

HOUSING OPPORTUNITIES COMMISSION OF MONTGOMERY COUNTY

10400 Detrick Avenue
Kensington, Maryland 20895
(240) 627-9425

Minutes

January 8, 2014
14-01

The monthly meeting of the Housing Opportunities Commission of Montgomery County was conducted on Wednesday, January 8, 2014 at 10400 Detrick Avenue, Kensington, Maryland beginning at 4:19 p.m. Those in attendance were:

Present

Roberto Piñero, Chair
Sally Roman, Vice Chair
Michael Kator, Chair Pro Tem
Jean Banks
Rick Edson
Pamela Lindstrom

Also Attending

Stacy Spann, Executive Director
Fred Swan
Kayrine Brown
Helen Kanovsky
Sheryl Hammond
Jennifer Arrington
Saundra Boujai
Terri Fowler
Belle Seyoum
Darcel Cox
Ethan Cohen
Patrick Mattingly
Scott Ewart
Sherron Turner
Ken Goldstraw
Dean Tyree
Susan Smith
Zachary Marks
Gina Smith

Ken Tecler, Staff Counsel
Wilson Choi
Kathleen Dillon, Resident
Tara Whicker
Richard Hanks
Gail Gunod-Green
Rita Harris
Kelly McLaughlin
Rebecca Grayson
Madera Clark
Maria Montero
Lola Knight
Clarence Landers
Sandra DeMoraes
Jay Shepherd
Lynn Hayes
Vivian Benjamin
Eugene Spencer
Emily Dorfman

Commission Support

IT Support

Dominique Laws
Nick Monaco
Karlos Taylor

The Consent Calendar was adopted upon a motion by Vice Chair Roman and seconded by Commissioner Banks. Affirmative votes were cast by Commissioners Piñero, Roman, Kator, Banks, and Edson. Commissioner Lindstrom was temporarily away and did not participate in the vote.

I. CONSENT ITEMS

A. Approval of Minutes

- **Approval of Minutes of Regular Meeting of January 8, 2014** – The minutes were approved as submitted noting correction to the spelling of “Bullis” School in the December 4, 2013 meeting notes.

B. Ratification of Action taken in Executive Session on December 4, 2013: Authorization of the Execution of a Purchase and Sale Contract for the Acquisition of Capital One Site

– The following resolution was approved.

RESOLUTION: 14-01

RE: Ratification of Action Taken in Executive Session on December 4, 2013: Authorization of the Execution of a Purchase and Sale Contract for the Acquisition of Capital One Site

WHEREAS, the Housing Opportunities Commission of Montgomery County (“HOC”), a public body corporate and politic duly organized under Division II of the Housing and Community Development Article of the Annotated Code of Maryland, as amended, known as the Housing Authorities Law, and authorized thereby to effectuate the purpose of providing affordable housing, including providing for the acquisition, construction, rehabilitation and/or permanent financing or refinancing (or a plan of financing) of rental housing properties which provide a public purpose; and

WHEREAS, HOC, from time to time, acquires land in pursuit of new housing development; and

WHEREAS, Capital One, N.A. (“Seller”) has offered for fee-simple sale the 43,671-square foot site it owns at 10140 New Hampshire Avenue, Silver Spring, Maryland (“Capital One Site”); and

WHEREAS, HOC recognizes the benefits of acquiring the Capital One Site and the parties have entered into negotiations of a purchase and sale contract for the acquisition of the Capital

One Site (“Contract”); and

WHEREAS, the proposed Contract provides for a purchase price of \$1.7MM to be paid at closing; and

WHEREAS, the proposed Contract provides for an initial deposit of \$85,000 (“Initial Deposit”) at the execution; and

WHEREAS, the Initial Deposit is fully refundable for the duration of the due diligence period outlined in the proposed Contract; and

WHEREAS, the Initial Deposit will be funded out of the Opportunity Housing Reserve Fund from monies yielded by the sale of certain scattered site units and reserved for investment in multifamily development opportunities.

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

1. Upon negotiation of final terms and conditions satisfactory to the Executive Director and Counsel, the Executive Director is authorized to execute the Contract for the purchase of the Capital One Site, and
2. Authorizes the Initial Deposit of \$85,000 funded out of the Opportunity Housing Reserve Fund to be deposited into an escrow account to be defined within the Contract as executed by the Executive Director.

C. Approval of GFP Residential Holdings, LLC Crane Swing Easement Agreement at Park Potomac – The following resolution was approved.

RESOLUTION: 14-02

RE: Approval of GFP Residential Holdings, LLC Crane Swing Easement Agreement at Park Potomac

WHEREAS, the Housing Opportunities Commission of Montgomery County owns an MPDU unit in Park Potomac; and

WHEREAS, GFP Residential Holdings, LLC, (“GFP”), an affiliate of Foulger Pratt and an adjacent property owner is constructing two high rise apartment buildings in the vicinity of the Commission’s unit; and

WHEREAS, GFP is proposing the use of a crane to swing materials and equipment between delivery equipment and the construction sites; and

WHEREAS, the crane swing is proposed to go over the airspace of the unit owned by the Commission; and

WHEREAS, a crane swing easement has been negotiated between the parties providing for the use of the air space above the unit for approximately 10 months with proper insurance and indemnifications to the Commission; and

NOW, THEREFORE, BE IT RESOLVED by the Housing Opportunities Commission of Montgomery County that the Executive Director is authorized to execute a Crane Swing Easement granting GFP the use of a portion of the airspace above the unit owned by the Commission in Park Potomac on terms and conditions deemed satisfactory to the Executive Director and counsel.

II. INFORMATION EXCHANGE

- A. Report of the Executive Director** – Mr. Spann reported that the properties were doing well in spite of the cold weather conditions. One property was placed on “Fire Watch”. He explained to the Board that “Fire Watch” is when a building’s fire alarm system is not functioning properly staff has to be on alert until the equipment is repaired.

Regina Mitchell, Director of Property Management reported that there was a water main break that briefly affected The Ambassador.

- B. Calendar and Follow-up Action** – Two items will be added to the Calendar: MAHC Housing Day in Annapolis on February 13, 2014 and NAHRO Legislative Conference on March 10-13.
- C. Commissioner Exchange** – No reports
- D. Resident Advisory Board** – Commissioner Banks, RAB – Ex-Officio, reported that the RAB was doing fine and that there is a monthly meeting scheduled for January 27, 2014.
- E. Community Forum** – Kathleen Dillon, Housing Choice Voucher Resident, expressed her concerned with recertification to include her medical expenses as part of the calculation in determining her rent.

Sandra DeMoraes, resident of Alexander House, addressed the Board regarding her concerns of the activities going on at the property.

- F. Status Report** – None

III. COMMITTEE REPORTS and RECOMMENDATIONS FOR ACTION

A. Budget, Finance and Audit Committee – Commissioner Kator, Chair

1. Acceptance of First Quarter FY'14 Budget to Actual Statement

Terri Fowler, Budget Officer gave a brief presentation.

The following resolution was adopted upon a motion by Chair Pro Tem Kator and seconded by Vice Chair Roman. Affirmative votes were cast by Commissioners Piñero, Roman, Kator, Banks, Lindstrom and Edson.

RESOLUTION NO: 14-03

**RE: Acceptance of First Quarter
FY'14 Budget to Actual
Statement**

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 First Quarter FY'14 Budget to Actual Statements during its January 8, 2014 meeting.

NOW, THEREFORE, BE IT RESOLVED by the Housing Opportunities Commission of Montgomery County that it hereby accepts the First Quarter FY'14 Budget to Actual Statement.

B. Development and Finance Committee – Commissioner Lindstrom, Chair

1. Approval of a Refinancing Plan for Paddington Square Apartments

Kayrine Brown, Director of Mortgage Finance/Real Estate and Jennifer Arrington, Sr. Multi-Family Underwriter, gave a brief presentation.

The following resolution was adopted upon a motion by Commissioner Lindstrom and seconded by Vice Chair Roman. Affirmative votes were cast by Commissioners Piñero, Roman, Kator, Banks, Lindstrom and Edson.

RESOLUTION NO: 14-04

**RE: Approval of a Refinancing
Plan for Paddington Square
Apartments**

WHEREAS, Paddington Square Apartments (the "Property") is a 165-unit apartment community located at 8800 Lanier Drive in Silver Spring, Maryland which was acquired by the Paddington Square Development Corporation, an entity wholly controlled by the Commission, in 2004; and

WHEREAS, the Commission is the asset manager for Paddington Square Development Corporation and in that capacity has been considering various options for permanent financing for the Property; and

WHEREAS, the Property underwent a comprehensive renovation between 2005 and 2011; and

WHEREAS, on December 7, 2011, the Commission approved retirement of the Property's first mortgage in the amount of \$7,495,489, using the Commission line of credit with PNC Bank, N.A.; and

WHEREAS, on November 7, 2012, the Commission approved redemption of the outstanding \$5,698,800 tax exempt bonds, which facilitated the acquisition of the Property, and refinancing of the same amount on an interim basis utilizing the Commission line of credit with PNC Bank, N.A.; and

WHEREAS, the Property has been unable to achieve sustained occupancy of 93% or better for a consecutive 12-month period; and

WHEREAS, as of November 30, 2013, the Property has outstanding debt from various soft and hard sources totaling \$27,783,649, excluding it from financing under the FHA Risk Sharing Program; and

WHEREAS, a variety of options for permanent financing for the Property has been explored including a bond financing option with mortgage insurance under the FHA Risk Sharing Program, several interest only bond structures proposed by PNC Bank, N.A., and a proposal from Love Funding Corporation for an FHA Section 223(f) taxable Government National Mortgage Association (GNMA or "Ginnie Mae") product; and

WHEREAS, after review of the options for refinancing the Property, it appears that a FHA Section 223(f) GNMA execution offers the best approach available to the Commission as shown in the refinancing plan dated January 8, 2014 (the "Refinancing Plan") presented to the Commission.

NOW, THEREFORE, BE IT RESOLVED by the Housing Opportunities Commission of Montgomery County that the Refinancing Plan for Paddington Square Apartments is hereby approved and the Executive Director is authorized to:

1. Engage Love Funding Corporation to seek and obtain a firm commitment from the U.S. Department of Housing and Urban Development (“HUD”) to insure, by way of the Section 223(f) program, a permanent mortgage loan by the issuance of Ginnie Mae Mortgage Backed Securities; and,
2. Utilize the Property’s savings in debt service in FY14 budget for preliminary transaction costs of up to \$75,000.

BE IT FURTHER RESOLVED that, upon receipt of a HUD Firm Commitment, to include final loan amount and interest rate, a final Sources and Uses is to be considered by the Commission prior to finalizing the financing transaction for Paddington Square Development Corporation.

2. Consent to Transfer General Partnership Interest in the Oakfield Apartments Transaction

Kayrine Brown, Director of Mortgage Finance/Real Estate and Vivian Benjamin, Assistant Director of Mortgage Finance, gave a brief presentation.

The following resolution was adopted upon a motion by Vice Chair Roman and seconded by Commissioner Banks. Affirmative votes were cast by Commissioners Piñero, Roman, Kator, Banks, Lindstrom and Edson.

RESOLUTION: 14-05

RE: Consent to Transfer General Partnership Interest in the Oakfield Apartments Transaction

WHEREAS, the Housing Opportunities Commission of Montgomery County (the “Commission”) is a public body corporate and politic duly organized under Division II of the Housing and Community Development Article of the Annotated Code of Maryland, as amended, known as the Housing Authorities Law, and the Agreement by and between the Housing Opportunities Commission of Montgomery County and Montgomery County, Maryland (the “County”), effective July 1, 2013, as amended (together, the “Act”); and

WHEREAS, on September 25, 2005, HOC issued \$38,000,000 of tax-exempt Variable Rate Housing Revenue Bonds 2005 I (the “Bonds”) to finance the acquisition and substantial

rehabilitation of Oakfield Apartments, a 371-unit affordable multifamily development located in Wheaton, Maryland; and

WHEREAS, in 2009, after filing bankruptcy protection, Fairfield Residential LLC, the principal owner of the general partner of Fairfield Oakfield LP, was converted to a liquidating trust to repay creditors and all of its assets, including Oakfield Apartments, were transferred to the trust; and

WHEREAS, in October 2010, after completing the bankruptcy process, Fairfield Investment Company LLC was created and is proposed to become, among other things, the principal owner of a new general partner of Fairfield Oakfield LP (the "Borrower") and to make investments in real estate and assume ownership and financial obligations of assets not liquidated, including Oakfield Apartments; and

WHEREAS, on November 20, 2013, the Commission received a request on behalf of the Borrower to consent to the transfer of the general partnership interest in the Borrower from FF Oakfield LLC to FFI Oakfield LLC; and

WHEREAS, the proposed transfer of general partner interests to the new company requires consent of the Commission as issuer of the Bonds as well as the servicer and Bond trustee; and

WHEREAS, on December 19, 2013, the Development and Finance Committee approved the transfer of the general partnership interest of the Borrower to a new limited liability company, FFI Oakfield, LLC.

NOW, THEREFORE, BE IT RESOLVED by the Housing Opportunities Commission of Montgomery County that it consents to the transfer of the general partnership interest of Fairfield Oakfield LP, the owner of the Oakfield Apartments from FF Oakfield LLC to FFI Oakfield LLC.

BE IT FURTHER RESOLVED, that the Executive Director is authorized to prepare and execute a consent to the transfer of the general partnership interest in Fairfield Oakfield LP and all other documents and certificates necessary to complete the transfer.

3. Approval to Execute an Alternative Location Agreement for MPDUs

Kayrine Brown, Director of Mortgage Finance/Real Estate and Vivian Benjamin, Assistant Director of Mortgage Finance, gave a brief presentation.

Upon approval the Board requested the Resolution be amended to reflect that the parties reach an agreement where HOC would break even financially.

The following resolution was adopted upon a motion by Vice Chair Roman and seconded by Commissioner Edson. Affirmative votes were cast by Commissioners Piñero, Roman, Kator, Banks, Lindstrom and Edson.

RESOLUTION: 14-06 (Amended)

**Authorization to Enter into an
Alternate Location MPDU
Agreement**

WHEREAS, TOLL MD IV LIMITED PARTNERSHIP, a limited partnership, (the “Applicant”) owns land located at 4915, 4917 and 4919 Hampden Lane, Bethesda, Maryland 20814 on which it plans to construct a seven story high rise residential condominium building containing 60 units (the Project); and

WHEREAS, the County MPDU law (Chapter 25A of the Montgomery County Code) (the “MPDU law”) requires that a percentage of the total number of dwelling units in the Project be moderately priced dwelling units (MPDUs); and

WHEREAS, the required percentage of MPDUs for the Project is fifteen percent (15%) which is equal to nine (9) units; and

WHEREAS, the MPDU law provides that the Director (the “Director”) of the County’s Department of Housing and Community Affairs (“DHCA”) to approve an agreement to permit a developer of a high-rise residential building, instead of building some or all of the required number of MPDUs on-site, to provide at least the same number of MPDUs at another location in the same planning policy area; and

WHEREAS, pursuant to the MPDU law, the Director has determined that the public benefit of locating the MPDUs at an alternative location in the same planning area outweighs the benefit of locating the MPDUs on the Property; and

WHEREAS, the Director has also determined that providing the MPDUs at an alternative location furthers the objective of providing a broad range of housing opportunities throughout the County because the alternative location is in the same planning area in Bethesda; the MPDUs at the alternative location will remain at levels affordable to eligible persons as provided in the MPDU law; and the number of MPDUs at the alternative location (12 MPDUs) will be greater than the number of MPDUs required for the Project (9 MPDUs); and

WHEREAS, in return for permitting the waiver of the operation of the MPDUs at the Project and in an alternate location, the Applicant has agreed to provide a minimum contribution of \$1,500,000 to assist in the operation of the MPDUs; and

WHEREAS, the Applicant and the Director have asked the Commission to enter into an agreement to provide the required number of MPDU units in a Commission or Commission affiliate owned property in the Bethesda planning area; and

WHEREAS, the Commission and Commission related entities own several properties with market rate units in the Bethesda planning area that meet all standards for use as MPDUs; and

WHEREAS, Commission would consider entering into an arrangement for an alternate location of MPDUs provided it is based on an economic model that has a neutral financial impact on the Commission.

WHEREAS, the Commission considers the proposal made by the County and the Applicant to be a demonstration to permit study of the means by which an arrangement for alternate location of MPDUs may be implemented; and

NOW, THEREFORE, BE IT RESOLVED by the Housing Opportunities Commission of Montgomery County that the Executive Director is authorized to enter into an Alternate Location Agreement (the "Agreement") with the Applicant and DHCA providing as follows:

1. Encumbering 12 market rate units with MPDU Covenants for a period of thirty years to be located at properties the Commission or a Commission related entity owns in the Bethesda planning area, to be determined in the discretion of the Executive Director, and approved, as may be appropriate, by the Commission related entity in which some or all of the MPDUs will be located
2. Securing a minimum contribution of One Million Five Hundred Thousand and 00/100 Dollars (\$1,500,000.00) from the Applicant.
3. Renting the MPDUs to eligible persons under the MPDU law at rents affordable to eligible persons for the full thirty (30) year term of the MPDU Covenants based on an economic model that has a neutral financial impact on the Commission
4. Such other further provisions and terms as deemed appropriate by the Executive Director.

IV. FUTURE ACTION ITEMS
None

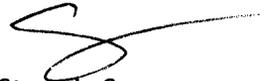
V. INFORMATION EXCHANGE (CONT'D)
None

VI. NEW BUSINESS
None

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 5:41 p.m.

Respectfully submitted,



Stacy L. Spann
Secretary-Treasurer

/pmb