

**MINUTES OF THE
SCHEDULED REGULAR MEETING
OF THE COMMISSIONERS OF THE
HOUSING AND REDEVELOPMENT AUTHORITY OF DULUTH, MINNESOTA
HELD ON THE 24th DAY OF NOVEMBER, 2015**

The Commissioners of the Housing and Redevelopment Authority of Duluth, Minnesota, met in a Scheduled Regular Meeting in the Community Room located on the Second Floor of King Manor, 222 East Second Street, Duluth, Minnesota at 3:30 P.M. on the 24th day of November, 2015.

The Chair called the Meeting to order and on roll call the following members were found to be present: Commissioners Boshey, Johnson, Reichert, and Rolle. Commissioners Cuneo and Glumac were absent. The Chair declared a quorum present.

Also present were Jill A. Knutson-Kaske, Executive Director; staff members Carla Schneider, Maureen Zupancich, David Peterson, Lynne Snyder, and Paul Ostazeski; Dan Maddy, Legal Counsel; Dana Witte; Eric Jacobson, AFSCME; and Barbara Findley and Ann Abraham, King Manor residents.

UNFINISHED BUSINESS

None.

CONSENT AGENDA:

The following items were introduced by Commissioner Rolle:

**MINUTES OF THE SCHEDULED REGULAR MEETING OF
OCTOBER 27, 2015**

FINANCIAL REPORT FOR PERIOD ENDING OCTOBER 31, 2015

**RESOLUTION NO. 3632-15
APPROVING REVISED FLAT RENTS FOR PUBLIC HOUSING**

**RESOLUTION NO. 3633-15
APPROVING FLAT RENTS FOR PUBLIC HOUSING
FOR HOPE VI PROJECTS**

**RESOLUTON NO. 3634-15
RESOLUTION AUTHORIZING THE DIRECT CONTINGENT SALE
OF LOT 1, BLOCK 1, HAWK RIDGE ESTATES FIRST ADDITION**

**TO MATTHEW R. AND ERIN M. OLIN BY THE
HOUSING AND REDEVELOPMENT AUTHORITY**

**RESOLUTION NO. 3635-15
RESOLUTION APPROVING MODIFICATIONS TO THE
“BUILD UP DULUTH” HOUSING PROGRAM**

**RESOLUTION NO. 3636-15
RESOLUTION DETERMINING EXCESS LAND**

Commissioner Rolle moved that the foregoing Items A, B, C, D, E, F, and G be approved as introduced. Commissioner Boshey seconded the motion.

Roll was called with the following results:

Ayes: Commissioners Boshey, Johnson, Reichert, and Rolle

Nays: None

The Chair declared the motion carried and said items approved as introduced and read.

DISCUSSION ITEMS

**RESOLUTION AUTHORIZING HOUSING AND REDEVELOPMENT
AUTHORITY (HRA) OFFICIALS TO ENTER INTO AN AGREEMENT WITH
DULUTH ECONOMIC DEVELOPMENT AUTHORITY (DEDA) WHEREBY
THE AUTHORITY WILL IMPLEMENT AND ADMINISTER DEDA’S IRVING
EXTERIOR HOUSING RENOVATION FORGIVABLE LOAN PROGRAM**

The Executive Director stated that approval of this Resolution would allow the Authority to enter into agreement with DEDA to implement and administer a program that would use TIF money that was about to expire in the Irving neighborhood. Prior to leaving DEDA, Chris Eng asked the Authority to formulate a plan with the neighborhood partners to obligate the funds before the end of the year. Lynne Snyder, Director of Rehab and Real Estate, has been working closely working with the City putting together a program that would work with limited restrictions in order to help households in the Irving neighborhood with exterior renovations. The HRA will receive approximately \$24,000 to administer this project, which will serve approximately 13 households. The residents will need to match the DEDA funds, dollar for dollar, up to a maximum of \$12,000, which will provide them with up to \$24,000 to use on exterior renovations of their home. If the resident continues to own their home or rental property for five years, DEDA’s portion of the loan becomes 100 percent forgiven. After she explained that the households did need to pass a basic HQS Inspection provided by the Authority’s rehab

department, the following Resolution was introduced by Commissioner Rolle:

RESOLUTION NO. 3637-15
RESOLUTION AUTHORIZING HOUSING AND REDEVELOPMENT
AUTHORITY (HRA) OFFICIALS TO ENTER INTO AN AGREEMENT WITH
WITH DULUTH ECONOMIC DEVELOPMENT AUTHORITY (DEDA)
WHEREBY THE AUTHORITY WILL IMPLEMENT AND ADMINISTER
DEDA'S IRIVING EXTERIOR HOUSING RENOVATION
FORGIVABLE LOAN PROGRAM

Commissioner Rolle moved that the foregoing Resolution be approved as introduced. Commissioner Johnson seconded the motion.

Roll was called with the following results:

Ayes: Commissioners Boshey, Johnson, Reichert, and Rolle

Nays: None

The Chair declared the motion carried and said Resolution approved as introduced and read.

RESOLUTION OF APPRECIATION TO SUE BRADFORD

The Executive Director read the Resolution of Appreciation to Sue Bradford and requested that this Resolution be adopted and spread upon the minutes of this meeting. The following Resolution was introduced by Commissioner Johnson:

RESOLUTION NO. 3638-15
RESOLUTION OF APPRECIATION TO SUE BRADFORD

Commissioner Johnson moved that the foregoing Resolution be approved as introduced. Commissioner Boshey seconded the motion.

Roll was called with the following results:

Ayes: Commissioners Boshey, Johnson, Reichert, and Rolle

Nays: None

The Chair declared the motion carried and said Resolution approved as introduced and read.

EMPLOYEE GRIEVANCE – STEP 3

The Executive Director explained to the Board that Paul Ostazeski was at today's Board meeting with Eric Jacobson, from AFSCME, to proceed with Step 3 of a grievance. The grievance has already been through Step 1 with his immediate supervisor, Step 2 with the Executive Director, and now they wished to proceed with Step 3 before the Board. She explained that Mr. Ostazeski and Mr. Jacobson would present their evidence and arguments, the Executive Director would then present for management, and then the Board would have an opportunity to ask questions. The Board would then have the opportunity to vote on their response to Step 3 of the grievance if they wished, and if the Board chose not to vote today there would be a need for a Special Board meeting within 10 business days to vote. She also explained that Mr. Ostazeski had an option of having this part of the meeting adjourn to closed session, to which he responded that open session was fine with him.

Mr. Jacobson explained that the grievance pertained to 15 minutes worth of on call time that Paul Ostazeski had claimed on his time sheet. The matter that they were discussing was whether or not answering his phone and dealing with some issues counts as time worked.

Paul Ostazeski explained that he was at the Board meeting today because he had been denied 15 minutes of pay for gathering information on the phone. He provided background information indicating that he has been with the Authority for 25 years, 24 of those years as a maintenance mechanic, and he was one of the few who still volunteered to take after hours calls to handle emergencies throughout all the properties. In the past he has been paid for phone calls, even though he has not put them down on his time card. He distributed a handout showing his time card that detailed the call, and another handout detailing calls over the past seven years. He stated that he had made a request for information on his time cards going back seven years, because at the Step 1 and 2 meetings he informed management that he had been paid, and Pam Benson, Director of Housing Services, indicated that they had gone back one year and there were no records of him being paid for his phone calls. He stated that was because he had not taken standby for approximately a year. He explained that he was called in the middle of the night by the answering service who reported that a tenant was locked out. He called the tenant, got his answering machine, and left a message that he needed to talk to him before he could respond. He waited and then attempted to call the tenant again. This time the tenant answered. Paul indicated that this tenant from Tri Towers was uncooperative, stating he couldn't talk now, the police were there, and that he would call Paul back. Before he hung up, Paul tried to get the information that he needed to find out if he needed to go to Tri Towers. He stated that according to Pam's records he was on the phone for a total of five minutes between the three calls that he made over the duration of 11 minutes, and they always rounded to the nearest quarter hour, so he put down 15 minutes on his timecard. He indicated that their contract stated that when you were on

standby, you would get paid for three hours of overtime for being on standby, and for any time actually worked. He stated that he wasn't making phone calls in the middle of the night for his benefit; he was doing it for HRA's benefit, therefore its work, he has been paid in the past for that, he doesn't request it for every phone call, but there has been particular circumstances. Because of this phone call, he waited quite a while, and was up essentially the rest of the night. Since he has begun taking on call duties again, there have been other instances of working the phones to get the help needed to the tenant, and they have been told that wasn't work. Paul indicated that he thought it was pretty clear that it was work.

The Executive Director stated that union representatives and management representatives bargain for provisions in the collection bargaining agreement. There is a special provision for standby, paragraph 7.9, a copy of which was in Commissioners' green folders, and it is different than call back, paragraph 7.8. Mr. Ostazeski was on standby at the time of this incident, thus this was the only applicable paragraph today. Any mention of the call back provision by the union was not applicable. She indicated that the two things to remember were that phone calls were not paid separately as part of standby and extra overtime on standby begins when you reach the job site.

Per the collective bargaining agreement, Mr. Ostazeski received three hours of overtime on August 20th for being on standby. He received two phone calls that day, one at 1:33 A.M. and one at 6:42 P.M. He did not charge for the call at 6:42 P.M., but he did charge for the call at 1:22 A.M. He also did not charge for three other phone calls on that same After Hours Call log.

The Executive Director indicated that in her meeting with him, his explanation as to why he charged for the 1:22 A.M. call on the 20th was that the tenant was being difficult and was not sharing information needed for him to make a determination as to whether or not he needed to go to the site, which was consistent with what he said today. Also in her meeting with Mr. Ostazeski, he stated that he had been informed that work started when he got to the site. So he knew this, yet he still tried to claim extra overtime for a phone call. Even though Mr. Ostazeski knew that work started when you got to the site and he showed inconsistency in billing for only one call, he and the union still proceeded with this grievance.

In order to determine whether this particular off-site phone call should be paid additional overtime or absorbed by the three hours of overtime already paid on standby, management looked at past practice. Past practice must be fully known by both parties and be shown as consistent. After Hours Call Out records were implemented in August, 2014. Therefore, going back a full year from the incident we can establish past practice for standby because starting in August, 2014 was when the practice was fully known by both parties and it could be shown as consistent.

Management reviewed all After Hours Call out records for a full year preceding the incident and found that no employee was paid for a phone call while on standby during that time. Clearly the practice was fully known and consistent. In one instance there was an employee who had put a phone call down to be paid, but when questioned by his supervisor, he realized his error and voluntarily removed the time. Mr. Ostazeski did not make an inadvertent error because if he had, he would have voluntarily removed it from his time card when it was brought to his attention, but instead, he was angry that he was disturbed by an uncooperative tenant at 1:22 A.M. and he thought he should be paid. The Executive Director indicated that employees did not get paid based on the level of annoyance of a call.

The Executive Director explained that the grievance wasn't about whether or not the employee should get paid for 15 minutes of overtime, but the grievance was about when does work start. If it was determined that under the standby provision of the collective bargaining agreement that work started at the time of the phone call, the next request could be to pay for travel time to and from the site. That type of provision would raise the costs and liability for the HRA. She indicated that the union was looking for the Board to set a precedent.

She asked the Board to uphold management's decision to deny the grievance. She listed the following points:

1. Mr. Ostazeski was on standby covered under the special provision for standby paragraph 7.9.
2. Mr. Ostazeski received three hours of overtime for being on standby per the collective bargaining agreement.
3. Mr. Ostazeski, on the same call record received other phone calls that he did not charge for. This showed that he knew that phone calls were not paid for under paragraph 7.9.
4. Mr. Ostazeski was annoyed by the caller at 1:22 A.M. on August 20, 2015, and thus made a decision to attempt to get paid for that particular call.
5. This went against past practice and against what Mr. Ostazeski knew to be allowed.
6. In the preceding 12 months, only one other employee had requested to be paid overtime for a phone call while on standby. When this was brought to his attention, he realized his error and voluntarily removed the time from his timecard. In the preceding 12 months, to management's knowledge, no HRA employees were paid for phone calls while on standby. Clearly this showed the practice was known by both parties, union and management, and was consistent.

7. Past practice cannot be established prior to August 2014 because the practice was not consistent. Management implemented the “after hours call out record” to develop that consistency. She mentioned that in the information provided by Mr. Ostazeski today was dated from 2008 to 2010. She indicated that they had asked the union to bring any evidence forward that was dated from August 2014 to present, and they did not provide that.

8. Mr. Ostazeski stated that he was gathering information, and she questioned what information he could have been gathering at his home at 1:22 A.M. when the tenant wouldn’t return his call. She explained that work started when you arrived at the job site.

Again, she asked the Board to uphold management’s decision to deny the grievance.

The Chair stated that the Board’s role was to consider the evidence that was heard. Their options were to approve the decision of the Executive Director or reverse the decision of the Executive Director. If they approve the decision of the Executive Director, the grievance is denied, and if they reverse that decision, the grievance is granted. Commissioner Rolle introduced the motion to deny the grievance.

Commissioner Rolle moved that the motion be approved as introduced. Commissioner Boshey seconded the motion.

Roll was called with the following results:

Ayes: Commissioners Boshey, Johnson, Reichert, and Rolle

Nays: None

The Chair declared the motion carried unanimously.

COMMUNICATIONS/CORRESPONDENCE

The Executive Director pointed out that in the blue pages of the Board packet, they would find an article regarding the pop-up stores in the Lincoln Park, and it had mentioned the artist spaces at the Esmond Building. Also included was LISC’s final report. Included in Commissioners’ green folders was the Esmond monthly report.

REPORTS OF COMMITTEES

Rehab Advisory Committee: The Rehab Advisory Committee had not met.

Finance Committee: The Finance Committee had not met.

OPPORTUNITY FOR VISITORS TO BE HEARD

None.

BUSINESS BY COMMISSIONERS

The Chair announced that since Commissioner Thomas has resigned from the Board, and since he was the Vice-Chair, he had asked Commissioner Johnson to serve as a nominating committee.

Commissioner Johnson made a motion to have the Board of Commissioners consider Phil Rolle as Vice-Chair to replace former Commissioner John Ivey Thomas.

Roll was called with the following results:

Ayes: Commissioners Boshey, Johnson, Reichert, and Rolle

Nays: None

The Chair declared the motion carried unanimously.

The Executive Director reviewed the dashboard highlights for Commissioners. In connection with Goal #1 there were no changes, and they continued to work with their partners to address housing needs in the community.

The Executive Director explained that regarding Goal #2, the Authority continues to work with the City to identify blighted housing. She mentioned they may be receiving a fire damaged home next to one of their 25 foot lots. The City has said they will demolish it and not assess the lot, thus giving the Authority a 50 foot lot in the Build Up Duluth target area. She indicated that the Authority was still working with DEDA, the City, the County, and LISC regarding rehabilitating condemned for human habitation and tax forfeit property in the hillside area.

The Build Up Duluth program had a ground breaking for its first model home on November 6th. The program has provided funding for seven units of rehab owner occupied multi family homes in the target neighborhood. She explained that with the approval of today's Resolution, they would have an addition four units in process with new owners.

The Executive Director indicated that this month Goal #3 included meeting with Commissioner Boshey regarding potential additions to our customer survey to capture cultural sensitivity of staff and feelings of comfort and inclusion in our customers.

Things have been continuing, but there have been no changes in Goals #4 and #5 since last month.

The Executive Director mentioned that regarding Goal #6, some Board members have passed along ideas, and staff has met and discussed potential candidates to fill the spots vacated by Commissioners. She plans to contact Mayor-elect Larson to discuss her thoughts regarding this.

Regarding Goal #7, the Executive Director indicated she had met with WestmorelandFlint again about an interactive website. Currently it was cost prohibitive for the Authority, but she was hoping to find partners who may find value in its creation and maintenance. She mentioned that the presentation to the City Council regarding the Authority's budget and accomplishments would be on December 7th.

The Chair added that every January there is an annual meeting to elect officers of the Board and he indicated he had asked Commissioner Johnson to continue to serve as the nominating committee for that meeting.

REPORT OF EXECUTIVE DIRECTOR

The Executive Director reported that the Section 8 program had completed their SEMAP Certification, which is the Section 8 Management Assessment Program. It appears that they will achieve the high performer status once again, and they should know for sure by the first of the year. She congratulated Pam, Mary, and the Section 8 staff.

The Executive Director reported that they selected a potential development partner for the RAD conversion. The development team will be comprised of Brinshore Development out of Northbrook, Illinois and CommonBond Communities from St. Paul, Minnesota. She indicated that they will be meeting on December 1st to come to a preliminary agreement on how to structure the partnership.

The Executive Director indicated that the DEDA projects were moving forward. The Irving Exterior Renovation program has been approved by the City Council, and Lynne Snyder and her staff have been working on solidifying the parameters of the program. The HRA will receive approximately \$24,000 for their time and efforts in administering this program. In addition, they continue to plan for the rehab program, unofficially named "property brothers," where the City, the County, DEDA, LISC and the HRA were partnering to rehab those condemned for human habitation and tax forfeit properties.

The Executive Director reported that Build Up Duluth had their first ground breaking on November 6th, and they received media coverage on FOX news. In attendance were City Councilor Barb Russ, representatives from the Duluth Chamber of Commerce,

representation from LISC and One Roof, HRA staff, and both Build Up Duluth builders. They should be closing on two new purchases of multi-family units by the end of month, and this will bring the program to 11 rehabilitated units, two new owner occupant landlords, plus the two model homes in the Hillside neighborhood. She thanked David Peterson, Development Coordinator, for his dedication and flexibility to this program, and Carol Schultz, Special Projects Coordinator, for the logistics assistance in setting up the ground breaking.

The Executive Director mentioned that the Gateway meetings were proceeding with the development team on a weekly basis. The HRA was currently still the lender, but is involved with the proceedings at Gateway, and they continue to discuss how to transition that management piece.

The Executive Director indicated that she has continued to work with Legal Counsel and Scott Vesterstein on the Matterhorn refinance deal.

The Executive Director mentioned that they had received payments in the amount of \$53,501.25 on the Harbor Highlands-Phase IV loans.

The Executive Director explained that at the Esmond one artist had signed a lease for commercial space. She indicated that there was a coffee shop person interested in moving into an additional commercial space, and the Authority was still partnering with LISC and the Entrepreneur Fund to find additional commercial tenants. She indicated leasing space to two additional artists had fallen through. Originally LISC had asked her to let these artists use the Esmond commercial space for five weeks for free to do a pop up, and she said that she would let them use it for free through the holidays if want to clean up the interior. When she met with the artists, they indicated that they wanted more than two months if they did interior clean up work. She offered them the space until June 30th, with no rent, and a maximum of \$200 a month for utilities. The artists then said they wanted the space free for a year and no utilities. She declined. She asked the Board for their opinions, discussion, and suggestions regarding what they wanted to see for the commercial space. She made the same offer to the coffee shop person who thought it was a great offer. Commissioners thought that her offer was reasonable.

The Executive Director reported that there have been exterior improvements at the Esmond. Keys have been made, doors are being fixed or replaced, the external stairwell was being covered, and painting has been completed. The next steps were exterior lighting and water meter hook ups.

REPORT OF LEGAL COUNSEL: MONTHLY ACTIVITIES

Legal Counsel reported that he has done quite a bit of work on Matterhorn in addition to having difficulties with HUD. He indicated that both MHFA and GMHF went in a

direction they hadn't expected in their approvals. He explained that they have been trying to negotiate a fee and offset some administrative burden the HRA has in that project. He has also been working on the Gateway project. He has had discussions with the Executive Director and the Deputy Director about whether or not the Authority should take over the general partner role at Harborview Phase I. They have been discussing refinancing the original Wells Fargo loan which was at a seven and a half percent interest rate and has a significant prepayment penalty. Wells Fargo has indicated some willingness to reduce the prepayment penalty substantially to allow the loan to be refinanced. Unless it makes financial sense for the Authority to do anything, they will not proceed with taking over the general partner's interest.

Legal Counsel indicated that he had one point of litigation to mention. The HRA staff has been working with the County and Northwoods Children's Home to assemble some tax forfeited parcels in the vicinity of one of their homes, which was land that they inadvertently let go tax forfeit. As part of the process, after the Authority asked if the County would convey it to the Authority, the County took it out of conservation and a lawsuit was served, making some allegations that the request was improper to the County and the Authority should be prohibited from proceeding with the plan to make the land available to the Northwoods Children's Home. This is being reviewed by Joe Mihalek from the Fryberger law firm, and they are in discussions with Northwoods Children's Home about them indemnifying the Authority. Legal Counsel had some indication that they would, but he needed confirmation in writing and a discussion about whether they would pay expenses incurred by the Authority with the Authority's regular counsel or whether they intended to have their law firm take over the defense. At that point he would discuss with staff as to whether that was appropriate.

Legal Counsel stated that he normally reports on matters that he has been involved in, but their firm works on a broader range of HRA matters each month, so he wanted to know if the Board would like him to make an effort to more broadly report on what his firm was working on related to the HRA. The Chair indicated they would be interested in that.

The Chair questioned whether the Board would meet in December, and the Executive Director had indicated she didn't see anything of great urgency coming up at this point. Staff had not brought anything to her attention that couldn't wait until the January meeting. At this point it appears that there would be no need for the Board to meet in December.

OTHER BUSINESS

None.

ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 4:15 P.M.

Chair

ATTEST:

Secretary

Scheduled Regular Meeting – November 24, 2015