



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

Friday, January 22, 2021
Affordable Housing Growth & Development Trust Fund
Board Meeting APPROVED Minutes
Remote Access Meeting Via Zoom Link: <https://zoom.us/j/98901392301>
9:00 A.M.

As a result of the COVID-19 State of Emergency, this meeting was closed to the public to avoid group congregation.

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), Laura Shufelt, Wendy Northcross, Andy Clyburn. Absent – Mark Milne.

Other Attendees: Ruth Weil, AHG&DTF Staff; Elizabeth Jenkins, Director of Planning & Development; Arden Cadrin, Housing Coordinator, Planning & Development; Charlie McLaughlin, Assistant Town Attorney; Town Councilor Paula Schnepf; Ellen Swiniarski CPC Coordinator, Planning & Development.

Call to Order

With a quorum present, Chairman Mark Ells called the meeting to order at 9:00 a.m. and stated that today's meeting is recorded and broadcast on Channel 18 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: Wendy Northcross, Laura Shufelt, Mark Ells and Andy Clyburn

Topics for Discussion

1. Public Comment

No Public Comment.

2. Minutes

Approval of Minutes of the January 8, 2021 meeting.

Motion was made by Wendy Northcross, and seconded by Andy Clyburn to approve the January 8, 2021 meeting minutes as amended by Wendy Northcross. Roll Call Vote: Mark Ells (Yes), Wendy Northcross (Yes), Andy Clyburn (Yes). Motion carries.

3. Update by Elizabeth Jenkins, Director of Planning and Development on housing projects in the pipeline that may be seeking Trust funds.

Elizabeth Jenkins, Director of Planning and Development shared her screen depicting a tracking sheet for developments in the pipeline that are either complete, under construction or permitted, all meeting the 10% inclusionary goal. She explained that some projects exceeded the requirements and did so in exchange for additional funding; Elizabeth offered the Furman/255 Main Street and the Mid Point Apartments on West Main Street projects as examples of projects that had both received Community Preservation Funds. She said that there is not a lot of production required by the inclusionary ordinance that is resulting from the contribution of public funds and there are a number of projects in permitting now. She shared that she recently spoke with representatives of the 720 Main Street, Brew House project and although their intent to resurrect that project, they are not moving forward right now. However, the New England Develop project is over at the Cape Cod Commission and is proposing to comply with the inclusionary ordinance. Elizabeth reminded that the Telman/Carleton project is at the Trust right now with an application and will exceed the inclusionary requirements. She explained that for projects in permitting beyond the Whitehall project, we have not been approached, nor have we approached regarding creating any additional affordable units with Trust funds. She said that there have been recent discussions about smaller scale development and some interest in pre-development funds. Planning and Development has been working to promote those funds through exploratory meetings with folks who are looking to create units. She concluded that this is where inquiries by private developers stand at the moment.

In response to Wendy Northcross' inquiries, Elizabeth explained that pre-development funds come from the Trust as it is one of the four categories for use of Trust funds identified in the Notice of Availability of Funds; and, Ruth Weil agreed to send a copy of the Inclusionary Ordinance to Wendy.

4. Overview of the housing component of the Economic Development Bill.

Laura Shufelt shared her screen and narrated a PowerPoint presentation entitled "Summary of Housing Provisions in the Economic Development Law".

- Housing Choice

Laura explained that after three years, this law that lowers the required vote from two-thirds majority to a simple majority for approval of certain zoning ordinances or bylaws, finally passed for zoning ordinances/bylaws to allow as of right:

- Multifamily housing or mixed-use development in an eligible location, such as a smart growth zoning district, TODs, and village centers;
- Accessory dwelling units, whether within the principal dwelling or a detached structure on the same lot;
- Open-space residential development.

Laura explained that this law also lowers the threshold to a simple majority vote for special permits for the following:

- Multifamily or mixed use development in eligible smart-growth location;
- Increase in permissible density associated with a multifamily or mixed use development;
- Accessory dwelling units in a detached structure on the same lot;
- Reduction in the required parking for a residential or mixed use development.

Laura pointed out that this law does not include provisions for accessory dwelling units within a principal structure and may result in a missing piece for some communities.

Laura explained that the adoption of 40R smart growth zoning districts, or starter home zoning districts, are special State tools for growth. In smart growth districts, 40Rs are usually either in TOD or village centers, and have 20% affordability requirements. The project is required to be 20% affordable throughout the development. Laura provided an example where 100% market rate units can be offset by a greater number of affordable units elsewhere. She indicated that this has been on the books, but no one has used this for a while likely because they were unable to get the required 2/3 vote previously required which is now also reduced to simple majority.

Special permits to approve the following development also have reduced thresholds to simple majority vote:

Multifamily housing within ½ mile of a transportation station with at least 10% affordable to 80% AMI; mixed use developments in centers of commercial activity with at least 10% affordable to 80% AMI; and reduction of parking requirements, resulting in the provision of additional housing units.

Laura explained the changes related to the protesting of Housing Choice Zoning Changes that take effect immediately per the Governor: In a municipality with a council of less than 25 members, if the owners of more than half of the land impacted by the zoning amendment or abutting neighbors within 300 feet protest the zoning change, the required vote for any of these ordinances will rise back up from simple majority to the two-thirds majority vote requirement.

- Abutter Appeals Reforms

Laura explained that because appeals can drag on for years, this reform allows a judge to require a party appealing a decision to approve a special permit, variance, or site plan to post up to a \$50,000 bond to secure the payment of costs if the court finds that the harm to the defendant or to the public interest resulting from delays caused by the appeal outweighs the financial burden of the surety or case bond on the plaintiffs. The court will consider relative merits of the appeal and the relative financial means of the plaintiff and the defendant.

- State Low Income Housing Tax Credit

Increases the annual state low-income housing tax credit program cap from \$20 million to \$40 million. This increase does not have a sunset date. The Governor vetoed language that would drop the cap back to \$20 million after January 1, 2026. Laura explained that a lot of low income housing tax projects need to obtain both Federal and State tax credits to fill the gap of costs of construction. She indicated that this is unique to Massachusetts as not many other states have their own bonded tax credit program.

- Regional Development Agreements

Laura noted that this would allow contiguous municipalities to enter into agreements to allocate public infrastructure costs, municipal service costs and local tax revenue associated with the development of an identified parcel or parcels or development within the contiguous communities generally. Laura indicated that for the Town of Barnstable, agreements must be authorized by a majority vote of the Town Council, approval of the Town Manager, as well as receive approval from the Department of Revenue.

- Housing Related Capital Authorizations
 - Transit-Oriented Housing Developments – \$50 million in capital grants and loans for transit-oriented housing. At least 25% of supported units must be affordable to 60% AMI households.
 - Climate-Resilient Affordable Housing Developments - \$10 million for sustainable and climate-resilient construction in affordable, multifamily housing developments. At least 25% of supported units must be affordable to 60% AMI households.
 - Neighborhood Stabilization - \$50 million for neighborhood stabilization to return blighted or vacant housing back to productive use. Laura explained that this is a separate program working with the Attorney General’s Office and infuses a lot of money into blighted neighborhoods. Wendy Northcross inquired whether after the exhaustion of this fund, it will be replaced and Laura said no, however these are only pieces in the stack of funding in most cases. Members discussed identifying projects in Barnstable that may be eligible. Laura said that the bus station area of Hyannis has been studied and the plan would be to move that forward and use planning money, pre-development money, or incentive money that would actually get the plan to move forward.

Andy Clyburn inquired regarding Housing Related Capital Authorizations and if Laura had a sense regarding the number of individual grants and per project amounts? He stated that at 25% affordable/60% AMI, projects have been difficult. Laura said that she thought the estimates in her opinion are targeting tax credit projects. She pointed out that it is a way to put the tax credit projects in a smart growth location that would give people of lower income, the opportunity to walk to work instead of being located on the edge of an industrial park. The grants may allow climate resiliency to elevate the sustainability of the tax credit project that is being built that would otherwise be too difficult to take the step to make it green. In response to Andy Clyburn, Laura said that the number of projects statewide and grant money cap has not yet been determined, however, guessed that the Barnstable TOD will have three projects, maybe 4, and the climate resiliency will be more spread out, possibly 25 projects. She explained that climate resiliency often does not come as a grant, but as a reduction in interest on a loan. It is a different way of subsidizing.

- Tenant Appointment to Housing Authority Board
 - Laura said that the slides will be available to read. She provided a brief outline of the requirement that every housing authority board have a tenant member. Barnstable already has this as a requirement, because of Federal housing, they however have not always followed it. The tenant member is to be appointed, not elected, by either the Town Council or Town Manager. If there is presently no tenant member on the board, the next vacancy will require an appointment of one.
- Housing Development Incentive Program
 - Laura explained that this increase in funding and change of amendment was vetoed by the Governor. This was being pushed by the Senate and House to require 10% of the units to be affordable at 60% AMI for rental units, and 80% AMI for home ownership. Additionally, it would increase transparency and equity through reporting requirements. Presently, reporting requirements for HDIP are not very robust. Laura said that she expects that this will come back as

it had a lot of support and work with the Governor to find out what parts of it he did not like.

Andy Clyburn indicated that due to time constraints, the Trust Fund Board should consider taking items requiring a vote out of order. Ruth Weil confirmed that the hiring of the consultant for the Residence@850 housing development was authorized by the Trust Chairman and did not require a vote. Ruth shared that Paul Rushinskas, the chosen consultant, will be present at the next meeting; he is accumulating more information from the developer and she will forward as it is received.

5. Report on whether there is a future alternative to the sewer line on the portion of the property now addressed as 1200 Phinney's Lane, Hyannis, MA (Map 274, Parcel 031) which was formerly owned by the Disabled American Veterans (DAV) and discussion of the next steps to evaluate the parcel for development.

David Anthony provided the Board with an update regarding the sewer line at the VFW property. He indicated that he had conversations directly with Griffin, Town Engineer, who noted that timing is critical. The two options for connecting the property to sewer are prior to spring 2023, and after spring 2023. Prior to spring of 2023, the existing sewer line that runs across the parcel and connects across Phinney's Lane has capacity to support approximately 50 units on the VFW property. David explained that after 2023, work is anticipated to be done in Phinney's Lane associated with the Vineyard Wind project and can connect by a stub out to the street. This is the answer to one of the clear cut questions that Griffin wanted to make sure was known. David indicated that making the determinations and connections with limitations of a sewer pipe that runs underneath the parcel now, will help dictate what you can put on the site and where buildings and parking can be located. To provide future access to the sewer line, parking lots and green space can be located over the sewer line, however buildings cannot. David said that the next update will include a layout that is being drafted by Shane in DPW who is finalizing the existing conditions. Once complete, a conceptual plan can be developed to determine where the possible land division should be located. The actual dividing of the land is not critical before we start to explore the potential of the property more officially. The final land division and paperwork can be done after we get a developer on board so we can work with them to determine where the appropriate boundary should be. David said that Shane has been in touch with Charlie McLaughlin for the title research.

Attorney McLaughlin noted that the question of the back title begs the question of whether to stay within the confines of the option to consider going more broadly beyond the confines of the original VFW parcel. Shane will be providing a full perimeter plan with elevations and topos, including basic sewer and other issues. This will give us a full presentation to a developer as to what might go where on the lot. There are options depending how large you want to go on the site. The title references to the surrounding property will be reviewed and we will go from there. We are waiting for definition on the ground to see what the options for potential may be. Charlie said that Ruth noted in the exchange of the property from the Catania family, there is a reference that the exchange was to be for police purposes. This will need Legal Dept. review to find out what relief we may need internally to free us of that restriction however he did not anticipate this to be much of an obstacle. The next meeting will include further information for the VFW property.

6. Discussion of the next steps to evaluate the parcel located at 34/35 Mitchell's Way, Hyannis, MA. (Map 308, Parcels 273/001 and 273/002) for development.

David Anthony noted that the Mitchell's Way property has been discussed internally regarding some limitations and complications associated with this pair of parcels that has been lingering for some time as town owned. There have been a number of proposed uses over time. David indicated that guidance is needed from Trust members regarding effort and reward. The property may be limited to a single affordable unit, and there will be time and effort required to correct some of the apparent flaws and issues with it. David asked if this the best place for staff to spend their effort as opposed to trying to find an alternative property that could potentially have multiple units providing a better value for that staff effort. Mitchells Way property has complications, however it is an asset that needs to be addressed one way or the other. David said that it has been suggested that if these parcels were used for some other purpose, the revenue from that use could be dedicated back to the Affordable Housing Trust, indirectly supporting the mission of the Trust. David asked for direction from the Trust members regarding where to spend staff time on title, establishment of boundaries, survey work etc.

Wendy Northcross noted that the Career Center nearby was at one time interested in the property to expand their parking. Ruth Weil reminded that a public bid would be necessary however, we could notify the Career Center that this was going to take place. Andy Clyburn stated that the Trust will need to report back to the Asset Management Committee if this property is one that will be pursued for affordable housing. Laura Shufelt questioned if the parcel could be connected to sewer because the potential for a greater number of units is very possible with sewer. David noted proximity to water, topography, and possible encroachment issues as challenges that need to be settled. Additionally, there had been push back from the neighborhood previously.

Attorney McLaughlin agreed that at lot of time had previously been spent reviewing the issues. However, recently he has worked with Bob Murry on designs used in Harwich that fit neatly on 1 acre of upland. The design was an attractive townhouse that was well received by the community. As Laura said, if you can solve the septic issue, there could be greater potential. If the sewer issue can be resolved, a more intense development could be designed while still honoring all of the conservation requirements. Attorney McLaughlin identified that there is a slight encroachment issue from Mr. Perry's property, however the Town took that property for non-payment of taxes, and by that time, the encroachment had attained adverse possession. For purposes of development, we do not want a 5-year Land Court fight for 1,000 s.f.

Andy Clyburn suggested that this parcel may be one that should be held until it is decided if the sewer will be brought to this area. Charlie said he will discuss with Griffin and Dan and then bring it back to the Trust and suggested that at some point the Trust could decide to RFP the property for a single unit, or hold it in inventory for the future.

7. Discussion of the next steps to evaluate the parcel located at 109 Sea Street, Hyannis MA (Map 307, Parcel 080) and the next steps to evaluate the parcel for development.

David Anthony stated that abutting this parcel, there is a small sliver of land owned by Housing Assistance Corporation that was part of a larger acquisition of property elsewhere in Town.

There was discussion that through cooperation with HAC the Town could either grant their property to HAC, or HAC would grant the property to the Town; or work jointly. The two parcels together would create a potential lot that could be developed on Sea Street. There was preliminary discussion that HAC is interested, however it has not gone further. Ruth Weil questioned what the value of the sliver of land in question was and reminded that if it is valued over \$35,000, it will require an RFP public bidding process. David noted \$44,200 as the assessed value and offered that an appraisal given the limitations in that area, may generate a lower actual value and opined that it may be worth spending \$600 to find the value is actually below the \$35,000 threshold. This is another property that if it is put out for bid without full restrictions, an abutter could buy it, however the revenue could be dedicated back to the Affordable Housing Trust if the property is with the Trust. David asked if this parcel would be ready to be recommended to the Asset Management Advisory Committee? There could be a meeting as early as the 1st or 2nd week of February where they are going to look for an update on some of these potential transfer of parcels, or should it be held for now. Andy Clyburn mentioned that the Trust's interest is creating affordable housing, not generating revenue for the Trust. In a priority scheme, he stated that he is more interested in parcels that are going to create affordable units rather than future revenue sources for the Trust.

Chair Mark Ells noted the time and that the discussion regarding agenda items 5, 6, 7 and 9 had not been completed. Members agreed that these items would be taken up again at a future meeting. Mark indicated that he would like to have a discussion about the creation of a basic checklist as the Trust members are not property managers, nor are they prepared to sort through the various issues that come forward as shown in these three examples. The property issues need to be resolved before a parcel is brought to the Trust, so the Trust effort is spent on a viable parcel ready to consider putting housing units upon. Chair Ells recommended to the Board that the Town create a checklist of the items and considerations that need to be accomplished before a parcel is referred over to the Trust. Laura noted that the pre-development work could be done by staff with the Trust support and then brought forward. However, it depends on who is making the determinations and whether affordable housing is at the forefront, or whether other interests are seeking funds to meet their goals. If the goal is to find properties for affordable housing, then it would make sense to bring a package to the Trust that is ready to go. Laura explained that there may be other interests competing with the Trust. Other competing interests will narrow the list to properties that we might be interested in that could be dismissed. Chair Ells explained that the Town has so many parcels that we do not know their potential; this was identified as a primary interest of the Town Council. Shifting this task over to the trust does not address this.

Ruth Weil noted that the next meeting is likely to be devoted to the Residence @ 850 and members decided that topics that have not been discussed on today's agenda will carry forward to a future meeting.

Adjournment

Motion was made by Laura Shufelt and seconded by Wendy Northcross to adjourn. Roll Call Vote: Andy Clyburn (yes), Wendy Northcross (yes), Laura Shufelt (yes), 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 1/22/21.

Exhibit 2 – Draft minutes for 1/8/21 Affordable Housing Growth and Development Trust Fund Board meetings.

Exhibit 3 – List of Planning & Development Projects in the Pipeline- E. Jenkins, Director P&D

Exhibit 4 – PowerPoint – Summary of Housing Provision in the Economic Development Law (H.5250) – Laura Shufelt.

Respectfully submitted,

Ellen M. Swiniarski

CPC Coordinator

Planning & Development Department