

HOUSING DIVISION – MONTANA BOARD OF HOUSING

Best Western Plus Heritage Inn – Great Falls, Montana 59404
May 8, 2017

ROLL CALL OF BOARD

MEMBERS: Pat Melby, Chairman (Present)
Bob Gauthier (Present)
Johnnie McClusky (Present via phone)
Jeanette McKee (Present)
Sheila Rice (Present)
Eric Schindler (Present)
Amber Sundsted (Present)

STAFF: Bruce Brensdal, Executive Director
Vicki Bauer, Homeownership Program
Mary Palkovich, Mortgage Servicing Program
Mary Bair, Multifamily Program
Stacy Collette, Operations Manager
Penny Cope, Marketing
Todd Jackson, Marketing
Paula Loving, Executive Assistant
Ashly Amato, Administrative Assistant
Cindy Maxwell, Administrative Assistant
Julie Hope, Homeownership Program
Hannah Rotter, Homeownership Program
Kellie Guariglia, Multifamily Program

COUNSEL: Greg Gould, Luxan and Murfitt
John Wagner, Kutak Rock

UNDERWRITERS: Patrick Zhang, RBC Capital

OTHERS: Don St. Peter, St. Peter Law Offices
Rena Williams, Fort Peck Housing Authority – Poplar
Doris McKay, Fort Peck Housing Authority – Poplar
Amanda Moats, Alternatives, Inc.
Jan Traynor, MT DES
Dianne Hunt, Syringa Housing Corporation
Adelneide Nest, City of Missoula
Jason Marby, St Peter Law Offices
Jim Morton, District XI HRDC
Eileen Piekarz, RCAC
Alex Burkhalter, Housing Solutions, Inc.

These written minutes, together with the audio recordings of this meeting and the Board Packet, constitute the official minutes of the referenced meeting of the Montana Board of Housing (MBOH). References in these written minutes to tapes (e.g., Tape 1 – 4:34) refer to the location in the audio recordings of the meeting where the discussion occurred and the page numbers refer to the page in the Board Packet. The audio recordings and Board Packet of the MBOH meeting of this date are hereby incorporated by reference and made a part of these minutes. The referenced audio recordings and Board Packet are available on the MBOH website at [Meetings and Minutes](#).

CALL MEETING TO ORDER

- 2:42 Vice Chairwoman Jeanette McKee called the Montana Board of Housing (MBOH) meeting to order at 8:30 a.m.
- 3:00 Bruce Brensdal reviewed the Webinar and location details for the meeting.
- 5:00 Introductions were made, including the newly appointed Board members, Eric Schindler, Amber Sundsted, Johnnie McClusky and reappointed, Pat Melby.

APPROVAL OF MINUTES

March 14, 2017 Board Meeting Minutes – page 3 of the packet

- 9:22 Sheila Rice moved to approve the March 14, 2017 MBOH Board meeting minutes and Bob Gauthier seconded the motion.
- The March 14, 2017 MBOH Board minutes were approved unanimously.
- 10:05 Vice-Chairwoman McKee asked for public comment on items not listed on agenda.

BOARD OFFICER ELECTION

Officer Election – page 10 of the packet

- 10:15 Bruce Brensdal brought to the Board the Officer Election. The Governor had reappointed Pat Melby and recommended Mr. Melby serve as the Board Chairman. The previous Officers included, Jeanette McKee as Vice Chairwoman, Bruce Brensdal as Treasurer and Sheila Rice as Secretary.
- 12:45 Bob Gauthier moved and Amber Sundsted seconded the motion to approve the following slate of officers:
Pat Melby – Chairman
Jeanette McKee – Vice Chairwoman
Bruce Brensdal – Treasurer
Sheila Rice – Secretary
- The Board approved the motion unanimously.
- 13:14 Newly elected Board Chairman Pat Melby took over the meeting.

FINANCE PROGRAM

Financial Update – page 11 of the packet

- 14:00 In Ginger Pfankuch's absence, who was attending a State training, Bruce Brensdal provided the Finance program update.

HOMEOWNERSHIP PROGRAM

Homeownership Program Update – page 13 of the packet

16:30 Vicki Bauer provided the Board with the Homeownership program update. The balance of Series 2017A is approximately \$4.8 million and a new bond issuance will need to take place June to July 2017.

MORTGAGE SERVICING PROGRAM

Mortgage Servicing Program Update – page 17 of the packet

24:35 Mary Palkovich provided the Board with the Mortgage Servicing program update.

MULTIFAMILY PROGRAM

Administrative Rule Approval – page 18 of the packet

30:15 Mary Bair introduced Greg Gould, Luxan & Murfitt, who reviewed the Montana Administrative Register (MAR) Notice No. 8-111-151, Notice of Public Hearing on Proposed Amendment and Repeal of certain Board Administrative Rules of Montana.

32:00 *8.11.303 Financing Programs* - The proposed amendments to ARM 8.111.303 are necessary to update the rule consistent with current board programs and practice to permit qualifying persons and families to obtain a down payment assistance loan in addition to a first priority mortgage loan on the same property. Down payment assistance loans are relatively small in amount and such loans are subordinate to the first priority mortgage loan. The lack of sufficient resources to make a down payment presents a significant obstacle for many lower income persons and families in purchasing a home. The board's down payment assistance programs have proven successful in overcoming this hurdle for many such borrowers and are an essential component of the board's single family housing program.

32:40 *8.11.304 Conditions of Financial Assistance* - The proposed amendments to ARM 8.111.304 are necessary to provide for greater administrative flexibility in establishing, maintaining, and making available a current fee schedule for the board's programs. Fees and charges for the board's programs generally are recommended or set by board staff based upon the costs of program operations and the fee and charge amounts necessary to fund program operations. Such fees and charges remain subject at all times to the oversight of the board.

33:40 *8.111.305 Approved Lenders* - The proposed amendments to ARM 8.111.305 are necessary to update the board's errors and omissions insurance coverage requirements for participating lenders. The board's minimum coverage requirement is inconsistent with requirements generally used in the mortgage lending industry, as evidenced by the requirements of the Federal National Mortgage Association (Fannie Mae). Required coverage amounts under these programs are not a single amount for all lenders, but vary depending upon the lender's portfolio of loans. This approach better addresses the need for such coverages, by assuring that lenders

are appropriately insured for the risks presented by their portfolios rather than either under- or over-insured based upon a one-size-fits-all coverage amount.

33:54 *8.11.305A Approved Loan Servicers* - The proposed amendments to ARM 8.111.305A are necessary to update the board's errors and omissions insurance coverage requirements for participating loan servicers. The board's minimum coverage requirement is inconsistent with requirements generally used in the mortgage lending industry, as evidenced by the requirements of the Federal National Mortgage Association (Fannie Mae). Required coverage amounts under these programs are not a single amount for all servicers, but vary depending upon the servicer's portfolio of loans. This approach better addresses the need for such coverages, by assuring that servicers are appropriately insured for the risks presented by their portfolios rather than either under- or over- insured based upon a one-size-fits-all coverage amount.

34:40 *8.111.403 Counseling Requirements* - The proposed amendments to ARM 8.111.403 are necessary to revise the rule to update the directions regarding where potential borrowers may obtain information regarding required counseling.

34:50 *8.11.404 Eligibility Requirements* - The proposed amendments to ARM 8.111.404 are necessary to revise the rule to update the directions regarding where potential borrowers may obtain information regarding required counseling.

35:00 *8.11.406 Repayment of the Loan* - The proposed amendments to ARM 8.111.406 are necessary to conform the provisions of the rule to the provisions of the statute and the board's reverse annuity mortgage (RAM) loan program requirements. Previously, RAM loan documents defined loan maturity as the time at which scheduled advances were completed, although under Montana law the loan was not payable at that time.

Previous loan documents also required the borrower to request and receive board approval to defer loan repayment. Montana law at 90-6-506, MCA, however, specifically provides that the borrower may continue to reside in the property without repayment until the death of the borrower or another specified event occurs.

Accordingly, the board proposes to remove the requirement that borrowers request and obtain a repayment deferral.

The proposed amendments are also necessary to more accurately and completely describe the conditions under which a RAM loan becomes due and payable.

Montana law at 90-6-506, MCA, lists the events under which the loan becomes due and payable. This includes "any other occurrence that materially decreases the value of the property securing the loan or that will have the likely effect of causing the loan to not be repaid." The statute provides that such occurrences must be recited in the mortgage instrument. Current (1)(d) references an "other act or occurrence which in the opinion of the board causes, or is likely to cause, a material decrease in the value of the property."

Such events are described in the mortgage instrument and other loan documents through terms, conditions and requirements that are usual and customary in similar loan transactions or that address specific RAM program requirements, and which are designed to protect the value of the property securing the loan or to assure repayment of the loan. Proposed (3) reflects the board's authority to include such loan terms, conditions and requirements in its documents. Accordingly, consistent with the statute, proposed (4)(d) provides that the loan will become due and payable upon an act or occurrence which constitutes an event of default under the mortgage instrument.

The proposed rule also adds new (2), which corresponds to 90-6-506, MCA and provides that the borrower may pay the outstanding loan balance in full at any time without penalty. Other proposed revisions are necessary to clarify the rule provisions.

36:40

8.11.602 Definitions - The proposed amendments to ARM 8.111.602 are necessary to update the Qualified Allocation Plan (QAP) definition to reference the 2018 Qualified Allocation Plan for the Montana Housing Credit Program.

Federal low income housing tax credits are allocated by the federal government to the states, according to their population, for allocation to particular buildings. Each state's share of federal low income housing tax credits is allocated to particular buildings under programs administered by the respective state's housing credit agencies. The Montana Board of Housing is Montana's housing credit agency for purposes of administering the tax credit program and allocating tax credits in the state of Montana. In Montana, the program is known as the Montana Housing Credit Program. Federal law requires that tax credits allocated to the state by the federal government must be allocated by the state pursuant to a "qualified allocation plan" or "QAP."

Prior to publication of this notice, the board conducted several public meetings to consider suggestions and comments regarding the provisions of the 2018 QAP. Thereafter, at its February 13, 2017 meeting, the board considered and approved public notice and distribution of the proposed 2018 QAP. After public notice of the proposed 2018 QAP and of the opportunity for public comment was published and distributed, a public hearing on the proposed 2018 QAP was held on February 28, 2017 and written comments were also received. At its March 14, 2017 meeting, after considering all written and oral comments on the proposed 2018 QAP, staff recommendations, additional public comment and various proposed revisions in response to comments, the board approved the 2018 QAP for submission to and approval by the Montana Governor, as required by the federal tax credit statute, 26 U.S.C. § 42. Montana Governor Steve Bullock approved the 2018 QAP by written approval dated March 21, 2017.

A copy of the 2018 QAP is available on the internet at <http://housing.mt.gov/MFQAP> or by requesting a copy from: Mary Bair, Board of Housing, Department of Commerce, 301 South Park Avenue, P.O. Box 200528, Helena, Montana, 59620-0528; telephone (406) 841-2845; fax (406) 841-2841; or e-mail mbair@mt.gov.

- 37:25 *8.111.603 Housing Credit Allocation Procedure* - The proposed amendments to ARM 8.111.603 are necessary to revise the rule to correspond to changes in the 2018 QAP, as approved by the Governor and proposed to be incorporated by reference in ARM 8.111.602, for purposes of allocating low-income housing tax credits. These revisions make minor changes in the procedures for board consideration of the housing credit letters of intent and applications for purposes of awarding housing credits, including the timing of board meetings at which various steps of the process are conducted, whether staff or applicants present information to the board and the scope of responses allowed by applicants to the information presented. These provisions were developed through collaborative discussions and public hearings.
- 37:58 *8.111.705 Lender and Servicer Requirements and Limits* - The proposed amendments to ARM 8.111.705 are necessary to provide the board with flexibility to revise its purchasing and servicing guide and to adjust servicing fees promptly in response to market changes. Removing the specific citations to inapplicable guide sections allows greater flexibility in revising the guide without the need to amend the rule. Similarly, with the servicing fee amount specified in rule, the fee cannot be adjusted without undertaking a rule amendment process, preventing the board from making timely adjustments in the fee amount.
- 40:00 *8.111.707 Loan Terms and Conditions* - The proposed amendments to ARM 8.111.707 are necessary to revise the rule to comply with the Montana Veteran's Home Loan Mortgage Program Act. Current (1) provides that the agreed purchase price for the property may not exceed the specified amount. This incorrectly implements the provisions of the statute, which provides that the amount of the loan may not exceed the standard. The proposed amendment corrects this error. The proposed amendments are also necessary to allow the board flexibility, where allowed by law, to permit borrowers to use their minimum cash contribution to pay closing costs and to borrow the maximum loan amount allowed by the mortgage insurer for the loan. This loan authority is currently under consideration by the Legislature in Senate Bill 303, which if enacted will be effective on passage and approval. This would be permitted only if SB 303 becomes law.
- 41:50 *8.111.203 Confidentiality and Disclosure of Information* - The rule proposed for repeal establishes procedures to address confidentiality and disclosure of information submitted to the board. This rule is separate from and in addition to the procedures established and followed generally by the Department of Commerce. The board is administratively attached to the department, and the confidentiality of information and handling of public information requests are subject to department rules and handled by and through the department. This separate rule is therefore redundant and unnecessary.
- Further, the rule is outdated because the 2015 Montana Legislature substantially revised Montana's statutory scheme governing public information and public information requests. See Ch. 348, L. 2015. This revision included repeal of former section 2-6-102, MCA, the statute that authorized adoption of the rule.

Accordingly, the board proposes to repeal the rule and instead rely upon the department's policies and procedures. The board will maintain on its website a general policy advising the public that information submitted to the board is subject to Montana's Constitutional and statutory provisions requiring disclosure of information, subject to the narrow exceptions provided by law, and that requests for such information will be handled in accordance with the applicable provisions of Montana law and the department's policies and procedures.

43:44 Bob Gauthier moved to approve MAR Notice No. 8-111-151 as published and to authorize staff to process and adopt such amendments without further Board approval provided no substantial comments are received concerning such. If substantial comments are received, the Board must consider such comments and determine the specific rule amendments to be adopted. Jeanette McKee seconded the motion.

Chairman Melby asked for comments.

The MAR Notice No. 8-111-151 as published was approved unanimously.

Reverse Annuity Mortgage Exception – page 29 of packet

44:40 Mary Bair brought the Board a Reverse Annuity Mortgage (RAM) Exception for an eligible client in Western Montana who is seeking an exception for \$20,000 to pay off medical bills and taxes.

50:20 Jeanette McKee moved to approve the RAM Exception in the amount of \$20,000 and Bob Gauthier seconded the motion.

Chairman Melby asked for public comment.

The Reverse Annuity Mortgage Exception was approved unanimously.

Freedoms Path Proof of Ownership Extension Request

51:00 Mary Bair brought to the Board a request from Freedoms Path for an additional three months to complete and submit proof of ownership for the Housing Credit Property.

54:10 Sheila Rice moved to approve the Proof of Ownership Extension for an additional three months to Freedoms Path and Bob Gauthier seconded the motion.

Chairman Melby asked for comments.

The Freedoms Path Proof of Ownership three-month extension was approved unanimously.

Multifamily Program Update – page 30 of packet

55:05 Mary Bair provided the Multifamily Program update.

EXECUTIVE DIRECTOR UPDATE

1:07:35 Bruce Brensdaal provided the Board with the Executive Director's update. Bruce reviewed the Board meeting schedule. The next Board meeting will be June 26, 2017, which will include the Housing Credits Letter of Intent process.

Operations Update

1:00:10 Stacy Collette provided the Board with the Operations update. Montana Board of Housing is fully staffed and the Section 8 program is in the hiring process for the one outstanding Contract Manager position.

Marketing Update

1:02:37 Penny Cope provided the Board with several Grand Opening and Groundbreaking ceremonies taking place in the next month. Invitations will be sent and the Board is encouraged to attend.

1:05:16 Todd Jackson updated the Board on the public relations of MBOH and press releases which are scheduled for every two weeks.

Meeting adjourned at 9:42 a.m.

Sheila Rice, Secretary

Date