

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE REPORT

MONDAY, APRIL 26, 2010

Present: Ald. Johnson (Chairman), Baker, Lappin, Lennon, Sangiolo, Shapiro, Swiston and Yates

Also Present: Ald. Hess-Mahan

Others Present: Candace Havens (Acting Director, Planning Dept.), Amy Yuhasz (Community Development Program Manager), Marie Lawlor (Assistant City Solicitor), David Banash (Member, Planning & Development Board), Karyn Dean (Committee Clerk)

#93-10 ALD. JOHNSON AND SANGIOLO requesting revision of **Section 30-27** of the City of Newton Ordinances governing membership of the Zoning Board of Appeals by providing selection criteria guidance and process so that the level of expertise in related areas, or the equivalent combination of experience and/or education is present in order to enhance the ability of the Board to increase its level of service to Newton. [03/26/10 @ 12:31 PM]

ACTION: **HELD 8-0**

NOTE: **Items #93-10 and #92-10 are discussed together.**

Ald. Johnson explained that she meets with the Director of Planning and the Commissioner of Inspectional Services once a month to discuss items on the agenda and get their input. She noted that Mayor Warren is looking to fill vacancies on various Boards and Commissions and some guidelines might be helpful. These ongoing discussions are critical to determine the needs of the City. Since the Planning and Development Board and the Zoning Board of Appeals (ZBA) have significant input on ordinance changes or what people can do with their property, for example, she feels it is necessary to find people with appropriate experience and expertise to populate them as the seats are vacated. The idea is not to provide a job description, but to provide some guidelines. She looked at the ordinance governing the Community Preservation Committee (CPC) as a guideline. Ald. Yates said the parameters around the membership of the CPC are quite arduous and he did not want to make this process that difficult.

Guidelines

Ald. Sangiolo said that at a previous ZAP meeting, Commissioner Lojek mentioned that some other communities have guidelines for membership on certain boards and commissions. She felt that was a good idea. Ald. Johnson noted that there had been some past discussion relative to the ZBA taking on some of the special permit granting authority that now lies with the Board of Aldermen. Ald. Lappin raised the question of

the make up of that Board and there was general concern about appointments being purely political.

Marie Lawlor, Assistant City Solicitor, explained that Eileen McGettigan of the Law Department is legal counsel for the ZBA. Ms. Lawlor delivered her comments to the Committee as she was unable to attend the meeting. Ms. McGettigan felt that the expertise in planning requirement was not necessary as that would be relative primarily to 40B projects which were few and far between. She also felt the category of expertise in engineering was not necessary as the ZBA was not involved in the re-engineering of projects. She did feel a real estate broker would be a good addition, however.

Ms. Havens felt that having some parameters around membership to these Boards would be helpful. She felt that planning and engineering people would be helpful, but she respects Ms. McGettigan's opinion. Ms. Havens said that several members of the Planning Department have sat on these types of boards in other communities in the past. They all concluded that having people with a variety of interests was best and the bottom line is to find a group that can work well together. Ald. Yates said he would like to see some reference to architecture expertise. The Mayor's office is taking applications from people who are interested in volunteering on boards and commissions. The applicants are all being considered at the same time with the most appropriate to be selected amongst them. Ms. Havens thinks this is a step towards elevating the ability of the Boards and Commissions. Ald. Swiston agreed that a diverse group would be the ideal as did Ald. Hess-Mahan.

Ald. Baker said it is his impression that both Boards have been diligent. Making these amendments may change the current membership and he would like to better understand what problem was being solved with these changes. He did not want to lose legal talent and he didn't want to lose people who were diligent and willing to work. Part of the challenge of these Boards is to interpret some legal matters. He also felt that the qualifications laid out in this language would bring a more pro-development sentiment to the Boards. Currently, he felt there was no bias one way or the other. Finding a mix of people that can work together as a team is a very important component and should be a significant consideration. Ald. Johnson said that part would come about in the selection process and not in the criteria for eligibility. Ald. Yates said that one recent point of controversy on a case with the ZBA was a very specific legal standard that was supposed to be met, and in the view of many others that were present at the meeting, it was met. However, the majority of the ZBA voted against it nonetheless and those members were lawyers. Ald. Johnson said many members of the ZBA were lawyers so this new language could lead to a more diverse body.

Planning & Development Board

Mr. Banash said that he felt there was a problem in creating a list of requirements one must fill for eligibility. The list presented in this language left out many of the qualities that would be desirable for a member of the Planning and Development Board. He understood that the Board of Aldermen deals primarily with the Planning portion of the work in the Land Use Committee. However, the development part of the Board is

distinct. Many of the other communities do not combine these responsibilities, therefore, statutes from those communities would have little significance for Newton. The functions of the Planning and Development Board include approval of CDBG money, for example. It would be useful to have someone with expertise and experience in social work to deal with these types of issues. They also have a current member who has expertise in accounting for affordable housing which has been invaluable. Mr. Banash asked them to consider broader language that would indicate more balance to include all the functions of the Planning & Development Board. He thought the Director of Planning and Development should be relied upon to educate the Mayor on the many different functions of the Board. He also wanted to be sure that the language did not prevent a Board from functioning because all the appointments were not filled according to any guidelines. He noted that there are not always people waiting to fill these slots. These are volunteer positions. Ald. Sangiolo noted that the ordinance does not specify all the functions of the Planning and Development Board. She said it would be useful to understand them all to continue work on these items.

Follow Up

- Ald. Yates would like to see how other communities handle the appointments to these types of Boards and what, if any, guidelines they use;
- the revision of the statute for membership of the Urban Design Commission, and;
- the state enabling acts for the membership of the ZBA and the Planning and Development Board.
- Ald. Baker would like to know the experience and expertise of the current Board members;
- some listing of the functions and standards that are applied by the ZBA and the Planning and Development Board, and;
- opinions from the ZBA and the Planning and Development Board members relative to any gaps they feel could be filled or if the current composition is appropriate.
- Ald. Johnson would like anyone with any suggestions for amended language to send them to her or Ald. Sangiolo.

Ald. Yates moved to hold this item and the Committee voted in favor 8-0.

#92-10 ALD. JOHNSON AND SANGIOLO requesting revision of **Section 22-3(a)** of the City of Newton Ordinances governing membership of the Planning Board by providing selection criteria guidance and process so that the level of expertise in related areas, or the equivalent combination of experience and/or education is present in order to enhance the ability of the Board to increase its level of service to Newton. [03/26/10 @ 12:29 PM]

ACTION: **HELD 8-0**

NOTE: See above note.

#30-10(2) POST AUDIT & OVERSIGHT COMMITTEE requesting a discussion with the Planning & Development Department relative to the governance process of the Newton Community Development Authority (NCDA), including recommendations and potential changes to the NCDA.
[01/26/09 @ 9:00 PM]

ACTION: **HELD 8-0**

NOTE: Ald. Swiston, Chair of the Post Audit and Oversight Committee, presented this item. She said the interest in the Newton Community Development Authority (NCDA) was brought up in her Committee relative to the Planning Board's decision to forgive approximately \$900K in loans to Citizens for Affordable Housing in Newton Development Organization (CAN-DO). The Board of Aldermen was not made aware of that decision for several months. According to the way the NCDA was legislated, there were no checks and balances in place. Post Audit's recommendation was to review the legislation governing NCDA with the Board so they could understand the responsibilities and oversight involved in the NCDA, and to make a determination to leave it as is, or make some changes. The result of that recommendation is this docket item.

Ald. Shapiro explained that the Board of Aldermen submitted Home Rule Legislation (HRL) in 2007 to the state which made the Director of Planning the sole member of the NCDA. The Planning Director could make decisions that would need to be ratified by the Planning Board. He wondered if the necessary oversight was built into this arrangement. Ald. Yates said that at different times there were feelings that perhaps the Newton Housing Authority should not be the only entity to build housing in the City. The NCDA was given authority to provide an alternative mechanism.

Presentation

Amy Yuhasz, Community Development Program Manager, presented a PowerPoint. It gives an historical overview of the NCDA, its current functions, and what will be happening going forward. It is attached to this report.

Loan Forgiveness

Ms. Yuhasz explained that the loans in question were held in the name of the NCDA. Michael Kruse, who was Director of Planning at the time, recommended the loan forgiveness to the Planning & Development Board. The Planning & Development Board, acting as the Community Development Advisory Board, recommended that the loans be forgiven and the Mayor approved that recommendation. Ald. Lennon explained that the loans are not actually forgiven but are on the books as 0% deferred payment loans. If the entities are ever sold to nonprofit buyers, the loans would have to be repaid with those funds.

Planning Board

David Banash, member of the Planning and Development Board, explained that the Board has oversight of its own. The Board did not just vote to forgive the loans with no follow up. He said there was lengthy and heated discussion on this topic and it was decided that CAN-DO had to come back to the Board to explain how they would amend

their process for better results with no repeat of the financial problems that led to the loan forgiveness. Ald. Sangiolo asked for the minutes to the meetings at which the loan forgiveness was discussed and decided. They are attached to this report (June 1, 2009 and July 13, 2009 and March 1, 2010).

NCDA Functions

Amy Yuhasz addressed the Committee. She explained that one of the functions of the NCDA at its inception was to engage in urban renewal projects. However, the only project they were involved in was the Lower Falls Urban Renewal Plan in the 1970s. The current purpose of the NCDA is to hold mortgages on behalf of the City on CDBG, HOME and/or CPA funded housing development projects. Loan documents are between the NCDA and the City. (The NCDA has a Memorandum of Understanding with the City.) At the time the NCDA was organized, the Department of Revenue would not allow the City to hold mortgages on these types of projects.

Loan repayments are currently in NCDA bank accounts and financial statements are prepared annually by the Planning and Development Department. Starting July 1, 2010 the NCDA accounting will become part of the City's general ledger with accounts managed by the Treasurer and financial statements managed by the Comptroller.

Right of First Refusal

Ms. Yuhasz went on to explain that one primary purpose of filing the HRL was to officially give the NCDA the right of first refusal should an eligible buyer not be found for a property within the allotted amount of time. The NCDA could then quickly buy the property to get more time to find an eligible buyer. If the City became the mortgage holder, the same right could be afforded, however, an aldermanic process would have to be involved which could take significantly more time.

Changes in Structure and Process

Moving forward, changes could be made through another HRL to broaden NCDA membership. Ald. Sangiolo asked how the NCDA might accept other changes. This Committee could come up with some new process ideas or policy guidelines, but how would they be incorporated. Ms. Yuhasz said they have a process in place in that the Planning & Development Board and the Mayor having final approval on the loans and grants that are made. That process is outlined in the Citizen Communication Plan. Ald. Shapiro wanted to be sure that whatever process was in place was transparent and time efficient. Ald. Yates felt that the process was transparent and straightforward. There were notices in the paper and anyone interested in the subject could have found the information on the loans that were forgiven, for example.

Follow Up

Ald. Baker said that an item should be docketed for clarification on loan forgiveness going forward. Ald. Johnson said that if any member had an interest in docketing such an item, they should do so.

Ald. Johnson suggested that a subcommittee of Zoning and Planning come back to the Committee with suggestions for how to move forward in a way that would maintain the nimbleness of the NCDA but perhaps provide some further checks and balances. Ald. Hess-Mahan agreed.

The Committee voted to hold this item to hear the recommendations of the subcommittee which would be made up of Ald. Shapiro, Swiston and whoever else would like to take part.

#122-09 ALD. SANGIOLO on behalf of Armando Rossi requesting a discussion of the proliferation of signage in the city.

ACTION: **HELD 7-0 (Ald. Lennon not voting)**

NOTE: Ald. Sangiolo explained that Mr. Rossi was unable to attend the meeting this evening due to illness. She asked the Chair to hold this item to be taken up again when Mr. Rossi could attend. Mr. Rossi is concerned about signs that residents hang up around the City regarding yard sales, etc. Ald. Yates wondered if this item belonged in the Zoning and Planning Committee. Marie Lawlor, Assistant City Solicitor, said it might be something that the Department of Public Works could deal with since these are not permanent signs. Ald. Sangiolo asked that the Committee hold the item and she will discuss this further with Ms. Lawlor to determine if this should go to the Public Facilities Committee instead.

The Committee voted to hold the item by a vote of 7-0 with Ald. Lennon not voting.

Respectfully submitted,

Marcia Johnson, Chairman

Newton Community Development Authority

Zoning and Planning Committee
of the Board of Aldermen

April 26, 2010

Historical Overview

- ◉ Established under Chapter 705 of the Mass. Acts of 1975 to:
 - > act as an urban renewal agency and as an agent of the City, or to cooperate under the authority and direction of the City with the federal government in any:
 - clearance
 - housing
 - relocation
 - urban renewal
 - rehabilitation
 - community development

Historical Overview

- Newton Director of Planning and Development is the Sole Member, ex officio, of the NCDA
- Planning and Development Board, acting as the Board of the NCDA, must approve his or her actions

Historical Overview

- Limited authority exercised over the years
 - > Involved in the Urban Renewal Plan for Lower Falls
 - > Other redevelopment activity in the 70's

Current Functions

- ◎ NCDA, on behalf of the City, holds mortgages on properties financed with CDBG, HOME and/or CPA funds
 - > affordable housing development
 - > housing rehabilitation
 - > economic development

Current Functions

- ◎ Legislation was changed in 2007 to give the NCDA the "right of first refusal" in the event of a sale where an income-eligible buyer could not be found
- ◎ Prior to the change, NCDA could only purchase property from the City

Project Planning and Approval Process and the NCDA's Role

Five-Year Consolidated Plan

Document that guides the use of federal
CDBG, HOME and ESG funds

- Housing Market Analysis
- Needs Assessment
- Strategic Plan

Process After Loan Award

- Loan documents are between the NCDA and the Subgrantee (MOU between NCDA and City)
- NCDA has the right of first refusal

*Memorandum
of
Understanding*

Process After Loan Award

- Loan repayments are held in NCDA bank accounts and reused on future eligible projects
- Separate annual financial statements are prepared by Planning and Development Department staff
- City conducts annual monitoring

Annual Action Plan

- Lists specific activities (program and projects) that the City will undertake in a fiscal year
- Provides the budget for each project or program

Approval Process

- Advisory Committees
 - > Target Neighborhoods Advisory Committees (4), Economic Development Advisory Committee, Newton Housing Partnership, Fair Housing Committee, Mayor's Committee for People with Disabilities, Human Service Advisory Committee
- Planning and Development Board
- Mayor

Moving Forward

- ⊙ NCDA bank accounts will be incorporated into the City system by July 1, 2010, and managed by the Treasurer
- ⊙ Financial statements will be part of the City's annual statements, and managed by the Comptroller

Moving Forward

- ⊙ Legislation could be changed to broaden NCDA membership
- ⊙ After approval by the Board of Aldermen, the State Legislature would need to approve the change

PLANNING AND DEVELOPMENT BOARD MINUTES

March 1, 2010 City Hall, Planning and Development Department Rm 209, 7:30 p.m.
1000 Commonwealth Avenue, Newton, Massachusetts 02459

Full Members Present:

Tabetha McCartney, Chair
Joyce Moss, Vice Chair
David Banash
Leslie Burg

Alternate Members Present:

Howard Haywood

Staff Present:

Susan Abele, Jackson Homestead
Danielle Bailey, Community Development Planner
Kathleen Cahill, Community Development Senior Planner
Trisha Kenyon Guditz, Housing Program Manager
Rob Muollo, Housing Development Planner
Carol Schein, Parks and Recreation Department
Eve Tapper, Chief Zoning Code Official
Amy Yuhasz, Associate Director of Housing and Community Development

Public Present:

Ruth Apfelbaum	Jeremy Munn
Rob Caruso	Justin Sallaway
Bethel Charkoudian	Gary Sinclair
Stuart Cleinmen	Ken Sinclair
Jayne Colino	Jeanne Strickland
Dorothy Derick	Joanne Vancon
Martin Healy	Stanley Ward
Phil Herr	Carol Warner
Michael Lepie	Phil Whitback
Josephine McNeil	Kathy Zegarelli
Sheila Mondshein	

T. McCartney, Chair, called the meeting to order at 7:30 p.m.

Community Development Board

- 1. Minutes: Approve the minutes of the January 4, 2010 meeting of the Planning and Development Board acting as the Planning Board and Community Development Board.**

On request of T. McCartney-for a motion to approve the minutes, H. Haywood so moved.-L. Burg seconded the motion. The Board voted 4-1-0 to approve the minutes.

~~\$110,900.63~~ in CDBG economic development loan pool funds to the Newton Housing Rehabilitation Program.

4. Action Item: Update from Citizens for Affordable Housing in Newton Development Organization, Inc. (CAN-DO) on the organization's progress in meeting the goals outlined in their July 8, 2009 letter to the Planning and Development Board.

Josephine McNeil, the Executive Director of CAN-DO, provided the Board with a history of the organization. CAN-DO was formed in response to the availability of federal funds for a Community Housing Development Organization (CHDO) in Newton. The City approached Newton Community Development Foundation (NCDF) for assistance in identifying potential board members for Newton's CHDO. In 1994 Ms. McNeil became one of six initial CAN-DO board members. CAN-DO collaborated with the Second Step to develop its first project, Garfield House, in 1996. Garfield House is a transitional home for survivors of domestic violence. In 1999 CAN-DO received a CDBG capacity building grant from the City. This grant enabled the organization to hire Ms. McNeil as a part time Executive Director. In last ten years, CAN-DO has developed 37 units, 30 of which are deed restricted. CAN-DO worked with Newton Community Service Center to develop the Christina Street project. This project was the organization's first experience with a Chapter 40B project. Due to neighborhood opposition Christina Street took a year longer to complete than was originally anticipated.

CAN-DO has expanded their development and management portfolio to include affordable rental units. These units currently house families with Section 8 vouchers. CAN-DO has assisted a total of 45 homeless families (including 80 children). An additional 26 families (including 30 children) have been assisted with permanent rental housing and eight families have been provided with homeownership opportunities in Newton as a result of CAN-DO's work.

CAN-DO's mission driven efforts have led the organization to assume considerable risk. For example, CAN-DO recently utilized one of their vacant rental units to house a homeless single mother with a child. The family was taken in with the expectation that the City would soon receive Homeless Prevention and Rapid Re-Housing Program (HPRP) funds, as part of the American Recovery and Reinvestment Act, which could be applied to this situation. These funds took six months longer than anticipated to come through.

Another example of this risk is exemplified in the Millhouse project. Four of the six units were affordable in this project. When the housing market declined, CAN-DO was unable to financially recover, because the sale of the market rate units no longer supported the affordable units. Millhouse took over three years to complete and CAN-DO had no developer fee to show for the project. The project had a detrimental effect on the organization's financial situation and left CAN-DO operating off of credit card debt. The debt forgiveness approved by the Planning and Development Board in June 2009 offered some financial relief.

Over the next several years CAN-DO plans to develop a two unit, rental development targeted to veterans. The developer fees anticipated as a result of this project are expected to improve CAN-DO's financial situation further.

Ken Sinclair, CAN-DO's treasurer, reviewed the financial information submitted in the Planning and Development Board member's packets. Mr. Sinclair explained that each property should be able to financially stand on its own. Each project should be making a management payment to CAN-DO's central operating budget. This is currently not the situation due to the organization's diminished and/or lack of developer fees. However, CAN-DO's fundraising has gone up 18% from 2008 to 2009. This is particularly remarkable given the current economy.

The 2009 audit is in progress and CAN-DO will be submitting the results of that audit to the Planning and Development Board. The organization's profit and loss statement, which includes the direct loan forgiveness, shows an \$18,000 loss for 2009. However, without this loan forgiveness CAN-DO would have had a \$29,000 to \$30,000 loss in 2009. In 2010 projections show that the organization will experience a year end gain of \$4,000. While this is not where CAN-DO hopes to be it represents a good start to regaining better financial control.

T. McCartney indicated that she was not pleased with the financial information submitted by CAN-DO and stated that more thought should have been put into the pro forma. Instead of carrying over all costs as a constant CAN-DO should account for increasing costs and anticipated vacancies. There were several individual property management fees, which include salary, payroll fees, and standard maintenance, that were very high. T. McCartney would like CAN-DO to strive toward a standard management fee of 5% to 10%, instead of the current 18% to 20%. In addition, certain maintenance costs in a rental property operation should be capitalized instead of expensed (as is currently being done). A balance sheet, showing the debt on each property and the organization's cash position should also be submitted to the Board. T. McCartney would like CAN-DO's board to evaluate the operating numbers with the goal of increasing the financial effectiveness of each property. For example, the expenses at Garfield House account for 80% of the property's income. Going forward CAN-DO should provide information to the Board on these expenses. In addition, the services grant that goes along with the (off setting) services expense for Christina Street should be shown as income for the property. T. McCartney would also like quarterly meetings to take place between the Board and CAN-DO.

J. Moss wondered why the developer fee for Veteran's House would be higher than the other properties developed by CAN-DO. Ms. McNeil responded that CAN-DO plans to take the maximum developer fee (12.5%) in order to enable the organization to set aside reserves for each property. In the past CAN-DO's developer fee was 5% to 7% but this has not been enough to sustain the financial viability of the organization.

D. Banash stated that he believes CAN-DO should hire an internal auditor to provide the type of financial analysis that T. McCartney completed as a volunteer. Ms. McNeil stated that the perspectives and methodologies of financial analysts differ from person to person. For example, while T. McCartney has one philosophy with regard to capitalizing expenses, CAN-DO's bookkeeper adheres to a different methodology.

It was Ms. McNeil's understanding that the Board was looking for a comparison of CAN-DO financial status prior to the loan forgiveness, after the loan forgiveness, and going forward. A financial analysis on each property was not conducted. If the Board would like to review this

PLANNING AND DEVELOPMENT BOARD MINUTES

July 13, 2009 City Hall, Planning and Development Department Rm 209, 7:30 p.m.
1000 Commonwealth Avenue, Newton, Massachusetts 02459

Full Members Present:

Tabetha McCartney, Chair
Joyce Moss, Vice-Chair
David Banash
Leslie Burg
Scott Wolf

Staff Present:

Mike Kruse, Director of Planning and Development
Amy Yuhasz, Community Development Program Manager
Trisha Keynon Guditz, Housing Development Program Manager
Kathleen Cahill, Community Development Senior Planner

Public:

Rimma Zelfand, Jewish Family and Children Services
Meredith Joy, Jewish Family and Children Services
Phil Whitbeck, Chair of the Human Service Advisory Committee
Josephine McNeil, CAN-DO
Michael Lepie, Citizen
Elizabeth Lepie, Citizen
Sara Lepie, Citizen
Steven Freedman, Citizen
Josh Freedman, Citizen
Dan Albertson, NewtonTAB

T. McCartney, Chair, called the meeting to order at 7:30 p.m.

Community Development Board [7:30]

1. Action Item: Approve the minutes of the June 1, 2009 meeting of the Planning and Development Board acting as the Community Development Board.

M. Kruse noted that on page three of the minutes, the last sentence of paragraph four, 31 of the 38 units are affordable not 16 of the 38 units as written in the minutes. On request of T. McCartney for a motion to approve the minutes as corrected, L. Burg so moved. S. Wolf seconded the motion. The Board voted 3-1-0 to approve the minutes.

2. Public Hearing and Action Item: Recommendation from the Human Service Advisory Committee for implementation of a three-year \$923,339 Homeless Prevention and Rapid Re-

grant. L. Haynes stated that although homeless and at-risk of homeless populations may always exist, the volume of folks finding themselves in a desperate situation is greater now due to the economic state of the country. The HPRP aims to create a bridge to stability for these populations.

Eligibility will be determined through both financial criteria and a system of questions related to risk factors. This system of questions will be developed in collaboration with the twelve agencies working to provide direct services under the grant. Outreach efforts will be focused on particular populations. The HPRP represents one element out of a broad spectrum of services but it is a way for people who are not stably housed to enter the system. Another goal of HPRP is to reduce the amount of funding being spent by the state on emergency housing (hotel vouchers etc.)

L. Burg made a motion to recommend that the recommendation from the Human Service Advisory Committee for implementation of a three-year \$923,339 Homeless Prevention and Rapid Re-Housing Program (HPRP) grant from the Department of Housing and Urban Development be allocated as discussed and approved, S. Wolf seconded the motion and the Board voted 5-0-0 to approve the recommendation from the Human Service Advisory Committee for implementation of a three-year \$923,339 Homeless Prevention and Rapid Re-Housing Program (HPRP).

3. Update: Follow up from June 1, 2009 Planning and Development Board meeting: request from Citizens for Affordable Housing in Newton Development Organization, Inc. (CAN-DO) to forgive \$529,817.24 in direct loans with the Newton Community Development Authority (NCDA).

T. Guditz detailed the follow-up documents that were provided by CAN-DO after the June 1, 2009 Planning and Development Board meeting. The documents include: a detailed letter to the Planning and Development Board from Josephine McNeil, the Executive Director of CAN-DO, separate operating budgets for each of the CAN-DO properties, an actual operating budget for the entire organization, and the most recent (2007) audited financial statements. Non-capitalized reserves, an issue that was brought up at the June meeting, was addressed by J. McNeil in her letter to the Board. The letter also updates the Board on recent communication between CAN-DO and Village Bank as well as policy initiatives that have been discussed by CAN-DO's Board. One of these policy initiatives includes focusing on by-right projects instead of projects that will require a comprehensive permit, like Coyne Road. The memorandum written by Housing and Community Development staff recommends that the Planning and Development Board consider meeting with CAN-DO on a regular basis for updates on the organization's financial position.

T. McCartney offered to provide CAN-DO with contact information for an organization that provides assistance with non-profit strategic planning at no cost. J. McNeil indicated that CAN-DO has had some limited outside help with strategic planning about three years ago, but would welcome additional assistance.

D. Banash observed that part of the difficulty with the Coyne Road project was that a great deal of resources were expended without much yield. He wondered if CAN-DO's discussion to focus on by-right projects was related to the desire to reduce "administratively lopsided" projects. J.

McNeil responded that the amount of money spent on Coyne Road is not disproportionate to past projects, rather the problem was that the project was abandoned because of neighborhood opposition. Although she did acknowledge that 40B projects take longer to develop, the shift in focus relates to the fact that the organization's mission drives CAN-DO to develop more affordable units than those that are typically contained in 40B projects. For example, most 40B projects are either 20 or 25 percent affordable, while CAN-DO's developments are often 60 percent affordable. This philosophy became a problem in the Millhouse project where four of the six units were affordable. When the housing market declined, CAN-DO was unable to financially recover, because the sale of the market rate units no longer supported the affordable units. D. Banash wondered if this project was unsuccessful due to the fact the owners of the two market rate units were positioned to carrying the weight of the other affordable units, particularly with regard to condo fees. He wondered if this model was flawed because the market rate price in this situation would actually be less than the average market rate price if the development was 100 percent affordable. J. McNeil acknowledged that this is a problem faced by the organization, developers and the Massachusetts Department of Housing and Community Development. This situation is magnified in the smaller projects taken on by CAN-DO.

D. Banash stated that if the mission of the organization is to build affordable housing and the decision is to build it in this way (with a greater percentage of the affordable units and a smaller number of market rate units) CAN-DO may be setting themselves up to fail. J. McNeil responded that the other projects (rental, group homes) undertaken by CAN-DO are meant to balance out the mixed-income developments. The Millhouse project became a learning experience for CAN-DO and will change the organization's approach going forward. In the near future, J. McNeil sees CAN-DO focusing on rental housing and by-right development.

D. Banash inquired why CAN-DO was not exempt from municipal property taxes. It is J. McNeil's understanding that decisions about 501 (c)(3) property taxation are made at the local level by the assessors office and vary from municipality to municipality. She believes that organizations providing an educational service or those that house State Department of Mental Retardation and State Department of Mental Health clients are exempt from property taxes. S. Wolf commented that the issue of real estate tax is connected with the use of the property. If the use is directly related to the endeavor of the organization and the activities that are being conducted are charitable CAN-DO could apply for an abatement. Although CAN-DO has applied for an abatement several times the abatement has never been granted.

S. Wolf asked if CAN-DO's Board has thought about cutting the salary of the executive director or modifying the lease on the rental of the executive director's vehicle. J. McNeil responded the Board found that leasing a vehicle was more economical than mileage reimbursement. S. Wolf commented that accounting expenses comprise 10 percent of the organization's overall expenses and wondered if CAN-DO has considered putting the accounting services out to bid. J. McNeil responded that that figure includes costs associated with the bookkeeper and the auditor. S. Wolf suggested that putting the audit out to bid presents a potential cost savings. When asked, J. McNeil indicated that the dues and subscriptions line item includes housing organizations. S. Wolf suggested that CAN-DO should be encouraged by the Board to explore cost cutting measures in FY09 and FY10 in conjunction with the debt relief provided by the City. J. Moss asked if S. Wolf had a percentage in mind. S. Wolf sought to cut 10 percent of every line item in his firm's budget. J. McNeil indicated the CAN-DO did cut conference fees and travel. J. McNeil stated that she does not believe the salary of the executive director is disproportionate to

CAN-DO's output and the varied skills required for this work. J. McNeil has implemented cost savings measures by taking on work that would be completed by specialized personnel or consultants in other non-profits. S. Wolf responded that he believes the salary of the executive director is not too high or too low, but rather, that the Board would look for CAN-DO to make a prudent effort to examine all line items for cost savings. J. McNeil indicated that every line item has been examined and the budget has not increased in spite of the fact that costs have not gone down over the past several years. L. Burg added that she believes CAN-DO operates on a "shoestring" budget despite all the work that the organization has completed. S. Wolf stated that he is aware of the work the organization has done, but his comments relate to the task at hand.

D. Banash inquired about the funds that were moved from one project to another, as indicated in J. McNeil's letter to the Planning and Development Board. This is an issue for him since the Planning and Development Board voted to approve the project based on a pro forma that changes when project funds are moved around. J. McNeil clarified that there are two pro formas; a development pro forma and an operating pro format. The Planning and Development Board does not vote on every project completed by CAN-DO. The operating budgets for each project are a function of what goes on with individual projects and it remains somewhat fluid. For example, if an operating budget lacks the funds to repair tenant damage, money will be taken from another project. Given this fact, J. McNeil suggested that the Board examine the entire operating budget to see how properties and funds are managed.

D. Banash asked if there was a way to address the organization's lack of reserves. Perhaps, this could be built into each project's pro forma. J. McNeil indicated that unfortunately the nature of affordable housing precludes this from happening because expenses are going up faster than Section 8 rents. There is not enough income coming in to build up a reserve. D. Banash asked if CAN-DO was getting deeper into the problem by committing to focus on more rental projects. Perhaps ownership market rate units could provide needed reserves. J. McNeil responded that this is not a feasible possibility and there are not many small non-profit housing developers undertaking small developments that can build reserves. Newton is an affluent community with a high cost of housing that also has limited resources. Every project undertaken by CAN-DO includes as much conventional financing as possible to reduce the amount of federal and local assistance. Funding limitations also drive down developer fees which is another factor preventing the organization from building up reserves. J. McNeil believes that one of the mistakes made by CAN-DO was that the organization focused more on its mission than its structure.

D. Banash commented that the decision to focus on smaller developments instead of larger (50 units) housing complexes became a flaw in CAN-DO's development philosophy. Both J. McNeil and L. Burg responded that a 50 unit would not work in Newton. Neighborhood input and available land place limitations on the type of development that can be completed by CAN-DO.

D. Banash stated he was shocked to see the amount of credit card debt acquired by CAN-DO. Although he understands this was a last resort it does seem like the worst type of borrowing. D. Banash wished that this issue could have been addressed earlier when the sums of debt were smaller. Two or three years ago CAN-DO's hope was that developer fees from Millhouse and Linden Green would have eliminated this situation.

T. Guditz asked about the type of follow-up the Board wanted to see in the future. Planning and Development staff recommended that a conversation is scheduled with the Board and CAN-DO on a semi-annual basis. T. McCartney stated that it is the consensus of the Board that the conditions from the June 1, 2009 meeting have been satisfied and the Board anticipates regular follow-up by CAN-DO. The Board indicated satisfaction with the report delivered by CAN-DO and Planning staff by a 5-0-0 vote.

4. Public Hearing and Action Item: Request from Citizens for Affordable Housing in Newton Development Organization, Inc. for a change of project use from rental to ownership and the forgiveness of \$391,105 in forgivable loans for 29 Coyne Road.

M. Kruse indicated that the amount of loans being asked for forgiveness was incorrect in the agenda that was mailed to the Planning and Development Board. This figure included a rehabilitation de-leading grant in the amount of \$14,195 that was provided to CAN-DO by the City. T. McCartney stated it was her understanding that the forgiveness of these loans clears the title to close on the property tomorrow. T. Guditz responded that the closing was delayed until mid- August but there is a commitment from the lender which is extended in the purchase and sale agreement. Although the couple purchasing the home decided not to go through the first time homebuyer program, staff is working to walk the buyer through the purchase process, including securing other financing. Staff is comfortable that the sale will go through. Although first time homebuyer funds are not being used the unit will still be deed restricted. The homebuyers have been approved for the mortgage.

T. Guditz stated that the unit will be deed restricted in perpetuity. S. Wolf wondered if an increase in the homebuyer's income would affect the affordability of the unit or the couple's ability to stay in the unit. T. Guditz responded that fluctuations in the homebuyer's income is not an issue, the City will monitor the sale price of the unit if the homebuyer decides to sell it down the line. City staff also perform annual monitoring to ensure that the house is still the owner's principal residence. S. Wolf wondered if there was a restriction on applying for zoning relief. According to DHCD formulas the homebuyer is able to put more equity into the property but they are limited on the amount of money they can get out of it so there is little incentive for major renovation and rezoning.

Mr. Michael Lepie, a neighbor and resident of Newton, commented that there is a \$70,000 difference between the price that Coyne Road was marketed at (\$530,000) and the final purchase price (\$600,000) of the property. According to Mr. Lepie this final purchase price reflects \$400,000 in CDBG money and \$200,000 from the buyer. Mr. Lepie believes that CAN-DO was unable to sell the house at \$530,000 because it is almost inhabitable and it is likely only worth \$400,000 to \$450,000 in the "real market". Mr. Lepie believes that either the buyer is paying too much at \$195,000 or CDBG funds are providing too much relief. He requested a response from the Board on this comment.

T. Guditz responded that the CDBG and HOME funds that are being forgiven are being used to purchase an affordable housing deed restriction on this single-family home. No party in this situation is getting "money back." She indicated that a policy decision has been made by the City to keep the funds in the property to create a deed restricted affordable housing unit. The money

that the homebuyers are bringing to the table will be used to pay off CAN-DO's mortgage on the property.

T. McCartney asked what the total debt is on the property. The mortgage is a total of \$574,105 which reflects a bank loan of \$183,000 and federal loans administered by the City in the amount of \$391,105. T. McCartney stated that there is currently about \$600,000 worth of debt on the property which will be cleared with the sale of the property and the forgiveness of loans. This statement was made as an answer to Mr. Lepie's question.

Mr. Lepie commented that if Coyne Road was not a CAN-DO project the City could buy the property for \$530,000 and sell it for \$195,000, decreasing the amount of federal funds needed to create an affordable unit. He believes that either the homebuyer should pay \$120,000 instead of \$195,000 or the City should only forgive \$350,000 worth of loans. Mr. Lepie suggested that "good debt" was being used to cover "bad debt" for CAN-DO. T. McCartney stated that the decision to use federal funds to deed restrict the property is the City's choice. L. Burg added that Mr. Lepie has been after the Coyne Road project for the past 5 years and the accusations put forth now are a continuance of this opposition. She stated that Mr. Lepie's questions have been answered and there is no point in continuing an argument. Mr. Lepie requested to be "discounted" and removed from the minutes.

L. Burg made a motion to approve a request from Citizens for Affordable Housing in Newton Development Organization (CAN-DO), Inc. for a change of project use from rental to ownership and the forgiveness of \$391,105 in forgivable loans for 29 Coyne Road. J. Moss seconded the motion and the Board voted 5-0-0 to forgive \$391,105 in forgivable loans for 29 Coyne Road and change the project use from rental to ownership.

L. Burg made a motion to adjourn the meeting at 9:15 p.m., J. Moss seconded the motion and the Board voted 5-0-0 to adjourn the meeting.

Respectfully submitted,

Amy Yuhasz
Secretary

PLANNING AND DEVELOPMENT BOARD MINUTES

June 1, 2009 City Hall, Planning and Development Department Rm 209, 7:30 p.m.
1000 Commonwealth Avenue, Newton, Massachusetts 02459

Full Members Present:

Tabetha McCartney, Chair
Joyce Moss, Vice-Chair
Leslie Burg
Doug Sweet
Scott Wolf

Staff Present:

Mike Kruse, Director of Planning and Development
Steve Gartrell, Associate Director of Community Development and Housing
Amy Yuhasz, Community Development Program Manager
Kathleen Cahill, Community Development Senior Planner
Stephanie Pelkowsky, Recreation Manager, Department of Parks and Recreation
Carol Schein, Recreation Specialist, Department of Parks and Recreation

Public:

Daphne Romanoff, Resident	Rob Caruso, MCPD Co-chair
Girard Plante, MCPD Co-chair	Josephine McNeil, CAN-DO
Kathy Zejaulin, Resident	Deb Christopher, Resident
Michael Lepie, Resident	Michelle Alkon, Resident
Charles Prioria, St Mary of Carmen Society	Lois Leven, Resident
Helen Rittenberg, Resident	Carole Slipowitz, Resident
Scott Lennon, Alderman	Carlton Merrill, Alderman
Henry Korman, Newton Housing Partnership	Julia Costa, NewTV
Phil Herr, Chair of the Newton Housing Partnership	Rhoda Davidson, Resident
Bart Lloyd, Newton Housing Partnership	Sandra Fromm, Realtor
Jane Einsenstark, CAN-DO Board of Directors	Vicki Danberg, Alderman
Brooke Lipsitt, Resident	

T. McCartney, Chair, called the meeting to order at 7:35 p.m.

Community Development Board [7:30]

- Action Item.** Approve the minutes of the April 27, 2009, special meeting of the Planning and Development Board acting as the Community Development Board.
Approve the minutes of the May 4, 2009, meeting of the Planning and Development Board acting as the Community Development Board and the Planning Board.

On request of T. McCartney for a motion to approve the minutes, L. Burg so moved. D. Sweet seconded the motion. The Board voted 3-1-0 to approve the minutes.

3. **Public Hearing and Action Item:** Request from Citizens for Affordable Housing in Newton Development Organization, Inc. to forgive \$539,760.32 in direct loans with the Newton Community Development Authority for housing rehabilitation projects.

T. Guditz provided background to the Board on CAN-DO's request to forgive the remaining principal on seven direct loans assumed by the organization for housing rehabilitation projects. CAN-DO has produced a total of 38 units of housing in Newton. The Newton Community Development Authority is the mortgagee of seven direct loans with the Newton Housing Authority and several other nonprofit organizations. These direct loans should be considered in the Board's discussion about whether or not approve CAN-DO's request. Planning staff put forth alternative options to forgiving the loans in full, which include: deferring principal and interest payments for 24 months or converting four of CAN-DO's direct loans with 3% interest to 0% interest deferred loans.

Josephine McNeil admitted that the organization has some shortcomings which began with the way CAN-DO was structured from its origin. The City created CAN-DO with HOME funds which later also provided the organization with capacity building loans. These loans were the beginning of a cycle of debt that CAN-DO is unable to overcome. This debt has stymied new projects from moving forward. J. McNeil stated that she does not believe deferring principal and interest payments for 24 months or converting four of CAN-DO's direct loans with 3% interest to 0% interest deferred loans are viable options for CAN-DO.

Both S. Wolf and T. McCartney requested a breakdown of the income and expenses for each property. This analysis was unavailable during the meeting and M. Kruse cautioned the Board from waiting until the July meeting to vote on CAN-DO's request. He stated that tabling the item would put CAN-DO in a difficult situation. The City needs to take a stand in support of CAN-DO in order to encourage CAN-DO's bank to work with the organization in restructuring bank loans.

J. Moss asked J. McNeil if additional pressure has been applied to CAN-DO's financial situation with the decline of the housing market. J. Moss suggested that if the market was healthier market rate units would be able to subsidize the affordable units. J. McNeil agreed that the organization has been negatively affected by the housing market and the lack of developer fees. J. Moss wondered what percentage of the 38 units are affordable. J. McNeil responded that 31 out of the 38 units are affordable.

M. Kruse stated that the Planning Department's recommendation to convert all of CAN-DO's direct loans into 0% deferred forgivable loans is conditional on the receipt of an actual FY09 CAN-DO operating budget that includes income and expenses as well as a copy of the most recent audited financials and a letter from CAN-DO's Board President describing how the annual savings from the loan conversion will strengthen the organization's financial standing. The letter will also detail a one-to-three year strategy for strengthening CAN-DO's financial ability. T. McCartney wondered if the forgiveness of these loans only postpones a problematic situation. She suggested that one of the conditions of approval should be that CAN-DO must fund their "reserves." M. Kruse responded that the fact CAN-DO is unable to fund the organization's reserves is not an unusual situation for non-profits. Brooke Lipsitt, Newton resident, made the suggestion that City resources should be used to fund CAN-DO's reserves rather than expecting the organization to do so themselves.

Henry Korman, a member of the Newton Housing Partnership, stated that CAN-DO's financial situation and request are not unique and many Community Development Corporations in the Boston area are in similar circumstances. CAN-DO's capacity to serve the very low income and persons disabilities through housing in Newton is unique and greatly valued. Bart Lloyd, a member of the Newton Housing Partnership, reinforced Henry Korman's comments and added that each CAN-DO project is reviewed by the Housing Partnership. B. Lloyd stated that non-profit housing developers should abide by the philosophy "we get paid first and you get paid second."

Nancy Slamin, representing the NWW Committee, stated that she has successfully collaborated with Josephine McNeil and CAN-DO on a property located at 228 Webster Street in Newton. N. Slamin looks forward to continued collaboration with CAN-DO. The NWW Committee is also the recipient of a direct loan from the City, however the organization was fortunate enough to receive a substantial private donation offsetting this loan. N. Slamin is also aware that CAN-DO pays real estate taxes to the City while NWW does not incur this cost.

Michael Lepie, a Newton resident, stated that he was opposed to the 29 Coyne Road project as well as the recommendation to forgive the direct loans. Ann Houston, a resident of Newton who has experience with a variety of affordable housing projects, stated that the critical piece in successful affordable housing projects is support from the city/town. This paradigm is also true in Newton.

T. McCartney understands how the housing bubble negatively impacted CAN-DO but she also wondered why older projects were not bringing in ample income. J. McNeil responded that these older projects continue to generate cash flow but the organization's debt is insurmountable. CAN-DO has relied on lines of credit and credit cards with high interest rates. J. McNeil explained that Millhouse, a CAN-DO affordable housing project, took 5 years to complete, produced no developer fees and resulted in a \$400,000 loss for the organization. The forgiveness of these direct loans provides financial relief to CAN-DO and allows for restructuring of credit.

L. Burg stated that an important piece of CAN-DO's mission is the development of scattered site affordable housing which eliminates the concentration of affordable housing in one neighborhood or village in the City. L. Burg believes that the Planning Board, the City, and CAN-DO should work together to develop financial plans that include funding reserves. J. Moss stated that she sees CAN-DO as the "workhorse" of affordable housing in Newton, therefore she will be voting to approve the loan forgiveness. S. Wolf stated that he is reluctant to vote for the forgiveness of loans because he believes CAN-DO can pay the direct loans back to the City at 0% interest by the year 2033. M. Kruse reinforced the Planning Department's recommendation to approve the loan forgiveness with conditions. If the vote is delayed CAN-DO may not be in existence much longer. He also agreed to provide an update at the next Planning and Development Board meeting. Michael Lepie asked what the Planning and Development Board's action will be if the contents of financial records provided at the next meeting are inadequate. T. McCartney responded that unless the information presented at the next Planning and Development Board changes things the decision made at this meeting stands.

L. Burg made a motion to approve CAN-DO's request to convert all of the CAN-DO direct loans into 0% deferred loans with all loans to be forgiven at the expiration of the 30-year term with the condition that an actual FY09 CAN-DO operating budget with income and expenses as well as a copy of the most recent audited financials and letter from the CAN-DO Board President describing how the annual savings will be applied to its existing debt and describing a one-to-three year strategy for strengthening the organization's financial situation be submitted to the Planning Department and the Planning and Development Board. J. Moss seconded the motion. The Board voted 3-1-1.

4. Other Business: Officer nominations for the Planning and Development Board.

No nominations were given.

Planning Board [8:15]

1. Discussion Item: Home Business Ordinance

Planning and Development Board member David Banash was unable to attend the meeting and therefore no update on the Home Business Ordinance was given.

The meeting adjourned at 9:30 pm.

Respectfully submitted,

Stephen D. Gartrell
Secretary