



Minutes of the Board of Commissioners Meeting September 18, 2012

MEETING CONVENED

A regular meeting of the Board of Commissioners for MaineHousing convened on September 18, 2012 at the offices of MaineHousing, 353 Water Street, Augusta, Maine.

Chair Peter Anastos called the meeting to order at 9:04 a.m. with Commissioners Donald Gean, Lincoln Merrill, Mark Samson, Sheryl Gregory, John Turner, Nikki McLean, Bruce Poliquin and Acting Director Peter Merrill in attendance. Commissioner Donald Capoldo was absent. There was a quorum present.

PUBLIC ATTENDANCE

Other guests and staff present included: Margaret Bean, Deputy Director; Tom Cary, Treasurer; Linda Uhl, Chief Counsel; Dan Brennan, Director of Development; Craig Reynolds, Director of Homeownership; Kirsten Figueroa, Director of Energy and Housing Services; Denise Lord, Director of Housing Choice Vouchers; Bob Conroy, Director of Asset Management; Darren Brown, Director of Finance; Linda Grotton, Internal Audit Manager; Laurie Murray, Assistant Director of Finance; Jane Whitley, HR Manager; Bob King, temporary Manager of Communications and Planning; Deb Turcotte, Public Information Manager; Jody Rollins, Office Administrator and note taker; John Gallagher, Governor's Director nominee; Adam Bradstreet, Governor's Commissioner nominee; Barbara Berry, Maine Association of Realtors.

ADOPT AGENDA

Commissioner Gregory made a motion to accept the agenda. Acting Director Peter Merrill suggested amending the agenda to include an Executive Session to discuss the Inspector General report following the Update on Underwriters Counsel Selection. Commissioner Gregory made a motion seconded by Commissioner L. Merrill to accept the agenda with the proposed change. The motion carried 7 – 0.

COMMUNICATIONS AND CONFLICTS

Chair Peter Anastos reported receiving a call from Beth Ashcroft, Government Oversight Committee, informing him that OPEGA was going to make a recommendation at the September 20 Committee meeting to end investigation at MaineHousing. Her decision was based on the fact that MaineHousing is conducting an audit on computer consultant work and we were no longer doing the carbon program. The Board decided that it was important to have closure and be able to report results in an official way. It was decided that MH would add the carbon quantification program to the RFP and once complete submit the report to OPEGA and have them sign off on it. *Commissioner Samson made a motion seconded by Commissioner Turner to include the review of the carbon program in the RFP to audit the computer work. The motion carried 7-0.* Commissioner Anastos will contact Ms. Ashcroft to determine if there is anything specific they would like included in the RFP. A revised RFP will be prepared and voted on at the October meeting.

APPROVE MINUTES OF AUGUST 21, 2012

Commissioner McLean made a motion seconded by Commissioner Gregory to accept the minutes as written. Commissioners Poliquin, Gregory, Samson, L. Merrill, and McLean voted in favor of approving the minutes as written. Commissioners Turner and Gean abstained. The vote carried 5 – 2.

UPDATE FROM CHAIRMAN OF THE BOARD

Chair Anastos suggested moving the November board meeting from the week of Thanksgiving to November 27. The Chair requested staff to propose alternative dates for the February and April meetings.

FINANCIAL REPORT

Darren Brown and Tom Cary reported on the financial results for the seven-month period ended July 31, 2012 and highlighted some of the factors impacting operating results this year.

Mr. Brown started by reviewing the financial structure of the agency and some of the activities accounted for in the different Fund Groups. He noted that although the balances and activities of the agency's nine Fund Groups are combined for reporting purposes, the assets and revenues are restricted and can only be used as is allowed for within the individual Fund Groups.

He reported that, aside from certain timing differences relating to the recognition of grant expenses in several of the Fund Groups, the financial results thus far this year are fairly consistent with last year. Economic conditions, including the troubled real estate, financial, and job markets continue to have a negative impact on MaineHousing's overall financial situation.

The extremely low interest rate environment has reduced revenues from non-mortgage investments and lowered profitability. Lower interest rates have also caused MaineHousing's single-family loan portfolio to decrease by approximately \$48 million or 5% since the beginning of the year. Earnings from mortgage assets have decreased as a result.

He noted that although the current single-family delinquency rate is higher than it was at the beginning of the year, the increase is due to the reduction in the portfolio size and the number of delinquent and foreclosed loans has actually declined slightly. Foreclosure and real estate owned expenses and loan charge-offs remain at higher levels and are consistent with last year.

Although pressure has been put on profitability due to low investment rates and increased loan losses, the Mortgage Purchase Program (MPP) has remained in the black. MPP assets exceed liabilities by over \$250 million. Mr. Cary felt that this buffer would be helpful in retaining the MPP's AA1/AA+ bond rating.

The most significant aspect of the current environment is that market mortgage rates are so low that the MPP is experiencing its worst year in terms of mortgage purchases in recent memory. In the first seven months of 2012 mortgage purchases were only \$21 million. In the 10 years prior to 2012, annual mortgage purchases ranged from \$100 million to \$160 million. The \$21 million in mortgage purchases were more than offset by \$71 million in mortgage principal repayments and prepayments. This produced a net reduction of \$50 million to the MPP's mortgage portfolio.

DRAFT OPEGA POLICIES

Chief Counsel Linda Uhl reviewed the three policies required under the new law on quasi-independent state entities. The policies deal with procurement; travel, meals and entertainment; and contributions. The proposed policies comply with the new law. The law's definitions of contributions include memberships, donations, gifts, and fees. MaineHousing is required to provide the Board with a budget for these items which will be included in 2013 budget proposal. *Commissioner Gregory made a motion seconded by Commissioner Turner to adopt the proposed OPEGA policies. The motion carried 7-0.*

AUDIT COMMITTEE REPORT

Commissioner L. Merrill and Internal Audit Manager Linda Grotton reviewed the Information Services Request for Proposal (RFP). The Audit Committee met and reviewed the framework of the RFP, a document soliciting a review of the MERAC and ECOS programs.

Details of the RFP were discussed. A provision was added to the RFP for the auditor to make recommendations to MaineHousing on how we should manage these programs and others going forward. Commissioners discussed qualifications needed to audit both the financials and the computer system work. The Commissioners decided that it would be important to specify in the RFP that one entity have oversight and be allowed to subcontract. A final draft will be prepared and provided to the Commissioners for review after input is provided by Beth Ashcroft at OPEGA. *Commissioner Gregory made a motion seconded by Commissioner McLean to delegate authority to the Audit Committee providing they take input from OPEGA and that a subcontract provision is inserted. Following additional conversation, Commissioner Gregory amended the motion seconded by Commissioner McLean that all Commissioners will read the RFP and discuss it at the September meeting. The motion carried 7 – 0.*

MEDICAL MARIJUANA

Acting Director Peter Merrill began the discussion to establish a policy on the provision of rental assistance for medical marijuana users in the Housing Choice Voucher Program. The Board considered two approaches: (1) create a policy terminating Housing Choice Voucher assistance for participants who are medical marijuana users or who use, possess, or cultivate medical marijuana in their HCV apartment, or (2) create a policy that establishes standards for continued assistance to participants who use medical marijuana. The standards would include conditions under which the tenant could use, possess, and cultivate medical marijuana or some limited combination of those.

After considerable discussion Commissioner Gregory suggested a policy terminating rental assistance to a tenant for using, possessing, or cultivating medical marijuana in their apartments but allowing a tenant to remain in the program if they were qualified to use medical marijuana but did not use, possess, or cultivate it in their apartment. *Commissioner L. Merrill made that motion seconded by Commissioner Turner. Commissioners Gregory, L. Merrill, Poliquin, and Turner voted in favor of the motion. Commissioners Sampson, Gean, and McLean voted in opposition to the motion. The motion carried 4 – 3.*

OVERVIEW OF LIHTC PROPERTIES AT 15 YEARS

A discussion about the LIHTC properties at 15 years was postponed to the September 16 meeting. A request was made to receive materials in advance which should include an overview, a description of the issue, and if there is an affordability problem. The Board also requested the perspective of an investor and owner.

Commissioner Turner departed at 12:30 p.m.

UNDERWRITER COUNSEL

Treasurer Cary updated the Board on the financial impact of hiring Kutak Rock as Bond Counsel and discussed possible approaches for recommending firms to serve as Underwriters Counsel on MaineHousing Bond issues.

In their RFP response, Kutak Rock offered MaineHousing two very attractive pricing options. MaineHousing could either elect to pay a fixed price which would be different depending on the type of issue, or MaineHousing could pay for each bond issue based on hourly rates. Following the suggestion of Commissioner Poliquin, Mr. Cary reported he asked Kutak Rock if they would agree to treat the fixed fee option price as a cap. MaineHousing, on each bond issue, would pay the lesser of the amount generated by the two options. Mr. Cary felt that the new arrangement would save MaineHousing an average of \$25,000 to \$30,000 per bond issue.

Mr. Cary then discussed the options regarding Underwriters Counsel on upcoming bond issues. He reported that an extensive survey determined that the range of Underwriters Counsel fees was \$20,000 - \$45,000. The \$19,000 that Preti Flaherty has been paid is lower than any amount revealed by the survey. However, Preti Flaherty has a more limited scope of work than normal because their major task is to prepare the Bond Purchase Agreement (BPA). Most Underwriters Counsel also prepare the Preliminary Official Statement (POS) and the Official Statement (OS). Mr. Cary reported that Kutak Rock's fixed price option would be \$12,500 less if the POS/OS was prepared by Underwriters Counsel.

Mr. Cary reported that the bond issues which he foresees in 2013 are very complicated refundings. He felt Hawkins had a very detailed knowledge of the genealogy of the issues to be refunded and this would be of significant value to MaineHousing. He felt that Hawkins would agree to be Underwriters Counsel, if the scope of work would be expanded to include the POS/OS, for \$25,000. Since this expanded scope of work would reduce the Kutak Rock cap by \$12,500, it would also represent a significant saving from what we have been paying Preti Flaherty.

Commissioner Poliquin expressed reservations with having the Underwriters Counsel produce the POS/OS. Mr. Cary reported that this is a common model and that MaineHousing and its Bond Counsel would not lose control over the content of the disclosure documents. Commissioner Poliquin said he wanted to discuss the model with the Bond Counsel he uses on the State's bond issues.

The Board supported recommending to our Underwriters that Hawkins be retained as Underwriters Counsel. They delegated the authority to Treasurer Cary if Commissioner Poliquin is comfortable with the arrangement pending his discussions with the State's Bond Counsel.

Commissioner L. Merrill made a motion Seconded by Commissioner Gregory pursuant to 1 M.R.S.A 405.6.E. and F. to go into Executive Session to discuss a confidential HUD Office of Inspector General draft with Counsel. All Commissioners voted in favor of the motion. The motion carried 6 – 0.

Respectfully submitted,

Donald Gean, Secretary