

# Fayetteville Housing Authority Board of Commissioners

## Meeting Minutes

Wednesday, August 14, 2019

### I. Roll Call

Melissa Terry called to order the special meeting of Fayetteville Housing Authority at 6:00 pm on August 14, 2019 at City Hall Room 326, 113 W Mountain Street, Fayetteville, AR 72701.

a. The following persons were present: Commissioner Terry, Commissioner McMahon, Commissioner Bensingier, Commissioner Breashears, Commissioner Stafford, Executive Director Angela Belford, and Victoria Dempsey. Also, present Attorney Greg Northen via video conference.

### II. Procedure Review

a. Commissioner Terry stated that the purpose of today's meeting is to have a procedure review to guide us through the complexities of Freedom of Information Act (FOIA) Compliance and how to navigate ambiguity. Since the meeting was called by Commission Stafford, the vice chair, Commission Terry then turned over the meeting to Commissioner Stafford. Commissioner Stafford stated that the board is fairly new and over the last year has seen amazing work done by the board and FHA staff. There have been a lot of positive progress made at a really amazing speed. Sometimes when you are moving at amazing speed you need to avoid hitting road bumps. It sounds like we may have hit a couple road bumps recently and we need to become educated. The Housing Authority operates under a number of federal, state, and local laws, as well as by-laws. We need some clarity on proper procedures. The goal of this meeting is not to be punitive but to be educational and protective. When things come up in the future, we want to shield future staff and board commissioners. This will be basically a training opportunity. There are have been a couple recent incidents that have happened recently that we not handled in a way that they should have been. We need to address the incidents and then learn from them. Commissioner Stafford then introduced Greg Northern, who is a HUD Specialist. Commissioner Stafford stated that the statement of facts will be given by Angela Belford as she understands them and then Greg Northern will discuss what steps could have been handled in a better way. Commissioner Stafford did bring up the concern that if any of the commissioners involved wanted to a chance to rebut the statement of facts then they should have the chance to do it and then have the attorney walk us through it.

### III. Discussion of Recent Investigation- Executive Director, Angela Belford

- a. Angela Belford stated that she will be reading a Statement of Facts, which is the basics of what has happened over the last few weeks. It includes what was reported what was given to us in terms of what our staff observed or what was provided in writing such as a written complaint.
- b. Statement of Facts:

We received reports of a male resident harassing a female resident which resulted in an eviction since this was his 3<sup>rd</sup> violation.

The resident commissioner came to the office with the male resident to file an appeal for a hearing and volunteered to pay for copies of the complaints.

The female resident expressed via written complaint not feeling safe and feeling that the resident commissioner twice contacted her to try to ask her to withdraw her complaints.

Other residents reported that the male resident had threatened to put the female resident in a pine box.

I requested the Board Chair coach the resident commissioner that this was inappropriate behavior.

The Board Chair contacted the female resident and resident commissioner to have a meeting.

After the meeting, the board chair texted me that everything had been blown out of proportion.

Female resident recorded the meeting, I had the meeting transcribed.

Friday, August 9 – Received this email from Jenny Harenza, Community Center Manager. (edited for anonymity)

Resident Commissioner was just talking in the lobby to fellow residents walking through after a council meeting.

“Female resident claims male resident *sexually assaulted* her” to which others said “oh my gosh” exhaustedly.

I’m super annoyed. I said “I don’t think you should be talking about this in the lobby. I mean, freedom of speech and all but just saying.”

Resident commissioner came over and politely asked me what about that bothered me to which I said, “Just the fact that it’s sensitive enough for the board to have a special meeting on it means it probably shouldn’t be discussed like that.”

In his defense he said “If it bothers you, we’ll stop” which is great and all but his discretion is concerning.

## **II. Explanation of Best Practices – Greg Northern, Cross, Gunter, Witherspoon & Galchus, P.C.**

- a. Stated would like to keep this high level and glad to hear that the complaint has resolved as the male tenant has vacated following an appeal and the female tenant has responded that there may have been some confusion regarding the comment to the resident commissioner. We want to talk about this moving forward. Our practice deal with a lot of fair housing investigations and complaints with housing authorities. There are some tips and comments that we would call best practices that we want to convey. There are 2 things that need to be discussed going forward.
- b. Need to be very careful with the Freedom of Information Act. Arkansas has one of the broadest FOIA statues called the Sunshine Law. There are 3 aspects to the FOIA: Open Meetings, Public Record, and By-Laws. Open Meeting; the law does make clear that commissioners or any members of a governing body are able to email or communicate among themselves with matters of official business. When you are dealing with matters of official housing authority business that is your role as a commissioner. When talking about official housing authority business you have to be mindful anytime that you speak with another commissioner you could be in a meeting. The definition of an open meeting under our statue can be formal or informal. Mr. Northern spoke directly to Resident Board Commissioner Breashears and stated that he is in a unique role in that resident commissioners are established by HUD law to representative of the tenants. Within this unique role tenants come to the resident board commissioner to discuss matters regarding housing authority business. FHA needs to create a procedure in the by-laws on how to handle those comments and/or grievances to remain in compliance. Also mentioned if you are serving as a subcommittee or in a public agency that is covered by FOIA those meetings are covered. Stated that a group text, facetime, etc. can be considered an open meeting.
- c. Public Record: Any correspondence such as email, fax, traditional mail all are considered public record. Also gave the example of a comment chain on Facebook that became public record. Must be very careful with social media because those records can be covered under FOIA.
- d. By-Laws: I recommend that FHA update By-Laws through Robert’s Rule of Orders make the amendment of By-Laws particular, but we could have a working copy to where you can review and make suggestions. Already in your By-Laws under Section 10: Board Member Code of Conduct and Ethics, Section D. relates to commissioners not interfering in the day to day operations of the housing authority offices and staff. Any oversight of the FHA operations must be addressed during meetings with the board. This is pointed out because it is in there by design. The whole point of having an open meeting is to insulate commissioner from the daily operations. It protects commissioners from being in the position of being in

a conflict or being accused of something whether intent was there or not. It also allows staff to conduct the daily operations and investigations regarding tenant complaints and then make recommendations to the board. The board then can provide oversight during the meeting. Also, under Section 10 of the By-Laws, Section J we need to make sure not to disclose any information. We have to comply with FOIA and other statutes. We need to keep a funnel on information to ensure we have singular flow of information for accuracy. These rules are in place to protect the board and FHA. Going forward these are the best practices that Greg Northern and colleagues recommend.

- e. Commissioner Stafford reminded the board the by-laws just discussed were voted on by the board October 2018. Those sections included D: Commissioners may not interfere with the day to day operations of the FHA and staff, Section E: Commissioners may not use their position on the board to intimidate, coerce or persuade, or otherwise influence any of the activities, employees, contractors, or residents of the FHA, Section J: Subject to the requirements of FOIA no commissioner shall disclose without proper authorization to any persons or entity nonpublic information or records concerning any aspect of the operations of the FHA, nor use such information as an advantage to themselves. Reminded the board that everyone should review the by-laws and read the commissioner handbooks that they were provided earlier. Acknowledge that there is much to learn but we have a lot of information at our disposal. Opened up discussion to the board.

Commissioner Terry stated that process is our friend. Suggested that the board have a governance luncheon to review the By-Laws and handbook and what are the proper procedure to handle certain situations. Commissioner Terry asked Greg Northern if we could get guidance on an order/method on how to handle a specific scenario. Greg stated that it would be a great idea and create procedures based on what is best for FHA. The By-Laws are there to provide guidance to ensure procedures are being followed.

Commissioner Breashears then expressed that accusations have been held over his head since July 25<sup>th</sup> and that FHA did not follow protocol, that he signed a lease with FHA and the protocol for residents was not followed. Within the lease there are guidelines to follow when complaints arise. He was accused but not given the chance to clear his name. He stated that he was not given a letter regarding the complaint and accusation which he denies. He does not understand why it was not okay for him to have a meeting with board chair. He would like to explain to the board what happened to clear his name. He then asked for recommendation from Greg Northern. Greg clarified the lack of letter and hearing within 10 days is for those with adverse action to a resident such as an eviction. Greg suggested have a point person in the office for complaints and again stated that Commissioner Breashears didn't receive a letter due to no adverse action being taken against him. Commissioner Stafford expressed that there is a difference between a complaint between a resident and a board member and the action for the board member is having this special board meeting. Commissioner Breashears disagreed and stated that as a resident with a lease, anything that is adverse that is done should not start at the board it should start with administration. Greg Northern again stated that as a resident board commissioner since there was no adverse action taken against him as a resident, this is handled at the board level. Executive Director, Angela Belford also clarified that there was no adverse action taken against Commissioner Breashears since he was just talking. Commissioner Bensinger walked through the situation to clarify what was said. She asked what the common practice was of receiving complaints from other residents. Angela Belford stated that residents can request the complaints, pay for the copies, and names/identifying information is redacted. Commissioner Bensinger expressed that she was concerned about the situation, the liability it places on the board, and the rights of all residents. This needs to be a learning curve and the responsibility falls on all board members. Mistakes have been made, we have learned, and we can do better. Commissioner Stafford reminded the board to go back to the By-Laws and that this process is for the commissioners not FHA staff or residents. Commissioner Breashears stated that he did not understand what was wrong with him talking to another resident regarding the issue. Greg Northern stated again that it goes back to the By-Laws that as a commissioner you are not to disclose information that is a part of an ongoing investigation.

Any time there is a topic of sensitive information with a tenant we need to ensure privacy. Commissioner Breashears asked if he could direct a question to Greg Northern. Commissioner Terry reminded the board that this meeting needs to remain at a policy level and not about individuals. We can ask Greg Northern how to move forward to make sure that commissioner are heard and if there is a grievance procedure for commissioner grievances.

Greg Northern stated that we are in a special meeting and per the rules and By-Laws, special meetings are limited to only the items on the agenda. Today's agenda is limited to the recommendation that we move forward to update them. The discussion on what to do and should be done is the next step. We need to keep everything at policy level. We are at the point to move forward to the next agenda item. Also reminded the board that changes will take time and it will not happen tonight.

Commissioner Terry asked if Greg Northern could make a recommendation for a remedy. Greg Northern said that there is no requirement to have a remedy tonight the remedy should be to approve a procedure change. Commissioner Terry wanted it on the record to acknowledge that there is a gap in our grievance procedure especially for the Resident Board Commissioner.

- f. Commissioner Breashears stated that since there are 5 board members present that they anything topic could be brought up. Commissioner Breashears asked if the board members needed more information regarding what was claimed against him. Greg Northern let Commissioner Breashears know that nothing ever prohibits a resident or commissioner to submit a letter with a statement for his file. Commissioner Breashears asked if there was an investigation regarding the claim against him. Angela Belford stated that there was no formal investigation, but the result of the claim was this special meeting to review what happened and make recommendations to improve the board going forward. Commissioner Terry would also like to include trainings in the recommendations.

### **III. Approval of Request for Greg Northern to propose by-laws changes related to tenant grievances and subsequent investigations**

- a. Commissioner Terry Motion made to authorize Greg Northern to propose By-Law, policy, and procedure changes related to commissioner grievances and subsequent investigations as well any training recommendations. Commissioner Stafford 2<sup>nd</sup> the motion. All in favor.

### **IV. Public Comment**

- a. Resident from audience asked if a resident board member is able to meet privately with a resident council member. Greg Northern stated that is was okay to do so.
- b. Resident from audience asked Commissioner Breashears if he "did this as a resident board person to the female resident or did you do this as a resident of the housing authority?" Commissioner Terry responded that the resident was assuming he did something such asking the female resident to withdraw the complaint. Stated it was never done and it was a lie.
- c. Resident Council Member stated that they are also working on a plan of action for when situation come up in the future. Resident Council wants to be standing behind the staff as well as the tenants. Council wants to make sure they don't cross a fine line between advocating for tenants.
- d. Commissioner Breashears stated that his job is when residents come to him it is his job to refer them to the proper solution person. Sometimes there is not a solution. Resident Council members are liaisons between residents and FHA. Recently there was a recent situation where a resident could not go to a resident council member so Commissioner Breashears had to step in. Commissioner Breashears then that the board enter an executive session to clear up irregularities. Commissioner Terry then referred to Greg Northern for requirements to call an executive session. Greg Northern stated that an executive session must address disciplinary actions or personnel discussion. Angela Belford suggested that Commissioner Breashears take Greg Northern's recommendation of providing a statement to clear his name.

Commissioner Breashears stated the purpose of the Executive Session was to consider disciplinary action against Angela Belford.

- e. Commissioner Breashears made the motion to go into an executive session to discuss the potential disciplinary action against as it relates to Angela Belford. Commissioner Terry 2<sup>nd</sup> the motion. Roll call. Commissioner McMahon Yes, Commissioner Bensinger No, Commissioner Terry Yes, Commissioner Breashears Yes, Commissioner Stafford No.
- f. Adjourned to Executive Session at 7:40pm.
- g. Meeting called back to order at 10:10pm. Commissioner Terry stated that the result of the executive session was that no disciplinary action will be taken at this time.

**V. Adjournment**

- a. Commissioner Terry made the motion to Adjourn. Commissioner Bensinger 2<sup>nd</sup> the motion. All in favor. Adjourned at 10:12pm