MEMORANDUM

DATE: December 21, 2021
TO: Council President Sean Elo-Rivera
FROM: Housing Authority Working Group
SUBJECT: Proposed Housing Authority Action Plan

Over the past several months, Councilmember Chris Cate, Councilmember Stephen Whitburn, and Councilmember Joe LaCava met as the Housing Authority Working Group, with the assistance of the City Attorney, to identify potential reforms to the existing structure and relationship between the San Diego Housing Commission (Housing Commission) and the Housing Authority of the City of San Diego (Housing Authority). We reviewed materials and reports on the formation, authority, and powers of the Housing Authority and Housing Commission. We also reviewed the City’s Independent Budget Analyst (IBA) Report on housing authority structures in California. As the IBA Report offered: “Housing authorities in the State, as well as the nation, differ in structure, practices, and programs as they typically are organized in a way that responds to the unique needs and priorities of the communities they serve. Therefore, it is difficult to clearly identify best practices since no one housing authority operates exactly alike.”

This memorandum serves to summarize actions taken to date, outline our conclusions, and recommend potential next steps.

Materials Reviewed:

- Housing Authorities Law, California Health & Safety Code sections 34200-34380
- San Diego Municipal Code section 98.0301
- San Diego Housing Commission Administrative Policies
- Notable Housing Commission policies: General Policy, Procurement Policy, Policy of Acquisition/Purchase of Real Estate, Creation of Housing Commission, Claims and Legal Action Against the Housing Commission
- Housing Commission Strategic Plans
- Housing Commission Executive Director’s Contract
- Housing Commission’s Legal Services Contract
- City Attorney’s “Housing Authority Working Group Cheat Sheet” dated September 9, 2021
Affiliated Reports:

- “Non-Profit Affiliates of San Diego Housing Commission,” City Attorney’s Office Memorandum dated November 19, 2021
- “Informational Update: Formation, Authority, and Powers of the Housing Authority of the City of San Diego and the San Diego Housing Commission,” presented on July 19, 2021 by the City Attorney and Housing Commission General Counsel to the Housing Authority.
- “Housing Authority Oversight of the San Diego Housing Commission and its Board,” MC-2021-14 dated July 16, 2021 by the City Attorney to Councilmembers Cate and Elo-Rivera

Implemented Actions:

1. Docketing Procedures
   a. The letter to Housing Commission President and Chief Executive Officer (Executive Director) from City Attorney dated August 16, 2021, requested items referred to the Housing Authority for ratification of approval be accompanied by: all back up materials; an explanation as to why the Housing Authority must act; a signed attestation by the Housing Commission’s General Counsel that it has performed due diligence and complied with all applicable laws and regulations; and a description of the actions taken to ensure compliance. The City Attorney further stated that an item should not be docketed for Housing Authority action until the Board of Housing Commissioners has taken action.

   b. As of November 15, items continued to be docketed prior to Board action. From the dais, Councilmember LaCava requested items not be docketed before Board action, but if timing demands direct docketing that the reasoning be explained in a memo to the Housing Authority. Housing Commission staff verbally agreed.

2. Notification Procedures
   a. Municipal Code section 98.0301 Notification: The letter to Executive Director from City Attorney dated October 20, 2021, requested that the Housing Commission send notice under Municipal Code section 98.0301(e)(4) by email to each Councilmember, their Chiefs of Staff, the Independent Budget Analyst, the City Clerk, and the City Attorney. It further requested that the Housing Commission use this same process to notify Housing Authority members of final Board of Commissioners actions within 48-hours of the Board’s vote.

   b. Contract Notification: Historically, the Housing Authority has granted the Executive Director authority to make changes to contracts, memorandums of agreement, and applications as necessary to secure approvals with outside parties. As a result, the Notice section of Memoranda of Agreement (MOA) and contracts were sent solely to the Housing Commission. Councilmember LaCava requested, from the dais, that the language of MOA and contracts provide for Notice to the
Council President and the City Attorney’s Office and that the Housing Commission notify the Housing Authority and City Attorney of any such changes or modifications. The Housing Commission agreed. Items docketed for December 6, 2021, and December 7, 2021, Housing Authority meetings included this notice language for the first time.

**Potential Areas for Reform** (No priority is suggested by the following order):

1. **Housing Authority Staff Composition**
   a. Create and fill a new role for a Housing Authority liaison, or consultant, who would have the authority from the Housing Authority to work directly with Housing Commissioners

2. **Review and Accountability of President and CEO of the Housing Commission**
   a. Explore amendments to the Executive Director’s contract to allow joint performance review by both the Board of Housing Commissioners and Housing Authority
   b. Require the Executive Director to report to the Housing Authority periodically on issues of interest to the Housing Authority

3. **Assess Housing Commission Responsibilities**
   a. Specifically, homelessness-related programs

4. **Define the structure and role of legal counsel, including consideration of legal representation of the Board of Commissioners, Housing Authority, and Housing Commission staff.**

5. **Define Qualifications for Board of Commissioners**
   a. Add requirements for specific expertise in several relevant disciplines such as: law, finance, real estate, housing policy, homelessness, government, etc.

6. **Housing Commissioner Empowerment and Training**
   a. Create an onboarding manual which outlines Housing Commissioners’ authority, rules, roles, and responsibilities, in addition to basic terms, relevant issues, and a breakdown of the budget
   b. Provide trainings on relevant laws, including the Brown Act, Public Records Act, Records Retention, and Conflict of Interest laws
   c. Define which Commissioner actions are indemnified, when the Commissioners are not covered, and who will defend the Commissioners if a legal action results from a decision they make

7. **Closed Session Requirements and Joint Session Meetings**
   a. Update “Administrative Policies” to ensure items during Housing Commission closed session meetings are automatically shared with the Housing Authority
   i. Housing Authority liaison or consultant from item 1a. to provide updates from the Housing Commission to the Housing Authority

8. **Approval of Contracts/Property Acquisitions**
a. For items within the Executive Director’s purview, define the extent to which the Board of Housing Commissioners is informed
b. Audit the contracting and real estate acquisition processes to ensure the Executive Director is compliant with best practices and applicable laws

9. Housing Development Partners (HDP) Responsibilities and Accountability
   a. Explore shifting selection of HDP Board of Directors to the Housing Authority
   b. Update and clarify bylaws and/or Housing Commission policies of how and when HDP is selected by the Housing Commission for specific project funding and approvals
   c. Consider annual reporting requirements to the Housing Authority

10. Housing Authority oversight of Housing Commission actions

**Recommendation:**

We recommend forming a special committee of the Council in 2022 to further evaluate the options within this plan and consider identified changes through the appropriate mechanisms to implement these reforms. We anticipate the special committee would meet for up to two years to further study, review, and make recommendations to the issues above and others that arise. To guide its review, the special committee should commission a third-party analysis to study the operations of the Housing Authority and Housing Commission. Upon consideration of the reforms listed above, both the Housing Authority and the Housing Commission could make necessary operating and accountability improvements that serve in the best interests of the City of San Diego.

cc: The Honorable Todd Gloria, Mayor
    The Honorable Mara Elliott, City Attorney
    Mr. Jeff Kawar, Interim Independent Budget Analyst