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Barney S. Heath
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MEMORANDUM

Date: November 12, 2021
From: Barney Heath, Director, Planning and Development Department
Amanda Berman, Director of Housing and Community Development
Lara Kritzer, Community Preservation Program Manager
Andrew Lee, Assistant City Solicitor
To: Zoning and Planning Committee
RE: Answers to questions raised during Draft Municipal Affordable Housing Trust Ordinance discussion on November 8

The following memorandum is intended to address the questions raised by the Zoning and Planning Committee during their review of the Draft Municipal Affordable Housing Trust (MAHT) Ordinance on November 8, 2021. Also attached is an updated draft of the ordinance with the changes suggested at the November 8 meeting.

1) What is the land disposition process for properties acquired by an MAHT?

Pursuant to the enabling act for Municipal Affordable Housing Trusts, a Housing Trust has the power to obtain and hold real property by purchase, gift or grant. A Housing Trust also has the authority to sell or lease real property. It is important to note that when a Housing Trust acquires real property, they are not holding the property in the name of the city. As such, when selling or leasing real property, a Housing Trust established in Newton would not need to comply with the requirements of City Ordinance 2-7 Disposition of interests in city owned real property. However, a Housing Trust is a public entity and is subject to Massachusetts General Laws Chapter 30B that sets forth required solicitation procedures for the disposition of property.

2) Should there be a cap on administrative costs?

The Community Preservation Act (CPA) limits administrative expenses to no more than 5% of annual funding. No information has been found to date, however, on similar funding caps used for MAHT programs. It is anticipated that there will be very few initial administrative expenses involved in the program, but that a Trust may wish to use funding in the future for staffing or consultant services. Because the Trust will primarily be using CPA community housing funds for this work, it will already need to confirm that those expenses are directly related to the support, creation, acquisition, preservation, restoration, or rehabilitation of Community Housing before the funding can be used. It

is up to the City Council as to whether additional requirements should also be placed on the use of these funds.

3) Staffing

Since all or the majority of the Trust's funding will come from the CPA program, it is anticipated that the Trust and its programs would be staffed by Community Preservation Program Manager Lara Kritzer. The Trust would have the ability to hire affordable housing consultants as needed for specific project reviews or questions.

4) Request for a brief narrative from other MAHT communities on how they operate

Below are brief narratives on five Trust communities which were interviewed as part of the initial information gathering process for this project.

Amherst – Conversation with MAHT Chair John Hornik

Amherst's MAHT was established four years ago and replaced the Town's Housing and Shelter Committee. Amherst's Trust does not develop projects but does supports other developers and dispenses funds. The Trust recently purchased a 2.5-acre site and plans to combine it with an adjacent Town site to create 45 affordable and market units. In this case, the property was offered to the Town and the Trust was brought in to handle the project by Amherst's Assistant Town Manager. The MAHT plans to issue an RFP for a developer to take over the project, which is the process that the Trust had previously used to create a 28-unit SRO development. In 2020, the Trust also created an emergency rental housing program using their banked CPA funds and Amherst's CARES Act funds.

Amherst provides a Planning Dept. staff person to assist the Trust, and the Trust also hires a housing consultant to assist in drafting their RFPs and with other technical assistance. The consultant services are generally \$20,000/annually depending on the year and projects. The Town also provides legal assistance through the Town Attorneys. Nearly 100% of the Trust's funding comes from the CPA. Amherst's Trust applies annually for \$500,000 (Amherst's CPA funding is a little over a million in recent years). Their Trust has also worked with their Community Preservation Committee to bond \$600,000 which they used to purchase the 2.5 acres. With the exception of the Town Manager, all of their Trust members are at-large and because of the difficulty of finding new members, they have not been able to meet their bylaw's membership requirements. Members serve for 2-year terms and most come to the Trust with no housing experience. Mr. Hornik is currently the chair and estimates that he puts 20-25 hours a week into Trust work.

Beverly - Conversation with Director of Planning and Community Development Darlene Wynne

In 2006, Beverly passed an inclusionary housing ordinance which assigns any funds received directly to its MAHT. Beverly's MAHT primarily reviews projects for funding from the \$600,000 raised through this funding source. The Trust completed its first funding found in 2018 using a rolling application process. This process begins with a Notice of Availability for the funding round and a request for Letters of Interest. Letters are due by the last day of each month, and the MAHT lets applicants know within 45 days if they will be awarded funding. The Trust has awarded funding to four projects (three in 2018 and one in 2020), including a partnership with their YMCA and

Harborlight Community Partners to develop new units. To date, the Trust has not denied funding to any project applicant. Funding allocations have ranged between \$100,000 to \$250,000 but there is no limit currently set on how much can be requested.

Beverly's Trust does not receive any funding from its Community Preservation Act Program but could in the future. Instead, Beverly's Community Preservation Committee also reviews housing projects and established an Emergency Rental Housing program without the Trust last year.

Cambridge Conversation with Cambridge Housing Director Chris Cotter

Cambridge's Trust predates the existing MAHT enabling legislation and as such, has powers and responsibilities that go well beyond those seen in other communities. Cambridge established their Housing Trust in 1988-89 to utilize impact fees, Cambridge's version of linkage fees, but today their CPA program is the Trust's primary funding mechanism (their Trust receives 80% of Cambridge's annual 3% CPA surcharge).

The Cambridge Trust meets monthly to review project applications, sometimes serving as the first funder to get projects started as well as the last funder to fill in any project gaps. Cambridge's Trust works to evaluate potential project ideas, provide funding to preserve and protect existing housing units, create new units, and finance the purchase of sites for future affordable housing development. Mr. Cotter noted that the Trust often works for 2-3 years on individual projects and funding sites. This comprehensive approach is possible because the Trust is staffed by three people in Cambridge's Housing Division who are focused on housing development. This Division also oversees the City's other housing funding programs and has developed a one step process for seeking affordable housing funds. While the Trust funds and federal funds are approved separately, they are both reviewed by the Housing Division using the same application and review process, and the City Manager ultimately signs off on both. Cambridge's Trust also serves as Cambridge's housing partnership, advocates for 40B and affordable housing projects in general, and is relied on by their City Council for advice on housing policies.

Salem - Conversation with Senior Planner/Trust Staff Person Amanda Chiancola

Salem's Trust also predates the MAHT enabling legislation and was initially created in 2003. Today their Trust has very little funding and exists primarily as an advocacy group focusing on policy issues and advocacy, as well as studying potential uses for public land. The program currently has about \$5,000 in funding which it uses to provide technical assistance. Ms. Chiancola explained that Salem has a very competitive CPA funding program and the community's very active housing non-profits generally go directly to their Community Preservation Committee for funds. Because their Community Preservation Committee enjoys reviewing housing proposals, there has been no interest in delegating those reviews to the Trust.

Salem's Trust is currently working with the City on three zoning ordinances, advocating for housing projects, and completing a 2021 Housing Production Plan which will help to plan for the long-term actions of the Trust as well as future projects. The Trust has inserted itself into the Planning Board's review process and has been advocating for inclusionary zoning, with the goal of reaching a requirement of 10% of units at 60% AMI. The Trust has also been helpful in negotiating with developers on individual projects towards this goal.

Somerville - Conversation with CPA Manger Judith Tumusiime

Somerville is another community with an Affordable Housing Trust that predates the MAHT legislation. Somerville's Trust had already been in place for twenty-five years when the CPA program was established in 2014, and so Somerville's Community Preservation Committee (CPC) chose to designate the Trust as the administrator of its CPA Community Housing funds rather than establish a duplicate process. The amount allocated to the Trust varies every year – their CPC undertakes an annual public review process to create its list of priorities and determine minimum funding per category, and the housing allocation is based on public input and perceived need. In 2019, the Trust received 45% of Somerville's annual CPA funding and in 2020, it was increased to 50%. In addition to this annual allocation, the Trust may also apply to the CPC for additional program funding at any time.

Somerville's Trust allocates its available funding during an annual funding round which is timed to match the CPC's annual funding process for all other CPA categories. CPC staff work directly with the Trust liaison (a member of City staff) to ensure that the funding is used correctly, and the Trust submits a biannual report (April and November) to the CPC on explain how the CPA funds have been used. While the Trust is considered to be an applicant for CPA funds, the application itself is automatic and Somerville uses as a Memorandum of Agreement between the CPC and Trust to secure the funding.

5) What is the CPA funding process for the Trust?

The Trust would be subject to the same review and approval process used for all CPA funding applications. On an annual basis, the Trust would submit a proposal for Community Housing funds for their future use in specific affordable housing projects that meet the CPA legislative requirements. The proposal would be reviewed as usual by the CPC at a public hearing before their vote on a recommendation, after which it would be sent to the City Council for their review and approval of the funding recommendation. The Trust could also apply to the CPC for additional project funding at any time during the year if a large project or new opportunity becomes available.