



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

Friday, August 24, 2023
Affordable Housing Growth & Development Trust Fund
Fund Board Meeting 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: Mark Ells, Chairman, Andy Clyburn, Mark Milne, Laura Shufelt and Wendy Northcross.

Other Attendees: Elizabeth Jenkins, Director, Planning & Development; Charles McLaughlin, Sr. Town Attorney; Jillian Douglass, Trust Administrator, Planning & Development; David Anthony, Asset Management Director and Ellen Swiniarski, Community Preservation Coordinator, Planning & Development. Town Councilor Paula Schnepf. Jake Dewey, Applicant.

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, Andy Clyburn, and Mark Ells.

Public Comment

None.

Topics for Discussion

1. Approval of minutes for the August 4, 2023, meeting.

After a brief discussion, it was decided to take up approval of the August 4, 2023, meeting minutes at the next Trust meeting.

2. Continued Application – Jake Dewey – Request for \$500,000 re-development funding for Linnell Landing, to renovate an existing 3-family (c.1870) building located at 50 Yarmouth Road, Hyannis on a .39-acre parcel, and add 3 new buildings, with 8 new 1-bedroom and 4 new 2-bedroom units, including 1 inclusionary unit at 65% AMI and 1 affordable unit at 80% AMI.

Mr. Jake Dewey recapped the background provided at the August 4, 2023, Affordable Housing Trust meeting explaining that the project preserves an existing historic 3-family building with infill of a small development in the rear of the lot. The proposal adds 3 new buildings with 12 new units including 1 inclusionary unit at 65% AMI and 1 affordable unit at 80% AMI. He explained that the request is for funds in the amount of \$500,000 to support these two units at \$250,000 per unit. He noted that there had been discussion regarding the inclusionary component between meetings with Planning staff with comparisons to the Residence at 850 project regarding this. He said he would like to be able to ascertain if the Trust will support funding for the inclusionary unit and hoped the project could be viewed as a whole to reach the numbers required to make the project feasible noting the importance of the Trust's support.

Staff commented that the review of the pro forma by the housing consultant did not raise any concerns and that there should be a way to recover the advancement of the funds with a security document that is also amenable to Mr. Dewey and his counsel if the project is approved to move forward.

Laura Shufelt noted that a policy discussion regarding the Trust funding inclusionary units should be had outside of the review of an application. She said that it has been the Trust's policy not to fund inclusionary units because the development is already receiving additional density to pay for the inclusionary units, noting there are arguments both ways. She said the pro forma has proposed rents that are lower than what market rents are right now and significantly lower than 100% AMI. She pointed out that the proposed market rents at the Residences at 850 were originally \$1,500 for a one-bedroom unit but the finished project rents are now \$2,900 for that same unit. She explained there is room to grow on the revenue side to help close the funding gap and gave the example of a 150 s.f. studio renting for \$1,750 plus utilities nearby. She said it is a policy decision whether the Trust is going to fund inclusionary units, noting that the State and County do not fund affordable units that are required within a project. Laura offered that there is quasi-state funding with a fixed rate at about 6% available also and said there are other ways to close the gap on the revenue side to avoid setting a new per unit precedent for the Trust at \$250,000.

Mr. Dewey explained that Barnstable Housing Authority will pay \$1,553 for a voucher for a one-bedroom unit as the intent of the development is for veterans. The Sandwich Housing Authority has quoted this same per unit voucher amount. He said he would not expect he would be able to find a tenant who could afford \$1,870 but used that number to make it work. Andy asked why we would want the revenue side to be increased when there may be a way to lock in the proposed low rents for all 12 units. He said that like the Residences at 850 where \$140,000 per unit was an outlier because of the 50% AMI, somehow securing low rents for 12 units could also be considered an outlier.

There was discussion and agreement that the Trust needs to have a policy discussion separate from review of an application. Laura Shufelt also reminded that the Affordable Housing Trust funds are CPA funds that have limitations. She noted that CPA funds cannot be invested,

however units can be purchased. She explained that it would be Jake's decision if he would want to restrict more units at 80 to 90% AMI which seems to be close to market rate.

It was decided that a Trust policy discussion should be included on the next meeting agenda. Elizabeth Jenkins noted also that a study of the Town's inclusionary ordinance and its financial feasibility in the market today is underway and could be presented to the trust as a part of the Trust's policy discussion.

Wendy Northcross expressed frustration with the inability to act more quickly. She noted that the drag on local business is the lack of sufficient housing for people that work year-round on Cape Cod. She described Jake's project as one that checked all the boxes saying we are in an unusual time and place in the history of Cape Cod and in our economy. She said she would like to hear from Jake regarding his timeframes and the considerations the Trust has proposed, noting on the record that she is in favor of the project.

Jake Dewey explained that he has applied for a TIE agreement which has stated rents that are obligated by the state to follow through to lease up with those stated rents. He noted two other projects of his with TIE agreements and the minimal increases allowed in rent have been associated with higher water fees. He said he felt the TIE agreement would act as a level of rent control, noting that it restricts the property also to year-round. Mr. Dewey said that his projects are intended for a clientele of tenants requiring housing at an attainable level, saying that the workforce on the Cape is falling in a different category noting rents at 80% AMI are over \$2000 for a one-bedroom unit. He said this is not realistic because the workforce on the Cape does not make enough to afford this rent. He further explained that the placement of more restrictions on a property just makes things harder for the developer. He said that restrictions cloud the title of a property from a lending perspective for a bank who views restrictions as devaluing the property. The bank looks not only at the rental income, but the value of the property that is being used as collateral for the loan. He said he also needs to consider the property's long term resale value with restrictions.

Mr. Dewey said that his project is at the point where he is waiting for a decision from the Trust as the local lenders are waiting to see if the Trust funding will be a component to close the gap in funding. Attorney McLaughlin explained that once it is known how the TIE agreement would be structured, the grant agreement could mirror those same limitations and an enforceable structure that will protect the intent of the Trust in advancing monies could be executed. Attorney McLaughlin also confirmed that affordable units could limit valuation. However, the market rate units will be financed at a level that considers rents will continue to increase.

There was discussion regarding a method of locking the proposed rental rate for all 12 units so the Trust could approve the application at \$46,000 per unit, noting that the market rate units are not being proposed to be rented above 100% AMI. The enforcement of TIE agreements was discussed, and it was concluded that reporting from a reputable company monitored by a recorded agreement rather than by a deed restriction may be a viable mechanism. Attorney McLaughlin said that a voluntary contract can be created for reporting mechanisms on both the TIE agreement and the grant from the Trust that would be paid for by the developer for the consultant.

Elizabeth Jenkins reminded that the HDIP and TIE program and the Trust have different objectives. The TIE is an agreement that is dually issued and administered by the Town of Barnstable and EOHLC with certification that units qualify as market rate rental units. In terms

of certification going forward, the only reporting that happens is an annual report that the developer provides to us that shows that those units are leased consistent with the TIE agreement. She said the intent of the TIE and HDIP is to help bring market rate units online. Mr. Dewey's request is to help put together a workable pro forma that will get this project off the ground. All funding sources are working together to try to make a project feasible. Mr. Dewey's pro forma clearly shows the funding gap and the need for the units. She noted Jake's explanation of the tax situation and the devaluation from a lending perspective, however he does not necessarily get the reduced valuation as a benefit in the way those units are taxed by the Town of Barnstable, so the TIE helps make up for that.

Mark Milne confirmed that the deed restricted units are taken into consideration for tax assessments in a TIE agreement. He expressed his support for the project to move forward and noted that the project is in an area that was targeted for redevelopment and renovates an existing building for housing which is one of the priorities of the Trust. He agreed that a monitoring service agreement that is incorporated into a grant agreement may be a way to secure the grant.

Jake Dewey agreed that annual reporting required for subsidized units is helpful to also get a sense of whether the affordable housing that is being created is effective and successful. He explained that the small rent increases he makes are usually related to utilities, taxes or water and sewer. He said he felt there would be a level of disservice to part of the community by restricting more units because it adds a challenge for some people to figure out how to qualify by adding hoops that potential tenants can't or do not want to go through. He said he understands the want for restrictions, but can be argued both ways.

Attorney McLaughlin said that the grant agreement would need to include an enforceable claw back component to protect the public money if there is a default, a change in ownership or foreclosure and suggested that this be brought back with a structured agreement that Jake and his counsel are comfortable with. The draft grant agreement could be shared through staff to the board members in advance of the next meeting.

After a brief discussion, it was decided and voted by Trust members to move the date of the next regularly scheduled Trust meeting to September 8, 2023, and continue the application to that date. Mr. Dewey's attorney will produce the first draft of the grant agreement with examples to be provided by staff.

3. New Application - \$50,000 pre-development funding to Nathan Herschler, applicant for Bread & Roses, to cover due diligence Architectural and Pro-Forma investigation of renovating 2nd floor (1,406 s.f.) of mixed-use property at 296-302 Main Street (circa 1909) on a .23-acre parcel, by converting two existing office/storage spaces into two 2-bedroom apartments Affordable at 60% AMI.

Elizabeth Jenkins recused herself from participating in the review of this application.

The applicant noted a minor clarification that did not require the application to be brought back to the next meeting. Nathan Herschler explained that the building, addressed 296 through 302 Main Street consists of several businesses and individual apartments that are connected: 296 Main St is Foursquare Church; 298 Main St has 5 existing apartments (4 1-bedroom apartments at \$1,200 per month; and one studio on the 3rd floor at \$1,300 per month). In addition, 298 Main St has 2 office/storage spaces that are above 302 Main St that will be converted to two affordable

housing units within the existing building. 300 and 302 Main Street is the Bread and Roses Book Shop and Café. He clarified that there are 5 existing market rate units, and the proposal is to convert the existing office/storage space into two new 2-bedroom affordable housing units. He explained that these large office spaces have been underutilized for the last 30 years and with minor construction costs other than needing a sprinkler system, would be an affordable way to create affordable housing. Mr. Herschler explained that he has an architect engaged and is waiting for a utility contractor to hook up the water line. Funding would be used to pay for the architect and any additional items that the architect's proposal will include, such as a civil engineering assessment.

Attorney McLaughlin reminded that security would need to be put into place so that if the project does not go forward, the Trust will have the ability to recover these soft costs. The applicant agreed he would do whatever was required. Attorney McLaughlin said he would need to discuss with the applicant what security is being offered.

It was agreed that the application would be continued to the next Trust meeting on September 8, 2023.

4. Community Preservation Act Funding Transfers to Trust – Mark Milne

Mark Milne explained that there is a balance of a little over \$1M in the Community Preservation Fund dedicated to community housing. He said that a request from the Affordable Housing Trust for the \$1M in the CP Community Housing Fund along with \$1.5M from the CP Undesignated Fund for a total of \$2.5M in Community Preservation Funds is supported by the Chairman of the Committee. Mr. Milne noted that the only funding disbursed so far from the last request for CP funds was \$1.4M for the Residences @ 850 project saying the Trust is halfway through these funds, however this does not account for the two applications pending as well as other outstanding commitments that have been made and anticipated by the Trust.

Elizabeth Jenkins returned to the meeting.

There was a brief discussion regarding also creating programs for housing assistance that would be administered by the Trust.

The motion of Mark Milne recommending that the Trust bring forward a \$2.5M request for funding to the Community Preservation Committee was seconded by Andy Clyburn. Roll Call Vote: Wendy Northcross (yes); Laura Shufelt (yes); Mark Milne (yes); Andy Clyburn (yes); and Mark Ells (yes). Motion carried.

5. Trust Administrator's Updates/Follow-Ups Jillian Douglass

- a. Discussion of additional options/tools to fund or incentivize increased number of new Affordable units or subsidize Affordability of rents within Trust projects.**

Jillian Douglass shared that there are ongoing discussions with Attorney McLaughlin and two Trust members to come up with new options and tools however there is nothing to bring to the Trust members today.

b. Discussion of Fair Marketing, Monitoring and Technical Assistance/guidance.

Ms. Douglass said that Laura Shufelt had suggested looking at the Residences @ 850 lottery for critiques and recommendations for policy changes as to how monitoring agreements are set up. Laura added that the process needs to be made smoother and in compliance with state guidance. It was decided this item would be taken up at a future meeting.

6. Planning & Development Updates – Elizabeth Jenkins, Director of Planning & Development

Elizabeth Jenkins reported that she had no substantive updates from her report last week.

7. Topics for Future Meetings/Agendas

The following items were mentioned for inclusion on a future agenda:

- Trust policy discussion regarding inclusionary units; and per/unit limit.
- Trust budget report including funds pending, committed, and operating.

8. Matters Not Reasonably Anticipated by the Chair
None.

9. Next Meeting Dates – September 8, 2023, 9 a.m. as determined at this meeting.

Adjournment

The motion of Wendy Northcross was seconded by Mark Milne to adjourn the meeting. Roll Call Vote: Laura Shufelt (yes), Wendy Northcross (yes), Mark Milne (yes), Andy Clyburn (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 8/24/2023.
Exhibit 2 – Application for Development Funds – Linnell Landing – 50 Yarmouth Rd, Hyannis.
Exhibit 3 - Application for Pre-Development Funds – Nathan Herschler - 296-302 Main St, Hyannis