents. Mr. Minton and Mr. Miller explained that often adjustments are made on a per unit basis to adjust for market fluctuations and concessions at certain properties. Chair Nelson suggested periodic reports on trends and concessions in rents.

The resolution was adopted upon a motion by Vice Chair Cohen and seconded by Commissioner Piñero. Affirmative votes were cast by Commissioners Nelson, Bennett, Galloway, Piñero and Cohen. Commissioners Kator and Thompson were necessarily absent and did not participate in the vote.

**RESOLUTION: 05 - 100**

**RE: Approval of Revision to Policy Statement Regarding Property Management Principles and the Setting of Market Rents**

**WHEREAS**, The *Policy Statement Regarding Property Management Principles and the Setting of Market Rents* adopted by the Commission on November 4, 2001 provides excellent guidelines for adjusting turnover market rents; and

**WHEREAS**, staff proposes revising the document by adding a paragraph at the end under the heading *Policy for Setting Market Rents* (and adding the word “market” before the word “rent” in the last paragraph of the *Preamble*) as authorized below.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission that the HOC *Policy Statement Regarding Property Management Principles and the Setting of Market Rents* is hereby revised to authorize the Executive Director or his designee to approve turnover market rent adjustments in accordance with principles contained in the *Policy*.

***B. Development and Finance Committee*** –

**1. Approval of Revised Development Budget and Authorization to Execute General Contractor’s Contract for Paddington Square Apartments** –

Bill Murphy, Director of Real Estate Development, and Lembit Jogi, Senior Planner, made a brief presentation. There was a brief discussion regarding the process for coating the pipes. It was noted that no walls will have to be torn down to accommodate the process of coating the interior of the pipes at the property.

The resolution was adopted upon a motion by Commissioner Bennett and seconded by Commissioner Piñero. Affirmative votes were cast by Commissioners Nelson, Cohen, Galloway, Piñero and Bennett. Commissioners Kator and Thompson were necessarily absent and did not participate in the vote.

**RESOLUTION: 05 - 101**

**RE: Approval of Revised Development Budget and Authorization to Execute General Contractor’s Contract for Paddington Square Apartments**

**WHEREAS**, at the Housing Opportunities Commission of Montgomery County’s September 1, 2004 meeting, the Commission approved the development plan for the renovation of Paddington Square Apartments; and

**WHEREAS**, at the Housing Opportunities Commission of Montgomery County’s March 9, 2005 meeting, the Commission approved The Michael Group as the general contractor for the renovation of Paddington Square Apartments; and

**WHEREAS**, Phase I of a two-phase renovation to be completed by The Michael Group is ready to begin at a contracted price of \$1,016,645; and

**WHEREAS**, the overall revised development budget remains within the funding limits of the currently approved budget.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County that:

1. The revised development budget for the Paddington Square Apartments is approved; and
2. The Executive Director is hereby authorized to execute a contract in the amount not to exceed \$1,016,645 with the Michael Group for Phase I of the Paddington Square Apartments renovation.

**2. Approval of Amendment to Construction Contract for Seneca Ridge** –

Stuart Raynor, Director of Housing Management, and John McIlroy, Modernization Manager, made a brief presentation. There was a brief discussion regarding the architectural error which has resulted in increased costs. Mr. McIlroy explained that porch slabs must be extended to support the porch columns. The extension of the slabs was omitted from the original designs.

The resolution was adopted upon a motion by Vice Chair Cohen and seconded by Commissioner Bennett. Affirmative votes were cast by Commissioners Nelson, Piñero, Galloway, Bennett and Cohen. Commissioners Kator and Thompson were necessarily absent and did not participate in the vote.

**RESOLUTION: 05 - 102**

**RE: Approval of Amendment to Construction Contract for Seneca Ridge**

**WHEREAS**, on October 1, 2003 the Commission approved a construction contract with EMSI Engineering in the amount of \$4,182,886 for the renovation of Seneca Ridge and also authorized the Executive Director or his designee to approve contract modifications for betterments totaling \$420,000 and for contingencies totaling \$210,000; and

**WHEREAS**, staff now projects that the total cost of the renovation will exceed the maximum approved by the Commission, \$4,812,886, by a maximum of \$538,731; and

**WHEREAS**, staff now projects that the renovation will be completed by the end of October 2006.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission that the Executive Director or his designee is hereby authorized to execute an amendment to the contract dated October 1, 2003 with EMSI Engineering increasing the maximum amount of the contract to \$5,351,617 and extending the term of contract to October 12, 2006.

**C. Legislative and Regulatory Affairs Committee –**

**1. Approval to Revise Housing Choice Voucher Homeownership Program to Include Program Participants Affected by Condo Conversion Activity –**

Joy Flood, Director of Rental Assistance, Doug Ryan, Housing Policy Coordinator, and Tom DeBrine, Manager of Single Family Programs, made a brief presentation. In response to a question from Commissioner Piñero, Ms. Flood stated that participants will receive counseling to assist them in retaining their home after the purchase. There was a brief discussion. Chair Nelson suggested that, if the program grows, staff should determine a cost per family to cover the staffing and administrative costs.

The resolution was adopted upon a motion by Commissioner Piñero and seconded by Commissioner Cohen. Affirmative votes were cast by Commissioners Nelson, Galloway, Bennett, Cohen and Piñero. Commissioners Kator and Thompson were necessarily absent and did not participate in the vote.

**RESOLUTION: 05 - 103**

**RE: Approval to Revise Housing Choice Voucher Homeownership Program to Include Program Participants Affected by Condo Conversion Activity**

**WHEREAS**, federal regulations permit the use of a Housing Choice Voucher for the purchase of a home; and

**WHEREAS**, the Commission desires to offer additional opportunities to first time home buyers of low and moderate income in Montgomery County; and

**WHEREAS**, the Commission adopted a Housing Choice Voucher Homeownership option on December 5, 2001.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County, that the Commission modifies the Administrative Plan for the Housing Choice Voucher Program as detailed in a memorandum and an attachment presented to the Commission on October 5, 2005:

1. Voucher households exercising their right of first refusal to purchase their rental unit will be permitted to participate in the Homeownership option.
2. Such households will be exempt from the requirement to participate in the Family Self Sufficiency program.
3. If the inclusion of such households makes it necessary, the number of households in the Homeownership program may exceed the program limit of 25.

- 4. Staff will investigate other agency options under tenants' rights of first refusal.

**IV. DELIBERATION**

**A. Approval of Ground Lease for the Kensington Park Development –**

Earl DeMaris, Chief Financial Officer, and Kayrine Brown, Assistant Director of Mortgage Finance, made a brief presentation.

The resolution was adopted upon a motion by Vice Chair Cohen and seconded by Commissioner Bennett. Affirmative votes were cast by Commissioners Nelson, Galloway, Piñero, Bennett and Cohen. Commissioners Kator and Thompson were necessarily absent and did not participate in the vote.

**RESOLUTION: 05-104**

**RE: Approval of Ground Lease for the Kensington Park Development**

**WHEREAS**, the Kensington Park development is a 201-bed assisted and independent living facility located in Kensington, Maryland that provides 40 beds to residents with income at or below 50% of the Washington, DC-VA-MD area median income and operates in a highly regulated and competitive industry that continually exposes the Commission to financial risk from operations; and

**WHEREAS**, the Commission and the staff of the Housing Opportunities Commission have been involved in discussions over the past two years regarding an optimal long-term strategy for Kensington Park; and

**WHEREAS**, since December 15, 2004, the Commission has authorized the staff to explore the proposed sale of the property subject to certain sale parameters that protect the current residents and preserve the long-term affordability of the development; and

**WHEREAS**, Fountain Square Properties, LLC was recommended by staff and selected by the Commission as the party with which HOC would negotiate for the sale of Kensington Park, resulting in the approval of the Executive Director to sign a Letter of Intent for the purchase of the property on April 6, 2005; and

**WHEREAS**, the purchase price of \$12.5 million has been accepted by the Commission, resulting in losses to the Commission of approximately \$3.3 million that are expected to be funded from various sources, including the property's cash and reserves, Montgomery County, and the Commission; and

**WHEREAS**, Fountain Square Properties, LLC and HOC have negotiated a Purchase and Sale Agreement which the Commission approved the Executive Director to



sign by Resolution No. 05-91 dated June 1, 2005 and that, subject to successful due diligence, committed the Commission to enter into a long term ground lease (the "Ground Lease") which would transfer a leasehold interest in the property on or about November 15, 2005; and

**WHEREAS**, the Ground Lease is for a term of 50 years with options to extend for an additional 45 years and provides for the maintenance of at least 40 beds for persons with incomes at or below 50% of the area median income.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County, that it approves the following:

1. The Ground Lease that transfers a leasehold interest in the Kensington Park development to Fountain Square Properties, LLC;
2. The Executive Director execute all documents that are necessary for the closing of this transaction; and
3. The use of approximately \$1.7 million to be drawn from the multifamily bond indentures to aid in paying off the existing bonds.

**B. Adoption of Amendments to the Public Housing Admission and Continued Occupancy Policy and the Voucher Administration Plan (Related to Hurricane Katrina) -**

Joy Flood, Director of Rental Assistance, and Doug Ryan, Housing Policy Coordinator, made a brief presentation. There was a brief discussion. In response to a question, Ms. Flood explained currently HOC is serving new applicants from the waiting list as well as hurricane victims.

In response to a question from Chair Nelson, Lillian Durham, Director of Resident Services, explained that HOC has been providing hurricane victims with furniture and furnishings. All families have been invited to participate in the upcoming housing fair and staff has provided free enrollment in the Parent Resource Centers.

The resolution was adopted upon a motion by Commissioner Bennett and seconded by Vice Chair Cohen. Affirmative votes were cast by Commissioners Nelson, Galloway, Piñero, Cohen and Bennett. Commissioners Kator and Thompson were necessarily absent and did not participate in the vote.

**RESOLUTION: 05-105**

**RE: Adoption of Amendments to the Public Housing Admission and Continued Occupancy Policy and the Voucher Administration Plan (Related to Hurricane Katrina)**

**WHEREAS**, federal regulations and guidance permit the use of Public Housing units and Housing Choice Vouchers to house families affected by Hurricane Katrina; and

**WHEREAS**, the Commission desires to offer housing assistance to those families affected by Hurricane Katrina who decide to relocate short-term or permanently to Montgomery County.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County, that the Commission modifies the Public Housing Admissions and Continued Occupancy Policy and the Housing Choice Voucher Administrative Plan as detailed in a memorandum and attachments presented to the Commission on October 5, 2005:

1. HOC will offer a preference for admissions to its Public Housing and Housing Choice Voucher programs to families who are victims of Hurricane Katrina who meet certain federal requirements.
2. These households will be added to the programs' waiting lists. The waiting lists will remain closed for the general public until reopened by Commission resolution.
3. The preference will expire on September 30, 2006.

**C. Approval of Amendment to Oakfield Regulatory Agreement -**

Earl DeMaris, Chief Financial Officer, and Vivian Benjamin, Senior Underwriter, and Kayrine Brown, Assistant Director of Mortgage Finance, made a brief presentation.

There was a brief discussion. In response to a question, from Vice Chair Cohen, Ms. Brown explained that, if the developer does not receive the entire \$5 million HIF loan, the balance (\$2.5 million) will be obtained through increased revenue from a larger number of units at 60% of Area Median Income (AMI). Mr. DeMaris explained that the Commission was under no legal obligation to approve the amendment.

Chair Nelson stated that 97.5% of the units will remain under 60% of median, with the amendment. He noted that it still has a tremendous amount of public purpose. Commissioner Bennett stated that he liked the public purpose as it was originally planned. He stated that it is not HOC's role to indemnify another party to the transaction.

Stan Herskovitz, Senior Vice President of Fairfield Residential stated that his company is committed to providing 37 units at 40% of AMI. He stated that the amendment is needed to solve two issues: 1) if the County does not provide the \$2.5 million, NOI cannot be achieved for the rehabilitation and 2) to match the regulatory agreement to the one with the County so that the tax credit partners will be satisfied and the reconstruction can go forward. He further explained that this discrepancy was only identified one day prior to closing.

Mr. Herskovitz stated that if the \$2.5 million is obtained from the County or another source, Fairfield is committed to providing the 37 units at 40% of AMI.

The resolution was adopted upon a motion by Chair Pro Tem Galloway and seconded by Commissioner Bennett. Affirmative votes were cast by Commissioners Nelson, Cohen, Piñero, Bennett and Galloway. Commissioners Kator and Thompson were necessarily absent and did not participate in the vote.

**RESOLUTION: 05-106**

**RE: Approval of Amendment to  
Oakfield Regulatory  
Agreement**

**WHEREAS**, by Resolution No. 05-80, the Housing Opportunities Commission agreed to issue its Thirty-Eight Million Dollar (\$38,000,000.00) aggregate principal amount of Variable Rate Housing Revenue Bonds 2005, Issue One (Oakfield Apartments) (the "Bonds"), to finance the acquisition, rehabilitation, and equipping of a three hundred seventy-one (371) unit multifamily residential rental development to be known as the Oakfield Apartments by Fairfield Oakfield, L.P. ("Borrower"); and

**WHEREAS**, in connection with the Bonds, the Commission has prepared numerous financing agreements and bond documents including a Regulatory Agreement (the "Regulatory Agreement"), providing that at least ten percent (10%) of the units will be occupied by families or individuals whose incomes are equal to or less than sixty percent (60%) of the Washington Metropolitan Statistical Median Income (WMSA); and

**WHEREAS**, in addition to the funding from the Commission, the Borrower has obtained a loan from Montgomery County in the amount of Five Million Dollars (\$5,000,000.00)(the "County Loan"); and

**WHEREAS**, in connection with the County Loan, the Borrower has agreed to make thirty-seven (37) units available for occupancy by families or individuals whose income does not exceed forty percent (40%) of the WMSA Median; and

**WHEREAS**, the Commission approved the financing of the Oakfield Apartments based upon the County Loan and its requisite public purpose and the Commission's Regulatory Agreement requires that thirty-seven (37) units be occupied by families whose income does not exceed forty percent (40%) of the WMSA Median; and

**WHEREAS**, the Commission is now advised that in the event the County Loan is not fully funded by September 30, 2008, the Borrower will be financially unable to provide the thirty-seven (37) units for families or individuals whose income does not exceed forty percent (40%) of the WMSA Median; and

**WHEREAS**, the Commission has been requested to modify its Regulatory Agreement to provide that, in the event that the County Loan is not fully funded, that only eight (8) units will be held available for occupancy by families or individuals whose income does not exceed forty percent (40%) of the WMSA Median.

**NOW, THEREFORE, BE IT RESOLVED** that the Commission authorizes the Executive Director and counsel to amend the Regulatory Agreement and any related loan documents as necessary to provide that in the event that satisfactory evidence is provided

that the County Loan has not been fully funded by September 30, 2008, the number of units held available for individuals or families with incomes at or below forty percent (40%) of the WMSA Median shall be reduced to eight (8), and the remaining twenty-nine (29) originally intended for occupancy by persons at or below such income level shall be occupied by individuals or families with incomes at or below sixty percent (60%) of WMSA Median.

**V. NEW BUSINESS**

**VI. FUTURE ACTION ITEMS**

Mr. Minton informed the Commission about the items which will come before the Commission at the November and December meetings. Those items are as follows:

- Approval of Contract for Marketing and Management Services at Stewartown Homes
- Reports on Resident Satisfaction Survey and Management Company Performance Evaluations
- Approval of Calendar Year (CY) '06 Tax Credit Partnership Budgets
- Approval to Use the M&T Bank Line of Credit to Retire Montgomery Homes Limited Partnership (MHLP) IV First Mortgage
- Approval of Authorizing Resolution for 2006AB Single Family Bond Issue

**VII. EXECUTIVE SESSION FINDINGS**

The Chair reported that the items before the Commission for consideration in Executive Session involved discussion with Legal Counsel regarding land acquisition matters and a legal matter. According to Section 10-508 (a)(3) of the State Government Articles of the Annotated Code of the State of Maryland, such items can be discussed in closed session. The Executive Session was held at 7:00 p.m.

Based upon this report and there being no further business to come before this session of the Commission, a motion was made, seconded and unanimously adopted to adjourn.

The meeting adjourned at 9:44 p.m.

Respectfully submitted,

D. Scott Minton  
Secretary-Treasurer

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