The Town of Barnstable

Affordable Housing Growth & Development
Trust Fund Board
367 Main Street, Hyannis MA 02601
www.town.barnstable.ma.us

Barnstable All-America City 2007

Office: 508-862-4610
Fax: 508-790-6226
Email: mark.ells@town.barnstable.ma.us

Mark S. Ells, Chairman

Friday, January 10, 2025
Affordable Housing Growth & Development Trust Fund
Board Meeting Minutes
9:00 A.M.

Alternative public access to this meeting was provided by utilizing a Zoom link or telephone number, both provided in the posted meeting notice.

Board Member Attendees: Mark Ells, Chairman, Andy Clyburn, Mark Milne and Laura Shufelt.

Other Attendees: Jillian Douglass, Trust Administrator, Planning & Development; Corey Pacheco, Senior Planner, Planning & Development; Ellen Swiniarski, Community Preservation Coordinator, Planning & Development; Barnstable Town Councilor Paula Schnepp; Attorney Robert Brennan; Attorney Mike Ford; Attorney Paul Tardiff; and Mr. Stewart Miller of Riverview School for 255 Main Street (Hyannis transfer of interests); Mr. Timothy Telman for Standard Holdings; Mr. Carlos Barbosa for 11 Potter Avenue (Hyannis Trust Application).

Call to Order
With a quorum present, Chairman Ells called the meeting to order at 9 a.m. and stated that today's meeting will be recorded and rebroadcast via Xfinity Channel 8 or high-definition Channel 1072. It may also be accessed via the Video on Demand section on the Town of Barnstable's website. In accordance with MGL Chapter 30A, s. 20, the Chair will inquire whether anyone else is recording the meeting and, if so, please make your presence known. No one came forward.

Member Introduction
By roll call (present): Laura Shufelt (present), Andy Clyburn (present) Mark Milne (present) and Mark Ells (present).

Public Comment
None.

Topics for Discussion

1. **Correspondence/FYIs**
   a. Request from Standard Holdings re: reconsideration of denial of additional mortgages on Residences @ 850 Falmouth Road – Timothy Telman of Standard Holdings.

Jillian Douglass shared that Special Counsel Robert Galvin would not be attending this Trust meeting due to an unforeseen scheduling conflict. She noted that Attorney Galvin had provided opinions for some of the items on the agenda and Attorney Kathleen Connolly had also provided some commentary.

Mr. Timothy Telman apologized that he was not aware that the Standard Holdings request to allow additional mortgages was going to be taken up at the last Trust meeting, and the inability to discuss resulted in a denial without prejudice, rather than a failure to act. He referenced a letter from Attorney Kilroy for Standard Holdings, dated December 6, 2024, sent to the Town and explained that during the construction of the project there were more funds necessary to complete the project. The request to add a $1.4M mortgage represents the amount of funds that he and his partner had provided to complete the project. He said that at this point, their goal is to memorialize that they invested more and have a greater interest to securing. He noted that they have received approval from EOHLC as well as the bank to record the mortgage and said they did not request this money before because they fortunately had extra funds to get the project to the finish line.

Chairman Ells said that procedurally he is concerned that Attorney Galvin is not present to directly advise relative to questions. He noted that this will most likely hold true for most of the items on the agenda today. After discussion, the Trust Board members decided to proceed with questions that would not require legal advice or clarification from Attorney Galvin.

Laura Shufelt confirmed that there had been a cost certification at the end of the project. Mr. Telman noted that an approved cost certification from the state was required for HDIP to be fully approved. Laura referenced a condition in the grant agreement requiring that a final budget be provided to the Trust before closing. However, it appeared that the last budget from Standard Holdings is from the original application that does not reflect costs, rents, etc. in real time. Laura said she was looking for the cost certification to justify the funds going into the project and if the project can support a third mortgage. She asked if Standard Holdings is cashing out, and how a third mortgage will affect cash flow.

Mr. Telman said that the cost certification is immediately available. He noted flexibility in support of the ability of the project to afford the mortgage. He said one option is to refinance as there is excess cash flow in the original budget which would be a return to the owners saying the key is to keep the project operating. He said they would not jeopardize the first mortgage or the related covenants or the cash flows that repay that mortgage. Laura confirmed that the first mortgage has covenants that have minimum debt service coverage.

Chair Ells said that he would like advice from Attorney Galvin before acting. Laura noted that if the Trust receives the cost certification and an updated operating statement and this request does not represent a cash out, there are covenants on the first mortgage that make her more comfortable with approving the request after Attorney Galvin's review. After discussion all Trust members agreed that they want to receive the information prior to voting and the matter was continued to the next Trust meeting scheduled for February 7, 2025.

b. Request from Cape Built LLC to transfer interest in 255 Main Street and revise assignment of CPC Mortgage lien and Regulatory Agreements to agents of Riverview School.

Jillian Douglass noted that Attorney Galvin provided an opinion last night and noted that it did not appear that the Trust will need to take any action. Chair Ells said he read the opinion and noted that his role as Town Manager is separate from his role as Chairman of the Trust. Attorney Rob Brennan of Standard Holdings explained this is transfer of the property to the Riverview School and Riverview's assumption of the regulatory agreement and mortgage. He said that Riverview School's attorney Mike Ford as well as their head of school Stewart Miller are here today. He said that Riverview is stepping into the shoes of CapeBuilt, 255 Main Street, regarding the regulatory agreement and the mortgage. He said this is a straightforward process with an assignment to Riverview School to be executed by the Town Manager.

Mike Ford, attorney for Riverview School, said that as a part of Riverview School's purchase of the property from CapeBuilt, they are taking title subject to the existing mortgage and regulatory agreement. He assured on behalf of the school that Riverview understands the obligations of the regulatory agreement and the mortgage with respect to the two units involved and the requirement for the two units to be held in perpetuity under the affordability restriction. He noted that he has not seen Attorney Galvin's opinion, however he agreed that this is a CPA matter for the Town Manager's authority, not a Trust matter. Attorney Ford noted a timing issue for the school for the closing on the property and asked for an idea of the timing to complete this request. He said that drafts of the assumption and assignment agreements had been sent to Attorney Galvin and can also be sent to the Town Attorney's office. Chair Ells said he would seek advice from the Town Attorney and will work cooperatively to try to meet timelines.

Paul Tardiff, attorney for CapeBuilt said he made suggested changes to the assignment agreement he received this morning. He noted that this request had been initiated over a month ago and explained that a closing was scheduled for next week saying he appreciates efforts to execute the documents as soon as possible. He offered his assistance to facilitate and expedite the process and said that any priority that can be given would be greatly appreciated.

Laura Shufelt asked if there is a monitoring agreement that is also being transferred. Attorney Brennan said that the regulatory agreement did not call for a monitoring agreement, however Housing Assistance Corp has been certifying the eligibility of tenants and reports are being filed with the Planning Department.

After discussion it was decided that the matter would be taken under advisement by Mark Ells as Town Manager with discussions to begin immediately to resolve the matter outside of the Trust.

c. New Application – Copacabana Real Estate Investments – 11 Potter Avenue, Hyannis – Requesting $450,000 to subsidize the redevelopment of 0.18 -acre site to produce 4 residential rental units, 3 of which would be perpetually deed-restricted as affordable to households of 80% AMI - Carlos Barbosa.

Jillan Douglass noted that the application appears to be complete, however the floor plans that the applicant provided will need to be resized for viewing on a screen.

Mr. Barbosa said that the floor plans show two studio apartments and one one-bedroom apartment. He said that he intends to live in the two-bedroom apartment himself. He noted there is a 2-bay garage facing Dumont Drive.

Laura Shufelt asked if the proposal is for tenants to pay utilities. Mr. Barbosa said that all the utilities will be electric, and a solar system will be put into place that will reduce the electric bill through solar credit split between the tenants. He referenced another rental property where he did this at 49 Center Street, Hyannis. Laura said that the rent schedule appears to include utilities, and she asked Jillian to check the accuracy saying that perhaps with the solar credit it is accurate. Laura confirmed that Mr. Barbosa understood that the affordable units will need a marketing plan and lottery for fair marketing and annual monitoring. Carlos explained that the utilities are not included and that the apartments are separately metered, however each tenant receives their own solar credit for how much electricity is produced each month offsetting their usage. Mr. Barbosa agreed to work with Jillian to ensure this is accurately reflected in the application.

Jillian said she is working with IT to resize the floor plans and will email them as soon as they are available. Mr. Barbosa said he is waiting for the building permit to be approved and Laura Shufelt advised him that because the funds are CPA sourced, he cannot begin construction until approval of the Trust application and execution of the requisite documents. Laura also noted that Mr. Barbosa has received a special permit for the project.

After discussion it was decided to bring the application back to the Trust's next meeting on February 7, 2025, after review by Attorney Galvin.

Town Councilor Paula Schnepp noted that with the lottery ensuring fair marketing of the units, the selection of tenants is open to all that are eligible. Mr. Barbosa said his intention to provide an opportunity for an affordable place to live that will benefit everyone on Cape Cod.

Chairman Ells noted that Andy Clyburn has a hard stop at 10:00 a.m., however a quorum will still exist beyond that time.

2. **Updates** – End of Year planning & reporting – Director Mark Milne

Mark Milne provided an update as to where the Trust stands financially saying there is $98,000 remaining in the Economic and Development portion of the fund. He noted that the Trust has received the first payment from WS Development for the Landing project, and the Trust will now be receiving an annual stream of non-CPA funds; there is a total of $178,000 Affordable Housing funds now available with this payment. He said there is $839,000 for CPA funded activities remaining, saying that there are several projects under the heading of commitments that have not all been memorialized by grant agreements but are set aside based on actions taken by the Trust.

Laura Shufelt inquired regarding the HAC Resource Center and Jillian explained that HAC did not proceed with the original location or come back to the Trust with a subsequent request. Laura said she had missed the meeting where the HAC Resource Center was discussed and advised that CPA funds may only be used for permanent housing.

Ms. Shufelt said that the Town of Barnstable was not designated as a seasonal community and guidelines for becoming a seasonal community have not yet been written. A Town Council vote would be needed to establish the Town of Barnstable as a seasonal community if the town receives a seasonal community designation. Chair Ells said that the Town Manager's Newsletter this week includes links to information related to seasonal community designations and Laura said she is a part of the working group for this.

Andy Clyburn left the Trust meeting at 9:55 a.m.

3. **Matters Not Reasonably Anticipated by the Chair**

Mr. Tim Telman provided an update on the 199 Barnstable Road project which had received approval for $600,000 in Trust funds. He said that building permits are in hand and final HDIP approval was received on December 18, 2024, and the LIP has been completed by HAC and is ready to submit. He noted that the monitoring services agreement with Barnstable Housing Authority is like the one for 850 Falmouth Rd. He said that the required documents, regulatory agreement, deed restriction and note are complete and will be ready to close within the next 60 days. He said Mass Development is going to finance the HDIP and he will likely begin demolition soon, saying that all is on schedule.

4. **Approval of Minutes** from the 11/14/24 and 12/6/24 Trust meetings

Approval of the minutes was moved to the February 7, 2025 Trust agenda.

5. **Topics for Future Meetings/Agendas**

   a. **Continued discussion of grants versus loans for Low Income Housing Tax Credit projects – Basic distinctions, recommendation with rationale for Trust preference for grants, with potential proposed revisions to guidance documents and standard Trust instruments.**

Jillian Douglass said she included info from Laura that explains specifically the distinction between loans and grants for LIHTC projects.

   b. **Continued discussion of structure for a standing account or fund for set-aside of non-CPA funds to purchase, or exercise First Refusal Rights, to ensure future re-sales of CommonWealth Builder units will remain deed restricted for affordability** – Special Council Robert Galvin and Administrator Jillian Douglass.

Mark Milne noted that now that there is a source of annual revenue from WS Development, he recommends that funds could be set aside each year to build up a fund for the purpose of ensuring Commonwealth Building project related units remain affordable in the future. He said he had not determined an appropriate amount, however, CPC several years ago had a fund for $75,000. He deferred to Laura as to what would be an adequate amount. Laura said that if there is time at the next meeting, she could provide some calculations.

Chair Ells noted that it is very important for the Trust to understand what the strategies and priorities and goals of the Town are and said it is intentional that the Town Manager, Assistant Town Manager and the Finance Director are members of the Trust Board to ensure consistency with the town's overall goals and priorities. Chair Ells asked that the topic be added to a future agenda for the Trust to review Town Council updates to the strategic plan and other town plans to ensure the Trust's continuity with them. He noted that the issue of the deed restrictions expiring under the CommonWealth Builder program may be an item that the Town Council has an interest in.

6. **Next Scheduled Meeting – Friday, February 7, 2025, at 9 a.m.**

7. **Adjournment (Roll Call)**

The motion of Mark Milne was seconded by Laura Shufelt to adjourn the meeting. Roll Call Vote: Laura Shufelt (yes), Mark Milne (yes) and Mark Ells (yes). Motion carried.

List of documents/exhibits used by the Board at the meeting:
Exhibit 1 – Affordable Housing Trust Fund Board Meeting Agenda for January 10, 2025.
Exhibit 2 - Correspondence regarding Standard Holdings request to record mortgage including December 6, 2024, letter from Attorney Kilroy for Standard Holding.
Exhibit 3 – Email and supporting documents from Attorney Galvin regarding CapeBuilt request for transfer of regulatory agreement and mortgage to Riverview School.
Exhibit 4 – Trust Application – Copacabana Real Estate Investments– 11 Potter Avenue, Hyannis – Carlos Barbosa
Exhibit 5 – Draft Trust meeting minutes from 11/14/24 and 12/6/24.
Exhibit 6 – Rationale for Trust preference of Loans over Grants from Laura Shufelt.

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