

Housing Committee Meeting Minutes  
Tuesday May 5, 2009  
5:00 p.m. – 7:15 p.m. City Hall – Room 2009

Attendance: Councilor David Marshall, Chair, and Housing Committee Members Councilor Kevin Donoghue, Councilor John Coyne, TJ Martzial, HNS Division Director, Amy Grommes Pulaski, HCD Program Manager, Peter Hodgkin, HNS Office Assistant (note taker)

1.) Approve Minutes of April 7, 2009

Councilor Chair Marshall called the meeting to order and motioned to approve the Housing Committee minutes from 04/07/09, Councilor Donoghue seconded the motion and was supported by Councilor Coyne. Passed unanimously.

2.) Tax Acquired Residential Properties

Note: Pursuant to 1M.R.S.A. 405(6)(C) and 5 M.R.S.A. 13119(A), the Committees may go into executive session to review and discuss this item as needed with staff.

Ann Freeman, Associate Corporation Counsel states that her memo lays out what ordinances are applicable and how they're governed, what rules have governed in the past and what the ordinance requires that we implement. She states that the rules were adopted by the City Council on October 18, 1999. This is the procedure that we follow in terms of tax acquired properties.

The problem is the city hasn't really dealt with specific tax acquired properties in the last couple of years. At some point there was a tax acquired property committee and her understanding is that committee doesn't meet anymore, although she does not think they've been technically dissolved. This was an internally staffed committee which hasn't met in a couple of years.

Councilor Chair Marshall asks Ann to explain what generally happens.

Ann summarizes the process outlined in her memo.

She states that the City allows people who are struggling financially to begin a payment plan on a case-by-case basis, which is defined in the City ordinance. The City does not want to evict anyone from their home. The question for what to do with a parcel becomes: is it appropriate for municipal ownership or open space. The land bank is required by ordinance to review both the list of foreclosures and staff recommendations. Any sale of property goes through the City Council.

The City has a policy that if a homeowner comes forward and pays after the redemption period, the City will allow them to regain their property - unless the property has been flagged in the process as one the City has interest in. Although the City technically by law may own these properties we do not take property liability until 60 days after the property is no longer occupied. That is not the case with vacant buildings, with them we assume liability on the day of the foreclosure.

Councilor Donoghue asks if the tax acquired committee met this past January. He also asks if these meetings happen on a calendar cycle or on a more frequent cycle.

Ann Freeman responds that it happens within a certain time period. The commitment date is pretty much the same for all city residential properties because real estate taxes are due on the same day for everyone. So for each property it depends on where we are within that 18 month period.

Councilor Donoghue states that it is disconcerting that nowhere in the policy does it seem to acknowledge as a policy goal of the city to allow individuals to stay in their homes. The fact that there's so many rules, reviewing authorities, staff members and land bank commission involved but nowhere is that policy clearly stated.

Ann Freeman responds that if you look under conditions for sale, item number seven, it actually does state that.

Councilor Donoghue states that the communication he wants to facilitate is that housing staff and the Housing Committee needs to be part of the discussion concerning tax foreclosed properties. of the list of Committee members doesn't have any housing staff or the Housing Committee members on board. He wonders how an opportunity to do something would avail itself if not built into the policy. He is interested in residential structures and buildable lots that may be better suited to housing than conservation. The Land Bank Commission is given opportunity to weigh in but the Housing Committee is not. He would like to see a review of lots and residential property by the housing staff and/or the Housing Committee become more easily facilitated as a matter of policy, and what opportunities are available to us now.

Ann Freeman responds that she thinks there are opportunities to revise the rules and the process. She has reviewed them extensively and has some revisions she would like to make. In light of the ten years that these rules have been put into action there are things she would like to see reworded and reorganized and there are things we have learned since this was implemented that we think may work a little better or things now that don't work at all.

Councilor Donoghue states again that he would like to get to the point that the housing staff and Housing Committee have the ability now and in the future to flag properties of interest similar to the opportunity afforded the Land Bank Commission.

Councilor Chair Marshall comments that he sees where it refers to "any appropriate Council Committee" so he thinks the Housing Committee is already empowered to participate, and although it doesn't specifically talk about the Housing Division it does mention the Planning Department, and since the Housing Division does live within that Department he thinks we are properly reviewing this. Also knowing how government gets restructured from time to time he would be interested in seeing the revisions that Ann has mentioned. He would like her to provide that to the Committee by our next meeting. The Committee can review those revisions and offer our own amendments and than propose it to the City Council.

Councilor Donoghue states that he understands Councilor Chair Marshall's interpretation and does Councilor Chair Marshall feel it appropriate at this time to review the disposition of residential structures that are currently listed as tax acquired?

Councilor Chair Marshall responds that we can provide direction to staff at this point as most of it is administrative except at the end when the Council will choose to dispose of the properties and the Council would have to approve of the sale.

Councilor Donoghue asks if the Committee is prepared enough to review whether to move into executive session regarding the disposition of any properties.

Councilor Chair Marshall responds that we can discuss properties that have been or are vacant for 60 days.

Ann Freeman says she doesn't know the specifics of these properties but for us to incur liability they have to have been vacant for 60 days.

Councilor Marshall suggests we do that. Some of these properties that we're referring to have been vacant for that amount of time. In order to start the process of disposing of them, we should give people a last chance. Could we give direction from the Committee to staff to provide that notice to these property owners?

Ann Freeman responds that in the past, unless it's a property that we want to develop or have other interest in, we need to bring an action to quiet title against the former property owner. The City would then own the property by Warranty Deed if they quiet the title. This is always preferable to a municipal Quit Claim Deed. A Quit Claim Deed says the title is only as good as the seller's title. So a buyer is purchasing the property as buyer beware, and assumes all responsibilities for any potential title issues that might have existed prior to when the City had the property.

Amy asks if we can sell the property for a higher price if we offer a Warranty Deed vs. a Quit Claim Deed.

Ann Freeman responds yes.

TJ asks Ann if the tax acquired property committee historically has reviewed all tax acquired properties residential and commercial.

Ann Freeman responds that as far she knows only residential properties with up to four units, and not commercial properties.

Council Chair Marshall comments that part of Ann's memo suggested that we should take a look at the properties and work with a real estate broker to put them on the market with Quit Claim Deed. Whatever sold on the market would be out of our hands and what didn't sell, because it required too much work or the market couldn't absorb it for whatever reason, we would seek to try and rehab it or look for other options but before investing money in the property. He states

he believes it would be in the best interest of everyone to get these properties back on the tax rolls as fast as possible and whatever we can't get on the tax rolls through the private market we can then work on various alternative plans.

Councilor Chair Marshall asked if there was any public comment.

Carlton Winslow comments that he would like to see these properties back on the tax rolls. On the recommendation of going to a broker he would like to first see a legal ad that says the following tax acquired properties are available by a certain date because people like him could be interested in buying them, especially residential properties or buildable lots, because there aren't many available in the City of Portland. The City hasn't done this often in the past. We're an active market and the regular vacant foreclosures in Portland don't last long. People like him want to get these properties back on the market and get them productive and he thinks that's in the best interest of the City and it's certainly in the interest of the private sector.

Councilor Donoghue states that he would not differ with Carlton except to say that he would like to see these properties back on the rolls too. However, he wouldn't want to forgo the opportunity to perhaps lend some of these properties to add to the permanent affordable housing stock. If some of the development seemed appropriate for being permanently affordable home ownership opportunity or rental or otherwise he wouldn't want to rush to sell without any sort of policy pursuit .

Councilor Chair Marshall asks that at this point is the Committee interested in going to Executive Session to discuss disposition of specific properties, or with simply providing direction to staff to begin the process.

Councilor Donoghue responds that he would like to discuss the specific properties in Executive Session.

Ann Freeman asks if any of these properties been sufficiently vetted because her understanding is we're going into discussion about the vacant properties.

T.J. says that some of them are clearly vacant and some of them are not confirmed at this point.

Councilor Chair Marshall states he is interested in discussing disposition of the ones that are clearly vacant and that we are liable for.

Councilor Chair Marshall states there is a motion to go to Executive Session pursuant to MSRA 405 (6) (C) MRSA 13119 (A). Councilor Donoghue 2<sup>nd</sup> the motion.

Committee goes into Executive Session. No action is taken.

### 3.) Condominium Conversions

TJ states that the city currently charges \$150.00 per unit for a condo conversion. He has checked with various other locations in New England on what they charge, that is listed in the memo. The housing replacement fund which has been in place since 2005 has only had two payments paid into it. One of them was just about a couple weeks ago from Berlin City of Portland for \$116,000 and the other was Maine Medical Center \$315,580, and considering the accrued interest and the commitment we've made to AVESTA, the current balance is \$140,912.

Councilor Donoghue states that he brought this up as a suggestion for consideration with the idea of not limiting condo conversions but having them pay into the housing replacement fund because they reduce the rental housing stock in the city. If a rental unit can be removed from our market for \$150 how much does the city contribute to Federal money to replace that unit the next year? He asks TJ how much we spend to create a single unit of affordable housing.

TJ responds that in new construction between \$120,000 or maybe less. But that doesn't all come from the city that is total development cost. The City's subsidy per unit is considerably less.

Councilor Donoghue says he finds the current fees incredibly minimal and not yielding anything to work with in terms of countering the trend but its amazing to look at the height of the condo conversions in 2004 – 2006 there were more than 150 units and think about how much it would cost to replace those rental units. It seems it's very cheap to take them off the market yet very expensive to put rental units back on. He thinks we could entertain a significantly higher fee and dedicate that revenue towards subsidizing construction of new affordable rental housing and that's what he presents for discussion.

TJ says he thinks we need to be careful to differentiate in cases where condo conversions actually remove a rental unit from the housing stock permanently. It's possible somebody could take a single family home and turn it into a two unit condo and that wouldn't remove a rental unit from the housing stock.

Councilor Donoghue says maybe that's the threshold, that the fee should be associated with the number of rental units actually removed. We spend thousands of dollars just to put another comparable rental unit back on the market.

Councilor Chair Marshall asks for public comment.

Carlton Winslow states that he would suggest that if you are going to do some fee that maybe you differentiate between a condo that does not allow rentals and one that does. Some condo associations allow rentals while others do not. So in some cases, depending on the association's By-Laws, a rental unit may or may not actually be permanently eliminated.

Councilor Donoghue states he would like to see a high fee imposed on the condo's who do not allow rentals of their units.

Councilor Chair Marshall suggests we could capture that information when someone came in to apply for a condo permit at City Hall. Also, he likes the idea of setting this at a percentage of the sale, as that works with the market.

Councilor Donoghue states he likes the idea of a fee on rental restricted condos, and says it targets the right parties on the market and doesn't penalize those who can least afford the fee.

TJ says it sounds like what we talking about is a revision of the housing replacement ordinance.

Councilor Chair Marshall says that perhaps the housing replacement ordinance should exist as is and create, for example, a housing or a rental fund replacement ordinance. Something separate that goes specifically towards rental housing and keeping it as a separate account.

Councilor Chair Marshall asks if we could draw up a draft in order to move forward. TJ, can you work something out for us and we can meet sometime before the next Housing Committee meeting in June?

TJ asks if we want to get as far as the amount of the fee, and that wouldn't be written in stone but rather just to facilitate the process and to base it on a percentage and not an amount which allows it to respond to the market better than a rigid fee.

Councilor Chair Marshall likes the idea of putting a fee for 1% of the sale price for those that restrict rentals which will be fine for a draft.

Carlton Winslow asks being the only member of the public can you reverse items 4 & 5 as he needs to leave for another matter.

Councilor Chair Marshall says yes, we can reverse the order of items 4 & 5.

#### 4.) Update on Neighborhood Stabilization Program (NSP)

TJ states that probably the most important update on NSP is the rules for NSP-2, the competitive round, were released by HUD today. There are 94 pages and at first glance we noticed some critical points. If you recall it was one of the funding sources staff was hoping to use for the Beckett/Green development. However under these rules all applications are required to have a minimum of five million dollars and have to address at least 100 units of foreclosed housing so we'll need to do more research to see if it will be applicable to Beckett/Green and than meet with Avesta. Multiple projects can be in one application, but this is a large threshold to work with for a City the size of Portland.

However, there are other concepts that are being looked at like perhaps combining a regional application with York County. Unlike NSP-1 this competitive round requires the applicant to go through a calculation process that HUD will provide to prove that there is truly a foreclosure problem in the neighborhood that you're proposing to develop your housing. So, not only will an applicant have to go for a minimum five million dollars and 100 units, but they're going to have to provide hard data that there is a foreclosure crisis in order to access these funds.

Councilor Donoghue asks how much money staff had targeted for each NSP-1 project?

Amy responds that it was approximately \$600,000 for Beckett/Green, \$300,000 for 35 Mayo Street and \$300,000 set aside for the Brackett and Pine project. All of those estimates are flexible in the proposed NSP-1 budget.

TJ. says we can use NSP-1 funds for Beckett/Green and possibly lower the amount of the TIF. We haven't gone through the numbers yet but even if we were to put the money earmarked for 35 Mayo Street into Beckett/Green they would still have a significant funding gap.

Councilor Donoghue says he would like to determine that there's nothing to be done on 35 Mayo Street with regards to NSP-1 before such a decision is made. He would be interested to know what shifting that resource to Beckett/Green would enable in terms of getting some sort of positive commitment from Avesta to build.

#### 5.) Draft HOME RFP

TJ presents an RFP draft for what an RFP format might look like for HOME funds for discussion purposes. As drafted it includes a request for both ownership and rental housing on the peninsula. There are some blanks in there regarding policy direction and if we could go through some of those and get some of that direction tonight from the Committee we can come back with an almost completed draft 2 of an RFP in June or July which might require a little polishing up before final presentation. Keeping in mind that the more you define the issues listed here the more constraining it is for a developer and the competition won't be quite as vigorous.

Councilor Chair Marshall says he thinks using public land as leverage as one of the tools in combination with the HUD funds is one way to achieve our goals. Specific sites can be discussed later.

Councilor Donoghue comments on the mixed ownership-rental model. One thing he likes about the Becket/Green proposal, aside from the design, is the relationship between the rental and the ownership of the duplex.

Councilor Chair Marshall says that also under special needs it would be interesting to look at veteran's housing and thinks it should be encouraged.

Councilor Donoghue comments that while having children is not a special need it is not always easy to find two or three bedroom units.

TJ asks, with regards to mixed use, business, rental or ownership do we want to encourage or require first floor retail development or leave that for the developer to decide.

Amy comments that depending on the site, that might be a zoning decision.

Councilor Chair Marshall says that with regards to Spring and High Street lot there are already businesses on that corridor. He suggests provide all the options in order to encourage a mixture of rentals and ownership.

Councilor Donoghue comments that if we weren't designating a location he we could encourage people to do a development say in a B2 zone and then we would not want it to be entirely residential.

Councilor Donoghue comments that he thinks both the development cost and the clientele would dictate smaller units in that area because people with children aren't going to want to live on the corner of Spring and High Streets.

Councilor Chair Marshall states that if we proceed cautiously, with a mixture of market rate and some affordable, we can still offer HOME funds as a subsidy. He asks if the committee feels comfortable with mixed market rate and affordable units to take best advantage of HOME funds.

Councilor Donoghue responds that although he likes the Becket/Green module, he also looks at it in its context of mixed ownership which is better than straight up all affordable condos.

Councilor Chair Marshall comments that he believes affordability with a mixture of market units and affordable units you are setting a scenario where you're mixing people of all different social spectrums. A variety of rentals, a variety of ownership and within each of those categories a variety of market and affordable housing is an ideal mix.

Councilor Donoghue states that he likes the idea of a mixed ownership model. All rental affordable is not such a good idea. All rental, mixed income is a better idea. He feels that the worst is to go is all affordable rental within one structure. Affordable ownership is a great thing because we all know that some people are renting much longer than they should be, and providing those people to own rather than continue to rent is a good opportunity.

Amy. States that one of the feedbacks she has been getting from the the process of evaluating Adams School is it is challenging to come up with a structure of ownership and rental within one building.

Councilor Chair Marshall states he feels more strongly about mixed income both living together than he does about rental and ownership so his focus is on the advantage of those HOME funds, and with allowing the developers to decide if there's more marketability for rental or ownership.

TJ. Do we want to encourage a variety of income levels or is that too general.

Councilor Coyne asks if the RFP would be open enough to mixed incomes whether it be ownership or rental depending on the developer.

Councilor Donoghue states we have to define what the mixes are. Does that mean 80% on the low end, 120% on the high end?

Amy comments that in order to qualify for the HOME funds a portion of the units need to be affordable to 80% of AMI.

Councilor Donoghue says at least some of the units can be 80% AMI and we can assume that's the low end in this instance.

Councilor Chair Marshall. So we need to delete mixed rental ownership and go with mixed ownership and with affordability we just say mixed income, to take full advantage of HUD.

Councilor Donoghue says the biggest missing piece is what is known about the land itself. I'd like to know what the maximum build out for zoning is for the High and Spring St. lot, and like to find out what can be done per the zoning and then our discussion becomes less academic and we can think more about what we can put on it.

TJ suggests on the topic of loan terms the Committee might consider a low interest amortizing loan. If we were repaid even at 1% interest for a 30 year term rather than the deferred payment loans we typically offer the money that comes back is program income which we can recycle. He suggests that the developer could propose a type of financing structure that they need to make the project work and the RFP could give preference to this type of loan.

Councilor Donoghue asks if the land would be for sale or is it assumed to be a gift of the city, effectively becoming a subsidy that reduces construction costs to make for maximum affordability. He would also want to avoid tax abatement and see these things made rigid in the RFP from the beginning.

Councilor Chair Marshall says for long term let the developer propose a plan and we should leverage city owned property with perhaps a minimum purchase price involved.

Councilor Chair Marshall. If you can work up this draft we can meet again and work out any remaining issues.

*Councilor Chair Marshall moved to adjourn the meeting. Councilor Donoghue seconds, passing unanimously. Next meeting to be held June 2<sup>nd</sup> at 5 p.m. in room 209.*