



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

**Friday, October 13, 2023**  
**Affordable Housing Growth & Development Trust Fund**  
**Fund Board Meeting DRAFT 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:** Andy Clyburn, Acting Chairman; Mark Ells; 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; and Ellen Swiniarski, Community Preservation Coordinator, Planning & Development; Jake Dewey, Applicant.

**Call to Order**

With a quorum present, Chairman Clyburn 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, Sect. 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 (joined the meeting at 9:08).

**Public Comment**

Ms. Jillian Douglass read an e-mail received from Town Councilor Paula Schnepf, regarding the redevelopment of Linnell Landing expressing concern regarding the application for \$500,000 in Trust funds to create only one additional affordable deed restricted unit, and asked Trust members to carefully consider "whether this request adequately fits the mission of the Trust 'to provide for the preservation and creation of affordable housing in the Town of Barnstable for the benefit of low- and moderate-income households'."

## Topics for Discussion

### **1. Approval of minutes for the August 24, 2023, meeting. Approval of minutes for the September 8, 2023, meeting.**

The motion of Wendy Northcross was seconded by Mark Milne to approve both the August 24, 2023, and the September 8, 2023, Trust meeting minutes as submitted. Roll Call Vote: Wendy Northcross (yes), Mark Milne (yes), Laura Shufelt (abstained), Andy Clyburn (yes). Motion carried.

Mark Ells joined the meeting at 9:08. Andy Clyburn continued as Acting Chair.

### **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 reported that after the September 8<sup>th</sup> Trust meeting, comments were incorporated into the draft Grant Agreement with the rent cap on the unrestricted units at 110% AMI. He noted that the bank was agreeable with the funding advancement schedule and was hoping to receive a decision today from the Trust.

Laura Shufelt noted a difference of opinion regarding what CPA funds can be used for saying that CPA funds can only be used to fund up to 100% AMI and are required to have a formal Chapter 184 restriction in perpetuity not a Grant Agreement. She said that the Trust is being asked to fund one affordable unit at 80% AMI for \$500,000 explaining that the other capped units under the Grant Agreement would not survive a transfer of property. She expressed that she could not support the Grant Agreement and the request proposed as it is.

Attorney McLaughlin confirmed that productive discussions were had, seeking to find solutions to allow the proposal to move forward, which ultimately resulted in Mr. Dewey wanting to proceed with the application as submitted. Attorney McLaughlin outlined two policy questions before the Trust which are applicable to this application: what level of support the Trust is willing to offer; and what are the limits for rental caps per unit. He noted the statutory limitations of CPA funds and past discussions regarding other non-CPA sources of funds for the Trust. He said that if there is a desire to put caps on the rent for the unrestricted units, he was confident there could be a document created that will survive foreclosure, if the applicant does in fact want to move forward with the application as submitted.

Chair Clyburn explained that at the conclusion of the last meeting there was consternation over \$500,000 for one deed restricted unit with the ability to somehow restrict the remaining units for which there is also a large need. Laura Shufelt clarified that the issue is restricted versus nonrestricted units, noting that capped units whether they are at 100% or 110% do not satisfy CPA requirements. She explained that the Trust cannot count the capped units under the Grant Agreement as CPA units being funded by Trust funds. Andy noted that there has been much prior discussion about approval of \$500,000 for one unit being precedent setting however, prior projects had positive rationales for allowing precedent setting amounts. Laura confirmed that the Trust could in fact approve \$500,000 for one unit, however this is a Trust policy question regarding their fiduciary responsibilities. She said that the rental caps on the non-restricted units

are only enforceable if there is monitoring and oversight and she expressed concern that this would not be followed through.

Mark Ells said that until he had an opportunity to discuss the outstanding Trust policy questions with fellow board members, such as an increase in the maximum funding per unit, he was not comfortable voting in a supportive way for the proposed dollar amount for one unit.

There was discussion regarding offering a reduced amount of funding and the potential for HDIP returning to provide supplemental funding, however it was noted HDIP is competitive and would slow approvals. Mr. Dewey noted that part of the issue is if all the units were deed restricted at 100% AMI as an example, it would change the process of filling the units, adding time and costs anytime there is a vacancy. Mr. Dewey asked if it would be better to offer 10 units at 100% AMI even though the lottery would be burdensome.

Laura Shufelt noted that one of the offers that was presented offline was for one affordable unit at 80% AMI and four units at 100% AMI, not 10 units at 100% AMI. Attorney McLaughlin identified additional discussions and efforts to provide resolution that involved split ownership with HAC and although complicated, it would result in affordable units with restrictions. There was discussion regarding the inclusionary unit not being part of the CPA funding, and Laura noted that current Trust policy requires that mandated inclusionary units at the lower AMI are not intended to be funded using the Trust funds, as reflected in the NOFA. Elizabeth confirmed that this project as submitted does have two deed restricted affordable units, one that is required under the inclusionary ordinance, and one that is not.

Mark Ells asked how many units at 100% AMI would be needed to proceed in a way that the Trust can be supportive and remain within the current policy as far as the ceiling on the per-unit funding that the Trust has in place. There was discussion that having a maximum per unit Trust subsidy may not have been a good policy, because every project and proposal is different, and greater flexibility may be desired. Laura Shufelt mentioned again that she had proposed one additional affordable unit at 80% AMI and 4 at 100% AMI, however it appeared it was rejected. She said that although this goes above the Trust policy, exceptions have been made in the past. Laura explained that the cost of a required lottery and marketing plan would be the same for the one mandated inclusionary unit as it would be for 10 units, noting that the cost of this process per unit goes down the more units you have. She said also that upon a vacancy, Mr. Dewey can keep a wait list from those applicants who did not win in the initial lottery, and if he does not close the lottery wait list, he would not need to hold another full lottery to fill vacancies. Regarding the unrestricted units, Laura noted that due to the location of the project, she did not anticipate Mr. Dewey would ~~not~~ be able to rent at luxury rental rates, unless the whole area was redeveloped.

Mark Ells asked if there was a motion.

The motion by Laura Shufelt, seconded by Mark Ells, was to approve \$500,000 for Linnell Landing development creating one additional affordable unit at 80% AMI and four units at 100% AMI with deed restrictions and requirements consistent with CPA.

Roll Call Vote: Wendy Northcross (yes), Mark Milne (yes), Laura Shufelt (yes), Mark Ells (yes), and Andy Clyburn (yes). Motion carried.

Jake Dewey said he is happy to see progress and did not realize this was previously proposed on Tuesday. He said he would vet it through the bank, and work backwards to make it work.

### **3. Planning & Development Updates – Elizabeth Jenkins, Director of Planning & Development**

Elizabeth Jenkins shared that a tax relief bill was signed by the Governor on October 4, 2023, and contains a couple of pieces relative to housing including the creation of a local property tax exemption for residential properties that are rented to households earning no more than 200% of area median income; and an allowance for municipalities to be able to adopt ordinances implementing these provisions. She noted that this is a topic that has come up several times at Housing Committee meetings. She also shared that the housing development incentive program (HDIP) was re-instituted, and the cap on tax credits for those programs was increased from \$10,000,000 to \$30,000,000 annually, allowing projects that are in the queue to be funded as well. Elizabeth said that she is actively updating the Housing Production Plan with the new census figures and other anticipated changes. She will share that document with the Trust, Planning Board and the LCP over the coming months. She shared that she had participated in one of the State focus groups on the new MGL. Ch. 40Y provisions, explaining that these provisions include reformed starter home provisions, which have been adopted but not yet made a regulation. She said that the program is intended to promote starter home construction through an alternative to Chapter 40B in communities that adopt the provisions.

Elizabeth provided an update on town-owned properties, saying that together with the Asset Management Dept, submissions to an RFP for the development of at least 2 affordable homeownership units at the property located at 164 Route 149 in Marstons Mills were opened on Wednesday. She said that the two responses to the RFP are in initial evaluation by the committee and a recommendation will be made to the Town Manager on that project.

Elizabeth said that a master planning process for the Senior Center property has been started, to see if there is opportunity for infill construction, potentially including affordable senior housing. Consultants will assist the Town in looking at land around the senior center and schools for potential future opportunities for housing, recreation and transportation activities. A consultant is on board and an internal group is being convened, with a public meeting possibly scheduled for December.

Elizabeth noted that through the Community Development Block Grant (CDBG) program they have been actively working with the Barnstable Housing Authority to fund several public housing rehabilitation projects through this year's grant allocation of \$350,000.

Elizabeth confirmed that the list of projects that are in process and updated quarterly will be posted soon on the Housing webpage. She also recognized staff for fully revamping the Housing webpage and noted that this is where updated resources will be posted.

### **4. Trust Administrator's Updates/Follow-Ups Jillian Douglass**

#### **a. Addition to the number of Trust Board Members – Process**

Ms. Douglass referred to the summary of suggestions for the process to add Trust Board Members that was contained in the meeting packet. She explained that the first Amendment to the Declaration of Trust notes that the Trust Board is made up of five members, so this would need to be amended, if the Board size were changed. She also noted that it is the authority of the Chair (who is the Town Manager) to appoint new members at-will. Andy Clyburn said that although all had agreed this is something that should be considered, before voting to add members he would like a follow up with Attorney Nober to ensure the Trust is on solid ground

procedurally. Attorney McLaughlin confirmed that Attorney Nober had reviewed the process and said the Town Council originally voted to approve the formation of the Trust setting a precedent that would require a return to the Town Council for any proposed amendments. After discussion it was also noted that the two-year terms should reflect staggered terms, and that the Declaration of Trust should be reviewed comprehensively for changes before bringing it back to the Town Council for amendment. It was decided that this would be referred to legal and subsequently brought back to the Trust for review and vote.

#### **b. Discussion of Potential for a Rent Assistance Program**

Ms. Douglass referred to the memorandum originally forwarded to Trust members in December and included in this meeting packet, saying that the memo explains what a rental assistance program is, and noting that the Trust's current NOFA does not mention housing preservation and stability programs as eligible to receive funding. She noted that the current NOFA to the public is for construction and preconstruction projects only, and that NOFA would need to be changed if the Trust wanted to include programs that directly help people seeking housing at an affordable rate. She referred to the information provided regarding the Town of Brewster and the process of issuing an RFP for a certified entity to manage their rental assistance program.

Laura Shufelt cautioned that although there is a need for a rental assistance program, there are limitations on how long assistance can be provided, noting that folks are getting into housing that they later cannot afford (without further assistance), and are being evicted after a couple of years. She noted that the Trust had funded emergency rental assistance in the past and mentioned that unless the Trust has funding from sources other than CPA, the Trust cannot fund social service programs. It was decided that this would need to be more fully discussed at a future meeting.

Laura Shufelt left the meeting at 9:44 a.m.

#### **5. Draft Application to Community Preservation Committee (CPC) for transfer of funds.**

Ms. Douglass noted that the draft Application includes reference to the potential for rental assistance programs and is meant to give the CPC a heads up that this is something that the Trust may be considering. The Application also outlines and highlights that the need for affordable housing continues and has grown, and that costs for construction and production have rapidly increased. She said she is hopeful that the Application will be accepted by the CPC and they will vote to transfer available funds to the Trust to replenish its funding availability.

Elizabeth Jenkins recognized Ms. Douglass' excellent work and outlined the process to date, saying that the Application is on the October 16, 2023, CPC agenda. Elizabeth noted that Jillian is not available to present the Application at the CPC meeting, however, she is available and said it would be excellent if any available Trust members could also join the meeting in support. Elizabeth confirmed that the initial allocation of the CPA funds to the Trust allows the Trust to then budget those funds afterward, noting that there are several applicants looking forward to applying to the Trust with the confidence that these new funds will be available. Wendy Northcross and Andy Clyburn said they would try to join the remote CPC meeting on Monday evening.

#### **6. Revisions to Notice of Funding Availability (NOFA) and/or standing policies or rules**

It was decided that this item would be brought forward at the next trust meeting.

## **7. Topics for Future Meetings/Agendas**

- Report on results of CPC Application for transfer of funds.
- Other future agenda items noted during this meeting.

## **8. Matters Not Reasonably Anticipated by the Chair**

None.

## **9. Next Meeting Date– November 3, 2023**

### **Adjournment**

The motion of Mark Milne was seconded by Wendy Northcross to adjourn the meeting. Roll Call Vote: Wendy Northcross (yes), Mark Milne (yes), Mark Ells (yes) and Andy Clyburn (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 10/13/23.  
Exhibit 2 – Draft Minutes from the August 24, 2023, Affordable Housing Trust meeting.  
Exhibit 3 – Draft Minutes from the September 8, 2023, Affordable Housing Trust meeting.  
Exhibit 4 – Memorandum and Draft Grant Agreement -Linnell Landing – Jillian Douglass  
Exhibit 5 - Memorandum – Process for Adding Trust Members – Jillian Douglass  
Exhibit 6 - Memorandum – Rental Assistance Programs – Jillian Douglass  
Exhibit 7- Draft CPC Application for Transfer of Funds to the Trust  
Exhibit 8 - Memorandum – Revisions to NOFA and/or Standing Policies or Rules – Jillian Douglass