

TOWN OF GREENWICH  
BOARD OF ESTIMATE AND TAXATION  
PARSONAGE COTTAGE WORKING GROUP

MINUTES – Parks & Recreation Conference Room, 2nd Floor, Town Hall

Friday, February 21, 2014, 2:30 P.M.

Committee: Mary Lee Kiernan, Leslie Tarkington, Bill Finger,  
(Marc Johnson, absent)

Board: Michael Mason, BET Chairman

Others: Peter Mynarski, Comptroller, George Yankowich, Housing Authority Chairman,  
Anthony Johnson, Housing Authority Executive Director, Princess Erfe,  
Community Development Administrator, Aamina Ahmad, Assistant Town  
Attorney, Christopher von Keyserling

The meeting was called to order at 2:37 P.M.

**1. Approval of November 6, 2013 Meeting Minutes**

Prior to the approval of the minutes, Mr. Yankowich wanted to amend the minutes to reflect what he thought he said regarding Assignment of the Limited Partnership Interest in December 2012. Mr. Finger told Mr. Yankowich that the minutes properly state what was said at the November 6, 2013 meeting. However he could enter into today's meeting a clarification on what he meant. Mr. Yankowich agreed and stated that the reference to Edison Capital's public filings should reflect a sale of the LP interests in 2013. Mr. Yankowich also asked that the minutes of today's meeting reflect that the Town is in possession of the title policy with for Parsonage Cottage.

On a motion by Mr. Finger, seconded by Ms. Tarkington, the Working Group voted 3 to 0 to approve the November 6, 2013 minutes (Mr. Johnson was absent).

**2. Review of Process to Date and Open Issues**

Ms. Kiernan briefly reviewed the process to date beginning with the formation of the Parsonage Cottage Working Group in September; the Working Group meetings held in October and November; the letter sent from the Working Group to the Housing Authority of the Town of Greenwich (HATG) dated November 25, 2013, noting that several of the document requests in this letter are still outstanding; the response letter from the HATG dated December 13, 2013, noting that one of the requested documents, the new Management Agreement, was attached; the postponement of several Working Group meetings this month due to weather; and the additional response letter from the HATG dated today, February 21, 2014, and emailed to the Working Group this morning. The Committee agreed to address this new response letter from HATG under Item #4 below.

**3. Law Department Review of Regulatory Questions**

Ms. Kiernan asked Ms. Ahmad and Mr. Mynarski for an update on their analysis of the HATG statement in the HATG letter of December 13, 2012 that a loan modification proposal would

have a negative impact on the Parsonage Cottage reimbursement rate in the future. Ms. Ahmad stated she spoke with a representative of the State Department of Social Services rate setting office. She said the State DSS sent her the Rate History Report for Parsonage Cottage. In addition, the State DSS stated that the proposed loan modifications would impact the reimbursement rate, but can't project the impact. The State DSS recommended that the Town contact an actuary who specializes in rate setting for residential care homes and gave Ms. Ahmad a contact person. Mr. Mynarski said that he did contact this person, George Thomas. Mr. Thomas works for the Accounting Firm of Blum and Shapiro and said he is interested in performing such an analysis, but could not start until early March 2014.

Ms. Ahmad and Ms. Kiernan also asked whether the application for renewal of the Certificate of Need that Parsonage Cottage provided to the State was accurately completed because the form indicated "renewal" instead of "change of ownership." It was agreed that Ms. Ahmad would contact the State DSS to ask this question.

#### **4. Review of Financing Options**

The Committee decided to review the February 21, 2014 HATG response letter, which contains counter-proposals to the November 25, 2013 letter by the Working Group as follows:

- "Propose to refinance the Town Loan at 1% amortized over 27 years; and, if there is not BET Board support to forgive the CDBG Loan, propose to refinance the CDBG Loan at 0% over 27 years." There was a discussion as to why HATG was proposing different interest rates for the two loans. Mr. Yankowich responded that the CDBG Loan has federal dollars as a source of funding and the Town Loan is taxpayer's money, and he thought it would be fairer to the taxpayers to keep an interest rate, although low, for the Town Loan. It was decided that Mr. Mynarski would redo the amortization for each loan as indicated with an effective date staying at January 1, 2014.
- "At any time either or both loans may be paid off with no prepayment notice or penalty; effective date of the refinance will be January 1, 2014." Ms. Kiernan noted that prepayment was already permitted, but that this new HATG proposal inserted a "without notice" provision. The only change proposed by the Working Group was to omit "no prepayment notice" and substitute "30 days" in reference to a notice time period.
- "After the year 2027, the parties agree that the Town Loan may be refinanced as part of a recapitalization either by the Town or by other financing source." The Working Group was concerned about what "or by other financing source" meant. Ms. Kiernan stated that the security interest that a commercial bank might require in the lease of Parsonage Cottage would be problematic for both the BET and the Representative Town Meeting (RTM). The Working Group then proposed adding "approved by the Town" after "other financing source."
- "Without prior Town approval, there will be no transfer of the lease, no new partners (limited or general) may invest in the Partnership." There was an extended discussion on what this language meant, as well as questions about the partially executed lease assignment and which entity was now the lessee. It was agreed that Ms. Kiernan would come up with new language that everyone could be happy with.

- “HATG agrees to provide the annual audited financial statements which include the operations of Parsonage Cottage that are prepared in the normal course of business by HATG. HATG will also provide monthly balance sheet and income statement for Parsonage Cottage, as available. These will be paper copies or electronic copies.” Financial disclosure remains an area of disagreement between the Working Group and HATG officials. Ms. Kiernan cited the requirement in the Operating Agreement, dated August 9, 1995 in Section 6 (b) that both the Partnership and the Town Hall Annex Corporation (the general partner of the Partnership) provide “annual audited financial statements” to the Town Comptroller, which requirement provides appropriate disclosure on Partnership distributions and financial results to the Town. Ms. Kiernan further noted that the Town Hall Annex Corporation is not a single purpose entity, further complicating the disclosure of financial results. In addition, Ms. Kiernan noted that the Town Hall Annex Corporation reported substantial profit in its 2011 Form 990 (federal tax form for non-profit entities), but does not provide detail on the sources of this profit.

Ms. Kiernan again requested that the HATG provide the Working Group separate audits of the Partnership and the Town Hall Annex Corporation, as stated in the Working Group letter dated November 25, 2013. Mr. Yankowich stated that there was a separate audit conducted up until 2012. He added that with the issuance of the Single Audit Act, they are no longer required to provide a separate audit of the general partner, and that soon the audits of the Partnership and the Town Hall Annex Corporation would be “blended.” Ms. Kiernan noted that an auditor would still be required to conduct a substantial audit each year when the Town Hall Annex Corporation completes its Form 990. Both Mr. Yankowich and Mr. Anthony Johnson continue to firmly state they will not comply with the Working Group’s request for a separate audit.

The Working Group agreed that Ms. Ahmad would review the regulations cited by Mr. Yankowich that direct a “blended” audit.

- “So long as the loans are in effect, HATG will use any excess operating cash flow, up to \$70,000 per year, for the purposes of: funding capital repairs and improvements, funding of long term capital reserves, funding of working capital reserves, or funding of emergency repair reserves.” Ms. Kiernan asked Mr. Yankowich to explain the cap of \$70,000. Mr. Yankowich responded that the number was an approximation of the difference between the old debt service and the new debt service if the two loans were modified. Ms. Kiernan commented that this proposed provision to cap off the excess cash flows that remain with the Parsonage Cottage building and the lack of detail as to the use of any cash flow beyond the cap needs further review.

Ms. Kiernan also asked if HATG had found the old Management Agreement with Parsonage Cottage. Mr. Johnson and Mr. Yankowich both stated its whereabouts is unknown. A discussion ensued regarding prior management fees under the old Management Agreement. Mr. Johnson stated that they had been “waived,” but then conceded that these fees still appear as payable to HATG on the Partnership’s audit. Ms. Kiernan asked how the auditor calculated the management fee payable when the old management agreement was unavailable. Mr. Yankowich stated that auditor provides a sheet with the calculation and Ms. Kiernan asked Mr. Yankowich to provide this sheet to the Working Group.

- “The Town agrees that this refinancing shall not diminish the HATG need to seek additional local, state, and federal grants or funding for operations and capital

improvements in its normal course of operations, and that no approval (other than via CDBG process) by the Town shall be required to apply or receive such funds.” The Working Group reminded the HATG officials that they could not provide any assurances with respect to public funding. Mr. Yankowich expressed concerns about restrictions on fundraising and the Working Group did not have any issues with a provision that the proposed refinancing will not restrict fundraising efforts. Ms. Tarkington recommended adding a phrase regarding charitable contributions.

- “There is no need for additional affordability covenants as they are a condition of the Special Permit #1711, MI # 420 and #421 and a continuing reporting obligation (until 2027) of the LIHTC. Each have different definitions.” The Working Group had questions about the affordability covenants in this proposal. Ms. Kiernan noted that the affordability requirement that 80% of Parsonage Cottage units be used as low-income housing was stated in the prior partnership agreement and there should be no issue with restating this requirement in the new loan agreement and the new partnership agreement. The Working Group again asked the HATG officials for a copy of the new Partnership Agreement and there was no response. Mr. Finger requested that Ms. Ahmad get further clarity on the affordability covenants for this property from Planning and Zoning and report back to the Working Group.
- “This will be an amendment to the existing Notes and Loan Agreements and all other terms and conditions of the Note and Loan Agreement remain unchanged and in effect.” Ms. Kiernan and Ms. Ahmad commented that this section needs to be determined by the respective lawyers representing the Town and the HATG.

At 4:15 p.m., Mr. Finger excused himself from the meeting due to a prior commitment.

The Working Group then returned to the November 25, 2013 letter from the BET Chairman and the Working Group to the HATG, which provided a list of outstanding information requests and loan modification recommendations. Ms. Kiernan directed everyone to the 6 informational requests detailed on page 2 of the aforementioned letter.

Ms. Erfe agreed to review the requirement that HATG provide HUD/CDBG-level of detail with respect to future capital improvements at Parsonage Cottage.

The Working Group discussed appropriate levels of insurance for Parsonage Cottage and Mr. Mynarski stated that he would ask the Risk Manager to review this issue.

Ms. Kiernan reiterated that Ms. Ahmad will contact the State of Connecticut on the issue of the Certificate of Need (CON) and the reapplication detailing new partners for the Parsonage Cottage. Specifically, Ms. Ahmad will seek written confirmation stating that the recent reorganization of the Partnership does not in any way impact the current CON for Parsonage Cottage, its license or its contract with the State for reimbursements.

Ms. Kiernan requested that Ms. Tarkington review item number 6 on any federal or state tax impact of the transactions including the partnership transfer and the loan restructurings.

The Working Group concluded that the Working Group and the HATG have reached a point where all of the information that has been requested has either been supplied or will not be supplied.

Finally, Ms. Kiernan said that Ms. Ahmad will look at the 80% requirement for low-income levels for Parsonage Cottage patients, as referenced above.

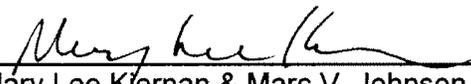
**5. Next Steps**

Next steps were reviewed above.

**6. Adjournment**

The meeting adjourned at 4:28 P.M.

  
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Peter Mynarski, Recording Secretary

  
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Mary Lee Kiernan & Marc V. Johnson, Co-Chairs of  
the Working Group