CITY OF CHARLOTTESVILLE

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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.

<u>Section 4: Powers</u>
No comments

<u>Section 5: Acquisition of Property</u>
No comments

<u>Section 6: Financing of Operations</u>
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]

<u>Section 7: Use & Disposition of Property</u>
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.

Section 8: Governance
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.

APPENDIX

<u>Proposed Memorandum to City Council composed by HAC member Nicole Scro</u>

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]