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SPONSORED BY: *Kassandra Gove* **BILL No.** *2021-065*
Kassandra Gove, Mayor

An Order: to amend Part I of the Administrative Legislation Ordinance to add Chapter 8, Amesbury Housing Trust.

Summary: The City Council, by vote taken on October 12, 2012, adopted an Order to Accept Massachusetts General Law Chapter 44 Section 55C, establishing a municipal affordable housing trust fund and to establish the Amesbury Housing Trust. This order will amend Part I of the Ordinance to add Chapter 8, Amesbury Housing Trust, to set forth the powers of the Trustees of the Amesbury Housing Trust and other terms governing said Trust.

Be it Ordered by the City Council of the City of Amesbury assembled, and by the authority of the same, as follows:

Amend Part I of the Ordinance, Administrative Legislation, to add Chapter 8, Amesbury Housing Trust, as follows:

Chapter 8 Amesbury Housing Trust

§8-1 Authority and Purpose

Pursuant to the authority of General Laws Chapter 44, Section 55C, there is hereby created a local municipal affordable housing trust fund to be known as the "Amesbury Housing Trust" (the "Trust"). The purpose of the Trust is to provide for the creation and preservation of affordable housing in the City of Amesbury for the benefit of low and moderate income households and for the funding of community housing, as defined in and in accordance with the provisions of General Laws Chapter 44B.

§8-2 Appointment and Tenure of Trustees

There shall be a Board of Trustees (the "Board"), consisting of no fewer five and no more than nine Trustees, appointed by the Mayor with City Council approval. At least one of the Trustees shall be a member of the City Council, who shall serve as the representative of the City Council. Notwithstanding anything to the contrary herein, and even if Massachusetts law would otherwise allow for the Trustees to be compensated, the

Trustees of this Trust shall receive no salary and shall remain uncompensated for their services, in keeping with the volunteer nature of the service to Amesbury rendered by many of the other boards and commissions appointed to serve the City of Amesbury. However, if authorized by rule or regulation lawfully adopted by the Trustees, Trustees may receive reimbursement of their reasonable and lawful expenses.

The Trustees shall be appointed for a two (2) year term, such term to end on April 30 of the expiration year or until such time as a successor is appointed, should said appointment be delayed. Two of the initial Trustee appointments shall be for a term of one (1) year, and may be re-appointed at the discretion of the Mayor with City Council approval. Trustees may be appointed for no more than five (5) consecutive terms. In the event of a vacancy in the position of Trustee, the appointment shall be made in the same manner as the original appointment.

All Trustees must be current residents of Amesbury upon initial appointment. Any Trustee who ceases to be a resident of the City of Amesbury shall promptly provide a written notification of the change in residence to the Board and to the City Clerk. Said Trustee may continue to serve with the approval of the remaining Trustees, and may be reappointed by the Mayor with City Council approval. Any Trustee may resign by written instrument signed and acknowledged by such Trustee and duly filed with the City 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, a successor shall be appointed by the Mayor with City Council approval to fill such vacancy provided that in each case the appointment and acceptance in writing by the Trustee so appointed is filed with the City Clerk. No such appointment shall be required so long as there are five (5) Trustees then in office. 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.

§8-3 Meetings of Trustees

The Board shall meet at least quarterly at such time and such place as the Trustees shall determine. Special meetings may be called by the Chairperson or by any two (2) Trustees. Notice of any meeting of the Trust shall be filed with the City Clerk and posted in accordance with the Open Meeting Law, General Laws Chapter 39, Sections 23A, 23B and 23C.

A quorum of the Board of Trustees shall be the majority of the number of authorized Trustees.

The Trustees shall regularly elect one (1) Trustee who shall not be a member of the City Council to serve as Chairperson. The Chairperson may establish sub-committees and/or ad hoc task related committees to carry out the purposes of the Trust. Chairpersons of the subcommittees may be selected by the members of the sub-committees.

If any Trustee is absent from five (5) consecutive regularly scheduled meetings of the Trust, except in the case of illness, his/her position shall be deemed vacant and shall be filled with a new appointment as set forth above.

§8-4 Acts of Trustees

A majority of the Trustees may exercise any or all of the powers of the Trustees hereunder, provided a quorum is present, and may execute on behalf of the Trust any and all instruments with the same effect as though executed by all the 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.

§8-5 Power of Trustees

The Trustees shall have the following powers which shall be carried out in accordance with and in furtherance of the provisions of General Laws Chapter 44, Section 55C as outlined below, except that it shall have no ability to borrow money, or mortgage or pledge Trust assets, purchase, sell, lease, exchange, transfer or convey any interest in real property without prior approval of the Amesbury City Council with Mayoral approval:

- A.** To accept and receive real property, personal property or money, by gift, grant, contributions, devise, or transfer from any person, firm, corporation or other public entity or organization or tendered to the Trust in connection with provisions of any ordinance or by-law or any General Law or Special Act of the Commonwealth or any other source, including money from General Laws Chapter 44B.
- B.** With City Council and Mayoral approval of a Trustee recommendation, 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.
- C.** To execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases 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.
- D.** With City Council and Mayoral approval of a Trustee recommendation, 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 to the extent of the Trust's assets, and, subject to 2/3 vote at any Regular or

Special City Council meeting with Mayoral approval, to do the same for greater than the extent of the Trust's assets.

- E. To construct, manage or improve real property, and to abandon any property which the Trustees determine not to be worth retaining;
- F. With City Council and Mayoral approval of a Trustee recommendation, to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income.
- G. To hold all or part of the Trust property uninvested for such purposes and for such time as the Trustees may deem appropriate.
- H. To become the lottery and monitoring agent for affordable housing and accept compensation for those services into the Municipal Affordable Housing Trust Fund.
- I. To monitor the expiring use of any affordable housing in Amesbury.
- J. To compensate City employees for services provided as authorized by the Mayor, including, but not limited to, dedicated staff to Trustees, engineering support for project specific activities, and other city services, as requested by the Trustees to the Mayor.
- K. To employ advisors and agents, including but not limited to accountants, appraisers and lawyers as the Trustees deem necessary.
- L. 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.
- M. 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 entity
- N. 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.
- O. 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.

- P. To carry property for accounting purposes other than acquisition date values.
- Q. To make distributions or divisions of principal in kind.
- R. To extend the time for payment of any obligation to the Trust.
- S. To establish criteria and/or qualifications for recipients and expenditures in accordance with Trust's stated purposes.
- T. To compromise, 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.

Notwithstanding anything to the contrary herein, City Council and Mayoral approval shall be required for any of the following actions:

- (i) to purchase real or personal property;
- (ii) to sell, lease, exchange, transfer or convey any personal, mixed, or real property; and
- (iii) to borrow money, or to mortgage or pledge Trust assets as collateral to the extent of the Trust's assets.

Notwithstanding anything to the contrary herein, the Trustees may not borrow, mortgage or pledge greater than the current Trust assets unless approved by a 2/3 vote at any Regular or Special Amesbury City Council Meeting with Mayoral approval.

The Trustees shall have full power and authority, at any time and from time to time and without the necessity of applying to any court for leave to do so, to expend the 100% of the Trust funds, both principal and interest, to the extent that all funds hereunder may be expended if the Trustees deem such expenditure appropriate. All expenditures shall be made in conformance with the terms of this Trust and General Laws Chapter 44, Section 55C.

§8-6 Treasurer/Collector as Custodian

The City of Amesbury Treasurer/Collector shall be the custodian of the Trust's funds and shall maintain separate accounts and records for said funds. He or she shall invest the funds in the manner authorized by General Laws 44, Section 55 (Public Funds on Deposit; Limitations; Investments), Section 55A (Liability of Depositor for Losses Due to Bankruptcy), and Section 55B (Investment of Public Funds).

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 General Laws Chapter 44, Section 55C. The yearly approved budget, and any approved budget revisions will be recorded by the City Treasurer/Collector.

As custodian, the Treasurer/Collector shall issue checks as directed by the Trustees. In accordance with General Laws Chapter 44, Section 55C, the books and records of the Trust shall be audited regularly by an independent auditor in accordance with accepted accounting practices. The Trust shall be audited as part of the City audit.

§8-7 Liability of Trust

Neither the Trustees nor any agent or officer of the Trust shall have the authority to bind the City, except in the manner specifically authorized herein. The Trust is a public employer and the Trustees are public employees for the purposes of General Laws Chapter 268A. The Trust shall be deemed a municipal agency and the Trustees special municipal employees for the purposes of General Laws Chapter 268A.

§8-8 Duration of Trust

This Trust shall continue so long as authorized under the Laws of the Commonwealth of Massachusetts. Notwithstanding the foregoing, the Trust may be terminated by a majority vote of the City Council in accordance with General Laws Chapter 4, Section 4B, provided that an instrument of termination together with a certified copy of the City Council vote are duly recorded with the Essex North District Registry of Deeds and the Land Court.

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 City and held by the City for affordable housing purposes. In making any such distribution, the Trustees may, subject to the approval of the City 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.

§8-9 Amendment of Trust

This declaration of Trust may be amended from time to time except as to those provisions specifically required under General Laws Chapter 44, Section 55C, by instrument in writing signed by the City Council and by 2/3rds of 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 Essex South District Registry of Deeds and filed with the Land Registration Office.

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