

CITY OF NEWTON

IN BOARD OF ALDERMEN

COMMITTEE ON COMMUNITY PRESERVATION REPORT

TUESDAY, MARCH 23, 2010

Present: Ald. Albright (Chairman), Blazar, Ciccone, Fuller, Harney, Hess-Mahan, Lappin and Yates

Others Present: Cindy Stone (Director, Newton History Museum), Susan Abele (Newton History Museum), Alice Ingerson (Program Manager, Community Preservation), Josephine McNeill (Director, CAN-DO), Arthur Cabral (Interim Commissioner, Public Buildings Dept.), Zack Blake, Joel Feinberg, Nancy Grissom (Community Preservation Committee Members), Karyn Dean (Committee Clerk)

REFERRED TO CMT ON COMM PRES., PUB. FAC. AND FIN. COMMITTEES

#83-10 THE COMMUNITY PRESERVATION COMMITTEE recommending that the sum of sixty three thousand, eight hundred forty five dollars (\$63,845) be appropriated from the FY10 Community Preservation Fund's historic resources and general reserves to be expended by the Public Buildings Department to complete the design of storage and accessibility improvements for the archives at the Jackson Homestead. [03/09/10 @ 4:20 PM]

ACTION: **APPROVED 7-0 (Ald. Ciccone not voting)**

NOTE: Nancy Grissom addressed the Committee. She explained that the Community Preservation Committee is recommending that money be appropriated to design space within the museum to improve the archival storage at the Jackson Homestead. In 2008, \$359,000 was requested to rehabilitate and expand the research library archives at the Jackson Homestead to preserve the collection, provide space for future additions, and improve public access and so forth. The Committee on Community Preservation approved the entire amount. In 2009, the full board appropriated and approved \$37,500 of the \$359,000 for design costs only and voted to hold the remainder. In the course of designing, some refinements were made by the museum and the Public Buildings Department. Approximately \$36,000 has been spent so far. A further appropriation of \$63,845 is now necessary to complete the design to encompass the changes. This money would also pay for a professional cost estimator to be used as the basis for the construction funding. Ald. Albright asked why the architect's design fee was so high. She thought it was generally about 10% of the project but this fee was double that amount. Mr. Cabral said that extra time was spent revising the plan and design which raised the cost.

Original Item #147-08

The original request for \$359,000 is still being held in the Finance Committee, minus the \$37,500 that was appropriated for the design component (#147-08). The Community Preservation Committee will be asking the Finance Committee and the full Board to vote No Action Necessary on that item. They would like to resubmit a proposal for the building phase of the project once the new cost estimates come in.

Refinements in Design

Ald. Albright asked what the refinements are in the design that are adding to the cost. Cindy Stone said they were originally going to reinstall the handicap lift. The architect told them that by today's standards, the lift was not really sufficient. Art Cabral noted that the lift was installed in the 1970s. Currently, the lift is accessed through the area where they deal with their trash. The architect suggested a universal access entrance which is much preferred. It is a wide entrance that all patrons would use. The design plans then have to go through many different boards and committees including the Mass Architectural Access Board, the Historic Commission and a number of other entities. Mr. Cabral said that Public Buildings should probably have had more involvement with the setting the original design fee. They would have set it closer to \$50K - \$60K at the time, and that was without the ramp design. Also, testing for lead would need to be done and geological testing might be necessary. As they began the design, it became clearer that more work was needed. Any money left unused goes back into the Community Preservation Fund. Ald. Albright asked if there was space in the library to house the archives. Ms. Stone said there was not sufficient space there.

Susan Abele showed the plans to the Committee. They were attached to the hard copy of the agenda as well as the online version. The new entrance will accommodate all patrons including handicapped patrons and will lead to the reception area. The current access through the side door leads into the teaching area. This causes regular disruption to the programs for schoolchildren by the mailman, other patrons, etc. The bathroom also needs to be made more accessible to meet current standards. The current access also is not where near the receptionist which is very inconvenient. There will also be an insulation and HVAC upgrade and added fire suppression measures. The new shelving will dramatically increase the storage capability with some room for growth.

Ald. Yates asked if The Mayor's Committee on Disabilities has been involved with this. Ms. Stone said they have been. They planned the universal access entrance according to their recommendations. Ald. Yates was concerned that the Public Buildings Department might be eliminated or combined so proper language should be added to properly administer the funds.

Ald. Yates moved approval of this item and the Committee voted in favor 7-0.

REFERRED TO COMM. ON COMM. PRES. AND FINANCE COMMITTEES

#28-10 The COMMUNITY PRESERVATION COMMITTEE recommending that the sum of \$362,500, including \$2,500 for City of Newton legal costs, be appropriated from the fiscal 2010 community housing and general reserves of the Community Preservation Fund and expended under the direction and control of the Planning and Development Department, to create two units of perpetually affordable rental housing at 2148-2150 Commonwealth Avenue. [01/11/10 @ 4:23 pm]

ACTION: **APPROVED 5-0-3 (Ald. Blazar, Fuller and Harney abstaining)**

NOTE: Nancy Grissom addressed the Committee. She explained that the request for legal fees has been withdrawn by the Law Department and the total amount requested has been amended to \$375,000.

Units

She explained that Citizens for Affordable Housing in Newton Development Organization (CAN-DO) has already purchased an existing two-family house at 2148-2150 Commonwealth Ave. The plan is to create one rental unit with two bedrooms at 1,300 square feet, and a second rental unit with 4 bedrooms at 1,900 square feet. This home is in the middle of Auburndale and is very convenient to public transportation and shopping.

Tenant Qualifications

Initially, these units would be utilized as housing for homeless veterans with families. That population will continue to be targeted as long as the Health Care for the Homeless Office Program at the Boston VA Medical Center is in operation. In order for the veteran's to be eligible for these units, they would need to be receiving supportive services through this program. The VA said they are aware of eligible families (10-15) that meet these requirements. The VA works with local housing authorities and provides HUD VASH (Housing and Urban Development Veterans Affairs Supportive Housing Program) vouchers for housing for the veterans. If the VA supportive services program is discontinued, the units will be marketed to households with up to 80% of the area median income. They will endeavor to keep these units inhabited by families. There will be permanent deed restrictions on these units keeping them affordable to that population. The rents are dependent on the income of the tenant. The tenant would pay 30% of their income with HUD VASH covering the remainder.

Funding and Budget

Ms. Grissom said that using existing housing stock has been a goal of the City of Newton for affordable housing. Sometimes, however, it is more expensive to renovate and retrofit existing housing stock. The property had some improvements made after a fire some years ago but it does need further work. Additional funding is coming from other sources including a Community Development Block Grant (\$300,000) and grants from the Federal Home Loan Bank (\$50,000) and Charlesbank Homes (\$50,000). The house was purchased for \$666,630 with a loan from Village Bank with the understanding that

CAN-DO would use the CDBG funds, CPA funds and grants to pay down the mortgage to \$175,000.

CAN-DO Finances

Ald. Fuller was concerned about the financial status of CAN-DO. She noted that the City had forgiven loans in July 2009 of about \$530,000. She felt that updated financial records from CAN-DO were needed. Ms. McNeil said the last project that CAN-DO did was a homeownership project. Just as the units came on the market, the economy was declining. Therefore, a loss was created which was typical across the market. She also explained that CAN-DO has not collected a developer fee in four years which contributed to their financial setback. A developer fee is generally about 12% but they have collected only 7% in past projects. She explained that they had to forgo their developer fees recently because developing affordable housing is so costly in the city and they needed the money for the projects. Ald. Fuller asked how the developer fee is set and why it varies from 7% - 12%. Joel Feinberg said that projects that are publicly funded have an upper limit of 15% for a developer fee. For homeownership projects, the developer fee generally ends up being whatever is left over in the end. If nothing is left over, there is no fee. On rental units a set amount is more predictable. It gives a nonprofit a good opportunity to collect a developer fee to help it remain financially healthy. Ald. Fuller asked for some documentation on the variation in developer fees.

Ms. Ingerson said the Planning & Development Board is very involved in following CAN-DOs finances. The Board has advised Ms. McNeil to take a developer fee on future projects in order to keep the organization fiscally viable. Ms. McNeil said she presented an update of CAN-DOs financial status to the Planning and Development Board last month. Those financial statements showed CAN-DOs status much improved, especially if they follow through on this project and collect the developer fee. Ms. McNeil said she will provide what was presented to the P&D Board. She also expects the audited 2009 financial statements to be ready by mid-April. Ald. Fuller asked that she submit both of these documents in time for review by the Finance Committee meeting on April 12th. Ms. McNeil said they are carrying a mortgage on this property right now and would like to get the money as soon as possible to pay it down and reduce the daily costs.

Replacement Reserves

Ald. Albright asked what the allocation in the budget of \$10,000 for “replacement reserve” was for. Josephine McNeil explained that this was for maintenance, repairs and capital needs that might be necessary for the units. The rents are set at affordable rates and therefore do not allow much leeway to build up reserves for possible future needs.

Ald. Harney was concerned about the small margin on which CAN DO seemed to be operating. He worried that any unforeseen problems, beyond the \$10,000 replacement reserve, could be devastating to the project and/or the organization. Ms. McNeil said that nonprofits always operate on a slim margin. She also noted that there was a limit on the amount of cash flow a nonprofit could have and lenders look at that to make sure it's within the limit. If an organization has too much, a lender won't lend as much. She said if they found themselves in a situation where they needed more money than they had in

reserves, they could take it from their operating budget, or apply for more grants. She said that if they take less of a developer fee to add more to the reserve, they will find themselves in a bad fiscal situation again. Ms. McNeil feels they would not need to use any of the reserve account for at least 3 years.

Public Comment

Michael Lepie, Chestnut St., Newton addressed the Committee. He said he has been following CAN DO for about 5 years and has yet to see any realistic financial information. He said they are always about a year or two behind in their documentation. Mr. Lepie said CAN DO was forgiven loans of about \$1M last year and another \$100K - \$200K the year before. It seems to him that when the organization runs into trouble their debt gets forgiven. Mr. Lepie said he has heard that the organization has had zero money left in reserves so this \$10,000 they are proposing for this project would be huge. It appears to him that there is no business plan or financial plan for CAN DO.

Mr. Lepie said this project would cost about \$500,000 per unit. In the 5 years he's been following them they have not created any new units, have been forgiven over \$1M in debt and the Director has drawn a salary of \$130K per year.

Mr. Lepie said this property sits on the top of a very steep hill and he didn't think it was a suitable location. He quoted from a letter from Mr. Phil Herr which said that "suitability of location of occupants" and "suitability of site plan serving the occupants" were considerations in providing funds. **Mr. Herr's letter is attached.** Mr. Lepie said there was a footnote on the report from the CPC saying they wanted a release from the Law Department stating that in case someone with a disability wanted to live at this property, the City wouldn't get stuck with the tab for finding another place for them to live because the units could not be retrofitted. Mr. Lepie said that the CPA program asked MCHP to prepare a document that cost the taxpayers \$1600. This document said there was no reasonable access. He said that CAN DO wrote a reasonable access letter and it didn't say anything except that if the Board denies a request because it would cause undue hardship – which he said could be anything – the applicant may take the decision to Newton Fair Housing. He thought that meant if an applicant can not be accommodated because of cost, the City of Newton will take care of finding them a place to live. This meant the City would be burdened with accommodating people with a disability because of the location of this property. He said he had more information about CAN DO if anyone wanted it.

CAN DO Response

Ms. McNeil said that CAN DO did not have a reasonable accommodation policy so they created one that would be applicable to any project. Undue hardship is a term of art used in Section 504 and the ADA for individuals who have need for some accommodation whether physical or some other access need. In the event someone came to CAN DO and requested reasonable accommodation or modification, they would look at that. If it was something that could be done without excessive cost, they would do it. If they could not, the individual would have the right to appeal. Because the City has a Fair Housing Committee, it seemed reasonable to use them in the appeal process because of their

experience and expertise. Ald. Albright asked what would happen if the Fair Housing Committee disagreed with CAN DOs decision. Ms. McNeil said they would likely need to seek funds through CDBG to make the accommodation. On this particular project, however, because it is only two units, it does not fall under the accessibility requirements so any appeal would be moot. They did want to make a general policy, however, to cover any project that they might undertake. Ms. McNeil said the Veteran's families that the VA is working with right now do not have any physical accessibility issues. Even though these two particular units may not be appropriate for every single possible tenant, it is affordable housing being made available to eligible families and is appropriate for a wide pool of tenants. There are other units in the City that are appropriate for people who have accessibility issues.

Follow Up

The Committee would like the sponsors to submit the following information in time for review by the Finance Committee's meeting on April 12. It would have to be submitted to the Clerk's Office by April 8th in order to meet that deadline:

- Documentation of the range of developer fees
- Audited 2009 Financial Statements from CAN DO
- Financial Statements presented to Planning & Development Board last month
- Summary of the Planning & Development Board meeting

Ald. Hess-Mahan said he knows the CPC went over this application carefully. He feels that it fulfills the program requirements, it is community housing, it serves a specific population and is in partnership with the Veteran's Administration. It is also leveraging many different sources of funding which is difficult. He moved approval of this item. The Committee voted to approve by a vote of 5-0-3 with Ald. Fuller, Harney and Blazar abstaining pending the follow up documentation.

Respectfully Submitted,

Susan Albright, Chairman