

NANTUCKET AFFORDABLE HOUSING TRUST

~~ MEETING MINUTES ~~

TUESDAY, August 29th, 2023.

Remote Meeting via Zoom– 12:30 pm

Trust Members: Brian Sullivan (Chair), Reema Sherry (Vice-Chair), Meg Browers, Dave Iverson, Shantaw Bloise-Murphy, Penny Dey, Tom Dixon

ATTENDING MEMBERS: Brian Sullivan, Dave Iverson, Meg Browers, Penn Dey, Reema Sherry, Shantaw Bloise-Murphy, Tom Dixon

STAFF IN ATTENDANCE: Tucker Holland (Housing Director), Ellis Ramos (Housing & Real Estate Office Manager), Vicki Marsh (Town Counsel)

PUBLIC IN ATTENDANCE: Judi Barrett (Barrett Planning LLC)

I. Call to Order

Brian Sullivan called this meeting to order at 12:34pm

II. Approval of Agenda – ACTION

Dave Iverson made a MOTION to approve the agenda with the amendment to move item III to next week's meeting. Meg Browers seconded this motion.

ROLL CALL of those participating:

- | | |
|--------------------------|-----|
| 1. Shantaw Bloise-Murphy | Aye |
| 2. Dave Iverson | Aye |
| 3. Tom Dixon | Aye |
| 4. Penny Dey | Aye |
| 5. Meg Browers | Aye |
| 6. Brian Sullivan | Aye |

III. Approval of Minutes – ACTION

- ***Note: all Trust open meetings are recorded and available on the Town's YouTube channel***

IV. Public Comment

V. Year-Round Deed Restriction Program

Judi Barrett said that at this time she wanted the Trust to start thinking about who their supporters are, who are in opposition of the Year-round Deed restriction Program and to understand the goals of the program.

Dave Iverson said that he was told that, with Nantucket's zoning by-laws that this program could be problematic with the Attorney General.

Judi Barrett said she has a concern about it but doesn't think that the Attorney General's office would disapprove it, but maybe they should expect a very long letter of caution.

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Vicki Marsh said the Attorney General would chime in if this was being done as a zoning amendment of any sort. If the Trust decides not to do it as a zoning by-law, but by creating some form of a restriction in either General by-laws or do it as a Home-rule Petition, we should get the legislature to buy into it and to then allow the Trust to do it. She said that this is probably the best way to do it. She said that a home-rule petition is the best way and then they don't have to really worry about the Attorney General chiming in as much as they are going to deal with the legislature and committee hearings.

Judi Barrett asked Vicki Marsh if when she thinks about the home-rule petition, has she also thought about including authority through zoning, to require a year-round restriction in the same manner as a community can require affordable housing restriction on a conservation restriction. How does she see that playing out?

Vicki Marsh said that she has worked with other Towns that have filled a bill already and there are a couple of things that are already in the legislature; one being chapter 184 that will amend the restrictions and the definition of restrictions to include a year-round restriction. Vicki said that the real question is "who would enforce the restrictions?" She said perhaps they would like to see the Town's Select Boards have to power to enforce that restriction for each Municipality.

Brian Sullivan asked Attorney Marsh if she knew who enforces the restrictions for the Housing Needs Covenant program?

Vicki Marsh said that she believes it to be the Select Board but that she would have to double check. Brian added that therefore there is a pre-existing system in place that this program could be mirrored out of.

Vicki said that they can even create a program similar to what they already have in place. There could be something that allows the Trust to have a program but, she thinks that they would need the legislation or some kind of by-law on regulations to get them to the point where they create this restriction that can be held by the Select Board.

Dave Iverson asked Vicki Marsh if Provincetown is doing a similar program.

Vicki Marsh said that they have participated with a couple of other Municipalities to file legislation that could be held in perpetuity. She said that the AHTF should think about whether the AHTF would be the holder of the restrictions or not.

Judi Barrett said that if they could avoid going down that path with the Attorney General that would be great, but it depends on the approach that they are going to take. She said that for now they should focus on this being a home-rule petition. She thinks that by trying to do this through some kind of a zoning requirement like an inclusionary zoning could raise some issues.

Brian Sullivan asked Judi if she is suggesting the idea of adding a separate zoning change component in this or as a follow-up separately.

Judi Barret said she thinks that maybe in the future they would want to make sure that their statutory framework was there to allow the restrictions before trying to put that into zoning.

Brian Sullivan said that he has heard in some places that people are concerned about supporting developers due to the concept that developers would be getting some sort of support by putting restrictions on units. He said to same case also pre-existing housing stock would be the flip side of

that conversation if the Trust is able to capture pre-existing, there is less development, so he thinks those are 2 sides of the same coin in that argument.

Dave Iverson thinks that the biggest push back is from those people that believe that it's supporting certain developers or development. He said that everyone else that is logically minded will see the benefits of this program.

Brian Sullivan said that the more he thinks about it he thinks that there's some higher level in a bifurcated market in creating a secondary market and what that looks like to stock availability and pricing general in both markets, that is something to think through on a higher level. In a place that has such limited inventory as this, some concerns about the banking industry and how to work with banking industry and getting them on board and how do these restrictions affect value and existing mortgages and their willingness adapt based on the restrictions.

Vicki Marsh said that the affordable house restriction has in their deed riders that the restriction is going to be in first position and that is what the Trust has to do, put the restrictions ahead of the mortgage in order to be able to do that. She said she is not sure if all the lenders would buy into that. She said what would help is if the legislation gets passed to create the restriction itself to allow for a perpetual year-round restriction to be actually something that they can sit behind and not worry about it actually going to be legally created.

Meg Browsers said that it is important to remember that when George Ruther was explaining his program, he said that it is a negotiation and that it is up to the Trust with each property. She said in another conversation she has had the real questions is about short-term rentals. She said that the AHTF needs to be clear so that people understand that is one or the other, you either short-term rent or do the deed restrictions but can-not do both.

Judi Barrett said how realistic it is that a bank can even agree to move into second place after a restriction.

Brian Sullivan said that in his mind it really going to be about how much equity the position is at the time of the assessment. He said he doesn't think that the bank is going to make any move if somebody is at an 80% LTV but if they are at a 50% LTV then, maybe there is a position or an opportunity. He said that he thinks that that's going to be a really tricky part of the negotiation. Brian said that imposes a challenge with the first-time homebuyers that creating down payment assistance and what is their LTV in the situation.

Shantaw Bloise-Murphy asked how the covenant program structure is, she said that she would imagine that the year-round Deed Restriction Program would be similar to that.

Brian Sullivan said the covenant program are pre-existing units that people choose to put the covenant on at the time of creation, whether it's a new secondary law that they approve by Planning Board or they build it for that purpose and the restriction is put on. He also stated that they do have banks that are familiar with those which are advantageous to the Trust.

Penny Dey said she thinks that before moving forward the trust should consult some local banking professionals.

Meg Browsers suggested that the Board contact George Ruther to see what has been happening in Vail with these types of situations, what experience he has had, because he has already been through this so many times, he might have some helpful insight.

Judi Barrett said her biggest concern coming into this was identifying the potential source of concern, but also potential allies. She said even if there is no group designated for the consultation process there are other things that need to be happening in terms of communication in the community about this project. She asked the Trust members where they think the major sources of support might be coming from and also if any member is familiar with how ACK NOW is approaching what they are trying to pursue. She asked if the AHTF and ACKNOW were talking about the same program in somewhat different directions, or is that a conversation that needs to be happening with ACKNOW? Penny Dey said that as far as she knows the ACKNOW program is targeted to the people that are currently doing short term rentals to try and subsidize the rental potential loss of income if they commit to a year-round rental. She said that what the trust is trying to do here is much broader than that.

Brian Sullivan said that from his understanding ACKNOW can be a big advocate for this program once they understand what the AHTF is trying to put together. He said from his perspective the larger group of advocacy or opportunity is the population on Nantucket between 58 and 70 years old that has had ownership for more than 20 years and a low basis in their properties, nearing retirement or in retirement where cost of living on Nantucket has become so unaffordable that any opportunity to capture their equity for either the ability to continue to live here, home improvements, aging in place or even home health care situations. Brian said he thinks there is more opportunity to capture restrictions in that population who used to be active in the community and now don't necessarily have as much of a voice. Another concern is that this group is probably the largest in need and also in the creation of this program they need to be cautious with the opportunities of existing investors.

Meg Browsers asked if they have done an assessment that has information about what the needs are in the community right now or if this information already exists somewhere?

Brian Sullivan said not outside the AHTF last Housing Production Plan and the recently updated census that they reviewed recently.

Meg Browsers said that maybe there is information on the Housing Production Plan for the Trust to use to develop some sort of guidelines of what they are looking for. She said in terms of segment of the community who may be supportive, she believes that the families that bought 10/12 years ago whose kids are going through school, who might be thinking about college costs would be a key group for the Trust to focus on.

Penny Dey said that she thinks that the supporters are going to come from many different quarters, including folks that rent now below market to extended family and friends, they would likely support this initiative in more permanent ways going forward.

Judi Barret asked how to establish communication with these various groups that the Trust members just mentioned might have a reason to participate.

Penny Dey said by developing a very solid program and running it through its paces in terms of finding weak spots, faults and how to do it better, then just start publishing it. She said the program has to be developed and implemented and then it has to be enforced.

Brian Sullivan said that there is a definition and goal that has been circulated by Ellis, and if they work with something like that and get it out to local media outlets there is an opportunity to advertise that in the immediate future and look for people to come back to the Trust to connect. He said it is really

going to take some conversation of the streets, some outreach, and some direct one-on-one with the flyer to get people to participate.

Judi Barrett asked Brian who is going to do that, and should they be thinking about some type of ambassador for the Year-round Deed Restriction Program?

Brian Sullivan said he thinks it would be a good idea to bring in some ambassadors to the first focus group rounds. He said they can easily distribute the information after this meeting to the local media outlets and start the conversation. Ellis is going to work through the list of shared contacts and reach out directly to the groups and individuals and share the definition flyer.

Meg Browsers said in this case what they need is an outreach program, it can be the housing newsletter, maybe even go to 97.7 and see if they could do a short interview with them just talking about the concept of this and how beneficial it would be for the community.

Tom Dixon said that the Housing Stakeholders group of which he is a member of for his job (Nantucket Food, Fuel and Rental Assistance) and there are a lot of good folks on that group that he thinks might have some really good outreach.

Vicki Marsh suggested that perhaps they should have some community meetings, just for informational purposes to try to gather support from the community. She said the Town has used that in other projects and it might be worth the while just to get a sense of what's out there from the public.

Judi Barrett said that they have a community meeting built in to the schedule sort of into October after they've done the initial focus groups, so that they can have something to talk about.

Brian Sullivan asked Judi what is the manageable number of individuals attending a focus group?

Judi Barrett said to some extent it depends on how long the focus group is, but she thinks 6 works pretty well, because if they start to get bigger than that it becomes a challenge.

Shantaw Bloise-Murphy said that whatever the message is the Trust should be sharing that information and they need to ensure they are offering the community opportunities to ask questions directly so that they can hear it directly from the Trust. She said that what the Trust is trying to do is so well intended and it's going to be so amazing for the community that they need to make sure they are communicating that as clearly as possible.

Ellis Ramos said that in conversation with Brian and Tucker, she thought that they decided that the banks would be their own focus group. That way they can have a conversation about who would be taking 1st or 2nd position on the loan process and to get a better understanding of where they stand.

Reema said that she has included on her list a member of Sachems Path that has received the CCAP, that will not only be great in the focus groups but as far as ambassadors goes, they would tell the best stories about their struggles and how the CCAP program helped them.

Tom Dixon said that for all the Habitat for Humanity houses, part of their agreement is that people go out there and make pitch on why the program is so successful and to talk about being a Habitat homeowner, those folks should definitely be included.

Brian Sullivan said that his big, audacious, and very specific goal related to this is 1258 restrictions. He said that he based that on being 20% of the year-round housing stock, if 10% is 629 for our AMI number.

Vicki Marsh said that her biggest concern is getting this or the Home Rule Petition ready in time for it to be on the warrant. She said they are in a really tight timeline, it would have to be approved by

mid-January at the latest, so it's going to have to be ready relatively quickly.

Penny Dey asked Vicki if this article would have to be sponsored by the Select Board and what is her experience with the last half dozen Home Rule Petitions that have been sent to Boston and how long are they taking.

Vicki said yes it would have to be sponsored by the Select Board, and it takes a couple of years to get the Home Rule Petitions passed.

Penny Dey said if there is any way to do this without it being a Home Rule Petition that is more expeditious the Trust should explore it.

Vicki Marsh said if Vicki is thinking to do it as a zoning by law, that is not a quick process either. She said that she can check with Senator Cyr and Dylan Fernandes just to see where those couple of bills that have already been filed are in the process. It would be interesting to see where they are in the process because they were filed in February.

Penny Dey said if it's possible that Provincetown is 1 year ahead of Nantucket, and they fashioned something similar that will potentially get through a little faster once something else does?

Vicki Marsh said that the bills that are really important are the amendments to Chapter 184 because that establishes a perpetual year-round restriction and adds it to the list like a conservation restriction or an affordable housing restriction.

Meg Browsers asked if they can get the Provincetown program documentation to review and see how much of that they can utilize without recreating the wheel, so they are not spending October and November starting from scratch, that could be really helpful. Also having the Select Board champion this cause is going to be really important. Meg also asked if there is an opportunity for someone to buy into the market and use the Deed Restriction Program to help with downpayment cost would be possible? Or are we looking more at existing homeowners?

Brian said it's impossible to answer that question right now based on inventory or the pricing. It is really going to be regulated by the bank and their willingness to take a position on the restriction and the mortgage.

Tom Dixon said that Judi and Vicki are correct that those bills are still in committee, and it will probably be a while. One thing that is "gumming" up the work is the potential statewide Transfer Fee legislation and also rent control coming mainly out of Boston which could end up being a ballot initiative. He said there are so many things going on with housing in the Commonwealth right now, that it seems like a lot of the smaller stuff is kind of on hold. He said in talking to his former colleagues they don't think any of that is going to move right away, but it could all of a sudden move.

Reema Sherry said she thinks it's important that they balance their outreach and marketing between existing stock and development, because the island doesn't have enough Housing for the year-round community so there is going to need to be more development. She said to try to strike a balance to include both sections.

VI. Other Business

Next Meeting: September 5th, 2023, via Zoom

VII. Board Comments

VIII. Executive Session, Pursuant to MGL C. 30A § 21(A)

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- Purpose 6: To consider the purchase, exchange, lease, or value of real property where an open meeting may have a detrimental effect on the negotiating position of the public body.
 - i. 27 Fairgrounds Road
 - ii. 44 Miacomet Road
 - iii. 18, 18A, 20, 22, 24 and 26 Sparks Avenue

Penny Dey made a MOTION to close public session to move to executive session not to return to public session for the Purpose 6 to consider the purchase, exchange, lease, or value of real property where an open meeting may have a detrimental effect on the negotiating position of the public body. This motion was seconded by Tom Dixon.

ROLL CALL of those participating:

- | | |
|--------------------------|-----|
| 1. Shantaw Bloise-Murphy | Aye |
| 2. Reema Sherry | Aye |
| 3. Dave Iverson | Aye |
| 4. Tom Dixon | Aye |
| 5. Penny Dey | Aye |
| 6. Meg Browers | Aye |
| 7. Brian Sullivan | Aye |

IX. Adjourn

This meeting was adjourned at 1:40pm