

Allan Clapp said the increase was a result of the approved state budget authorizing the state lab to recoup their fees commensurate with the new well sample. He said the County cost has increased by \$20 just to get the bottle to take the sample.

Commissioner Price asked about the \$25 fee that is listed.

Allan Clapp said that is the fee that is currently charged to the public, and it will go up to \$60.

A motion was made by Commissioner Price, seconded by Commissioner Rich to approve the budget ordinance amendments for fiscal year 2014-15.

VOTE: UNANIMOUS

6-i Interlocal Agreement for the Reimbursement of Expenditures

Commissioner Rich thanked John Roberts for helping the Board by reinstating this. She asked if the taxes will be handled the same way the hotel taxes are handled, where some monies go to the Visitors Bureau.

John Roberts said these are the occupancy taxes, and the same restrictions will apply. He said these are just occupancy taxes that have not previously been collected by the companies

A motion was made by Commissioner Rich, seconded by Commissioner Price to authorize the Chair to execute an agreement with the Towns of Carrboro, Hillsborough, Chapel Hill and various Online Travel Companies ("OTCs") for the collection and remittance of certain occupancy taxes.

VOTE: UNANIMOUS

7. Regular Agenda

a. Community Home Trust Request to Amend Operational Procedures

The Board considered approving proposed procedural changes by Community Home Trust.

Bonnie Hammersley reviewed the following information as outlined in the abstract:

The Community Home Trust (CHT) is an affordable housing provider whose clientele includes first-time homebuyers earning less than 80 percent of the area median income with subsidy from the federal HOME program. In May 2014 CEO Robert Dowling submitted a letter addressed to the Town of Chapel Hill, the Orange County Board of Commissioners and the Orange County HOME Consortium proposing procedural changes to its operations. The proposal addresses two (2) issues:

1. Homebuyers' limited access to financing; and
2. CHT's difficulty in selling homes.

CHT asserts that its homebuyer mortgage funding from the NC Housing Finance Agency will be exhausted in 2015, making it necessary to identify alternative funding sources. To address this issue, CHT is proposing to allow lenders to secure their investment with a fee simple interest. Currently, CHT can only grant a leasehold interest in the home as collateral. This leasehold interest secures the home, but not the land upon which the home is situated. Mr. Dowling asserts that this form of collateral attributes to there being only one bank in the region that is willing to extend financing to its buyers. While a fee simple interest could potentially result in a lending institution foreclosing on the home and the property, CHT homebuyers have never

surrendered their home to a lender through foreclosure. Historically, CHT has re-acquired property at risk of foreclosure and plans to continue this trend.

To address the issue of difficulty in selling homes, CHT has proposed that it be allowed to sell homes that contain federal subsidy through the HOME program to households with an income of up to 115% of the Area Median income (AMI), where permissible by US Department of Housing & Urban Development (HUD) guidelines. The HOME Program imposes an affordability period on projects assisted with HOME funds in order to ensure that HOME investments yield affordable housing over the long term. For homebuyer projects such as the Community Home Trust, the length of the affordability period is based on the amount of HOME funds invested in the property:

HOME FUNDS PROVIDED	AFFORDABILITY PERIOD
<\$15,000	5 years
\$15,000 - \$40,000	10 years
> \$40,000	15 years

However, the restrictive covenants CHT executes with the County stipulate 99 years of affordability. As a result, houses that are originally sold with the assistance of HOME funds that are later re-acquired by CHT must be re-sold to a family earning less than 80% AMI. Otherwise, CHT must refund the HOME funds invested to the County from the proceeds of the sale.

FINANCIAL IMPACT: There is no financial impact regarding the policy allowing CHT to extend a fee simple interest in properties sold. However, should the Board approve the proposed policy change regarding selling homes to families above 80% AMI where the federal subsidy remains in the home, this may reduce the number of low and moderately-low income families served by the Orange County HOME Consortium. Notwithstanding this reduction in low income families served, the affordability period as mandated by HUD would be met.

Bonnie Hammersley said there was also request by CHT for the Board to consider a charter. She said she is meeting with the local managers to bring a unified recommendation to the Assembly of Governments in November.

Commissioner Gordon asked what would be involved in the charter.

Bonnie Hammersley said staff is looking at the current Community Home Trust model, and they will be inviting Robert Dowling to meet with them to talk about the current model.

Commissioner Dorosin asked about the mechanics of the change that is being requested. He asked whether approved change will only be effective going forward, or whether it will affect homes currently being sold.

Robert Dowling said the HUD guidelines have a much shorter affordability period than the 99 year restrictions CHT imposed on itself. He said the home funds and local funds have a much shorter affordability period, and the longest the home funds have is 20 years. He said CHT has homes that they put HOME funds into 12 years ago, and the HUD funds have been met. He said this home now cannot be sold to anyone above 80 percent median income, because of the self imposed 99 year restriction. He said if this proposed change is approved, CHT can widen the window of buyers served. He said no more subsidies can be put in the home, but the funds put in 12 years ago can be left in, and this will allow them to serve people at up to 115 percent of median income.

Commissioner Dorosin asked if the 115 percent would kick in after the 20 year required HUD period elapsed.

Robert Dowling said that is correct.

Commissioner Dorosin asked if it would still be bound by 80 percent of median income if it were sold today in the federal window.

Robert Dowling said that is correct.

Commissioner Dorosin asked if the home could be sold to anyone at the end of the period if there were no restrictions beyond the HUD requirements.

Robert Dowling said CHT is not asking for this; but according to HUD, yes.

Robert Dowling said this is how things used to be done before the CHT was created. He said if the Board says no to this proposal, because the HUD income limits are lower today than in 2002, the home is not affordable to people at 80 percent of median income. He said this means more subsidies have to be brought in to make that same home affordable to people below 80 percent. He said the approval of this item will allow CHT to sell the home to higher income people and stretch out the federal subsidy dollars.

Commissioner Dorosin asked, if this is approved and a new CHT home goes on the market tomorrow, whether that home could be marketed to someone up to 115 percent of median income.

Robert Dowling said if there is subsidy in it, it will need to be below 80 percent for the affordability period. He said if a home is sold without subsidy, it can be sold up to 115 percent.

Commissioner McKee asked for clarification on what 80 percent and 115 percent equate to in dollars.

Robert Dowling said this number goes by household size and 80 percent for one person today would be \$36,800; for two people it would be \$42,000; for three people it would be \$47,000; and for four people it would be \$52,550. He said these numbers are all lower than they were in 2002. He said this means that the person who qualified 12 years ago and never got a raise will not qualify today.

Commissioner Gordon referred to the following email questions from her regarding this item and the replies from Robert Dowling:

Questions - Oct. 21, 2014 Agenda

7a - Community Home Trust (CHT)

Would the homes still be required to be affordable for 99 years?

For the CHT program, please describe the funding mechanism for providing one home. What does it cost Orange County and/ or the Town of Chapel Hill for each home (average cost and range of costs)?

What is the current area median income (AMI)? Please provide a table which shows the AMI for households of various sizes, along with 80 % AMI and 115 % AMI.

If the policy changes are made, is it anticipated that most or all of the houses would then be sold to buyers at or close to the 115 % AMI level, thereby reducing the number of low income families served?

Follow-up from Robert Dowling

1. Yes, CHT will continue to sell homes using a 99 year ground lease and to keep the homes affordable for 99 years at either 80% of Area Median Income (AMI) or 115% of AMI. According to CHT bylaws and Articles of Incorporation, only 25% of CHT homes can be sold to households earning more than 80% of AMI.

2. I'm not certain if I'm answering this correctly, but the Home Trust home prices range from \$75,000 to about \$155,000. The average price is about \$100,000. In fiscal year 2013-14, CHT sold 40 homes and required an average subsidy of about \$14,000 for each home. That subsidy may come from the County (HOME funds) or the Town of Chapel Hill or from the NC Housing Finance Agency. Due to declining HUD income limits, CHT typically is required to add subsidy to most homes that resell. Sixteen homes resold in fiscal year 2013-14.
3. The current HUD Income Limits for 80% AMI and 115% of AMI are as follows:

	1 Person	2 Persons	3 Persons	4 Persons
80% of AMI	\$36,800	\$42,050	\$47,300	\$52,550
115% of AMI	\$52,900	\$60,447	\$67,994	\$75,541

4. As stated above, CHT must sell at least 75% of the homes to households earning at or below 80% of AMI. Currently, about 90% of CHT homes are owned by households earning 80% of AMI or less.

Please let me know if there are additional questions we can answer. I know this subject matter is a bit dense.

Thanks,
Robert Dowling

Commissioner Gordon said her concern is related to the potential of homes going out of affordability. She said the point of this program is to sell homes to low income households, and 115 percent is not low income. She wonders if a more comprehensive approach might be better. She said the needs have shifted over the years, and it would be better to have a unified approach to this issue with all of the entities involved. She is not sure this should be approved without a unified approach.

Commissioner Gordon said her second concern with going to the 115 percent is that people who are on fixed incomes and do not make above the median income are paying for this in a way when they pay taxes. She said if the number is changed to 115 percent, the number of homes that can be sold this way should be limited to 25 percent.

Commissioner Dorosin asked if Robert Dowling was planning to jettison the 25/75 percent restriction ratio.

Robert Dowling said no. He said the IRS guidelines restrict the number of homes that can be sold above 80 percent, and the maximum allowed is 35 percent.

Commissioner Rich said the unified answer between the managers is about the charter, and it is not about this item. She said this item is being brought to each jurisdiction for individual votes. She said it will be unified if everyone does or does not vote for it. She said the charter to will go to all of the managers and legal departments before it is brought forward.

Commissioner Price asked about the timeline for the unified charter.

Bonnie Hammersley said the managers met last week, and there will be another meeting with Robert Dowling. She said the goal is to have a status report by the November 19th Assembly of Governments meeting.

Commissioner Price said this item seems more immediate, and she is concerned if the charter is going to take some time. She said this seems to be an issue that could have been anticipated, and this policy change will keep the CHT alive. She asked if the money gained by selling at 115 percent can be then put back into the efforts of the CHT.

Robert Dowling said these two requests are related but not linked. He said the fee simple request is an enticement for banks to make loans to the buyers. He said the CHT has never had a foreclosure, as they would pay off the bank and take the property in order to keep the equity that is in the home.

He said the second part of this is leaving in the subsidy in order to widen the window of people who are eligible to purchase the homes. He said there is a struggle to sell homes because the banks will not lend money and because HUD income limits have declined.

Commissioner Gordon said she understands that the issue tonight is different from the charter issue. She said what she wanted to articulate was that the managers could expand their discussions to include the related topic.

Commissioner Rich noted that Hillsborough and Chapel Hill have already voted in favor of this proposal. She said the charter has been out for about a year, and the Board saw it at a meeting last November.

A motion was made by Commissioner Dorosin, seconded by Commissioner Price to approve the policy changes as requested by Community Home Trust to permit CHT to extend a fee simple interest to mortgage lenders and permit homes to be sold to persons up to 115 percent AMI where permitted by HUD.

Robert Dowling said the word “unrestricted” was not used by him, nor was it used by Commissioner Dorosin in his motion. He clarified that every time HOME funds are put in, the County draws up restrictive covenants against that property, specifying that the home will stay affordable for 99 years. He said “unrestricted” fee simple interest means that the bank wants this covenant to disappear or else it is no good to them. He said this is what is holding some of the banks back.

Chair Jacobs asked if this is part of the motion.

Robert Dowling said it is not used in Commissioner Dorosin’s wording.

Commissioner Dorosin asked if would be better to amend the wording.

Robert Dowling said when this is implemented he wants it to be crystal clear what is needed to entice the banks to lend money.

Chair Jacobs said if this change is made, he will oppose the motion. He said the CHT and the Board agreed to the 99 year restriction to make sure the affordability is assured. He said he is fine with making it easier for residents to buy the homes, but doing away with affordability is a much more complicated discussion.

Commissioner Dorosin questioned what would be in place between CHT and a buyer to insure long term affordability if covenants are not in place.

Robert Dowling said the CHT holds all of the deeds and would receive notice if there was a foreclosure. He said CHT would step in to pay off the bank and take the property back.

Commissioner Dorosin said if there is no deed restrictions on the property there is nothing to prevent the home owner from selling it again.

Robert Dowling clarified that there will always be a restrictive covenant on the property. He said if the CHT did not step in to buy the property, then the bank takes it without restriction. He said the restrictions are in place, and are only terminated if CHT does not step in to prevent a foreclosure. He said the banks will only lend with no restrictions. He said he was not suggesting that they forego the 99 year affordability.

Chair Jacobs asked about the possibility of an affordable housing bond that includes setting aside \$1 million for loans to CHT buyers so that banks do not have to be involved.

Robert Dowling said this is a good idea.

Commissioner McKee said this will take the 99 year restriction off for the banks, but CHT and the County can still impose the affordability time frame.

Robert Dowling said the CHT will continue to do business as usual with a 99 year affordability clause; but they will agree to sign a collateral agreement with the bank, and if CHT does not step in, the bank gets the fee simple loan in the event of a foreclosure.

Commissioner McKee suggested that the percentage numbers in Commissioner Gordon's email should be made available to the public.

Commissioner Gordon asked for input from John Roberts on the fee simple interest and the maintenance of the 99 year affordability.

John Roberts said the risk is not about losing the 99 year affordability. He said the risk is that there is would be a spate of foreclosures, and the County would have to come up with hundreds of thousands of dollars to keep the 99 year affordability. He said this is a financial risk to the County.

Commissioner Rich acknowledged Chair Jacobs idea, and she said CHT is always trying to think of creative ideas.

Commissioner Rich called the question.

VOTE: UNANIMOUS

b. Southern Branch Library Letter of Intent Approval

The Board considered authorizing the Chair to execute a Letter of Intent with regard to the Southern Branch Library upon the approval of the County Attorney.

Jeff Thompson reviewed a map of the property. He said the letter of intent is a non-binding agreement. He reviewed the following information from the abstract:

BACKGROUND: On May 13, 2014, the Board of County Commissioners authorized staff to engage in negotiations with Main Street Partners of Chapel Hill, LLC ("Main Street") regarding the potential location of the Southern Branch Library on property adjacent to the 300 Main development located in Carrboro known as the Butler Property.

The attached Letter of Intent is drafted to frame the future negotiations for the definitive agreements necessary for the potential development and construction of a Southern Branch Library. The County's execution of this Letter of Intent does not bind the County to locate the Southern Branch Library on the Butler Property nor does it obligate the County to enter into definitive agreements with Main Street in the future.

FINANCIAL IMPACT: Execution of this Letter of Intent and the subsequent negotiation of the Contract Agreement will require a Professional Services Agreement amendment in an amount not to exceed \$25,000 for this task. Adequate funds are available for this amendment within the Southern Branch Library Capital Project.

Southern Branch Library - Estimated Project Activity Timeline

This estimated timeline for the development, construction, and operation of the potential Southern Branch Library is as follows. A conservative 4-6 month contingency interval is reasonable for planning purposes and process delays. Bolded activities signify Board of County Commissioner actions.

Event Estimated

Completion Date

Board of County Commissioners Action:

October, 2014

Approval of Letter of Intent between Orange County and Main Street