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GO TO MEETING CALL IN INFORMATION:

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MEETING ORDER OF BUSINESS

1. ROLL CALL

Meeting called to order by Commission VP Horntvedt at 3:00 p.m.

Roll Call: Bronson, absent; Rieger, present; Griswold, absent; Bauer, present; Horntvedt, present; City Council Representative Diane Mills, present. Secretary recording minutes: Interim Exec. Dir. Hailey Jeter.

2. READING & APPROVAL OF PRIOR MEETING MINUTES: Commissioners agree to postpone approval of February minutes until April meeting so corrections can be made and a more detailed transcription of the Ethos presentation can be documented from the audio recording. All present agree; none opposed.

Commissioner Horntvedt recommends moving agenda item "4. COMMUNICATIONS a. Joseph Heaphy, President of Ethos Development and Tom Lapka, Cove" to item "3. a." and shifting subsequent agenda items, in order, to later. All agree; none opposed.

3. COMMUNICATIONS

a. Joseph Heaphy, President of Ethos Development and Tom Lapka, Cove.

Recording begins: Tom Lapka introduces himself and proceeds to discuss his experience as a developer for affordable housing in Michigan. He adds that his legal practice also represents other developers and other housing commissions. He mentions involvement with other housing commissions in Michigan, and recent deals that he has closed. Lapka specifies that his involvement is outside the grant process and redevelopment, and that he instead advises housing commissions on various issues. He explains that "affordable housing is kind of my niche." He has been involved since soon after the tax credit program was introduced, representing developers as a general counsel then moving to private practice thereafter to manage his own development projects—approximately 48 of them, to date.

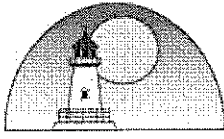
Horntvedt thanked Lapka for the overview and asked him to describe his role within the scope of the proposed CHC redevelopment project, specifically. Horntvedt asked for clarification about for whom he provides legal representation, the relationship of Cove to the project, etc.

Lapka explained that he became involved with the CHC just prior to Ethos, or possibly at the same time. Initially, he was retained by former CHC Executive Director Catherine Shulz to advise her regarding various legal items. Lapka further explained that he is sole owner/member of Cove Investments LLC. He elaborated that his "role is kind of dual here, in that once the application in the process for the tax credits got filed, Ethos and Schulz needed a developer in there that would bring 'experience points' and since I'm qualified with MSHDA for 'experience points' you know those points are very key in a very competitive world of getting an application in and getting an award attached to it. So, I'm showing as Cove Investments in the application and being an owner and part of the development team to secure those points with MSHDA, which we were very successful in a very competitive round last round." He added that he believed he was included in the deal with a 15% ownership interest, and a share of the developer fees. Lapka referred to two other recent projects (Traverse City & Muskegon) in which he also served a "dual role" as owner and legal representative throughout those housing commissions' due diligence process.

Horntvedt asked if Lapka had a contract with the CHC to provide legal services. Lapka answered that he would have to check, but believed there was an "engagement agreement on general legal stuff." He continued that he became more involved when he began conferring with City attorney Stephen Lindsay and City Manager Dan Sabolsky for the MSHDA application, including sorting out the CHC's property ownership issues and other matters.

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Lapka then added that he didn't believe he and the CHC currently had an existing engagement or retainer agreement for legal services.

[00:06:46] Horntvedt explained that he asked because it was his understanding that Lapka also represented Ethos in legal matters. Lapka responded that he doesn't really represent Ethos, and that Ethos doesn't really have legal representation. He added that what he does do—as part of the due diligence process and according to an engagement letter—is represent the entire development team to help complete the construction loan closing, [inaudible] permanent loan closing, and investment by [inaudible] into the [inaudible] monthly tax credit. Lapka stated that he doesn't represent the individual entities, but the project as a whole. Joe Heaphy of Ethos interjected that Lapka does not represent Ethos, nor the developer, specifically, but that he does represent the partnership which includes those entities and the Cheboygan Housing Commission. Heaphy added that the partnership is called a Limited Dividend Housing Association Limited Partnership (LDHALP), which is standard, and consists of an investor and a "general partner" consisting of Ethos, CHC, and Cove.

Horntvedt stated that his concerns are derived from a conference call with HUD, several City officials and CHC President Mark Bronson. Horntvedt clarified that he did not participate in that call, but it was his understanding that HUD officials expressed some concern about aspects regarding the roles of some entities involved in the project. Horntvedt invited Councilwoman Mills and Sabolsky to comment about the call.

[00:10:36] Lapka stated that he sees how it might be perceived as a conflict of interest, but explained that what he does as a partial owner of the General Partnership interest of the LDHALP, regarding legal matters, is to help negotiate the partnership agreement, help set up the organizational documents, help do the due diligence, review construction contracts, review management contracts, and then get through the process. He added that after the closing of the construction loan, and permanent loan with the investor limited partner, that we have an independent outside counsel, familiar with affordable housing, to render opinions to the syndicator, to the lenders. He explained that he would not be involved with those opinion letters, and that he was only involved the aforementioned due diligence items...for a fee. "So, there is no conflict at that point," he said, adding "As long as the Housing Commission, Ethos, and Cove are fine with that relationship then that's how we've done it in the past several times."

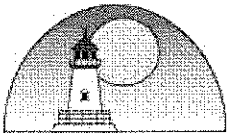
[00:12:38] Horntvedt asks Lapka to stand by while there is discussion. Sabolsky stated that HUD's concern on the conference call was that Lapka had a signed contract with CHC to be their legal counsel. Thus, Lapka was on both sides of the equation as a developer with a financial interest while writing contracts between the various parties involved—this was the source of HUD's uneasiness. Sabolsky also mentioned an ACC document that CHC signs with HUD and dictates that contractors/subcontractors cannot be involved financially in a deal. Subsequently, HUD expressed concern that the entity in question ultimately benefited with an award of 28 vouchers. Sabolsky said that a requirement to get a legal opinion on this matter from HUD was never completed.

[00:15:23] Further dialogue continues regarding the independent party opinion letters rendered by outside lawyers required by investors and lenders, and the general partnership between CHC, Ethos, and Cove. Lapka stated that if there are concerns about a perceived conflict that he doesn't need to do the legal work, due diligence, etc. He added that he would prefer to do the legal work rather than the development role, because that's his expertise. The tax credits, however, were awarded based on his experience points so that's not an option.

[00:15:15] City Attorney Stephen Lindsay recommended a disclosure of potential conflict and waiver approved by HUD and MSHDA might be completed to continue as-is. Lapka replied that he has used a "waiver of conflict" signed by all parties in past transactions so that he can perform in such roles where conflicts may exist. Heaphy interjected that when Lapka mentions the "partnership," that General Partnership has already been created—that is CHC, Ethos, and Cove—that is past. He continues to say that Lapka is referring to negotiations with the Limited Partner, which is the tax credit investor. The investor is not necessarily PNC Bank, but it did provide a "soft letter of intent" for the purpose of our application. Now that we have been awarded the tax credits, we will solicit new bids from potential investors, including PNC Bank.

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[00:20:52] Sabolsky clarifies that the concern is with what has already been done. Namely, documents, memorandums, agreements, et al, that have already been drafted. It was then, in the past, that Lapka was simultaneously representing himself and the CHC, and that is what concerned HUD. He added that HUD is looking forward now, but that we should also be able to review documents that have already been drafted to ensure that those are okay too before we move forward. Heaphy suggested that all parties involved in this transaction work together toward a resolution rather than in silos. He added that he understands the concern and he wants to ensure that everyone is comfortable, but that is better accomplished if Ethos and Cove are included in the conversation. Lindsay then discussed possible remedy for alleviating an apparent conflict of interest, according to HUD. Lapka stated that, as a partner with CHC and Ethos, his best interest is with that general partnership entity and achieving the best deal and terms that we can make.

[00:25:30] Conversation continues about the best approach to draft and submit a disclosure and/or waiver for HUD. Interim Executive Director Hailey Jeter stated that CHC has legal counsel available through attorney Tim MacArthur. Jeter asked if there was a record of the call with HUD. Sabolsky replied with the names of attendees whom were present for the call. Sabolsky also recommended that such a disclosure should go back to when Lapka first began to represent CHC, and not just going forward. Lapka agreed.

[00:30:03] Horntvedt recalled a separate concern by HUD involving the former executive director. Sabolsky reiterated that the ACC document states that Catherine Shulz, as former executive director, needs to be removed from the employment of the agency for a year before she can become involved in something involving the agency or determination that was made while she was at the agency. Heaphy stated it shouldn't be a concern and that he was willing to speak to HUD about it. He asked who at HUD was on the call, and Jeter said Doug Gordon. Heaphy said Schulz and Ethos were completing the final 10% of the Section 18 Disposition, which is something that should be completed by the Commission. He added that he feels as though he's being chastised for doing the CHC a favor. Heaphy reiterated that it would be helpful to involve all partners regarding the resolution of such matters. Sabolsky continued to discuss the HUD call with Heaphy, and made mention of the HUD participants, and the concerns they expressed. Heaphy again mention that he would have liked to have been included on that call.

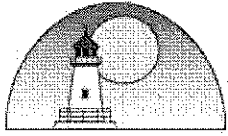
[00:34:45] Indistinguishable conversation between Sabolsky and Heaphy continues. Heaphy states he is "...not going to do this deal with hostility and second-guessing of our integrity, my partner's integrity...we will give the credits back—full stop. I don't have an issue with the Board questions, that's fine. I really enjoyed that conversation—those are fair questions." He added that he felt some hostility from the city manager and city attorney that he was not willing to tolerate, and that he has not heretofore experienced this level of scrutiny. Horntvedt stated that in the last meeting he told Heaphy that no one is questioning their ability nor integrity, that they simply want the project to be predicated on a foundation with no sense of misgiving. Heaphy replied that he just wants to be included in outside discussions so that he may weigh in with his deeper level of understanding of the details of the project, that's all.

[00:39:00] Heaphy stated he wanted to provide a clarification about the redevelopment expenses and contracts. He states Ethos was engaged through the Mixed Finance Housing [indistinguishable] rules in the RFQ. The redevelopment contracts will be entered into by Ethos on behalf of the partnership, so there was no need for the procurement policies [indistinguishable] as a way for the development to move forward. So, we will be signing those contracts and sending invoices to the Housing Commission to pay. Heaphy states, finally, that the CHC will be reimbursed for those expenses at closing, and that he hoped this was clear. Horntvedt stated that he recalled Heaphy mentioning the same at the last meeting.

Conversation segues into discussion about setting up another call with HUD. [00:41:10] Heaphy then again asks for clarification that the Commission understands and is prepared for the occurrence of receiving invoices after Ethos begins entering into contracts for surveys, environmental work, etc. Horntvedt states he recalls the same discussion from the February meeting and that his understanding is that CHC was now obligated to pay those costs; he added that it seemed as though Heaphy was asking for the Commission's blessing. Sabolsky asked whether the CHC had the funds to cover such expenses. Horntvedt asked Heaphy to provide an estimate for those costs, and

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asked Jeter what the CHC's cash position is currently. Jeter answered "Over two hundred thousand dollars." Heaphy answered "One hundred seventy-five thousand dollars" over the next nine months to a year, which the CHC would pay from capital funds. Jeter said that they pull in money every month from the operating fund, and that they have capital funds as well. Chris Bauer says this information underscores the importance of getting some of the questions and concerns answered and addressed as soon as possible. Heaphy finished by saying "That's fair."

Hornrtvedt concluded the Communication agenda item and thanked Mssrs. Heaphy and Lapka. Mssrs. Heaphy and Lapka thanked the Commissioners for allowing them to participate.

4. [00:44:25] BILLS (Formerly agenda item 3.)

- a. *Approval of Housing Choice Vouchers Checks (**month end**) 02/28/2023; 29 payments totaling \$31,411.73; Rieger made a motion to approve, seconded by Bauer. Roll call; Rieger, yes; Bauer, yes; Hornrtvedt, yes. None opposed.
- b. *Approval of Public Housing Checks (month end) 02/28/2023; 32 payments totaling \$19,927.30; Bauer made a motion to approve, seconded by Rieger. Roll call; Rieger, yes; Bauer, yes; Hornrtvedt, yes. None opposed. Councilwoman Mills inquired if the February 3rd check was Krista McConnell's last paycheck; Jeter confirmed that yes it was.
- c. Purchase orders: Ramp for tenants on Cuyler. Discussion begins with Maintenance Supervisor, Gary Williams regarding the ramp design, cost, and CHC liability. Williams also discussed a lack of space for one of the two ramps—rear entrance ramp—needed to comply with the Americans w/ Disabilities Act (ADA). Williams stated that the ramp was a 504 request through HUD, and thus the request cannot be denied. Hornrtvedt recommends approving the single aluminum ramp for the two front entrances, and tabling the rear entrance ramp after more discussion and a site visit to understand the installation issues. Bauer made a motion to approve \$2985 (\$2920+\$65 permit) for front ramp, seconded by Rieger. Roll call: Bauer, yes; Rieger, yes; Hornrtvedt, yes.
- d. Receivables and Bad Debt Write Off (no action at this meeting)
 - 1. Receivables and Repayment Agreements; 2 PH agreements are current; 2 HCV Repayments are current.
 - 2. Bad Debt Write Off: to be written off (Resolution will be entered when documentation is received)
 - a. Moveout 3/14/2022 billed \$2,201, sent judgement, received court documents, went to court March 8th. Jeter stated that court ruled in favor of CHC. Now waiting for documents to enter into a payment plan resolution.
 - b. Moveout 3/24/2022 billed \$1,263.25, sent judgement, waiting on court documentation.

5. REPORTS OF THE EXECUTIVE DIRECTOR: Jeter states nothing additional to report.

6. UNFINISHED BUSINESS

- a. RFP Interim Executive Director/Consultant: Rieger makes a motion to authorize President Mark Bronson to negotiate with Executive Director candidate Kara Ostroski regarding the job position details. Bauer seconds the motion. All in favor; none opposed.

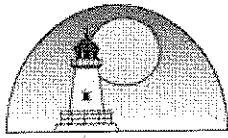
7. NEW BUSINESS

- a. Pay raises for maintenance personnel: Jeter states that raises were not included in the budget, but she recommended a \$1/hour raise for maintenance staff, Gary and Mike. Jeter did not recall how the previous pay increase was calculated. Raise typically occur around the new fiscal year on April 1st. Gary is currently at twenty-[inaudible] dollars per hour, and Mike is at \$19/hour. Discussion continues about standard pay and inflation, etc. Bauer agreed to research a proper pay increase amount, and Jeter stated she will include same topic on April agenda.

8. PUBLIC COMMENT: None.

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9. COMMISSIONER COMMENTS: Rieger again thanked Hailey, Gary, and Mike. Bauer inquired about the possibility of moving meeting times into the evening. Jeter stated that would be a logistical challenge for her, but she could do a 4 p.m. meeting at the latest, striving to be home by 7p.m.

Some inaudible discussion. Rieger reminded commissioners that the current time was established, in part, to accommodate commissioner Griswold. Discussion continues about other possible days and times. Commissioners agreed to revisit the idea after more information regarding commissioners' availability is gleaned.

Councilwoman Mills ask if she could emphasize to the commissioners why the city is scrutinizing the relationship with Ethos, Cove, et al. She explained that it is not personal, but simply a prioritization to ensure that everything is designed and progresses properly, legally and "by the book so that nothing trips us up down the road."

General conversation ensues.

10. ADJOURNMENT: Rieger made motion to adjourn meeting, Bauer seconded. All in favor, meeting ended at approximately 4:40 p.m.

Next Regular Meeting Monday April 10, 2023

CERTIFICATION OF MINUTES

Minutes Documented by Secretary of Meeting: *Jeter*

Minutes approved on date: *4-10-23* with motion from: *Bronson*

Votes in favor Votes opposed

Signed by Commission Chair: *Mark C. Bronson*

Date: *4-10-23*

support from: *Hornbvedt*

Date: *4/10/23*

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