



Ruthanne Fuller,
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov
Barney S. Heath
Director

Community Preservation Committee

MINUTES

June 9, 2020

The virtual meeting was held online on Tuesday, June 9, 2020 beginning at 7:00 pm. Community Preservation Committee (CPC) members present included Mark Armstrong, Dan Brody, Byron Dunker, Rick Kronish, Susan Lunin, Robert Maloney, Jennifer Molinsky, Peter Sargent, and Martin Smargiassi. Community Preservation Program Manager Lara Kritzer were also and served as recorder.

Mr. Armstrong opened the meeting and all members introduced themselves at this time. Ms. Kritzer briefly reviewed the CPC's proposal review process and the procedures for the virtual proposal review.

Proposals & Projects

Newton's Homebuyer Assistance Program - Review of Final Report

Ms. Kritzer introduced the project and Liz Valenta from ECR Consulting, who explained that ECR had been hired by the Planning and Development Department to complete an analysis of the City's existing Homebuyer Assistance Program. Ms. Valenta gave a PowerPoint presentation on the Final Report on the Homebuyer Program, explaining that they had worked with the staff of the Planning Department to complete an inventory and assessment of the City's homeowner unit portfolio. She explained that the portfolio was made up of the homebuyer units which were monitored by Newton. Part of this work included looking at the resale process for each unit and identifying how the resale rate would be calculated and the process to be used for the resale. She noted that this evaluation of the portfolio and its current rates and costs was a snapshot in time, and that the numbers for the individual units would change over time.

Ms. Valenta stated that their work had identified 79 affordable homebuyer units in Newton, 62 of which were monitored by Newton. There were four categories of affordable restrictions used on these units. The Universal Deed Rider was used on 50 of these units (33 of those monitored by Newton) which has a standard form and insures the continued affordability of the unit. Sixteen of the units monitored by Newton use a "Change in AMI" Deed Rider, which calculates the resale price based on the change between the Area Median Income (AMI) at the time of the initial purchase of the unit and the AMI at the time of its resale. Ms. Valenta explained that this type of Deed Rider has issues with continued affordability as the calculation can exceed what is actually affordable for an income eligible homebuyer. Five of the units used a restriction with a discount rate, and last eight units relied on a base price calculation, both of which could produce a problem with affordability at the time of resale. Ms. Valenta stated that they were recommending that all of the deed restrictions be changed to the Universal Deed Rider in the future.

website www.newtonma.gov/cpa

staff contact Lara Kritzer, Community Preservation Program Manager

email lkritzer@newtonma.gov, *phone* 617.796.1144

Ms. Valenta explained the resale process for affordable homeownership, which was triggered by the owner's decision to sell the unit. Newton staff would then review the deed rider to see who the monitoring agent is that will oversee the resale. The monitoring agent then calculates the resale price for the unit based on the existing restriction. Mr. Kronish asked what would happen if a buyer was not identified. Ms. Valenta answered that they could typically resell the unit to a non-eligible buyer in that situation with the restriction to continue its affordability for a future buyer. She noted that there were other possibilities based on the restriction, such as having the Housing Authority (NHA) or the City have a right of first refusal to purchase the unit. For the sixteen units that had the "Change in AMI" deed rider, the resale price was determined based on the change in AMI between when the unit was initially purchased and when it was sold. The problem with these restrictions is that the deed rider did not include any cap on the resale price to ensure that its continued affordability. As a result, they had discovered that eight of the sixteen units were already calculated to be unaffordable when resold. Ms. Valenta explained that this would make it difficult to find an eligible buyer and that each unit would need a "buy down" to retain their affordability. The Buy Down price was the difference between the resale price and the allowed affordable price for a household based on the units AMI requirement. Ms. Valenta stated that they were estimating that \$236,000 to \$726,707 would be needed to buy down the units. She explained that the difference in the amount would depend in part on the capital improvements made on the unit, as a seller could request an increase of up to 1% of the initial sale price for each year of ownership. The units were restricted to households below 80% AMI, but the resale price was often set at 70% AMI to allow a window of affordability for potential homebuyers. Ms. Valenta explained that it could be difficult to find income eligible households that could afford a mortgage at 80%, so pricing the unit at 70% AMI provided a larger window for potential buyers.

Ms. Valenta stated that as part of their report, they were providing some options for future planning. The first suggestion was that the City procure monitoring and lottery assistance so that it would have the professional expertise available when needed, and the second was that the City set aside funding now to buy down units as needed in the future.

Director of Housing and Community Development Amanda Berman introduced Housing Development Planner Eamon Bencivengo and Housing Planning Malcom Lucas and stated how happy their program was with the results of ECR's work and conclusions. Ms. Berman was asked how well the final report responded to the initial application. She explained that she was relieved to find out that only 8 of the 79 units in Newton were at risk of losing their affordability. She said that the portfolio created by ECR provides a wealth of information that the program had not previously had. She noted that the report had also provided solutions to the problems that were discovered over the course of their research. Ms. Berman stated that it was good to know that they can continue to maintain a strong homebuyer program into the future.

Ms. Molinsky asked if anyone knew what had happened to people who had been part of this program. She also wondered if there were any plans to continue the buy-down program outside of protecting the existing portfolio. Ms. Berman explained that the City already had a CDBG funded closing cost assistance program that provided \$10,000 grants to eligible homebuyers. These funds are typically used when one of the existing homebuyer units becomes available, or new inclusionary housing units are created. Ms. Berman went on to explain that the history of the CPA funded Homebuyer Assistance program was complicated and noted that it was originally launched to buy

down market rate units, after which a deed restriction would be placed on the property. The amount of funding necessary to run the program varied by year as some residents stayed in units for many years. Ms. Berman estimated that they had approximately three resales a year. They did not track the property owners after the purchase is complete, so she could not speak to how successful the program was at building household wealth. Ms. Berman ended by pointing out that while the program was small, including only 79 of Newton's 30,000 housing units, it was the only homebuyer program that the City had.

Mr. Kronish stated that he was pleased to hear about the closing cost assistance program and asked for more information about what was expected from homebuyers for a down payment. Ms. Berman answered that it was usually 3%, with \$250,000 being the standard cost of the unit. Ms. Valenta and Ms. Berman went through an example, noting that while 80% AMI was the standard for the buyer, the unit was usually priced at 70%AMI. The City would take care of the first \$10,000 for the down payment, then the homebuyer would need to take care of the rest of the funds. Mr. Kronish stated that he was concerned with the wealth side of this situation. He noted that in the expensive Boston area, black and minority households often had no wealth to draw from for a down payment and that he need to put down even a few thousand dollars could be detrimental to lower income households. He questioned whether it was fair to have a program which was not equally available to all. Ms. Valenta stated that the program was limited as to how much it could really recapture financially. She also thought that these were not really wealth building programs as they were limited as to how much of a return the property owner could make. Instead, these programs offered more housing stability and control than a rental unit. Ms. Berman noted that homebuyer units also provided the owners with more stable housing costs than in rental units.

Mr. Kronish stated that he would like to see something put in place to assure them that there were no racial impacts to this program. Ms. Berman stated that she was not sure that they could make that guarantee, pointing out that the CPC could also fund a down payment program that provided further assistance to homeowners. It was noted that this could be a smaller number if it only applied to the 79 affordable units.

Mr. Sargent stated that the request was to use the previously approved funds for a new purpose. He had estimated that they were asking for \$91,051 per unit for the buydown and explained that he was trying to get a full sense of the request. Ms. Valenta shared the spreadsheet which ECR had created to explain how the range of funding had been estimated. She explained that the spreadsheet included the original purchase price as well as the sale price of the unit at both 80% and 70% AMI so that both sale rates could be considered. She noted that the amounts needed varied widely, possibly because it was in part based on the initial down payment amounts. Ms. Valenta also explained in greater detail why the 70% AMI sale price gave the program more leeway to find new unit buyers.

Mr. Maloney asked what happens to the difference between the resale price and the amount that the new buyer can pay. Ms. Valenta explained that this was the buydown amount and that it went to the property owner. Ms. Berman reminded members that this was a point-in-time calculation based on if all of the units became available at this time. She explained that they were asking the CPC to amend the program to allow the funding to be used to buy down units when and if they become available in the future. She noted that the goal of this review and reporting process was not just to better understand the existing program but to plan for its future protection. She agreed that the

points made during this discussion were important but that it was also important that the City not lose any of its existing affordable units. Ms. Berman also noted that it would cost the program approximately \$500,000 to create a new affordable unit.

Mr. Smargiassi liked Ms. Molinsky's comments and the point about the equity put into these units. He stated that he would be interested in knowing the market rates for these units and wondered if there were any shared equity models that could be useful. Ms. Berman noted that they would need to develop a new homebuyer program using a new model. Ms. Molinsky asked if the buydown funds would correct the problems with the eight units. Ms. Valenta answered yes, that a new Universal Deed Rider would be placed on the units once they were bought down. These deed riders allowed for a lower resale price and were always affordable to eligible homebuyers. Mr. Maloney asked how the consultants had calculated the resale price and Ms. Valenta reviewed the process.

Ms. Berman explained that they wanted to expand the existing program from one which only created new homebuyer units to one that also protected existing homebuyer units. Mr. Kronish asked if the \$10,000 grants for down payments increased when the AMI increased. Ms. Berman asked if it would be possible for CPA funding to be used for a down payment program. Mr. Sargent clarified that in terms of the current request, the Committee could request that the funding be returned to the general CPA fund or allow it to be used to preserve the existing units. He thought that AMI might flatten in coming years but also thought this was a zero-sum proposal and was comfortable with it. Mr. Smargiassi asked if it was possible to set the sale price at 80% AMI and take those funds to buy more units. Ms. Valenta explained that setting the sale price at 80% AMI restricted the number of people who could afford the unit, as someone at 72% or 75% might not make enough to afford it. Mr. Maloney asked what happened to the profits from a sale if it was sold for more than the resale price. Ms. Valenta answered that the homebuyer received everything up to the resale price and that anything above that would go to the City. He asked if it was possible to revise the restrictions that were no longer affordable and Ms. Valenta answered that a new Universal Deed Rider would fix the problem and could be added to the deed when the unit was resold.

Ms. Molinsky asked about units that were sold at 120% AMI to first time homebuyers. Ms. Berman explained that those were part of past projects which created a wider mix of units including some up to 100% AMI. She also noted that inclusionary zoning requirements allow for units to be up to 110% AMI. Ms. Molinsky noted that the Committee had discussed a lot of different goals but that the applicant's request was a simple one to amend how the existing funding was used. Mr. Sargent agreed and moved that the CPC approve the use of the remaining funding previously allocated to the Homebuyer Assistance Program as requested with up to \$15,000 to be used to hire professional assistance to maintain the portfolio and handle any future resales, and \$730,000 to be used as needed to buy down the sale price of existing affordable homebuyer units with the understanding that it will be used to pay down as many units as possible. Ms. Molinsky seconded the motion. Members clarified that the funding was limited only to what remained in the Homebuyer Assistance Program accounts, and that if more funding was needed for buy downs in the future, then the applicants could apply for additional funding. The motion was passed by unanimous voice vote. Mr. Armstrong moved to accept and approve the Final Project Report and release any remaining project funding. Ms. Molinsky seconded the motion which passed unanimously by voice vote.

Riverside Greenway Working Group/Pigeon Hill Trail Project Update and Discussion – Project representative Ted Chapman was present to update the Committee on the project to date. He briefly reviewed that the project was for the Pigeon Hill Path which would run from Lyons Field to Lower Falls. When they had last met with the CPC in January, they had reported that the Riverside development had agreed to provide some \$3 million for trail improvements and would be replacing the bridge. He noted that the timing of their project was important as the City was also working on the Commonwealth Avenue Redesign and this was a crucial link in the area. He showed the development plans for the project and the conceptual design as well as the photos of the area. Since that update, they had had a survey completed and discovered that the existing grades were too steep for the 5% grade, ADA compliant path that they had originally envisioned. Mr. Chapman explained that the survey showed that an ADA path would be very complicated to design and would require ten feet of additional fill adjacent to the historic retaining wall. They had worked with Mass DOT on the designs and had found that the ADA compliant path would have prohibitive construction costs. The proposed solution was to construct the new path based on the U.S. Forest Service standards, which allowed for a 7.5% grade which was much more doable. This design would still require a lot of fill but was not as financially prohibitive, and they were at the 25% design point on that option. Mr. Chapman noted that they were ready to move on to the 100% design of the project and that no CPA funds had been used to date.

Mr. Chapman explained that they had several decisions to make before moving forward with the final design. First, they needed to get permission for changing the path from ADA standards to Forest Service standards. As part of that process, they had met last week with the Dept. of Conservation and Recreation (DCR). DCR had informed them that they had recently modified their regulations about accepting plans for construction. They would no longer accept plans that were completed beyond 25% because of concerns with privity of contract. DCR had also notified the applicants that they had not yet decided if they would take over the maintenance of the path once it was complete. The applicants now needed to decide who would maintain the path, how far to go forward with its design, and potentially how to fund its construction if the change in its design threatened that funding. Mr. Chapman stated that he was hoping to learn what changes in the project the CPC might be open to. He explained that their preferred option was the Forest Trail with rest areas but might need to be funded from other sources.

Mr. Dunker asked who owned the land. Mr. Chapman stated that MassDOT owned the property but generally transferred the care and control of these types of projects to DCR. At this point, however, DCR appeared to be pulling back from the project. Mr. Dunker asked if the City might take over the path maintenance. Mr. Chapman answered that yes, the City could take on that roll and noted that it already had many trails which were not ADA compliant. ADA compliance was discussed with Mr. Chapman stating that the type of trail to be installed would depend on funding as well as other factors.

Mr. Armstrong stated that he thought the Committee would be open to looking at other options for the use of the project's CPA funding. Mr. Brody thought that they were taking a reasonable approach to the problem and that their ideas made sense given the size of the hill there. Mr. Chapman noted that they were still working to get the design done quickly so that the construction could be included with MassDOT's scheduled 2023 replacement of the adjacent bridge. Ms. Molinsky asked if the City

had any standards for accessibility. She thought that the proposed solutions made senses but would like to know how the City would approach this. Mr. Chapman stated that they had involved the City's ADA Coordinator, Jini Fairly, in the original application but had not yet spoken with her about the proposed changes.

Other Business

Election of CPC Officers

Current Chair Mark Armstrong and Vice Chair Dan Brody both agreed to serve again as Chair and Vice-Chair in the coming year. Mr. Kronish moved that Mr. Armstrong be reappointed as Chair and Mr. Brody be reappointed as Vice-Chair. Ms. Lunin seconded the motion which passed by unanimous voice vote.

Approval of April and May Minutes

Members had reviewed the draft minutes for the April 14 meeting prior to the meeting and had submitted revisions. Mr. Kronish moved to approve the minutes as revised. Ms. Lunin seconded the motion. The minutes were approved by a voice vote of 8 to 0 with Ms. Molinsky abstaining as she was not present for this meeting.

Members had also reviewed the draft minutes for the May 4 meeting prior to the meeting and had submitted revisions. Mr. Kronish moved to approve the minutes as revised. Ms. Lunin seconded the motion. The minutes were approved by a voice vote of 8 to 0 with Mr. Sargent abstaining as he had left the meeting early.

Mr. Sargent noted that this would be his last regular meeting as a Committee member. Members expressed their appreciation and thanks for all his work on behalf of the Committee over the last few years.

The meeting was adjourned at 8:39 P.M.