



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

Friday, October 4, 2024
Affordable Housing Growth & Development Trust Fund
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: Andy Clyburn, Acting Chairman, Mark Milne, and Laura Shufelt. Mark Ells and Wendy Northcross were absent.

Other Attendees: James Kupfer, Interim Director, Planning & Development; 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. Councilor Gordon Starr; Cape & Islands Senator Julian Cyr. Louis Harrison and Margaret Wagner of Tangram; Joshua & Tammy Barrows and Stephen Cleary for 242 Barnstable Road, Hyannis.

Call to Order

With a quorum present, Chairman Clyburn 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, Mark Milne, and Andy Clyburn. Absent: Mark Ells and Wendy Northcross.

Public Comment

None.

Topics for Discussion

1. Guest Speaker – Senator Julian Cyr – Updates from the State House

Senator Cyr confirmed that housing is the top issue facing the Cape and Islands and is his top priority. He said he has been working for a long time on the housing issue which Governor Healey had identified and continues to be the greatest challenge across the state. He explained that there has not been enough housing built to keep up with the demand and across

Massachusetts people aged 25 – 44, with middle-income and young families are leaving the state because they cannot afford housing, childcare costs, and other factors. Legislature has responded to the housing issue with a big first step which is only the beginning. Massachusetts needs to build 200,000 housing units by the end of the decade. To assist with this heavy need, the Affordable Homes Act, which contains 50 unique initiatives to address rising costs due to demand and limited supply, was signed into law this summer, for a \$5.1 billion authorization to invest in housing across Massachusetts. Some of these initiatives are accessory dwelling units (ADUs) by-right, subject to reasonable restrictions; conversion of commercial space to housing in cities and downtowns; and the most important piece for this conversation today, the establishment of a Seasonal Communities designation.

Senator Cyr explained that he has worked with the administration and municipal leaders and advocates of housing for several years. He noted that the Seasonal Communities designation was included in the Affordable Homes Act and will have relevance for the Town of Barnstable explaining that communities that have fluctuating populations and seasonal housing demands need a unique tool kit around housing policy that can be accessed. To be designated as a Seasonal Community, a high rate of rental properties and significant population increases during visiting season need to exist. Other factors in favor of a Seasonal Community designation are a disparity between the AMI (Area Median Income) for the town, and what income is required to purchase a home in that municipality, as well as a high percentage of housing not being used as a primary residence. He explained that if a community has these factors, it will receive the Seasonal Communities designation. He noted that all the towns in Dukes County are automatically designated as seasonal communities as are towns in Barnstable County such as Dennis, that have 35% or greater housing stock that is not being used for primary residence. Once the program is up and running, Barnstable could apply to be designated as a Seasonal Community, which allows the town to access policies that are designed to both preserve and develop year-round housing that is above and beyond affordable housing; saying that we also need to subsidize housing for year-round people who own a home, or stand to inherit a home also. A town with a Seasonal Communities designation can establish a housing trust fund without having to go through the home rule process. Some communities have already established a year-round housing trust fund, allowing the municipality to have a fiscal vehicle to subsidize year-round housing; for example by implementing and financing a year-round deed restriction program.

He explained that the value of property on Cape Cod is based on land value and by what it can be rented for per night in July and August, not what a year-round person can afford for a mortgage or rent year-round. A year-round deed restriction program is a useful tool that has been used in California and Colorado, funded through a transfer fee on real estate transactions. These tools have been quite successful in those areas, subsidizing about a third of the housing stock. A municipality designated as a Seasonal Community is allowed to provide subsidized housing specifically to municipal workers and can increase the residential property tax exemption to 50% of value. Senator Cyr explained also that to incentivize year-round housing, Seasonal Communities will be asked to make modest zoning changes to allow for the construction of tiny homes to allow the use of undersized or merger lots for developing year-round housing only.

Senator Cyr explained that under the Affordable Housing Act, an Office for Housing and Livable Community Services (HLC) was established to support both rural and seasonal communities with housing solutions, noting that a lot of seasonal communities have modest staff. He said there is a Seasonal Communities Advisory Council established to advise the Executive Office of Housing and Livable Communities (EOHLC) on the needs of seasonal communities to further year-round housing. He said that he anticipates that HLC will issue draft regulations and

initial guidance in early winter, with a process for listening sessions that will follow, convening a Seasonal Communities council to put together ideas. Senator Cyr noted the significance that a collaborative effort was made to ensure Seasonal Communities was in the final bill, saying that several other pieces had fallen out along the way. He called the Seasonal Communities the most notable legislation for the Cape and Islands since the establishment of the Cape and Islands Water Production Fund which has to date subsidized \$204M for sewer projects in 8 towns across the Cape including Barnstable. Senator Cyr said that the Affordable Housing Act and Seasonal Community designation are significant starts to addressing year-round housing on the Cape and Islands, but further policies need to be advanced. He said that a dysfunctional real estate market geared toward luxury investment and second- and third-homes exist. He said that the cost to purchase year-round deed restrictions and subsidize municipal worker housing will be expensive, noting that he is supportive of the local option for a real estate transfer fee to provide a stable and significant revenue source for this. He said that 12 of the 19 towns in the Cape and Islands District have passed Home Rule petitions and asked Barnstable to look closely at the real estate transfer fee to address the housing crisis, He said he is interested in hearing what tools Barnstable may need to address year-round housing.

In answer to Affordable Housing Trust member questions, Senator Cyr said that representation will be accomplished through a Seasonal Communities Advisory Council that has number of seats already spelled out, however, the Secretary can appoint additional members; it should result in municipal working group with representatives from all the towns. Senator Cyr shared that the Senate President appointed him as the Senate's representative on the Seasonal Communities Advisory Council, so he will be very much involved in the process. He said that after draft regulations are issued in early winter, there will be a 3-month public comment period. He said he hoped the regulations determining how a town like Barnstable can join the Seasonal Community designation would be complete by early spring, noting this would be a speedy timeline for state regulations.

Senator Cyr confirmed that Barnstable can benefit from both Gateway City and Seasonal Community programs, the latter mirroring the Gateway City model. He said that because Barnstable is below having 35% seasonal housing stock, which allows for an automatic Seasonal Community designation, HLC will also be inviting additional communities to apply to join. It is anticipated that all the communities on the Cape will qualify as other factors that would qualify towns like Barnstable are considered as well. Senator Cyr said that he is proud to have been part of the team that brought this to the Cape and Islands and will help address the most urgent short-term issues we face saying that the cost of housing is top of the discussion for most folks.

2. Transfer of General Partner Interest in Village Green Apartments from Dakota Partners to Tangram – Request for Trust Approval.

Affordable Housing Trust Administrator, Jillian Douglass, introduced Louis Harrison, Senior Partner of Tangram. Mr. Harrison explained that Dakota Partners, who are the original builders of Village Green, are capital constrained, like other projects in the Northeast. For that reason, they are selling a handful of general partnerships. He explained that Tangram has delivered quality affordable housing across the country, including many in Massachusetts. He noted that the Village Green is very well-run and much-needed housing; that Tangram aspires to continue to maintain at the same level of management. He said the management is excellent and solid and said that the broader aspirations of the firm are if there is more that can be done, they will do it. He explained Tangram's background focused on asset management around property maintenance, noting the award of several federal grants for some of Tangram properties across the country. Tangram wants to establish a rapport with the Trust and convey that they intend to

continue with the same obligations. Laura Shufelt explained that she realized she has a conflict as her agency is also looking at this and said she would need to recuse herself from voting. Acting Chair Clyburn noted that in the absence of the Chair, the Trust was not prepared to vote on the transfer, and it was agreed that this item would need to be continued to a future Trust meeting.

3. Continued Policy Discussion – Potential to Finance Common Wealth Builder Projects with Deed Restrictions of Less Than Perpetual Duration – Opinion Letter from Attorney Robert Galvin

Attorney Galvin explained that he had the opportunity to look at other projects that had been approved across the state in other Gateway communities like Barnstable and found that Common Wealth Builder projects were being financed using Community Preservation Act Funds. He contacted Stuart Saginor of the Community Preservation Coalition to discuss the issue because a literal interpretation of the Community Preservation Act statute, it appears that anything less than a perpetual restriction is forbidden. He explained the Coalition's view of the Common Wealth Builder program saying it is just another tool in the affordable housing belt that is different being a 15 year program. The Common Wealth Builder program guidelines are for fee-simple, single-family homes or single-family condominiums; there are no apartments that are eligible. A condominium project would need to have a minimum of 15 units with 25% of the units restricted with a 15-year restriction, and a housing project requires a minimum of 7 units to qualify for the Common Wealth Building program. Additionally, the people eligible for the program have between 70% and 120% of the AMI and own less than \$100,000 in assets. The program is open to first-time buyers only, who must also have at least a 3% downpayment to qualify.

Attorney Galvin said that after his discussion with Mr. Saginor, he concurs that the Common Wealth Builder program (CWB) is a tool that can be deemed to support community housing within the meaning of the Community Preservation Act (CPA). He noted there is a work-around in place for the requirement of the CPA under Section 12 (which would otherwise require real property interest acquired by any entity that is financed or benefiting from a restriction, that the restriction be a perpetual restriction). Attorney Galven explained that he believes that the Common Wealth Builder program is not offending to the CPA constraints, because the type of financing that would be provided by the Trust would not necessarily involve a property interest. He noted that if the Trust were to consider accepting the program, he believes some of the Trust rules and regs may need to be updated, or possibly waived for these projects.

Laura Shufelt confirmed that funds could not be used for the acquisition of land without a perpetual restriction. She noted that the CPA does not have an enforcement provision, so communities can make up their own rules with the only recourse being, that if a community does something contrary to the rules, a 10-person lawsuit could challenge the action. She noted that through the CWB program, after 15 years under a strict re-sale restriction, where the property can only be sold to another eligible buyer, there is another 15 year term, during which shared equity is required if the property is re-sold. She said that if the Trust decides to allow use of the program, the Trust should also find a way to create and fund a restriction buy-down fund, so the unit can be purchased to keep it affordable. She noted that 15 years go by very quickly.

It was agreed that the program is worthy of further discussion and that the Trust would need to a rule amendment or waiver process to support the program. Laura Shufelt confirmed that Common Wealth Builder units would not be included on the State Housing Inventory (SHI), which is also a requirement of the Trust's current rules. Chair Clyburn asked that this item be kept on future Trust meeting agendas for further discussion.

4. End of Fiscal Year 2024 Report to Community Preservation Committee –

Authorization for Chair to sign and convey.

After brief discussion, it was decided that the FY24 Report to the Preservation Committee could be moved forward for Trust Chairman Mark Ells' signature and submission to the Community Preservation Committee.

5. Trust Finances and Budgeting

- a. Balance of Un-Committed Trust Funds
- b. Undesignated Community Preservation Funds
- c. Housing Contribution funds – due from WS Landing LLC to Town via Cape Cod Gateway Airport Ground Lease

Mark Milne noted that the available balance for CPA funds is just over \$2.2M with the commitments that are outlined in the report to CPC. He said that there is also \$89,000 in Affordable Housing Trust fund money that is non-CPA related and \$99,000 in Economic Development funds. He shared that the first payment from WS Development for the Landing in Hyannis for \$75,000 in accordance with the new ground lease has just been received. This same amount will be received annually for the next ten years, with a one-time payment of \$1,750,000 to be paid upon the anniversary of the new ground lease in 2027. The \$75,000 payment will be added to the \$89,000 in the Affordable Housing Trust balance that is non-CPA sourced.

6. Application Presentation - \$500,000 Development Request – Joshua & Tammy

Barrows, 242 Barnstable Road, Hyannis – Redevelopment of the vacant Spartan Cleaners site to create up to 56 units of high-efficiency Community housing with an Affordable housing component – Stephen Cleary

Mr. Stephen Cleary complemented the Town's staff specifically Jillian Douglass and Corey Pacheco, saying that in his 45 years of experience in the real estate business he never worked with a more responsive town. Chair Clyburn said that one of the Trust members needs to leave the meeting and with only two members left and no quorum, the remaining items on the agenda will need to be moved to the next meeting scheduled for November 1, 2024.

Adjournment

The motion of Mark Milne was seconded by Laura Shufelt to adjourn the meeting.

Roll Call Vote: Mark Milne (yes), Laura Shufelt (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 Meeting Agenda for October 4, 2024.

Exhibit 2 – Opinion Letter from Attorney Robert Galvin, Jr – Common Wealth Builder Projects with Less Than Perpetual Durations.

Exhibit 3– Draft Affordable Housing Growth and Development Trust Fund Board End of Fiscal Year 2024 Report to Community Preservation Committee.

Exhibit 4 – Trust Balances Report from Mark Milne.

Exhibit 5 - Development Application – 242 Barnstable Road, Hyannis

Respectfully submitted,
Ellen M. Swiniarski

Community Preservation Coordinator
Planning & Development Department