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Candace Havens
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WORKING SESSION MEMORANDUM

DATE: March 8, 2013
TO: Alderman Marcia Johnson, Chairman
Members of the Zoning and Planning Committee
FROM: Candace Havens, Director of Planning and Development
James Freas, Chief Planner for Long-Range Planning
Trisha Kenyon Guditz, Housing Program Manager
RE: Affordable Housing Trusts Discussion
MEETING DATE: March 11, 2013
CC: Board of Aldermen

Housing Program Staff will be attending the Zoning and Planning Committee meeting to discuss the concept of a municipal affordable housing trust in anticipation of staff bringing forward a proposal to form such a trust in the City of Newton. Angus Jennings, AICP will be attending as a guest speaker to share his knowledge and experience gained as the manager of the Town of Westford's Affordable Housing Trust.

Guest speaker

Mr. Jennings is a planning consultant and the President of the Massachusetts Association of Planning Directors. Until recently, he was the Director of Land Use Management for the Town of Westford where he still works on an interim basis. His responsibilities for the Town included oversight of the Zoning, Planning, Permitting, Conservation and Building Departments, and project management for a range of public policy, infrastructure and community and economic development initiatives.

Mr. Jennings previously served as Principal Planner for Concord Square Planning & Development, Inc., a Boston-based consulting firm which played a major role in the adoption of 40R Smart Growth Zoning legislation in Massachusetts and similar "Incentive Housing Zones" legislation in Connecticut. At Concord Square, he served as project manager for

nearly 30 public-and private-sector contracts, including leading zoning amendments in 10 communities and serving as lead consultant to Federal Realty Investment Trust in securing the first "I-Cubed" infrastructure financing district in Massachusetts. Angus has also served as the Town Planner in Marshfield, MA, and a Planning Assistant for the City of Baltimore, MD.

Mr. Jennings holds a Master's Degree in City and Regional Planning from Cornell University.

Background to the discussion

Over a two-year period, members of the Newton Housing Partnership met to determine if there was more a more predictable, efficient and less time consuming way to provide the financial subsidies necessary to develop affordable rental and ownership housing in Newton. Most affordable housing developers rely on multiple sources of financing to complete a project and a protracted development process adds to the overall cost of development. Streamlining the public funding process is essential since smaller developments, like the ones that typically access City public funds, are the least able to absorb the costs that result from a lengthy development process. The Newton Housing Partnership is recommending that the City consider establishing an affordable housing trust which can shorten the process for securing funds and provide an overall degree of cohesion and continuity that is not currently in place at this time.

MUNICIPAL AFFORDABLE HOUSING TRUST BACKGROUND

State enabling legislation

The Municipal Affordable Housing Trust Fund Law at MGL c.44, s. 55C was passed by the State legislature in 2005. The purpose of creating a municipal affordable housing trust is to support the creation and preservation of affordable housing in municipalities for the benefit of low-and moderate-income households. Prior to 2005, communities could only create trusts through a home rule petition which required approval from the State legislature.

Board of Trustees

Trusts are usually managed by a nonprofit organization or a governmental agency and the statute requires that a board of trustees be established to manage and oversee it. The board must include at least five members including the chief executive officer, or designee. (In Newton, the chief executive officer is the mayor.)The remaining trustees are appointed by the chief executive officer subject to confirmation by a municipality's legislative body—in Newton, the Board of Aldermen. Trustees serve for a term not to exceed two years with the exception of the chief executive officer. Generally, board members should include individuals with experience in housing development, planning, architecture, real estate and finance/lending.

Powers of the Board of Trustees

Under the statute, a trust has broad powers characterized as "...the creation and preservation of affordable housing". Therefore, eligible uses of a trust can include acquisition,

rehabilitation, new construction, preservation and pre-development costs. To this end, a municipal affordable housing trust can:

- Accept and receive real property, personal property, or money by gift, grant, contribution, devise or transfer from a range of entities.
- Purchase, own and manage real estate property.
- Sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract.
- Execute, acknowledge, and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts and other instruments incident to any transaction in which the board uses for the accomplishment of the purposes of the trust.
- Other powers consistent with the creation and preservation of affordable housing.

A municipality can, either by ordinance or by-law, exclude or modify any of the powers identified in the statute and can also grant additional powers to the board if they are consistent with the purposes of the statute.

Funding a trust

Trusts are typically capitalized by dedicated, recurring and non-recurring revenue sources. Some possible sources of funding for an affordable housing trust, subject to existing processes such as Aldermanic approval, can include:

- Community Preservation Funds
- Funds derived from inclusionary zoning requirements
- Direct appropriations
- Donations/bequests
- Loan repayments

Establishing an affordable housing trust

Establishing an affordable housing trust in Newton requires a majority of the Board of Aldermen to vote to accept the provisions of the enabling legislation. In the same or subsequent action, the Board of Aldermen must specify how many members will constitute the board of trustees and the initial length of their terms (not to exceed two years, except for the chief executive officer). In addition, the Board of Aldermen may specify the composition of the trust board and omit, modify, or add to the powers authorized by the statute. Following the Aldermanic vote(s), individuals are appointed to the board of trustees by the chief executive officer, subject to confirmation by the Board of Aldermen.