Minutes for the September 13, 2006 Meeting of the Directors of The Village of Lancaster Community Development Corporation

At 8:38 a.m. on September 13, 2006, Vice President Thomas Kazmierczak convened a meeting of the VLCDC Board of Directors in the Board Room of the Village Municipal Building, 5423 Broadway. Others present included Town Supervisor Robert Giza, Alan Kurtzman, John Mikoley, and William Schutt. Mayor Bill Cansdale left for work a few minutes before, and President Jeff Stribing was at home contending with a flooded basement. Also present were consultants Mark Aquino and Stanley J. Keysa.

Mark Aquino introduced Norman M. Bennett, an attorney familiar with financing large residential projects using low income housing tax credits issued by the federal government thru a New York State agency. Bennett distributed a two-page overview of the low income housing tax credit syndication process (*cf.* attached).

Mr. Bennett explained that the process of obtaining the credits is very competitive, but that once the credits are granted, they can be sold into the market. Currently, the credits bring about 75-80% of their face value, creating a source of financing that is treated as equity by lenders. For example, $10 million in credits could bring $8 million in cash. The process usually includes negotiated payments in lieu of taxes ("PILOTS") with taxing authorities. Further, there are "a million" specific requirements in order to qualify the project. For example, about 60% of the housing is usually subsidized; the project needs to requalify every year; and you need a proper management company. Each project takes about 2 to 4 years to put together after investors are identified. It is a rolling application process, with an annual allocation of credits in the spring.

(President Jeff Stribing joined the meeting at 8:45 a.m.)

Each application is based on a specific project - and does not cover commercial or retail aspects, which may be included, but receive no credits. Once credits are granted, it is handled much like a regular commercial real estate deal. A not-for-profit corporation is usually included as a sponsor, for which it can receive up to 10% as a sponsor fee. Some comes at the equity closing, some trickles in year by year, with 2.5% usually left in the project. Bennett suggested trying to get part of the cash flow split, and said there may be soft-money loans available from government entities, although these are usually quite tight.

The project will usually have a general partner - who gets 0.1% of cash flow and the end of project value when the credits are used up. Banks are ready to jump on board as there is little risk to them when there is an experienced management company.

Stan Keysa explained to Bennett the concept of VLCDC for the central business district - that is, to recreate a traditional village core with retail on the ground level and offices and retain above in three-story structures. He also noted that VLCDC controlled about half the land, but that private owners controlled the buildings along Central Avenue. Bennett said it was very common to have tax credits used for the residential components of such projects with a ground lease for the retail, which needs separate financing.

Bennett went on to explain that the tax credits provide purchasers with a dollar for dollar reduction in federal tax liability, giving purchasers a 25% immediate return on their investment (assuming they purchase at 80% of face). There is a similar tax credit available from New York State - with the process being handled by NYS DHCR. (Tom Vannortwick is currently local head). The intent of the tax credits is to lower the percent of mean income level for prospective tenants. The more the benefits, the lower the qualifying income must be.

Bennett was asked how far advanced the project needed to be - lock-up or conceptual? He replied that the more advanced it was, the greater the chance of funding. The reviewers will look for a developer with a proven track record - and the feasibility of the project. Usually, the nor-for-profit sponsor will partner with a for-profit entity and create the development corporation -- usually a limited liability company or LLC.

Jeff Stribing posed a hypothetical with four separate building owners joining together. Bennett replied that it was possible, but that there are many limits and up-front investment is required.

Mark Aquino asked "How many times can an unsuccessful application be re-submitted?" Bennett said the process is very competitive - will only about 1 in 4 being funded. Often the project is similar, but with tweaking to change it to gain points. Mark asked "Does political influence affect the designation?" Bennett said "Officially, no - but unofficially, it helps. If it didn't, New York City would gobble up everything, but the State tries to spread the designations."

Bennett went on to say that having a rookie developer would make it difficult. There are now many experienced developers in WNY. Successful applicants have included Belmont Shelter, WNY Veterans Housing Coalition, Elizabeth Pierce Olmstead Medical Center for the Visually Impaired, and MJ Peterson, and Delta Development., and the Episcopal Church. Rental rates are restricted, but can be subsidized. Those include Section 8 tenants, which are viewed as a ready pool.

(At 9 a.m., Alan Kurtzman left to open his store).

Bennett cautioned that the mix of tenants upstairs may affect the nature of the retail downstairs, but said that the number of subsidized units can be limited to influence the mix. Equity is not less than 30%, with most successful applicants having 40-50%. The tax credits are attractive because they cannot be attached by the lender, and are first in line in the event of project default. Asked what the upfront costs might be, Bennett noted that, if a project has a good story, it may be possible to get $200-300,000 in interest-free loans. The project needs to be well-defined up-front, and backed by a good feasibility study for submission of an application for tax credits. He suggested George Hezel, who runs a nationally-recognized housing clinic at UB, or Phil Halpern, who together run a consulting firm.

The project will also need architectural plans sufficient to detail construction costs. Again, having an experienced tax-credit contractor can make a big difference. Bennett noted such developers as Savarino, MJ Peterson, and Norstar. He suggested soliciting requests for proposal ("RFP") for both the developer and the architect (Silvestri does many).

Bennett emphasized that the project must be a team effort - that it will take time - and that much effort will go into holding the team together. The tax credits have an expiration period - usually two years - but it is possible to get an extension if it can be shown that significant progress is being made. He estimated that there would be between $50,000 and $100,000 in pre-development costs, not including gaining site control. This would include market and feasibility studies, architectural sketch plans. He suggested that some architects might hold down the front-end costs to gain the future detailed work. He emphasized the need to have independent views of market and feasibility.

Asked what his role might be, Bennett replied "I am the attorney to coordinate the project to get everything done, that is, real estate, construction financing, permanent financing, tax credit syndication, etc.." He said he had represented both developers and investors. Asked what the first step would be, he said "Retain me as counsel - we will assemble partners, arrange with a housing consultant, who will then tweak the project to get grants, and prepare and submit an application for allocation of tax credits."

Stan Keysa noted that the VLCDC comes under the terms of the Public Authorities Accountability Act of 2005, which may change how it disposes of real property and selects consultants, and asked if Bennett was familiar with the Act. Bennett said he was not, but would review it. They concluded that some aspects required under this Act, for example, having an independent appraisal of the real property, would also be something looked for by the grant reviewers .

The meeting adjourned at 9:30 a.m. The next VLCDC meeting will be held on **Wednesday, September 27, 2006 at 8 a.m.** at the **Municipal Building Board Room.**

Following the meeting, Mark Aquino and Jeff Stribing toured the central business district with Norm Bennett.

Respectfully submitted,

Stanley Jay Keysa
Assistant Secretary