



Office of the Executive Officer

INFORMATION CALENDAR

February 27, 2007

To: Honorable Chairperson and
Members of the Housing Authority

From:  Phil Kamlarz, Executive Officer

Submitted by: Stephen Barton, Director, Housing Department

Subject: Alternative Governance Structure for the Berkeley Housing Authority (“BHA”)

CURRENT SITUATION AND ITS EFFECTS

On November 14, 2006 the BHA Board approved the concept of establishing an independent Housing Authority Board of Commissioners appointed by the Mayor and confirmed by the City Council and directed staff to return to the Council and BHA Board with implementing actions and recommendations after conferring with HUD. This information report provides further details on this issue. A related report on the City Council agenda tonight seeks Council approval of this concept so that the Mayor can begin the process of identifying candidates to appoint for the Council’s confirmation as State law requires for such a structure. The history of the events that led up to this situation is described below.

The United States Department of Housing and Urban Development (“HUD”), which funds BHA, placed it on troubled status in the fall of October 2005. HUD gave BHA until June 30 2006 to achieve a passing score on a range of performance indicators. HUD advised the BHA in the fall of 2006 that it had not achieved a passing score. The BHA currently delegates its staff responsibilities to the City Manager and City staff. The California Attorney General has opined that such delegations are authorized by state law.

As a result of BHA’s failure to achieve a passing score, HUD has required that the BHA Board be reconstituted as a Board independent of the City Council, in order to allow such a board to focus exclusively on oversight of BHA’s operations. The precise nature of how the BHA will be staffed will have to be determined by the new BHA Board. The City Manager is still in the process of evaluating and talking to HUD about how best to provide adequate and competent staffing for the BHA in order to avoid the prior problems with its operations.

As it currently exists, the Berkeley Housing Authority (BHA) is a state agency that operates within the geographical jurisdiction of the city of Berkeley, California. It is legally distinct from the City of Berkeley, although the City Council plus two tenant members sit as its governing board. A second alternative structure authorized by applicable state law is for the Mayor to appoint a separate seven-member board, including two tenants, that is confirmed by the City Council. This is the structure that HUD has required BHA to adopt. The City Manager concurs. State law also mandates the length and staggering of commissioner terms. The two required tenant commissioners serve for two-year terms. Of the remaining five commissioners, three must be appointed for one, two, and three-year terms, and two serve four-year terms. Successors to the non-tenant commissioners serve for four-year terms.

A final and third alternative, permitted by State law, namely combining forces with one or more other local governments to create an Area Housing Authority has been rejected because of the drawbacks this option presents in terms of retaining locally controlled and delivered services.

The City Manager is currently engaged in evaluating staffing options and engaging in further discussion with HUD. These are not complete at this time.

A related City Council report is on the City Council agenda tonight. It seeks City Council approval of the alternate governance structure previously approved by the BHA Board, so that the Mayor may begin the process of selecting candidates for the new Board for him to appoint, subject to Council confirmation. Further details of the process will only be brought back to the Council after the Council's Spring recess.

BACKGROUND

On June 27, 2006, the BHA Board authorized the Executive Officer to enter into negotiations with HUD regarding alternative management structures. On November 14, the BHA Board approved the concept of the proposed alternative governance structure for the BHA. These actions were initiated primarily in response to HUD's determination that the BHA governance structure requires restructuring to adequately monitor the BHA agency and provide the necessary oversight to ensure its programs are operated in accordance with HUD guidelines.

RATIONALE FOR RECOMMENDATION

The option described in this report conforms to HUD expectations that the City move expeditiously with changing the governing structure of the BHA to provide more effective oversight of agency functions. Moreover, this option provides the best opportunity to preserve the local objectives for providing subsidized housing for the city's residents.

ALTERNATIVE ACTIONS CONSIDERED

The other options that were considered include forming a joint powers agreement with other entities, thereby forming a regional housing authority, and relinquishing agency functions altogether by allowing the County of Alameda to take over agency functions. Both of these options relinquish more control over the administration and application of agency programs, budget, and operations and could result in a diminution in services in Berkeley. State law does not permit the creation of a nine-member Board, appointed in conformance with the City's Fair Representation Ordinance.

CONTACT PERSON

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