



Watertown Town Council

Administration Building
149 Main Street
Watertown, MA 02472
Phone: 617-972-6470

ELECTED
OFFICIALS:

Mark S. Sideris,
Council President

Vincent J. Piccirilli, Jr.,
Vice President &
District C Councilor

Caroline Bays
Councilor At Large

Anthony J. Donato,
Councilor At Large

John G. Gannon,
Councilor At Large

Anthony Palomba,
Councilor At Large

Angeline B. Kounelis,
District A Councilor

Lisa J. Feltner,
District B Councilor

Report of the Joint Committees on Economic Development & Planning and Human Services Meeting Date: September 16, 2021

The Committee convened a hybrid meeting with remote participation for audience members on Thursday September 16, 2021 at 5:00 pm in the Richard E. Mastrangelo Council Chambers. Present in the Chambers were Lisa Feltner, Economic Development & Planning vice chair; Vincent Piccirilli, Economic Development & Planning secretary; Anthony Palomba, Human Services chair; Caroline Bays, Human Services vice chair; and John Gannon, Human Services secretary. Staff present were Steven Magoon, Assistant Town Manager/Director of Community Development and Planning; and Laurence Field, Senior Housing Planner. Also present was Fred Reynolds from the Watertown Housing Partnership.

Present remotely were President Mark Sideris, Councilor Anthony Donato; David Leon, Cliff Cook, Michael Lara, and Helen Oliver from the Watertown Housing Partnership; Elodia Thomas, member of the Community Preservation Committee; and John M. Airasian and Michael Hanlon.

The purpose of the meeting was to review the affordable housing initiatives presented by the Watertown Housing Partnership and the Department of Community Development and Planning including establishing a Municipal Affordable Housing Trust, conducting a Nexus Study to determine feasibility of creating a Linkage Fee Program, and a draft Community Preference Policy. In addition, topics to be discussed include the creation of an ordinance allowing for Affordable Dwelling Units, and a permanent Rental Assistance Program. Councilor Palomba chaired.

Material used in the discussion were in an email dated August 4, 2021 with documents for establishing a Municipal Affordable Housing Trust, conducting a Nexus Study, and a draft Community Preference Policy (Attachment A).

Municipal Affordable Housing Trust

Mr. Field began by reviewing the Committee's request from the April 12 meeting to have KP Law prepare documents to establish the Trust. This consists of an ordinance with two attachments – the Declaration of Trust, and an Order dissolving the Watertown Housing Partnership. The changes made by KP Law were technical in nature and did not change the substance of what was previously discussed by the Committee. Mr. Field clarified the process would be for the Town Council to vote on the Ordinance, then members of the Trust would be appointed by the Manager and confirmed by the Council, then the members of the Trust would execute the Declaration of Trust, and then ten days later the Order dissolving the WHP would take effect.

Mr. Reynolds, who is a real estate agent who works in Watertown but is not a Watertown resident, asked that the language be changed to allow people who work in Watertown to be a Trustee. Mr. Lara,

the Executive Director of the Watertown Housing Authority, stated that he, along with prior directors of the Housing Authority, have not been residents of Watertown and would not be able to be a Trustee.

- Councilor Piccirilli made a motion, seconded by Councilor Feltner, to recommend the Town Council move forward with the proposed ordinance creating a Watertown Affordable Housing Trust including the Declaration of Trust and the Order to dissolve the Watertown Housing Partnership. Voted unanimously 5-0.

Nexus Study for Linkage Fees

Mr. Field reviewed the memo on conducting the Nexus Study, which could then be used to determine how the Town Council could proceed with legislation to impose linkage fees on commercial developments to fund affordable housing. The key point is that new commercial development in Watertown creates demand for new employees who may not be able to live in Watertown because of the lack of affordable housing. Typically a Home Rule Petition would be required to establish linkage fees. It was estimated the study could cost \$50,000 and take 4 to 6 months to complete.

In the discussion by the Committee it was noted that Watertown is currently experiencing a boom in life science commercial development, adding urgency to the need to move quickly on this matter.

- Councilor Piccirilli made a motion, seconded by Councilor Bays, to recommend the Town Council request the Administration proceed, as soon as possible, with the Nexus Study for Affordable Housing Linkage Fees. Voted unanimously 5-0.

Community Preference Policy

Mr. Field reviewed the draft local preference policy recommended by the Watertown Housing Partnership. He noted this is a complex issue because of the state and federal laws governing housing, and prepared a presentation to help explain it (Attachment B). In general there is a three part test to establish a percentage of affordable housing be set aside for people who live or work in the community:

1. The local set-aside must be based on a needs assessment.
2. The needs assessment must justify the percentage for local set-aside, with 70% being the maximum.
3. The policy must demonstrate it will not have a disparate impact on protected classes.

Based on the above, the WHP and the DCDP recommend up to 50% for a local set-aside, or a lower share as determined by local authorities for individual projects.

Due to the lack of time the Committee agreed to continue the discussion to a future meeting. The Committee also received a memo on Affordable Dwelling Units and a permanent Rental Assistance Program (Attachment C) but these topics will also be taken up at a future meeting.

Councilor Gannon who was listed on the agenda as the contact for public comment, noted no emails were received. The meeting adjourned at 6:30 pm, following a unanimous vote.

Report prepared by Vincent Piccirilli

Attachments:

- A. Email August 4, 2021 with documents for establishing a Municipal Affordable Housing Trust, conducting a Nexus Study, and a draft Community Preference Policy
- B. Presentation on Community Preference Policy
- C. Memo September 15, 2021 on Affordable Dwelling Units and a permanent Rental Assistance Program

From: [Driscoll, Michael](#)
To: [Osmond, Marsha](#); [Hand, JoAnna](#)
Cc: [Magoon, Steve](#); [Comm Dev & Develop](#); [DPW2](#); [Dept. Heads](#); [Health](#)
Subject: Housing Plan matters ready for consideration
Date: Wednesday, August 4, 2021 3:57:14 PM

Please include in today's Misc Items to Council.

From: Magoon, Steve
Sent: Wednesday, August 04, 2021 2:57 PM
To: Driscoll, Michael <mdriscoll@watertown-ma.gov>
Cc: Hand, JoAnna <jhand@watertown-ma.gov>; Osmond, Marsha <mosmond@watertown-ma.gov>; Field, Larry <lfield@watertown-ma.gov>; Mark R. Reich <MReich@k-plaw.com>
Subject: FW: Housing Plan matters ready for consideration

On April 12, a joint subcommittee meeting of the Economic Development and Planning and Human Services committees of the Town Council met to discuss affordable housing issues and asked that staff develop recommendations regarding a number of housing related items. Also, the Watertown Housing Partnership further developed recommendations to implement the Housing Plan recently adopted by the Town Council.

Staff has worked with both the Watertown Housing Partnership and legal counsel to further develop recommendations in regard to these items. Those items are listed below with links to materials that have been further developed in response to this discussion.

Please share this information with the Honorable Town Council for further discussion at a future joint subcommittee meeting. Thanks

From: Field, Larry <lfield@watertown-ma.gov>
Sent: Friday, July 30, 2021 12:48 PM
To: Magoon, Steve <smagoon@watertown-ma.gov>
Subject: Housing Plan matters ready for consideration

Steve:

There are now three Housing Plan matters ripe for consideration by the Council Committees on Economic Development & Planning and Human Services. These are:

1. Municipal affordable housing trust. The committees considered an initial draft of the declaration of trust at their joint meeting on April 12, 2021. Since then, KP Law reviewed the draft trust document, as well as a draft ordinance, and created an accompanying document (order to dissolve the Housing Partnership). This package is ready for further consideration and can be read/downloaded [here](#).
2. Nexus study. At the April 12 meeting, committee members asked about the Plan's recommendation that the Town consider a nexus study to evaluate the linkage between commercial development and increased housing demand. Such a study is a necessary first

step in considering a linkage fee. The committees asked staff to provide a memo for the next meeting discussing a possible nexus study. The memo can be read/downloaded [here](#).

3. Local preference policy. The Housing Plan contained a recommendation that a local preference policy for use in affordable housing lotteries be considered. After several meetings evaluating the data and discussing the options, the Housing Partnership adopted a written policy, to be transmitted to the Council for its consideration and endorsement. Under the inclusionary zoning ordinance, the WHP is the body that would, in the first instance, set and implement such a policy. This document has been reviewed and revised by KP Law and is ready for consideration. The policy can be read/downloaded [here](#).

Thank you,

Larry Field

DRAFT ORDINANCE—MUNICIPAL AFFORDABLE HOUSING TRUST

§ __-01 DECLARATION OF INTENT

Whereas, safe, healthy and financially affordable housing is a critical need within the Town of Watertown and throughout the Greater Boston region; and

Whereas, the Housing Plan adopted by the Town of Watertown in March 2021 documented the need to create and preserve more affordable housing within the Town; and

Whereas, the Watertown Housing Partnership has led the Town’s efforts to create affordable housing and has earned the community’s appreciation for its hard work and key role in the progress the Town has achieved; and

Whereas, the WHP has recommended the formation of a municipal affordable housing trust under MGL c. 44, § 55C, as a logical next step in Watertown’s efforts; and

Whereas, it is the intent of this Ordinance to accept the provisions of MGL c. 44, §55C to establish a trust to facilitate the creation and preservation of affordable housing within the Town of Watertown for the benefit of low- to moderate-income households and for the funding of community housing, and to amend the Code of Ordinances to add an affordable housing trust ordinance, as detailed below.

Now, therefore, the City known as the Town of Watertown shall have a municipal affordable housing trust to accomplish this purpose.

§ __-02 FORMATION OF A WATERTOWN MUNICIPAL HOUSING TRUST

There is hereby created in the Town of Watertown, pursuant to the authority granted by MGL c. 44, § 55C, an affordable housing trust to be known as the "Watertown Affordable Housing Trust," hereafter referred to in this chapter as the "Trust."

§ __-03 PURPOSE

The purpose of the Trust is to provide for the creation and preservation of affordable housing within the Town of Watertown for the benefit of low- to moderate-income households and for the funding of community housing, as defined in and in accordance with the provisions of MGL c. 44B.

§ __-04 APPOINTMENT AND TENURE OF TRUSTEES

(A) Composition. The Trust shall be governed by a Board of Trustees (the “Board”) in accordance with MGL c. 44, §55C, as revised from time to time, and the authority granted by the Town Council. The Board of Trustees shall be composed of seven (7) Trustees that meet at regular intervals. The Town Manager shall serve as one (1) of the Trustees.

(B) Appointment and Tenure of Trustees; Vacancies. The Town Manager shall appoint Trustees for a two (2) year term, subject to confirmation by the Town Council, such term to end on June 30 of the expiration year or until such time as a successor Trustee is appointed. The Trustees first appointed shall have staggered terms, with three (3) of the appointed Trustees initially serving a one-year term, and the remaining three (3) serving a two-year term. Thereafter, all appointments and reappointments, with the exception of the Town Manager’s term, shall be for a period of two (2) years. Trustees may be reappointed for additional terms.

Any Trustee may resign by written instrument signed and acknowledged by such Trustee and duly filed with the Town Clerk. If a Trustee shall die, resign, or for any other reason cease to be a Trustee hereunder before his/her term of office expires, any successor Trustee shall be appointed by the

Town Manager, subject to confirmation by the Town Council, provided that in each case, the said appointment and acceptance in writing by the Trustee so appointed is filed with the Town Clerk.

(C) Qualifications. Trustees appointed by the Town Manager shall be a group of diverse residents who have relevant experience in the fields of real estate, housing, banking, finance, law, architecture, community planning and/or similar areas of expertise relating to the creation and preservation of affordable housing. Any Trustee who ceases to be a Town resident shall promptly provide written notification of the change in residence to the Trust and to the Town Clerk. The Trustee may serve until a successor is appointed.

(D) Service Without Compensation. The Trustees shall serve without compensation.

(E) Removal. Any Trustee may be removed for cause by the Town Manager after the opportunity for a hearing.

§ __-.05 POWERS OF TRUSTEES

(A) Authority and Responsibilities. The powers of the Board, all of which shall be carried on in furtherance of the purposes set forth in MGL c. 44, § 55C, are as follows:

(1) To accept and receive property, whether real or personal, by gift, grant, contribution, devise, or transfer from any person, firm, corporation or other public or private entity, including without limitation money, grants of funds or other property tendered to the Trust in connection with provisions of any ordinance or any general or special law or any other source, including money from MGL c. 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 Watertown Community Preservation Committee for inclusion in the community preservation initiatives report, form CP-3, to the Massachusetts 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 Trustees deem 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 or join or form a partnership, corporation or any other legally organized entity to accomplish the purposes of this Trust and 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 Trustees 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 Trustees deem 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 of 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 MGL c. 44, § 55C, 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 determines 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 Trustees may deem appropriate;

(16) To extend the time for payment of any obligation to the Trust;

(17) To compensate the Town for services provided as authorized by the Town Manager and in accordance with applicable laws, including, but not limited to, dedicated staff to the Board, engineering support for project specific activities, and other Town services, as requested by the Board to the Town Manager;

(18) To administer certain affordable housing accounts held by the Town, including the WestMetro HOME Consortium and the Community Development Block Grant; and

(19) To perform such other duties and responsibilities as the Town Council may direct by ordinance, including but not limited to, reviewing development applications which have or propose affordable housing units.

(B) Limitations. Neither the Board of Trustees nor any Trustee, agent or officer of the Trust shall have the authority to bind the Town, except in the manner specifically authorized herein. Any debt incurred by the Trust shall not constitute a pledge of the full faith and credit of the Town of Watertown, and all documents related to any debt shall contain a statement that the holder of any such debt shall have no recourse against the Town of Watertown, with an acknowledgement of said statement by the holder.

§ ____-.06 MEETINGS OF THE TRUSTEES

(A) Meetings. The Trust shall meet at least quarterly at a time and place as the Board shall determine. Notice of all meetings shall comply with the provisions of the Open Meeting Law, MGL c. 30A, §§ 18-25. A quorum at any meeting shall be a majority of the Trustees then serving. Meetings shall be scheduled by the Chair. Special meetings may be called by the Chair or by any two (2) Trustees.

(B) Officers. The Trustees shall designate a Chair, Vice-Chair and a Clerk. In the Chair's absence, the Vice-Chair shall preside over the meeting.

§ ____-.07 ACTS OF THE TRUSTEES

Provided that a quorum is present, a majority of Trustees may exercise any or all of the powers of the Trustees hereunder and may execute on behalf of the Trustees any and all instruments with the same effect as though executed by all the Trustees, except that any instrument of amendment under _____.11 shall be conclusive only if signed by all Trustees.

§ ____-.08 LEGAL STATUS OF THE TRUST

(A) Public Employer. The Housing Trust is a public employer, and the members of the Board of Trustees are public employees for purposes of MGL Chapter 258.

(B) Municipal Agency. The Housing Trust shall be deemed a municipal agency and the Trustees shall be deemed as special municipal employees for purposes of MGL Chapter 268A.

(C) Taxes. The Housing Trust is exempt from MGL 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.

(D) Governmental Body. The Housing Trust is a governmental body for purposes of MGL Chapter 30A, §§ 18-25.

(E) Instrumentality of the Town. The Housing Trust is a board of the Town of Watertown for purposes of MGL Chapter 30B and MGL Chapter 40, § 15A, but agreements and conveyances between the Trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the Town shall be exempt from said MGL Chapter 30B.

§ ____-.09 FUNDS OF THE TRUST

(A) Funds Paid into the Trust. Notwithstanding any general or special law to the contrary, all monies paid to the Trust in accordance with any zoning ordinance, exaction fee, or private contribution shall be paid directly into the Trust and need not be appropriated or accepted into the Trust. General revenues appropriated into the Trust become Trust property and these funds need not be further appropriated to be expended. All monies remaining in the Trust at the end of any fiscal year, whether or not expended by the Board within one year of the date they were appropriated into the Trust, remain Trust property.

(B) Custodian. The Town of Watertown Treasurer/Collector shall be the custodian of the Housing Trust's funds. The Treasurer/Collector shall invest the funds in the manner authorized by state statute. Any income or proceeds received from the investment of funds shall be credited to and become part of the Trust. Expenditures by the Trust shall be processed through the warrant but shall be controlled by the provisions of MGL c. 44, § 55C.

§ __-.10 REPORTS AND ACCOUNTS OF THE TRUSTEES

(A) Accounts. The books and records of the Trust shall be maintained by the Town Treasurer/Collector and audited annually by an independent auditor in accordance with accepted accounting practice. This audit may be part of the annual Town audit.

(B) Reporting. The Trustees shall make an annual report to the Town. The report shall include a description and source of funds received and expended and the type of affordable housing programs or properties assisted with the funding. Such report shall be sent to the Manager not later than December 31 in each year, and a copy thereof shall be filed with the Department of Community Development and Planning. The Trustees shall also provide the Town Council with a copy of the Housing Trust's annual audit.

§ __-.11 AMENDMENTS

The provisions of this Ordinance may be amended from time to time except as to those provisions specifically required under MGL c. 44, § 55C and/or under Town of Watertown ordinances, by an instrument in writing signed by all the Trustees and approved at a meeting called for that purpose, provided that in each case, a certificate of amendment has been recorded with the Registry of Deeds and/or filed with the Land Registration Office.

§ __-.12 DURATION OF THE TRUST

The Trust shall be of indefinite duration, unless terminated by a majority vote of the Town Council in accordance with MGL c.4, § 4B, provided that an instrument of termination together with a certified copy of the Town Council vote are duly recorded and/or filed with the Registry. Upon termination of the Trust, subject to the payment of or making provisions for the payment of all obligations and liabilities of the Trust, the net assets of the Trust shall be transferred to the Town and held by the Town Council for affordable housing purposes. In making any such distribution, the Trustees may, subject to the approval of the Town Council, sell all or any portion of the Trust property and distribute the net proceeds thereof or they may distribute any of the assets in kind. The powers of the Trustees shall continue until the affairs of the Trust are concluded.

§ __-.13 DECLARATION OF TRUST

The Trustees are authorized to execute a Declaration of Trust and Certificates of Trust for the Watertown Affordable Housing Trust, consistent with MGL c. 44, § 55C and this ordinance to be recorded with the Middlesex South District Registry of Deeds and filed with the Middlesex South Registry District of the Land Court.

**DECLARATION OF TRUST
TOWN OF WATERTOWN
MUNICIPAL AFFORDABLE HOUSING TRUST**

THIS DECLARATION OF TRUST is hereby made as of this ____ day of _____, 2021, by the Town of Watertown, acting by and through its Town Council, as approved by vote at its meeting of _____, 2021, pursuant to MGL c.44, §55C.

ARTICLE I: NAME OF THE TRUST

The Trust shall be called the “Watertown Affordable Housing Trust” (hereafter, the “Trust”).

ARTICLE II: PURPOSE

The purpose of the Trust is to provide for the creation and preservation of affordable housing within the Town of Watertown for the benefit of low- to moderate-income households and for the funding of community housing, as defined in and in accordance with the provisions of MGL c. 44B.

ARTICLE III: APPOINTMENT AND TENURE OF TRUSTEES

(A) Composition. The Trust shall be governed by a Board of Trustees (the “Board”) in accordance with MGL c. 44, §55C, as revised from time to time, and the authority granted by the Town Council. The Board of Trustees shall be composed of seven (7) Trustees that meet at regular intervals. The Town Manager shall serve as one (1) of the Trustees.

(B) Appointment and Tenure of Trustees; Vacancies. The Town Manager shall appoint Trustees for a two (2) year term, subject to confirmation by the Town Council, such term to end on June 30 of the expiration year or until such time as a successor Trustee is appointed. The Trustees first appointed shall have staggered terms, with three (3) of the appointed Trustees initially serving a one-year term, and the remaining three (3) serving a two-year term. Thereafter, all appointments and reappointments, with the exception of the Town Manager’s term, shall be for a period of two (2) years. Trustees may be reappointed for additional terms.

Any Trustee may resign by written instrument signed and acknowledged by such Trustee and duly filed with the Town Clerk. If a Trustee shall die, resign, or for any other reason cease to be a Trustee hereunder before his/her term of office expires, any successor Trustee shall be appointed by the Town Manager, subject to confirmation by the Town Council, provided that in each case, the said appointment and acceptance in writing by the Trustee so appointed is filed with the Town Clerk. Upon the appointment of any succeeding Trustee and the filing of such appointment, the title to the Trust estate shall thereupon and without the necessity of any conveyance be vested in such succeeding Trustee jointly with the remaining Trustees.

(C) Qualifications. Trustees appointed by the Town Manager shall be a group of diverse residents who have relevant experience in the fields of real estate, housing, banking, finance, law, architecture, community planning and/or similar areas of expertise relating to the creation and preservation of affordable housing. Any Trustee who ceases to be a Town resident shall promptly provide written notification of the change in residence to the Trust and to the Town Clerk. The Trustee may serve until a successor is appointed.

(D) Service Without Compensation. The Trustees shall serve without compensation.

(E) Removal. Any Trustee may be removed for cause by the Town Manager after the opportunity for a hearing.

ARTICLE IV: POWERS OF TRUSTEES

(A) Authority and Responsibilities. The powers of the Board, all of which shall be carried on in furtherance of the purposes set forth in MGL c. 44, § 55C, are as follows:

(1) To accept and receive property, whether real or personal, by gift, grant, contribution, devise, or transfer from any person, firm, corporation or other public or private entity, including without limitation money, grants of funds or other property tendered to the Trust in connection with provisions of any ordinance or any general or special law or any other source, including money from MGL c. 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 Watertown Community Preservation Committee for inclusion in the community preservation initiatives report, form CP-3, to the Massachusetts 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 Trustees deem 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 or join or form a partnership, corporation or any other legally organized entity to accomplish the purposes of this Trust and 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 Trustees 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 Trustees deem 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 of 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 MGL c. 44, § 55C, 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 Trustees may deem appropriate;

(16) To extend the time for payment of any obligation to the Trust;

(17) To compensate the Town for services provided as authorized by the Town Manager and in accordance with applicable laws, including, but not limited to, dedicated staff to the Board, engineering support for project specific activities, and other Town services, as requested by the Board to the Town Manager;

(18) To administer certain affordable housing accounts held by the Town, including the WestMetro HOME Consortium and the Community Development Block Grant; and

(19) To perform such other duties and responsibilities as the Town Council may direct by ordinance, including but not limited to, reviewing development applications which have or propose affordable housing units.

(B) Limitations. Neither the Board of Trustees nor any Trustee, agent or officer of the Trust shall have the authority to bind the Town, except in the manner specifically authorized herein. Any debt incurred by the Trust shall not constitute a pledge of the full faith and credit of the Town of Watertown, and all documents related to any debt shall contain a statement that the holder of any such debt shall have no recourse against the Town of Watertown, with an acknowledgement of said statement by the holder.

ARTICLE V: MEETINGS OF THE TRUSTEES

(A) Meetings. The Trust shall meet at least quarterly at a time and place as the Board shall determine. Notice of all meetings shall comply with the provisions of Open Meeting Law, MGL c. 30A, §§ 18-25. A

quorum at any meeting shall be a majority of the Trustees then serving. Meetings shall be scheduled by the Chair. Special meetings may be called by the Chair or by any two (2) Trustees.

(B) Officers. The Trustees shall designate a Chair, Vice-Chair and a Clerk. In the Chair's absence, the Vice-Chair shall preside over the meeting.

ARTICLE VI: ACTS OF THE TRUSTEES

Provided that a quorum is present, a majority of Trustees may exercise any or all of the powers of the Trustees hereunder and may execute on behalf of the Trustees any and all instruments with the same effect as though executed by all the Trustees, except that any instrument of amendment under Article X or instrument of termination under Article XI shall be conclusive only if signed by all Trustees. No Trustee shall be required to give bond. No license of court shall be required to confirm the validity of any transaction entered into by the Trustees with respect to the Trust Estate. No one dealing with the Trustees need inquire concerning the validity of anything the Trustees purport to do or see to the application of anything paid to or upon the order of the Trustees.

ARTICLE VII: LEGAL STATUS OF THE TRUST

(A) Public Employer. The Housing Trust is a public employer, and the members of the Board of Trustees are public employees for purposes of MGL Chapter 258.

(B) Municipal Agency. The Housing Trust shall be deemed a municipal agency and the Trustees shall be deemed as special municipal employees for purposes of MGL Chapter 268A.

(C) Taxes. The Housing Trust is exempt from MG. 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.

(D) Governmental Body. The Housing Trust is a governmental body for purposes of MGL Chapter 30A, §§ 18-25.

(E) Instrumentality of the Town. The Housing Trust is a board of the Town of Watertown for purposes of MG. Chapter 30B and MGL Chapter 40, § 15A, but agreements and conveyances between the Trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the Town shall be exempt from said MGL Chapter 30B.

ARTICLE VIII: FUNDS OF THE TRUST

(A) Funds Paid into the Trust. Notwithstanding any general or special law to the contrary, all monies paid to the Trust in accordance with any zoning ordinance, exaction fee, or private contribution shall be paid directly into the Trust and need not be appropriated or accepted into the Trust. General revenues appropriated into the Trust become Trust property and these funds need not be further appropriated to be expended. All monies remaining in the Trust at the end of any fiscal year, whether or not expended by the Board within one year of the date they were appropriated into the Trust, remain Trust property.

(B) Custodian. The Town of Watertown Treasurer/Collector shall be the custodian of the Housing Trust's funds. The Treasurer/Collector shall invest the funds in the manner authorized by state statute. Any income or proceeds received from the investment of funds shall be credited to and become part of the

Trust. Expenditures by the Trust shall be processed through the warrant but shall be controlled by the provisions of MGL c. 44, § 55C.

ARTICLE IX: REPORTS AND ACCOUNTS OF THE TRUSTEES

(A) Accounts. The books and records of the Trust shall be maintained by the Town Treasurer/Collector and audited annually by an independent auditor in accordance with accepted accounting practice. This audit may be part of the annual Town audit.

(B) Reporting. The Trustees shall make an annual report to the Town. The report shall include a description and source of funds received and expended and the type of affordable housing programs or properties assisted with the funding. Such report shall be sent to the Manager not later than December 31 in each year, and a copy thereof shall be filed with the Department of Community Development and Planning. The Trustees shall also provide the Town Council with a copy of the Housing Trust's annual audit.

ARTICLE X: AMENDMENT OF THE DECLARATION OF TRUST

This Declaration of Trust may be amended from time to time except as to those provisions specifically required MGL c. 44, § 55C and/or under Town of Watertown ordinances, by an instrument in writing signed by all the Trustees and approved at a meeting called for that purpose, provided that in each case, a certificate of amendment has been recorded with the Registry of Deeds and/or filed with the Land Registration Office.

ARTICLE XI: DURATION OF THE HOUSING TRUST

The Trust shall be of indefinite duration, unless terminated by a majority vote of the Town Council in accordance with MGL c.4, § 4B, provided that an instrument of termination together with a certified copy of the Town Council vote are duly recorded and/or filed with the Registry. Upon termination of the Trust, subject to the payment of or making provisions for the payment of all obligations and liabilities of the Trust, the net assets of the Trust shall be transferred to the Town and held by the Town Council for affordable housing purposes. In making any such distribution, the Trustees may, subject to the approval of the Town Council, sell all or any portion of the Trust property and distribute the net proceeds thereof or they may distribute any of the assets in kind. The powers of the Trustees shall continue until the affairs of the Trust are concluded.

ARTICLE XII: RECORDS TO BE CONCLUSIVE, CERTIFICATE AS TO FACTS

Every contract, deed, mortgage, lease and other instrument executed by a majority of the Trustees, as appears from instruments or certificates recorded with the Registry, to be Trustees hereunder shall be conclusive evidence in favor of any person relying thereon or claiming thereunder, that at the time of the delivery thereof this Trust was in full force and effect and that the execution and delivery of such instrument was duly authorized by the Trustees except that an instrument of termination pursuant to Article XI and an instrument of amendment pursuant to Article X hereof shall be conclusive only if it appears that the delegations, amendments or termination have been executed by all of the Trustees. Any person dealing with the Trust property or the Trustees may always rely on a certificate signed by any person appearing from instruments or certificates so recorded to be a Trustee hereunder as to the identity of the then current Trustees or as to the existence or non-existence of any fact or facts which

constitute conditions precedent to acts by the Trustees or in any other manner germane to the affairs of the Trust.

ARTICLE XIII TITLES

The titles to the various Articles herein are for convenience only and are not to be considered part of said Articles nor shall they affect the meaning or the language of any such article.

WITNESS the execution under seal this ___ day of _____, 2021.

Signature blocks for Trustees/notary attestations

DRAFT ORDER—DISSOLUTION OF WATERTOWN HOUSING PARTNERSHIP

§ ___-.01 DECLARATION OF INTENT

Whereas, safe, healthy and financially affordable housing is a critical need within the Town of Watertown and throughout the Greater Boston region; and

Whereas, the Housing Plan adopted by the Town of Watertown in March 2021 documented the need to create and preserve more affordable housing within the Town; and

Whereas, the Watertown Housing Partnership has led the Town's efforts to create affordable housing and has earned the community's appreciation for its hard work and key role in the progress the Town has achieved; and

Whereas, the WHP recommended the formation of a municipal affordable housing trust under MGL c. 44, § 55C, as a logical next step in Watertown's efforts;

Whereas, the Watertown Affordable Housing Trust (the "Trust") has been established in accordance with MGL c. 44, § 55C; and

Whereas, it is the intent of this Order to dissolve the Watertown Housing Partnership and to transfer its powers and duties to the Watertown Affordable Housing Trust.

Now, therefore, the City known as the Town of Watertown orders as follows:

TRANSFER OF RESPONSIBILITIES FROM THE WATERTOWN HOUSING PARTNERSHIP

All responsibilities of the Watertown Housing Partnership shall be transferred to the Trust upon the recording of an executed declaration of trust at the registry of deeds. Said responsibilities include its administration of certain affordable housing accounts held by the Town or the WestMetro HOME Consortium, its role as an advisor to the Planning Board, Zoning Board of Appeals, Town Manager and Town Council with respect to housing matters and inclusionary zoning (Section 5.07), and its overall role in promoting the creation and preservation of affordable housing. Within 10 days after said recording of the Trust instrument, the Watertown Housing Partnership shall dissolve and terminate. After the Watertown Housing Partnership is dissolved, all references to the Partnership in Ordinances, including Section 5.07 of the Zoning Ordinance, shall mean the Trust.

ADMINISTRATION OF AFFORDABLE HOUSING ACCOUNTS

The Trust is hereby authorized to control the following accounts held by the Town Treasurer: the Affordable Housing Fund established to accept payments in lieu of the provision of inclusionary units; and the Community Development Block Grant account established for program income earned by the Town in connection with home buyer and home owner assistance. The Trust is hereby authorized to requisition and use funds held by the WestMetro HOME Consortium as program income earned by the Town in connection with past HOME projects. The Town shall continue to have the authority to requisition and use funds designated by the U.S. Department of Housing and Urban Development as the Town's annual HOME allocation.



Steve Magoon
Director

smagoon@watertown-ma.gov

TOWN OF WATERTOWN
Department of
Community Development and Planning
PLANNING OFFICE

Attachment A2

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To: Economic Development & Planning and Human Services Committees
From: Steve Magoon, Director of Community Development and Planning and
Assistant Town Manager, Larry Field, Senior Planner
Date: July 21, 2021
Re: Nexus study to evaluate possible linkage fee

As discussed at the April 12 joint committee meeting on affordable housing, there was a request for staff to provide further information about conducting a nexus study to justify a linkage fee on commercial development to fund affordable housing. This memo provides information regarding the process to analyze and support a contribution by new commercial developments to create affordable housing. If the Council approves a nexus study (further described below), it would likely cost approximately \$50,000 and take 4-6 months to complete.

Boston, Cambridge, Somerville, Medford, Gloucester, and Everett have ordinances that require new commercial development over a certain size to make a housing contribution to help fund affordable housing. The rationale for such a housing contribution is that new commercial development creates jobs and that this increases the demand for affordable housing in the community. In effect, the housing contribution, or linkage fee, is to mitigate the impact of each new development. A nexus study tests the hypothesis that there is linkage and quantifies the impact and mitigation costs. Communities with linkage fees generally set the fee at a certain rate per square foot of new commercial development above a certain size.

The nexus study would use current commercial development trends in Watertown to project the amount of future development over the next ten years and the potential industry mix. From this projection, the consultant would project the number of jobs, likely occupational mix, and wages. This would allow a forecast of housing demand, including both the number of projected units and the mix between low, moderate and middle income housing needs. Assuming there is a nexus, a separate analysis of development costs and the likely gap between those costs and the debt/equity that could be supported by the housing cash flow would quantify the subsidy needed to create the projected units. Using this needed subsidy projection, the study would recommend appropriate housing contribution rates. The study

would also examine the impact of housing contribution rates on attracting new commercial development and commercial tenants.

Once the study is complete, the Council would have the necessary information to determine whether the Town should pursue a linkage fee ordinance, including legislative action, and, if so, what rate and square footage threshold to set. It is also common for municipalities to set a date (e.g., five years) to evaluate the results and, if needed, recommend updates to the ordinance. The Town would likely seek a home rule petition to obtain explicit authorization to adopt a linkage fee.

Local Preference Policy (July 2021): for transmittal to Town Council

The Watertown Housing Plan adopted in March 2021 seeks to create and preserve deed-restricted affordable housing for a range of income-eligible households. The Town of Watertown both welcomes new residents and supports those who already live here and/or have existing ties with the Town. We are committed as a community to a diverse population. We are also a community whose residents are experiencing a rise in rents and home prices, making it hard to stay here. The local need for affordable housing has risen significantly in recent years, despite the Town’s robust production of multi-family homes.

To balance these interests fairly, the Town will follow the following guidelines in use of local preference in initial lotteries for affordable housing units. These policies shall apply when the Town participates in regulating, funding, or sponsoring the creation of affordable housing units, e.g., through its Inclusionary Zoning Ordinance, Community Preservation Act funds, HOME or Community Development Block Grant funds, or as a sponsor of affordable units itself or through another entity.

1. Non-Discrimination and Affirmative Fair Housing Marketing

The use of any local selection preference shall not have the purpose or effect of delaying, denying, or excluding participation in a housing program based on race, color, religion, national origin, gender, age, disability, ancestry, marital status, family status, veteran or military status, sexual orientation, genetic characteristics, or status as a person who is a recipient of federal, state, or local public assistance, or the requirements of such programs. When local preference is used, the developer or owner shall engage in affirmative fair housing marketing as required by the Town and by federal and state authorities. Nothing herein shall be construed to be in violation of the Fair Housing Act (“FHA”). Local residency preferences shall only be used for initial selection lotteries and shall not be advertised as they may discourage non-local potential applicants.

2. Types of Initial Selection Lotteries

The Town intends to seek approval for use of local preference when a project will require an initial selection for rental affordable units. Staff will propose use of local preference to the permit-issuing authority and to federal and state authorities, as needed. Based on available data, this body is satisfied that there is sufficient diversity likely in the local rental applicant pool that there will be no adverse fair housing effect in providing some measure of local preference.

While the Town is also interested in use of local preference in ownership lotteries, it is concerned that there is so little recent data concerning the local ownership applicant pool and the success of local minority applicants in attaining such units. Accordingly, the Town expects to seek approval for use of a local preference in future ownership lotteries but will make the final decision concerning its use when the next ownership project is pending.

3. Criteria for Local Preference

Preference shall be given to qualified applicants who fall into any of the following equally weighed categories at the time of their application: (a) individuals or families who live in Watertown; (b) households with a family member who works in Watertown or has been hired to work in Watertown; and (c) households with a family member who attends a public school in Watertown.

4. Limitation

The local preference may be used for up to 50% of the affordable units to be distributed, or such lower share as may be required by applicable authorities.

5. Review

Staff shall review the results of each selection lottery to assess the impact of using local preference and shall recommend changes, as needed, to this policy.

Local Preference in Affordable Housing Selection

SEPTEMBER 16, 2021

DHCD approval requirements

- Demonstration of local need
 - Data showing unmet local demand for affordable housing by eligible households
- Justification of the extent of local preference (which can never be higher than 70%)
- Proposed plan will not have a “disparate impact” on protected classes (e.g., minorities or individuals with a disability)

Permitted categories for local preference

- Current resident
 - Cannot differentiate based on duration (someone who has lived in town for 1 day must be treated the same as life-long resident)
- Town employee
- Employee of business based in town
- Household with children attending school system

Minimizing disparate impact

- Local preference only for initial selection
- Affirmative fair marketing plan must reach and encourage applicants from protected classes
- Cannot advertise local preference to encourage local applicants and discourage applicants from elsewhere
- May need “minority balancing”

Lottery Pools

- The number and type of pools will depend on the project.
- For projects with approved local preference, there will be two pools: local and open.
- Local applicants will be placed in both pools.



Data we collected

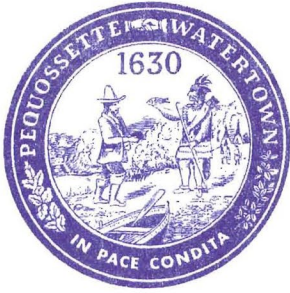
- 9 Watertown rental lotteries 2013-21 (minority participation data available for 4)
- 5 non-Watertown rental lotteries 2020-21 (minority participation data available for all)
- 2 Watertown lotteries for ownership projects 2006 & 2008 (minority participation data available for both)
- Plus other lottery data as comparison

Rental units: tentative findings

- About 40% of Town residents who enter Watertown lotteries end up leasing an affordable unit
- Since about half of local applicants are minority, both white and minority residents would benefit from local preference
- The % of local applicants who are minority will very likely exceed 27% and DHCD “minority balancing” not needed
- “Open” pools for Watertown lotteries are likely to have a higher % of minority applicants than “local” pools, but blending the two narrows the gap

Condo units: tentative findings

- Minority participation in a condo lottery may be as high as for a rental lottery
- But in one of the two Watertown lotteries, a much lower % of minority applicants than white applicants were able to buy.
- Given data on African-American asset formation, this is a particular concern about using local preference for condo units and is a reason for more caution



Steve Magoon
Director

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Attachment C

To: Economic Development & Planning and Human Services Committees
From: Steve Magoon, Director of Community Development and Planning and
Assistant Town Manager, Larry Field, Senior Planner
Date: September 15, 2021
Re: Update on Accessory Dwelling Units and Permanent Rental Assistance Program

This memo provides a brief update on two items on the September 16 meeting agenda.

Accessory Dwelling Units (ADUs)

Staff made a presentation on ADUs at the July meeting of the Watertown Housing Partnership. The presentation provided background information on ADUs, Watertown's brief experience with allowing ADUs in the 1990s, the "liberalizing" trend in surrounding communities and the choices that would need to be made in structuring an ADU ordinance. The WHP expressed interest in formulating a proposal for the Town Council's consideration in 2022 and asked staff to provide specific options for discussion purposes at the September 21 meeting.

All the staff options will include the following elements: only single-family and/or two-family forms of ownership would be eligible; the owner must occupy one of the units; sufficient parking must be provided; and if Watertown allows short-term rentals, such rentals would not be allowed in an ADU. The options will vary in other ways, such as which structures are eligible or what process is used for creating an ADU.

Permanent Rental Assistance Program

Prior to COVID, several Council members expressed an interest in creating a permanent rental assistance program. The economic impact of the pandemic changed the urgency and direction of municipal rental assistance programs throughout the state. As you know, the WHP launched an emergency rental assistance program in September 2020, using CDBG program income. To date, the WHP has committed \$275,000; meanwhile, the Watertown Community Foundation

obtained two state grants totalling \$140,000 and committed these funds to the same program. This rental assistance has supported 83 households, including 20 in public housing units.

Over the last six months, the demand lessened with a brighter economic picture and the state's significant expansion of its own rental assistance options. Existing funding can support the present level of demand. In addition, the Community Foundation expects to receive another state grant in January that would include significant money for COVID-related rental assistance. It remains unclear, however, whether demand will rise again, since COVID variants and the coming winter could lead to more economic disruption.

The Department believes that the creation of a permanent rental assistance program should be considered when it becomes clear that the COVID economic shocks are over. Until then, we think that the Town's resources should be focused on the emergency needs of those who have lost income because of COVID and are at risk of housing instability.