



Concord Municipal Affordable Housing Trust
Thursday, February 10, 2022 at 1:30 pm
[Virtual Meeting via Zoom](#)
Approved Meeting Minutes

1. *Call to Order / Roll Call* – Chair Keith Bergman called the meeting to order at 1:33 pm on Zoom. Roll call of members present: Linda Escobedo, Mike Lawson, Frank (“Rich”) Feeley, Kerry Lafleur, and Keith Bergman.

2. *Approval of minutes* – No minutes presented.

3. *Developing proposed CMAHT Guidelines for Select Board approval* – Chair Keith Bergman announced that the Trustees were now scheduled to meet with the Select Board on Monday evening, March 7, 2022 to discuss and review the Trust’s proposed guidelines which would require Select Board approval under CMAHT Bylaw Section 6, Item 18. The Trustees are also now scheduled to meet with the Finance Committee to review the adopted & approved guidelines on Thursday evening, March 24, 2022.

The Trustees then reviewed a revised draft set of interim guidelines for the Trust prepared by Rich Feeley, discussing each section of the proposed document, and identifying necessary amendments in the proposed draft. Kerry Lafleur had another meeting to attend at 2:30 pm, and departed the meeting. At the conclusion of the Trustees’ review, Rich Feeley made a motion to approve the Concord Municipal Affordable Housing Trust’s proposed set of Interim Guidelines for Use of Funds, as amended, subject to approval of the Select Board under CMAHT Bylaw Section 6, Item 18. The motion was seconded by Mike Lawson, and passed unanimously (4-0) with Linda Escobedo, Mike Lawson, Rich Feeley, and Keith Bergman voting in favor. The interim guidelines as adopted are attached to these minutes.

4. *Sources of Trust funds. Updates on real estate transfer fee & building permit surcharge legislation; use of ARPA funds; exploring additional/alternative funding sources; annual town meeting appropriation* – From discussion during the review of the draft interim guidelines, Trustees identified two matters regarding sources of trust funds requiring follow-up:

Use of ARPA funds for Moderate Income: Trustees are seeking clarity from the Select Board and Interim Town Manager on whether CMAHT’s requested use of ARPA/SLFRF funds must be just for very low and low income (based on US Treasury rule finding eligibility for HTF and HOME funds are also eligible for SLFRF funds), or whether such funds could also be used for moderate income as a “government service” under the standard allowance for revenue loss.

Timing of Local Acceptance of Home Rule Petitions, if Enacted: The Trustees would want to flag for the Select Board that, if Concord’s home rule petitions to fund the Trust advance further in the state legislature, it might be advisable for the Select Board to request/approve amended language to allow local acceptance by “an annual *or special* Town Meeting,” so that waiting for the next annual town meeting is not the only option. Both [S.2437, An Act establishing a real estate transfer fee upon the transfer of property in the town of Concord](#), and [S.2438, An Act](#)

establishing a building permit surcharge in the town of Concord, provide that “Acceptance of this act by the Town of Concord shall be first by vote of approval at an **annual** Town Meeting, to be followed by an affirmative vote of a majority of the voters at any regular or special election at which the question of acceptance is placed on the ballot” [emphasis added].

5. *Use of Trust funds. Assabet River Bluff land acquisition project status* – For the next CMAHT meeting, trustees requested an update from the Concord Housing Development Corporation on the status of the purchase & sale agreement for the Assabet River Bluff land acquisition project.

6. *Public Comment* - No public comment.

7. *Next Meeting: Thursday, February 17, 2022 at 1:30 pm.*

8. *Adjournment* – Mike Lawson made a motion to adjourn the CMAHT meeting, seconded by Rich Feeley. Motion passed unanimously (4-0) with Linda Escobedo, Mike Lawson, Rich Feeley, and Keith Bergman voting in favor. The meeting adjourned at 2:56 pm.

Document attached

- CMAHT Interim Guidelines for Use of Funds, as adopted on February 10, 2022, subject to approval by Select Board pursuant to CMAHT Bylaw Section 6, Item 18.

Concord Municipal Affordable Housing Trust (CMAHT)

Interim Guidelines for Use of Funds

Adopted by the Concord Municipal Affordable Housing Trust on February 10, 2022, subject to approval of the Select Board pursuant to CMAHT Bylaw Section 6, Item 18.

Background

To provide dedicated long-term funding sources for affordable housing in the Town of Concord, Annual Town Meeting (ATM) in 2019 authorized filing of home rule petitions for a real estate transfer fee and a building permit surcharge. In recommending these actions, the Affordable Housing Funding Committee estimated they might yield \$2.76 million per year for affordable housing programs. After approval by Town Meeting, home rule petitions were duly filed with the state legislature, but still remain pending at this date. A state-wide bill enabling any municipality to adopt a transfer fee for affordable housing is also currently pending in the legislature.

To hold and manage these and other affordable housing funds, 2020 Town Meeting adopted a Concord Municipal Affordable Housing Trust (CMAHT) Bylaw, with the purpose of the Trust being “to provide for the preservation and creation of affordable housing in the Town of Concord for the benefit of low and moderate income households and for the funding of community housing, as defined in Massachusetts General Laws c. 44B (the ‘Community Preservation Act’).”

The CMAHT Bylaw took effect in 2021 and established a Board of Trustees appointed by the Select Board. With the Trust in place, the Town can act on affordable housing opportunities on short notice and outside the annual cycle of budgets and town meetings. Section 6, Item 18 of the CMAHT Bylaw requires the Trustees to “develop policy goals and statements, consistent with the Town’s adopted housing goals, and subject to approval by the Select Board, to serve as guidelines for the Trust.”

For the 2020, 2021 and 2022 fiscal years, Town Meeting approved annual appropriations of \$500,000 for affordable housing, the balance of which has now been deposited in the Trust by the Select Board. For FY 2023, the CMAHT Trustees have requested that the Select Board continue this current funding level for the Trust, drawing such funds from Federal American Recovery Act of 2021 (ARPA) Coronavirus State and Local Fiscal Recovery Funds (SLFRF) funds or from Town appropriation, such appropriation to be voted on at the ATM 2022 in May.

Purpose of This Document

The ATM in 2020 adopted the Concord Municipal Affordable Housing Trust Bylaw with the expectation that CMAHT would hold funds acquired by the Town for affordable housing and make expenditures from this fund. This document is intended to provide interim guidelines for expenditure of CMAHT funds at the current funding level.

This document sets forth the guidelines, including qualifying projects and selection criteria, to be used by the Trust, once approved by the Select Board. These interim guidelines are intended to serve until such time as reliable annual funding sources for the Trust (real estate transfer fee and/or building permit surcharge) have received final approvals and the annual flow of funds into the Trust can be anticipated with some certainty.

The following interim guidelines are suggested for current use. Modification of the guidelines may occur when one or more of the documents referred to below is updated, superseded or amended, particularly when the housing needs of the Town are further defined or modified by the Housing Production Plan anticipated to be updated and approved in late 2022 or early 2023.

Policy Goals

In the interim period prior to creation of a new Housing Production Plan and prior to final approval of one or more additional affordable housing funding mechanisms within the control of the Town of Concord, use of Funds in the CMAHT will be opportunistic but should reflect:

- Housing plan element goals (Section 4.3) of *Envision Concord: Bridge to 2030*
- Goals in the *2015 Concord Housing Production Plan*
- *Community Preservation Committee Funding Priorities and Project Application Guidelines*.

Qualifying Projects

CMAHT funds may be expended in furtherance of Town Policy Goals and the enumerated **Selection Criteria** below on any of the following types of projects, provided that the resulting housing units shall be affordable at 150% of Areawide Median Income (AMI), or less, and the use complies with the applicable legislation/regulation underlying the funding source. See Reference Document below, identifying low and moderate household income limits (% of AMI) by program and funding source.

Projects qualifying for CMAHT funding include:

- Purchase of land on which affordable housing can be built, provided that if the CMAHT is the purchaser of the land prior approval of the Select Board is also required
- Development, legal or other soft costs required to seed or determine the feasibility, scope and cost of proposed new affordable housing projects
- Purchase (and required renovation) of existing homes, through collaboration with public, non-profit, or private partners, so that such units may be retained in, or added to, the stock of affordable homes in Concord
- Subsidies and/or funds for renovation required to prevent a home from being sold out of the Subsidized Housing Inventory (SHI) stock, provided that enforceable income restrictions shall govern future *sale*
- Renovation required to maintain the viability of a home/unit currently on the SHI list.

- Subsidies to developers to increase the number of affordable units, or lower the level of qualifying household income, within a new Planned Residential Development. Such subsidies would only be for the increase in affordability beyond the requirements imposed by zoning approval and would be subject to continuing affordability restrictions.

Selection Criteria

The CMAHT was created to enable the Town to aggregate affordable housing funds and take advantage of affordable housing opportunities without waiting on the Town's annual budget process and Town Meeting. At this time, priority will be given to expenditures for the purchase of land or housing units, construction or renovation of existing housing units (as described in the Qualifying Projects section) or the subsidy of privately owned units to affordable levels. Projects will be ranked more favorably if they meet one or more of the following criteria:

- Will increase the supply of units qualifying as "affordable" under State Comprehensive Permit Law M.G.L. Chapter 40B Subsidized Housing Inventory
- Will increase the inventory of land on which affordable units can be built
- Will prevent the loss (due to market sale or structural deterioration) of existing units which are currently affordable, provided that continuing affordability restrictions will be placed on the property
- Will minimize the total cost to the Town per unit for maintaining or adding units in the affordable housing stock
- Will leverage other funds for affordable housing from sources such as the Community Preservation Act, Federal and State affordable housing programs, in-lieu of or other payments from private sector developers, and/or private donations
- Meets Concord's sustainability and energy efficiency goals.

Reference Document:

Low and Moderate Income Limits (% of Areawide Median Income) by Program/Funding Source

<i>Program/Funding Source</i>	<i>Low Income</i>	<i>Moderate Income</i>	<i>Note/Reference</i>
Municipal Affordable Housing Trust statute – per Massachusetts Housing Partnership’s 2018 MAHT Guidebook	See Note	See Note	MHP 2018 MAHT Guidebook p. 27: “The trust statute [M.G.L. C.44, s.55C] does not include definitions for key terms such as . . . ‘low- and moderate-income.’ A trust can consult existing programs and statutes in the state to adopt definitions for terms. . . . Each funding source has restrictions and requirements for uses of funds. Certain programs and projects may not be eligible under all funding programs. It will be particularly important to secure funds from sources that will enable the housing trust to accomplish its priority initiatives. Once funds are secured, particularly if secured from multiple sources, the board of trustees will need an accounting system that tracks revenue by original funding source.”
Community Preservation Act (CPA) community housing	80% of AMI	100% of AMI	As defined in M.G.L. C.44B, s.2
Comprehensive Permit Law M.G.L. C.40B, ss.20-23 Subsidized Housing Inventory (SHI)	80% of AMI	See Note	See DHCD regulations . If ownership units, SHI counts only those for HH incomes at/below 80% of AMI; if rental units, SHI can count all rental units in a project if at least 25% of the total number are at/below 80% of AMI; otherwise, only those at/below 80% of AMI are counted.
Massachusetts Affordable Housing Trust administered by MassHousing		110% of AMI	Funding threshold criteria include: “Affordability of all AHTF units to households earning no more than 110% of area median income.”
Concord Zoning Bylaw Section 10, Planned Residential Development (PRD)		“Starter-priced housing” <110%; “moderate-priced housing” <150%	“10.2.3.2 Affordable dwelling units are those units made available for sale, lease or rent at below market rates based on the following: (a) Starter-priced housing: Dwelling units set aside for sale, lease or rental to households with incomes of less than one hundred ten (110) percent [of AMI] . . . (b) Moderate-priced housing: . . . incomes of less than one hundred and fifty (150) percent [of AMI]”

<i>Program/Funding Source</i>	<i>Low Income</i>	<i>Moderate Income</i>	<i>Note/Reference</i>
American Recovery Act of 2021 (ARPA) Coronavirus State and Local Fiscal Recovery Funds (SLFRF). See US Treasury SLFLF Final Rule , pp. 102-110.	Rental: 60-80% Ownership: 80%	To be determined	SLFLF Final Rule p. 106: "Treasury will presume that any projects that would be eligible for funding under either the National Housing Trust Fund (HTF) or the Home Investment Partnerships Program (HOME) are eligible uses of SLFRF funds." HOME: For rental housing, at least 90% of HHs w/income below 60% of AMI; remainder below 80% of AMI. For homeownership, all below 80% of AMI. <i>Note:</i> Both HTF and HOME programs can be used to fund site acquisition and improvement, among other activities.
<i>Proposed home rule petition: S.2437</i> - An Act establishing a real estate transfer fee upon the transfer of property in the town of Concord	See Note above	See Note above	Bill provides in proposed Section 4 that, "All fees received pursuant to this act shall be deposited in the Concord Affordable Housing Trust Fund established pursuant to section 55C of chapter 44 of the General Laws ."
<i>Proposed home rule petition: S.2438</i> - An Act establishing a building permit surcharge in the town of Concord		120% of AMI	Bill provides in proposed Section 3 that, "For the purposes of this act, 'affordable housing' shall mean as defined under section 1 of chapter 60 of the General Laws " —i.e., below 120% of AMI
Proposed statewide bill. S.868, H.1377 , An Act empowering cities and towns to support affordable housing with a fee on certain real estate transactions		175% of AMI	Bill's definitions include: "Affordable Housing Purposes" as "uses allowed by the municipal or state affordable housing trust fund into which funds are deposited, or, if the funds are deposited into a community preservation act fund, the housing uses allowed thereunder." and "Affordable Housing Restriction" of 30+ years "limited to use as a residence occupied by a low or moderate income household which earns less than a specified income level, the upper limit of which may not exceed 175 per cent of the median income for a household in that city or town; provided, however that moneys derived from a transfer fee implemented pursuant to this section and deposited into a state or municipal Affordable Housing Trust Fund or Community Preservation Fund, may be subject to the lower income restrictions that govern said Fund. . . ."