

**MINUTES
BOARD OF TRUSTEES OF THE
HARWICH AFFORDABLE HOUSING TRUST
SMALL MEETING ROOM, TOWN HALL
732 MAIN STREET, HARWICH, MA
WEDNESDAY, JANUARY 15, 2025 - 5:15PM
Harwich Affordable Housing Trust**

MEMBERS PARTICIPATING: Larry Ballantine, Chair, Brendan Lowney, Vice Chair, Bob Spencer, Clerk, Claudia Williams and Julie Kavanagh

I. CALL TO ORDER

Mr. Ballantine called the meeting of the Harwich Affordable Housing Trust to order on Wednesday, January 15, 2025 at 5:15PM. The Chair declared a quorum and noted that he would be allowing Art Bodin to make a Public Comment.

Mr. Bodin of the Housing Committee noted that CPC supports community development partnership organizations with funding to help with their housing initiative programs. He commented that the participation from Harwich is dismal and CPC is questioning if they should continue with the funding to community development partnerships. Mr. Bodin noted that the funding is minimal, only \$10,000 a year. All the towns on the lower Cape support the Housing Initiative Program. He noted that they average one program a month and some are specific to a certain segment of people. They recently had a program for Wastewater and Housing and of the 70-80 people participating, there were 4 from Harwich. He asked that when the programs come up, next month or in the future, the Trust try to support them.

II. NEW BUSINESS

A. Discussion with Katie Kline, various legal procedures - 456 Queen Anne Road development, potential property sales use of Trust Funds for Accessory Dwelling Units (ADUs)

Katie Kline participated remotely.

Mr. Ballantine noted that they often have questions requiring legal expertise involved. He asked that she answers questions from Trust members.

Katie Kline, an attorney with KP Law identified herself for the record. She noted that they are Town Counsel and she has been working with the HAHT on the Queen Anne Road Project. Atty. Kline offered an update on the proposed Land Disposition Agreement. The Trust's comments have gone back to the attorney from Pennrose and they are close on the Agreement. She had asked if, at this point, the Trust would like to include the Ground Lease as an exhibit to the Land Disposition Agreement. The Ground Lease will ultimately be signed at the closing on the property. The answer she received from the Trust was yes and she received a proposed

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Ground Lease on Tuesday. She is reviewing it and will have comments to the Trust soon for their review. She also spoke with Jacob Taylor who is with Klein Hornig and the attorney representing Pennrose. She noted that she has a rough timeline and the expectation is that as soon as the Land Disposition Agreement is signed, they are prepared to go in and seek permitting. That would be a Comprehensive Permit through the Zoning Board of Appeals (ZBA). At that point, they will put together their pre-application for funding. They do need the ZBA's approval in order to submit that and they are hoping to go in with their application for funding in February of 2026. She noted that projects aren't always funded on the first round and it could potentially go into the next funding round. Once they have funding, they go to closing on the financing. Simultaneously with seeking their Comprehensive Permit, they would be doing their due diligence to inspect the property, do title research and inspect the property.

Mr. Ballantine thanked Atty. Kline for the update and expressed frustration because he thought their obligation was to complete the Land Disposition and Ground Lease within 90 days. He commented that he doesn't want to lost this project because they missed a deadline of some sort.

Atty. Klein commented that those deadlines are optimal but rarely met. Everyone is working hard to bring this forward.

Mr. Ballantine commented that he understands the timeline but it feels like the momentum has slipped away from them.

Atty. Kline commented that she feels things are going as a matter oof normal course.

Mr. Ballantine requested that Atty. Kline supply them with the timely in writing.

Atty. Kline stated that she will send the timeline with the Ground Lease which they will have in plenty of time for the February meeting.

Mr. Ballantine stated that the Trust will hold a special meeting if it's needed to move this along. Their commitment is the they don't want anything that the Trust does to hold this up.

Mr. Spencer asked, regarding the sale of property that the Trust owns, does the Trust make that decision to sell or not sell on their own or do they need to get sign-off from the Town on those actions?

Atty. Kline responded that she does not have the Trust Declaration in front of her. She noted that it varies from town to town and gave examples of Trusts conveying property on their own and others that require approval of the Select Board.

Mr. Ballantine commented that it is clear with their By-law that it is within their authority to sell.

Mr. Lowney asked, if they could sell a property, how they do it? Do they need to have it surveyed, appraised and can they get an RFP for a Real Estate Broker to put it on the market ?

Atty. Kline replied that the HAHT is part of the Town and has the authority to do things that other Board and Commissions don't have within Town Meeting. The Procurement Rules would apply. She noted that an appraisal is a good idea but is expensive. She noted that the statute requires that the Trust have someone determine the value of property using standards that are accepted within the appraisal industry. She commented that often times Towns reach agreements with parties without actually having certified appraisals. The Trust would issue an RFP but it is unusual to use a real estate broker. The Trust would not need to survey property unless they believe there are issues that warrant a survey. It would be the same with the title. The Trust is not required to have a title done or required to have a survey.

Mr. Spencer asked if there is a difference between the idea of an RFP and an invitation of proposals?

Atty. Kline replied that most often in the real estate context, they use the phrase, request for proposals. Invitations for bids are used for services or goods.

Mr. Spencer clarified that he is thinking about the possibility of the Trust inviting proposals relative to the disposition of a piece of property that the Trust owns. He added, by inviting those proposals, trying to engage with the community to fund a way that would be creating the best possible use of a piece of property and also bringing in some cash for the Trust to be able to use to invest in other housing related activities. He commented that he is unsure if that concept exists. He is thinking of a kind of competition of proposals for the best use.

Atty. Kline responded that that is inherent to RFPs. She explained the process of having minimal criteria and then an evaluative criteria while looking for as many proposers as possible for the best use of the property.

Mr. Lowney asked, if the Trust has to choose the appraising authority, if a real estate broker could do it and do they do an RFP for real estate brokers to come to be the appraising authority? Do they have the power to do that?

Atty. Kline responded that she has not seen that done. If the Trust wanted someone to do an appraisal, they could solicit 3 bids.

Mr. Lowney asked if the Trust could use the Assessor cards to create the value.

Atty. Kline responded yes, they could but with the understanding that assessments may or may not reflect the true value.

Ms. Kavanagh commented that it would be similar to the process of disposition of land they are doing on Queen Anne, they did not do an RFP for an appraisal.

Mr. Lowney responded that they did an environmental study on that. Ms. Kavanagh clarified that she did not mean Queen Anne Road for Pennrose, she meant #246, the land up by the dump.

Ms. Kavanagh explained that the Select Board identified the parcel, identified what they would accept as a minimum and then put it out there. For the minimum, they looked at the field cards and an overall evaluation. She noted that what made those parcels valuable is that there are not a lot of parcels left in the industrial district.

Atty. Kline commented that the objective on the parcels that Ms. Kavanagh referred to was solely to generate incomes, opposed to the concerns raised tonight which are to have proposers develop property in certain ways.

Mr. Lowney clarified with Ms. Kavanagh that the Select Board came up with the dollar value, the minimum they would take and then went to RFP.

Ms. Kavanagh responded that she will follow up with Mr. Powers and Ms. Eldredge on the process they used.

Atty. Kline noted that there were 2 RFPs for those.

Ms. Kavanagh commented that she likes the idea of getting the overall intent of what the land would be used for. She referred to the joint meeting with the Local Planning Board and that they discussed looking for unique ways to bring private/public partnerships together.

Mr. Spencer noted that they had an exciting proposal at the last meeting on how to make more ADUs happen in Harwich. He commented that he thinks they need legal counsel to sit with the Trust and go through the different challenges that the concept represents. He asked Atty. Kline if there was something they would be able to do in person.

Atty. Kline responded that she is prepared to discuss that a little this evening but not in great depth. She suggested that Amy Kwesell would be in a better position to speak to it. She had spoken with Atty. Kwesell who advised that under the new ADU legislation and the draft regulations, ADUs are permitted as a right depending on certain criteria. She asked if they're talking about creating affordable restricted housing because that is prohibited under the new legislation and the proposed regulations. She stated that they can't impose a restriction that limits people to specified income levels. She explained that if the Trust is looking to create ADUs outside of this legislation, they could potentially create restricted, affordable ADUs. She commented that it looks like it may not be something that would work unless the Town amends its zoning as well.

Mr. Lowney commented that he hadn't seen that restriction. He noted that the Planning Board met last night. They had a resident come in last meeting and they talked about the Board getting dollars for doing an ADU. He noted that they always ran into the problem at the end, how does it convert and who would manage it?

Atty. Kline stated that she would send the draft regulations along.

Ms. Kavanagh asked if there was also something with the Seaside Communities.

Mr. Ballantine noted that he had printed out some documents and it seemed that they could move ahead with it but that has to be clarified.

Mr. Ballantine noted that they will bring that conversation back and thanked Atty. Kline for her time.

Mr. Ballantine noted that he was moving to C. on the Agenda. Mr. Lowney recused himself for the proposal. Mr. Ballantine also noted that starting next month and for the rest of the year, the HAHT will meet at 5:15 with the assumption that there is no meeting after them.

B. Invite Frank Giso, retired attorney, to advise the Trust Board on 456 Queen Anne Road - pro-bono

Mr. Ballantine noted that he had forwarded the members an email from Frank Giso who has offered to advise the Trust on legal issues specifically on Pennrose. His caveat is that he is not KP Law, he's not taking the place of legal counsel, he is strictly offering his legal expertise with land court issues as an adviser to the HAHT.

Ms. Kavanagh commented that she loves the idea of free legal consultations and he could be someone they could spend time with and ask questions to.

Mr. Ballantine commented that he is hoping Mr. Giso could help them to ask the right questions.

Ms. Williams also like the idea of having someone who could help them with legal questions.

Mr. Spencer commented that he would like to meet Mr. Giso.

Mr. Ballantine noted that Mr. Giso is in Florida but he will figure a way to talk to him.

Mr. Spencer moved to invite Frank Giso retired attorney, to advise the Trust Board on 456 Queen Anne Road - pro-bono. Seconded by Ms. Williams.

Vote: 4:0 in favor. Motion carried.

Ms. Williams commented that she has been wondering about things like rent control and the it would be interesting to ask Mr. Giso how it works as well learn the positives and negatives. She would also like to speak with him about how they would identify properties that aren't being used, that are more commercial and how they could develop them with mixed use and affordable housing.

Mr. Ballantine suggested that trust members email him some of the questions they are interested in. He will contact Mr. Giso, see if they can arrange a meeting and what he can help with.

Ms. Kavanagh commented on the high rents and that they are not doable for a single person on Cape. She noted that they have a lot of buildings that already exist and they should be looking at how to rehab those buildings instead of creating new footprints. She likes the idea of rehabbing

properties and is also interested in rent control because that is what they need and it hasn't really been discussed.

C. Proposal by John Carey to work together on a project to build 40 units (10 Deed Restricted) at 52 Route 28, Harwich

Mr. Lowney exited the meeting.

Mr. Ballantine noted that Brianna Powell, Housing Advocate was on line. She had emailed Mr. Ballantine that Mr. Carey had met with Community Development and that it went well.

John Carey was present and noted that he is doing the West Harwich School and it is going well. He is there to talk about a project adjacent to the West Harwich School and next to the West Harwich Baptist Church. He noted that he and his fiancée purchased the property and are looking to build year round housing for Cape Codders. He gave an overview of the project and commented that he is hoping to work with the HAHT in a private/public partnership. He noted that they had two versions, the original was going to be smaller projects. The other is the Harwich Exchange version which he described in detail including one building that would be a replica of the old Exchange Building. Mr. Carey noted that he went to a Community Development meeting. They unanimously wanted the building and the best path forward would be a friendly 40B to get the height variances and it would be a more straightforward process. He commented that they have an interesting path forward where they can build historic, beautiful structures and sneak in enough units to make a difference. He noted that this is an opportunity to transform a part of Harwich, its real change. Mr. Carey stated that he would be interested in working with the HAHT if they wanted to work with him to put together a plan to get more year round Affordable Housing. He commented that if the HAHT was interested, he could phase it so it was more digestible for what they would be comfortable doing annually.

Mr. Ballantine commented that he is interested and the first step would be to fill out the general form as he had done before. The Trust will formally look at that and get back to him for the details. He asked Mr. Carey if there were obstacles that he was concerned about.

Mr. Carey replied that they will make sure they are compliant with parking and that everything else will be compliant. The only real thing is the frontage, noting that the Historic District only allows a 50 ft. frontage and this building is 58 ft. The cupola is 18ft which he could leave off but thinks people would want to see it.

Ms. Kavanagh commented that she didn't think the cupola was part of the height.

Mr. Spencer asked what Mr. Carey sees as the potential in the number of Affordable units.

Mr. Carey replied that the Trust's committed money almost becomes equity to a bank. By combining that money with what money he can put together and with another private lender, he will have 50% and can go to Cape Cod Five who is on board with the project. He commented that the questions are, is this project feasible and can he raise enough equity so he can go to a bank and make it happen?

Mr. Spencer noted that of the 40 units, 10 of those are Affordable units and as a 40B, Harwich gets credit for 40 units onto the SHI List as opposed to 10. He asked Mr. Carey if that was in the ballpark of what he was thinking in terms Affordable units.

Mr. Carey responded that he wanted to come to the HAHT first because its a lot of money and he wanted to be sure the Trust was comfortable with the idea of the project. He would then go to them at the next meeting with a proposal. He would like to do the same 25% which is 10 of 40, so that all 40 count. He thinks they can do a better job in Harwich by doing midsize projects and spreading them out as opposed to one large project with a lot of density.

Ms. Kavanagh asked how they would handle the septic situation.

Mr. Carey responded that the site coverage on this plan is 30% building and over 60% of the site is available for septic.

Mr. Spencer stated that he is very excited about this proposal and very happy to be talking with Mr. Carey about it.

Ms. Williams commented that a lot of communities across the country are mixing the commercial and residential. Any kind of community minded space with Affordable Housing is fantastic.

Ms. Kavanagh likes the mix of commercials and residential and noted that whatever commercial goes in that spot helps the rest of Route 28 that has other commercial opportunities. And that helps bring people back. She noted the need for more businesses such as daycare.

Mr. Carey responded that he is open to any business and that he wants to build places where people can live and work so they're not driving.

Mr. Ballantine commented that he likes the idea of a village center and he hopes they can make this work. He also commented that he is hoping to visit the site that Mr. Carey is working on now.

Mr. Carey gave an update of the progress on the other property.

Mr. Spencer asked what Mr. Carey was thinking in term of the number of bedrooms in the mix.

Mr. Carey replied that it is better for him to do one bedrooms in the Affordable Housing units and explained his reasons.

Mr. Ballantine commented that they have a consensus that they are excited about figuring a way they can work with Mr. Carey.

Mr. Carey stated that it would be huge in making this possible.

Mr. Ballantine suggested that Mr. Carey follow the process and they'll see what they can do.

Mr. Carey thanked the Trust and noted that he looks forward to the next meeting.

III. OLD BUSINESS

A. Continue discussion of potential best use of 0 Depot Road Trust property

Mr. Ballantine asked to postpone this until Mr. Lowney is with them.

Brianna Powell noted that 456 Queen Anne will be rent controlled because their rental caps are determined by HUD. That project will forever and always be rent controlled. She noted that all Affordable Housing is restricted to those rent limits.

Ms. Williams asked if that changes and if it has to be a very specific rent because of the way the Trust is doing it?

Ms. Powell replied that the rental rates for all Affordable Housing are determined by the US Department of Housing and Urban Development (HUD). That is the standard and what all Affordable developers have to use. She explained that with the market, the cost of building and what the State is able to assist with, it does fluctuate each year.

Mr. Ballantine asked if the Trust can treat that as a maximum and set the rate, as an example, at \$1,500.00.

Ms. Powell replied that she does not think they can do that however she will look into it.

Mr. Ballantine asked for an update on the Fire Station Housing and where they are in the lottery so they can start renting those out.

Ms. Powell stated that the task of the Local Action Unit Application and Regulatory Agreement was delegated to Eric and Steve who are part of the Harwich Fire Association. They came to her in November with some paperwork and but also with questions. Ms. Powell reached out to Ali Sabatino at the Executive Office of Housing and Livable Communities (EOHLC) who handles the applications for the State. Ms. Sabatino met with them and answered their questions. Ms. Powell followed up with Steve and Eric and they were asking for local preference. They are going to go for 70% local preference which rounds to 2.1, rounded down, 2 of the units will be local preference if they are approved. She noted that local preference is only good for the initial lottery. Once the unit becomes vacant, local preference is no longer allowed. They are also waiting for some paperwork back from the Statehouse to add to their application. The last thing they are working on is making the contract with the Housing Assistance Corporation (HAC) because they are the only lottery agency, which they are required to have. Ms. Powell reached out to HAC for a status update yesterday and hasn't heard back yet. She noted that she learned that it typically takes someone 5-6 months to get all the documents to the State that are necessary for them to be approved and then there is a 60 day marketing period with the lottery agency for the units before tenants can be selected through the lottery process and housed.

Mr. Ballantine asked if someone has to submit documentation and justification for the 70%?

Ms. Powell stated that Ms. Sabatino had said it does come from the applicant which would be the Harwich Fire Association (HFA) because it's the developer. She had suggested they get information from the Housing Authority showing that there is a wait list for the units and that there is a need for Affordable Housing units in town. Ms. Powell noted that the HFA will follow up. She had sent the information to Eric yesterday and spoke with him today and offered to help with anything he and Steve may need. Ms. Powell explained that going forward, as the Town and the Trust within the Town, they are the only ones responsible for holding all developers to be in compliance with the guidelines set by the Trust when they granted the funds. She will be monitoring annually that each Local Action Unit (LAU) to be sure that they are still using the monitoring agency, monitoring income and going through the wait list. She had notified John Carey and suggested he get his paperwork done as soon as possible because of the time it takes to process. For the West Harwich and 203 Bank Street projects, she will monitoring annually.

Mr. Ballantine commented that he had an opportunity for a decision that day because Ms. Powell had informed him of the monitoring responsibility and said that either the Trust could do it or she could do it. He thanked Ms. Powell for the offer to monitor the projects.

Ms. Kavanagh noted that Ali Sabatino used to be the Harwich Town Planner.

Ms. Powell commented that Ms. Sabatino has been helpful and great to work with.

Mr. Ballantine suggested that they get an update at the next meeting on the Rental Assistance Program.

Ms. Williams noted that they had requested a biannual update and it is not quite 6 months.

IV. NEXT MEETING: Wednesday, February 12, 2025 at 5:15PM

Mr. Ballantine noted the date and time of the next meeting and the it will be in the Griffin Room.

Mr. Bodin referred to rentals and noted that if the Town of Harwich owns property and are renting it out without funding from any source at all except from the Town, they can rent it for anything they want. Once that unit has been partly paid for by the State, the State determines the rent. He also noted that they have to make money to keep the doors open and keep it running.

Ms. Kavanagh commented that there Town doesn't want to be the landlord which is a problem they face. However, Harwich has so many different companies, construction etc., that are interested in creating housing and she would like to know how they would go about doing some of these rehabs. She asked if there is a mechanism to bring the public and private together and better control the rents without taking State monies. She had spoken with Brian from the Harwich Fund and suggested that they come up with other ways to help people such as homeowners insurance. She commented that he liked the idea. She stated that the Town can't be involved in helping people pay certain bills but if they can come together as a community, raise money through the Harwich Fund, they can work with other partners to build all over town

so no particular neighborhood is overburdened. She feels they can do it if they explore different avenues instead of being married to State funds.

Ms. Williams commented that if they do that and put out parameters of what they want and then be creative with what is offered. She noted alternatives to rent control and commented that they have a lot of power in the position they are in.

Mr. Ballantine commented that they have to be careful not to put road blocks in instead of moving forward. Rent control can have some negatives but they need to discuss it because there are various forms of that. He also suggested that they could partner with businesses to create housing for employees.

Ms. Kavanagh noted that the Housing initiatives are great and should be reviewed by the appropriate Boards but traffic and other issues are there whether they build one more housing unit or more. She noted that the problem needs to be fixed, it is a lack of investment in infrastructure and they have to get behind those improvements. The Town can't afford everything all at once but they can tackle it and start.

Ms. Kavanagh noted that they had discussed cleaning up the Trust document as well as revising the Trust to reflect 120% of AMI. She explained the process and noted that 200% AMI is unattainable. She also noted that now is the time to discuss Zoning and she will follow up for the status on that discussion with Christine Flynn, Town Planner.

Mr. Ballantine will get in touch with Mr. Howell for that discussion.

V. ADJOURN

Mr. Spencer moved to adjourn.. Seconded by Ms. Williams.

Vote: 4:0 in favor. Motion carried. Meeting adjourned.

Respectfully submitted,

Judi Moldstad
Board Secretary