



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

Thursday, November 14, 2024
Affordable Housing Growth & Development Trust Fund
Board Meeting APPROVED Minutes
10:00 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, Mark Milne, and Laura Shufelt.

Other Attendees: Jillian Douglass, Trust Administrator, Planning & Development; Ellen Swiniarski, Community Preservation Coordinator, Planning & Development. Attorney Robert Galvin, Jr, Special Council. David Quinn, Housing Assistance Corporation and Jake Dewey for Linnell Landing.

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, Andy Clyburn and Mark Ells.

Public Comment

None.

Topics for Discussion

- 1. Grantee's Request for Release of Phase 1 Funding Advance – CCR Holdings, LLC, Linnell Landing at 50 Yarmouth Road, Hyannis – Consider execution of Mortgage Lien as sufficient security to advance \$330,000 of the \$500,000 Grant – Jake Dewey.**

Jillian Douglass explained that the grantee's request is to advance the Phase 1 component. She noted that there are outstanding documents however the Trust's approval could be contingent upon signature and recording of those documents. Attorney Galvin identified the outstanding documentation as the restriction on the property which was drafted months ago and is currently

with the state. He explained that the state is waiting for the trust to sign the restriction first and then they will complete their review. Attorney Galvin said he would offer a letter that the restriction meets his approval as counsel for the Trust and then the state could complete their review. He said that all the other documents are in order and the Trust would be properly secured if the note was executed and the mortgage delivered. However, he said it is appropriate to have a holdback because the perpetual restriction is not in place until it is endorsed. He confirmed there is a holdup at the state level, and this is the only outstanding item.

Mr. Jake Dewey provided background for the Linnell Landing project saying the intent was to advance \$330,000 of the \$500,000 grant at the beginning of the project to save payment of interest. The units that were already occupied and monitored by the Barnstable Housing Authority were deed restricted so the Trust could receive their affordability immediately. Mr. Dewey explained that construction is nearing completion, and the tenants will be moving into the other units by the end of the year. He said that the bank has signed the subordination, and the mortgage is ready to be recorded. The Trust mortgage for \$500,000 will be recorded and he is asking for an advance of \$330,000 to support the closing of the funding for the project while waiting for the documents to come back from the state. He noted that the state had previously approved the restriction and their legal team indicated it was acceptable. When the affordable units are occupied as agreed in the grant agreement, we will ask for the last \$150,000.

There was Trust member discussion regarding the holdback of \$20,000 for the currently occupied units that would require lotteries to be held when the current tenants vacate the units which could be years from now. Laura Shufelt confirmed that there is a backlog at the state caused by an influx of 1000 new units needing approval and said she felt that the Trust would be protected if they decided to release \$330,000 as requested. Trust members agreed that the request is fair and reasonable.

The motion of Laura Shufelt was seconded by Mark Milne to authorize the release of \$330,000 of the \$500,000 Linnell Landing grant after the affordability restriction is signed and forwarded to the state for signature.

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

Attorney Galvin confirmed that the release of funds for Phase 2 of the project would require Trust Board approval.

2. Continued Policy Discussion – Amendment(s) to Trust Rules & Regulations to consider applications proposing deed restrictions of less than perpetual duration – with assistance from Special Counsel Attorney Robert Galvin, Jr.

Jillian Douglass summarized previous discussions regarding the Commonwealth Builder (CWB) Program saying the issue is that restrictions are for a shorter duration but are consistent with a statewide policy. She said that Attorney Galvin has shared his research and there is precedence for Gateway communities which are eligible for the CWB program. The policy discussion is to settle the issue of the Trust Rules and Regulations allowing for other than a perpetual deed restriction, so the Trust could proceed with an CWB application that is pending. Attorney Galvin explained that the CWB program is designed for a niche type moderate income household home purchaser and comes with a 15-year restriction. After having checked with the Community Preservation Coalition and reviewing the statute, he said it is his opinion that the CWB program can be used without offending the Community Preservation Act (CPA). He

referenced his draft amendments to the Trust Rules and Regulations explaining the changes he proposed as follows: adding a definition of inclusionary housing and in lieu fees that had been omitted; page 3 – added “or other lawfully permitted duration”; page 5 section D1b – added “or other lawfully permitted duration by use restrictions surviving foreclosure”; section D1c – added to list of priorities- projects that meet eligibility requirements of the Mass Housing Finance agencies – this would include the CWB Program. Attorney Galvin said he reviewed the Declaration of Trust, and the authorities are broad enough in that document that it does not need to be changed. He said that these rule changes and an opinion from him that this complies with the requirements of the CPA should be adequate.

Laura Shufelt said that she thought it was a matter of debate if a shorter duration restriction is allowed under CPA for development, saying that there have not been any rulings on this yet. She explained that although other Gateway Cities have used the CWB Program, Springfield is a town that has also funded churches and homeowner repairs which are not allowed under CPA and therefore not a good example. Laura proposed that the language added to the Trust Rules and Regulations read: “or any other lawfully allowed duration with a vote of the Trust Board” to ensure that eligibility is not construed as a given. Mark Milne stated that he supported the use of Trust funds for the CWB Program and the modifications to the Trust Rules and Regulations suggested by Attorney Galvin with the added language just provided by Laura Shufelt. The other Trust members agreed, and Attorney Galvin concurred that Laura’s edits were reasonable. The draft amendments to the Trust Rules and Regulations were referred to Jillian Douglass and Attorney Galvin for finalization and vote at the next Trust meeting

3. Pending Application – Development Activity – Housing Assistance Corporation – 268 Stevens Street, Hyannis - \$1,000,000 to support re-development of 1.5 acre vacant, cleared parcel as 50 condominium ownership units, with 40 of the units deed-restricted for sale to 1st Time Home Buyers earning no more than 100% of Area Median Income, via the Massachusetts Commonwealth Builder Program – Director of Development for Housing Assistance Corporation, David Quinn.

Jillian Douglass noted that the Application for this project is complete. Attorney Galvin confirmed that given the changes to the Trust Rules and Regulations, it is appropriate for the Trust to hear the presentation of the Application today.

Mr. David Quinn said that this is a unique opportunity allowing the potential to use the Massachusetts Commonwealth Building Program to develop the property located on the corner of North and Stevens Street that has been vacant for a long time. The proposal is for 50 units, 40 of which will be deed-restricted to 100% AMI representing incomes between \$80,000 and \$125,000 with price points from the mid \$200K to low \$300K providing an opportunity to people who cannot afford to buy a home on the open market. He indicated that there are not many newer condominium units on the market with most of the condo stock in Hyannis aged. He said that the project would revitalize this section of Hyannis and that the town, as a partner to the project, received a Housing Works grant to support the extension of the sewer to the site and plans are being finalized for a pump station to be located on the property providing infrastructure to that part of town. Mr. Quinn said that Barnstable, as the only Gateway City on Cape Cod, is the only town that qualifies for CWB funding to be used. Mr. Quinn explained that the parcel has been acquired and is within the new Downtown Village Zoning District which is a form-based code district, and the project was approved through the formal site plan review process as well as the Conservation Commission. The design team is getting plans ready to submit for a building permit targeting the end of the year. He explained that the Trust funding is the last

funding piece with the ARPA funds received from Barnstable County in the amount of \$1.5M already used in September for acquisition of the property. He noted the Housing Works Grant from the Town worth \$1.3M and the pending Mass Housing CWB application for \$10M plus an additional request for site assistance funds through Mass Housing which brings the total ask from Mass Housing to \$12M. He explained this is under review with Mass Housing who is waiting to see what the final local contributions to the project will be before they make their final approval.

Laura Shufelt spoke in favor of the application, sharing that upon request Mass Housing will accept right of first refusal provisions to be included in their restrictions. She said she has not yet seen a CWB restriction, however the Trust should set up a reserve account so they can act after 15 years. She noted that the CWB program is set up to target 1st generation homeowners and folks from disadvantaged backgrounds saying there were no preferences for that population in the marketing plan. Mr. Quinn explained that as part of the marketing study that was done, there is an extensive list of potential qualified homebuyers that are existing applicants over income for 80% AMI housing. He said there was outreach to local partner organizations and employers and are working on developing a partnership to target underserved populations, reaching out to as many local groups as they can. Mr. Quinn explained that there will be additional staff focusing on community outreach for homeowner opportunities. Attorney Galvin will review a copy of a CWB restriction to ensure it is consistent with the Trust.

Mark Milne spoke in favor of the project and noted that it is important for the Trust to consider creating a fund to ensure perpetual affordability of the units after 15 years. He suggested that the Trust consider funds that will be coming from the Linnell Landing project and designating a portion of those funds to create the reserve account. In answer to Mark's question, Mr. Quinn explained that there is not a minimum contribution to qualify for a CWB project, and that it is more about ensuring that the project is feasible. He noted that the town has already met the local contribution by partnering on the Housing Works portion of the project.

Chair Ells noted that the creation of a reserve fund is included on this agenda as an item for future discussion. He asked Mark Milne and Attorney Galvin to create a draft financial scenario relative to this topic for inclusion on a future agenda.

There was Trust member discussion regarding whether action could be taken today on HACs application. Attorney Galvin said that if the vote is made contingent upon the approval of the Trust rules amendments and finalization of documents, a vote would be appropriate.

The motion of Andy Clyburn was seconded by Mark Milne to move Housing Assistance Corporation's application to a vote for approval contingent upon approval of the Trust Rules changes as outlined and receipt of completed documents.

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

4. Approval of Minutes from August 5, 2024, and October 4, 2024

The motion of Andy Clyburn was seconded by Mark Milne to approve the August 5, 2024, meeting minutes as submitted. Roll Call Vote: Laura Shufelt (yes), Mark Milne (yes), Andy Clyburn (yes), and Mark Ells (yes). Motion carried.

The motion of Mark Milne was seconded by Laura Shufelt to approve the October 4, 2024, meeting minutes as submitted. Roll Call Vote: Laura Shufelt (yes), Mark Milne (yes), Andy Clyburn (yes), and Mark Ells (abstained). Motion carried.

5. Matters not Reasonably Anticipated by the Chairman

Laura Shufelt asked if there was a timeline for appointing a new Trust Board member. Chair Ells said as soon as feasible he will recommend and appoint a new member which will need to be ratified by the Town Council.

6. Correspondence

- Attorney Galvin will review the draft response letter to the 242 Barnstable Road applicant.
- Letter of Appreciation for Wendy Northcross to be forwarded to Trust Chairman for signature.

7. Consider Establishment of a Fund to Set Aside for Future Buydowns or Purchase of Deed Restricted Units or Deed Restrictions in Order to Preserve Affordable Units Post Resale

Jillian Douglass shared that the Town Council had at one time appropriated funds for the buydown of LIP and HOC units, administered through the Planning & Development Department explaining that there is precedent for this. Chair Ells referred this to Attorney Galvin and Director Milne to bring back a comprehensive draft package for the Trust to consider.

8. Next Scheduled Meeting, Friday, December 6, 2024, 9:00 a.m.

9. Adjournment

The motion of Mark Milne was seconded by Andy Clyburn to adjourn the meeting.
Roll Call Vote: Laura Shufelt (yes), Mark Milne (yes), Andy Clyburn, 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 Meeting Agenda for November 14, 2024.

Exhibit 2 – CCR Holdings Documents – 50 Yarmouth Road, Hyannis (Linnell Landing)

Exhibit 3– Current Affordable Housing Trust Rules and Regulations

Exhibit 4 – Application – Housing Assistance Corporation – 268 Stevens Street, Hyannis

Exhibit 5 – Draft Trust Meeting Minutes – August 5, 2024, and October 4, 2024.

Exhibit 6 – Draft Response Letter to Applicant – 242 Barnstable Road, Hyannis.

Respectfully submitted,
Ellen M. Swiniarski
Community Preservation Coordinator
Planning & Development Department