



Minutes of the Board of Commissioners Meeting February 21, 2012

MEETING CONVENED

A regular meeting of the Board of Commissioners for MaineHousing convened on February 21, 2012 at the offices of MaineHousing, 353 Water Street, Augusta, Maine.

Chair Peter Anastos called the meeting to order at 9:08 a.m. with Commissioners Dale McCormick, Donald Gean, Lincoln Merrill, John Turner, Bruce Poliquin, Mark Samson, and Sheryl Gregory in attendance. Commissioners Nikki McLean and Donald Capoldo were absent. There was a quorum present.

PUBLIC ATTENDANCE

Other guests and staff present at the meeting include: Margaret Bean, Deputy Director; Tom Cary, Treasurer; Darren Brown, Controller; Dan Brennan, Director of Development; Peter Merrill, Director of Communications and Planning; Craig Reynolds, Director of Homeownership; John Bobrowiecki, Counsel; Jodie Stevens, Counsel, Linda Grotton, Internal Audit Manager; Laurie Murray, Deputy Controller; Bob Conroy, Director of Asset Management; Jody Rollins, Office Administrator and note taker; Barbara Berry, Maine Association of Realtors; Terrilyn Simpson, Maine Wire; Don Carrigan, WCSH-TV; Pem Schaeffer; Susan Cover, KJ; Gordon Colby; Mike Doyle, Falmouth News; Curtis Dean, Freelance Journalist; John Blanda, WCSH-TV; Lance Dutson, MHPC; Gerald Weinand, Dirigo Blue; Steve Roldan, WGME-TV; and Jim Borne, WGME-TV.

AGENDA

Commissioner Gean suggested an adjustment be made in the agenda. He recommended taking up the department reports and multi-family bond sales before comments from the Chair to ensure we get through the reports.

Michael Doyle interrupted the meeting to register a complaint. He claimed he was assaulted in the elevator by a staff person who shoved his elbow while he was holding his camera

After discussion about the agenda, Chair Anastos said there seemed to be a consensus to move the suggested items up on the agenda.

By recommendation of Commissioner Gregory, Chair Anastos asked the Board to vote on moving the items up on the agenda. Commissioners Gean, Gregory, Turner, Samson & Merrill voted in favor of the motion. Commissioner Poliquin voted in opposition to the motion. The motion carried 5 – 0.

Commissioner Merrill stated the agenda says the meeting is in 2011 and requested it be changed.

COMMUNICATIONS AND CONFLICTS

Secretary Gean reported he received a couple of communications from Director McCormick sent by Chris Korzen of Maine's Majority informing the Board of two outstanding requests to Peter Anastos and Bruce Poliquin. Both requests were filed on January 12, 2012 and remain unfulfilled. He wrote he has had difficulty obtaining information from either party and would appreciate any assistance in helping to hasten the process.

Chair Anastos provided the Board with an update on the activity he and his attorney have taken on the Freedom of Information Request. He stated they responded immediately, and on the 19th requested clarification on the request. Peter has met with the Attorney General's office. He stated it was harder to do this than he originally thought. He is sorting through the emails himself and will send them all together for review by his attorney. Commissioner Merrill asked about attorney support by MaineHousing. MaineHousing offered legal support; however, Peter stated he wanted his own interests represented. When he puts forth the information, he will send it to the full press.

Chair Anastos talked about letters MaineHousing received from HUD and his disappointment that the Board was not immediately notified of their receipt. Commissioner McCormick reviewed the sequence of receiving and sending the letters.

Chair Anastos requested that it be a policy that the Board immediately receive all compliance or non-compliance letters from HUD or serious letters that have to be acted upon within 5 days. Commissioner McCormick concurred.

Chair Anastos asked about a September 28th non-compliance letter and whether the Commissioners received a copy of the letter. John Bobrowiecki explained the accessibility compliance letter and thought it was described to the Board during calendar year 2011.

Commissioner Merrill reported that the Audit Committee met and one item discussed was the need to get timely communications. The Audit Committee will make a recommendation that they be promptly notified on important communications so Audit Chair Merrill can make a decision whether all Commissioners need to be informed.

John Bobrowiecki offered to provide information on agreements MaineHousing is operating under and keep a tickler system to inform Commissioners when reports are due to show them that we are complying, and updates on what is coming for reports.

MULTI-FAMILY BOND SALES

Tom Cary said he was responding to the Board's request to learn more about the current bond issuance process.

Tom explained that the Preliminary Official Statement (POS), which is about 180 pages, serves both a disclosure and a marketing function. The distribution of the POS to the brokers in the 16 firms that serve as underwriters or selling group members is the beginning of the premarketing process. He reviewed a handout which was intended to overview the marketing process in connection with the sale of the 2011 Series E Bonds. The handout included the pricing views from the different underwriters, the preliminary and final pricing wires, and the bond orders attributed to the underwriters and selling group firms.

Tom then explained how the issuance of tax exempt housing bonds could require as many as three authorizations. An allocation of private activity bond cap is needed for any issue or portion of an issue which is not being used to refund prior bonds. A TEFRA must be signed by the Governor. A multi-family TEFRA is only good for 1 year, whereas a single family TEFRA has a life of three years. In addition to the bond cap and the TEFRA, the Board must authorize the issuance of any bond, including refunding bonds, by adopting a Series Resolution. This authority is only good for up to one year. Tom explained that the last Series Resolution was adopted in April 2011. He said that he would bring a Series Resolution to the March meeting for discussion and possible adoption.

Commissioner Sampson requested that Tom bring information on how much surplus we have, how much we're required to have, and what Tom will propose to use. Commissioner Poliquin requested that Tom

send an email to Commissioners prior to the next meeting with information on the cost of issuance so he can specifically see where the costs lie in respect to selling bonds. Tom thought he could send costs associated with Series B, C and E bonds.

Commissioner Poliquin asked when the last bid for bond counsel? A formal bid in 2001 and an informal review was performed in 2005/2006 by comparing costs with other housing authorities. Commissioner Poliquin asked how MaineHousing selected Underwriters. Tom responded that they are selected by an RFP and the last one was done in 2010. Commissioner Samson said the Board was invited to participate in the RFP process and were well educated on what was being discussed. Commissioner Poliquin asked how and who makes the decision on bond counsel serving Underwriters? Tom responded that the Underwriters make those decisions. Commissioner Poliquin then inquired if MaineHousing hires an independent third party financial advisor to counsel the board to make sure we have another set of eyes to see if we are getting the best deal. Tom reported that MaineHousing has Cfx, plus he talks with other managers as well. Commissioner Poliquin asked his fellow board members to keep in mind adding an additional layer of help.

Commissioner Poliquin made a motion seconded by Commissioner Turner to instruct the staff of the Executive Director or the Treasurer to start the process to go out to bid for Bond Counsel as soon as they can. All Commissioners voted in favor of the motion. The motion carried 6 – 0.

Commissioner Poliquin requested the Board have the opportunity to see the RFP and volunteered his Deputy Treasurer Barbara Raths and also suggested Tom talk with Bob Lenna. Tom will bring a draft RFP back to the Board.

Commissioner McCormick asked how the Board wanted to go forward with authorization of bonding so we can have certainty and take advantage of the historically low borrowing rates. Tom will return to the Board with a proposal at the March meeting.

Commissioner Samson applauded the \$178,000 average cost per 254 units with the bond refunding. He suggested a future discussion could be helpful in understanding the types of deals and money that goes into them.

COMMENTS BY BOARD CHAIR

Chair Anastos distributed and read his handout to the Commissioners and the public. Some of the concerns he voiced were about the lack of Board authority and the time it takes to receive information requested. Other individual problems he talked about included the Carbon Quantification Program, computer and consulting expenses and whether RFP's were written on them. He questioned the money spent on education in 2010 when there was a large unfilled need in providing affordable housing. Other expenses in question were about advertising, rent, meetings, and gift cards. He stated the Board must insure that MaineHousing resources are efficiently employed meeting our mission, and only our mission.

Chair Anastos asked why MaineHousing would spend money on expensive computer programs, meetings and carbon when there were so many people in need. Commissioner McCormick explained that there are two budgets; a program budget and an operating budget. Chair Anastos asked if there was consideration to spend the "extra" money on programs instead of education. Commissioner McCormick explained the two types of education, internal and external. The internal education has decreased in her tenure, and the external education (training of partners) has increased. The money the Federal government allocated for training under the ARRA programs doubled. There were questions and more discussions on training and budgets. Darren Brown further explained the training needs and expenses.

Commissioner Poliquin asked for a breakdown of all training expenses.

Commissioner Gregory recalled discussions at the Board level and the various trainings they were made aware of. She also commented on the trainings performed around the state for CAP agencies, Realtors, 1st time homebuyers on mortgages. She stated she was pleased with it and recalled conversations about training with the Board. Commissioner Poliquin asked when Darren would have the information requested. Chair Anastos stated they would create a list of specific list of questions and go through the Audit Committee for answers.

The conversation continued about how MaineHousing should spend their money and what they should do with operating surplus.

Commissioner McCormick talked about MaineHousing's Carbon Quantification Project. She explained the costs of the Carbon project and what the Methodology and third party verification mean. She maintained the program is a good investment, and it was done to supplement Federal dollars for Weatherization which are never enough. She stated we are saving tax payer dollars with the program.

The Commissioners had questions about homeowners signing off their carbon credits after weatherization has been performed in their homes. Commissioner Poliquin asked John Bobrowiecki to provide a legal determination whether MaineHousing is able to require homeowners to sign over the carbon credits and if it is within the regulations. Multi-family owners are required to sign over the credits as part of the real estate closing package.

Commissioner McCormick will provide a presentation on the Carbon Quantification Project at the March 20th meeting.

Commissioner Samson asked if we could use the third party carbon verification as a way to supplement the information we have on the weatherization program and its effectiveness. Commissioner McCormick stated that once ECOS is complete she hopes to provide the information to Chair Anastos. There were a number of requests for information that will be documented by the Audit Committee. One request from Commissioner Poliquin was for the Chevrolet contract. John Bobrowiecki will need to contact Chevrolet in order to release the contract to the Board. Commissioner Poliquin then requested that Mr. Bobrowiecki send an email to the Commissioners informing them of what he can and can't send.

The Commissioners requested to see copies of RFP's for carbon consultants. Commissioner Samson reported knowing about several initiatives regarding the computer system. He stated the Board was made aware of the process and educated as they went along on what they were spending money on. The Board did talk about the big cost for developing the carbon program, and when staff do the presentation, Commissioner Samson requested that a cost benefit analysis on operations be included.

Commissioner Gean stated he was very uncomfortable with the Commissioners directing MaineHousing staff to do anything and thought it was totally inappropriate to direct staff to do work.

Chair Anastos stated the Board will make a list and give to Commissioner Merrill listing information they want.

Commissioner McCormick distributed handouts that contained the project cost summaries for the MERAC and ECOS computer programs. She described the project phases and the costs associated with each phase. She talked about off-the-shelf software that would have cost more money and was inflexible. Since the Federal requirements change frequently, MaineHousing needed software that could adjust to their needs. MaineHousing hired Kinney Consulting as a third party project manager to oversee phases of both ECOS and MERAC to ensure we are getting what we're paying for. This was done instead of

building up our IS department and adding to the head count. By requirement of HUD, MaineHousing also developed the Homeless Management Information System (HMIS), as well as a Development and Asset Management shared system of data tracking. MaineHousing also did a major overhaul of the Section 8 Management software system along with overall maintenance of other proprietary software we use.

Commissioner Gregory departed at Noon.

Chair Anastos requested information on the relationship of the Executive Director and other staff with John Joseph and Kinney Consulting.

MINUTES

Commissioner Poliquin made a motion seconded by Commissioner Anastos to accept the November 15 minutes with Commissioner Poliquin's suggested changes (handout).

Commissioner Gean asked that we review the suggested amendments to the Cost Containment/QAP/Elm Terrace section of the minutes one at a time.

The first proposed revision from Commissioner Poliquin referred to Paragraph 2 and suggested inserting the actual number of people who addressed the Board instead of using "several." Commissioner Gean thought the change was unnecessary.

Commissioner Poliquin suggested adding the following to Paragraph 2 of the minutes: "The overwhelming consensus was in support of reducing the high cost of building affordable apartments financed by MSHA." Commissioner Gean didn't know if it was an overwhelming consensus; it was Bruce's opinion that it was the overwhelming consensus.

Commissioner Gean objected to the further proposed addition to Paragraph 2: "Those commenting said that using taxpayer dollars to build expensive apartments was unfair to the thousands of homeless and vulnerable families on waiting lists to receive safe apartments." Commissioner Gean stated he heard Commissioner Poliquin state this, not members of the audience.

Commissioner Poliquin's handout requested that the second sentence of Paragraph 4 which reads: "... and we are at consensus on a new way to control costs" stated by Commissioner McCormick be removed. Commissioner Poliquin stated that Commissioner McCormick did not make that statement at the meeting. Commissioner Gean does not want to go along with changing the minutes; it is 3 months after the fact, and it is mostly opinion and the minutes should stand as approved.

Chair Anastos disagreed that it was mostly opinion and agreed with including the number of people who spoke.

Vote on Poliquin motion above: Commissioners Anastos, Poliquin and Merrill approved the motion, Commissioners Gean and Samson opposed, and Commissioner Turner abstained. The motion passed 3-2 with 1 abstention.

Commissioner McCormick requested an amendment to reflect what she said at the meeting relevant to the cost of Elm Terrace. Since 2005 the cost of new construction has been lower than when she took over, the cost of acquisition rehab apartments is the same, and only adaptive reuse has increased because of the historic tax credits. I would like to minutes to reflect that as well. She stated she would like that statement added to the minutes right after Commissioner Poliquin's fifth paragraph. Commissioner Poliquin asked if that was stated at the meeting. Chair Anastos said he agreed that Dale made that statement at the meeting.

Commissioner Samson asked for clarification on the previous action regarding the additions to Paragraph 2. He asked if the quotes added by Commissioner Poliquin would be labeled as personal quotes. Commissioner Poliquin said he did not understand it that way. After discussion, the Board decided that the additions would not be attributed as personal opinion.

John Bobrowiecki reminded the Board that according to statute the Chair is a non-voting member except in the case of a tie. In the previous vote, it appears that if the Chair had not voted, he would have been required to break the tie. In the future, the Chair should not vote unless necessary to break a tie.

Chair Anastos stated a second was needed to Commissioner McCormick's motion. Commissioner Samson seconded the motion. Commissioners Samson, Merrill, and Gean voted in favor of the motion. Commissioners Turner and Poliquin abstained from the vote. The motion passed with 3 votes in favor and 2 abstentions.

Commissioner McCormick objected to the wording of Commissioner Poliquin's suggested amendment to Paragraph 5 of the minutes (Paragraph 6 in Poliquin's email) stating the board was not invited to a secret emergency meeting among stakeholders. It was not a secret emergency meeting; it was a negotiation with four people to get the cost of Elm Terrace down. Chair Anastos suggested changing "never informed" to "unaware."

A motion to change "never informed" to "unaware" and remove the word "secret" was made by Commissioner Samson and seconded by Commissioner Gean. Commissioners Gean, Poliquin, Samson, and Merrill voted in favor of the motion. Commissioner Turner abstained. The motion carried 4-0 with 1 abstention.

QUALIFIED ALLICATION PLAN DISCUSSION (QAP)

Dan Brennan responded to an email received by Peter Anastos the day before the meeting regarding his concern that Mr. Bateman's QAP scoring proposal was not represented correctly. There were three points brought forward. One was an oversight by Dan. There was a 6 point category that Mr. Bateman proposed be a 4 point category. This affected two projects and they were adjusted to 4 points. The second had to do with taxable valuation data that we were unable to score because the current applications don't contain this data. The third was a concern about the amount of subsidy requested. Mr. Bateman made a proposal for fewer subsidies getting more points. Peter indicated he would follow up with Dan after the meeting on that point. A question was asked if acquisition rehab projects get the full 7 points for new project rental based assistance. Dan clarified that projects get the points only if they are bringing in new project based rental assistance. Existing project based or tenant based rental assistance does not qualify for the points.

Update on the 2013 QAP

Dan Brennan provided an update on the status of the 2013 Qualified Allocation Plan. He hoped to receive input and guidance from the Board while drafting the plan for review by the Board and the Governor's office. He first reviewed the timeline and activities associated with the dates. Dan distributed handouts and discussed proposed cost containment scoring categories. The cost proposals were provided by David Bateman and Greg Payne, two members of the Cost Containment group and one from New Hampshire Housing Finance Authority. MaineHousing will be choosing some version of the scoring proposals. Dan talked about how things are set-up and the three types of projects that have distinct characteristics and require looking at costs separately. The three types of projects are an acquisition rehab, new construction and adaptive re-use. Whatever proposed cost method is adopted, Dan's recommendation would be to work off a baseline using a percentage formula, not a hard dollar figure, and have uniformity across the board.

Dan also reviewed a handout on point category breakdown impact analysis. The QAP requires we have something in it to address housing for families. Dan explained points given for elderly housing vs. family housing and the need for both in communities. If you went by cost alone, there would be more elderly

apartments built, since they are less expensive to newly construct. MaineHousing is proposing that projects may be required to meet with MaineHousing development staff prior to issuance of notices to proceed to review specific project costs. Other QAP items discussed included leveraged funds, tie-breaking mechanism, and smoke-free housing.

Commissioner Poliquin asked if we will be having discussion about unconventional ways to build housing to really reduce the cost of units. Dan mentioned a new concept using containers that is very unconventional. He questioned whether investors would invest in an unconventional product. Mark stated that investors would look at re-sale value which could be problematic with unconventional housing.

Commissioner Turner departed at 1:13PM.

Commissioner Samson asked about scattered site developments? Dan reported that one application this year was a scattered site by the Maliseets in Houlton.

There was considerable discussion and questions. The Commissioners asked about what requirements in units would raise the cost of development, and suggested that be the next process we look at. Dan responded that MaineHousing has a voluntary compliance agreement, HUD mandates fair housing, and we have quality standards we go by. We open this up every year for discussion. Chair Anastos stated MaineHousing was on the right track. He leans stronger to the Bateman proposal.

Chair Anastos shared concerns recently expressed to him from a contractor about project costs being artificially inflated in order to raise more tax credits. Dan responded by stating that is frustrating to him and his staff. Dan explained the quality control process the Development Department has on project costs during the design and construction phase. Director McCormick asked and Dan clarified that higher project costs would result in higher tax credits being awarded. Dan summarized by saying that if such a practice is going on it would have to involve multiple sub-contractors and not just a single sub-contractor.

Board members shared their opinions about the proposals and types of housing they preferred.

Commissioner Poliquin asked where the demand for product is. Dan Brennan said that there is a needs analysis presentation and a study on development location ready to be reviewed at a Board meeting. Chair Anastos requested the needs analysis presentation be sent by e-mail. Commissioner Poliquin requested information on how building costs factor into the scoring.

AUDIT COMMITTEE UPDATE

Commissioner Merrill reported that there had been a meeting of the Audit Committee on February 13 with Don Capoldo, John Turner, Lincoln Merrill, and Linda Grotton in attendance. Most of the meeting was spent getting up to speed on the internal audit function and what had gone on historically. They talked about how to approach issues and things they may want to learn about. The Audit Committee is designed to meet quarterly, however they thought there was a need to meet more frequently. Commissioner Merrill reported on the two assignments given to Linda Grotton - (1) to make sure internal communications work effectively and to bring situations to Commissioner Merrill right way to keep them informed and (2) to ensure MaineHousing's internal processes worked properly in the Norway housing situation. They would like to know if MaineHousing has the internal processes in place so that when a problem is identified it is very quickly moved up to a position of authority that can do something about it.

Commissioner Merrill reported on a new problem with Avesta Housing. There was an error in sending out 1099's to Section 8 landlords. MaineHousing worked quickly with Avesta to address the problem. It was handled appropriately. Commissioner Merrill wanted to make sure the Board was aware of it.

Another topic discussed was that approximately 20 MaineHousing employees that have a conflict of interest. A concern was voiced about an employee having a business on the side with a potential overlap with relationships to partners. Commissioner Merrill said there is a need to learn more about the conflict of interest process, to know more about the conflicts MH employees have, and talk about the policies and procedures. Commissioner Samson expressed the complexity of conflict of interest decisions and does not want to bring HR issues to the Board. There was a recommendation that the Board go into Executive Session, however there were not enough Commissioners present to make a motion and carry a vote with a quorum. MaineHousing staff explained that the conflict of interest process was followed and opinions had been given by both MH legal counsel and HUD that there was no conflict present. Commissioner Samson requested that the conversation about the employee be stopped immediately and stated that conversation about an employee should be held in an Executive Session. Commissioner Merrill may recommend that Board Members be informed of conflict of interest.

Although a vote could not be taken, Chair Anastos noted that items Commissioners would like more information about should be emailed to Commissioner Merrill with a copy to Board members.

DONATIONS

Chair Anastos questioned MaineHousing's sponsorships to Maine Inside/Out. Margaret Bean talked about the various productions and their purpose. MaineHousing has a responsibility under HUD's Fair Housing laws to provide outreach to minorities. The productions served as outreach to persons who are homeless, immigrants and refugee communities.

The Board would like to see the Fair Housing Rules requiring outreach.

MaineHousing will follow the direction of the Board in making future donations and sponsorships.

Chair Anastos adjourned the meeting at 2:00 P.M.