MINUTES

Grand Junction Housing Authority
Board of Commissioners' Meeting
May Regular Meeting

Monday, May 22, 2017
8 Foresight Circle
11:00 a.m.

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1. Call to Order

Grand Junction Housing Authority (GJHA) Board Chair Tami Beard called the May Board Meeting to order at 11:05 a.m. on May 22, 2017. Board Members present represented a quorum and included Ivan Geer, John Howe, Tim Hudner, and Chris Launer. Board Members Barbara Traylor Smith and Jerry Schafer did not attend. Others in attendance included GJHA Chief Executive Officer Jody Kole, Chief Operating Officer Scott Aker, Controller Amy Case, Asset Manager Suzy Keith, and Executive Assistant Kristine Franz. Guests included GJHA Attorneys Rich Krohn and Jill Norris.

2. Request Adoption of Minutes for April 24, 2017

With no questions or discussion, the Minutes for the regular April 24, 2017 Board Meeting received Board approval with a motion by John Howe, a second by Tim Hudner, and a unanimous vote.

3. Report from Finance and Audit Committee

Tim Hudner, Chairman of the GJHA Finance and Audit Committee (Committee), gave the Committee report on the GJHA Final FY 2015-2016 Audit and The Highlands Audit from inception through 12-31-16. Tim Hudner stated that both Audits represented exceptionally clean audits with no findings. John Howe said the auditors made only three adjusting entries. Tim Hudner and John Howe commented that the GJHA finance department's work is remarkable. The group concurred and congratulated staff.

The Board unanimously accepted both the GJHA Final FY 2015-2016 Audit and The Highlands Audit with a motion by Chris Launer and a second by Ivan Geer.

4. Verbal Update on Housing Choice Voucher Levels

Amy Case gave a verbal update on the Housing Choice Voucher (HCV) Levels by saying that there is no final allocation of Housing Assistance Payments (HAP) and Administrative (Admin) Fee funding by the U.S. Department of Housing and Urban Development (HUD) for the HCV Program Budget, and none is expected for several months. Prior speculation is that the FY 2016-2017 HAP will be prorated down to a rate of 97.5%. Feedback today is the projected estimated HAP proration rate will be 97.28% and the Admin Fee proration rate will be approximately 75%. These projected percentage decreases will be taken into account during the upcoming FY 2017-2018 budget preparation exercise.

At 2016 calendar year end, the HCV Program was 100% leased with a total of 1,084 leased units and a Budget Authority supporting 1,083 units. Because of the unknown Budget Authority decision and the fact that per unit costs are increasing, the HCV leased unit numbers are being lowered to stay within the anticipated Budget Authority by fiscal year end. The month of May shows 1,013 leased units.

The Board will be kept apprised of: 1) any adjustments made to keep the HCV leased units aligned properly, and 2) any federal budget information received.

Tim Hudner said the Committee discussed the HCV levels during its May meeting. With HUD continuing to lower the budget funding at the federal level, it becomes more and more difficult to manage the HCV Program to serve the most families while staying within the Budget Authority. Program Reserves are being drawn down to cover costs, which leans to the question, "what might be the long-term GJHA strategy if HUD/Congress continue to reduce the HAP funding?" This topic will be incorporated into the upcoming HCV "Lunch and Learn" training opportunity to discuss possible solutions.

Scott Aker made Board Members aware of some community conversations occurring between the organizations of Court Appointed Special Advocates (CASA) and The House around the possibility of acquiring units for children aging out of the child protection system. Scott Aker assured the group that GJHA Project-Based Vouchers have not been committed at this time, but might be a possibility in the future. Such a Voucher would come from the State, and Jody Kole said it is not uncommon that if State Vouchers are issued, then a local match is required.

Tami Beard asked if all the available HCV are not used this year, will GJHA loose those Vouchers for next year. Amy Case explained that HUD calculates the Budget Authority for the coming year by re-benchmarking. Re-benchmarking is based on total dollars spent in the previous year and not on total Voucher count. If the dollars are underspent, the Budget Authority will likely decrease.

Jody Kole said that the FY 2018 federal government budget proposal is scheduled to be announced tomorrow, with industry experts acknowledging housing will take a huge hit if the budget is adopted – in the range of 13% – 16%.

5. The Highlands 2

Prior to discussion pertaining to The Highlands 2, Jody Kole extended a thank you to all who attended the Low Income Housing Tax Credit (LIHTC) training.

A summary given by Jody Kole pertaining to the next round of the Colorado Housing and Finance Authority's (CHFA) LIHTC submittal process included:

- CHFA received approximately 39 Letters of Intent.
  - Six from the Western Slope.
  - A higher number from out-state communities.
  - Anticipate strong competition.
- Applications are due June 1, 2017.
  - GJHA should compete well – GJHA is a high quality, out-state applicant with prior successes.
- Applications will be reviewed by CHFA in June and July.
- In mid-July to early August, applicants will make presentations to the CHFA Allocations Committee.
  - GJHA is committed to The Highlands 2 development by being "shovel ready", with a building permit in hand.
- Staff if very hopeful that GJHA will receive an allocation of tax credits.

Assumptions reflected in the The Highlands 2 LIHTC Application include:

- Receive grant funding in the amount of $700K from the Federal Home Loan Bank of Topeka (FHLB).
  - Application deadline is June 30, 2017 with notification received in December.
- Close on two loans with CHFA.
  - The first mortgage is a loan for a 35-year amortization and term at 5% interest rate.
  - The second mortgage is a Health Home's Program loan of $500K at a 3% interest rate.
- Reduced development costs which did not significantly compromise the quality; i.e. laminate countertops instead of solid surface.
- Requested a higher funding amount from the State of Colorado, Division of Housing (CDOH).
- Continue to seek additional grant funding sources.
- Provide a development unit mix of:
  - 16 units at 30% of AMI.
    - Twice the amount as in The Highlands Phase 1.
  - 16 units at 40% of AMI.
  - 20 units at 50% of AMI.

    - 20 units at 60% of AMI.
        - Meeting the mission of the funders and the GJHA mission is a challenge.
- Hopeful to secure the tax credits and equity investors so construction may begin in the fall of 2017.

Because the notification from the FHLB is not received until December of 2017, Jody Kole requested the Board consider committing $700K from the GJHA General Fund as a backstop pledge for the FHLB funding.

Jody Kole led discussion on the "risks and rewards" of proceeding or waiting on the Application submittal. Topics covered included:

- Preliminary conversations occurred with three equity providers that are most likely to invest in this market – Boston Capital, Wells Fargo, and Enterprise.
- Two very different approaches to calculating the equity investments by the investor and moving the risk of a tax rate change onto the developer include:
    - A soft commitment made by the equity investor to finalize the agreement. After the development is built, costs are incurred, and the Form 8609 is ready to complete, the investor reviews the tax rates and what rate of return is expected, and calculates an adjuster. This most likely is captured in an adjuster – upward or downward – in the last installment of the sponsor's Deferred Developer's Fee.
    - Assume and commit to a corporate tax rate and investor yield, and price accordingly.
        - Presently, Jody Kole is uncertain of what type of an adjuster might be included in any equity proposal.
        - Continue dialogue with equity investors regarding potential tax credit equity pricing.
- The Request for Proposal for equity providers will be advertised publically and formally bid.
- To answer Tim Hudner's question, Jody said that CHFA will not be holding another round of tax credit allocations this year.

Request Approval of the First Amendment of Agreement of Limited Partnership Substituting the Limited Partner from Jody M. Kole to Affordable Homes

Rich Krohn explained the corporate structure for tax credit developments. The Limited Liability Limited Partnership (LLLP) is a limited partnership that is registered as an LLLP. In theory, the difference between a limited partnership and an LLLP is that the LLLP states the liability of the general partner can be limited to the assets of the entity.

Rich Krohn summarized saying that in this case, GJHA promises the limited partner that GJHA will make right anything that goes awry.

In order to be prepared for the Tax Credit Application submittal, an LLLP entity is created for the development of The Highlands 2. This limited partnership is registered as a LLLP, exists, and is in good standing. As in other tax credit developments, GJHA is the general partner and Jody Kole, individually, has been inserted as the limited partner.

The Board previously directed this structure be changed in the future, eliminating Jody Kole as limited partner, and thereby removing any personal exposure, obligation, conflict, etc. for Jody. In response to Board direction, staff created Affordable Homes, LLLP as a vehicle for future transactions of this nature.

This Amendment to the existing Limited Partnership Agreement for The Highlands 2 documents the withdrawal of Jody Kole as limited partner and assigns all Jody Kole's rights and obligations to Affordable Homes as the substitute partner. The sole purpose of the Amendment is to change the parties from Jody Kole to the shell entity of Affordable Homes, LLP as the limited partner. Future tax credit developments will use this same structure.

To answer John Howe and Chris Launer's questions as to how the prior practice evolved, Rich Krohn explained that years ago the Board decided it was not necessary to have the additional responsibility of establishing another entity, and Jody Kole didn't object to being named the limited partner so it was decided to keep things simple.

With no further questions, the motion by Ivan Geer, a second by Chris Launer, and a unanimous vote, the Board approved the request to approve the First Amendment of Agreement of Limited Partnership.

Adoption of Resolution 2017-05-01 Ratifying, Approving and Authorizing Certain Actions Related to the Development of Phase Two of The Highlands

Rich Krohn presented the Executive Summary of *Resolution 2017-05-01 Ratifying, Approving and Authorizing Certain Actions Related to the Development of Phase Two of The Highlands.* With Board authorization of Resolution 2017-05-01, Rich Krohn identified the following key points signifying Board approval:

- Ratifying or approving everything the CEO and staff have done and the CEO and Board Chair have signed up to this point.
- Authorizing the above same individuals to take all actions and sign all documents from this point forward to advance The Highlands 2 with the exceptions noted in Section 5 of the Resolution (Page 2 of 3) as listed below:

- The Notice to Proceed will not be issued to Shaw Construction for construction work without prior Board approval.
- The Board previously approved preconstruction work.
- The Board previously approved preliminary site and utility work.
- Further Board approval is required to accept grant funding, construction financing, permanent financing, and soft loan financing. Rich Krohn explained that soft loan financing is loan documentation that evidences the transition of money granted to GJHA and subsequently loaned to the LLLP to be used for the costs of the development. Repayment of a soft loan is not expected like a loan with a required amortization schedule, but rather from available cash flow.
- The Amendment of the LLLP Agreement at the time of admission of the Equity Investor Limited Partner converts The Highlands 2 LLLP from the shell to an actual functioning entity where GJHA will act as the General Partner, and make contributions by way of soft financing.
  - The limited partner will make contributions based on its bid for the LIHTC. Tax credits will be awarded to GJHA but are intended for the LLLP. GJHA cannot take advantage of the tax credit benefits because of its tax exempt status. However, the partnership can allocate costs and benefits between partners. The limited partner is contributing as a capital contribution to this partnership and allocating all the tax credit benefits.
    - This is accomplished through a Restatement of Existing Partnership Agreement for the LLLP.
  - A commitment by the Board to backstop funding for the FHLB requires Board authorization.
    - Jody Kole expects to submit the CDOH Application in late June or early July. CDOH will promptly review the Application upon submittal. Jody Kole anticipates backstop funding for CDOH will not be necessary.

Jody Kole explained the reasoning behind pushing forward with construction of The Highlands 2:

- The objective is to begin construction this fall.
- Interest rates are trending upwards, with financing becoming more expensive.
- Staff would like to avoid additional inflation on labor and material costs.
- Potential corporate tax reform at the federal level may have an impact on the investment rates and net present value calculations by the equity investor. Speculation about this possibility has already cooled the equity markets.

Additional highlights discussed by Jody Kole included:

- A letter will accompany the LIHTC Application identifying GJHA financing commitments loaned to the LLLP:
  - GJHA land loan of $474K.
  - CDOH grant request of $864K.
  - $1,009,230 represents a combination of:
    - $700K GJHA backstop funding for the FHLB grant.
    - $309,230 from the City of Grand Junction for development and impact fees.
- GJHA expects to earn a total of $1.7M in Developer's Fee, and loan back $300K.
- Tim Hudner reported that there is additional tax money in the state budget for homelessness. GJHA might consider applying for additional funding that possibly could fund 30% AMI units.

Jody Kole and Rich Krohn discussed the *"go/no go" risks* as follows:

- ***"Go" Risks***
  - No committed funding by CDOH and FHLB.
    - GJHA requests Board commitment to backstop grant funding for FHLB.
    - Uncertain of the amount and timing of CDOH grant funding.
  - Tax credit equity pricing cited is $.96/dollar of tax credit equity.
  - Claw back risk. Tax credit investors are nervous that the assumptions used today to underwrite and make decisions may not stand if there is a change in the corporate tax laws affecting the value of the tax credits. This is addressed by:
    - Assuming what the tax rate is going to be and pricing accordingly.
    - Issuing a soft commitment bid based on today's corporate tax rates, etc., leaving open the ability to change the offer terms to a lower rate if tax rates decline. This is known as a claw back.
    - The Request for Proposal issued by GJHA may ask for both a variable (claw back offer) and a fixed-firm number.
    - Negotiate a cap in the pricing of the claw back number not to exceed the GJHA Developer's Fee.
      - Losing the Developer's Fee takes the profit out of the deal but does not take the deal away.
- The future is unknown – the situation might get better or worse.

- *"No Go" Risks*
  - Entitlements:
    - Site plan approval expires 12-31-17.
      - Expensive to recreate and may encounter new regulations/law changes.
      - Will need to reapply for a building permit.
  - Might encounter opposition from other external entities.
  - Relationships between many agencies could change.
  - Funding:
    - Rising interest rates.
    - Decreased corporate tax rate, therefore, decreased equity investment.
  - Funding commitment renewal from the City of Grand Junction.
  - The GJHA investment of $1M in the predevelopment and design work will be idle until the development is resurrected.
  - Limited shelf life of the preliminary ground work.
  - Construction costs are increasing nationwide. A 2% - 3% per year increase in construction costs is predicted.
    - Shaw Construction committed to hold its pricing through year-end.

Extensive Board/staff discussion ensued and covered such topics as:

- Is the GJHA reputation at risk with CHFA with a "no go" Board decision?
- The $.96/dollar of tax credit equity is priced based on Wells Fargo's expectations of what the corporate tax rate will be.
- In a "what if" scenario, GJHA funds need to be available to cover the backstop commitment for the FHLB Affordable Housing Program grant request.
- The "go/no go" Board decision will need to be made when it is: 1) known what the financing costs are, 2) known with fair certainty what the funding will be, and 3) the terms of the investor's funding are known.
- How would a "claw back" operate? – Potential impacts?
- One of the biggest assets for GJHA is its reputation and its superior performance.
- Bidders will have different parameters or mind set of claw backs.
- The Tax Credit allocation basically expires in three years. The normal process includes:
  - Submitting a Carryover Application to CHFA with documentation demonstrating 10% of the total anticipated project costs were spent in the first 13 months.

        - If the Carryover Application criteria is not reached, GJHA would lose the tax credits.
- Does the backstop funding need approval now?
    - The Board is making the commitment today to include the GJHA funding commitment letter in the Tax Credit Application. Backstop funding approval is necessary today.
- How likely is it to acquire more than $10K per unit in funding from CDOH?

With no further discussion, Chris Launer made a motion to adopt *Resolution 2017-05-01 Ratifying, Approving, and Authorizing Certain Actions Related to the Development of Phase Two of The Highlands.* With a second by Tim Hudner, a unanimous vote carried the motion.

Chris Launer made a motion to authorize the inclusion of a GJHA funding commitment letter in the CHFA Tax Credit Application. The letter will state that GJHA will pledge a sponsor loan in the amount of $700K as a backstop for the FHLB funding. After brief discussion, Chris Launer amended the motion to read GHJA is committing to unconditionally fund the $700K. GJHA will still seek the FHLB funding grant. Ivan Geer seconded the motion, and a unanimous vote approved the motion.

6. Other Business

<u>Housing Tax Credit Summit in Denver</u>

Jody Kole will be attending the CHFA Housing Tax Credit Summit in Denver on May 23, 2017. When meeting with equity investors, Jody Kole anticipates an update on the equity market and investors' current positions.

<u>Lunch and Learn</u>

Board Members will participate in a "lunch and learn" training session on Housing Choice Vouchers on June 9, 2017, beginning at noon.

7. Adjourn

With business complete, the meeting adjourned at 1:50 p.m. with a motion by Tim Hudner, a second by John Howe, and a unanimous vote.

All Board Packet documents and documents distributed during the Board Meeting are retained in the file.