



FHFC Board of Directors' Meeting Minutes September 8, 2023

Board Members Present

Mario Facella, Chairman
Larry Cretul
Olivia Hoblit

Ryan Benson, Vice Chairman
Sandra Einhorn
Ron Lieberman

Meredith Ivey
David Hall
Dev Motwani

Corporation Staff Presenting

Michael DiNapoli
Melissa Levy
Chris Hirst

Angie Sellers
David Westcott

Marisa Button
Quin Coxetter

Others Presenting

Junious Brown
Nabors Giblin & Nickerson, P.A.
Jan Carpenter
Latham, Luna, Eden & Beaudine, LLP

Call to Order and Roll Call

The meeting was called to order at 9:00am by Chairman Facella. Roll call was taken by Quin Coxetter; Chairman Facella confirmed that a quorum was present. Quin Coxetter presented the Sunshine Notice and Public Comment Notice.

Chairman statement

Chairman Facella shared his personal history with the Board and public regarding his pride for serving on FHFC's Board of Directors and support for FHFC's mission and programs.

Public Comment

No Public Comment was offered.

Approval of the July 21, 2023 Board of Directors Meeting Minutes

Chairman Facella asked for motion to approve the Minutes from the July 21, 2023 Board Meeting.

David Hall moved to approve the minutes as presented. Ron Lieberman seconded.
Motion passed unanimously.

Items Pulled from Supplemental Consent Agenda

Chairman Facella recommended making a motion to pull the two Supplemental Consent Agenda Items (Additional Hometown Heroes DPA Funding, and Request Approval for Staff to Identify Additional Program Income for Hurricane Ian Related Housing Needs) moving them to Action and deferring them to the next Board Meeting.

Sandra Einhorn made a motion, for purposes of discussion, to pull both Supplemental Consent Agenda Items to Action and defer to the next Board Meeting. Ryan Benson seconded, for purposes of discussion.

After much discussion, the motion failed on a 2-7 vote.

Dev Motwani made a motion to pull the two Supplemental Consent Agenda Items to Action for consideration. Ryan Benson seconded.

Motion passed unanimously.

Approval of Consent Agenda

Ryan Benson moved to approve the Consent Agenda Items. David Hall seconded.

Motion passed unanimously.

Live Local Update

Marisa Button provided an update to the Board on the Live Local Act.

Action Items

Multifamily Programs- Allocations

I. RFS 2023-205 SAIL of Affordable Multifamily Housing Developments.

Melissa Levy presented the following staff recommendation to the Board:

- Approve the Committee's recommendations that the Board approve the addition of \$5,407,500 to the total SAIL funding available in this RFA, adopt the scoring results of the 63 Applications and authorize the tentative selection of the 10 Applications (set out on Exhibit B) for funding.
- If no notice of protest or formal written protest is filed in accordance with Section 120.57(3), Fla. Stat., et. al., staff will proceed to issue an invitation to enter credit underwriting to the Applications set out on the Exhibit B.
- If a notice of protest or formal written protest is filed in accordance with Section 120.57(3), Fla. Stat., et. al., then at the completion of all litigation, staff will present all Recommended Orders for Board approval prior to issuing invitations to enter credit underwriting to those Applicants in the funding range.
- There is \$1,190,523 in SAIL funding remaining. As provided in Section Five, B. of the RFA, any remaining funding will be distributed as approved by the Board. Staff will come back to the Board with a recommendation on the use of the remaining funding at a later date.

Motion to approve staff's recommendations was made by Sandra Einhorn. Ron Lieberman seconded.

Motion passed unanimously.

II. RFA 2023-212 Housing Credit Viability Funding For Developments Located In Monroe County That Have An Active Award of SAIL Financing and 9 Percent Housing Credits

Melissa Levy presented the following staff recommendation to the Board:

- Approve the Committee's recommendations that the Board adopt the scoring results of the 2 Applications and authorize the tentative selection of the 2 Applications (set out on Exhibit D) for funding.
- If no notice of protest or formal written protest is filed in accordance with Section 120.57(3), Fla. Stat., et. al., staff will proceed to issue an invitation to enter credit underwriting to the Applications set out on the Exhibit D.
- If a notice of protest or formal written protest is filed in accordance with Section 120.57(3), Fla. Stat., et. al., then at the completion of all litigation, staff will present all Recommended Orders for Board approval prior to issuing invitations to enter credit underwriting to those Applicants in the funding range.
- There is \$25,000 in Housing Credit funding remaining. As provided in Section Five, B. of the RFA, any remaining funding will be distributed as approved by the Board.

Motion to approve staff's recommendation was made by Dev Motwani. Ryan Benson seconded.

Discussion:

Sandra Einhorn requested that in the future we address how we arrive at area of critical concern and what additional resources are associated.

The motion passed unanimously.

III. Request for Approval to issue a Request for Applications (RFA) for Community Development Block Grant-Disaster Recovery (CDBG-DR) financing for affordable Developments located in Hurricane Sally impacted areas.

David Westcott presented the following staff recommendation to the Board:

- Authorize staff to continue to work with FL Commerce on the Workforce Affordable Housing Construction Program, to enter into a subrecipient agreement with FL Commerce to administer the new CDBG-DR funding and to issue a Request for Applications to fund rental developments in the Hurricane Sally designated areas.

Motion to approve staff's recommendation was made by Meredith Ivey. David Hall seconded.

Discussion:

Meredith Ivey shared Florida Commerce's eagerness to commence this important project for hurricane victims in northwest Florida and for those impacted by Hurricane Sally. Chairman Facella agreed.

Motion passed unanimously.

IV. Request Approval for Staff to Identify Additional Program Income for Hurricane Ian Related Housing Needs, to Action and defer to the next Board Meeting

David Westcott presented the following staff recommendation to the Board:

- Request for Board approval to direct staff to identify additional program income of up to \$100M to supplement what is being provided to Florida Housing from Florida Commerce's 2023 State of Florida Action Plan for Disaster Recovery. The additional funding will be identified and presented to the board at the October 27, 2023 Florida Housing Board Meeting.

Motion to approve staff's recommendation, for purposes of discussion, was made by Dev Motwani. Meredith Ivey seconded.

Discussion:

Meredith Ivey provided additional context from Florida Commerce.

Ryan Benson acknowledged the urgency in this matter but stressed his concerns of this item being added less than 48 hours prior to the meeting as well as how it was presented as Consent. Dev Motwani agreed that any future recommendations for reallocating large amounts of funding should be presented as an action item.

Motion to approve staff's recommendation was made by Meredith Ivey. Ryan Benson seconded.

Motion passed unanimously.

Single Family Homebuyer Programs

V. Additional Hometown Heroes DPA Funding

David Westcott presented the following recommendation to the Board:

- Request the Board authorize up to \$92 million in reallocation from the Homeowner Assistance Program (HAP) (s. 420.5088, F.S.) to the Hometown Heroes Program, codified as s.420.5096, F.S. in the 2023 Legislative Session, permitted by statute.

After much discussion, if legally permissible pursuant to Florida Statutes, a motion to approve utilizing up to \$50 million from the Homeowner Assistance Program to be transferred to the Hometown Heroes Program was made by David Hall. Ryan Benson seconded.
Motion passed on a 6-3 vote.

Recommended Motion

Chairman Facella requested the Board make a motion to ratify the following actions taken by the Chair between Board Meetings; placing Executive Director DiNapoli on Paid Administrative Leave, appointing Angie Sellers as Acting Executive Director during the times as well any actions taken by Ms. Sellers while acting in that capacity.

Discussion:

Meredith Ivey stated that she would be in opposition of any action taken against the FHFC Executive Director, considering a lack of time to review/discuss the report. She expressed concerns in how the report was handled and stated she would be a firm no.

FHFC Special Counsel Junious Brown of Nabors Giblin & Nickerson Law, advised the Board on the Florida Statute regarding appointment/removal taken against the FHFC Executive Director.

Meredith Ivey requested a written summary of actions taken by Ms. Sellers during her time as Acting Executive Director.

After much discussion, Chairman Facella stated that this proposed Motion would be held until the next Board Meeting where it would be addressed as an Action Item.

Audit Committee Meeting

Ryan Benson asked FHFC Special Counsel, Nabors Giblin & Nickerson Law, to provide an opening legal statement. Junious Brown stated that Nabors, Giblin & Nickerson Law, believes the Inspector General followed the investigation procedures as required by ch. 20, F.S., applicable public records requirements as required in ch. 119, F.S., as well as the Corporation's policy and standards. They also believe the Audit Committee followed its charter in taking the actions related to the investigation reports and that the investigation will be concluded upon the Board's findings and actions taken.

Chris Hirst, FHFC Inspector General, addressed the Board on the investigative report Case# 230629-01, on allegations against Executive Director Michael DiNapoli.

Ryan Benson updated the Board on the Audit Committee meeting held on September 7, 2023 where two matters were on the agenda. He stated that the Office of the Inspector General presented the Risk Management Analysis draft as well as the Office of the Inspector General's investigation report Case #230629-01. A motion was made to accept the investigation report findings and present them to the Board to handle how they see fit. Chairman Facella advised that since this item was not on the Meeting Agenda to take Action, an additional Public Comment would be required.

Public Comment

No Public comment was offered.

Ryan Benson presented the recommendation from the Audit Committee as follows: accept the investigation report from the Inspector General, accept the findings in the report as supported or not supported, and present to the Board for whatever Action they deem necessary.

Chairman Facella stated that the Motion be bifurcated.

Motion to accept the Inspector General's investigation report and findings was made by Ron Lieberman. Ryan Benson seconded.

Discussion:

Several Board members asked clarifying questions regarding whether and when the investigation report was/would become public record. IG Hirst responded under 119.0712(k), F.S., Board action on the findings in the report completes and finalizes the process of whether it is a confidential indoor or public record. Motion passed in a 7-2 vote.

After much discussion, a motion was made by Ron Lieberman to place Executive Director Michael DiNapoli back on paid administrative leave until such time as the Board can come to a decision on a disciplinary action. Ryan Benson seconded. Motion passed on a 6-3 vote.

Chris Hirst addressed the Board that given the magnitude of the investigation and the number of individuals interviewed at the corporation as well as the potential increase in employee litigation directly related to the investigation it is his recommendation that the employees listed in the report be protected from being terminated without cause and consent of the Board.

Motion that no employees named in the investigative report can be terminated without cause and consent of the Board was made by Ron Lieberman. Mario Facella seconded. Motion passed 8-1.

Motion to recommend Angie Sellers as Acting Executive Director was made by David Hall. Ryan Benson seconded. Motion passed 8-1.

Public Comment

No Public comment was offered.

Adjournment

The meeting was adjourned at 12:14 pm.