



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

Friday, December 6, 2024
Affordable Housing Growth & Development Trust Fund
Board Meeting Minutes
9:00 A.M.

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, and Laura Shufelt.

Other Attendees: Jillian Douglass, Trust Administrator, Planning & Development; Corey Pacheco, Senior Planner, Planning & Development; Ellen Swiniarski, Community Preservation Coordinator, Planning & Development. Attorney Robert Galvin, Jr, Special Council. Councilors Paula Schnepf and Gordon Starr. Jake Dewey for Linnell Landing.

Call to Order

With a quorum present, Chairman Ells called the meeting to order at 9 a.m. and stated that today's meeting will be recorded and rebroadcast via Xfinity Channel 8 or high-definition Channel 1072. It may also be accessed via the Video on Demand section on the Town of Barnstable's website. In accordance with MGL Chapter 30A, s. 20, the Chair will inquire whether anyone else is recording the meeting and, if so, please make your presence known. No one came forward.

Member Introduction

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

Public Comment

Town Councilor Paula Schnepf noted that the number of units that qualify as market rate for the Spartan Cleaners TIE agreement reviewed by the Town Council are not correct. She said the four units supported by Trust funds are considered deed restricted and do not qualify as market rate. She also noted discrepancy regarding the amount awarded Spartan Cleaners by the Trust. She said she would like to initially support the Trust's institution of a buy down program to fill the affordability gap for properties that are currently deed restricted and on the market for resale to income eligible buyers.

Mr. Jake Dewey inquired about the vacancy on the Affordable Housing Growth and Development Trust Fund Board and the criteria required for appointments to the Board. Chair Ells said he is proceeding with filling this vacancy that will require ratification by the Town

Council and is working with Town leadership and Appointments Committee saying the criteria will be developed with fellow board members. There was discussion regarding adding to the number of members on the Board, however, it was decided that it would require a longer review.

Topics for Discussion

1. Review and approve amendments to Trust Rules & Regulations – with assistance from Special Counsel Attorney Robert Galvin, Jr.

Attorney Galvin shared that from discussions with Jillian Douglass and Laura Shufelt, two further edits were made to the Trust Rules & Regulations. These edits add language to authorize the Trust to fund projects under the Commonwealth Builder program specifically and does not open the door for other programs with a restriction term less than in perpetuity. He noted that if the Trust would like to include other programs like the Commonwealth Building program in the future, the Rules & Regulations can be amended to allow them. Attorney Galvin recommended approving the amended Trust Rules & Regulations.

Jillian Douglass shared her screen with the red lined version of the amended Rules and Regulations. Laura Shufelt noted that the language is not to exclude any existing programs, saying that Commonwealth Builder program is the only program that requires a less than perpetual restriction. Other programs will allow a less perpetual restriction, but the Commonwealth Building program requires it.

There was discussion regarding concerns about the loss of affordable units in the future. Laura noted that the Trust Rules & Regulations state that a restriction must survive foreclosure, however, the Commonwealth Builder program restriction does not. She outlined another process where the Town can have first right of refusal at foreclosure for the principal amount of the remaining mortgage. She explained that if the Town does purchase a unit through foreclosure, the same Commonwealth Builder deed restriction would need to be used, therefore a perpetual deed restriction could not be placed on the next buyer. Laura further explained that if the Town exercises their right of first refusal, they could find a qualified buyer immediately so that the property can transfer directly to that buyer. She noted that the Town would have 90 days to find a new qualified buyer. It was decided that this item will be taken up on a future Trust agenda.

The motion of Laura Shufelt was seconded by Andy Clyburn to accept the amendments to the Trust Rules and Regulations as presented in the latest draft included in the meeting packet for the December 6, 2024, meeting.

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

2. Discussion of loans versus grants for Low Income Housing Tax Credit projects.

Jillian Douglass deferred to Laura Shufelt for specific details of why a proponent for a Low-Income Housing Tax Credit (LIHTC) project would prefer a loan over the granting of funds. Laura explained that this preference is because any grants awarded will affect the project's eligibility for additional Federal funds during the HUD layering process, saying there is a limit. With a loan versus grant, an interest rate is added and a repayment time. A 0% interest loan is not considered a loan by HUD. In the HUD layering, if it is considered a grant, it reduces the ability to qualify for other funds. Having a loan with an interest rate paves the way for the

developer to be eligible for HOME and CBDG funds as well as other considerations. It was decided that Attorney Galvin, Jillian and Laura will work to bring this item back for meaningful discussion at a future meeting.

3. Discussion of “buy-down” program for purchase of deed-restricted units, and/or deed restrictions, to preserve affordability of units – Jillian Douglass – based on 2022 summary outline.

Jillian noted that she included a summary of what the town had done previously with buy down program using CBDG funds to preserve affordable units by buying down the sales price for LIP and HOP units that came up for resale. She explained that the monitoring agent for most of the LIP and HOP units was Housing Assistance Corp who alerted the Town that a resale was in progress. There was discussion regarding whether a broader fund or a fund specific to the Commonwealth Builder program restrictions only is preferred. Attorney Galvin shared his experience with buy down programs and noted there are many models from other communities that could be considered. He explained situations where a Trust took title for a brief time to allow time to find qualified buyers upon resale. He also explained the Trust could assist by providing a subsidy at closing, with the title going directly from the seller to the new affordable home buyer and offered to provide a brief synopsis at a future meeting.

Laura Shufelt said it was her preference to set up a preservation fund specifically for the Commonwealth Building program. She noted that other deed restricted units come up very rarely and since 2005, all the restrictions have been required to be perpetual. She further noted that the Trust would not be notified of the resale of units with older 30-year restrictions. She said that the Trust is not limited to using non-CPA funds for the preservation of existing restrictions saying that a while ago there had been a \$75,000 CPA fund set up for the Planning Department to administer the buying down and preservation of old deed riders.

It was decided that Mark Milne should be involved in the setting up of a preservation fund for the Commonwealth Builder program. Laura clarified that the Trust is requesting Attorney Galvin to set up a fund to be used in the event of a resale or foreclosure of a Commonwealth Builder unit in the Town of Barnstable. Attorney Galvin said he will start with the grant agreements and get approval by Mass Housing to modify the restriction in an acceptable way.

4. Correspondence/FYIs

- a. Notice from Standard Holdings re: new mortgages on Residences @ 850 Falmouth Road, Hyannis

Jillian Douglass explained that Standard Holdings is requesting the allowance for additional mortgages on the property at 850 Falmouth Road. Two additional mortgages, each amounting to \$700,000 and totaling \$1.4M, are proposed. Laura Shufelt noted that \$1.4M is the same amount the Trust granted saying \$1.4M was supposedly needed to fill a gap, however less than two years after leasing up, they are cashing out the amount they were given in public money. Laura said she reviewed the Trust grant agreement and mortgage and said that the notice gave the Trust had 30 days from November 25, 2024, to approve. She noted she was opposed to approving without detailed explanation, noting also that the proforma changed radically between Trust approval and commencement of construction. She said that the Trust in general needs to place guard rails around the release of funds because Trust funds are committed early and they applicants then apply for HDIP money that when granted, fills the same gap the Trust is filling. The Trust should have the ability to claw back

excess money when this occurs. There is no profit limitations on HDIP so there is nothing stopping them from using Trust funds as profit.

After discussion it was decided that unless a vote was taken today, an automatic approval would be given. There was additional discussion regarding descriptions of project finances by developers that have not occurred the way they were originally outlined, or additional financing is sought. All agreed that an explanation is required for the Trust Board to consider approval. Attorney Galvin noted that the attorney for Standard Holdings will be contacted and if the Trust votes to deny without prejudice today, a request to reconsider can be submitted to the Trust for a future meeting where an explanation can be provided.

The motion of Andy Clyburn was seconded by Laura Shufelt to deny without prejudice the request of Standard Holdings for the Trust to approve additional mortgages to be added to 850 Falmouth Road. Roll Call Vote: Laura Shufelt (yes), Andy Clyburn (yes), and Mark Ells (yes). Motion carried.

5. Updates –

The following updates were provided by Jillian Douglass:

- CCR Holdings – 50 Yarmouth Road
The Phase I advance of \$330,000 has been accomplished and according to HAC, the units have been advertised with possible occupancy prior to 2025.
- Bratt LLC – 199 Barnstable Road
There is a pending LIP application that will be provided to the Trust.
- Housing Assistance Corporation – 268 Stevens Street.
Draft letter to HAC conveying the next steps and clarifying that the vote of the board was consistent with setting aside funds for the Commonwealth Builder resale. After a brief discussion, it was confirmed that the letter provided included prior noted amendments.

The motion of Andy Clyburn was seconded by Laura Shufelt to approve the draft letter for Housing Assistance Corp – 268 Stevens Street.

Roll Call Vote: Laura Shufelt (yes), Andy Clyburn (yes), and Mark Ells (yes).

Motion carried.

- End of Year planning & reporting.
The report to CPC is being drafted and will be brought forward to the Trust at the next meeting. Laura noted that an update from Mark Milne is needed regarding Trust balances and possible consideration for requesting a transfer of funds from the Community Preservation Committee.

6. Matters Not Reasonably Anticipated by the Chair

Jillian asked Trust Board members to delete the old Trust zoom meeting links as new ones will be sent to replace them.

7. Approval of Minutes from 11/1/2024

Laura noted that she made edits to November 1, 2024, minutes.

The motion of Andy Clyburn was seconded by Laura Shufelt to approve the amended minutes from November 1, 2024. Roll Call Vote: Laura Shufelt (yes), Andy Clyburn, and Mark Ells (yes). Motion carried.

Approval of Minutes from 11/14/2024

Approval of the 11/14/2024 meeting minutes was moved to the January 3, 2025, meeting.

8. Topics for Future Meetings/Agendas

Laura Shufelt said as previously stated today, the Trust should be working with Attorney Galvin to put some better guard rails around the Trust grant agreements so that the Trust can reconsider the amount of the award when the project has proceeded through other funding sources, and we know what a final budget is. She said the Trust would want notification that a grantee has applied for HDIP money or applied for TIEs which provides money that was not originally anticipated. There have been several Trust projects that received additional funds that the Trust was not made aware of. The Trust has a finite amount of money and should make sure these projects need the money we are giving them. The Trust will want the ability to revisit once a project budget is finalized.

Attorney Galvin said he would propose a paragraph be added to the standard grant agreement that imposes a continuing obligation on grant recipients to get the Trust's prior approval for any changes in their funding from what had been provided to the Trust. He said he would prepare this for the next meeting, January 3, 2025.

9. Next Scheduled Meeting – Friday, January 3, 2025, at 9 am

10. Adjournment (Roll Call)

The motion of Andy Clyburn was seconded by Laura Shufelt to adjourn the meeting. Roll Call Vote: Laura Shufelt (yes), Andy Clyburn (yes), and Mark Ells (yes). Motion carried.

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

Exhibit 1 – Affordable Housing Trust Fund Board Meeting Agenda for December 3, 2024.

Exhibit 2 - Proposed Revisions with edits to Trust Rules & Regulations

Exhibit 3 - 2022 Summary of Barnstable's CPA funded "Buy-Down" program to preserve Affordability of HOP & LIP Resales

Exhibit 4 - Notice of Intent to record 2 additional mortgages liens in the full amount of \$1,400,000 on Residences@850 Falmouth Rd.

Exhibit 5 - Copy of administrative letter sent to Steven Cleary related to Spartan Real Estate's funding application

Exhibit 6 - Draft administrative letter to David Quinn related to HAC's Stevens Street Commonwealth Builder project.

Exhibit 7 – Draft Trust Meeting Minutes – November 1, 2024, and November 14, 2024.

Respectfully submitted,

Ellen M. Swiniarski

Community Preservation Coordinator

Planning & Development Department