

TOWN OF CANAAN – BOARD OF FINANCE, REGULAR MEETING

MONDAY, JULY 12, 2021 @ 6:30 PM

108 MAIN STREET, FALLS VILLAGE, CT

Attendees: Dick Heinz, Joel Jones, Lou Timolat, Steve Dean, Dan Silverman

Alternates: Corinna Fleming, Eric Carlson

Absent: John Allyn, Daly Reville (Alternate)

Co-Chair Dick Heinz called the meeting to order at 6:31 PM

Motion by Lou Timolat, seconded by Joel Jones to seat Corinna Fleming in place of regular member John Allyn; *motion passed by unanimous vote.*

AGENDA

Public comments:

- Resident Janet Hanna read aloud a letter she submitted to Co-Chair Dick Heinz prior to the meeting (attached with regard to Item 4) on the published agenda (see below)
- Resident (and Attorney) Warren Whitaker, in reaction to item 4) on the published agenda, independently reached out to Miguel Rivera, Director, Housing and Community Development, Department of Housing to confirm that the Town of Canaan had no liability whatsoever with regard to the Agreements between the Falls Village Housing Trust and the Department of Housing referenced in item 4)
- Resident (and Member of Board of Finance) Dan Silverman distributed a document he authored dated July 12, 2021 (attached), citing relevant cases in the state of CT regarding the participation of nonvoting alternate members of the Board of Finance and the role they are allowed to play in discussions and deliberations of the Board

Communications: none

Interdepartmental Informational Communications: none

Reports

Secretary's Report – **Motion by** Dick Heinz, seconded by Joel Jones, to accept as presented the Minutes of the June 14, 2021 regular meeting (attached); *motion passed by unanimous vote.*

Treasurer's Report – none

Tax Collector's Report – none

Board of Education's Report – none

First Selectman's Report –

- a) Septic system installation has begun for 107 Main Street building, estimated to be completed by end of business on Thursday of this week (7/15/21); this installation will bring this Town-owned building into compliance with the Torrington Area Department of Health for business operation ("Furnace – Art on Paper" and the "Falls Village Café")
- b) Creative Kids Club hire is being made in the next month in association with the Recreation Commission

- c) Town of Canaan Water Department sale to Aquarion is progressing and estimated to add approximately \$190,000 to the Town's General Fund

Old Business

- 1) Discuss and act on proposal by Selectmen and Treasurer on how the Board of Finance would like the Town of Canaan to handle recharacterization of amounts and purposes within Departmental sub-lines.

Motion by Lou Timolat, seconded by Dick Heinz to table Old Business until future Regular Meeting; *motion passed by unanimous vote.*

Suspense Items

New Business

- 1) Discuss and act on BOS recommendation to the Board of Finance for recommendation in turn to a Town Meeting that we take from the Heavy Equipment Reserve Account 1702301209 up to \$45,000 and from the Truck Reserve Account 510001439 up to \$5,000, for a total of up to \$50,000 for the purchase of an aluminum dump body to replace a disintegrated truck body on our oldest truck with said truck body to be moved to the *next* oldest truck when the oldest truck is replaced in an estimated three years.

Motion by Lou Timolat, seconded by Joel Jones to recommend item to Town Meeting in accordance with the language above; *motion passed by unanimous vote*

- 2) Discuss and act on BOS recommendation to the Board of Finance for recommendation in turn to a Town Meeting that we take \$27,500 from the Bridge Reserve Account 1702646689 for the purpose of funding the Cobble Road Study to be undertaken by Cardinal Engineering for the purpose of improving a portion of Cobble Road and the culvert prior to the replacement of the bridge on Cobble Road.

Motion by Lou Timolat, seconded by Corinna Fleming to recommend item to Town Meeting in accordance with the language above; during discussion multiple Board members suggested that in the future all contracts go through a *Request for Quotation* process in order to secure multiple competitive bids, which the First Selectman acknowledged; *motion passed by unanimous vote*

- 3) Discuss the septic system upgrade at 107 Main Street (see item a) in First Selectman Report above)

- 4) Discuss 2019 loan for \$189,000 to FVHT which Town of Canaan was a party to.

Motion by Lou Timolat, seconded by Dick Heinz, as follows:

The Town of Canaan Board of Finance here-by instructs the Town of Canaan Board of Selectmen to engage Town Counsel to advise unequivocally as to whether or not the Town of Canaan is under any "General Obligation" as to the security or re-payment of any financial instrument of obligation assumed or assigned to the Falls Village Housing Trust or its "successors or assigns"; *motion passed by majority vote (3 yay, 1 nay, 2 abstentions)*

Motion by Lou Timolat, seconded by Steve Dean, to adjourn meeting; *motion passed by unanimous vote at 7:20 PM*

July 7, 2021

Dick Heinz
Board of Finance Chairman
Town of Canaan, CT

Dear Dick (and members of the Board of Finance):

I am writing you as Town of Canaan Board of Finance Chairman to follow up on our phone conversation of the other day. I respectfully request that this letter be read into the Minutes of your 7/12/2021 meeting.

I phoned you with regard to the upcoming (7/12/21) BoF monthly meeting agenda item #4 under New Business, "Discuss 2019 loan for \$189,000 to FVHT which Town of Canaan was a party to." I explained that this was inaccurate.

You kindly forwarded an email thread to me in which Miguel Rivera of the Department of Housing (DoH) had participated. His initial response (dated July 1, 2021) to the question was an unambiguous "This (PreDevelopment) loan is strictly between these two parties, and the Town of Canaan does not have any obligations for this loan."

As the President of the Falls Village Housing Trust, Inc. (FVHT), I signed the agreement documents. The Town of Canaan was not in any way involved in the process leading to the PreDevelopment Loan of \$189,000 being awarded by the DoH to FVHT in 2019.

The DoH utilizes a system of granting no-interest loans for PreDevelopment, which are intended to be paid back once the project is funded. The general rule is that these loans are extended as long as a project is working toward the agreed-upon goals. Quarterly reporting by FVHT to the DoH is the required communication channel by which oversight is maintained. The use of the funds in the first half of the loan (\$84,500) was stringently examined before the second half was awarded. Again, expenditures of the second half were monitored. In short, the DoH does not award funds lightly, and it only awards funds to trustworthy organizations who are willing to undergo careful, responsible reporting of appropriate expenses.

I respectfully object to the wording of Item #4 on the 7/12/2021 BoF agenda.

Sincerely,
Jandi

Janet R. Hanna, President
Falls Village Housing Trust, Inc.

From: Dan Silverman, Member of Board of Finance

July 12, 2021

A question was raised on what role, if any, a nonvoting alternate member of the Board of Finance may play in the discussion and deliberations of the Board.

Several cases speak to this point.

In Komondy v. Zoning Board of Appeals of the Town of Chester (2009) the Court noted that a nonvoting alternate participated in both the public and private deliberations of the Board. The Court said that nonvoting members should not participate in the nonpublic deliberations but the nonvoting member in this case did not have a "profound effect" on the deliberations since the alternate's views were an echo of the sentiments of other members.

The Court did not reverse the decision of Zoning Board.

In Weiner v. New Milford Zoning Commission (1995) the court considered an appeal of a decision of the Zoning Commission. It noted that a nonvoting member participated in the discussion and that he had a "persuasive impact" on the voting members although he did not vote. The Court noted that once the public phase of the hearing has been completed, the nonvoting member should be excused.

Here, in view of the impact of the nonvoting member on the deliberations, the Court reversed the Zoning Commission's decision and remanded the case to the Commission for further consideration.

The standard of review in these cases is limited to determining whether the Board's actions were unreasonable, an abuse of discretion, arbitrary or illegal and the burden of proof is on the party challenging the Board's actions.

From: "Rivera, Miguel" <Rivera.Miguel@ct.gov>
Date: July 1, 2021 at 3:52:19 PM EDT
To: Daly Reville <daly.reville@gmail.com>
Cc: "Mosquera-Bruno, Seila" <Seila.Mosquera-Bruno@ct.gov>, "Santoro, Michael C" <Michael.Santoro@ct.gov>
Subject: RE: FVHT Funding

Ms. Daly,

Falls Village Housing Trust, Inc. (FVHT) received a Predevelopment Loan from the CT Department of Housing (DOH) in the amount of \$189,000. This loan is strictly between these two parties, and the Town of Canaan does not have any obligations for this loan.

As to your question ... *if the River Road Homes project is not completed by the contractual date, the loan of \$189,000 must be refunded?* We anticipate to be issuing an extension on the Predevelopment Loan with Falls Village Housing Trust, Inc. based on my recommendation to the commissioner for the following delays due to Covid Pandemic; organization displaying a good faith effort to continue working collaboratively with municipality.

As to your question ... *Since the FVHT has no assets besides these loans and grants, could you please explain what funding secures this* The funding source of this predevelopment loan was payments received to the Housing Repayment and Revolving Loan Fund. The program at that time utilized a Assistance Agreement, Promissory Note, Pledge and Security Agreement with respect to the \$189,000 loan

As to your question ... *If the \$8,000,000 project is not completed by the contractual date, is the \$189,000 loan repayable by FVHT?* If the project were not to be completed Falls Village Housing Trust, Inc., the department on be discussing repayment. Please note we do have this discussion in our extension requests and with all our new applicants.

As to your question ... ^{NB} So if CDBG June 21, 2021 requested funding is used to repay the \$189,000 loan, is the Town of Canaan obligated to repay the CDBG funding, according to CDBG rules as is my understanding? Trying to correctly recollect our phone conversation that a municipality (sub-grantee) were to provides a sub-award to a Non-Profit Housing Trust (sub-recipient) which was not able to complete project and meet the National Objective ... the municipality which contracted with the Department/State (grantee) would have an obligation to repay funds.

In support of Governor Lamont's executive order, I am working remotely during this public health crisis and will be checking voice and email messages.

Miguel A. Rivera, Director
Housing and Community Development
Department of Housing
505 Hudson Street, Hartford, CT 06106
Phone: 860-270-8012
Cellular: 860-680-2416
Email: rivera.miguel@ct.gov