CITY OF CHARLOTTESVILLE

To be a place where everyone thrives.

Housing Advisory Committee

AGENDA
Wednesday, June 20, 2024, noon
Location: 100 Fifth Street NE, Charlottesville, VA 22902
CitySpace - Large Conference Room

1. Welcome
2. Introductions & Attendance
3. Staff Update: Landbank recommendation process
4. Agenda Items
    i. May 15 Regular HAC Meeting Minutes
    ii. (*If required*) Discussion on HAC Landbank Ordinance Recommendation and Memo
5. Public Comment
6. Adjourn

Agenda Attachments:

- May 15 Regular HAC Meeting Minutes (PDF)
- HAC-Land Bank Memo Final for Review (PDF)
- HAC-Land Bank Ordinance Final for Review (PDF)

DRAFT - UNADOPTED

CITY OF CHARLOTTESVILLE

To be a place where everyone thrives.

Housing Advisory Committee

Housing Advisory Committee (HAC) Minutes
Wednesday, May 15, 2024
City Space Conference Room 12pm - 2pm

HAC Members Present:

- Joy Johnson, Chair (JJ)
- Sunshine Mathon, Vice Chair (SM)
- Phil d'Oronzio (PdO)
- Heather Griffith (HG)
- Peppy Linden (PL)
- Mike Parisi (MCP)
- John Sales (JS)
- Nicole Scro [via Zoom] (NS)

HAC Members Absent:

- Michael Payne (MP)
- Dan Rosensweig (DR)

Staff Attendees:

- Alex Ikefuna (AI)
- Madelyn Metzler (MM)
- Alan Peura (AP)

Via Zoom:

- Kathleen Glenn-Matthews, CRHA

1. **Welcome**
   SM: Calls meeting to order at 12:12pm.

2. **Introductions and Attendance**

3. **Staff Update: Land Bank recommendation process**
   MM: City Manager update–
   Due to the City Attorney's absence, the Working Group won't review the HAC's land bank (LB) ordinance and memo. Those will go straight to the City Manager, who will review and send to the City's external legal team. They will come back to HAC if needed, and then sent to City Council.

4. **Agenda Items**
   a. **May 1st Regular HAC Meeting Minutes**
      Minutes approved.

   b. **May 7th Special HAC Meeting Minutes**
      Minutes approved.

   c. **Land Bank Ordinance Modifications**
      i. **Memo from Nicole Scro w/Proposed Changes - Discussion and Decision**
         SM: Asks NS to review suggested changes from her memo. [See Appendix]

NS: Went back and reviewed some HAC meetings from 2017-18 to understand prior context.
That version of the HAC had similar discussions–requiring an RFP for every transaction, as well as the counter argument re: acting quickly & acknowledging stakeholders' and partners' preferences. How to balance transparency and quick action? Also discussed the possible use of a property value trigger for RFPs.

Biggest proposed changes in this memo:

- Assume the use of an RFP process for every property, but also allow the LB board to override the RFP requirement through a 2/3 vote.
  (Policies that the LB board uses to guide that decision, ex: using a property value trigger for RFPs, may live in the bylaws instead of in the ordinance itself.)
- Require a 2/3 vote by the LB board for any use or disposition of property that doesn't involve affordable housing.

PdO: Forgot about the HAC's prior discussion of a 2/3 vote, that's a useful guardrail to keep.
Other thought: instruct LB board to share its bylaws with Council for a review period and discussion of potential revisions.
SM: Notes 2/3 vote will be 5 of 7 LB board members.
JS: The RFP & 2/3 vote would apply to all transactions?
SM: Ex: If HfH brings property/deal to LB, would req 2/3 vote to move forward without RFP. Notes the contingency period (tbd) for exclusive negotiation rights would still apply.
Recaps requirement of 2/3 vote for non-affordable housing uses/dispositions.
Any other conditions to consider for a 2/3 vote?
NS: Could also discuss guidance to include in memo re: LB board allowing a bypass of RFP process, specific scenarios there.
MCP: How do we feel about the question of the property value trigger for RFPs.
ALL: Agree to set aside, too complex to determine proper value.
ALL: Agree wthchanges outlined in NS memo.

ii. Sections 1 - 8: Review Changes and Refine Language

<u>Section 1: Findings</u>
ALL: Agree to remove "sole" from "establish a legal entity whose *sole* purpose is to facilitate the creation and preservation of affordable housing."

<u>Section 2: Authority</u>
No comments

<u>Section 3: Authorization and Establishment</u>
PdO: Section 3 (C), change from "shall not be required to pay " to "shall not pay" re: real estate taxes, water, sewer, stormwater, etc.
NS: Legally ok, and cleaner language.

HG: Does that include connection fees?
NS: Good point, can specify that.
JS: Also specify that after any transfer, the builder will be responsible.
PdO: May want to clarify "property vested in the name of the LB corp. shall not..." for cases of ground leases.
NS: Agrees.

Section 4: Powers
No comments

Section 5: Acquisition of Property
No comments

Section 6: Financing of Operations
SM: Section 6 (B) re: 50% of property taxes being remitted to LB, notes replacement of "City" with "participating local jurisdictions" in case LB operates in Albemarle County or elsewhere.
PL: Re: HAC discussion on 5/1 around engaging in bonding, notes Antoine Williams' comments, "The right for the new LB entity to engage in bonding needs to be specifically declared by city." Should that be included here?
SM: Maybe, or flag it and let attorneys decide what is best.
PdO: Or include it in Section 4: Powers.
ALL: Agree to flag whether to explicitly call out bonding powers in Section 4: Powers for legal team.

[JJ arrives 12:48pm]

Section 7: Use & Disposition of Property
NS: Reads additions to Section 7(C)(ii) Policy (1): Prioritize Affordable Housing and Policy (2): Fairness and Avoidance of Self-Dealing.
PdO: In Policy (2), is the term "exception" too strong? "The Land Bank shall only make such *exception* [to the RFP process]..."
JS: RFP will be the default option, so makes sense to me.
PdO: OK, minor issue, no heartburn.
Also, in Policy (2), not sure 1 year is the right length for the contingency period. Not sure what the right number is.
JS: Likes 1 year.
SM: Let's leave the recommended contingency period in the memo, allow LB board to put it in the bylaws.
JS: Should push the LB board to establish a reasonable contingency period.
SM: Adds "In case of such exception" in new 2nd paragraph of Policy (2) to tie it to 1st paragraph.

JJ: How was the 2/3 vote of the LB board developed?

SM: NS's suggestion, makes sure the 3 board members from the City need other votes to approve/decline RFPs.
JJ: Reasoning behind including a contingency period?
SM: Most real estate contracts are contingent; they include conditions, trigger points that make the contract happen.

<u>Section 8: Governance</u>
SM: Reviews LB board composition. Corrects language re: Planning Commission appointing its own rep.
PL: Question re: "each member shall continue to serve until successor has been appointed." Can't make someone serve past their term if they don't want to.
SM: Let's add note for legal team to clean up that language.
PdO: Let's add short note re: keeping expansion of board consistent with state statute.
Re: Section 8(B) Authorization of Initial Board Actions, proposes substituting "at least 5 board members" instead of "the full governing board" to avoid keeping the LB from acting if it takes too long to fill out the entire board.
JS/HG/PL: Disapprove.
PdO: How about 5, and at least 1 member that is an affordable housing beneficiary?
PL: Important to have the 2 affordable housing seats included.
JJ: Can't go with 1, has to be 2.
ALL: Agree on "at least 5, and with 2 members that are affordable housing beneficiaries."

SM: The rest is clerical. I think we made it.
ALL: Motion to approve the Land Bank Ordinance passes unanimously.

d. Memo and Ordinance Timeline
MM: Staff report will be barebones.
SM: So HAC will compose the memo, which NS has already started.
PdO: Happy to help NS.
JJ: Will the memo come back to HAC for review? Wants clarity on the memo process.
SM: Can't discuss the memo as a group via email. Can either come back to the memo at the next meeting or let NS/PdO do it.
JJ: Wants the entire HAC to see the memo and approve it.
PdO: We could send the memo to each HAC member individually, take individual comments, and then send the memo out again with changes.
JJ: OK with that.

NS: One thing that held this up in previous years was a lack of communication w/CLIHC and PHAR. Would be great to discuss with them directly.
PdO: JJ represents CLIHC and PHAR.
JJ: I don't lead CLIHC. [JJ is the Chair of the PHAR board of directors]

PdO: Emily Dreyfus is the interim executive director of PHAR.
JJ: No, she is not.
NS/SM: Asks JJ for her thoughts on involving PHAR, CLIHC.
JJ: Need to reach out to Emily Dreyfus next, who leads CLIHC.
PdO: Volunteers to contact Emily.

JJ: Is June 12 our goal to wrap this up?
MM: HAC should aim for 5/21 or 5/28. That will give the City Manager three weeks to review the LB ordinance and give feedback to HAC by June 12.
PdO: PdO/NS complete ordinance, memo, contact Emily Dreyfus...
SM: PdO/NS complete the ordinance, compose the memo, and contact Emily Dreyfus by 5/21. Simultaneously send the memo to HAC members as well.
NS: Notes absence of DR today.
SM: Spoke to DR before this meeting, thinks he'll be OK where we landed.
ALL: OK with timeline.
MM: Notes next HAC meeting falls on the June 19th Juneteenth holiday, need to find a different date.
ALL: Agree to meet next on Thursday, June 20th.

5. **Public Comment**
   No public comment.

6. **Adjourn**
   Adjourned 1:21pm.

DRAFT - UNADOPTED

APPENDIX

Proposed Memorandum to City Council composed by HAC member Nicole Scro

MEMORANDUM

TO: City Council

FROM: Housing Advisory Committee

RE: Land Bank Ordinance

DATED: _________, 2024

I. Introduction

The Housing Advisory Committee (HAC) recommends adoption of the enclosed Land Bank Ordinance. The purpose of this memorandum is to provide background information and more detailed explanations for certain portions of the ordinance.

Land Banks were first formed following migration out of urban areas in the 1970s. The purpose of these entities was to convert vacant, abandoned and tax delinquent properties into "productive use." It was not until 1999 that Virginia first adopted enabling legislation that allowed localities themselves to purchase tax delinquent property, and it was not until 2016 that the Virginia Land Bank Entities Act was first adopted. While there are several advantages to the creation of land banks (outlined below), the purpose of such entities has evolved from "revitalization" of abandoned or tax delinquent properties to the creation and preservation of affordable housing.

In 2018, following the passage of the Virginia Land Bank Entities Act, Richmond passed its own land bank ordinance. It designated the Maggie Walker Community Land Trust (MWCLT) to serve as the land bank for the City of Richmond. MWCLT is now considered one of the more successful land banks in the region.

The advantages of land banks are the following:

(1) Property held by these entities is tax exempt.

(2) Localities can directly transfer property they receive through the tax foreclosure process to land banks, allowing land banks to intentionally redevelop such property for specified purposes, such as, for the creation and preservation of affordable housing. This direct transfer process gives land banks a market advantage over private actors. In addition, the

transfer process avoids the restrictions often placed on municipalities when they directly redevelop property themselves. For example, Section 15.2-1800(A) of the Code of Virginia authorizes a locality to acquire real property "for any public use", as the term is defined in Section 1-219.1 of the Code of Virginia, which does not specifically reference affordable housing.

(3) Land banks can receive funding through a tax recapture process. For example, Section 15.2-7509(C) of the Code of Virginia allows for land banks to receive up to 50% of the real property taxes collected on property it has conveyed for a period of up to 10 years.

II. History of Charlottesville Land Bank Ordinance and Present Discussion

In response to the newly adopted Virginia Land Bank Entities Act, and the renewed focus on affordable housing, on November 20, 2017, City Council requested that City staff engage with the HAC, and the community at large, to explore the creation of a Land Bank Corporation. HAC, City staff, and subcommittees of HAC met several times before presenting a land bank ordinance to City Council on April 16, 2018 and May 21, 2018.

Between 2017 and 2018, discussions centered around the following two issues:

(1) What advantages are there to forming a separate Land Bank Corporation versus the City acquiring and redeveloping property itself?

As mentioned earlier, there are several restrictions on municipalities when they acquire and redevelop property themselves. In addition to being limited to only acquiring property for a "public use" (of which affordable housing is not specified), Section 15.2-1800 of the Code of Virginia requires a public hearing prior to the disposition of real property, and Article VII, Section 9 of the Virginia Constitution requires a three-fourths vote. By contrast, a land bank can acquire and dispose of property for any purpose and according to any procedure outlined in the applicable land bank ordinance.

The proposed land bank ordinance states, "The purpose of this Ordinance is to establish a legal entity whose sole purpose is to facilitate the creation and preservation of affordable housing in alignment with the Charlottesville Affordable Housing Plan and other local planning documents." Section 7 then dictates the procedure for use and disposition of property (with further details provided in Section 3 of this memorandum).

In 2017 and 2018, the Comprehensive Regional Housing Study and Needs Analysis had not yet been published and the Charlottesville Affordable Housing Plan had not yet been adopted. There were anxieties regarding how "affordable" would be defined, and that such definition may leave out the deepest affordability levels, and those most in need. It was also unclear how the Land Bank Corporation would fit within the City's larger strategy for tackling housing affordability.

In March 2019, the Comprehensive Regional Housing Study and Needs Analysis was published. It evidenced what many already knew, that the largest number of families are those most "severely cost-burdened" living at or below 50% of the area median income. Community conversations began to center those most in need.

Section 7(C)(ii) is an attempt to ensure that the new land bank entity focuses on the goal of the creation and preservation of affordable housing. It states, "The board shall first prioritize the creation and preservation of deeply affordable housing in alignment with the Charlottesville Affordable Housing Plan and other local planning documents. If use and/or disposition of property owned by the Land Bank entails other uses, such as market-rate housing and/or commercial/retail, the Land Bank shall document the justifications for such other uses in publicly available materials, and shall only act upon approval of two-thirds of the available voting members of the board of the Land Bank at a duly authorized meeting of the board."

Two years after the Housing Study and Needs Analysis was published, the Affordable Housing Plan was adopted [2021]. The Affordable Housing Plan explicitly states that within 3-5 years, the City should "establish a land bank." With the adoption of the Affordable Housing Plan, the context within which the land bank would operate became clearer. As stated in the Affordable Housing Plan, "the primary benefit of a land bank is the ability to abate property taxes." The Affordable Housing Plan further states, "A land bank would complement new land use policies that expand the amount of land eligible for denser residential development and supplement other subsidy tools by reducing land costs for new development." For example, for projects such as 501 Cherry Avenue, the property could be transferred to the land bank, which would reduce carrying costs since real property taxes would be abated. Lower carrying costs for the project means that there either would be the need for less subsidy (and therefore more money for other projects/housing) and/or deeper affordability levels could be reached. Moreover, with the establishment of the land bank, projects similar to 501 Cherry Avenue could be purchased by the land bank directly instead of initially by a private developer.

(2) How would the Land Bank Corporation complement or compete with the Charlottesville Redevelopment and Housing Authority (CRHA)?

Once it was established that a third party should acquire and redevelop property for the purpose of the creation and preservation of affordable housing, rather than the City itself, the question then arose whether a *new* entity should be created, versus designating an *existing* entity as the City's land bank. Many focused on how the potential new entity would complement or compete with the CRHA.

At a joint HAC-City Council work session on August 20, 2018, Joy Johnson stated, "the redevelopment arm of the CRHA has laid dormant…it's time we revitalize the redevelopment side of the Housing Authority…" At the May 21, 2018 hearing on the land bank ordinance, then-Vice Mayor, Dr. Wes Bellamy stated, "We should empower our Housing Authority…rather than diverting funds away from it." The 2018 land bank ordinance recommended by the HAC included a provision which gave CRHA a right of first refusal on all property acquired by the land bank in order to ensure the new entity would not compete with CRHA. The Affordable Housing Plan states, "Regardless of the structure, the land bank should be clearly prohibited from competing with the CRHA."

Present conversations have mirrored the 2017 and 2018 discussions. The HAC has tried to find a balance between ensuring the new entity is *complementary to* rather than *in competition with* the CRHA, while still allowing for the new entity to facilitate more and deeper affordability through partnerships with other local nonprofit entities. Section 7(C)(ii) of the proposed land bank ordinance requires a Request for Proposal (RFP) process for the use and disposition of all property *unless* two-thirds of the available voting members of the board of the Land Bank at a duly authorized meeting of the board approve. Section III of this memorandum then provides further guidance on the potential policies and procedures that the land bank board could adopt to further ensure the above.

III. Commentary on the Currently Proposed Land Bank Ordinance

This section of the memorandum is intended to provide further guidance as to the intent of the proposed land bank ordinance.

(A) Decision to Establish a New Nonprofit Entity

[to be added]

(B) Regional in the "Charlottesville Land Bank Corporation" Name

[to be added]

(C) Section 1. Findings. of the proposed Land Bank Ordinance

Section 1 of the proposed land bank ordinance relates to the purpose of the new land bank entity, namely, "the creation and preservation of affordable housing." The language of this section also attempted to acknowledge the tension between the goal of having an entity that is able to act quickly and efficiently with the need for a public entity to be held accountable to the public interest, providing transparency and fairness in its decision-making.

The last sentence of Section 1 states, "The Land Bank will achieve such balance by always explicitly prioritizing the creation and preservation of affordable housing over the interests of any single organization." This sentence was added after a discussion regarding how an affordable housing provider could approach the land bank entity regarding a potential acquisition of property, and then require the land bank entity to contract with it as a condition of such acquisition. The HAC agreed that a "first-come-first-serve" approach should be avoided.

Instead, the new land bank entity should be guided by community benefit above the interests of any single organization.

(D) Section 7. Use and Disposition of Property of the proposed Land Bank Ordinance

[to be added]

(E) Section 8. Governance. of the proposed Land Bank Ordinance

[to be added]

MEMORANDUM

TO: City Council

FROM: Housing Advisory Committee

RE: Land Bank Ordinance

DATED: _________, 2024

I. Introduction

The Housing Advisory Committee ("HAC") recommends adoption of the enclosed Land Bank Ordinance (the "Ordinance"). The purpose of this memorandum is to provide background information and more detailed explanations for certain portions of the Ordinance.

Land Banks were first formed following migration out of urban areas in the 1970s. The purpose of these entities was to convert vacant, abandoned and tax delinquent properties into "productive use." This broad term allowed for a variety of uses, from recreational spaces to commercial development. In recent years, the purpose of land banks has evolved from general "revitalization" of property to the specific goal of creating and preserving affordable housing.

Virginia followed national trends. In response to the heightening of migration out of urban areas in the 1990s, the Virginia General Assembly adopted legislation that allowed localities themselves to purchase tax delinquent properties. Subsequently, with the passage of the Virginia Land Bank Entities Act in 2016, the purpose of land banking shifted towards affordable housing.

In 2018, Richmond passed its own land bank ordinance. It designated the Maggie Walker Community Land Trust (MWCLT) to serve as the land bank for the City of Richmond. Other localities have also made inroads.

II. Advantages of Land Banks

The main advantages of land banks are the following:

(1) Property held by these entities is tax exempt.

(2) Land banks can receive funding through a tax recapture process. For example, Section 15.2-7509(C) of the Code of Virginia allows for land banks to receive up to 50% of the real property taxes collected on property it has conveyed for a period of up to 10 years.

(3) Using funds from the tax recapture process, land banks' own financing, borrowing and bonding ability, land banks can act quickly and efficiently, largely if not independent of the reliance on funding by localities. By contrast, local nonprofits are often hamstrung by existing bureaucracies and the specificity of the terms and conditions of grants and donations. These slow processes currently give private, for-profit developers a market advantage that results in missed opportunities for the creation and preservation of affordable housing.

(4) Localities can directly transfer property they receive through the tax foreclosure process to land banks, allowing land banks to intentionally redevelop such property for specified purposes, such as, for the creation and preservation of affordable housing. This direct transfer process gives land banks a market advantage over private actors. In addition, the transfer process avoids the restrictions often placed on municipalities when they directly redevelop property themselves.

The HAC is composed of executive directors of local housing nonprofits, the director of the Housing Authority, and a variety of community members with relevant professional expertise and lived experience. On May 15, 2024, the HAC unanimously recommended adoption of the enclosed Ordinance; the advantages of a land bank will further the City's goal of creating and preserving affordable housing.

III. History of Charlottesville Land Bank Ordinance

In response to the newly adopted Virginia Land Bank Entities Act, and the City's renewed focus on affordable housing, on November 20, 2017, City Council requested that City staff engage with the HAC, and the community at large, to explore the creation of a Land Bank Corporation. HAC, City staff, and subcommittees of HAC met several times before presenting a land bank ordinance to City Council on April 16, 2018 and May 21, 2018. That version was not ultimately adopted, and in retrospect it's just as well: conditions on the ground have evolved substantially, and the present version is more suited to meet the moment and adjust to future conditions.

In 2017 and 2018, the Comprehensive Regional Housing Study and Needs Analysis had not yet been published and the Charlottesville Affordable Housing Plan had not yet been adopted. There were anxieties regarding how "affordable" would be defined, and that such definition may leave out the deepest affordability levels, and those most in need. It was also unclear how the Land Bank Corporation would fit within the City's larger strategy for tackling housing affordability.

In March 2019, the Comprehensive Regional Housing Study and Needs Analysis was published. It evidenced what many already knew, that the largest number of families are those most "severely cost-burdened" living at or below 50% of the area median income. Community conversations began to center those most in need.

Two years later, the City adopted the Affordable Housing Plan. The Affordable Housing Plan explicitly states that within 3-5 years, the City should "establish a land bank." With the adoption of the Affordable Housing Plan, the context within which the land bank would operate became clearer. The Affordable Housing Plan asserts that "the primary benefit of a land bank is the ability to abate property taxes." Further, "[a] land bank would complement new land use policies that expand the amount of land eligible for denser residential development and supplement other subsidy tools by reducing land costs for new development." As a simple example, property slated for affordable housing redevelopment could be transferred to the land bank, which would reduce carrying costs since real property taxes would be abated. Lower carrying costs for the project means that there either would be the need for less subsidy (and therefore more money for other projects/housing) and/or deeper affordability levels could be reached. Moreover, with the establishment of the land bank, property could be purchased by the land bank directly instead of initially by a private developer, providing for much greater flexibility in financing and development. The restructuring of residential zoning in the City literally provides a ripe landscape for the Land Bank to facilitate smaller scale projects on lots and sublots.

During the prior effort to produce an ordinance, there were community concerns regarding the relationship of the Charlottesville Redevelopment and Housing Authority ("CRHA") to a newly formed land bank. Many were concerned with both CRHA's past inefficacy as well as its lack of empowerment, and a sense that the City was infringing on the prerogatives of the Authority. Again, the landscape is different today: CRHA has completed the Crescent Hall renovation and the first phases of the South First Street redevelopment; it has opened up its voucher waitlist, and has acquired a number of important properties that are slated for redevelopment. The HAC was mindful to address the concerns regarding the prior ordinance in crafting the current iteration.

With the City's passage of key planning documents and the empowerment of CRHA, the role and advantages of a new City land bank entity are now clear. A newly formed land bank will complement CRHA and the City's local nonprofits, acting as a "force multiplier" for the creation and preservation of more and deeper affordable housing.

IV. Commentary on the Currently Proposed Land Bank Ordinance

This section of the memorandum is intended to provide guidance as to the intent of certain language in the proposed Ordinance, as well as expand on some of HAC's deliberations.

(A) Decision to Establish a New Nonprofit Entity

The Virginia Land Bank Entities Act allows for a land bank to operate as either (1) a new nonprofit, (2) a department of the City itself, or (3) through an existing nonprofit. The proposed Ordinance envisions the creation of a new nonprofit to act as the City's land bank.

There are several restrictions on municipalities when they acquire and redevelop property themselves. For example, Section 15.2-1800(A) of the Code of Virginia authorizes a locality to acquire real property for any "public use" as the term is defined in Section 1-219.1 of the Code of Virginia, which does not specifically reference affordable housing. In addition, as mentioned earlier, a three-fourths vote and a public hearing is required prior to the disposition of real property. By contrast, a land bank acting as a separate nonprofit can acquire and dispose of property for any purpose and according to any procedure outlined in the applicable land bank ordinance. This flexibility allows the land bank to act quickly and efficiently, guided by the overarching goal of the creation and preservation of affordable housing.

Depending on the results of an RFP process, the land bank could have acted through CRHA, the Piedmont Housing Alliance (PHA), Habitat for Humanity of Greater Charlottesville, New Hill Development Corporation, etc. However, the main role of the land bank will be to act as a facilitator for such existing affordable housing providers. In the interest of creating an honest and agile broker, the land bank should neither be operated as an arm of the City, nor function as the arm of an existing nonprofit, but as a *new* stand-alone nonprofit.

(B) Regional in the "Charlottesville Land Bank Corporation" Name

While there was some debate among members of the HAC regarding the focus of the new land bank (City property versus a broader, more regional approach), the general consensus was that the first priority should be the City. A regional focus can be adopted by the land back at a later date as further communications with other localities develop. Both the enabling legislation and the Ordinance provide for expansion(s) with the addition of other localities, but the City is ready now, and should act now. Should other localities come into the fold, the Land Bank can revisit the issue, or better still, operate under an appropriate trade name for those transactions.

(C) <u>Section 1. Findings</u>. of the proposed Land Bank Ordinance

Section 1 of the proposed Ordinance relates to the purpose of the new land bank entity, namely, "the creation and preservation of affordable housing." The Ordinance then references the Charlottesville Affordable Housing Plan so that the land bank can adapt to the updated needs/desires of the City.

The language of this section also attempted to acknowledge the tension between the goal of having an entity that is able to act quickly and efficiently with the need for a quasi-public entity to be held accountable to the public interest, providing transparency and fairness in its decision-making.

The last sentence of Section 1 states, "The Land Bank will achieve such balance by always explicitly prioritizing the creation and preservation of affordable housing over the interests of any single organization." This sentence was added after a discussion regarding how an affordable housing provider could approach the land bank entity regarding a potential acquisition of property, and then require the land bank entity to contract with it as a condition of such acquisition. While there may be circumstances where that is clearly to everyone's advantage, the

HAC agreed that a universal "first-come-first-serve" approach should be avoided. Instead, the new land bank entity should be guided by community benefit above the interests of any single organization.

(D) Section 7. Use and Disposition of Property. of the proposed Land Bank Ordinance

Section 7(C) states that the land bank should be guided by two policies, the first being the prioritization of the creation and preservation of affordable housing. Section 7(C)(ii) is an attempt to codify such prioritization by requiring a two-thirds approval by the board of the land bank if "use and/or disposition of property owned by the land bank entails other uses, such as market-rate housing and/or commercial/retail…" Section 7(C)(ii) also requires the justifications for such other uses to be documented in publicly available materials.

The second policy relates to the avoidance of self-dealing and fairness. Section 7(C)(ii) states that there is a presumption that the use and disposition of property owned by the land bank shall be determined through a Request for Proposal (RFP) process. To overcome this presumption, the Ordinance states that there must be approval by three-fourths of the board of the land bank. This ensures there is a fair and equitable process for determining how property the land bank owns is used and sold, while also allowing for certain exceptions when necessary.

In case of such exception as noted above, to avoid putting the interests of any single organization above any other, any contracts entered into by the Land Bank shall be limited to a reasonable contingency period specifically outlined in the board's policies. The board of the Land Bank must approve any extension(s) beyond such specified period with a two thirds majority of the available voting members of the board of the Land Bank at a duly authorized meeting of the board, and shall only do so upon concluding that such extension is in the best interest of the community.

Section 8. Governance. of the proposed Land Bank Ordinance.

The board of the land bank should incorporate City and community representation: (1) a City Councilor, (2) a Planning Commissioner, (3) the City Manager (or his/her designee), with the majority of the seven-member board be composed of four at-large community members, at least two of which must be affordable housing beneficiaries with direct lived experience.

The one-to-one ratio between general community members and affordable housing beneficiaries is a vital component of the structure of the board. While community members with particular relevant expertise and interest are also vital, the City should prioritize filling the positions of the affordable housing beneficiaries. Finally, the City Manager designee should be a senior level employee, i.e., the Manager, a DCM or equivalent, or department head.

V. Conclusion

As presented in the Ordinance, this land bank is well positioned to succeed, acting as another tool in the toolbox as the City continues to tackle the affordable housing crisis facing our community.

ORDINANCE
CREATING THE CITY OF CHARLOTTESVILLE LAND BANK CORPORATION AS A NONPROFIT, NONSTOCK CORPORATION; ESTABLISHING A BOARD OF DIRECTORS; ESTABLISHING THE POWERS OF THE CORPORATION AND PROVIDING GENERAL PROVISIONS RELATING TO THE OPERATION OF THE CHARLOTTESVILLE LAND BANK

Pursuant to authorizing legislation set forth within Virginia Code §§ 15.2-7500 et seq., and following a public hearing held pursuant to Virginia Code § 15.2-7502, **IT SHALL BE AND IS HEREBY ORDAINED AND ENACTED** the City Council for the City of Charlottesville as follows:

1. Findings

The Charlottesville City Council finds that the social and economic vitality of the City of Charlottesville is adversely affected by a deficit of affordable housing within the jurisdiction of the City and the surrounding region. The purpose of this Ordinance is to establish a legal entity whose purpose is to facilitate the creation and preservation of affordable housing in alignment with the Charlottesville Affordable Housing Plan and other local planning documents. All efforts and uses of the Land Bank will balance the necessity to act quickly and efficiently with the need for transparent and fair decision-making. The Land Bank will achieve such balance by always explicitly prioritizing the creation and preservation of affordable housing over the interests of any single organization.

2. Authority

This ordinance is adopted in accordance with the provisions of Virginia's Land Bank Entities Act, §§ 15.2-7500 et seq. of the Code of Virginia (1950), as amended ("Va. Code").

3. Authorization and Establishment

(A) The Charlottesville City Council hereby authorizes the creation of a nonprofit, nonstock corporation, created under Chapter 10 (§§ 13.1-801 et seq.) of Title 13.1 of the Va. Code, to be named the "Charlottesville Land Bank Corporation" and hereby establishes the same as a separate legal entity for the purposes of acting as a Land Bank under the provisions of Virginia's Land Bank Entities Act and implementing and administering the terms of this Ordinance. The Charlottesville Land Bank Corporation shall exist until terminated and dissolved in accordance with the terms of this Ordinance.

(B) Initially, the principal office of the corporation shall be at 605 East Main Street (P.O. Box 911), Charlottesville, Virginia, 22902. Thereafter, the governing board of the corporation may change the location of its principal office.

(C) Pursuant to the provisions of Virginia Code § 15.2-7510 property vested in the Charlottesville Land Bank Corporation shall not pay any real estate taxes, water and sewer charges (including tap fees, as applicable), stormwater assessment fees, and any other municipal charges upon any property acquired or used by the Land Bank under the provisions of this Ordinance.

4. Powers

The Charlottesville Land Bank Corporation shall have all of the powers enumerated and authorized within Va. Code § 15.2-7506, as amended.

5. Acquisition of Property

The Charlottesville Land Bank Corporation may acquire real property or interests in real property by any means and in any manner authorized by Va. Code § 15.2-7507 or other provisions of Virginia's Land Bank Entities Act. The Charlottesville Land Bank Corporation shall neither possess nor exercise the power of eminent domain.

6. Financing of Operations

(A) The Charlottesville Land Bank Corporation may receive funding, and may receive and retain payments, in accordance with the provisions of Va. Code § 15.2-7509.

(B) Fifty percent (50%) of the real property taxes collected on real property conveyed from the Land Bank to a transferee shall be remitted by the participating local jurisdiction to the Land Bank. This allocation of real estate tax revenue shall commence with the first taxable year following the date of conveyance from the Land Bank and shall continue for a period of ten (10) years thereafter.

7. Use and Disposition of Property

(A) The Charlottesville Land Bank Corporation shall hold in its own name all real property acquired by it, regardless of the identity of the transferor of such property, and shall hold, use and dispose of such property in accordance with Va. Code § 15.2-7508 or other provisions of Virginia's Land Bank Entities Act.

(B) The governing board of the Charlottesville Land Bank Corporation shall adopt policies and procedures governing the use and disposition of real property interests. Real property or interests in real property shall be conveyed in accordance with the Virginia Land Bank Entities Act, this Ordinance, and the Land Bank's adopted policies and procedures.

(C) The policies and procedures adopted by the governing body of the Land Bank to govern the use and disposition of property shall specify the general terms and conditions for consideration to be received by the Land Bank for the transfer of real property and interests in real property.

(i) The board shall determine the amount and form of consideration necessary to convey, exchange, sell, transfer, lease, grant or mortgage interests in real property. Consideration may take the form of monetary payments and secured financial obligations, covenants and conditions related to the present and future use of property, contractual commitments of the transferee, and other forms of consideration as determined by the board.

(ii) The Charlottesville Land Bank Corporation will be guided by the following two policies:

Policy (1): Prioritize Affordable Housing. The board shall first prioritize the creation and preservation of affordable housing in alignment with the Charlottesville Affordable Housing Plan and other local planning documents. If use and/or disposition of property owned by the Land Bank entails other uses, such as, market-rate housing and/or commercial/retail, the Land Bank shall document the justifications for such other uses in publicly available materials, and shall only act upon approval of two-thirds of the available voting members of the board of the Land Bank at a duly authorized meeting of the board.

Policy (2): Fairness and Avoidance of Self-Dealing. To promote transparency and fairness regarding the use and disposition of property, the presumption shall be that redevelopment of all Land Bank property shall be guided by community engagement and a Request for Proposals (RFP) process. However, such a robust process for determining use and disposition of property might not be optimal in all circumstances. The Land Bank shall only make such exception upon approval of two-thirds of the available voting members of the board of the Land Bank at a duly authorized meeting of the board.

In case of such exception as noted above, to avoid putting the interests of any single organization above any other, any contracts entered into by the Land Bank shall be limited to a reasonable contingency period specifically outlined in the board's policies. The board of the Land Bank must approve any extension(s) beyond such specified period with a two thirds majority of the available voting members of the board of the Land Bank at a duly authorized meeting of the board, and shall only do so upon concluding that such extension is in the best interest of the community.

(D) The Charlottesville Land Bank Corporation is authorized to discharge liens and other municipal claims, charges or fines, and may seek to enter into agreements with City officials for such discharges against the properties that it acquires. For the duration of time that a property is held by the Charlottesville Land Bank Corporation, the corporation may abate all real estate taxes, water and sewer charges, stormwater assessment fees, and any other municipal charges and, to the extent necessary, may seek abatement or non-taxable status from other government entities.

8. Governance

(A) *Governing board*—the Charlottesville Land Bank Corporation shall be governed by a board of directors comprised of nine (9) voting and one (1) non-voting members, as follows:

(i). One Charlottesville City Councilor chosen by City Council, for a term specified by City Council, but which shall not exceed such councilor's elected term of office;

(ii). One member of the Charlottesville Planning Commission appointed by the Planning Commission for a term specified by the Planning Commission, but which shall not exceed such member's term on the Planning Commission;

(iii). The Charlottesville City Manager, or an employee of the City designated by the City Manager to serve on the board as their representative ("designee"), in either case: this member's term shall not exceed the term of employment of the City Manager and/or the designee, whichever is earlier;

(iv). Four individuals appointed by City Council, two of whom shall be qualified as affordable housing beneficiaries or having lived experience related to the hardship of finding safe, quality, and affordable housing, and two others of whom shall be considered at-large members of the community. Initially, the terms of these members shall be staggered, such that two members shall be appointed to a term of two (2) years and the others, a term of three (3) years; thereafter, successive appointments shall be for terms of four (4) years. Each member shall continue to serve until his or her successor has been appointed. Successors shall be selected in the same manner as set forth above.

If it is decided at a later date that additional members are needed on the board of the Land Bank, for instance, so as to ensure there is a representative of a specific area of expertise, the board of the Land Bank shall be expanded such that there will always be a one-to-one ratio between affordable housing beneficiaries (or those with lived experience) and other members of the board, excluding City-related board members;

If the land bank entity expands to additional localities, this Section 8 shall be revised pursuant to the Code of Virginia.

(B) *Authorization of Initial Board actions*—the Initial Board Members shall have authority to take all actions as are necessary to create and activate the corporation as a nonprofit, nonstock corporation under Chapter 10 (§13.1-801 et seq.) of Title 13.1 of the Va. Code.

The Charlottesville Land Bank Corporation shall not acquire any right, title, or interest in any real property, until such time as the corporation has been duly organized and at least five members of the governing board has been duly constituted, with at least two of the members being affordable housing beneficiaries (or those with lived experience), and has thereafter approved written bylaws for the regulation of the corporation's affairs and the conduct of its business and written policies and procedures governing the acquisition and disposition of real property and interests in real property.

(C) *Quorum*—a majority of currently appointed board members shall constitute a quorum, and the vote of a majority of such quorum shall be necessary for any action taken by the land bank entity. No vacancy in the membership of the board shall impair the right of a quorum to exercise all of the rights and to perform all of the duties of the land bank entity.

(D) *Financial interests of board members and employees prohibited—*

(i). No member of the board, nor any employee of the corporation, shall acquire any interest, direct or indirect, in any real property of the corporation, in any real property to be acquired by the corporation, or in any real property to be acquired from the corporation.

(ii). No member of the board, nor any employee of the corporation, shall have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished to or used by the corporation.

(iii). The board may, within its written bylaws, adopt supplemental rules and regulations, not in conflict with this ordinance or the Land Bank Entities Act, addressing potential conflicts of interest and ethical guidelines for members of the board and employees of the corporation.

(E) *Miscellaneous*—

(i). The governing board shall elect officers to serve as Chair, Vice-Chair, Treasurer, and Secretary. The treasurer and secretary for the board need not be a member of the board. Officers shall serve two-year terms and may be re-elected to serve successive two-year terms. The duties of officers shall be established by the board within its bylaws.

(ii). Members shall serve without compensation; however, a member may seek reimbursement for reasonable expenses incurred in performance of duties relating to the business of the Land Bank.

(iii). The corporation shall obtain insurance to defend and indemnify it, its board members, officers, and its employees with respect to claims or judgments arising out of activities performed on behalf of the Land Bank.

9. Staffing

(A) The Charlottesville Land Bank Corporation may employ individuals and may retain consultants, including, without limitation: an executive director, legal counsel, land planners, and technical experts.

(B) The corporation may also enter into agreements with the participating local jurisdictions, for the local jurisdiction to provide services or support to the Land Bank, and/or for the Land Bank to provide services or support to the local jurisdiction.

(C) The local jurisdictional executives and other city officials, as may be required by the local jurisdictional executives, are hereby directed to take any and all actions necessary to effectuate the provisions of this Ordinance and the creation of the Charlottesville Land Bank Corporation.

10. Participation by other Jurisdictions

Other localities within the Thomas Jefferson Planning District may be added as participants in the Land Bank, by concurrent ordinances adopted by the Charlottesville City Council and the governing body/bodies of such other locality/localities, in accordance with Va. Code § 15.2-7501.

11. Dissolution

The Charlottesville Land Bank Corporation may be dissolved in accordance with the provisions of Va. Code § 15.2-7511.

12. Miscellaneous

(A) The Charlottesville Land Bank Corporation shall not expend any public funds on political activities. Subject to the foregoing, the provisions of this paragraph are not intended to prohibit the Land Bank from engaging in activities authorized by applicable law.

(B) No provision of this Ordinance is intended, nor shall it be construed, as a waiver by the City, or other jurisdiction, of any governmental immunity available to the City, or other jurisdiction, its officials, officers or employees, or to the Charlottesville Land Bank Corporation, under any applicable law.

(C) In the event any provision, section, sentence, clause, or part of this Ordinance shall be held to be invalid by a court of competent jurisdiction, such invalidity shall not affect or impair any of the remaining provisions, sections, sentences, clauses or parts of this Ordinance; it being the intent of this City Council that the remainder of the Ordinance shall be and shall remain in full force and effect.

(D) This Ordinance shall become effective on the date enacted, as provided by the laws of the Commonwealth of Virginia.

DULY ORDAINED AND ENACTED the ____________ day of ________________, 20____, by the Council of the City of Charlottesville, Virginia, in lawful session duly assembled.