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**Community Preservation Committee**

**MINUTES**

14 November 2012

The meeting was held on Wednesday 14 November 2012 at 7:00 pm in Room 202 at City Hall.

Community Preservation Committee (CPC) members present: Nancy Grissom, Thomas Turner, Jim Robertson, Wally Bernheimer, Leslie Burg, Dan Green, Joel Feinberg (arr: 7:35 pm). Member absent: Michael Clarke.

Also present: Housing planner Rob Muollo.

Program manager Alice Ingerson served as recorder.

Committee Chair Leslie Burg opened the meeting at 7:10 pm.

**PROPOSALS & PROJECTS**

**PUBLIC HEARING on affordable housing proposal for 54 Eddy Street – CAN-DO**

Josephine McNeil, Executive Director of CAN-DO, explained that the organization was established in 1994 at the suggestion of City government as Newton's CHDO (community-based housing development organization), to take advantage of the HOME funding program created by Congress in 1990. One-third of the CHDO's board members must be low or moderate-income people. Prior to that, low- and moderate-income people had little involvement in housing development. NCDF (Newton Community Development Foundation) played a key role in creating CAN-DO. CAN-DO's first project was Garfield House in 1996, built as transitional housing for survivors of domestic violence. In 1999, the City's Planning Dept. recommended a capacity-building grant to allow CAN-DO to transition to professional staff, rather than operate out of NCDF's offices. McNeil, who had been the organization's first president, became its full-time executive director in 1999.

Much of CAN-DO's work has depended strongly on the CPA, for which the organization is very grateful. CAN-DO is generally unable to get state funding because purchase prices for Newton properties exceed the state's limits. In general, CAN-DO must commit to purchases before they can confirm public funding, which takes 6 months or longer. So they acquire properties with loans from banks, which are willing to provide acquisition funding with the expectation that CDBG and CPA funding will later reduce the long-term mortgage. Recent changes in state and national affordable housing programs may mean that this model no longer works, unless Newton creates a municipal affordable housing trust to make acquisition funding available up front.

McNeil then shared stories about some of the residents in CAN-DO's housing. One resident recently became a U.S. citizen and was able to vote for the first time. One resident of Veterans' House was featured in a recent

*website* [www.newtonma.gov/cpa](http://www.newtonma.gov/cpa)

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*Boston Globe* article about formerly homeless veterans. This tenant is now working with the state to help homeless veterans find housing. CAN-DO is now serving 5 formerly homeless veteran families.

McNeil and Architect Terrence Heinlein then made a presentation summarizing the 54 Eddy Street project. This presentation is online from the project's webpage, under 'Proposals & Projects' from [www.newtonma.gov/cpa](http://www.newtonma.gov/cpa), and covered: resources within walking distance of the property (schools, shops and public transportation); the need for deeper public subsidies so the project can serve low- and moderate-income tenants without rental vouchers, since the future of the federally funded voucher program is in some doubt; the overall project budget; per unit cost comparisons for this project, which would rehabilitate an existing 2-family property, and earlier CAN-DO projects of a similar size; and the scope and rationale for proposed construction work, including converting the heating system to gas and adding a ¾ bathroom on the top floor of the larger unit, where all the unit's bedrooms are located. McNeill noted that some past CAN-DO projects had required smaller subsidies because of funding sources not available to this project. For example, the project at 11-13 Cambria Road received charitable contributions from Avalon Bay, a for-profit real estate development company.

Leslie Burg noted that she had been convinced of the need for the extra bathroom by the site visit CAN-DO had offered to CPC members prior to this meeting. Nancy Grissom felt that both the purchase price and the proposed rehab work for this project were justified, based on her recent experience as the seller's agent for an updated condominium in a similar-sized 2-family building on the same street, which had a similar arrangement (rooms in each unit on more than one floor). In response to a question from Joel Feinberg, McNeil explained that tenants would be responsible for their own utilities.

Burg called for public comments at this point.

Mr. Michael Lepie, of P.O. Box 157, Waban, Massachusetts, commented that he did not feel the history of CAN-DO was relevant to the project. He noted that of the organization's last 3 projects, including Veterans House, Pearl Street, and this proposed project, each had cost more than the one before it. He calculated that together these projects had generated over \$300,000 in developer fees funded through the CPA for CAN-DO. He explained that CAN-DO projects were not included on the state-registered Subsidized Housing Inventory (SHI) and that CAN-DO's marketing and tenant selection procedures did not follow the Newton Fair Housing Committee's guidelines. He reported that earlier that day the Newton Housing Partnership had discussed exempting CAN-DO from meeting the requirements needed to get its projects on the SHI. He considered Ms. McNeil's membership on that Fair Housing Committee and the Newton Housing Partnership to be a conflict of interest. He felt that these and other City committees had a responsibility to protect the taxpayers' interests. He felt that CAN-DO had not followed through on the commitments made in July of 2009 to justify the forgiveness of \$1 million of forgivable loans from the City. He felt that the house at 54 Eddy Street was already habitable and it was not reasonable for it to remain vacant for 2 years while CAN-DO sought public funds and rehabilitated it. He reported that at other public meetings, CAN-DO had explained that its operating budget depended on having a new project every year or two. He felt that CAN-DO as an organization was not viable, and that the project should not be funded simply to keep the organization alive. He felt that the proposed construction budget for the 54 Eddy Street project was unjustifiably high.

*The Committee took a brief break at this point while one of the members' cars was moved to allow another car to leave a parking space near City Hall.*

Nina LeDoyt, of 62 Maple Street, Newton, a board member of CAN-DO, spoke in support of the project. She felt CAN-DO's projects were good for Newton and supported fair housing in many ways, even if they were not included on the state housing inventory.

As no one else at the hearing had signed up to speak, Leslie Burg then closed the public hearing and asked for any further Committee questions and comments.

Nancy Grissom felt that the organizational history provided by McNeil had been helpful.

Joel Feinberg noted that creating affordable housing in a community with Newton's high real estate values required subsidies either at the front end, through the development grant, or through continuing rental subsidies to households. He noted that there might be other ways to accomplish this, but CAN-DO used the first method, which did work. He felt that the community and the CPC were both committed to having low and moderate-income residents in Newton. He also felt developer fees were necessary, to allow the organization to do its work of creating additional affordable housing.

Wally Bernheimer and Leslie Burg agreed with Feinberg's comments. Bernheimer felt that every affordable housing project was uneconomic by normal standards, but CPA funding for housing accomplished an important purpose.

Jim Robertson noted that his own work involves very similar projects. He had attended the site tour and felt that the scope of work, the construction budget, and the proposed developer fee for this project were all reasonable.

In response to Burg, McNeil and Heinlein said if funding were approved, some of the work might begin in the winter, but the project would probably be available for tenants in the spring.

In response to Alice Ingerson, McNeil explained that if any of the project's tenants had rental vouchers, they would not be turned away, but the project would still charge the rents shown as in the operating budget, set to be affordable to tenants without vouchers.

Several members agreed with McNeil that the project could probably be constructed by right, though this had not yet been confirmed in writing by the Commissioner of Inspectional Services. Ingerson noted that past CPA grant agreements had made issuance of a building permit and confirmation of all other needed funding sources pre-conditions for the initial release of funds. McNeil noted that the developer fee was "at risk" to be spent on project costs, if the foundation grant of \$50,000 in the budget was not awarded.

In preparation for a vote, Burg asked members to spell out as part of the motion any major conditions for the funding recommendation, but Ingerson acknowledged that CPC recommendations were relatively short (2-3 pages) could not include every detail covered by the grant agreement (20-30 pages). In response to Ingerson's requests, Joel Feinberg agreed to advise her on the final wording of the grant agreement, as he had for the most recent past CAN-DO project, and the Committee agreed to delegate that role to Feinberg and Ingerson. Ingerson also noted that, if CAN-DO and this CPC team were unable to agree on any aspect of the grant agreement, she would bring that issue back to the whole Committee for a final decision.

In response to Ingerson, McNeil noted that the recommendation need not include the cost of a site sign acknowledging CPA support, because CAN-DO could re-use the sign from its previous project.

**VOTE** Nancy Grissom moved to recommend appropriating the requested \$255,000 in CPA funds, with the standard conditions in all CPC recommendations, including making the initial release of CPA funds conditional on having all necessary permits and confirmation of all other necessary funding sources.

Jim Robertson seconded the motion.

The motion was approved by a vote of 7-0, with member Michael Clarke absent.

The Committee took a break at this point, to allow the many people who had come solely for the Eddy Street discussion to leave the room.

After the break, in response to questions from Feinberg and Bernheimer, Ingerson noted that Housing Planner Rob Muollo, who had left the meeting, was probably the best person to answer questions about why CPA-subsidized housing might not be placed on the state SHI. She was aware

that this could happen when current tenants were given preference for rehabilitated units, to satisfy both local and federal policies to avoid displacement; that the SHI sometimes required a higher level of affordability and therefore of public subsidy (to 70 rather than 80 percent of area median income); and that very small projects, such as those typically developed by CAN-DO, could qualify for federal funding by selecting tenants from a waiting list rather than through SHI-approved methods such as a lottery. Newton's percentage of affordable housing had hovered between 7 and 8 for many years. Feinberg noted that, although some Newton policymakers might see preventing the development of housing under state chapter 40B by making at least 10 percent of Newton's housing affordability as a top priority, he did not. Feinberg felt that the important goal was to create permanently affordable housing, which the CPC had always made a requirement for funding. Bernheimer agreed with Feinberg that developing affordable housing was still a very worthwhile goal even though the 10 percent target was not really practical for Newton.

## **PROGRAM PLANNING**

### **New Funding Guidelines** – final CPC working session & adoption vote

Burg introduced the newest draft of the new *Guidelines*, which she and Robertson had created based on previous drafts and discussions. Ingerson explained that she was projecting the actual text on the screen, because she needed a vote on the exact final wording.

Through discussion, the Committee agreed to several specific wording changes.

Grissom suggested offering off-cycle consideration for any projects that the CPC itself considered time-sensitive, and not limiting this to projects that involved real estate acquisition. Bernheimer initially supported this suggestion. Robertson and Burg opposed this change, which they felt would encourage all sponsors to characterize their proposals as time-sensitive. They felt the Committee had considered and rejected this broadening in a prior discussion, but that the Committee could always respond flexibly to specific pre-proposals, which it already accepted on a rolling basis. After further discussion, the sense of the meeting was not to limit the basis for off-cycle consideration in the *Guidelines* to real estate acquisition.

At Ingerson's suggestion, the Committee agreed to revise the numbers used to express the target funding ranges to rounder full integers, avoiding decimal points.

**VOTE** Nancy Grissom moved adoption of the *Guidelines* as amended, and thanked Leslie and Jim for all their work.

Wally Bernheimer seconded the motion.

The motion was adopted by a vote of 7-0.

## **COMMITTEE BUSINESS**

### **Schedule of Public Hearings for Fy13 New Proposals**

By sense of the meeting, the CPC set Thursday, 10 January 2013 as the date for the public hearing on the Homebuyer Assistance proposal.

Burg asked whether the Committee would like to hold an extra funding half-round in spring 2013, given that only one proposal was submitted for the regular fy13 annual funding round. Grissom and Robertson felt the announced deadlines should remain in place: 1 June 2013 as the cutoff date for pre-proposals, mid-November 2013 as the deadline for full proposals. After a brief discussion, the Committee decided to keep these deadlines.

Bernheimer and Feinberg opposed Ingerson's suggestion of a possible joint meeting with the Board of Aldermen's Public Facilities Committee, to review the overall list of potential City CPA proposals in the *Capital Improvement Plan*.

Ingerson felt the CPC should encourage clearer public conversations, if not a consensus, between the legislative and executive branches on the appropriate use of CPA funds for City projects. Feinberg felt that such an effort would not benefit the CPC.

In contrast to these rejected suggestions, the Committee as a whole supported actively encouraging the submission of individual new pre-proposals before the next announced cutoff date.

### **Approval of CPC Minutes**

Dan Green moved approval of the 3 October 2012, 11 October 2012, and 5 November 2012 minutes as submitted. Nancy seconded the motion. The minutes were approved 7-0.

Wally Bernheimer asked to make a few comments to the group, since this was his final working meeting as a member of the CPC. His 6 years on the CPC had been very rewarding, and he felt the group was very effective. He especially thanked Ingerson for her staff work.

Leslie thanked Wally for his service on the Committee, and especially for his help to her and past Committee members.

### **Discussion of State Senate Bill S587 to Create a Standardized Statutory Housing Restriction**

Feinberg spoke about this bill and the request by former CPC Chair Jeff Sacks for CPC support of the bill. Feinberg did not personally support the bill, which proposes a standardized shorthand for housing affordability restrictions. He felt this would make something already confusing even less clear.

Grissom felt most mortgage lenders would not understand the proposed language, which was mostly about foreclosures in situations where properties had been refinanced.

Since the deadline for submitting a letter of support had passed, and the Committee had no clear understanding of and consensus about the bill, the Committee agreed to take no action.

After a motion by Bernheimer, seconded by Green, the Committee adjourned by consensus at 9:15 pm.