

SENATE NO. 2171

AN ACT AUTHORIZING THE ESTABLISHMENT OF A MUNICIPAL OPEN SPACE AND HISTORIC PRESERVATION TRUST FUND IN THE CITY OF SOMERVILLE

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

1 SECTION 1. There is hereby established a trust to be known as the Somerville Municipal Open Space
2 and Historic Trust Fund (the “Trust”). The purpose of the Trust is to assist in the construction and
3 maintenance of open space and recreational facilities, and the preservation of historic buildings and
4 places.

5 SECTION 2. There is hereby established a Board of Trustees hereinafter referred to as the -Board,
6 which shall include no fewer than five and no more than nine trustees, including ex officio the Mayor
7 of Somerville or designee and the President of the Board of Aldermen or designee. Those members
8 of the Board who are not serving in an ex officio capacity shall be appointed by the Mayor and are
9 designated as public agents for purposes of the Constitution of the Commonwealth.

10 SECTION 3. The powers of the Board, all of which shall be carried on in furtherance of the purposes
11 set forth in this act, shall include but not be limited to, the following:

12 (a) to receive and accept property, whether real or personal, by gift, grant, devise, or transfer from
13 any federal, state or local governmental or other public entity, or any person, trust, corporation or other

14 private entity, including without limitation funds or other property tendered to the Trust in connection
15 with the Somerville Zoning Ordinance or any other Somerville ordinance;

16 (b) to retain real or personal property, including without limitation property that is uninvested and
17 investments that yield no income;

18 (c) to make grants for Trust purposes upon such terms as the Board deems
19 advisable;

20 (d) to make loans for Trust purposes upon such terms of repayment or
21 otherwise as the Board deems advisable and to extend the time for payment of any obligation of the
22 Trust;

23 (e) to sell, lease, exchange, or transfer Trust property for such consideration and upon such terms
24 as to credit or otherwise as the Board deems advisable;

25 (f) to execute, acknowledge and deliver deeds, assignments, transfers, mortgages, pledges, leases,
26 covenants, contracts, promissory notes, releases, and other instruments, sealed or unsealed, necessary,
27 proper or incidental to any transaction involving Trust assets in which the Board engages for the
28 accomplishment of the purposes of the Trust;

29 (g) to employ advisors and agents, including without limitation accountants and appraisers, and to
30 delegate to such persons or firms such ministerial or discretionary powers as the Board deems
31 necessary;

32 (h) to pay reasonable compensation to all advisors and agents (including reasonable compensation
33 for the cost of City of Somerville staff time devoted to Trust matters) and to apportion such
34 compensation between income and principal as the Board deems advisable;

35 (i) to apportion receipts and charges between income and principal as the Board deems advisable;

- 36 (j) to exercise all powers and rights, including proxies and powers of attorney, necessary and
37 proper in connection with the ownership of any securities held as part of Trust property;
- 38 (k) to compromise, arbitrate, defend, enforce, release, settle, or otherwise adjust claims in favor of
39 or against the Trust and to accept any property, either in total or partial satisfaction of any
40 indebtedness or other obligation;
- 41 (l) to manage or improve real property; and to abandon any property which the Board determines
42 not to be worth retaining;
- 43 (m) to exercise all other powers authorized by common law, statute, or other
44 provisions of this Act.

45 SECTION 4. Notwithstanding any provisions of any general or special law to the contrary, all
46 monies paid to the Trust by public or private contribution or in accordance with the Somerville Zoning
47 Ordinance (including any delinquent payments collected as a municipal charges lien pursuant to
48 Chapter 252 of the Acts and Resolves of 1996) shall be paid directly into the Trust, and such monies
49 do not have to be appropriated or accepted and approved into the Trust. General revenues
50 appropriated into the Trust become Trust property; and to be expended, these funds do not need to be
51 further appropriated. All monies remaining in the Trust at the end of any fiscal year, whether or not
52 expended by the Board within one year of the date they were appropriated into the Trust, remain Trust
53 property.

54 SECTION 5. The Trust is a public employer and the members of the Board are public employees
55 for purposes of G.L. 258.

56 SECTION 6. The Trust shall be deemed a municipal agency and the Trustees special municipal
57 employees, for purposes of G.L. c. 268A.

58 SECTION 7. The Trust is exempt from the provisions of G.L. c. 59 and c. 62 and from any other
59 provisions concerning the payment of taxes based upon or measured by property or income imposed
60 by the commonwealth or any political subdivision thereof.

61 SECTION 8. The books and records of the Trust shall be audited annually by an independent
62 auditor in accordance with accepted accounting practices.

63 SECTION 9. The Declaration of Trust, which establishes and controls the Trust, shall be filed in
64 the Office of the Somerville City Clerk .

65 SECTION 10. The Trust is a governmental body for purposes of G.L. c. 39, §§ 23A, 23B, and 23C.

66 SECTION 11. The Trust is a board of the city for purposes of G.L. c. 30B and G.L. c. 40, §15A,
67 provided that G.L. c. 30B procedures need not be followed in the making of grants and loans to
68 nonprofit organizations for the purposes of providing affordable housing, but only in the procurement
69 of goods and services on behalf of the Trust.

70 SECTION 12. This Act shall take effect upon its passage.