

**TOWN COUNCIL MINUTES
ORDINANCE COMMITTEE
Town Hall Council Chambers
June 4, 2018, Monday**

Present: Kenneth DiFazio, Chairman
Michael Smart, Vice Chairman
Rebecca Haugh, Councilor
Christopher Heffernan, Councilor
Arthur Mathews, Councilor

Also Present: Joseph Callanan, Town Solicitor
Richard Swanson, Town Auditor
Chief Richard Grimes, Weymouth Police Department
Capt. Joseph Comperchio, Weymouth Police Department
Robert Luongo, Planning Director
Jane Kudcey, Housing Coordinator

Recording Secretary: Mary Barker

Chairman DiFazio called the meeting to order at 6:45 PM.

18 089-Acceptance of G.L. C.40§8G-Mutual Police Aid Programs; Agreements

This matter was referred to the Ordinance Committee on May 7, 2018. Solicitor Callanan presented the measure. He noted that the local option statutes governs police public aid-accepting Ch. 40 gives more broad authority. This subject came up in police efforts to get certified.

Chairman DiFazio asked if the department was not certified before. Is the Solicitor suggesting the previous agreements are unlawful? Solicitor Callanan responded that this provides a less narrow scope (such as pursuit rights within and into neighboring communities). It is part of the process in national certification.

Vice President Smart asked if a pursuit can extend into a neighboring community under the present agreements, or if they need another agreement allowing them to extend to non-neighboring communities.

Councilor Haugh asked if the towns of Quincy, Randolph or Abington have these agreements? Capt. Comperchio responded that many do. This was enacted under Governor Patrick in 2014.

Vice Chairman Smart asked if the agreement covers other things besides pursuit? Solicitor Callanan noted that these situations are frequently litigated and the department can pull up mutual aid agreements as a useful tool. He also noted that provisions arise if a Weymouth officer responding in mutual aid was injured in another community, the other community would be responsible. This is not in order to pool liability.

Councilor Mathews asked if the measure requires a public hearing. Solicitor Callanan responded that he is unsure; traditionally local adoption suggests it, but it isn't required. He further noted that there's no urgency to move the measure so if the committee would like one, there is time to schedule it.

18 090-Acceptance of M.G.L. Ch.44, Section 55C: Municipal Affordable Housing Trust Fund

This matter was referred to the Ordinance Committee on May 7, 2018. Director Robert Luongo and Housing Coordinator Jane Kudcey presented the measure to accept this section of MGL, which was one of the recommendations in the approved housing production plan. By adopting the plan, the administration would have to come before Council with individual requests. This is top on the pecking order. He noted their approach is to present the law then talk about what the trust would look like in general. Adopting the legislation does not create a trust. This would be an ordinance that would have to come back before Town Council. The measure includes a Power point presentation:

What is a municipal Affordable Housing Trust

- Public entity
- Created by a local legislative body
- Creates and preserves affordable housing
- Led by a Board of Trustees

MGL Ch. 44 Sec 55C

- Acceptance of MGL Ch. 44 55c by Town Council would allow for the establishment of a Municipal Affordable Housing Trust. The purpose of an affordable housing 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.

Ms. Kudcey noted that approximately 90 Massachusetts communities already have a trust and those communities have Community Preservation Committees.

Board of Trustees:

- No less than 5 members for a term
- Mayor appoints, subject to Town Council confirmation and must be on board
- Board elects officers: Chair, Vice-Chair, Treasurer and Clerk
- Members should be from:
 - Planning Board
 - CPC
 - Housing Authority Board
 - Town Council Member
 - Recommended Realtor, Banker, knowledgeable citizen
 - Affordable Housing/non-Profit
 - Developers

Sec. 55C(c), section (1)-(16) Powers of the Affordable Housing Trust Board include:

- To accept and receive real property, personal property or money, by gift, grant, contribution from any person, firm, corporation, public or private entity.
- To sell, lease, exchange, transfer or convey any personal, mixed or real property at public auction or by private contract.
- To execute deeds, assignments, transfers, pledges, leases, covenants, promissory notes, releases and other documents.
- To employ advisors and agents, such as accountants, appraisers and lawyers
- To pay reasonable compensation and expenses to all advisors
- To manage or improve real property

Typical Affordable Housing Trust Board Activities include:

- Financial support for the construction of affordable homes by non-profit/private developers
- Increasing affordability in new housing development projects
- Taking ownership and development of surplus municipal land or buildings
- Preserving properties faced with expiring affordability restrictions
- Creating programs to assist low-moderate income homebuyers
- Create programs to help low-moderate families make home repairs
- Rehabilitating existing homes to convert to restricted affordable housing
- Education and advocacy to further affordable housing initiatives

How are Affordable Housing Trusts Funded?

- Community Preservation Act (CPA) funds*
- Inclusionary Zoning payments in lieu of affordable developments
- Tax title sales
- Negotiate Developer fees, developer donations
- Payments from special bylaws/ordinances
- Cell tower lease payments
- Private donations/bequests of property
- Federal HOME funds
- Resale of affordable units
- Lottery agent/monitoring agent fee revenue
- Municipal general funds

How Are CPA funds used?

- Strongest Model: Direct allocation
- Weakest Model: the AHT must apply for any CPA funding
- Preferred Model:
- Hybrid Model: The AHT is budgeted to receive a standard percentage of CPA funds and can apply for additional funding on an as-needed basis.

How do Affordable Housing Trusts Work?

- Funder: The AHT's put out RFP's or NOFA's and fund applications for projects from area non-profits

- Initiator: Programs are designed by the AHT and Administered by the Town
- Preferred Model:
 - Hybrid: the AHT manages some programs, and if additional funds are available, will issue an RFP or NOFA

STEPS:

1. Submit a housing trust by-law to the Attorney General
2. Establish the Board of Trustees
3. Record a Declaration of Trust
4. Set up a Trust Fund Account
5. Create Priorities, Mission Statement, Roles

During the presentation, Auditor Swanson arrived (7:11PM).

During the presentation, Mr. Luongo provide an overview of what would occur by adopting the legislation. The state mandates the number of members on a trust fund Board (Mayor, Town Council, planning board, realtor, lender); some also have a council member appointed by the council. He would like to start working on drafts and begin vetting and started with the adoption of the state enabling act. It is a priority as stated in the goals of the Housing Production Plan. This is a good faith effort to implement those goals.

Chairman DiFazio noted that this is simply for the adoption of the statute; the town may never take other action. Mr. Luongo responded that it's created by ordinance.

Chairman DiFazio asked in descending order- what are the advantages to having this rather than use the CPA? Mr. Luongo responded it would be staffed by the planning department; it is creating, but not proposing to create, compensation. Ms. Kudcey noted that they can't use trust funds to supplement salaries- only for consultant fees.

Mr. Luongo reported that there are-three activities allowed by the CPA and there have been very few proposals coming forward for housing. By establishing a trust by people who want to produce housing, they hope to give more momentum to affordable housing projects. It's a proactive approach to expend money. Each year the CPA is required to set aside 10% for three categories. Most funding has been appropriated for open space or historic preservation. Ms. Kudcey noted the trust can hold land and gives more creativity and flexibility.

Councilor Mathews noted the only item housing funds have been used for is windows, preserving King Ave. affordable housing and used for homeless housing on 18 and Lake Street. Mr. Luongo agreed that it has not been used to the level it could. This allows the community to take control where they see the priorities. All the CPA projects came in from the outside. The housing trust fund can make the determination. Councilor Mathews reported that his concerns are ordinance related and the power that the trust could essentially have with a controversial project that neighbors oppose and leaving the powers to the trust. He is also concerned with Section 55c-11- "to borrow money,

mortgage, pledge, trust” and asked what happens if the trust were to take out a mortgage it couldn’t afford it? Mr. Luongo responded that they don’t have to accept that provision when creating a local ordinance. Councilor Mathews responded that he has a hard time with trust authority for a mortgage that might become a liability. He is cautiously optimistic, but has reservations. Mr. Luongo responded that the CPA makes recommendations and then a vote would be required. There will be checks and balances and they would be careful to craft something that meets Weymouth’s needs.

Councilor Mathews asked if it is the trust fund’s intent to manage and run assets? Mr. Luongo responded that they will exercise due diligence. The property at 21 Mansfield Street was bank foreclosed and has been sitting idle since at least 2012 and the bank has not sold it for affordable housing. With a trust fund, they would recommend acquiring and selling the property.

Councilor Mathews asked how it would manage apartments? They don’t want to get in the business of managing apartments.

Chairman DiFazio concluded the first discussion on this and reported he will schedule to meet again before breaking for the summer.

ADJOURNMENT

At 7:33 PM, there being no further business, a MOTION was made by Councilor Smart to adjourn and was seconded by Councilor Mathews. UNANIMOUSLY VOTED.

Respectfully Submitted by Mary Barker as Recording Secretary.

Approved by Kenneth DiFazio as Ordinance Committee Chairman.
Approved unanimously on 10 September 2018