

**Florida Housing Finance Corporation  
Board of Directors' Meeting Minutes  
March 15, 2013**

**TIME:** 8:30 a.m.

**LOCATION:** Tallahassee City Hall  
300 South Adams Street  
Tallahassee FL 32301

**BOARD MEMBERS PRESENT:**

Len Tylka, Chairman  
Cliff Hardy, Vice Chairman  
Mary Demetree  
Natacha Munilla  
Joe Sanchez  
Barney Smith

**CORPORATION STAFF PRESENT:**

Stephen P. Auger  
Hugh Brown  
Wayne Conner  
Laura Cox  
Sheila Freaney  
Barbara Goltz  
Wellington Meffert  
Nancy Muller  
Stephanie Sgouros  
Jacqui Sosa  
Kevin Tatreau  
David Westcott

**ADVISORS AND OTHERS PRESENT:**

Junious Brown, Nabors, Giblin & Nickerson  
Jan Carpenter, Shuffield Lowman  
Bill Johnston, WLJ Partners/Tibor Capital  
Michael Donaldson, Esq.  
W.D. Morris, Florida ALHFA

Chairman Tylka called the meeting to order at 8:30 a.m.

## **MINUTES**

**Item A, Approval of Minutes of February 1, 2013, Board Meeting.** Chairman Tylka asked for a motion to approve the Minutes of the February 1, 2013, Board Meeting.

Motion to approve the Minutes was made by Mr. Hardy with a second by Mr. Sanchez.  
Motion passed unanimously.

## **FINANCIAL REPORT**

Barb Goltz explained the variances in the Operating Budget Analysis for December 2012 to the Board, including the variance in the Hardest-Hit Fund numbers between projected amounts and actual amounts from both a revenue and expense standpoint, which has no effect on the bottom line. She added that revenues over expenses for the year as compared to the budget was up \$1.5 million, a difference of 16.5 percent, but that doesn't include depreciation, loan loss numbers, etc. However, she stated that for purposes of Florida Housing's financial condition, the numbers do represent 2012.

She noted that the Operating Budget Analysis for January 2013 indicated that revenues were over expenses by a little over \$300,000, but explained that this was due to timing differences, in that it was difficult to see an accurate financial picture for the year after only one month.

Barney Smith asked about 2012 administrative fees being under budget by almost \$19 million. Barb explained that it was due to the program not operating at the level staff expected, so those funds were not drawn.

## **AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)**

**Item A, Request Approval of Transfer of General Partnership Interest for Marcis Pointe Apartments.** Kevin Tatreau asked the Board to approve a request for transfer of general partnership interest for Marcis Pointe Apartments, a development that has tax credit exchange program funding and 9 percent credits. He stated that it is a 120 unit development in Duval County and involves the transfer of 66.68 percent general partner ownership interest from James Dyal to John Rood, with the remaining interest held by Jonathan Wolfe. He asked the Board to approve the transfer subject to review by Florida Housing staff and credit underwriter and direct staff to proceed with loan documentation modification activities as needed.

Motion to approve staff's recommendation was made by Mr. Hardy with a second by Mr. Sanchez. Motion passed unanimously.

## **HARDEST-HIT FUND**

### **Item A, Request Approval to Allocate Funds, Submit Term Sheets, Open Rulemaking and Competitively Solicit Needed Services for the Hardest Hit Fund Principal Reduction Strategy.**

David Westcott reminded the Board that at the December 7, 2012, Board Meeting, staff presented the Board with a proposed principal reduction concept for the Hardest-Hit Fund. He stated that the additional terms that were developed with staff at National Community Capital were included in the printed Board Package as Exhibit B and would be submitted to the United States Treasury for approval to move forward with the program if the Board approves the request. He added that the financial model under which National Community Capital operates was reviewed by Florida Housing's financial advisor, Bill Johnston, and found to be reasonable and accurately prepared. He asked the Board for authorization to allocate up to \$50 million in Hardest-Hit funds, open the rulemaking process, begin competitive solicitations and work with the United States Treasury on term sheets for the principal reduction strategy, as well as for the existing UMAP and MLRP programs, making tweaks, if necessary, to those programs, subject to further approvals and conditions from counsel, United States Treasury and Florida Housing staff.

Motion to approve staff's recommendation was made by Ms. Munilla with a second by Mr. Smith.

Mr. Smith asked if the entire Hardest-Hit Fund program was being revamped, or just \$50 million carved out for a specific market. Mr. Westcott stated it was only \$50 million for a specific market.

Mr. Smith asked if NCC was going to enter into similar programs throughout the state if the program was successful in Tampa Bay. Mr. Auger stated that was the case. Mr. Westcott stated that the next buys from HUD's distressed asset sales would be in Orlando and southeast Florida, and those HUD sales are progressing. He added that the \$50 million requested would not just go for the Tampa loans, but also the Orlando and Miami sales as well.

Motion passed unanimously.

## **LEGAL**

**Item A, Landings at Cross Bayou, LLP, v Florida Housing.** Hugh Brown, Deputy General Counsel, stated that the Petitioner in the Cross Bayou v. Florida Housing case was an applicant during the 2011 Universal Cycle and in July 2012 filed a petition for administrative hearing electing that the corporation erred in scoring of a competing application, MLF Towers, and that as a result, Petitioner's application was not funded. He added that the scoring issue involved information included in cure materials submitted by MLF Towers, specifically a map attached to a letter from the local zoning official that included a notation at the bottom stating that all properties were zoned as CBD-2 except as noted. He stated that the cure was accepted by the corporation, and was followed by a notice of alleged deficiency, or NOAD, filed by the Petitioner alleging that the CBD-2 notation on the map submitted by MLF Towers created inconsistencies with other information in its application, including that it contradicted the zoning form that MLF submitted which had a different designation on it – DC-1.

Mr. Brown stated that in final scoring the Corporation rejected Petitioner's arguments and accepted MLF Towers' cure. He stated that a formal hearing was held before an administrative law judge on October 23, 2012, resulting in the recommended order issued in January 2013, and was currently before the Board for consideration. He stated that the recommended order recommends that the Board issue a final order holding that the corporation erred in accepting MLF Towers' cure. He stated that the Corporation subsequently filed exceptions to the recommended order and Wellington Meffert would speak in support of those exceptions, with Michael Donaldson arguing against them. He stated that the Board's task was to rule on the recommended order and the exceptions and issue a final order consistent with that ruling.

Motion to approve the recommended order was made by Mr. Sanchez. No second was received and the motion was withdrawn.

Mr. Brown indicated that a specific ruling was needed on the exceptions before adoption of a recommended order.

Wellington Meffert stated that the basis for the case was that when MLF Towers filed its application it had scattered sites and the property description referred to plat, lot and block numbers, and when the plat was done in 1890, the City of St. Petersburg was still in Hillsborough County, and on that plat, the lot and block references are on 7<sup>th</sup> and 8<sup>th</sup> Avenue, respectively. He added that subsequently, St. Petersburg became part of Pinellas County and changed the street names from 7<sup>th</sup> and 8<sup>th</sup> Avenues to 2<sup>nd</sup> Avenue South and 3<sup>rd</sup> Avenue South, so the descriptions of the sites reference 2<sup>nd</sup> Avenue South and 3<sup>rd</sup> Avenue South, while the plats said 7<sup>th</sup> Avenue and 8<sup>th</sup> Avenue. He stated that the Petitioner filed a NOPSE saying this created an inconsistency, and to cure that inconsistency, MLF Towers got a letter from the zoning official explaining that over the hundred years intervening, the street names had changed and were now as described, so the information on the plat had been superseded; however, once a plat is recorded, it stays in the permanent record, so there was no change to the plat itself. He stated that the letter had an attachment showing where the property was and an engineering map of downtown St. Petersburg with dates down the left side indicating it had been revised about 20 times. He added that at some point, someone had written on the bottom of the map that all parcels are zoned CBD-2 unless otherwise noted, even though today the parcels are zoned DC-1.

Mr. Meffert stated that in the NOAD Petitioners argued that the fact that MLF Towers had produced an explanation for why the street names were different had not cured the inconsistency, but merely explained it; however, they recognized the impossibility of going back and changing an existing public document and abandoned that argument at hearing. He stated that the Petitioner said the inconsistency that was created between the zoning categories, and it had been done elsewhere in the application signed by Mr. Lazara, the same man who wrote the letter, the zoning official for the City of St. Petersburg, the local government official charged with knowing what the zoning was, said that the CB-2 category had not existed since 2007 at the latest, when the land development regs were completely revamped, so Florida Housing didn't accept the NOAD. He stated that the Petition was filed and the matter went to hearing at DOAH.

Mr. Meffert stated that the exceptions state that facts mean something, and when you go to DOAH, you explicate the facts, you get them into the record, and the facts have some effect on the outcome. He stated that the judge treated the facts as irrelevant and that everything had to be within the four corners of the application documents, which is the posture Florida Housing is

usually in an informal hearing, but the difference is in an informal hearing, the facts are agreed upon by the parties before the hearing. He stated that Florida Housing's argument was that once you go to DOAH, you open the facts up to clarify or explain what the application documents say, but you don't allow new application documents or substitute documents to be put in the record at DOAH. He stated that DOAH judges want to allow more documents, and Florida Housing tries to confine the argument to clarifying or explaining the documents in front of them.

Mr. Meffert stated that in this case, the facts were uncontroverted and no one doubts that the zoning is currently DC-1 or that the face of the attachment did say the zoning was CBD-2 at some earlier time, but the judge's rationale would preclude Florida Housing from ever going to DOAH again, because it has to be on the face of the documents. He stated that the judge says in his recommended order that while Florida Housing wants to come to a decision that is fair and accurate, that doesn't matter because the documents themselves don't support that conclusion. He stated that was absurd.

Mr. Meffert stated that in Mr. Lazara's deposition he testified that he included the attachment only to address the street issue, that it did not address the zoning issue, could not address the zoning issue because that zoning category did not exist anymore, so there was no doubt or inconsistency as a matter of fact.

Mr. Meffert stated that there are cases cited in the recommended order and in the response to the exceptions, but they were all informal hearing cases that were decided on the face of the documents with one exception, and in that case, the facts supported the conclusion that Florida Housing had come to that a deed was not signed by the entity that owned the property, and other than substituting a different signature page, there was no way to fix that one as a matter of law.

Mr. Meffert stated that there were a couple of cases that Florida Housing referred to for explanation, and that Mr. Donaldson would argue that those cases are not controlling because they weren't tried, they were settled. He stated that those cases represent Florida Housing's position in these kinds of cases. He stated that in Nova Oaks a surveyor said the tiebreaker measurement point was inside the parcel that was being developed, while another surveyor in a NOPSE or NOAD said it was actually two feet outside the parcel, and a third agreed with the first surveyor. He stated that Florida Housing conceded that case before hearing, as the facts clearly showed Florida Housing was wrong and in all similar cases for the past ten years, Florida Housing has conceded.

Mr. Meffert stated that in the Eclipse case the inconsistency was Flagler Drive versus Flagler Avenue, and during the course of trial preparation, it was discovered that different elements of government referred to the street by four different names, so Florida Housing could not penalize the applicant for that, and the case was settled.

Mr. Meffert stated that there is a fundamental question of whether or not the DOAH proceeding is a different proceeding from the informal proceeding, and Florida Housing contends that it is. He stated that if you are going to DOAH to find the facts and come to the correct result based on those facts, the judge got it wrong.

Mr. Meffert stated that Mr. Donaldson would refer to Twin Lakes, wherein the Board reversed an informal hearing officer's ruling. He stated that was an inconsistency case that was very specifically tailored to the financial commitment, Part 5D of the application. He stated that the rule was changed for the 2011 cycle to make that an absolute, allowing no inconsistencies of any kind for that section. He stated that Florida Housing argued at the DOAH hearing that the 2009 rule language was not changed anywhere else in the application except that one place where it said it was absolute strict liability. He stated that Florida Housing contends that under statutory construction principles, that indicates some idea that you've changed one part, not changed the other parts, so the part that was unchanged must mean something different, but the judge did not agree. He stated, however, that the point was whether or not the facts matter. He stated that the Twin Lakes case was an informal hearing, the facts were agreed, and it was tried on the face of the documents as it should have been.

Mr. Meffert stated that Ybor III was the case that set up the new system of two levels of challenge where you can challenge your own score and also the score of another application. He stated that the Ybor III case at hearing was a DOAH case and was one where Florida Housing did not prevail, but in that case, it was clear that the judge looked at the facts and found that the evidence did not support a conclusion contrary to that, unlike here where the judge recognized all the facts, recognized that there was no inconsistency, recognized what the zoning was, recognized that the zoning director said that his letter had nothing to do with zoning, it was only to establish that the street names had changed, but in the face of that, still decided that Florida Housing made the decision incorrectly.

Mr. Meffert stated that if MLF Towers had been thrown out based on this, they would have taken Florida Housing to DOAH to get the facts out, and had they done that, Florida Housing would have lost the case by conceding as Florida Housing did in Eclipse, Nova Oaks, and a number of other cases where the facts were clear that Florida Housing was wrong.

Mr. Meffert asked the Board to accept the exception which states that Florida Housing's conclusion was reasonable and to reject the recommendation of the recommended order which says Florida Housing shall fund Landings, and in its place, reject their petition and dismiss it, and deny the application for funding.

Michael Donaldson, representing the Petitioner, Landings at Cross Bayou, LLP, stated that he did not disagree with what the administrative law judge found as it relates to the facts; however, he questions what facts are the most important facts and what is at issue, zoning or what the Applicant did.

Mr. Donaldson stated that the case at hand was presented to the Board at both the November and December 2012 Board Meetings where Florida Housing staff called it "absurd, ridiculous, an example of how a developer, specifically named, Norstar, is attempting to take advantage of the system to get a deal funded." He stated that his client strongly disagreed with that characterization and hoped that the Board was not tainted by those.

Mr. Donaldson stated that the real issue at the center of the case is what Florida Housing staff can do with a bit of information when it's received by an applicant and that information creates an inconsistency with something else in the application and what the standards are on what they can do. He stated that in the past it has been dictated by the administrative rules adopted by

the Board every year and the precedence of interpreting those rules. He stated that every year new rules are adopted and those rules are binding on the applicants, the Board and the staff in order to ensure the process is objective.

Mr. Donaldson cited Rule Section 68-48.004(6) that specifically says “where revised or additional information submitted by the Applicant creates an inconsistency with another item in that application, the Applicant shall also be required in its submittal to make such other changes as necessary to keep the application consistent as revised.”

Mr. Donaldson stated that Subparagraph Nine states “Inconsistencies created by the Applicant as a result of information provided pursuant to a cure or NOAD will still be justification for rejection of the application, threshold failure, or reduction of points as appropriate.” He stated that means if you messed up and didn’t get your cure correct, and there’s inconsistent information, there will be a penalty.

Mr. Donaldson noted that the Board has entered two final orders that deal with the issue at hand. He stated that in the APD Housing Partners 20 case, the final order says “Under Florida Housing’s rule, the Petitioner is responsible for the accurate completion of each page and applicable exhibit of its application and Florida Housing is not permitted to assist the Petitioner in that process. The Universal Application Cycle is a competitive application process in which the applications are scored objectively based not upon what an applicant may have intended to provide or should have provided in its application in order to satisfy the applicable rule requirements, but rather upon the information actually provided in its application, including exhibits and cure materials.”

Mr. Donaldson stated that in the Twin Lakes final order that was adopted in June, the Board said “Florida Housing’s rules do not distinguish between material and immaterial information submitted in an application. Nor do they allow for the corporation staff to ignore gratuitous information once submitted. Instead, the rules require that each page and exhibit of the application must be accurately completed. Florida Housing’s rules do not allow corporation staff to ignore any information once it is submitted.”

Mr. Donaldson stated that the standard is that you have a right to cure and you better make sure if you cure, you get your inconsistencies so there is no inconsistency in the application and if you don’t there is a penalty.

Mr. Donaldson stated that in the Landings case, the Applicant turned in a document, that document had inconsistent information, and had information in the cure that was inconsistent with some place else in the application. He stated that the Petitioner filed a NOAD, the NOAD was denied, and the Petitioner challenged. He stated that the challenge was first set for an informal hearing at which it was decided by Florida Housing that the case would be moved to DOAH. He stated that at DOAH, the administrative law judge just entered his recommended order that sides with the Petitioner. Mr. Donaldson stated that the hearing was a *de novo* hearing where the administrative law judge let everybody testify as to everything and he relied on those facts. He stated that if the administrative law judge got something wrong in his decision, the Board does not have jurisdiction over that call.

Mr. Donaldson stated that Florida Housing did not accept the outcome of the hearing and filed exceptions contending that there really was no inconsistency when the Applicant submitted their document in 2012 because the zoning category included in the objectionable document didn't exist, but if there was an inconsistency, it wasn't material. He stated that Florida Housing wanted to use the get-it-right standard and the administrative law judge cites the get-it-right standard over and over again.

Mr. Donaldson stated that the issue was never zoning, it was that the Applicant made a mistake and turned in information that was inconsistent with other information in the application.

Mr. Donaldson stated that the issue in the Twins Lakes case was that the applicant turned in a cure for an equity commitment letter issue and in the cure, while they satisfied the equity commitment issue, they represented that the development size was 144 units, when elsewhere in the application they indicated it was 88 units, and as a result of a NOAD, Florida Housing rejected the application. He stated that the applicant challenged the ruling at an informal hearing and he argued the get-it-right rule by saying the cure addressed the equity commitment letter issue, so it's irrelevant. He stated that even if they were addressing the equity commitment letter issue, you don't have to put the number of units there, so it's gratuitous. He stated that the number of units was already established in the application at 88, so the 144 in the cure couldn't change that.

Mr. Donaldson stated that Florida Housing was raising three arguments: the cure was submitted to address an address issue, not a zoning issue; to address the address issue, you didn't have to know what the zoning was, so the zoning information included was demonstrative; and the zoning was already established in the application and nothing in the cure changed that, and that is the same argument used in the Twin Lakes case using the get-it-right rule. He stated that the Board overturned the Twin Lakes recommended order. He stated that in Twin Lakes, Florida Housing staff said there was no such thing as the get-it-right rule. He stated that staff lead the Board to believe that if they adopted the Twin Lakes recommended order, the whole process would fall apart, so they overturned the recommended order.

Mr. Donaldson asserted that Florida Housing staff was asking the Board to do the opposite of what they did in the Twin Lakes case, and in doing so, would create an inconsistency with what they did in the Twin Lakes case.

Mr. Donaldson stated that the Petitioner did have the ability to further appeal if the Board approved the staff's recommendation on the matter, but the appeals process would take so long that the development would be dead before the matter was resolved.

Mr. Donaldson asked the Board to adopt the recommended order as written.

Len Tylka asked how the case with the letter that was drafted specifically to address the issue at hand and nothing else is a suitable comparison to the case at hand which involved a document prepared by an unknown person years in the past.



Mr. Donaldson stated that the document in the case at hand was attached to a letter written by the zoning director, who was the same zoning director that did the zoning forms. He stated that the entity that should have fixed the problem in both cases, whether it's 88 or 144, or whether it's CBD-2 or DC-1 is the Applicant, not Florida Housing.

Mr. Tylka asked if the cover letter addressed zoning at all. Mr. Donaldson said it only addressed the address issue.

Steve Auger stated that staff stood by its recommendation to adopt the recommended order with the exception of conclusion of law 48. He stated that the in the Twin Lakes matter the inconsistency was in the finance section, where the rules for inconsistencies are different. He added that the rules clearly give the Board authority to overturn a single conclusion of law in a recommended order.

Mr. Donaldson stated that the fact that the Twin Lakes matter involved Part Five did not make it any different from the case at hand.

Barney Smith asked if a precedent would be set if the Board overturned the administrative law judge's order. Mr. Auger stated that the process was going to be changed dramatically in the near future to an RFP process and that Florida Housing would be unlikely to find itself in this situation again.

Joe Sanchez asked if the rules that govern the Board allow them to overturn the recommended order. Mr. Brown indicated that the Board did have the authority to overturn a conclusion of law within a recommended order, which is what the staff was recommending.

Mr. Donaldson again stated that if the Board approves the staff recommendation, it would be doing something directly in opposition to what it did in the Twin Lakes case.

Mr. Meffert stated that the recommendation in the case was not supported by the facts. He stated that the purposed inconsistency was with a nonexistent zoning category. He stated that in Twin Lakes, they would have had to substitute a different letter to correct the inconsistency, which is not allowed. He stated the Part 5 language was specifically changed in 2011 to say Florida Housing would not accept any document that contained an inconsistency, but it was specific to that one section only.

Mr. Meffert again asked the Board to overturn the administrative law judge's recommendation as not supported by the facts found in the case.

Mr. Sanchez made a motion to accept the staff recommendation. No second was received.

Mr. Brown stated that the Board needed to rule on the exceptions and then rule to adopt the recommended order based on that ruling. He stated that staff's recommendation was to grant the exceptions.

Mr. Sanchez restated his motion to accept the staff recommendation. No second was received.

Mr. Smith made a motion to approve the administrative law judge's recommended order as written. Motion was seconded by Ms. Demetree. Motion passed by a vote of 5 to 1 with Mr. Sanchez casting the dissenting vote.

## **LEGISLATIVE REPORT**

Jacqui Sosa updated the Board on the ongoing legislative session and how it might impact Florida Housing.

## **NON-COMPETITIVE MULTIFAMILY PROGRAMS**

**Item A, Multifamily Mortgage Revenue Bonds and Non-Competitive Housing Credits Rulemaking.** Chairman Tylka stated the item was being deferred to a later meeting.

## **PROFESSIONAL SERVICES SELECTION (PSS)**

### **Item A, Request for Qualification for Environmental Engineering/Consultant Services.**

Wellington Meffert stated that Florida Housing's contracts for environmental engineering consultant services will expire in July 2013. He asked the Board to authorize staff to issue an RFQ for environmental engineering consultant services and authorize the executive director to establish a review committee to make a recommendation to the Board.

Motion to approve staff's recommendation was made by Mr. Hardy with a second by Mr. Sanchez. Motion passed unanimously.

**Item B, Request for Proposals for Hearing Officer Services.** Wellington Meffert stated that the current contracts with hearing officers Tremor and Bentley were for one year with two one-year extensions and the last extension will expire in August 2013. He asked the Board to authorize staff to begin the RFP process to solicit applications for hearing officer contracts and to authorize the executive director to name a review committee.

Motion to approve staff's recommendation was made by Mr. Sanchez with a second by Mr. Hardy. Motion passed unanimously.

**Item C, Request for Qualification for Structuring Agent Services.** Wayne Conner asked the Board to authorize staff to begin the RFQ process to select a pool of entities to provide structuring agent services and to authorize the executive director to establish a review committee. He stated that the current contracts expire in August 2013.

Motion to approve staff's recommendation was made by Mr. Hardy with a second by Mr. Sanchez. Motion passed unanimously.

**Item D, Request for Proposals for Printing Services for Official Statements.** Wayne Conner asked the Board to authorize staff to begin the RFP process to solicit applications for printing, binding, shipping, and electronic transmission services for preliminary and internal official statements and to authorize the executive director to establish a review committee to make a recommendation to the Board. He stated that the current contract would expire in May 2013.

Motion to approve staff's recommendation was made by Mr. Sanchez with a second by Mr. Hardy. Motion passed unanimously.

## **SPECIAL PROGRAMS**

**Item A, Request for Authorization to Apply for Funding Through the Making Home Affordable Program.** Nancy Muller advised the Board that Florida Housing was eligible to receive a small allocation through the Making Home Affordable Outreach and Intake Project. She stated that Making Home Affordable is an existing set of programs to help at-risk homeowners deal with the possibility of foreclosure or getting loan modifications so they won't go into foreclosure. She stated that the goal of the one-time program was to make more homeowners aware of the range of options available under the Making Home Affordable set of programs. She stated that the funding available had changed somewhat from the information in the bound Board Package, and Florida Housing would get about \$230,000, of which \$174,000 would go out to housing counseling agencies that currently work with Florida Housing through the National Foreclosure Mitigation Counseling Program. She stated that approximately \$44,000 would be used for outreach to get the information out through public relations campaigns about the availability of the funds. She stated that Florida Housing had to complete and submit an intention to participate application by March 25, 2013, but staff expects there will be no competition for the funds, rather, if an application is submitted, the funds will be awarded. She asked the Board to allow staff to submit the intention to participate application to NeighborWorks in order to receive an allocation of funds through the Making Home Affordable Project and begin activities, including contracting with subgrantees, required to carry out program requirements by the established program deadlines.

Motion to approve staff's recommendation was made by Ms. Demetree with a second by Ms. Munilla.

Mr. Hardy asked why such a large portion of such a small allocation was slated to be spent on outreach. Ms. Muller stated that it was the universal belief that one of the biggest stumbling blocks to getting the help to people that need it is awareness of the programs, so the federal government has dictated that the focus should be on outreach.

Motion passed unanimously.

**Item B, Request for Authorization to Develop a Multifamily Energy Retrofit Program.** Ms. Muller stated that the State Energy Office contacted Florida Housing with a proposal to use deobligated American Recovery and Reinvestment Act (ARRA) energy funds for multifamily housing by creating an energy retrofit program. She stated that the energy office proposed giving the funds directly to Florida Housing to administer. She stated that staff proposes to use the funds in a revolving loan fund, which other states are doing with some success. She stated that the funds would pay for an energy audit and if the audit showed there would be

performance gain in operations, such as lower costs for utilities as a result of energy retrofits to the buildings, that the loan would be made with the notion that the savings would be used to pay back the loan over a period of time. She asked the Board to authorize staff to develop program parameters to see if it seems to make sense and if the program restrictions that govern the funding work for us and present that to the Board at a future meeting. She asked the Board to authorize staff to work with the State Energy Office to evaluate the possibility of using funding to create a revolving loan fund or other permitted use of the funds to carry out energy retrofits on older multifamily properties in Florida Housing's portfolio and develop program parameters for Board consideration at a future meeting.

Motion to approve staff's recommendation was made by Mr. Sanchez with a second by Mr. Smith. Motion passed unanimously.

### **STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)**

**Item A, State Apartment Incentive Loan (SAIL) Funding Under RFP 2012-04 for Developments that Commit to Provide Set-Aside Units for Extremely Low Income (ELI) Households Request Approval of Loan Closing Extension for Vista Palms.** Kevin Tatreau stated that Florida Housing issued RFP 2012-04 to award SAIL ELI funding to applicants who would continue to provide set aside units for ELI households. He stated there was approximately \$20 million in uncommitted SAIL funds available for that RFP. He added that at the November 2012 Board Meeting, the recommendation approved by the Board was to fund the first eight proposals in the ranked priority list chart. He stated that one of the eight, Wyndham Place, had a preliminary commitment and invitation to credit underwriting which was declined. He asked the Board to approve staff's recommendation to approve the reallocation of returned funds and any remaining SAIL ELI funds to the next eligible proposals on the priority ranking chart in order to fund the total \$20 million of uncommitted SAIL monies subject to verification of the statutory requirement that shareholders, members or partners of the Development owner entity have funded deficits in an amount not less than 20% of the Applicant's SAIL Loan no later than closing of any financing under this RFP, and authorize staff to proceed to issue the invitations to enter credit underwriting, with award amounts as provided in Section Four B.3. of the RFP, subject to funding availability.

Motion to approve staff's recommendation was made by Mr. Hardy with a second by Ms. Demetree. Motion passed unanimously.

### **SINGLE FAMILY MORTGAGE REVENUE BONDS**

**Item A, Request Permission to Enter into a Memorandum of Understanding (MOU) with Florida's Local Housing Finance Authorities (HFAs) to Allow the Use of up to \$5 Million of the \$35 Million Florida Housing Recently Received from the Florida Legislature as Part of the Attorney General's Mortgage Settlement Agreement.** David Westcott stated that this item was to request permission to enter into a memorandum of understanding with Florida's local housing finance agencies to allow the use of up to \$5 million out of the \$35 million Florida Housing recently received from the Florida legislature as part of the Attorney General's mortgage settlement agreement. He stated that there was approximately \$60 million that the Attorney General was able to work with the legislature on to appropriate to help with the foreclosure crisis, and \$35 million of that came to Florida Housing pursuant to the legislative

budget amendment request for use with Florida Housing's first-time homebuyer program primarily in the form of down payment assistance to help people purchase homes that are part of distressed sales, REOs, short sales, etc., to help with the foreclosure crisis. He stated that many local housing finance agencies run similar programs and their association, Florida Association of Local Housing Finance Agencies (ALHFA) approached Florida Housing about sharing the funds to also provide down payment assistance for the people they serve. He asked the Board to authorize staff to enter into a memorandum of understanding to allow them to participate in sharing up to \$5 million of the mortgage settlement funds.

Motion to approve staff's recommendation was made by Mr. Sanchez with a second by Ms. Demetree.

Barney Smith asked if the money would be appropriated on a first come, first served basis. Mr. Westcott said that it would.

Barney Smith asked if there would be a cap in any particular county. Mr. Westcott stated that there would not be a cap other than the \$5 million statewide, but if the locals are more successful in moving the money out than Florida Housing is, staff may come back to the Board to ask them to allow more of the \$35 million to be used by the locals.

Motion passed unanimously.

#### **CONSENT AGENDA**

Chairman Tylka asked for a motion to approve staff recommendations on the items on the Consent Agenda.

Motion to approve staff's recommendations on the Consent Agenda items was made by Mr. Hardy with a second by Mr. Sanchez. Motion passed unanimously.

Cliff Hardy acknowledged Elise Judelle, who served as bond counsel to Florida Housing for many years, who will be retiring at the end of March.

#### **PUBLIC COMMENT**

W.D. Morris, from Florida ALHFA, spoke in support of Steve Auger and David Westcott and their efforts in making \$5 million of the settlement money available to the local housing finance agencies.

Hearing no further business, Chairman Tylka asked for a motion to adjourn the March 15, 2013, Board of Directors' Meeting.

Motion to adjourn was made by Mr. Sanchez. There was no second and no vote.

Chairman Tylka adjourned the meeting at 10:03 a.m.