

Banff Housing Corporation
ORDER OF BUSINESS
BHC Shareholder Meeting
Town of Banff Council Chambers
Monday, February 11, 2013 at 3:00 p.m.

1.0 CALL TO ORDER

2.0 APPROVAL OF PRIOR MINUTES

- 2.1 Minutes of the January 14, 2013 Meeting of the Banff Housing Corporation Shareholder

3.0 REPORTS

- 3.1 Terms of Reference for Relationship between the BHC Shareholder and the BHC Board

4.0 NEW BUSINESS

5.0 ADJOURNMENT

**MINUTES OF THE BANFF HOUSING CORPORATION SHAREHOLDERS
 SPECIAL MEETING**

**Town Hall Council Chamber
Monday, January 14, 2013 at 2:45 p.m.**

SHAREHOLDERS PRESENT

Karen Sorensen	Mayor
Leslie Taylor	Councillor
Stavros Karlos	Councillor
Chip Olver	Councillor
Paul Baxter	Councillor
Brian Standish	Councillor and Deputy Mayor
Grant Canning	Councillor and Acting Mayor

SHAREHOLDERS ABSENT

ADMINISTRATION PRESENT

Dougal Forteach	Banff Housing Corporation CAO
Tara Johnston-Lee	Municipal Clerk (Recording Secretary)

1.0 CALL TO ORDER

The Mayor called the January 14, 2013 Special Meeting of the Banff Housing Corporation Shareholders to order at 2:47 p.m.

2.0 APPROVAL OF AGENDA

2.1 Meeting Agenda

BHCS13-1 Moved by Councillor Baxter to approve the agenda of the January 14, 2013 Special Meeting of the Banff Housing Corporation Shareholders as presented.

CARRIED

3.0 ADOPTION OF PREVIOUS MINUTES

BHCS13-2 Moved by Councillor Taylor to approve the minutes of the November 13, 2012 Special Meeting of the Banff Housing Corporation Shareholders as presented.

CARRIED

4.0 REPORTS

4.1 Terms of Reference for the Relationship Between the BHC Shareholder and the BHC Board

The Shareholder agreed to direct administration to return the proposed terms of reference to the Banff Housing Corporation Board for confirmation that no conflict exists between the proposed terms of reference and the BHC bylaws.

5.0 ADJOURNMENT

BHCS13-3 Moved by Councillor Canning to adjourn the meeting at 3:03 p.m.

CARRIED

 Karen Sorensen
 Mayor

 Tara Johnston-Lee
 Municipal Clerk

Minutes approved by: _____

REQUEST FOR DECISION

Subject: Terms of Reference for the relationship between the BHC Shareholder and the BHC Board



Presented to: BHC Shareholder

Date: February 11th 2013

Submitted by: BHC Board

Agenda #: 3.1

RECOMMENDATION

The BHC Board (Board) notes that, although it sees no conflict existing between the draft terms of reference and BHC Bylaw1-1, the BHC Shareholder (Shareholder) may feel differently and therefore it is best left to the discretion of the Shareholder to decide whether a conflict exists between the 3rd bullet under section 3 of the draft terms of reference which states the Shareholder will “Review and approve the annual business plan and budget of the BHC” and section i) under Mandate in the BHC Bylaw which states the Corporation shall “(To) operate independently from Town Council under the direction of its own Board of Directors”.

Further to the above, and notwithstanding any changes required as a function of the shareholders decision as to whether a conflict with the two documents exists, the Board recommends that the shareholder approve the terms of reference for the relationship between the Shareholder and the Board.

BACKGROUND

January 11th 2013

The Shareholder reviewed the draft terms of reference for the relationship between the Shareholder and the Board (January 11th) and directed that the draft terms of reference be evaluated against the BHC Bylaw to ensure that no conflict between the two documents exists. As a function of this review the Board notes that the only conflict which may exist is between the 3rd bullet under section 3 of the draft terms of reference which states the Shareholder will “Review and approve the annual business plan and budget of the BHC” and section i) under Mandate in the BHC Bylaw which states the Corporation shall “(To) operate independently from Town Council under the direction of its own Board of Directors”.

Reason for Recommendation

The Board has drafted a terms of reference for the relationship between the Board and the Shareholder for the Shareholder’s consideration. The purpose of this document is to have in writing what the roles and responsibilities of each group are and what the delegation of authority is. The Board approved the draft terms of reference at its December 7th meeting by way of the following motion:

BHCD12-141 MOVED by Taylor to forward the amended terms of reference to the BHC shareholder for approval in January 2013.

CARRIED

Response options

- 1) The Shareholder could approve the terms of reference for the relationship between itself and the Board as presented;
- 2) The Shareholder could amend the terms of reference as it deems necessary and approve the amended document;
- 3) The Shareholder could deem that the terms of reference for the relationship between itself and the Board is not necessary at this point in time.

ATTACHMENT: Draft terms of reference for the relationship between the BHC shareholder and the Board.
 BHC Bylaw 1-1

Submitted By: _____

Dougal Forteach, on behalf of the BHC Board

Terms of Reference for Relationship between the BHC Shareholder and the BHC Board

1.0 BHC Shareholder

The Banff Housing Corporation (BHC) is a Not for Profit Developer legally created in 1993. The BHC's sole Shareholder is the Town of Banff (ToB). As the BHC's sole Shareholder is the Town of Banff, the sitting Council represents the shareholder.

2.0 Appointment of Board Members

The Shareholder appoints members to a Board of Directors (Board) who will govern the administration of the BHC; generally speaking such appointments will be made at the Town of Banff's (ToB) annual organizational meeting in October of each year, or as required. Unless otherwise determined by a general meeting, the number of directors shall be seven (7), of which 2 shall be elected officials of the ToB; 1 a senior ToB administrator; and 4 public members. All things being equal, in making their appointment the Shareholder gives preference to two members being BHC homeowners. Further, the appointed terms for the four public members shall be broken out into two – 3 year terms and two – 2 year terms.

3.0 General responsibilities of the Shareholder and the Board

The BHC Shareholder, as represented by Council, can/shall:

- Appoint the BHC's auditor as required;
- Articulate and provide direction to the Board specific to the mandate and activities of the BHC as required;
- Review and approve the annual business plan and budget of the BHC;
- Consider and implement any amendments deemed appropriate to the BHC mandate or bylaw;
- Listen to public points of view about the policies and operations of the BHC;
- Hold an Annual General Meeting (AGM) and notify the public of said meeting accordingly (generally in April of a given year). The shareholder will be presented with the BHC's audited statements at the AGM unless otherwise directed by the shareholder;
- Request the Board revisit a decision(s) of the Board. However it cannot overturn a decision of the Board so long as said decision(s) is consistent with and made in the spirit of accomplishing the BHC's mandate at the time of the decision(s). The recourse of the Shareholder if the Directors decline to reconsider a decision is to replace the directors with individuals who, in a response to a request from the Shareholder, will reconsider the particular decision; Accept and review complaints specific to the Board's or Board member(s) activities/actions should/as they arise. In such instances the Shareholder shall determine whether the Board or any of its members have violated any existing Board policies or articles within the BHC bylaw. If the Shareholder believes that a violation has occurred they take upon themselves the responsibility to implement corrective action as they deem appropriate. Decisions and discipline imposed by the Shareholder specific to the Board or any of its members is final;

The BHC Board shall:

- Recruit and review applications for Board membership and make recommendations to the Shareholder
- Present to the Shareholder an annual business plan and budget by April of each year.
- Provide to the Shareholder for their information approved Board minutes within a reasonable time following any meeting;
- Refer to the Shareholder for decision on any operational matters that have been identified by Shareholder motion as being the purview of the Shareholder
- Undertake all other operational decisions in accordance with the mandate, bylaws and policies of the BHC
- Supervise the CAO of the BHC.

4.0 *Shareholder representative responsibilities*

Individual shareholder representatives will:

- Familiarize themselves with the bylaws, business plans, financial documents and similar background information about the mandate, bylaw, ToB's housing policy (C12) and operations of the BHC;
- Prepare for each shareholder meeting by reading the shareholder package in detail;
- Declare conflicts of interest whenever they arise, and act accordingly;
- Vote on matters before the shareholder, taking into account the mandate and bylaw of the BHC and the best interests of the community as a whole;
- Refrain from committing the BHC to any policy or action without the agreement of the shareholder as a whole;
- Review Board meeting minutes as provided;
- Share responsibility for the integrity of shareholder decisions and therefore any shareholder representative may question whether another shareholder representative might have a conflict of interest or a pecuniary interest with respect to a matter under consideration by the shareholder

5.0 *Shareholder representative's role with the media*

Unless otherwise directed by Council, the mayor or the acting mayor at the date of a shareholder meeting will be the spokesperson for the shareholder dealing with media inquiries about shareholder decisions and direction. If an elected official acting in their capacity as shareholder representative finds themselves commenting to the media, they have the responsibility to present the shareholder's point of view fairly, even if they were in dissent, and also to clearly distinguish personal opinion from shareholder opinion.

6.0 *Shareholder representative's relationship with Staff*

The BHC Board supervises the CAO, except for the following situations:

The shareholder chair will provide direction to staff specific to: agenda items for a BHC shareholder meeting; notification of the date/time/ location for a BHC shareholder meeting and request the public be properly notified of the same.

Elected official(s) acting in their capacity as shareholder may seek information or technical background from staff, if this information can be provided with a reasonable investment of staff time. If a request requires substantial time from staff, that request needs to be cleared by the BHC Board.

7.0 *BHC Board members' responsibilities*

BHC Board members' responsibilities are outlined in the Terms of Reference for Board members.

Last reviewed:

December 2012

BYLAW No 1 -1 Banff Housing Corporation

Definitions

- In these Bylaws:
 - A) shall mean the Town of Banff Housing Corporation;
 - B) “Directors “ shall mean the Board of Directors of the Corporation;
 - C) “present” shall mean present in person or by proxy or by other instrument of authority;
 - D) “shareholder” where used in connection with any reference to a meeting of shareholders means a shareholder entitled to vote at that meeting;

Share Certificate

- Subject to the provisions of the Business Corporations Act, share certificates shall be in such form as the directors approve by resolution.

Directors

- Unless otherwise determined by a general meeting, the number of directors shall be seven (7), of which 2 shall be elected officials of the Town of Banff; 1 a senior Town of Banff administrator; and 4 public members. All things being equal, in making their appointment the Shareholder would give preference to two members being Banff Housing Corporation homeowners. Further, the appointed terms for the four public members shall be broken out into two – 3 year terms and two – 2 year terms.
- Notwithstanding the preceding clause, the first directors of the company shall be the Council of the Town of Banff.
- The Council of the Town of Banff shall have the sole power, from time to time and at any time, to appoint any other person or persons as a director or directors, either to fill a casual vacancy or vacancies or as an addition or additions to the Board, but so that the total number of directors shall not at any time exceed the maximum number fixed by these articles or by a general meeting.
- The office of a director shall ipso facto be vacated:
 - a. If he is found a lunatic or becomes of unsound mind;
 - b. If, by notice in writing to the Corporation, he resigns his office;
 - c. If he be removed by resolution of the Corporation, as hereinafter provided;
 - d. If the Director is absent from three (3) consecutive regular meetings of the Board of Directors (without the expressed consent of the Board), and other meetings of the

Board of Directors during that period to be special meetings of the Board of Directors or is absent from one third (1/3) of the meetings of the Board of Directors in a 12-month period.

- Subject always to the provisions of the Business Corporations Act, the Corporations Articles and any Unanimous Shareholders Agreement in effect from time to time, the Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings and proceedings as they think fit, and the quorum necessary for the transaction of business shall be four (4) of the Directors.
- A meeting of the directors for the time being at which a quorum is present shall be competent to exercise all or any of the powers and discretions for the time being vested in or exercisable by the Directors generally.
- Meetings of the Board of Directors shall be held within the Town of Banff. The Directors may make regulations in regard to the manner and time that notice shall be given of such meetings. Until such regulations are made, meetings of the Board may be held at any time without formal notice if all the Directors are present or those absent have signified their consent to the meeting being held in their absence; and notice of any meeting where notice has not been dispensed with, delivered, mailed, emailed, faxed to each Director at his ordinary address two (2) days prior to such meeting, shall be sufficient notice of any meeting of the Directors. In computing such period of two (2) days the day on which such notice is delivered, mailed, emailed, faxed shall be included, and the time of day which notice is given shall be excluded. A director may waive his personal notice of any meeting or an irregularity in any meeting or in the notice thereof. The Directors may by resolution appoint a regular time and place for meetings, and no further or other notice of such time and place than the entry of such resolution upon the minutes of the meeting at which it was passed shall be necessary. Immediately upon the conclusion of the annual general meeting, a meeting of the Directors shall be held and no notice of such meeting shall be necessary.
- A Director may at any time, and the Secretary shall upon the request of a Director, summon a meeting of the Directors by notice, served upon several members of the Board. Unless otherwise determined by the Directors, meetings shall be held in the Town of Banff, upon at least two (2) clear days notice (calculated inclusive of Saturdays, Sundays and holidays) but a director may waive notice.
- Unless otherwise required by the Business Corporations Act, and notwithstanding anything to the contrary in these articles, during such time that the Council of the Town of Banff is acting as the Board, all matters of the procedure relating to the calling and conducting of Directors meetings, including matters of notice, procedure, quorum and voting, shall be in accordance with the procedure specified for the conduct of meetings of the Council of the Town of Banff by the Procedural Bylaw (No. 44-1) and any amendments thereto or substitutions therefore.
- Minutes to be kept and circulated to the Directors and approved minutes will be circulated to the Shareholder within a reasonable time following any meeting.
- No Director may vote by proxy at any meeting of the Board of Directors.

Directors Remuneration

- Each Director shall be entitled to be remunerated from the Corporations funds for travel expenses while conducting authorised business for the Corporation in amounts to be fixed from time to time by the Directors.

Officers and Auditor

- The Officers of the Corporation shall consist of a Chair and vice Chair and such other officers as the Directors may from time to time appoint. Any one person may fill more than one of the above offices. Such persons holding such offices, besides fulfilling any duties assigned them by the Directors, shall have such powers as are usually incidental to such offices.
- The Chair and vice Chair shall be elected by the Board from amongst their number. The board may appoint an assistant secretary, who shall be empowered to act in the absence of or under the direction of the secretary in the performance of the duties of the secretary. The Directors may appoint a temporary substitute for any of the above officers, who shall be for the purpose of these presents be deemed to be the officer the position of who occupies.
- The auditors of the Corporation shall be appointed by the Shareholders. The Corporations audited financial statements are to be presented to the Shareholders within the time frame designated by the MUNICIPAL GOVERNMENT ACT. The auditors of the Corporation shall be appointed by the Shareholders. The auditors of the Corporation will be the auditors designated from time to time to act as the auditors of the Town of Banff.

Meetings by Telephone

- A Director may participate in a meeting of Directors or of a committee of Directors by means of telephone or other communication facilities that permit all persons participating in the meeting to hear each other.
- A shareholder or any other person entitled to attend a meeting of shareholders may participate in the meeting by means of a telephone or other communication facilities that permit all persons participating in the meeting to hear each other.

Execution of Instrument

- Deeds, transfers, assignments, contracts, obligations, certificates and other instruments required by law or otherwise by these bylaws or any resolution of the Board or shareholders of the Company to be executed under corporate seal may be signed on behalf of the corporation by one or more persons who holds office of the Chair, vice Chair, or any other office created by bylaw or resolution of the Board. In addition, the Board may from time to time direct the manner in which the person or persons by whom any particular instrument or class of instruments may or shall be signed. Any signing officer may affix the corporate seal to any instrument requiring the same.

Shares and Shareholders

- The Town of Banff shall own all of the shares of the Corporation
- The shares of the Corporation shall be non-transferrable
- The Corporation shall not pay dividends to the shareholders

Income

- The Corporation shall not pay any part of its revenue to or make it otherwise available for the personal benefit of any person
- The Corporation shall conduct its business in a user pay manner with profits, if any, applied to promoting the objects of the Corporation.

Town Manager

- Notwithstanding anything elsewhere contained in these presents:
 - a. Notice of all general meetings and notice of all meetings of directors shall be given to the Town manager at the same time and in the same manner as such notices are given to shareholders and directors, respectively;
 - b. The Town Manager or anyone appointed by him shall be entitled to attend any general meeting and any meeting of the directors;
 - c. The Town Manager or anyone appointed by the Town manager may inspect or audit the books, accounts, and records of the Company, or any of them. And take copies or extracts therefrom.

Mandate

- The mandate and obligations of the Corporation shall include:
 - a. To have a sole shareholder, being the Town of Banff;
 - b. To negotiate for and acquire leasehold title to identified Residential reserve lands or other residential lands from the Government of Canada and to sublease those leases to third parties;
 - c. To negotiate for and acquire leasehold title to residential lands and sell or sublease those leases to third parties;
 - d. Initiate zoning changes and other development approvals as required for potential housing lands;
 - e. Maintain and manage ground leases held by the Corporation on corporate sponsored housing projects or for proposed housing projects;
 - f. To sublease lands to individuals by way of a Sublease agreement, where appropriate;

- g. Manage and maintain on a contract basis if required, all of the Town of Banff housing stock;
- h. Seek funding from all potential sources;
- i. To operate independently from Town Council under the direction of its own Board of Directors;
- j. To remain accountable to the Town of Banff and the citizens of Town of Banff by operating in accordance with the policies established by the Town Council, through Council presentation of the Board of Directors, and through the provision of audited financial statements;
- k. To conduct its business in a not-for profit manner with a user-pay mandate. The Corporation will hire staff and expend funds necessary to complete its mandate within its operating budget;
- l. Design and develop on its own or by means of contractual agreement with contractors or private developers, all community housing projects, including rental and owner occupied projects. In doing so the Corporation will encourage housing affordability without compromising quality and take full advantage of local expertise;
- m. Monitor and enforce all terms and conditions of occupancy, sublease sale and resale of community housing units;
- n. Implement a selection procedure by which residents are permitted to, purchase, or re-sell community housing units. In so doing, the Corporation will develop and maintain a prioritized list of qualified and future purchasers of existing BHC properties ;
- o. Accept transfer of the MIDDLE SPRINGS I HOUSING DEVELOPMENT second mortgages and assume control for the second mortgage funds from the MIDDLE SPRINGS I HOUSING DEVELOPMENT in terms of monitoring, enforcement, transfer, or redemption of second mortgages. These funds and funds received from housing cash in lieu payments will be used for community housing purposes. From 2012 to 2016 all second mortgage revenue received in excess of \$30,000 will be directed to capital reserves or projects. From 2017 forward all MS1 - 2nd mortgage revenue will be directed to capital reserves or projects;
- p. Expend any excess revenue over expenditures to further fulfil its mandate of providing and maintaining a supply of value priced housing in the Town of Banff;
- q. On a user pay basis, participate with town Administration to monitor and report to Council, on an annual basis, the state of housing in Banff. A user is the individual or organization who benefit(s) from the activity;
- r. Make recommendations to council on housing policies and changes to the Land Use Bylaw and other planning documents of the Town relating to housing ;

- s. The purpose of the Banff Housing Corporation is to help the Town of Banff maintain a healthy and balanced community. Under the approval of Council the BHC will borrow against municipal borrowing limits and achieve its purpose by :
- i. Developing, maintaining (where appropriate) and acquiring quality, value priced housing on Corporation sponsored housing projects;
 - ii. Remove a portion of the developer's profit ;
 - iii. Providing housing of various types and densities;
 - iv. Providing efficiency in housing types and development methods;
 - v. Researching methods of financing and obtaining financial support at the best rate possible;

The Banff Housing Corporation is bound by the following:

- To operate in a not-for-profit and user pay manner. A user is the individual or organization who benefit(s) from the activity ;
 - Not to receive subsidy from municipal taxes for new developments and administration of new and existing developments;
 - The BHC will fund the administration of existing developments and the creation of new developments
 - Develop quality housing in response to current market conditions;
 - Observe and track market absorption such that all BHC housing units are pre-sold and/or subscribed;
- The Corporation shall be one to which Section 129 of the Municipal Government Act, R.S.A., 1980, Ch. M-36 applies.

Last Amended: April 23rd 2012
May 9th 2011