



MINUTES
COMMUNITY DEVELOPMENT COMMISSION
Tuesday, April 23, 2002, City Council Chambers

Commission Members Present: Fred Cobb, Robert Lewis, Gigi Paquin, Anne Heinze Silvis, Dennis Vidoni

Commission Members Absent: Chris Diana, Alice Englebretsen, Michael Holly

Others Present: Bob Grewe, Connie Eldridge, Mike Loschen, and Libby Tyler, Community Development Services; John L. Johnson, Illinois Center for Citizen Involvement (ICFCI) and Eads Street Development Corporation.

Call to Order: Chairperson Cobb called the meeting to order at 7:15 p.m. A quorum was present.

Approval of Minutes: *Chairperson Cobb asked for approval or corrections to the minutes from the April 9, 2002 Joint Study Session with the City Council and the Housing Authority of Champaign County. Commissioner Silvis moved to approve the minutes. Commissioner Vidoni seconded the motion. The motion carried unanimously.*

At this point Chairperson Cobb changed the order of business.

Petitions and Communications: John L. Johnson commented on impediments to fair housing. He believed that cost, location and planning policies for new subdivisions are impediments to fair housing. He stated upscale subdivision developments that do not incorporate low-income families will polarize the community and will negatively affect the school districts. Mr. Johnson requested that all commissions look at integrating the community.

Mr. Johnson requested the Community Development Commission amend the Annual Action Plans to eliminate HomeBuild IV and to reallocate those funds to closeout the Eads at Lincoln Subdivision. He said there is an agreement with Busey Bank and the Federal Home Loan Bank of Chicago to do this. He described the problems that ICFCI had with Harrco Construction, Inc., and his efforts to address the issue. Mr. Johnson stressed that Harrco Construction, and not ICFCI, was bankrupt. Due to Harrco's problems, ICFCI obtained legal counsel and also identified a new contractor, Aaron Booher of Booher Construction. Mr. Booher was a former subcontractor of Harrco.

Mr. Johnson is transferring the affordable housing program from ICFCI to the Eads Street Development Corporation, which he formed in 1989. He stated the ICFCI Program would not exist after July 1, 2002. Because the city's grants and proposals are with ICFCI, the Annual Action Plan would have to be amended for those projects to continue under the Eads Street Development Corporation.

Mr. Johnson is requesting \$6,000 per unit for additional costs for the Eads at Lincoln Subdivision closeout plus an additional \$1,500 to correct a drainage problem for a property on Sunset Street. Mr. Johnson said Harrco Construction's bid did not truly represent many infrastructure costs, and then Harrco requested many change orders. The new contractor will not do this and has anticipated a percentage increase. Addressing city staff's concern about verification, Mr. Johnson had the architectural firm of Severns, Reid & Associates analyze the 2.09 percent cost increase, which they found acceptable.

Referencing the memorandum to amend the Annual Action Plans, Mr. Johnson asked the City of Urbana to certify the Eads Street Development Corporation as a Community Housing Development Organization (CHDO). He disagreed with staff recommendations as follows:

- 1) Due to unforeseen factors, contractors cannot guarantee there will not be cost overruns. Mr. Johnson felt this was an unreasonable expectation.
- 2) Mr. Johnson was concerned about the requirement that homes be built within a certain timeframe. Noting there was very little money made, he discussed his funding requests and government reimbursement.
- 3) Mr. Johnson said that regulations state public jurisdictions should not interfere with the operations of CHDOs. He felt regulations do not require this, and no public hearings have been held about this change.
- 4) Mr. Johnson stated that a CHDO is required to have an affirmative marketing plan but is not required to bid out a five-unit project. If the CD Commission and City Council request this, Mr. Johnson will bid the project. However, he would need an extension from the Federal Home Loan Bank due to the extra delay. He will also submit a request for the Eads Street Development Corporation to become a CHDO.

Mr. Johnson assured commissioners that funds for ICFCI's legal representation are not CDBG or HOME funds. He discussed Eads Street Development Corporation separating from ICFCI and becoming a CHDO.

Chairperson Cobb inquired about firm time limits for contractors. Mr. Johnson said there is a 120 day contract, but there have been delays due to the workforce. He discussed how construction delays and problems resulted in ICFCI absorbing the costs of a homeowner's mortgage, insurance, and taxes. There were errors in construction of one roof and problems with a homeowner's expectations on landscaping. Mr. Johnson reviewed his responsibilities as program manager of a CHDO and disagreed with staff recommendations for oversight. Ms. Tyler responded that there were very good reasons for staff's recommendations.

Commissioner Vidoni asked Mr. Johnson why he thought staff requested oversight. Mr. Johnson said that federal regulations did not require this and referenced the Annual Action Plans. He discussed the City of Champaign requirements for bidding and oversight. Mr. Johnson said the changes had to be presented in a public hearing. Commissioner Vidoni inquired why the Cities of Champaign and Urbana required changes. Mr. Johnson did not know why, and he felt public jurisdictions should enable CHDOs to stand-alone. He felt only program managers who have participated in affordable housing programs would understand this. Commissioner Vidoni asked about issues of trust. Mr. Johnson said he did not know how to respond to that. Chairperson

Cobb inquired about negative aspects. Mr. Johnson replied that CHDOs would not be independent operations. Remembering earlier CHDO meetings, he mentioned the requirements for audits and accounting for funds. Mr. Johnson said, given his accomplishments, there was no reason not to trust him.

Ms. Tyler stated that, in general, the staff recommendations are consistent with what Mr. Johnson wants to accomplish, namely to complete the Eads at Lincoln Subdivision and to eliminate HomeBuild IV. Mentioning common ground and cutting losses, Ms. Tyler said the City of Urbana wants to complete the project and deal with the cost overrun issue. Noting that people turn to the city when things go wrong, city administration is very concerned with its level of exposure regarding the number of complaints and problems with the program. The recommendations for program continuation are standard, and the city must oversee programs to be responsible government. Despite assurances there was insurance and a bond on Harrco, there was not. She mentioned complaints from homebuyers on construction, promises made or possible misrepresentation. Ms. Tyler stated this is not just an issue with Harrco Construction; there is a problem with this CHDO and a lack of City oversight.

Ms. Tyler pointed out that Eads Street Development Corporation is not yet a CHDO and therefore cannot be held to the same level of responsibility. City staff and administration are very serious about the recommendations, which will mean increased oversight for all CHDOs. The city will need additional assistance from persons with construction management skills. The goals are to provide affordable housing and to protect the public interest.

Chairperson Cobb questioned the nature of the oversight. Ms. Tyler responded that oversight will need to be worked out and would involve better communication, inspections, quality control, and a monitoring process. Although successful until recently, the city will need to change its practice and procedures. The City of Urbana does not want to harass the CHDOs.

Mr. Johnson commented on a hauler dumping construction material due to Harrco's financial problems. In the past ICFCI has used its funds to address problems. Mr. Johnson stated the letters of complaint should have been passed to ICFCI. Also, ICFCI is required by the State of Illinois to have builders' risk insurance, which protects both cities and the county. Mr. Johnson felt staff's allegations should have been listed in the Annual Action Plan, and ICFCI should have been allowed to respond to the allegations. Mr. Johnson does not feel there is justifiable ground for additional project oversight.

Chairperson Cobb wondered how soon the Eads Street Development Corporation would be fully certified as a CHDO. Mr. Johnson replied as soon as the State of Illinois approves the application, and he then discussed certification requirements. He agreed to discuss reporting requirements with staff; however, Mr. Johnson was concerned with a public jurisdiction infringing upon a CHDO. Mr. Loschen added that an organization must have a year of public service. He noted there are different requirements now that the Urbana HOME Consortium is established.

Ms. Tyler raised the issue about complaints that ICFCI is not responsive. Mentioning his regular office hours and telephone answering system, Mr. Johnson said people could reach him if staff is not available.

Ms. Tyler said there is a need for oversight of all CHDOs. General liability insurance will not necessarily address the issues the homebuyers have raised. She stated it was unfortunate that Harrco Construction went bankrupt, but there is a need to protect the homebuyers.

Commissioner Silvis was disappointed to hear about these problems. She has been proud of the Eads at Lincoln subdivision and felt the City of Urbana was a partner with ICFCI. She was pleased with ICFCI's accomplishments to construct quality low cost housing. However, it is useful to step back and look at the big picture and long-term goals. In the short run, it appeared that ICFCI suffered from Harrco Construction's financial problems. There is a need to address short-term problems to finish the development. Commissioner Silvis asked which staff recommendations were troublesome to ICFCI. Imposing a set of checks and balances would provide assurances to the City of Urbana and staff. Mr. Johnson understood the city staff's and bank's concerns. He stated they have not given ICFCI credit for addressing the issues and paying the extra expenses. According to ICFCI's legal counsel, Mr. Johnson assured commissioners that "the City of Urbana was in no harm." Ms. Tyler requested a copy of written communication from ICFCI's legal counsel.

Noting he has not seen the letters of complaint from homebuyers, Mr. Johnson stated he is responsible for decisions and described his approach to solve problems. He felt there should be a procedure in place when the city received complaints about his programs. Mr. Johnson asked city staff to approach him directly and also discussed bank commitments. He mentioned his relationships with city staff, the new contractor, funding sources, and the homebuyer. Mr. Johnson reviewed his requests to eliminate HomeBuild IV and amend the Annual Action Plan. He wanted to be part of the process for creating standards for his programs. Mr. Johnson hoped commissioners recognized the public component to this problem.

At this point Chairperson Cobb changed the order of business.

New Business: Amendment to HomeBuild IV to Support Completion of Eads at Lincoln and Related Considerations – Mr. Grewe believed the staff recommendations noted in the memo are considered good management, and there is no regulation limiting the city's involvement. He was concerned about providing funds without requirements. There are two amendments: (1) FY 2001-2002 Annual Action Plan to reallocate HomeBuild IV funds, and (2) FY 1998-1999 Annual Action Plan to reallocate City of Champaign HOME funds. Noting there were significant investments in the Eads at Lincoln HOME project, Mr. Grewe discussed cost estimates, correspondence, soft costs, and a sworn affidavit by the proposed contractor. The Urbana HOME Consortium has reviewed these changes. Mr. Grewe discussed rebidding the project and stated those involved with grants believe in a bidding process. Chairperson Cobb asked if this delay would cause problems. Mr. Grewe responded no; some activities can run on a parallel course. He believed it was essential to hold a contractor to the stated price and mentioned Harrco's many change orders. The HOME Consortium supported maintaining the wind mitigation provision and providing enhanced oversight and project management. Mr.

Grewe felt monitoring was advantageous, and staff is learning how to better structure the programs.

Commissioner Silvis asked if the homebuyers had signed a contract. Mr. Grewe said that clients did sign contracts, but these were very open-ended and had many changes. Clients said they did not understand the project. In response to Commissioner Lewis, Mr. Grewe said city staff did not have a copy of the contract signed by the CHDO. The City of Urbana's contract with ICFCI only refers to delivery of houses, income level of participants, subsidy level, affordability period, etc.

Commissioner Lewis stated there are standard contract requirements when using federal and/or state funds. He said there is no requirement to take the lowest bidder; however, there is a requirement that the contractor be responsible. Commissioner Lewis noted it is common for contractors to underbid a project and then request many change notices. There are ways to deal with this, including having a big enough staff to monitor the contractors. Commissioner Lewis felt the complaints and contractor problems facing ICFCI were not unusual. He said if the city wanted to impose restraints, it must also assist Mr. Johnson. Mr. Johnson is benefiting the community; however, he probably does not have enough manpower to accomplish all that needs to be done. Commissioner Lewis discussed the bidding process and escalation of cost. Mr. Grewe added that staff is looking at best practice and at performance bonds. Commissioner Lewis said that quality assurance is an integral part of the contractor's bid and should be in place at the beginning. Commissioner Silvis asked if the HOME Consortium preferences were reasonable except for the rebid process. Commissioner Lewis replied they are an integral part of any construction project. Bonding, capital flow, and insurance are very important. There is a risk in using smaller contractors.

Referencing an e-mail message from Commissioner Diana, Chairperson Cobb asked if there were any performance bonds. Although ICFCI indicated there were bonds, Mr. Grewe said that ICFCI did not seem to utilize the bonds when difficulties arose. Commissioner Lewis said that performance bonds are a key requirement, and contract administration must be clear and concise. The city must have access to fundamental elements of any contract, such as security and performance bonds. Chairperson Cobb agreed and described how architects at the University of Illinois establish reasonable anticipated costs.

Commissioner Vidoni stated that ICFCI has given a lot to the community through creating low-cost housing. The Urbana HOME Consortium and ICFCI had an agreement to complete a project; however, the agreement was broken. It appears the Urbana HOME Consortium wants to rebid the program due to problems. On face value, rebidding seemed reasonable to him. Commissioner Vidoni added that cost overruns are not unusual. Penalties for not finishing projects on time seemed standard. Given the history of the program, he felt that city staff needs to oversee more of the agreements and contracts with the CHDOs. The four staff requests seemed reasonable to him.

Noting the requests seemed reasonable, Commissioner Paquin favored preventing problems through additional supervision. She suggested staff ask other communities how they handle contract oversight.

Chairperson Cobb inquired about the timeframe. Referencing Mr. Johnson's announcement last night that ICFCI would not be in the housing business, Mr. Grewe was concerned about the transition, especially if the new nonprofit agency does not qualify as a CHDO. This is a CHDO-funded project. In response to Commissioner Lewis, Mr. Grewe said that Urban League and Homestead Corporation were CHDOs. Earlier Mike Doyle had mentioned perhaps ICFCI would contract with the new organization and therefore keep its CHDO status. Since there must be a qualified CHDO, Ms. Tyler suggested going forward with new procedures and identifying a CHDO later. Mr. Grewe described the procedure to amend the Annual Action Plan, which involved public notices, meetings, and comments. Mr. Loschen added the Annual Action Plan is just a budget, with contract management coming under the formal CHDO agreement. Discussion continued on adhering to contract standards and management oversight. When Commissioner Lewis asked about state and federal regulations, Ms. Tyler said there is a need for standard contract management for all CHDOs. Concerning complaints, she noted that legal counsel is now involved. Chairperson Cobb wondered if ICFCI had periodic meetings with its clients. Mr. Loschen said city staff was not party to the actual meetings, and then he reviewed the city's participation. Commissioner Lewis described how he would approach these problems. Ms. Tyler stressed the need to monitor projects and encourage communication with the customer, contractor and ICFCI.

After reviewing the recommendations, Mr. Grewe stated any management provisions must be incorporated into a separate document. Commissioner Silvis believed the City of Urbana should invest in the project but should also include the new requirements based on common construction expectations. She felt it would be irresponsible for the City of Urbana to provide additional funding if it did not also impose the four conditions. Commissioner Silvis stated that she thought the City of Urbana should keep working with Mr. Johnson as a partner.

Commissioner Vidoni moved to recommend to City Council that the City of Urbana amend the FY 2001-2002 Annual Action Plan to accommodate the completion of Eads at Lincoln Subdivision and pursue staff recommendations to ensure project completion. This included the implementation of standard quality assurance procedures for all future funding proposals. It was clarified that this included rebidding of the Eads at Lincoln program. Commissioner Silvis seconded the motion. The motion carried unanimously.

While Mr. Grewe distributed information from the City of Champaign, Mr. Loschen reviewed their new additional request to also amend the Annual Action Plan for FY 1996-1997. The City of Champaign, which had 1996/1997 HOME dollars for rental rehabilitation projects, wants to reallocate \$5,000 for completion of HomeBuild III. He noted these are City of Champaign funds and explained funding for their HOME program. The City of Urbana, as the lead entity in the Urbana HOME Consortium, is responsible for making these changes with the Department of Housing and Urban Development.

Commissioner Silvis moved to recommend to City Council that the City of Urbana amend the Annual Action Plans from FY 1996-1997 and FY 1998-1999 to accommodate modifications by the City of Champaign. Commissioner Paquin seconded the motion. The motion carried unanimously.

Staff Report: Mr. Grewe distributed a staff report outline and discussed Federal Home Loan Bank Funding and Get the Lead Out. He updated commissioners on the bond cap allocation and the FY 2002-2003 Annual Action Plan.

Old Business: **Analysis of Impediments to Fair Housing** – Mr. Grewe discussed the information and graphs. He questioned how financing trends impact fair housing choices. Vacellia Clark, Human Relations Officer, had suggested a statement be added to the survey that would provide a contact person and phone number for follow-up of possible discrimination. Commissioner Lewis commented on census results. In response to Commissioner Lewis, Mr. Grewe replied the graphs were created from information provided by the Champaign-Urbana Tenant Union. In response to Commissioner Vidoni, Mr. Grewe had also wondered what caused certain spikes and mentioned interpretation of the results. Commissioner Silvis inquired how many people were involved with the study. Mr. Grewe replied the graphs were based on census tracts in the target area. In response to Chairperson Cobb, Mr. Grewe said staff would need to develop a plan.

New Business: **Conveyance of 1107 North Gregory Street and 1109 North Gregory Street to Peter Pan Daycare** – Chairperson Cobb provided the following comments from Commissioner Diana. Commissioner Diana did not see any particular problem with the sale; however, he questioned the validity of an installment contract. Normally the title will show the City of Urbana as a secured interest. If a contract was defaulted on, how could title for part of a developed business property revert to the City of Urbana? Ms. Tyler responded this is a legal question on how the City of Urbana retains or gives title. Staff will review this with the City Attorney. Since this issue has been on-going for several years, Mr. Grewe is requesting a recommendation to pursue this activity. There will be a public hearing and a mailing to the Eads Subdivision neighborhood. The property must be sold at market value, and there must be proper zoning approval. Chairperson Cobb suggested making a motion contingent upon a positive response. Mr. Loschen added the actual sale contract would be presented to the CD Commission at a later meeting.

Commissioner Lewis moved to recommend that city staff pursue the sale of 1107 and 1109 North Gregory to Peter Pan Day Care Center. Commissioner Vidoni seconded the motion. The motion carried unanimously.

Adjournment: Chairperson Cobb adjourned the meeting at 9:34 p.m.

Recorded by Connie Eldridge