

Repositioning Committee Meeting Minutes  
July 12, 2022  
11:30 am

Committee Present: Gregg Warren, Liz Edgerton, Arne Morris (arrived at 12:00 pm)

Committee Absent: Bahati Mutisya, Joe Whitehouse

RHA Board Present: Eric Braun, Susan Ellinger, Yolanda Winstead

RHA staff: Laura McCann, Jennifer Morgan, Liz Edgerton, Gwen Wall

Visitors: Naomi Byrne, Rhae Parkes, EJP; Sherrod Banks, The Banks Law Firm; Patrick Costigan, CF Housing Group; Charles Francis, Francis Law Firm, PLLC.

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**(There was no quorum at the beginning of the meeting so the committee would be in discussion only until Arne Morris arrived to fill the quorum.)**

**Update on RAD Conversions and Section 18 Proposal for Heritage Park.**

Mrs. Edgerton said they are still working through the title work on Berkshire Village. Eric Pristell told Jennifer Morgan that by the end of this week he is expecting to have that so that she can load all the information on the portal for HUD to review.

We are waiting for HUD to send us the RCC agreements for the other three properties that we are planning to convert. They're getting closer – they sent a list of questions to Jennifer, which she answered yesterday. We are waiting for them to get us those for the last three. They are aware that we want to try to close all four properties at the same time. We are still working for that August 1 deadline, and hope to keep pushing so that we can meet it.

With section 18, we haven't started the application. We thought this would be part of the process after we've got the Co-Developer on board.

Commissioner Warren asked Mr. Costigan for his input.

Mr. Costigan asked if D3 has done a section 18 assessment for RHA. They have one that they do – Section 18 one column, RAD another column.

Jennifer Morgan said they did the obsolescence test a year ago – and we did meet obsolescence – so that was the route we were going to take (Section 18).

Mr. Costigan said, in that case, you don't need to wait for the developer.

Naomi Byrne said one of the things in our Section 18 applications that you will need is a scope of work on what you plan to do, which is why we typically get some information from a Development Plan. In addition, in reviewing your MOU comments, it was mentioned that the

developer did not want to exclude RAD and Section 18 for a financing source or a financing stream. If that's the case, the Section 18 application process will be different. The documentation that you have to gather will be the same. However, it goes through the RAD resource desk. I flagged that because if you go in now and submit a Section 18 obsolescence application, you'll be doing it through the PIC system, which is the online system that the Housing Authority uses for their units and building information. It's not hard – it's just cumbersome. There's a lot of information you have to gather prior. If you do it through the RAD Section 18 portal or the RAD resource desk, you avoid PIC altogether. If there's no urgent need to start Section 18, I don't know that I would necessarily look at starting Section 18 now because the you've got some outstanding items that could probably be resolved to give you a better sense of what direction you'd be going.

Commissioner Warren asked about the Development Plan that needs to be in place to apply for Section 18.

Ms. Byrne said typically what the Special Application Center (“SAC”) wants to know is what you intend to do with a property post disposition and demolition, which requires some idea of how you're going to develop. You also are going to have to show them if you're going to be disposing of the property at either fair market value or below fair market value. Then indicate, if you're doing it below fair market value, what type of commensurate benefit you can provide in exchange for HUD’s approval. Usually, there's a little more information that you want to have on those, especially those two aspects prior to submitting a Section 18 application because those are required. There's also some other requirements around the Section 18 process demolition/disposition regarding resident consultation, as well as potentially having to offer your Resident Council what's called the “Opportunity to Purchase the Property”. You probably will qualify for an exemption from that. There are a lot of things with the Section 18 application that are going to be contingent upon a little more detail and your Development Plan and even potentially your financing that are going to be required for the Section 18 approval to go through.

Commissioner Warren said we could assert that we're going to deliver at least 122 units of housing at 30% AMI and another X number at using LIHTC and 4% bonds. Is a sufficient level of detail?

Ms. Byrne said typically not, because you're also going to be looking at having to answer questions related to relocation and provide some relocation information in there. If RHA wanted to, you could definitely submit a Section 18 application without having more detail than replacing one for one of the public housing units. However, my sense is that SAC will ask you for more detail and if you've met obsolescence already, the likelihood that you don't meet obsolescence in six months if you wait to get the Master Plan is slim. Our experience at EJP is that we go through the Master Plan and at least get substantially complete so that we can incorporate that plan scope directly into the Section 18 application without having to go back and forth and answering questions – or potentially amending, should a scope change some significant aspect of the Section 18 application process.

Mr. Costigan said I agree with everything Ms. Byrne is saying in terms of the process. The question is when to begin. I might recommend you reengage with D3, have a chat with them and

get their take on things. The question is who among the team do you want to prepare the Section 18 application? Maybe you've decided that but it might be a conversation worth having with D3 to get their take on it if you haven't talked to them for a year.

Commissioner Warren asked Ms. Byrne if that is part of EJP's scope of work.

Ms. Byrne said she would need to go back and review with Jennifer Morgan specifically what the scope is. They have the ability to draft task orders for specific work items such as this one. She will confirm with staff that this scope of work would be within their larger scope. It is something they do often. Staff is going to have to get D3 to update RHA's obsolescence test regardless, because SAC is looking at something within the last 12 months. However, if you would like EJP to review that, and then work with staff on providing a scope and a fee, we can definitely do that for you.

Commissioner Warren asked the committee if there were any objections to that approach.

Ms. Parkes added that for the Section 18 process, to get HUD approval, you're going to need to also go through the environmental clearance and the State Historical Preservation Review for the site as well, which could be a long lead time item. That also ties into your Section 18 disposition application. There may be a need for mapping out a more critical path schedule that shows all of these related activities that also have to be done in order to then be in a position to submit a full package on the dispo application to SAC.

Ms. Byrne said that's great reminder – because your part 58 environmental clearance is specifically tied to the scope of work that you're providing. That's another reason why you're going to probably have to provide more detail, not necessarily for SAC, but for the environmental clearance. If you're looking at having to go through State Historic Preservation, they're going to want to know what your preferred development option is for review. If you're looking at any other environmental concerns, they're going to want to understand not only the potential environmental impacts of the demolition, but also the subsequent new construction.

Commissioner Warren said these are standard processes, that you've had a State agency review approval process. I don't see that as a complicating process. It's just one step along the way.

Commissioner Warren asked EJP to look at presenting RHA with a task order and an estimate of cost to run with that.

Ms. Byrne said they will draft a scope and then send it over to staff for review.

Mrs. Edgerton said, just to be clear, we want to go ahead and try to start that process prior to having the master planning process in place.

Commissioner Warren said he's not sure that we want to start the process. We just want to know who's going to be in charge of the process. I think we'd want to have a conversation with our Co-Developer.

(The committee and staff agreed with this process.)

### **Report on June 16, 2022 meeting with City regarding Heritage Park.**

Commissioner Warren said since the committee last met, we had a meeting with the city on June 16 with a lot of different city officials. That was a good meeting led by Tansy Hayward, Assistant City Manager. We gave them an overview of where we were regarding Heritage Park. The staff wants to get together with us and the Co-Developer once that has been selected. Ideally, they'd want us to meet in a City Council Work Session in mid-to-late August if we are at that point and we have a Co-Developer selected.

There were a lot of discussions regarding the streets – the interconnectivity of West Street and Dorthea Drive. There was a very clear direction that we were hearing, both at this meeting and follow up discussions, that the city would very much like us to get deeper into the Master Planning process and civic engagement process before we submit for rezoning. They thought that this would present to City Council an awkward position on the rezoning request if we don't really have a clearly articulated plan in place as well as community support for what we're talking about.

In our last discussion, we said we were going to park the rezoning issue and initiate that again when we have the Co-Developer in place. I would also note that there were discussions about having a Development Agreement between the city and RHA, anticipating that the city would provide for certain improvements, street improvements, and there'd be some sort of joint funding arrangement. That is certainly on the books as a possibility.

If the city is a financial partner, typically there is a development agreement, so maybe that loan agreement or development agreement could all be wrapped into one.

### **Public Comments**

There was no public in the meeting this afternoon.

### **Co-Developer Discussion**

Commissioner Warren had some key issues that he pointed out to the committee:

- Developer fee split.
- Cash flow split.
- Master Planning and pre-development costs. Who will pay?
- Who will take a lead in the master planning effort and pre development activities?
- Extension to execute NDA.
- RHA's potential to manage the property.

Sherrod Banks said he can answer some of the questions from the potential Co-Developer quickly.

- They want the words “project phase” included into whereas clauses. We can wordsmith that.
- They want to expand the purpose to include the idea that this MOU helps us get an early start on master planning. I don't have an issue with that.

- We have proposed that there'll be a Master Planning Agreement. They say they've never seen such a document, which is sort of surprising, but I don't have a problem with them not having seen it. We could either expand the MOU or we can create our Master Planning Agreement. The reason that we have an MOU propose a Master Planning Agreement and then an NDA is that we wanted the MOU to be non-binding. The Master Planning Agreement would be binding because it would define roles and it would commit both parties to paying a certain amount of the master planning budget. At the time when we drafted this document, we were thinking that both parties would have some skin in the game early, both parties committed, and therefore the planning agreement would be binding. And so that's why we separated it from an MOU. I still think that's the preferred method – to have the Planning Agreement be a separate agreement and binding. I still think we should do a planning process before we do a Master Development Agreement.

Mr. Banks said the master planning is something that's intended to the entire site, and he sees pre-development cause being more germane to a particular phase. However, you can imagine how some of the master planning activities will overlap with some of the phase planning. The easiest to identify are things like soil, borings and environmental costs that might be considered pre-development or master planning. Zoning could be pre-development or master planning, but I think we should cover as much of it as we can in the master planning phase so that we can then allocate to particular phases pre-development costs.

Commissioner Warren clarified that your idea is that you would include pre-development cost in the Master Planning Agreement.

Mr. Banks said he would – as much as we can. I still think there will be some pre-development costs that would be particularly germane to a phase.

Commissioner Warren said those would be able to be included in the budget project budgets themselves.

(Arne Morris came into the meeting and created the quorum. The committee then went into Executive Session.)

### **Executive Session**

Commissioner Winstead moved and Ms. Edgerton seconded moving into Executive Session to discuss a proposed real estate contract.