

## **PLANNING AND DEVELOPMENT BOARD MINUTES**

October 6, 2008 City Hall, Planning and Development Department Rm 209, 7:30 p.m.  
1000 Commonwealth Avenue, Newton, Massachusetts 02459

### **Full Members Present:**

Joyce Moss, Acting Chair  
Tabetha McCartney  
David Banash  
Carol Beard

### **Alternate Members Present:**

Leslie Burg  
Felix Zemel

### **Staff Present:**

Steve Gartrell, Associate Director for Housing and Community Development  
Trisha Guditz, Housing Program Manager  
Kathleen Cahill, Community Development Senior Planner

### **Public Present:**

Josephine McNeil, CAN-DO  
Ken Sinclair, CAN-DO  
Cory Wegielewski, NCDF/John W. Weeks House  
Jeanne Strickland, NCDF  
Phil Herr, Newton Housing Partnership

J. Moss, Acting Chair, called the meeting to order at 7:30 p.m.

### **Community Development Board**

- 1. Action Item:** Approve the minutes of the September 8, 2008, meeting of the Planning and Development Board acting as the Community Development Board.

On request of J. Moss for a motion to approve the minutes, L. Burg so moved. C. Beard seconded the motion. The Board voted 4-0-0 to approve the minutes.

- 2. Discussion Item:** Presentation by Phil Herr, Chair of the Newton Housing Partnership, on the Housing Action Plan Initiative [HAPI] and request that the Planning and Development Board become collaborative partners with the others in that Initiative.

Phil Herr described the HAPI aim to broaden housing affordability in the City. The HAPI campaign seeks to gain, by the end of 2009, the adoption of many of the housing-supportive proposals contained in plans, such as the Comprehensive Plan and the Consolidated Plan, that have already been approved by the City but not yet implemented. HAPI is a collaborative effort among municipal agencies, civic groups, and other organizations, as well as Newton residents committed to housing affordability. The collaboration of these groups will take advantage of the “window” for action between now and the political change coming at the end of 2009, at which point mayoral and aldermanic elections will have taken place. Phil also emphasized the importance of collective action to attract the attention of the

Board of Aldermen. HAPI will be kicking off with a fall workshop at the end of the month, October 30<sup>th</sup>, and Phil invited members of the Planning Board to attend. Phil believes that the involvement of the Planning and Development Board will increase the diversity of the group's perspective, particularly since the Board has such a key role in the creation of housing. He indicated that the proposed HAPI actions will require some analytic work and research. The hope is that the Planning and Development Board could assume responsibility for a piece of this work. J. Moss inquired about the range of actions the Board could implement. Phil responded that these roles will evolve and attendance at the October 30<sup>th</sup> meeting will be particularly important for this evolution. L. Burg stated that she supports the effort and believes it fulfills a needed role in the City, particularly in light of the coalition format. L. Burg would like to see the Board use this as an opportunity to make themselves more visible. J. Moss suggested an important first step would be identifying a Board representative for HAPI.

J. Moss announced that F. Zemel had joined the Board at this time. F. Zemel stated his support of the initiative, particularly in light of the fact that it reflects some of his recent academic research in affordable housing. In addition, he believes the collaboration among different departments and agencies will contribute to the success of the effort.

D. Banash wondered about the time commitment for the Board. Phil indicated that there is no formal time commitment; instead the request entails an endorsement of support. The Board will be given the opportunity to take on a more active role but will only be invited to do as much as the Board can comfortably commit. Currently L. Burg is researching the special granting procedures and arrangements dictated in the codes of cities that have profiles similar to Newton.

J. Moss called for a motion for the Planning Board to become a formal collaborator by being listed on the HAPI letterhead. L. Burg so moved and F. Zemel seconded. The Board voted 4-0-0 to endorse HAPI and become a formal collaborator.

J. Moss stated that L. Burg has offered to be the formal representative of the Board with regard to HAPI and J. Moss would like to appoint her in this role. The appointment of L. Burg as representative would not preclude other board members from attending HAPI events but rather assure that there is regular attendance and consistent communication between the two groups.

F. Zemel stated his support of L. Burg's appointment and further inquired as to whether or not alternates to the Board were allowed to serve as representatives to other committees. S. Gartrell responded that the Board has the power to designate alternates to serve as representatives to other boards/committees. F. Zemel moved that L. Burg be appointed as the Planning and Development Board's official representative to the Housing Action Plan Initiative. T. McCartney seconded the motion and the Board approved the appointment 4-0-0. J. Moss voiced her appreciation of L. Burg's dedication to the committee and F. Zemel also expressed his interest in attending the Committee meetings.

- 3. Public Hearing and Action Item:** Request to commit up to \$6,910.00 in FY09 CDBG funds from the Housing Development Pool (CD09-02B) to CAN-DO for repair and rehabilitation work to 18-20 Cambria Road.

T. Guditz relied CAN-DO's request for funds to be used to replace the structure's existing wood decking on the porch with composite decking which is less slippery when wet and interior repairs to the second floor unit including tub drain replacement. She explained that allocating the funds from the Housing Development Pool would provide CAN-DO with a deferred, forgivable loan. CAN-DO is ready to go on this work having already solicited competitive bids and selected a contractor. Josephine McNeil, CAN-DO's Executive Director, explained the pertinent need for repairs. When the building was purchased initial repair work was completed, however, no work on the plumbing system was done. Recently ongoing issues with the sewer system have culminated into a serious problem that has made the units uninhabitable. In addition, the porch, which has also been untouched in regard to repairs, has become hazardous in the winter months.

J. Moss asked about the internal financial procedure that occurs when there is a repair issue in one of CAN-DO's properties. She wondered if there were funds set aside by the organization to address these needs. Josephine responded that the organization would usually rely on a contingency fund however the level of repairs throughout the past year has eaten away at these funds. In addition, the buildings that are owned and operated by CAN-DO have not been cash-flowing, making replenishment of contingency funds difficult. Although CAN-DO tries to obtain as much public funding as possible the organization is weighed down by expenses like mortgages, taxes, and utilities.

J. Moss asked about the terms of the forgivable loan. T. Guditz responded that CAN-DO must use the property for low income housing for a period of 50 years and in return the loan is 'removed from the books' after 50 years. J. Moss also inquired if the Planning and Development Board approval was all that was required to satisfy the standards of the Department of Housing and Urban Development (HUD). T. Guditz responded that after the Planning and Development Board's approval the Mayor also issues his approval and all HUD standards are met. T. Guditz stated that the Planning Department staff will be re-examining program guidelines in the near future to discuss the possibility of adjusting the threshold of when approval by the Planning and Development Board is sought.

J. Moss referenced the following line in the Newton Housing Partnership's memo, "...since the Planning Board would like assurance that we, presumably among others, have had the opportunity to comment on those proposals, our members now have been given a chance to review them" and stated that she was surprised that the Newton Housing Partnership's was required to review such a minimal amount of funding. S. Gartrell indicated that staff was following the Planning Board's lead, as it sounded like the Board was interested in hearing from the advisory committee associated with the funding request. J. Moss responded that she understood staff and advisory boards/committees were responding to a new Planning Board policy. Furthermore, she agreed that Josephine McNeil should be present to represent CAN-DO, but given the small amount of funds she does not feel it was necessary for an external opinion from the Newton Housing Partnership or the attendance of a Partnership representative at the meeting.

D. Banash stated that he appreciated the Newton Housing Partnership's written statement because it encouraged him to review the terms of the project, such as deferred, forgivable loan. Discussion followed about the disparity between the period of 50 years, which is when

the loan is forgiven, and the deed restriction that is placed on the property for affordability in perpetuity. D. Banash wondered if the developer, in this case CAN-DO, could convert the affordable property into market rate after fifty years, thereby having reaped the advantage of the loan before removing it from the affordable housing inventory and losing it. D. Banash further inquired about what would happen in regard to the loan if the developer removed the unit from the affordable housing inventory and the deed reverted back to the City. He wondered what the penalty would be in regard to the loan. T. Guditz stated that the sponsor would have to pay back the funds. In addition, the City would try to find another organization to own and manage the property as affordable housing. It is the City's goal to have this property available as affordable housing. In response to D. Banash's initial question, S. Gartrell added that even if the housing is converted to market rate after 50 years the City's low-income population will have reaped the benefit of the \$7,000 loan in that 50 year period.

D. Banash also inquired if Josephine was able to make a good faith attempt for three bids considering she is working with such a small project amount (\$7,000). Josephine stated that she believes that she did make a good faith attempt to acquire three bids for the project.

Josephine stated that she understands there is normally a 15 day comment period after the Board's approval but requested that the Board waive the comment period given the fact that the contractor is ready to go and able to complete the project in two weeks, enabling CAN-DO to rent the property in November.

L. Burg moved that the Board recommend \$6,910.00 in FY09 CDBG funds from the Housing Development Pool (CD09-02B) to CAN-DO for repair and rehabilitation work to 18-20 Cambria Road and waive the 15 day comment period. C. Beard seconded the motion and the Board voted 4-0-0 to approve the request.

J. Moss stated that she understood there would be a re-evaluation of program guidelines going forward but in the meantime it would be beneficial to the Board to have the applicant present. However, in this particular case it was not necessary to obtain the Partnership's opinion in addition to the staff and the applicant. S. Gartrell stated that the core of the issue is whether the relevant board or committee needs to come before the Planning and Development Board in these instances. J. Moss believes that these groups need not come before the Board for interim requests. The advisory board's/committee's presence is necessary when overall allocations for the year are being made, but not interim project allocations. S. Gartrell stated that the issue with the Newton Housing Partnership is that this group meets the week after the Planning and Development Board, which often forces the Partnership to call a 'special meeting' in order to review the funding request. S. Gartrell suggested that this issue should be discussed between the chairs of the two boards/committees.

T. Guditz wondered if the Board's decision to have the Newton Housing Partnership (or other advisory board/committees) present a recommendation to the Board rested on the amount of money requested for the project or the proposed use of the funds. J. Moss acknowledged that without a set of specific guidelines encompassing this issue it is difficult to operate consistently or establish a threshold. She indicated that in this specific case the suggestion that an advisory recommendation is not needed hinges on the small financial

request. S. Gartrell stated that the Department's citizen participation plan stipulates that a public hearing must be held if a project changes by 25%, in scope or amount. In this particular instance, Cambria Road is a new project, therefore, under the citizen participation plan it is subject to a public hearing.

4. **Public Hearing and Action Item:** Request to commit up to \$7,320.00 in FY09 CDBG funds from the Housing Development Pool (CD09-02B) to the Newton Community Development Foundation for access improvements to The John W. Weeks House.

T. Guditz reviewed the reason for the request, and stated that although accessibility projects are commonly funded through rehabilitation funds, these funds are limited to projects with 1-4 units and Weeks House has 72 units therefore the funds will be taken from the Housing Development Pool. She introduced Cory Wegielewski, property manager for Weeks House. T. McCartney asked if NCDF has replacement reserves for this type of project. Cory responded that the organization does have a replacement fund however, ongoing expenses for access projects, like this one, have surpassed the budget. Weeks House also saw a mortgage increase of \$1.5 million and recently funded a large exterior masonry renovation project.

F. Zemel asked if there were alternate sources to CDBG available for accessibility projects. S. Gartrell stated that there are no other funds (local or federal) that the Department is aware of for public accessibility. J. Moss asked about why rehabilitation funds can only be committed to projects with up to 4 units. S. Gartrell responded that there are different standards for projects with 1-4 units and projects that have over 4 units; small projects entail a different amount of compliance than large projects. Staff will be reviewing program guidelines over the next year and may possibly change this threshold in the future. Cory also requested that the Board waive the 15 day comment period so she can secure work by an asphalt company in a timely manner. F. Zemel moved that the Board recommend up to \$7,320.00 in FY09 CDBG funds from the Housing Development Pool (CD09-02B) to the Newton Community Development Foundation for access improvements to The John W. Weeks House and waive the 15-day comment period. L. Burg seconded the motion, and the Board voted 4-0-0 to approve the request.

5. **Public Hearing and Action Item:** Request to transfer \$45,092 in FY08 HOME funds from the Housing Development Pool (HM08-06B) to the FY09 CHDO operating expense fund (HM09-06C)

T. Guditz explained that under the HOME program traditionally CAN-DO, as the only certified CHDO in Newton, has received 5% of available funds for operation. Annually, this is usually between \$12,000 and \$14,000. In FY09 nearly \$12,000 in HOME funds were used to fund the operating budget of CAN-DO, but due to significant financial problems the City recommended that CAN-DO request an additional \$45,092 in funds. This is the maximum amount of CHDO operating support that the WestMetro HOME Consortium, of which Newton is the administrative lead, is eligible to commit on a Consortium-wide basis for CHDO operating expenses this fiscal year. The City is in a position to do this because the WestMetro HOME Consortium only has a total of three CHDOs, leaving unused CHDO operating budget allocations in the other nine communities. In addition, the Town

of Brookline has chosen not to fund their CHDO in FY09, leaving additional CHDO operating budget allocations. CAN-DO would be able to step in and fill this vacuum. Planning and Development staff have meet with CAN-DO staff and Ken Sinclair, treasurer of the organization, to talk about the CAN-DO's financial picture going forward. The additional operating funds being requested will carry CAN-DO for another five months. City staff has been encouraging CAN-DO to take advantage of technical assistance offered by CEDAC (Community Economic Development Assistance Corporation). The organization has taken the necessary steps to move forward with this assistance in the near future.

F. Zemel asked what would happen if Brookline decided mid-year that the Town wanted to fund their CHDO. S. Gartrell indicated that this would not be a problem because in such an instance there would be enough funds to cover both the increase in CAN-DO's operating budget and Brookline's CHDO. In addition there is a 50% limit on how much Newton can contribute to CHDO administrative costs. D. Banash asked how close CAN-DO would be to the 50% limit after granting the current funding request. Josephine McNeil and Ken Sinclair responded that CAN-DO would be at about thirty percent. D. Banash stated that as he understood it there is a substantial amount in addition to the current request that CAN-DO has the ability to justify and request. He wondered if there was a way the Board could assist CAN-DO in absorbing the additional funds (to reach the 50% limit) on a contingency basis. S. Gartrell suggested that the Board consider re-evaluating the situation in six months time because he would not be comfortable allocating more than the amount being considered today. Josephine added that CAN-DO hopes the financial health of the organization will have improved in six months time. D. Banash raised a concern that if CAN-DO does not request the maximum 50% in administrative funds and Brookline does not fund the Town's CHDO this year the funds will be lost. S. Gartrell responded that these funds will not be lost but will instead be allocated to a different project.

J. Moss asked how many units CAN-DO has produced during the organization's existence. Josephine responded that CAN-DO has produced 38 units of housing. J. Moss wondered if any other CHDO has come close to this record. S. Gartrell responded that he would have to total up WATCH and WTCH, two active Consortium CHDOs, in order to come up with accurate numbers. J. Moss asked if Linden Green Homes and Millhouse Commons, two CAN-DO developments, were rental properties. Josephine responded that these two developments were homeownership, and unfortunately the market rate units that are a part of this development sold for less than the pro forma. CAN-DO had counted on these two projects for cash flow.

F. Zemel inquired as to where the City stands on their affordable housing inventory, how close Newton is to the required ten percent. S. Gartrell responded that Newton was at 7.7% and had 700 units to reach the 10% goal.

L. Burg made a motion that the Board approve the transfer of \$45,092 in FY08 HOME funds from the Housing Development Pool (HM08-06B) to the FY09 CHDO operating expense fund (HM09-06C) and to waive the 15-day comment period. C. Beard seconded the motion, and the Board approved the request 4-0-0.

- 6. Discussion Item:** Consider nominations for the Chair, Vice-Chair, and Treasurer (Planning and Development Board) for an election to be held at the November 3, 2008, meeting of the Planning and Development Board.

J. Moss wondered if any board members or staff knew anything about Chris Dame, current Chair of the Planning Board. S. Gartrell stated that the last staff had heard Chris would likely not be returning to Newton, as he was in the process of purchasing a house elsewhere. D. Banash stated that there are two alternate members who have not attended many meetings: Charles Wagner and Keith Craig. It is important for the alternates to attend because the Board is frequently just under or on the fringe of a quorum. The Board wondered if the lack of attendance by some of the alternates was a result of their lack of voting power. D. Banash suggested that alternates should be encouraged to attend ZAP Committee meetings as representatives of the Planning and Development Board. J. Moss believes it would be unfair to place the responsibility of attendance at ZAP Committee meetings on alternate members, instead this should remain the responsibility of full board members. F. Zemel indicated that he has not attended one meeting (either Planning and Development Board or ZAP) where he has not been able to vote as an alternate because the Board had not reached a quorum. S. Gartrell added that another incentive for alternates to attend meetings is to be in a position to fill a vacant full member position. J. Moss nominated T. McCartney as chair of the Board, citing her background in lending, banking, and housing as excellent experience for the position of chair.

S. Gartrell stated that the state appointed position of representative to DHCD, previously held by Chris Dame, will now be open. F. Zemel expressed his interest in applying for the position and agreed to be in touch with S. Gartrell to learn about the application process.

L. Burg seconded the nomination of T. McCartney for chair of the Planning and Development Board. F. Zemel nominated D. Banash for the position of vice chair, citing his hard work with the home business ordinance. D. Banash stated his appreciation of the nomination but considering he has already served as vice-chair he nominated C. Beard. C. Beard respectfully declined the nomination. T. McCartney asked if J. Moss would consider remaining in her position of vice-chair. J. Moss indicated that she would like to remain vice-chair. L. Burg seconded the nomination of J. Moss as vice-chair.

F. Zemel suggested tabling nominations for vice-chair until November 3, 2008 to account for other board members, such as S. Wolf who were not present. J. Moss agreed that tabling nominations until the next Planning and Development Board meeting would be appropriate.

- 7. Discussion Item:** Update on the home office ordinance.

D. Banash updated the Board on the public hearing for the home business ordinance that took place September 22, 2008 at the ZAP Committee meeting. He began by explaining that the Planning and Development Board had an interest in regulating home businesses that were currently not under regulation by the City ordinance under the home business ordinance. These said businesses were businesses that had less than four employees and/or customers and that required less than two parking spaces. Businesses in this category are currently not required to obtain a special permit. D. Banash described that arguably these businesses could have an employee making more than 100 trip ends per day, yet this would

not trigger the requirement for a special permit. The Planning and Development Department believed that this was a loop hole that needed to be addressed. The Home Business Ordinance committee addressed this loophole in an earlier draft and did not exempt any business from the 12 trip ends more than four times per year or two parking spaces more than four times per year.

The revision that was docketed back in February contained a threshold for special permits only if there was a likelihood of the home business a) that had greater than four employees/customers or b) that required greater than two parking spaces having more than twelve trip ends daily more than four times per year. However, Stephen Linksy objected to the absolute way the requirement was made and it failed to make its way into the revised ordinance. Stephen Linksy's objection centered on his claim that the neighborhood would become policemen, forcing residents to tally their neighbors' trips ends and parking spaces. However, as D. Banash explained the Home Business Committee's ordinance revisions included a projection of trip-ends made in the application process by the home business ordinance rather than an absolute number. The Planning and Development Department, however, modified the projection into an absolute number. In order to reach a mid point between the Planning and Development Department, the Economic Development Commission, and Aldermen such as Stephen Linksy, the Home Business Committee added two sections to the ordinance and tweaked phrasing, changing the word *likelihood* into *projection*. In addition *non-resident* was changed to *non-resident in the dwelling unit*.

F. Zemel moved to present the current home business ordinance with new amendments to the Zoning and Planning Committee of the Board of Aldermen. T. McCartney seconded the motion, and the Board voted 4-0-0 in favor of presenting the ordinance with amendments.

The meeting adjourned at 9:30pm.

Respectfully submitted,

Stephen D. Gartrell  
Secretary