

**ACTION**  
**MINUTES OF THE REGULAR BOARD MEETING**  
**OF THE**  
**HOUSING AUTHORITY OF THE COUNTY OF MONTEREY**  
**HELD JUNE 28 2004**

Commissioners met at the Central Office. The meeting was called to order by Chair Michael Nichols at 6 p.m. Present: Chair Michael Nichols, Vice Chair Alan Styles, and Commissioners: York Gin, Timothy Escamilla, Carol Schneider, and John Dalessio (arrived 6:03 p.m.). Absent: Commissioner Josh Stewart. Also Present: Jim Nakashima, Executive Director; Mary Jo Zenk, Deputy Executive Director/Chief Financial Officer; Barry Phillips, Chief Administrative Officer; Tony Caldwell, Chief Information Officer; Jean Goebel, Director of Housing Management; Starla Warren, Director of Housing Development; Lynn Santos, Director of Finance; Carolina Sahagun, Housing Programs Analyst; and John Baker, Attorney. Recorder: Sandy Tebbs.

**INTRODUCTIONS**

Jean Goebel introduced Nora Ruvalcaba as the new Regional Housing Manager and Lynn Santos introduced Susan Imwalle as the new Assistant Director of Finance

Chair Nichols presented A Certificate of Achievement to Meredith McCormack for her outstanding support to the Housing Authority staff in Human Resources.

Commissioner Dalessio arrived at 6:03 p.m.

The Board wished Commissioner Schneider a Happy Birthday on July 4<sup>th</sup>.

**COMMENTS FROM THE PUBLIC:**

Kari Manning, HACM Accounting Department, commented that she was here to represent the employees. They have been going through labor negotiations with management and it hasn't been going very well as far as they were concerned and there were just a few facts that she wanted to present to the Board. Of their represented positions, they have had probably 42 months worth of employees that were not here. It seems that the out of occupancy has been abused for the maintenance department; they have had Maintenance Workers I working as Maintenance Workers II to see if they fit in a job, but not long enough to receive the Y rates. They've had 23 new positions filled this year and many of those were filled from other membership positions—other vacancies. Five of the positions were brand new this year; four of those were in management. They've had approximately \$115K worth of temporary employees this year. They've had numerous interns in different departments that you guys (Board) are not paying for. Despite these facts, they've been a high performer for PHAS for the second year in a row. They have been a SEMAP high performer. They have Section 8 100% leased up. They established a management agreement with several properties. They've done rehab at Los Ositos, Castroville FLC, Salinas FLC—their audits have passed. HACM has over 4,000 vouchers that they have consistently kept up. HACM only manages 1400 housing units. HACM has added a total of 132 units to the housing stock in the last year, but only two positions have been added to cover those.

Ms. Manning continued, maintenance employees have completed work orders on average of 509 a month; this is despite the fact that they are consistently under staffed. At this point right now they are short three Maintenance Worker III positions three times. The vacate work orders, they have an average of 23 a month which they consistently turn over in less than nine days. They have approximately 5 1/2 emergency work orders that they take care of. Section 8 has been at 100% lease up or over for the last year until HACM got those sanctions from HUD saying that if they were over their vouchers that HACM would start losing money. Represented employees represent 71% of HACM staff but they are only receiving 65% of the wages; that's 91 cents per payroll dollar. Un-represented employees are only 29% but they are receiving 45% of those wages at \$1.55 of those dollars. It seems to me to reflect what you're offering us (Union); they are not happy with the 4% cap. They do not agree that you (Board) take everything out of that 4%. Thank you.

Yvonne Martinez, Deputy Director of Local 817 and a Negotiator for the Bargaining Unit. She commented that she believes that there is a very good possibility that they can reach an agreement in an amicable way; however, she is concerned about the position that is being put forth at the table particularly with respect to the Force Account. She understands from the positions that were taken

that the Force Account is treated differently than everybody else. And it's not fair that they are not to be included in the step structure. It's also not fair because they have been promised already—they have been told by the management staff time and time again that they would receive their raise and they have not received it. These are individuals who work very hard and who should not be treated as second-class citizens by the Housing Authority. Notwithstanding, whatever the funding source is, there's no second place citizens—who house—the Housing Authority mixes money-- because they do it all the time. They have been willing to work with the Board and have worked very hard at the negotiations. They believe that there is a way for everyone to come to a deal; they understand that there is difficulty with respect to health insurance and they have made an effort to resolve that problem and find a way finally to do a win-win with the Housing Authority and with the Union on health insurance.

Ms. Martinez continued, well—in spite of the fact that they're also very concerned about the unfair labor practices that are looming—there's been issues that the Housing Authority through the course of these negotiations—they've held back on those pending everyone's ability to work together and find some resolution here. In other venues where she represents Union workers particularly at Natividad Medical Center they've been very successful in finding ways of cost savings to save that hospital from ruin. They can do that here at the Housing Authority. She does have a concern, however, with the fact that the Housing Authority does have a reserve of \$4.2M and yet information has gone out to their members threatening layoffs. There's also a \$2M plus in reserves. And even at the bargaining table she was told that perhaps they would be responsible for people being put out on the streets from their housing. And her response to that was, she thinks that would be very difficult to sell to the public when the Housing Authority is sitting on \$6M in reserves. They understand that there are some uncertainty with respect to HUD's funding level; they're willing to work with HACM on that issue; however, they don't think it's fair as the Board just heard they have been very responsible; they've been working very hard to make sure that the Housing Authority is properly funded and is at full capacity. They understand that there are some regionalization issues that are coming up with respect to HUD and some consolidations; they want to be able to be part of that—work with HACM to achieve that. However, their members want to be treated fairly and they need a complete agreement that they can both work with. So she urges the Board as they go into closed session to keep an open mind; to work with us (the Union) to find ways to resolve the issues of differences and to please keep in mind that they will not let any of their members be treated as second class citizens.

Helaine Clark, Rippling River Resident, provided a letter from herself to the Board regarding ADA. She commented what she was handing out is a report from an ADA expert lawyer who has reviewed the ADA report that the Housing Authority handed out a year ago this month. He found a lot of invalidations about it and she wanted to let the Board know what his report reads. Ms. Clark handed copies of her letter and report to the Clerk for the Board of Commissioners.

Ms. Clark continued, so it was at the Commissioners' meeting one year ago this month that the Board accepted the ADA report known as the Access Compliance Survey final draft of May 22, 2003 from the firm of Gerson and Overstreet. This survey reported on what construction efforts it would take to comply with the current ADA standards to repair and rehabilitate the walkways and balconies of Rippling River. Based on the costs of implementing that information, the Board voted to close and demolish the Rippling River facility in Carmel Valley, California. The Rippling River Resident's Association has hired an attorney who is a specialist in ADA law to review the report. He was hard to find but she thought they struck gold—his name is Dan DeVries and he works with Consultant Kim Blackseth. Kim Blackseth is one of the most qualified Consultants in his field; his information is attached (to the document Ms. Clark provided).

Ms. Clark continued, to paraphrase Mr. Blackseth, The California Building Code and the Americans with Disabilities Act were used improperly. The report improperly uses a 2001 code for a building last altered in 1981 when there were no requirements for public housing. Repairs to walkways and balconies would trigger requirements only to the area of alteration—walkways and balconies—it would not trigger repairs to the interior even if the balconies touched the walls of the apartment according to conversations with Mr. Blackseth. The report further uses the American with Disabilities Accessibility Guidelines known as the ADAAG; there are no ADAAG requirements for residents. That shouldn't have been even used.

Ms. Clark continued, she stated she was presenting this written two-page preliminary report that he sent to the residents along with five pages of Mr. Blackseth's credentials. And she thought the Board would see on page 6 that he was the one who helped Clint Eastwood in his matter with the

ADA code. She thought that he's (Mr. Blackseth) important too—that it's important to get this item before you (the Board) tonight as Supervisor Potter will inform HUD of this fact—this finding. It would be to the Board's advantage to have this information on the record, but to know as much about the findings as they do. No one can predict the timing of the next HUD meeting and that is why she would ask the Board to open this question up tonight and put it on the agenda as an emergency item.

The timer sounded for ending the three-minutes of speaking time. After a discussion between the Commissioners, three more minutes were allocated to Ms. Clark. At this point Commissioners Escamilla and Dalessio requested this issue be placed on the July Board agenda.

Ms. Clark continued reading from Kim Blackseth's letter dated June 24, 2004, 'At the request of the residents and your attorney, Dan DeVries, I have reviewed the Access Compliance Survey dated May 22, 2003, prepared by Gerson and Overstreet Architects. I was asked to review the document for accuracy and completeness and my comments are as follows: It appears as the California Building Code (CBC) and American's with Disabilities Act (ADA) were used improperly to survey the property. This seriously impacts the reports validity and in my opinion makes this document of limited use. The report consistently (sic) uses the 2001 CBC (effective November 2002) to assess the property last altered in 1981. In order to use the current CBC, as the report does, a construction/alteration "trigger" is required. There has been no such "trigger". A "trigger" is an alteration as defined by the CBC (Current code defines it in 1134B.2.1.4). It has been represented that no alterations have been performed that would constitute a trigger to use current 2001 CBC Title 24. The applicable CBC standard for disabled access in 1981 was ANSI 117.1, 1961 and it only covered Public Accommodations, i.e. businesses. The CBC as we know it (Title 24) was not enacted until 1982. And there were no state disability (sic) access requirements until 1982, which was after the Rippling River housing was created. The first CBC requirements for housing (1982) were limited to Publicly Funded projects and included three pages of code in its entirety. There were no CBC requirements in 1981 for this housing (private or public) and it is inappropriate (wrong) to measure the access against a current state standard for newly built housing. It is unclear what "triggering" event leads the report to conclude that in its "executive summary" some alterations to kitchens, and 63 units will need bathrooms enlarged. Unless these kitchens and baths were "triggered" by an alteration, they comply with the applicable requirements as is. Work to repair exterior walkways (sic), balconies and the like would trigger current requirements in the "area of alteration", the walkways and the balconies, not the interior features. The report uses the ADA's American with Disabilities Accessibility Guidelines (ADAAG). There are no ADAAG requirements for residences. If public use spaces (and I'm not sure there are any) were altered, ADAAG would apply to those areas of alteration. It is not appropriate to measure to access compliance with standards that do not apply or apply in selective areas of the facility. This report does not provide the necessary information on which to make any conclusions about access requirements at Rippling River other than to conclude you can't build this building today like you could in 1981; and we all already know that. The questions it does not answer are what are the access requirements as it is; and what are the access requirements for a specific alteration plan.' Thank you very much.

Mr. Nakashima emphasized that since Ms. Clark had stated this information was from the Rippling River Association that a letter signed by the President of the Association needs to be sent to the Clerk of the Board requesting this issue be placed on the Board agenda. Commissioner Escamilla asked Ms. Clark what did she expect the Board to do with the information she provided tonight? Ms. Clark replied that she wanted the Board to have this information so the Board would not close down nor demolish Rippling River. She thanked the Board.

Upon motion by Commissioner Schneider, seconded by Commissioner Styles, the Board approved moving the Closed Session forward. Motion carried with the following vote:

AYES: Nichols, Gin, Styles, Escamilla, Schneider, Dalessio  
NOES: None  
ABSENT: Stewart

The Board convened to Closed Session at 6:28 p.m.

## **CLOSED SESSION**

The Board of Commissioners met in Closed Session for the following purpose and reason:

- A. With respect to every item to be discussed in Closed Session pursuant to Government Code Section 54957.6: LABOR NEGOTIATIONS:  
Agency Negotiators: John Baker, Jim Nakashima, Mary Jo Zenk, Barry Phillips,  
and Meredith McCormack: Employee Organization: SEIU 817  
**ACTION:** No action to report; the Board provided direction to the negotiating team.

The Board reconvened to regular session at 8:10 p.m. The Board recessed at 8:10 p.m. and reconvened to regular session at 8:21 p.m.

## **CONSENT AGENDA**

- A. Minutes—Approval of Minutes of the Regular Board Meeting held May 24, 2004**  
**B. Resolution 2245: Adjudication of Claim of Baltazar Gaytan**  
**C. Resolution 2246: Adjudication of Claim of Manuel Telles**  
**D. Resolution 2247: Adjudication of Claim of Bob Mueller**  
**E. Resolution 2249: Office of Migrant Services Standard Agreement Contract #04-OMS-749**  
**F. Resolution 2250: Semi-annual Write-offs for Housing Management**  
**G. Resolution 2251: Housing Choice Voucher Program Participants Write-off Debts**  
**H. Resolution 2253: Approve Write-off of Public Housing Operating Subsidy Receivable**  
**I. Resolution 2255: Rescind Board Action of May 28, 2003 Refinancing of Plaza House**

Upon motion by Commissioner Styles, seconded by Commissioner Gin, the Board approved the Consent Agenda. Motion carried with the following vote:

AYES: Nichols, Gin, Styles, Escamilla, Schneider, Dalessio  
NOES: None  
ABSENT: Stewart

## **REPORTS OF COMMITTEES**

<u>Finance/Development Committee</u>	Commissioner Stewart, Chairman
<u>Personnel Committee</u>	Commissioner Styles, Chairman
<u>Monterey County Housing, Inc.</u>	Commissioner Tim Escamilla, Rep.
<u>Affordable Acquisitions</u>	Commissioner Tim Escamilla, Rep.

Commissioner Escamilla reported on the Finance/Development Committee that, considering the current economic environment, there will always be changes to the budget. Commissioner Escamilla further reported on MCHI/MCHIAA that a legal opinion needs to be obtained on his voting ability on issues relating to HACM. Staff noted legal opinion was being requested. Mr. Nakashima stated that legal opinion was also being requested on the bond requirements and whether a HACM official is required to be on the MCHI/MCHIAA Board.

## **REPORT OF SECRETARY**

- A. Executive Report:** Mr. Nakashima reported that his report stands as posted, but he wanted to let the Board know that due to the HUD changes and their defining of the rules, some housing authorities are taking drastic steps; one housing authority has borrowed money to pay their HAP payments thinking HUD would repay them. HACM is not in that type of position; everything that HACM and the Board are doing is always by the legal guidelines of HUD rules.

## **NEW BUSINESS**

### **A. Resolution 2240: Agency-wide Budget 2004-2005**

Ms. Santos provided a PowerPoint presentation, FY05 Recommended Budget, dated June 28, 2004. To Board query, staff responded that they would hope to provide a three to six month notification to the Board before Section 8 tenants would have to be affected.

Upon motion by Commissioner Escamilla, seconded by Commissioner Gin, the Board adopted Resolution 2240 approving the Agency-Wide Budget for the 2004-2005 fiscal year. Motion carried with the following vote:

AYES: Nichols, Gin, Styles, Escamilla, Schneider, Dalessio  
NOES: None  
ABSENT: Stewart

### **B. Resolution 2252: Housing Choice Voucher Program Landlord Write-off Debts**

Upon motion by Commissioner Escamilla, seconded by Commissioner Dalessio, the Board adopted Resolution 2252 approving the Housing Choice Voucher Landlord Write-Offs in the amount of \$10,510 for the period August 16, 2000 through December 31, 2002 with the amendment that a letter be sent to the landlords stating HACM would be notifying the credit bureau of their delinquency. Motion carried with the following vote:

AYES: Nichols, Gin, Styles, Escamilla, Schneider, Dalessio  
NOES: None  
ABSENT: Stewart

## **INFORMATION**

**A. Administrative Report/Summary of Actions for May/June 2004:** No discussion; no action required.

**B. Status Report: April 2004 Financial Statements and May 2004 Disbursements:** No discussion; no action required.

### **C. Status Report: Monthly Development Report:**

Commissioner Escamilla requested this information item be pulled for discussion. Mr. Nakashima reported for the record that Nancy Flores, Community Planner at HUD called today to say they had jumped too soon regarding the timeline for the Corps of Engineers. The Corps will send a couple of people out to the site for a site visit and soil sample and from that visit they will determine the scope of the study. The estimated cost will be provided to HUD who will then apply for the funding from Washington. Every two to three weeks HUD will have a conference call with the players to include Supervisor Potter and HACM ED and staff to update the attendees on the Corps' timeline. Ms. Warren stated she would like to provide information from the original consultant and invite him to attend the Board meeting regarding the ADA issue brought to the Board's attention in public comments by Helaine Clark.

Upon motion by Commissioner Escamilla, seconded by Commissioner Styles, the Board directed staff to clarify the liability issue at Rippling River through the insurance carrier. Motion carried with the following vote:

AYES: Nichols, Gin, Styles, Escamilla, Schneider, Dalessio  
NOES: None  
ABSENT: Stewart

**D. Status Report: Monthly Housing Management Report:** No discussion; no action required.

**E. Status Report: Eligibility/Section 8 Reports:** No discussion; no action required.

**F. Legislative Update:** No discussion; no action required.

**G. Allowance for Doubtful Accounts related to Interest on Notes Receivable:** No discussion; no action required.

**H. Write-off Loan to Health Trust:** No discussion; no action required.

**I. Discussion regards Eminent Domain or “takings” by the Housing Authority - County of Monterey:**

Upon motion by Commissioner Styles, seconded by Commissioner Gin, the Board tabled this agenda item for the July Board meeting. Motion carried with the following vote:

AYES: Nichols, Gin, Styles, Escamilla, Schneider, Dalessio

NOES: None

ABSENT: Stewart

**COMMISSIONER COMMENTS:** None

**CLOSED SESSION:** See Closed Session after Comments from the Public.

**ADJOURNMENT**

There being no further business to come before the Board, the meeting was adjourned at the call of the Chair at 9:24 p.m.