



The Town of Barnstable
Affordable Housing Growth & Development
Trust Fund Board
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Mark S. Ells, Chairman

Friday, February 3, 2022
Affordable Housing Growth & Development Trust Fund
Fund Board Meeting APPROVED Minutes
9:00 A.M.

Pursuant to the passage of legislation extending certain COVID-19 measures adopted during the state of emergency, this meeting was closed to the public.

Alternative public access to this meeting was provided by utilizing a Zoom link or telephone number, both provided in the posted meeting notice.

Board Member Attendees: Chairman Mark Ells, Mark Milne, Laura Shufelt and Wendy Northcross. Andy Clyburn, Absent.

Other Attendees: Elizabeth Jenkins, Director, Planning & Development; Charles McLaughlin, Sr. Town Attorney; David Anthony, Director of Asset Management; Town Councilor Gordon Starr; Town Councilor Matt Levesque; Jillian Douglass, Trust Administrator, Planning & Development; and Ellen Swiniarski, Community Preservation Coordinator, Planning & Development. Applicants for Mass Military Support Foundation Don Cox and Micky Wiernasz; Applicants for FORWARD Kathy Ohman, David Kaplan and Bob Samoluk; Gael Kelleher, Housing Assistance Corp (HAC).

Call to Order

With a quorum present, Chairman Ells called the meeting to order at 9:00 a.m. and stated that today's meeting is recorded and in accordance with M.G.L. Chapter 30A, s 20 he must inquire whether anyone is recording this meeting and to notify the Chairman that a recording is being made. No one came forward.

Member Introduction

By roll call (present): Wendy Northcross, Laura Shufelt, Mark Milne, and Mark Ells. (Absent, Andy Clyburn).

Public Comment

None.

Topics for Discussion

1. Approval of minutes for December 2, 2022 Affordable Housing Trust Board meeting.

Motion was made by Laura Shufelt and seconded by Wendy Northcross to approve the December 2, 2022 meeting minutes as amended. Roll call vote: Wendy Northcross (yes), Laura Shufelt (yes), Mark Milne (yes) and Mark Ells (yes). Motion carries.

The following Application was taken out of order:

3. Application Discussion and Potential Vote – Friends Or Relatives With Autism & Related Disabilities (FORWARD) Phase II.

Jillian Douglass, Trust Administrator, reported that this would be the Trust's first review of the FORWARD application explaining that the proposal is for Phase II of a previous CPA funded application for affordable housing constructed at this same location in Dennis. Mr. David Kaplan noted that FORWARD Board Members Kathy Ohman and Bob Samoluk are present. Ms. Ohman, Board President outlined the development of Phase I noting that for that phase the Town of Barnstable contributed \$250,000 for the creation of 2 group homes, each with 4 bedrooms, in Dennis at 131 Hokum Rock Road, on Town donated land. She noted that the construction of Phase I by Cape Associates was on time and on budget. Funding is sought as a regional project and of the 8 residents occupying the group homes, 4 of the residents come from Barnstable with the other residents coming from Dennis, Yarmouth, Sandwich and Orleans. Ms. Ohman explained that to fulfill the original commitment to the Town of Dennis to build 16 units total, Phase II was launched shortly after the homes were occupied in fall of 2020. After outreach across Cape Cod, it was evident that all forms of affordable housing are needed for people with disabilities and following the Department of Developmental Services (DDS) opinion that 1-bedroom apartments best fit the growing need for affordable housing for this adult population, they are building 8, 1 -bedroom units in Phase II. DDS will determine who the residents will be, as they did with Phase 1. She noted that FORWARD has already received approval of \$180,000 in CPC funds from Yarmouth who also also donated to Phase I, with CPA applications pending in the Towns of Brewster, Bourne, and Sandwich

Mr. David Kaplan narrated a PowerPoint presentation for Phase II noting that there is general agreement on need for all forms of affordable housing and this project responds to a specific need in this population of adults. He explained that as in Phase I, the DDS will select the tenants and services will be provided by each resident's service provider, such as Cape Abilities, Community Connections etc. He explained that Phase II adds 8 permanent affordable units to subsidize housing for extremely low-income residents at 30% AMI or less, for which Dennis will receive credit. He noted that no resident will pay more than \$571 in rent per month. Rents and utilities will be subsidized through DHCD project-based vouchers that will pay 110% of fair market rent noting that the extra 10% covers utility costs and allows for 3 months of vacancy per unit. He explained that the project consists of 8 one-bedroom 656 s.f. apartments on 4.6 acres in Dennis adjacent to Phase I but will operate separately, This phase will accommodate people with disabilities who can live independently, but who still need specialized assistance and services. He noted that there is no round-the-clock, full-time staff at the apartments with services coming in for the residents instead. The PowerPoint presentation depicted elevations and floor plans that were designed to be barrier-free, soundproof, and allow residents to age in place. He explained

that FORWARD worked with HAC to arrive at a per s.f. cost estimate with the sources of funding projection, potential trust contribution, mortgage estimate, State funding and CPC applications listed, as well as the local and state approvals received to date. He said a late summer/early fall 2024 construction will depend on financing with occupancy anticipated within a year of construction commencement.

Chair Ells said he wanted to ensure that this is an eligible expense under the Community Preservation Act (CPA). Mark Milne noted that there are adequate funds. Elizabeth Jenkins said that she had no concerns about the application at this time. Wendy Northcross complemented the very thorough application and presentation. Laura Shufelt asked if there would be a separate parcel for Phase II, so a separate company, LLC, or non-profit can own or lease this portion noting that there is an existing restriction on the parcel from Phase I. Mr. Kaplan said that there would not be a legal subdivision of the property, but there will be a paper subdivision that will meet zoning and financing regulations. He noted that there would be a separate entity so a new separate group of funders and their interest in the property would be represented in a separate affordability agreement and other documents that are required to make that distinction.

Public Comment – None.

After brief discussion, members indicated that they were ready to vote on the Application. Jillian said the vote could be contingent on executing a grant agreement that includes all legal requirements. Attorney McLaughlin now present at the meeting, said that he was not aware of anything unusual with this application. Proponents for the FORWARD application indicated that a conditional approval would be acceptable.

Wendy Northcross' motion was seconded by Mark Milne to approve FORWARD's request for \$375,000 for construction of Phase II affordable housing development located at 131 Hokum Rock Road, Dennis contingent upon the execution of a grant agreement that provides for all required legal approvals. Roll Call Vote: Wendy Northcross- yes, Laura Shufelt – yes, Mark Milne – yes, Mark Ells – yes.

2. Application Discussion and Potential Vote – Massachusetts Military Support Foundation-

Mr. Don Cox of Massachusetts Military Support Foundation provided background for the project. He shared that the foundation's involvement in affordable housing is to provide aide and assistance to veterans who are in need. The existing subject property on South Street has been managed by Allan White for 10 to 15 years as a veteran's housing project with HUD and Barnstable Housing Authority and is in need of upgrades. Through outreach to the community, they saw an opportunity to rehabilitate an existing building that is in an ideal location for job opportunities, counseling, medical and other services. He shared that the property is under agreement with Mr. White, who will be in partnership with them until the project is complete whereupon they will purchase the property for the predetermined price included in the purchase and sales agreement. He noted that they have Boston architects who will be engaged to do the design work and they plan to hire Horsley Whitten for environmental engineering work. He indicated that this 10-bedroom house will be converted to 10 studio apartments, similar to hotel suites. The townhouse portion of the project is two, 3-bedroom apartment units.

Chair Ells requested input from Jillian Douglass and Attorney McLaughlin regarding outstanding questions specifically the displacement of 4 existing tenants and the required security for the pre-development funds.

Jillian said she had reached out to Lorri Finton of Barnstable Housing Authority (BHA) regarding the 4 BHA veteran clients and noted that there would need to be some conditions included in the award that would address relocation of the tenants during future construction. Attorney McLaughlin said shortly after the last Trust meeting, he and Jillian met with Mr. Cox and associates for approximately 2.5 hours analyzing the purchase and sales agreement terms and focusing on securing the pre-development funds against collateral of an appropriate property to ensure that if, for any reason, the project does not go forward there would be the ability to recoup those funds back. He noted that this requirement for collateral value has been clearly emphasized. Attorney McLaughlin noted the Applicant's new reference to a partnership that may be moving forward with Mr. White for an interim period of time. He stressed that as a public funding agency, and as a Trust with an especially high level of fiduciary obligations, the first obligation, especially for soft costs, is to insure the public's investment against default. He shared that he was not able to suggest that the security value prerequisite has been explained at this point.

Wendy Northcross suggested approval of the predevelopment funds subject to adequate security that is documented and satisfies the Trust operating procedures, putting the onus on the Applicant to provide adequate security. There was discussion regarding eligibility of pre-development funds where Community Preservation Act funds are the source. Attorney McLaughlin noted precedent referencing the affordable housing project on Ridgewood Avenue by Housing Assistance Corporation. He explained that temporary security was provided against off site apartments on West Main Street by way of a mortgage which was released upon issuance of occupancy certificates for Ridgewood apartments. He said a vote with contingencies as suggested could be considered, however he noted that it was still unclear how this project would come together financially, since the entity requesting the funds is not offering performance collateral or showing where the future construction funds would come from. There was continued discussion regarding use of CPA funds for pre-development purposes and Laura Shufelt said that in her experience, CPA funds have been used for pre-development as long as there is security for the funds. She further noted that the requirement for security does not originate from the Community Preservation Act requirements, but instead from an Anti-Aid Amendment. She explained that without a security interest, a restriction is unenforceable, and the public funding becomes a donation. Laura noted that the funding sources for the future construction project should be confirmed to be financially feasible before putting money into plans. She said there are rounds for State and Federal funding and most projects are not funded the first time you apply. She also noted the applicants have not produced a financial analysis and no financial consultants have been identified who could ensure the feasibility of the project. Mark Milne confirmed that CPA funds have been used for pre-development in the past and noted this is also referenced in the current NOFA.

Mr. Cox said that tenants currently in the building would be displaced during renovation and brought back to their new apartments once complete. He noted that there are available state ARPA funds in the amount of \$200,000 which have been earmarked and guaranteed as sponsored by Senator Cyr and approved by both the House and Senate and signed by Governor Baker. He also identified partners such as Home Depot who would be providing materials at cost and another company who will be providing the inside amenities as well as a third partner

who will commit an undetermined amount of money to the project. He said Cape Cod 5 has committed to funding the project.

After discussion it was decided that another meeting with all parties would be scheduled to discuss all the outstanding issues identified and to bring the application back to a future meeting for a vote pending obtaining this additional information and with all questions answered.

4. Trust Administrator's Updates/Follow-Ups

Jillian Douglass reported that a request for Buy-Down funds for a HOP unit had been received. She referred to the memorandum she had provided to the Trust on this subject noting that the HOP unit is currently on the subsidized housing inventory but because of the old existing deed restriction and the current appraised value, the restriction's formula for resale does not bring the HOP unit into an affordable price range to retain the unit on the subsidized list. She shared that a 2017 Town Council appropriation in the amount of \$74,900 Community Preservation funds is available and was intended for the purpose of providing funds to buydown a property with this type of restriction to keep it on the subsidized housing inventory list. She said that the Town Council Order placed authority for disbursement of these funds with the Town Manager.

Ms. Gael Kelleher of Housing Assistance Corp said that the 3 bedroom, 2 bath cape style property is located in Marstons Mills has an old deed rider which causes the price to be unaffordable to the buyers within the eligible income ranges. She said this property needs some work and the appraisal it is approximately \$270,000. The most that a qualified buyer can afford based on that calculation including taxes, interest rate is about \$230 – 235,000. She noted experience with using Town of Barnstable buydown funds for the HOP riders in the past and noted that there are more of these riders that will come forward in the future. Ms. Kelleher stressed the need to be able to respond quickly because the time frames allotted in the old deed riders contain deadlines to provide an eligible purchaser, the expiration of which would allow the unit to be sold off the affordable program. She noted current costs for the creation of a new unit as \$450,000 per unit and compared this to the cost of retaining an affordable unit. A new DHCD deed rider that survives foreclosure in perpetuity for buyers earning 80% AMI or less would be recorded. Buydown funds in the amount of \$35,000 would need to be available at the closing for this property after 45 days notification and noted that a buyer for the property has not yet been identified, however in order to market the property, the price needs to be identified.

5. Update on Administrative Support for the Trust & Housing Coordination

Elizabeth Jenkins informed the Affordable Housing Trust Board that there is agreement with Jillian Douglass, Trust Administrator, to sign another contract to continue as the Trust Administrator. Elizabeth expressed that Jillian has been a great resource for the Trust and when reviewing the original vote, it appeared that an extension of the contract which is presently circulating, did not require a vote of the Trust. She acknowledged that costs for other administrative support were due to be reported and would be prepared for a future meeting.

6. Update on Development of Town Properties for Affordable Housing

Mr. David Anthony shared that the CC Construction contract has been extended through March at the location next to the Barnstable Police Department on Phinney's Lane. He said that the contractor is still working to complete sewer work. He noted that there is an internal review only draft of an RFP for the "house on the hill". He said numerous examples provided by Laura and others from the files were taken into account for evaluation criteria. Laura Shufelt asked if any additional predevelopment work beyond Utile had been performed on the DAV lot so it could be ready for an RFP release when CC Construction moves off the lot. Mr. Anthony said they are moving through public outreach components that are consistent with the way we are dealing with disposal of properties across the board. He said that they ensure Town Councilors have been informed before activities take place on town owned property and have reached out to civic associations. Chair Ells said they are in active discussion with the Town Council Vice President and others as appropriate, however, there is no clear answer yet.

7. Topics for Future Meetings/Agendas

None.

8. Matters Not Reasonably Anticipated by the Chair

None.

9. Next Meeting Dates – First Friday of each month at 9:00 a.m. (March 3, 2023)

The next Affordable Housing Growth and Development Trust Board meeting date was confirmed for March 3, 2023, 9 a.m.

Adjournment

Motion to adjourn was made by Wendy Northcross and seconded by Mark Milne. Roll call vote: Laura Shufelt (yes), Wendy Northcross (yes), Mark Milne (yes), and Mark Ells (yes). Meeting adjourned.

List of documents/exhibits used by the Board at the meeting:

Exhibit 1 – Affordable Housing Growth and Development Trust Fund Board Agenda 2/3/2023.
Exhibit 2 – Draft minutes for the 12/2/2022 Affordable Housing Growth and Development Trust Fund Board meeting.

Exhibit 3 - Application & Supporting Documents – FORWARD – \$375,000 Development Funds.

Exhibit 4 – Memorandum & Supporting Documents – Buydown Program Follow Up

Respectfully submitted,
Ellen M. Swiniarski
CPC Coordinator