

## MINUTES

Grand Junction Housing Authority  
Board of Commissioners' Meeting  
**Special Meeting**

Thursday, March 13, 2008  
Housing Authority Offices  
1011 North Tenth Street  
**11:30 a.m.**

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### 1. Call to Order

When Board Chair Steve Heinemann called the **special** Board Meeting to order on March 13<sup>th</sup> at 5:22 p.m., three other Grand Junction Housing Authority (GJHA) Board Members (Erin Ginter, Patti Hoff, and Ora Lee), six staff (Executive Director Jody Kole, Executive Assistant Kristine Franz, Development Director Don Hartman, Operations Director Lori Rosendahl, Accounting Supervisor Cheryl Sweers, and Finance Director Andre' van Schaften), and two guests Attorneys Bill Frey and Jenna Keller from Dufford, Waldeck, Milburn, and Krohn were in attendance.

### 2. Discussion of the Arbor Vista Development

Jody began the meeting with an apology for the absence of a Board project update memo regarding new developments with the Arbor Vista project. With the status constantly fluctuating, the entire team has been busy addressing the "new challenges of the day", all the while trying to keep the deal moving forward. Continuing on, she cautiously said that virtually the deal is ready to close and a tag-team update will be presented today.

She continued by informing the group that the Equity Investment Partner, Enterprise Community Investment, Inc. (Enterprise), addressed and calmed its investors' fears by proposing to delay the first installment of its equity so that it doesn't come in during the construction period, and asked that the GJHA delay receipt received of the Developer's Fee for its project work until the last two installments that will be in July and September of 2009. With that and several other compromises throughout the documents, a financial agreement has been attained that works for all parties, and the construction loan has been sized based on assumptions of the timing of both revenues and expenses.

*A Sources and Uses Spreadsheet* showing the cost of each part of the transaction was distributed. Jody noted that the equity from the tax credits brings in a lot of money but brings in a lot of associated costs as well (attorneys' fees, letter of credit, etc).

One of the issues that surfaced, and was just resolved mid-morning today, deals with the Colorado Division of Housing (CDOH) funds. The State Housing Board voted on February 12<sup>th</sup> to grant this project \$1.1MM but didn't/couldn't designate which "pot of money" would fund this project. Through the Governor, the CDOH asked the State

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Legislature's Joint Budget Committee to allocate additional money, both in the current and next fiscal years, for affordable housing in the CDOH's budget line item for loans and grants. However, the request is still pending. The CDOH didn't issue an Award Letter, which would give the investors confidence that the commitment was made and will be honored. Confirmation of this Award was given to GJHA through an e-mail from CDOH representative, Bill Whaley. The e-mail stated that the State Board did vote and agreed to give this project funds, but not to count on this e-mail as confirmation and not to enter into any contracts prior to executing a funding contract with the State. Since Jody was in Denver yesterday on another business matter, she took the opportunity to meet with Ms. Kathi Williams, the Executive Director of the CDOH and shared our problem, notifying her that the contracts are scheduled to be signed tomorrow, March 14<sup>th</sup>. Kathi confirmed that the State hasn't decided which source of funding to use for the Arbor Vista funding but would issue an Award Letter commitment. Receipt of the letter is expected by tomorrow. She also reminded Jody that the State contracting requirements don't allow for reimbursement of activities already under contract. This created another challenge, in lieu of the scheduled contract signing tomorrow.

Staff is proposing to use the State funding to acquire the land. Instead of selling the land now, GJHA will lease the land for a period of time to the Partnership and get the construction moving, and let the State have time to go through its process. Upon the State authorizing the grant and then following up with the execution of a funding contract, the land will be sold from the Authority to the Partnership. Insurance covering the Housing Authority and the Partnership will be ensured so that neither is exposed by the Agency still owning the land while the construction is underway. All parties concerned think this modification will solve the problem. The required lease-option and associated documents are yet to be drafted and approved. The difference between \$1.1MM and \$1,050,000 will be put into another line item that isn't part of the Shaw construction contract.

Being relatively quiet in the past about the processes and paperwork, concern was voiced by staff representing the Federal Home Loan Bank of San Francisco (FHLB), in the last ten days over the required documents. Basically, FHLB staff said they don't like the GJHA paperwork, want GJHA to sign its paperwork, and don't understand why they are being asked to sign GJHA paperwork. To help clarify the situation, Don stated that the FHLB is used to making grants directly to the Partnerships, which is referred to as a "one-step" process. The GJHA is requesting a "two-step" process in which the grant funds will be received by GJHA and loaned to the Partnership. All of the FHLB documents are standard using the one-step process. FHLB staff isn't knowledgeable about the two-step process so GJHA attorneys have been working to create additional documents to provide for a better comfort level. This revised document process is being handled through the local Bank of the West and once approval has been attained, the documents will be forwarded onto the FHLB San Francisco for final approval. The

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FHLB's review time frame is unknown at this time. Don noted that he is seeking the approval of Enterprise to proceed with the transaction closure, and then following up to obtain the FHLB's approval.

Jody indicated that the key issue is "think construction". Everything out in California costs more and that's where FHLB is accustomed to funding. There are caps on how much Basis generates tax credits in any transaction. In California, usually the costs will exceed the Basis caps, so the fact that the FHLB's money might be made in the form of grants to the project doesn't reduce any of the Basis, and therefore doesn't reduce any of the tax credits. In this case, costs aren't nearly as high as California costs, and GJHA needs the Basis. This can't appear as a grant because it would reduce the tax credits, and reduce the amount of equity that Enterprise is willing to invest. The grants need to come to the Housing Authority and then be loaned into the Partnership. If it appears to be a forgivable loan, the Internal Revenue Service will view this as a grant, so it's better to set it up correctly and not run the risk of losing tax credits and paying a penalty. She continued by stating that FHLB staff thought they understood, but they really didn't and it will just take some time for them to process. Bill Frey reiterated that there was positive communication with FHLB regarding the two-step process but it's unknown how long it will take to approve it.

In reply to Erin's question regarding if Enterprise is unhappy with this new FHLB development, will they pull out, Jody announced that Enterprise's Investment Committee's decision was received late this afternoon approving the Arbor Vista Project, and Enterprise is ready to move forward, with two contingencies: 1) receiving a final copy of GJHA's 2007 Audit, and 2) receipt of Enterprise's third-party environmental review. Jody assured the group that this is a delay, not a walk away on Enterprise's part and said that it is more of a question of "will Enterprise close this transaction without having this loose end tied up or will they wait until FHLB signs the paperwork?" Addressing the audit contingency, Jody and Andre' stated that Enterprise has had the final numbers and a draft of the Audit for some time (minus the management analysis). GJHA's CPA firm has just signed-off on the draft, so now the delay is waiting on HUD's approval.

Addressing the *Sources and Uses Spreadsheet*, Jody expounded on figure adjustments shown on the Sheet.

- Having previously talked about 8 Site-Basing Vouchers versus 15 and the fact that Enterprise has requested GJHA to downsize the first mortgage with the Colorado Housing and Finance Authority (CHFA) by \$100,000, the GJHA sponsor loan would have to increase by \$100,000. Upon reaching construction completion, having the full complement of Vouchers in place, and having the ability to support the larger

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mortgage of \$1.750MM, Enterprise will allow GJHA to increase the mortgage, thereby lowering the sponsor loan back to its original level.

- Enterprise is requiring a construction contingency of \$474,000. This is a Basis Item so any remaining contingency dollars will be paid to GJHA as a Developer's Incentive Payment for bringing the project in on time and on budget. Last minute challenges and consequently expenses, that have just been discussed, (incurring attorney fees, etc.) will draw down this figure some but the bulk will remain for additional cash flow to the Housing Authority or can be invested in property upgrades after Board and investor approval.
- The Developer's Fee to GJHA is \$800,000. Based on performance benchmarks, the GJHA will receive approximately \$112,000 in July 2009 and approximately \$350,000 in September 2009. The remaining earned Developer's Fee of \$348,000 will be deferred, or loaned to the Partnership, to be paid to GJHA from annual net cash flow. It is estimated that a significant portion will be paid back in the first calendar year of operation due to rent revenue, no permanent mortgage to be serviced by rents, and low anticipated maintenance costs (all new appliances and new construction still under warranty). CHFA and Enterprise's underwriting standards require an assumed 7% vacancy rate. Since GJHA does not anticipate such high vacancies, staff believes that rental revenue will exceed projections, and that operating expenses will be lower, so even with that supposition, the deferred Developer's Fee should be paid off within the first 7 years.

Clarifying Bill's question regarding tomorrow's scheduled closing, Jody stated that because of the State's contracting issue, most likely a land lease-option would now be the approach. Bill stated that a lease-option document plus a reflective resolution would need to be created.

Jody informed the Board of the following significant improvements in the transaction that were achieved over the last week.

- Enterprise asked to have none of its money at risk early on and proposed to hold funds until May 2009. Interpreting these upfront funds of \$1.3MM as Enterprise's sincerity in closing this transaction, the GJHA and the Bank were also counting on these funds to help with cash flow during the construction period. Being told by Jody that holding all the funds out until May 1<sup>st</sup> just wasn't acceptable (puts all the risk on the Housing Authority and the bank, and hurts the project cash flow) promoted an agreement for the Enterprise funds of \$1.3MM to come in April 1<sup>st</sup> of 2009, as long as construction is completed and the development has Temporary Certificates of Occupancy. The remaining installment of over \$5MM would come in May 1<sup>st</sup>, based on having other compliance issues completed (radon tests among others).

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- Because of the delay of pay-in funds by Enterprise, assurance or protection was needed by the Bank and the Agency that the money would come in. A letter of credit was requested of Enterprise. Rather than doing a credit letter for the full \$1.3MM for 18 months, as proposed by Enterprise and at a cost of \$25,000 to the Agency, an agreement was reached for a credit letter of \$1.0MM for 15 months, and splitting the \$20,000 cost.

Jody noted that Enterprise staff has had a change in attitude and is becoming more flexible to work with in the last week after they realized that this transaction is really real and can be done if they continue to work with us.

She stressed that there are still plenty of documents to be tweaked to all the different parties' satisfaction, which is more of a timing issue. Based on her recent conversations with Kathi Williams, Jody informed the group that the State has now committed all its funds for 2007, 2008, and 2009, due in part to the "market swirl" and so many developments losing investors and needing to be rescued. She also cautioned that there won't be any CDOH funds for other transactions in the near future.

Erin expressed her concern and uneasiness with Enterprise given the economic climate and industry. Jody acknowledged this concern, stating that she would be more scared with any partner other than Enterprise. Enterprise was involved with the Housing Authority's Crystal Brook transaction and is recognized industry-wide as one of the leaders. She explained that Enterprise will be contractually obligated, and GJHA could collect on the \$1.0MM letter of credit. She further explained that by the time GJHA would have reason to call on Enterprise's pledge, buildings will have been constructed and will have leased 100% occupancy of the tax credit buildings. At this point, the tax credits are more valuable than in the beginning. With the \$1.0MM line of credit, buildings as assets, and rental income from the units, another investor could be sought. Jody said that in her opinion, if something were to happen with the investor, it wouldn't be fatal to the Housing Authority.

Another revised copy of Resolution No. 2008-04 was distributed but is obsolete now due to the land lease instead of a land sale. This Resolution will be revised again.

In response to Erin's e-mail question, Jody stated that it specifically states in the Statutes that a Housing Authority Executive Director is also the Housing Authority's Board Secretary.

It is anticipated that contract signing will occur tomorrow afternoon at the office of the GJHA attorney. Most of the documents require signatures on behalf of GJHA as the General Partner of the Limited Partnership and also GJHA as an entity. Steve will sign

documents for GJHA as an entity and Jody will sign on behalf of GJHA as the General Partner of the Limited Partnership.

When asked by Jody if Board Members had any further questions, there were none.

**3. &**

**4. Roll Call Vote to Move into and out of Executive Session to Discuss Real Estate Transaction – Specifically Arbor Vista Development – C.R.S. 24-6-402(4)(a)**

This Executive Session was not necessary.

**5. Approval of Resolution No. 2008-04 Adopting Resolutions of the Board of Commissioners of Grand Junction Housing Authority, A Colorado Body Corporate and Politic, Pertaining to Arbor Vista, L.L.L.P.**

Brief discussion regarding lease-option issues, terms (6-12-month term) and compensation were addressed. Bill Frey advised that the Resolution, as currently drafted, gives the Officers wide discretion to set terms. Jody thought the interest cost on the two existing Promissory Notes would have to be covered, but the Tax Credit Laws would have to be reviewed first for compliance.

Patti made a motion, which was seconded by Erin, to accept Resolution No. 2008-04 as amended to reflect a lease-option to be negotiated by the designated officers – Board Chair and Executive Director, rather than a purchase. The motion passed: 3 - yes and 1 - abstention (Ora).

**6. Discuss the Possibility of Cancelling the Regular March 24<sup>th</sup> Board Meeting in Lieu of Two Special March Meetings**

Because of the recent special Board Meetings, the lack of issues needing immediate Board attention, and the upcoming Easter holiday with out-of-the office time planned by several staff, the Board agreed to cancel the March 24<sup>th</sup> Meeting . The next regular Board Meeting will be April 28<sup>th</sup>.

**7. Adjourn**

The special Board Meeting was adjourned at 6:07 p.m. with a motion by Erin, a second by Patti, and a unanimous vote.

