

## **PLANNING AND DEVELOPMENT BOARD MINUTES**

July 13, 2009 City Hall, Planning and Development Department Rm 209, 7:30 p.m.  
1000 Commonwealth Avenue, Newton, Massachusetts 02459

### **Full Members Present:**

Tabetha McCartney, Chair  
Joyce Moss, Vice-Chair  
David Banash  
Leslie Burg  
Scott Wolf

### **Staff Present:**

Mike Kruse, Director of Planning and Development  
Amy Yuhasz, Community Development Program Manager  
Trisha Keynon Guditz, Housing Development Program Manager  
Kathleen Cahill, Community Development Senior Planner

### **Public:**

Rimma Zelfand, Jewish Family and Children Services  
Meredith Joy, Jewish Family and Children Services  
Phil Whitbeck, Chair of the Human Service Advisory Committee  
Josephine McNeil, CAN-DO  
Michael Lepie, Citizen  
Elizabeth Lepie, Citizen  
Sara Lepie, Citizen  
Steven Freedman, Citizen  
Josh Freedman, Citizen  
Dan Albertson, NewtonTAB

T. McCartney, Chair, called the meeting to order at 7:30 p.m.

### **Community Development Board [7:30]**

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

M. Kruse noted that on page three of the minutes, the last sentence of paragraph four, 31 of the 38 units are affordable not 16 of the 38 units as written in the minutes. On request of T. McCartney for a motion to approve the minutes as corrected, L. Burg so moved. S. Wolf seconded the motion. The Board voted 3-1-0 to approve the minutes.

#### **2. Public Hearing and Action Item: Recommendation from the Human Service Advisory Committee for implementation of a three-year \$923,339 Homeless Prevention and Rapid Re-**

## **Housing Program (HPRP) grant from the Department of Housing and Urban Development.**

L. Haynes explained that the Human Service Advisory Committee met on June 15 and reviewed agency applications for the Homeless Prevention Rapid Re-Housing Program (HPRP). The Committee voted unanimously to recommend Jewish Family and Children Services (JFCS) as the lead agency to administer the HPRP. JFCS would receive \$900,000 over the course of 3 years to implement the grant. Phil Whitbeck, chair of the Human Service Advisory Committee, added that the Committee agreed that JFCS's previous coordination with non-profits in Newton as well as the organization's structure and past experience made them an ideal candidate.

T. McCartney wondered who would receive the \$23,339 that remained from the grant after JFCS received the \$900,000. L. Haynes responded that these funds would go to the City for administration of the grant. A total of 5 percent of the HPRP grant can be allocated to administrative costs. This 5 percent will be split between the City and the lead agency. Ms. Rimma Zelfand, Senior Vice President of Programs for Jewish Family and Children Services and Ms. Meredith Joy, Director of Basic Needs, were present at the meeting to answer questions. T. McCartney asked Ms. Zelfand and Ms. Joy whether JFCS' request for proposals will require one, two, or three year commitments. Ms. Joy stated that it was the agency's goal to expend at least 60% of the funds within the first two years – a requirement that will be reflected in the request for proposals. S. Wolf wondered how JFCS plans to allocate funds toward direct assistance and prevention. Ms. Joy responded that these decisions are difficult to make at this time. A total of twelve agencies will be involved in providing direct services and the volume of need for each service is still unknown. JFCS plans to facilitate a meeting with these agencies and explore the option of setting a cap for each agency. L. Haynes mentioned that HUD has determined individuals and families receiving rental and utility assistance can receive this type of assistance for a maximum of 18 months. JFCS' is well experienced in using data collection systems to track and analyze client progress and grant expenditures.

T. McCartney asked about the geographic region of service for the grant. Housing and Community Development staff together with staff from JFCS defined the geographic region of the grant as Newton, Watertown, and Waltham. Individuals and families currently residing in one of these communities or moving in or out Newton, Watertown, or Waltham are eligible to receive services under the grant. In addition, if an individual or family has a relationship of significance with a person, an institution or holds a job in one of these municipalities they are also eligible under the grant. There is some flexibility to serve persons from other areas. Each agency participating in the HPRP will be equipped with a list of other HPRP grantees to make appropriate referrals. Approximately eighteen towns and cities in Massachusetts received funds under the HPRP, including Arlington, Brookline, Boston, Cambridge, and Somerville.

D. Banash voiced a concern about the division of funds between preventative and direct assistance. His concern is that the funds may be spent entirely on case management, preventing the City from achieving the objective of eliminating or reducing need. Ms. Joy responded that the HPRP was structured to allocate funds for preventative services since both persons that are at-risk of homelessness and persons that are homeless are included in the eligible populations. Ms. Zelfand added that JFCS size and existing network will prove advantageous in capturing and connecting clients under the HPRP for long term services not provided under the scope of this

grant. L. Haynes stated that although homeless and at-risk of homeless populations may always exist, the volume of folks finding themselves in a desperate situation is greater now due to the economic state of the country. The HPRP aims to create a bridge to stability for these populations.

Eligibility will be determined through both financial criteria and a system of questions related to risk factors. This system of questions will be developed in collaboration with the twelve agencies working to provide direct services under the grant. Outreach efforts will be focused on particular populations. The HPRP represents one element out of a broad spectrum of services but it is a way for people who are not stably housed to enter the system. Another goal of HPRP is to reduce the amount of funding being spent by the state on emergency housing (hotel vouchers etc.)

L. Burg made a motion to recommend that the recommendation from the Human Service Advisory Committee for implementation of a three-year \$923,339 Homeless Prevention and Rapid Re-Housing Program (HPRP) grant from the Department of Housing and Urban Development be allocated as discussed and approved, S. Wolf seconded the motion and the Board voted 5-0-0 to approve the recommendation from the Human Service Advisory Committee for implementation of a three-year \$923,339 Homeless Prevention and Rapid Re-Housing Program (HPRP).

**3. Update: Follow up from June 1, 2009 Planning and Development Board meeting: request from Citizens for Affordable Housing in Newton Development Organization, Inc. (CAN-DO) to forgive \$529,817.24 in direct loans with the Newton Community Development Authority (NCDA).**

T. Guditz detailed the follow-up documents that were provided by CAN-DO after the June 1, 2009 Planning and Development Board meeting. The documents include: a detailed letter to the Planning and Development Board from Josephine McNeil, the Executive Director of CAN-DO, separate operating budgets for each of the CAN-DO properties, an actual operating budget for the entire organization, and the most recent (2007) audited financial statements. Non-capitalized reserves, an issue that was brought up at the June meeting, was addressed by J. McNeil in her letter to the Board. The letter also updates the Board on recent communication between CAN-DO and Village Bank as well as policy initiatives that have been discussed by CAN-DO's Board. One of these policy initiatives includes focusing on by-right projects instead of projects that will require a comprehensive permit, like Coyne Road. The memorandum written by Housing and Community Development staff recommends that the Planning and Development Board consider meeting with CAN-DO on a regular basis for updates on the organization's financial position.

T. McCartney offered to provide CAN-DO with contact information for an organization that provides assistance with non-profit strategic planning at no cost. J. McNeil indicated that CAN-DO has had some limited outside help with strategic planning about three years ago, but would welcome additional assistance.

D. Banash observed that part of the difficulty with the Coyne Road project was that a great deal of resources were expended without much yield. He wondered if CAN-DO's discussion to focus on by-right projects was related to the desire to reduce "administratively lopsided" projects. J.

McNeil responded that the amount of money spent on Coyne Road is not disproportionate to past projects, rather the problem was that the project was abandoned because of neighborhood opposition. Although she did acknowledge that 40B projects take longer to develop, the shift in focus relates to the fact that the organization's mission drives CAN-DO to develop more affordable units than those that are typically contained in 40B projects. For example, most 40B projects are either 20 or 25 percent affordable, while CAN-DO's developments are often 60 percent affordable. This philosophy became a problem in the Millhouse project where four of the six units were affordable. When the housing market declined, CAN-DO was unable to financially recover, because the sale of the market rate units no longer supported the affordable units. D. Banash wondered if this project was unsuccessful due to the fact the owners of the two market rate units were positioned to carrying the weight of the other affordable units, particularly with regard to condo fees. He wondered if this model was flawed because the market rate price in this situation would actually be less than the average market rate price if the development was 100 percent affordable. J. McNeil acknowledged that this is a problem faced by the organization, developers and the Massachusetts Department of Housing and Community Development. This situation is magnified in the smaller projects taken on by CAN-DO.

D. Banash stated that if the mission of the organization is to build affordable housing and the decision is to build it in this way (with a greater percentage of the affordable units and a smaller number of market rate units) CAN-DO may be setting themselves up to fail. J. McNeil responded that the other projects (rental, group homes) undertaken by CAN-DO are meant to balance out the mixed-income developments. The Millhouse project became a learning experience for CAN-DO and will change the organization's approach going forward. In the near future, J. McNeil sees CAN-DO focusing on rental housing and by-right development.

D. Banash inquired why CAN-DO was not exempt from municipal property taxes. It is J. McNeil's understanding that decisions about 501 (c)(3) property taxation are made at the local level by the assessors office and vary from municipality to municipality. She believes that organizations providing an educational service or those that house State Department of Mental Retardation and State Department of Mental Health clients are exempt from property taxes. S. Wolf commented that the issue of real estate tax is connected with the use of the property. If the use is directly related to the endeavor of the organization and the activities that are being conducted are charitable CAN-DO could apply for an abatement. Although CAN-DO has applied for an abatement several times the abatement has never been granted.

S. Wolf asked if CAN-DO's Board has thought about cutting the salary of the executive director or modifying the lease on the rental of the executive director's vehicle. J. McNeil responded the Board found that leasing a vehicle was more economical than mileage reimbursement. S. Wolf commented that accounting expenses comprise 10 percent of the organization's overall expenses and wondered if CAN-DO has considered putting the accounting services out to bid. J. McNeil responded that that figure includes costs associated with the bookkeeper and the auditor. S. Wolf suggested that putting the audit out to bid presents a potential cost savings. When asked, J. McNeil indicated that the dues and subscriptions line item includes housing organizations. S. Wolf suggested that CAN-DO should be encouraged by the Board to explore cost cutting measures in FY09 and FY10 in conjunction with the debt relief provided by the City. J. Moss asked if S. Wolf had a percentage in mind. S. Wolf sought to cut 10 percent of every line item in his firm's budget. J. McNeil indicated the CAN-DO did cut conference fees and travel. J. McNeil stated that she does not believe the salary of the executive director is disproportionate to

CAN-DO's output and the varied skills required for this work. J. McNeil has implemented cost savings measures by taking on work that would be completed by specialized personnel or consultants in other non-profits. S. Wolf responded that he believes the salary of the executive director is not too high or too low, but rather, that the Board would look for CAN-DO to make a prudent effort to examine all line items for cost savings. J. McNeil indicated that every line item has been examined and the budget has not increased in spite of the fact that costs have not gone down over the past several years. L. Burg added that she believes CAN-DO operates on a "shoestring" budget despite all the work that the organization has completed. S. Wolf stated that he is aware of the work the organization has done, but his comments relate to the task at hand.

D. Banash inquired about the funds that were moved from one project to another, as indicated in J. McNeil's letter to the Planning and Development Board. This is an issue for him since the Planning and Development Board voted to approve the project based on a pro forma that changes when project funds are moved around. J. McNeil clarified that there are two pro formas; a development pro forma and an operating pro format. The Planning and Development Board does not vote on every project completed by CAN-DO. The operating budgets for each project are a function of what goes on with individual projects and it remains somewhat fluid. For example, if an operating budget lacks the funds to repair tenant damage, money will be taken from another project. Given this fact, J. McNeil suggested that the Board examine the entire operating budget to see how properties and funds are managed.

D. Banash asked if there was a way to address the organization's lack of reserves. Perhaps, this could be built into each project's pro forma. J. McNeil indicated that unfortunately the nature of affordable housing precludes this from happening because expenses are going up faster than Section 8 rents. There is not enough income coming in to build up a reserve. D. Banash asked if CAN-DO was getting deeper into the problem by committing to focus on more rental projects. Perhaps ownership market rate units could provide needed reserves. J. McNeil responded that this is not a feasible possibility and there are not many small non-profit housing developers undertaking small developments that can build reserves. Newton is an affluent community with a high cost of housing that also has limited resources. Every project undertaken by CAN-DO includes as much conventional financing as possible to reduce the amount of federal and local assistance. Funding limitations also drive down developer fees which is another factor preventing the organization from building up reserves. J. McNeil believes that one of the mistakes made by CAN-DO was that the organization focused more on its mission than its structure.

D. Banash commented that the decision to focus on smaller developments instead of larger (50 units) housing complexes became a flaw in CAN-DO's development philosophy. Both J. McNeil and L. Burg responded that a 50 unit would not work in Newton. Neighborhood input and available land place limitations on the type of development that can be completed by CAN-DO.

D. Banash stated he was shocked to see the amount of credit card debt acquired by CAN-DO. Although he understands this was a last resort it does seem like the worst type of borrowing. D. Banash wished that this issue could have been addressed earlier when the sums of debt were smaller. Two or three years ago CAN-DO's hope was that developer fees from Millhouse and Linden Green would have eliminated this situation.

T. Guditz asked about the type of follow-up the Board wanted to see in the future. Planning and Development staff recommended that a conversation is scheduled with the Board and CAN-DO on a semi-annual basis. T. McCartney stated that it is the consensus of the Board that the conditions from the June 1, 2009 meeting have been satisfied and the Board anticipates regular follow-up by CAN-DO. The Board indicated satisfaction with the report delivered by CAN-DO and Planning staff by a 5-0-0 vote.

**4. Public Hearing and Action Item: Request from Citizens for Affordable Housing in Newton Development Organization, Inc. for a change of project use from rental to ownership and the forgiveness of \$391,105 in forgivable loans for 29 Coyne Road.**

M. Kruse indicated that the amount of loans being asked for forgiveness was incorrect in the agenda that was mailed to the Planning and Development Board. This figure included a rehabilitation de-leading grant in the amount of \$14,195 that was provided to CAN-DO by the City. T. McCartney stated it was her understanding that the forgiveness of these loans clears the title to close on the property tomorrow. T. Guditz responded that the closing was delayed until mid- August but there is a commitment from the lender which is extended in the purchase and sale agreement. Although the couple purchasing the home decided not to go through the first time homebuyer program, staff is working to walk the buyer through the purchase process, including securing other financing. Staff is comfortable that the sale will go through. Although first time homebuyer funds are not being used the unit will still be deed restricted. The homebuyers have been approved for the mortgage.

T. Guditz stated that the unit will be deed restricted in perpetuity. S. Wolf wondered if an increase in the homebuyer's income would affect the affordability of the unit or the couple's ability to stay in the unit. T. Guditz responded that fluctuations in the homebuyer's income is not an issue, the City will monitor the sale price of the unit if the homebuyer decides to sell it down the line. City staff also perform annual monitoring to ensure that the house is still the owner's principal residence. S. Wolf wondered if there was a restriction on applying for zoning relief. According to DHCD formulas the homebuyer is able to put more equity into the property but they are limited on the amount of money they can get out of it so there is little incentive for major renovation and rezoning.

Mr. Michael Lepie, a neighbor and resident of Newton, commented that there is a \$70,000 difference between the price that Coyne Road was marketed at (\$530,000) and the final purchase price (\$600,000) of the property. According to Mr. Lepie this final purchase price reflects \$400,000 in CDBG money and \$200,000 from the buyer. Mr. Lepie believes that CAN-DO was unable to sell the house at \$530,000 because it is almost inhabitable and it is likely only worth \$400,000 to \$450,000 in the "real market". Mr. Lepie believes that either the buyer is paying too much at \$195,000 or CDBG funds are providing too much relief. He requested a response from the Board on this comment.

T. Guditz responded that the CDBG and HOME funds that are being forgiven are being used to purchase an affordable housing deed restriction on this single-family home. No party in this situation is getting "money back." She indicated that a policy decision has been made by the City to keep the funds in the property to create a deed restricted affordable housing unit. The money

that the homebuyers are bringing to the table will be used to pay off CAN-DO's mortgage on the property.

T. McCartney asked what the total debt is on the property. The mortgage is a total of \$574,105 which reflects a bank loan of \$183,000 and federal loans administered by the City in the amount of \$391,105. T. McCartney stated that there is currently about \$600,000 worth of debt on the property which will be cleared with the sale of the property and the forgiveness of loans. This statement was made as an answer to Mr. Lepie's question.

Mr. Lepie commented that if Coyne Road was not a CAN-DO project the City could buy the property for \$530,000 and sell it for \$195,000, decreasing the amount of federal funds needed to create an affordable unit. He believes that either the homebuyer should pay \$120,000 instead of \$195,000 or the City should only forgive \$350,000 worth of loans. Mr. Lepie suggested that "good debt" was being used to cover "bad debt" for CAN-DO. T. McCartney stated that the decision to use federal funds to deed restrict the property is the City's choice. L. Burg added that Mr. Lepie has been after the Coyne Road project for the past 5 years and the accusations put forth now are a continuance of this opposition. She stated that Mr. Lepie's questions have been answered and there is no point in continuing an argument. Mr. Lepie requested to be "discounted" and removed from the minutes.

L. Burg made a motion to approve a request from Citizens for Affordable Housing in Newton Development Organization (CAN-DO), Inc. for a change of project use from rental to ownership and the forgiveness of \$391,105 in forgivable loans for 29 Coyne Road. J. Moss seconded the motion and the Board voted 5-0-0 to forgive \$391,105 in forgivable loans for 29 Coyne Road and change the project use from rental to ownership.

L. Burg made a motion to adjourn the meeting at 9:15 p.m., J. Moss seconded the motion and the Board voted 5-0-0 to adjourn the meeting.

Respectfully submitted,

Amy Yuhasz  
Secretary