

ARTICLE 22 TOWN MEETING ACTION: UNANIMOUS VOTE.

ARTICLE 23. TO ACCEPT THE PROVISIONS OF M.G.L. CHAPTER 44, SECTION 55C AND TO AMEND THE CODE OF THE TOWN OF EASTON TO ESTABLISH THE EASTON AFFORDABLE HOUSING TRUST FUND

To see if the Town will vote to accept the provisions of Massachusetts General Laws Chapter 44 Section 55C establishing a trust to be known as The Easton Affordable Housing Trust Fund whose purpose shall be to provide for the creation and preservation of affordable housing in Easton for the benefit of low and moderate income households, and in implementation thereof will vote to amend the Code of the Town of Easton by adding the following as section

CHAPTER 20

THE EASTON AFFORDABLE HOUSING TRUST FUND

20-1. Composition.

There shall be a seven (7) member Board of Trustees (hereinafter the “Board”), one of whom shall be a member of the Board of Selectmen. The Board of Selectmen can appoint the Town Administrator as a member or chair of the Board with or without the power to vote. All trustees are to be appointed by the Board of Selectmen. They shall serve for a term of two (2) years, except that four of the initial trustee appointments shall be for a term of one (1) year. In the event of a vacancy, the appointment shall be made in the same manner as the original appointment.

20-2. Organization.

The Board shall annually elect one Trustee who shall serve as the Chairperson and a second Trustee who shall serve as a Clerk.

20-3. Meetings of Trustees.

Meetings of the Board shall be held on a regular basis. A quorum of the Board shall be the majority of the number of authorized Trustees. A trust is a governmental body for purposes of Section 23A, 23B, and 23C of M.G.L. Chapter 39, the Open Meeting Law.

20-4. Powers.

The Board shall have the following powers, all of which shall be carried on in furtherance of the purposes set forth in Massachusetts General Laws c. 44, 55C, except that the purchase, sale, lease, exchange, transfer or conveyance of any interest in real property shall be subject to the approval of the Board of Selectmen, and except that the incurring of any debt, borrowing of any money, granting of mortgage or the pledging of trust assets shall be the subject to the approval of Town Meeting by a two-thirds majority vote:

- (1) to accept and receive property, whether real or personal, by gift, grant, devise, or transfer from any person, firm, corporation or other public or private entity, including without limitation grants of funds or other property tendered to the trust in connection with provisions of any zoning ordinance or bylaw;
- (2) to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;
- (3) 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 the trust property as the board deems advisable notwithstanding the length of any such lease or contract;
- (4) 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 board engages for the accomplishment of the purposes of the trust;
- (5) to employ advisors and agents, such as accountants, appraisers and lawyers as the board deems necessary;
- (6) to pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the board deems advisable;
- (7) to apportion receipts and charges between incomes and principal as the board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation or depletion or otherwise;
- (8) 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 or person;

- (9) to deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the board may deem proper and to pay, out of the trust property, such portion of expenses and compensation as the board may deem necessary and appropriate.
- (10) to carry property for accounting purposes other than acquisition date values;
- (11) to borrow money on such terms and conditions and from such sources as the board deems advisable, to mortgage and pledge trust assets as collateral;
- (12) to make distributions or divisions of principal in kind;
- (13) to comprise, attribute, defend, enforce, release, settle 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 board may deem appropriate.
- (14) to manage or improve real property; and to abandon any property which the board determined not to be worth retaining;
- (15) to hold all or part of the trust property uninvested for such purposes and for such time as the board may deem appropriate;
- (16) to extend the time for payment for any obligations to the trust; and
- (17) to accept and receive money from Chapter 44B (Community Preservation Act) and from the Town of Easton.

20-5. Funds Paid to the Trust

Notwithstanding any general or special law to the contrary, all monies paid to the trust in accordance with any zoning by-law, exaction fee, or private contributions 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 to be expended these funds need not be further appropriated. All moneys remaining in the trust at the end of the fiscal year, whether or not expended by the Board within 1 year of the date they were appropriated into the trust, remain trust property.

20-6. Liability

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

20-7. Taxes

The trust is exempt from MGL Chapters 59 and 62, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the Commonwealth of Massachusetts or any political subdivision thereof.

20-8. Board of the Town

The Trust is a board of the Town of Easton for the purposes of Chapter 30B and Section 15A of Chapter 40; 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.

20-9. Treasurer/Collector as Custodian

The Treasurer/Collector shall be the custodian of the Trust Fund'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 M.G.L. Chapter 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.

Submitted by Board of Selectmen

Selectman John Haederle moved that the Town vote to accept the provisions of M.G.L., Chapter 44, 55C and to amend the Code of the Town of Easton to establish the Easton Affordable Housing Trust Fund as printed in your Warrant.

Explanation: An affordable housing trust is an important tool for a community working to create and preserve affordable housing. It serves as a repository for funds approved for housing purposes and is overseen by a board of trustees who ensure that the funds are used as intended. This vehicle can respond quickly to market opportunities for land acquisition or building purchase. The trust can also accept the receipt of Community Preservation Act Funds. The intended beneficiaries of the trust are members of low and moderate income households. Low and moderate income means gross household income adjusted for family size that is at or below eighty percent (80%) of the Area Median Income. Based upon 2007 data from the U.S. Census Bureau, Easton Median Income is \$ 93,200. Basic structural elements of the Trust follow.

I. Board of Trustees:

- a. A member of the Board of Selectmen serves on the Trust. The Board may appoint the Town Administrator as a member or Chair, with or without the power to vote.
- b. Town Administrator recommends Trustee membership to the Board of Selectmen.
- c. Board of Selectmen votes on recommendations to appoint.

- d. There shall be a total of seven (7) members.
- e. Two year terms, with the exception of four initial trustees appointed for a one-year term.

II. Power of Trustees:

- a. Receive, purchase, and convey real or personal property, exchange deeds, contracts and various other legal documents in connection with the Trust's activities; borrow money; make distributions or divisions of principal in kind; and manage or improve real property when the Trustees deem advisable.
- b. Final decision-making authority on the awards from the Trust Fund rests with the Board of Selectmen.
- c. Town Meeting approval required to borrow money, pledge trust assets and grant mortgages (2/3 vote).

III. Typical Responsibilities of Board of Trustees:

- a. Set Trust Fund Policies and Regulations.
- b. Recommend guidelines as to how funds are to be distributed and spent to the Board of Selectmen.
- c. Review applications and recommend awards.
- d. Advise the Town, groups and agencies on housing priorities.
- e. Monitor and evaluate the Fund activities.
- f. Lobby for housing initiatives.
- g. Seek additional funding for the Trust.
- h. Prepare the Affordable Housing Trust Fund Annual Plan and Report.

IV. Composition of Board of Trustees:

- a. In addition to the required member of the Board of Selectmen, it is recommended that the Town Administrator be a member of the Board of Trustees. In addition, it is suggested that the Board of Selectmen seek individuals with the following housing interests and/or expertise to fill the remaining five (5) seats on the Board of Trustees.
 - 1. Member, representing Fair & Affordable Housing Partnership.
 - 2. Member, representing Planning & Zoning Board
 - 3. Member, representing Community Preservation Committee
 - 4. Member, representing the Housing Authority
 - 5. Real Estate Attorney
 - 6. Real Estate Finance
 - 7. Construction Management
 - 8. Member, representing the Finance Committee

V. Potential Sources of Revenue:

- a. Community Preservation Committee Funding.

- b. Private cash contributions designated for the Trust Fund.
- c. Principal and interest from any Trust Fund loan repayments, etc.
- f. Proceeds from the sale of surplus town land.
- g. State & Federal housing funds.
- h. Private Foundations.
- i. Court Settlement

VI. Distribution of Funds:

- a. No disbursements may be made from the Trust Fund Account without the prior recommendation of the Trust Fund Board of Trustees and authorization by the Board of Selectmen.

VII. Typical Activities Eligible for Funding:

- a. New construction to assist low and moderate income families.
- b. Matching funds for new construction, rehabilitation, or acquisition of housing units to assist low and moderate income families.
- c. Acquisition and rehabilitation of housing units for the purpose of preservation of housing to assist low and moderate income families.

VIII. Administering Entity:

Town of Easton Department of Planning and Community Development shall be the administrative entity for the Easton Affordable Housing Trust Fund.

Vote Required to Pass: Majority

Selectmen Recommendation:

Finance Committee Recommendation: Recommended with the following change to the “basic structural elements of the Trust”, item IV.a.

8. Member, representing Finance Committee

Planning & Zoning Board Recommendation: Recommended

Robert Hicks questioned the authority given under Section 20-4 (11) regarding borrowing. It was determined that in the main paragraph under 20-4 borrowing is subject to the approval of Town meeting by a two-thirds majority vote.