

City of Lawrence

Affordable Housing Advisory Board

February 12, 2018 minutes

MEMBERS PRESENT: Rebecca Buford, Dana Ortiz, Shannon Oury, Tim Stultz, Matt Sturtevant, Nancy Thellman, Erika Zimmerman, Zach Davis

MEMBERS ABSENT: none

STAFF PRESENT: Diane Stoddard, Assistant City Manager; Scott McCullough, Director of Planning and Development Services; Danelle Dresslar, Community Development Manager Jeff Crick, Planner II

Chair Sturtevant called the meeting to order at 11:00 am.

1. Public Comment

Steve Ozark representing Justice Matters presented a list of potential stakeholders for the Housing Study. These included Veterans and the local Veterans Affairs Commission, people previously incarcerated, seniors, First Step House, small businesses, and defense attorneys.

Ozark stated as the study goes forward that Justice Matters would like to see, especially for the sales tax referendum and the public trust, that people living on 0-30% AMI are seen as a critical priority, and households in the 0-60% AMI range are the overall focus for the next ten years. Ozark added that as new AHAB members are chosen, it is their hope that they understand this goal before joining the board.

Paul Horvath, a Lawrence landlord for 40+ years, wished to provide the committee with some information on circumstances that are impacting affordable housing in the community. He brought up an issue regarding affordable housing that others in the community might not be aware of. Horvath said in the forty years he had been a landlord, city staff has always been great to work with, but as of late there have been some situations that have created unpleasant circumstances and that are forcing out affordable housing in some areas. Ordinances that are supposed to be bringing order to the city are pushing out affordable housing. Mr. Horvath said the most recent situation is involving a five-unit property owned by himself and his son. Both are army veterans, and they were sent a letter from the city regarding a violation that threatened imprisonment regarding a five unit property at 433 Ohio. The units were properly licensed and had been operating as a five-unit rental in the over 20 years that the family had owned it, but since it could not show a history from 1920 indicating that it was conforming in the present day, they were told to discontinue renting. City says that these older properties now must show uses dating back to the 1920's. Older multi-family properties are being pushed out because they cannot show the history of uses. Neighborhoods are threatened because very few property owners cannot show continuous use back to the 1920s. Horvath provided some addresses of properties that have changed use over the years and are at risk of being lost as affordable housing. Most are studio or one bedrooms in the mid-\$300 range. What will happen is when people want to sell these properties, lenders are now requiring that the city sign off on allowable uses, and if these particular properties cannot show a conforming use back to the 1920s then it is not something the city will sign off on. A renter might think that they have a viable property that is licensed by the city, when in reality it might not be. An attorney he consulted said there was a possible solution in the form of an ordinance to allow for these types of properties to be grandfathered in to allow for the multi-unit rental, which allows for the affordable housing stock to remain. Mr. Horvath stressed that there needs to be protection from losing these types of properties. Most of these houses were converted to multi-family during WWII. Mr. Horvath proposed that an ordinance be considered to give exceptions to these properties.

Dan Dannenberg, Lawrence resident, stated on his street there are about six vacant units that could be considered moderate income units. At the northeast corner of 9th and Kentucky there are several units that are empty. One is being used for storage, another to the north that has been under renovation for a long time. Mr. Dannenberg said the whole rental process does not make sense. He said he watched the KCPT special on evictions and he feels that there are many landlord/tenant relationship issues. The City needs to have rental properties in the form of public utilities. He said it is his hope that rentals will get separated from the politics and what is happening now is not working. Mr. Dannenberg said he frequently reports code violations to the city. He feels there is a major problem with KU students occupying these rentals and there is no way to deal with it.

Dana Ortiz, AHAB member representing Family Promise of Lawrence, said that on her way to the meeting she was told a story of a family in their program which made her want to remind everyone that while the committee and the community can get lost in the numbers it isn't always about numbers, it is actually about the people. She said on her way out this morning she was stopped by a four-year old at the door who put her arms in the air and said "Pay your bills first!" The girl and her family and the other people in all of our collective programs should be a focus.

2. Approve Minutes from January 8, 2018 meeting

Ortiz moved to approve the minutes from the January 8, 2018 meeting. Oury seconded the motion. The motion passed 8-0.

3. Monthly Financial Report

Stoddard presented the board with the [January 2018 Affordable Housing Trust Fund financial report](#).

Diane Stoddard, Assistant City Manager, presented the financial report. She pointed out that staff corrected the Audited 2016 transfer number as it was originally listed in error as a \$200,000 transfer when in reality it was a \$100,000 transfer. She also noted that because no debt proceeds show as expended in 2017, the 2018 report will eventually show those for the most recent two rounds of allocations. There is a budget amendment going through the City Commission so the revenue will be corrected after that. Stoddard said there was additionally a \$300 donation received from Mr. Ozark and Tenants to Homeowners that will be received by the City Commission on 2/13/18.

4. Consider approving amended bylaws

Adjustments were made to the current bylaws to reflect the new board policy approved by the City Commission. One item is related to adding term limits to the board of two consecutive three year terms. There previously were no term limits in the by-laws. There are a couple of things to consider. On page two, section six and seven, since there has been the recent addition of three new members, it makes sense to maintain the staggered terms. Stoddard suggested that a good idea would be to stagger those three taking them in the order in which they were added, so The University of Kansas representative would be given an initial two year term, the Lawrence Chamber of Commerce would have an initial three year term, and the Lawrence Board of Realtors would have an initial term of four years. This would keep the appointments staggered, and would mean that the board would be in compliance with the ordinance that says that there will not be a turnover of over 1/3 of the board at any time. Stoddard also suggested that in section seven, where it reads that "No member of the Board shall serve more than two consecutive three-year terms" that the committee strike the word "three" as it can get confusing with the structure of the staggered terms. As the board operates down the road, it will be three year terms, but some right now will not be.

Stultz asked about the reappointments for the first group of two-year terms. According to the bylaws they should have been reappointed in December, but he was not, and the terms on the roster do not match the terms described in the bylaws. Stoddard said staff will look into this as some were reappointed, so there may be an issue in reappointments that were made.

Oury said another issue to consider might be when a term expires and agencies must find another representative to serve after them. Some agencies will have the staffing to do this. Others will find it more difficult.

Buford suggested the role could also go to board members of the agencies as they are still representing the agency.

Thellman said it presents an interesting challenge with this board because when a vote needs to take place, it likely ends up in a few recusals. She asked if there was a way to add the agency voice to the board and then the addition of citizens at large on the board. Can there be a place on the board without voting for some and the addition of others for voting purposes? This way the AHAB has voices at the table who also apply for funds that are still making good decisions, but also finding a way to have that balance.

Oury said she was on the Health Department board, and the KU representative is an ex-officio member, but the Watkins rep is a board member. She said there is a way to do an ex-officio spot for agencies that is separate from a voting member, but there is still a seat at the table.

Sturtevant said if there are ex-officio members, there is still an issue with voting numbers.

Thellman said she wondered if there was proper representation for community members at large.

Davis said he agreed with that statement. He said that the community is skeptic of the City process to begin with, and the more limits placed on the board the more the skepticism grows. The money needs to be spent in the best way it can be, and having more positions for the general public could help with that perception and with transparency. There are groups that have no representation at the table including those with physical disabilities and how that affects housing. The more limits placed on who can serve eliminates public trust.

Stoddard said the issue of additional board members at large was discussed by the City Commission, and they asked that the topic be brought back to the AHAB for further discussion. Staff can add this to the meeting agenda for an upcoming meeting and the bylaws would need to be further updated to reflect any changes made to the board, but the bylaw topic for today's agenda reflects the current state of the board.

Sturtevant said the bylaws can be amended at this time to reflect the current situation of the board, and the discussion can be added to a future agenda for the addition of more community at large members.

McCullough wanted to highlight page four section two regarding the expectation of notifications for absences, and on page five, section one, article ten, it states that anyone that need to recuse themselves due to a conflict, will physically leave the room during discussion.

Buford said that there are many advisory boards that have representation from those that have an interest in those boards and their charge. A non-profit organization does not profit from that type of participation. Non-profits represent the people that they serve and the mission for affordable housing. There have been discussions about the fact that non-profits benefit from being here, but that is not how non-profits work. Buford said she does not get paid more if an award is given for a community project. There is a difference. She said in the past she has been on two of these types of boards that ultimately did not build anything. She said her opinion was that she was the only representative for affordable housing, and everyone else had no interest in developing affordable housing. All those around the table were developers and community members that did not have an interest. She said she loved the idea of adding someone who can represent the physical disability community. Buford added that Mayor Boley at one time said the board are not advocates. Buford said she would like to see a definition of what an advisory board is, as they advocate for their position on affordable housing. She asked what the point

of an advisory board is if they cannot support their charge. An advisory board should have every right to talk about what they present to the commission. The agency voices on the board should definitely be recused for voting on applications, but it is a necessary voice as affordable housing is very complicated. Every funding that Tenants to Homeowners requests is matched and leveraged. In the housing world there are those types of abilities. That internal knowledge is critical for making reasonable decisions for this board. Buford reiterated that she was in favor of the idea of more public participation, but warned that the city does not want to lose the voices of those who are representing a population utilizing affordable housing.

Thellman agreed that it is a fine line between the appearance of conflict and actual conflict. She also agreed that it is necessary to have the experts at the table. Her opinion is that voice needs to be there for the duration. It is important to define roles and the complications.

Buford said there is a difference in actual and perceived conflict of interest. She said for example, on the guest tax advisory board there are people that utilize that tax on the advisory board, and that is for profit so it is a different situation than the AHAB.

Sturtevant said there is no way the board would be where it is without the voices of those agencies at the table. There needs to be a discussion on balancing the needs of representing the at-large community with the retention of the important expert voices, and not creating a 30-person board. Sturtevant asked the board members to think on this over the next few weeks and they can continue the discussion next month.

Stultz asked if there was a limit on terms for the Chair and if this is an appropriate document to speak to that

Sturtevant said it was appropriate to discuss.

McCullough said that each advisory board has a different practice in place. Some move from vice chair to chair on an annual basis, some have other methods of selecting a chair. It is mostly up to the board to determine.

Sturtevant said with the addition of new board members, this becomes a larger conversation about recycling leadership.

Stultz said he had no desire to add term limits or change how the AHAB does this, it was just part of a larger question of the document and the new membership.

A motion was made by Stultz to accept the bylaws with the addition of the removal of the word "three" from the section on terms served and the addition of the staggered year terms for the new members representing The University of Kansas, the Lawrence Chamber of Commerce, and the Lawrence board of Realtors. Oury seconded the motion. The motion passed 8-0.

Stoddard said the appointments will be made by the Mayor. Staff has been in contact with the agencies representing the new members to provide names for possible appointments. There is no timeframe established for filling the positions. All agencies have been actively advised of the position.

5. Review draft 2017 Annual Report

Stoddard said the financials on page 10 will be updated to reflect the true financial report ending 2017. The committee can make the approval of the document with the changes requested on the financials. Sturtevant asked the committee to go through the report page by page. The following changes/amendments were submitted:

1. Oury said the mission statement seemed to be worded incorrectly. Should read "The mission of the Affordable Housing Advisory Board is to make recommendations to the City Commission on ways everyone in Lawrence has access to safe, quality, affordable housing and supportive services necessary to maintain independent living with dignity"

2. The committee suggested adding a completion date to Goal four, item "b"

3. The committee suggested an amendment to the item under Goal six, item "a" to include reference to the City Commission meeting on February 6, and Goal six, item "d" can refer to the date in November of 2017.

4. The committee suggested the changes be made to the financials as previously discussed to reflect 2017 actual numbers.

Motion by Oury to accept the 2017 Annual Report with the changes agreed upon by the committee. The motion was seconded by Davis. The motion passed 8-0.

Stoddard said the report will be received by the City Commission.

6. Quick Updates

a) Receive [Final report on the Partnership Housing Project](#)

There was no discussion on this item.

b) Receive [quarterly report on the New Horizons Program](#)

Oury said the County awarded LDCHA an additional \$50,000 in 2018 to continue with the program.

c) Receive [United Way correspondence](#)

d) Receive [Bert Nash correspondence](#)

7. Other New Business/additional Public Comment

Benita Yoder asked to make additional public comment. Ms. Yoder said she was a landlord and wanted to talk about a low cost solution to maintaining affordable housing stock that the community currently has. She said she has one house with five apartments that she has owned since 2000. It has always had five units and she has always kept rental licenses on the units. She received a letter from Code Enforcement this year that said she was only allowed to have two rental units in the house under the current code. She said about a third of her tenants were Section 8 tenants. One tenant has no car and uses the bus or walks to places she needs to go. She intended to stay there. Now there is a dilemma because in order to bring this down to two units, the associated rental costs must go up. With five units, the mortgage, taxes, and insurance are covered at affordable rents for those who live there. If it becomes a situation where she can only maintain two apartments, the rent goes up to cover the costs associated with owning the property. It is far in excess of Section 8 limits. The tenant living there will have the reality of her rent more than doubling. If the rental situation has no solution that will be what happens. Asked the AHAB to make a recommendation to the City Commission regarding the homes that have multiple units that are being faced with this situation. Asked the board members to put themselves in the tenant's shoes and see what their options would be.

Sturtevant said a goal of the AHAB was also to look at current stock of housing and retaining affordable housing.

Oury said this is about the loss of current affordable housing stock. She asked if there been a change that is altering the rental situation.

McCullough said this is the intersection of affordable housing and zoning laws. Several times a year staff comes across properties that never were zoned for their current use. Zoning codes required that there be a process to legalize that use. Several properties can show that they were legally established in a

non-conforming state, and a handful that show that they were never supposed to be held in that regard, so they are not legal. These are the ones that over the years, owners have been required to make conform. What has changed is that the banks and insurance companies are demanding that the property uses are legal from the city's perspective, and because of this the verification process has amped up discovery of these properties. Sometimes they are found as permits were not issued for work, and sometimes it is an issue of fire and redevelopment of the units. Banks have found some from the lending aspect and rental licensing have found some more. There has not been an exhaustive zoning review when issuing a rental license in single family, so a few have popped up where they might have got a license previously. The issue as a whole is a deeper issue than what the AHAB has heard about here. Any amendments would take an ordinance change and amendment to the code to allow for immunity for those who are caught in the non-conforming situation.

Buford asked about the idea of a density bonus for affordable units. If a landlord is renting five units at non-affordable costs they can't get the bonus. If they rent them at affordable units they can.

McCullough said he felt that was a separate issue.

Buford said it was not a zoning issue but a density issue.

McCullough said it was a very complicated issue because of zoning. He said there are probably some things from the zoning perspective that can help with the affordability. Over time staff will need to explore some of these zoning issues. Zoning has a legal framework that they have to work in. There are a number of owners every year that have a zoning issue that they find usually has an avenue for allowing the use. There are a lot of variables at work also.

Sturtevant said the AHAB could look at this after the study. It affects affordable housing, and we could also look at what other cities have done. Want to make sure the landlord voices are heard for the study.

Ortiz wanted to know how many units of Section 8 housing might be involved.

Oury said she did not know but was also very interested in this statistic. She noted that it is sometimes difficult to find landlords to rent to larger families.

McCullough said it was not really a wide scale issue. At this point the impact is only a couple of properties a year.

Ortiz said it might be a large section of the section 8 program.

Buford said that Charlotte, NC has a program that has a density bonus for those doing affordable housing. Affordability allows for an increase in allowable density. The property zoning is already laid out and consistent. If the developer can show it is affordable, they are allowed the density. It would take another level of administration but could help to bring more affordable units in while not losing more.

8. Next Meeting / Future Agenda Items

The next meeting will be on March 12, 2018.

Stoddard said in March there would be a conversation about possibly adding seats to the AHAB, as well as the possibility of a report from BBC regarding the housing study.

9. Adjourn

Buford moved to adjourn the meeting. Davis seconded the motion. The motion passed 8-0.

Future Meeting Dates / Tentative Agenda items

March 12, 2018 – discuss adding additional seats to the board

April 9, 2018

May 14, 2018

June 11, 2018

July 9, 2018

August 13, 2018

September 10, 2018

October 8, 2018

November 12, 2018

December 10, 2018

These minutes were approved by the Board March 12, 2018.