

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF THE COUNTY OF SAN BERNARDINO
AND RECORD OF ACTION**

October 8, 2019

FROM

GARY MCBRIDE, Chief Executive Officer, County Administrative Office

SUBJECT

Housing Authority of the County of San Bernardino Governance Structure

RECOMMENDATION(S)

1. Provide direction to the Chief Executive Officer to:
 - a. Retain the Housing Authority of the County of San Bernardino's existing Board of Governors governance structure which consists of five Board of Supervisors and two tenant members; or
 - b. Re-establish an independent Housing Authority of the County of San Bernardino with a governance structure that will consist of Board of Supervisor-appointed Housing Commissioners and two tenant Housing Commissioners.
2. Direct staff to undertake all necessary actions to implement the governance structure resulting from Recommendation No. 1.

(Presenters: Dena Fuentes, Deputy Executive Officer, 387-4411)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Promote the Countywide Vision.

Create, Maintain and Grow Jobs and Economic Value in the County.

Improve County Government Operations.

Operate in a Fiscally-Responsible and Business-Like Manner.

Ensure Development of a Well-Planned, Balanced, and Sustainable County.

Provide for the Safety, Health and Social Service Needs of County Residents.

Pursue County Goals and Objectives by Working with Other Agencies.

FINANCIAL IMPACT

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost). There is a Cooperative Agreement approved between the Housing Authority of the County of San Bernardino (HACSB) in the amount of \$120,000 per year to provide operational, programmatic and administrative support ~~to~~by the County of San Bernardino Community Development and Housing Agency. If the Board of Supervisors (Board) concludes the best HACSB structure is an independent governing board, the Cooperative Agreement will be terminated.

BACKGROUND INFORMATION

Before the Board for consideration is the determination of the governance structure of HACSB, which must comply with both state law and United States Department of Housing and Urban Development (HUD) regulations. The County Administrative Office, in conjunction with County Counsel, has led an effort to evaluate a number of concepts and structure options. Based on the analysis, the conclusion is there are only two options that comply with both state law and HUD regulations. These options are as follows:

1. Retain the Housing Authority of the County of San Bernardino's existing Board of Governors governance structure which consists of five Board of Supervisors and two tenant members; or
2. Re-establish an independent Housing Authority of the County of San Bernardino with a governance structure that will consist of Board of Supervisor-appointed Housing Commissioners and two tenant Housing Commissioners.

Housing Authorities are creatures of State law but are primarily funded and governed HUD regulations. In 1937, Congress enacted the Housing Act of 1937 (the "1937 Act"), establishing the Section 8 housing program and providing for direct funding to local public housing authorities. Shortly thereafter, the State legislature enacted the Housing Authorities Law establishing public housing authorities in California as recipients of Section 8 funding. On June 23, 1941, pursuant to Section 5 of the Housing Authorities Law, the Board activated the Housing Authority of the County of San Bernardino as a separate legal entity from the County, and appointed an independent Board of Commissioners to govern it. Five Commissioners are Board appointed by district and two tenant Commissioners are Board appointed to constitute the seven member governing body of the Housing Commission. Once appointed, these Commissioners serve terms of specific lengths identified by State Law and cannot be removed by the Board, except for cause. Other than appointment by the Board of the Commissioners, all authority is delegated to the governing body of the Housing Authority.

On May 6, 2014 (Item No. 80), an action was approved in which the Board of Supervisors was declared as the governing body of HACSB. The premise of this recommendation was to implement the Board-adopted goals and objectives such as: 1) Prioritize investments in services and amenities for County unincorporated communities; 2) Protect the Board's policy making role and ensure authority exists for staff actions; and 3) Eliminate silos and consolidate administrative functions. Additionally, to further the Board's goals and objectives, the County strategically invested its limited housing resources to achieve community and neighborhood revitalization, provided housing options for the lower income residents, and facilitated economic advancement opportunities. The public resources typically utilized to achieve these objectives were significantly reduced and/or eliminated. As a result of the dissolution of the California Redevelopment Agencies, the Redevelopment Housing Fund - a significant source of revenue - was eliminated. Additional losses in federal funding sources were experienced such as HUD Housing Choice Voucher Program, Home Investment Partnership Act, Community Development and Block Grant and Emergency Solutions Grant funds were significantly reduced. The Board approved the CEO's recommendation to become the HACSB governing board and took the necessary steps to create the Housing Commission which included two tenant commissioners. Subsequently, certain duties and authorities were delegated to the Housing Commission by the HACSB Board of Governors.

Upon review of the HACSB governing structure, the Board approved staff's recommendation on July 9, 2019 (Item No. 14), to modify the HACSB Board of Governors and add two tenant members. This action ensured that the governing structure conformed to both state and federal laws which require tenant board members. Because the tenant board members were now part of the HACSB Board of Governors, on August 6, 2019 (Item No. 54), the Board initiated repealing Chapter 47 of the San Bernardino County Code related to the San Bernardino County Housing Commission. At the August 6, 2019 Board meeting, the Board directed staff to evaluate the HACSB governance structure options and to return to the Board within 60 days.

HUD considers housing authorities an operational arm of the federal government pursuant to the 1937 Act. HUD is an active partner in assuring that the operations of the housing authorities are in compliance with federal requirements. Since HACSB is a Moving to Work (MTW) designated entity, all MTW initiatives have to be approved at both HUD Headquarters in Washington along with the local Los Angeles field office. HUD requires that all governing boards of housing

authorities are knowledgeable and proficient in HUD regulations and the local operational parameters and programs, including the MTW initiatives. Periodically, HUD will provide training to the governing board and will assure compliance with all HUD requirements by auditing the local housing authorities.

After evaluation of State law and HUD regulations, there are two alternatives being presented for Board consideration. If the Board's objective is to implement the adopted goals and objectives, retaining the existing Board of Governors structure (five Board of Supervisors members and two tenant members) would achieve this objective. If the Board decides to retain the existing structure, HUD will expect the Board of Governors members to undertake monthly board development and training and to be knowledgeable regarding MTW initiatives and HUD requirements.

If an independent entity is created, the Board will not have any formal influence on the operations or investment philosophy/strategies of HACSB, other than the appointment of the governing board. The Board and County staff would continue to find joint programs and projects that further both the County Board and HACSB goals. The Board also would appoint the seven HACSB commission members, which includes the two tenant members. The term of the Board-appointed commissioners is set by State Law and does not coincide with a Board member's term. The Board could choose to appoint a resident of its district, themselves, or a member of county staff, provided the appointment complies with California Health and Safety Code Section 34272(c), which states an officer or employee may serve on the commission only "if such officer or employee does not exercise powers or duties in his office or employment that may conflict with the exercise of independent judgment required to carry out the purposes" of a housing authority. If this type of appointment is something one or more Board members want to consider, additional consultation with County Counsel regarding the proposed appointment would need to occur.

Depending upon the direction of the Board and the option that is chosen, certain follow-up items would need to be approved at a future meeting.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on September 25, 2019; Finance (Kathleen Gonzalez, Administrative Analyst, 387-5412 and Stephenie Shea, Administrative Analyst, 387-4919) on September 26, 2019.