KENTUCKY PRIVATE ACTIVITY BOND ALLOCATION COMMITTEE
MINUTES
November 8, 2004

The Kentucky Private Activity Bond Allocation Committee (the "Committee") meeting was called to order by Chairman Robbie Rudolph, Secretary, Finance and Administration Cabinet, on Monday, November 8, 2004, at 2:35 p.m. in Room 386 of the Capitol Annex, Frankfort, Kentucky.

Other members present were: Donna Duncan, proxy for Marvin E. Strong, Jr., Secretary, Economic Development Cabinet; Allen Holt, proxy for Brad Cowgill, State Budget Director; Dr. Allyson Handley, Secretary, Governor's Executive Cabinet and Edgar C. Ross, Controller, Finance and Administration Cabinet.

Chairman Rudolph declared that a quorum was present and verified that the press had been notified of the meeting.

The first item on the agenda was the approval of the July 29, 2004 minutes. A motion was made by Mr. Holt and seconded by Mr. Ross to approve the minutes. **Motion CARRIED.**

Chairman Rudolph turned the floor over to F. Thomas Howard, Acting Executive Director, Office of Financial Management. Mr. Howard indicated that Attachment A was a summary of Private Activity Bond Allocation for Fiscal Year 2004 to date. Mr. Howard stated that the summary also reflected the Census Bureau's 2004 population estimates for Kentucky. He indicated that the summary showed how the cap was allocated to the local and state issuer pools along with the results of the lottery. Mr. Howard stated that Attachment B was a reconciliation of the original allocations as well as the lottery results. Mr. Howard indicated that there was a surplus of $99,895,464 in the local issuer pool. He stated that local issuers received $26,877,046 and the state issuers received $73,018,418 as a result of the new lottery process. Mr. Howard stated that there was $100,000 unused by the local issuers that was available for carryforward and Kentucky Housing Corporation ("KHC") requested the entire amount.

Jim Ackinson, Chief Financial Officer, Kentucky Housing Corporation, stated that in addition to KHC's request for the $100,000 of available cap, there was also another request that they would like to ask of the Committee. Mr. Ackinson reiterated that state issuers are different than the local issuers in that the state issuers have ongoing programs and not just one specific project. Mr. Ackinson indicated that in past years volume cap has been a scarce commodity.

KHC and the Kentucky Higher Education Student Loan Corporation ("KHESLC") have had heavy activity in recent years. Due to an increase in federal cap in 2001, a greater opportunity for projects to receive bond cap exists. Mr. Ackinson stated that replacement refunding resources were also available. He said that when a housing finance agency received prepayment on a mortgage loan, the funds were usually taken to retire the related bonds.

Mr. Ackinson indicated that KHC could then issue new bonds to replace the old bonds if it is within ten years of original issuance. Mr. Ackinson stated that during this period of extremely low interest rates, the single family program and new loan originations have done well. KHC however had a tremendous amount of loans payoff. In 2003, roughly twenty percent of KHC's portfolio, or approximately $200,000,000 in loans, were paid off. Fortunately, KHC took in over $200,000,000 in new loans to replace these loans. Mr. Ackinson indicated that KHC began 2004 with $175,000,000 in volume cap and, $111,000,000 in replacement refunding bonds which was used to issue $217,000,000 in new single family bonds. Mr. Ackinson indicated that KHC had adequate resources for the single-family program and had been reserving KHC's allocation from the state pool for multi-family projects. KHC has four multi-family projects that should close in the next couple of months. Mr. Ackinson indicated that the dilemma for KHC was the bonds would have to close by December 1, 2004 in order to utilize the current allocation. Mr. Ackinson stated that the means of capturing volume cap for the single family program, whether from replacement refundings or from new volume cap, was made possible through draw down bonds, which are not available for multi-family projects. Mr. Ackinson indicated that draw down bonds effectuate a tax-exempt issuance of debt. He stated that when the time comes to issue permanent bonds, KHC would take the funds from the draw down bonds. Mr. Ackinson stated KHC is asking the Committee to consider allocating the remaining $79,055,696 as carryforward for the multi-family issues in the event that the projects do not close prior to the deadline.

Dr. Handley asked how the December 1, 2004 deadline was determined and by whom. Mr. Ackinson stated that under the current regulations, KHC has 180 days from the date of issuance to use the volume cap or return it to be allocated as carryforward. Mr. Ackinson indicated that December 4, 2004 was the 180 day deadline.

Mr. Howard stated that the 180 day deadline was addressed in the revised regulations which will be heard before the Administrative Regulation Subcommittee on November 9, 2004, but are not yet effective.

Mr. Holt asked if the Committee had the legal latitude to approve KHC's request. Mr. Howard stated that if no action were taken today, their current cap would have to be returned as carryforward. Mr. Howard explained that these projects may not close before the December deadline, and the Committee would have to reconvene to allocate these amounts as carryforward cap.

Mr. Ackinson stated he was not aware it would be necessary to hold another meeting. Mr. Howard indicated that he had not been able to obtain an answer concerning the legal aspect at this time. Mr. Howard indicated that the conservative view would be to come back before the Committee and approve the request again after the deadline had expired, unless the Committee was in favor of approving the request by KHC contingent upon review from legal counsel.

Mr. Howard said that carryforward had to be allocated to one of the two state issuers and could not be used for any other purpose.

Dr. Handley stated that this appeared to be a one-time event that would be mitigated by the passage of the new regulations. Dr. Handley then asked Chairman Rudolph if he had any reservations. Chairman Rudolph stated that he did not have any reservations about the request.

Mr. Robinson stated that KHESLC would not request any carryforward if a meeting in December was necessary.

A motion was made by Dr. Handley and seconded by Mr. Ross to approve KHC's request for $100,0000 of returned cap, pending legal counsels review, and approval to allocate any amounts that would revert to carryforward after the 180 day state issuer deadline to KHC. **Motion CARRIED.**

Mr. Howard stated the next item on the agenda was the public hearing and approval of the Newport Pavilion Project for the city of Newport.

Richard Spoor, Keating Muething & Klekamp, PLL stated that he was bond counsel for this project. Mr. Spoor stated Greg Scheper and Steve Kelly, representatives from Bear Creek Capital, LLC, and Greg Angleman, Finance Director, city of Newport were in attendance today. Mr. Spoor stated that this project initially received quite a bit of scrutiny locally, but had received full support from the city, county, and the applicable school district. Mr. Spoor indicated that this project was a major infrastructure undertaking and that the savings that would be achieved by this bond issue will be used for the infrastructure.

Mr. Kelly stated that the project would allow access from Grand Avenue all the way through Memorial Parkway. Mr. Kelly indicated that approximately 56 acres on the west side of Interstate 471, in between Memorial Parkway and Grand Avenue in the city of Newport was the proposed project site. Mr. Kelly indicated that there was a series of hills and valleys on the site, the redevelopment of the site would help level out the unattractive typography, upgrading some of the infrastructure that currently exists. Mr. Kelly stated that the old water mains that run through the site that would need to be rebuilt. Mr. Kelly indicated that the redevelopment area was the Cote Brilliante neighborhood within the city of Newport. Mr. Kelly stated that there would be a parallel access drive on Grand Avenue or Caruthers Road that would connect the two roadways together. Mr. Kelly indicated that there would be access to two interchanges and that roadway would cut down on congestion entering and exiting Interstate 471. Mr. Kelly stated the site would be developed with a mixture of retail components including restaurants and anchor centers blended with retail centers and a parking area. Mr. Kelly stated that occupants of the offices and the residential site will have the ability to view downtown Cincinnati. Mr. Kelly indicated that the property was about 95 percent vacant, and the city of Newport owns all but about five or six properties.

Mr. Angleman indicated that the city had been working on this project for almost five years and the project had received a lot of local attention when the city started acquiring property and declared it a redevelopment area. Mr. Angleman said that some of the former residents challenged the land acquisition; however, the circuit court upheld the ruling for the city to redevelop the property. Mr. Angleman stated that this was a good project for the city because it revitalized a dilapidated area. Mr. Angleman indicated that when the project was complete and fully occupied, it would generate approximately $1,000,000 in city taxes.

Mr. Howard stated that this project meets the guidelines set forth in KRS 103.2101 and staff recommends approval. A motion was made by Mr. Holt and seconded by Dr. Handley to approve the Newport Pavilion project. **Motion CARRIED.**

Mr. Howard stated the next item on the agenda was the public hearing and approval for the city of Covington, Third Street, LLC project.

Mr. Spoor indicated that the first bond issue was completed for this project in 2002. Mr. Spoor stated that the original property was the Ridgeview Car Dealership that had been vacant for six years before the Committee approved the project in 2002. Mr. Spoor said that this project was an expansion of the existing car dealership and would have an automobile paint and collision center as well as a used luxury car dealership. Mr. Spoor stated that the reason this project was not included with the original project in 2002 was because the property owner wanted to do a "like kind exchange", which is where the seller has to find an alternate property before selling the property to the buyer.

Kevin Atwell, Vice President and Chief Counsel, Third Street, LLC, stated that the developers were ready for the project to move forward. Chairman Rudolph asked if the current dealership was profitable. Mr. Atwell stated that the dealership was still operating well. Mr. Spoor stated that the president of Performance Automotive Network, a major dealership in southwest Ohio, moved the corporate headquarters to the Covington dealership.

Chairman Rudolph asked Judge Drees, County Judge Executive, Kenton County, if he had any comments or questions. Judge Drees indicated that generally he was not in favor of these types of projects, but because of the long term planning prior to him taking office, the county had no objections with the PILOT agreement in place. Judge Drees asked if the PILOT agreement would be part of the agenda. Mr. Howard stated that the PILOT agreement should be in the final transcript for the bond issue.

Mr. Howard stated that this project meets the guidelines set forth in KRS 103.2101 and staff recommends approval. A motion was made by Mr. Ross and was seconded by Mr. Holt to approve the Third Street, LLC project. **Motion CARRIED.**

Mr. Howard indicated that the next item on the agenda was the most recent version of 200 KAR 15:010, which has been amended to incorporate all submitted changes. Mr. Howard stated that the regulations had been open to comments from the public and that there had been comments from one bond counsel firm. Mr. Howard indicated that after consulting with KHESLC, KHC and the Economic Development Cabinet, everyone reached an agreement on the revised regulations. Mr. Howard stated that these regulations would be heard on November 9, 2004 in the Administrative Regulations Subcommittee, and a favorable response was expected. Mr. Howard stated that the revised administrative regulations would allow the local issuers a first priority in the available volume cap pool. He indicated that once all the local issuer requests have been filled, then any remaining amount could be allocated to one or more of the state issuers as carryforward. Mr. Howard stated that state issuers would have until December 15th to issue their cap. Mr. Howard indicated that this was an informational item and that there had been many months of deliberations to ensure that the regulations were revised to reflect the needs of both the local and state issuers. Mr. Ackinson said that the local issuer pool should be for local issuers and that the concept for the single issuer pool was not the most efficient method. Mr. Ackinson stated that eliminating the 180 day requirement and extending the deadline provides flexibility for the state issuers. Mr. Ackinson indicated that if the new regulations were in place, KHC's earlier request to the Committee today would not have been an issue.

Chairman Rudolph asked if there were any further questions or comments. A motion was made by Mr. Ross and seconded by Mr. Holt to adjourn the meeting. **Motion CARRIED.**

Respectfully Submitted,

F. Thomas Howard
Secretary