

AVON PARK HOUSING DEVELOPMENT CORPORATION

**Board of Directors Regular Meeting
North Central Heights Community Center
709 Juneberry Street, Avon Park, Florida
Wednesday March 13, 2019; 5:30 P.M.
Meeting Agenda**

ROLL CALL;

PREVIOUS MINUTES: Previous Minutes

COMMUNICATIONS:

I. OLD BUSINESS;

- a. New CEO
- b. Revised By-laws

II. NEW BUSINESS;

Other matters to come before the Board:

Next Board Meeting(s): TBD

VI. ADJOURN

In accordance with the American Disabilities Act and Section 286.26 Florida Statutes, any person with disabilities requiring reasonable accommodations to participate in this meeting should call the Housing Authority offices five days prior to the meeting.

AVON PARK HOUSING DEVELOPMENT CORPORATION
REGULAR MONTHLY MEETING
North Central Heights Community Center
709 Juneberry Street, Avon Park, Florida
February 20, 2019; 5:00 P.M.

Meeting Minutes

ROLL CALL; Chairman Brojek called the meeting to order at 5:46 PM. Secretary Rudy called the roll with the following results: Directors present: Wade, Brojek, Johnson, Mundt, Harris and Daffner. Also in attendance, Tracey Rudy, CEO/Secretary and Larry Shoeman.

PREVIOUS MINUTES: On a motion by Mundt seconded by Wade the minutes of the previous meeting were unanimously approved as presented.

COMMUNICATIONS: None

OLD BUSINESS;

APHDC entity type: Based on a concern expressed by former E.D., Larry Shoeman, the Board unanimously approved a motion by Mundt, seconded by Daffner to table this matter pending further research.

NEW BUSINESS:

APHDC loan to Delany Heights for HVAC equipment: Rudy requested that the Board approved a loan of \$60K to Delany Heights to replace aging and failing HVAC equipment. The loan to be repaid in monthly installments over a three year period. Director Johnson moved to approved the loan, the motion was seconded by Director Harris and carried unanimously.

ADJOURN; There being no further business to come before the Board, Chairman Brojek adjourned the meeting at 6pm.

Accepted

Accepted

Attest

SEAL

Tracey Rudy

From: Bernice Saxon [bsaxon@saxongilmore.com]
Sent: Monday, March 11, 2019 1:55 PM
To: Tracey Rudy
Cc: Joanne Fomuke; Jozette Chack-On; Kari Power
Subject: FW: Questions re HOME and SAIL loans

I have sent another message to Hugh Brown for an update, and will keep you advised.



Bernice S. Saxon, Esq.

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From: Bernice Saxon
Sent: Wednesday, March 6, 2019 2:33 PM
To: 'Hugh Brown' <Hugh.Brown@floridahousing.org>
Subject: RE: Questions re HOME and SAIL loans

Thank you. I really appreciate your running this down.



Bernice S. Saxon, Esq.

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From: Hugh Brown <Hugh.Brown@floridahousing.org>
Sent: Wednesday, March 6, 2019 2:31 PM
To: Bernice Saxon <bsaxon@saxongilmore.com>
Subject: RE: Questions re HOME and SAIL loans

I haven't found an

Bernice – trying to run this down this afternoon, sorry for the delay. I suspect you are correct but let me consult with my in-house experts before I give you an official response.

From: Bernice Saxon <bsaxon@saxongilmore.com>
Sent: Monday, March 4, 2019 12:30 PM
To: Hugh Brown <Hugh.Brown@floridahousing.org>
Subject: RE: Questions re HOME and SAIL loans

We are following up to see if you have had an opportunity to review the email below? Thanks.



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From: Bernice Saxon
Sent: Tuesday, February 26, 2019 12:24 PM
To: 'hugh.brown@floridahousing.org' <hugh.brown@floridahousing.org>
Subject: Questions re HOME and SAIL loans

Thank you for returning my call. We have a housing authority client who has a question regarding organizational structure related to a Florida Housing HOME loan and a Florida Housing SAIL loan. A single purpose limited liability company is the borrower of the HOME loan which closed in 2015. The sole member of the borrower entity of the HOME loan is a not for profit corporation, which is an affiliate of the housing authority. The not for profit affiliate does not have interlocking board members with that of the housing authority. Likewise, the borrower of the SAIL loan, which closed in 2011, is a single purpose limited liability company whose sole member is the same not for profit corporation (an affiliate of the housing authority) as that for the HOME loan. The housing authority and its affiliated not for profit corporation both agree that it would be best for the affiliated not for profit corporation to have the same board members as the housing authority, thereby becoming an instrumentality of the housing authority, rather than an affiliate. The question was raised as to whether any of the Florida Housing loan documents or rules for either the HOME loan or the SAIL loan prohibit such a change in the board constitution of the sole member of each limited liability company borrower entity to an interlocking

board with that of the housing authority. We could find nothing to that effect, but were requested to inquire of Florida Housing regarding same. Any guidance you can provide would be greatly appreciated. Thank you for your assistance.



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Florida has a broad and inclusive public records law. This e-mail and any responses to it should be considered a matter of public record."

BY-LAWS
OF
AVON PARK HOUSING DEVELOPMENT CORPORATION
(A Florida Not-for-Profit Corporation)

ARTICLE I
NAME

The name of this Corporation shall be the AVON PARK HOUSING DEVELOPMENT CORPORATION (hereinafter referred to as the "*Corporation*"). It shall function perpetually as a not-for-profit corporation.

ARTICLE II

PURPOSES

The purposes of the *Corporation* shall be to:

- a) to seek and apply for grants, funds, awards and/or any and all other types of funding designed to advance the governmental purposes, the goals and the missions of the **Housing Authority of the City of Avon Park** (hereinafter referred to as the "*Authority*");
- b) to insure that no part of the net earnings of the *Corporation* shall inure to the benefit of or be distributable to its members, founders, directors, contributors, employees of or members of a committee of, or person connected with the *Corporation*, or any other private individuals, except that the Corporation may be authorized and empowered to pay reasonable compensation for services rendered and products purchased and to make payments and distributions in furtherance of the purposes hereinafter set forth;
- c) Accomplish its purposes as stated herein, in the Articles of Incorporation and as provided by the Not-For-Profit laws of the State of Florida, in conjunction with the *Authority*, and as a result thereof with the full consent and approval of the *Authority*;
- d) Operate in a manner in which the *Authority* shall consent to and approve the corporate charter and/or any and all other organic documents of the *Corporation*, including but not limited to the bylaws, and any and all amendments, addendums and/or modifications to said documents;
- e) Operate in a manner in which the *Authority* shall authorize and/or approve any and all documents to be executed by and between the *Corporation* and HUD, including but not limited to the Annual Contributions Contract, and any and all

- amendments, addendums and/or modifications to said documents; and
- f) Operate in a manner in which the *Authority* shall have the right to directly control and approve any and all operations of the *Corporation*.

ARTICLE III MEMBERSHIP

The *Corporation* shall not have any members and, accordingly, all authority that would otherwise be reposed in members shall be exercised by the Board of Directors of the *Corporation* as and to the extent provided or permitted by applicable law.

ARTICLE IV PRINCIPAL OFFICE AND REGISTERED OFFICE AND AGENT

a) The principal office of the *Corporation* shall be located in the City of Avon Park, Highlands County. The *Corporation* may have such other offices, either within or without the State of Florida as the Board of Directors may determine or as the affairs of the *Corporation* may require from time to time.

b) The *Corporation* shall have and continuously maintain in the State of Florida a registered office, and a registered agent whose office is identical with such registered office. The registered office may be, but need not be, identical with the principal office of the *Corporation* in the State of Florida and the address of the registered office may be changed from time to time by the Board of Directors.

ARTICLE V FISCAL YEAR

The fiscal year for the *Corporation* shall be April 1 through March 31 annually.

ARTICLE VI RIGHTS AND LIABILITIES OF DIRECTORS

a) Property Interest of Directors. No director of the *Corporation* shall have any right, title or interest in or to any property or assets of the *Corporation* either prior to or at the time of any liquidation, termination or dissolution of the *Corporation*, all of which properties and assets shall at the time of any liquidation, termination or dissolution vest in the Authority, its lawful successors or assigns in the State of Florida, as provided in the Articles of Incorporation of the *Corporation*.

b) Non-Liability of Directors for Debts. The private property of the directors shall be exempt from execution or other liability for any debts of the Corporation and no director shall be liable or responsible for any debts or liabilities of the Corporation.

ARTICLE VII BOARD OF DIRECTORS

a) General Powers. Subject to the limitations of the Articles of Incorporation, these bylaws, and the Florida Not-For-Profit Corporation Act, all corporate powers shall be exercised by or under the authority of the Board of Directors, and the management and affairs of the *Corporation* shall be controlled by the Board of Directors.

b) Number and Qualifications. Unless the Articles of Incorporation are amended according to law, the number of directors shall never be less than three (3). The members of the Board of Directors must be composed of then current Board members of the *Authority* and/or employees of the *Authority*. All Board members of the *Authority* that serve as Board members of the *Corporation* are only eligible to serve as long as they are current Board members of the *Authority*. All employees of the *Authority* that serve as Board members of the *Corporation* are only eligible to serve as long as they are current employees of the *Authority*. The Executive Director of the *Corporation* shall also serve as the Secretary of the Board, in a non-voting capacity.

c) Election and Tenure. All of the members of the Board of Directors of the *Corporation* shall be selected by the members of the Board of the *Authority*, provided such selection is consistent with section b of this paragraph. Each member of the Board of Directors shall serve for a term of two (2) years from the date of qualification and selection. There shall be no term limits applicable to the number of consecutive terms each qualified member of the Board of Directors may serve.

d) Annual Meeting: An Annual meeting for the installation of officers, election of applicable Board members positions, the presentation of annual reports and the transaction of such other business as is determined by the Chairperson shall be held at such time and place as the directors may determine.

e) Regular Meetings. The Board of Directors of the *Corporation* shall meet on a regular basis, at a time and place to be determined by the Executive Director.

f) Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the Chairperson or any two Directors. The special meetings shall be held at a time and place to be determined by the Executive Director.

g) Telephone and Electronic Meetings. Directors may participate in meetings of the Board of Directors by means of a conference telephone, electronic or similar communications equipment (by which all persons participating can hear each other at the same time), and participation by such means shall constitute presence in person at such a meeting, provided a quorum is present at the actual meeting site.

h) Notice. Notice of any regular, special and/or annual meeting of the Board of Directors shall be given at least two days previously thereto by written notice delivered personally, conspicuously posted or sent by mail or facsimile transmission to each Director at his or her address as shown by the records of the *Corporation*. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed with postage thereon prepaid. If given by facsimile, such notice shall be deemed to be delivered at the time evidenced by printed confirmation of such transmission. Any Director may waive notice of any meeting. The attendance of a Director at any meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at nor the purpose of, any regular or special meeting of the Board need be specified in the notice or waiver of notice of such meeting, unless specifically required by law or by these Bylaws.

i) Quorum. A majority of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board; but if less than a majority of the Directors are present at said meeting, a majority of the Directors present may adjourn the meeting without further notice.

j) Manner of Acting. The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by law, by the Articles of Incorporation, or by these bylaws.

k) Vacancies. Any vacancy occurring in the Board of Directors and any directorship to be filled by reason of an increase in the number of Directors, shall be filled by the Board of Directors, provided such filling of the vacancy or increase in the number of Directors is consistent with section b of this paragraph.. A Director elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office.

l) Compensation. Directors as such shall not receive any stated salaries for their services, but by resolution of the Board of Directors a fixed sum for incurred expenses, if any, may be allowed; but nothing herein contained shall be construed to preclude any Director from serving the *Corporation* in any other capacity and receiving compensation appropriate to the value therefor.

m) Contracts and Services. The Board of Directors and Officers of the *Corporation* may be interested directly or indirectly in any contract relating to or incidental to the operations conducted by the *Corporation*, and may freely make contracts, enter transactions, or otherwise act for and on behalf of the *Corporation*, notwithstanding that they may also be acting as individuals, or as trustees of trusts, or as agents for other persons or corporations, or may be interested in the same matters as directors, or otherwise; provided, however, that any contract, transaction, or act on behalf of the *Corporation* in a manner in which the Directors or Officers are personally interested: (i) shall be at arms-length; (ii) shall be approved by a majority of the Directors of the *Corporation* who are not personally interested in such contract, transaction, or act (although interested Directors may be counted in determining the presence of a quorum at a meeting authorizing such contract, transaction or act); (iii) shall not be violative of any applicable laws of the State of Florida or applicable HUD regulations; and (iv) shall not be violative of the prescriptions in the Articles of Incorporation against the *Corporation's* use or application of its funds for private benefit; and provided further that, if the *Corporation* has been declared an exempt organization under Section 503 or Section 507 of the Internal Revenue Code and its regulations as they now exist or as they may be amended, no contract, transaction, or act shall be taken on behalf of the *Corporation* which would result in the denial of the tax-exemption under Section 503 or Section 507 of the Internal Revenue Code and its regulations as they now exist or as they may be amended. In no event, however, shall any person or other entity dealing with the Directors or Officers be obligated to inquire into the authority of the Directors to enter into and consummate any contract, transaction, or other action.

ARTICLE VIII
OFFICERS, THEIR ELECTION AND DUTIES

- a) Officers. The elected officers of the *Corporation* shall be a Chairperson, Vice-chairperson, Executive Director- Secretary and such other officers as may be elected in accordance with the provisions of this Article. The Board of Directors may elect or appoint such other officers as it shall deem desirable, such officers to have the authority and perform the duties prescribed, from time to time, by the Board of Directors. Any two or more offices may be held by the same person, except the offices of Chairperson and Secretary. A failure to elect a Chairperson, Vice-chairperson or Executive Director-Secretary shall not affect the existence of the *Corporation*.
- b) Election and Term of Office. The officers of the *Corporation* shall be elected annually by the Board of Directors at the regular annual meeting of the Board of Directors. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. New offices may be created and filled at any meeting of the Board of Directors. Each officer shall hold office until his or her successor shall have been duly elected and shall have qualified.
- c) Removal. Any officer elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interests of the *Corporation* would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the officer so removed, but election of an officer shall not of itself create contract rights.
- d) Vacancies. A vacancy in any office because of death, resignation, disqualification or otherwise, may be filled by the Board of Directors for the unexpired portion of the term.
- e) Chairperson. It shall be the duty of the Chairperson to preside at meetings of the *Corporation* and of the Board. The Chairperson shall make an annual report to the *Corporation* at each annual meeting. The Chairperson shall be authorized to sign checks on behalf of the *Corporation*. The Chairperson may sign all contracts, agreements, and legal documents on behalf of the *Corporation*.
- f) Vice-Chairperson. It shall be the duty of the Vice-Chairperson to coordinate the activities of committees assigned to him or her and to supervise the chairperson of said committees. In the absence of the Chairperson or when so designated, the Vice-Chairperson shall perform the duties of the Chairperson.

g) Executive Director-Secretary. It shall be the duty of the Executive Director- Secretary to run the day to day operations of the *Corporation*, and be compensated for such duty as determined by the Board. The Executive Director-Secretary shall have the authority to hire and terminate employees of the *Corporation*. The Executive Director-Secretary shall be authorized to sign checks on behalf of the *Corporation*, and execute contracts, agreements and documents on behalf of the *Corporation*. The Executive Director-Secretary shall keep a record of the proceedings of the meetings of the Board. The Executive Director-Secretary shall be custodian of all reports belonging to the *Corporation*, including but not limited to the annual reports of the Chairperson. It shall be the duty of the Executive Director-Secretary to collect and/or receive all money payable to the *Corporation* and to be custodian of all funds. Funds on behalf of the *Corporation* shall be expended only upon the presentation of duly authorized vouchers. The Executive Director-Secretary shall submit a written financial report at all meetings of the Board and at the Annual Meeting. The Executive Director-Secretary shall be responsible for seeing that the financial records of the *Corporation* are audited annually, and shall then present this audited financial report to the Board. It shall also be the duty of the Executive Director-Secretary to issue due bills, issue official receipts to the Board and maintain an up-to-date record of payments and delinquencies.

ARTICLE IX

COMMITTEES OF DIRECTORS

a) Appointment. The Board of Directors, by resolution adopted by a majority of the Directors in office, may designate and appoint one or more committees, each of which shall consist of two or more Directors, which committees, to the extent provided in said resolution shall have and exercise the authority of the Board of Directors in the management of the *Corporation*. However, no such committee shall have authority of the Board of Directors in reference to amending, altering, or repealing the Bylaws; electing, appointing, or removing any member of any such committee or any Director of the *Corporation*; amending the Articles of Incorporation; adopting a plan of merger or adopting a plan of consolidation with another corporation; authorizing the sale, lease, exchange, or mortgage of all or substantially all of the property and assets of the *Corporation*; authorizing the voluntary dissolution of the *Corporation* or revoking proceedings therefore; adopting a plan for the distribution of the assets of the *Corporation*; or amending, altering, or repealing any resolution of the Board of Directors which by its terms provides that it shall not be amended, altered, or repealed by such committee. The designation and appointment of any such committee and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any individual Director, of any responsibility imposed on it or him or her by law.

- b) Term Of Office. Each member of a committee shall continue as such until the next annual meeting of the *Corporation* and until his or her successor is appointed, unless the committee shall be sooner terminated, or unless such member be removed from such committee, or unless such member shall cease to qualify as a member thereof.
- c) Chairperson. One member of each committee shall be appointed chairperson by the person or persons authorized to appoint the members thereof.
- d) Vacancies. Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointments.
- e) Quorum. Unless otherwise provided in the resolution of the Board of Directors designating a committee, a majority of the whole committee shall constitute a quorum and the act of the majority of the members present at a meeting at which a quorum is present shall be the act of the committee.
- f) Rules. Each committee may adopt rules for its own governance not inconsistent with these Bylaws or with rules adopted by the Board of Directors.

ARTICLE X

PARLIAMENTARY AUTHORITY

The rules contained in Robert's Rules of Order Revised shall govern the *Corporation* in all cases to which they are applicable and in which they are not inconsistent with these Bylaws.

ARTICLE XI

BOOKS AND RECORDS

The *Corporation* shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its Board of Directors, and committees having any of the authority of the Board of Directors. The financial records of the *Corporation* shall be audited annually by an auditor selected by the Board.

ARTICLE XII

SEAL

The Board of Directors shall provide a corporate seal, which shall be in the form of a circle and shall have inscribed thereon the name of the *Corporation* and the words "*AVON PARK HOUSING DEVELOPMENT CORPORATION*", a Florida not-for-profit corporation."

**ARTICLE XIII
WAIVER OF NOTICE**

Whenever any notice is required to be given under the provisions of Florida law or under the provisions of the Articles of Incorporation or the Bylaws of the *Corporation*, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

**ARTICLE XIV
PROHIBITION AGAINST SHARING IN CORPORATE EARNINGS**

No member, founder, director, contributor, employee of or member of a committee of, or person connected with the *Corporation*, or any other private individual shall receive at any time any of the net earnings or pecuniary profit from the operations of the *Corporation*, provided that this shall not prevent the payment to any such person of such reasonable compensation for services rendered to or for the *Corporation* in effecting any of its purposes as shall be fixed by the Board of Directors; and no such person or persons shall be entitled to share in the distribution of any of the corporate assets upon the dissolution of the *Corporation*.

**ARTICLE XV
INDEMNIFICATION**

The *Corporation* shall indemnify each Officer and Director, including former Officers and Directors, to the full extent permitted by the Florida General Corporation Act and the Florida Not-for-profit Corporation Act.

**ARTICLE XVI
AMENDMENTS AND REVISIONS**

These Bylaws may be altered, amended, repealed and new Bylaws may be adopted by a majority of the Directors present at any meeting, if at least two days' written notice is given of an intention to alter, amend, or repeal these Bylaws or to adopt new Bylaws at such meeting.

Date Adopted: _____

Attest:

Chet Brojek,
Chairperson

Tracey Rudy,
Secretary