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Barney S. Heath
Director

MEMORANDUM

Date: September 24, 2021
From: Barney Heath, Director, Planning and Development Department
Amanda Berman, Director of Housing and Community Development
Lara Kritzer, Community Preservation Program Manager
To: Zoning and Planning Committee
RE: Draft Municipal Affordable Housing Trust Ordinance

The Zoning and Planning Committee began its review of the draft Municipal Affordable Housing Trust (MAHT) Ordinance at their July 26 meeting before continuing the discussion to allow time to gather additional information and input from the Community Preservation Committee and Newton Housing Partnership. The following materials are provided to address the questions raised during the July discussion and provide further information to assist in the Committee's review.

- 1) Answers to Questions raised during the July 26 meeting (Page 1)
- 2) Draft Municipal Affordable Housing Ordinance (Page 5)
- 3) Memo from the Community Preservation Committee (Page 10)
- 4) Memo from the Partnership (Page 11)
- 5) July 23, 2021 Planning Department Memo for the July 26 ZAP meeting (Page 14)
- 6) State enabling legislation (Chapter 44, Section 55C) (Page 16)

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Draft Municipal Affordable Housing Trust Ordinance Questions and Answers

Date: September 23, 2021
From: Barney Heath, Director of Planning and Development
To: Zoning and Planning Committee
Cc: The Honorable City Council
Her Honor Mayor Ruthanne Fuller

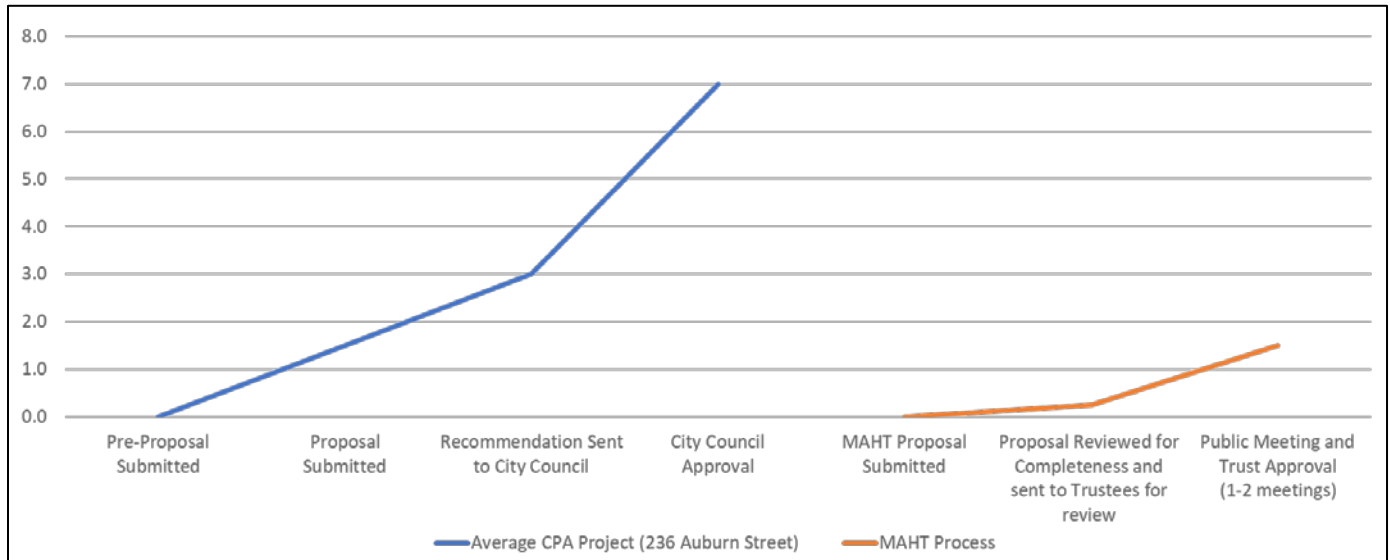
At the meeting on Monday, July 26, 2021, the Zoning and Planning Committee raised the following questions during the discussion of the Draft Municipal Affordable Housing Trust Ordinance.

- 1) What is the difference in timing between projects requesting CPA funding and projects requesting funding from a Municipal Affordable Housing Trust (MAHT)?

The CPA program has funded 24 housing projects over the life of the program. The CPA funding process for affordable housing projects can take as few as three months or as long as 17 months to complete but on average, it will take seven months for an application to complete all of the necessary reviews and be approved for CPA funding. During this time, the applicant will meet at least twice with the CPC, first for its pre-proposal review and later for the project's public hearing which is held at least a month after the initial review. Once the CPC has recommended the project for funding, the recommendation is sent to City Council where it is docketed and reviewed by two Council Committees (Finance Committee and a second Committee based on the type of project and applicant) before it can be scheduled for a vote from the full City Council. Applicants are required to attend a minimum of four meetings during this process (two with the CPC and the two Committee meetings) but more meetings may be required depending on the nature of the project.

The MAHT review process is envisioned to be a more streamlined and efficient with only one committee, the Trust, involved in each project's review. The Trust would apply annually for CPA funding and complete the review process as noted above. Once the Trust has received the funding, it can allocate it to individual affordable housing projects using a simplified process that is anticipated to take as few as one to two public meetings to complete. The MAHT is subject to the same open meeting law requirements as all City committees and would hold

regular public meetings to review and vote on project funding as needed. The chart below shows the existing steps in the CPA funding process and the anticipated steps in a future MAHT funding process:



The following is a list of all 24 of the CPA affordable housing development projects to date and the length of their funding reviews:

Project Name	Initial CPA Funding Submission	City Council Approval	Length of Process (in months)	CPA Funding Amount
236 Auburn Street	3/17/2017	10/2/2017	7	\$977,700
10-12 Cambria Road	8/21/2015	4/19/2016	8	\$471,117
11-13 Cambria Road	12/1/2005	4/18/2006	4	\$350,085
18-20 Cambria Road	11/1/2002	4/9/2003	5	\$200,000
Coleman House	11/20/2020	3/15/2021	4	\$4,214,622
Commonwealth Ave - Veterans House	10/16/2009	5/3/2010	7	\$375,000
Covenant Residences	12/19/2005	5/1/2006	5	\$907,825
Eddy Street	7/13/2012	12/17/2012	4	\$243,572
Forte Property	5/14/2003	9/4/2004	16	\$377,400
Golda Meir 1	6/8/2018	12/17/2018	6	\$3,250,000
Golda Meir 2	7/10/2020	10/5/2020	3	\$1,244,857
Haywood House 1	5/15/2017	10/15/2018	17	\$3,000,000
Haywood House 2	8/28/2020	12/7/2020	5	\$77,900
Lexington Street	12/5/2008	10/5/2009	10	\$2,004,554
Linden Green	12/1/2003	11/15/2004	12	\$618,600
Millhouse Commons	10/1/2004	8/8/2005	10	\$738,383
Myrtle Village	7/27/2011	3/3/2014	7	\$910,179
Nonantum Village Place Construction	10/31/2002	4/9/2003	5	\$850,000
Pearl Street	10/15/2010	5/2/2011	7	\$665,000
Pelham Street	3/30/2003	8/11/2003	5	\$311,936
Taft Avenue	11/5/2014	4/6/2015	5	\$584,029
West Newton Armory	2/12/2021	5/3/2021	3	\$21,270
West Street	11/2/2002	4/20/2004	5	\$263,000
Wyman House Apartments	10/12/2004	4/19/2005	6	\$1,000,000

2) Would there be a public process for requesting MAHT funding?

As noted above, the MAHT would be subject to Open Meeting Law and all of its meetings will be open to the public. One of the first duties of the Trust would be to establish an application process for reviewing and funding potential affordable housing developments, including creating an application and establishing how public comment will be taken as part of the Trustee's review. Any CPA funding distributed by the Trust must be used for a CPA eligible project and reported to the CPC so that they can report the use of those funds. CPA funded affordable housing projects can also continue to be documented on the City's CPA program website for the public's review.

3) Would the creation of an MAHT take housing projects away from the CPC?

The creation of an MAHT would not take affordable housing away from the CPC so much as it would change how those projects are reviewed. If Newton establishes a Trust, the CPC will continue to assess the overall needs of the community in all of its funding categories and allocate a target percentage of the City's CPA annual funding for affordable housing projects. However, rather than reviewing each funding request individually, the CPC would recommend that the affordable housing funds be allocated to the Trust, which will take on the charge of conducting individual project reviews and funding determinations. The Trust is envisioned to be a committee dedicated only to affordable housing development with its members primarily made up of experts in the field who are highly qualified to review affordable housing proposals. Further, the Trust is expected to also include a CPC member to assist in maintaining a consistent connection between the two groups.

At this time, the CPC does not anticipate also reviewing individual affordable housing projects in addition to funding the Trust. However, the creation of a Trust would in no way prevent the CPC from reviewing individual projects, or further requests from the Trust for additional funding, if more CPA funds are needed for an affordable housing development in the future.

4) How many units created with Trust funding to date?

The number of units created by MAHTs in Massachusetts to date is unknown. Shelly Goehring at the Massachusetts Housing Partnership has confirmed that there is currently no database that is tracking the number of affordable housing units created by MAHTs in Massachusetts.

5) What is City Council's role in Trust funding process?

The City Council would continue to have full approval of any CPA funding allocated to the MAHT. The Trust is expected to submit an annual application for CPA funding, and any funding recommendation would then be forwarded to the City Council to complete its regular review process. The Trust is also proposed to include a City Councilor who will take part in individual project reviews.

6) If the CPA surcharge was raised, could the additional funding go to the Trust?

Any additional surcharge raised by the City is required by the Community Preservation Act legislation to be available for all of the allowable funding uses (Affordable Housing, Historic Resources, Open Space, and Recreation). However, while the City cannot designate any portion

of its local surcharge solely to affordable housing, an increase in the local surcharge would provide more funding to the general program and increase the City's State funding match, raising the amount of funding available for future affordable housing projects.

CITY OF NEWTON

IN CITY COUNCIL

ORDINANCE NO.

July , 2021

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEWTON That:

1. Section 55C of Massachusetts General Laws Chapter 44 be and is hereby accepted; and
2. The Revised Ordinances of Newton, Massachusetts, 2017, as amended, be and are hereby further amended with respect to **the creation of the Newton Affordable Housing Trust Fund** by INSERTING after Sec. __ in Chapter ____ as follows:

Sec. __. Establishment and purpose

There is hereby established under General Laws Chapter 44, Section 55C a Municipal Housing Trust Fund (the "Trust") for the purpose of the creation and preservation of affordable housing for the benefit of low and moderate income households as defined by the Department of Housing and Urban Development (HUD) and for the funding of community housing, as defined in and in accordance with the provisions of chapter 44B, the Community Preservation Act. Preservation and creation of affordable housing shall include but not be limited to programs designed to further housing rehabilitation and/or development opportunities and those that are designed to directly assist low and moderate homeowners and renters.

Sec. . Board of trustees – Composition; eligibility; appointment; terms of office; term limits .

- A. There shall be a board of trustees which shall consist of seven (7) trustees, including the Mayor, a City Councilor designated by the City Council President, and the remaining five (5) Trustees to be appointed by the Mayor and confirmed by City Council as follows:
 1. A member of the Community Preservation Committee; and
 2. Four (4) Newton residents. In making such appointments, the Mayor shall be guided by the goal that the board of trustees be geographically, culturally,

ethnically, and linguistically diverse and each appointee have one or more of the following qualifications:

- a. Experience with affordable housing production, planning, architecture, law, lending, business, property management, social and human services, capital planning, and construction management;
 - b. Professional experience in affordable housing finance and development;
 - c. Professional participation as a funder, developer or consultant in successfully completed projects that include deed-restricted affordable housing;
 - d. Experience with all-affordable, mixed-income housing, and/or mixed-use development projects that include housing; and
 - e. Familiarity with Massachusetts and HUD affordable housing funding sources and regulatory requirements, specifically CDBG and HOME, LIHTC, and 40B.
- B. Trustees shall serve without compensation.
- C. Trustees shall serve for terms of two (2) years or until their successors shall take office. Initial appointments shall be so appointed that, as nearly as possible, the terms of an equal number of members shall expire every year. Any odd numbered initial appointment shall be for a term of one year.
- D. The Trust shall annually elect one of its members to serve as chairperson and may elect such other officers, adopt procedural rules and regulations, and establish any subcommittees as it deems appropriate. (Ord. No. W-66, 11-19-01; Rev. Ord. 2007, § 2-350)
- E. Trustees who remove their residence from the City shall be considered to have resigned from the board of trustees.
- F. The Trustees shall consider the state of housing needs in Newton across the affordability spectrum. It may make recommendations to the Mayor and City Council on the options available to the City to create new affordable housing to address those needs and to maintain existing affordable housing stock. The Trust may support implementation of these recommendations as appropriate and measure progress toward their fulfillment.

Sec. ____. Powers and duties

The board of trustees shall be possessed of all the powers and subject to duties in accordance with the provisions of General Laws Chapter 44, Section 55C, as it may be amended from time to time.

Sec. __. Funding Sources and Uses

- A. The Trust may receive funding from any or all of the following sources:
 - 1. Community Preservation Act (CPA) funds
 - 2. Inclusionary zoning payments
 - 3. Negotiated developer fees
 - 4. Payments from special bylaws/ordinances
 - 5. Private donations

- B. Notwithstanding any general or special law to the contrary, all moneys paid to the Trust in accordance with any zoning ordinance or private contributions shall be paid directly into the Trust and need not be appropriated or accepted and approved into the Trust. General revenues appropriated into the Trust become Trust property, and to be expended these funds need not be further appropriated. All moneys remaining in the Trust at the end of any fiscal year, whether or not expended by the trustees within one year of the date they were appropriated into the Trust, remain Trust property.

- C. The Trust will submit an annual application for CPA funding for all community housing uses allowed by the CPA legislation. Once the City Council has approved CPA funding for Trust activities, no further review or approval will be necessary for the Trust to expend the funding so long as the proposed use is an allowed use for community housing funds under the Community Preservation Act legislation.

- D. The Trust is authorized to expend any or all of its allocated funding to meet the affordable housing goals of the City by a majority vote of the Trustees. No further reviews or approvals are necessary for the expenditure of Trust funds.

- E. The Trust will submit annual reports to the CPC and City Council on how and where Trust funding has been used. In the case of CPA funding, the Trust will work closely with the Community Preservation Program Manager to see that all CPA funding is documented and the uses confirmed as required by the CPA funding legislation.

Sec. Administration and operations

- A. The Trust shall meet on a regular basis at least four (4) times a year or as needed to enact the duties of the Trust.

- B. The Trust shall establish an application process for projects requesting Affordable Housing Trust funds and develop clear review requirements and procedures for all projects based on the established program guidelines and the City's affordable housing goals.

- C. The Trust may expend funding on an annual or rolling basis at the Trustees

DRAFT Affordable Housing Trust Ordinance 072321

discretion so long as it follows an established funding process.

- D. The Trust shall evaluate all requests for project funding from the Affordable Housing Trust fund in the established process, in accordance with the goals of the City and the guidelines and procedures established by the Trust.
- E. The City shall provide staff support to the Trust to oversee all of the administrative duties and requirements for operating and administering the Trust Fund as stated above.

Sec. Legal Status

- A. The Trust is a public employer and Trustees are public employees for purposes of Chapter 258 of the Massachusetts General Laws.
- B. The Trust shall be deemed a municipal agency and the Trustees shall be deemed as special municipal employees for purposes of Chapter 268A of the Massachusetts General Laws.
- C. The Trust is exempt from Chapters 59 and 62 of the Massachusetts General Laws, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the commonwealth or any political subdivision thereof.
- D. The Trust is a governmental body for purposes of Sections 23A, 23B and 23C of Chapter 39 of the Massachusetts General Laws.
- E. The Trust is a Board of the City for the purposes of Massachusetts General Law Chapter 30B and MGL c. 40, § 15A; but agreements and conveyances between the Trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the City shall be exempt from said Chapter 30B of the Massachusetts General Laws.

Sec. The provisions of this Article shall be interpreted and applied at all times consistently with the provisions of Chapter 44, Section 55C, of the General Laws, as may be from time to time amended, and with the provisions of any relevant general or special law.

Secs. . Reserved.

DRAFT Affordable Housing Trust Ordinance 072321

Approved as to legal form and character:

City Solicitor

Under Suspension of Rules
Readings Waived and Adopted

EXECUTIVE DEPARTMENT
Approved:

City Clerk

Mayor

DRAFT



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Mayor

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Barney S. Heath
Director

MEMORANDUM

Date: September 23, 2021
From: Community Preservation Committee
To: Zoning and Planning Committee
RE: Support for Draft Municipal Affordable Housing Trust Ordinance

At its regular meeting on August 10, 2021, the Community Preservation Committee (CPC) voted unanimously to support the creation of a Municipal Affordable Housing Trust (MAHT) as a tool to further Newton's affordable housing goals. The CPC also committed that, should an MAHT be established, it would recommend in the future that its CPA affordable housing funds be turned over to the MAHT on an annual basis for distribution.

The CPC has taken part in multiple presentations and discussions in recent months to learn about MAHTs and their role in supporting and promoting affordable housing, and also has several Committee members who have worked with these programs in other communities. The Committee believes that an MAHT would provide Newton with the ability to act quickly when opportunities for new affordable housing arise as well as create a more efficient process for supporting the development of affordable housing in the future. The CPC acknowledges that how the MAHT is configured is extremely important as its success is dependent upon the development of a streamlined system for funding future affordable housing projects.

The CPC understands that a consistent funding source is crucial to the success of any future MAHT and that CPA funds are anticipated to be the primary funding source for the program. The CPC is committed to recommending CPA funding in an amount equal to its annual target for affordable housing funding to a future MAHT, with the understanding that this recommendation is in response to an annual proposal and subject to City Council approval. While this target amount may change over time to meet Newton's overall goals for the CPA program, the current affordable housing target of 35%, or approximately \$1.67 million in FY21 CPA funds, provides an indication of the potential future CPA funding for the program.

The creation of an MAHT in Newton is an exciting opportunity which has the potential for radically changing how Newton considers affordable housing in the future and the CPC's role in that process. The CPC appreciates the chance to be part of this discussion and is ready to work with a MAHT in the future should the City decide to move forward with the program.



CITY OF NEWTON, MASSACHUSETTS

Newton Housing Partnership

May 27, 2021

Honorable Mayor Ruthanne Fuller
Honorable Council President Susan Albright
Honorable Chairperson Crossley
Newton City Hall, Newton, MA
02459

Ruthanne Fuller,
Mayor

Barney Heath,
Director
Planning & Development

Dear Mayor Fuller, President Albright and Chairperson Crossley,

The Newton Housing Partnership would like to thank the 17 City Councilors who co-sponsored the docket item to create an Affordable Housing Trust in Newton. This leadership in seeking ways to increase affordable housing opportunities is commendable and as you consider the role, structure and funding of a Trust, we would like to share our initial thoughts on how to best integrate a Trust into our already complicated development process so that we achieve this important goal. Equally important, we would like to point out several potential pitfalls that we feel could impede rather than advance our effort to expand affordable housing opportunities in Newton.

Members:

- Lizbeth Heyer, Chair
- Mark Caggiano
- Eliza Datta
- Chuck Eisenberg
- Kathy Marchi
- Josephine McNeil
- Marva Serotkin
- Stephen Tise

Role for an Affordable Housing Trust:

Currently the creation of affordable housing occurs in two basic ways: via a regulated “cross-subsidy” in 40B or inclusionary zoning projects or via public subsidy applied to an as of right project or layered on top of 40B or IZ requirements. We see a Trust playing an important role in both processes. For regulated projects, a Trust could advocate for the affordable housing components of 40B and IZ projects as well as monitor the effectiveness of our recently adopted IZ changes and recommend further changes to the law if needed. For subsidized projects, we see a tremendous opportunity to make the development process less risky and less costly by streamlining our complicated review process and making the funding more robust and predictable.

We also see the Trust advancing for policies that would lead to the creation of more affordable housing in Newton, particularly housing that is affordable to households below 80% and 50% of the area median income. A Trust has the ability to create housing at these lower levels which is a tool we don’t currently have in Newton. A Trust could also track

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CITY OF NEWTON, MASSACHUSETTS

Newton Housing Partnership

demographics and market trends in order to identify needs and set funding priorities. A trust could inventory and identify public land and buildings that would be appropriate for affordable housing development and act as an agent on behalf of the City, issuing RFPs and supporting staff in their engagement with developers. A Trust could also recommend new funding sources and engage in housing policy and development issues such as the rezoning process, local preference requirements and compliance with the State's new Housing Choice statute.

Structure and for an Affordable Housing Trust:

Our vision for the Trust would be to create a single affordable housing entity in Newton that would carry out an integrated approach to setting policy, identifying priorities and overseeing a streamlined approach to funding and development. In order to provide the Trust authority to act on behalf on the City while ensuring transparency and accountability to the Mayor and City Council, the Trust could be established via enabling legislation with clear charges and be populated by Newton residents with expertise in affordable housing policy and development. Of utmost importance, to avoid duplication of effort, we suggest consolidation of the Partnership with the affordable housing aspects of the Community Preservation Committee and perhaps the Fair Housing Committee.

Funding for an Affordable Housing Trust:

We see Community Preservation Act (CPA) funds as the primary source of funding that the Trust would administer, but this could be supplemented by IZ payment in lieu funds. The Trust could also explore other funding sources such as increasing the CPA tax, imposing a real estate transfer tax or developer impact fees and providing a direct City appropriation. We suggest that CPA funds be pledged to the Trust on an annual basis via a vote by the CPC and City Council, and that the amount exceed the 10% floor by at least 40% to 60% to reflect Newton's significant need for affordable housing, while providing ongoing support for open space and historic preservation projects.

Once appropriated, we suggest that project awards be governed by the Trust and not require final approval by the Council. This would give affordable housing developers greater confidence in the process and



CITY OF NEWTON, MASSACHUSETTS

Newton Housing Partnership

ideally increase development proposals by reducing the financial risk and expediting development timelines.

In summary, as you consider the possibility of creating an Affordable Housing Trust, we strongly encourage you to consider a role for the Trust that results in coordinated policy setting with the authority to act swiftly and independently by following clear legislative guidance. We also encourage you to consider a structure that dramatically simplifies and professionalizes the process, providing increased funding that will expand affordable housing opportunities and make development more predictable and less risky. Of equal importance, we encourage you to avoid elements of a Trust that would duplicate current efforts, impede creativity or otherwise slow down the development process. Dedicated staff support will also be critical to the Trust carrying out its functions, which underscores the importance of avoiding duplication of efforts among committees.

Thank you for considering our initial thoughts about the creation of an Affordable Housing Trust that we believe will send the signal to the community and those who develop affordable housing that Newton is committed to expanding affordable housing opportunities in Newton. The specific details of the role, structure and funding for the Trust will be the determinants of its success and we look forward to engaging with you further on these issues as the process takes shape.

On behalf of the Partnership,

Lizbeth Heyer, Chair

CC: Newton City Council

Ruthanne Fuller,
Mayor

Barney Heath,
Director
Planning & Development

Members:

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MEMORANDUM

Date: July 23, 2021
From: Barney Heath, Director, Planning and Development Department
Amanda Berman, Director of Housing and Community Development
Lara Kritzer, Community Preservation Program Manager
To: Zoning and Planning Committee
RE: Draft Municipal Affordable Housing Trust Ordinance

Last year, Newton's City Council docketed an item to explore the possibility of creating a Municipal Affordable Housing Trust (MAHT) as a mechanism to encourage and to increase affordable housing in Newton.

The Planning and Development Department researched municipal housing trusts, how they are established, and how they were successfully implemented in communities throughout the Commonwealth. Department staff participated in several Massachusetts Housing Partnership (MHP) webinars, reviewed local and state legislation, and met with program administrators in other Massachusetts communities to better understand how the Trusts have worked in their communities. Staff also reviewed Affordable Housing Trust ordinances and the composition of their Trustee groups.

As an outcome of this research, an initial draft Newton MAHT ordinance has been developed based on available best practices to serve as a starting point for further discussions by the City Council and community. This draft has also been reviewed by the Law Department to insure that it is in keeping with the City's existing ordinances.

The primary benefit of a Municipal Affordable Housing Trust for Newton lies in its ability to expedite and to simplify the affordable housing funding process by consolidating the number of required meetings and reviews. The Trust could serve as a mechanism for allocating City funds to affordable housing projects. The Trust is anticipated to be primarily funded with Community Preservation Act (CPA) funds designated for affordable housing with Inclusionary Zoning Funds as a potential secondary funding source when available. Federal housing and community development funding (i.e. CDBG and HOME funds) would continue to be allocated by the Planning Board using the approval process prescribed in the City's Consolidated Plan.

This draft ordinance establishes a simplified funding process for affordable housing projects, allowing applicants to more quickly and efficiently apply for Trust funding to move forward with land acquisitions and affordable housing project development. The Affordable Housing Trust Fund would be governed by a seven member group of Trustees including the Mayor, a City Councilor, a Community Preservation Committee (CPC) member, and four Newton residents who have both a background in affordable housing and a deep understanding of its unique funding and procedural requirements. Members would be appointed by the Mayor and confirmed by the City Council. The Trust would meet a minimum of four (4) times annually. In keeping with state guidance, projects would be funded at the sole discretion of the Trust. The Trust will receive regular staff support, either by a member of the Planning Department or a consultant hired to assist the Trust in its duties.

The draft ordinance gives the Trust the flexibility to purchase and develop sites. Trusts, however, are considered to be part of the municipal government and are subject to all the regulations and processes associated with any municipally conducted project. For this reason, at the state level, the Massachusetts Housing Partnership generally recommends that Trusts provide funding for affordable housing projects rather than develop the housing themselves. The Trust would be entirely separate from the Newton Housing Partnership, which would continue to provide advice on affordable housing policy and implementation.

The process of reviewing the draft ordinance began on July 20 with an initial review by the Newton Housing Partnership. Discussion on the draft ordinance will continue at the Newton Housing Partnership's August meeting and a separate review of the proposed ordinance is also scheduled for the Community Preservation Committee's August 10 meeting.

Part I ADMINISTRATION OF THE GOVERNMENT**Title VII** CITIES, TOWNS AND DISTRICTS**Chapter 44** MUNICIPAL FINANCE**Section 55C** MUNICIPAL AFFORDABLE HOUSING TRUST FUND

Section 55C. (a) Notwithstanding section 53 or any other general or special law to the contrary, a city or town that accepts this section may establish a trust to be known as the Municipal Affordable Housing Trust Fund, in this section called the trust. The purpose of the trust is to provide for the creation and preservation of affordable housing in municipalities for the benefit of low and moderate income households and for the funding of community housing, as defined in and in accordance with the provisions of chapter 44B. Acceptance shall be by majority vote of the municipal legislative body under section 4 of chapter 4.

(b) There shall be a board of trustees, in this section called the board, which shall include no less than 5 trustees, including the chief executive officer, as defined by section 7 of chapter 4, of the city or town, but where the chief executive officer is a multi-member body, that body shall designate a minimum of 1 of its members to serve on the board. Trustees shall be appointed in a city by the mayor or by the city manager in a Plan D or Plan E municipality, subject in either case, to confirmation by the city council, and in a town by the board of selectmen, shall serve for a

term not to exceed 2 years, and are designated as public agents for purposes of the constitution of the commonwealth. Nothing in this subsection shall prevent a board of selectmen from appointing the town manager or town administrator as a member or chair of the board, with or without the power to vote.

(c) The powers of the board, all of which shall be carried on in furtherance of the purposes set forth in this act, shall include the following powers, but a city or town may, by ordinance or by-law, omit or modify any of these powers and may grant to the board additional powers consistent with this section:—

(1) to accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property tendered to the trust in connection with any ordinance or by-law or any general or special law or any other source, including money from chapter 44B; provided, however, that any such money received from chapter 44B shall be used exclusively for community housing and shall remain subject to all the rules, regulations and limitations of that chapter when expended by the trust, and such funds shall be accounted for separately by the trust; and provided further, that at the end of each fiscal year, the trust shall ensure that all expenditures of funds received from said chapter 44B are reported to the community preservation committee of the city or town for inclusion in the community preservation initiatives report, form CP-3, to the department of revenue;

(2) to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;

- (3) to sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking relative to trust property as the board deems advisable notwithstanding the length of any such lease or contract;
- (4) to execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases, grant agreements and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the board engages for the accomplishment of the purposes of the trust;
- (5) to employ advisors and agents, such as accountants, appraisers and lawyers as the board deems necessary;
- (6) to pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the board deems advisable;
- (7) to apportion receipts and charges between incomes and principal as the board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;
- (8) to participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;

- (9) to deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the board may deem proper and to pay, out of trust property, such portion of expenses and compensation of such committee as the board may deem necessary and appropriate;
- (10) to carry property for accounting purposes other than acquisition date values;
- (11) to borrow money on such terms and conditions and from such sources as the board deems advisable, to mortgage and pledge trust assets as collateral;
- (12) to make distributions or divisions of principal in kind;
- (13) to comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this act, to continue to hold the same for such period of time as the board may deem appropriate;
- (14) to manage or improve real property; and to abandon any property which the board determined not to be worth retaining;
- (15) to hold all or part of the trust property uninvested for such purposes and for such time as the board may deem appropriate; and
- (16) to extend the time for payment of any obligation to the trust.
- (d) Notwithstanding any general or special law to the contrary, all moneys paid to the trust in accordance with any zoning ordinance or by-law, exaction fee, or private contributions shall be paid directly into the trust and need not be appropriated or accepted and approved into the

trust. General revenues appropriated into the trust become trust property and to be expended these funds need not be further appropriated. All moneys remaining in the trust at the end of any fiscal year, whether or not expended by the board within 1 year of the date they were appropriated into the trust, remain trust property.

(e) The trust is a public employer and the members of the board are public employees for purposes of chapter 258.

(f) The trust shall be deemed a municipal agency and the trustees special municipal employees, for purposes of chapter 268A.

(g) The trust is exempt from chapters 59 and 62, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the commonwealth or any political subdivision thereof.

(h) The books and records of the trust shall be audited annually by an independent auditor in accordance with accepted accounting practices.

(i) The trust is a governmental body for purposes of sections 23A, 23B and 23C of chapter 39.

(j) The trust is a board of the city or town for purposes of chapter 30B and section 15A of chapter 40; but agreements and conveyances between the trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the city or town shall be exempt from said chapter 30B.