

OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
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CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

**ORDER SUSPENDING CERTAIN PROVISIONS
OF THE OPEN MEETING LAW, G. L. c. 30A, § 20**

WHEREAS, on March 10, 2020, I, Charles D. Baker, Governor of the Commonwealth of Massachusetts, acting pursuant to the powers provided by Chapter 639 of the Acts of 1950 and Section 2A of Chapter 17 of the General Laws, declared that there now exists in the Commonwealth of Massachusetts a state of emergency due to the outbreak of the 2019 novel Coronavirus (“COVID-19”); and

WHEREAS, many important functions of State and Local Government are executed by “public bodies,” as that term is defined in G. L. c. 30A, § 18, in meetings that are open to the public, consistent with the requirements of law and sound public policy and in order to ensure active public engagement with, contribution to, and oversight of the functions of government; and

WHEREAS, both the Federal Centers for Disease Control and Prevention (“CDC”) and the Massachusetts Department of Public Health (“DPH”) have advised residents to take extra measures to put distance between themselves and other people to further reduce the risk of being exposed to COVID-19. Additionally, the CDC and DPH have advised high-risk individuals, including people over the age of 60, anyone with underlying health conditions or a weakened immune system, and pregnant women, to avoid large gatherings.

WHEREAS, sections 7, 8, and 8A of Chapter 639 of the Acts of 1950 authorize the Governor, during the effective period of a declared emergency, to exercise authority over public assemblages as necessary to protect the health and safety of persons; and

WHEREAS, low-cost telephone, social media, and other internet-based technologies are currently available that will permit the convening of a public body through virtual means and allow real-time public access to the activities of the public body; and

WHEREAS section 20 of chapter 30A and implementing regulations issued by the Attorney General currently authorize remote participation by members of a public body, subject to certain limitations;

NOW THEREFORE, I hereby order the following:

(1) A public body, as defined in section 18 of chapter 30A of the General Laws, is hereby relieved from the requirement of section 20 of chapter 30A that it conduct its meetings in a public place that is open and physically accessible to the public, provided that the public body makes provision to ensure public access to the deliberations of the public body for interested members of the public through adequate, alternative means.

Adequate, alternative means of public access shall mean measures that provide transparency and permit timely and effective public access to the deliberations of the public body. Such means may include, without limitation, providing public access through telephone, internet, or satellite enabled audio or video conferencing or any other technology that enables the public to clearly follow the proceedings of the public body while those activities are occurring. Where allowance for active, real-time participation by members of the public is a specific requirement of a general or special law or regulation, or a local ordinance or by-law, pursuant to which the proceeding is conducted, any alternative means of public access must provide for such participation.

A municipal public body that for reasons of economic hardship and despite best efforts is unable to provide alternative means of public access that will enable the public to follow the proceedings of the municipal public body as those activities are occurring in real time may instead post on its municipal website a full and complete transcript, recording, or other comprehensive record of the proceedings as soon as practicable upon conclusion of the proceedings. This paragraph shall not apply to proceedings that are conducted pursuant to a general or special law or regulation, or a local ordinance or by-law, that requires allowance for active participation by members of the public.

A public body must offer its selected alternative means of access to its proceedings without subscription, toll, or similar charge to the public.

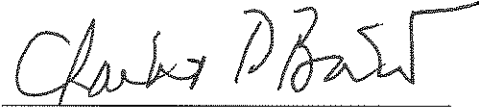
(2) Public bodies are hereby authorized to allow remote participation by all members in any meeting of the public body. The requirement that a quorum of the body and the chair be physically present at a specified meeting location, as provided in G. L. c. 30A, § 20(d) and in 940 CMR 29.10(4)(b), is hereby suspended.

(3) A public body that elects to conduct its proceedings under the relief provided in sections (1) or (2) above shall ensure that any party entitled or required to appear before it shall be able to do so through remote means, as if the party were a member of the public body and participating remotely as provided in section (2).

(4) All other provisions of sections 18 to 25 of chapter 30A and the Attorney General's implementing regulations shall otherwise remain unchanged and fully applicable to the activities of public bodies.

This Order is effective immediately and shall remain in effect until rescinded or until the State of Emergency is terminated, whichever happens first.

Given in Boston at 6:40 PM this 12th day of
March, two thousand and twenty.

A handwritten signature in cursive script that reads "Charles D. Baker". The signature is written in dark ink and is positioned above a horizontal line.

CHARLES D. BAKER
GOVERNOR
Commonwealth of Massachusetts



Town of Arlington Notice of Meeting

In accordance with the provisions of Massachusetts General Laws, Chapter 39, Section 23B, notice is hereby given of a meeting of the:

Finance Committee

Wednesday, October 28, 2020
7:30 p.m. – 10:00 p.m.
Conducted by Remote Participation - Zoom Meeting

AGENDA:

- **Review of Warrant for Special Town Meeting scheduled for November 16**
- **Hearings on Financial Articles**
- **Affordable Housing Trust Fund Article and Related Issues**
- **Reports from Finance Committee Members**

Charlie Foskett has invited you to a Zoom Meeting

Topic: Finance Committee

Time: 7:30 PM Eastern Time (US and Canada) on October 28, 2020

Join Zoom

Meeting <https://us02web.zoom.us/j/89728081829?pwd=bW1lY2MlSXFyZ2ZaNnRHY3ZlbGJoZz09>

Meeting ID: 897 2808 1829

Passcode: 628447

One tap mobile +16465588656,,89728081829#,,,,,0#,,628447# US (New York)

Dial by your location +1 646 558 8656 US (New York)

Members of the public are asked to send written comments to ediggins@town.arlington.ma.us

Documents regarding agenda items will be made available via the Town's website.

<https://www.mass.gov/doc/open-meeting-law-order-march-12-2020/download>

By Charlie Foskett, Chairman Finance Committee



TOWN OF ARLINGTON
DEPARTMENT OF PLANNING and
COMMUNITY DEVELOPMENT

TOWN HALL, 730 MASSACHUSETTS AVENUE
ARLINGTON, MASSACHUSETTS 02476
TELEPHONE 781-316-3090

MEMORANDUM

To: Select Board
Finance Committee

From: Jennifer Raitt, Director, Planning and Community Development
on behalf of the Housing Plan Implementation Committee

CC: Housing Plan Implementation Committee
Adam Chapdelaine, Town Manager

Date: October 21, 2020

RE: Warrant Article 8 - Municipal Affordable Housing Trust Fund

The Housing Production Plan (HPP), adopted in 2016 by the Select Board and Redevelopment Board and approved by the Massachusetts Department of Housing and Community Development, identifies establishing a Municipal Affordable Housing Trust (MAHT) per M.G.L. Chapter 44 Section 55C, as strategy 14 (see page 69). Under MGL Chapter 44, Section 55C, a MAHT creates a separate fund for local initiatives to create and preserve affordable housing. The HPP points out that a benefit of having a MAHT is that resources can be allocated to the Trust and can be expended by the Board of Trustees without a lengthy approval process. More information about MAHTs can be found in the 2018 Municipal Affordable Housing Trust Fund Guidebook published by the Massachusetts Housing Partnership: https://www.mhp.net/writable/resources/documents/MAHTGuidebook_2018.pdf.

The Housing Plan Implementation Committee (HPIC) has discussed the benefits of a MAHT since the adoption of the HPP, and had more serious conversations about this tool since the fall of 2019. At its meeting on January 17, 2020, the HPIC voted to support the filing of a Warrant Article that would enable the Town to create a Municipal Affordable Housing Trust Fund for Arlington, which was refiled for this Special Town Meeting. If adopted by Town Meeting, the Trust would be governed by the bylaw and its authority would be limited by MGL Chapter 44 Section 55C. The Trust would be a public body and the Trustees would be "special municipal employees." The Trust and the Trustees would be subject to the Open Meeting Law and the Conflict of Interest Law. The Trust is required to work with the Arlington Treasurer/Collector as the custodian of funds, prepare an annual budget, and report annually on its activities. The HPIC voted on October 20, 2020, to submit the attached draft bylaw to the Select Board.¹

The HPIC discussed possible uses for the MAHT including acquisition and preservation of market-rate affordable units, rental assistance for households at risk of homelessness, buy down/ down payment assistance, and the ability for the Town to exercise the right of first refusal on existing affordable units. The HPIC believes that these actions are outside of the important housing options that the Arlington Housing Authority (AHA) and the private Housing Corporation of Arlington (HCA) provide for the

¹ All six members of the HPIC voted affirmatively. One member indicated that her affirmative vote is conditioned on the Trust not providing any financial support to Chapter 40B projects.

community. Furthermore, the MAHT would serve as a vehicle to aggregate existing resources as well as leverage new public and private resources to support the creation and preservation of affordable units by AHA, HCA, and others.

This is not the first time that a MAHT has been proposed. In 2008, a Warrant Article was advanced to Annual Town Meeting, but no action was taken on the article following the recommendation of the Select Board. The Select Board's 2008 Report to Town Meeting noted that MAHTs work well in concert with the Community Preservation Act (CPA), which Arlington had not yet adopted. Based on 2019 data from the Massachusetts Housing Partnership, 110 cities and towns have adopted MAHTs and 87 of those 110 cities and towns have also adopted the CPA. Arlington adopted the CPA at the 2014 Annual Town Meeting. If a Trust is established, the Board of Trustees may apply to the CPA Committee for funds based on the Trustee's goals.

The HPIC sees that one of the major benefits of a MAHT is to act quickly and nimbly particularly when a real estate opportunity becomes available that aligns with the Trust's goals. Currently, if the Town of Arlington wanted to acquire property in order to create or preserve affordable units, the Select Board and Town Meeting would need to approve the transaction. However, the long process to Town Meeting puts any transaction at risk, and therefore, is not ideal for the main goals of the HPIC in advancing a MAHT. The HPIC sees this level of autonomy as being crucial for a MAHT to be successful in its goals.

The HPIC recommended a Board of Trustees with 7 members who would bring a range of experiences. The Board would develop a reasonable action plan, with assistance from the HPIC, Select Board, Department of Planning and Community Development and input from the community. With a well-developed action plan, the Board can function without a dedicated staff person as do many MAHTs function. In the future, if the MAHT is well-capitalized, the Board may find that a coordinator is necessary, and that position could be funded through the Trust Fund.

Overall, the concerns of the Select Board in 2008 may have been addressed by actions of the Town has taken since 2008. The HPIC values input from the Select Board on the level of autonomy afforded to the Board of Trustees and the types of projects that may be funded. Specifically, the HPIC recommends that the Select Board have oversight on decisions sell, lease, exchange, transfer or convey any personal, mixed, or real property as well as borrowing, mortgaging, and pledging assets, as a way to retain the flexibility of the trust while ensuring accountability.

Adopting a MAHT is another way for the Town to support low- to moderate-income individuals and households to achieve housing stability. We hope that the Select Board would support this effort, and through a public process, a Board of Trustees would develop an action plan to identify its goals and strategies in operating the Trust.

Lastly, this proposal is a concrete step for the Town to take in advancing race and equity goals. Generally enabling the town to have more efficient and effective mechanisms for investing in affordable housing both helps to remove barriers to creating and preserving affordable housing and demonstrates and affirmative commitment by the Town to people who earn lower incomes.

ARTICLE 8

**ACCEPTANCE OF LEGISLATION/ BYLAW AMENDMENT/
MUNICIPAL AFFORDABLE HOUSING TRUST FUND**

To see if the Town will accept Massachusetts General Laws c. 44 § 55C, to authorize the creation of a Municipal Affordable Housing Trust Fund to support the development of affordable housing in Arlington, establish a new bylaw for the administration of same; or take any action related thereto.

Section 1. Name of the Trust

The Trust shall be called the “Arlington Affordable Housing Trust Fund.”

Section 2. Purpose

The purpose of the Trust shall be to provide for the preservation and creation of affordable housing in the Town of Arlington as defined by the Arlington Zoning Bylaw for the benefit of households earning at or below 80 percent area median income.

Section 3. Board of Trustees

- A. Composition. There shall be a Board of Trustees (Trustees) of the Arlington Affordable Housing Trust Fund composed of one ex officio non-voting member and seven voting members. The Town Manager or the Town Manager’s designee shall serve as the ex officio member. The voting members shall include: a member of the Select Board (designated by the Select Board) and six members appointed by the Select Board. The voting members shall be residents who may have relevant experience in the fields of real estate, housing, banking, finance, law, architecture, social services, or other areas of expertise applicable to advancing the purpose and goals of the Trust. Of the Select Board appointees, at least one shall be a tenant who earns a low- or moderate-income, and resides in subsidized housing units as defined by G.L. c.40B or who receives state- or federally-sponsored rental subsidies and demonstrates knowledge of tenant issues.
- B. Appointment of Trustees. Trustees shall serve for a term of two years, except that two of the initial Trustee appointments shall be for a term of one year, and may be re-appointed at the discretion of the Select Board.
- C. Officers. The Trustees shall designate a chair, vice chair, treasurer, and clerk.
- D. Removal. A Trustee may be removed by the Select Board for cause following a hearing.
- E. Declaration of Trust. The Trustees are authorized to execute a Declaration of Trust and Certificate of Trust for the Arlington Affordable Housing Trust Fund, to be recorded with the Middlesex South Registry of Deeds and filed with the Middlesex South Registry District of the Land Court, following approval by the Select Board.
- F. Authority and Responsibilities.
 - 1) The powers of the Trustees, all of which shall be carried on in furtherance of the purposes set forth in G.L. c.44, §55C, and inclusive of any future amendments, and

pursuant to the provisions of a Declaration of Trust to be approved by the Select Board, shall include the following:

- a) 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 Arlington Community Preservation Act Committee for inclusion in the community preservation initiatives report, form CP-3, to the Department of Revenue;
- b) To purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;
- c) 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 Trustees deem advisable notwithstanding the length of any such lease or contract;
- d) 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 Trustees engage for the accomplishment of the purposes of the Trust;
- e) To employ advisors and agents, such as accountants, appraisers and lawyers as the Trustees deem necessary;
- f) To pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the Trustees deem advisable;
- g) To apportion receipts and charges between incomes and principal as the Trustees deem advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;
- h) 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;

- i) To deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the Trustees 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;
 - j) To carry property for accounting purposes other than acquisition date values;
 - k) With Select Board approval, 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;
 - l) To make distributions or divisions of principal in kind;
 - m) 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 Trustees may deem appropriate;
 - n) To manage or improve real property and to abandon any property which the Trustees determine not to be worth retaining;
 - o) To hold all or part of the Trust property uninvested for such purposes and for such time as the Trustees may deem appropriate; and
 - p) To extend the time for payment of any obligation to the Trust.
- 2) The powers and duties enumerated above are intended to encompass all powers and duties of the Trustees. Any action, power or duty not enumerated above shall require prior approval of the Select Board.

Section 4. Acts of Trustees

- A. 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, with the exception that any purchase, sale, lease, exchange, transfer or conveyance of any interest in real property, borrowing, and mortgaging and pledging of assets must be approved by at least two-thirds of the appointed Trustees.
- B. No Trustee shall be required to post bond.
- C. 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.
- D. Any borrowing by the Trust shall require the prior approval of the Select Board, and may not exceed 80 percent of the Trust's total assets. Any debt incurred by the Trust shall not constitute a pledge of the full faith and credit of the Town of Arlington, 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 Arlington, with an acknowledgement of said statement by the holder.

- E. Any purchase, sale, lease, exchange, transfer or conveyance of any interest in real property, borrowing, and mortgaging and pledging of assets must be approved by a majority of the Select Board.

Section 5. Funds Paid to the Trust

Notwithstanding any general or special law to the contrary, all moneys paid to the Trust in accordance with any zoning bylaw, exaction fee, or private contribution 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 these funds need not be further appropriated to be expended. 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 set forth in G.L. c.44, §55C.

Section 6. Meetings of the Trust

The Trust shall meet at least quarterly at such time and at such place as the Trustees shall determine. Notice of all meetings of the Trust shall be given in accordance with the provisions of the Open Meeting Law, G.L. c. 39, §§ 23A, 23B and 23C. A quorum at any meeting shall be a majority of the Trustees qualified and present in person.

Section 7. Custodian of Funds

The Arlington Treasurer/Collector shall be the custodian of Trust's funds and shall maintain separate accounts and records for such funds. Any income or proceeds received from the investment of funds shall be credited to and become part of the Trust Fund. In accordance with G.L. c. 44, § 55C, the books and records of the Trust shall be audited annually by an independent auditor in accordance with accepted accounting practices or take any other action relative thereto. Upon receipt of the audit by the Trustees, a copy shall be provided forthwith to the Select Board. The Trustee designated as treasurer shall also liaise with the custodian of the funds on a monthly basis.

Section 8. Legal Status

- A. The Trust is public employer and the Trustees are public employees for the purposes of G.L. c. 258.
- B. The Trust shall be deemed a municipal agency and the Trustees special municipal employees for the purposes of G.L. c. 268A.
- C. The Trust is exempt from G.L. c. 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 subdivision thereto.
- D. The Trust is a governmental body for purposes of Sections 23A, 23B and 23C of G.L. c. 39.

- E. The Trust is a board of the Town for purposes of G.L. c. 30B and G.L. c. 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 Chapter 30B.

Section 9. Duration of the Trust

This Trust shall be of indefinite duration, until terminated in accordance with applicable law. Upon termination of the Trust, subject to the payment of or making provisions for the payment of all obligations and liabilities of the Trust and the Trustees, the net assets of the Trust shall be transferred to the Town and held by the Select Board for affordable housing purposes. In making any such distribution, the Trustees may, subject to the approval of the Select Board, 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.