

MINUTES
HOUSING AUTHORITY OF THE CITY OF SANTA BARBARA AND
SANTA BARBARA AFFORDABLE HOUSING GROUP
706 Laguna St. Santa Barbara, California
4:00 p.m. – November 5, 2014

I. CALL TO ORDER/ROLL CALL

4:01 P.M. Chair Green presiding

Board Members present: Barbara B. Allen, David Hughes, Don Olson, Victor Suhr, Dolores Daniel, Catherine Woodford and Geoff Green

Staff Members present: R. Pearson, R. Fredericks, S. Szymanski, B. Peirson, D. Aazam, J. Schipa, T. Carter, C. Montenegro Uhl and V. Loza

II. PUBLIC COMMENT

III. CONSIDERATION OF MINUTES

Consideration of the Minutes of the Housing Authority of the City of Santa Barbara's Regular Meeting of October 1, 2014

MOTION

M/S Allen/Woodford moved to approve the Minutes of Housing Authority of the City of Santa Barbara's Regular Meeting of October 1, 2014

VOTE

Ayes:	Barbara Allen	Victor Suhr
	Dolores Daniel	Catherine Woodford
	David Hughes	Geoff Green
	Don Olson	
Nays:	None	
Abstain:	None	
Absent:	None	

At this time during the meeting, Chair Green ordered Item X.2 be brought forward to discuss due to the presence of counsel.

X. NEW BUSINESS

2. Recommendation that the Commission adopt the proposed Resolution of Necessity, declaring the acquisition of certain property rights necessary for the construction of a low income senior housing project on the Grace Lutheran Church property located at 3869 State Street, Santa Barbara

DOCUMENTS

- October 30, 2014 Executive Director's Report prepared by Deputy Executive Director/COO
- October 30, 2014 Letter from Law Offices of Sullivan, Workman & Dee LLP of Los Angeles, CA, representing Daketta La Cumbre, LLC, received by the Housing Authority's Executive Director on November 3, 2014 and forwarded to the Housing Authority's Commission and Legal Counsel on

that same date via email

SPEAKERS

Staff: R. Pearson

Also present for comment and discussion was Gary Kovacic, Esq. of Sullivan, Workman & Dee, LLP, representing Daketta La Cumbre, LLC and Todd Amspoker, Esq. of Price, Postel and Parma representing the Housing Authority

Mr. Kovacic rose to address the Commission. He reviewed the points of objection outlined in his firm's October 30, 2014 letter (authored by his colleague Charles Cummings) to Mr. Pearson to the proposed adoption of the Resolution of Necessity. After he spoke, Chair Green asked Mr. Amspoker to address the objections by Mr. Kovacic to the adoption of the proposed Resolution. Mr. Amspoker commented on each objection (set forth in italics below) as follows:

- *The language used by the appraiser is incorrect; the wrong measure of value was used.* Mr. Amspoker noted the appraisal was prepared correctly and although the appraiser used the term "most probable value" instead of "fair market value", a new appraisal with a different definition would not change the determined value. Mr. Amspoker stated that he had confirmed this with the appraiser. The Board requested clarification from Mr. Amspoker whether the terminology used in the appraisal would be detrimental at any point in the process. Mr. Amspoker noted the absolute cleanest approach would be to change the language in the appraisal, and although he noted he believed it would not make a difference, it most likely will be brought up in court. Mr. Amspoker noted Government Code 7267.2 requires an offer based on the fair market value of the property and the appraisal has provided this. Mr. Amspoker confirmed that the Housing Authority's appraiser is very experienced with eminent domain appraisals and knew the purpose of the appraisal.
- *The Resolution of Necessity indicates the Authority made an offer, although no dollar amount is set forth.* Mr. Amspoker confirmed this is not needed and never done in a resolution.
- *There was a prior commitment to act.* Mr. Amspoker noted Mr. Kovacic's argument is based on the Norm's Slausen case where a redevelopment agency made a contractual promise to provide property to an entity. This case doesn't apply to housing authorities as public agencies always require preliminary planning and commitment of resources in order to determine feasibility of a project. Grace Lutheran's signed gift agreement provides that the Authority has full discretion whether to adopt a resolution of necessity, and if the Authority decided to abandon this project it would suffer no consequences or violate a contract; this is in obvious contrast to the Norm's Slausen case where they were contractually required to adopt a resolution of necessity by virtue of a prior contract with a developer.
- *There is private benefit in the project.* Mr. Amspoker noted there is always some private benefit in a project, especially when a bank or other third party would be an equity investor in the project if the Housing Authority eventually utilized the Low Income Housing Tax Credit program to develop the actual units as currently envisioned.
- *Grace Lutheran Church will benefit from the project and therefore the transaction violates separation between church and state.* Mr. Amspoker responded that the Church is gifting the property to the Housing Authority, a public agency, and therefore not financially benefiting as suggested. The fact that the Church wants low income housing for seniors to be built on the land is not a violation of separation between church and state.
- *Cannot go forward with Resolution of Necessity due to the project being inadequate in regards to building/land use requirements and size of the project.* Mr. Amspoker stated that it is not unusual for projects at this stage to need additional planning, permits, etc. Additionally, there is law in California allowing for projects to go forward without every development detail being

confirmed or secured at this stage.

- *There is a lack of necessity and inconsistency with the greatest public good; it is not a public project.* Mr. Amspoker stated this argument has no basis as the project is clearly for public benefit, and the Housing Authority, a public agency, was created for the purpose of developing and operating needed low income housing for the community. Mr. Pearson added that the Housing Authority would be acting as the developer of the proposed project and will hold fee title to the real estate.

Mr. Amspoker confirmed for the Board there were several attempts made by Authority Counsel to contact Daketta to discuss an offer for their right of first refusal, including phone calls and letters over the last few months which received no response.

Daketta's principals were present, one of whom, Sep Wolf, addressed the Board. He stated they were advised by their counsel to not respond to the contacts or offer, and that they do not agree with the offer amount for their first right of refusal on the portion of the property they currently control via a land lease or on the entire property. There was admitted confusion by the parties based on the drafting of the first right of refusal as to whether or not it applied to their portion under lease or the entire parcel; and thus the appraiser was directed to value the right as being applicable to the entire property. Mr. Pearson reminded the Board that "the right" held by Daketta was the right to be first to buy the property if it was to be sold at market value. Daketta would have to pay market value for the property and what that right is worth is the subject of the appraisal and thus the value of the offer that has been made to Daketta.

Mr. Amspoker confirmed for the Board that the purpose of the Resolution of Necessity is to acquire right of first refusal on the entire property to the extent it exists on the entire property, noting it is one legal parcel with two assessor parcel numbers. It was explained that the portion under a land lease to Daketta has a separate parcel number for possessory property tax purposes only. Daketta's first right of refusal would make it difficult, if not impossible, to provide financing for the development of the proposed affordable housing and thus staff recommends it be removed through purchasing it at fair market value.

MOTION

M/S Hughes/Olson moved to adopt Resolution of Necessity No. 2577 of the Housing Authority of the City of Santa Barbara, as presented, approving the acquisition of certain property rights necessary for the construction of a low income senior housing project on the Grace Lutheran Church property located at 3869 State Street, Santa Barbara

VOTE

Ayes:	Barbara Allen	Victor Suhr
	Dolores Daniel	Catherine Woodford
	David Hughes	Geoff Green
	Don Olson	
Nays:	None	
Abstain:	None	
Absent:	None	

IV. BILLS AND COMMUNICATIONS

Staff provided the Board with an invitation to the Family Self Sufficiency graduation to be held Thursday November 6, 2014.

V. CONSENT CALENDAR – None

VI. REPORT OF EXECUTIVE DIRECTOR

1. Recommendation that the Commission: (1) consider a grant request from Casa Esperanza Homeless Center to sustain and assist with core services; and (2) if deemed appropriate, authorize a grant of up to \$50,000 from the Authority's Non-HUD Operating Reserves

DOCUMENTS

- October 22, 2014 Executive Director's Report prepared by Deputy Executive Director/CAO

SPEAKERS

Staff: R. Fredericks

Commissioner Allen and Secretary Pearson recused themselves and left the room for discussion and voting on this item.

Joe Tumbler was present, representing Casa Esperanza, to provide the Board with an overview of the Center's current operations, explain changes implemented and improvements since last year's request for funds and answer any questions.

Commissioner Hughes noted the recommendation indicates a grant of "up to" \$50,000 and if the Board's intention is to issue the full amount, in one payment, the motion should reflect this.

MOTION

M/S Woodford/Hughes moved to: (1) approve a grant request from Casa Esperanza Homeless Center to sustain and assist with core services; and (2) authorize a grant of \$50,000 from the Authority's Non-HUD Operating Reserves

VOTE

Ayes:	Dolores Daniel	Victor Suhr	
	David Hughes	Catherine Woodford	Don
Olson	Geoff Green		
Nays:	None		
Abstain:	None		
Absent:	Barbara Allen		

2. Recommendation that the Commission review a memorandum from the Authority's General Counsel providing legal opinions on the ability and authority to utilize Housing Authority resources to assist sister non-profit agencies in the community as well as requiring the reporting of arrests by residents residing in Non-HUD housing units operated by the Housing Authority and provide direction to staff as appropriate

DOCUMENTS

- October 29, 2014 Executive Director's Report

SPEAKERS

Staff: R. Pearson

MOTION

M/S Hughes/Woodford moved to table the issue of the ability and authority to utilize Housing Authority resources to assist sister non-profit agencies in the community until next meeting to allow Authority Counsel to be present, and to incorporate into an upcoming policy change the issue of requiring the reporting of arrests by residents residing in Non-HUD housing units operated by the Housing Authority

VOTE

Ayes:	Barbara Allen	Victor Suhr
	Dolores Daniel	Catherine Woodford
	David Hughes	Geoff Green
	Don Olson	
Nays:	None	
Abstain:	None	
Absent:	None	

3. Recommendation that the Commission: (1) ratify the Executive Director's award and execution of a contract with Ardalan Construction Company, Inc. in the amount of \$86,300 for the installation of a new fence and gates at the rear of Artisan Court (422 East Cota Street); (2) authorize the Executive Director, or his designee, to approve up to \$8,630 (10% of the base amount) in additional expenses to cover any cost increases resulting from change orders for work not anticipated or covered by the contract; and (3) note that the cost of this project will be funded out of operations, has been budgeted for and has been approved by the tax credit investor

DOCUMENTS

- October 15, 2014 Executive Director's Report prepared by Director of Property and Development

SPEAKERS

Staff: R. Pearson

MOTION

M/S Allen/Olson moved to: (1) ratify the Executive Director's award and execution of a contract with Ardalan Construction Company, Inc. in the amount of \$86,300 for the installation of a new fence and gates at the rear of Artisan Court (422 East Cota Street); (2) authorize the Executive Director, or his designee, to approve up to \$8,630 (10% of the base amount) in additional expenses to cover any cost increases resulting from change orders for work not anticipated or covered by the contract; and (3) note that the cost of this project will be funded out of operations, has been budgeted for and has been approved by the tax credit investor

VOTE

Ayes:	Barbara Allen	Victor Suhr
	Dolores Daniel	Catherine Woodford
	David Hughes	Geoff Green
	Don Olson	
Nays:	None	
Abstain:	None	
Absent:	None	

4. Recommendation that the Commission ratify the decision by the Executive Director to make a change in the financial consulting contract award from California Housing Partnership Corporation to Recap Real Estate Advisors for the RAD conversion of the Housing Authority's 316 Public Housing units

DOCUMENTS

- October 16, 2014 Executive Director's Report prepared by Director of Property and Development

SPEAKERS

Staff: R. Pearson

MOTION

M/S Allen/Olson moved to ratify the decision by the Executive Director to make a change in the financial consulting contract award from California Housing Partnership Corporation to Recap Real Estate Advisors for the RAD conversion of the Housing Authority's 316 Public Housing units

VOTE

Ayes:	Barbara Allen	Victor Suhr
	Dolores Daniel	Catherine Woodford
	David Hughes	Geoff Green
	Don Olson	
Nays:	None	
Abstain:	None	
Absent:	None	

VII. TREASURER'S REPORT

1. Recommendation that the Commission review and approve the budgets for the Authority's Consolidated Property Management and Villa Santa Fe programs for fiscal year ending December 31, 2015

DOCUMENTS

- October 27, 2014 Executive Director's Report prepared by Finance Director

SPEAKERS

Staff: B. Peirson

MOTION

M/S Allen/Suhr moved to approve the budgets for the Authority's Consolidated Property Management and Villa Santa Fe programs for fiscal year ending December 31, 2015

VOTE

Ayes:	Barbara Allen	Victor Suhr
	Dolores Daniel	Catherine Woodford
	David Hughes	Geoff Green
	Don Olson	
Nays:	None	
Abstain:	None	

Absent: None

2. Recommendation that the Board review and order filed the quarterly financial statements for the quarter ended September 30, 2014

DOCUMENTS

- October 29, 2014 Executive Director's Report prepared by Finance Director

SPEAKERS

Staff: B. Peirson

MOTION

M/S Allen/Woodford moved to approve and order filed the quarterly financial statements for the quarter ended September 30, 2014

VOTE

Ayes:	Barbara Allen	Victor Suhr
	Dolores Daniel	Catherine Woodford
	David Hughes	Geoff Green
	Don Olson	
Nays:	None	
Abstain:	None	
Absent:	None	

3. Recommendation that the Commission review and order filed the quarterly financial statements for the quarter ended September 30, 2014

DOCUMENTS

- October 29, 2014 Executive Director's Report prepared by Finance Director

SPEAKERS

Staff: B. Peirson

MOTION

M/S Allen/Woodford moved to approve and order filed the quarterly financial statements for the quarter ended September 30, 2014

VOTE

Ayes:	Barbara Allen	Victor Suhr
	Dolores Daniel	Catherine Woodford
	David Hughes	Geoff Green
	Don Olson	
Nays:	None	
Abstain:	None	
Absent:	None	

4. Recommendation that the Commission review and order filed the quarterly Investment Report for period ending September 30, 2014

DOCUMENTS

- October 29, 2014 Executive Director's Report prepared by Finance Director

SPEAKERS

Staff: B. Peirson

MOTION

M/S Hughes/Allen moved to approve and order filed the quarterly Investment Report for period ending September 30, 2014

VOTE

Ayes:	Barbara Allen	Victor Suhr
	Dolores Daniel	Catherine Woodford
	David Hughes	Geoff Green
	Don Olson	
Nays:	None	
Abstain:	None	
Absent:	None	

5. Recommendation that the Commission adopt a resolution of the Housing Authority of the City of Santa Barbara setting forth costs incurred and payments made for the month of September, 2014

DOCUMENTS

- October 29, 2014 Executive Director's Report prepared by Finance Analyst
- Resolution referenced above together with September 2014 expenditure list

SPEAKERS

Staff: B. Peirson

MOTION

M/S Allen/Suhr moved to adopt Resolution No. 2575 of the Housing Authority of the City of Santa Barbara, as presented, setting forth costs incurred and payments made for the period of September, 2014

VOTE

Ayes:	Barbara Allen	Victor Suhr
	Dolores Daniel	Catherine Woodford
	David Hughes	Geoff Green
	Don Olson	
Nays:	None	
Abstain:	None	
Absent:	None	

VIII. COMMITTEE REPORT - None

IX. UNFINISHED BUSINESS – None

X. NEW BUSINESS

1. Recommendation that the Commission adopt a resolution approving an amendment to the Authority's Manual of Policies and Procedures relative to an increase to the cafeteria and medical allowances for general and supervisory employees effective January 1, 2015

DOCUMENTS

- October 21, 2014 Executive Director's Report prepared by Human Resources Analyst
- Resolution referenced above

SPEAKERS

Staff: R. Pearson, T. Carter

VOTE

Ayes:	Barbara Allen	Victor Suhr
	Dolores Daniel	Catherine Woodford
	David Hughes	Geoff Green
	Don Olson	
Nays:	None	
Abstain:	None	
Absent:	None	

MOTION

M/S Allen/Daniel moved to adopt Resolution No. 2576 of the Housing Authority of the City of Santa Barbara, as presented, approving an amendment to the Authority's Manual of Policies and Procedures relative to an increase to the cafeteria and medical allowances for general and supervisory employees effective January 1, 2015

XI. COMMISSION MATTERS

Commissioners Daniel and Allen provided the Board a report on attendance at recent NAHRO National Conference in Baltimore, MD, noting the grade-level reading program statistics of 80% of low income children cannot read at grade level and anticipating continued involvement in this initiative.

XII. CLOSED SESSION - None

XIII. ADJOURNMENT

Meeting adjourned at 6:10 P.M. on order of Chair Green.



ROBERT PEARSON, SECRETARY

APPROVED:



GEOFF GREEN, CHAIR