

Establishment of a Prince Edward County Not-for-Profit Affordable Housing Corporation

Executive Summary:

In late 2017 County Council directed staff to bring forward recommendations for addressing the County's increasing affordable housing challenges. It also allocated \$250,000 for affordable housing in its 2018 budget.

In early-2018, staff struck an interdepartmental Affordable Housing Task Team to investigate the affordable housing issue and propose solutions.

In the summer of 2018, the Affordable Housing Tasks Team concluded its research and presented Committee of the Whole with a business case for the establishment of a County-initiated, independent Not-For-Profit Affordable Housing Corporation whose mandate would be to increase the supply of affordable housing in Prince Edward County through a broad range of activities.

The report presents additional detail and recommendations regarding the creation of the proposed County-initiated, independent Not-For-Profit Affordable Housing Corporation.

Recommendation:

THAT the report of the Community Development Department dated August 30, 2018 regarding establishment of a County Not-for-Profit Affordable Housing Corporation be received;

THAT the County's solicitors, Templeman Menninga LLP be directed to make an application for a certificate of incorporation for a Non-Share Capital Corporation in accordance with the following:

- **That the Corporation be named "The Prince Edward County Housing Corporation",**
- **That the objects of the Corporation be established as:**
 - a) **Increasing the amount of funding available locally for affordable housing development**
 - b) **Provide a vehicle for the transfer of municipal assets, physical or financial, for affordable housing development**
 - c) **Initiate and/or and support new affordable housing projects in cooperation with community stakeholders, developers**

- d) Ensuring high operational standards and protection of affordable housing assets, up to and including owning and/or operating such assets
- e) Creation of economies of scale for management, construction and operations of housing assets
- f) Providing effective and transparent governance of affordable housing investments
- g) Develop knowledge/expertise in funding, design and operation of affordable housing
- h) Advocate for and educate the community about affordable housing

That the number of directors be set at nine (9), with a maximum of two (2) of those directors being members of Council of the Corporation of the County of Prince Edward.

THAT Council approves the list of core competencies required for the Board of The County Housing Corporation as outlined in Schedule A to this report.

THAT Council direct staff to advertise for applications for the Board of Directors of The Prince Edward County Housing Corporation, for appointment by the incoming Council prior to January 31, 2019.

THAT Council appoints Councillors _____, _____, and _____ as the initial Directors of The Prince Edward County Housing Corporation for the purpose of application for a certificate of incorporation, to serve until appointment of the full Board of Directors by Council prior to January 31, 2019.

THAT Council allocates up to \$10,000 from its 2018 funds for Affordable Housing for the creation of by-laws for The Prince Edward County Housing Corporation, following appointment of the full Board and subject to its election of statutory officers.

THAT the uncommitted balance of funding earmarked for Affordable Housing within the 2018 budget be placed in reserve and transferred to The Prince Edward County Housing Corporation as seed funding following adoption of its by-laws.

THAT the Director of Community Development & Strategic Initiatives be assigned as the County's liaison with the Prince Edward County Housing Corporation.

THAT staff be directed to bring forward a report to Council regarding options for further non-rate-supported funding for affordable housing in Prince Edward County.

Purpose:

The purpose of this report is to recommend that Council establish a County Not-for-Profit Affordable Housing Corporation.

Background:

The availability and affordability of housing is a growing concern in Prince Edward County. In recent years, the issue has been called a “crisis” on account of its effect on the local economy, social fabric and implications for long-term community sustainability.

In 2016, County Council identified affordable housing as a key pillar of its corporate strategic plan. In December of 2017 Council allocated \$250,000 for affordable housing in the 2018 budget and directed staff to bring forward recommendations for addressing this growing issue. For 2018, the Community and Economic Development Commission also asked staff to identify innovative options for addressing the affordable housing shortage in the County. Most recently, the County Foundation identified housing as its top priority for its upcoming 2018 Vital Signs update based on extensive consultation with community groups and agencies in the County.

In January, 2018 staff assembled an interdepartmental Affordable Housing Task Team to investigate the issue and make recommendations to Council. This process involved the following between February and July 2019:

- Reviewed all documents and strategies for affordable housing produced by and for Prince Edward County
- Reviewed local, regional, provincial and national models of affordable housing delivery and operation
- Met with members of the local and regional development community including those with affordable housing development experience
- Researched the approaches, successes and failures of other jurisdictions in addressing affordable housing challenges
- Identified potential, likely and most effective sources of funding for housing
- Researched tools for implementation of an affordable housing strategy
- Conducted a study of the County’s rental vacancy rate based on CMHC’s own rental market survey methodology in order to support funding applications
- Developed a business case in support of a County-initiated Not-For-Profit Affordable Housing Corporation

In July of 2018, the Affordable Housing Task Team presented its case for the establishment of a County-initiated, independent, Not-For-Profit Affordable housing Corporation, to Committee of the Whole for review and feedback, with the intent of bringing forward formal recommendations at a subsequent meeting this summer.

Analysis/Comment:

The Case

According to the Canada Mortgage and Housing Company (CMHC), housing is considered to be affordable when a household spends less than 30% of its pre-tax income on adequate shelter. In Prince Edward County, approximately 27% of current households are at or above this threshold (based on 2018 average market rent rates).

For a conservative estimate of future affordable housing needs, the current household income distribution and average market rents can be applied to future housing development. The County’s Growth Study conducted by Watson & Associates indicates

that the County will grow by 1,653 households over the next 20 years. Based on current household incomes and average market rents (and without considering the trend of housing prices increasing faster than incomes), 462 of those future units would need to meet the affordability criteria. This would mean at least 24 new affordable units per year for the next 20 years – and this wouldn't begin to address the existing needs of the 3,810 households that are already spending more than 30% of their household income on shelter.

Average Market Rent 2 Bedroom (2018)	\$1,187.00
Annual Market Rent 2 Bedroom (2018)	\$14,244.00
Household Income Required to meet affordability threshold	\$47,480.00
# Households at/above affordability threshold	3810
Percentage Households at/above affordability threshold	27.9%
20 year household growth projection	1653
New affordable housing requirement over 20 years	462
Affordable Units Required Annually	24

Further justification for a County-initiated, independent NFP Affordable Housing Corporation has been articulated in a number of reports and studies presented to Council over the past several years. Most recently, the County's rental vacancy study found the rental vacancy rate to be only 0.81% and identified a trend of conversions from long-term to short-term rentals.

As outlined in the attached presentation to COTW from July 2018 and in another report on the COTW agenda for August 30th, affordability and availability have become significant challenges for business growth and sustainability of our year-round population with inventories near an all-time low and prices near an all-time high.

This trend will not likely subside – requiring an unprecedented 35% fall in housing prices in order to restore the relation of house prices to income back to 2013 levels, and the return on investment for short-term rentals – even with the potential of heightened regulation – remaining more attractive and lucrative than investment in long-term rental development.

Benefits

While a variety of solutions to this challenge exist, some present a higher value proposition than others (more units for the investment). As discussed in the earlier presentation to Council, a County-initiated, independent NFP Housing Corporation has been identified as the most effective means of supporting and delivering a broad spectrum of affordable housing through varying degrees of support, facilitation, financing, development and/or operation.

While other existing and/or new NFP Housing entities may also play a role in affordable housing development and operation, a County-initiated and affiliated NFP would have significant advantages in key areas – most notably through its access to financial and

land resources, its County-wide focus, its centralized fundraising ability, alignment with the County as land-use authority, and a number of other advantages as outlined below.

	County NFP	Other NFP
Land-use Authority	✓	✗
Access to Surplus Land	✓	✗
PELASS Input	✓	✗
*Access to Funding/Borrowing	✓	?
County-wide Focus	✓	?
Donation Receipts	✓	?
Transparency/Governance	✓	?

Independence

To ensure broad community support, citizen involvement, private sector interest, and to maximize the effectiveness and efficiency of the proposed housing corporation, it is imperative that a County-initiated NFP be independent of County Council. As discussed in the earlier presentation, an independent corporation would allow for the following:

Focus

- Dedicated governance and operational resources
- Takes the affordable housing mandate off the corner of County staff's desks where divided attention and shifting priorities would limit advancement
- Provides the opportunity for dedicated housing expertise
- Expedites decision-making; outside of larger Council agendas

Leverage Community Expertise

- An independent entity would attract community participation and skilled/experienced individuals to serve on the board and/or to support the corporation in other ways – bringing a business-like approach to the development of affordable housing
- Interested citizens want to participate, make decisions, take action and be effective – not become bogged down in red tape and bureaucracy or be relegated to an advisory capacity on a committee with little say in the ultimate decisions

Optics

- An independent NFP corporation would depoliticize the issue of affordable housing; focus on need, business cases
- A dedicated board is not distracted by other County issues and politics

- Removes the potential perception that priorities will change with subsequent Councils or in the face of financial challenges, emerging political issues, etc.
- Promotes comfort that donations will be used efficiently and for intended purposes

Structure

The County engaged Harold Van Winssen from Templeman Menninga LLP to help evaluate the County's options for incorporation. As outlined in the July 2018 presentation to Council and discussed in the memo from Templeman Menninga (both attached), the County-initiated, independent NFP Affordable Housing Corporation would be structured as a Single-member, Non-Share Capital Corporation with the County as the sole member.

To proceed with the incorporation of the Non-Share Capital Corporation the following information is required to be submitted with the Application:

Name:

The name "**The Prince Edward County Housing Corporation**" is suggested by staff for the Corporation. Templeman has completed a search and verified that it is available for use.

Objects (Objectives of the Corporation):

- a) **Increasing the amount of funding available locally for affordable housing development**
- b) **Provide a vehicle for the transfer of municipal assets, physical or financial, for affordable housing development**
- c) **Initiate and/or and support new affordable housing projects in cooperation with community stakeholders, developers**
- d) **Ensuring high operational standards and protection of affordable housing assets, up to and including owning and/or operating such assets**
- e) **Creation of economies of scale for management, construction and operations of housing assets**
- f) **Providing effective and transparent governance of affordable housing investments**
- g) **Develop knowledge/expertise in funding, design and operation of affordable housing**
- h) **Advocate for and educate the community about affordable housing**

Directors:

The minimum number of directors required for an incorporated NFP is three and there is no maximum number.

It is recommended that **three (3) Councillors be appointed the initial directors**, solely for the purpose of application for a certificate of incorporation;

Following incorporation, it is recommended that the number of directors be set at nine (9), with a maximum of two (2) of those being members of Council.

Given the fiduciary responsibility, scope of activities and importance of its mandate, Council is also asked to approve a schedule of core competencies, experience and qualifications required of the board (attached), as a guide for prospective applicants and as a means of evaluating applications that are received. Required competencies include legal, financial, governance/organizational, housing operation/development, social services, business and human resource management, with each requiring a sufficient amount of experience at a suitable level of practice.

Importantly, these competencies should not be interpreted as a listing of qualifications for *individual* directors on the Board, but rather as the competencies required of the complete Board in order for it to perform its fiduciary responsibilities. Collectively, the Board of The Prince Edward County Housing Corporation must inspire the confidence of Council, the community, funders, tenants and other stakeholders, in order to effectively fulfill its mandates.

Advertisements for applications to serve on the board would be released immediately following ratification of this report's recommendations. Following receipt of the certificate of incorporation staff would bring forward a slate of applicants to Council for review and appointment. This appointment would be done by the incoming Council, but no later than January 31, 2019.

Legal Status and Limited Liability Exposure

As a single member, non-share capital corporation, the Prince Edward County Housing Corporation will have a legal status separate and distinct from the Municipality (its sole member).

The act of incorporating creates a new legal entity which has the same rights and obligations under Canadian law as a natural person. Among other things, this means that it can acquire assets, obtain a loan, enter into contracts, and sue or be sued. The corporation's *finances* and any other assets belong to the corporation and not to the County.

Incorporation also limits the liability of a corporation's members. This means that the members of a NFP corporation are not responsible for its debts. If the corporation incurs debt or goes bankrupt, the County as the sole member does not lose more than its investment (any funds or assets transferred to the Prince Edward County Housing Corporation). Creditors also cannot sue the County for the corporation's liabilities (debts), even though the County owns the corporation.

Initial Financial Commitment

Following appointment of the full Board and subject to election of the Corporation's statutory officers, staff recommends the Municipality provide the Prince Edward County Housing Corporation with an initial amount of up to \$10,000 from its 2018 budget allocation for Affordable Housing, to cover the cost of consulting and/or related fees for the purpose of developing the corporation's by-laws.

Staff also recommends that the uncommitted balance of 2018 Affordable Housing funding, estimated at \$170,000 be transferred to reserve immediately, and subject to adoption of its by-laws, provided to the Prince Edward County Housing Corporation as seed funding in order to develop financially sustainable business plans, leverage additional funds for housing development or other planning/development activities.

Once established, the Prince Edward County Housing Corporation will have the ability to secure its own consulting support, enter into service agreements and/or hire its own staff as needed; however, in the initial days of the corporation and in order to facilitate ongoing communications with the County, staff recommends that the Director of Community Development & Strategic Initiatives be assigned as a liaison and initial in-kind resource to the Corporation.

Financial Sustainability

In July Council noted the importance of financial sustainability for the proposed NFP Corporation. While many *social* housing models rely on ongoing subsidy from senior levels of government, the Affordable Housing Task Team identified at least three (3) local examples of new *Affordable Housing* developments which turn a profit for their private investors while maintaining a mix of market and affordable rental units. These are outlined below:

41 Downes Avenue, Picton (LYFE Building)

- Private development of Sandbank Homes
- 19 rental units on three floors, 7 units affordable (<80% avg market rent)
- One-time subsidy of appx. \$700,000 from IAH funding administered by PELASS
- All other capital and operating expenses including debt servicing, land costs and desired ROI supported through operating revenues

450 Sydney Street, Belleville

- Private Development (Phil Spry) in partnership with All-Together Housing
- 26 rental units on 3 floors in Phase 1 and 26 rental units on 3 floors in Phase 2 (34 affordable and 18 market)
- IAH funding and \$10,000 Seed Funding from CMHC

24 Starling Street, Belleville

- Private Development (Phil Spry)
- Former CN Rail Property, brownfield redevelopment
- 18 rental units on three floors, all 1 bedroom, all affordable
- \$10,000 Seed and Affordable Housing Initiative (AHI) funding through CMHC
- Assistance from the Municipality with brownfield funding and clean up
- All other capital and operating expenses including debt servicing, land costs and desired ROI supported through operating revenues

Future Financial Support

While the Prince Edward County Housing Corporation is mandated to increase the supply of funding available for affordable housing in Prince Edward County and is expected to develop financially sustainable business plans for any housing project in which it becomes directly involved, Staff recommends that Council consider options to establish ongoing, *non-rate supported* funding support for the development of affordable housing.

Such ongoing support would allow the Prince Edward County Housing Corporation to address affordable housing challenges more expeditiously by leveraging additional capital, funding down payments, making more attractive applications to funders and/or covering costs not eligible under specific programs.

Several options exist for raising additional funds without increasing the tax levy on ratepayers. Staff proposes bringing forward recommendations regarding these funding sources in the coming months.

Corporate Strategic Plan/Priority Implications:

2. Business-Friendly Environment

Objective: Continue to grow and diversify our economy into areas where we have a competitive advantage and unused capacity.

3. Encourage growth within our settlement areas.
5. Develop incentives to encourage private sector development
6. Place an emphasis on increasing new housing starts.

4. A Community with Stable Employment and Affordable Housing

Objective: Create a community where all residents can work and afford to live

1. Promote the development of diverse housing options.

Financial Implications:

The recommendations of this report would result in the allocation of approximately \$180,000 to the Prince Edward County Housing Corporation for the purposes of establishing its by-laws and as seed funding for the corporation.

Staff time would be allocated in-kind to the establishment and ramping up of the corporation.

Policy Implications:

None identified for the recommendations of this report.

Notice/Consultation:

Affordable Housing Task Team Members

- James Hepburn - CAO
- Neil Carbone – Director of Community Development and Strategic Initiatives
- Amanda Carter – Director of Finance
- Paul Walsh – Manager of Planning
- Ann Wood – Budget & Accounting Supervisor
- Todd Davis – Community Development Supervisor
- Annette Keogh – Housing Manager, PELASS

Other

- Vivian Chih – Affordable Housing Consultant, CMHC
- Ken Foulds – Principle, Refact Consulting
- Harold Van Winssen, Solicitor, Templeman Menninga

Other Options:

None for the purposes of this report.

Attachments:

1. County AH NFP Presentation
2. Memo from Harold Van Winssen, Templeman Menninga
3. Board of Directors Competencies

Prepared by: Neil Carbone August 10, 2018
Director of Community Development
& Strategic Initiatives

Director Approval:  August 22, 2018
Neil Carbone
Director of Community Development
& Strategic Initiatives

CAO Approval:  August 23, 2018
James Hepburn
Chief Administrative Officer

The Case for a County NFP Affordable Housing Corporation

Presented by the Affordable Housing Task Team

Overview

- The case for change
- A range of options
- Why a *County* NFP AH Corporation?
- What would it look like?
- Council's Role
- Community Support
- Examples

Purpose

Two affordable housing problems:

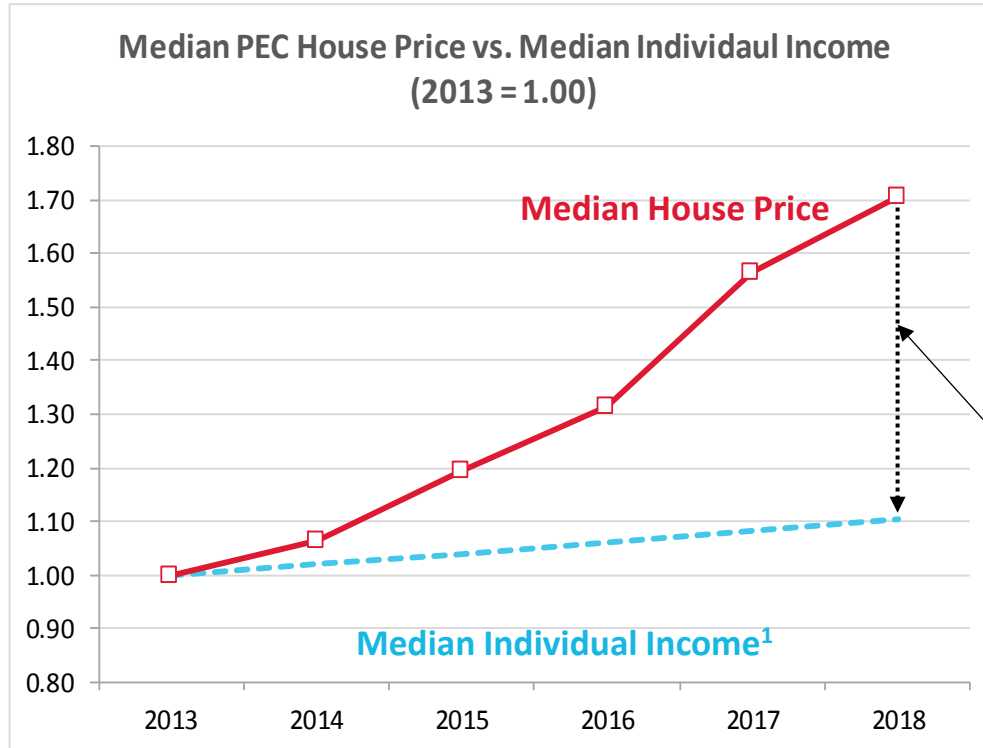
1. Year-round accommodation – Initial focus
2. Transient seasonal labour – Secondary focus; not addressed directly but proposed model allows for this in the future

The Case for Change

- Widely recognized shortage of affordable housing
- Responsible for labour shortage, limiting local business growth
- Exacerbates social divides
- Leads to population shrinkage even as number of housing units grows
 - Families driven out by empty nesters
 - Seniors can't downsize and must leave
- Fairness and social justice

Economics of the Crisis

Even a massive housing price correction won't restore affordability



A fall of 35% in median house value would be needed to restore the relation of house prices to income to 2013 levels.

Such a correction would be unprecedented and extremely unlikely.

***In other words, the affordability crisis will not simply 'work itself out' over time or with new residential development.**

Economics of the Crisis

Rentals: Return on year-round rental renovation

	Short Term Accom (AirBnB)	Year-round, Monthly Rentals
Renovation Cost	\$50,000	\$50,000
Increase in Annual Rent	\$7,900	\$4,900
Return on Investment (ROI)	16%	10%

- ROI for renovations still very attractive for year-round rentals
- Disappearance of affordable rentals will continue (regardless of STA regulation)
- Great investor interest in STA conversion based on paper returns
- Real returns reduced by operating expense, but still lucrative – capital will be allocated accordingly

Economics of the Crisis

Rental Vacancy Survey: Preliminary Results

Buildings Surveyed (3+ units)	46/82
Percent Complete (Target = 70%)	56%
Total Units	662
Total Vacancies	35
Rental Vacancy Rate	5.2%
Total Vacancies (Wellings Omitted = 26)	9
Rental Vacancy Rate (Wellings Omitted)	1.5%

Variety of solutions needed and available...

- Affordable units in a new NFP buildings
- Affordable units in a new commercial buildings
- Relatively affordable new detached/semi homes
- Tiny home infill
- New social housing
- Rent supported units in commercial buildings
- Habitat for Humanity
- Rent to own, earn-out models
- Secondary units
- Others

...but some higher impact than others.

Housing Type	Impact	Challenges	Support Required
Affordable units in new not-for-profit multi-residential buildings	High	Capital funding, operations mgmt, governance, <u>scarcity of land</u>	<u>Capital funding</u> , developable land, operations mgmt, governance
Affordable units in new commercial apartment buildings (Note 1)	Medium	Making it appealing enough to developers	Municipal planning, municipal taxes, DC relief
Relatively affordable new detached homes and town houses	Medium	Making it appealing enough to developers	Council policy
Tiny home infill	Medium	New concept: building code, zoning, official plan, developable land, builders	Municipal investigation
New social housing buildings	Low	Government funding Operational Mgmt	Lobbying, influencing upper levels of government
Rent supported units in commercial buildings	Low	Is there government funding coming to expand existing program	Lobbying, influencing upper levels of government
Habitat for Humanity single family homes	Low	Suitable building lots	Land
"Earn Out" model single family homes	Low	Capital, developable land @ low cost	Municipal support: land, DC relief?
Second units in existing private homes	Low	Persuading home owners to dedicate space to affordable housing	Funding, tax relief or other benefit

Note 1: may be more advantageous to have private build, NFP operate (lower cost of capital)

Maximizing affordable units in new NFP building

Capital funding

- Access existing (government) funding sources
- Develop innovative new funding sources (e.g., community bonds, social financing)

Developable land

- Municipality has/could acquire developable land and could make available to a trusted institution

Operations management

- Tenant selection & management, facilities maintenance – challenging for community groups

Governance

- High levels of transparency and continuity needed to get municipal land or other major commitments

How?

A County Not-for-Profit Affordable Housing Corporation

**...whose mission is to increase the supply of
Affordable Housing in Prince Edward County**

A County Not-For-Profit Affordable Housing Corporation

Can increase the supply of affordable housing by:

1. Increasing the amount of funding available (traditional and new sources)
2. Provides a reliable vehicle for transfer of any municipal assets for affordable housing
3. Initiating and supporting new projects in cooperation with community stakeholders, development community
4. Ensuring high operational standards and protecting affordable housing assets, up to and including owning and/or operating such assets

A County Not-For-Profit Affordable Housing Corporation

Can increase the supply of affordable housing by:

5. Create economies of scale for management, construction and operations
6. Providing effective and transparent governance of affordable housing investments
7. Develop knowledge/expertise in funding, design and operation of affordable housing
8. Advocate for affordable housing with the municipality, developers, community groups and the community at large

Why a County NFP Corporation?

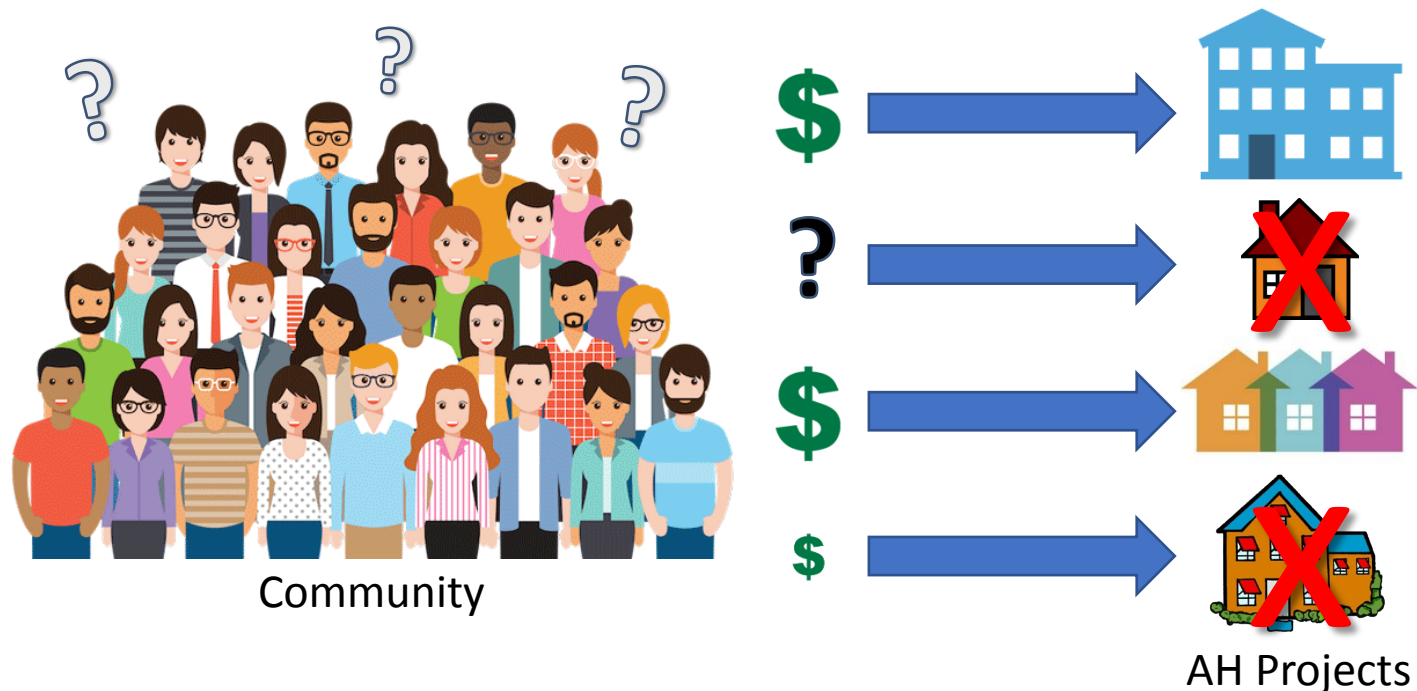
	County NFP	Other NFP
Land-use Authority	✓	✗
Access to Surplus Land	✓	✗
PELASS Input	✓	✗
*Access to Funding/Borrowing	✓	?
County-wide Focus	✓	?
Donation Receipts	✓	?
Transparency/Governance	✓	?

County NFP - Access to Funding

- Expand access to existing and future funding (PELASS, CMHC, IAH, Infrastructure Ontario)
- Community bonds/social investing could top up or even *exceed* municipal contributions, grants
- People may not open pockets to just anyone, but a trusted board with expertise would give investors and the community more confidence

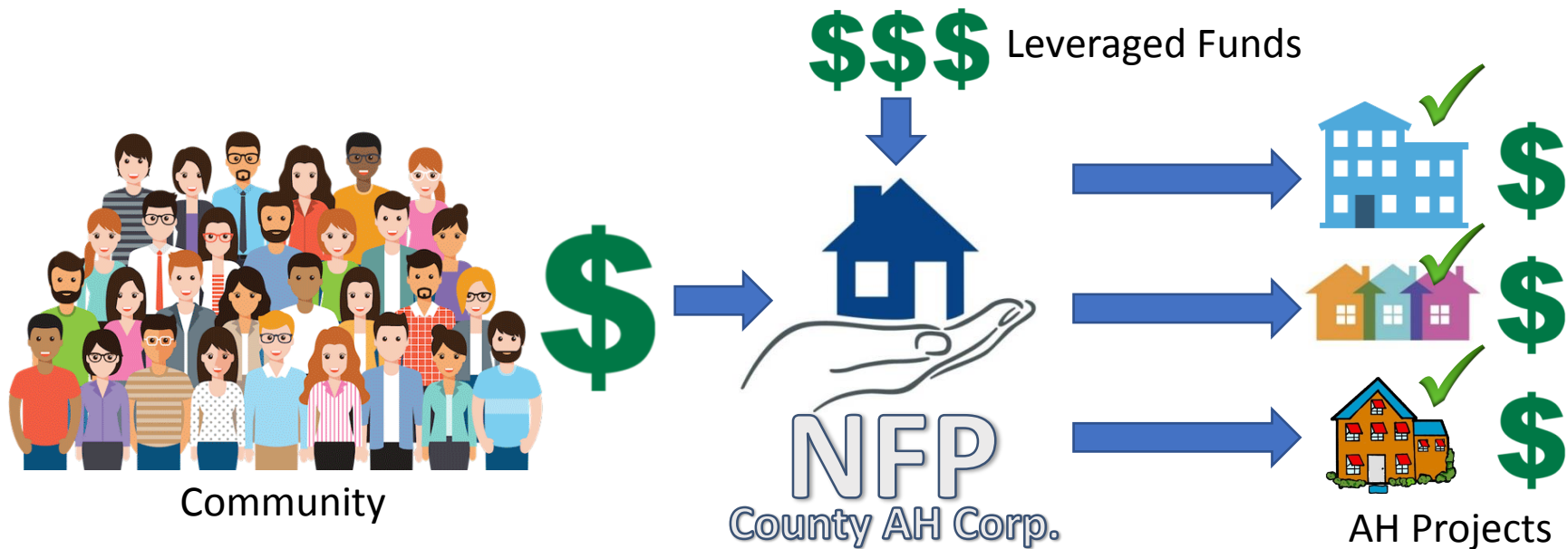
County NFP - Access to Funding

- If every project seeks funding/donations separately not nearly as much may be raised
- Some worthwhile projects may not succeed, obtain limited funding or experience other challenges



County NFP - Access to Funding

- A coordinated campaign by a trusted team (and/or in partnership with other projects) improves fundraising
- Leverage financial and other assets + municipal affiliation to obtain additional funding and supports
- Focus on high-value, strategic projects



County NFP - Access to Funding

Already two Housing Developments that a County NFP could support:

1. PEC Affordable Housing Network (PECAHN)
 - Wellington arena Proposal
2. LoveSong Seniors Housing & Community Hub
 - Pinecrest School Proposal

Corporate Entity – Why separate?

- Focus (Internal capacity already stretched)
- Leverage Community Expertise
- Business-like approach; expediency
- Depoliticize the issue of Affordable Housing; focus on need, business cases
- Optics
 - Arms length from County – not perceived as “The Municipality”
- Otherwise:
 - Loss of public trust or challenging to build trust
 - Reduced efficiency; bureaucracy; red tape
 - Reduced desire for participation
 - Loss of trust as a donee

Corporate Entity – What does it look like?

- Single member non-share capital corporation
 - County is sole member
- Board
 - Expertise in finance, legal, development, funding, operations and governance
 - Appointed by Council
- Mandate
 - Broad autonomy and decision-making within the assigned Affordable Housing scope
 - Self-sufficiency; seeks full cost recovery through various funding streams

Corporate Entity – What does it look like?

What can/should it do?

Options:

1. Raise funds: set up as a funding channel, for example to raise funds through community bonds, etc., which could be distributed to builders and operators
2. Raise funds + hold assets: same as above, but the entity holds assets which it leases to proponents who actually develop affordable housing
3. Raise funds + hold assets + build: same as above, but the entity develops housing/properties and contracts out operations
4. Raise funds + hold assets + build + operate: all of the above, plus operate projects – select tenants, maintain assets, etc. (potential for contracting out some services)

Corporate Entity – What does it look like?

Benefits of a Broad Scope:

- Level of involvement considered on a project by project basis; supports existing efforts (eg. PECAHN, LoveSong)
- Does not compete with existing affordable/social housing operations; provides new opportunities
- Consolidation of operations/management in some cases could produce cost savings
- Options available should challenges arise for existing/new housing projects
- Can approach community needs with all tools at its disposal; can develop innovative or more efficient models/solutions

Council's Role

- Sole Member
- Establish the Corporation and its Objects (purpose)
- Appoints Directors
- Receives Reports (Financials, outcomes)
- Provide Contracted Services
- Enter into Agreements (eg. land, funding, etc.)
- Collaborate on areas of Municipal jurisdiction (eg. Land-use planning)

Private Sector and Community Support

PELA-CFDC

- Supports the establishment of a County AH NFP Corporation
- Sees partnership opportunities related to social financing and impact investment, etc.

Private Sector

- Potential for cost-savings, materials, donations
- Significant interest in governance participation

Examples



Barrie Municipal Non-Profit Housing Corporation

- To provide and operate housing accommodation...primarily for persons of low or modest income at rentals below current rental market rates. Objectives also include the purchase, lease and to otherwise acquire and to hold, manage, develop and improve lands and buildings and interest therein.

Examples



Whistler Housing Authority

- The Whistler Housing Authority (WHA) is an independent municipally owned corporation of the Resort Municipality of Whistler created to oversee the development, administration and management of resident restricted housing in Whistler.

Embracing the goal of housing at least 75 per cent of employees locally within Whistler, the WHA continues to maintain and augment its inventory of resident restricted housing so that both rental and ownership accommodation are available and affordable for local income earners and retirees in perpetuity.

Summary

- No “silver bullet” for the Affordable Housing crisis
- Many solutions, but some higher impact than others
- A NFP Affordable Housing Corporation has the highest potential impact
- A separate **County** AH NFP Corporation brings significant added benefits + can support other solutions
- Self-sustaining entity
- New to the County but many examples elsewhere
- A transformational action; put something in motion that will have lasting impacts

Next Steps

- Additional detail and recommendation to COTW July, 26
- Ratification by Council August 7, 2018
- Articles of Incorporation, Fall 2018
 - Directors
 - Objects
- Advertising/Appointment of Board by Council, Fall 2018

The Case for a County NFP Affordable Housing Corporation

Presented by the Affordable Housing Task Team

Questions?

TEMPLEMAN
BARRISTERS-SOLICITORS-TRADEMARK AGENTS
200-205 Dundas Street East-Belleville, Ontario K8N 5A2
Telephone (613) 966-2620 Fax (613) 966-2866

MEMORANDUM

To: James Hepburn (jhepburn@pecounty.on.ca) ✓
Peggy Yee (pyee@pecounty.on.ca) ✓
County of Prince Edward

From: Harold Van Winssen

Date: August 21, 2018

Re: The County Housing Corporation/Non-Profit Housing Corporation/
Our File 49162

We are writing this memo further to our recent telephone conversation with you with respect to the possibility of the Municipality becoming more involved in the non-profit housing sector to encourage the development of non-profit housing in Prince Edward County.

Type of Organization

You requested some advice from us with respect to the options available for creating an organization to encourage and develop non-profit housing which will have certain specific purposes, etc., but you wish to have as much flexibility as possible.

Funding Sources

You wish to be able to access various funding sources to encourage the building of non-profit housing, including:

- (a) federal grants;
- (b) provincial grants;
- (c) municipal grants;
- (d) loans;
- (e) private sector funding;
- (g) investment in housing projects;
- (h) loan to housing projects;

- (i) joint ventures with other public sector entities;
- (j) joint ventures with other non-profit organizations; and
- (k) joint ventures with for-profit developers.

Other Resources

You also wish to ensure that the organization, in addition to increasing the funding available for affordable housing developments, would be able to support the development of housing projects and community cooperation with other stakeholders, including:

- (a) investing in properties;
- (b) lending for property development;
- (c) ownership, whether alone or jointly, of properties;
- (d) public sector/private sector partnerships;
- (e) operating or assisting in operating projects;
- (f) managing or assisting managing projects; and
- (g) property development.

You also wish an organization that would be able to advocate for non-profit housing to all levels of government and the community, to interact with the community, to help develop resources, both in terms of development by the Municipality, but also the development by others of non-profit housing projects.

You also want to be able to have a vehicle which could take things like surplus municipal lands and develop them into non-profit housing projects, either alone, or in conjunction with others, accessing various funding sources.

This also could include the obtaining of grants from the Municipality towards the development of non-profit housing corporations, whether directly or accessing various programs available.

Flexibility

Given the wide range of activities you wish to undertake, as well as the wide range of potential partners, funding sources, etc., the maximum flexibility would be required. Having the Municipality doing it directly or through a 100% municipal owned and controlled organization imposes certain obligations on the organization, whether under the provisions of the *Municipal Act* and associated regulations or otherwise.

Options

Some of the options that we looked at were:

- (a) a not-for-profit municipally owned and controlled corporation;
- (b) a not-for-profit corporation affiliated with the Municipality, i.e., with some municipal participation without control;
- (c) a fully independent not-for-profit corporation;
- (d) a for-profit corporation;
- (e) a municipal services board;
- (f) a trust;
- (g) managing various aspects by municipal services agreements.

Legal Issues

We reviewed various legal issues, including the provisions of the *Municipal Act* and the *Municipal Services Corporations Regulations*, especially as they apply to the broad range of potential objects.

Bonusing

Section 106 of the *Municipal Act* prohibits the granting of assistance to manufacturing businesses or other industry or commercial enterprises under certain circumstances. To ensure that we are not challenged under Section 106, it would probably be best to avoid a for-profit corporation which could be considered a commercial enterprise. That way, if there are municipal assets transferred or monies given or granted to the organization, whether under Section 107 of the *Municipal Act*, or otherwise, if they are done through a not-for-profit organization, which we do not believe that would fall under the jurisdiction of Section 106, as it is not a manufacturing business, industrial or commercial enterprise.

Municipal Services Corp. Regulation

There are various provisions under the regulations dealing with municipal services corporations which have to be complied with. Basically the Municipality is allowed to participate in a corporation providing it is doing something the Municipality itself could do. Frankly, we do not see anything in the proposed range of the objects that would run afoul of the municipal services regulation. However, we do need to comply with the requirements of that regulation in terms of public consultation and preparation of the business case.

There is no prescribed form of the business case, nor of public consultation. Obviously, discussing the matter at Council and having the public being given an opportunity to make representation at a Council meeting would be sufficient public consultation, in our opinion.

The business case is something that can be prepared internally and need not be prepared externally. There are no requirements for an elaborate business case, nor is business case defined in regulations. Therefore, there is a wide range of discretion in terms of what the business case can constitute, but clearly, there is a need for non-profit housing and we do not believe the requirements of the business case would present any substantial obstacles.

Charitable versus Non-Charitable

One of the other considerations is whether it should be a charitable versus a non-charitable not-for-profit. We would recommend it be non-charitable. This is because of the fact you may be doing joint ventures with commercial developers, you may be loaning money to others, etc. and it would not qualify within the restricted activities of the Office of the Public Guardian and Trustee and the Charities Directorate of Canada Revenue Agency would approve for a charitable organization. This is because these charities are typically limited in housing situations to people of low income, or people with disabilities, etc. Today, the best developments are often mixed use developments with a mix of subsidized and non-subsidized housing, for example, which does not fit neatly within the objects, including the standard objects set out by the various bodies governing charities. Therefore, we find a charitable organization would be too restrictive. I do not see any necessity for a charitable organization in any event, which is primarily giving charitable receipts, etc. Also, accumulating capital in a charitable organization is much more difficult to do.

Trust

We would not recommend a trust. In effect, the provisions of trusts and investment in trusts are very difficult to comply with for a municipality and municipalities generally are not involved in setting up or managing trusts because of the provisions of the *Municipal Act*.

Municipal Services Agreements

Municipal Services Agreements themselves do not give the necessary independence or create a separate legal entity or body. In effect, many of the more difficult projects would involve

the municipalities themselves becoming a party to them which we would not recommend because of the restrictions of the *Municipal Act* and terms of giving flexibility and speed to the process.

Liability

As can be seen, the Municipal Services Board and the Municipal Services Agreements and potentially a trust may have flow through of liability to the Municipality. This is another reason to recommend proceeding by means of a corporation. A non-profit corporation would have a separate status as a stand alone legal entity. If liability would be its own for its own acts and contracts, it would not flow through to the Municipality. It would have all of the powers essentially of a not-for-profit corporation, which would be a broad range of powers, but there would be no direct liability to the County. Members do not have liability for the acts of the corporation except to the extent they actually participate in those acts directly.

Directors would have potential liability which would be normally covered by having directors and officers liability insurance in place for the Board.

Membership

In order to maintain control, it is quite possible for this to be a single member corporation, i.e., that the corporation's only member would be the Municipality and the Municipality would delegate one or more representatives to exercise its votes as members. This would allow it to maintain some degree of control if that is required. It could also be a restricted membership where new members would have to receive approval, for example, of the representative of the County, as typically the board members may also want to be members of the Corporation although they need not be.

Municipal Services Board

The Municipal Services Board is really just an entity of the Municipality and we see no advantage to going through that entity versus a more independent not-for-profit corporation.

Not-for-Profit Corporation – Municipal v. Non-Municipal

Our recommendation would be that although it is possible to do either, that you may find it allows for more flexibility, appearance of independence and potential for looking at a broader range of services to have the not-for-profit corporation independent of the municipality with independent operation. It is important that it not be perceived as being operating for political purposes, but that its primary

object be for the development of not-for-profit housing. It allows for a perception of greater flexibility and speed, a greater degree of independence and that may be of greater appeal to non-municipal or public sector bodies, especially on joint ventures and other such projects.

However, given that maybe using municipal assets, it would be important for the Municipality to continue to have some level of involvement and say in the organization, hence, having an organization set up so that the Municipality has at least some of the board member appointees, so that they have some degree of reporting and transparency and visibility would be important and that is what we would recommend.

Obviously there are many options that we could proceed under, although our recommend would be a not-for-profit affiliated, but independent corporation as being the best vehicle to satisfy the many needs and desires for this organization.

Name

The name, "Prince Edward County Housing Corporation" has a potential issue with a federal corporation, The Prince Edward County Affordable Housing Network Inc., potentially. However, there is enough difference to merit submitting the name, if rejected, we would need their consent likely which we believe is obtainable.

Objects

We reviewed the objects. We believe the objects, as proposed, are wide enough and flexible enough to cover the anticipated activities.

Objects are once again subject to the approval, although in this case, they would not be subject to the approval of the Office of the Public Guardian and Trustee if it is a non-charitable organization. We may get some pushback or request for amendments, but less likely to get any significant amendments if it is non-charitable. In fact, they may be approved as stated. Certainly, we would submit them on the basis of those objects providing it is a non-charitable corporation.

Directors

We would endorse the recommendation here. If you have any questions, please feel free to contact the writer.

Board Profile and Competency Requirements

Purpose

The critical competencies listed below shall be used to create an overall profile for the board, as well as inform the development of a competency matrix, recruitment advertisements and director profiles for specific vacancies.

The competencies are organized into three major areas, intended to balance 1) **professional experience**, 2) **environmental or contextual knowledge**, and 3) **personal attributes and skills**.

Importantly, these competencies should not be interpreted as a listing of qualifications for *individual directors* on the Board, but rather as the competencies required of the *complete* Board in order for it to perform its fiduciary responsibilities.

Collectively, the Board of The County Housing Corporation must inspire the confidence of Council, the community, funders, tenants and other stakeholders, in order to effectively fulfill its mandates.

Competencies Summary

Competency Area	Critical Competencies	Description
Relevant Professional Experience	<ol style="list-style-type: none"> 1. Governance 2. Business/Management 3. Land Use Planning 4. Development (Real Estate) 5. Property Management 6. Legal/Regulatory 7. Human Resources 8. Accounting/Financial 9. Risk Management 	The candidate has professional/volunteer experience that is relevant and valuable to the board of the County Housing Corporation.
Specialized Environmental Knowledge	<ol style="list-style-type: none"> 10. Government/Public Policy 11. Community/Stakeholder/Public Relations 12. Housing Industry/Sector 	The candidate has specialized knowledge of the environment or context affecting the board of the County Housing Corporation.
Personal Effectiveness Skills	<ol style="list-style-type: none"> 13. Leadership/Teamwork 14. Strategic Thinking/Planning 15. Critical Thinking/Problem Solving 	The candidate has personal skills or attributes of value to the board of the County housing Corporation.

Competencies Detail

Relevant Professional Experience
<p>1. Governance Experience</p> <ul style="list-style-type: none"> ➤ The applicant has experience with, or is able to demonstrate knowledge or expertise in, board governance in the private, public, and/or voluntary/non-profit sector. The applicant has a clear understanding of the distinction between the role of the board versus the role of management. Governance experience could be acquired through prior board or committee service or reporting to/or working with a board as an employee.
<p>2. Business/Management Experience</p> <ul style="list-style-type: none"> ➤ The applicant has experience with, or is able to demonstrate knowledge or expertise in, sound management and operational business processes and practices in the private or public sector. This competency may include an understanding of topics such as managing complex projects, leveraging information technology, planning and measuring performance, and allocating resources to achieve outcomes.
<p>3. Land Use Planning Experience</p> <ul style="list-style-type: none"> ➤ The applicant has experience with, or is able to demonstrate knowledge or expertise in areas of land-use planning within the local and provincial context. This competency may include but is not limited to possessing a practical understanding of development approval processes, official plans and policy, zoning by-laws and other regulation, and the principles of efficient and ethical land-use planning as a means of achieving community development goals and safeguarding natural resources.
<p>4. Development (Real Estate) Experience</p> <ul style="list-style-type: none"> ➤ The applicant has experience with, or is able to demonstrate knowledge or expertise in real estate and property development, encompassing activities such as the construction and/or renovation and sale or lease of new/existing buildings, the purchase of raw land and the sale of developed land or parcels, the conversion of ideas from paper to real property, and the business processes, market assessments and other research related to these activities.
<p>5. Property Management Experience</p> <ul style="list-style-type: none"> ➤ The applicant has experience with, or is able to demonstrate knowledge or expertise in the processes, systems, and manpower required to manage the operations, maintenance and life cycle of properties, akin to the role of management in any business. Property management in the context of The County Housing Corporation requires additional consideration for the tenants of managed properties in the context of local sociocultural and economic considerations and agreements/relationships with funders and/or the regional housing services manager.
<p>6. Legal/Regulatory Experience</p> <ul style="list-style-type: none"> ➤ The applicant has experience with, or is able to demonstrate knowledge or expertise in, legal principles, processes, and systems. This may include interpreting and applying legislation, experience with adjudicative or quasi-judicial hearings or tribunals, or an understanding of the legal dimensions of organizational issues.

7. Human Resources Experience

- The applicant has experience with, or is able to demonstrate knowledge or expertise in, strategic human resource management. This may include workforce planning, employee engagement, succession planning, organizational capacity, compensation, volunteer coordination and management, and professional development. Knowledge or expertise in CEO performance management and evaluation may be a related asset.

8. Accounting/Financial Experience

- The applicant has experience with, or is able to demonstrate knowledge or expertise in, accounting or financial management. This may include analyzing and interpreting financial statements, evaluating organizational budgets, understanding financial reporting, knowledge of investment instruments and strategies, and experience with fundraising.

9. Risk Management Experience

- The applicant has experience with, or is able to demonstrate knowledge or expertise in, enterprise risk management. This may include identifying potential risks, recommending and implementing preventive measures, and devising plans to minimize the impact of risks. This competency may also include experience or knowledge of auditing practices, organizational controls, and compliance measures.

Specialized Environmental Knowledge

10. Government/Public Policy

- The applicant has experience with, or is able to demonstrate knowledge or expertise of, the broader public policy context affecting the public agency. This may include the strategic priorities of government and the relationship between those priorities and the work of the public agency.

11. Community/Stakeholder/Public Relations

- The applicant has experience with, or is able to demonstrate knowledge or expertise of, the community or communities the public agency serves, including the stakeholder landscape affecting the public agency. This may include a demonstrated capacity to build networks and foster trusting relationships with communities and stakeholders.

12. Housing Industry/Sector

- The applicant has experience with, or is able to demonstrate knowledge or expertise in the delivery or development of affordable and/or social housing, associated agencies, funding mechanisms, government programs, strategies and trends, and may have a well-developed network of contacts and resources within the field.

Personal Effectiveness Skills

13. Leadership/Teamwork

- The applicant demonstrates an ability to inspire, motivate and offer direction and leadership to others. They have a strong facilitation and consensus-building skills, and they demonstrate an understanding of the importance of influence and teamwork to the success of the board. This may include an ability to recognize and value the contributions of board members, staff, and stakeholders.

14. Strategic Thinking/Planning

- The applicant demonstrates an ability to think strategically about the opportunities and challenges facing the County housing Corporation and to engage in short, medium and long-range planning to provide high-level guidance and direction for agency.

15. Critical Thinking/Problem Solving

- The applicant demonstrates an ability to apply critical thinking to creatively assess situations and to generate novel or innovative solutions to challenges facing the board of the County Housing Corporation.