

**FINAL MINUTES**  
**Affordable Housing Commission Special Meeting**  
**TUESDAY, SEPTEMBER 2, 2014, 7:00 P.M.**  
Charlestown Town Hall, Town Clerk/Vault Area,  
4540 South County Trail, Charlestown, Rhode Island

**1. CALL TO ORDER.** Meeting called to order by Chairman, Evelyn Smith.

**2. ROLL CALL. Members Present:** Chairman Evelyn Smith, Secretary Sandra Puchalski, Faith LaBossiere, Brian McDonald, Town Council Liaison Tom Gentz. **Member Excused:** Sean White. **Also Present:** Town Councilman George Tremblay, WCCDC President Geoffrey Marchant.

**3. SPECIAL BUSINESS: ChurchWoods Funding Advisory to the Town Council.**

Evelyn presented draft documents for review and discussion. Tom stated that it is a very exciting night for Charlestown in that we are getting ready to close on the property and have the first affordable Senior Housing units for Charlestown.

Evelyn explained that the first document is an analysis of the 2012 conditions that were imposed originally, noting that whatever the Council decided in 2012 was not as important as what the Council will be deciding now in 2014. There will be a contract from the State Office of Housing and Community Development (OCHD). David Pride is the financial advisor for the WCCDC, and has helped prepare the budgeting documents that went into the revised funding plan. Evelyn noted we have our own Bond money and CDGB money.

AHC members went over the draft **Memorandum to the Honorable Town Council dated September 2, 2014** regarding 2012 conditions for ChurchWoods Land Acquisition Grant. Evelyn noted that the memorandum is going over the 2012 document (analysis) and the next draft letter is the actual letter that will be going forward to the Town council as an Advisory. After the AHC met on August 21 to review the proposed project application for compliance with the conditions set by the Town Council in its commitment approval in October, 2012, this draft was formulated. The AHC has taken the findings into consideration when formulating its recommendation to the Town Council with regard to the release of bond funding for ChurchWoods land acquisition. Tom had a question for Geoff on second page regarding discussions on needs of tenants Coastal Housing Association. Geoff said they are working on the project and it will be an organic approach that Ernest had regarding communal areas and support services. Faith was interested in the municipal subsidy agreement. Members went over the 2012 Grant Approval conditions (7) and well testing results and well easement presently ongoing. After discussions and review, motion was made to approve the draft Memorandum. Faith made motion and Sandra seconded. All voted in favor, motion carried. Evelyn noted this Memorandum will become Exhibit F. It was discussed that Exhibit B will be the Approval of Master Plan from Planning dated March 15, 2013.

AHC members now reviewed the **Draft Advisory to the Honorable Town Council** for its regular September meeting. Evelyn noted that the first paragraph reminds the Town Council that they voted on this in 2012 and Exhibit A is the Town Council Minutes of October 9, 2012. It was agreed to take out the blue language on page 1 of the draft regarding easement over lot 44 and administrative subdivision. Top of page 2, members discussed 55 or older or 62 and older. OCHD commitment letter is for 62 and older. Sandra noted we should have the terms of the contract agreement as an Exhibit D. (HUD Funding Contract) Members continued to go

over conditions and terms. Tom asked about applicants and wait list. Discussion of a mailing list to inform Charlestown citizens of the project and wait list. Tom suggested an email list. Tom wanted to compliment Evelyn on the work project of the draft and everyone agreed we are ok to go forward with the acquisition given the Memorandum and the Advisory Opinion to the Town Council. Sandra made motion to accept the draft Advisory Opinion as corrected. Brian seconded. All voted in favor of motion. Motion carried. Evelyn will make the changes and corrections and get them to AHC members and then to Amy for the Town Council Agenda meeting tomorrow night.

Working copies of the draft Memorandum and the Draft Advisory Opinion are attached to and made a part of the Final Minutes.

**4. PUBLIC COMMENT.** None.

**5. ADJOURNMENT.** Motion and second to adjourn at 9:02 PM. Motion carried.

Respectfully submitted,

Sandra Puchalski, Secretary,

Approved at the September 30, 2014, meeting of the Affordable Housing Commission.

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## MEMORANDUM

TO: The Honorable Town Council

FROM: Charlestown Affordable Housing Commission

DATE: September 2, 2014

RE: 2012 Conditions for ChurchWoods Land Acquisition Grant

The Commission met on August 21, 2014, to review the proposed project application for compliance with the conditions set by the Town Council in its commitment approval in October, 2012.

Each of the prior conditions is restated and discussed below, with findings for each, going forward. The Commission has taken these findings into consideration when formulating its recommendation to the Town Council with regard to the release of bond funding for ChurchWoods land acquisition.

1. *"Grant approval is conditioned on the project receiving approvals from all appropriate municipal and state authorities, which include findings of structural components designed to meet the independent living needs of the frail or at-risk-of-frail elderly residents, and findings of compatibility with planned non-vehicular transportation improvements within the Traditional Village District."*

The findings set forth in this condition have been addressed during the Master Plan Review by the Planning Commission. A condition requiring all municipal and state approvals prior to the disbursement of land acquisition funds is premature, in that the funding necessary for the professional services to secure those approvals will come from other sources. An interim agreement between the WCCDC and the Town will be needed to protect the Town's financial interest in the event that the project does not receive the required approvals.

2. *"Grant approval is conditioned on the project receiving funding approvals from other agencies in an amount sufficient to complete the project."*

The Rhode Island Office of Housing and Community Development has received federal approval of its \$16M Disaster Relief application, which includes approximately \$4,396,000 for the ChurchWoods project. The Town has received a written acknowledgement of that total amount. RedStone Equity Partners has provided a letter of intent to provide capital

(LIHTC)

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under the LIHTC program, and at least three other potential equity partners have provided letters of interest. This condition has been met.

3. *"Grant approval is conditioned on receipt of a Memorandum of Understanding indicating the applicant's willingness to provide communal areas and support services to the extent that they are financially feasible."*

The communal area has been discussed and will be finalized within the Planning Commission review process. Minimum standards, if any, for the **use of communal** areas and services to be provided to **tenants** should be included in a municipal subsidy agreement between the Town and the WCCDC, at the time of the land acquisition closing.

4. *"Grant approval is conditioned on all of the land and buildings acquired remaining under common ownership with, and for the support of, the senior housing to be constructed."*

This condition will be met at the time of acquisition, and language ensuring its continued compliance should be included in the aforementioned municipal subsidy agreement.

5. *"Grant approval is conditioned upon the development, by the applicant in cooperation with the Town Solicitor, of mechanism(s) to ensure:*

- *the completion of the project;*
- *the recapture of a portion of the acquisition funds advanced, should the commercial building (lot 43) be sold, or leased for purposes unrelated to the support of the senior housing, during the term of affordability; and*
- *that the affordability and rental restrictions remain in place for 99 years, monitored and enforceable by the Town of Charlestown through required notification and appropriate legal instruments.*

This condition should be addressed in the provisions of the municipal subsidy agreement, **and should be made more inclusive of the entire property and not just the commercial building (which has now further deteriorated and is no longer considered at risk of being split off.)**

6. *"Grant approval shall require that funds be disbursed only:*

- *at a closing to be held in conjunction with all other funding agencies*
- *to the party and in the manner recommended by the Town*
- *Solicitor."*

The first part of this condition is not feasible. The LIHTC funding process will require that the property be held by a partnership, **that will not** be formed **until after** the land **has been acquired**. Many of the Town's issues

are addressed within the Tax Credit legal requirements. **However**, it is critical that any restrictions placed by the Town, or remedial actions reserved by the Town, are equally applicable to successor owners **both** during the **LIHTC period and for the balance of the** term of the Town's 99-year agreement.

7. "Grant approval is conditioned on the submission, prior to closing, of the remaining documents required in the Charlestown Affordable Housing Commission: Bond Procedures Guide (ref. page 3), viz., Title Affidavit, Survey, Payment of Taxes, and Environmental Assessment."

The Charlestown Affordable Housing Commission: Bond Procedures Guide (ref. page 3), calls for the submission of the following:

1. **Appraisal.** *An appraisal of the fair market value of the property and/or the housing restriction interest, prepared by a certified appraiser.*
2. **Title Affidavit.** *Legal description of the property or the housing restriction interest to be conveyed and evidence of a clear, marketable, insurable title to the property prepared by a licensed attorney or by an approved title company.*
3. **Survey.** *A Class 1 survey prepared according to the minimum standards of the R.I. Board of Professional Land Surveyors. This plan shall identify all areas which are to be restricted for affordable housing purposes.*
4. **Payment of Taxes.** *Evidence of full payment of all taxes owed to the Town, unless specifically waived by the Town Council.*
5. **Environmental Assessment.** *An examination of the subject property to determine any places or areas from or at which a release of oil or hazardous materials has occurred or where a threat of such a release exists."*

These documents, including those already on file, should be gathered and reviewed before the land acquisition closing.

**In addition, evidence of satisfactory well testing results (for water quality and well capacity/flow) should be submitted and reviewed prior to land acquisition, as both are necessary for the successful completion of the project. The existing public well will remain with the Church of the Holy Spirit but be shared by the Church and the housing project.**

**The proposed well easement language should be reviewed by the Town Solicitor to ensure that there is adequate access to the well and pump for purposes of testing, treating, maintenance and repairs, as well as the**

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installation, maintenance and repair of water lines (for the housing project) situated within the Church property.

AFFORDABLE HOUSING COMMISSION  
TOWN OF CHARLESTOWN  
4540 SOUTH COUNTY TRAIL  
CHARLESTOWN, RI 02813

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September 2, 2014- DRAFT

The Honorable Town Council  
Town of Charlestown  
4540 South County Trail  
Charlestown, RI 02813

Re: Advisory Opinion, Affordable Housing Land Acquisition  
Bond Funding **Disbursement**  
ChurchWoods, Washington County Community  
Development Corporation (WCCDC)

Honorable Town Council:

You have requested an Advisory Opinion from the Affordable Housing Commission with regard to the disbursement of funds from the Town's Affordable Housing Bond, for the acquisition of land for the above-referenced project. Pursuant to the Affordable Housing Land Acquisition Procedures, the Town Council previously committed acquisition grant funding for this project in the amount of Three Hundred Twenty-five Thousand dollars (\$325,000.00), subject to certain conditions. *(See Exhibit A: Town Council Minutes October 9, 2012, item 18a.)*

The ChurchWoods Project:

The proposed project has received Master Plan approval from the Planning Commission *(See Exhibit B: ChurchWoods Comprehensive Permit Master Plan Approval, Land Evidence Records Book 381 Page 368-372)* **Interim Planner Jane Weidman has advised us that this approval has been tolled and will be in effect until July, 2015, by which time the Preliminary Plan application will have to have been filed.**

**ChurchWoods is an age-restricted low-income rental housing project proposed by the Washington County Community Development Corporation. It will be located on Old Post Road, in the Traditional Village District (Plat 13, Lots 42, 43, 50-3 and a portion of 44.)** ~~*(Note: Does project still require a portion of Lot 44, or just an easement over Lot 44? If yes, has the administrative subdivision been approved?)*~~ It includes the construction of 24 new 1-bedroom rental units and an accessory community building on a 4.32-acre site **adjacent to the Church of the Holy Spirit. Qualified tenant households will be age-restricted to 62-or-older,**

unless federal funding requirements <sup>or the Town's judgement</sup> determine <sup>should</sup> that the age-restriction must be reduced to 55-or-older. Twelve of the rental units will be affordable to qualified households at or below 50% of area median income (AMI), and the remainder will be for qualified households at or below 60% AMI. (Note: insert current income caps for 1-person and 2-person households.) The units are proposed to be deed-restricted and monitored for compliance for a minimum of 99 years.

Funding

The Affordable Housing Commission met in open session, duly advertised, on August 12, 2014, with the Interim Planner and a representative of the WCCDC, to discuss the proposed funding strategies. Previously, this project had been linked to a second housing project for funding purposes, and sought but was denied the opportunity to apply for federal 9% Low Income Housing Tax Credits.

The revised Development and Operations Budget Summary (*proforma*) recently submitted includes a revised table of funding sources for the ChurchWoods project showing that HUD Disaster Relief funds and Low Income Housing Tax Credits, together with the Charlestown Bond Funding, comprise virtually all of the funds needed for the development and construction of this housing. (See Exhibit C: ChurchWoods Development Budget Summary, attached.)

On August 18, 2014, the Office of Housing and Community Development confirmed that the state's approved Community Development Block Grant Disaster Recovery Action Plan included incremental assistance for the Town of Charlestown to fund the proposed ChurchWoods affordable housing project, in the estimated amount of \$4,396,067. (See Exhibit D Office of Housing and Community Development, August 18, 2014, attached.)

On August 11, 2014, RedStone Equity Partners submitted a proposal to the WCCDC, indicating its willingness to negotiate an operating agreement to provide funding under the provisions of the Low Income Housing Tax Credits (Section 42) of the Internal Revenue Code. (See Exhibit E RedStone Equity Partners, August 11, 2014, attached.)

These "4%" LIH Tax Credits are available through Rhode Island Housing, which has already affirmed its readiness to make such funding available for this project. (It is the "9%" LIH Tax Credit funding that is ultra-competitive and for which RIH deemed the ChurchWoods project to be ineligible.)

That having been said, this is a very unique funding combination. The HUD funding is in the form of Community Development Block Grants (CDBG) <sup>subject to the terms</sup> ~~over a~~ <sup>of a contract</sup> ~~period of time.~~ This funding will be provided to the developer (WCCDC) <sup>agreement with</sup> ~~through the Town,~~ and it is our understanding that the Town will be responsible to HUD for the proper distribution of those funds, including an <sup>of the State</sup> ~~of the State~~ (ref. Exh. D)

additional A133 audit requirement. It is our further understanding that the Town can request reimbursement for these additional activity delivery costs.

2012 Conditions:

The Commission met on August 21, 2014, to review the proposed project application for compliance with the conditions set by the Town Council in its commitment approval in October, 2012.

It is the Commission's finding that, while some of the conditions have <sup>already</sup> been met, and others are still valid and feasible, some are now inconsistent with the present funding structure and need to be dropped or amended.

A detailed report and the findings of the Affordable Housing Commission, as to each of the prior conditions, is attached (see Exhibit F) and forms the basis for the following recommendation.

Recommendations:

The Commission is able to make limited recommendations to the Town Council for the land acquisition process, while still recognizing that there are questions that need to be answered.

In particular, we need to have a better understanding of the relative roles of the Town, the Developer (WCCDC) and the equity (LIHTC) partners during the construction period, the tax credit period, and the remainder of the 99-year affordability period. Only with that understanding can the long-term interests of the Town be properly protected.

We also need to better understand the federal program requirements of the CDBG grant and the federal restrictions for the LIH Tax Credit under the Internal Revenue Code. For example, the Disaster Relief CDBG funding appears to be for elderly (62 and over) housing, but the developer has stated that, because a portion of the funding is to be provided by private investors under the LIH Tax Credit, the age restriction can be no higher than 55. Is this due to the Tax Code, or to satisfy investor's concerns? In any event, we need to be assured that neither funding source is jeopardized by whichever age restriction is to be imposed.

There may be other conflicting housing, operational or term requirements between the HUD/CDBG grant and the IRS code requirements for the LIH Tax Credits. Does the Town have the right to an equity position during the Tax Credit period due to its role in the CDBG funding process?

Fortunately, the land acquisition is but the first step in the production of these affordable housing units. There is no reason to doubt that the project is feasible, both physically and financially. We should be able to move confidently through the acquisition, provided that:

- a) the due diligence for a land purchase has been completed;
- b) a mechanism is in place to ensure that the project is completed;
- c) a mechanism is in place to ensure that the land remains in service as low-income housing for the 99-year term of the housing restriction; and
- d) a mechanism is in place to allow the Town and the Developer to develop a more detailed subsidy agreement prior to the formation of the limited partnership to be formed to own, develop and operate the Project.

The Affordable Housing Commission therefore recommends that the Town Council authorize the release of Affordable Housing Bond funds to the Washington County Community Development Corporation, for the acquisition of those certain parcels of land situated on Old Post Road and designated as Lots 42, 43, 50-3 and a portion of Lot 44 on Tax Assessor's Plat 13, in the amount of Three Hundred Twenty-Five Thousand Dollars (\$325,000.00) subject to the following conditions:

#### 1. Supporting Documents:

The applicant shall assemble the following documents, to be reviewed by the Town Solicitor and placed on file with the Bond Authorization documentation in the office of the Town Treasurer:

- a) Purchase and Sales Agreement
- b) Appraisal Report
- c) Title Affidavit. Legal description of the property or the housing restriction interest to be conveyed and evidence of a clear, marketable, insurable title to the property prepared by a licensed attorney or by an approved title company.
- d) Survey. A Class 1 survey of the parcel, prepared according to the minimum standards of the R.I. Board of Professional Land Surveyors, and identifying all areas which are to be restricted for affordable housing purposes. ~~This document may be waived if no administrative subdivision is required, and all of the land to be acquired is to be restricted for affordable housing purposes.~~ (+ 4(b))
- e) Payment of Taxes. Evidence that no taxes are owed to the Town.
- f) Environmental Assessment. An examination of the subject property to determine any places or areas from or at which a release of oil or hazardous materials has occurred or where a threat of such a release exists.
- g) Water Quality Test showing that the water in the existing well meets minimum drinking water standards.

h) Well Flow Test showing that there is sufficient water flow in the existing well to meet the needs of the project.

2. Funding Commitments

The applicant shall assemble the following documents, to be reviewed by the Town Solicitor and placed on file with the Bond Authorization documentation in the office of the Town Treasurer:

- a) State Office of Housing and Community Development commitment letter (Aug. 18, 2014)
- b) Letter of Eligibility from Rhode Island Housing for 4% LIHTC, HOME, BHRI programs, as designated in the Sources *proforma*.
- c) Letters of Intent and/or Letters of Interest from firms to cover the LIHTC as designated in the Sources *proforma*.

3. Age Restriction Determination

The applicant shall request determinations from each of the funding sources referenced above, as to whether the funding commitment would apply:

- a) only to age-restricted projects for persons 62-or-older;
- b) only to age-restricted projects for persons 55-or-older; or
- c) to age-restricted projects of either type; and,
- d) if the funding commitment would not apply any one type of age-restricted project, whether that commitment was barred by statute or a voluntary choice on the part of the funding source.

4. Closing Documents

The applicant shall assemble the following documents, to be reviewed by the Town Solicitor to ensure that the Town's interest is accurately represented, and that the proposed easement allows <sup>for</sup> adequate access to the well and pump for purposes of testing, treating, maintenance and repairs, as well as the installation, maintenance and repair of water lines (for the housing project) situated within the Church property:

- a) draft deed, including well easement
- b) ~~a recordable instrument showing the location of the well and easement on the adjoining lot.~~ <sup>proposed</sup>
- c) closing statements, certificates and any other documents to be recorded or produced for the conveyance.

The survey shall ~~be~~

to ID

5. Funding Agreement

No funds shall be released until a Funding Agreement has been signed by all parties. A draft agreement ("Funding Agreement" in the notes that follow) shall be prepared by the Town Solicitor's office for the Town Council's consideration at a subsequent meeting, that encompasses the following objectives and whatever additional safeguards the Solicitor deems appropriate:

- a) The subject property shall be subject to a Housing Restriction in favor of the Town of Charlestown for a period of 99 years.
- b) The Housing Restriction period shall recommence whenever the subject property is conveyed.
- c) The subject property is to be developed in accordance with municipal and state permits and approvals, and placed in use as low-income rental housing for seniors (the ChurchWoods Project.)
- d) To the greatest extent possible, Charlestown residents shall have preferred status for tenant selection.
- e) The subject property may also be used to deliver supportive services to the tenants residing thereon, and to low-income seniors residing elsewhere in Charlestown by mutual agreement between the Town and the Operator. The Operator agrees to provide supportive services customary to elderly housing ~~(as required by HUD Sec. 202)~~ to the extent reasonably affordable within the operating budget.
- f) The subject property shall not be mortgaged, leased or conveyed (except for the leasing of the 24 residential units to qualified households) without the consent of the Town, nor shall it be used for any purpose other than low income housing or associated supportive services.
- g) In particular, the Town will be provided the opportunity to review the equity partnership agreement prior to the conveyance of the subject property, to ensure its consistency with the Town's Funding Agreement. Any subsequent modification of the equity partnership agreement shall require the consent of the Town.
- h) Any conditions imposed on the ChurchWoods project by federal and state funding programs will remain in place for the term designated in the respective funding agreements. Thereafter, the use may be modified with the consent of the Town, to any other use consistent with the Town's affordable housing plan.
- i) Any compliance reports required to be provided to funding or oversight agencies during the Housing Restriction period shall also be provided to the Town.
- j) The Town of Charlestown will retain a lien against the subject property, in the form of a mortgage deed, from the time of its acquisition until the time of its placement under a Ground Lease Agreement or other legal instrument that codifies the Town's ability to enforce the provisions of the Funding Agreement.

During the Housing Restriction period

The Commission members thank you for your consideration, and stand ready to give any further advice or review of this matter that the Town Council may deem necessary.

Sincerely,

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Evelyn J. Smith, Chairman

cc: Town Administrator  
Town Planner  
WCCDC

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