

PLANNING AND DEVELOPMENT BOARD MINUTES

March 9, 2009 City Hall, Planning and Development Department Rm 209, 7:30 p.m.
1000 Commonwealth Avenue, Newton, Massachusetts 02459

Full Members Present:

Joss Moss, Vice Chair
David Banash
Doug Sweet
Scott Wolf

Alternate Members Present:

Leslie Burg

Staff Present:

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

Public:

Josephine McNeil, CAN-DO

J. Moss, Acting Chair, called the meeting to order at 7:35 p.m. She noted that the meeting was rescheduled from March 2, 2009 due to inclement weather. She welcomed Doug Sweet, the new member of the Planning and Development Board. J. Moss appointed L. Burg as a voting member of the Board for the March, 9 meeting.

Board of Survey [7:30]

1. **Action Item:** Approve the minutes of the December 1, 2008, meeting of the Planning and Development Board acting as the Board of Survey.

On request of J. Moss for a motion to approve the minutes, S. Wolf so moved. D. Banash seconded the motion. The Board voted 5-0-0 to approve the minutes.

Community Development Board [7:35]

1. **Action Item:** Approve the minutes of the February 2, 2009, meeting of the Planning and Development Board acting as the Community Development Board and the Planning Board.

On request of J. Moss for a motion to approve the minutes, L. Burg so moved. D. Banash seconded the motion. The Board voted 2-0-3 to approve the minutes.

2. **Action Item:** Newton Housing Rehabilitation Guidelines.

T. Guditz offered the Board copies of the Fair Housing Action Plan and noted the action steps at the end of the plan. These action steps will reappear in the Annual Action Plan, presented for the Board in April.

T. Guditz presented the Board with a breakdown of programs, within the new Newton Rehabilitation Guidelines. In general, the eligibility of program participants will not change substantially in the new program. The only change is that owner occupants of multi-family structures are no longer eligible. Owner occupants of one and two family structures, including condominium units, non-profit organizations, housing developers and the Newton Housing Authority are eligible for assistance under the new program. J. Moss asked why multi-family rentals are excluded from eligibility. T. Guditz responded that this policy supports funding units that are deed restricted, instead of rental units owned by for-profit developers. Other CDBG funds are available to developers for rehabilitation provided that the units being rehabbed are deed restricted in perpetuity.

D. Banash inquired if non-profits are only eligible for assistance if they own deed restricted units. T. Guditz confirmed that this is true. She continued her explanation of the new rehabilitation program, indicating that the types of funding offered under the new program have been reduced from eleven different funding mechanisms to two options; a deferred loan (at four percent interest due upon sale or transfer of the property) or a grant (forgiven twenty percent annually over a five year term). There is specific work that is eligible under each funding mechanisms.

J. Moss wondered why this change was made considering it eliminated program income. T. Guditz responded that there would still be incoming program income, however, it would not be on a monthly basis. The research completed by T. Guditz, on other community's rehabilitation programs, supports these funding mechanisms; trading regular program income for a simpler program.

J. Moss asked if there were time restrictions on the funds. S. Gartrell responded that the City has seven years to spend the funds; however, Newton usually draws down on the funds in two years. T. Guditz stated that another reason for the change was the antiquated loan staff is currently using. The elimination of various funding mechanisms will enable the Department to deal with the current system in terms of current loans and establish a new system for future loans. Staff time will also be saved with the elimination of the underwriting required for the old program's various loan mechanisms.

D. Sweet asked if repayment of a loan received through the rehabilitation program was still required upon sale or transfer if the sale or transfer was made to an income-eligible family. T. Guditz responded that the program specifies a repayment at the time of sale or transfer regardless of the income status of the future owner. This policy avoids further departmental effort to monitor the property under complex circumstances. S. Gartrell added that it is difficult to get a deed restriction on a house for the type of rehabilitation covered by the program. Staff was also cognizant of the effect this requirement would have on marketing the program. Most elderly households, which comprise many of the eligible participants under this program, are hesitant to place a lien on their home.

D. Sweet asked which percentage of the rehabilitation funds were available as grants and what percentage of the funds was available as loans. T. Guditz indicated that the program has a balance of \$770,000 which is available as loans or grants. D. Sweet also asked if the loans are funneled back into the program upon repayment. T. Guditz confirmed that this was the case. S. Wolf asked if both the loans and grants required putting a mortgage on the

assisted property. T. Guditz responded that while loans require a mortgage and a note, grants require a Uniform Commercial Code 1 (UCC1). The UCC1 provides notice to attorneys of a lien on the property. The grant is essentially a loan without a mortgage and note. D. Banash asked if repayment of the grant was required if the terms of the loan were not met by the borrower. S. Gartrell confirmed this statement. T. Guditz clarified that grants are only available for emergency situations, accessibility needs, and lead hazard abatement. The new rehabilitation program will emphasize weatherization and energy efficiency assistance. These types of assistance are eligible under the loan funding mechanism.

J. Moss voiced a concern about historical properties undergoing rehabilitation under this program and the negative effect it may have on the value of the property. T. Guditz explained that under the new program, income-eligible owners, with a property in a historic district or on a National Register Historic District, can obtain a deferred loan for exterior rehabilitation. Any code violations will also be corrected at the time of the historic rehabilitation work. Preservation easements are not a part of the rehabilitation program, however, CPA and rehabilitation funds could potentially be used on the same property and a preservation easement is a requirement that could come tied to the use of CPA funds.

D. Sweet asked about the type of work that would qualify for the emergency repair. T. Guditz provided the following examples: leaking roofs, boilers that are no longer functioning, dangerous electrical issues, and hoarding cases. Emergency funding can be secured through the rehab program when there is a health and safety issue. Staff from the Inspectional Services Department and/or Health and Human Services Department are called in when needed on these cases.

Funding caps only apply with first time homebuyers and the Newton Housing Authority (NHA). First time homebuyers are limited to \$115,000 and the NHA is limited to \$100,000 per project. The cap prevents the housing authority from relying on these funds for regular maintenance. The NHA receives other Federal funds, primarily through the Housing and Urban Development Department for regular maintenance. Also, a total of \$384,000 in stimulus funds will go to the Housing Authority for capital improvements.

The first time homebuyer program works as a downpayment assistance program, reducing the mortgage to an affordable level. If deleading is required on the unit an additional \$25,000 is available to the homeowner as a one-time grant.

The new program includes changes in the terms of affordability. The term of affordability is linked to the amount of funds put into the project, similar to the HOME program (3 years \leq \$15,000; 5 years \geq \$15,000 10 years \geq \$40,000). Staff will monitor the property each year until the term of affordability has expired.

S. Wolf suggested that the grant is actually a forgivable loan, and staff should consider changing the terminology. He also stated that under the grant funding mechanism, a mortgage and note would be a better way to protect the City's interest instead of a financing statement. Staff believes that the time and financial investment outweighs the risk in this situation. The execution of the program in this way has not proved to be a problem in the past. Staff will consider changing the terminology from grant to forgivable loan.

D. Banash asked what enforcement tool the City has against a grantee violation. Since the City does not have a mortgage and note, the funds would be difficult to recover. S. Gartrell suggested that the tools of enforcement (mortgage and note versus lien) need to be balanced against the marketing of the program. Elderly homeowners may decide against participation in the program because they do not want to put a second mortgage on their property. T. Guditz pointed out that grants are limited to three instances (emergencies, lead hazard abatement, and accessibility). The majority of these types of projects usually cost between \$5,000 and \$15,000. Applicant participation in the program is down and staff plan on shifting marketing efforts back to the homeowner rather than non-profits.

S. Wolf suggested the possibility of favoring elders more heavily in the program. One way to do this would be to offer income eligible elderly households the option of a (100%) grant for emergencies, lead hazard abatement, and accessibility.

S. Wolf moved that the Board adopt the proposed changes to the rehabilitation program and urge staff to return with an amendment to the guidelines with respect to elderly households. The Board voted 4-0-1 to approve the motion.

3. Other Business

J. Moss appointed S. Wolf, in her absence, to act as chair of the Board for the next agenda item.

S. Gartrell provided the Board with an update on the stimulus package. Congress approved an additional \$1 billion in CDBG funds and \$1 billion in additional Homelessness Prevention funds. Newton will receive an additional \$603,000 in CDBG funds and \$923,000 in Homeless Prevention funds. HUD has emphasized that CDBG funds must be used for projects that will be underway in 120 days from the City's receipt of funds, but no regulations have been released yet. Program staff has identified potential projects for the CDBG funds. The Homeless Prevention funds amount to nine times what the City usually receives in the annual allocation of ESG funds. Eligible activities under these funds include: short and long term rental assistance, housing remediation, housing search, credit counseling, security and utility payments, moving costs, and case management. The City will likely be sending out a request for proposals for these funds. Staff will be coming before the Board for an annual action amendment in the near future.

Josephine McNeil asked if there would be collaboration among the HOME Consortium to spend these funds. S. Gartrell indicated that this is a possibility as long as the service area includes Newton.

The sense of the Board is that CDBG funding should be geared to projects that emphasize job creation or job preservation.

4. Public Hearing: Newton Citizen Participation Plan.

S. Wolf ceded his chairmanship to acting chair Joyce Moss.

K. Cahill highlighted the proposed changes to the City's Citizen Participation Plan that were approved by the Board at the February 2 meeting. S. Gartrell recommended that the fourth paragraph on page 3, be changed from "when funding recommendations are made to the Planning and Development Board" to "when funding requests are made to the Planning and Development Board."

Planning Board [8:30]

1. Discussion Item: Home Business Ordinance.

Prior to the Planning and Development meeting the members of the Board voted to revise the home business petition, as follows: Remove the trip end special permit criteria entirely (proposed Sec. 30-15(c)(7)(iii)); change existing Sec. 30-15(c)(8) by removing the words "traffic congestion" and replacing them with the words "amount of traffic;" replace the word "required" to "authorized" in proposed Sec. 30-19(d), number of parking stalls; and replace proposed Sec. 30-15(c)(v) with the following text: "either exclusive or shared utilization of one or more areas that together comprise more than is twenty percent (20%) of the gross floor area of the dwelling unit within which the home business is located." Regarding the removal of the the trip ends, the discussion centered on the concern about trip ends expressed at the public hearing and other recent meetings. Regarding the other items, the committee was focused on clarifying the intent of the petition.

The Home Business Ordinance will be discussed at the Zoning and Planning Committee meeting April 13 at 7:45pm.

The meeting adjourned at 9:15 pm.

Respectfully submitted,

Stephen D. Gartrell
Secretary