



HEALTH, EDUCATIONAL, AND HOUSING FACILITY BOARD
City of Chattanooga, Tennessee
MONTHLY MEETING MINUTES
J.B. Collins Conference Room
John P. Franklin, Sr. City Council Building
1000 Lindsay Street
Chattanooga, Tennessee
for
January 22, 2020
12:00 p.m.

Present were Board Members: Hicks Armor (Chair), Gregg T. Gentry (Vice-Chair), Lloyd Longnion, and Richard Johnson. Absent were Nicole Watson, Amanda Jelks, and Stephanie Sinkfield.

Also present were Phillip A. Noblett (City Attorney); Donna Williams, Richard Beeland, and Zachery Gentry (ECD); Charlotte S. Williams and Michael Gilliland (CALEB); Joseph Dyars (Chattanooga.com); Ron Feldman (Husch Blackwell); and Mike Pare (Times Free Press).

1. Mr. Armor called the meeting to order, confirmed the meeting advertisement, and established that a quorum was present with Gregg T. Gentry, Lloyd Longnion, Richard Johnson, and Hicks Armor in attendance.

2. There was no person present wishing to address the Board.

3. Mr. Armor presented the next order of business: **“A RESOLUTION ALLOCATING TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) FROM THE CHATTANOOGA AFFORDABLE HOUSING FUND (CAHF) TO CHATTANOOGA IN ACTION FOR LOVE, EQUALITY AND BENEVOLENCE (CALEB), A 501(c)(3) NON-PROFIT ORGANIZATION, TO COORDINATE THE DEVELOPMENT OF A COMPREHENSIVE STUDY WHICH WILL ASSESS THE FEASIBILITY OF ESTABLISHING AND SUSTAINING A COMMUNITY LAND TRUST (CLT) IN CHATTANOOGA, SUBJECT TO CERTAIN CONDITIONS.” (HEB2020-1)**

Ms. Donna Williams stated that a Community Land Trust (CLT) is a 501(c)(3) corporation non-profit that builds and sells houses to folks for low to moderate income and retains some form of ownership in the land on which the property is built in perpetuity to preserve the affordability and perpetuity. We have not had a CLT in Chattanooga. This would allow CALEB to be able to hire a national organization that is very familiar with CLTs to evaluate if a CLT in Chattanooga is viable and if so, how it would be started and sustained. That is another tool in our effort to make sure folks that are in need of high quality housing who happen to have low to moderate income levels are able to do that.

The Affordable Housing Program is for a minimum of \$25,000.00. CLTs are to find funding in different ways such as donations from the City and property and land can be an option. Revenue sharing in the equity helps fund and sustain the organization over time. CALEB has been in existence since 2017.

The balance of the Affordable Housing Fund is \$1.6 million which has yet to be allocated. The \$20,000 is for the consulting fee, travel, and incidentals for public meetings and feedback. The bulk is for the company that will do the study. This feasibility study will provide everything needed to show the funders viability. Ms. Williams stated the \$20,000 would be for a study that will take a look at the current environment and whether a CLT is viable. CALEB has identified an organization that is nationally known. They are not a sole source provider.

Michael Gilliland (CALEB organizing director) and Charlotte S. Williams (Board President) were present. Mr. Gilliland stated CALEB is trying to act on what the consulting in previous years were in Chattanooga. In 2016, CALEB consulted with Enterprise Community Partners around housing and economic development. One of their key recommendations was the potential for a community land trust. CALEB is an organization of faith communities, labor unions, community organizations, 15 different member organizations that come together in order to act around issues, including economic mobility.

CALEB has reached out to a number of organizations and have strong recommendations from Burlington Associates which have been key providers in consultation in places like Burlington, Vermont, in the development of community land trust. Typically, consultation fees are larger than this. They are able to do a bit of the ground work to bring community members together by forming a steering committee to get people educated on what the study is to cut down that cost. One of the key hopes that was mentioned was the idea of creating a new resource in Chattanooga that can protect all sorts of public investment subsidy. This is just from the City but from private philanthropy and faith congregations investing in affordable housing. A CLT preserves the affordable housing. Nashville established a CLT two years ago. There is a very thriving CLT in Durham, North Carolina, that has over 250 units of affordable housing with both renter and homeownership.

Mr. Armor suggested two amendments to the resolution. Once CALEB gets the study, Mr. Armor proposed that CALEB send a copy to the Board for public venue. CALEB has typically one to two board members from each representative organization. Ms. Charlotte Williams stated that this will be very beneficial for the City because it buys in from the community the inclusiveness and lets the residents become part of the decision making process. It also allows the residents to become involved from the ground up. This will definitely be beneficial to the residents because it becomes our City and becomes a part of who they are and people that have an interest in their own living would become a part and be onboard. A lot of people will be able to pass it on from generation to generation. That homeownership of owning something will also uplift the morale of the residents in Chattanooga.

In Nashville, the CLT was established by an already existing affordable housing non-profit called Housing Fund. They created this as a separate program within their organization. They have donations of properties from the City. The City of Nashville is one of the cities that is on our Tennessee Land Bank Coalition. They have thousands of back tax properties. The City of Nashville offered a number of properties to the Nashville Land Trust and hand-picked the 15 they

wanted. Mr. Noblett stated that one difference between Nashville and Chattanooga is that Nashville is a metropolitan form of government and there is one tax sale. In Chattanooga, we have both Hamilton County and the City which have separate issues regarding title problems.

Mr. Armor proposed that the Board authorize \$25,000 in the resolution but give \$20,000. Should CALEB need more than \$20,000, the Chair or Vice-Chair can allocate more wherein CALEB can modify their application and not have to go through the whole approval again. Mr. Armor wants to send the message that we believe in what they are doing and know that it is the right thing to do. CALEB would have the ability to re-apply for what the study shows is viable and they could submit an application for funding.

After further discussion, Mr. Longnion made a motion to amend the authorized amount of the allocation to \$25,000, seconded by Mr. Johnson, and the motion was unanimously approved. A motion was then made by Mr. Longnion, seconded by Mr. Johnson to approve the resolution as amended for the \$20,000 amount to the Chattanooga Affordable Housing Fund, and the resolution was unanimously approved.

4. A motion was made by Mr. Johnson to approve the October 23, 2019, minutes, seconded by Mr. Armor, and the minutes were unanimously approved.

5. Mr. Armor presented the next order of business: **“A RESOLUTION AUTHORIZING THE CHAIR OR VICE-CHAIR OF THE HEALTH, EDUCATIONAL, AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE, TO EXECUTE THE ATTACHED RELEASE OF 1999 REGULATORY AGREEMENT REGARDING RAINBOW CREEK APARTMENTS.” (HEB2020-2)** Mr. Noblett stated that Rainbow Creek Apartments has completed everything on building an apartment complex at 7604 Standifer Gap Road. They originally executed an agreement back in 1999 and sold the project. The proceeds have all been repaid and the release will be filed as part of that completion. After further discussion, a motion was made by Mr. Gentry to approve the resolution, seconded by Mr. Johnson, and the resolution was unanimously approved.

6. Mr. Armor presented the next order of business: **“A RESOLUTION AUTHORIZING THE CHAIR OR VICE-CHAIR TO EXECUTE A NON-DISTURBANCE AGREEMENT BY AND BETWEEN TSO CHATTANOOGA DEVELOPMENT, LP AND DOLGENCORP, LLC.” (HEB2020-3)** Mr. Noblett stated that this request was made back on January 6th. Mr. Ron Feldman was letting the Board know that the ground floor of this location is not subject to the PILOT because it is retail for sale. They are trying to get into a retail lease with Dollar General for ground floor space at the location. The entire property is owned by the HEB and a Non-Disturbance Agreement from the Board is needed to do the lease. This matter does not involve any of the residential housing units which are to start on the grounds above the ground floor. Mr. Feldman stated that if TSO defaults under its ground lease with this Board, then this agreement says that the Board will recognize Dollar General as its tenant and Dollar General will recognize the Board as its landlord so they are not disturbed and continue into possession. The Board becomes the landlord and Dollar General becomes the tenant. This is not a noise issue. Just simply want to make sure they stay on their lease. The ground floor lease is not a part of the residential portion of this PILOT.

After further discussion, a motion was made by Mr. Johnson to approve the resolution, seconded by Mr. Gentry, and the resolution was unanimously approved.

ANNUAL PILOT REPORT BY DONNA WILLIAMS

Ms. Donna Williams gave an overview of the Annual PILOT Report. Mr. Armor would like to see the occupancy on the report at the next annual reporting.

Resolution No. 28783 Adopted September 20, 2016 – Fifty (50%) percent of total units of the PILOT project must be affordable and located within the Chattanooga City limits.

1) Bayberry Apartments

Information:

- Addresses: 2300 Windsor Street, 2330 Wilson Street, 1101 Arlington Avenue
- Developer: Alco Properties, Inc.
- Certificate of Occupancy: Rolling Renovation
- Compliance Review: May 2019
- Start Year: 2018
- Investment: \$12 million
- Total Units: 163
- PILOT Units: 163
- End Year: 2032

2) Chestnut Flats

Information:

- Address: 2108 Chestnut Street
- Developer: Elmington Chestnut Group LP
- Certificate of Occupancy: New Construction
- Compliance Review: May 2019
- Start Year: 2017
- Investment: \$22 million
- Total Units: 199
- PILOT Units: 199
- End Year: 2033

3) Patten Towers

Information:

- Address: 1 East 11th Street
- Developer: Patten Affordable Partners, LP
- Certificate of Occupancy: Renovation
- Compliance Review: Project Not Yet Completed

- Start Year: 2020
- Investment: \$34 million
- Total Units: 240
- PILOT Units: 240
- End Year: 2044

4) **Ridgeway Apartments**

Information:

- Address: 1230 Poplar Street
- Developer: Vitus Group
- Certificate of Occupancy: Renovation
- Compliance Review: Project Not Yet Completed
- Start Year: 2019
- Investment: \$14 million
- Total Units: 199
- PILOT Units: 199
- End Year: 2033

Resolution No. 27968 Adopted August 5, 2014 – Twenty (20%) percent of total units of the PILOT project must be affordable and located within designed downtown area.

1) **Market City Center**

Information:

- Address: 728 Market Street
- Developer: The Simpson Organization
- Certificate of Occupancy: September 2017
- Compliance Review: January 2019
- Start Year: 2017
- Investment: \$28 million
- Total Units: 125
- PILOT Units: 25
- End Year: 2031

Updates:

- Market City Center and City of Chattanooga are in legal discussions regarding change of use related to short-term rental units.

2) **1400 Chestnut**

Information:

- Address: 1400 Chestnut Street
- Developer: Mount Auburn
- Certificate of Occupancy: August 2019
- Compliance Review: August 2019

Updates:

- KORE Company recently sold property which transferred the project to Mount Auburn, LLC who will continue operating under PILOT Agreement.

3) **Maclellan Building**

Information:

- Address: 721 Broad Street
- Developer: Heritage-Maclellan
- Certificate of Occupancy: July 2017
- Compliance Review: February 2019
- Start Year: 2016
- Investment: \$10 million
- Total Units: 89
- PILOT Units: 18
- End Year: 2034

4) **Passenger Flats**

Information:

- Address: 1351 Passenger Street
- Developer: Choo-Choo Partners, LP
- Certificate of Occupancy: October 2015
- Compliance Review: February 2018
- Start Year: 2015
- Investment: \$4 million
- Total Units: 97
- PILOT Units: 20
- End Year: 2018

Updates:

- PILOT Agreement was terminated in 2018 at developer's request.

5) **Vue on 5th**

Information:

- Address: 500 Lindsay Street
- Developer: Walk2Campus
- Certificate of Occupancy: July 2016
- Compliance Review: September 2019
- Start Year: 2016
- Investment: \$7 million
- Total Units: 64
- PILOT Units: 13 (but exceed to 15)
- End Year: 2030

Resolution No. 23253 Adopted January 8, 2002 – PILOT project must be located within downtown footprint.

PILOT Projects Approved Under 2002 Legislation:

Information:

- Bread Factory Lofts (fully on tax roll)
 - 1615 Cowart Street
 - End Year: 2018

- MK
 - 1419 Market Street
 - End Year: 2021

- St. John’s Apartments
 - 1280 Market Street
 - End Year: 2020

- UTC2
 - 615 Lindsay Street
 - End Year: 2024

- UTC3
 - 863 McCallie Avenue
 - End Year: 2024

- Walnut Commons
 - 212 Walnut Street
 - End Year: 2025

- Frazier Place
 - 330 Frazier Avenue
 - End Year: 2018

Jaycee Towers

Information:

- Address: 500 West M.L. King Boulevard
- Developer: Wishrock Group
- Certificate of Occupancy: Renovation
- Compliance Review: N/A
- Start Year: 2017
- Investment: \$16 million
- Total Units: 175
- PILOT Units: 175
- End Year: 2057

Updates:

- Project through the Chattanooga Housing Authority (CHA)

Mr. Noblett stated there were amendments made regarding the short term vacation rental ordinance by the City Council. Those amendments say that any properties that are subject to a PILOT cannot have short term rentals.

Many apartment owners are allowing Ms. Williams to sublet to anyone she would like via platforms like air B&B. The Mint House wanted to do that for two units inside the Maclellan Building. They applied for a short term vacation rental certificate through the required process and sent an e-mail a couple of days ago saying they were not going to pursue a STVR certificate. The City Council took action to deny even though they said they were not going to pursue it. The official process that the Council took was to vote and voted not to approve.

Mr. Armor asked that the PILOTs that are complete also be put in the report.

Ms. Williams passed out information that would be helpful about each of the projects discussed.

DISCUSSION

Mr. Noblett stated that these items were brought back to the Board to notify what the Chair had signed as obligations under the documents outstanding.

1. **1400 Chestnut** – Assignment and Assumption of Lease and Agreement for Payment in Lieu of Ad Valorem Taxes – there was change in ownership during the term of the PILOT Agreement. This property would not be used for short term vacation rentals. This document was signed by the Chair on September 4, 2019.
2. **Heritage-Maclellan Apartments** – Modification to Tennessee Fee Deed of Trust with Security Agreement and Assignment of Rents and Leases – the only modification is that they change their banks. Iberia Bank is the current bank holder on the Deed of Trust. It will continue to be done under the PILOT Agreement. This document was signed by the Chair on November 12, 2019. The Mint House was denied by City Council in the January 21, 2020 meeting.
3. **ECG Chestnut, LP** – Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing and Landlord’s Estoppel Certificate – there was a change in bank to First Bank and needed to have Deed of Trust referencing the new bank. This was submitted by the attorneys right at the end of the year on December 27, 2019 because they needed to close out at the end of the year.

4. **TSO/Market City Center** – Annual Report on units from The Simpson Organization.

On January 13, 2020, a report was provided as they are required to do under the PILOT. This area involves the units that are available for rent versus those that are actually hotel units on specific floors. This document has a certification of what is available rental units and what they are being rented for.

Mr. Longnion stated this is on page 14 regarding the total charges and occupancy, PILOT A1 and A2P, occupied and vacant. The current rate for the PILOTs are \$950. Mr. Longnion thought it was \$875. Ms. Williams stated it changes once a year based on the number that is received by HUD. The 50% have different rent rates because the lenders have a different required maximum rent. The developments that fell under the 20% units can charge up to 30% of a person's income. The person has to make less than \$38,000 as of this year. There was a significant increase in the AMI. The PILOT requires that in order to be eligible they ask how much do you make and do you meet the number by HUD. If you do not, you are eligible for a PILOT unit because they can charge up to 30% of that number. The developments that have up to 50%, the financing that most of them use only allows them to go up to 60% of the AMI which is why the rent is so much more.

On December 13, 2019, a Complaint was filed. That action is a Complaint for Declaratory Judgment and Injunctive Relief. The Complaint has been attempted to be served through the Secretary of State of Georgia. As of January 21st, they still were not showing that service had been completed. Service will be checked. The Court will determine as quickly as they can. This lawsuit was filed but not served.

After further discussion, a motion to adjourn the meeting was made by Mr. Johnson, seconded by Mr. Longnion, and the meeting adjourned at 1:05 p.m.

Respectfully submitted,

Amanda Jelks

Amanda Jelks (Jun 24, 2020 16:00 EDT)

Amanda Jelks, Secretary

APPROVED:

Hicks Armor

Hicks Armor (Jun 24, 2020 16:33 EDT)

Hicks Armor, Chair









HEB - Minutes

Final Audit Report

2020-06-24

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