

Austin Housing Finance Corporation Meeting Transcript – 04/23/2015

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[7:23:53 PM]

>> Mayor Adler: Then let do that. Then let's go ahead and we'll now recess the meeting of the Austin city council and call to order a meeting of the Austin housing finance corporation board of directors. We have five items to consider. There are two public hearings. And then two matters related to those public hearings. Ms. Spencer, would you please brief us?

>> I do think there were speakers. I'm not sure that they're here.

>> Mayor Adler: I just called for their names and they were not.

>> Good evening, Betsy Spencer, treasurer of the Austin housing finance corporation. We have five items for you tonight. I'll read brief descriptions of each one. For the first item if approved, this item would authorize the finance corporation to negotiate and execute a loan agreement in the amount of two million dollars that would fund the acquisition of property in the Robert Mueller municipal airport for this development. Under the partnership proposal from the developer the Austin housing finance corporation would take title to the land and lease it back to the development. Under the Austin housing finance corporation's ownership this property would be tax exempt, which along with the two million dollars will enable a development to provide units at 30% and 50% median family income. The second item is also related to the previous item. If approved this would authorize formation of a non-profit corporation affiliated with the Austin housing finance corporation. The non-profit corporation would act as managing member to -- of a to be formed limited liability company that would own and operate the Aldridge 51 development.

[7:26:02 PM]

In other partnerships in which the Austin housing finance corporation has an interest, particularly when low income housing tax credits are involved or if hud is ensuring the mortgage on the property, it is a requirement that an entity be formed that will own the development and nothing but the one development. In that way the liability is limited strictly to the single development. The third item, if approved, this one will provide construction funding for 11 houses to be built by the Austin habitat for humanity. The homes will be sold to low income buyers, completing habitat's program. Not only is there a Ben at this time if to the home buyer whose home home has an affordable mortgage, it increases the tax base has these individuals will pay taxes. The fourth item is a public hearing which meets the requirements of the tax equity financial responsibility or tefra. The tefra hearing allows the Austin housing finance corporation to receive public input for the issuance of up to the \$16 million in multi-family housing non-recourse revenue bonds to provide interim and permanent financing for the rehabilitation of the cross departments. And the fifth item is also a public hearing, similarly a tefra

hearing that would allow for the finance corporation to receive public input for the issuance of up to \$20 million in multi-family housing non-recourse revenue bonds to provide interim and permanent financing for development of the Aldridge 51 apartments. We have bond counsel here available for questions and I believe the developers are as well. But I do offer these on consent. >>

>> Mayor Adler: Ms. Houston?

>> Houston: I'm sorry, are we going to take 54 at different time.

>> Mayor Adler: No, we'll be 54, but these are related here.

>> Houston: I don't want 54 to be on consent. I need to talk about that.

>> Mayor Adler: Okay.

[7:28:02 PM]

So which one of these items relate to item 54, which is the --

>> I apologize, 54, the public hearing, which is item number 54, that particular project, is not related to one of these items. It is only 53.

>> Mayor Adler: Okay. That said, does anyone want to move passage on consent item?

>> Zimmerman: Mr. Mayor, I would like to pull from this ahfc, items number 1, 2, item 4 and item 5 off consent.

>> Mayor Adler: Okay. Our consent items will consist of number three. Any objection to -- anybody want to discuss the consent agenda, which is item three? No? All in favor of item three please raise your hand? Those opposed? 10-0 with Ms. Kitchen off the dais. Then let's consider the ones that were not pulled beginning with item number 1. Mr. Zimmerman?

>> Zimmerman: Thank you. I'll go ahead and let Ms. Spencer briefly lay out number one for us.

>> Did you have particular questions?

>> Zimmerman: Yes. Again, we're talking about a loan of two million. And this loan is not being issued in the form of bonds, right? This is just loan money that's already in which of our affiliations here? Is this HACA or AAPC or --

>> This is the -- this is the Austin housing finance corporation budget. So this is -- we administer these funds through the rental housing developer assistance, so these are our general obligation bond funds. So this is in fact a loan to the project. It will likely be deferred and forgivable so they will not likely make payments to us unless there were a default, but it is in the terms of -- it is a loan.

[7:30:05 PM]

It is debt to the property. But it is the G.O. Bonds that we administer through the finance corporation.

>> Zimmerman: To it's more like a grant. So there's no interest rate on it and no requirement for it to be paid back.

>> Not unless there's a default. It is a loan, though. I do want to be very clear the tax credits require that it be in the form of debt, but it is generally deferred forgive annual so there aren't often regular payments.

>> Zimmerman: again, it's like a grant because a loan has the expectation it will be paid back. A grant is that it won't be paid back. No interest rate and no term. It can't be a loan.

>> There are deferred, forgivable loans. It is -- there will be legal instruments and it will be a loan. But you are correct, there's not an expectation of monthly payments as long as they maintain the requirements. It is a legal loan.

>> Zimmerman: I don't have any more questions.

>> Mayor Adler: Further debate on item number 1?

>> Troxclair: I have a question. I have some questions about item number 2. I know that they're tied. I'm

trying to figure out if I have concerns about item number two, do -- should I ask them now?

>> Sure.

>> Troxclair: Or can we pass item number one without passing item number two?

>> Mayor Adler: Go ahead and ask your question.

>> Troxclair: Okay. I know -- so item number two is basically creating a new entity, a community housing development organization, and I know that it's getting late and we don't necessarily need to get into it tonight, but from working on affordable housing issues at the capital, I just know that there have been some serious problems with these kinds of organizations in other parts of the state and the legislature has had to get involved and try to intervene and there are still some unresolved issues. This is creating a community housing development organization is kind of a complicated relationship and it does involve some liability for the city and so I just -- my preference would be for number two to go to -- my question is really for the issues that have arisen in other cities have more to do with the financing structure of it and how the money is handled.

[7:32:22 PM]

And who takes care of the money rather than the housing part of it. So my recommendation -- my request would be that number two be sent to audit and finance for a little bit further discussion.

>> Can I respond? We're not creating a choto. It is a separate legal entity. We have several of these. If you remember in our policy workshop we talked about a land trust model. So this is very similar at the multi-family level of a land trust model. So we have several other partnerships that we have created and we've not experienced any problems with ours and so we would have a level of responsibility and oversight obviously, but we've not had any -- in our experience -- I think we have four or five, but it's not a chodo. We're not creating a choto to be clear, but it is a single assettate in an effort to be able to maintain -- have a ground lease relationship with the developer, which as I stated earlier, does keep it off the tax rolls. By the property not paying tax it is helps the project maintain lower rents for low and moderate income families. So I -- all of the items are related in the sense that we need to create the entity that can hold title to the property to be able to complete the entire transaction. So in that sense they are mutually dependent on each other. Or they need each other.

>> Mayor Adler: Further debate or discussion on item number 1 before us? Mr. Zimmerman?

>> Zimmerman: Going back to page two of the dma exhibit a, just a couple of pages later, I want to go back to what you just said about the tax exemption. I think I'm understanding better. So the reason all these little companies are kind of being created, as it says here, the ownership structure is expected to generate ad valorem tax exemption what you just said.

[7:34:22 PM]

But I want to reemphasize for my colleagues that every time another project depose on exempt from property taxes, it necessarily means that all the people that are going to live in this tax exempt project, other people have to pick up the tax bill for the police service or the fire, the ambulance, everything that these people are going to need is going to have to be paid for by everyone else. So by definition that hurts the affordability of everybody else that's not subsidized. Do we understand that? Somebody has to pay. So they're not paying property taxes, the other property taxes have to pay more. So they become less affordable. Right? The people that aren't subsidized.

>> Mayor Adler: For me I think I understand and I would find this a good expenditure for the affordable housing results.

>> Zimmerman: So where is the impact? We have an education impact study, right? So a new unit comes in, new development. We do this impact study for what it means for the schools. Where is the

impact study for what this tax subsidy means for the rest of the taxpayers? Why isn't that study done? To quantify how much everybody else is going to have to pay because this project doesn't pay? Have we ever done those studies?

>> We can easily let you know what the taxes that the -- the foregone taxes are. We can provide you with that information.

>> Zimmerman: Okay, thanks.

>> Mayor Adler: Further debate on item number 1. Ms. Tovo?

>> Tovo: I would like to move approval of the item, mayor.

>> Mayor Adler: Okay. If there's no further debate, Mr. Renteria seconds that motion. Any further debate? Okay. We have a motion and a second. No further debate, all in favor raise your hand? Those opposed? It is 10-1 -- 9-1 --

>> Troxclair: I'm going to abstain because I have questions about number two.

[7:36:26 PM]

>> 9-1-1, troxclair abstaining, Zimmerman no. That gets us to item number two. Someone move adoption of number two? Ms. Tovo does. Seconded by Ms. Pool. Any discussion on item number two?

>> Troxclair: Yeah. I would love the opportunity -- we're taking in so much information about a lot of different subjects, and I think we need to have a better understanding of the land trusts and how the -- how that relationship and the liability and a lot of other things that relate to this creation work. I would respectfully request that we have the opportunity to talk about this in the audit and finance committee.

>> Mayor Adler: Ms. Gallo?

>> Gallo: This is all a learning -- figuring out how to do all of this experience. I appreciate your questions, but we had a really good presentation in housing on this issue and the different subjects. And I know that our schedules are so complicated sometimes it's hard for us to attend the other meetings, but if it's -- it would be available, I assume, recorded?

>> Mayor Adler: Yes.

>> Pool: It would be --

>> Gallo: It would be worth watching that. It would answer a lot of your questions. If we could help each other know when the committees have really good presentations so the staff doesn't have to do it again, but it really was a good presentation that they did before housing. Thank you.

>> Mayor Adler: Do you want to move referral to committee?

>> Troxclair: Can I ask if there would be any adverse impact if we took a couple of weeks to hear this in committee and bring it back to council as soon as possible?

>> I'm going to refer to the developer if they've got any other additional -- these have been waiting for awhile.

[7:38:27 PM]

We have been working on these deals for awhile. And so we delayed bringing a lot of them forward in the first three months. We brought forward the nine percent because they had very strict time limits. We delayed a lot of these in an effort to give everyone some more time and so these deals take a long time to put together. The developers are often spending their own resources for engineers, architects and a lot of other professionals to put these together. I believe they've been working on this deal for awhile. So time is money, whether it's a non-profit -- this is actually a for-profit developer. So time is money and putting these together. And so I think it's important that we can move forward. I don't know that it's a deal breaker. I will ask the developer to stand up and see if she's got any other comments.

>> Diane [indiscernible] With limited voice today. Dma development company. I think that if we're

talking about no later than may 7th, I would be fine with that. I think from our standpoint and the development community as a whole, I think it's really critical to Austin that you all be comfortable with these kinds of structures, that you understand what we're doing. That you see that these are not shale corporations. If you understand -- I personally on this development will be guaranteeing the entire cost for years. I will be guaranteeing personally the delivery of those tax credits, cost overruns, operating deficits. So I want you all to understand # our world is not an easy world.

[7:40:28 PM]

It a very rewarding world what we do, who we serve. What we can accomplish is extremely important and extremely important to the city of Austin. So from an educational standpoint if we delay it we have another issue on the agenda may 7th. I'm more than happy to have that particular item heard on may 7th as well if you want to postpone it. I'm fine with that. Let's continue not just this educational process on this particular issue. I know your issue with choto's. That's a whole other thing in the state of Texas, but this is not a choto. But let's be clear, let's be educated and involved. I'd love to work with you, be part of work sessions because it's so important to the city of Austin. Not just this development, this is 240 units at Mueller. It's the best thing that could happen. But we need this throughout the city. And I think it's really important that we work together and be able to have all of you on the same page with us as affordable housing developers. So I'm fine with your request.

>> I really appreciate you.

>> Zimmerman: Can I be recognized to move that we send it to committee?

>> Mayor Adler: Okay. How about if we postpone this to may seventh so it comes back and in the intervening time if you can have the opportunity to look at it and it discuss it, but otherwise it comes back on the seventh?

>> Renteria: Mayor, I'm fine with sending it to committee, to go to the housing committee, but -- and we had the discussions before in our committee. So I would feel more comfortable if she met -- if the developer met with -- one on one with and explained to them and educate them and maybe set up a meeting with the ones that are not on our committee so that they could learn what's going on because unless they attend my committee meeting, they're still going to be in the same position.

[7:42:38 PM]

>> Mayor Adler: Okay. Let me see. Do you want to move that this go to a -- you wanted to move this to a committee. Is there a second to the motion to go to committee? Is there a second to the motion to send it to a committee?

>> Troxclair: I motioned or he motioned? I'll second it. And my request was actually for it to go to audit and finance because I had questions about the -- or I think that what we need to understand is focused on finance. And I appreciate that they had that conversation in housing, but there may be a different aspect to the discussion in audit and finance. But I don't know when our next meeting is, mayor pro tem.

>> Tovo: Thanks for the question. Our next meeting is next week, I believe. Let me check the date. But I know that on our next meeting our draft agenda is probably more than we're going to be able to accommodate. We have, I think, three or four audits. We've got three or four purchasing type contract arrangements on our calendar for briefing that have been referred to the committee. We have a few items that have been referred to the committee that I think we can defer. Another month we have several briefings that are very time sensitive from our financial staff and our outside auditor that have to take place so our deadline stay on place and we need to meet in executive session to review all the applicants for the municipal civil service so that we can then interview them on schedule at our special called meeting the following week. So I would say I am very supportive of this project and these items

on our agenda. Moving forward I would be very comfortable supporting them tonight, but certainly I want them to be successful. If we need to jettison other things on audit and finance. I don't know how we will do it, but we can look at that option. One suggestion I would have is to -- if that's a comfort level tonight moving forward with this one and then reviewing -- inviting everyone to review the housing presentation and if there are still questions about that that need to be resolved in an upcoming meeting we can work to have that general policy discussion at an upcoming audit and finance.

[7:44:48 PM]

Just one path forward.

>> Troxclair: Now that I better understand your audit and finance and committee schedule as well as your situation, I guess I personally would be okay with postponement to may 7th since you indicated that you would be okay with that. And we can meet in the meantime and have a discussion so I can make sure that questions are answered. I don't know if councilmember Zimmerman would agree with that.

>> Mayor Adler: Are you okay?

>> Zimmerman: There definitely needs to be a public meeting. This definitely needs to be a public meeting. On page five here, I'm looking at the organization chart of the ownership entity, and there's a development owner, Austin bma housing, board of directors includes Ms. Spencer. We know who you are, that's terrific. And Ms. Mckeifer you're listed as 100 percent sole member of the community ventures LLC, but the investing member, 99.98%, I guess that's the ownership, there's nobody here.

>> Right, and that's the investor who is purchasing the tax credits. And we've not selected that investor yet, but yes, they are the limited partner with a majority of ownership.

>> Zimmerman: Right, I kind of know. We have people come in and developers, owners, they come in and get grilled, what are you going to do with your prong? We've seen this over and over again. And in this case the box is empty. That's just kind of weird.

>> No, because we actually -- we're out an rfp basis right now, sort of an rfp. We have proposals coming in from investors and we're going to select the investment proposal that's the very best for this development. And so it's very common for that box to remain vacant because we're not just going to hand this project to an investor and not think that we've got the best offer we possibly can.

[7:46:51 PM]

So we are in the process of getting those offers in. It's a customary thing for that box to be blank when the application goes in to tdhca.

>> Mayor Adler: Thank you. The motion before us is the motion to -- is to refer this to a committee. If this motion to refer to a committee does not pass, I'll entertain a motion to postpone it until may 7th and pull it back if that doesn't pass, then we would consider it today. But the motion that's on the floor right now is the motion to refer to a committee. Any further debate? Hearing none, let's vote. First motion we're going to take is the motion to refer to a committee. If it is not passed, I'll entertain a motion to postpone until may 7th. If that doesn't pass then I'll entertain a motion just to approve it. Mr. Casar?

>> Casar: I was trying to get my hand up during discussion. I apologize. I'm very comfortable with going forward today just because my feeling of the council is that we're going to pass this on may seventh anyways. Just my observation from this council. Not to be -- make too much of an assumption. If we're going to pass it on 7th anyway, you may as well pass it today and have a discussion on the ownership structures later. I think it's a valuable discussion.

>> Any further debate on the motion to refer to committee? Ms. Pool?

>> Pool: I'm also comfortable with pa l sing this tonight and I think one reason why it seems like there maybe as much conversation or debate to councilmember Zimmerman's point is that you have so many other requirements that are put on you by other regulatory agencies that you are actually -- there are a lot more hoops that you are jumping through than, for instance, on the burnet road-rockwood case. That was completely different and we are probably the sole regulatory on the burnet road Rockwood whereas in mcmckeifer's instance we're probably maybe the smallest piece. The rest of it is much more intense and complicated.

[7:48:51 PM]

So I support the work that Betsy Spencer's group does very deeply and for all of those purposes. Thank you.

>> Mayor Adler: Thank you. Any further debate to refer to committee. Thank you. You don't have to stand up any longer if you don't want to. All in favor please raise your hand? Those opposed? 9-2 with Zimmerman and troxclair voting aye. Does anyone want to move to postpone it to may 7th?

>> Troxclair: I would like to move to post tone it to may 7th.

>> Zimmerman: I'll second.

>> Mayor Adler: Go ahead.

>> Troxclair: The developer said that there would be no issues with doing that. It would -- I guess I don't see what the reasoning -- it's very possible that the council will pass it on may 7th, but because there seems to be no adverse impact to that postponement, I would appreciate the opportunity to have a little bit more further discussion with the developer about the creation of this entity. And I also want to underscore that my questions have nothing to do with not supporting the goal of affordable housing for Austin or not supporting the item. Is just again there are -- there have been legitimate questions raised about similar entities and I want to make sure that like as the developer said that we're all -- we all need to be comfortable moving forward with what we're doing and the developments, the affordable housing developments that we're providing for the city. So I would move post positive postponement to may seventh.

>> Mayor Adler: Any discussion on the motion to postpone? Hearing none, let's take a vote. All in favor to may seventh please raise your hand. Four aye's, troxclair, Zimmerman, Houston and me. Those opposed raise your hand? It's the other seven on the dais. Greg, how are you voting? And Greg is -- Mr. Casar is abstaining.

[7:50:55 PM]

So Ms. Houston?

>> Houston: It passes, right?

>> Mayor Adler: Now we're going to pass it. That then -- we're now taking the motion on -- any further discussion on number two? Hearing none, let's vote for passage of number two? Pa all in favor please raise your hand? Those opposed? Those abstaining? Okay. It's 9-1-1, Zimmerman voting no, troxclair abstaining. Two passes. Three passed earlier, I think. That was a consent item. That gets us to item number four.

>> Houston: And mayor, I would like to encourage the developer to meet with councilmember troxclair so they can have that conversation.

>> Zimmerman: Thank you, Mr. Mayor. I did pull this so I will ask -- so item four says conduct a public hearing and receive public input.

>> Mayor Adler: We did. There were some people that signed up. I asked if they were here and they were not.

>> Zimmerman: Okay. Thank you. And so that brings me back to this request is for \$16 million, and this is for rehabilitation. So if you could picture what I put up earlier that showed the housing authority, the city of Austin, hhca, and there are some companies and partnerships that have been created underneath that. So all the affiliates and the companies and the partnerships and the LLC's that have been created under haca, so what is the aggregate debt that's been issued? Because this is -- this would be \$16 million in addition to how much more money? E mark is here, our bond counsel. This is the -- the Texas bond review board is the one that authorizes all of this bond debt.

[7:53:01 PM]

And the state of Texas has a cap. I believe both of these projects were coming out of the 2014 carry forward, but no one finance corporation, items four and five, are the Austin housing finance corporation as the issuer. The item this morning was the housing authority as the issuer. None of us have a cap on our debt. It's at a state level. Mark, would you like to help me if I've said that wrong.

>> [Inaudible].

>> So we don't have -- the state of Texas -- do you know what it is for the state, for the housing? Do you know what it is?

>> [Inaudible - no mic].

>> The state of Texas has a cap of over several hundred million. It's done at the state level. Each state has its own formula. This is -- it's a federal incentive. The four percent tax credits and the -- and the bonds, the private activity bonds are federal incentives and each state has their own capacity.

>> Right, that's right. So you think it's several hundred million, but you're not sure how much it is, the cap?

>> That is correct.

>> Zimmerman: And you don't know where are we right now? Are we at 100 million?

>> When I looked yesterday, because you had asked this question earlier. I do know that both of these projects, I saw them listed as the 2014 carry forward. At that time I thought I saw that so far on the list of -- that are all being worked was about 450 million. When I looked at the list. That was a statewide list on the Texas bond review board website.

>> Zimmerman: The statewide list. But this is the Austin area -- is it a region it is. Are we region seven?

>> It's statewide. We don't have a cap. We do not have a cap. Am I saying that wrong?

>> [Inaudible - no mic].

>> Zimmerman: Okay. So is the projection going forward that we go to 500 million, a billion, one and a half billion? So there's no limit?

>> The federal government creates the limits for each state. I don't know what they're expecting.

[7:55:04 PM]

>> Zimmerman: But I'm asking if you had an unlimited, if the organization, haca, it sounds like there's no limits other than what somebody sets for you. Do you have any limits at the haca?

>> Sure.

>> Zimmerman: Or is it just infinite, as many as you could get you would issue more and more money.

>> You don't have a limit in terms of what the Austin

[indiscernible] Can issue. What you have is a limitation in terms of what the federal government allows for private activity bonds in the state of Texas. It would be limited by what the federal government allows for in affordable housing for particularly the state of Texas. There's no cap in terms of what the ahfc can issue.

>> Zimmerman: That woulding the federal government that's \$18 trillion in debt? That seems to have no

stop limit for the debt that they will pile on us. That doesn't make me feel very confident that we have some controls on the debt. Would that make sense to you? Do you have a comfortable feeling about where all this is going? Can't answer that question. Okay.

>> Mayor Adler: Okay. Any further discussion on this item 4? Hearing none, someone move adoption of item number 4? Mr. Casar, Mr. Renteria. Any further discussion? All in favor raise your hand. Those opposed? It is 9-1, Zimmerman voting no, troxclair off the dais. That gets us to item number 5. Any discussion on item number 58?

-- Number 5?

>> Zimmerman: One more quick question here. I'm looking at the resolution Numbers, not a number on it. But can you help me understand the board of directors, which one is this?

[7:57:09 PM]

There's -- Austin housing finance corporation, but -- I don't know how to show you what I'm looking at because it's not numbered. It's talking about terms of board of directors for the housing -- Austin housing finance corporation. And it lists Burt Lumbreras, Elizabeth Spencer, Rebecca [indiscernible], and Mr. Lumbreras is designated as the president of the related corporation. What related corporation is that talking about?

>> That's the -- for each one of these transactions we will set up an independent, separate organization. So it's that organization.

>> Mayor Adler: Anything else?

>> We're on item 5. I apologize. We are talking about the public hearing for item number 5?

>> Mayor Adler: Yes.

>> Zimmerman: Actually, I can't tell because there's a resolution in front of us here. Is this --

>> Mayor Adler: This is about the 20-million-dollar --

>> Zimmerman: Sorry. Maybe I'm on the wrong page. That might be on item two.

>> Mayor Adler: This is Aldridge 51 apartments. Take your time.

>> Zimmerman: I shut have brought -- should have brought that up on item 2. Never mind.

>> Mayor Adler: Let's take a vote. All in favor? Someone move passage of number five. Mr. Renteria seconds, Ms. Houston. All in favor of five please raise your hand?

[7:59:10 PM]

Those opposed? It is 9-1, Zimmerman 1 with troxclair off the dais. Had.

>> Mayor Adler: That completes our agenda, without objection, the meeting of the homework hfc board of directors meeting is ajourneyed. Call back to order the meeting of the city council.