CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA

Agenda Date:	November 18, 2024
Action Required:	Resolution
Presenter:	Alexander Ikefuna, Director, Office of Community Solutions , John Sales
Staff Contacts:	Alexander Ikefuna, Director, Office of Community Solutions
Title:	**Resolution authorizing Charlottesville Redevelopment and Housing Authority (CRHA) to create a Corporation and/or Limited Liability Corporation (LLC) (2nd reading)**

Background

The Charlottesville Redevelopment and Housing Authority's powers and duties are set out within Virginia Code Chapter 36, Chapter 1 (Housing Authorities Law). Pursuant to Va. Code §36-19(12) CRHA is authorized to do the following:

> "With the approval of the local governing body or its designee, to form corporations, partnerships, joint ventures, trusts, or any other legal entity or combination thereof, on its own behalf or with any person or public or private entity."

Further, Virginia Code §36-21 specifies that" .... no housing authority shall construct or operate any [housing] project for profit .... ". Virginia Code §36-25 also states that "An authority may ... expend its funds such manner as the authority finds is consistent with the maintenance of the low-rent character of housing projects or the achievement of the purposes of this Housing Authorities Law. Finally, state law provides that "organizations, corporations, or agencies in the Commonwealth supported wholly or principally by public funds [*either City Council's, or CRHA's funds*] are "public bodies" subject to the requirements of the Virginia Freedom of Information Act.

Discussion

CRHA requests City Council's approval of the following legal entities, which are not yet formed.

- **Entity 1: Westhaven Phase One, LLC (proposed name - not yet in existence)**
- **Entity 2: Westhaven Phase One Management LLC (Proposed name - not yet in existence)**

Westhaven Phase One, LLC will construct, operate, and finance the new construction of apartment units on property at the current Westhaven public housing development.

The CRHA is the "lessor" in a 99-year ground lease to the "lessee" (Westhaven Phase One, LLC) of the improvements being constructed on the property. In exchange for the ground lease, the CRHA holds a promissory note and a subordinate deed of trust in the amount based upon the appraised Fair Market Value of the land. Since the property is subject to a Land Use Restriction Agreement from HUD, the transfer of the land and the note and deed of trust had to receive approval from HUD in the context of the property's continued extended use as affordable housing for low and ve1y low-income residents. In addition, the CRHA is the conduit for a Federal Home Loan Bank of Atlanta grant to the project. The grant will be made to an FHLB member Bank (Atlantic Union Bank) who will transfer the funds to the lessee, subject to a note and subordinate deed of trust which requires continued affordability for households with incomes at or below 50% of AMI. Westhaven Phase One, LLC also has recorded an Extended Use Agreement against the property in favor of VHDA requiring that residents at the property have incomes no higher than 60% of the AMI. This agreement will remain in effect for 30 years.

The mission of this entity is to serve as the owner/lessee of record of the project known as Westhaven Phase One which will provide affordable housing to very low-income citizens of Charlottesville. The use of Low-Income Housing Tax Credits as a primary source of finance for this project excludes the CRHA from the direct ownership of the property. The CRHA does not have any liability for paying federal income taxes and therefore cannot take advantage of the low-income housing tax credits. By entering into a limited liability company with other federal income taxpaying entities, namely the Housing Equity Fund of Virginia XXIII, LLC, the low-income housing tax credits can be utilized by the taxpaying entities in exchange for their capital investment in the project.

CRHA is legally connected in multiple ways to this entity and by regulation and resolution, the CRHA's governing board is ultimately responsible for all actions taken on its behalf. As previously described, the CRHA is the landlord of the property through its possession of the ground lease; it is a lender through the promissory notes and deeds of trust securing the leasehold value and Federal Home Loan Bank grant. The CRHA is also indirectly connected to the entity by virtue of its sole ownership of Charlottesville Community Development Corporation (CCDC), its instrumentality, which serves as the sole member of the Managing Member of the property owner, Westhaven Phase One Management, LLC, and is also a lender.

CRHA's instrumentality CCDC is the sole member of Westhaven Phase One LLC. Once the project has financing in place, the Managing Member may invite the Housing Equity Fund of Virginia to enter into the Company as the investor member for purposes of commodifying the low-income housing tax credits.

CRHA, through its control of the Managing Member will recapture full ownership of the property by purchasing the Investor and Special Member interests at the end of the initial compliance period. Housing Equity Fund of Virginia XXIII, L.L.C. and V ARM, LLC will relinquish their interests in accord with the Non-Profit Purchase Option and Right of First Refusal that was signed at closing. In practice, Housing Equity Fund and V AHM, LLC will exit the Company for a capital transaction fee of $20,000.

Westhaven Phase One Management LLC will be responsible for the management of the property.

Alignment with City Council's Vision and Strategic Plan

This proposal aligns with the Affordable Housing Plan, and the following City Council's Strategic Plan Framework areas: Housing, Partnerships, Climate Action, and HUD-mandated 2023 – 2027 Consolidated Housing and Community Development Plan.

Community Engagement

A Redevelopment Committee comprised of residents, community members, City staff, CRHA staff and Board members have been involved in research, planning and design activities, and community engagement designed to provide guidance to the CRHA Board on redevelopment planning progress. The CRHA Board regularly discusses the status of redevelopment initiatives as well as taking actions on redevelopment milestones.

Budgetary Impact

This proposal has no budget implications. The City Council does provide substantial public funding to CRHA for its programs and redevelopment projects. CRHA understands that City Council has an interest in ensuring accountability for the use of public funds, and that Council has an obligation to ensure that its public funds are used for purposes authorized by state law. The Executive Director has provided information about public funding for each of the entities, in his answers to the questions in the "Discussion" section.

Recommendation

Approve the resolution to create a corporation and LLC for the redevelopment of Westhaven.

Alternatives

City Council may decline to approve the entities, in its discretion, which may negatively impact CRHA's ability to undertake the redevelopment of Westhaven.

Attachments

1. Draft Resolution CRHA LLC Formation 11.6.24v2